

In the Matter of

HUA PING DONG & XUE  
RONG TANG

Applicants

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF NUTLEY  
ESSEX COUNTY, NEW JERSEY  
DOCKET NO.: 25-0046

***RESOLUTION GRANTING BULK VARIANCES***

FOR PROPERTY KNOWN AS:  
3 Union Avenue  
Block 9407 Lot 12

APPLICANT, Hua Ping Dong and Xue Rong Tang (“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 3 Union Avenue, also being Block 9407, Lot 12 on the Tax Map of the Township of Nutley (the “Premises”):

To widen the existing driveway to sixteen (16’) feet which reduces the front yard landscaping coverage as shown on the property survey prepared by Butler Surveying & Mapping, Inc. dated November 1, 2016;

AND the Code Official having denied said permit by letter dated December 15, 2025, 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 landscaping is 60% and the proposed is 40%);

AND the Premises being located in an R-2 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 January 12, 2026, 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 Aracelis Hurley, co-owner of the property, 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 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 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, Applicants.
  - b. Specifically, the evidence presented demonstrates to the satisfaction of the Board that the property is undersized, having a width of 37.5', which presents a hardship. The driveway width is necessary as Union Avenue is a busy county road and the widened driveway will not encroach in front of the house.
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 Applicants to widen the existing driveway to sixteen (16') feet which reduces the front yard landscaping coverage as shown on the property survey prepared by Butler Surveying & Mapping, Inc. dated November 1, 2016;

BE IT FURTHER RESOLVED that the following TERMS and CONDITIONS apply to the with Variance:

1. The Applicants are bound by the contents of their testimony as if this testimony was incorporated herein.
2. All construction shall be completed in accordance with the plans submitted and/or the testimony of the Applicants.
3. The approvals granted herein shall expire unless construction is begun within one year of the date of the memorializing resolution as per Chapter 700, Article II, Section 85-19 of the Codes of Nutley.

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.

Address: 3 Union Avenue

Block: 9407 Lot: 12

Date: January 12, 2026

NAME	MOTION	SECOND	YES	NO	NOT VOTING
GRAZIANO			X		
D. TOLVE	X		X		
G. TOLVE			X		
CAFONE		X	X		
DUVA					X
WALLACE			X		
DOHERTY			X		
CASTRO					X
CALICCHIO			X		
LEPRE					X

APPLICATION/APPEAL GRANTED

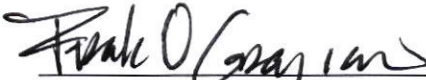
c(bulk)  d(use) variance(s)  
 site plan approval  
 appeal  other \_\_\_\_\_

Applicant(s): **Hua Ping Dong and Xue Rong Tang**

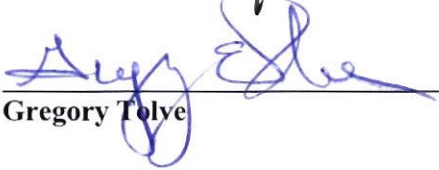
Property: **3 Union Avenue**

Block: **9407** Lot: **12**

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

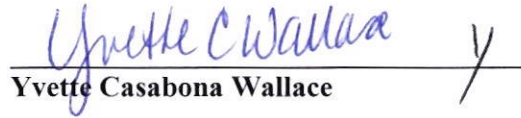
  
\_\_\_\_\_  
Frank Graziano, Chairman Y

  
\_\_\_\_\_  
Daniel Tolve, Vice Chairman Y

  
\_\_\_\_\_  
Gregory Tolve Y

  
\_\_\_\_\_  
John Cafone Y

\_\_\_\_\_  
Theresa Duva NV

  
\_\_\_\_\_  
Yvette Casabona Wallace Y

  
\_\_\_\_\_  
Patricia Doherty, Secretary Y

\_\_\_\_\_  
Lorraine Castro (First Alternate) NV

  
\_\_\_\_\_  
Marc Calicchio (Second Alternate) Y

\_\_\_\_\_  
Robin S. LePre (Third Alternate) NV

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

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

Memorialized: February 9, 2026

In the Matter of

KETAN DARJI

Applicant

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF NUTLEY  
ESSEX COUNTY, NEW JERSEY  
DOCKET NO.: 25-0039

