

# VILLAGE OF NILES

*1000 Civic Center Drive  
www.uniles.com*



## Final Approved Meeting Minutes

Monday, February 3, 2020

7:00 PM

Village Hall

## Planning and Zoning Board

### Chairman

Thomas Kanelos

### Members

Susan DeBartolo

Morgan Dubiel, Vice Chairman

Ted Karabatsos

Terrence McConville

Barbara Nakanishi

Robert Schulter, Secretary

Charles Ostman, Community Development Director

**CALL TO ORDER/ROLL CALL**

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

PRESENT: 6 Chairman Thomas Kanelos, Commissioners Susan DeBartolo, Robert Schulter, Barbara Nakanishi, Terrence McConville and Morgan Dubiel

Also present was Director of Community Development Charles Ostman, Planning Technician Nathan Bruemmer and Village Attorney Danielle Grcic. Commissioner Ted Karabatsos was absent.

**APPROVAL OF MINUTES**

Chairman Kanelos asked if there were any additions, clarifications or corrections to the minutes of December 2, 2019. There were none. He entertained a motion.

Commissioner Dubiel moved to **approve** the minutes of December 2, 2019.

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

AYES: 6 Dubiel, DeBartolo, Schulter, Nakanishi, McConville, Kanelos

NAYS: 0

ABSENT: 1 Karabatsos

There being six (6) affirmative votes the motion carried.

**PUBLIC COMMENT**

The public is allowed to ask questions or comment after the Board has heard the petitioners' testimony following each case.

**OLD BUSINESS**

None

**NEW BUSINESS**

**20-ZP-01, 7501 N. Waukegan Rd.,**

**A request for approval of a proposed zoning map amendment to rezone the property at 7501 N. Waukegan Rd. from the current 'R-3 –**

**Two-Family Residential District’ to ‘M – Limited Industrial District’, to allow a Contractor and Construction Office to operate at the property.**

Nathan Bruemmer, Planning Technician, presented the case. This case is a request to rezone the property at 7501 N. Waukegan Rd. from the current R-3 – Two-Family Residential District to M – Limited Industrial District. Legal notice was published in the Bugle January 16, 2020; notices to all businesses and residents within 250 ft. of the property were mailed January 15, 2020. An on-site sign was posted on the property January 16, 2020 and an agenda was posted in the lobby of the Village Hall and also on line. Mr. Tom Heskin is the applicant. He owns the property at 7501 N. Waukegan and is hoping to sell the property to Aqua Plumbing, Heating and Cooling Services, Inc. so they can operate a contractor and construction office at the site. Contractor and construction offices are only permitted in the M District. Mr. Heskin is requesting this property be rezoned from R-3 to M. The building was built in 1972 and housed Brilliant Electric, Cooling and Heating. The company was there until 2017. At the time the building was constructed it was zoned B-2 under the old code. The B-2 District permitted contractor and construction offices by right until 2005 when there was a text amendment that made them a Special Use.

Chairman Kanelos asked if the B-2 District was equivalent to today’s M.

Mr. Bruemmer stated it was probably closer to the C district, Commercial. In 2011 the Village Board adopted the 2030 Comprehensive Plan which included a Land Use Plan which intended to provide guidance on land use decisions for the Village. The Land Use Plan suggested multi-family residential for the corridor along Waukegan Road; that includes the subject property. [Site plan is shown on the overhead projector.] In 2016 the Village adopted a new Zoning Ordinance and an updated Zoning Map which rezoned Mr. Heskin’s property to the current R-3 Residential District, as suggested by the Comprehensive Plan. The R-3 District is intended to provide a moderate density environment of single family, two family and townhouse dwellings. The parking ratio set forth in the Zoning Ordinance for a contractor and construction office is 3 spaces per 1,000 sq. ft. of gross floor area. This property would require 10 stalls. The applicant provided a parking plan which is attachment 7 in the packet. The Village cannot use his plan because there needs to be a 22 ft. drive aisle and his plan would not be wide enough. This is in the rear of the property within the fenced area. His plan had 12 spaces. The Village went over it and came up with 10 spaces as required for this use at this location. The metal awning structure at the back of the property would be removed. Staff has concerns regarding the intensity of activity and also increased traffic this business would bring to the immediate

