

approved
6/21/2021
DR

NUTLEY ZONING BOARD OF ADJUSTMENT

Public Session Meeting Minutes

May 17, 2021

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: Patricia Doherty, John Cafone, Lorainne Castro, Yvette Casabana Wallace, Gregory Tolve, David Scheidel, Daniel Tolve, Theresa Sullivan Duva, Joseph Battaglia, Chairman Graziano, Diana Powell McGovern Esq.

EXCUSED:

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No. 1: 420 Centre Street

Applicant: Patricia Little, 420 Centre Street, Nutley, NJ, 07110

Application: Your request on behalf of your client, Ms. Patricia Little, at the above referenced premises, for zoning approval to convert the existing mixed use building into a two-family dwelling, which is located in a B-3A zoning district, as shown on the plans prepared by Dassa Haines Architectural Group, LLC, dated September 22, 2020

Appearances:

Letter of Denial:

Chapter 700, Article V, Section 700-18 of the Codes of Nutley, entitled "Permitted uses in B-3A Zoning District," states that "the following uses are permitted in the B-3A zoning district:

- (1) Professional and business offices
- (2) Restaurants and bars which serve food, excluding drive-in restaurants or fast food.
- (3) Take-out food establishments.
- (4) Theaters.
- (5) Service establishments (personal and household).
- (6) Printing and copier services for retail customers.
- (7) United States Post Office.
- (8) Bus station.
- (9) Stores devoted to retail commerce where goods are sold directly to the customer for personal use or household use, with or without processing on the premises for such retail sale, but excluding the processing, repair or renovating of bedding and excluding the sale of motor vehicles, boats, lumber, masonry, roofing or siding where an inventory is maintained on the premises. No crating, outdoor displays and/or outdoor sales are permitted except that occasional outdoor sales may be

held as provided by Ordinance No. 1845. [1] [Editor's Note: Said Ord. No. 1845, adopted 4-15-1975, as amended 7-2-1991 by Ord. No. 2358, and which comprised original Ch. 190, Sales and Displays, Outdoor, of the 1978 Code, was repealed 12-4-2007 by Ord. No. 3039.]

- (10) Mixed use buildings for retail, service and office uses (residential prohibited). [Amended 2-19-2019 by Ord. No. 3414]
- (11) Discount store, except that no discount store shall be located within 1,000 feet of another discount store business; the distance between such discount store businesses shall be measured from the nearest entrance of the existing discount store to the nearest entrance of the premises where the other establishment is sought to be located along the route that a pedestrian would normally walk."

Two-family dwellings are not listed as a permitted use in a B-3A district.

Chapter 700, Article V, Section 700-46 A of the Codes of Nutley, entitled "Schedule of Regulations as to Bulk, Height, and Other Requirements," states that "the schedule entitled 'Schedule of Regulations as to Bulk, Height, and Other Requirements,' hereto attached and made a part of this article, is hereby adopted and declared to be a part of this chapter and may be amended in the same manner as any other part of this chapter."

420 CENTRE STREET

EXISTING MIXED USE BUILDING

DISTRICT B-3A

LOT: 25

	Required/Per mitted	Proposed	Variance Required
Minimum Lot Width	50'	47.18'	X

Chapter 700, Article VIII, Section 700-91 A of the Codes of Nutley, entitled "Schedule of minimum required parking spaces," states that "no building or premises shall be used nor shall any building be erected nor shall any building be altered so as to expand its usable floor area unless there is provided parking spaces upon the same premises upon which the use or building is located, or as provided for in § [700-45H](#) in accordance with the following schedule:"

Type of Use	Minimum Required Parking Spaces
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Two-family dwelling	4, at least one space must be in a garage if garage attached
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There is no existing garage on the property; however, there is sufficient parking in the driveway for a two-family dwelling.

Ms. Diana McGovern makes the board aware that the applicant requested an adjournment to the June 21, 2021 meeting, because their expert witness was not available tonight. The applicant waived all time constraints. A motion to grant this adjournment was made and passed by a vote of 7-0.

