

VILLAGE OF NILES

1000 Civic Center Drive
www.vniles.com



Final Approved Meeting Minutes

Monday, June 6, 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

Nathan Bruemmer, Planner I, requested this item be continued once again to the July 2022 meeting.

Commissioner DeBartolo moved to **continue** item 22-ZP-12, a request for approval of a Variation from Section 4.3(A) of the Niles Zoning Ordinance to allow an impervious surface coverage of 66% where a maximum of 60% is allowed, a Variation from Section 10.3(C) to allow a drive aisle width of 11.75’ where a **minimum of 12’ is allowed**, and a Variation from Section 10.3(A) to allow a stall depth of 17’ where 21’ is required, all for a new parking area at 6638 Albion Ave, Niles, IL 60714.

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

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

NAYS: 0

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

2. 22-ZP-13, Text Amendment

A request for various text amendments to the Village of Niles Code of Ordinances, Appendix B Zoning Ordinance, which includes, but is not limited to, Section 4 - Residential Districts, Section 5 - Commercial Districts, Section 8 - Uses, Section 10 - Off-Street Parking & Loading, Section 12 - Planned Unit Developments, Section 15 - Zoning Applications and Section 16 - Nonconformities.

Nathan Bruemmer presented this item. This is basically a number of text amendments to the Village of Niles Code of Ordinances. Throughout the year we may need to modify text in the zoning code, or there may be new things that need to be added. The Community Development Department keep a list of these to periodically present to the Planning & Zoning Board. The following proposed amendments were presented to the Building and Zoning Committee on April 21, 2022. They were recommended from that body to move forward to the Planning and Zoning Board for review and hopefully approval. For text amendments the Planning & Zoning Board is the recommending body and the Village Board will have final approval. If recommended they will be heard at the Village Board and be heard at the June 28, 2022 Village Board meeting. The first one tonight is a proposed amendment to Section 10.3(C (6) and Section 4.3 Table 4-1. This is to create regulations for circular or horseshoe driveways, which in reality are semi-circular driveways. We are proposing circular driveways shall only be allowed on lots that have a street frontage of 65’ or greater and we are also adding language to Table 4-1 that says for single family lots, as part of a maximum impervious surface coverage total which is 60%, no more than 50% of the front yard, plus if it is a corner lot, the corner side yard shall be impervious surface. Do you want me to run through each one or stop to discuss in between?

Chairman Kanelos said why don't we take questions now and if he sees it is getting too long, we will take questions at the end.

Commissioner Dubiel said he is looking at #6. What is the driver behind having the maximum at 36'?

Mr. Bruemmer said this already exists. As you can see, it is struck through on #5 in the packet. We moved it to #6 because we felt it should be a separate item.

Commissioner Dubiel asked regarding circular driveways and the frontage, what is the driver behind that?

Mr. Bruemmer said basically we sat down and looked at how other municipalities handled it and looked at lot sizes in town.

Commissioner Dubiel said he does not mean the process. What is the concern? Why wouldn't we allow for a tighter radius on a smaller street frontage?

Mr. Bruemmer thinks anything less than 65' you are basically paving over the entire front yard.

Chairman Kanelos said it is safe to say if it was a 50' lot and you put in a circular driveway that would be a lot of coverage.

Commissioner Karabatsos said it is not allowed anyway.

Mr. Bruemmer said right. But they do have some in town that have been grandfathered in.

Chairman Kanelos said there was some discussion about corner lots, where you can go in one side and come out the other.

Mr. Bruemmer said they took that language out.

Mr. Bruemmer said this next thing is for Section 8.3(Y), the regulations for wireless communications. They had their wireless consultants draft a memo with some updates and fixes. Many of these changes are just correcting syntax, like changing the word city to village. A number are related to safety and standards that regulate that. Included is some language requiring a maintenance plan, like the removal of litter and graffiti, if that happens. It updates which standards and building codes the wireless companies must comply with. Some changes address engineering practices including the ability of towers to withstand wind or ice forces. Some more important changes are related to aesthetics and design. This includes the deletion of the sentence "antennas that co-locate on existing wireless telecommunications towers are considered stealth-design." We make these people go through the Zoning process if they are making changes or

adding equipment to those towers. By deleting that sentence, it will clarify that any antenna on any wireless tower that has, if that facility does not already have a permit it requires a Special Use permit. Most permits allow for X amount of expansion.

Commissioner Dubiel has a question on the report where it says the plan 'may include'. Why are we not addressing it as 'must include'? He wishes Mr. Stu Chapman, the consultant, was here tonight.

Mr. Bruemmer was not sure.

Charles Ostman, Director of Community Development, said it is language that our consultant proposed. We have had this consultant for quite some time. Every application that comes to the Village of Niles, he reviews it and applies the conditions. Mr. Ostman feels the consultant did not feel that

Mr. Bruemmer moved on to the next one. These proposed regulations are related to Covid testing sites within the Village. Our department was inundated with requests about Covid testing sites. We did not really have anything on the books. So, we did a temporary permit process but we felt like we need some permanent regulations on the books. It is recommended that temporary testing sites be included in Table 8-1, that is permitted temporary use in all non-residential areas. The use will be defined in Section 8.5 as a facility operation for the primary purpose of testing individuals for the purpose of imparting samples to offsite labs to determine illness. It excludes laboratories than analyze samples taken from individuals. It eliminates labs from national testing sites. We will also be adding a subsection to Section 8.4, which is the temporary use standards which will have specific regulations for the use of applications for the sites, and also how we will be evaluating these applications.

Commissioner Dubiel said he would like to not pass this tonight. We need a little more discussion. We've had a clear marijuana discussion where we say it can be here, it cannot be here, on a block-to-block basis. These temporary pop-ups - is it I or L 1 - temporary use will be evaluated. He would like to get as much clarity in advance. If it is during a pandemic it is going to be difficult for people to come in and say this is not appropriate, they do not want it, people may be afraid. If we clarify in advance where there would be traffic patterns, it would be acceptable to the demand expected. So, if we could drop this one tonight and discuss it at a later date if that would be okay with Staff.

Mr. Ostman asked if there is anything in particular Commissioner Dubiel is concerned about.

Commissioner Dubiel said you are authorizing C-1 through C-5 in the entertainment district and the public as well throughout that - it is a large area. It seems we should discuss this and see where it will not work.

Mr. Bruemmer said for a temporary use the way it usually works, is they will submit an application that has all this information, then we distribute it to police, fire, engineering - all the departments. If they have any concerns, we get back to the applicant and try to get a fix to them. If they cannot, we do not have to grant that. So, it is a permitted use but up to our discretion.

Chairman Kanelos said does it work that way for permitted uses.

Mr. Bruemmer said temporary permitted uses.

Chairman Kanelos asked so it would not be necessary for a special temporary permitted use?

Mr. Bruemmer said if we did a temporary special use, we are looking at 3 months' time for any turnaround.

Commissioner Dubiel said we often get 'no comment' and because the departments never come to these meetings, we are not getting information about their 'no comment'. Because speed would matter, we want to know where it is allowed. And because they would pop-up in empty locations, we need to look at traffic patterns. We need to discuss this more. Given the volume of tonight's agenda, I do not see the harm in kicking it out to July.

Chairman Kanelos asked Staff if there is any harm in this.

Mr. Ostman said no.

Village Attorney Danielle Grcic said they would have to amend agenda item number.....

