

# VILLAGE OF NILES

1000 Civic Center Drive  
Niles, IL 60714  
www.vniles.com



## Final Approved Meeting Minutes

Monday, September 9, 2019

7:00 PM

Village Hall

### Planning and Zoning Board

Chairman

Thomas Kanelos

Members

Susan DeBartolo

Morgan Dubiel, Vice Chairman

Ted Karabatsos

Terrence McConville

Barbara Nakanishi

Robert Schulter, Secretary

Charles Ostman, Community Development Director

CALL TO ORDER/ROLL CALL

The Niles Planning and Zoning Board was called to order at 7:00 P.M. All rose for the Pledge of Allegiance.

PRESENT: 7 Chairman Thomas Kanelos, Commissioners  
Ted Karabatsos, Susan DeBartolo, Robert Schuller,  
Barbara Nakanishi, Terrence McConville and Morgan  
Dubiel

Also present was Director of Community Development Charles Ostman and Village Attorney Danielle Grcic.

### **APPROVAL OF MINUTES**

Chairman Kanelos asked if there were any additions, clarifications or corrections to the minutes of August 12, 2019. There were none. He entertained a motion.

Commissioner DeBartolo moved to **approve** the minutes of August 12, 2019.

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

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

NAYS: 0

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

### **OLD BUSINESS**

#### **18-ZP-28, Grosse Pointe Manor, 6601 W. Touhy Ave.**

Charles Ostman, Director of Community Development, presented the current facts of this case. He spoke with the petitioner this afternoon and she decided to withdraw her application for amending the special use. They are still trying to figure out parking requirements for the nursing home. They will probably be back sometime in the future with a new application.

After conferring with Village Attorney Danielle Grcic on whether or not there needs to be a vote, Chairman Kanelos said there is no further action to be taken.

### **NEW BUSINESS**

#### **19-ZP-14, 8017 Elmore St.**

**A request for approval of variations from the Niles Zoning Ordinance Section 15.9 from the front and side setback requirements for a proposed second story addition to an existing one-story home.**

Mr. Ostman presented this case. The legal notice was published in The Bugle on August 22, 2019; letters were sent to residents within 250 ft. on August 20, 2019; on site signage was placed on the property August 23, 2019.

The applicant is proposing a second story addition to her home. The property is zoned R-2 single family which requires a 25 ft. front setback and 16 ft. side setbacks. The proposed second story is going to go straight up from the existing structure and will maintain the current setbacks of 22.89 ft. from the front property line; 4.02 from the north property line; 3.918 from the south property line.

Chairman Kanelos asked Mr. Ostman since this is more than a 10% variance it wasn't eligible for an administrative adjudication, correct? Since the addition is going straight up, is this something going forward that just might be allowed?

Mr. Ostman answered correct. Yes, there should probably be a discussion in the future on this type of request.

Chairman Kanelos asked if the Commissioners had any questions for Staff. There were none. He then called for the petitioners to come forward to be sworn in.

Zee Kawa, 6850 W. Montrose Ave., Harwood Heights, IL, contractor, and Blanca Pinto, 8017 N. Elmore, Niles, IL, homeowner, came to the podium.

They had nothing else to add stating it was pretty straight forward.

Chairman Kanelos asked if there were other two-story homes on the block. He asked Mr. Ostman if most ranches in Niles, when adding a second story, go straight up.

Ms. Pinto said she really has not noticed.

Mr. Ostman said most of the time they do go straight up.

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

Andrea Zito, 8016 N. Elmore, Niles, IL came forward and was sworn in. She wondered if the plans were posted anywhere and if this addition would affect property taxes on other homes.

Chairman Kanelos answered this was out of the Commission's purview. They do not approve appearance except in rare cases and they do not have any say in property taxes. The petitioners are only required to meet the code.

Mr. Ostman said the plans are available at the Village Hall if anyone would like to come in and view them. Go to the Community Development Department during business hours, 8 a.m. until 4:30 p.m. daily.

