

*Approved
9/21/2020
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NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

August 17th, 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, Daniel Tolve, Theresa Sullivan Duva, Chairman Graziano, Diana Powell McGovern, Esq.

EXCUSED: John Cafone, Peter Scirica, Joseph Battaglia, Suzanne Brown

ABSENT:

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No. 1: 90 Vreeland Avenue

Applicant: Mr. & Mrs. James & Urbi Medley, 90 Vreeland Ave, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to construct a two (2) story addition over the existing dwelling, having a 5'1" front yard setback, as shown on the plans prepared by Dassa-Haines Architectural Group, LLC, dated January 23, 2020

Appearances: Mr. & Mrs. James & Urbi Medley

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

Chapter 700, Article VIII, Section 700-46 B (8) of the Codes of Nutley states that "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 ...) shall be no less than 80% of the required minimum set forth in the Schedule of Regulations." The required front yard setback is twenty (20') feet. The proposed front yard setback is five feet one inch (5'1").

Mr. and Mrs. Medley state that they would like to add a second story addition to their current home. They stated that their house was built in 1827 and only has a 5' setback. They testify that they would like to add a master bedroom and bathroom upstairs and the proposed addition would remain in the current footprint with matching siding, roofing and windows.

With no further questions or concerns a motion to approve this variance is made by Theresa Duva and seconded by Gregory Tolve. The motion was approved by a vote of 6-0.

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No. 2: 6 Cortland Street

Applicant: Ms. Natalie De LA Rosa & Mr. Kelvin Batrista, 6 Cortland Street, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to install a six (6') foot solid type fence on the left side lot line, which is located in the side and rear yard lot line, and without having consent from the neighbor, as shown on the survey received by Code Enforcement, dated May 19, 2020

Appearances: Ms. Natalie De La Rosa & Mr. Kelvin Batrista,

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

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.

Chapter 700, Article XI, Section 700-71 H of the Codes of Nutley requires written consent of the adjoining property owner or owners when a privacy fence with no open construction may be erected.

Natalie De La Rosa and Kelvin Batrista testify that they would like to install a 6' solid white fence 4" from the property that extends around to the front of the house to enclose all the bedroom windows on the side of the house. They state that they have a child on the way and plan to get a dog and they would like the yard enclosed for safety and security from the street and their neighbor's pool. The fence will go up the basement window and will stop between the basement window and the Verizon Fios box. Mr. Batrista states that they would like to add a gate in the front for quick access in and out of the yard.

Barbara Polito a member of the virtual audience who lives at 7 Cortland feels that the fence does not offer and privacy for the applicants and feels that it will give her a security problem with a 3'-4' walkway being made next to her property. She states that at night she will not be able to see down the path and someone could be hiding there.

The applicants agree to make the fence 5' solid and 1' lattice. The fence would start at the Verizon Fios box and they will install a weed barrier between the two fences.

With no further questions or concerns a motion to approve this variance was made by Theresa Duva and was seconded by Daniel Tolve. The motion was approved by a vote of 4-2.

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No. 3: 14 Ackerman Street

Applicant: Ms. Mercedes Nuñez, 14 Ackerman Street, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to leave as erected a six (6') foot solid fence installed, which was replacing a 5 (five) foot fence with slats, and which is in a portion of both side yards, as shown on the survey prepared by Guy W. Falconieri, dated August 31, 1995

Appearances: Ms. Mercedes Nuñez

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

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." ***The proposed fence is a 6 (six) foot solid fence located in the side yards on both sides of the property.***

Ms. Nuñez would like to leave as erected her 6' solid fence. She states that she replaced a 5' chain link fence with a 6' solid white vinyl fence and has 2 gates one on each side that have both been approved by her neighbors.

With no further questions or concerns a motion to approve this variance was made by Patricia Doherty and seconded by Gregory Tolve. The motion was passed by a vote of 6-0.

