

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 October 2, 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, and Mrs. Kimberly Frederick, Secretary, 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-26 – Chuck Ostman, Director, 1000 Civic Center Dr., Niles, IL 60714, Requesting text amendment – Chapter 34 Text Amendment, Condominium Conversions**

**06-ZP-27 – Emily Baldwin, Advance Cash Advance, 135 N. Church St., Spartanburg, SC 29306, requesting a Special Use to operate a Cash Advance Business at 5942 W. Touhy Ave.**

**06-ZP-28 – Chuck Ostman, Director, Village of Niles, 1000 Civic Center Dr., Niles, IL 60714, Text Amendment, Definition, New Construction.**

Chairman Callero stated tonight we will be changing the agenda. We will start with 06-ZP-27 for the first matter on the agenda.

**06-ZP-27 – Emily Baldwin, Advance Cash Advance, 135 N. Church St., Spartanburg, SC 29306, requesting a Special Use to operate a Cash Advance Business at 5942 W. Touhy Ave.** Legal description and persons notified in case file.

Sharon Dallman, Representative, 9445 W Majestic Ln., Moline, IL 60449 stepped forward.

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

Ms. Dallman stated yes.

Chairman Callero stated please give us your testimony.

Ms. Dallman stated our company is looking to see if we can basically get a re-zoning approved for our type of business in the Village of Niles.

Chairman Callero asked what is your position with the company?

Ms. Dallman stated I am a Divisional Manager.

Chairman Callero stated is there anything you would like to tell us about this cash advance business that you want to open. How many locations do you have? How big is the company?

Ms. Dallman stated Advance America started in 1997 and we currently have just under 2800 locations in 35 states. We have been in Illinois for about 6 or 7 years expanding into the Chicago location.

Chairman Callero asked how many locations in Illinois?

Ms. Dallman answered approximately 80.

Chairman Callero asked what is the closest location to Niles?

Ms. Dallman answered the closest one would be Elmwood Park and we also have one in Berwyn.

Chairman Callero asked is there anything else in your presentation.

Ms. Dallman stated I am prepared to answer any questions that this Board might have.

Chairman Callero also asked if there were any questions from the audience. There was none.

Chairman Callero asked if there were any questions or comments from the Commissioners.

Commissioner LoVerde asked is there any age restriction for borrowing from Cash America?

Ms. Dallman stated the legal age to sign contracts, would be 18.

Commissioner LoVerde asked what agencies regulate this type of operation

Ms. Dallman stated in Illinois we are regulated by the Department of Financial Institutions. They do regulate all of the cash advances or payday lending institutions in the state.

Commissioner LoVerde stated how do you derive your rates or fees? What is the structure?

Ms. Dallman stated it depends on the laws within a certain state. In Illinois we tend to be around 15.50 per 100.00. We also offer an installment loan which is a five month equal payment loan. That loan is about 32.00 per 100.00 to borrow for five months.

Commissioner LoVerde asked what annual percentage rate is that.

Ms. Dallman stated it depends on the length of time, but it tends to be around 530%. That would be an annual percentage rate if someone were to borrow consecutively for one year.

Commissioner LoVerde asked if a lender is lending money to America Cash from another state is this regulated by that state?

Ms. Dallman stated I know that some of our states based on the laws we go thru a banking institution and those might be regulated in other states but we are solely regulated in Illinois.

Commissioner LoVerde stated there is no law, pawn shop, bartering exchange or anything like that.

Ms. Dallman answered no sir this is strictly installment loan product.

Commissioner LoVerde stated I just have one more question; do you handle cash at that location? Is there a big handling of cash at that facility?

Ms. Dallman replied this store is not open yet, however we tend to issue checks instead of cash. Our offices are open with a credit union type of environment so we tend to stay away from cash. In some of the other states that we operate in we issue debit cards, which is a cash list transaction for our security and that of our customers as well.

Commissioner LoVerde stated correct, that's what I am looking for the security related issue. If there were a security concern as a bank would have.

Ms. Dallman stated not necessarily. If a customer is paying a payment we have certain procedures to expedite the money out of the store. With the check writing and the debt cards that we issue we are not talking about a large amount of cash in the store. We tend to hold approximately \$300.00 in our safe at night. This is pretty low volume.

Commissioner Weel asked Ms. Dallman to walk the Board thru a typical pay day cash advance process. How does this work from beginning to end.

Ms. Dallman stated our typical customer is someone that might not have credit where they could get a loan thru their bank or may not have a credit card. This is our typical customer. In order to apply for a loan with us they would need to bring in proof of there social security number, proof of there income & banking. The way it works is that once they are approved they write us a check for the loan and we hold that check until there pay day or there first payment. The check that we hold is the collateral for the loan.