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No. 2: 40 Reverend Roberts Place

Applicant: Ceci Realty, LLC, Ro Reverend Roberts Place, Nutley, NJ, 07110

Application: Your request for a zoning permit, on behalf of your client, Ceci Realty, LLC, at the above referenced premises, to occupy a portion of the one-story commercial building and construction yard, and to use a portion of the yard as a truck terminal for construction vehicles, as shown on the preliminary and final site plan prepared by professional engineer Adnan A. Khan, P.E, C.M.E., dated January 22, 2021

Appearances: Robert Gaccione Esq., William Stimmel (Engineer and Planner), Paul DeGracia, Michael McCue, David Berry (Zoning Officer), Paul Ricci (Planner)

Letter of Denial: Letter of Denial was read by Patricia Doherty

Chapter 700, Article V, Section 700-16 of the Codes of Nutley, entitled "Permitted uses in B-2 Zoning District," lists the permitted uses in a B-2 Zoning District. ***A truck terminal for construction vehicles is not a listed permitted use.***

Chapter 700, Article III, Section 700-3 of the Codes of Nutley, entitled "Definitions; word usage," defines a "truck terminal" as "any lot on which more than three trucks over 1 1/2 tons' gross vehicle weight are parked overnight out of doors."

Chapter 700, Article VII, Section 700-39 E of the Codes of Nutley, entitled "Prohibited uses in all districts," lists a truck terminal as a prohibited use in any district.

Chapter 700, Article XVI, Section 700-113 A of the Codes of Nutley, entitled "Restrictions on modifications to nonconforming uses," states that "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."

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 height of a detached accessory building shall be one story not to exceed 14 feet.” **As per the plan, a metal garage and a portable office trailer are located in the side yard of the site. There is no zoning permit approval for these items.**

Chapter 700, Article XI, Section 700-67 B (1) of the Codes of Nutley, entitled “Accessory buildings and uses,” states that “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 portable office trailer would require a six (6') foot side yard setback; none is provided.**

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 a B-2 zone an impervious coverage of 80%. **The proposed impervious coverage will be 98.85%.**

Chapter 700, Article XIII, Section 700-98 of the Codes of Nutley, entitled “Buffer for parking areas,” states that “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.” **The proposed pavement addition for the parking of trucks will have a four (4') foot setback to the rear.**

Chapter 700, Article XIII, Section 700-96 of the Codes of Nutley, entitled “Location of off-street parking for other uses,” states that “except for uses specified above in §§ [700-94](#) and [700-95](#), parking and loading areas located in any front yard or side yard abutting a street shall not be permitted within 10 feet of the right-of-way line of a street. The minimum setback of off-street parking and loading area from any other lot line shall be five feet. The five-foot parking and loading area setback need not be provided between properties which have common access and/or common parking areas.” **The proposed pavement addition for parking of trucks will have an approximately one (1') foot setback to the side.**

Chapter 700, Article XIII, Section 700-91 A of the Codes of Nutley, entitled “Schedule of minimum required parking spaces,” states that “no building or premises shall be used nor shall any building be erected nor shall any building be altered so as to expand its usable floor area unless there is provided parking spaces upon the same premises upon which the use or building is located, or as provided for in § [700-45H](#) in accordance with the following schedule.”

- Offices – 1 for each 300 square feet of total floor area. **The existing office space encompasses an area of 1,208 square feet. Therefore, there is a minimum of four (4) required parking spaces.**
- Warehouses – 1 for each 4 employees, but in no case less than 1 for each 3,000 square feet of total floor area. **The existing warehouse space includes 39 employees, as per the submitted plan. One (1) space is required for**

every four (4) employees; therefore, there is a minimum of 10 required spaces.

The previously approved use of ambulance parking was for not more than 10 vehicles.

The submitted plan indicates six (6) oversized parking spaces for construction truck parking.

The submitted site plan indicates that parking space will be allotted as follows. At 14-16 Harrison Street, there are 12 existing spaces, two (2) of which are required to be ambulance parking. At 40 Reverend Roberts Place, there are eight (8) existing spaces, which are required to be ambulance spaces, and six (6) new 10'x35' spaces.

The below-listed characteristics of the property are pre-existing and will **not** be changed as a result of this application.

