

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

September 18, 2017

CALL TO ORDER: A meeting of the Nutley Zoning Board of Adjustment was called to order at approximately 7:30 p.m. by Chairman Frank Graziano. The Pledge of Allegiance was recited. Roll was called and the Sunshine Notice was read.

PRESENT: Joseph Frusteri, Peter Sirica, Gary Marino, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: Tom DaCosta Lobo, Lori Castro

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No. 1 108 King Street CARRIED TO THE NEXT MEETING

Applicant: Mr. Muhammaed Muhaysin, 108 King Street, Block-Lot: 9404-20

Application: to **LEAVE AS ERECTED** a 19' wide driveway and curb cut which a portion of the driveway will be in front the main dwelling, and will reduce the required 60% front lot coverage to approximately 44%, as shown on the survey prepared by Control Layouts, Inc., dated September 12, 2013,

Appearances: Thomas DiBiasi, Esq.

Letter of Denial: was not read.

A motion to carry this application to the next meeting was granted.

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No. 2 2 Devausney Place APPROVED 5-1

Applicant: Ms. Puricello, 2 DeVausney Place, Block-Lot: 7700-11

Application: to convert the existing one (1) family dwelling into a new two (2) family dwelling, at the above referenced premises, as shown on the plans prepared by Mileto-Godsall Associates LLC, dated March 22, 2017, and survey prepared by George Anderson, LLC, dated September 30, 2016,

Appearances: Lorraine De Santi Purciello, Charles Olivo, Paul Bauman

Letter of Denial: was read by Mr. Garino Marino

Lorraine De Santi Purciello testified that she has lived in Nutley her whole life (61 years) at this address. During those 61 years, the house was used by various family members as a two family house and for the last several years, Ms. Purciello lived upstairs and her parents lived downstairs. The house consists of an upstairs that has a kitchen, living room and dining room and a bedroom and the first floor has a kitchen, bedroom and dining room. The driveway holds four cars and provides plenty of parking. Charles Olivo of 8 Haggert Street, Nutley, testified that the applicant is his niece and the property has been in their family since the mid-1940's during which time it was always used as a two family home for the family. Architect Frank Miletto of Miletto-Godsall Associates testified that there will be no change to the exterior or footprint of the building. The only change will be to the interior where a door will be put up separating the living units. Paul Bauman, 5 Norwood Terrace, North Caldwell, NJ, testified as a Planning Expert. Mr. Bauman introduced an exhibit that was a section of the tax map pertaining the neighborhood. On the exhibit, Mr. Bauman noted in blue the other two-family homes in the neighborhood which included two-family homes both next to and behind the proposed site. Mr. Bauman testified that the purposes of the land use statute would be advanced, particularly paragraph g which allows for sufficient space for a variety of needs in the community and safety under paragraph b. As for the negative criteria, Mr. Bauman testified that the house has informally been used as a two-family home for years without any detriment to the neighborhood. Mr. Bauman also testified that the bulk variances are already present and will not be further expanded as they relate to the existing lot which cannot be changed. The driveway and curb cut which are pre-existing are necessary for safe ingress and egress. Mr. Bauman did not know when the other five two-family homes shown on the tax map exhibit were built or came to be two-families.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Mr. Frusteri, seconded by Mr. Peter Sirica. The variance was granted by a vote of 5-1, with Ms. Suzanne Brown voting to deny the application.

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No. 3 299 Kingsland Street APPROVED 6-0

Applicant: Ms. Karen Yeamans, 351 Franklin Avenue, Block-Lot: 2101-1

Application: temporary parking of school buses, installation of a six (6') foot high fence with approximately two (2') feet of barbed wire located at the above captioned premises as per site plans with a revised date of March 24, 2017 consisting of sheets A1.1 and A1.2 prepared by DiCara/Rubino

Appearances: Kurt Sinesky, Esq., Karen Yeamans, Charles Kucinski

Letter of Denial: was read by Mr. Gary Marino

Chapter 700, Article V, Section 700-21 of the Codes of Nutley list the permitted uses in an M-O zone. ***Parking of buses is not listed as a permitted use.***

Ms. Yeamans testified that the Board has looked at other sites to park the buses in both Nutley and neighboring towns including Belleville and Clifton but were unsuccessful. The site is particularly suitable for parking of the buses because it is already a parking lot and is already a fenced in area. The Board intends to park 19 buses on site which are now kept at Lincoln School and the Middle School. By moving the buses to this site it will free up parking for the staff at those schools. The other spaces at the proposed site will be used by the bus drivers to park their personal vehicles. The Board is proposing to put up a shed to keep the snow removal equipment that it might need. Mr. Graziano suggested that the portable potty on the site plan be moved to the south side of the property so it would not be visible from the street. Mr. Graziano also asked if the barbed wire was necessary and Ms. Yeamans indicated that the barbed wire was already there and there would not be any additional barbed-wire added. The property will be leased from the owner, Prism on a one year lease with a two year extension which is the maximum allowed under the State for leases relative to the Board of Education. No bus repairs will take place on the site. The Board noted that the case of Scholastic Bus Co., v. Zoning Bd. 326 N.J. Super 49 (App. Div. 1999) established that this application was considered to be an inherently beneficial project and that the site was particularly suited for a bus parking lot and would also promote the public welfare. A motion was made by Ms. Brown to grant the variance and seconded by Mr. Marino.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Ms. Suzanne Brown, seconded by Mr. Gary Marino. The variance was granted by a vote of 6-0.

