

Approved
7/15/2024
DR

NUTLEY ZONING BOARD OF ADJUSTMENT
Public Session Meeting Minutes
June 17, 2024

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: Robin LePre, Patricia Doherty, Lorraine Castro, Yvette Wallace, Daniel Fragnals, David Schiedel, Theresa Duva, John Cafone, Gregory Tolve, Daniel Tolve, Chairman Graziano, Diana Powell McGovern Esq.

EXCUSED: Daniel Fragnals,

ABSENT:

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No. 1: 220 Park Avenue– Approved 7-0

Applicant: Mr. Thomas DiBiasi, 220 Park Avenue, NJ 07110

Application: Your request on behalf of your client, Summit Properties, LLC, to increase the number of dwelling units from five to six and to construct a new parking lot at the rear of the building with an 8'2" width driveway access, asphalt, striping, and landscaping, etc. on to the existing legal non-conforming property, as shown on the property survey by Osterkorn Engineering Associates dated February 10, 2022 and plans by Architect Julie Ann Cecere dated March 13, 2023

Appearances: Thomas DiBiasi Esq., Frank Oliver (Applicant), Julianne Cecere (Architect), Charles Osterkorn (Site Engineer), Todd Hay (Zoning Engineer), Paul Ricci (Zoning Board Planner), Joseph Staigar (Planning and Traffic)

Letter of Denial: Letter of Denial was not read.

Mr. Osterkorn goes over Todd Hay's concerns. He states that the driveway would be 4" wider than previously proposed. There will also be a charging station between two of the spaces, one of which will be handicapped. The trash enclosure will be completely sealed off and covered and there will be private garbage collection on the property.

Mr. Hay reiterates that he wants to be sure there is proper signage and stripping of the parking lot area. He also states that he wants to make sure the town fire department inspects the property. A member of the audience, Victor Riccard states that he is a neighbor and wants to ensure the safety of his family and questions the garbage collection. Frank Oliver, the owner, ensures that he and his engineers are taking all measures to ensure safety and will collect garbage with a bobcat and load it onto a truck and take it away.

The conditions set in place for this application are as follows, Belgium block curb, proper signage, snow removed off the property, only cars 5' 11" in width to enter the driveway, 25 year storm drainage, private trash pickup and lighting up to code.

With no further questions or concerns a motion to grant this variance was made by John Cafone and was seconded by Greg Tolve. The variance was approved by a vote of 7-0.

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No. 2: 78 Williams Street – Approved 6-1

Applicant: Jose DeRoma, 78 Williams Street, NJ 07110

Application: Your request, to construct a new driveway for a compact car in front of the main dwelling, which will decrease the required front yard coverage to 56%, and to construct a new entry vestibule in the same footprint as the existing enclosed porch, as shown on the plans by Architect Mark Roselli dated February 15, 2024;

Appearances: Jose DeRoma, Mark Roselli (Architect)

Letter of Denial: Letter of Denial was read by Patricia Doherty

Chapter 700, Article III, Section 700-3 of the Codes of Nutley states the definition of a parking space-compact car is an off-street space available for the parking of one motor vehicle and having minimum dimensions of 7.5 feet in width and 15 feet in length, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct usable access to a street. No more than 20% of the parking requirement may consist of compact parking spaces; and also citing,

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley states the driveway shall consist of the area directly opposite to an attached garage, detached garage or not more than two feet in front of the main dwelling when a 2-foot in-depth landscape area is provided directly in front of the main dwelling or depressed garage or the extension of the side yard into the front yard. The driveway width shall not exceed 16 feet in width for lots up to 50 feet in width. Lots having a width greater than 50 feet may have a driveway width of up to 18 feet in width when conforming to Section 700-48. 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; and also citing,

Chapter 700, Article VIII, Section 700-48 of the Codes of Nutley 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 landscaping is 60%, the proposed is 56%.

Chapter 700, Article XVI, Section 700-113 of the Codes of Nutley states an existing open porch may only be enclosed in cases where there is no expansion or addition, and the renovation would not be detrimental to public health, safety and general welfare. This is a preexisting condition;

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 May 20, 2024 and June 17, 2024, 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;

Mr. Roselli states that his applicant would like to construct a compact car driveway in front of the dwelling as well as a new entry vestibule. The property is only 30' wide so it makes it very hard to fit a driveway that is up to code. He states that 80% of the current porch would be demolished and there would be a planter installed in front of the home to protect from cars. The planter would be 16' from the sidewalk. The new vestibule will be in the same footprint of the porch.

With no further questions or concerns a motion to grant this variance was made by Theresa Duva and was seconded by Dan Tolve. John Cafone voted no. The motion was approved by a vote of 6-1.

