

JAMES CALLERO, CHAIRMAN  
GEORGE ALPOGIANIS  
JEFFREY CARDELLA  
MICHAEL LOOBY  
JOSEPH LO VERDE  
ANGELO TROIANI  
ALAN WEEL

The Niles Plan Commission and Zoning Board of Appeals was called to order at 7:30 P.M.

Present were Chairman Callero along with Commissioners Alpogianis, Looby, Troiani, Cardella, LoVerde and Weel.

Joseph Annunzio, Village Attorney, was absent.

Commissioner Alpogianis moved to approve the minutes of August 7, 2006, as presented.

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

AYES: 6 Alpogianis, Looby, Troiani, Weel, Cardella, LoVerde  
NAYS: 0  
ABSENT: 0

There being six affirmative votes the motion carried.

Chairman Callero announced that it has been the practice of the Board that any members desiring to review the upcoming matters on the agenda would meet with Mr. Charles Ostman, Director of Community Development, on the day of the hearing at 1:30 P.M. The purpose of this meeting is to review the sites and the surrounding environment to ascertain conditions which may require special consideration at the subject hearing. Anyone who wishes to accompany the members is invited to meet at the Administration Building, 1000 Civic Center Drive, Niles, Illinois, prior to 1:30 P.M. They will be given the agenda and the locations of the sites to be visited. This public announcement is made to conform with the Open Meetings Act of the State of Illinois and is deemed to be a public notice.

To be heard this evening:

**06-ZP-19 – Lawrence Abbinante, 8015 Washington St., Niles, IL, Requesting approval of Plat of Re-subdivision 8015 Re-subdivision at 8015 Washington St.**

**06-ZP-20 – Tom Kivland, Architect, 341 W. Glade Rd., Palatine, IL, Requesting an interpretation to section IV (j) permitted obstructions into rear yards. Requesting a variation to section IV (j) to reduce the rear yard from 40' to 29.5' to construct a new dwelling at 8133 Church St.**

**06-ZP-21 – George Metinidis, 8912 N. Oriole, Niles, IL., Requesting approval of Plat of Subdivision Elena Metinidis Subdivision at 9200 Washington.**

**06-ZP-22 – Joe Marcheschi, 3415 N. Harlem Ave., Chicago, IL 60634, Requesting a Special Use to operate a Chiropractic Office and requesting a parking variation of 9% at 7329 Harlem Ave.**

Chairman Callero called for the first matter on the agenda.

**06-ZP-19 – Lawrence Abbinante, 8015 Washington St., Niles, IL, Requesting approval of Plat of Re-subdivision 8015 Re-subdivision at 8015 Washington St.** Legal description and persons notified in case file.

Chuck Ostman, Director of Community Development stepped forward.

Chairman Callero stated please raise your right hand. Do you solemnly swear to tell the whole truth and nothing but the truth?

Chuck Ostman stated yes.

Chuck Ostman stated this is a simple Plat of Subdivision. Currently this parcel contains two lots, 25 foot each. We are requesting a plat of re-subdivision to create one lot, complying with all the set backs in relationship to lot lines. This has been reviewed by the Community Development Department as well as the Engineering Department. We do recommend approval.

Chairman Callero asked if there were any questions or comments from the Commissioners. There were none. Chairman Callero also asked if there were any questions from the audience. There were none.

Commissioner Weel moved that 06-ZP-19 – Lawrence Abbinante, 8015 Washington St., Niles, IL, Requesting approval of Plat of Re-subdivision 8015 Re-subdivision at 8015 Washington St. be **approved**.

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

AYES: 6 Alpogianis, Looby, Troiani, Weel, Cardella, LoVerde  
NAYS: 0  
ABSENT: 0

There being six affirmative votes the motion carried.

Chairman Callero stated this Board is a recommending Board to the Board of Trustees who can either confirm or negate our decision and it will be necessary for the petitioner to contact Mr. Charles Ostman, Director of Community Development, and ask to be placed on the Board of Trustees agenda and you will be notified of the date. Anyone in the audience who would like to be informed as to the date this will be heard by the Board of Trustees, leave your name and address with our Secretary and she will notify you.

