

Approved  
7/15/2019  
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**NUTLEY ZONING BOARD OF ADJUSTMENT**

**Public Session Meeting Minutes**

**June 17, 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, Frank Graziano. The Pledge of Allegiance was recited. Roll was called and the Sunshine Notice was read.

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

**EXCUSED:** Gary Marino, Gregory Tolve, Peter Scirica, Thomas Da Costa Lobo

**ABSENT:** None

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**No. 1: 109 Walnut Street**

**Applicant:** Mr. & Mrs. Pinho, 109 Walnut Street, Nutley, NJ, 07110

**Application:** To construct an addition on to the existing legal non-conforming two family dwelling in an R-1 zoning district, as shown on the plans prepared by Architect, Mileto-Godsall Associates LLC, dated April 1, 2019, and the submitted property survey, prepared by Surveyor, Manno Surveying dated September 25, 2019

**Appearances:** Thomas DiBiasi, Esq.

**Letter of Denial:** Chapter 700, Article XVI, Section 700-113 A of the Codes of Nutley prohibits a non-conforming structure to be enlarged, extended, reconstructed or structurally altered.

Thomas DiBiasi, Esq. informed the board that the applicant requested more time, and requested the case be adjourned to July 15, 2019. A motion approved the adjournment to July 15, 2019 by a vote of 7-0.

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**No. 2: 150 Kingsland Street**

**Applicant:** Everas Community Services, INC. 150 Kingsland Street, 07110

**Application:** To increase the existing driveway to the left, in front of the dwelling for a total width of 22', which decreases the required 60% front yard coverage to 44%, as shown on the survey prepared Leo A. Kalieta & Co., dated June 2, 2016;

**Appearances:** Douglas Battersby, Architectural expert

Note: Board Member Joseph Battaglia was unable to vote having missed the first hearing on the matter.

**Letter of Denial:** The Letter of Denial was read by Theresa Duva

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley which 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, and also citing,

Chapter 700, Article VIII, Section 700-48 of the Codes of Nutley which requires 60% of the front yard to be landscape;

Douglas Battersby testified that the driveway will need to be widened to 20 feet so it can be used to park up to four cars. He stated that driveways near the property have driveways of 20ft as well. He also stated that the extension of the driveway will not be a detriment to any of the neighbors. With the extension the cars will not have to do a k turn to pull out anymore. Mr. Battersby stated that the vehicles are used to transport disabled people, so the space is necessary to help them maneuver in and out of the vehicles. The applicant agreed to put a curb around the driveway on the north side to guard the porch.

With no further comments or questions a motion to grant the variance was made by Gregory Tolve and was seconded by Patricia Doherty. The motion was granted by a vote of 5-1.

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**No. 3: 76 Prospect Avenue**

**Applicant:** Antonio Viola, 76 Prospect Avenue, 07110

**Application:** To construct a 356 SF unroofed deck at the rear of the new dwelling, which will increase the total lot coverage to 38.9%, as shown on the survey prepared by Osterkorn Engineering Associates, dated February 18, 2019, and architect plans prepared by Architect, Salvatore Corvino, dated March 16, 2019

**Appearances:** Antonio Viola, Salvatore Corvino, Architectural Expert

**Letter of Denial:** The Letter of Denial was read by Theresa Duva

Chapter 700, Article VIII, Section 700-46 A of the Codes of Nutley entitled "Schedule of Regulations", states the maximum lot coverage is 35%. ***The proposed deck will increase the lot coverage to 38.9%***

Mr. Viola wants to make a deck in the rear of his house because he feels it is safer for his older relatives than to have them walk down stairs to a patio. Mr. Corrino states that the deck will be 7 to 8 feet above the ground and will be used to hide condensers as well.

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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**No. 4: 1 Whitford Avenue**

**Applicant:** Mr. and Mrs. Joseph Long, 1 Whitford Avenue, 07110

**Application:** To erect a six (6') foot fence (5' Solid & 1' Lattice) located in the side yard street side, along Park Avenue, which is in the front yard of the adjoining property, as shown on the survey prepared by Morgan Engineering & Surveying, dated December 4, 2018

**Appearances:** Joseph Long, Homeowner

**Letter of Denial:** The Letter of Denial was read by Theresa Duva.

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

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.