Mr. Bruemmer said let's hold off on that because a few more may be taken out. For the next ones in tonight's packet, we will not be seeking approval for proposed amendments for Sections 5 and 8 regarding the C-5 district and to Section 12 - Planned Unit Developments. We have more changes to make before requesting approval. So we are taking Sections 5, 8 and 12 out of the motion.

Commissioner Karabatsos asked what is the temporary use duration.

Mr. Bruemmer said 6 months and they have an option to extend it. On to the next one, Section 15.2, zoning text and map amendment procedures. We have 2 changes to this section. The first is Section 15.2(B) which will allow any person to apply for a text amendment to the code. Previously it had been restricted to the Village Board, Planning and Zoning Board and property owners. The justification for this is we are looking at what other communities are doing. Not everyone who has applied might be a property owner. The second one is adding

Commissioner Dubiel moved to **approve** items 22-ZP-13 as amended.

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

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

NAYS: 0

There being seven (7) affirmative votes the motion carried

NEW BUSINESS

1. 22-ZP-14, 8584 W Dempster St

A request for approval of a Preliminary and Final Plat of Subdivision to subdivide the property at 8584 W Dempster St, Niles, IL 60714.

Rena Panjwani, property owner, 5256 Dempster St., Skokie, IL, came to the podium and was sworn in. I'm here today on behalf of the property at Dempster and Greenwood. It is the former Baker's Square property. It is 'L' shaped. She was contacted by the Village of Niles that this property was not properly subdivided. We are currently constructing a Dunkin Donuts/Baskin Robbins store on site. Part of the property that runs behind the gas station at the corner was never properly consolidated into the property. What we are doing is a subdivision application to formally include that small section of the property into the main parcel. The application has been submitted to the Village of Niles. There is nothing additional to add.

Chairman Kanelos asked if there were any questions from the Commissioners. There were none. There were no questions from the public. At this time, he entertained a motion.

Commissioner DeBartolo moved to **approve** case 22-ZP-14, a request for approval of a Preliminary and Final Plat of Subdivision to subdivide the property at 8584 W Dempster St, Niles, IL 60714.

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

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

NAYS: 0

There being seven (7) 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 meeting date should leave their name and address with the recording secretary.

2. 22-ZP-15, 7007 N Austin Ave

A request for approval of a Special Use Permit per Village of Niles Zoning Ordinance Appendix B Section 8.3(Y) to allow additional wireless telecommunications equipment to be installed on an existing monopole tower at 7007 Austin Ave , Niles, IL 60714

Darren Williams, petitioner, 3025 Highland Parkway, Downers Grove, IL, 60505 was sworn in. This is to allow DISH Wireless to add to their existing network. This is to add equipment at 7007 Austin Ave, Niles, IL to increase cell phone coverage in the area and help establish this wireless network in the area.

Chairman Kanelos said he assumes everything given in the packet is complete. You do not have anything to add.

Mr. William said there was nothing to add.

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

Commissioner DeBartolo moved to **approve** item 22-ZP-15, a request for approval of a Special Use Permit per Village of Niles Zoning Ordinance Appendix B Section 8.3(Y) to allow additional wireless telecommunications equipment to be installed on an existing monopole tower at 7007 Austin Ave, Niles, IL 60714

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

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

NAYS: 0

There being seven (7) 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 meeting date should leave their name and address with the recording secretary.

3. 22-ZP-16, 9201 N Milwaukee Ave

A request for approval of the following variations from the Village of Niles Zoning Ordinance Appendix B to allow for the construction of a new mixed-use building at 9201 N Milwaukee Ave, Niles, IL 60714

- **A Variation from Niles Zoning Ordinance Section 5.3(A) to allow for a building height of 52 ' where a maximum of 40 ' is allowed**

- **A Variation from Niles Zoning Ordinance Section 10.4(A) to provide 129 parking stalls where 132 are required**
- **A Variation from Niles Zoning Ordinance Section 11.7(F) to allow for an interior parking lot landscaping coverage of 0% where 10% is required**
- **A Variation from Niles Zoning Ordinance Section 11.9(B) to allow a driveway to encroach into the required landscape buffer yard**

Peter Peyer, petitioner, 7827 Kilbourn Ave., Skokie, IL 60076. He is here tonight to present this case along with Mr. Zach Joseph, the contractor. He is the president of Nea Maya Real Estate Company and also architect Nathan Kriska. Any one of us will be able to answer your questions, should you have any. They also have a traffic engineer who was unable to be here this evening due to an injury. If you have traffic questions that we cannot answer, he is available by phone. We are requesting to allow a mixed use development at 9201 N. Milwaukee Ave., Niles. This is in the C-2 district. Although this use is allowed in the district, and it substantially meets requirements for this district, there are hardships related to the size and shape of the site. The subject site is located on the east side of Milwaukee Avenue near the intersection of Maryland Street and Milwaukee Avenue. The site has been vacant for many years with the exception of the parking lot and access driveway being shared with the commercial property to the south at 9161 and 9171 Milwaukee Ave for which there is a shared parking and access agreement. We will maintain that agreement as this is being built. This parking lot will be configured to meet the parking and access needs for both developments. The development site is a little short of one acre. The petitioner is proposing a mixed-use development which will contain 4,555 sq. ft. of commercial space and a 1,745 sq. ft. party amenity space for residential use on the ground floor. The building will have 48 residential units on the second through fifth floors. The building will contain all two-bedroom units that are of modern design with full luxury amenities appealing to all age groups. However, we will rent at less than other proposed rental properties that are under construction. In addition to the ground floor party amenity space, the building will have a roof top amenity with a deck and pergola for use by residents and their guests. Parking for the development will be provided inside the building and on a surface parking lot which will be shared with the commercial property to the south. A total of 129 parking spaces are being provided with 83 indoors; 41 on the first floor and 42 on the lower level and 46 outdoors. The surface parking lot, with the exception of assigned parking for the tenants, will also be available to customers and employees of the building at 9161 Milwaukee Ave which also has the right to use 22 parking spaces. Since they are all open, they will be available except for the ones that are assigned. Parking will be provided on the basis of 2 spaces per unit and 3 spaces per 1,000 sq. ft. of commercial space based on the Village ordinance. A Variance for a 3-parking space deficit will be required. However, this should not be a problem as parking will be shared with the property to the south. As Milwaukee Ave is a state traffic arterial, a traffic impact study was requested by the state and the Village of Niles, to study the development's

driveways and potential impact on the roadway. The consultant from Kimley-Horn was hired to do this study. The result of the study was due to the high traffic volume on Milwaukee Ave and low traffic generated by the proposed development, it will not have any adverse effect on this. The development is expected to generate 22 trips in the morning and 51 in the evening at the peak hour. The report only recommended that the north side driveway be restricted to right traffic in and out movements only. [The site is being shown on overhead screen]. The north driveway which will be right in and out only, will go directly to an underground garage which will have 42 spaces in that garage. The traffic impact study also examined the parking demand of the existing and proposed developments. Based on the Village's requirements, 132 spaces would be required for the combined development with 96 spaces required for the residential units and 36 spaces required for the combined commercial space. However, the parking study indicated that based on the ITE traffic manual used, only 56 spaces would be required for the residential units as opposed to the 96 required by the Village ordinance. Based on this analysis, 40 additional spaces would be available to residents and commercial units. Thus the 3-parking space deficit from the ordinance requirement should not have an adverse effect. We can contact the traffic engineer if you have specific questions. The building will have an updated classic look with a limestone base. The entire ground floor would be limestone with a limestone banding going up the middle of the building. There will be limestone brick of different brown shades with limestone lintels and sills. There will be large balconies that can be accessed from the living rooms. Those balconies will have inserted siding with a wood type grain. It will be a modernized version of a classic building. It will also have the sites well landscaped. We want to make sure the front of the building facing Milwaukee Ave looks nice as well as the driveway into the property. Mr. Kriska, our architect, can tell you more about the building. We feel we have made many changes based on Staff comments. We feel it is a significant improvement. As was previously stated, the development will meet most of the code requirements. However, the 4 variations will be required and have been advertised with legal notice. These variations are due primarily because of the odd shape of the lot and the frontage along Milwaukee Ave. These factors limit the viability for a straight commercial use and make it more suitable for a mixed use/resident use with limited ground floor commercial as we are proposing. The subject development is also affected by these same site factors which limit the site development. The 4 requests are:

