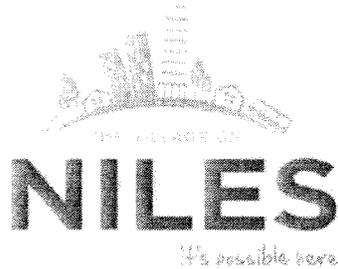


# VILLAGE OF NILES

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



## Approved Meeting Minutes

Monday, January 4, 2016

7:00 PM

Village Hall

## Plan Commission and Zoning Board of Appeals

### Chairman

Thomas Kanelos

### Members

Susan DeBartolo

Morgan Dubiel

Ted Karabatsos

Barbara Nakanishi

Robert Schulter

Angelo Troiani

Staff Liaison Bruce Sylvester

## CALL TO ORDER/ROLL CALL

The Niles Plan Commission and Zoning Board of Appeals was called to order at 7:01 P.M. All rose for the Pledge of Allegiance.

Present: 7 Chairman Thomas Kanelos, Commissioners Ted Karabatsos, Susan DeBartolo, Angelo Troiani, Barbara Nakanishi, Robert Schulter, Morgan Dubiel,

Absent: 0

Also present was Director of Community Development Charles Ostman, Senior Planner Bruce Sylvester, Assistant Director of Community Development Richard Wlodarski and Village Attorney Joseph Annunzio.

## APPROVAL OF MINUTES

Chairman Kanelos asked if there were any additions, clarifications or corrections to the minutes of September 14, 2015. There were none. Commissioner Dubiel moved to **approve** the minutes of September 14, 2015. Seconded by Commissioner DeBartolo, on roll call the vote was:

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

NAYS: 0

PASS: 0

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

Chairman Kanelos asked if there were any additions, clarifications or corrections to the minutes of November 2, 2015. There were none. Commissioner Dubiel moved to **approve** the minutes of November 2, 2015. Seconded by Commissioner DeBartolo, on roll call the vote was:

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

NAYS: 0

PASS: 0

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

### OLD BUSINESS

- 15-ZP-38** Requesting approval of a 457.5 square foot variation from Village Ordinance Appendix B, Section IV(H)(2) to allow a 1,157.5 square foot garage that exceeds the Village's 700 square foot size limit at 8753 Sunset.

### NEW BUSINESS

- 16-ZP-1** Requesting approval of a Special Use permit to allow a drive-through sign per Village Ordinance Section 78-92(4)(b) for a proposed new "digital order screen" at Starbucks at 7161 Milwaukee Avenue.
- 16-ZP-2** Requesting approval of a Special Use permit to allow a multi-color 'electronic message center' sign in a residential zone per Village Ordinance Section 78-73 (2)(b) for a proposed replacement sign at Notre Dame College Prep at 7655 Dempster Street.
- 16-ZP-3** Requesting approval of a Special Use permit to allow a multi-color 'electronic message center' sign in a commercial zone per Village Ordinance Section 78-92 (4)(c) for a proposed replacement sign at the Shops on Golf at 8600 Golf Road.

### DISCUSSIONS

Discussion of Staff memo for proposed garage size language for new zoning ordinance.

### ADJOURNMENT

Chairman Kanelos called for the first item on the agenda tonight.

- 15-ZP-38** Requesting approval of a 457.5 square foot variation from Village Ordinance Appendix B, Section IV(H)(2) to allow a 1,157.5 square foot garage that exceeds the Village's 700 square foot size limit at 8753 Sunset.

Bruce Sylvester presented the case. The overhead/computer was not working tonight therefore no pictures or illustrations were shown. This was carried over from the November meeting. It was a request for a detached garage that

exceeds the Village's square foot limit. He will go over the size limitations and also try to clarify ownership of the parcel. The applicant is present this evening. Included in the packet is a picture of the garage and also dimensions of the proposed garage. This information was provided by the applicant. It is 35'1" deep along the sides. The existing garage is 22'5" wide. The proposed addition would be an additional 11' wide but the same depth. After calculations, the proposed garage would be 1,172.17 sq. ft. The Village only allows 700 sq. ft. This is a bit different than what was discussed at the November meeting. The variation being requested is 472.17 sq. ft. If that variation is approved the applicant can expand the garage by putting the addition on the northern side. The applicant did provide deeds regarding ownership. Those copies are also in tonight's packet.

