

Approved  
12/16/2019  
DM

**NUTLEY ZONING BOARD OF ADJUSTMENT**

**Public Session Meeting Minutes**

**November 18th, 2019**

**CALL TO ORDER:** A meeting of the Nutley Zoning Board of Adjustment was called to order at approximately 7:30 p.m. by Chairman Graziano. The Pledge of Allegiance was recited. Roll was called and the Sunshine Notice was read.

**PRESENT:** Tammy Rossi, Patricia Doherty, Gregory Tolve, Theresa Sullivan Duva, Joseph Battaglia, Suzanne Brown, Chairman Graziano, Diana Powell McGovern, Esq.

**EXCUSED:** John Cafone, Daniel Tolve

**ABSENT:** Peter Scirica, Thomas Da Costa Lobo

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**No. 1: 52 Keirstead Fence**

**Applicant:** Ms. Rebecca Ressay-Rossado, 52 Keirstead Ave, Nutley, NJ, 07110

**Application:** Your request for permission, at the above referenced premises, to install a six (6') foot solid type fence along the left side of the property, which is located in a side yard, as shown on the survey prepared by Anthony J. Manno, dated January 7, 2000

**Appearances:** Ms. Rebecca Ressay-Rossado

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

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.

Ms. Ressay-Rossado testifies that she would like to replace the existing fence that is out of code. She has a 6' fence that she wants to replace but the town wants her to replace it with a 4' fence. Ms. Ressay-Rossado states that she is planning to put an inground pool in her yard and she feels a 4' fence is not safe enough. She agrees to a 6' foot fence all around but 5' at the front.

With no further questions or comments a motion to grant this variance was made by Joseph Battaglia and was seconded by Theresa Duva. The motion was approved by a vote of 6-1.

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**No. 2: 283 Washington Ave**

**Applicant:** Mr. & Mrs. Robert Doman, 283 Washington Avenue, Nutley, NJ, 07110

**Application:** Your request not to rebuild the existing detached garage, at the above referenced address, which was deemed “*Unsafe*” by the Code Enforcement department on July 16, 2019, and to install a new shed complying with the required side and rear yard setback, as shown on the property survey prepared by James M. Helb, PE & LS, dated February 28, 1988

**Appearances:** Diane and Robert Doman

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

Chapter 700, Article XIII, Section 700-91 A of the Codes of Nutley, the schedule parking requires a two (2) family to have 4 (four) parking spaces, at least one space must be in a **garage**.

Mr. and Mrs. Doman want to demolish their garage with without replacing it. They state that there is no way to access the garage and they have ample parking. They agree to put a condition that a shed must be put where the existing garage was.

With no further questions or comments, a motion to approve this variance was made by Joseph Battaglia and was seconded by Theresa Duva. The motion was approved by a vote of 7-0.

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**No. 3: 43 Orchard Street**

**Applicant:** Mr. & Mrs. Kenneth Stoyack, 43 Orchard Street, Nutley, NJ, 07110

**Application:** Your request not to rebuild the existing detached garage, at the above referenced address, which was recently deemed “*Unsafe*” by the Code Enforcement department, and demolished with a conditional permit to apply to the Board of Adjustment for a variance, and to install a 10’ X 10’ shed pursuant to the township ordinance

**Appearances:** Ken Stoyack and Janice Stoyack

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

Chapter 700, Article XIII, Section 700-91 A of the Codes of Nutley, the schedule parking requires a one (1) family to have 2 (two) parking spaces, at least one space must be in a garage.

Mr. and Mrs. Stoyack want to demolish their garage without replacing it. Mr. Stoyack states that the garage has never been used to store vehicles and that it is 10' x 17' and can not even store modern size vehicles. He also states that he can park 4 cars in his driveway with no problem and agrees to replace the garage with a shed in accordance with the code.

With no further questions or comments a motion to approve this variance was made by Suzanne Brown and was seconded by Gregory Tolve. The motion was granted by a vote of 7-0.

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#### **No. 4: 123 Cedar Street**

**Applicant:** Mr. Oscar Chaves, 123 Cedar Street, Nutley, NJ, 07110

**Application:** Your request for a construction permit, at the above referenced premises, to demolish the existing one (1) family dwelling and to construct a new one (1) family dwelling, as shown on the plan prepared by Frank J. Rawding AIA, dated October 14, 2019

**Appearances:** Mr. Oscar Chaves, Jessica Rianemdo, Carl Nichol (Architectural Expert), Charles Schaafasa (Builder)

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

Chapter 700, Article VIII Section 700-46 A of the Codes of Nutley entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," requires a lot width to be 50' and 5,000 SF in an R-1 district. The existing lot is 40' wide, and 4,000 SF and a side yard to be six (6') feet. ***The left side proposed will be 4.5' to the face of the chimney.***

Chapter 700, Article VIII Section 700-46 B (4) (d) of the Codes of Nutley entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," states extensions of a structure into a required front or rear yard shall be permitted by any terrace or porch having its floor level no higher than the floor level of the first story of the building and having no railing or other member higher than three feet above floor level: six feet. ***The required rear yard is 30'. The allowable encroachment is six (6') feet leaving a 24' required rear yard setback for a deck. The proposed is 20.2 feet.***

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 front yard landscape coverage is 60%. The proposed will be 46.6%.***

Chairman Graziano Recuses Himself

Mr. Chaves states that he inherited the house in very bad condition and wants to demolish it and build a new house. He stated that the house has dangerous piping and electrical problems. He states the new house will be single family and will be 1801 sqft. and will have 2 full baths. The chimney and deck protrude to far from the house. The coverage on the lot is slightly below the minimum of 60%. The proposed coverage is only 44%.