- A Variation from Niles Zoning Ordinance Section 5.3(A) to allow for a building height of 52' where a maximum of 40' is allowed
- A Variation from Niles Zoning Ordinance Section 10.4(A) to provide 129 parking stalls where 132 are required
- A Variation from Niles Zoning Ordinance Section 11.7(F) to allow for an interior parking lot landscaping coverage of 0% where 10% is required
- A Variation from Niles Zoning Ordinance Section 11.9(B) to allow a driveway to encroach into the required landscape buffer yard

The height we are asking for the variance will basically give us an extra floor which is necessary for the economics of the building and also because we cannot spread the building out. It has to go up, not out. The interior landscaping cannot provide that. We have landscape islands at the end of each parking area. But again, because of the narrowness there is no way of putting extra landscaping in there. The driveway encroachment into the landscape buffer is required in part because we moved the building back from Milwaukee Ave to get the height away from it and get the ramp down to the lower level. We are landscaping portions of our site with a 10 ft. buffer but in order to get to the rear entrance of the building, we had to bring the buffer in. Also, there is a 6 ft. fence along the whole back of the property so from the residential property [behind this building] it would not be visible. We are feeling the variance would be justifiable. As far as the 3-space parking deficit from 132 spaces to 129 - I have already gone over that. That is basically our proposal and ask for your consideration of it.

Chairman Kanelos has a question. You indicated that the parking study only recommended a right in, right out of the north driveway. Why only the north driveway? Is there going to be a left turn lane installed in the center of Milwaukee Ave so people heading south who want to turn into the left will be out of main traffic?

Mr. Peyer said no.

Chairman Kanelos asked if it is because of its proximity to the next street? They do not want cars backing up?

Mr. Ostman said that is correct.

Chairman Kanelos said that does not address the potential danger of people trying to cross and turn left off of Milwaukee Ave and to the south driveway, correct?

Mr. Peyer said there are several reasons for it not to be restricted. The neighbor to the south has large trucks coming in to service his commercial use so a semi-truck would not be able to get in there with a right in and right out. It would be extremely difficult for him. Also, it is far enough away from the main intersection. That was the main concern. I believe there might be some kind of turn lane in that area. He was concerned that would interfere with traffic coming around so he wanted to pull back.

Chairman Kanelos said to Mr. Ostman, right now there is just a cross-hatch. If you are heading south there is not a turn lane.

Mr. Peyer said right, but going north there is.

Chairman Kanelos said so heading southeast, near where the left turn is, there is a median on Milwaukee Ave, correct?

Mr. Peyer said no.

They are looking at the overhead picture. Chuck [Mr. Ostman], is that not wide enough for a left turn lane? There is discussion as they are looking at drawings.

Mr. Ostman said that would have to be reviewed by IDOT.

Chairman Kanelos said we are talking about right in and right out. However, a safety issue is part of the Planning & Zoning Board. In the past we have required businesses to be only right in and right out. That is definitely our purview. Right now, it is only the northern portion that is required to be right in and right out.

Commissioner Dubiel has questions for Staff. Trapezoidal lots are difficult to develop, correct? How long has this been vacant? It is described as an unimproved location, correct? He knows some people have used the term blight or eyesore. Is that something you have heard in describing this property? As it is unimproved, is it available for a zero-lot line? So, by going ahead and adding landscaping and beautifying this, it is above and beyond where they could go with this property, correct?

Staff answered yes, they are difficult. It has been vacant about 15 years. Yes, it is unimproved. Yes, it is an eyesore. Yes, it would be available for a zero-lot line. Yes, to the last question.

Commissioner Dubiel said they are asking for a 52 ft. height variation where 40 ft. is allowed. Are there buildings that are contiguous or in this area that are at 52 ft. or beyond?

Mr. Bruemmer does not know the height of the senior housing to the north of the property but he would say it is taller.

Commissioner Dubiel said another question is when we came up with 132 parking stalls required, that is a general estimate on the part of Staff, correct?

Mr. Bruemmer said it is required by code.

Commissioner Dubiel said but Staff came up with this number. Does a traffic study inform us better as to what is needed there or is that less than this? It seems to me that when Staff comes up with these, we have a general feel for each property and we look at a case-by-case basis.

Mr. Bruemmer said although he is not a traffic engineer, Niles has their standards and the traffic engineers have their own manual that they base standards off of.

Commissioner Dubiel asked if they were specialists or generalists?

Mr. Bruemmer said they are specialists and he is a generalist.

Chairman Kanelos asked if they are the same specialists that said the traffic in and out of the Costco gas station on Touhy Ave would not be a problem? Never mind.

Mr. Bruemmer said that is before his time.

Commissioner Dubiel said that is a 2.3% reduction as to what is shown in our generalist code. What is our reasoning behind an interior parking pocket landscaping being 10%? Here they are improving the landscaping significantly and have set the building back so there can be additional landscaping, particularly in the northern corners. Why did we come up with 10%?

Mr. Bruemmer said to guarantee landscaping within the property. Beautification, yes and also probably to alleviate flooding. Flooding has not been brought up as a concern.

Commissioner Dubiel asked the petitioner is there going to be any type of water retention set up for this building?

Mr. Peyer said there will be full water detention. There may be some in the front yard in the areas next to the driveway.

Commissioner Dubiel wants to know what is water detention.

Mr. Peyer said it will be retaining water based on regional requirements from the MWRD and will be in tanks underground to meet a certain rainfall.

Chairman Kanelos said the purpose of that is so rain does not sheet off into neighbors' yards or will not enter the sewer system too fast. You will hold water on the property and it will slowly go into the system.

Commissioner Dubiel said that is the difference between retention and detention. You are slowly managing the water in detention, correct?

Mr. Peyer said he always gets mixed up with those terms. He can say the properties to the east [residential] will not get water from this site. There will be curbing and other barriers which will then shift the waters to the catch basins in the parking lot.

Commissioner Dubiel said to Staff that detention holds the water until it is released slowly into the sewer system so as not to cause overflow, correct? The answer is yes. Those are all of his questions.

Chairman Kanelos said [to Mr. Ostman] along those lines we are seeing a change in demographics for apartments and condos where people are not necessarily having 2 cars. Do we consider that and think maybe about using 1.75 or 1.5 in the reality that now exists? He is guessing that part of the problem and part of the concern is landscaping along the back of the property where there is now a fence. If we did not have such a high standard and require them to have the number of spaces; if we did use say 1.75 if it were possible, we would not need those 6 parking spaces in the back. Then they probably could do a little more landscaping because they would not have to get around the back. That is just the reality.

