

Approved  
6/29/20  
BPM

## NUTLEY ZONING BOARD OF ADJUSTMENT

### Public Session Meeting Minutes

June 15th, 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 webinar by Chairman Graziano. Roll was called and the Sunshine Notice was read.

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

**EXCUSED:** John Cafone

**ABSENT:** Peter Scirica

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#### **No. 1: 551 Centre Street**

**Application:** To modify an existing site plan condition.

**Appearances:** John Inglesino, Esq. Attorney for Township of Nutley, Fair Share Housing Litigation

John Inglesino, Special Counsel for the township of Nutley, requested a change of the condition that required four affordable housing units be built at 551 Centre Street. He stated that instead of requiring the project to have 4 affordable housing units within the existing design that the Fair Share Housing Association and the Township reached a settlement on the COAH obligations of the town and included in that settlement is a modification of the condition for this property so that the Township of Nutley Affordable Housing Trust Fund would receive a \$200,000 payment, (\$50,000 for each of the four proposed units), and no other changes to the site plan would be effected.

With no further questions or concerns from the board a motion to modify condition of site plan resolution 1-C was made by Gregory Tolve and was seconded by Daniel Tolve. The motion was passed by a vote of 7-0.

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#### **No. 2: 53 Alexander Avenue**

**Applicant:** Ronald Labenski, 53 Alexander Avenue, Nutley, NJ, 07110

**Application:** Your request for a permit, at the above referenced premises, to construct a one story addition on a corner property, as shown on the plans prepared by Architect, Sal Corvino, dated April 2, 2020

**Appearances:** Ronald Labenski, Owner, Sal Corvino (Architect and Planner), Anthony M. Catalano (Project Manager)

**Letter of Denial:** The Letter of Denial was read by Joseph Battaglia

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 an R-1AA district to have the following:

	<u><b>Required</b></u>	<u><b>Proposed</b></u>
Side Yard/other (corner property)	25’	11.40’
Rear Yard	30’	15’

Rob Labenski states that he wants to add an addition to his house. Mr. Labenski states that he is a Vietnam veteran and a double amputee and that this proposed addition to his house is out of necessity. The proposed addition will allow him to be self sufficient and have a better quality of life. Sal Corvino states that the proposed addition will be on the left side of the house and it will be a large enough bedroom and bathroom to be wheelchair accessible. At this point there was condition agreed on that the siding and roofing of the house would match the existing colors and materials. Anthony M. Catalano also states that the addition will meet the VA’s requirements for room spacing.

At this point with no further questions or concerns a motion to grant this variance was made by Joseph Battaglia and was seconded by Patricia Doherty. The variance was then passed by a vote of 7-0.

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### **No. 3: 16 Cortland Street**

**Applicant:** Celso Vinueza, 16 Cortland Street, Nutley, NJ, 07110

**Application:** Your request, at the above referenced premises, to widen the existing driveway to 16’ to the left, which will be in front of the main dwelling, and will reduce the required 60% landscape coverage to approximately 52%, as shown on the survey prepared by Morgan Engineering & Surveying, dated November 2, 2017

**Appearances:** Celso Vinueza

**Letter of Denial:** The Letter of Denial was read by Joseph Battaglia

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.

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. ***Proposed coverage will be approximately 52%.***

Celso Vinueza states that he has lived in Nutley for about 15 years and wants to widen his driveway because in the rear portion of the driveway the stairs protrude and only leave 8' of space. Mr. Vinueza states that he is a Newark Police officer and he normally works night shifts so shuffling cars in the middle of the night can be a disturbance to his neighbors. There is a condition agreed on that the planter wall in front of the kitchen will be raised 8" to 22" in height and a drain for his gutter will be built under the driveway and drain out into the street. In addition to this there needs to be grass placed at the curb cut next to the existing fire hydrant.

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

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#### **No. 4: 198 Lakeside Drive**

**Applicant:** Mr. & Mrs. McMullen, 198 Lakeside Drive, Nutley, NJ, 07110

**Application:** Your request for a permit at the above referenced premises, to install a 12' x 20' x 54" above ground pool which is attached to the existing deck; therefore, will have a 10' rear yard setback to the rear line, and three (3') foot setback to the existing garage which will reduce the total lot coverage, as shown on the property survey prepared by George Anderson, dated October 8, 1996

**Appearances:** Victoria McMullen and Brandon McMullen(Owners)

**Letter of Denial:** The Letter of Denial was read by Joseph Battaglia

This property is located in an R-1 district as shown on the Nutley Zoning Map.