area. These concerns are due to the proximity of a residential area to the south and east. While 10 spaces as required are being met, there is additional concerns about parking. The project description states there will be 19 employees and 9 company vehicles requiring on average 13 spaces. This means a number of employees will be parking on the street in the surrounding neighborhood. Staff has additional concerns to blind spots backing out of stall 3 [shown on the overhead] especially if there is a car parked in stall 4. The fire department has concerns about cars being parked on both sides of Fargo Avenue as far as fire trucks being able to navigate on the street. They also want to make sure no flammable materials are stored outside in the backyard area and also what time the occupants would be making noise in that area. The Village Engineer is also concerned about parking on the street; that approval would be contingent upon company vehicles being parked in the rear between the hours of 5 p.m. and 8 a.m. Community Development also received 2 letters from neighbors [at 6922 and 6966 W. Fargo] concerned about the street parking situation as well. If this Board chooses to approve the map amendment, Village Staff has some recommended conditions for approval on page 6 of Staff report in order to improve the property and minimize its impact on the environs.

Chairman Kanelos informed this Board that since they are an evidentiary board, if they have letters from residents who are not present at this meeting and have no way of being cross examined, this Board cannot use those letters. Make your decision based on testimony given by citizens who are present and can offer their opinion and can be questioned back and forth. This is what we have been instructed to do by the Village's legal counsel. He then asked if parking is permitted on both sides of Fargo.

Mr. Bruemmer answered yes.

Chairman Kanelos said it seems they should be able to find out what is left for emergency vehicles to get through on Fargo if there is parking on both sides.

Charles Ostman, Director of Community Development, said he would be able to get that information right now.

Chairman Kanelos said that would be helpful. This way the concerns of the fire department can be put to rest with the facts. Second, was the change to R-3 initiated by the property owner at the time or by the Village?

Mr. Ostman answered the Village.

Commissioner Dubiel said it is established that parking is non-permitted and allowed on both sides of the Fargo. Are there any reports that the fire department cannot pass down this street? He said the street has been this way for as long as he can remember.

Mr. Ostman said they have not indicated that; they just raised that potential concern.

Commissioner Dubiel then asked if commercial vehicles are allowed to be parked on the street.

Mr. Bruemmer said not in residential districts.

Commissioner Dubiel said if there were commercial vehicles parked on the street, then the residents could call the police, correct?

Mr. Ostman said correct.

Commissioner Dubiel recalls seeing this parcel before. Mr. Heskin came before this Board to make a request that this be used to build townhomes. Apparently, that fell through.

Mr. Ostman said yes, this parcel was approved to build townhomes. The construction costs of building townhomes proved to be too much. The applicant is here tonight to clarify that.

Chairman Kanelos asked why does Engineering care if the trucks are parked in the rear or on the side of the property and not on the street. In other words, there is not enough room to park all 9 vehicles in the rear. What is the problem with parking on the side, as long as they are not on the street?

Mr. Bruemmer said he thought it was aesthetics.

Commissioner Dubiel said as a point of order, the Board has asked these departments to be at the Zoning Board meetings. The Board has no way to cross examine and has to guess and read their minds as to the concerns.

Chairman Kanelos said the Commissioners are free to disregard other department concerns if they do not have a satisfactory answer.

Commissioner McConville asked what is the definition of commercial vehicles? Is it trucks, or trucks and cars, or something that has a commercial logo?

Mr. Ostman said according to the Village it is a vehicle that has a B license plate or higher or like a taxi cab.

Chairman Kanelos said an automobile or van that has a logo on the side for business is not considered to be a commercial vehicle, correct?

Mr. Ostman said he would have to read the ordinance.

Commissioner Nakanishi asked for Mr. Bruemmer to bring the site map up on the overhead screen once more. She asked if there is a floor plan for this building.

Mr. Bruemmer said not at this time. The applicant said that would be contingent on this rezoning.

Commissioner McConville asked what is the status on this property at this time. He has recently driven past a few times and there seems to be development going on. Has there been any movement to develop it residentially or any other development?

Mr. Bruemmer said the applicant can speak to what is going on there.

Commissioner McConville said it is not only this property. It seems there are a number of developments going on in the area.

Mr. Bruemmer said there have been some preliminary developments but nothing has been approved by the Village.

Village Attorney Danielle Grcic defined a commercial vehicle as any vehicle that is operated for the transportation of persons or property for any commercial or industrial enterprise for hire or not for hire; but not including a commuter van used for ride sharing. Yes, they look at trucks with a B plate but also what is the primary purpose. Generally, if there is a decal on it, it could be a car or a van. If there is a decal, for example, that says Grcic Law Office, it could be owned by the Grcic Law Office and they assume it is a commercial vehicle.