Mr. Ostman answered correct.

Mr. Peyer said the problem is they do need to get to the back for garbage and also to get into the garage which is 41 spaces inside the building.

Chairman Kanelos said then those are separate entrances for separate areas, correct?

Mr. Peyer said the same access driveway going east then goes into the building. Those 5 spaces in the back are accessed by that driveway.

Chairman Kanelos said then if you did not need those 5 spaces, you would not need that extra door.

Mr. Peyer said no, we need the door to get to 41 parking spaces that are on the ground level. There are 41 spaces accessed by that garage door on east. On the west there is a garage door to go down to 42 spaces that are under the building. The 5 spaces are against a commercial building and it would not benefit anyone to eliminate them.

Chairman Kanelos said that is my point. There are 2 separate entrances for 2 separate parking areas.

Commissioner Lee said so this building would be commercial on the bottom and residences on the top. Do you have an idea of what kind of businesses would be interested in that space given there are a lot of vacancies now?

Mr. Peyer said commercial and mixed-use are difficult to rent because of the way they are configured. This site, especially, because the front of the building is so narrow. At an angle, there is 147 ft. of frontage but when you get that 90 degree and everything, that really cuts it down. You do not really have a commercial space that a car driving by will see and say oh yeah, here is a nice commercial space to go to. What we see is probably some offices, minor little uses.

Commissioner Lee asked why can't it be just residential? Does that space require it to be built?

Mr. Peyer said yes.

Mr. Bruemmer said you cannot have straight up multi-family in the C-2 district so you have to have some kind of business included.

Mr. Peyer said we are very pleased to have a party room on the ground floor. We think amenities for the building are very important. On the other hand, we can provide commercial to meet the code.

Commissioner Lee asked if there is a percentage required to be commercial.

Mr. Bruemmer said we do not have a codified percentage. The bulk of it on the first floor needs to be commercial which is what they are meeting.

Chairman Kanelos said the 3 spaces per 1,000 is based on retail use, correct? If there was some other use that might have more requirements, which is hard to imagine for such a small space, they would have to come for

Mr. Bruemmer said also Mr. Peyer referenced offices - which have the same parking requirements as retail.

Commissioner McConnell asked if they anticipate putting up any signage on Milwaukee Ave. You have 3 retail spots there not to mention signage for the actual development itself.

Mr. Peyer said they have not talked about signage. Certainly, there would be signage for the commercial spaces facing south when you come in to the property. I do not know if we would have any on the front of the building. We have not talked about any kind of a pylon sign. We are looking at this as a nice residential building with some accessory retail on the ground floor.

Chairman Kanelos said then you would have to come in and meet the sign code based on any kind of monument sign if you did want to put one in. Commissioner DeBartolo asked if this complex would allow dogs.

Mr. Peyer does not know. That would be a question for the owner.

Commissioner Karabatsos asked to look at the elevations on the overhead. He was speaking of the height from the parapet down.

Chairman Kanelos said the parapet does not count in the height. It is strictly ornamental.

Mr. Bruemmer went into more detail since the rendering shown on the overhead is an older version. They have added balconies to the front that faces Milwaukee.

Commissioner Karabatsos asked what is the code on this parapet?

Mr. Bruemmer said they are fine with this. They need a 3-dimensional cornice which they are meeting. For our C-3 district there are more strict design requirements.

They are looking at and discussing a continuous run.

There are no more questions from the Commissioners.

Chairman Kanelos called for questions from the public.

Ken Schmidt, 8218 W. Lyons St., Niles, IL 60714, has lived in the area over 50 years. There is no median on Milwaukee at this location. The nearest median is near Dempster. You picked everything right but he does not think there is enough parking. They have big delivery trucks that go there and block spaces. A food store is there now. As far as left turn and right turn, that corner is bad enough as it is. Maryland is like a through street going to Golf Road. People come through on Maryland going to Washington then turn to Golf Road. There is a sign that says resident parking only but it is ignored. People use it for a shortcut to get away from the corner of Milwaukee and Golf. Those driveways coming up left and right - people will be driving right across the street. If you put a median there too, you are tightening the street up.

Chairman Kanelos said the only problem is there are a lot of other businesses up and down Milwaukee that have this same situation where they can turn in and out.

Mr. Schmidt said that turn off on Washington to come out near Milwaukee Ave - that sign has been there forever. People ignore it both ways. He said people in houses have 3 or 4 cars in the driveway. They cannot park in the garage because of all the garbage inside.

Chairman Kanelos said that is true of people in homes. But statistically people in condos or apartments do not have as many cars. Two bedrooms do not usually have 2 cars. The dynamic is changing because young people are not driving as much as we are.

Mr. Schmidt said the building behind it - the senior building - does not have enough parking in their lot so they park in the Bradford Exchange lot. Where will these new people park?

Chairman Kanelos said right now they have enough parking. They are only short 3 spaces.

Commissioner Dubiel has another question for Staff and the petitioner. He is questioning the right in and right out at the north driveway. There is no median to enforce that. To this gentleman's concern, are you planning on putting in a curb to enforce that?

Mr. Peyer said he cannot tell that right now. The report is done and it meets IDOT's requirements. We have to send it to IDOT to give us a permit for that driveway. When we go in for the permit, they will tell us exactly how they want it designed.

Commissioner Dubiel wondered if that could be a condition.

Mr. Peyer thought it was up to the state. We certainly can put a pork chop in if IDOT wants us to. If they do not, then we cannot.

Chairman Kanelos said he does believe so. We made it a condition for Dunkin' Donuts on Milwaukee Ave.

Commissioner Karabatsos asked if the median is IDOT's and if they are the only one who can make it a left or right turn. Can we make it a condition of approval?

Mr. Ostman said it is IDOT.

Commissioner Dubiel said we can make it a condition but if IDOT does not approve, it will kill the whole deal.

There was more discussion about the pork chop.

Commissioner McConville asked if we can make it a condition if IDOT says yes, or no? Either way it would be covered.

Chairman Kanelos said they would have to make it a recommendation if IDOT would give approval for that center lane to be a left and a right turn if you are going north and require a pork chop to be only right in or right out.

Ms. Grcic said then your condition must state what they need to do with IDOT. They need to prepare all applications and respond because if IDOT says no at the first go around, is that good faith?

Chairman Kanelos said it is not something we can enforce because up and down Milwaukee Ave there are similar situations where people can turn left if they are heading southeast.

There is discussion about turning lanes.

Milwaukee Ave is being shown on the overhead farther north.

Don Battaglia, 5543 W. Diversey Ave., Chicago, IL 60639, is an attorney representing the neighbor to the south. Ms. Grcic recommended he be sworn in. He is representing Mr. Haemin Chong, the owner of the property spoken about earlier. One thing the petitioner is not taking into account is the easement that governs both properties. It was misrepresented here. This is not an agreement. This is a recorded easement that governs both properties and has been in effect since 1987. Yes, it does pose some problems in developing this property. The developer bought the property 4 years ago knowing full well this easement existed. The petitioner should have done his due diligence proposing an ambitious project that is going to increase the size of the building by a permissible 25%. The biggest problem is what it is going to do to his client and his tenants. This easement, as counsel for the Village can confirm, is an enforceable easement and I have a court order obtained last year that reconfirms this easement. He went through the letter submitted to the Village and is in tonight's packet. Four separate parcels. His client owns the largest one to the south. The other 3 are owned by a different owner. He put in this easement contemplating the commercial development of this property. The parking lot was configured in a triangle as it is now. It has been that way since 1987 to accommodate all 4 parcels. They would all have access to the parking. The easement guaranteed that.