***RESOLUTION GRANTING USE VARIANCE***

FOR PROPERTY KNOWN AS:  
38 Humbert Street  
Block 6702 Lot 10

**APPLICANT, Ketan Darji (“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 34-38 Humbert Street, also being Block 6702, Lot 10 on the Tax Map of the Township of Nutley (the “Premises”):**

**To construct a townhouse residential development, consisting of four (4) dwelling units, site development including parking, landscaping, trash enclosure, draining and lighting, etc. located in an R-2 zoning district, as shown on the plans prepared by Architect Salvatore Corvino Architect and Planner, LLC dated October 10, 2024 (revised November 6, 2025) and Omland and Osterkorn Consulting Engineering & Surveyors dated May 1, 2025 (revised December 5, 2025);**

**AND the Code Official having denied said permit by letter dated July 25, 2025, citing Chapter 700, Article VIII, Section 700-7 of the Codes of Nutley which states that no building shall hereafter be erected and no existing building shall be moved, altered, added to or enlarged, nor shall any land or building be used, designed or arranged to be used for any purpose other than is included among the uses listed in this article as permitted in the district in which such building or land is located nor in any manner contrary to any of the requirements specified in this article; and also citing,**

**Chapter 700, Article V, Section 700-12 of the Codes of Nutley which states the following uses are permitted in the R-2 Zoning District: uses and buildings permitted in the R-1 District (except home occupation and professions, see § 700-12C), as prescribed, two-family dwellings, not to exceed one building or structure on each lot, and home occupations and professions, Category A. *A townhouse residential development is not a listed permitted use. Townhouses are a permitted use in an R-3 zoning district;* and also citing,**

**Chapter 700, Article VIII, Section 700-46 A, The Schedule of Regulations of the Codes of Nutley requires the following in an R-2 zoning district:**

## ZONING CHECKLIST

ZONE	REQUIRED	PROPOSED	VARIANCE
<b>R-2</b>			
Lot Area	6,000 sf	11,697 sf	No
Lot Width	60'	70'	No
Lot Depth	100'	167.10'	No
Per Dwelling Unit	3,000 sf	2,924 sq	Yes
Front Yard	25'	60.91'	No
Rear Yard	30'	30'	No
1 Side	6'	6'	No
Side Other	6'	6'	No
Stories	2.5	3	Yes
Feet	30'	30'	No
Maximum Lot Coverage	35%	29.4%	No
Maximum Impervious Surface Coverage	70%	69.7%	No

Chapter 700, Article III, Section 700-3 of the Codes of Nutley which states the definition of 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. There are two proposed parking spaces per dwelling unit which will be tandem parking; and also citing,

Chapter 700, Section 600-1 A of the Codes of Nutley which states no construction permit or certificate of occupancy shall be issued for any use except one- and two-family detached dwellings and permitted accessory use thereto unless a site plan shall have first been approved by the Board in accordance with the terms of this chapter, except that site plan approval also shall not be required for the following except as set forth in Subsection B;

**AND the Premises being located in an R-2 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 hearings on the application on January 12, 2025 (adjourned at the request of Applicant from December 15, 2025), 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 Applicant having been represented by Gregory Mascera, Esq. and the Board having fully heard the testimony of the witnesses, including Applicant's experts: Salvatore Corvino (Architect), Kiersten Osterkorn, P.E., P.L.S, of Omland & Osterkorn Consulting Engineers and Surveyors (Engineer), and Peter Steck, P.P. (Planner), Board experts: Dipti Raja, P.E. of Pennoni Associates, Inc. -Board Engineer (who issued a report dated December 23, 2025) and Paul Ricci, AICP, PP,- Board Planner (who issued a report dated November 7, 2025) and examined the exhibits presented at the hearing, and neighbor Anthony Calandra of 42 Humbert Street;**

**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*. Specifically, the proposal would result in a use not permitted in the Zoning District (d. 1 variance) and density exceeds the allowable densities for both single-family dwellings and two-family dwelling units in this zone which are 8.71 and 1452 units per acre, respectively (d(5) variance).**

