

Approved  
6/1/2020  
DPM

**NUTLEY ZONING BOARD OF ADJUSTMENT**

**Public Session Meeting Minutes**

**May 18th, 2020**

**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. Roll was called and the Sunshine Notice was read. The meeting was conducted via Zoom due to the COVID 19 Pandemic.

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

**EXCUSED:**

**ABSENT:** Peter Scirica

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**No. 1: 367 Franklin Avenue**

**Applicant:** Franklin Ave.Realty Group, LLC

**Application:** Your request, on behalf of your client, Franklin Ave.Realty Group, LLC, for a construction permit, at the above referenced premises, to alter the existing ground floor area, and construct a 2,530 square foot restaurant with a drive-thru, and to make site improvement to the existing site, as shown on the plans prepared by Stonefield Engineering and Design, dated November 4, 2019, and building signage plan along with architectural plans, dated October 22, 2019, prepared by Kimmerle Newman Architects

**Appearances:**

**Letter of Denial:** The Letter of Denial was read at the March 16, 2020 meeting.

Mrs. Diana McGovern informs the board that the hearing for 367 Franklin Avenue will be adjourned to a special meeting to be held on June 1, 2020. A motion approved the adjournment to June 1, 2020 by a vote of 7-0.

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**No. 2: 789 Bloomfield Avenue**

**Applicant:** Khristopher Reina, 789 Bloomfield Avenue, Nutley, NJ, 07110

walls inside of the terrace. He also states that he would like to have a large mural painted on the outside wall by a local artist which would portray a scene of Anne Oakley at the circus. Joe Haines testifies that the terrace would be 10' wide by 88' long.

Members of the Board expressed concern about the large mural sign (Sign "D"). Chairman Frank Graziano asked what material would be used to create the sign and the applicant indicated paint. Mr. Graziano stated that paint will chip and after a while the sign will either need to be repainted or it will look unsightly. Mr. Battaglia stated that the sign is inconsistent with the type of signs in the Township. Ms. Doherty suggested that the large sign be moved up to the 2<sup>nd</sup> floor balcony area and create a larger wall at the end of the terrace as the area for the sign but the applicant was not amenable to that suggestion.

The other signs discussed were the sign designated as "A" on the plans which was the same type of sign that currently exists on the front of the building to be added to the side of the building facing Kingsland Street and two signs, signs "B" and "C" which were the restaurant insignia and American flag respectively to be added to the upstairs balcony area.

With no further questions or concerns Joseph Battaglia makes a motion to grant the construction of the outdoor eating area, with conditions that there will be no smoking on the terrace and the terrace will be closed at the appropriate time according to town laws. This motion was seconded by Gregory Tolve and was passed by a vote of 6-1.

Joseph Battaglia makes a motion to grant the signs marked A, B, and C. This motion is seconded by Gregory Tolve and was passed by a vote of 7-0.

Joseph Battaglia makes a motion to deny the mural which is labeled sign D because it is not consistent with other signage in Nutley. The motion is seconded by Theresa Duva and the motion to deny was passed by a vote of 7-0.

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### **No. 3: 3 Cathedral Avenue**

**Applicant:** Luis Cruz, 3 Cathedral Avenue, Nutley, NJ, 07110

**Application:** Your request for a construction permit, at the above referenced premises, to construct a new roof canopy over the existing patio in the rear yard, on the existing non-conforming property, located in a B-1 district, as shown on the plan prepared by Architect, Salvatore Corvino, dated September 20, 2019

**Appearances:** Luis Cruz (Owner), Sal Corvino (Architectural expert and planner), Anthony M. Catalano (Architectural expert)

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

**Application:** Your request on behalf of your client, Mr. Khristopher Reina, for a permit at the above referenced premises, to construct a terrace on the second floor to be utilized as an outdoor dining area, and to add 225.5 square feet of signage on the building, as shown on the plans prepared by Dassa-Haines Architectural Group LLC, revised July 29, 2019

**Appearances:** Khristopher Reina (Owner), Tim Valliere (Attorney), Joe Haines (Architectural Expert)

Suzanne Brown recused herself.

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

Chapter 700, Article VIII, Section 700-46 B (4) (d) of the Nutley Township Code requires in a B-2 district that a terrace or porch has its floor level no higher than the floor level of the first story of the building. The proposed terrace outdoor dining area is located on the second floor.

Chapter 700, Article VIII, Section 700-46 B (5) (a) of the Nutley Township Code requires in a B-2 district that no uncovered porch or terrace shall project more than three feet into any required side yard. The proposed terrace outdoor dining area will have a zero (0') foot side yard setback.