Nothing in this easement considered any residential development on this property. Prior to my client's purchase of his property, the building he occupies now had been there a long time. It now contains 4 businesses. Getting back to the easement, it protects my client and the businesses by granting unrestricted use by businesses. He went on to define the legality of the easement. We have a court order that clarifies the parking situation so there is no misunderstanding. There are 35 spaces now and these businesses have a right to park in any of those spaces. If there is a new lot, the same amount of parking would have to be provided. They would also have to provide the same ingress and egress for the businesses located there. One of those businesses is a grocery store. They just entered into a long-term lease. It was recently redeveloped. Grocery stores get deliveries via semi-trailer refrigerator trucks. When this property was developed there were no service drives; no access, no place for a truck to go. The deliveries have to be made in the parking lot. The triangular lot is large. He went on to explain how difficult it would be for a truck to be able to do all this maneuvering. This isn't a proposed parking area. This is a violation of the easement of treatment.

Chairman Kanelos said here's our problem as a zoning board. We all read your letter and I'm being told this is an unusual case. But we are being told by our attorney that you may be right. But that does not figure into our zoning decision. It does not mean that the building doesn't get built if we approved it. You have legal recourse to enforce your easement. I am told that for us right here, right now, this is not an issue of zoning. This is a court issue.

Mr. Battaglia asked if this is a safety issue. And therefore wouldn't it be a zoning issue? He feels it is a safety issue with trucks trying to back out onto Milwaukee Ave after delivering to the stores.

Chairman Kanelos answered good point.

Commissioner Schulter asked for a copy of the recorded easement for access because he did not see one in the literature. He also requested a map of the current property be shown on the overhead. He would like to see exactly where the easement is on this property.

Mr. Battaglia said right now it is part of the parking area. If they are going to reconfigure the parking lot or change the shape of it as it exists, it might work.

Commissioner Schulter said then you are suggesting the parking lot is part of the easement.

Mr. Battaglia said right now it is. He went into a detailed explanation along with showing the configuration of the easement and parking area on the overhead screen. We cannot go back in time, but this is just a fact of how this parcel was configured. This area used to be a factory. Then it was converted to storefronts. There have been other requests for development throughout the years. Then there was going to be a car wash. That did not work out either. There are other uses for this site. It is an inconvenient site because of the wedge shape. If the developer wanted to buy all four parcels including the one from my client, then they could do whatever they want with the property. But right now, they do not own the parcel that has the easement.

Commissioner Karabatsos asked Staff if the grocery store has enough parking. What other types of businesses are in this center? Do semis come in to deliver then back out onto Milwaukee Ave?

Mr. Battaglia said no, they pull in, deliver, then make a full turn around and pull out.

Mr. Bruemmer answered yes, the grocery store has enough parking. Other businesses are an insurance office, CPA, and mainly small offices.

Commissioner McConville said there is no ingress or egress on the east side of that triangular lot, correct? The lot to the east is owned by another property owner so there is no availability of purchasing the property.

Mr. Bruemmer said there are two curb cuts on the property.

Mr. Battaglia said the parking lot is only accessed by one driveway.

Chairman Kanelos said he is trying to find something in this easement declaration about trucks entering and being able to turn around. He is not finding anything.

Mr. Battaglia said it does not address trucks specifically. It says that it allows access by businesses and their invitees. It grants non-exclusive use by any others.

Chairman Kanelos went on to read the easement declaration.

Mr. Battaglia said it is more specific in the first paragraph.

Commissioner Dubiel stated that Mr. Battaglia is asking us to rule on an easement issue that is not part of our zoning issue. If the owners are going to fight over this easement, it is their problem.

Commissioner Schulter asked Mr. Battaglia if his client owns the whole building. He answered yes. Then couldn't he put the access for deliveries over here [he is pointing to the overhead]?

Mr. Battaglia stated his client is not under any obligation to alter his property.

Commissioner Schulter said if he did, that would solve everybody's problem.

There is more discussion on how the parking lot is configured.

Mr. Peyer said they were fully aware of all the conditions of this property including the easement. They just want to be good neighbors. The owners met with the property owners to the south and discussed the truck issue. We certainly do not want trucks backing out onto Milwaukee Ave. It is the bigger trucks [semis] which would present a difficulty. It would work. While the trucks make their deliveries, they would have to put out the three cones. Then deliver, remove the cones and be on their way. This easement is something we can talk to the owner of the property about. We're really here for the variances.

Chairman Kanelos said we are here for findings of fact also. Whatever we decide here, is not stopping here. My guess is this will go to court. We have to decide things based on zoning and nothing else. If the judge hears all these issues, he can make a decision. Do you have any additional testimony that might help us?

Mr. Battaglia said he'd like to comment on what was just discussed about changing his client's property.

Mr. Peyer said he did not suggest that all.

Chairman Kanelos said they did not suggest that his client make changes to the property. One of the Commissioners mentioned that.

Mr. Battaglia says he agrees that this committee should not be looking at what is not related to zoning issue. Basing this petition on changes to a neighboring property is inappropriate.

Chairman Kanelos said we are not being inappropriate.

Mr. Battaglia says stick to the zoning issue. This is a safety issue. Right now, as it is laid out a truck cannot go in and out of there without causing a problem on Milwaukee Ave. For that reason alone, this plan should be denied.

Kinga Perkowski, 9234 Courtland Dr., Niles, IL 60714 and was sworn in. She is here representing her parents because they do not speak English. Her main concern is how is building 48 apartment units going to affect flooding in the area which exists now. The other thing is the traffic. Coming in and out from Courtland onto Milwaukee making a left or right turn is a nightmare without having 48 additional units. It's all times of the day. Property values are another concern. Will the schools be able to hold extra kids?

Chairman Kanelos said water management is probably the hottest issue right now. Everyone is worried about where the water will go. This building will have to go through an engineering process where they prove they can keep X number of gallons of water on their property so it does not drain onto anyone else's property. It has to be held until it can slowly be released into the storm sewer system. An example would be my church on Caldwell Ave. We added parking, and at that time had to put in holding tanks to keep that water from going into the sewers. It is then slowly released. They will not be able to build this building if they don't account for all the water on their property.

Commissioner Dubiel asked if this property is currently draining through hard packed soil.

Mr. Ostman answered yes. This project would be an improvement at least as far as the flooding is concerned.

Ms. Perkowski answered she would believe that when she sees it. Everyone she talked to in this residential area is against this. They are just too shy to get up and speak out.

Jackie Chong, 529 Council Circle, Vernon Hills, IL 60061, was sworn in. You're talking about the continuity of the area. You want to go above the zoning requirement. There are 48 units and 96+ parking spaces. Where will the guests park? People are going to go around the property and park in the residential area.

Chairman Kanelos was looking at the overhead to define how people would come around the whole area to park in the residential area.

Ms. Chong said renters are generally transient people. The value of peoples' homes goes down. You will have to widen the sewer system. Commissioner Karabatsos asked about the Water Reclamation District.

Mr. Peyer explained that they handle all the water that's retained and they are the ones that process floodwaters.

Ms. Chong said but it does flood and you cannot guarantee that it won't flood again.

Chairman Kanelos stated it is a function of how much rain falls, not how many people live there. He explained how the water is maintained.