Customer is required to come back into the store and pay us, and then we give them there check back.

Chairman Callero asked is the check dated.

Ms. Dallman stated the check is dated for the due date of the loan. We don't deposit or do anything with that check until the customer might become delinquent with us.

Commissioner Weel stated you indicated that when the customer is approved, is there actually customers that are denied or declined?

Ms. Dallman stated there are some. We can't help everybody. Somebody may be denied if they don't have proof of a social security card. Our industry is regulated, so there is only so many loans that a consumer can have within the state. By using a social security number the data base in the state tells us whether we can help somebody. If someone does not have a checking account we can not help them, or if they don't have a residence, or if they don't work having a source of income to pay us back we would not be able to help that customer.

Commissioner Weel stated if there is really no credit history, do you do background checks or anything on these types of customers?

Ms. Dallman stated we don't do background or credit checks. This is a high risk loan which is why are fees are a little bit larger than a credit union or bank. We would be regulated by a data base which would show customer "X" has so much out right now, they have borrowed \$500.00 and based on what the state will let them borrow it's approximately 25% of there gross income. We do encourage customer responsibility where they are not over extending themselves and borrowing beyond there means.

Commissioner Looby asked is there a limit to the amount that you would loan to someone?

Ms. Dallman stated yes. We are allowed to loan between \$100.00 and \$1,000.00 in Illinois.

Commissioner Looby stated and when you permit the rollover does that go from paycheck to paycheck?

Ms. Dallman stated we are not permitted to do rollovers. That would be where someone would just pay the fee to extend there loan a little bit longer. They either pay in full and walk away without owing us anything or they make an installment payment over a time period of five months.

Commissioner Cardella asked is there a limit to the number of loans an individual can take out with you in a given period of time? Can they keep coming back every few months and do the same process over again or do you limit that as well?

Ms. Dallman stated in Illinois it's three consecutive loans and then you have to have a cool off period or walk for seven days.

Chairman Callero stated so for seven days they have to lock themselves up and they can't spend anything, then they can come back.

Ms. Dallman stated pretty much, that's the state regulating us.

Commissioner Alpigianis stated early you said there was 35 states however in the letter from Emily it states 37. Do you know what figure is correct?

Ms. Dallman stated I would go with Emily. She is a little more accurate.

Commissioner Alpigianis asked how do you collect a bad debt. Do you send someone to the house to pick up the money if they don't pay?

Ms. Dallman stated we use the typical collection.

Commissioner LoVerde stated you said you have higher risk customers and credit risk customers, what was the demographics for choosing Niles?

Ms. Dallman stated to be honest I don't know.

Chairman Callero asked if there were any more questions. A member of the audience, Joe Orr, 7143 Mason, Chicago, IL 60646 stepped forward.

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

Mr. Orr stated yes.

Chairman Callero stated please give us your testimony.

Mr. Orr asked what are your hours of operation?

Ms. Dallman stated typically Monday thru Wednesday between 9:00 a.m. and 6:00 p.m., Thursday & Friday 9:00 a.m. to 7:00 p.m., Saturday 9:00 to 3:00 p.m. and closed Sundays.

Mr. Orr stated we have some concerns being over in the residential area in Chicago about the customers that will be coming to your establishment. How they are going to get there. Being a residential area with kids these are concerns. I just wanted to make sure you would not be open until 9:00 or 10:00 p.m.

Ms. Dallman stated that was a good question. We have been asked that before.

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

Commissioner LoVerde moved that 06-ZP-27 – Emily Baldwin, Advance Cash Advance, 135 N. Church St., Spartanburg, SC 29306, Requesting a Special Use to operate a Cash Advance Business at 5942 W. Touhy Ave.  
be **approved**.

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

AYES: 6 Alpigianis, 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.

Commissioner LoVerde stated I would like to make a comment to the staff. When Al's Beef went into that center there was a discussion about west bound only out of that driveway. I have noticed that you can go east or west. I have been there several times and there is definitely a traffic impact there. I am not sure if we need to look at that again.

Mr. Ostman stated we will review that and get back to you.

Chairman Callero called for the second matter on the agenda.

**06-ZP-26 – Chuck Ostman, Director, 1000 Civic Center Dr., Niles, IL 60714, Requesting text amendment – Chapter 34 Text Amendment, Condominium Conversions.**

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?

Mr. Ostman stated yes.

Chairman Callero stated please give us your testimony.

