

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

February 22, 2016

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: Lori Castro, Mary Ryder, Lou Fusaro, Gary Marino, Serje Demerjian, Diana McGovern, Esq., Suzanne Brown, Chairman Graziano

ABSENT: None

EXCUSED: Peter Sirica, Thomas DaCosta Lobo

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No. 1 243 Washington Avenue APPROVED 7-0

Applicant: Mr. George Papadogiannis, 243 Washington Avenue, Block-Lot: 6603-6

Application: For a partial release of a condition to remove the curb cut on the Grant Avenue side of the property from the approved September 19, 2011 resolution which requires approval by the Zoning Board of Adjustment., and to install an additional 20' curb cut on the Grant Avenue side, as shown on the plot plan prepared by Architect Chris Blake dated, January 13, 2016;

Appearances: Thomas DiBiasi, George Papadogiannis, Craig Peregoy

Letter of Denial: was read by Ms. Mary Ryder.

The Code Official having denied said permit by letter dated January 19, 2016 stating Chapter 700, Article XIII, Section 700-94 A (3) of the Codes of Nutley states each property shall not have more than one driveway and one curb cut, and also noting that an additional 22' curb cut on Washington Avenue was granted in a resolution memorialized on September 19, 2011 by the Board of Adjustment;

Mr. Thomas DiBiasi made his opening remarks to the board, stating he would be representing the applicant, Mr. George Papadogiannis. He stated that the building was very run down and that his client has met with the construction department to begin internal renovations. He advised the board that the location will be a high-end bagel shop. The proposed hours for the

store would be 6 am to 5 pm, seven days a week. He stated that the store would have 5 employees on sight during the week, and 7-8 employees on sight during the weekend. Mr. DiBiasi called his first witness, the applicant, Mr. George Papadogiannis. He stated that he had owned the property since July 2015 and he will not be doing any changes to the layout of the parking lot or the footprint of the building. The applicant advised the board that there will be a breakfast and lunch menu and he would be the manager. He stated that he wanted the curb cut on Grant Avenue reopened to allow customers to conveniently enter the store. Mr. Serje Demerjian asked the applicant if he was the only tenant and he replied that he would be the only tenant. Mr. DiBiasi then called traffic expert, Craig Peregoy. Mr. Peregoy testified to the board that he previously completed a traffic analysis on the location on the applications. He stated that it would be an improvement in the traffic pattern. He stated this was because it would disperse more traffic onto Grant Avenue, creating a better traffic flow. Mr. Peregoy stated that reopening the curb cut was consistent with DOT access guidelines and the location was fortunate to have the traffic signal. He introduced Exhibit A1, which was the plans of the location.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Mr. Gary Marino, seconded by Mr. Lou Fusaro. The variance was granted by a vote of 7-0.

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No. 2 15 Ivy Place APPROVED 5-1

Applicant: Ms. Kathy Reilly, 14 Burnett Place, Block-Lot: 8001-7

Application: To leave as erected a portion of the existing attached garage that has been converted into living space, at the above referenced premises, as shown on the sketch and property survey prepared by Shepard and Shepard dated November 7, 1989;

Appearances: Kathy Donatielo, Joseph Donatielo

Letter of Denial: was read by Ms. Mary Ryder.

The Code Official having denied said permit by letter dated January 13, 2016, citing Chapter 700, Article V, Section 700-9 A of the Codes of Nutley which 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;*

Mr. Serje Demerjian recused himself from this application. Applicants Kathy and Joseph Donatielo testified to the board that Mrs. Donatielo's ex-husband had previously made their garage into a play room for their children and that now they are having trouble selling their home because they did not have the proper permits. The applicants testified that they would like to keep the garage as a play room because it was a good selling point. Mr. Lou Fusaro asked the applicants if the garage had a kitchen. Mrs. Donatielo replied that it did not have a kitchen. Chairman Graziano asked the applicants how many cars could fit in the driveway and the applicant replied that 4 cars fit in the driveway. Ms. Mary Ryder asked the applicants if the room was heated and they replied that there was an electric heater.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Mr. Lou Fusaro, seconded by Ms. Mary Ryder. The variance was granted by a vote of 5-1.

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No. 3 66 Overlook Terrace APPROVED 7-0

Applicant: Mr. and Mrs. H Fabiyan, 66 Overlook Terrace, Block-Lot: 2804-6

Application: To leave as erected a portion of the existing attached garage that has been converted into living space, at the above referenced premises, as shown on the sketch and property survey prepared by Shepard and Shepard dated November 7, 1989;

Appearances: Hrihoriy Fabiyan

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

Chapter 700, Article V, Section 700-9 A of the Codes of Nutley states a single-family dwellings, 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. ***The existing driveway at the rear of the property will be removed and there will be on access to the garage.***