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. ***The proposed fence is to be installed on the street line corner property (Park Avenue) which is in the front yard of the adjoining property and the opposite side yard.***

Mr. Long states that he wants to erect a 6' fence (5' solid & 1' Lattice) located in the side yard of his house. He states that this will help keep his two young children safe. The fence proposed would obstruct his view when pulling out of the driveway. The board suggests he consider a chain link or wrought iron type of estate fence to improve vision. The applicant agrees to reconsider and come back to propose a new fence.

With no further questions or comments a motion to adjourn to the July, 15<sup>th</sup> meeting was made by Suzanne Brown and seconded by Patricia Doherty. The motion was granted by a vote of 7-0.

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**No. 5: 11 Woodland Avenue**

**Applicant:** Paul Meozzi, 11 Woodland Avenue, Nutley, NJ, 07110

**Application:** To widen the existing driveway and curb cut approximately 27'7", which will decrease the required front yard landscaping to 55%, as shown on the survey, prepared by Shepard and Shepard, dated February 9, 1977, is denied for the following reasons:

**Appearances:** Paul Meozzi

**Letter of Denial:** The Letter of Denial was read by Theresa Duva

Chapter 700, Article XIII, Section 700-94 A (1) of the Codes of Nutley states a driveway shall consist of the area directly opposite and adjacent to an attached garage, detached garage or depressed garage or the extension of the rear yard into the side yard which abuts a street. However, if there is no garage and no available rear yard, a driveway not to exceed 16 feet in width from the rear lot line may be constructed. ***The proposed driveway to be widen approximately 27'7"***.

Chapter 700, Article XIII, Section 700-94 A (3) (a) of the Codes of Nutley states a curb cut shall not exceed 16' in length. ***The proposed curb cut to be widen approximately 27'7"***.

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 55%.***

Mr. Meozzi rents his house out and his tenants have 3 cars. He wants to expand his driveway by 8 feet. Mr. Meozzi has a two-car garage. One side is a laundry room and the other side of the garage is used for storage. The Board pointed out to the Applicant that if he cleaned out one side of the garage he would have the parking space that he was looking for without widening his driveway.

With no further comments or questions a motion to deny was made by Suzanne Brown because the applicant has enough space and is not faced with any hardship, Theresa Duva seconds the motion and the motion is to deny is granted with a vote of 7-0.

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**No. 6: 12 Faber Place**

**Applicant:** Mr. Nicholas DePersio, 12 Faber Place, Nutley, NJ, 07110

**Application:** To erect a four (4') foot picket type fence located in the front yard along the street side, as shown on the survey prepared by Pronesti Surveying, Inc., dated February 1, 2017

**Appearances:** Nicholas DePersio

**Letter of Denial:** The Letter of Denial was read by Theresa Duva

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

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. DePersio wants a 4' picket fence with 50% visibility on the corner. Mr. DePersio also states that the part of the fence on the wall will be 6 feet in total. The 6ft height has been agreed upon by neighbors and will cut in directly to the garage. The property is a corner property and is elevated so that the fence is on top of a retaining wall and will improve safety as there is a four foot drop off.

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

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**No. 7: 12 Evelyn Place**

**Applicant:** Mr. & Mrs. Timothy Nugiel, 12 Evelyn Place, Nutley, NJ, 07110

**Application:** To erect a six (6') foot solid type fence in the side yards of the property, as shown on the survey prepared by Shepard and Shepard, dated April 26, 1978

**Appearances:** Timothy Nugiel

**Letter of Denial:** The Letter of Denial was read by Theresa Duva

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 not be less than two feet in height and shall be of 50% open construction. The proposed fence shall be erected in the side yard and shall be six (6') feet in height and solid type fence.

Mr. Nugiel wants to extend his fence to his side yard. The gates will go to the end portion of garage and the gate will be wide enough to pull a car into the garage. The

addition that was recently put on the house makes this variance necessary and any new fencing will be the same style as the existing fence.

