

NUTLEY ZONING BOARD OF ADJUSTMENT
Public Session Meeting Minutes
March 21, 2016

*Approved
4/18/2016*

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, Peter Sirica, Mary Ryder, Gary Marino, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: Lou Fusaro, Serje Demerjian, Thomas DaCosta Lobo

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No. 1 260 Washington Avenue APPROVED 6-0

Applicant: Mr. Andrew Garruto, 206 Washington Avenue, Block-Lot: 3905-3

Application: To convert the existing first floor rear commercial space into a 527 SF studio, one (1) bedroom dwelling unit, and to construct a 711 SF one (1) bedroom dwelling unit in the existing basement area to the existing mixed use building located in an R-1 zoning district, and to install a 3.5' by 5.5' (38.5 SF surface display area both sides) double sided ground sign, as shown on the plans prepared by Architect, Todd Lent, dated December 10, 2015 and letter of intent prepare by owner of the property, Garrco Properties dated December 22, 2015;

Appearances: Andrew Garruto, Linda Romano

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

Chapter 700, Article VII, Section 700-40 D of the *Codes of Nutley* which states a "mixed use" is the use of a building, multistories in height, in B-1, B-2 or B-3 Zoning Districts for residential and business uses, the residential use of which shall be permitted in the second story of the building. ***The existing side yard setbacks are 3.14' and 11.47'. The existing rear office on the first floor and the storage space in the basement are proposed to be dwelling units, and*** also citing,

Chapter 700, Article XVI, Section 700-113 A of the *Codes of Nutley* which states no nonconforming use nor structure nor any lawful use on a nonconforming lot shall be enlarged,

extended, reconstructed or structurally altered, except that such structure or use may be structurally altered to correct an unsafe condition. A nonconforming structure or a lawful structure on a nonconforming lot may be restored or repaired in the event of partial destruction thereof, and also citing

Chapter 700, Article XIII, Section 700-82 of the *Codes of Nutley* which lists the permitted signage in an R-1 district. A ground sign is not permitted. And also citing,

Chapter 700, Article XIII, Section 700-84 A of the *Codes of Nutley* which lists the requirements for a ground sign. The proposed ground sign will be 3.5' by 5.5' surface display area for both sides will be 38.5 SF. The maximum display area is 25 SF;

Applicant Andrew Garruto testified before the board. He introduced Exhibit A1 which was a group of photos of the property. He stated that the property was commercial on the first floor and residential on the second floor. He explained that the building was currently empty and he was seeking to use the back of the building as a studio apartment and the basement as an apartment as well. He advised the board that some of the neighboring businesses have illuminated signs. Mr. Garruto stated that there will be less traffic than a commercial use would have and that this application will not adversely affect street parking. He stated that there were currently 3 commercial units on the first floor and that the 3rd unit's entrance would be in the rear. Ms. Suzanne Brown asked the applicant why he wouldn't make it a larger commercial unit. The applicant responded that it was an option. Linda Romano, of 84 Grant Avenue, testified to the board that her backyard touched with the applicant's backyard. She expressed that it was becoming chaotic because people were cutting through her property to get to the stores. The applicant agreed to repair the fence and withdrew his request to convert the rear commercial space to residential. Mr. Garruto stated that the sign would be double-sided and would be lit from within. Chairman Graziano stated that the applicant was going over on the square footage on the size of the sign. Ms. Suzanne Brown asked the applicant if he would consider a sign with exterior illumination. He stated that it was a busy street and he would reduce the sign to 3x5 and make it 6 inches off the ground. Exhibit A2 was introduced which was a picture of a similar sign, which he has at his law office. He stated that the illumination would be on from dawn until 11 pm. Mr. Garruto explained that there were 9 parking spaces and 2 in the garage.

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 Ms. Mary Ryder. The variance to utilize the basement as an apartment and for the lawn sign was granted by a vote of 6-0.