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No. 4 422 Franklin Avenue CARRIED TO THE NEXT MEETING

Applicant: Mr. Vilmary Kritharist, 422 Franklin Avenue, Block-Lot: 4401-4

Application: to install new channel letter roof mounted sign and a flat wall sign to the right side of the building which will increase the total permitted signage as shown on the rendering, dated April 21, 2017, submitted by Signarama

Appearances: Aaron Culton, Esq.

Letter of Denial: was read by Mr. Gary Marino

Chapter 700, Article XII, Section 700-79 D of the Codes of Nutley prohibits signs on roofs, dormers and balconies.

Chapter 700, Article XII, Section 700-79 B (1) of the Codes of Nutley states the maximum signage surface area shall be no greater than the building frontage width in linear feet multiplied by a factor of 1.5. Building width x 1.5 = maximum square footage.

- 1. Proposed channel letters/roof sign 33 SF
- 2. Proposed flat wall sign/right side 18 SF

The building width is 30' x 1.5 = 46.5 total permitted signage. The proposed signage is 51 SF.

Applicants recently leased the property and are concerned that because there is a New Jersey Transit bus stop immediately in front of their business that the signs that exist on the awnings

are blocked. Vilmary Kritharist, Applicant, testified that she operates the Nutley Family Dental and wants to increase the number of patients. Ms. Kritharist feels like the sign on the awning is inadequate because the buses block it. Mr. Graziano pointed out that buses don't park there, they just stop and move on. Ms. Brown suggested that different signage could accomplish the applicant's goal without the need for a variance. Kazi Ahmed of 433 Route 202, Flemington, NJ testified that he would be making the sign. Mr. Graziano stated that the proposed sign is too large and that there are no businesses in town that have signs on their roof. Applicants agreed to review the suggestions of the Board and return to the October hearing.

A motion to carry this application to the next meeting was granted.

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No. 5 162 Walnut Street APPROVED 6-0

Applicant: Mr. and Mrs. Kenneth Hegel, 162 Walnut Street, Block-Lot: 3900-1.02

Application: to leave as erected a five (5') foot solid type fence adjacent to your deck in the side yard of the property, and to continue the five (5') foot solid type fence in the side yard as shown on the survey prepared by George J. Anderson LLC, dated March 22, 2016,

Appearances: Jeff Blank, Janine Hegel, Kenneth Hegel

Letter of Denial: was read by Mr. Gary Marino

Chapter 700, Article XI, Section 700-71 B of the Codes of Nutley states a fence erected along the side lines from the front line of a main structure to the **rear line** of such structure and within such lines shall not exceed four feet in height and shall not be less than two feet in height and shall be of 50% open construction. ***A portion of the five (5') solid fence is installed adjacent to the deck, the deck is an attached structure which is the rear line of the dwelling.***

Jeff Blank of 252 Highfield Lane, Nutley testified that he did the subdivision for this property 2 or 3 years ago and at that time they installed a five foot fence all around. Janine and Kenneth Hegel, 162 Highfield Lane, testified that they recently bought the house, got a CO and 8 months later they got a letter stating that they needed a variance to keep the fence. Mr. and Mrs. Hegel testified that they would not have purchased the house without the fence because they have a severely autistic child which makes the fence a necessity.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Mr. Gary Marino, seconded by Mr. Daniel Tolve. The variance was granted by a vote of 6-0.

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No. 6 47 Sylvan Place APPROVED 6-0

Applicant: Mr. and Mrs. Christopher O'Shea, 47 Sylvan Place, Block-Lot: 4900-4

Application: Your request not to rebuild the existing detached garage, at the above referenced address, which was deemed “*Unsafe*” by the Code Enforcement department, as shown on the survey prepared by Milton J. Muss Associates, Inc., dated April 4, 1992,

Appearances: Patricia Donohue O’Shea

Letter of Denial: was read by Mr. Gary Marino

Chapter 700, Article V, Section 700-10 A of the Codes of Nutley must comply with the permitted uses and buildings in an R-1 district.

Chapter 700, Article V, Section 700-9 A of the Codes of Nutley states a single-family dwelling, not to exceed one dwelling unit on each lot. No other principal use is permitted on the same lot with a single-family dwelling. Each single-family dwelling shall have two parking spaces, at least one of which is in a **garage**.

