

*Approved  
6/15/2020*

**NUTLEY ZONING BOARD OF ADJUSTMENT**

**Special Meeting Minutes**

**June 1, 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, Peter Scirica, Daniel Tolve, Theresa Sullivan Duva, Joseph Battaglia, John Cafone, Gregory Tolve, Suzanne Brown-Vice Chairwoman, Frank Graziano-Chairman, Diana Powell McGovern, Esq.

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**No. 1: 371 Franklin Avenue – (Not Completed) ADJOURNED**

**Applicant:** Franklin Realty LLC

**Application:** 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:** Applicants Attorney-Robert Gaccione, Esq, Co-Counsel-Michael Piromalli, Esq, Applicant-Sam Kupferstein (Franklin Ave Realty Group, LLC), Starbucks Representative-Lizanne Kile, Site Engineer-Jonathan Istranyi, Traffic Engineer-John Corak, Architect-Paul Newman, Planner-Elizabeth Leheny, Todd Hay, Laura Valente, 64 Plymouth Road, virtual audience member, Ronan Somers, virtual audience member, Michael Evangelista, virtual audience member

**Letter of Denial:**

This property is located in a B-3 district and the rear parking lot in an R-3 district as shown on the Nutley Zoning Map

Chapter 700, Article VII, Section 700-39 F of the Codes of Nutley prohibits drive-in restaurants in a B-3 zoning district.

Chapter 700, Article XVI, Section 700-67 B (1) of the Codes of Nutley states no detached accessory building or accessory use shall be located nearer than three feet or 1/2 the height of such building up to a distance of six feet, whichever is greater, to a side or rear

lot line. ***The proposed trash enclosure is constructed in the rear yard on the property line.***

Chapter 700, Article XIII, Section 700-102 A of the Codes of Nutley permits one (1) loading space per building of 2,000 square feet of floor area or more.

Chapter 700, Article XII, Section 700-84 B of the Codes of Nutley states the permitted surface display area is the building width 82' X 1.5 = 123 square feet is the total permitted surface area. ***Total proposed signage is 194 square feet as indicated on the building signage plan dated October 22, 2019 prepared by Kimmerle Newman Architects.***

Chapter 700, Article XII, Section 700-84 A (2) of the Codes of Nutley states ground signs not exceeding five feet in height, which shall not be erected within five feet of any property line and which shall have a maximum display area not exceeding 25 square feet in a B-3 zoning district. ***The proposed ground sign will have a surface display of 25 square feet for both sides for a total of 50 square feet on the ground sign.***

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 impervious coverage not to exceed 90% in an B-3 zoning district. ***The proposed will be 96.4%. This is a pre-existing non-conforming condition.***

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 impervious coverage not to exceed 70% in an R-3 zoning district. ***The proposed is 78%. This is a pre-existing non-conforming condition.***

Chapter 700, Article XIII, Section 700-98 of the Codes of Nutley states where any parking or loading area adjoins a lot in any R District, a landscaped buffer strip at least six feet in width containing plantings at least six feet high shall be provided. ***This is a pre-existing non-conforming condition.***

Chapter 700, Article VII, Section 700-39 H of the Codes of Nutley prohibits advertising signs, roof signs and pylon signs in a B-3 zoning district. ***This is a pre-existing non-conforming condition***

Chapter 600-1 of the Codes of Nutley requires a site plan application to be approved by the board. A copy of the site plan checklist and application is attached. A preliminary review of the site plan prepared by Stonefield Engineering and Design, dated November 4, 2019, indicates the following items are missing from the site plan checklist:

- F (6) The zone district and the zone districts of adjoining properties within 400 feet.
- F (7) All entrances and exits to public streets on site and within 400 feet thereof.
- F (8) All property lines, streets, roads, retaining walls, rock outcrops, marsh areas, ponds and streams within 400 feet.

F (26) All existing easements, deed restrictions, other covenants and previous variances granted for the property.

F (30) Applications filed with the county.

F (31) Construction Official may require building elevation views of adjacent properties.

Waivers may be requested and approved by the board.

Once the revised plans are complete and approved, 22 copies of the application, revised plans, site plan checklist and fees will be required.