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No. 2 10 Daily Street APPROVED 6-0

Applicant: Mr. and Mrs. Peter D'Angelo, 10 Daily Street, Block-Lot: 2901-21

Application: To construct a one (1) story, 312 SF addition in the rear yard having a 2.88' side yard setback and a rear yard setback of 13.55', as shown on the survey prepared by Architect, Sal Corvino, dated December 18, 2015;

Appearances: Salvatore Corvino, Peter D'Angelo

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

And the Code Official having denied said permit by letters dated January 13, 2016, citing Chapter 700, Article VIII, Section 700-46 A of the *Codes of Nutley* entitled "Schedule of Regulations as to Bulk, Height and Other Requirements" which requires a side yard setback of 8' and 10' and a 30' rear yard setback in an R-1A zoning district. The proposed will have a side yard setback of 2.88' and 13.74', and a rear yard setback of 13.55';

Applicant Peter D'Angelo presented his expert architect and planner, Salvatore Corvino, to the board. Mr. Corvino explained that he wished to enlarge the kitchen. He stated that the lot is undersized, at slightly under 80 feet, and described this as a hardship. Mr. Corvino also told the board that the property has a nonconforming side yard, stating that it was still under impervious coverage. Applicant Mr. D'Angelo told the board that he would be matching the existing siding and roof.

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. Suzanne Brown, seconded by Mr. Gary Marino. The variance was granted by a vote of 6-0.

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No. 3 43 Manhattan Court APPROVED 6-0

Applicant: Mr. and Mrs. Matthew Tortora, 43 Manhattan Court, Block-Lot: 5800-21

Application: To construct a 500 square foot deck which will be attached to the main dwelling and to the existing 15' X 24' above ground pool, having approximately 23' rear yard setback, which will reduce the required rear yard coverage to 33%, as shown on the survey prepared by Manno Surveying, Inc. dated March 18, 2015;

Appearances: Matthew and Marcy Tortora

Letter of Denial: was read by Ms. Mary Ryder

And the Code Official having denied said permit by letters dated January 13, 2016, citing Chapter 700, Article XI, Section 700-67 D of the *Codes of Nutley* which states an attached accessory structure or accessory use shall be considered to be a part of the main building, and also citing

Chapter 700, Article XI, Section 700-67 A of the *Codes of Nutley* which states a detached accessory buildings and accessory uses may occupy in the aggregate an area not to exceed 30% of the area of any rear yard. The height of a detached accessory building shall be one story not to exceed 14 feet. *The proposed rear yard coverage will be 33%*, and also citing

Chapter 700, Article VIII, Section 700-46 A of the *Codes of Nutley*; the "Schedule of Regulations as to Bulk, Height and Other Requirements"; which requires a 30' rear yard setback to a main dwelling. *The proposed attached pool and deck will be approximately 23'*;

Applicants Matthew and Marcy Tortora testified to the board that they installed an above ground pool the previous year. They explained that they wished to connect the deck and the pool

for family gatherings. The applicants explained they wished to access the pool quickly. Chairman Graziano expressed that the lot was very oddly shaped- as if it was “pie-shaped” and due to this odd shape the Applicant’s property fell short by just a few feet necessitating the variance.

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 Ms. Mary Ryder. The variance was granted by a vote of 6-0.

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No. 4 100 Ridge Road APPROVED 6-0

Applicant: Mr. and Mrs. Frusteri, 100 Ridge Road, Block-Lot: 5600-23

Application: To install a six (6’) foot fence, [five (5’) foot solid and one (1’) foot lattice] type fence in the southerly side yard in between dwellings as shown on the survey prepared by PMC Land Surveying dated December 22, 2012;

Appearances: Joe and Christina Frusteri

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

And the Code Official having denied said permit by letters dated February 23, 2016, citing Chapter 700, Article XI, Section 700-71 B of the *Codes of Nutley* which 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.

Applicants Joe and Christina Frusteri testified to the board that they wanted to put up a 6 foot fence. They explained that they had 3 kids and wanted the fence for safety. The applicants stated that their property bordered the pipeline and people and animals wandered in their yard. Ms. Suzanne Brown asked the applicants if they would consider moving the fence 6 feet back from the house. The applicants agreed and stated that both sides of the fence would have a gate. The board members and applicants agreed on a 6 foot solid fence along the pipeline and a 5 foot solid fence with 1 foot lattice on the sides.

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. Suzanne Brown, seconded by Mr. Gary Marino. The variance was granted by a vote of 6-0.

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BUSINESS: None

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RESOLUTIONS MEMORIALIZED:

15 Ivy Place, 16 Bank Street, 66 Overlook Terrace, 243 Washington Avenue

MINUTES:

February 22, 2016 minutes approved

INVOICES: Bill from 126 Washington Avenue Approved

LITIGATED MATTERS: None

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Respectfully submitted,

Anjelica L. Mitchell

Minutes Approved

Anjelica Mitchell