

In the Matter of

**MR. & MRS. LOUIS  
ARGIERI**

Applicants

**ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF NUTLEY  
ESSEX COUNTY, NEW JERSEY**

***RESOLUTION GRANTING BULK VARIANCES***

**FOR PROPERTY KNOWN AS:**

**27 Friedland Road  
Block 7100, Lot 16**

**APPLICANTS, Mr. and Mrs. Louis Argieri (“Applicants”) having filed an application for a permit with the Code Official of the Township of Nutley, to do the following at the premises known as 27 Friedland Road, also being Block 7100, Lot 16 on the Tax Map of the Township of Nutley (the “Premises”):**

**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;**

**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;***

**AND the Premises being located in an R-2 District as shown on the Township of Nutley Zoning Map;**

**AND Applicants having filed an application with the Zoning Board of Adjustment of the Township of Nutley (the “Board”), requesting a variance from the terms of the *Zoning Ordinance*;**

**AND the Board having held a public hearing on the application on July 16, 2018 after due public notice and due notice to property owners in the manner and within the time frames prescribed by the *Zoning Ordinance* and by the *Municipal Land Use Law* and the *Open Public Meetings Act* of the State of New Jersey;**

**AND the Board having fully heard the testimony of the witnesses and examined the exhibits presented at the hearing, and having heard the arguments of the parties for requested relief and there being no opposition;**

**NOW, THEREFORE, WE, the Zoning Board of Adjustment of the Township of Nutley, find as follows:**

- 1. That Applicants' proposed use of the Premises as proposed would violate the provisions of the *Zoning Ordinance*.**
- 2. That Applicants have met their burden of demonstrating that sufficient legal grounds exist for the granting of the requested variance.**
  - a. Applicants have adequately demonstrated peculiar and exceptional practical difficulties arising by reason of an extraordinary and exceptional situation uniquely affecting the Premises or the structures lawfully existing thereon, such that strict application of the *Zoning Ordinance* would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, Applicants.**
  - b. Specifically, the evidence presented demonstrates to the satisfaction of the Board that the Applicant's property is irregularly shaped and is at an angle and the AC units are placed at the widest part of the side yard.**
- 3. That, on the basis of the evidence presented, the requested variance can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan or the *Zoning Ordinance*. The proposed project will have no negative impacts on the surrounding neighborhood, will be consistent with the character of the surrounding neighborhood, and will not interfere with the neighbors' use and enjoyment of their properties.**

**BE IT THEREFORE RESOLVED** by the Zoning Board of Adjustment of the Township of Nutley that for the reasons stated above, a **VARIANCE** from the provisions of the *Zoning Ordinance* is hereby **GRANTED** to permit Applicants 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.

**AND BE IT FURTHER RESOLVED**, that nothing in this resolution is intended to imply that the documentation submitted by Applicants to the Board in support of this application is adequate for the issuance of a construction permit by the Code Official, and nothing herein should be so construed.

APPLICATION/APPEAL GRANTED

c(bulk)  d(use) variance(s)  
 site plan approval  
 appeal  other \_\_\_\_\_

Applicant(s) Argiesi

Property 27 Friedland Rd

Block 7100 Lot 16

**BE IT FURTHER RESOLVED** that the Construction Code Official is hereby directed to issue a permit in accordance with this decision.

Frank Graziano  
Frank Graziano, Chairman

Thomas Da Costa Lobo *yes*  
Thomas Da Costa Lobo, Secretary

Theresa Duva *yes*  
Theresa Duva

Greg Tolve *yes*  
Greg Tolve (First Alternate)

Daniel Tolve *yes*  
Daniel Tolve (Second Alternate)

\_\_\_\_\_  
(Fourth Alternate)

\_\_\_\_\_  
Suzanne Brown, Vice-Chairwoman

Joseph Battaglia *yes* (R)  
Joseph Battaglia

Gary Marino *yes* (2)  
Gary Marino

\_\_\_\_\_  
Peter Scirica

\_\_\_\_\_  
(Third Alternate)

Prepared by: Diana Powell McGovern  
Diana Powell McGovern, Esq.