Mr. Chaves explains that he wants to allow his mother-in-law to live in the basement and wants a second entrance. Applicant agreed to do away with the second entrance to the basement so as to prevent any possible use as a two-family house.

With no further question or comments a motion to approve the variance was made by Joseph Battaglia to approve the coverage and the protruding chimney. There is also a condition that the side door will be removed, and the driveway will be 16'. The motion was seconded by Theresa Duva. The motion was granted by a vote of 6-0.

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#### No. 5: 18 Elm Place

**Applicant:** Mr. Dharmesh Rupadia, 18 Elm Place, Nutley, NJ, 07110

**Application:** Your request for a permit, at the above referenced premises, to leave as erected two (2) AC condensers located in the right side yard having less than a six (6') foot side yard setback, (previously foreclosure property), as shown on the survey prepared by Richlan, Lupo, & Pronesti, dated April 8, 1986

**Appearances:** Geeta Kumali

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

Chapter 700, Article III, Section 700-3 B of the Codes of Nutley entitled "Definitions"; 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 right side yard which is less than six (6") feet. The required side yard in an R-1 zoning district is six (6') feet.***

Suzanne Brown recuses herself

Ms. Kumali states that the condensers are 30" x 30" and they will not fit next to each other on the side of the chimney because the space on that side of the house is only 5' 2". She states a tree would have to be removed for these condensers to be moved. She agrees to come back next month with an air conditioning contractor.

A motion to adjourn was made by Patricia Doherty and was seconded by Gregory Tolve. The motion to adjourn was approved by a vote of 7-0.

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#### No. 6: 1 Stewart Ave

**Applicant:** Mr. Jonathan Grueter, 1 Stewart Avenue, Nutley, NJ, 07110

**Application:** Your request for permission, at the above referenced premises, to install a four (4') foot 50% open type fence on a corner property, as shown the survey prepared by Manno Surveying, Inc., dated October 14, 2016

**Appearances:** Jonathan and Shannon Grueter, Patricia Hubert, Gary Marino, Matthew DeVeglio

**Letter of Denial:** The 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.

Mr. Grueter states that he wants a 4' black aluminum fence 50% open down around the side and wrapping around his house. He states that he has dogs and wants to protect his property because he has had intruders on his property. Patricia Hubert who lives across the street says that the fence is just for their dogs. Gary Marino, a neighbor, states that the fence looks nice and that he doesn't mind it at all. The Board noted that the property is a corner lot with no or minimal rear yard, that the Applicant's fence choice is 50% open black aluminum and will aesthetically fit with the house and the neighborhood. The fence will go to fence in the side yard as it faces Whitford Avenue and by ordinance this is considered a front yard, thus, a corner lot hardship. The area to be fenced in will create a nice yard and define the front and side of the house which currently confuses delivery people and other people going to the house.

With no further questions or comments a motion to grant the variance was made by Suzanne Brown, and was seconded by Theresa Duva. The motion was granted by a vote of 7-0.

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**Invoices: Secretary pay of \$150.**

**382 Franklin Ave. \$260**

**71 Centre St. Reimbursement \$1000**

**Public Comment: None**

**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,**

A handwritten signature in black ink, appearing to read "Paul Marranzino". The signature is written in a cursive style with a long, sweeping underline.

**Paul Marranzino**

**Board Secretary**

**Township of Nutley  
One Kennedy Drive  
Nutley, New Jersey 07110**

**ANNUAL NOTICE  
Zoning Board of Adjustment  
2020 Public Meeting Schedule**

**PLEASE TAKE NOTICE**, in accordance with the Open Public Meeting Law, Chapter 231, P.O. 1975 the public meetings of the Zoning Board of Adjustment of the Township of Nutley, Essex County, State of New Jersey will be held on the following dates at the Township of Nutley Municipal Building, One Kennedy Drive, Third (3<sup>rd</sup>) Floor Commission Chambers, One Kennedy Drive, Nutley, New Jersey 07110 at 7:30P.M., at which time formal action may be taken.

Monday, January 13, 2020  
Monday, February 10, 2020  
Monday, March 16, 2020  
Monday, April 20, 2020  
Monday, May 18, 2020  
Monday, June 15, 2020  
Monday, July 20, 2020  
Monday, August 17, 2020  
Monday, September 21, 2020  
Monday, October 19, 2020  
Monday, November 16, 2020  
Monday, December 14, 2020

**Frank Graziano  
Chairman, Zoning Board of Adjustment**

**Eleni Pettas, RMC  
Municipal Clerk**

Nutley Sun Issue/Thursday, November 28, 2019/Via E-Mail: [publicnotices@northjersey.com](mailto:publicnotices@northjersey.com)  
Star Ledger Issue/Thursday, November 28, 2019 /Via E-Mail: [legalads@starledger.com](mailto:legalads@starledger.com)  
The Herald News Issue/Thursday, November 28, 2019 /Via E-Mail: [publicnotices@northjersey.com](mailto:publicnotices@northjersey.com)

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