

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

August 20, 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, Theresa Duva, Gary Marino, Tom DaCosta Lobo, Suzanne Brown, Chairman Graziano and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: Peter Sirica, Joseph Battaglia

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No. 1 621 Franklin Avenue 7-0

Applicant: Mr. Adam Hamway, 621 Franklin Avenue, Block-Lot: 5303-10

Application: 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;

Appearances: Steve Martino, Esq., Joseph Matarazzo

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

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.*

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 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.*

Steve Martino, Esq., made his opening remarks to the board, stating that the display area of the sign was less than 25 feet and the sign itself was five feet from the base. Applicant Joseph Matarazzo stated that he has owned this property for seven years. Exhibits A1, A2, and A3 were pictures of the sign and the surrounding area. He stated that he took one sign down and replaced it. Exhibit A1 is 681 Franklin Avenue. Exhibit A2 was the current sign and Exhibit A3 was the original sign for Bowes Realty. The Applicant stated that he did not know he needed a permit to change the sign. Mr. Matarazzo stated that the sign was not illuminated from within but had a landscape light. Chairman Graziano asked the applicant if the time of the lighting can be altered. The board agreed the light should be turned off by 11:00 pm. Ms. Suzanne Brown asked the applicant if he increased the size of the sign. The applicant responded that he didn't change the size, he only changed the face of the sign.

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 Ms. Suzanne Brown, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

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No. 2 109 Walnut Street CARRIED TO THE NEXT MEETING

PLEASE NOTE: This application was marked as Try or Dismiss at the September 17, 2018 Zoning Board of Adjustment Meeting.

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No. 3 46 Mount Vernon Street CARRIED TO THE NEXT MEETING

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

Application: to widen the pre-existing driveway and curb cut to 26' total on a corner property, 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 A (2) of the Codes of Nutley states a driveway shall consist of the area directly opposite and adjacent to an attached garage, detached garage or depressed garage or the extension of the rear yard into the side yard which abuts a street. However, if there is no garage and no available rear yard, a driveway not to exceed 16 feet in width from the rear lot line may be constructed. ***The side yard on Corsay Road side has an existing 16' driveway and is proposed to be widen an additional 10' for a total width of 26'.***

Chapter 700, Article XIII, Section 700-94 A 3 (a) of the Codes of Nutley states a curt cut shall not exceed 16' in length. ***The proposed curb cut on the Corsay Road side shall be widen to 26'.***

Applicant Neva Bray testified that she wanted to widen her driveway. She stated her son was a volunteer firefighter and drove a 19 foot long ram truck. The applicant stated that she had four vehicles. Ms. Suzanne Brown asked the applicant what her hardship was. Mr. Tom DaCosta Lobo stated that the driveway couldn't go back because of the deck, however, he felt 26 feet was excessive. Ms. Bray stated that she wanted three cars to be able to park side by side. The board suggested she lengthen the driveway to 18 feet wide. This would allow two cars deep and two cars side by side. Exhibit A1 was the Board's suggestion.

With no further questions from the members and no one in the audience with questions or comments, a motion to carry this application to the next meeting was granted.

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No. 4 135 Margaret Avenue APPROVED 7-0

Applicant: Mr. Rafael Ulloa, 135 Margaret Avenue, Block-Lot: 8502-5

Application: To increase the driveway to 16' which will decrease the required 60% front yard landscape coverage to 46%, as shown on the survey, prepared by Behar Surveying Associates, PC, dated March 28,2018;

Appearances: Rafael Ulloa

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

AND the Code Official having denied said permit by letter dated May 21, 2018, citing Chapter 700, Article VIII, Section 700-48 of the *Codes of Nutley* which states any lot containing a residence for one or two families shall have at least 60% of the required front yard in landscaping. This area shall not be covered with paving, walkways or any other impervious

surface. Landscaping may consist of grass, ground cover, shrubs and other plant material. *The required front yard landscaping is 60% the proposed will be 46%,*

Applicant Rafael Ulloa testified that he wanted to wide his driveway from 11 feet to 16 feet. He stated that he had an undersized lot and it was irregularly shaped. Chairman Graziano asked the applicant if the utility pole would remain in place. He responded that it would. Chairman Graziano stated it would be too easy to hit the pole. The applicant agreed to back into the driveway so he could pull safely out, as well as install a planter so no one would drive into the home.

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 Ms. Suzanne Brown, seconded by Mr Tom DaCosta Lobo. The variance was granted by a vote of 7-0.