2. Applicant previously submitted an application for a five dwelling unit residential townhouse development that was denied by the Board at a hearing of December 16, 2024, and memorialized in a resolution by the Board on January 13, 2025.
3. The Board noted the following findings of fact as provided by the testimony of the witnesses:
  - The proposed project is situated between a one-family home and a 10-unit apartment building in an R-2 zone that permits only one- and two-family homes.
  - The apartment building located to the left of the proposed site was approved by use variance in 1966.
  - The proposed lot is a vacant grassy area and has remained unimproved since 2011.
  - Humbert Street is a narrow one-way street with parking prohibited on either side.
  - The subject property is rectangularly shaped and is 11,697 square feet with frontage on Humbert Street.
  - The proposed project meets the height requirements of the zone but not the number of stories.
  - 14.2 dwelling units per acre are permitted in the zone and Applicant seeks density of 14.9 DU/acre.
  - Applicant's engineer testified that they will comply with all the requirements of the Pennoni report dated December 23, 2025, including that the soil in the front of the building that does not meet required percolation standards be replaced or a different stormwater management system will be installed as per the direction of the Township Engineer.
  - At the hearing, Applicant's architect testified that the current fence proposed is 6' high which was proposed so as to shield the neighboring property from vehicle headlights.
  - Applicant's planner, Peter Steck, testified that the project supplies more than required parking on site.
  - Mr. Steck also opined that the site was particularly suited for the townhouses because it is a residential use on a residential street that has almost all non-conforming lots.
  - In addition to the d(1) variance for townhouse use and the d(5) density variance, the Applicant also required bulk variances for three (3) stories, tandem parking, a six (6') foot solid vinyl fence on the north side of the property (as shown on A-2 attached), and a reduction in required footcandle output.
  - Applicant's Planner, Mr. Steck, testified that the proposed project satisfies several purposes of the MLUL, specifically a. promotes the general welfare, e. provides appropriate areas of population density, g. provides space for variety of land uses and i. is an aesthetic improvement.
  - Neighbor, Anthony Calandra requested that the footcandle requirement be lowered and the six (6) foot solid fence on the north side of the property be granted to cut down on light intrusion into the neighbor's property.
4. That Applicant has met his burden of demonstrating that special reasons exist for the granting of the requested variance.
  - a. Specifically, the evidence presented demonstrates to the satisfaction of the Board that the proposed project carries out a purpose of zoning, as follows: The use promotes public health, morals and the general welfare of persons as it will provide for more useable residential space without increasing impervious coverage or

- creating any side or rear yard setback violations and will provide a desirable visual appearance.
- b. The site can accommodate the townhouse project without any detriment to the neighborhood.
  - c. With respect to the negative criteria, the proposed townhouses will not create any traffic or other negative impact as sufficient parking exists on site for both the residents, visitors and deliveries.
4. That, on the basis of the evidence presented and subject to the terms and conditions described below, 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*.

**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 townhouse residential development, consisting of four (4) dwelling units, site development including parking, landscaping, trash enclosure, draining and lighting, etc. located in an R-2 zoning district, as shown on the plans prepared by Architect Salvatore Corvino Architect and Planner, LLC dated October 10, 2024 (revised November 6, 2025) and Omland and Osterkorn Consulting Engineering & Surveyors dated May 1, 2025 (revised December 5, 2025);

**BE IT FURTHER RESOLVED** that the following **TERMS** and **CONDITIONS** apply to the with Variance:

1. The Applicant is bound by the contents of their testimony as if this testimony was incorporated herein.
2. All construction shall be completed in accordance with the plans submitted and/or the testimony of the Applicant and his witnesses.
3. The approvals granted herein shall expire unless construction is begun within one year of the date of the memorializing resolution as per Chapter 700, Article II, Section 85-19 of the Codes of Nutley.
4. Applicant must submit the stormwater maintenance manual to the Code Office and Township Engineer.
5. Water and sewer calculations must be submitted to the Code Office and Township Engineer.
6. Applicant's request for a variance from footcandle requirements is granted.
7. A variance for the six (6') foot vinyl fence as shown on Exhibit A-2 attached is granted. (Note: Board member John Cafone abstained from voting on the fence variance.)
8. Applicant will attend a pre-construction meeting for purposes of traffic control during construction and any other topic required by the Building and Code Department and Township Engineer.