Mr. Ostman passed out the latest version of the Text Amendment for the board to review.

Mr. Ostman stated in your packet is a copy of the proposed condominium conversion ordinance which amends Chapter 34 adding sections 34-100 through 34-113. Currently the Village Board has placed a moratorium on any condominium conversions for a period of 240 days which expires in December. The purpose of amending Chapter 34 to include regulations on condominium conversions was due partly to legislation passed on 7/29/05 which amended 765 ILCS 605 known as the Condominium Act which permits municipalities to require inspections of the proposed conversion and that each new condominium unit comply with the current life safety, building and zoning codes of that municipality. As stated in Section 34-100, the purpose is there is much interest in converting rental units to condominiums and these sections are to protect the buyer and to ensure the condominium conversions do not have a negative impact on the village as a whole such as affordable housing.

Mr. Ostman continued to state condominium conversions would require approval of a Special Use permit by the Village Board, which automatically includes a public notice and a public hearing before the Plan Commission. The proposed regulations include an extensive list of required upgrades prior to converting to a condominium. It is the observation of staff that not all existing apartment buildings are suitable for conversion. Recognizing the potential complexity of the condominium conversion process, the Community Development Department will produce a step by step process of converting condominiums to owner occupied units in simplified terms from start to finish. The basic outline of the process will assist developers and residents to follow the process and be aware of the conversion.

- Section 34-103 for the most part duplicates the language in the State of Illinois Condominium Property Act. The property act itself is a rather lengthy document that does cover condominium conversions.
- Section 34-104 includes requirements as to the identification, description of the property, pricing and other specific material that benefits the buyer. It is required to provide this same material to the Village prior any offer for sale. Item #19 requires a report from a qualified person as to the condition of the building to include but not limited to roofs, foundations, mechanical, plumbing and structural elements.
- Section 34-105 includes those standards that the building must meet for the current life Safety, Zoning and Building Codes. One item that should be added is if a new electrical service is required, the electrical service shall be buried. I am making that recommendation right now, this is not included in the document that you have in front of you.

Chairman Callero asked where would that be? Would that be item M? Where would it be under Section 34-105?

Chuck Ostman stated it would be a separate line item. I have not had a chance to look at this closely; it just came up at the very last minute today. In reviewing my documents from the other municipalities this is how it is.

Commissioner Troiani stated it could probably be item G, the electrical section.

Chuck Ostman stated it could be in Section G or a separate line item by itself.

- Section 34-110 requires that at least 2 spaces be provided for each unit in the project. Any request for a variation to this requirement would require a variation by this Board as a variation to the Zoning Code.

Mr. Ostman stated this has been reviewed by the Village Attorney and would welcome any questions to the proposed amendment. The Village attorney is not present this evening to answer any legal questions, should it be necessary and this board requests, the Village attorney is available by phone this evening. This concludes by presentation.

Chairman Callero also asked if there were any questions from the audience.

Mr. Ed Niemira, 6813 Lexington Ln., Niles, IL 60714 stepped forward.

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

Mr. Niemira stated yes.

Chairman Callero stated please give us your testimony.

Mr. Niemira stated regarding the two parking spaces per unit in the proposed condominium conversion project there is a large number of six flat properties located in the Village of Niles. One of these units is owned by a partner and myself. The vast majority of those six flats do not have twelve available parking spaces. If this 2 parking slots per unit is adopted into the village ordinance the variation process has to be reviewed. I don't believe there is a six flat in Niles with 2 spaces per unit and I would like the board to consider down sizing this rule a little bit, perhaps to 1 ½ spaces. If you have a five unit project that would give you eight parking slots. A lot of six flat

would go down to this figure. My partner & I have spoken of this and that is what we would be doing to our building. We have some pretty decent parking where we are at. We could put in 8 to 9 parking spaces off of the street. I believe we are an exception being able to get 9 parking spots. I believe 1 ½ is a lot more practical than 2 spaces. With 2 parking spots per unit you would be ruling out just about any six flat conversion in Niles.

Mr. Niemira stated also the new ordinance mandates a fire suppression system. Back in May the Niles Bugle had an article concerning the condominium conversion ordinance. At that time the article indicated that sprinkler systems were being considered because many of the buildings that would be potential condominiums conversions were either three or four stories. I am looking for an exception or a variance hearing concerning properties that are lower than three stories. The main idea for a fire suppression system is to give individuals an adequate amount of time to actually vacate the property. With a low rise unit opposed to a four, five, & six story unit this certainly is not a big difficulty.