Chapter 700, Article XIII, Section 700-94 A of the Codes of Nutley state notwithstanding any other section of this chapter, no front yard of a lot upon which is located 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. Similarly, in the case of corner lots, no side yard facing a street on a lot upon which is located 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 side yard. ***A portion of the new driveway will be in front of the main dwelling***

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley states a driveway in a front yard 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. ***Maximum 16' – proposed 19'.***

Chapter 700, Article XIII, Section 700-94 A (3) (a) of the Codes of Nutley states each property shall not have more than one driveway and one curb cut. Curb cuts shall not exceed 16 feet in length. ***Maximum 16' – proposed 19'.***

Chapter 700, Article VIII, Section 700-46 B (6) (a) of the Codes of Nutley states in the area between two intersecting streets or between an intersecting street and the Township limit or between an intersecting street and a zoning district boundary ("intersecting streets," for the purpose of this section, are those which intersect the same side of the street on which the lot which is to be developed fronts), the depth of the front yard of a lot to be developed in the area shall not be less than the average depth of the front yards of other buildings on the same side of the street, in the same zoning district and having frontage upon the same street, provided that 50% of the frontage of the lots in the same area is developed, but not less than the setback required for the district by the Schedule of Regulations. A portion of the proposed porch will be enclosed with permanent windows and doors and shall comply with the required front yard

setback in an R-1 zoning district which is 25' or the average. **The front yard setback is 25'. The proposed is 22'.**

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 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. **The fence is six (6') foot and installed without a permit in the side yard on the North side of dwelling.**

Applicant Hrihoriy Fabiyan testified to the board that the main reason for his application was to move the driveway from the backyard to the front yard. He explained how he felt it was a safety issue because there is a school directly next to his driveway. The applicant advised the board he wished to add a porch to correct a flooding issue in the front yard. He stated that the driveway came off School Lane and came out of the back of the house. Mr. Serje Demerjian asked the applicant what would happen to his existing driveway. Mr. Fabiyan said it will be changed to grass. Mr. Serje Demerjian asked the applicant if he was willing to put in a 2' by 2' solid masonry planter in front of the sunroom for safety. Mr. Fabiyan said he would. Mr. Serje Demerjian asked the applicant how many cars will be going in the driveway and the applicant replied that 4 compact cars would fit. The applicant agreed to a 4 foot fifty percent open fence and stated that it would be an improvement to the property.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Mr. Serje Demerjian, seconded by Ms. Suzanne Brown. The variance was granted by a vote of 7-0.

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No. 4 16 Bank Street APPROVED 7-0

Applicant: Mr. Noel Arzadon, 16 Bank Street, Block-Lot: 5700-9

Application: To install a six (6') foot solid fence in the southeast side yard and the rear yard without having consent from the rear adjacent property owner, as shown on the survey prepared by Richard Hingos Inc., and to construct a portico roof with columns over the front steps, having a 24.85' front yard setback, as shown on the plan prepared by Architect, Daniel A. Roma AIA, dated May 28, 2015;

Appearances: Noel Arzadon, Anthony Amorin, Anna Amorin

Letter of Denial: was read by Ms. Mary Ryder.

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 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. ***The proposed fence is six (6') and will be installed in the side yard.***

Chapter 700, Article XI, Section 700-71 H of the Codes of Nutley states a solid type fence may be erected with written consent of the adjoining property owner or owners bordering the fence. ***Written consent has not been filed with the Construction Official.***

Chapter 700, Article VIII, Section 700-46 B (4) of the Codes of Nutley states extensions of a structure into a **required** front or rear yard shall be permitted as follows:

Chapter 700, Article VIII, Section 700-46 B (4) (d) of the Codes of Nutley limits an open porch to encroach six (6') feet into the required front yard. ***The required front yard setback in an R-1 district is 25'.***

Applicant Mr. Noel Arzadon testified to the board that he recently had done construction to his home and he wished to finish it with a fence in his backyard and a roof over his front entry way. Ms. Suzanne Brown asked the applicant if he would consider a five foot solid fence. The applicant agreed. Neighbors Anna and Anthony Amorin, 415 Chestnut Street, testified before the board. They stated that the applicant claimed a wall in their backyard was his when it is really theirs. Ms. Diana McGovern stated that according to the survey the wall is partly on the Applicant, Mr. Noel Arzadon's property. The applicant made it clear that the fence will be away from the wall and on his own property.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant the variance was made by Ms. Mary Ryder, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

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BUSINESS: 2016 Elected Officers and Appointees were elected/appointed as follows: Chairperson - Mr. Frank Graziano, Vice-Chairperson- Ms. Suzanne Brow, Board Secretary- Mr. Thomas DaCosta Lobo, Board Attorney - Ms. Diana McGovern, and Recording Secretary - Ms. Anjelica Mitchell.

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RESOLUTIONS MEMORIALIZED:

26 East Passaic Avenue

MINUTES:

January 25, 2016 minutes approved

INVOICES: None

LITIGATED MATTERS: None

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Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

Anjelica Mitchell

3/21/16