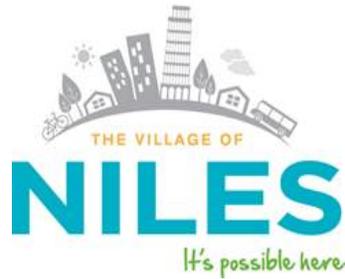


# VILLAGE OF NILES

1000 Civic Center Drive  
www.vniles.com



## Final Approved Meeting Minutes

Monday, February 7, 2022

7:00 PM

Village Hall

## Planning and Zoning Board

### Chairman

Thomas Kanelos

### Members

Susan DeBartolo

Morgan Dubiel , Vice Chairman

Ted Karabatsos

Janet Lee

Terrence McConville

Robert Schulter , Secretary

Charles Ostman, Community Development Director

CALL TO ORDER

The Niles Planning and Zoning Board was called to order at 7:01 P.M.

**PLEDGE OF ALLEGIANCE/ROLL CALL**

All rose for the Pledge of Allegiance.

PRESENT: 7 Chairman Thomas Kanelos, Commissioners  
Ted Karabatsos, Susan DeBartolo, Robert Schuller,  
Terrence McConville, Janet Lee, Morgan Dubiel

Also, present were Assistant Director of Community Development Richard Wlodarski and Planner I Nathan Bruemmer

**APPROVAL OF MINUTES**

Chairman Kanelos asked if there were any additions, clarifications, or corrections to the minutes of December 6, 2021. There were none.

Commissioner DeBartolo moved to **approve** the minutes of December 6, 2021.

Seconded by Commissioner Dubiel, on roll call the vote was:

AYES: 7 DeBartolo, Schuller, McConville, Lee,  
Dubiel, Karabatsos, Kanelos

NAYS: 0

There being seven (7) affirmative votes the motion carried.

**PUBLIC COMMENT**

The public can ask questions or comment after the Board has heard the petitioners' testimony following each case. However, if the public has any general comments or questions, they can speak at the end of tonight's meeting.

**OLD BUSINESS**

Commissioner Dubiel asked if we could have [for the March meeting] some suggestions or additional wording of possibly changing the setback that was mentioned at the December meeting. Since Mr. Ostman is not here tonight, can this be brought up at the March meeting? If you recall, there was a minor change, something like 1 ft.

Nathan Bruemmer, Planner I, said there is an existing 10% flex opportunity. You can have an administrative exception if you are within 10% of any district dimensional requirement such as a parking space. That last case did not meet that.

Commissioner Dubiel asked if it was more than 10% even though it was 1' ?

Mr. Bruemmer believes the December case was 6' and over that 10% requirement. It was like a 1' variation.

Chairman Kanelos said that would make it more than a 10% variation. Right now, you can make an administrative variation for 10% or less when it comes to setbacks.

Mr. Bruemmer said 10% setbacks or impervious surfaces, etc.

Commissioner Dubiel asked if they can we revisit this next month. Mr. Ostman said he would have it on the schedule for January but there was no meeting last month. He is not present tonight.

Chairman Kanelos said he did not recall that but we can ask Staff to make a suggestion or recommendation to stay with that 10% or if there is a possibility of increasing the amount.

Mr. Bruemmer asked Commissioner Dubiel if he wants to increase the percentage.

Commissioner Dubiel answered yes. The December 2021 minutes states the following:

“Commissioner Dubiel asked if the Board wants to review the point he made earlier about not having to come before the Zoning Board for minor changes to the setback.

Chairman Kanelos asked Staff if they could bring that information to the next meeting. He knows there are multiple formulas for different things that can be done administratively.”

However, since Mr. Ostman is not present tonight, can this be brought up at the next meeting in March.

Chairman Kanelos said Nathan [Bruemmer] told us what the variation is and it is 10%.

Commissioner Dubiel asked if Staff wants to change that. In the December case, it was 1 ft.

Commissioner Karabatsos said that is what was applicable to that case. Another time it might be 6 ft. He thinks it has to be either 10% or 15%. As he is going through this now, it can be 6' or 7'.

Mr. Bruemmer showed it on the overhead.

Commissioner Dubiel said then 6' would be 72", 10% would be 7.2". If you went to 15% you would still be on the border of 1'.

Chairman Kanelos asked if there is still any interest for a larger percentage from any of the Commissioners.

Commissioner McConville said he would go along with an increase to 15%.

Chairman Kanelos would like to hear from Staff next month if they think there are any problems by increasing it from 10% to 15% and how that might impact different types of variances whether it be a side yard or impervious coverage.

Commissioner Dubiel said they could round it up to 1' - so 10% or 1'. That way if it is a 25' setback and someone comes in with a 2-1/2' difference it would be okay.