Chairman Kanelos said however, if there is a vehicle parked not marked in any way, it could be a company vehicle or an employee coming to work, correct?

Ms. Grcic said correct. There has to be some indication that it is used for commercial purpose; or if not, that it is used for recreational purpose.

Commissioner Dubiel addressed Mr. Bruemmer and said he provided a list of conditions on page 7. Some of them do not seem to be conditions, they are just practical. The metal awning is coming down anyway. How tall is the current chain link fence?

Mr. Bruemmer said he is not sure. The applicant said he would be taking care of the fence. The condition is to make sure that happens.

Commissioner Dubiel said that is a condition because a chain link fence can be seen through. He is concerned that if they screen the fence and it blocks the view, it puts constraints on the owner.

Mr. Bruemmer said in the Building Code there is a section on fences. It has transparency requirements so the owner would have to meet that.

Commissioner Dubiel said the company vehicles must be parked on the property from 5 p.m. until 8 a.m. It is already illegal to have commercial vehicles stored on the street. We just heard that in testimony.

Mr. Bruemmer said he thinks it would be helpful to have some sort of covenant to assist with enforcement.

Ms. Grcic said the law is in place for the residential district. Now if we change this and it is no longer a residential district, it could be a question of where these vehicles are parked. She agrees with Staff it makes sense for consistency purposes.

Commissioner Dubiel then asked about the landscaping improvements. The Village plants trees in parkways, correct?

Mr. Bruemmer said Mr. Ostman can answer that better than he.

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

Tom Heskin, petitioner, 6939 W. Balmoral, Chicago, IL and James Demeo, Aqua Plumbing, Heating and Cooling Services, Inc., 9682 Reding Circle, Des Plaines, IL came forward and were sworn in.

Mr. Heskin said when he was operating the electrical contracting business there, at times there were 40 employees out in the field, 6 office staff, numerous vehicles in the back. The vehicles were always kept off the street and on the property. He tried to satisfy the neighbors at all times. There were a few instances when his crew parked east of the alley in front of

neighbors' homes during the day. When neighbors told us about it, we told the employees that was no longer permitted. Mr. Demeo can tell the Board how his business will operate. As far as the fence, it was his understanding they could do a 6 ft. cedar because the homeowner to the east wanted a cedar fence. Now that is not possible because it is not transparent.

Chairman Kanelos said that probably would not be an issue because when a business abuts a residence, the Village will allow a fence that is not see through.

Mr. Ostman said there would be a certain section closest to the sidewalk where there has to be a line of sight. That would be the only thing required.

Mr. Heskin said he was told the fence could be 6 ft. until where the building ends, then it would be dropped down to 4 ft. It would still only go as far as the code allows.

Chairman Kanelos asked how far back off the sidewalk will it have to be.

Mr. Ostman said the diagram is in the Code of Ordinances. He does not remember the distance is right now.

Chairman Kanelos asked how long has the property been vacant. Before it was vacant it was still operating as a contractor. Since then there has been no business in the location, correct?

Mr. Heskin said roughly 2 years. There has been no business in there since.

Commissioner Nakanishi said there is no floor plan showing yet. She wanted to point out the handicapped parking stall should be directly in front of the entrance.

Mr. Heskin said the issue with that is the entrance would be on Waukegan.

Commissioner Nakanishi said that would be spot 10.

Mr. Ostman said he knows the site well. Spot 1 would comply with the accessibility code.

Commissioner Dubiel asked Mr. Ostman for the information regarding the street.

Mr. Ostman said the street width, curb to curb, is 23 ft. The total width of the right of way is 55 ft. The standard street right of way is 66 ft. Therefore,

that street is substandard. The width of a legal parking spot, if you went by the code, is actually 9 ft. But he figures this would be about 7 ft. if there was a vehicle parked up against the curb. That would leave 7 ft. in the middle. He feels it would be very difficult for a fire truck to be able to pass down a 7 ft. aisle.

Chairman Kanelos said the Village could make one side of the street no parking.

Commissioner Dubiel said this is all surmised because the fire department is not here to testify. He verified with Mr. Heskin this is a sale and that he was before this Board earlier.

Mr. Heskin said after all construction costs were formulated, it was not cost effective to pursue construction of the townhomes. The Village did rezone the property residential and he tried to comply.

Commissioner Dubiel addressed Mr. Demeo. He asked if he feels he could comply with any conditions imposed and that his employees would respect the neighborhood.