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 a B-2 zone:

- A front yard setback of 10'. **The proposed will be 2.2' to the main building, and 2.9' to the small building.**
- A side yard setback of six (6') feet. **The proposed will be zero (0') feet.**
- A rear yard setback of 25'. **The proposed will be zero (0') feet.**

Chapter 700, Article XIII, Section 700-96 of the Codes of Nutley, entitled "Location of off-street parking for other uses," states that "except for uses specified above in §§ [700-94](#) and [700-95](#), parking and loading areas located in any front yard or side yard abutting a street shall not be permitted within 10 feet of the right-of-way line of a street. The minimum setback of off-street parking and loading area from any other lot line shall be five feet. The five-foot parking and loading area setback need not be provided between properties which have common access and/or common parking areas." **The proposed parking spaces will be along the street sides of lots 20 & 21.**

Chapter 700, Article XIII, Section 700-102 of the Codes of Nutley, entitled "Schedule of minimum loading spaces," requires a minimum of 4 loading spaces at this property. **The proposed total of loading spaces will be two (2).**

Chapter 600, Section 600-1 B of the Codes of Nutley, entitled "Approval required; exceptions," states that "the Construction Official may, at his discretion, refer any application for a construction permit or use to the approving authority for site plan approval where, in his judgment, the construction, reconstruction, alteration, use or sign will affect motor vehicle and pedestrian circulation, drainage, water supply, sewage disposal, landscaping, lighting, off-street parking or loading or any lack of any or all of these factors, environmental factors and other considerations as specified in this chapter."

Robert Gaccione Esq. states that his client is appealing the decision that they need a use variance. Mr. Gaccione states that in 2005 the owners received a certificate of occupancy stating there were no zoning violations, and the building was approved for continued occupancy. There were also affidavits from 1999 with Mr. DeGracia stating that he had 10 trucks and 4 or 5 tractor trailers along with 8 dump trucks. He also states that there were always many vehicles on the property even before he purchased the property.

The current owners of the property are Michael McCue and Paul DeGracia. Mr. McCue first rented on the property in 1999 and purchased the property with Mr. DeGracia in 2005. Mr. McCue states he has 4-6 pickups, an excavator, and 2 lowboy trailers. He states Mr. DeGracia has excavation units, dump trucks and at least 10 tractor trailers and lowboys. He states that they have no intention to add more equipment to the property. Mr. McCue says that he is trying to downsize and has already gotten rid of his flatbed, and he says that 95% of his equipment is stored indoors. He says he is down to 8 trucks and when he first started his business he would have 6 pickups, a flat bed and a dump truck parked overnight.

Mr. McCue states that they have never been cited by the police for any problems or violations on the property. The perspective buyer would move into Mr. DeGracia's space and wants to keep 8 or 9 dump trucks on the property to be repaired and serviced in the loading bays.

Mr. DeGracia states that he has between 35 and 40 vehicles and pieces of equipment on the property. States much of his equipment is stored inside. Juan Munoz states that there will not be more than 9 dump trucks and it will only be used as a place to maintenance dump trucks, and they will be cycled in and out when necessary. The dump trucks are about 8' and 22'-25' long and will fit into the bays without trouble. The property will have a total of around 22 to 23 vehicles at any given time.

Testimony from Paul DeGracia was that he bought the property from Vitiello in 2005 and he had personal knowledge that the Vitiello family had a local contracting business at the location for over 50 years with large trucks being parked overnight.

The contract purchaser, Juan Munoz, testified that he planned on parking 8 to 9 dump trucks on site and use the site for maintenance of the trucks. The trucks are 10-12 ton weight and will fit in the garage for maintenance. The maximum number of trucks over 1 1/2 tons will be 22 trucks.

Anthony Dominic, a member of the virtual audience, states that after 2005 the state of the property got worse, he states that there were cement mixers, cars being painted and a mobile home on the property in 2017.

David Berry, Zoning Officer, states that he would like to get clear information on what is going on inside the property in order to know if this will be a continued non-conforming use. Paul Ricci, Nutley Planner, states that he feels the business has expanded and want a site plan for all the tenants. Mr. Gaccione states that there is no site plan because it is a non-conforming use but agrees to come back with a site plan for the next meetings the office trailer on the cite would likely remain for the new owners use.