Commissioner Dubiel asked if the Village has any information that the property cannot yield a reasonable return.

Mr. Sylvester said he does not have any financial information. His comment is that without the variation this property could be used for a single family home and a garage as is.

Commissioner Dubiel said next - is the plight of the owner due to unique circumstances?

Mr. Sylvester said part of the reason for the meeting tonight is for this Board to discuss these things among themselves. He is not aware of anything that is unique about this property. It a standard lot and adequate in size to include a house and a garage.

Commissioner Dubiel asked if there is any chance this particular variation would be applicable to other property within a single zoning classification.

Mr. Sylvester said other people with similar circumstances could request to have larger garages.

Chairman Kanelos said later this evening we will be discussing several changes to the zoning code which would change auxiliary structures to allow up to 1,000 sq. ft. in certain circumstances, correct?

Mr. Sylvester said that is correct.

Chairman Kanelos asked, if in his [Mr. Sylvester] opinion, if this garage would be limited to 1,000 sq. ft. would it meet the other requirements of that new proposed zoning code?

Mr. Sylvester said he believes it will not. He doesn't think they should mix the two discussions because this is a very specific request for a specific piece of property and that memo is for new rules in general.

Chairman Kanelos said he understands but would hate to deny this if in a few months at least a 1,000 sq. ft. garage would be allowed. There are other issues, but just because of timing he would want this to have a chance.

Mr. Sylvester said the proposed rules to be discussed later are for lots that are larger than the minimum requirement. This lot would be larger than the minimum required but he doesn't know if it would be large enough to entitle them to go up to 1,000 sq. ft. They would have to do the calculations. It probably wouldn't apply because that would have to be for detached structures in the rear yard.

Chairman Kanelos said since it is a corner lot they might want to look at it differently. Visually it doesn't look like 1,000 sq. ft. would take up more than 33% of the yard. Do you have calculations for that?

Mr. Sylvester said no.

There were no more questions for Staff from the Commissioners. The public will have a chance to ask questions after the petitioner has presented his information.

Chairman Kanelos called for the petitioner to come forward. Jeffery Evans, attorney, is standing in for the petitioner's attorney of record, Paul Kolpak, who could not be here tonight. David Cottrell, the petitioner, 8369 Western Ave., Niles was sworn in.

Mr. Evans said in talking with Paul Kolpak, it seems like most of the material has been gone through with the Village a few times. The resubdivision to increase the size of the lot was already approved. This brought the garage size under the new standards. The approval would be moot at that point.

Chairman Kanelos said actually not. It is still proposed to be 1,172 ft.

Mr. Evans said that is what he is hearing tonight. But in regard to the ownership, both lots are owned by Mr. Cottrell. He is the beneficiary and successor trustee to a trust that owns one of the lots. He is the owner of the other lot. So as owner and beneficiary he owns both lots. Now resubidivision has increased the size of it.

Commissioner Dubiel said in the packet is a survey dated June 2014. In the survey lot A is not subdivided yet. Has it been subdivided to date?

Mr. Evans does not have a copy.

Mr. Cottrell said it is still part of Sunset.

Commissioner Dubiel said it has not been subdivided, correct?

Mr. Cottrell said it is still part of the Marion property. Right now he is waiting for the attorney to settle the estate. They are in a holding pattern. When he was before this Board a year ago, it was to help out the individual, Ted Marion, who was living in the home at 8753 Sunset. By subdividing the property, Mr. Marion would be able to afford to stay in his home. He has since passed away. Then everything was put on hold.

Mr. Evans apologized to the Board. He is looking at a paper from the Village Clerk of Niles. It certifies this is a true and correct copy of a legal document for Ordinance 2015-02 approving a plat of resubdivision for properties at 8753 Sunset and 8369 Western in Niles.

Commissioner Schulter said it was approved. Now you are saying it never went through.

Mr. Cottrell said yes, this never went through.

Commissioner Dubiel said therefore you [Cottrell] are the heir and trustee for both properties. It shows it as being recorded 08/25/2015.

Mr. Cottrell said he owns his own property [8369] and is heir and successor trustee for the Marion property [8753].

Mr. Evans said the resubdivision approval he has does have an approval stamp. His understanding is the resubdivision has been recorded.

Commissioner Karabatsos asked what is getting subdivided?