Susan Weber, 8033 N. Elmore, Niles, IL came to the podium and was sworn in. New to this type of meeting, she wondered what is the value of having people



**19-ZP-15, 9215-17 N. Greenwood Ave., Kid 's Empire  
A request of approval of a "Unique Use" Special Use Permit in the  
C-2, General Commercial district from the Niles Zoning Ordinance Section 8.2  
USE MATRIX and Table 8.1.**

Mr. Ostman said due to improper notification as required by local ordinance and state law, as Director of Community Development, I recommend this item be continued until the next meeting October 7, 2019. This is so all the property owners within 250 ft. can be notified properly. This was an error on the Staff. There are three different methods on the computer to generate these notifications and we did not do so properly.

Chairman Kanelos made a motion to continue this item.

Commissioner DeBartolo moved to **continue** item 19-ZP-15 to next month's meeting.

Seconded by Commissioner Nakanishi on roll call the vote was:

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

NAYS: 0

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

**19-ZP-16, 9621 N. Milwaukee Ave., Orange Theory Fitness  
A request for approval of a variation from the Niles Zoning  
Ordinance 5.1(A)3 limiting ground floor uses within 250 ft. of corner lots to  
those listed under the "Retail" category.**

Mr. Ostman said this is a request for a variation from Niles code Section 5.1(A)3 limiting ground floor uses within 250 ft. of corner lots to those listed under the "Retail" category. The legal notice was published in The Bugle on August 22, 2019; notices were mailed on August 20, 2019 to property owners within 250 ft.; an onsite notice was posted prior to August 22, 2019 along with publication on the Village website. The proposed coed fitness facility will be located in one half of an 8,100 sq. ft. building at 9621 N. Milwaukee Ave. on the northeast corner of Milwaukee Ave. and Golf Rd. The remaining portion of the building is currently vacant. The company will employ fourteen people of which four to five will be working at peak times. Business hours will be Monday through Friday from 5 a.m. to 9 p.m., Saturday and Sunday from 5 a.m. to 2 p.m. Orange Theory workout focuses on strength, endurance and power.

Chairman Kanelos asked what business was originally in that building.

Mr. Ostman said Pearl Vision was located there.

Commissioner Dubiel said this may be another case the Board would like to review concerning restrictions on a corner.

Chairman Kanelos said they have already discussed reviewing the concept of the whole 250 ft. issue.

Commissioner Dubiel said in this case it is also easier to establish the hardship in the findings of fact in a commercial area; they may want to look at the wording for residential so there is some balance here.

There were no other questions for Staff.

Chairman Kanelos called for the petitioner to come forward.

Steve Kolber, 828 Davis St., Evanston, IL, architect, came forward and was sworn in. It is a unique fitness center and they are trying to get past the issue of the 250 ft. setback and get down to business.

Commissioner Nakanishi said in the packet it says the site is virtually devoid of landscaping and the Board might wish to negotiate additional landscaping. She thinks the Board might add 'some' landscaping as a condition of approval.

Commissioner Dubiel said looking at the site where would you put landscaping. The entire area is asphalt.

Commissioner Nakanishi said they could dig up some of the asphalt.

Mr. Kolber said as a reminder, Orange Theory is a tenant of this building, not the owner. Imperial Realty owns the building. The Board would have to talk to the landlord about landscaping. He is doing only the interior build out.

Chairman Kanelos said if this committee was putting that out there as a requirement, it would have to be so.

Mr. Kolber said he would certainly bring it to the landlord's attention.

Commissioner Nakanishi said by allowing this business to go in at this location, they are stepping back from the goals of 2030 Comprehensive Plan.

Chairman Kanelos said absolutely. He thinks they need to address this as a Village as soon as possible because they keep getting these requests that violate the code as it is written.

Commissioner Dubiel said the Staff should perhaps ask the owners of the buildings to be present at these meetings. Tonight's case is brought by the lessee. But a request for landscaping could be directly asked of the landlord.

Mr. Ostman this is another item that needs to be taken to the Building and Zoning Committee. The only reason this applicant is in front of this Board is because it is within 250 ft. of the diameter of the intersection. There is a number of build outs in the Village in commercial districts. Those cases do not have to come before this Board.