With a condition that the owner will submit a site plan for the next meeting a motion to agree with the applicant's appeal was made by Joseph Battaglia and was seconded by Theresa Duva. The motion was passed by a vote of 7-0.

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No. 3: 275 Kingsland Street

Applicant: PB Nutclif Master, LLC, 275 Kingsland Street, Nutley, NJ, 07110

Application: Your request for a permit, at the above reference premises, on behalf of your client, PB Nutclif Master, LLC, to construct a one-story, 147,900 square foot building consisting of 144,400 square feet of warehouse use and 3,500 square feet of accessory space, parking for 133 passenger vehicles, 24 truck parking spaces and 40 loading docks, as shown on the plans prepared by GreenbergFarrow, dated November 23, 2020

Appearances: Adam Faiella Esq., Meryl Gonchar Esq., Richard Procanik (Site Engineer), David Novak (Planner), David Berry (Zoning Officer), Tom Behrens (Planner)

Letter of Denial: The Letter of Denial was read by Patricia Doherty

Chapter 700, Article V, Section 700-21 of the Codes of Nutley lists the permitted uses in the M-O Zoning District. **Warehouses and truck terminals are not a listed permitted use.**

Chapter 700, Article V, Section 700-20 A (2) of the Codes of Nutley lists permitted uses in the M Zoning District. **Warehouses are a listed permitted use.**

Chapter 700, Article III, Section 700-3 of the Codes of Nutley entitled "Definitions; work usage" is for the purpose of interpreting, certain words and terms used herein and **warehouse** is defined as follows:

- (1) **ACCESSORY WAREHOUSE** - A completely enclosed building used for storage of merchandise to be sold at retail in an establishment located on the same lot and constituting an accessory use to such establishment
- (2) **INDUSTRIAL WAREHOUSE** - A completely enclosed building used for storage of products manufactured or processed or goods to be manufactured or processed on the premises and constituting an accessory use, but **not including a truck terminal** as defined herein.
- (3) **WHOLESALE WAREHOUSE** - A completely enclosed building used for the storage of goods to be resold through retail outlets or retail mail sale and constituting the principal use of the property, but **not including a truck terminal** as defined herein.

Chapter 700, Article VII, Section 700-39 E of the Codes of Nutley states **truck**

terminals are deemed inappropriate to the Township of Nutley, inimical to the public health, safety, welfare and morals and may not be established in any zoning district.

Chapter 700, Article XIII, Section 700-94 A (3) (b) of the Codes of Nutley states curb cuts in the M-O districts shall not exceed 20 feet in length.

Chapter 700, Article XI, Section 700-67 A of the Codes of Nutley states a 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 height of a detached accessory building shall be one story not to exceed 14 feet. ***The proposed 50' trash compactor will be located in the front yard.*** Chapter 600, Section 600-1 of the Codes of Nutley requires site plan review.

Chapter 600, Section 600-5 A-B list the requirements for a site plan, a preliminary review of the site plan, prepared by GreenbergFarrow, dated November 23, 2020, indicates the following items are missing from the site plan checklist:

- (6) The zone district and the zone districts of adjoining properties within 400 feet.
- (7) All entrances and exits to public streets on site and within 400 feet thereof.
- (8) All property lines, streets, roads, retaining walls, rock outcrops, marsh areas, ponds and streams within 400 feet.
- (11) The location of all signs and exterior lighting, with the size and height of signs and light fixtures and the strength in lumens and direction of illumination.
- (24) The floor space of each building and the total number of parking spaces and estimated occupancy of employees.
- (30) Applications filed with the county
- (31) Construction Official may require building elevation views of adjacent properties. If required by the board.

Joseph Battaglia and David Scheidel were not at the first hearing but they reviewed that last meeting and will be eligible to vote.

Meryl Gonchar Esq. believes that the interpretation of the code from the zoning officer should not apply because the property in question is not a one or two family home it is a

commercial space. Ms. Gonchar believes no variance should be necessary for the driveways.