9. **The existing soil located in front of the building, within the footprint of the proposed basin, shall be removed and replaced to a depth of eight (8) feet with permeable soil suitable for stormwater infiltration. Alternatively, revised stormwater management measures may be designed, subject to review and approval by the Township Engineer, and installed to the Township Engineer's satisfaction.**

**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.**

Address: 34 Humbert Street

Block: 6702                      Lot: 10

Date: January 12, 2026

NAME	MOTION	SECOND	YES	NO	NOT VOTING
GRAZIANO			X		
D. TOLVE			X		
G. TOLVE			X		
CAFONE			X		
DUVA			X		X
WALLACE	X		X		
DOHERTY			X		
CASTRO					X
CALICCHIO		X	X		
LEPRE					X

*Cafone abstains from fence variance*

APPLICATION/APPEAL GRANTED

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

Applicant(s): **Ketan Darji**

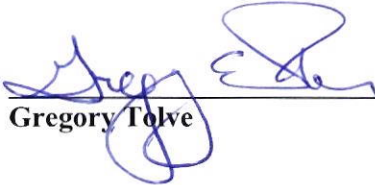
Property: **34-38 Humbert Street**

Block: **6702** Lot: **10**

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

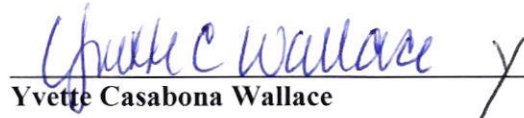
  
\_\_\_\_\_  
Frank Graziano, Chairman Y

  
\_\_\_\_\_  
Daniel Tolve, Vice Chairman Y

  
\_\_\_\_\_  
Gregory Tolve Y

  
\_\_\_\_\_  
John Cafone Y

\_\_\_\_\_  
Theresa Duva E<sub>7</sub>

  
\_\_\_\_\_  
Yvette Casabona Wallace Y

  
\_\_\_\_\_  
Patricia Doherty, Secretary Y

\_\_\_\_\_  
Lorraine Castro (First Alternate) NV

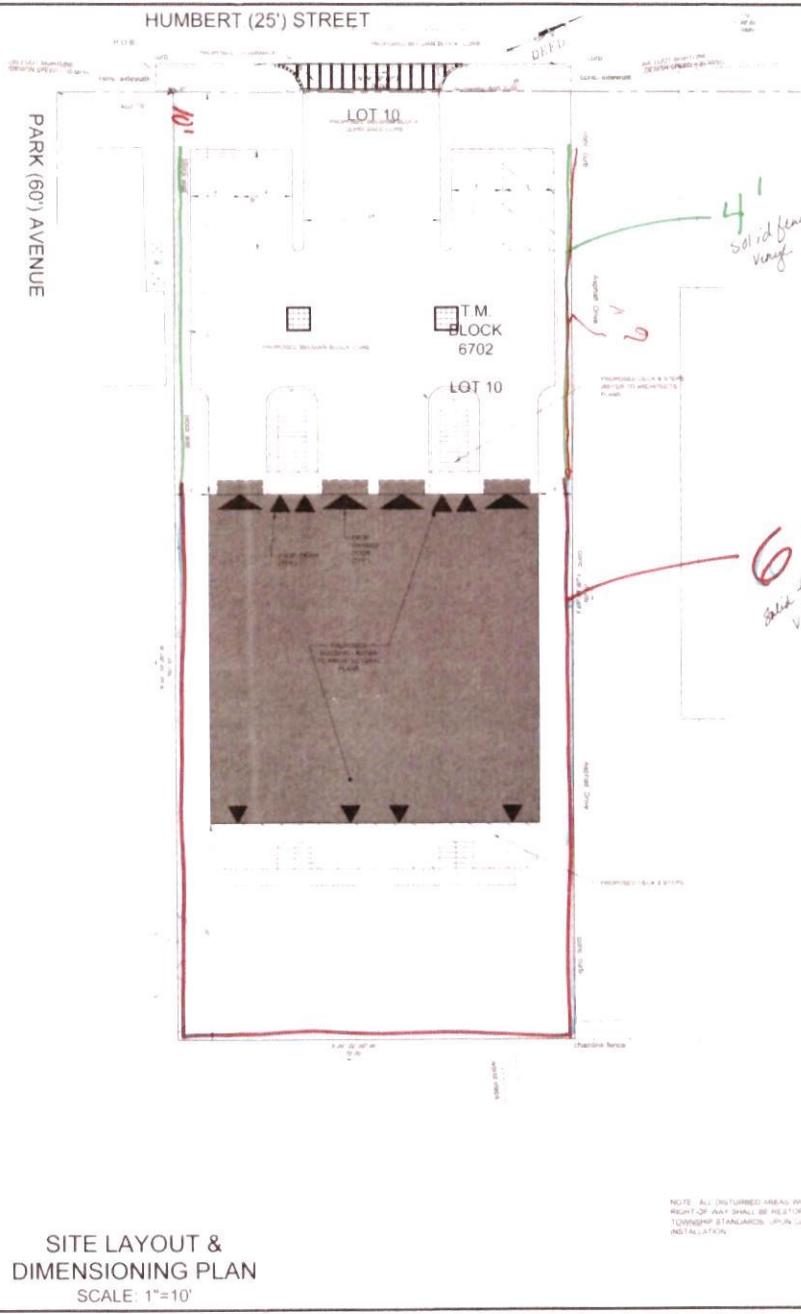
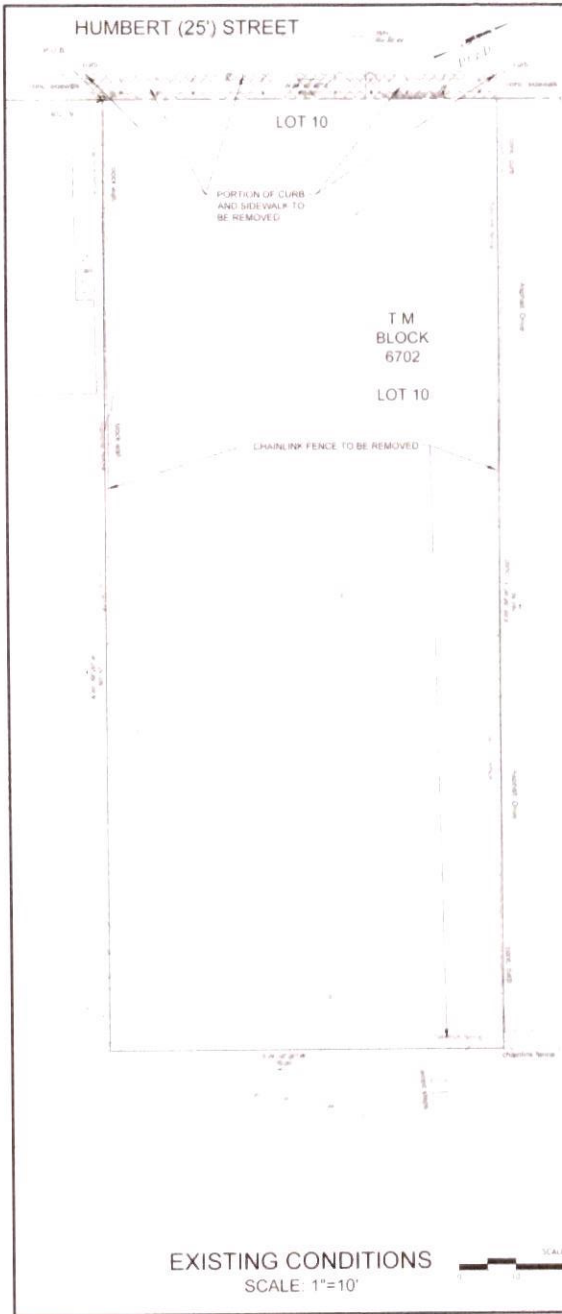
\_\_\_\_\_  
Marc Calicchio (Second Alternate) Y

\_\_\_\_\_  
Robin S. LePre (Third Alternate) NV

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

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

Memorialized: February 9, 2026



A-2

EXISTING CONDITIONS  
SCALE: 1"=10'



SITE LAYOUT & DIMENSIONING PLAN  
SCALE: 1"=10'

NOTE: ALL DISTURBED AREAS WITHIN THE TOWNSHIP'S RIGHT-OF-WAY SHALL BE RESTORED TO ORIGINAL OR BETTER TOWNSHIP STANDARDS UPON COMPLETION OF UTILITY INSTALLATION.