Chairman Kanelos asked if there were more questions for the petitioner from the Commissioners. Any questions from the public? There were none. He entertained a motion.

Commissioner Dubiel moved to **approve** item 19-ZP-16, a request for approval of a variation from the Niles Zoning Ordinance 5.1(A)3 limiting ground floor uses within 250 ft. of corner lots to those listed under the "Retail" category for an Orange Theory Fitness at 9621 N. Milwaukee Ave.

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

AYES:5 Dubiel, Karabatsos, DeBartolo, Schuller,  
McConville

NAYS: 2 Nakanishi, Kanelos

There being five (5) affirmative votes, the motion carried.

**19-ZP-17, 8351-61 Golf Rd., Honest Restaurant**

**A request for approval of a variation from the Niles Zoning Ordinance Section 10.4 (Table 10-2) to allow for a reduction in the required number of parking spaces.**

Mr. Ostman said a field count shows 94 parking spaces on site. The site requires, with the addition of the restaurant, a total of 118 parking spaces resulting in a deficiency of 24 spaces. Legal notices were properly distributed. The site and surrounding areas are zoned C-2 and sit-down restaurant is zoned permitted use. In 2006 a zoning and parking variation was granted for a Korean bakery at 8351 W. Golf Rd. Parking reduction was from 149 parking spaces to 96, just to give you some background on that shopping center. When the zoning code was rewritten, they eased up on the number of parking spaces. That is why the number was so high at that time.

Chairman Kanelos said he recalls this mall goes into the former Toys R Us mall. There is no division meaning you can go from one parking lot to the next. He asked Mr. Ostman when will Patel Brothers open. Do they have enough parking spaces in their lot?

Mr. Ostman does not have a date. They meet the parking requirements in their own parking lot. The petitioner is seeking the variation on the parking behind this strip mall. There are probably 100 parking spaces. Patel Brothers owns this lot. [The overhead is showing an aerial view of the property including the parking areas.]

Chairman Kanelos is worried about having the same situation that is currently going on at Jerry's and McDonald's on Milwaukee Ave. near Oakton St. Jerry's parking comes all the way over toward McDonald's. Does Mr. Ostman feel that would not be an issue for Patel Brothers?

Mr. Ostman said Patel Brothers has enough parking. He understands they may have a rear entrance to utilize parking in the back. They do have sufficient parking for not only their store but there are five other tenants going in that building. Keep in mind some shoppers may not want to park in back and may end up on the adjacent property.

Commissioner Nakanishi said in the packet it states the Board may negotiate site improvements. What type of improvements is the Board talking about?

Mr. Ostman said those comments were placed in there by the former Senior Planner and not reviewed by him. There is very little room to do any site improvements. In his opinion, that statement can be omitted.

Commissioner Dubiel is concerned about the flow of traffic there. When Toys R Us was there it was a very tight entrance off Milwaukee.

Mr. Ostman said it is a completely different property owner. There are two separate properties whose traffic and parking can flow into each other. Tonight, only the mall facing Golf Rd. is in question.

The Commissioners were looking at the overview and there is concern it is tight on the Golf Rd. side.

Chairman Kanelos said he is concerned that Patel Brothers customers will encroach on the parking in the strip center in question.

Mr. Ostman is explaining the layout on the overhead showing the shopping center parking in the front and back. The back lot of Patel Brothers is actually on east side of their building; however, it butts up against the parking lot belonging to the petitioner. There is a traffic signal on Golf where the customers can come in and out for Patel Brothers and the strip center. There is also an entrance on Milwaukee Ave. that you do not see in this overview

There were no other questions for Staff.

Chairman Kanelos called for the petitioners.

Tom and Loula Dimas, 7815 Maple St., Morton Grove, IL came to the podium and were sworn in.