Mr. Demeo said there would be no problems. Being a service contractor, they want to be good neighbors and continue doing business in that area. If we are causing problems with our neighbors, they are not going to turn to us when they have plumbing and heating, cooling and sewer issues. He lives in Des Plaines. He went to Ballard School before it closed down, graduated from Gemini Junior High School, then graduated from Notre Dame High School. He married, lived in Park Ridge behind Our Lady of Ransom, just recently moved to Des Plaines.

Commissioner McConville asked if the business is currently located in Niles.

Mr. Demeo said yes. The business has been in Niles 10 years; prior to that it was in Wheeling; prior to that in Niles again behind the former King Nissan. He was part of Admiral Plumbers. He split the companies and then came back to Niles.

Chairman Kanelos asked how many employees are on each truck. Are the 9 company vehicles all vans?

Mr. Demeo said he has 4 plumbing trucks that are Promasters [2018 and 2019]; 2 HVAC trucks [2007 E-250s]. Those are the only trucks that move every single day. 2 of the plumbing trucks are with the technicians at their homes so they do not come back to the shop. The only time would be on

Wednesday mornings for a weekly 7 a.m. meeting. In addition, there is available parking in the building where they would keep the excavator and a pull-behind jet rod. They also have a dump truck and a pick-up truck. Chairman Kanelos said that adds up to 8. So, you do not have 9 vehicles?

Mr. Demeo said that is correct.

Chairman Kanelos said that 2 of the trucks are home overnight with technicians. Therefore, for overnight parking you only need 6 of the 10 spots.

Mr. Demeo said what he would like to do is leave spots 2 and 3 for the trucks that are on call that may go out during the night on an emergency call. This way they could easily get in and out of the yard with less noise. The guys can come, put their cars in the truck spot, go out on the emergency call, come back and switch the truck with the car and go home.

Chairman Kanelos asked what time his employees come to work.

Mr. Demeo said they have to be at the shop by 7:30 a.m. for dispatch at 8 a.m.

Commissioner McConville understands there is no floor plan yet. Mr. Demeo mentioned that some vehicles would be pulled inside at night. How many vehicles will that be?

Mr. Demeo said an excavator and pull-behind jet rod.

Chairman Kanelos sees a potential problem when people come in for work, park on the street, get in the truck and leave for a job. It would be important they get in their truck, pull out, then put their car in the truck spot.

Commissioner Dubiel asked if there are any records or problems with this plumbing company.

Mr. Ostman said he is not aware of any problems with this company.

Sylvia Manno, 6930 W. Fargo, Niles, IL came to the podium and was sworn in. Should they zone that part of the building where employees park? She assumes they have office help. Is there going to be enough parking for employees and residents because across the street is a 3-unit apartment building. A lot of those people do not park behind the building, but park on Fargo.

There was discussion regarding parking as the parties were looking at the overhead map of the area.

Ms. Manno wants to make sure there is room for the school bus, the fire truck, the snowplow. Will there be room for everyone?

Chairman Kanelos said his suggestion, if it came to that, making one side of the street no parking, not both sides. We are just giving ideas here to help with the situation.

Mr. Heskin explained why the fire department was concerned about spaces 10, 11 and 12. When his business was at this location, he had a 40 ft. 18-wheel tractor/trailer storage container parked there and was able to get vehicles in and out of spaces 4, 5, 6, 7 and 8.

Commissioner DeBartolo asked how many office people would be at this location during the day.

Mr. Demeo said there will be 6 including himself. He will see if he can open up the grassy area next to the handicapped spot for more parking for employees. That depends on if this request tonight goes through.

Mr. Ostman said that would require a variation so they would have to come before this Board with that request at a later date.

Chairman Kanelos said it is unfortunate that request was not part of tonight's request. The citizens would then know there would be 2 or 3 more parking spots.

Beata Kopicz, 7021 W. Fargo, Niles, IL, came to the podium and was sworn in. In the past there were so many employees that people parked in front of her home. Is there any chance they could get residential parking permits? She feels if they have 6 or more employees, they will park on the street.

Chairman Kanelos said that is not something the Zoning Board handles.

Mr. Ostman stated that request would have to go through the Village Manager.

Chairman Kanelos said right now they are telling this Board they have enough parking for 10 of the 12 vehicles [6 employees and 6 trucks]. Company vehicles have to be off the street overnight. Employees would not be parking on the street overnight because they do not live there. He asked if there were any other questions from the public. He also asked if there were any more questions for Staff from the Commissioners. There were none. He entertained a motion.