Chairman Callero called for the second matter on the agenda.

**06-ZP-20 – Tom Kivland, Architect, 341 W. Glade Rd., Palatine, IL, Requesting an interpretation to section IV (j) permitted obstructions into rear yards. Requesting a variation to section IV (j) to reduce the rear yard from 40' to 29.5' to construct a new dwelling at 8133 Church St.** Legal description and persons notified in case file.

Chuck Ostman stepped forward.

Chairman Callero stated please raise your right hand. Do you solemnly swear to tell the whole truth and nothing but the truth?

Chuck Ostman stated yes.

Chairman Callero stated please give us your testimony.

Chuck Ostman stated I would like to first explain this petition to the board. This is an appeal to my decision as Director of Community Development to the section as permitted to obstructions in the residential district for rear yards. I would like to explain very briefly in regards to the obstructions. In your packet tonight it does spell out the language in section 4, under general provisions in rear yards private garages if attached or structurally part of the principal building, private garages, detached are permitted in the rear yards. This is the section that the petitioner is appealing the decision in regards to the policy of this department as Director for the last 6 ½ years and in talking with the previous Director that there are further regulations in regards to the garages are attached or detached. If you look under general provisions section 4 number 2 as an interpretation where the conditions imposed by any provision of this ordinance upon the use of the land or buildings, the bulk of the buildings, floor area requirements, lot area requirements, and yard requirements are either more restrictive or less restrictive than comparable conditions imposed by any other provision in the zoning ordinance or any other law ordinance resolution, rule, or regulation of any kind. The regulation which are more restrictive or which impose higher standards or requirements should be governed. In reading that section, this is where I turned to the rear yard requirements. Even though that says it's a permitted obstruction in a rear yard is that there is further regulations in regards to either an accessory structure if it is detached or if it is part of a principal building there are still set back regulations that do have to be met. It has always been the policy of this department thru my time here and the previous Directors to interpret this section of code that way. In turn what I am saying is the attached garage, if attached to the principal building that structure still has to meet the rear yard set back in a residential district which is 40 feet.

Chairman Callero stated that is always the way it's been since I've been on this board. Chairman Callero asked Mr. Kivland to step forward.

Chairman Callero stated please raise your right hand. Do you solemnly swear to tell the whole truth and nothing but the truth?

Mr. Kivland stated yes.

Chairman Callero stated if I understand this right you don't agree with the interpretation or the interpretation you received prior was not as complete as this one.

Mr. Kivland stated this is the first time I heard that explanation as given. I am kind of taken back by that. My take on this was just reading thru first the definition put forth in the zoning ordinance where it states a private garage is an accessory building. It goes on to further state exactly what it is, but basically the first three words of the definition are that it is an accessory building. From there we went to the general provisions subsection J permitted obstructions that Mr. Ostman just read from also and it says a

permitted obstruction in a rear yard can be a private garage whether it be attached or structurally part of the principal building in which the plans that we have given to you show in our case the garage is attached to the principal building. If it is for off street parking it goes on to give other examples. The last sentence in that section states that accessory buildings which are for that portion of the structure may occupy no more than 30% of the rear yard. There is also other requirements if it happened to have a detached garage as far as maximum square footage, maximum lot coverage, and we are far under all of those. Our drawings show that the portion of our attached garage that would be an obstruction equates to 241 sq. ft. It is far under for our size rear yard 900 sq ft would be allowable at that 30% mark that is stated. We are far under that. Even if this would become consistent with a non conforming rear yard our garage portion of this house again as noted on our drawings shows that the 35 degree line it falls within that law requirement for the lot. We are going into the rear yard we fall within that bulk as the ordinance as put forth and in the guideline to new housing and additions. Basically to sum up we feel that in one section of the code it is saying this is a permitted obstruction, this is what is acceptable, and by definition is the same zoning ordinance we are an accessory building. We really did not get when we got involved in the interpretation is the fact that they will allow an obstruction as long as it does not go beyond the set backs stated for that zoning district which the definition of an obstruction is something that is allowable within that setback whether it be a front yard, a side yard, or a rear yard. That's where we were a bit confused as far as the current interpretation stating that an obstruction is acceptable only if it is not an obstruction.