Mr. Dimas passed out flyers and showed large, mounted pictures to the Commissioners to make his case. There was a plat of survey. There is the

square footage of each store in the strip center. And a diagram showing 17 parking spaces in the parking lot along Golf Rd., 20 and 20 on the middle lanes and 18 along the building. In the back there are 24 spaces. In the front row at Golf Rd. there are 3 spaces marked no parking which he can gain. He has no idea why they say no parking. He can also get approximately 15 spots parallel along the building and there are spots alongside Auto Zone. His wife is one of the owners of the plaza. It was purchased in February 2014. He is there almost every day. He has not seen the parking lot at full capacity at any time. He brought pictures of the lot at different times.

Commissioner Schuller asked why the 3 spaces in the front are marked not parking. Is it a fire lane or is there a fire hydrant there?

Mr. Dimas said he has no idea. There used to be a sign there but it is gone.

Chairman Kanelos asked if that could be a condition if this passes; to add the 3 spaces in from currently marked no parking to the total number of spaces.

Commissioner Schuller asked Mr. Dimas if he owned that part of the property where those 3 spaces are marked no parking.

Mr. Dimas answered yes.

Commissioner Dubiel asked if there is an existing agreement that gives Mr. Dimas access to the alleyway between the side of his property and the back of Patel Brothers. People coming through that easement will have no problem even if there is parking alongside your building. It does not interfere with Patel Brothers at all.

Mr. Dimas said yes. He added this particular parcel used to be one owner from Wings all the way down. He thinks that gentleman passed away. His share went into a trust. They are in contact with the 5 or 6 people in the trust to see if they are willing to sell. That would free additional parking in the back.

Commissioner McConville mentioned the 3 spaces in front currently occupied by a pylon as no parking.

Mr. Dimas said no, they are striped no parking. He does not know why. It was that way when he bought it.

Chairman Kanelos asked Mr. Ostman if the petitioner has sufficient handicapped parking.

Mr. Ostman said he would have to look into that. Handicapped spaces are based on the number of parking spaces, not the use.

Commissioner Nakanishi asked if there were at least 2 ADA spaces in front of the restaurant.

Mr. Dimas said yes.

Chairman Kanelos asked if there were any more questions for the petitioner from the Commissioners. There were none. He asked if there were questions from the public.

Michael Patel, 7001 Laramie Ave., Skokie, IL came forward and was sworn in. He represents the investor group for the plaza, not just Patel Brothers but the investor groups that helped build out the plaza. They are adamantly against this variation because they are concerned about spillover onto the adjacent property which would be theirs. Currently there are 3 restaurants going into the out lot facing Golf Rd. which is why they invested so much money into new parking in the front and in the rear. He explained that all the restaurants have the same busy time [rush] at lunch and at dinner. All will be fighting for the same parking spots.

Chairman Kanelos asked if he thought perhaps Patel Brothers shoppers would be more likely to park in the petitioners' area as opposed to walking all the way around the building to shop. He thinks that would be the scenario.

Mr. Patel said there is an entrance in the rear that comes directly from their parking lot. They will not be walking all the way around the building.

Chairman Kanelos said they will have to walk around the building to get to the restaurants.

There is discussion going on about parking areas while using a laser pointer on the overhead screen. Mr. Patel said they have created about 270 parking spots.

Commissioner Dubiel asked if Mr. Patel was an owner of Patel Brothers. Who is it you are representing? The notices went out August 20, 2019.

Mr. Patel said he is an investor, partial ownership. He represents multiple people who are not in attendance. There are out of state investors who helped with the plaza itself. Patel Brothers is a tenant in the plaza. He is both an investor in the business and the plaza. He received notice of this meeting and was sent to say they thought it was a bad idea. Basically, they will be guarding each other's parking lots. He did not bring anything in writing. He received the notice a few days ago.

Mr. Ostman stated the Patel Brothers business is one building and there are 5 store fronts with separate entrances facing Golf Rd. This is all part of the Patel complex.

Mr. Patel said the way it was designed is so their tenants have their own parking lot. They do not want Mr. Dimas' strip center using their parking and they don't

want to use his. He was describing what the spaces will house. His concern is the spillover of the parking lot. He thinks the spots are split 50/50.

Mr. Dimas said one of Mr. Patel's partners, Rakesh Patel, told him there are 125 parking spaces in the front and 180 in the back.

