

APPROVED
8/17/2020
BPM

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

July 20th, 2020

CALL TO ORDER: A meeting of the Nutley Zoning Board of Adjustment was called to order at approximately 7:30 p.m. via Zoom by Chairman Graziano. The Pledge of Allegiance was recited. Roll was called and the Sunshine Notice was read.

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

EXCUSED: John Cafone

ABSENT:

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No. 1: 26 Villa Place

Applicant: Mr. & Mrs. Billings, 26 Villa Place, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to construct an addition, a covered rear porch, and to rebuild the existing one car garage on the existing footprint, as shown on the plans prepared by Architect, William G. Brown, dated March 30, 2020

Appearances: Alma Billings

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-1 district to have the following:

	<u>Required</u>	<u>Proposed</u>
Front Yard	25'	14.5'
Side Yard	6'	3.4'
Maximum Lot Coverage	35%	37.40%

Chapter 700, Article XI, 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 existing footprint of the garage has a three (3) feet side and rear yard setback.***

Mrs. Billings states that she would like to rebuild her garage in the same footprint as the existing garage. All the setbacks for the proposed garage are preexisting. As for the porch, the lot is undersized which creates a hardship.

With no further questions or concerns a motion to grant this variance was made by Joseph Battaglia and was seconded by Gregory Tolve. The variance was then passed by a vote of 7-0.

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No. 2: 58 Columbia Avenue

Applicant: Mr. James Giordano, 58 Columbia Avenue, Nutley, NJ, 07110

Application: Your request for permission, at the above referenced premises, to erect a six (6') foot solid type fence on the street side along Webster Street, which is the front yard of the adjoining property, as shown on the property survey prepared by Ampol Surveying, LLC, dated April 15, 2013

Appearances: Mr. James Giordano

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

Chapter 700, Article XI, Section 700-71 A of the Codes of Nutley states no fences of any type shall be permitted in any front yard. ***The portion of the six (6') foot solid type fence is located right side in the side yard.***

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.

Mr. Giordano states that he would like to replace his existing fence with a 6' fence. He states that the property marked as his front yard is really his backyard. He also states that the fence would end 35' from the stop sign and wouldn't impair the view of drivers. He states that he wants the fence for privacy and plans on getting a pool in the future.

A condition is put in place that the fence must be 5' solid and 1' lattice and outside of the fence evergreen bushes 2'-4' in height will be planted.

With no further questions or concerns a motion to grant this variance was made by Theresa Duva and was seconded by Gregory Tolve. The variance was granted by a vote of 7-0.

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No. 3: 28 Nelson Place

Applicant: Mr. & Mrs. Arthur & Jamie Lima, 28 Nelson Place, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to install a 6' solid fence located in your side yard on the left side, as shown on the property survey prepared by William Held Associates, Inc., received by the Nutley Code Enforcement Department on March 10, 2020

Appearances: Mr. & Mrs. Arthur & Jamie Lima

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

Chapter 700, Article XI, Section 700-71 B of the Codes of Nutley, entitled "Fences and Retaining Walls", states that "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 side yard fence is six feet in height and of solid construction.***

Mr. Lima states that he wants to upgrade he current fence in his yard. He states that he has 2 daughters and wants the fence to keep his children safe. The proposed fence would be covering the air conditioning unit and would include a gate for safe entry and exit. The fence is a replacement for a portion of the pre-existing fence that was destroyed by a tree branch.

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

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No. 4: 7 Tennis Place

Applicant: Mr. Dean Bozza, 7 Tennis Place, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to install a six (6') foot solid fence located in both side yards, as shown on the survey received by Code Enforcement, dated June 3, 2020

Appearances: Mr. Bozza

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

Chapter 700, Article XI, Section 700-71 B of the Codes of Nutley states that a fence erected along the side line 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.

Mr. Bozza states that he wants to install a 6' white fence around his backyard. The fence would start behind his garage and wrap behind his property to give him and his future family privacy and safety. He also states that the fence would provide privacy for the bedrooms on the right side of the house on the first floor as the property is located in front of a flag lot with a long driveway next to the Applicant's house creating a type of lane similar to a corner property.

With no further questions or concerns a motion to grant this variance was made by Theresa Duva and was seconded by Gregory Tolve. The variance was then granted by a vote of 7-0.