The applicant's attorney, Robert Gaccione, Esq. began the proceedings by calling his first witness Lizanne Kile. Lizanne Kile is employed by Starbucks as a Senior Store Development Manager. Ms. Kile testifies that Starbucks stores run on three shifts and a store in Nutley would most likely have about 5-6 employees per shift. Ms. Kile states that store deliveries take place before the store is open and normally transported by box truck and take no longer than 30 minutes. She also states that there will be a 3-panel menu board in the drive thru that will consist of 5 different sections. She goes on to state that the average time a person waits at the pickup window for a drink is 38 seconds and there while experience in the drive through from order to pickup is around 4 minutes. She also states that the peak hours of business are between 7a.m. and 11a.m. During this time, it is expected that the drive thru will receive approximately 47 cars per hour and the proposed drive thru will have an 8-car stack between order and pickup. At this time the applicant agrees to the condition that deliveries will only be allowed by box truck, and nothing larger.

At this time Laura Valente, a member of the virtual audience, asks a question to Ms. Kile regarding anticipated Starbucks traffic given the new locations and drive thru. Ms. Kile states that she feels that the customer base will mainly remain the same and she doesn't think it is likely that customers will come from out of town to the proposed Starbucks location.

Michael Piromalli then calls the next witness, Site Engineer, Jonathan Istranyi. Mr. Istranyi began by going over some of the site plan changes from the last meeting. He details the additional room for green space in the front of the complex and the 18' of space cars will have to bypass the drive thru lines and exit. Chairman Graziano brings up the possibility of garbage pickups being disruptive to the neighbors and the applicant agrees to a condition that the garbage will be picked up by a private hauler between 6a.m. and 9a.m.

John Cafone brings up his concern that that there may not be enough room for a fire truck to enter in through the exit with the six additional spots along the side of the exit. He requests that the site plans are brought back to the fire chief to be reviewed once more. Mr. Istranyi then goes on to show the ingress monuments at both the entrance and exit and states the drive through at the Starbucks will have an 8' 6" clearance. There are variances needed for the proposed awning signs and the total amount of signage at

the site. Board members question the site lines on Franklin avenue due to the trees that would be planted in front, but Mr. Istranyi is confident that those trees will not obstruct traffic or site lines when pulling out of the driveway. He also states that there is a supplemental parking lot for employees on Chestnut Street.

Mr. Todd Hay (Township Engineer) states that the town wants to look to make sure the pipes are suitable for new business and states that they will need to be replaced with PVC if they are clay or if there is lead. The applicant agrees that if any of the pipes contain lead or are clay sewage pipes they will be fixed and replaced with PVC pipes.

Mr. Piromalli then calls Architect, Paul Newman. Mr. Newman starts by going through some of the signage proposed for the site and states that as of now the basement is the only floor that is sprinklered and that he doesn't believe the top 3 floors will need to be sprinklered. He also goes on to state that the stairs and elevator will be built new along with new hallways within the building. The applicant also agrees that there will be no type 1 hoods for grease and vapors installed on site. Concerns over the amount and size of signage arise from the board. The board suggests that sign marked W1 be changed from 6'x10' to 8'x2'6" and sign W2 be changed from 8'x3' to 8'x2'. Chairman Graziano also states that he wants the three signs facing Franklin over the drive thru lanes to be taken out of the plans. There is also a lot of discussion over the address signage. The board proposes that they would like it the size it is now and be formatted "371" instead of the proposed "Three Seventy-One". The board requests measurements for the current sign so it can be on the record when the condition is put forth.

The next witness called is Traffic Expert, John Corak. Mr. Corak states that a traffic study was conducted in February and the study shows that there should be no significant adverse impact on traffic patterns in Nutley. Mr. Corak believes that there should not be a problem with the post office driveway directly across the street and states that the slope of the road should allow ample visibility when pulling out of the complex.

Michael Evangelista, a virtual audience member, asks how many more cars will be on Franklin Ave because of the new complex. Mr. Corak states that at peak hours there will only be about 37 more cars per hour on the road. The next question comes from another virtual audience member, Ronan Somers. Mr. Somers questions the validity of a study conducted on February 13<sup>th</sup> citing there was a large school trip and many absences from the local school on that day. Mr. Corak states that there was an additional traffic study conducted in the first week of March and the data was nearly identical. Laura Valente, then expresses her concern about the children walking home past the drive thru. Mr. Corak feels the changes to the site should make it even safer for pedestrians. The board is also concerned with the children's safety and discuss the possibility of adding a sign for pedestrians.

At this time, the applicant and board agreed to adjourn the application to June 29, 2020, another special meeting.

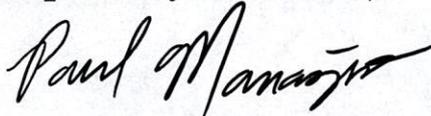
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**Invoices: Secretary pay of \$150.**

**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 long, sweeping underline.

**Paul Marranzino**

**Board Secretary**