Commissioner Dubiel said the Board does not have the correct survey.

Commissioner Schulter said just because the Village agreed to this - the county still has to record the plat of survey.

Commissioner Karabatsos asked Mr. Ostman for an explanation of the exact square footage of the garage.

Mr. Sylvester said if you look at the applicant's floor plan, the concrete that was poured and the bolts were installed so that the wall will extend the full depth of 35'1". They are basing the calculations on that.

Commissioner Schuller is confused on the set back. Did he get the variance for the set back.

Mr. Sylvester said that is what he just explained to Commissioner Karabatsos. The cement that was poured and the bolts installed would not create a garage like the one shown in the material given by the applicant. It would not provide for this small area that would be set back. But rather the garage would be squared off. The materials provided by the applicant are confusing at best.

Mr. Evans said he has the plat of resubdivision. Mr. Kolpak may have additional information but could not be present tonight.

Commission Dubiel said the Board was given a plat to consider in tonight's packet and now we are getting a new plat. He recommended tabling the request again until all the proper paperwork is in order.

Chairman Kanelos entertained a motion.

Commissioner Dubiel moved to **table** the request of approval of a 457.5 square foot variation from Village Ordinance Appendix B, Section IV(H)(2) to allow a 1,157.5 square foot garage that exceeds the Village's 700 square foot size limit at 8753 Sunset. This will be heard again at the next Zoning Board meeting 02/01/2016.

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

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

NAYS: 0

PASS: 0

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

Chairman Kanelos called for the next item on the agenda.

**16-ZP-1      Requesting approval of a Special Use permit to allow a drive-through sign per Village Ordinance Section 78-92(4)(b) for a proposed new "digital order screen" at Starbucks at 7161 Milwaukee Avenue.**

Bruce Sylvester said the Staff report is included in the packet. This is an existing Starbucks. This request is not part of the zoning code but part of the sign code. This type of sign does require a Special Use permit. Starbucks has hired a sign expediting company. In the packet is a rendering of how this digital order screen will look. It will replace the post that has a speaker box with a screen that will show the face of the person from whom the client will order. All the required notifications have been met.

Chairman Kanelos asked when people apply for a permit, are they told everything they need to present? Are they told this goes out to the Commissioners so they can study it ahead of time? When the Board gets information the night of the meeting it is not helpful. Staff should try to encourage petitioners to get information in ahead of time.

Mr. Sylvester said yes, they know. He said they require the applicants to provide a complete packet of information. That same information goes out to the Commissioners well in advance of the meeting. Now instead of Staff trying to argue why something should or should not be improved, we put that burden on the applicant for them to explain how their proposal meets the requirements. In this case, we gave all the requirements for Special Use to the petitioner. The packets will always include all basic information.

Chairman Kanelos asked if there were any questions for Staff. There were none. He then called the petitioner to the podium.

Tracey Diehl, 6529 Hemmingford Drive, Canal Winchester, OH 43110, came to the podium and was sworn in. She tried to follow all the directions well in advance. The digital order screen is something unique to Starbucks and being rolled out throughout the United States. Initially this was started to increase the customer experience in a positive way. They have discovered this has a tremendous impact on the hearing impaired as well. They no longer have to get out of their vehicle to place their order. This has become an advantage for people who, like herself, are hearing impaired. She went on to described all the criteria that was met.

Commissioner Dubiel directed his question to the Village Attorney. Ms. Diehl refers to Section XI (E)(2)(b) and gives five responses, some of which

don't seem to fit. But we have Section XI (H)(4). What section is she referring to?

Ms. Diehl said this was in response to the letter she received from the Village.

Mr. Sylvester said there are two separate sections in the ordinance that list requirements for a Special Use permit. The first section is XI (H)(4). That lists three requirements that have to be satisfied, and those are the three in the Commissioners packet tonight. The second section, which Staff is now telling the applicant to address, Section XI (E)(2)(b) where five additional criteria for Variation permits are also listed. Those are the five the applicant just went through.

Chairman Kanelos said in the Commissioners book for variations it is E(2)(a) & (b). (a) has the three and (b) has the additional five. The first three are things that have to be addressed. The next five are supplements. The hardship is created because of a need to serve a segment of the community.