SEE SHEET 2 OF THIS SET FOR GENERAL NOTES AND REFERENCES  
THESE PLANS ARE NOT TO BE USED FOR BID OR CONSTRUCTION

PRELIMINARY & FINAL SITE PLANS FOR  
34-38 HUMBERT STREET  
EXISTING CONDITIONS /  
SITE LAYOUT & DIMENSIONING PLAN  
TOWNSHIP OF MULLLET CREEK COUNTY, NEW JERSEY

M.LAND & S.TERKORN  
 ENGINEERS & ARCHITECTS, INC.  
 1000 ROUTE 100, SUITE 100  
 MULLLET CREEK, NEW JERSEY 07033  
 P. 908.885.8800  
 F. 908.885.8801  
 E. info@mls.com  
 www.mls.com

SHEET NO.  
 2 / 7

In the Matter of  
**FERNANDO MICHELON**  
 Applicant

ZONING BOARD OF ADJUSTMENT  
 TOWNSHIP OF NUTLEY  
 ESSEX COUNTY, NEW JERSEY  
 DOCKET NO.: ZBA 24-0023

***RESOLUTION GRANTING BULK VARIANCES***

FOR PROPERTY KNOWN AS:  
 140 Spatz Avenue  
 Block 8502 Lot 12

APPLICANT, Fernando Michelon (“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 140 Spatz Avenue, also being Block 8502, Lot 12 on the Tax Map of the Township of Nutley (the “Premises”):

To build a new one-family dwelling, as shown on the plans prepared by Dantas Carrete Architecture dated March 22, 2024, and plans prepared by man|Terra Design LLC dated May 28, 2024;

AND the Code Official having denied said permit by letter dated September 18, 2025, citing Chapter 700, Article VIII, Section 700-46 A "Schedule of Regulations as to Bulk, Height and Other Requirements," of the Codes of Nutley requires the following in an R-1 zoning district:

	<u>Required</u>	<u>Proposed</u>
<i>Lot Depth</i>	100'	80'
<i>Rear Yard</i>	30'	15.6'
<i>Lot Coverage (including exterior stairway)</i>	35%	36%
<i>Stories</i>	2 1/2	3

Chapter 700, Article XI, Section 700-67 E (3) of the Codes of Nutley states decks and patios must meet the following minimum setback requirements of Table 1.

TABLE 1 – DECK & PATIO SETBACKS		
Setback Requirements	Decks and Patios <30 Inches in Height	Decks and Patios >30 Inches in Height
Rear Yard (ft)	24'	13.1'

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 two-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 § 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.

Required  
18'

Proposed  
20'

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 January 12, 2026 (having been adjourned at the request of Applicant from November 17, 2025), 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 Applicant having been represented by Gary D. Bennett, Esq. and the Board having fully heard the testimony of the witnesses including Paulo Dantas, Architect and Giovanni Malinio, P.E. and examined the exhibits presented at the hearing, and having heard the testimony of neighbors Cynthia Norman of 142 Spatz Avenue and Raymond Guzman of 139 Margaret Avenue;

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 demonstrated that there are 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's property is an extra-large lot that is oddly shaped on an angle and has a steep slope. There is an 18' drop from the right to left side of the property and the property has a short lot depth of 80' which creates the necessity of a setback variance. The extreme topography also creates the need for the deck variance as the deck is only 30" above ground on the west side of the deck and is 13.1' on the east side of the deck. As for the impervious coverage, the requested variance is di minimus and will not have any effect on the neighboring property as Applicant agrees to work with the township

engineer as to a stormwater mitigation plan which include incorporating larger gutters and leaders. In response to neighbor's concerns, Applicant will replace all the surrounding retaining walls and repair any collateral damage that may take place on neighboring properties.

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 build a new one-family dwelling, as shown on the plans prepared by Dantas Carrete Architecture dated March 22, 2024 and plans prepared by man|Terra Design LLC dated May 28, 2024.

