

**NUTLEY ZONING BOARD OF ADJUSTMENT**

**Public Session Meeting Minutes**

**July 16, 2018**

**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:** Daniel Tolve, Greg Tolve, Peter Sirica, Theresa Duva, Joseph Battaglia, Gary Marino, Tom DaCosta Lobo, Suzanne Brown (present for 7:00 pm Executive Session), Chairman Graziano and Board attorney, Diana McGovern, Esq.

**ABSENT:** None

**EXCUSED:** None

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**No. 147 Cedar Street APPROVED 7-0**

**Applicant:** Mr. Adam Hamway, 47 Cedar Street, Block-Lot: 5303-10

**Application:** To construct a 22' by 20' two (2) car garage, with a mean height of 17' having a one (1') foot side and rear yard setback, and a six (6') foot setback from the attached deck, that exceeds the rear yard coverage, construct a 15' by 12' unroofed deck having a two (2') foot side yard setback, which will decrease the required lot and impervious coverage, and increase the existing driveway two (2') feet to the left which will decrease the required front yard landscaping coverage, as shown on the survey dated April 16, 2010, prepared by George Thomas Hinck, Surveyor and plans dated June 22, 2018 by Matt Meaney;

**Appearances:** Adam Hamway, neighbors Mr. Delgrande and Theresa Peccarelli

**Letter of Denial:** was previously read

AND the Code Official having denied said permit by letter dated April 27, 2018, citing Chapter 700, Article XI, Section 700-67 A of the *Codes of Nutley* which states 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 required coverage is not to exceed 30% of the rear yard. The proposed lot coverage will be 34.7%. The maximum required mean height is 14'. The proposed will be 17';* and also citing

Chapter 700, Article XI, Section 700-67 B (1) of the *Codes of Nutley* which states no detached accessory building or accessory use shall be located nearer than three feet or 1/2 the height of such building up to a distance of six feet, whichever is greater, to a side or rear lot line. *The proposed set back will be one (1') foot from the side and rear yards;* and also citing

Chapter 700, Article XI, Section 700-67 C of the *Codes of Nutley* which states no detached accessory building shall be located nearer than 10 feet to a main building. *The proposed setback to the deck will be six (6') feet WHICH WAS MADE MOOT BECAUSE APPLICANT'S REVISED PLANS REMOVED THE REAR DECK;* and also 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 maximum lots coverage of 35% and impervious coverage of 70% in an R-1 zoning district. *The proposed will be 41% lot coverage and 75% impervious coverage'* and also citing

Chapter 700, Article VIII, Section 700-48 of the *Codes of Nutley* which requires 60% of the front yard to be landscape. *The proposed is 47%;* and also citing

Chapter 700, Article VIII, Section 700-46 B (5) (a) of the *Codes of Nutley* which states extensions into required rear yards, except that no uncovered porch or terrace shall project more than three (3') feet into any required side yard. *The proposed deck will be two (2') feet. WHICH WAS MADE MOOT DUE TO THE REVISED PLANS THAT REMOVED THE DECK;*

Applicant Adam Hamway testified to the board that he reduced the width, length, and height of the structure. Mr. Peter Sirica asked the applicant what he would do with the cars if his application isn't granted. The applicant replied that he would park the cars in his driveway. Mr. Daniel Tolve asked the applicant if there was a way to make the structure smaller. He replied that he could, if he made it a barn style. Neighbors Mr. Delgrande and Ms. Peccarelli stated that they approve of the application and would rather see the garage than the cars in the driveway. The applicant stated the garage would match the house. The applicant agreed to a condition that something will go behind the garage such as rocks or mulch. Mr. Hamway described his narrow property as a hardship.

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. Joseph Battaglia, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

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**No. 2 46 Mount Vernon Street CARRIED TO THE NEXT MEETING**

**Applicant:** Mrs. Neva Bray, 46 Mount Vernon Street, Block-Lot: 7905-22

**Application:** to construct an additional driveway and curb cut on a corner property on the Corsay Road side, as shown on the survey, dated March 23, 1950,

**Appearances:** Neva Bray

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



Chapter 700, Article XIII, Section 700-94 (3) of the Codes of Nutley states each property shall not have more than one driveway and one curb cut.

Applicant Neva Bray and the board discussed whether or not she wanted an additional driveway or simply a wider driveway. Ms. Diana McGovern explained to the applicant that her neighbors were not noticed for what she wanted to do. She explained the matter could not be carried because a new notice would need to be generated. The board members agreed that the application could not go forward.