Mr. Niemira stated my last item to discuss is 34-101, under Scope. I would like to draw the Board's attention to the last line of that paragraph where a preliminary application the owner has to identify the number of tenants who reside in the building who are in favor of the condominium conversation. I have difficulties with that because it's the owner whom is converting the property, it's his capital at risk, he stuck his neck out to purchase the property, he is managing the property and here this ordinance looks like it is going to give some control over the disposition of his investment, his funds to individuals who only has a lease hold interest in the property.

Chairman Callero stated I disagree with that only because I don't believe this won't give him control. All this would do is let this Board know that four or five people wanted to buy there unit or nobody wants to buy their unit. Obviously if nobody wanted to buy their unit, everybody would be against it. However this would be something I would want to hear. It might not change my thought process, however I would certainly want to hear if the people living there were in favor or not.

Mr. Niemira stated I interpreted this section to be as if the tenants would be able to put a nix on the project.

Chairman Callero stated I do not interpret it that way at all. The way that I interpret it is that the people in the Village would know if all six tenants in the building were buying the units if they are all in favor there is no problem as long as it meets our code. If everybody was against it that might change somebody's mind. I don't know, I can't answer that.

Mr. Niemira stated then may I suggest that the last line be reworded to "who supports", rather than who considers purchasing a unit in the conversion, thereby making this a little clearer. To support the conversion or to oppose it or to actually be interested in purchasing one of the condominium units is different. People can oppose a project because they still want to remain tenants in that building. They don't want to be displaced opposed to somebody who actually wants to buy a unit.

Commissioner Weel stated I tend to agree with that statement. Also they have to get notice on there lease 120 days or 180 days if they are handicapped. You will be able to gage in that 120 day window how many people will actually be sticking around and how many will not.

Commissioner LoVerde asked if the intent to that language is to prohibit the conversion of three or more tenants if they don't want it.

Chuck Ostman stated I would agree with Mr. Niemira. There was an additional section under this that had a lot more regulations and previously both talking we both agreed to take out that whole section. This is why you got the amended copy this evening. I will look at this with the Village attorney, however I do agree with the speaker that this line should be reworded or replaced.

Commissioner Troiani stated Mr. Ostman do you agree with Mr. Niemira with the parking?

Chuck Ostman stated I disagree with the parking. I think we should keep the two parking spaces per unit just as we do with any other condominium in town weather new construction. It would then come in front of this Board to evaluate the location of this condominium development or conversion.

Chairman Callero stated and then we would give them a variance or we would not give them a variance.

Commissioner Troiani stated they could ask for a variance if they need to.

Chuck Ostman stated correct. We have given away variations down to 1.5 spaces per unit however they had a lot of land that they could bank if they needed it for additional parking. The last variation we gave away was the Park Condo's on Milwaukee Ave. and that was reduced to 1.8. Variations are realistic to give away on Condominium Conversions; I don't believe as much as 1.5. I believe maybe 1.8 or 1.85, however it would be up to this Board to evaluate and see where the spill over from the vehicle would end up at in surrounding streets or other parking lots.

Commissioner Weel stated I tend to agree but I think once the plans are submitted for the conversion depending on the type of units that are being converted weather studio's, one bedroom, etc this will play an important role in determining how many parking spaces will be required. If you have a one bedroom condo I guess you could get away with one parking space for that unit. However until you actually know the unit mix I think it would not be wise on our part to just change the language in this and wait till that specific project comes in front of us.

Mr. Niemira stated in other words the Board would look at granting variances with respect to parking.

Chairman Callero stated that is what we are here for. We look at variance every month. Most variances that come in front of us are parking variances.

Commissioner Alpogianis asked Mr. Ostman the purpose of the Fire Suppression system is to give people ample time to vacate the building or hopefully put the fire out.

Chuck Ostman stated that is correct. You have to understand these are older buildings and they are not built to the codes that we have today. They do not have fire walls in between the walls and things like that. Once these units are converted they will be around for a long time. It is very important that we do require fire suppression.

Commissioner Alpigianis stated isn't it also common practice that most of the municipalities in the surrounding areas are requiring some type of fire suppression not only in the condo's but also in homes.

Chuck Ostman stated there are more and more communities coming on board to require fire suppression in the homes.

Commissioner Alpigianis stated god forbid a mother and three children are in the house and one of the three children decide to take a duck under the bed because there is smoke and fire. Regardless of one or two stories I think the fire suppression should be there because I think safety should be our main concern for our citizens.

Chuck Ostman stated again any new construction of condominiums it is absolutely required.