Chairman Kanelos said they are not a legislative body. All they can do is put information together for Staff and they can discuss it. They can start the process of increasing the percentage. He would like to hear from Staff next month if they think increasing this to 15% would be problematic. We can bring this up again at the next meeting. It will be on the agenda as well under old business.

## **NEW BUSINESS**

### **1. 22-ZP-01 , 6200 Mulford St**

**A request for approval of two variations from Niles Zoning Ordinance Section 6.3 (A) to allow a front yard setback of 20.12 ' where 25 ' is required, and a corner side yard setback of 4.42 ' where 25 ' is required, as well as a variation from Section 6.4(B) to allow metal as an exterior building material, all for a proposed building addition at 6200 Mulford Street, Niles, IL 60714.**

Ratko Djokic, Plant Process Engineer for Rich Products, 6200 Mulford Street, Niles, came forward and was sworn in. In 2017 the company applied for this same request. At that time, they didn't have any money. Therefore, the project never was completed. This year corporate gave us the funds. We are now approved. 30% of the drawings are complete. Most of the bids are in as well. It is an expanded freezer. The drawings are shown on the overhead. On the right of this is a freezer and behind it is a freezer. We are lining this up with insulated walls. We are extending the pump house as well because it is really tight. It is grandfathered in. We are going to extend it, make it cold and add everything else that is needed.

Chairman Kanelos said this is the same design you submitted four or five years ago. It was approved at that time.

Mr. Djokic said yes.

Chairman Kanelos had a question for Staff. He understands the variance for setbacks. But since they are using the same materials as the existing structure, why do they need a variance for that? He thinks somehow, they should be able to rephrase that code so petitioners would not have to get a variance for that. He knows the Village does not want aluminum siding going up but a decision like this could be made administratively. He knows it came before the Board because of the way the code is written. He is making a recommendation that somehow there would be a way to allow something like this [the same materials] without a variation requirement.

Commissioner Dubiel concurs. They are building with the same material. Do we have districts with zero lot lines?

Mr. Bruemmer said part of the C-3 district probably does.

Commissioner Dubiel said a lot of these requests are to the sidewalk or almost at a zero-lot line. There are very small setbacks. Perhaps this was something discussed years ago when there was a zoning update. What is the purpose of these setbacks in an industrial area where we want land to be fully utilized and we want expansion and businesses to come in? Can we simplify this so people do not have to come back again? Even their own building is matching up to the existing structure. He understands setbacks for residential but not for the industrial districts.

Mr. Bruemmer said this information is noted.

Commissioner Lee has a question, more for learning for herself. She is asking about corner side yard setbacks in Ordinance Section 6.3(A). She is trying to understand visually what that is. Is it because it is their own property?

Mr. Bruemmer brought up an illustration on the overhead screen.

Chairman Kanelos told her to look at the first oversize page in the packet. He explained how it is shown - where the petitioner is wanting to fill in that 4 feet. On the left side are dotted lines - that would be the front.

Commissioner Lee asked if that area would be landscaping.

Commissioner Dubiel explained that is the existing building.

Chairman Kanelos asked if there were any more questions for the petitioner or for Staff. There were none. He entertained a motion.

Commissioner DeBartolo moved to **approve** item 22-ZP-01, a request for approval of two variations from Niles Zoning Ordinance Section 6.3 (A) to allow a front yard setback of 20.12' where 25' is required, and a corner side yard setback of 4.42' where 25' is required, as well as a variation from Section 6.4(B) to allow metal as an exterior building material, all for a proposed building addition at 6200 Mulford Street, Niles, IL 60714.

Seconded by Commissioner Dubiel. He added the packet is complete as well as meeting the Findings of Fact. Voting yes for this is consistent with the Board's previous vote in approximately 2017 under the same Code.

Commissioner DeBartolo agreed with Commissioner Dubiel. We approved this request before.

Chairman Kanelos said allowing the same metal material to be used will make for a unified appearance to the building. He speaks in favor of the motion.

On roll call the vote was:

AYES: 7 DeBartolo, Schuller, McConville, Lee,  
Dubiel, Karabatsos, Kanelos

NAYS: 0

There being seven (7) affirmative votes the motion carried.

This Board is the final say on this request.