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**Please note: Mr. Peter Sirica stepped out of the meeting at 8:40 pm**

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**No. 3 2 Oak Street APPROVED 7-0**

**Applicant:** Ms. Angela Melia, 2 Oak Street, Block-Lot: 1703-1

**Application:** To construct a five (5') foot open type fence located in the side yard street side along McKinley Street, as shown on the survey prepared by Richlan & Lupo & Pronesti, dated March 30, 1992;

**Appearances:** Angela Melia

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

AND the Code Official having denied said permit by letter dated May 15, 2018, citing Chapter 700, Article XI, Section 700-71 A of the *Codes of Nutley* which states no fences of any type shall be permitted in any front yard, and also citing Chapter 700, Article XI, Section 700-71 D of the *Codes Nutley* which states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties;

Applicant Angela Melia testified to the board that her fence was in disrepair. She introduced Exhibits A1 and A2, which were photos of the fence. Chariman Graziano asked the applicant if she was simply replacing the fence. She responded that she was making it 5 feet because she had a large dog. Ms. Melia stated that she would install a black aluminum fence that looked wrought iron. The board stated that she could put the fence on township property if she agreed to a whole harmless agreement.

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. Greg Tolve. The variance was granted by a vote of 7-0.

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**No. 4 27 Friedland Road APPROVED 7-0**

**Applicant:** Mr. and Mrs. Louis Argieri, 27 Friedland Road, Block-Lot: 7100-16

**Application:** To leave as erected two (2) new AC condensers located in the westerly side yard having approximately a one (1') foot side yard setback to the face of the unit, as shown on the survey prepared by Diaz Land Surveying, LLC, dated April 3, 2008;

**Appearances:** Louis Argieri

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

AND the Code Official having denied said permit by letter dated May 14, 2018, citing Chapter 700, Article III, Section 700-3 B of the *Codes of Nutley* entitled "Definitions" which states a Side Yard is an open unobstructed space between the building and the side line of the lot extending through from the front to the rear yard or to another street, into which space there is no extension of the building above the grade level. The required side yard in an R-2 zoning district is six (6') feet. *The condensers will be located on the westerly side yard. The existing side yard is 4.1'. The AC condenser is approximately 30" by 30" placed 12" away from the dwelling leaving approximately less than one (1') foot side yard setback;*

Applicant Louis Argieri testified that there was no other place on his property for the condensers to go. He stated that the driveway side would not be wide enough, and his only other option would be in the middle of his yard. Chairman Graziano stated that this was an irregularly shaped property. Exhibit A1 was the plans where the applicant drew on his addition. He stated that he already paid a fine to the Nutley Municipal Court and that his neighbors were for the application.

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. Joseph Battaglia, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

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**No. 5 341 Washington Avenue APPROVED 7-0**

**Applicant:** Mr. and Mrs. John Rodriguez, 341 Washington Avenue, Block-Lot: 3901-16

**Application:** To construct a 2<sup>nd</sup> story addition having a 23'1" rear yard setback, as shown on the plans prepared by Architect, Jacob Solomon, Architect, LLC, dated January 3, 2018;

**Appearances:** Nicole Rodriguez and John Rodriguez

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

AND the Code Official having denied said permit by letter dated June 28, 2018, 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 in an R-1 district a 30' rear yard setback. *The proposed 2<sup>nd</sup> story addition will have a 23'1" rear yard setback;*

Applicants John and Nicole Rodriguez testified that they wished to expand their family and enlarge their home to do so. They stated that their lot was 40 feet wide, therefore there was no way to extend on the width. Ms. Rodriguez stated that they would be closing the overhang and

pushing it outwards. The applicants stated that they wished to remove the patio and build up to it, so the house would be even. The top and bottom floors would go out the same width. The applicants stated that there would be 5 bedrooms, including one master suite. Mr. Daniel Tolve asked the applicants if the downstairs would be the master suite. The applicants responded that this would be for living space and not bedrooms.

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. Theresa Duva. The variance was granted by a vote of 7-0.

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**PUBLIC COMMENT:** Suzan DeJackmo, 108 Walnut Street, request no further adjournments on the 109 Walnut Street application.

**RESOLUTIONS MEMORIALIZED:** 72 Centre Street, 23 Donna Court, 681 Franklin Avenue, 31 Brookline Avenue, 165 Pake Street, 12 Romano Street

**MINUTES:** June 18, 2018 regular session meeting minutes, June 18, 2018 Executive Session meeting minutes

**INVOICES:**

**NEW BUSINESS:** The Board went into Executive Session at 7:00 pm. The Board also discussed attaining more personal insurance on each Board Member.

**LITIGATED MATTERS:** None

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**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

9/17/18