Commissioner Lobby stated I have a question regarding warranties under Section 34-33. There is a discussion about wear and tear of various items that I have interpreted to be stoves & refrigerators. There does not seem to be any disclosure of the age of the items. If you have a 10 year refrigerator and your unit gets converted it seems to me that the developer could claim this to be normal wear and tear on an old refrigerator even though the buyer that is converting that unit might have only been there for a year. Shouldn't there be some kind of disclosure on the age of the stove & refrigerators.

Chuck Ostman stated if they are included in the condo conversion on the property report that information is required.

Commissioner Lobby stated so that information will be in there. The person would have a chance to review that.

Chuck Ostman stated correct.

Commissioner Cardella stated can you give me some examples of these units and where in the Village they are that would be able to be converted. Are we talking about the units along Milwaukee Ave.?

Chuck Ostman stated you have a whole spectrum because I have received a whole lot of phone calls on buildings that want to be converted. You have six flats, 10 unit buildings on Dempster Road or Caldwell Ave., you have 20 unit buildings on Milwaukee Ave., and you have a whole wide range of buildings and we have a lot of people in line waiting to convert.

Commissioner Cardella stated so there is a long list. We are going to see a lot more of these once this is adopted.

Chairman Callero stated go to Evanston, half the City has been converted.

Commissioner Cardella asked are we going to be able to handle the volume as you are describing. Will there be limits to how many of these we will be able to review? My point is are we going to get 15 parking variances that we have to do.

Chuck Ostman stated that is a question the attorney must answer.

Chairman Callero stated the key here is that you want this to come in front of the board.

Commissioner Cardella stated correct, it must come in front of us however the volume is overwhelming.

Chairman Callero stated and that is why you want parking variances. There may come a time where we just will stop and not let any conversions take place one way or another.

Chuck Ostman stated like Mr. Niemira indicated there are a lot of buildings that would not comply with the parking requirements. There are some buildings that only have one parking space per unit and they have no room for overflow at all. Those types of buildings should not be converted. If you went ahead and approved those conversions you would be looking for trouble for many years down the line. There are some buildings in town that could be converted. It is happening in other towns. If you go out west there is a lot of conversion going on but they are fortunate because their rental buildings are much newer and much easier to convert. They have fewer requirements.

Commissioner Cardella stated which leads me to the construction of the buildings here in town you will be looking at extensive costs to convert them up to code.

Chuck Ostman stated on some of these buildings yes.

Commissioner Cardella stated which then might limit the amount.

Commissioner Looby asked how is this going to affect affordable housing in Niles? Is this going to throw it out of balance?

Chuck Ostman stated I think this is really going to keep our affordable housing intact. Since we have all these regulations in place this will somewhat limit the amount of conversions that happen in town just by having these regulations in place. If we didn't have these regulations there would be quite a few condo conversions. This would put our affordable housing in jeopardy.

Commissioner Weel stated let's not forget we are mandated by the State to maintain a certain percentage of affordable housing. This is something the Village has to consider.

Chairman Callero stated based on this information this is not complete. Are we going to put this aside?

Chuck Ostman stated my recommendation is that this is complete.

Chairman Callero stated you feel this is complete because you don't agree with the parking and you don't agree with the fire suppression.

Chuck Ostman stated I am giving you my response to that. It is now up to this Board.

Chairman Callero stated what is your response to the language to 34-101 the last sentence. I thought you were going to talk to the Village attorney.

Chuck Ostman stated I made a note in regards to this.

Chairman Callero stated do you want to make a recommendation to change the language. Do you want to call the attorney? Do you want to postpone this? What do you want to do?

Chuck Ostman stated this is for the Board to determine. We created a six month moratorium and we asked for a two month extension. If this Board does not come away with a recommendation tonight this will be postponed until January.

Chairman Callero stated I do not have a problem with a motion but I believe the motion should say as is and then for 34-101 if Joe Annunzio and you agree to change the language on the last line then fine. This is what we have to say in the motion. I will entertain a motion.

Commissioner Alpogianis moved that 06-ZP-26 – Chuck Ostman, Director, 1000 Civic Center Dr., Niles, IL 60714, Requesting Text Amendment – Chapter 34 Text Amendment, Condominium Conversions be **approved, as is with the exception of the review by Mr. Charles Ostman and Mr. Joe Annunzio, the Village attorney of section 34-101.Scope, last line.**

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 third matter on the agenda.

**06-ZP-28 – Chuck Ostman, Director, Village of Niles, 1000 Civic Center Dr., Niles, IL 60714, Text Amendment, Definition, New Construction.** 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?

Mr. Ostman stated yes.

Chairman Callero stated please give us your testimony.