Chairman Callero asked Mr. Ostman to respond.

Mr. Ostman stated I would have to agree with the petitioner that there is some confusion in the language in the zoning code and I would have to rely on the interpretation that the previous Directors and myself have adhered to very stringently over the years in regards to the required set backs of the structures as defined in other areas of the zoning code.

Chairman Callero stated correct. This is the way we have always done it. The petitioner has a reason to be confused.

Mr. Ostman answered yes he does.

Chairman Callero stated after we are done today we have to clarify the language in the code so that other petitioners that come along at later dates and later years are not confused. Mr. Kivland there is no question that you have a reason to be confused. The next part of this petition is that the way we as the zoning board interpret it. Is it the way we have actually been doing it and interpreting it for almost 30 years. As far as I know the way we have always interpreted it right or wrong is the way we have done it. You have a problem based on this. The second part of this petition would be based on our interpretation of the code you are now asking for a variation.

Mr. Kivland stated yes.

Chairman Callero stated so everyone understands Mr. Kivland is looking for a variation from 40 feet to 29.5 feet. My question to Mr. Ostman is that is 10 ½ feet which would be approximately 27% variation. Are we still held by the 20% variation?

Mr. Ostman answered no. This board has the authority to grant anything up to 50% of a rear yard.

Chairman Callero stated fine. Based on those facts do you have anything left in your presentation Mr. Kivland? We have everything in our packet.

Mr. Kivland answered correct. I would just like to state one other thing. My last phone call with Mr. Ostman I asked him what the likelihood of something like this getting approved and at that time Mr. Ostman stated he would be recommending approval.

Mr. Ostman stated and that is what I did today.

Commissioner LoVerde stated I have a simple question because now I am confused. What is the difference with the variation verses the language at this particular evening? We agree that the language is confusing but we support the consistency of which the ordinance is been applied.

Mr. Ostman stated that is correct.

Commissioner LoVerde asked what is the difference between the variations if the petitioner is looking at this particular home. The 35 line of degree from the rear lot line only clears the garage. So we are O.K.

Mr. Ostman stated if you are going to stand on the way we have been interpreting the section of code requiring to meet the 40 foot set back then now he is asking for a variation.

Commissioner LoVerde stated the petitioner applying for the interpretation has been resolved. As far as granting the variation one way or the other what ever the board determines there is not a difference. They still intend on building the same thing.

Mr. Ostman stated that is correct.

Mr. Kivland stated I have done a few homes in Niles before so I know that both Mr. Ostman and Rich like to get the plans ahead of time to take a look at them. I was able to do that this time. Our concern is not only for ourselves but for somebody attempting this in the future. A lot of architects just rely on the written word. A lot of expense could have accumulated between the client and myself only to have it interpreted a different way than what is actually in the wording.

Commissioner LoVerde stated we understand.

Chairman Callero asked if there was any other questions.

Commissioner Weel asked can I hear the language again that you mentioned before about the 30% of the rear yard, the total square footage of the rear yard. Do you have those dimensions there again? I believe you said under that you could go up to 900 feet into the set back based upon the square footage of the rear yard. Is that correct?

Mr. Kivland stated according to the obstruction portion the permitted obstruction portion of the code the last sentence states that accessory building or structure may not occupy more than 30% of a rear yard. Our rear yard would be 901 square feet using 30%.

Commissioner Weel stated you are into it about 200 and something, correct?

Mr. Kivland stated 241.

Commissioner Weel stated O.K., thank you.

Chairman Callero asked if there was any questions from the audience.

JoAnne Zalatoris, 8125 Church St., stepped forward.