Commissioner Dubiel moved to **approve** case 20-ZP-01, a request for approval of a proposed zoning map amendment to rezone the property at 7501 N. Waukegan Rd. from the current 'R-3 – Two-Family Residential District' to 'M – Limited Industrial District', to allow a Contractor and Construction Office to operate at the property with the following condition: company vehicles will not be parked on the street.

Seconded by Commissioner McConville.

Chairman Kanelos asked to add the condition that an existing chain link fence on the property line should be replaced with a 6 ft. fence to screen subject to the proper line of sight requirements of the Village. Will the maker of the motion and the second accept that? He also added a condition that the asphalt area in #2 be replaced with grass. He is not saying anything about a tree, just grass.

Commissioners Dubiel and McConville accepted and approved those conditions.

On roll call the vote was:

AYES 5 Dubiel, DeBartolo, Nakanishi,  
McConville, Kanelos

NAYS: 0

ABSTAIN: 1 Schulter

ABSENT: 1 Karabatsos

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

Chairman Kanelos stated this Board is a recommending Board to the Board of Trustees who can either confirm or negate this recommendation. It will be necessary for the petitioner to contact Mr. Ostman and ask to be placed on the Board of Trustees agenda. The petitioner will then be notified of the date and anyone in the audience who would like to be informed of the Board of Trustees date should leave their name and address with the recording secretary.

**20-ZP-02, 8255 New England Ave.**

**A request for approval of a Variation from Section 4.3(A) to allow an interior side yard setback (east) of 5.7' where 6' is required, and a rear setback (south) of 4' where 15' is required.**

Chairman Kanelos stepped down and recused himself from this case. He asked Vice-Chairman Dubiel to take the chair.

Nathan Bruemmer presented this case. A legal notice was published in the Bugle on January 16, 2020; notices to property owners within 250' were mailed on January 15, 2020. An on-site sign was posted on the property on January 16, 2020 and legal notice was posted on-line and in the lobby of the Village Hall. Mr. Tom Kanelos is the applicant. He is the general contractor for this project. He is proposing to demolish and reconstruct a non-conforming attached garage for his client Mr. James Filipek, homeowner, at 8255 New England Ave., Niles. The property is zone R-2-35A, Single Family Residential, and is located on a shallow corner lot which is why there is that shallow rear setback. The R-2-35A district requires a rear setback of 15' for corner lots with an attached garage, and an interior side yard setback of 6' for houses with an attached garage. Mr. Kanelos is proposing to rebuild the attached garage as it stands today, with a non-conforming side yard setback of 5.7' and a non-conforming rear yard setback of 4'.

Vice-Chairman Dubiel said the R-2-35A district was invented because of these small lots, correct? When measuring for where these setbacks are, do we measure from the narrowest or the broadest part of the property?

Mr. Bruemmer stated most narrow.

Vice-Chairman Dubiel asked if there is any way this garage could be placed on another part of this property. He has studied it and does not see that it would work.

Mr. Bruemmer said it would be tough to relocate the garage on this property.

Vice-Chairman Dubiel asked if there were any questions from the Commissioners for Staff. There were none. There were no questions from the public. He entertained a motion. Mr. Kanelos has recused himself from the vote.

Commissioner DeBartolo moved to **approve** item 20-ZP-02 for 8255 New England Ave. This is a request for approval of a Variation from Section 4.3(A) to allow an interior side yard setback (east) of 5.7' where 6' is required, and a rear setback (south) of 4' where 15' is required.

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

AYES	5	DeBartolo, Schuler, Nakanishi, McConville, Dubiel
NAYS:	0	
ABSTAIN:	1	Kanelos

ABSENT: 1 Karabatsos

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

**DISCUSSIONS**

None

**ADJOURNMENT**

Chairman Kanelos entertained a motion to adjourn.

Commissioner DeBartolo moved to adjourn.

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

AYES: 6 DeBartolo, Schulter, Nakanishi, McConville,  
Dubiel, Kanelos

NAYS: 0

ABSENT: 1 Karabatsos

There being six (6) affirmative votes the motion carried.

The meeting adjourned at 7:54 p.m.

Kathleen Janessa, Recording Secretary

Please notify the following people of the next Board of Trustees meeting:

**Case 20-ZP-01**

James Demeo, Aqua Plumbing  
9682 Redding Circle, Des Plaines  
Cell: 847-208-6310

Beata Kopicz  
7021 W. Fargo, Niles  
Cell: 847-830-9065

Sylvia Manno  
6930 W. Fargo, Niles  
Cell: 847-691-7018