Chapter 700, Article XII, Section 700-83 B of the Nutley Township Code requires in a B-2 district that the aforementioned premises, having a building width of forty (40') feet, may have a sign that is 1.5 times the building's width, totaling a maximum square footage of sixty (60) square feet. The proposed signs will total a square footage of 225.5 square feet, as per the sign schedule below:

| SIGN SCHEDULE |          |                   |                 |
|---------------|----------|-------------------|-----------------|
| SIGN A        | 2 pieces | $10.5 \times 2 =$ | 21 sf           |
| SIGN B        | 1 piece  |                   | 21 sf           |
| SIGN C        | 1 piece  |                   | 21.5 sf         |
| SIGN D        | 1 piece  |                   | 162 sf          |
| <b>TOTAL</b>  |          |                   | <b>225.5 sf</b> |

Chapter 700, Article XII, Section 700-83 C of the Nutley Township Code, entitled "Signs in B-1 and B-2 Zoning Districts," requires in a B-2 district that in no event shall the maximum display area for a premises exceed one-hundred fifty (150) square feet. The proposed signs will total a square footage of 225.5 square feet.

Chapter 700, Article XII, Section 700-79 M of the Nutley Township Code, entitled "Prohibited Signs," prohibits in a B-2 district any signs painted on the exterior walls or facade of a building. The proposed signs will be located on the façade of the building.

Mr. Reina states that the new outdoor terrace would allow for full utilization of his restaurant and would also be better to have spaced out exterior seating during the current COVID-19 pandemic. Mr. Reina states that the noise would not be a problem because there is 20' of wall blocking the terrace from the residential side of the street. Mr. Reina also states that he wants to put of various signs. Most of which would be on

Chapter 700, Article XVI, Section 700-113 A of the Codes of Nutley states 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.

Mr. Cruz would like a variance to approve is already existing roof covering his patio. He testifies that the roof will serve as protection from the many trees in his yard as well as protection from the sun. Mr. Corvino states that the roof would be allowable if not for the zone it is in. With no further questions or concerns a motion to approve this 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. 4: 40 Colonial Terrace**

**Applicant:** Carmen Alvarado, 40 Colonial Terrace, Nutley, NJ, 07110

**Application:** Your request for a permit at the above referenced premises, to install a 12' by 24' semi in ground pool having a seven (7') foot side yard setback, a four (4') foot rear yard setback and an eight (8') foot setback to the main dwelling, as shown on the survey by Nutley code enforcement received, December 12, 2018

**Appearances:** Mariano Quiles (Co-Owner)

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

Chapter 700, Article Y, Section 700-9 D (2) of the Codes of Nutley requires a pool to have an eight (8') foot rear and side yard setback. The proposed pool will have a seven (7') foot side yard setback and a four (4') foot rear yard setback.

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. The proposed pool will be eight (8') feet from the main building.

Tammy Rossi recuses herself.

Mr. Quiles states that pool will be semi-inground and will be 12' x 24'. It will be 7' feet from the left property line, 7' from the rear property line and 8' from the house. Mr. Quiles also states that yard is fenced and gated and the pool will be 7' deep.

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. 5: 156 Rhoda Avenue**

**Applicant:** Greg Palmieri, 156 Rhoda Avenue, Nutley, NJ, 07110

**Application:** Your request for a permit, at the above referenced premises, to add to the existing 14' X 16 ' deck, a 6' X 8' section, having an approximately 14' rear yard setback, as shown on the property survey prepared by James Pica, dated February 22, 2017, and plans prepared by Architect, Jeffery A. Fleisher, dated September 10, 2019

**Appearances:** Greg Palmieri and Corinth Palmieri (Owners)

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

Chapter 700, Article VIII, Section 700-46 B (4) (d) of the Codes of Nutley, entitled "Schedule of Regulations as to Bulk, Height and Other Requirements", 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 rear yard setback in all R-1 Zoning district is 30'. The permitted encroachment met is six (6'). The required rear yard setback for the deck is 24'. The proposed is J4 '.

A construction permit was issued 1983 for a J4 ' X 16 ' deck. This application is to enlarge tile existing deck.

Mr. Palmieri states that the existing deck is about 40 years old and he would like to replace it with a new composite deck. He wants to lower the deck for privacy and move it further from the property lines. Mr. Palmieri states he has a hardship because his lot is cut on an angle.

With no further questions or concerns a motion to approve this 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. 6: 29 Edison Avenue**

**Applicant:** Jacqueline Lopardo, 29 Edison Avenue, Nutley, NJ, 07110

**Application:** Your request for a permit, at the above referenced premises, to construct a 2" floor rear dormer addition, having a 1.89' side yard setback, as shown on the plan

prepared by Architect, Joseph M. Donato, AIA, dated February 18, 2020, and property survey prepared by GB Engineering, dated January 15, 2020

**Appearances:** Jacqueline Lopardo and Angelica Mazzone (Owners)

**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-I district to have a minimum six (6') foot side yard setback. The proposed 2nd floor dormer additional will have a 1.89' side yard.

Ms. Lopardo states that she would like to add a rear dormer to make the home a 3-bedroom 2 bathroom. She states she will match the siding and the new dormer will not leave the existing footprint.

With not further questions or concerns a motion to approve the variance is made by Suzanne Brown and is seconded by Gregory Tolve. The motion was granted by a vote of 7-0.

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

**Pennoni Associates \$3,040**

**Paul Ricci \$1200.57**

**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**