At this point Ms. Chong is getting combative in her comments. She is criticizing the Chairman and the Commissioners for having a rebuttal for everything that is said. She feels their mind is already made up about this project.

Commissioner Karabatsos said these people are not going to put up a brand new building where they are going to let transient people live. That is not good business.

Ms. Chong asked if there's going to be Section 8 people. Is the Village going to put a cap on rents?

Mr. Peyer answered it is not a low-income building.

Chairman Kanelos said that is not part of zoning.

Ms. Chong went on and on about her concerns. Where are people going to park? On Milwaukee Ave?

Amman Alnuaimi, 2 Washington St, Glenview, IL 60025. He is the owner of the grocery store on this property. His first concern is parking. He's explaining the parking situation. He's going over everything on the overhead pictures. It is going to be a safety issue. This will kill his business with sharing the parking with this proposed building.

Commissioner Karabatsos asked if all his deliveries are semis.

Mr. Alnuaimi said both box and 6-wheeler trucks deliver. They come at various times during the day.

Chairman Kanelos asked Mr. Battaglia if there are 35 spots here. [actually 36] They are supposed to be shared between this building and these businesses,

correct? How many parking spots are required based on the businesses that are there right now?

Mr. Bruemmer said based on the current businesses there right now, it is 22 spaces required. They need 96 spots for the building and 14 for the businesses.

Chairman Kanelos said if we approved this, they would be short 3 spots but there would still be enough for all 3 businesses for their customers to park. The big problem for this gentleman is deliveries.

Looking at the overhead pictures, there is a dumpster that takes up a couple parking spots. This dumpster is on his property.

Commissioner Dubiel said we have introduced evidence about the easement which is internal regarding this property. It is a dispute between the two owners and they are asking us to interpret it. I do not know how a judge would look at this since four lots are in dispute; three of them owned by the petitioner and the other by the store owners. He believes this dispute is between the two owners and is not the focus of the zoning.

Ms. Perkowski asked where would the garbage cans go?

Mr. Peyer said we have not shown that. You can see some of those parking spots hold the garbage cans so they're not being used for parking. We are willing to work with the neighbor on how this works. There's an auto turn created by the traffic engineer.

Chairman Kanelos said that requires the property next door to be altered.

Mr. Peyer said it does but we would work with the property owner.

Helen Markovich, 9208 Courtland Dr., Niles, IL 60714 was sworn in. My concern is the back end of the building. How is this building going to be lit? I have been here 28 years. It was always a quiet residential neighborhood. 10 years ago, the Huntington put up beam lights. We have to strategically place ourselves in our home and our feeling is Milwaukee Ave has undergone extensive reconstruction. We are residents that have been here for a long time and should not have to cater to commercial properties. There are going to be a lot of younger people coming in and out. The noise level will go up. This is not going to benefit our neighborhood. We are always in the line of fire. I'm tired of living in a construction site. Find something there that works for everybody.

Chairman Kanelos asked Mr. Ostman how the lighting will be managed on this building.

Mr. Ostman said they do have lighting standards providing what is on the property so no lighting bleeds over property lines. We've gone to the Huntington and ask them to turn down the lights. They have not heard from the residents since.

Ms. Markovich said nobody ever asks the residents how all the lighting is affecting us. We have been dealing with the Huntington for over 10 years regarding these lights. Nothing has been done.

Anna Sobski, 9279 N. Maryland St., Niles, IL 60714 was sworn in. She was shocked when she found out about this project. It is not the right size for this kind of building. I've been living in my house for 25 years. In my opinion it is too big a project for this lot. The Norbert pool site is much bigger. That would be a better fit for this project. Between the traffic and the trucks it will cause a lot of commotion. There are a lot of accidents at Maryland and Milwaukee even though there is a light there. The building is too big. They are already asking for this building to be 12 feet higher than normal. That is a big number. I do not agree with this project and neither does my husband. What would you think if a building like this showed up on your street?

Haemin Chong, 9171 N. Milwaukee Ave., Niles, IL 60714 was sworn in. He owns the building to the south of the property. He bought it 25 years ago. It was a jewelry store. [Very hard to understand because he was too close to the microphone.] He gave a history of the area. Four years ago, there was going to be a car wash built. It never happened. He wants to know what happens to the water.

Chairman Kanelos answered that it will be held underground in tanks.

Mr. Chong said this project is not possible. What about the snow in the winter? Where is it going to go? He is showing where it now goes on the overhead. What about the traffic across the street where Zippy Car Wash is? On a sunny day there's a line of traffic waiting to get in. The man that owns a grocery store on my property has so many regulations about his signage. There are so many things he can and cannot do. You won't be able to see his sign. I have a right to all of the parking lot. And this is for commercial uses only. The reason the jewelry store was destroyed is because the owner thought he could build something there at the time. He was eating the property taxes. He has large taxes and thought it was worth it because he had the parking lot. He's going to come to work every day and look at this big building and see people coming in and out disturbing his privacy. I do not think this is right. I have been here 22 years on Milwaukee and 3 years before that on Golf. The only place you see a residential property on Milwaukee is at Ballard and Milwaukee behind the PNC bank. Back in 1986 or 1985 the owner of that property was not allowed to build town houses because it is commercial property. I know things change but why is there residential property all of a sudden on Milwaukee Ave.

Chairman Kanelos said we are having serious problems in town with retail space. Retail is dying. This is why developers are coming in to do different things. Milwaukee Ave looks terrible. Sadly, commercial developers are not going to improve Milwaukee Ave. We are losing retail businesses like crazy.

Mr. Chong said his place was vacant for about two years. There used to be a vertical blind factory. After that Covid started. He had to eat \$5,000 a month in property taxes. That is \$60,000 a year. 80% of that goes to Maine Twp High School. It was like sunshine when this man came to open a grocery store. [Inaudible].

Chairman Kanelos said going forward you are going to see more mixed-use on Milwaukee Ave. It is not his choice but that's just the economic fact. Whether this gets approved or not is up in the air.

Mr. Chong went on and on about the parking.

Louella Preston, 9267 Maryland St., Niles, IL 60714 was sworn in. She lives on the street around the corner and behind Courtland. She served from 1979 until 1985 as the first woman on the Planning and Zoning Board Commission and then served as a trustee from 1985 until 2013. For 35 years I reviewed these presentations. I am very aware of Milwaukee Ave and have lived in my home for 47 years. I've seen this whole area change. I am here questioning the changes in the variations requested. She repeated the variation being requested for the height. She visited the property today around 3:30. She witnessed the traffic going in and out of the property. Her suggestion is to take off one floor of the proposed height. Then 24 parking spots would be reduced because there are 12 apartments on each floor that are entitled to two parking spots each. It also means reducing the number of people in the building. If you do not grant the variation and still had mixed-use, you would not have as many of the problems as have been presented here tonight. She's concerned about landscaping coverage. You're going down to 0% where 10% is required. The beautification committee is something the Village has prided itself on including landscaping. I was on the committee that put together the 2030 plan. What is it that shows on the 2030 plan for this area of the Village? You certainly can have mixed-use but do not need to have that many apartments to have mixed-use. Safety is paramount. There's no way an 18-wheeler can back out onto Milwaukee Ave safely. She is encouraging the Commissioners not to approve the variations she mentioned.

Chairman Kanelos said this does meet the requirements of the 2030 Plan. That is a courtesy answer to your question.

Ms. Preston want to add a comment regarding the plat of the easement. If it is not part of the record, it should be introduced into the record. She explained

when she was on the board you did not have to take an easement into consideration when you were zoning. The parking presented by the petitioner is not realistic based on the plat.