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No. 5: 18 Dogwood Lane

Applicant: Mr. & Mrs. John Kaufman, 18 Dogwood Lane, Nutley, NJ, 07110

Application: Your request to renew the approved resolution with conditions from the Zoning Board of Adjustment on July 18, 2016 which has expired, for a permit at the above referenced premises, to install a 12 'X 17' in-ground pool having a three (3') foot rear yard setback, as shown on the survey prepared by James Pica, Surveyor, dated December 9, 2014

Appearances: Krysty Kaufman

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

Chapter 700. Article V, Section 700-9 D (2) of the Codes of Nutley requires a pool to have an eight (8') foot side and rear yard setback.

This application was approved previously, but time ran out to complete the project, so it had to be reapproved. The only change to the application the size of the proposed pool was reduced in size from 12' x 20' to 12' x 17'.

Robert Frannicola, a neighbor of the Kaufmans states that he would have no problem with the pool and feels the application should be approved.

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

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No. 6: 148 Vreeland Avenue

Applicant: Mr. John McGuire, 148 Vreeland Avenue, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to leave as erected a covered porch, having an approximately 15’ front yard setback, as shown on the survey prepared by Patrick A. Cibellis Jr., dated September 17, 2019, and the elevation plan by architect C.G. Albrecht, A.I.A. Inc., dated April 28, 2020

Appearances: Mr. John McGuire

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

Chapter 700, Article VIII, Section 700-46 B (4) of the Codes of Nutley states that “extensions of a structure into a **required** front or rear yard shall be permitted as follows...” ***The aforementioned premises do not have the required front yard setback per the Schedule of Regulations.***

Chapter 700, Article VIII, Section 700-46 B (4) (d) of the Codes of Nutley states that “extensions of a structure into a **required** front or rear yard shall be permitted as follows: by any 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 (6’) feet.” ***The proposed porch encroaches 5.4’, but the premises do not have the required front yard setback per the Schedule of Regulations.***

Mr. John McGuire states that he had an aluminum awning over his porch and recently replaced it with a wooden covering that is actually smaller than the previous awning. He states that he didn’t know that he would need a variance to complete the project.

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

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No. 7: 14 Nutley Avenue

Applicant: Mr. Shabu Kusuman, 14 Nutley Avenue, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to install a 12'x17'x52" above-ground pool located in the side yard, and to install a six (6') foot solid fence around the entire corner property, and to leave as erect a six (6') foot solid and four (4') solid fence around the patio in the side yard, as shown on the property survey prepared by Lakeland Surveying, dated May 8, 2019

Appearances: Mr. Shabu Kusuman

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

Chapter 700, Article XI, Section 700-67 A of the Codes of Nutley, entitled "Accessory buildings and uses," states that "detached accessory buildings and accessory uses may occupy in the aggregate an area not to exceed 30% of the area of any **rear yard.**" ***The proposed above-ground pool is located in the side yard, and not the rear yard.***

Chapter 700, Article XI, Section 700-71 A of the Codes of Nutley, entitled "Fences and retaining walls," states that "no fences of any type shall be permitted in any front yard." ***The proposed fence will be in the front, side, and rear yards.***

Chapter 700, Article XI, Section 700-71 D of the Codes of Nutley, entitled "Fences and retaining walls," states that "a fence erected on any corner lot shall conform to the fence requirements for the adjoining properties." ***The proposed fence will be located along both street sides, which will be bordering the front yards of the adjoining properties along River Road and Nutley Avenue.***

Mr. Kusuman states that he has had many security issues since moving to his home. He states that his car has been stolen and he has had people attempt to break into his house and his neighbor's houses. Mr. Kusuman also states that he frequently travels for work and wants a 6' solid for security and safety for his family when he is away. There is already an existing vinyl gate on the left side of the house next to the garage that will stay. The chain link that is currently there now will be replaced. The conditions put in place for this variance is that the fence will be 2' from River Road and shrubbery will be planted along the outside of the fence at least 2' tall. The property is a corner lot with most of the property to the side of the house. The property is also in close proximity to Route 21 which creates a need for the additional security.

With no further questions or concerns a motion to approve this variance was made by Suzanne Brown and was seconded by Theresa Duva. The variance was approved by a vote of 7-0.

Invoices: Secretary pay of \$150.

Counsel fee \$800

Pennoni \$3040 10 Kingsland

Pennoni \$1504 Valley National

Pennoni \$644 Revision of Valley National Plan

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 horizontal flourish at the end.

Paul Marranzino

Board Secretary