**BE IT FURTHER RESOLVED** that the following **TERMS** and **CONDITIONS** apply to the with Variance:

1. The Applicant is bound by the contents of his testimony as if this testimony was incorporated herein.
2. All construction shall be completed in accordance with the plans submitted and/or the testimony of the Applicant and his witnesses.
3. The approvals granted herein shall expire unless construction is begun within one year of the date of the memorializing resolution as per Chapter 700, Article II, Section 85-19 of the Codes of Nutley.
4. Applicant will replace retaining walls and repair any collateral damage to neighboring properties caused by those repairs.
5. Applicant will work with the Township Engineer as to stormwater mitigation which shall include larger gutter and leader sizes.
6. Applicant may not install a kitchen in the basement or use the basement as a living unit.

**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.

Address: 140 Spatz Avenue

Block: 8502                      Lot: 12

Date: January 12, 2026

NAME	MOTION	SECOND	YES	NO	NOT VOTING
GRAZIANO			X		
D. TOLVE			X		
G. TOLVE		X	X		
CAFONE			X		
DUVA					X
WALLACE	X		X		
DOHERTY				X	
CASTRO					X
CALICCHIO			X		
LEPRE					X

APPLICATION/APPEAL GRANTED

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

Applicant(s): **Fernando Michelin**

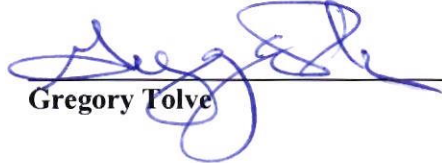
Property: **140 Spatz Avenue**

Block: **8502** Lot: **12**

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

  
\_\_\_\_\_  
Frank Graziano, Chairman Y

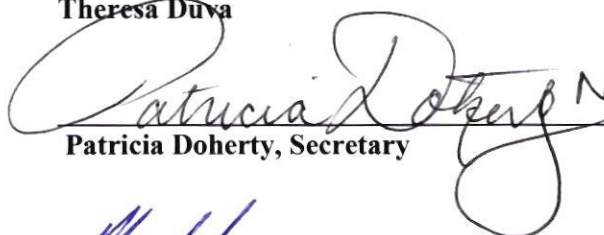
  
\_\_\_\_\_  
Daniel Tolve, Vice Chairman Y

  
\_\_\_\_\_  
Gregory Tolve Y


  
\_\_\_\_\_  
John Cafone Y

\_\_\_\_\_  
Theresa Duva EY

  
\_\_\_\_\_  
Yvette Casabona Wallace Y

  
\_\_\_\_\_  
Patricia Doherty, Secretary N

\_\_\_\_\_  
Lorraine Castro (First Alternate) EN

  
\_\_\_\_\_  
Marc Caffichio (Second Alternate) Y

\_\_\_\_\_  
Robin S. LePre (Third Alternate) NV

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

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

Memorialized: February 9, 2026

In the Matter of  
  
THOMAS and ARACELIS  
HURLEY  
  
Applicants

ZONING BOARD OF ADJUSTMENT  
TOWNSHIP OF NUTLEY  
ESSEX COUNTY, NEW JERSEY  
DOCKET NO.: 25-0044

*RESOLUTION GRANTING BULK VARIANCES*

FOR PROPERTY KNOWN AS:  
380 Mount Vernon Street  
Block 8005 Lot 26

APPLICANT, Thomas and Aracelis Hurley (“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 380 Mount Vernon Street, also being Block 8005, Lot 26 on the Tax Map of the Township of Nutley (the “Premises”):

To leave as erect an eight (8’) foot in height decorative wall located in the rear yard and a patio installed in the side yard along East Passaic Avenue, as shown on the property survey dated January 30, 2023;

AND the Code Official having denied said permit by letter dated October 24, 2025, citing Chapter 700, Article XI, Section 700-71 C of the Codes of Nutley states a fence erected along the sidelines from the rear line of a main structure, but excluding an attached accessory deck or similar structure, to the rear property line and along said rear property line and within such lines shall not exceed six feet in height and not be of solid construction. A stockade fence is hereby deemed to be of solid construction.

The constructed retaining wall in the rear yard is partially a retaining wall to the adjacent properties and also extends to be used as a privacy wall. NOTE: both neighbors have signed a consent form for solid construction.

Chapter 700, Article XI, Section 700-67 E. (3) of the Codes of Nutley states decks and patios must meet the following minimum setback requirements of Table 1.

