

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

November 19, 2018

CALL TO ORDER: A meeting of the Nutley Zoning Board of Adjustment was called to order at approximately 7:30 p.m. by Vice Chairperson, Suzanne Brown. 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, Chairman Graziano, and Board attorney, Diana McGovern, Esq.

ABSENT: None

EXCUSED: None

No. 1 47 Washington Avenue CARRIED TO THE NEXT MEETING

Applicant: Mr. Thomas DiBiasi, Esq.

Application:

Appearances: Thomas DiBiasi, Esq.

Letter of Denial: was not read.

Mr. Thomas DiBiasi, Esq. informed the board that he was seeking an adjournment on this application.

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 regular meeting was granted.

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No. 2 184 Centre Street APPROVED 7-0

Applicant: Dr. Mark Khaimov, 184 Centre Street, Block-Lot: 7201-15

Application: To install a 36"x 60" by five (5') feet in height, 15 SF single sided ground sign, having approximately two (2') feet setback to the front property line, as shown on the rendering

prepared by Nutley Signs, LLC , and survey prepared by Bulls Eye Surveying, dated September 29, 2017.

Appearances: Thomas DiBiasi, Esq., Dr. Mark Khaimov, Paul Bauman, and neighbor Gina Papeo

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

AND the Code Official having denied said permit by letter dated October 23, 2018, citing Chapter 700, Article XII, Section 700-82 of the Codes of Nutley list the permitted signs in an R-2 district. A ground sign is not a listed permitted sign in an R-2 Zoning district, and also citing, Chapter 700, Article XII, Section 700-84 A (2) of the Codes of Nutley states in a B-3, B-3A, B-4, and M-O, ground signs cannot exceed five feet in height, which shall not be erected within five feet of any property line and which shall have a maximum display area not exceeding 25 square feet.

Mr. Thomas DiBiasi, Esq., made his opening remarks to the board, stating he represented Dr. Mark Khaimov and that the property currently had 3 signs installed. Dr. Khaimov stated that the color of the signs would match the roof, which was blue, and would have white or black letters, with PVC or wood materials. He stated that the sign would not be illuminated from within, but with a spot light on it. The applicant agreed the spot light would go off at 10 pm and would be 3 x 5. Mr. Greg Tolve asked the applicant if it would be similar to his other sign on the property. The applicant responded that it would, and he would agree to move the sign back more. Ms. Suzanne Brown suggested that the sign be aligned with the other sign. The board members make this a condition. Neighbor Gina Papeo lives at 180 Centre Street and wanted to make sure all signs were less than 6 feet tall. Ms. Diana McGovern, Esq., explained to the neighbor that the sign would be the same exact size and setback as the sign on the neighboring property. Expert Planner, Paul Bauman, testified that this was an accessory structure, which promotes public safety by providing better identification of the building, as well as promoting the free flow of traffic. Mr. Bauman stated this application supports 2(i) because the sign will enhance the appearance of the property and will not affect the public negatively.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this application was made by Mr. Joseph Battaglia, seconded by Mr. Tom DaCosta Lobo. The variance was granted by a vote of 7-0.

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No. 3 98 Mapes Avenue APPROVED 7-0

Applicant: Mr. Domenik Di Pasquale, 98 Mapes Avenue, Block-Lot: 2700-1

Application: To leave as erected, a bathroom and pantry/closet constructed in the attached garage, which reduced the size of the garage to approximately 13', as shown on the sketch received by Code Enforcement, August 29, 2018 and property survey dated May 11, 1944;

Appearances: Domenik Di Pasquale

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

AND the Code Official having denied said permit by letter dated October 2, 2018, citing Chapter 700, Article V, Section 700-9 A of the *Codes of Nutley* which states a single-family dwelling, 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*, and also citing,

Chapter 700, Article III, Section 700-3 B of the *Codes of Nutley* entitled "Definitions" which states a *parking space* is an off-street space available for the parking of one motor vehicle and having minimum dimensions of nine feet in width and 18 feet in length, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a street, and also 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. By converting the garage into living space, this eliminates the garage and puts the location of the driveway in an area not permitted;

Applicant Dominik Di Pasquale testified to the board that he had purchased his home in 2007 with the extension in the garage. He explained to the board that he was given a Certificate of Occupancy and was never told he needed any variances. Mr. Di Pasquale informed the board he redid his bathroom in 2016, was given permits, and was still not told he needed a variance. The applicant informed the board that he finally was told he needed a variance when he sold his home on August 30, 2018. The applicant stated that he simply relied on the town to give him the correct information.

With no further questions from the members and no one in the audience with questions or comments, a motion to grant this application was made by Mr. Tom DaCosta Lobo, seconded by Mr. Gary Marino. The variance was granted by a vote of 7-0.

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PUBLIC COMMENT:

RESOLUTIONS MEMORIALIZED:

MINUTES: August, September, and October 2018 minutes approved

INVOICES: 248 Franklin Avenue: return of escrow. Bill from Mr. Ricci for 434-438 Centre Street for \$120.00.

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

12/17/18