Mr. Ostman stated what you have before you this evening is to review and recommend to the Village Board of Trustees on the definition of new construction. As you drive around the Village if you haven't noticed already for the last two or three years you will see a lot of structures that have only three walls remaining and the rest of the building is actually gutted. There is nothing left except the foundation. Some of the concern that staff has is some of the zoning requirements are not met. We came up with the definition of new construction two or three years ago after reviewing the definition by other municipalities. Our current definition came from municipality very close to us. They have been using this for approximately a year and a half prior to us. We felt that would be good to work with. We

found out over the last couple of years that is not working for the Village of Niles. Our concern is if they call it a remodel job and they just leave up three walls the current definition says that it is a remodel not new construction. The concern is when you don't meet the zoning requirements and you have a driveway that is only seven feet wide, building a brand new house and selling it as a brand new house and all the builders are doing this. It is not fair to sell a brand new house and not to have a driveway that is not wide enough to get a vehicle down. We thought in revising the definition it would really target the builders and developers out there. This does not harm the residents in town that simply want to put a second floor addition on there house. Those are the ones that we really don't want to hit. It's the builders and developers that we really want to make sure things are done right. The proposed definition is:

In determining when a remodeling project is extensive enough to require the subject structure to comply with all the bulk requirements of a new structure under Appendix B of the Village of Niles ordinances, it shall be defined as:

A structure is considered new construction when the amount of demolished exterior walls is greater than 50% of the total lineal feet of the existing perimeter of the exterior walls or when more than 25% of the existing ceiling joists are removed.

Chuck Ostman also stated if you notice on all these houses being done around town they are taking down the ceiling joists to put in nine foot ceilings. You have a lot of residents that want to put up a second floor. They are going to keep those eight foot ceilings and put the 2<sup>nd</sup> floor up there. We want to still promote to let the families in town expand there house without going thru a great deal of hardship. The builders and developers keep finding a way to get around the rules. They go right on the edge of the line. This is what I am recommending. The current definition is a policy. The Village of Niles attorney has advised us to take it out of Village policy and place it to village ordinance.

Chairman Callero also asked if there were any questions or comments from anyone in the audience.

Mr. Bob Trudy, 7515 Lawler Ave., Niles, IL 60714 stepped forward.

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

Mr. Trudy stated yes.

Chairman Callero stated please give us your testimony.

Mr. Trudy stated I have been a resident of Niles for approximately 25 years. I have been on Lawler for 25 years and it is a finely manicured street. It has beautiful homes that were raised ranges, two to three bedrooms. Now all of a sudden we are getting these huge homes. Not only are these homes getting damn near 40 feet, but they are going width size also. When I moved onto that block that was one of those things I liked. You have space between your neighbors, the houses were similar and they were nice two or three bedroom houses. Now we are getting six bedroom homes. I am curious who is going to live there and second where they are going to be parking. They have just changed to whole complexity of this beautiful block in Niles. The other thing that gets me is that they are vacant. These houses are not even being sold. Developers can come into this area of my block and just change the whole

thing. I like to keep it the same way that it was. It was a beautiful block, but now these houses are unbelievable. I have noticed that when businesses come to town they have to show what they are going to do. The people have a chose to say that they want this business or they don't. What do I have to say as a neighbor when all of a sudden I wake up one morning and there is a huge house across from me, and they dug up my front lawn? I had no idea this was going to happen. The developer did not have the respect to come up and tell me what's going to happen, he just went ahead and trashed my front lawn. Every single day it is a chore to get in to my driveway. It's an argument with all the workers because no one speaks English. They have demolished the neighborhood. What right do I have as a person on that block? I love that block and I am staying there, I'm not moving out of Niles. I love my neighbors. We sit in front and talk the same story, what's going on? What is next? Will this happen next to my house? Will there be four or five of these homes all over? You mentioned affordable housing; these houses are going for \$900,000.00, affordable to whom? I have two sons in Purdue that are going to graduate and I would love to see them move onto my block, but for \$900,000.00 I definitely don't have that amount of money to give them to buy houses. Where's the affordability?

Chairman Callero asked you said they destroyed your front lawn

Mr. Trudy stated trashed it, totally trashed it.

Chairman Callero asked did you call the Village?

Mr. Trudy stated absolutely I talked with Mr. Ostman.

Chairman Callero asked Mr. Ostman what was your response.