**Table 1 - Deck and Patio Setbacks**

<b>Setback Requirements</b>	<b>Decks and Patios &lt;30 Inches in Height</b>	<b>Decks and Patios &gt;30 Inches in Height</b>
Front yard (feet)	Not permitted	Not permitted
Side yard (other) (feet)	Principal building setback	Principal building setback
Side yard (feet)	3 feet	Principal building setback
Rear yard (feet)	15 feet	24 feet

1. The constructed patio at the side yard street side requires a principal building setback, which is 25' in this zone.
2. The constructed patio at the rear which was extended requires a three (3') feet side yard and a 15' rear yard. The proposed is installed to the rear and side yard lot line);

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 January 12, 2026, 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 Aracelis Hurley, co-owner of the property, 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 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 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, Applicants.
  - b. Specifically, the evidence presented demonstrates to the satisfaction of the Board that the property is a corner lot and as such as two front yards. The proposed wall is an interior feature of the property and due to the steep topography is not seen from the neighbor's next-door property (as the neighbor's six-foot fence matches the same height). The backyard had a three-foot retaining wall that was damaged and the Applicants increased the height of the wall because the neighbor's fence was leaning. As for the side yard patio, the property is a corner lot, and the Applicant wanted additional seating space in the yard which was already given a variance to be fenced in.

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 Applicants to leave as erect an eight (8') foot in height decorative wall located in the rear yard and a patio installed in the side yard along East Passaic Avenue, as shown on the property survey dated January 30, 2023;

**BE IT FURTHER RESOLVED** that the following **TERMS** and **CONDITIONS** apply to the with Variance:

1. The Applicants are bound by the contents of their testimony as if this testimony was incorporated herein.
2. All construction shall be completed in accordance with the plans submitted and/or the testimony of the Applicants.
3. The approvals granted herein shall expire unless construction is begun within one year of the date of the memorializing resolution as per Chapter 700, Article II, Section 85-19 of the Codes of Nutley.

**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.

Address: 380 Mount Vernon Street

Block: 8005                      Lot: 26

Date: January 12, 2026

NAME	MOTION	SECOND	YES	NO	NOT VOTING
GRAZIANO			X		
D. TOLVE	X		X		
G. TOLVE			X		
CAFONE			X		
DUVA					X
WALLACE			X		
DOHERTY		X	X		
CASTRO					X
CALICCHIO			X		
LEPRE					X

APPLICATION/APEAL GRANTED

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

Applicant(s): **Thomas and Aracelis Hurley**

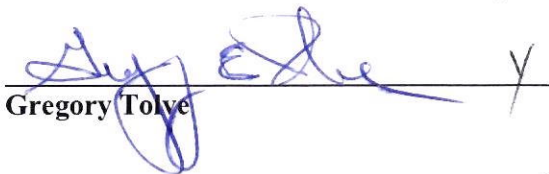
Property: **380 Mount Vernon Street**

Block: **8005** Lot: **26**

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

  
\_\_\_\_\_  
Frank Graziano, Chairman Y

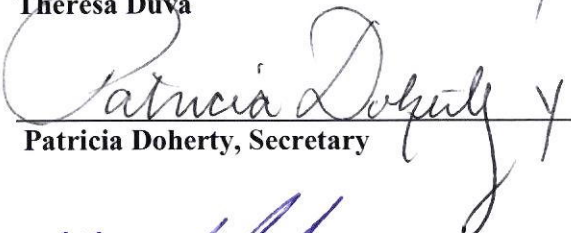
  
\_\_\_\_\_  
Daniel Tolve, Vice Chairman Y

  
\_\_\_\_\_  
Gregory Tolve Y

  
\_\_\_\_\_  
John Cafone Y

\_\_\_\_\_  
Theresa Duva Y

  
\_\_\_\_\_  
Yvette Casabona Wallace Y

  
\_\_\_\_\_  
Patricia Doherty, Secretary Y

\_\_\_\_\_  
Lorraine Castro (First Alternate) NV

  
\_\_\_\_\_  
Marc Calicchio (Second Alternate) Y

\_\_\_\_\_  
Robin S. LePre (Third Alternate) NV

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

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

Memorialized: February 9, 2026