Richard Procanik, the site engineer, states that the property in question is for industrial use and an ordinance that refers to residential homes should not apply to commercial buildings. Mr. Procanik states that the project requires a larger curb radius to allow for a safe entrance and exit for tractor trailers. He also states that commercial and industrial businesses normally have different standards than residential homes. Mr. Procanik states that they want a 55' curb cut with a 15' radius on both sides.

Rob Garber, a member of the virtual audience asked about the definition of a curb cut. Mr. Procanik states that to issue is more with the interpretation of the code and believes that the code cited in the denial letter is not applicable to this property.

Tom Behrens, the site planner, states that Nutley code limits curb cuts to 20' but this only in reference to residential homes. He states that it is standard practice for towns to have separate ordinances for commercial buildings.

Dr. Mark Lyall, a member of the virtual audience, states that he lives right next to the curb cut and hopes there will not be tractor trailers coming in and out of the property all day.

David Berry, Nutley Zoning Officer, states that he always uses that ordinance to cite all driveways. Ms. Gonchar asks why Mr. Berry would use an ordinance that refers to residential homes when considering a commercial space. Mr. Berry states that the code has always been interpreted in this manner and he has always used this ordinance for every driveway.

Ms. Gonchar states that she believes the ordinance cited only relates on to one- or two-family homes and should not be applied to commercial and industrial uses. Ms. Gonchar believes that the ordinance is being interpreted beyond its terms.

With no further questions or concerns a motion to deny this appeal was made by Yvette Wallace and was seconded by Theresa Duva. This appeal was denied by a vote of 7-0.

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No. 4: 449 Kingsland Avenue

Applicant: Mr. Didier Ruiz, 449 Kingsland Avenue, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to widen the driveway to a width of approximately 19 feet, as shown on the property survey dated July 14, 2017

Appearances: Didier Ruiz

Letter of Denial: Letter of Denial was ready by Patricia Doherty

Chapter 700, Article XIII, Section 700-94 A (2) of the Codes of Nutley, entitled "Additional regulations on off-street parking for one- and two-family dwellings," states that "Notwithstanding any other section of this chapter, no front yard of a lot upon which is located a one- or two-family dwelling shall be used for the parking of motor vehicles, except that motor vehicles may be parked upon a driveway in the front yard. Similarly, in the case of corner lots, no side yard facing a street on a lot upon which is located a one- or two-family dwelling shall be used for the parking of motor vehicles, except that motor vehicles may be parked upon a driveway in the side yard. The use of a driveway for the parking of motor vehicles shall be subject to the following limitations: Side yard of corner lots. The driveway shall consist of the area directly opposite and adjacent to an attached garage, detached garage or depressed garage or the extension of the rear yard into the side yard which abuts a street. However, if there is no garage and no available rear yard, a driveway not to exceed 16 feet in width from the rear lot line may be constructed." ***The proposed driveway width is approximately 19 feet.***

Mr. Ruiz states that his current driveway is enclosed by two retaining walls, and it is nearly impossible to fit his two vehicles side by side. He states he would like to widen his driveway to 19' to allow him to park side by side and open the doors without fear of hitting the other car or the retaining walls.

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 approved by a vote of 7-0.

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No. 5: 19 Linden Place

Applicant: Alexandra & Dan Miron, 19 Linden Place, Nutley, NJ, 07110

Application: Your request for a permit, at the above referenced premises, to install a 9'6"x14'5" in-ground pool, which is attached to the existing deck, having a 12' rear yard setback, and exceeding the required total lot coverage, and to leave as erected a pergola installed over the deck, having a 28' rear yard setback and a five (5') foot side yard setback, as shown on the site plan provided by the homeowner, and as shown on the property survey prepared by James Pica, dated October 9, 2014,

Appearances: Alexandra Miron

Letter of Denial: Letter of Denial was read by Patricia Doherty

John Cafone recues himself

Chapter 700, Article XI, Section 700-67 D of the Codes of Nutley, entitled "Accessory buildings and uses," states that "an attached accessory structure or accessory use shall be considered to be a part of the main building."