## **2. 22-ZP-02, Text Amendment**

### **A request for approval of a Text Amendment to Section 7.4(A) of the Niles Zoning Ordinance to expand the boundaries of the southern Cannabis-Establishment Overlay District.**

Nathan Bruemmer presented this case. In 2019 Illinois legalized cannabis for adults over the age of 21. In September of that year the Niles Village Board approved a number of text amendments regulating how the Village will approach cannabis. One component of those text amendments was the creation of two Cannabis Establishment Overlay Districts. One would be in the north near Golf Mill, the other in the south along Touhy Ave. Each of these C-E districts allows a maximum of one Adult-Use Cannabis Dispensary Organization and/or Craft Grower (who may co-locate with a dispensary). The text amendments passed in 2019 also created the distance requirements for cannabis establishments, separating them from schools, places of worship, parks and childcare facilities. The boundaries of the C-E districts were created by reviewing a preliminary map with the required distance buffers around schools, places of worship, parks and childcare facilities, and then further refining the districts after considering the potential impacts a Cannabis Dispensing Organization may have on the surrounding area. In the months after the Village initial cannabis text amendments were adopted there was considerable interest from developers in

opening dispensaries in both overlay districts. In May 2020 the first dispensary RISE opened at 9621 Milwaukee Ave. That satisfied the northern overlay district. Even though there was considerable interest, the developers had a hard time finding a place in the southern overlay district. There are a number of factors for this. One is the potential of REITs [Real Estate Investment Trust] in the area. Because they are federally insured, they cannot lease space to cannabis dispensaries in this area. Another factor is shopping center ownership in the area. Some of the big box stores in the centers have provisions in their leases which prohibit cannabis businesses from co-locating in a shopping center. The Board would like to get this second dispensary in this southern overlay district. Staff looked into how they can expand this district within the confines of the existing ordinance and get away from the big shopping centers. One factor that helped was the Leaning Tower YMCA closed down. That helped because there was a daycare center located at the site. That opened up some distance requirements. This proposed ordinance is not changing any of those distance requirements initially passed. On the overhead is a picture of the southern overlay district. The parcels on the west side between Howard and Jarvis and all the parcels bounded by Jarvis, Central, Touhy and the railroad tracks. They are proposing to expand it across the railroad tracks to the west bounded as you can see on the overhead. [There is a complete picture of everything shown on the overhead and in the packet.]

Chairman Kanelos asked why do the leases of some of the big box stores have a provision they do not want cannabis in the center. He suspects it is an image issue. In a specific area, do you know how many potential locations there are?

Mr. Bruemmer said he cannot speak to that. It may be a better question for John Melaniphy. He is not sure how many potential locations there are. Perhaps further south on Austin. But the ones fronting on Touhy are probably ruled out.

Chairman Kanelos said he would like to know how many potential sites are in the current area and how many would be created in the expanded area.

Mr. Bruemmer does not have an answer.

Chairman Kanelos asked if anyone has approached the Village about opening a cannabis business in this area.

John C. Melaniphy, Director of Economic Development for the Village of Niles, 6849 N. Jean Ave., Chicago, IL 60646 was sworn in. There were a couple of property owners who contacted the Village about this overlay district and they feel like they are being excluded. They would prefer the district look at some of the other frontage properties along Touhy. The Village has been trying to get a second dispensary located on the south end of Niles. It is part of the strategic planning process to add another dispensary. They have not been able to do that. Pointe Plaza on the north side of Touhy is owned by a REIT all the way to the

Village boundaries. On the south side of Touhy, you have Meinke for 100 years, [a car dealer] the bank and LA Fitness, then Village Crossing. He contacted each shopping center owner and they explained they cannot accept cannabis money for rent as they are REITs governed by the SEC. Also, the anchor tenants in those centers have that clause in their lease - no cannabis, no video gaming and a variety of things.

In all but the northern most corner of the square it is not possible to put cannabis in. The only other place would be south of Meinke in the industrial area. None of these dispensaries want to be buried in an industrial park. They want frontage on a commercial traffic artery. So, when you look at a location like Caldwell and Touhy or another corner location that is signalized such as the YMCA..... he is trying to attract new businesses and that is why expanding this overlay district is so important. He would like it to be expanded even a little bit further.

Chairman Kanelos asked if any thought was given to taking out the areas where nothing could be built?

Mr. Melaniphy said that could certainly be done as well.

Commissioner Schulter said currently we just have RISE, correct? How many can the Village actually have.

Mr. Bruemmer said two. They can only allow one more even with this expansion.

Commissioner Lee said you mentioned with YMCA leaving space is now available. That area is part of the 2030 or 2040 Comprehensive Plan for the Village, correct?

Mr. Bruemmer said the only reason that opens up is because there was a daycare in the YMCA. In the initial ordinance, cannabis has to be 500' from a daycare facility. When that daycare closed, more properties fell under that 500' buffer. The YMCA is not part of this property expansion.

Commissioner Dubiel wanted to clarify a Craft Grower must be or can be co-located with a retail store.

Mr. Bruemmer said can be. But if a Craft Grower opened up in this overlay district, then a dispensary could not open. There are only two types of cannabis businesses that can open in this overlay district. One is dispensary and one is Craft Grower. Those can co-locate in one building. Otherwise, it is one or the other.

Chairman Kanelos said we use the word 'adult' use and 'adult cannabis.' Is there any other kind of use?