Mr. Sylvester said this is because of transitioning to a new process. It used to be Staff would explain all this. We've recently switched so the applicants have to explain why it should be approved. We now send a letter to people that says "you're on the agenda - here is the information you need to explain to the Board". He takes full responsibility for the confusion. On one sheet it says at the top if you are applying for a Special Use permit, you must explain these three things. To save paper, on the same sheet in the middle it says if you are applying for a Variation, you must explain these five things. Ms. Diehl answered all eight; in fact she only had to answer the first three questions because she is applying for a Special Use.

Ms. Diehl went on to explain how this digital order screen issue went viral November 5, 2015. She never thought about it being a bonus for the hearing impaired until then.

Chairman Kanelos made a motion after there were no more questions from the Commissioners or the public.

Commissioner DeBartolo moved to **approve** 16-ZP-1 requesting a Special Use permit to allow a "digital order screen" at Starbucks at 7161 Milwaukee Avenue, Section XI (H)(4) of Niles Zoning code. Also entering Exhibit 1 into the case. [Ms. Diehl's handout.]

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

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

NAYS: 0

PASS: 0

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

Chairman Kanelos stated this Board is a recommending Board to the Board of Trustees who can either confirm or negate this decision. It will be necessary for the petitioner to contact Mr. Ostman and ask to be placed on the Board of Trustees agenda. The petitioner will then be notified of the date. 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 the recording secretary.

Chairman Kanelos called for the next item on the agenda.

**16-ZP-2 Requesting approval of a Special Use permit to allow a multi-color 'electronic message center' sign in a residential zone per Village Ordinance Section 78-73 (2)(b) for a proposed replacement sign at Notre Dame College Prep at 7655 Dempster Street.**

Bruce Sylvester said this is a request for a Special Use permit. In the sign regulations a number of requirements have to be satisfied. Notre Dame is requesting to repair and replace their digital sign on Dempster. They want the new one to be same size in the same location but now they want it multi-color. All the requirements are in the Staff report in the packet.

Commissioner Dubiel asked why did they have to come before the Board if the new one would be the same size and in the same location.

Mr. Sylvester said it is because of going to multi-color rather than single color. He believes this is the third request in a short time for the same type of request.

Mr. Ostman said this was brought up at the Building and Zoning Committee meeting about possibly amending the sign code. We decided to let it be a little longer. They are still learning about the technology of the multi-colored digital signage

Chairman Kanelos asked if there were any questions. There were none. He

called for the petitioner but it was decided it was not necessary for him to testify. He then entertained a motion.

Commissioner Dubiel moved to **approve** 16-ZP-2 requesting approval of a Special Use permit to allow a multi-color 'electronic message center' replacement sign at Notre Dame College Prep at 7655 Dempster Street. It meets the requirements for findings of fact in article IX Section 78-73(2)(b).

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

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

NAYS: 0

PASS: 0

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

Chairman Kanelos stated this Board is a recommending Board to the Board of Trustees who can either confirm or negate this decision. It will be necessary for the petitioner to contact Mr. Ostman and ask to be placed on the Board of Trustees agenda. The petitioner will then be notified of the date. 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 the recording secretary.

Chairman Kanelos called for the final item on tonight's agenda.

**16-ZP-3 Requesting approval of a Special Use permit to allow a multi-color 'electronic message center' sign in a commercial zone per Village Ordinance Section 78-92 (4)(c) for a proposed replacement sign at the Shops on Golf at 8600 Golf Road.**

Mr. Sylvester said this is very much like the prior case; the only difference is the Notre Dame sign is in a residential district and this request is in the commercial district.

Commissioner Dubiel said this sign would be 16 milliliter resolution, full color. Is that the minimum standard?

Mr. Ostman said that is what they are asking for right now. It is at 16. As you go higher, it gets to be less quality. They don't get lower than 12 now.

Commissioner Troiani moved to **approve** 16-ZP-3 requesting approval of a Special Use permit to allow a multi-color 'electronic message center' sign in a commercial zone per Village Ordinance Section 78-92 (4)(c) for a proposed replacement sign at the Shops on Golf at 8600 Golf Road.

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

AYES: 7 Troiani, Nakanishi, Schuler, Dubiel, Karabatsos,  
DeBartolo, Kanelos

NAYS: 0

PASS: 0

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

Chairman Kanelos stated this Board is a recommending Board to the Board of Trustees who can either confirm or negate this decision. It will be necessary for the petitioner to contact Mr. Ostman and ask to be placed on the Board of Trustees agenda. The petitioner will then be notified of the date. 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 the recording secretary.