Chuck Ostman stated what they were doing was excavating in the parkway. It doesn't appear to be a parkway, but they were excavating for a new water service. This was Village property, but Mr. Trudy does maintain it. His frustration is understandable. He was at the last Village Board meeting. We are proposing at the next plan commission meeting in January to review the teardowns. This will certainly be one item to make sure that property owner is notified if a contractor is going to be excavating into his property. Other municipalities, not a whole lot, do that right now and I think we should be one of them and make that a requirement to the contractor's. Even though it's a parkway the homeowner should still be notified because he is maintaining that property.

Chairman Callero stated I would think that is common sense.

Commissioner Troiani stated I think if we were to pass this tonight this would be a start of regulations to discourage some people from doing what they have been doing all over town.

Commissioner LoVerde stated when we were talking about the new construction there is current codes that regulate height, square footage, etc. Are these homes within the code or did they come before us and were approved?

Chairman Callero stated I'm sure they were within the code.

Chuck Ostman stated if I could respond to that after the gentleman was here at the board meeting we did go back to the plans and this one house does comply with the code. In the Niles Focus coming up we are showing what this board has done over the last few years and the steps that you have taken

in reducing the height and reducing the floor area ratio and making a lot of positive steps in reducing the overall size. Again it may be up for discussion again in January when this board meets again to discuss any other further actions or amendments to the zoning code.

Commissioner LoVerde stated in response to Mr. Trudy there is nothing that prohibits them from doing that. He made a comment what do I have to say about it. As long as they build within the code, he has nothing to say. They can build 32 foot houses on either side of them within the limits of the code.

Chuck Ostman stated correct just like any other municipality. What we also require to take that extra step is making sure that piece of property has signage, and as soon as they put up that construction fence it states they can come into the Village if they have any concerns and they know the name & construction hours of the builder out there. We do notify the residents by registered letter to the adjoining property owners that construction is going to be going on. We also make a big sign out on the property so that other property owners in the area could inquire.

Commissioner LoVerde stated even if does not require a hearing? You are saying that we send them out as a consideration.

Chuck Ostman stated correct, we have no ordinance that stated we have to send anything out.

Mr. Trudy stated the reason I bring this up is because if the board does not hear a concern from the citizen then there is no problem. This is way I bring things up. Across the street from me is done, that's a done deal. I am curious as to what I am to do to prevent this in the future. I want to keep the block the way it was. That's the way I like it, that's where I raised my family, that's where I want to stay. If all of a sudden things start to change you could be living in Logan Square. I don't care to be there. I want to stay in my house and I like to stay on my block just they way it is. Those are my concerns. If you don't hear it you don't know there's a problem. What do I have to do as a homeowner to stop something like that? I just have to sit back and bite the bullet if it goes on directly next door to me. That's kind of rough. I have been in the Construction business for 35 years and I have never seen things done before like I've seen across the street. This is unbelievable. There is no workman's compensation insurance required by these builders by the Village of Niles. I can't understand why you would not require insurance for a construction company coming into the Village of Niles. If you own a business in the Village of Niles you are required to have insurance. If you have a construction business then you don't have to have insurance. That does not seem right. The requirement of workman's compensation insurance which of course is a state law, but if nobody checks on this nothing will happen. One good way of getting rid of some of these contractors coming in here is to require insurance. What a saw on T.V. the other day with the worker that had a collapse on a building and I am standing on my front lawn watching guys that are six foot down under with no shoring at all. What happens if that hole collapses?

Chairman Callero stated Mr. Ostman I have a question and a concern. Why don't we require workman's compensation?

Chuck Ostman stated very few communities require to show proof of this. In the Village of Niles we require a permit bond. A permit bond you have to obtain thru your insurance agent. In talking to the insurance agencies who issues these permit bonds they stated typically they are insured. We did check with the gentleman that is working across the street. He did have

proper bonding and he is insured. Everything was in order. To require the documentation of insurance would create another layer and require additional help in our department. I don't feel this is necessary. We monitored the surrounding communities and there are a few towns that require it however not to many.

Commissioner LoVerde stated I think the one thing you would probably encounter is if a general contractor is building a home he is licensed and bonded, but he might not have one employee on his payroll, therefore his workman's compensation would have to be collected from the sub-contractors. The average guy that will be coming in as a general contractor to build a home may not carry workman's compensation or may not be required to because he has no employees. All he is doing is subbing everything out. Now you go to a lower tier and the sub-contractors would have to have insurance and all of that.

Chuck Ostman stated and that's where the difficulty comes in tracking all of these other trades that are coming in on the job site when there insurance expires and things like that.

Commissioner LoVerde stated personally some of the frustration is when I drive around at times some of the hours that these people start, the lack of consideration with equipment, where they park it. You will be driving down Dobson and you have to turn your mirrors in to get down the street because there are fourteen trucks and the bob cat is out there. This is frustrating. If I was a neighbor I would be very upset that this goes on at a constant basis on a Sunday.

