

Approved
12/14/2020
DJR

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

November 18, 2020

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

PRESENT: Tammy Rossi, Patricia Doherty, John Cafone, Yvette Casabana Wallace, Gregory Tolve, Peter Scirica, Daniel Tolve, Theresa Sullivan Duva, Joseph Battaglia, Chairman Graziano, Diana Powell McGovern, Esq.

EXCUSED:

ABSENT:

* * * * *

No. 1: 16 Evelyn Place

Applicant: Mr. & Mrs. Joe & Michelle Martins, 16 Evelyn Place, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to construct a new 1-car garage, having a two (2') foot side and rear yard setback, as shown on the site plan, dated July 22, 2020, and on the architectural plans prepared by Mark Roselli, dated June 7, 2020

Appearances: Mr. & Mrs. Joe & Michelle Martins, Mark Roselli (Architect)

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

Chapter 700, Article XI, Section 700-67 B (1) of the Codes of Nutley, entitled "Accessory buildings and uses," states that "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 two (2') foot side and rear yard setback.***

Mr. Martins states that he would like to build a one car garage with a 2' side and rear yard setback. Mr. and Mrs. Martins state that the garage will be adjacent to their neighbor's garage and the siding and roofing will match their home. The board shows concern about the distance from the fence and feel that the garage should be 2' off the inside of the fence, not the property line, to ensure access for maintenance and safety. Mr. and Mrs. Martins agree to the condition set forth by council and will construct the garage 2' from the inside of the fence.

With no further questions or concerns from the board a motion to approve the variance was made by Joseph Battaglia and was seconded by Theresa Duva. The variance was granted by a vote of 7-0.

* * * * *

No. 2: 129 Rhoda Avenue

Applicant: Mr. Richard LaFiura, 129 Rhoda Avenue, Nutley, NJ, 07110

Application: Your request, at the above referenced premises, to widen the existing driveway approximately two (2') feet, which will be in front of the main dwelling, for a total width of 17', as shown on the survey prepared by Bernard W. Criscenzo, dated September 4, 2007

Appearances: Richard LaFiura

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley states no front yard of a lot upon which is located in 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. 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. ***The proposed widen driveway shall be approximately two (2') feet, which will be in front of the main dwelling, for a total width of 17'.***

Mr. LaFiura states that he would like a variance to extend his driveway 2' in width to 17'. He states that he has kids that drive, and he would like to be able to fit all his vehicles in his driveway at once. He states that currently he can only fit two cars and with the extension of the driveway he would be able to fit four. The Board took notice of the fact that the property was oddly shaped (Like a slice of pie) which created the need for the variance and the amount of driveway that was in front of the house was only a few inches which would not create a safety hazard.

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

* * * * *

No. 3: 111 East Centre Street

Applicant: Mr. Francisco Mafla, 111 East Centre street, Nutley, NJ, 07110

Application: Your request for a construction permit, at the above referenced premises, to build a two-story addition at the rear of your property, which will be approximately 946 square feet, having a four (4') foot side yard setback on the east side, and to install

an A/C condenser in the east side yard, as shown on the plans prepared by Rui Amaral, Architect, dated August 12, 2020

Appearances: Mr. Francisco Mafla, Darwin Rubio, Rui Amaral (Architect)

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

Chapter 700, Article XVI, Section 700-113 A of the Codes of Nutley, entitled "Nonconforming Uses and Structures," states that "no nonconforming use nor structure nor any lawful use on a nonconforming lot shall be enlarged, extended, reconstructed or structurally altered, except that such structure or use may be structurally altered to correct an unsafe condition. A nonconforming structure or a lawful structure on a nonconforming lot may be restored or repaired in the event of partial destruction thereof." ***The proposed addition is an extended use of a nonconforming lot.***

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 in a B-4 zone that a side yard be half ($\frac{1}{2}$) the height of the main structure. ***The main structure is 24.6' high; the required setback is 12.3 feet. The proposed setback is four (4') feet for the side yard to the existing main structure.***

Chapter 700, Article III, Section 700-3 of the Codes of Nutley, entitled "Definitions; word usage," defines a "side yard" as "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 east side yard will be obstructed by the proposed A/C condenser.***

In 2000, a variance was granted to this property by the Zoning Board of Adjustment to convert the existing one-family into a two-family, to erect a fence, and to install an A/C condenser in the side yard.

John Cafone and Peter Scirica recuse themselves.

Darwin Rubio and his son-in-law Francisco Mafla state that they would like to add a two-story addition of approximately 946 square feet with a 4' side setback. Rui Amaral their architect states that the rear of the house would extend 13' 4" leaving them with a 5' setback on the left side of the property. The board then states that this variance is needed because the addition is too tall to have such a small setback. Mr. Rubio also wants a second air conditioning condenser on the side of the house where the current one exists. Mr. Amaral also states that this home only has one staircase leading to the second floor and this addition would add another means of exit in case of emergencies. The addition will have matching siding and roofing. Mr. Amaral states that the addition would create a new exit, add additional living space and improve the look of the property.

With not further questions or concerns a motion to grant this variance was made Joseph Battaglia and was seconded by Theresa Duva. The variance was passed by a vote of 7-0.

* * * * *

New Business: Next year's Zoning Board of Adjustment meeting schedule was approved by the board. The regular meetings will be held on the following dates: 1/11, 2/22, 3/15, 4/19, 5/17, 6/21, 7/19, 8/16, 9/20, 10/18, 11/15 and 12/13/2021. All the meetings will be held virtually until further notice.

Invoices: Secretary pay of \$150.

Public Comment:

**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", written in a cursive style.

Paul Marranzino

Board Secretary