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No. 3 106 Hopper– Approved 7-0

Applicant: Glenn Wallace, 106 Hopper, Nutley, NJ 07110

Application: Your request to construct a new three season room addition, as shown on the property survey by Steven L. Koestner dated January 15, 2014, and plans prepared by the homeowner and received by the Code Enforcement Department on March 4, 2024;

Appearances: Glenn Wallace

Letter of Denial: Letter of Denial was read by Patricia Doherty

Yvette Wallace recuses herself.

Chapter 700, VIII, Section 700-46A of the Codes of Nutley, Schedule of Regulations, which requires the following for a side yard in an R-1 zoning district: Side yard 6' required (1.84' proposed) and 35% maximum lot coverage allowed (37% proposed);

Mr. Wallace states that he would like to construct a 3 season room in his home. The only difference on the property really is that the back of the home would just be squared off. The room will be pitched toward the back of the home where there is a dry well. The siding will match existing home.

With no further questions or concerns a motion to grant this variance was made by John Cafone and was seconded by Theresa Duva. The motion was approved by a vote of 7-0.

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No. 4 293 Grant Avenue – Approved 7-0

Applicant: David and Alda Garcia, 293 Grant Avenue, Nutley, NJ 07110

Application: Your request to demolish the existing garage and reconstruct a new two-story garage and covered patio, having a four (4') foot setback to the rear, and to install a new four (4') foot located in the side yard of the corner property, which is located in the front yard of the adjoining property along Whitford Avenue, as shown on the plans prepared by Julie Anne Cecere dated February 21, 2024;

Appearances: David and Alda Garcia, Julie Anne Cecere (Architect)

Letter of Denial: Letter of Denial was read by Patricia Doherty

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 proposed garage will be two stories and have a building height of 16'4.;" 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 garage will have a 4'3" side yard setback; and also 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 of Nutley which states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties. The proposed four (4') foot open fence is located in the side yard along Whitford Avenue, which is located in the front yard of the adjoining property; and also citing,

Chapter 700, Article XII, Section 700-94 A (1) of the Codes of Nutley which states the driveway shall consist of the area directly opposite to an attached garage, detached garage or not more than two feet in front of the main dwelling when a 2-foot in-depth landscape area is provided directly in front of the main dwelling or depressed garage or the extension of the side yard into the front yard. The driveway width shall not exceed 16 feet in width for lots up to 50 feet in width. Lots having a width greater than 50 feet may have a driveway width of up to 18 feet in width when conforming to Section 700-48. 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. There is a 21' driveway which is a pre-existing condition as per Code Enforcement records;

Mrs. Cecere states that the applicants would like to reconstruct a new two-story garage and a covered patio with a 4' setback from the rear yard. The lot is extremely narrow, so it is difficult to keep the garage within the allowed setback. She states that the home really faces the Whitford side, and the moving of the garage will make it conform to the side yard setback. There will be not bathroom or running water on the second floor of the garage at it will be used as a personal gym. The fence proposed will be a transparent black vinyl fence. The driveway will be slid over in front of the garage and the garage door will be 18'

With no further questions or concerns a motion to grant this variance was made by Dan Tolve and was seconded by Greg Tolve. The motion was approved by a vote of 7-0.

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No. 5 326 Hillside – Approved 7-0

Applicant: Hong Suk Lee & Y.J. Hwang, 326 Hillside, Nutley, NJ 07110

Application: Your request for a permit, at the above referenced premises, to demolish the existing garage and not to rebuild, and to install a shed, as shown on the property survey prepared by Borrie & McDonald, dated July 13, 1961

Appearances: Hong Lee

Letter of Denial: Letter of Denial was read by Patricia Doherty

Chapter 700, Article V, Section 700-9 A of the Codes of Nutley states the following uses are permitted in the R-1 Zoning District: 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.

Mr. Lee states that he would like to demolish his garage and not rebuild it. He states that garage is too small for a vehicle and it is deteriorating. He has never used the garage for parking. He will put a shed in the yard that is 8'x8' and that is where he will store his yard tools.

With no further questions or concerns a motion to grant this variance was made by Gerg Tolve and was seconded by Theresa Duva. The motion was approved by a vote of 7-0.

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No. 6 151 Stager Street – Approved 7-0

Applicant: Scott Miller and Miriam Latorre, 151 Stager Street, Nutley, NJ 07110

Application: Your request for a permit, at the above referenced premises, to install a four (4') foot solid type fence located in the side yard street side, as shown on the property survey prepared by George Anderson dated May 14, 2004,

Appearances: Miriam Latorre

Letter of Denial: Letter of Denial was read by Patricia Doherty

John Cafone recuses himself for the rest of the applications

Chapter 700, Article XI, Section 700-71 B of the Codes of Nutley states a fence erected along the side lines from the front line of a main structure to the rear line of such structure and within such lines shall not exceed four feet in height and shall be not less than two feet in height and shall be of 50% open construction (i.e., the open spaces in the fence shall be at least the same width of each picket, slat or other construction element of such fence). The setback for any such fence shall be in line with the furthest setback of the adjacent property or the property upon which the fence is being erected, whichever setback is greater.

