

Approved  
9/16/2019  
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**NUTLEY ZONING BOARD OF ADJUSTMENT**  
**Public Session Meeting Minutes**  
**August 19, 2019**

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

**PRESENT:** Tammy Rossi, Patricia Doherty, John Cafone, Gregory Tolve, Daniel Tolve, Theresa Sullivan Duva, Joseph Battaglia, Thomas Da Costa Lobo, Secretary, Suzanne Brown, Diana Powell McGovern, Esq.

**EXCUSED:** Peter Scirica, Frank Graziano – Chairman

**ABSENT:**

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**No. 1: 109 Walnut Street**

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

**Application:** Your request, on behalf of your client, Mr. & Mrs. Pinho, for a construction permit, at the above referenced premises, 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. for Dibiasi & Rinaldi, Mr. & Mrs. Pinho, Frank D. Mileto- Architectural expert, Paul Bauman- Planning Director,

**Letter of Denial:** The Letter of Denial was read by Thomas Da Costa Lobo

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.

Mr. Dibiasi Esq. testifies that Mr. & Mrs. Pinho purchased the house with intentions to turn it into a larger two-family home. Mrs. Pinho states that she has two elderly parents living in Florida that she wants to have move into the other apartment in the home after construction is completed. She states that they will make the house look like a single-family home from the outside. The foundation would remain the same and the construction would expand and improve the existing property. Mr. Pinho testifies that this addition is necessary because as of now they must fly back and forth to Florida every time his in-laws need something. He states having them in the home with them would be much easier.

Architect Frank D. Mileto states that the lot is 69.1' x 121' which makes it larger than most in the neighborhood and gives them plenty of room to add the addition. The addition would be to expand both sides of the house and extend the roof. The house is currently 1,600 sq. ft. and the addition with the garage and the basement would make it about 8,000 sq. ft. The home would be 2 1/2 stories high. The right side will be handicapped accessible, and all bathrooms will be made handicapped accessible.

Licensed Planner Paul Bauman states that the home is old and needs repair, and that the total coverage of the property will be reduced by them taking down the existing decks. He also states that there will be no public detriment caused by the addition to the home. There is an agreement that there will be no bathroom in the basement of the home and the planned office on the second floor will be taken away in order the expand the upstairs bathroom to make it handicapped accessible.

With no further questions from the board.

With the conditions being set- the second-floor office will be removed, the right side will have handicapped entrances, the front and rear walls will remain in construction, no bathroom will be made in the basement. With these conditions a motion is made by Thomas Da Costa Lobo to grant the variance. This was seconded by Gregory Tolve and passed with a vote of 6-1.

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**No. 2: 51 North Spring Garden Ave**

**Applicant:** Mr. & Mrs. Vazquez, 51 North Spring Garden Ave, Nutley, NJ, 07110

**Application:** Your request for permission at the above referenced premises, to **LEAVE AS ERECTED** a 20' wide driveway, which is partially in front of the dwelling, to **LEAVE AS ERECTED** an 18' curb cut, which reduces the required 60% front lot coverage to 37%, and to **LEAVE AS ERECTED** A/C unit with less than six (6') feet side

yard setback, as shown on the survey prepared by Titus Surveying & Engineering, PC, dated April 30, 2018

Appearances: Mrs. Vazquez

Letter of Denial: The Letter of Denial was read by Thomas Da Costa Lobo 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 XIII, Section 700-94 A (3) (a) of the Codes of Nutley states curb cuts shall not exceed 16 feet in length.

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. **Required 60%; proposed 51%.**

Chapter 700, Article III, Section 700-3 of the Codes of Nutley entitled "Definitions" of a 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.

Mrs. Vazquez wants permission to leave as erected her driveway because the house does not have a garage and if the driveway is not allowed to be widened the driveway would fit only one car. As for the air conditioner unit, Mrs. Vazquez testified that she cannot mover her air conditioning unit to any other section of the yard. She states that the driveway was not bothering her neighbors and they had not problem with it. Part of the driveway is in front of the house so the Board made a condition that she must add a cement or stone planter to act as a curb stop.

With no further questions or comments, a motion to grant this variance was made by Joseph Battaglia because the driveway cannot be moved and there is no where for the homeowners to park without it. The motion was seconded by Theresa Duva. This motion was passed with a vote of 7-0.

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**No. 3: 20 Hope Street**

Applicant: Ms. Vivian Arroyo, 20 Hope Street, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to install a six (6') foot solid fence located in the rear yard without having consent from the rear adjacent property owner from Lot #2, as shown on the survey prepared by Richard Hingos Inc., dated March 24, 1997

Appearances: Ms. Arroyo and Dennis Nazza, 12 Jefferson Street.

Letter of Denial: The Letter of Denial was read by Thomas Da Costa Lobo Chapter 700, Article XI, Section 700-71 H of the Codes of Nutley states a solid type fence may be erected with written consent of the adjoining property owner or owners bordering the fence. **Written consent has not been filed with the Construction Official for Lot #2.**

John Cafone recused himself from the application.

Ms. Arroyo wants to have a fence put up for safety. She states her neighbor in the back will not sign off on fence for the back. The fence is already up. The neighbor in the back Dennis Mazza, 12 Jefferson Street, states that the wall Ms. Arroyos fence is on is pushing his wall back. Ms. Arroyo states there is a drop-off in the yard and the fence is needed for safety. Mr. Nazza then indicated that he had more of a problem with the wall and he was advised that any concerns that he had about the retaining wall should be brought to the Building Department. He indicated that he had no concerns about the fence.

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 with a vote of 6-0.

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**No. 4: 468 Centre Street**

Applicant: Patwalia Fuel Corp., 468 Centre Street, Nutley, NJ, 07110

Application: Your request, on behalf of your client, Patwalia Fuel Corporation, Inc., at

the above referenced premises, for permission to leave as erected, signage installed on the existing canopy and increased the square footage of the existing pylon sign, as shown on the rendering provided by the owner/applicant, is disapproved for the following reason.

This property is located in an R-2 district as shown on the Nutley Zoning Map.

In 1999 the Board of Adjustment approved a canopy to be built on the premises with one of the conditions being ***“no signage on the canopy”***.

In 1986 the Board of Adjustment approved a variance to install a pylon sign with a total of 88.4 SF both sides with a condition there will be no lighting.

**Appearances:** Thomas DiBiasi, Esq.

**Letter of Denial:** The Letter of Denial was not read.

Applicant's attorney requested an adjournment. The Board adjourned the application to the September 16' 2019 Regular Meeting. A motion to adjourn was made by Thomas Da Costa Lobo and was seconded by Suzanne Brown. The motion to adjourn 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**