Chairman Callero stated please raise your right hand. Do you solemnly swear to tell the whole truth and nothing but the truth?

JoAnne Zalatoris stated yes.

Chairman Callero stated please give us your testimony.

JoAnne Zalatoris stated I live in the house east of this dwelling. I would like to know exactly how he plans on building the house. Is the front of the house still going to be facing Church St. like it is presently? Where will the driveway be? This new house will not be built any closer to my dwelling than it is right now, will it remain the same?

Commissioner LoVerde asked Mr. Kivland to step up to the podium and address JoAnne Zalatoris's questions.

Mr. Kivland the main part of the house will actually be further to the west.

Mr. Kivland and JoAnne Zalatoris stepped aside for a moment. Mr. Kivland showed Joanne Zalatoris the proposed drawings of the house and made specific explanations.

JoAnne Zalatoris stated thank you that's what I needed to know.

Commissioner Troiani asked is the house built for speculation or for a person?

Mr. Kivland stated the builder has desires to live here because he likes this one better than the one we currently did for him.

Commissioner Troiani stated the house is for speculation so you do not have an owner.

Mr. Galati stated we will be keeping this home in the family.

Chairman Callero asked if there were any other questions or comments from the Commissioners. Chairman Callero also asked if there were any other questions from the audience. In both instances there were no more questions.

Commissioner LoVerde moved that 06-ZP-20 – Tom Kivland, Architect, 341 W. Glade Rd., Palatine, IL, Requesting an interpretation to section IV (j) permitted obstructions into rear yards be **DENIED**.

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

AYES: 6 Alpogianis, Looby, Troiani, Weel, Cardella, LoVerde  
NAYS: 0  
ABSENT: 0

There being six affirmative votes the motion carried.

Commissioner LoVerde moved that 06-ZP-20 – Tom Kivland, Architect, 341 W. Glade Rd., Palatine, IL, Requesting a variation to section IV (j) to reduce the rear yard from 40' to 29.5' to construct a new dwelling at 8133 Church St. be **Approved**.

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

AYES: 6 Alpogianis, Looby, Troiani, Weel, Cardella, LoVerde  
NAYS: 0  
ABSENT: 0

There being six affirmative votes the motion carried.

Chairman Callero stated this Board is a recommending Board to the Board of Trustees who can either confirm or negate our decision and it will be necessary for the petitioner to contact Mr. Charles Ostman, Director of Community Development, and ask to be placed on the Board of Trustees agenda and you will be notified of the date. Anyone in the audience who would like to be informed as to the date this will be heard by the Board of Trustees, leave your name and address with our Secretary and she will notify you.

Chairman Callero called for the third matter on the agenda.

**06-ZP-21 – George Metinidis, 8912 N. Oriole, Niles, IL., Requesting approval of Plat of Subdivision Elena Metinidis Subdivision at 9200 Washington.** Legal description and persons notified in case file.

Chuck Ostman, stepped forward. Also present was George Metinidis, owner of the property.

Chairman Callero stated please raise your right hands. Do you solemnly swear to tell the whole truth and nothing but the truth?

Both stated yes.

Chairman Callero stated please give us your testimony.

Chuck Ostman stated this parcel consists of one house that will be demolished to create two homes on this lot. There are no variations at all that they are requesting to subdivide this property. It would meet all the zoning requirements. The construction drawings are in for review right now. This has been reviewed by the Engineering Department and the Community Development Department. I would recommend approval on this petition.

Chairman Callero asked if there were any questions or comments from the Commissioners. Chairman Callero also asked if there were any questions from the audience. Neither the Commissioners or the audience had any further questions.

Commissioner Lobby moved that 06-ZP-21 – George Metinidis, 8912 N. Oriole, Niles, IL., Requesting approval of Plat of Subdivision Elena Metinidis Subdivision at 9200 Washington be **approved**.

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

AYES: 6 Alpogianis, Looby, Troiani, Weel, Cardella, LoVerde  
NAYS: 0  
ABSENT: 0

There being six affirmative votes the motion carried.