Chapter 700, Article XI, Section 700-67 D of the Codes of Nutley states an attached accessory structure or accessory use shall be considered to be a part of the main building.

Chapter 700, Article XI, Section 700-67 C of the Codes of Nutley states no detached accessory building shall be located nearer than 10 feet to a main building.

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 30' rear yard setback. ***The attached deck/pool will have a 10' rear yard setback.***

Mr. and Mrs. McMullen state that they moved into their current home about four years ago and have a 16-year-old 12' round pool. They state that they would like to replace the existing pool with 12' x 20' x 54" pool. There is a condition put in place that the pool will have to be shifted left 1' so there is 5' 5" between the pool and the garage.

With no further questions of concerns a motion to approve this variance was made by Theresa Duva and was seconded by Gregory Tolve. The motion was passed by a vote of 7-0.

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#### **No. 5: 27 Oak Crest Place**

**Applicant:** Rose LaFaso, 27 Oak Crest Place, Nutley, NJ, 07110

**Application:** Your request for a permit at the above referenced premises, to construct a deck, attached to the existing deck, which is attached to the newly installed A/G pool, having a rear yard setback of 20', as shown on the survey prepared by Tkacs & Lungari, dated, August 13, 2012

**Appearances:** Rose LaFaso(Owner)

**Letter of Denial:** The Letter of Denial was read by Joseph Battaglia

This property is located in an R-1A district as shown on the Nutley Zoning Map.

Chapter 700, Article XI, Section 700-67 D of the Codes of Nutley states an attached accessory structure or accessory use shall be considered to be a part of the main building.

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 30' rear yard setback. ***The attached deck/pool will have a 20' rear yard setback.***

Rose LaFaso states that she would like to add to her existing deck. She states that they have a 14' x 14' above ground pool and want to extent the deck partially around the pool.



She states that additional deck will be gated off so small children would not have access from the house to the pool.

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

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#### **No. 6: 10 Bank Street**

**Applicant:** Richard Ponzer, 10 Bank Street, Nutley, NJ, 07110

**Application:** Your request for a permit, at the above referenced premises, to construct a 15'x24' (fifteen by twenty-four foot) above-ground pool, having a 4' rear yard setback and a 5' setback to the main dwelling, as shown on the survey prepared by EKA Associates, P.A., dated November 10, 2014

**Appearances:** Richard Ponzer

**Letter of Denial:** The Letter of Denial was read by Joseph Battaglia

Chapter 700, Article V, Section 700-9 D (1) of the Codes of Nutley states that "the pool shall be no closer than eight feet to any side or rear lot line." ***The proposed pool is four feet from the rear lot lines.***

Chapter 700, Article XI, Section 700-67 C of the Codes of Nutley states that "no detached accessory building shall be located nearer than 10 feet to a main building." ***The proposed pool is five feet from the main building.***

Richard Ponzer states that he is a long time Nutley resident and wants to add a new pool to his current backyard. The pool is to be 15' x 24' above ground. The pool will only be four feet from the back-property line and 5' off his house. At this time there was a condition that the filter would go in the corner of the yard near the house.

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

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#### **No. 7: 195 Walnut Street**

**Applicant:** Kelly Konz, 195 Walnut Street, Nutley, NJ, 07110

**Application:** Your request for a permit, at the above referenced premises, to install a 12' by 16' pavilion, having an approximately 4 (four) foot setback to the main dwelling, as shown on the survey received by the Nutley Code Enforcement Department, dated May 21, 2020

**Appearances:** Kelly Konz (Owner)

**Letter of Denial:** The Letter of Denial was read by Joseph Battaglia

Chapter 700, Article XI, Section 700-67 C of the Codes of Nutley states that "no detached accessory building shall be located nearer than 10 feet to a main building."

***The proposed accessory building will be 4 (four) feet from the main building.***

Kelly Konz states that she would like to construct a 12' x 16' pavilion with a roof and open sides in her yard. The pavilion will be 4' from her dwelling. The pavilion will be behind the house and will not be visible from the street. The pavilion will have seating and a grill.

With no further questions or concerns a motion to approve this variance was made by Joseph Battaglia and seconded by Daniel Tolve. The motion was passed by a vote of 7-0.

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

**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 fluid and cursive, with a long horizontal stroke at the end.

**Paul Marranzino**

**Board Secretary**