Commissioner Schulter thought Patel Brothers came before the Board for signage.

Mr. Ostman said no. They never had to come before the Board. It is a build out and the restaurants are permitted uses as long as there is sufficient parking.

Commissioner Karabatsos said Mr. Patel's restaurants are going to draw people to park in the [Dimas'] back instead of Patel's parking.

There was more discussion about parking.

Mr. Patel stated there is already signage in their parking lot.

Commissioner Schulter gave Jerry's Fruit and McDonald's as an example. They share the parking and sometimes you just have to work with your neighbor.

Chairman Kanelos said when he looks at the parking as it is laid out, he doesn't see a problem.

Commissioner Dubiel said the Dimas' have suggested that along that line [on the west side of the Dimas building] he can have about 8 spaces and then in the front where it is cross hatched there are 3 more spaces. Now they are adding parallel spaces in the front of the center. With all this they are at 127 spaces.

Commissioner McConville said you are talking about 8 spaces there [on the overhead]. Is there still room for 2-way movement of cars?

Mr. Dimas said it is 40 ft. wide.

Mr. Patel said there is also a garbage compactor there. The middle way is also for tenants in the back, not part of their property lineup.

Again, discussion about parking along the west side of Mr. Dimas' property with use of the overhead graphics.

Mr. Ostman said there is an easement back there for ingress and egress. He does not know the width of it. It can be verified.

Commissioner Karabatsos said he doesn't think the area should be used for parking.

Commissioner Nakanishi said if that is an easement, she does not think they would allow parallel parking there.

Chairman Kanelos said the Building Department will have to handle that.

Commissioner Dubiel verified that Mr. Patel already has a garbage compactor against his building along the easement. He does not know how far it sticks out.

Mr. Ostman said the easement is two way.

Commissioner Nakanishi wonders if the compactor should be in that area.

Chairman Kanelos said Community Development will have to look into that. He said he understands cross parking could be a problem for both parties. Still, this Board has to look at Mr. Dimas' property, look at the uses, and see if the variance is reasonable.

Mrs. Dimas said the hours of the restaurant are from 11:30 a.m. to 3:00 p.m. and then from 4:30 p.m. until 10:00 p.m. They are not open early. She took pictures at various times and there were a lot of empty spaces at different times of the day. She is more concerned about spillover from Patel's lot to theirs. But she is happy they are neighbors. Mr. Rakesh Patel conveyed to her over the phone they will share. She's disappointed this became an issue tonight.

Chairman Kanelos said everyone has a right to their opinion and to express it. That is why this Board is here. He figures they are Greek and invented democracy and it was perfected in the United States.

Mr. Dimas said God bless America.

Commissioner McConville asked Mr. Patel if he was aware of the easement when the trash compactor was installed.

Mr. Patel said yes, the Village was notified. They have been working with the Village on every little thing during construction. It is up against the building on their property.

Mr. Dimas spoke about the loading zone.

Mr. Patel said the trucks pull in, a forklift unloads, then the truck pulls out the other exit. They do not have to drive on the easement.

Commissioner Dubiel clarified the Dimas' bought their property in 2014. The Patels bought theirs in 2018.

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

Commissioner Dubiel moved to **approve** item 19-ZP-17 requesting approval of a variation from the Niles Zoning Ordinance Section 10.4 (Table 10-2) to allow for a reduction in the required number of parking spaces to accommodate a restaurant at 8351-61 Golf Rd with the following condition: the owners will re-stripe the 3 parking spaces currently marked no parking in the north parking area of the building.

Chairman Kanelos asked to add “if they are able to do so according to Village code”. This was accepted by Commissioner Dubiel as part of the motion.

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

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

NAYS: 0

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

Chairman Kanelos added he hopes both parties are good neighbors and that both businesses flourish.

### **DISCUSSIONS**

None

### **ADJOURNMENT**

Chairman Kanelos entertained a motion to adjourn.

Commissioner Dubiel moved to adjourn.

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

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

NAYS: 0

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

The meeting adjourned at 8:05 p.m.

Kathleen Janessa, Recording Secretary