Chairman Callero stated this Board is a recommending Board to the Board of Trustees who can either confirm or negate our decision and it will be necessary for the petitioner to contact Mr. Charles Ostman, Director of Community Development, and ask to be placed on the Board of Trustees agenda and you will be notified of the date. Anyone in the audience who would like to be informed as to the date this will be heard by the Board of Trustees, leave your name and address with our Secretary and she will notify you.

Chairman Callero called for the forth matter on the agenda.

**06-ZP-22 – Joe Marcheschi, 3415 N. Harlem Ave., Chicago, IL., 60634, Requesting a Special Use to operate a Chiropractic Office and requesting a parking variation of 9% at 7329 Harlem Ave.** Legal description and persons notified in case file.

Chuck Ostman, stepped forward. Also present was Joe Marcheschi, owner of the property.

Chairman Callero stated please raise your right hands. Do you solemnly swear to tell the whole truth and nothing but the truth?

Both stated yes.

Chairman Callero stated please give us your testimony.

Chuck Ostman stated I would like to give you some background information in regards to this request. This location is the Shops of Niles. This was a manufacturing building, however approximately two years ago this was converted into a retail center. It has been quite successful to date. They do have a few vacancies still remaining. The type of tenants that we are getting in this center are of good quality. In regards to the parking demand, it works out very well. The center provides plenty of parking with the uses that are currently in this location. The type of business that the petitioner is requesting is for a Chiropractic Office at 7329 Harlem Ave. Please look at the second sheet of your packet to locate the break down of the parking requirements. Even though the zoning code states specific requirements, which we used, this office would require 17.5 parking spaces. In my opinion they will not use anything near that 17.5 mark, however that is the way the zoning code reads in regards to parking requirements. I would like to add that we have had a very good working relationship with the owner of the center. We have been discussing the possibility of the owner coming back next month for a Special Use to operate a small sandwich shop. We wanted to very briefly touch bases with you on that this evening. The sandwich shop would fit well into the shopping center. This business would not create any larger demand on parking requirements. There will still be plenty of parking

in my opinion. This sandwich shop would be approximately 16 seats at the most. Most of the business would be done in catering. We are trying to get a good blend of stores at this location. We have a plumbing store at the North End, and we have a Tutoring Club at the south end, and a cabinet store. This is a good rounded shopping center. This will be coming down the road. I wanted to bring this to your attention ahead of time just in case of questions or concerns in regards to approving this variation and coming back in a month or two for a sandwich shop.

Chairman Callero stated doesn't this petition have to be broken into two pieces. One a Special Use and the other a 9% variation.

Chuck Ostman answered yes it does.

Commissioner LoVerde stated I have one quick question for Mr. Ostman. When you talk about the sandwich shop, would they occupy the 1,400 sq. ft.? I'm just looking for the square footage for the future.

Mr. Ostman asked Mr. Marcheschi to step forward to better answer the questions.

Commissioner Cardella stated the parking space requirements that you have set at 17.5 spaces is that based on who the tenant is?

Mr. Ostman stated because he is a doctor the formula is based on the number of spaces per number of rooms.

Commissioner Cardella stated and you don't believe this will be a problem.

Mr. Ostman stated in my opinion I don't think it would be a problem.

Mr. Marcheschi stated when I first came before this board for approval for the Shops of Niles I told you I would try and build a nice place. I believe I kept my word. Niles could be proud of the building we put up. I could have had a shopping center full of people that went in and out within six months; however I did not want that. I did not build this center to just sell it in a year or two. I plan on keeping this center. The type of tenants that we promised to bring in will be there a long term. The tenants that we have, no one has a lease for less than 5 years, most of the leases are 10 years and longer. Because of the type of tenants that we have attracted there, the parking has not been an issue. If you pass by there at any given time of day you will see there is never more than 20 to 25 cars in the lot at one given time. We have parking available for 72 cars. With the type of tenants we have I don't see a parking problem. If you refer to the letter in your packets as we stated The Tutoring Club is open primarily between 3:30 and 6:30. The clients are below high school level, no one being able to drive; they are dropped off and picked up. The Ferguson store primarily deals with contractors. They are not open on Saturdays and open at 6:00 AM during the week. Most of their business is done between 6:00 and 11:00 in the morning. They cater primarily to contractors. Lake Forest cabinets are also located in the center. The most people visiting there location in a day is five customers per the owners of the business. The types of items they sell are 5, 10, 20, and even 30 thousand dollar items. You don't require that many customers in this type of location. Merle Norman Cosmetics is a in and out type of business. Old Chicago draws a lot of people, however there customers are in and out.