Chuck Ostman stated based on your comments and Mr. Trudy's comments those are a lot of issues over the last few years we have concentrated on the bulk requirement, height, side yards and things like that. I believe this January we are going to really concentrate on the contractors that are out there on the job and the common courtesies to the adjacent property owners. Other municipalities that we have researched stated that when there is construction going on there is parking on one side of the road only. There is language that we can put in our ordinance to prevent something like this. I have been down these roads also where you can just barely get down the road between the vehicles.

Commissioner LoVerde stated they are blocking neighbor's driveways, and dropping stone in the middle of the street also. I certainly know you guys are doing an excellent job in bringing everything along it's just a problem that if you talk to 90 communities they all will have the same issue. Growth, development, big homes, height limits, this is going on everywhere not just Niles. This is something that has to be controlled and dealt with. I personally believe a few trips from the Police Department and you would find streets open up a little more, no dirt in the street, and a little better operation.

Chuck Ostman stated we will be reviewing all those topics at the January meeting with this board.

Mr. Trudy stated I just wanted to thank this board for letting me state my theory. If you don't hear about it, you don't know. Hopefully we can work something up with all of this.

Commissioner LoVerde stated one more item. I have heard this over and over again and maybe there is some validity and maybe you could share something with us. Is there a code or a tax status that these developers come

in and use that they leave a wall up. I have heard this for 15 years now. If you leave one wall up, Cook County has a 30 year something that a grace period if you don't do a major remodeling by which the tax rate that house is remodeled stays the same. It costs more for that contractor to leave that one wall up than it does for him to knock it down. There has got to be a reason for that. No contractor a live will tooth ratchet out each brick to leave one wall up. Do we know if there is a tax break or not? They don't get the correct amount in the increase in the property.

Chairman Callero stated I don't believe that.

Chuck Ostman stated I will let Rich Wlodarski answer your first question and then I will follow up.

Rich Wlodarski stated I talked with both assessors' offices Niles and Maine Township and they stated any sizable job over 50,000.00 they send someone out to review that property after the project is done to compare it. Whether there is one wall or two walls up this is not an issue. They look at this property when it is 100% done and make there assessment on that. I think a lot of the issues where you see some walls up is to please the Village to keep it a remodel.

Commissioner LoVerde stated what difference would that make, is there a permit value? If they leave one wall up is the value of new construction permit costs per thousand cheaper than permit costs for remodeling.

Chuck Ostman stated no, that is what we are talking about this evening.

Rich Wlodarski stated it's not a cost issue; it's an issue of zoning. It would cost them more to meet all of the new zoning requirements as it was a new house.

Chuck Ostman stated the question presented is the permit fees any different?

Rich Wlodarski stated no.

Commissioner Cardella stated so it's all about the zoning.

Commissioner LoVerde stated than with the 50% issue they would be able to do that anymore.

Chuck Ostman stated you are right, with this you won't see that.

Commissioner Troiani stated this will correct all of that.

Chuck Ostman stated correct.

Chairman Callero asked if there were any questions or comments from the Commissioners.

Commissioner LoVerde stated I just have one more questions. Mr. Ostman said in the Condominium Conversion presentation that any new construction would require any new utilities to be underground. Is it possible to put the language in that says any new utilities must be put in underground when feasible or possible.

Chuck Ostman stated for new construction on residential we have that right now. When it is feasible, there may be some situations because of alleys or

the massive amount of concrete, however that is far and few in between. The majority of the homes going in do have new services underground.

Commissioner LoVerde asked is that in this packet.

Chuck Ostman stated no, that was passed a year or two ago. My recommendation for the condominium conversion is if they require a new service they would be required to put it underground. If they did not require a new service, which would be a few they could leave the service the way it is overhead. Any new services would also be required to be underground per the condominium conversion.

Commissioner LoVerde said again I think your department is doing a great job on bringing the Village along with these issues because it is everywhere.

Commissioner Troiani moved that 06-ZP-28 – Chuck Ostman, Director, Village of Niles, 1000 Civic Center Dr., Niles, IL 60714, Text Amendment, Definition, New Construction be **approved**.

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

AYES: 6 Alpigianis, 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.

Commissioner Alpigianis moved to adjourn the meeting, seconded by

Commissioner LoVerde on roll call the vote was:

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

The meeting adjourned at 8:32 P.M.

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James Callero, Chairman

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Angelo Troiani, Secretary