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No. 4: 76 Church Street

Applicant: Mr. & Mrs. Jarrett & Jennifer Foote, 76 Church Street, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to install a six (6') foot solid fence, located on a corner property, in the side yard, which is adjacent

to the front yard of the adjoining property along Prospect Street, as shown on the property survey prepared by Ampol Surveying, LLC, dated February 6, 2019

Appearances: Mr. & Mrs. Jarrett & Jennifer Foote

Letter of Denial: The Letter of Denial was read by Tammy Rossi

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 side yard fence will not conform to the requirements of the adjoining property along Prospect Street.***

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 on the Prospect Street side will be located in the front yard of the adjoining property.***

Mr. and Mrs. Foote testify that they would like to install a 6' vinyl fence to secure their yard for their twin sons. They fence they would like is 5' solid and 1' scalloped pick-it fence. They applicants state that the fence is setback far enough that it has no impact on the street view. A condition is put in place to keep the front of the fence landscaped with evergreen bushes and to keep 50% of arborvitaes.

With no further questions or concerns a motion to grant this variance was made by Daniel Tolve and was seconded by Theresa Duva. The motion was approved by a vote of 6-0.

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No. 5: 25 Povershon Road

Applicant: Louis Riccio, 18 Dogwood Lane, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to install a six (6') solid type fence, located in both side yards, as shown on the property survey

Appearances: Louis Riccio

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

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 shall not exceed four feet in height ... and shall be of 50% open construction." ***The proposed side yard fence is a six (6') foot solid fence.***

Louis Riccio states that he would like a 6' solid white fence in his side yard. The fence would be 5' in the rear of the house and it would be on top of a 1' retaining wall so the

fence would come to a height of 6'. None of Mr. Riccio's neighbors has a problem with the installation of the new fence.

With no further questions or concerns a motion to approve the variance was made by Theresa Duva and was seconded by Gregory Tolve. The motion was approved by a vote of 6-0.

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No. 6: 10 Bank Street

Applicant: Mr. Richard Panzer, 10 Bank Street, Nutley, NJ, 07110

Application: The request for a permit, at the above referenced premises, to install a 19'x21' deck, which will be attached to the dwelling and to the pool, having a four (4') foot rear yard setback, which will reduce the rear yard required 30% coverage to 42%, and to install a six (6') foot solid type fence located in the side yard, as shown on the survey prepared by EKA Associates, P.A., dated November 10, 2014, and on the plans submitted by the homeowner, is denied for the following reasons.

Appearances: Mr. Richard Panzer

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

Chapter 700, Article VIII, Section 700-46 B (4) of the Codes of Nutley, entitled "Schedule of Regulations as to Bulk, Height, and Other Requirements," describes the requirements for "extensions of a structure into a **required** front or rear yard."

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 that "extensions of a structure into a required front or rear yard shall be permitted ... 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 in an R-1 zone district is 30'; the allowable encroachment is six (6') feet. The required rear yard would be 24'; the proposed will be approximately four (4') feet.***

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 rear yard coverage is 43%.***

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 be of 50% open construction." ***The proposed side yard fence is six (6') solid.***

Richard Panzer would like to construct a 19' x 21' deck with a 4' setback and a 6' solid white vinyl fence in the yard. Mr. Panzer states that he lives right across from the grammar school and wants to make sure his yard is fenced in so no one can access yard or his pool. Mr. Panzer states that the deck would make it easier for him and his family to enter and exit the pool. The deck would be even to the first floor of the house and there will be a railing around the pool on the deck. Mr. Panzer would like the fence to go up to the front of his home. The fence will be on the outside of his bushes, but the front 3 bushes will remain on the outside of the fence. There will also be a gate for easy access to the yard on the right side on the property.

With no further questions or concerns a motion to approve this variance was made by Gregory Tolve and was seconded by Theresa Duva. The motion was approved by a vote of 6-0.

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Invoices: Secretary pay of \$150.

Pennoni \$514 10 Kingsland

Pennoni \$551 51 Center Street

Pennoni \$4,593 Valley National

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