

Approved
10/21/2019
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NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

September 16, 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, John Cafone, Gregory Tolve, Daniel Tolve, Theresa Sullivan Duva, Chairman Graziano, Diana Powell McGovern, Esq.

EXCUSED: Peter Scirica, Joseph Battaglia, Thomas Da Costa Lobo, Suzanne Brown

ABSENT:

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No. 1: 468 Centre Street

Applicant: Patwalia Fuel Corporation, Inc., 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.

Appearances: Thomas Dibiasi Esq. for Dibiasi & Rinaldi, Joseph Staigar, Traffic Expert, Mr. Patwalia, Owner

Letter of Denial: The Letter of Denial was read by Gregory Tolve

Chapter 700, Article XII, Section 700-82 of the Codes of Nutley states in R Zoning Districts, to not permit any commercial signs, no sign shall be permitted except the following: a nameplate sign bearing the name of the residence or professional person residing on the premises and, in the case of a professional person, indicating his profession, provided that such sign shall not exceed 1 1/2 square feet in area; a temporary sign not exceeding 12 square feet in display area pertaining to the lease or sale of the lot or buildings on which it is placed. Not more than one nameplate for each dwelling unit or more than one "for sale" sign per lot shall be permitted. In single-structure multifamily dwellings, one identification sign shall be permitted for each multifamily dwelling. Such sign shall be a facade sign or a ground sign limited to eight square feet in area. If a ground sign, the sign shall be no higher than five feet above the ground and shall be set back 18 feet from the front property line. ***The canopy has signs on 3sides of 68.5 each for a total of 205.5***

Chapter 700, Article XII, Section 700-89 of the Codes of Nutley states signs in which the colors red, amber or green are used in direct illumination or in high reflection by the use of special preparations such as fluorescent paint or glass shall not be located within 100 feet of any approved traffic light or other safety device using red or green.

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. states that the gas station was purchased as is with the existing violations and that they want to fix the violations to ensure the safety of the town. The proposed idea is to lower the sign with the gas prices down to 5' above the ground. Mr. DiBiasi also states that he knows there is a glare on the road, and he will try to work to improve that as well as making sure the lights are off at 9 p.m. every night.

Mr. DiBiasi calls his first witness, the owner of the gas station Mr. Patwalia. Mr. Patwalia states that he did not know about the existing violations when he purchased the property. He states that they believe lowering the sign to 5' will allow better vision for drivers and the color of the numbers will be red, instead of green.

The next witness is traffic expert Joseph Staigar. Mr. Staigar states that the sign is out of the 40 degree cone of view of the driver and will not be in be affected by the sign. The board states that it feels the sign is better off higher on the sign and they can leave it where it is.

With no further questions or comments a motion to grant the variance is made by Theresa Duva as long at the color of the sign is red and the lights are only on from 6a.m.-9p.m. The motion is seconded by Gregory Tolve and the motion is granted by a vote of 7-0.

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No. 2: 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: Dharmesh Rupadia, Geeta Kumali

Letter of Denial: The Letter of Denial was read by Gregory Tolve

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.***

Mr. Dharmesh Rupadia states that there are trees on the other side of his house so there is no way for him to move the AC condensers to the other side of the house. He states that the condensers were there when he purchased them. The board feels from the images provided that there is ample room for the condensers to be moved to the other side of the house. Mr. Rupadia states that he will go home and come back with measurements to prove the condensers will not fit.

A motion to adjourn was made by Daniel Tolve and was approved by a vote of 7-0.

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No. 3: 377 High Street

Applicant: Mr. Joseph Perrone, 377 High Street, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to construct a first and second floor addition on a corner property, as shown on the plans prepared by Frank D. Mileto, AIA, dated July 23, 2019, and survey prepared by Richlan, Lupo & Pronesti.

Appearances: Joseph Perrone

Letter of Denial: The Letter of Denial was read by Gregory Tolve

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 on a corner property in an R-1 zoning district to have a 25' side yard setback from the street line side. ***The proposed 2nd story addition in the front will have a 12'11" side yard setback***

Chapter 700, Article VIII, Section 700-46 B (8) of the Codes of Nutley states the required minimum side, front and rear yard dimensions for the alteration of or addition to a one-family or two-family dwelling, provided that the same do not increase the existing lot coverage and/or footprint of existing building outline, shall not apply to the extent that said side, front, and rear yard dimensions (meet or exceed the requirements for side, front and rear yards set forth in the Schedule of Regulations, prior to July 25, 1987) shall be no less than 80% of the required minimum set forth in the Schedule of Regulations. ***The 2nd floor add-a-level over the existing footprint will have an 11' side yard setback from the street side. The required side yard from the street setback is 20'.***

Chapter 700, Article VIII, Section 700-46 B (4) (d) of the Codes of Nutley states 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 side yard setback is 25'. ***The allowable encroachment is six (6') leaving 19' required setback to the proposed portico. The proposed setback will be 8.11'.***

John Cafone recused himself from this case.

Joseph Perrone states that he wants a second story addition to his property. He states that he purchased the house in March with the intention of getting a second-floor variance. He also states he will be adding new windows and a new roof and will be taking the chimney down. All of the setback problems are pre-existing as the house is on a corner lot and the setbacks will not be increased as the addition is going on top.

With nor further questions or comments a motion to grant this variance was made by Theresa Duva and was seconded by Patricia Doherty. The motion was granted by a vote of 7-0.

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No. 4: 258 High Street

Applicant: Mr. & Mrs. Eric Fabianich, 258 High Street, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to construct a one story addition at the rear of a corner property, having a 21'4" rear yard setback, as shown on the plans prepared by, Dassa-Haines Architectural Group, LLC, dated June 20, 2019

Appearances: Eric and Jennifer Fabianich

Letter of Denial: The Letter of Denial was read by Gregory Tolve

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 on a corner property in an R-1 zoning district to have a 30' rear yard setback from the street line side. ***The proposed one story addition will have a 21'4" rear yard setback.***

Mr. and Mrs. Fabianich state that they want a 1 story addition in rear corner of their property. The addition will be a small bathroom with a standing shower and the total addition will be less than 100 square feet. They also state that they will be matching the siding.

With no further questions or comments a motion to grant this variance by Theresa Duva and was seconded by Tammy Rossi. The motion was granted 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 written in a cursive style with a prominent initial "P" and a long, sweeping underline.

Paul Marranzino

Board Secretary