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 zone a rear yard setback of 30 feet, a side yard setback of six (6') feet, and a maximum lot coverage

of 35%. ***The attached deck/pool will have a rear yard setback of 12 feet, and a side yard setback of five (5') feet; the pergola will have a rear yard setback of 28 feet; and there will be a total lot coverage of 40%.***

Ms. Miron states that she would like to leave as erected her 9.5' x 14.5' pool and deck attached to it. Ms. Miron states that her current lot coverage is 40% and her pool is a semi-above ground 52" pool. 20" of the pool is inground while 32" are above ground and the deck is about 5" inches above the pool. Ms. Miron states that her yard is sufficiently fenced and gated and that she has a hardship because she lives on an undersized corner lot.

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

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No. 6: 507 Franklin Avenue

Applicant: Joseph Capasso, 507 Franklin Avenue, Nutley, NJ, 07110

Application: Your request, on behalf of your client, Mr. Joseph Capasso of JVCC, LLC, at the above referenced premises, to remove the 11 existing parking spaces at the rear of the establishment, and to construct an outdoor seating area which will include tables and seating, pavers, pergolas, etc., as shown on the plan prepared by Architect Stephen J. Martinez, AIA, dated March 9, 2021

Appearances: Robert Gaccione Esq., Stephen Martinez (Architect), Joe Staigar (Traffic Engineer), Joe Capasso

Letter of Denial: Letter of Denial was read by Patricia Doherty

This property is located in a B-3 district as shown on the Nutley Zoning Map.

This property has previously obtained the following variances by the Zoning Board of Adjustment:

- 1997: To renovate the interior of subject premises into a restaurant having 83 seats and to use 30 parking spaces located at 495 Franklin Avenue.
- 1998: To erect an awning projecting 6'6" from building façade and to enclose area in front of premises with a combination brick piers and decorative railings.
- 2003: To permit continued operation of the existing restaurant at the site utilizing off-premises parking at 495 Franklin Avenue.
- 2009: To install an awning that projects six (6') feet from the façade of the building to which it is attached.

Additionally, a Zoning Certificate was issued in 2015 for a capacity of 83 indoor seats.

Chapter 700, Article XIII, Section 700-91 A of the Codes of Nutley, entitled "Schedule of minimum required parking spaces," dictates that the required amount of parking spaces

for restaurants and bars is "1 for each 10 seats, to be based on maximum seating capacity." ***The existing interior seating consists of 83 seats. The proposed outdoor seating will be 41 seats, for a total of 124 proposed seats. 12.4 spaces would be required to accommodate this seating capacity; the proposed plan includes zero (0) spaces.***

Robert Gaccione Esq. states that his client would like to eliminate 11 parking spaces behind his restaurant and use that area to create an outdoor dining area for his customers. The outdoor seating area would hold up to 41 people and the indoor dining area would continue with 83 seats. Mr. Gaccione states that there is ample parking in the area and believes that this change would have no impact on parking or traffic in the area.

The owner of Bella Luce Joe Capasso states that he thinks the outdoor dining area would help his restaurant deal with the Covid-19 pandemic by offering his customers a place to eat outdoors. He states that it will help his restaurant approach normalcy and states that the back lot was only used by employees because most of his customers normally park in the municipal lots.

Stephen Martinez, the architect, states that the parking spots will be removed but the driveway to the back will remain so there will be access to the dumpsters. The black top will be replaced by pavers and there will be an outdoor bar area and different seating arrangement, but the total occupancy will not exceed 41 people.

Joseph Staigar, the traffic engineer, states that there are two municipal lots within a few hundred feet of the restaurant in addition to metered parking on the street. Mr. Staigar states that the peak hours for the restaurant are on Friday and Saturday nights and that at that time the municipal lots are relatively empty. The traffic study shows during these peak hours there was on average 5 cars in lot 7 and 10 cars in lot 9. There are 70 spots in each lot so there is more than enough parking in the lots and out of the 18 metered spots no more than 12 were taken at any given time. Mr. Staigar believes that there is enough parking for the restaurant and feels that there will be no impact on the traffic in the area.

The board questions how the owner will prevent the dumpsters from having a negative affect on the dining and the owner assures that he will make all necessary improvements to ensure there are no odors leaving the dumpsters and disrupting the outdoor dining area.

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

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Invoices:

Secretary pay of \$150.

Public Comment:

**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", written in a cursive style.

Paul Marranzino

Board Secretary