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

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**No. 9: 35 Donna Court**

**Applicant:** Ms. Heather Amato-Natoli, 35 Donna Court, Nutley, NJ, 07110

**Application:** To install a 14' X 24' in-ground pool having a zero foot rear yard setback, which will decrease the total lot coverage beyond the required 35% to 37%, and the pool equipment with less than the required four (4') feet setback in the rear yard left side, as shown on the survey prepared by William J. Fiore, Inc., dated October 1, 2007

**Appearances:** Heather and James Natoli

**Letter of Denial:** The Letter of Denial was read by Theresa Duva

Chapter 700, Article V Section 700-9 D (2) of the Codes Nutley states a pool shall be no closer than eight feet to any side or rear lot line; or nearer to the side street line of a corner lot than the main building on the lot; or if the abutting lot to the rear faces said street line, then the distance equal to the depth of the front yard required on said lot to the rear. However, in no case shall a swimming pool on a corner lot be required to be set back more than 25 feet from a side street.

Chapter 700, Article V Section 700-9 D (6) of the Codes Nutley states All pumps, heaters and filtration systems shall be kept at a maximum distance from all property lines and shall be at least four feet from any property line.

Chapter 700, Article VIII Section 700-46 A of the Codes Nutley entitled "Schedule of Regulations as to Bulk, Height and Other Requirements," requires a property in an R-1 zoning districts lot coverage not to exceed 35%. **The proposed is 37%.**

Heather Natoli states that she wants to put an inground pool in her backyard. She states the yard has never has any problems with flooding and that they have ample room on all sides of the pool to put the pumps.

With nor further comments or questions a motion to grant the 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. 10: 476 Bloomfield Avenue**

**Applicant:** Tarig Iqbal, 476 Bloomfield Avenue, Nutley, NJ, 07110

**Application:** To erect a six (6') foot solid type fence located in the side yard street side, along Beech Street, which is in the front yard of the adjoining property, as shown on the survey prepared by Brunswick West, Inc., dated March 5, 2019

**Appearances:** Tarig Iqbal, Alissa Pullagaelur

**Letter of Denial:** The Letter of Denial was read by Theresa Duva

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

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.

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. ***The proposed fence is to be installed on the street line corner property (Beech Street) which is in the front yard of the adjoining property.***

A previous variance was granted by the Board of Adjustment August 20, 1979 for a five (5') foot fence.

Mr. Iqbal closed on his home about 3 months ago and wants to add a fence on top of his wall in the back of the house that will total 6' in total with wall and fence. This will give him more privacy and will make it safer for his dog so it will no longer be able to jump over the wall. The rest of the fence will not be changed.

With no other questions or concerns a motion to grant the variance was made by Suzanne Brown as long as the fence will connect with the existing fence. This motion was seconded by Theresa Duva. The motion was granted by a vote of 7-0.

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**No. 11: 77 Kierstead Avenue**

**Applicant:** Mr. Quang Tran, 77 Kierstead Avenue, Nutley, NJ, 07110

**Application:** To construct a new addition, at the right rear section, which will encroach into the required six (6') foot side yard setback, as shown on the plans prepared by Architect, Fallon & Pacheco, dated April 22, 2019

**Appearances:** Quang Tran, John Fallon Architecture expert

**Letter of Denial:** The Letter of Denial was read by Theresa Duva

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 six (6') foot side yard setback in an R-1 zoning district. ***The cantilever at the rear right section will increase the footprint of the building and will require a six (6') foot side yard setback. The proposed side yards setback will be 4'8"***.

Mr. Tran wants a 2' x 7' cantilever in the back of the house to add more room in the kitchen. The extension will be on the first floor of the house and the Mr. Fallon states that the air conditioning condensers will be places in the rear yard. The applicant also agrees to install new roofing and siding to the addition.

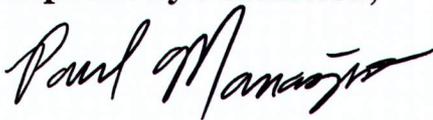
With no further questions or concerns a motion to approve the variance was made by Joseph Battaglia and was seconded by Theresa Duva. The motion was granted by a vote of 7-0.

**Invoices: None.**

**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,**



**Paul Marranzino**

**Board Secretary**