Chairman Callero asked if there were any more questions or comments from the Commissioners. Chairman Callero also asked if there were any questions from the audience. There were none.

Commissioner LoVerde stated in our packet I read that the Massage is for treatment only, not for relaxation. Please re-assure us for the record that this will not turn into a massage parlor.

Mr. Marcheschi stated the Doctor is here this evening. Please step to the podium.

Dr. Ira Chislof stepped forward.

Chairman Callero stated please raise your right hand. Do you solemnly swear to tell the whole truth and nothing but the truth?

Dr. Chislof stated yes.

Chairman Callero stated please give us your testimony.

Dr. Chislof stated my practice currently is at 7448 N. Harlem Ave. in Chicago. I currently live in Wheeling. I have been in practice for 24 years. I am a chiropractic physician. The only massage we do in the office is therapeutic massage. I have two massage therapists. One is licensed and one is certified. They are highly trained and they do this simply for rehabilitation.

Commissioner LoVerde stated I have one other question. How many square feet approximately would a 16 seat sandwich shop take up?

Mr. Marcheschi answered about 17 hundred square feet.

Commissioner LoVerde stated O.K., thank you.

Commissioner Cardella asked is the 3, 350 square feet still unoccupied?

Mr. Marcheschi answered correct. I am planning to divide that.

Commissioner Cardella stated then you will still have two available spaces.

Chairman Callero asked if there were any questions or comments from the Commissioners. Chairman Callero also asked if there were any questions from the audience. There were no further questions pertaining to this case.

Commissioner Alpogianis moved that 06-ZP-22 – Joe Marcheschi, 3415 N. Harlem Ave., Chicago, IL. 60634, requesting a Special Use to operate a Chiropractic Office at 7329 Harlem Ave. are **approved**.

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

AYES: 6 Alpogianis, Looby, Troiani, Weel, Cardella, LoVerde  
NAYS: 0  
ABSENT: 0

There being six affirmative votes the motion carried.

Commissioner Alpogianis moved that 06-ZP-22 – Joe Marcheschi, 3415 N. Harlem Ave., Chicago, IL. 60634, requesting a parking variation of 9% at 7329 Harlem Ave. be **approved**.

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

AYES: 6 Alpogianis, Looby, Troiani, Weel, Cardella, LoVerde  
NAYS: 0  
ABSENT: 0

There being six affirmative votes the motion carried.

Chairman Callero stated to the petitioner the variation portion of your petition if final by this board. The Special Use portion you will have to be heard by the Village Board of Trustees.

Chairman Callero stated this Board is a recommending Board to the Board of Trustees who can either confirm or negate our decision and it will be necessary for the petitioner to contact Mr. Charles Ostman, Director of Community Development, and ask to be placed on the Board of Trustees agenda and you will be notified of the date. Anyone in the audience who would like to be informed as to the date this will be heard by the Board of Trustees, leave your name and address with our Secretary and she will notify you.

Commissioner Lobby moved to adjourn the meeting, seconded by

Commissioner Alpogianis on roll call the vote was:

AYES: 6 Alpogianis, Looby, Troiani, Weel, Cardella, LoVerde  
NAYS: 0  
ABSENT: 0

There being six affirmative votes the motion carried.

The meeting adjourned at 8:11 P.M.

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James Callero, Chairman

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Angelo Troiani, Secretary