

In the Matter of

JOSEPH MATARAZZO

Applicant

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

RESOLUTION GRANTING BULK VARIANCES

FOR PROPERTY KNOWN AS:
681 Franklin Avenue
Block 2001 Lot 17

APPLICANT, Joseph Matarazzo (“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 681 Franklin Avenue, also being Block 2001 Lot 17 on the Tax Map of the Township of Nutley (the “Premises”):

To leave as erected, a ground sign which is 69” in width and 70” in height, with 33.5 square feet display area each side for a total of 67 square feet located in a B-1 zoning district, which exceeds the total permitted display area for the property, as shown on the rendering received by Code Enforcement dated July 7, 2017;

AND the Code Official having denied said permit by letter dated January 10, 2018, citing Chapter 700, Article III, Section 700-3 of the *Codes of Nutley* entitled “Definitions” a definition of a sign is every frame, which is used or intended to be used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event or location by any means, including words, letters, figures, designs, symbols, colors, illumination or projected images, when the same is placed in the view of the general public, either outdoors or indoors. Any of the above which is not placed out of doors, but which is illuminated with artificial or reflected color or otherwise made visible from out of doors, shall be considered a sign within the meaning of this chapter, when placed in such a way as to be used to attract attention or convey information to motorists or pedestrians, and also citing,

Chapter 700, Article XIII, Section 700-83 of the *Codes of Nutley* which does not permit ground sign in a B-1 zoning district, and also citing,

Chapter 700, Article XIII, Section 700-83 (B) (1) of the *Codes of Nutley* which state for premises not located on a corner lot, the maximum signage surface area shall be no greater than the

building frontage width in linear feet multiplied by a factor of 1 1/2. *The building width is 22' X1.5 =35SF. The proposed ground sign is 67SF display area both sides.*

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Chapter 700, Article XIII, Section 700-83 of the *Codes of Nutley* which does not permit ground sign in a B-1 zoning district, and finally citing,

Chapter 700, Article XIII, Section 700-83 (B) (1) of the *Codes of Nutley* which states for premises not located on a corner lot, the maximum signage surface area shall be no greater than the building frontage width in linear feet multiplied by a factor of 1 1/2. *The building width is 22' X1.5 =35SF. The proposed ground sign is 67SF display area both sides.*

AND the Premises being located in a B-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, July 16, 2018 and August 20, 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 Applicant 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 Applicant purchased the property over seven years ago and removed a ground sign that had been approved due to construction. The Applicant then leased the property to a tenant who installed a ground sign of the same size in the same place without a permit

and with no complaints for seven years. The proposed sign is actually less than the square footage cited by the Code Official and does not exceed the maximum allowed.

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 *leave as erected*, a ground sign which is 69” in width and 70” in height, with 33.5 square feet display area each side for a total of 67 square feet located in a B-1 zoning district, which exceeds the total permitted display area for the property, as shown on the rendering received by Code Enforcement dated July 7, 2017;

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

1. The sign light must go off by 11:00PM.

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/APPEAL GRANTED

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

Applicant(s) Nataca 330

Property 681 ~~81~~ Franklin

Block 2001 Lot 17

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

Frank Graziano yes
Frank Graziano, Chairman

Suzanne Brown yes
Suzanne Brown, Vice-Chairwoman

Thomas Da Costa Lobo yes
Thomas Da Costa Lobo, Secretary

Joseph Battaglia

Theresa Duva yes
Theresa Duva

Gary Marino yes
Gary Marino

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: September 17, 2018