Mr. Bruemmer said there is always adult but strictly medicinal is the other use in the Zoning Ordinance.

Commissioner Karabatsos asked if processing is considered growing. Are the setbacks state regulated or do we come up with that? Are we allowing growing? Same tax revenue?

Mr. Bruemmer said processing would be like taking cannabis and turning it into an edible or vapor. The Village came up with setbacks.

Mr. Melaniphy said that was a question that came up with some of the property owners.

Mr. Bruemmer said growing is not being addressed with this expansion. We do allow cultivation, which is what growing is. There are really only four buildings in town that could do that and they are in the industrial area. They have bigger distance requirements from residential. He does not think the growers create any revenue.

Mr. Melaniphy stated all the dispensaries have to use product that is grown in Illinois. Ultimately it does generate sales tax revenue in the dispensaries.

Commissioner Dubiel said being able to co-locate would be a bonus for the dispensary.

Mr. Bruemmer said there is one state distance requirement. It is 1,000' from one dispensary to another.

Chairman Kanelos said if a Craft Grower co-locates here, they cannot sell to... can they sell to RISE on the north side of Niles? Is there tax revenue generated that way? Can a Craft Grower sell to the public?

Mr. Bruemmer said he is not sure if a Craft Grower can sell to the public. Any grower can sell to a dispensary. They cannot sell. It is only for cultivation.

Chairman Kanelos asked if there were any questions from the Commissioners or the public for Staff. There were none. He entertained a motion.

Commissioner DeBartolo moved to **approve** case 22-ZP-02, a request for approval of a Text Amendment to Section 7.4(A) of the Niles Zoning Ordinance to expand the boundaries of the southern Cannabis-Establishment Overlay District.

Seconded by Commissioner Schuller.

Commissioner Lee said this is mostly for business. It is not taking into consideration residents - if it is helping them. They could just go to RISE. It is about establishing a business in Niles. Not about helping the residents.

Chairman Kanelos asked if she feels this is not necessary for the public convenience because they have a dispensary in the Village already. Yes, this is how she feels. But he added that argument can be made about grocery stores too.

Commissioner Schulter thinks it is a good idea because since 2019 no one has been able to open a dispensary in that area. If things work out the Village will have two places - one north and one south.

Commissioner Karabatsos said the expansion of the district is in line with the Master Plan too. If they want to make that area an entertainment district, it would tie into that.

Commissioner McConville said if this area was commercially viable, someone would have jumped on it by now. The fact no one has to this point would certainly recommend expansion of the area to be able to find a location that is commercially viable. He thinks it is a good idea.

Commissioner Lee said she is still not clear. She feels it does not fit with the expansion plan of the entertainment plan. She does not think a cannabis location would fit for the 2030 - 2040 plan.

Commissioner Dubiel said two years ago the Village was planning to add a second dispensary. They are still in pursuit of that plan. When we look at the requirements for the text amendment, we can only look at it for criteria. For example, Section 15.2(E)(2) item a. The consistency of the proposed amendment with the Comprehensive Plan. It is because the Trustees want to pursue a second cannabis business. I know item b. is about the health, safety and welfare of the people but this is a legal product now. Perhaps our personal feelings come into play as to whether it is healthy or not. The only person to answer this was Police Chief Tigera. He said there is no increase in crime. He has no objections. So, item b., unless new facts come into play, is met here. Item c., there is no true applicant here. It is the Village applying so no hardship. And so on.

Chairman Kanelos said just because the Commissioners think it is in line with the Comprehensive plan does not mean that it is. Perhaps it is the opinion of many of us that it is. There were no other questions.

On roll call the vote was:

|       |   |   |
|-------|---|---|
| AYES: | 6 | DeBartolo, Schulter, McConville, Dubiel,<br>Karabatsos, Kanelos |
| NAYS: | 1 | Lee   |

There being six (6) affirmative votes the motion carried.

Chairman Kanelos stated this Board is a recommending Board to the Board of Trustees who can either affirm or deny this recommendation. It will be necessary for the petitioner to contact Mr. Ostman and ask to be placed on the Board of Trustees agenda. The petitioner will then be notified of the date and anyone in the audience who would like to be informed of the Board of Trustees date should leave their name and address with the recording secretary.

### **DISCUSSIONS**

### **ADJOURNMENT**

Chairman Kanelos entertained a motion to adjourn.

Commissioner DeBartolo moved to adjourn.

Seconded by Commissioner McConville, on roll call the vote was:

AYES: 7 DeBartolo, Schulter, McConville, Lee,  
Karabatsos, Dubiel, Kanelos

NAYS: 0

There being seven (7) affirmative votes the motion carried.

The meeting adjourned at 7:40 PM

Kathleen Janessa, Recording Secretary