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No. 5 29 Friedland Road APPROVED 7-0

Applicant: Ms. Monica Fede, 29 Friedland Road, Block-Lot: 7100-15

Application: To install a new AC condenser located in the Northeast side yard having less than a six (6') foot side yard setback, as shown on the survey prepared by Richard J. Hingos, dated December 17, 2012;

Appearances: Monica Fede

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 III, Section 700-3 B of the *Codes of Nutley* entitled "Definitions"; which states that 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 condenser will be located in the southeast side yard which is less than six (6") feet. The required side yard in an R-2 zoning district is six (6') feet;*

Applicant Monica Fede testified that the only allowable place to put the condensers in her yard was between her home and her neighbors. Mr. Daniel Tolve suggested the applicant hang the condenser. She responded that she would mount it to the home. Ms. Suzanne Brown stated that it was a small lot. Ms. Fede also pointed out that the condenser was actually on the northeast side of the home, which needed to be corrected in the resolution.

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

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No. 6 166 Highfield Lane APPROVED 7-0

Applicant: Mr. and Mrs. Robert Hewett, 166 Highfield Lane, Block-Lot: 3502-15

Application: To construct a one (1) story addition at the rear of the property, having a 4'11" side yard setback, to install two (2) new A/C condensers in the side yard with a 1'6" side yard setback, and to demolish the existing detached garage, as shown on the property survey prepared by Shepard & Shepard, dated March 30, 1998, and plans prepared by Dassa-Haines Architectural Group, LLC, dated July 6, 2018;

Appearances: Judith Hewett, Robert Hewett, Jeffrey Blank

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

AND the Code Official having denied said permit by letters dated July 17, 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 an eight (8') foot and 10' side yard setback in an R-1A zoning district. *The proposed side yards setback will be 11'11" & 4'11"*; and also citing,

Chapter 700, Article III, Section 700-3 of the *Codes of Nutley* entitled "Definitions" which states that 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 proposed A/C condensers will have a 1'6" side yard setback*; and also citing,

Chapter 700, Article V, Section 700-10 of the *Codes of Nutley* list Uses and buildings permitted in the R-1 District, as prescribed; and also citing,

Chapter 700, Article V, Section 700-9A of the *Codes of Nutley* which states 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;

Applicants Robert and Judith Hewett testified that their home was now dysfunctional. Judith stated her husband Robert had been injured in an Amtrak accident and now has an issue with stairs. She stated she wanted to extend the kitchen and add a full bathroom. Ms. Hewett stated that in order to create living space on the first floor, her garage would need to come down. The applicant stated she would match the existing siding and roof. Jeffrey Blank testified that he would move the AC units.

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. Tom DaCosta Lobo. The variance was granted by a vote of 7-0.

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No. 7 209 Alexander Avenue APPROVED 7-0

Applicant: Mr. and Mrs. Jeffrey Dumansky, 209 Alexander Avenue, Block-Lot: 2400-26

Application: To widen the existing driveway three (3') feet to the left which will be in front of the main dwelling for a total width of 15', as shown on the survey received by the Code department April 17, 2018;

Appearances: Jeffry Dumansky, Linda Dumansky

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 XIII, Section 700-94 A (1) of the *Codes of Nutley* which states a driveway 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. *The proposed driveway increase to the left will be in front the main dwelling;*

Applicants Jeffry and Linda Dumansky testified that their driveway is narrow and has become a hazard. Ms. Dumansky stated she had no walkway and their old steps were crumbling. She explained that the driveway was currently 10 feet and she was asking for 15 feet. The applicants explained they needed the walkway for their grandkids and elderly parents. The board stated that about 3 feet was actually the walkway to the door. The applicants stated there would be no curb cut and they would use pavers. The applicants also testified that they could not widen the driveway to the other side because of a drain pipe and bushes. The board agreed that the driveway portion would be in front of a part of the home which is a closet and not living space.

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 Ms. Suzanne Brown, seconded by Mr. Greg Tolve. The variance was granted by a vote of 7-0.

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PUBLIC COMMENT:

RESOLUTIONS MEMORIALIZED: 2 Oak Street, 47 Cedar Street, 27 Friedland Road, 341 Washington Avenue

MINUTES:

INVOICES: Pennoni for 10 Kingsland Street, \$400.00 and \$900.00

NEW BUSINESS:

LITIGATED MATTERS:

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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 L Mitchell

11/19/18