Chairman Kanelos said this is not being ignored. It's question of whether this recorded easement is violated by this design. It is not that we are ignoring it but it may not be an issue regarding zoning.

Ms. Preston does not believe you should vote on this tonight until checking into whether or not this easement takes precedence over what is being zoned.

Leo Galati, 9701 N. Milwaukee Ave., Niles, IL 60714 was sworn in. He is another property owner at this site. He sent a letter regarding all this. If there are going to be trucks going in and out of here, where is the loading dock? When the store was approved, did anybody hear anything about this store? When it was approved it was during the middle of the night. Why?

Chairman Kanelos said he is not going let Mr. Galati make accusations. If we didn't hear about the grocery store, it was because they did not require a special use. Nothing happened in the middle night. Do not come here with allegations that are lies.

Mr. Ostman said it is it an existing building therefore a permitted use.

Mr. Galati said there's a copy of the easement from later on that states how the easement works. He said he has papers that have more substance.

Chairman Kanelos asked if the one they have is not a recorded easement.

Mr. Galati said it's in the interpretation. I paid a lot of money to have this paper. I showed it to Mr. Ostman. I think before this goes for approval all the things like lighting and so on should be figured out. I stand back and listen to all this talk tonight. All the stuff about the easement is not correct.

Mr. Battaglia asked to speak again. He wants to comment on what Mr. Galati had to say about the easement. Commissioners have the recorded easement. There are no amendments to the easement. The easement was interpreted by the court and there's a permanent injunction on file stating what the exact easement consists of. There's no question about the easement. He went over the parking space issue again. He said the variation is incorrect the way it is stated. There will be only 22 spaces left for the customers. My client has a right to use all the spaces. They cannot put signs up and they cannot restrict the parking for the residents. That is exactly what we went to court for, prohibiting that request. Mr. Galati and any of his successors who inherit this property cannot restrict the parking. Two spaces are on my client's property that are part of the easement. He went on to explain more numbers about the parking. When

you're considering this variation, it is not 3 spaces short. It is at least 17 spaces short.

Commissioner Dubiel asked Mr. Ostman a question. Whether they assign the spots or not, they just have to meet a minimum number of spaces, correct?

Mr. Ostman said yes.

Commissioner Dubiel then asked to have the plat lines shown on the overhead once again. He is trying to understand this easement issue. There are 4 parcels shown, each of which could be owned by a different owner. All 4 owners would have 100% access to the lot and parking spaces. Internally would that be divided so that each of the 4 owners would have 9?

Mr. Battaglia said that is correct. The petitioner cannot come in here and say he is 3 spaces short. He does not own those spaces and then say look what I am providing. He is not providing anything.

Chairman Kanelos said actually he has as much of a claim to all of those spots as his client does.

Mr. Battaglia said yes, to the commercial spots.

Chairman Kanelos made a petition to close public comment.

So moved by Commissioner Dubiel.

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

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

NAYS: 0

There being seven (7) affirmative votes the motion carried

Mr. Peyer came back to the microphone. He said there were a lot of comments made. Our request is based on the zoning requirements and parking requirements in the village. No matter what kind of calculations the owner is making, our request is based on the ordinance. A traffic engineer looked at it and he is saying we have enough. There were numerous statements about heavy traffic created. He presented to you the traffic analysis. He said there were 22 cars going in and out in the morning and in the evening, 55. So in the morning, every 3 minutes a car may come out of the site. It is not a rush of cars. In the evening there would be one car going in and out every minute so there would not be a rush of cars. We are to meet all the requirements requested including lighting, water retention, etc. The way the parking is configured now, it does not work for any kind of development other than the existing property. In order for this property be developed, the parking has to be reconfigured.

Zach Joseph, owner of the property being developed, 5708 W. Dempster St., Morton Grove, IL 60053, came forward to be sworn in. He would like to answer some concerns. The value of the building, if it goes through, is the fact we are spending over \$20,000,000. The homeowners are not going to lose value. Everything is changing in life. People like to keep things the same way but life is changing. The rents will be approximately \$2,500 to \$3,000 per month. The units are averaging 1,500 sq. ft. They will have laundry rooms and be set up as a home. There are not losing any value in the area. It's a great location. He loves the area and lives nearby. We have been looking at Milwaukee Ave and it needs to be changed. We've tried to do all commercial and is just not working. As a matter of fact, my wife has a cabinet company and she will go in one commercial space to the west. She does not have a lot of traffic because it's by appointment only. We are not trying to reduce the value of this area; we want to improve the area. The reason we are asking for 48 units is because all the requirements from the village, the state, and MWRD - all these things add to the cost. What we are trying to do is divide our costs among these units to make it work, otherwise it will not work. He thanks everybody and knows there are concerns. He has been in the business for 35 years now. We are not here to not improve the area. Thank you again.

Chairman Kanelos asked if there were any more questions from Staff. Any further questions from Commissioners? There were none. He then entertained a motion.

Commissioner Dubiel moved to **approve** 22-ZP-16, a request for approval of the following variations from the Village of Niles Zoning Ordinance Appendix B to allow for the construction of a new mixed-use building at 9201 N Milwaukee Ave, Niles, IL 60714

- A Variation from Niles Zoning Ordinance Section 5.3(A) to allow for a building height of 52' where a maximum of 40' is allowed
- A Variation from Niles Zoning Ordinance Section 10.4(A) to provide 129 parking stalls where 132 are required
- A Variation from Niles Zoning Ordinance Section 11.7(F) to allow for an interior parking lot landscaping coverage of 0% where 10% is required
- A Variation from Niles Zoning Ordinance Section 11.9(B) to allow a driveway to encroach into the required landscape buffer yard

The Zoning and Comprehensive Plan has observed that this is a subject property zoned C-2. Above ground floor is a permitted use there as is a retail establishment for a ground floor commercial space as previously noted. One of the recommendations of the 2030 Comprehensive Plan is to maintain diversity with a specific recommendation that any future multi-family development should be located near activity centers and major roadways as well as component of mixed-use development within Niles. The subject property is located in such an area. In the land-use sustainability portion of the comprehensive plan it is recommended that the village promote mixed-use development and they should be near commercial areas. Key designation is to reduce the reliance on

automobiles. For the status report for the Village of Niles 2040 Comprehensive Plan, the last time the Village issued permits for multi-housing was in 2003. The requirements for variations and findings of fact have been met. And those requirements are as follows.

1. The strict application of the terms of this ordinance will result in undue hardship, as distinguished from a mere inconvenience, unless specific relief requested is granted;
2. The variation, if granted, will not alter the essential character of the locality;
3. The plight of the owner is due to unique circumstances inherent to the subject property, related to the particular physical surroundings, shape, or topographical conditions of the specific property, and not from the personal situation of the owner and has not been created by any person presently having a proprietary interest in the property in question.

On critical issues all the various departments have responded. Police had no concerns; fire, no comment; engineering, no comment; community development had no concerns. They also noted that the property is an eyesore or called blighted. That is a term of art in the industry to describe property that is difficult to develop.

Seconded by Commissioner DeBartolo.

Commissioner Dubiel stated we've heard multiple testimony even from those opposed to this development. The property resolves flooding issues in the area. All the owners of the property - this is in regard to the easement - it was noted that all the owners are entitled to 100% of the spaces for this agreement. It is an issue for this property but it is an issue internally for these owners and must be resolved by themselves and not within the purview of our zoning code.