Memorialized: August 20, 2018

In the Matter of

**MR. & MRS. JOHN  
RODRIGUEZ**

Applicants

**ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF NUTLEY  
ESSEX COUNTY, NEW JERSEY**

***RESOLUTION GRANTING BULK VARIANCES***

**FOR PROPERTY KNOWN AS:**

**341 Washington Avenue  
Block 3901, Lot 16**

**APPLICANTS, Mr. and Mrs. Louis Argieri (“Applicants”) having filed an application for a permit with the Code Official of the Township of Nutley, to do the following at the premises known as 27 Friedland Road, also being Block 7100, Lot 16 on the Tax Map of the Township of Nutley (the “Premises”):**

**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;**

**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;***

**AND the Premises being located in an R-1 District as shown on the Township of Nutley Zoning Map;**

**AND Applicants having filed an application with the Zoning Board of Adjustment of the Township of Nutley (the “Board”), requesting a variance from the terms of the *Zoning Ordinance*;**

**AND the Board having held a public hearing on the application on July 16, 2018 after due public notice and due notice to property owners in the manner and within the time frames prescribed by the *Zoning Ordinance* and by the *Municipal Land Use Law* and the *Open Public Meetings Act* of the State of New Jersey;**

**AND the Board having fully heard the testimony of the witnesses and examined the exhibits presented at the hearing, and having heard the arguments of the parties for requested relief and there being no opposition;**

**NOW, THEREFORE, WE, the Zoning Board of Adjustment of the Township of Nutley, find as follows:**

- 1. That Applicants' proposed use of the Premises as proposed would violate the provisions of the *Zoning Ordinance*.**
- 2. That Applicants have met their burden of demonstrating that sufficient legal grounds exist for the granting of the requested variance.**
  - a. Applicants have adequately demonstrated peculiar and exceptional practical difficulties arising by reason of an extraordinary and exceptional situation uniquely affecting the Premises or the structures lawfully existing thereon, such that strict application of the *Zoning Ordinance* would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, Applicants.**
  - b. Specifically, the evidence presented demonstrates to the satisfaction of the Board that the Applicant's property is narrow, only 40' wide and therefore no extension to the sides can be made. Applicants seek to close in the bottom area of the house and place some of the addition over the area where the existing patio now exists.**
- 3. That, on the basis of the evidence presented, the requested variance can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan or the *Zoning Ordinance*. The proposed project will have no negative impacts on the surrounding neighborhood, will be consistent with the character of the surrounding neighborhood, and will not interfere with the neighbors' use and enjoyment of their properties.**

**BE IT THEREFORE RESOLVED** by the Zoning Board of Adjustment of the Township of Nutley that for the reasons stated above, a **VARIANCE** from the provisions of the *Zoning Ordinance* is hereby **GRANTED** to permit Applicants 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.

**AND BE IT FURTHER RESOLVED**, that nothing in this resolution is intended to imply that the documentation submitted by Applicants to the Board in support of this application is adequate for the issuance of a construction permit by the Code Official, and nothing herein should be so construed.

APPLICATION/APPEAL GRANTED

c(bulk)  d(use) variance(s)  
 site plan approval  
 appeal  other \_\_\_\_\_

Applicant(s) Rodriguez

Property 341 Washington Av.

Block 3901 Lot 46

**BE IT FURTHER RESOLVED** that the Construction Code Official is hereby directed to issue a permit in accordance with this decision.

Frank O. Graziano yes  
Frank Graziano, Chairman

\_\_\_\_\_  
Suzanne Brown, Vice-Chairwoman

Thomas Da Costa Lobo yes  
Thomas Da Costa Lobo, Secretary

Joseph Battaglia yes  
Joseph Battaglia

Theresa Duva yes  
Theresa Duva (2)

Gary Marino yes  
Gary Marino (12)

Greg Tolve yes  
Greg Tolve (First Alternate)

\_\_\_\_\_  
Peter Scirica

Daniel Tolve yes  
Daniel Tolve (Second Alternate)

\_\_\_\_\_  
(Third Alternate)

\_\_\_\_\_  
(Fourth Alternate)

Prepared by: Diana Powell McGovern  
Diana Powell McGovern, Esq.

Memorialized: August 20, 2018

In the Matter of  
ADAM HAMWAY

Applicant

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF NUTLEY  
ESSEX COUNTY, NEW JERSEY

***RESOLUTION GRANTING BULK VARIANCES***

FOR PROPERTY KNOWN AS:  
47 Cedar Street  
Block 5303 Lot 10

APPLICANT, Adam Hamway (“Applicant”) having filed an application for a permit with the Code Official of the Township of Nutley, to do the following at the premises known as 47 Cedar Street, also being Block 5303 Lot 10 on the Tax Map of the Township of Nutley (the “Premises”):

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;

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;

AND the Premises being located in an R-1 District as shown on the Township of Nutley Zoning Map;

AND Applicant having filed an application with the Zoning Board of Adjustment of the Township of Nutley (the "Board"), requesting a variance from the terms of the *Zoning Ordinance*;

AND the Board having held a public hearing on the application on June 18, 2018 and July 16, 2018, after due public notice and due notice to property owners in the manner and within the time frames prescribed by the *Zoning Ordinance* and by the *Municipal Land Use Law* and the *Open Public Meetings Act* of the State of New Jersey;