Patricia Donohue O’Shea of 47 Sylvan Place testified that she has lived in this house for 25 years and the garage which is currently in an unsafe condition and must be torn down was never used to park a car as it was 125 feet in the rear of the house and downhill. The driveway fits 8-9 cars and the garage is not used for any reason, not even storage.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Ms. Suzanne Brown, seconded by Mr. Gary Marino. The variance was granted by a vote of 6-0.

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No. 7 236 Park Avenue CARRIED TO THE NEXT MEETING

Applicant: Mr. and Mrs. Louis Torres, 236 Park Avenue, Block-Lot: 6600-21

Application: to install sections of a four (4’) foot high 50% open fencing on a corner property along Park Avenue and Myrtle Avenue, as shown on the survey prepared by George Anderson, dated July 18, 2005

Appearances:

Letter of Denial: was read by Mr. Thomas DaCosta Lobo

Chapter 700, Article XI, Section 700-71 D of the Codes of Nutley states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties. **Sections of fencing will be installed in the front yards of the adjoining property along Park Avenue and Myrtle Avenue.**

The proposed fences on Myrtle Avenue are on Nutley Township property.

Chapter 700, Article XI, Section 700-71 A of the Code of Nutley states no fences of any type shall be permitted in any front yard.

A motion to carry this application to the next meeting was granted.

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No. 8 9 Union Avenue CARRIED TO THE NEXT MEETING

Applicant: Mr. George Mazvetry, 9 Union Avenue, Block-Lot: 9407-10

Application: to install a six (6') foot solid type fence located in the South side, side yard, as shown on the survey prepared by Schmidt Surveying, dated July 26, 2016,

Appearances: None

Letter of Denial: was not read

Chapter 700, Article XI, Section 700-71 B of the Codes Nutley states a fence erected along the side lines from the front line of a main structure to the rear line of such structure and within such lines shall not exceed four feet in height and shall be not less than two feet in height and shall be of 50% open construction (i.e., the open spaces in the fence shall be at least the same width of each picket, slat or other construction element of such fence). The setback for any such fence shall be in line with the furthest setback of the adjacent property or the property upon which the fence is being erected, whichever setback is greater.

A motion to carry this application to the next meeting was granted.

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No. 9 40 Gless Avenue APPROVED 4-2

Applicant: Mr. Kevin Wyka, 40 Gless Avenue, Block-Lot: 9106-24

Application: to widen the existing driveway approximately seven (7') feet in front of the main dwelling, which will decrease the required 60% front yard coverage to 57%, as shown on the survey prepared by Ampol Surveying, LLC, dated May 2, 2017,

Appearances: Kevin Wyka

Letter of Denial: was read by Mr. Gary Marino

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley states no front yard of a lot upon which is located in a one- or two-family dwelling shall be used for the parking of motor vehicles, except that motor vehicles may be parked upon a driveway in the front yard. The driveway shall consist of the area directly opposite to an attached garage, detached garage or depressed garage or the extension of the side yard into the front yard. The driveway width shall not exceed 16 feet. However, if there is no garage and no available side yard, a driveway not to exceed 16 feet in width from the side lot line may be constructed. ***The proposed driveway will be constructed approximately seven (7') feet in front of the main dwelling and 18" away from the main dwelling to have the require 18' length for a parking space.***

Chapter 700, Article VIII, Section 700-48 of the Codes of Nutley states any lot containing a residence for one or two families shall have at least 60% of the required front yard in

landscaping. This area shall not be covered with paving, walkways or any other impervious surface. Landscaping may consist of grass, ground cover, shrubs and other plant material. **Required 60% - proposed 57%.**

Applicant, Kevin Wyka of 40 Gless Avenue, Nutley, testified that he purchased the two family home last year in October and is having trouble finding a tenant for the second floor apartment due to the fact that the driveway fits only 3 cars tandem and he and his girlfriend who reside at the property have three cars that consist of two personal cars and a company car. Applicant was not looking to expand the curb cut, just the driveway area. Mr. Tolve suggested that Applicant install pavers with grass in between but the Applicant indicated that he didn't want to have to maintain the grass there.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this variance was made by Mr. Gary Marino, seconded by Mr. Peter Sirica. The variance was granted by a vote of 4-2, with Chairman Graziano and Mr. Daniel Tolve voting to deny the application.

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RESOLUTIONS MEMORIALIZED: 10 Kingsland Street, 22 Essex Street, 39 Rhoda Avenue, 71 Harrison Street

MINUTES: None

INVOICES: None

NEW BUSINESS: None

LITIGATED MATTERS: None

NOTE: THE PROCEEDINGS IN THIS MATTER WERE VOICE RECORDED. THE RECITAL OF FACTS IN THE MINUTES IS NOT INTENDED TO BE ALL-INCLUSIVE, BUT IS A SUMMARY AND HIGHLIGHT OF THE COMPLETE RECORD MADE BEFORE THE ZONING BOARD.

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Respectfully submitted,

Anjelica L. Mitchell
Minutes Approved

~~Anjelica Mitchell~~
10/16/17