Mr. Annunzio gave an explanation of certain aspects of the sign code.

Mr. Sylvester said he needs to prepare applications for sign code requests. He filed all three cases tonight as zoning cases. He will make that change.

### DISCUSSIONS

Bruce Sylvester said the memo in the packets tonight was prepared by Staff in response to a request from the Board asking how the Village might allow garages larger than 700 sq. ft. The current rules and proposed new zoning ordinances both set a maximum size for all detached accessory structures on a lot to be no more than 700 sq. ft. More than one member of this Board said this might be too restrictive and can the Village come up with more permissive rules. Staff feels they have come up with a reasonable way to allow garages or detached accessory structures larger than 700 sq. ft. basically in those situations where people have larger lots. On top of the second page of this memo, highlighted in red, is the language Staff feels is reasonable and Staff is comfortable suggesting as a way to allow larger garages in those situations where people have larger lots.

Chairman Kanelos asked if it was possible for a standard size lot (50' x 125') [not a larger lot] to meet all the other requirements: no more than 33% of the back yard, to meet their side yard and rear yard, to meet their FAR, to meet their impervious lot coverage, et al. If it's possible, why would we want to limit that to only lots that are larger than 50' x 125'? If someone can meet the requirements, he doesn't see why Niles can't upgrade its housing stock so people want to move here. It's getting to a point where a three car garage in a lot of towns is not just a luxury, it is a necessity. If someone meets all the other requirements, he would like to see that first requirement removed. He feels if the petitioner meets all the other criteria, it doesn't really matter what size the lot is. Next, #12, how does that impact the discussion they've had regarding "granny flats." It says no accessory construction may be used for temporary or long-term residential dwelling purposes. He feels that is in conflict with preliminary discussions they've had regarding potential granny flats. Whatever happens, they should probably make it not in conflict.

Mr. Sylvester said the solution to doing that for #12 would be to add language replacing the period at the end with a comma, and then say "except as provided in \_\_\_\_\_", then refer to the section regarding accessory dwelling structures.

Commissioner Schulter said wasn't there some verbiage regarding [inaudible] detached or attached garages too?

Chairman Kanelos said he thinks they are still covered because it would meet the requirements of that other section. He doesn't want anything that is in direct conflict with something.

Mr. Sylvester said he would add that reference.

Commissioner Dubiel said #1 says no accessory structure may be constructed prior to construction of the principle building to which it is an accessory. He said he can a builder put up a garage prior to the principle building in order to store materials as they build. What is that concern?

Mr. Ostman said once they put up the accessory structure it may be two or three years before they put up the primary structure. This is typical language.

Commissioner Dubiel said he thought the permit expired in a year.

Chairman Kanelos said they don't want someone coming in for a permit to build a garage. If it's part of a permit to build an entire house and as part of

the same permit they choose to construct the garage, and then move on immediately to the house because it is one permit, he presumes the Department would not have a problem with that.

Mr. Ostman said correct.

Commissioner Dubiel said then the language will be flushed out to say it correctly. Then #5, he said he thought they talked about 15'; it says 12'.

Chairman Kanelos said that is another one that has to be changed.

Mr. Wlodarski said he believes 12' was for a shed. 15' is for a detached garage.

Mr. Sylvester said this section is for accessory structures. You do not have in front of you rules for garages as he did not print those.

Commissioner Dubiel said he thought this was about garages.

Mr. Ostman spoke of the woman that was in a few months ago whose contractor built a shed that did not pass Village standards. He found out she was not given any condition until after the shed was put up. Everything was verbal over the phone. Now the Village is going after the contractor.

Mr. Sylvester said in a separate section of the draft zoning ordinance it has rules for detached garages. It says they are limited to a maximum height of 15' and a maximum square footage of 700 sq. ft. This will be the section where we add the language that is in red to the garage section. The accessory structure section will remain the same.

Chairman Kanelos asked if the Board can see all the corrections next month.

### ADJOURNMENT

Chairman Kanelos made a motion to adjourn.

Commissioner Dubiel moved to **adjourn**.

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

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

NAYS: 0

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

The meeting adjourned at 8:10 p.m.

Kathleen Janessa, Recording Secretary