AND the Board having fully heard the testimony of the witnesses, including testimony from neighbors who were in favor of the application, Jim Delgrande and Theresa Peccarelli, and examined the exhibits presented at the hearing, and there being no opposition presented;

NOW, THEREFORE, WE, the Zoning Board of Adjustment of the Township of Nutley, find as follows:

1. That Applicant's proposed use of the Premises as proposed would violate the provisions of the *Zoning Ordinance*.
2. That Applicant has met his burden of demonstrating that sufficient legal grounds exist for the granting of the requested variance.
  - a. Applicant has adequately demonstrated peculiar and exceptional practical difficulties arising out of the exceptional narrowness, shallowness or shape of the Premises such that strict application of the *Zoning Ordinance* would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, Applicant.
  - b. Specifically, the evidence presented demonstrates to the satisfaction of the Board that the property is narrow (Only 40' wide) and Applicant seeks to build a garage for the particular purpose of keeping antique cars. The revisions to the plans to accommodate the concerns of the Board and the conditions set forth below will create an aesthetically



pleasing structure. The Applicant agreed to remove the existing deck which reduced the requested variances.

3. That, on the basis of the evidence presented and subject to the terms and conditions described below, the requested relief can be granted without substantial detriment to the public good and will not substantially impair the intent and the purpose of the zone plan or the *Zoning Ordinance*.

**BE IT THEREFORE RESOLVED** by the Zoning Board of Adjustment of the Township of Nutley that for the reasons stated above, a **VARIANCE** from the provisions of the *Zoning Ordinance* is hereby **GRANTED** to permit Applicant to construct a 22' by 20' two (2) car garage, with a mean height in excess of 14' (As shown on the plans approved) and having a 1'7" side and rear yard setback, 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;

**BE IT FURTHER RESOLVED** that the following **TERMS AND CONDITIONS** apply to the within variance:

1. The garage will have vinyl siding to match the house.
2. The roof shingles will match the house.
3. The garage will be equipped with gutters and leaders to the street.
4. The plans dated 6/22/2018 by Matt Meany revision 1.2 and drawing dated 6/28/2018 by Kyle Zook set forth the heights and setbacks approved by the board.
5. Applicant will comply with the dimensions and notes as outlined in the email of David Berry Code Official, dated July 10, 2018 and will remove the windows not permitted by the Uniform Construction Code of New Jersey.
6. Applicant will place stones over a plastic weed protection system in the side and rear yard setback behind and on the side of the garage to prevent weed growth and make the area more attractive.
7. Applicant shall remove the existing deck.

**AND BE IT FURTHER RESOLVED**, that nothing in this resolution is intended to imply that the documentation submitted by Applicant to the Board in support of this application is adequate for the issuance of a construction permit by the Code Official, and nothing herein should be so construed.

APPLICATION/APEAL GRANTED


c(bulk)  d(use) variance(s)  
 site plan approval  
 appeal  other \_\_\_\_\_

Applicant(s) Hamway

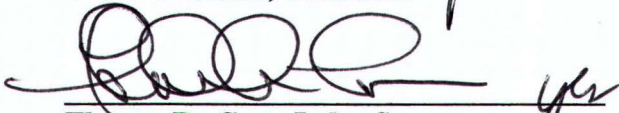
Property 47 Cedar St.

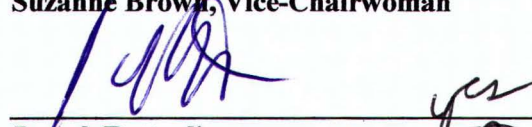
Block 5303 Lot 10


**BE IT FURTHER RESOLVED** that the Construction Code Official is hereby directed to issue a permit in accordance with this decision.

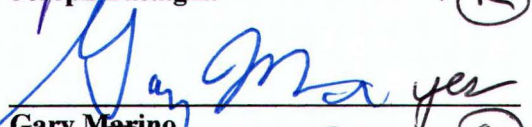
  
Frank Graziano, Chairman

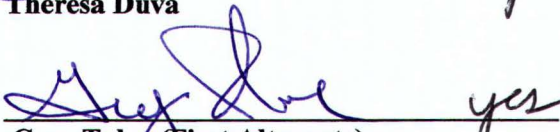
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Suzanne Brown, Vice-Chairwoman

  
Thomas Da Costa Lobo, Secretary yes

  
Joseph Battaglia yes (R)

  
Theresa Duva yes

  
Gary Marino yes (2)

  
Greg Tolve (First Alternate) yes

  
Peter Scirica yes

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Daniel Tolve (Second Alternate)

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(Third Alternate)

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(Fourth Alternate)

Prepared by:   
Diana Powell McGovern, Esq.

Memorialized: August 20, 2018