Mrs. Latorre states that she would like to leave as erected her current fence. She states that she had a contractor come and install the fence and they never notified her she needed a permit or a variance. The current fence is 6" from where the previous fence was. There are gates on both side of the property and the fence is 4' board on board.

With no further questions or concerns a motion to grant was made by Yvette Wallace and was seconded by Greg Tolve. The motion was approved by a vote of 7-0.

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No. 74 Hudson Street – Approved 7-0

Applicant: Sheri Lynn Isreal, 4 Hudson Street, Nutley, NJ 07110

Application: Your request for a permit, at the above referenced address, to install a six (6') foot fence (five (5') foot solid and one (1') foot lattice) on the corner property, which is located in the front yard of the adjoining property, as shown on the property survey prepared by Frank R. DeSantis

Appearances: Sheri Lynn Isreal

Letter of Denial: Letter of Denial was read by Patricia Doherty

Chapter 700, Article XI, Section 700-71 A of the Codes of Nutley states no fences of any type shall be permitted in any front yard.

Chapter 700, Article XI, Section 700-71 D of the Codes of Nutley states a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties.

Ms. Isreal states that she would like to install a 6' fence 5' of that being solid and the top 1' being lattice. She states there is a lot of shrubbery and will maintain it so most of the fence will remain hidden. She states she wants the fence for protection and privacy. The fence will be vinyl. The gates will also be remain in the same spot.

With no further questions or concerns a motion to grant was made by Theresa Duva and was seconded by Greg Tolve. The motion was approved by a vote of 7-0.

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No. 8 2 Margaret – Approved 7-0

Applicant: Celso Vinueza, 2 Margaret Avenue, Nutley, NJ 07110

Application: Your request for a permit, at the above referenced premises, to install a portion of a five (5') foot open fence located in the side yard, as shown on the property survey received by Code Enforcement on February 22, 2024

Appearances: Celso Vinuea

Letter of Denial: Letter of Denial was read by Patricia Doherty

Chapter 700, XI, Section 700-71 A of the Codes of Nutley states no fences of any type shall be permitted in any front yard.

Chapter 700, Article XI, Section 700-71 B of the Codes of Nutley states a fence erected along the side lines from the front line of a main structure to the rear line of such structure and within such lines shall not exceed four feet in height and shall be not less than two feet in height and shall be of 50% open construction (i.e., the open spaces in the fence shall be at least the same width of each picket, slat or other construction element of such fence). The setback for any such fence shall be in line with the furthest setback of the adjacent property or the property upon which the fence is being erected, whichever setback is greater.

Mr. Vinueza states that he would like to install a gate, being 5' open in order to access his garage. The board states that the applicant will need to plant shrubs to break up the look of a white wall. The shrubs will need to be maintained in perpetuity.

With no further questions or concerns a motion to adjourn was made by Patricia Doherty and was seconded by Lorainne Castro. The motion was approved by a vote of 7-0.

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No. 9 15 Wilson – Not in attendance

Applicant: Michael Martone, 15 Wilson Street, Nutley, NJ 07110

Application: Your request, at the above referenced premises, to construct an additional driveway on the right side of the property, as shown on the property survey prepared by Borrie, McDonald & Watson dated July 25, 2013

Appearances: Not in attendance

Letter of Denial: Letter of Denial was not read

Chapter 700, Article XIII, Section 700-94 A of the Codes of Nutley states notwithstanding any other section of this chapter, no front yard of a lot upon which is located a one- or two-family dwelling shall be used for the parking of motor vehicles, except that motor vehicles may be parked upon a driveway in the front yard. Similarly, in the case of corner lots, no side yard facing a street on a lot upon which is located a one- or two-family dwelling shall be used for the parking of motor vehicles, except that motor vehicles may be parked upon a driveway in the side yard.

(1) The 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.

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

No one appeared for 15 Wilson was and so the Board Adjourned the application to the July 15, 2024 meeting.

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Public Comment: None.

Resolutions: 25 Columbia, 27 Calico, 49 Hope, 85 Park, 90 Mapes

Invoices:

Paul Secretary pay of \$150.

Penoni invoice: \$3,315.

Paul Ricci invoice: of \$843.75.

**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**

Respectfully Submitted,



Paul Marranzino
Board Secretary