Commissioner McConville said he agrees with everything Commissioner Dubiel stated, but from a legal standpoint regarding the easement, the intent is to guarantee the southern property owners 35 spaces at the very least and that they are entitled to those spaces. From that standpoint, the easement and the permanent injunction both belong with the land and should be should be maintained. He would advise both the current owner of the southern properties as well as the perspective owner of the three lots north to try and work together and resolve these issues. He thinks there are potential solutions to this. He will not go into this because he is not a builder but he is an attorney. He thinks development is good for the area. Most of the concerns of the residents in the area are taken care of by ordinance, statutes, and the like.

On roll call the vote was:

AYES: 5 Dubiel, Karabatsos, DeBartolo,
Schulter, Kanelos

NAYS: 2 McConville, Lee

There being five (5) 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 meeting date should leave their name and address with the recording secretary.

**4. 22-ZP-17, Zoning Interpretation Appeal
An appeal of a Zoning Interpretation of the Niles Director of Community Development that classified a car stereo business proposed to be located at 7320 Milwaukee Ave, Niles, IL 60714, as a prohibited 'Vehicle Repair - Minor' use per Village of Niles Zoning Ordinance Appendix B Section 8.2(B).**

Paul Kolpak, Attorney, 6767 N. Milwaukee Ave., Niles, IL 60714, and Raafat Arman, petitioner, 3337 W. Adams, Chicago, IL 60624, came to the podium and were sworn in.

Mr. Kolpak asked his client to explain his business model.

Mr. Arman said basically he sells a lot of his own products and his clients want him to have some sort of service. We're like a miniature version of a Best Buy.

Mr. Kolpak asked is the property in question is about 6,000 sq feet, correct?

Mr. Arman answered yes.

Mr. Kolpak said to further his point about 15% or 800 square feet will be used for installation. The rest will be used for supplies and office and internet sales.

Mr. Arman said when you go to a store like Best Buy, you look around and you buy something and take it home and install it. It is usually user friendly. If somebody wants to install, they have to make an appointment. But there is no staff right now. We shy away from service. We install very little of the product.

Commissioner Schuller said if you have to do any installations of audio products in automobiles, where are you going to do them. Current building does not have an access to bring a vehicle in there.

Mr. Arman said inside. He has drawings and has already spoken with the Building Dept. We made an opening on the side, people drive in and get service there.

Commissioner Schuller said there is no access door.

Chairman Kanelos said yes there is, it's right there. [shown on the screen]

Mr. Kolpak said there is a door that has been approved and installed that will allow cars to go into that 800 square foot installation area by appointment.

Commissioner Schulter asked Mr. Ostman the reason why this would be denied. Best Buy was able to do it.

Mr. Ostman said that was an older zoning code and he doesn't know how it got approved.

Commissioner Schulter said no one is repairing any vehicles here.

Mr. Ostman said he does not know anything about Best Buy installing stereos and vehicles.

Commissioner Schulter said they're not repairing vehicles. Just like ABT, they don't repair vehicles either. Why does the village consider this as a repair of a car?

Mr. Osman said Staff has considered this as car repair.

Chairman Kanelos said that is why they are appealing to us. Staff made their decision and.....

Mr. Bruemmer said when new businesses come into the Village, we have to look at the use table and figure out where does this use falls into. And we have vehicle parts sales which is permitted. When this business applied, we said fine but you cannot work on the vehicles. When you start installing sound systems and remote starts, we feel that is vehicle repair-minor. That is why it is in the front of you tonight because it is not the most crystal clear meaning.

Commissioner Dubiel said to Mr. Arman your testimony is that manufacturers will not sell to you unless are able to install.

Mr. Arman said yes.

Commissioner Lee asked what else would an install be if it is not a minor repair.

Mr. Bruemmer said that is our position.

Mr. Kolpak said in your definition of a minor vehicle repair, you do have an allowance for small engines. Minor vehicle repair does not include small engines. It does not say anything about installation.

Commissioner Lee said she is trying to understand how this would work in a small space. She can't tell how many spaces they have out in front. Where would you line up?

Mr. Kolpak said installation would be less than 800 square feet of the entire building. You would have to have an appointment to come in. You're not waiting in line outside. They won't take any more than three cars and there won't be any cars parked outside.

Commissioner Lee said there are children in that area. I can see a kid riding their bike near that door. Will there be some kind of safety protocol?

Mr. Arman said employees will pull the cars in. Insurance will not allow the customer to pull the car in. They're all stakeholders in this. He's a real estate developer. His family is in business in the area as well. They follow the rules.

Mr. Kolpak said he has the definition of repair - minor. Businesses provide services for minor repairs to motor vehicles, motorcycles, all-terrain vehicles including repair or replacement of cooling, electric, fuel, exhaust systems, brake adjustments, realigning and repair of tires, wheel services repair and replacing, repair and replace shock absorbers, replacement and adjustment of mufflers or tailpipes, hoses, belts, windshield wipers, grease retainers, wheel bearings and the like. Minor vehicle repairs does not include small engine repairs. It does not say anything about installation.

Chairman Kanelos said he has confidence in our Staff on why you made the decision you did and turned it over to us. We may not necessarily agree with it but I understand that this could be interpreted as modification to a vehicle.

Commissioner Dubiel clarified Staff did not send this case to the Zoning Board. The petitioner did. He retained an attorney and appealed this.

Chairman Kanelos answered yes.

Commissioner Lee has a question. There's a pretty large area for sales. She is concerned about the number of parking spaces.

Chairman Kanelos answered parking is not an issue; otherwise, they would have to come before us for parking variation. He entertained a motion.

Commissioner Dubiel moved to **approve** 22-ZP-17, consideration of an appeal of a Zoning Interpretation of the Niles Director of Community Development that classified a car stereo business proposed to be located at 7320 Milwaukee Ave, Niles, IL 60714, as a prohibited 'Vehicle Repair - Minor' use per Village of Niles Zoning Ordinance Appendix B Section 8.2(B).

There is discussion about this explanation of the text of this appeal. Basically, the Board agrees with the petitioner and agrees with the appeal that this business is not vehicle repair. It is sales and installation. They are not changing the code.

Seconded by Commissioner DeBartolo.

Commissioner Dubiel said we heard testimony from the appellant that this is a manufacturing requirement. Otherwise, it would just be pure sales. He thinks this is the kind of business Niles would like to have and they run a good shop. The interior looks beautiful. This has been another blighted area that we've struggled to develop.

On roll call the vote was:

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

NAYS: 0

There being seven (7) 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 meeting date should leave their name and address with the recording secretary.

Commissioner Dubiel commented that many years ago we would put up signage in a window that said this decision could be appealed. In this particular case we saw a sophisticated applicant who retained an attorney. Many people do not know that. He asked if a sign will be put up.

Mr. Ostman answered Administration asked for it to be taken down.

Chairman Kanelos asked who is Administration. An elected official? The one that matters?

Commissioner Dubiel said that this happened 10 years ago. Really, how long ago was it taken down?

Mr. Ostman said he did not know. Somewhere between two and five years ago.

Chairman Kanelos said he will find out if there still opposition to this. Maybe we can put the sign back up.

DISCUSSIONS

ADJOURNMENT

Chairman Kanelos entertained a motion to adjourn.
Commissioner DeBartolo moved to adjourn.

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

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

NAYS: 0

The meeting adjourned at 10:26 PM

Kathleen Janessa, Recording Secretary