

VILLAGE OF NILES

*1000 Civic Center Drive
www.uniles.com*



Final Approved Meeting Minutes

Monday, August 10, 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

This Electronic Meeting is open to the public and the public may submit public comment in advance. Public comments will be accepted by email and phone call beforehand. Members of the public who would like to make a comment during the hearing via Zoom may sign up using the online form at www.vniles.com/august10speak. Public comments received by 5:00 p.m. on the day before the meeting will be read at the beginning of the meeting. Any comments received during the meeting will be held until the end of the meeting. Public comments should be emailed to nbb@vniles.com and contain: name; address (optional); city; phone (optional); and the agenda item you would like to comment on. Members of the public with no access to email may leave a message at 847-588-8077.

CALL TO ORDER

The Niles Planning and Zoning Board was called to order at 7:02 P.M. All rose for the Pledge of Allegiance.

Statement read by Chairman Thomas Kanelos:

Due to the ongoing Covid-19 corona virus pandemic and the Governor's statewide stay-at-home order suspending certain open meeting acts requirements, this meeting will be conducted remotely. The Commissioners and Staff participating in tonight's meeting are all in different locations in accordance with social distancing guidelines. It is important that the cases scheduled tonight be heard to continue critical Village business which will enable ongoing construction, development, protection of property values and the promotion of the Village's economic vitality. Any individual desiring to listen and/or participate in this meeting through the electronic meeting platform known as Zoom has been provided that opportunity by the Community Development Department in advance of the meeting. Finally, members of the public had the opportunity to submit written comments in advance of the meeting. These methods of public participation have been publicized on the Village website, through notices for each case including newspaper publication and on the agenda for tonight's meeting. And finally, since we are using Zoom for tonight's meeting, we anticipate there could be some problems as we move through the agenda. When it is time for speakers, either petitioners or members of the public to speak, you will be unmuted. Staff will call all speakers by name and speakers will be able to raise your hand through Zoom to help us facilitate unmuting. After you speak, you will be muted again. Please note there may be a slight delay between being unmuted and being able to begin speaking. A reminder: all speakers are asked to present their comments in a respectful and courteous manner, as you always do. If inappropriate language or comments are expressed during

this meeting by the public or any other speaking person, we will mute that speaker and end their participation. Thank you.

PLEDGE OF ALLEGIANCE/ROLL CALL

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

PRESENT: 5 Chairman Thomas Kanelos, Commissioners Ted Karabatsos, Susan DeBartolo, Robert Schulter and Barbara Nakanishi

Also present was Director of Community Development Charles Ostman, Planner I Nathan Bruemmer, Senior Planner Kate Lockerby and Village Attorney Danielle Grcic. Commissioners Terrence McConville and Morgan Dubiel were absent.

APPROVAL OF MINUTES

Chairman Kanelos asked if there were any additions, clarifications, or corrections to the minutes of July 6, 2020. There were none. He entertained a motion.

Commissioner Nakanishi moved to **approve** the minutes of July 6, 2020.

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

AYES: 5 Nakanishi, Karabatsos, DeBartolo, Schulter, Kanelos

NAYS: 0

ABSENT: 2 McConville, Dubiel

There being five (5) affirmative votes the motion carried

PUBLIC COMMENT

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

OLD BUSINESS

None

NEW BUSINESS

1. 20-ZP-08, 7104 Touhy Ave.

A request for approval of a Variation from Section 18-171 of the Village Ordinance (as allowed by Section 18-172) to allow a fence that extends beyond the front building line.

2. 20-ZP-09, 7104 Touhy Ave.

A request for approval of a plat of subdivision for the property located at 7104 Touhy Avenue.

Nathan Bruemmer, Planner I, presented the first two cases involving the same property at 7104 Touhy Avenue. The site is a proposed Niles Police Garage. However, after presentation they will be voted on separately. He read both requests at this time. A legal notice was published in The Bugle on July 23, 2020; notices to all property owners within 250 ft. were mailed July 22, 2020. An onsite sign was placed on the property on July 23, 2020 and the agenda was published on the Village website as well as in the Village Hall. It is being shown on the overhead exactly where this proposed fence would extend beyond the front building line. The greater site is located at the northwest corner of the Milwaukee and Touhy intersection and is zoned P-I 'Public Institutional'. The police parking facility will include indoor and outdoor parking, animal control, storage and a car wash. The location of the new police garage is just west of the police station and east of the Niles Community Rain Garden and was formerly the site of Niles Public Works facility. No changes to the property use are proposed outside of the 7104 Touhy site. Other existing uses at the site include a water plant, police station, police parking, snow dump and a public rain garden.

For case 20-ZP-08, the request is for a variation from Section 18-171 of the Village Ordinance (as allowed by Section 18-172) to allow a fence that extends beyond the front building line of a property. Section 18-172 states that in the P-I Zoning District, a request for a variation from Village fence requirements may be made to the Planning and Zoning Board.

The second part of this case is 20-ZP-09, a request for a plat of subdivision. This entire campus is 7.9455 acres or about 240,000 sq. ft. The proposal would consolidate lots 30 and 33 in Reichel and Ablamowize Addition to Niles, part of Lots 31 and 32 in Reichel and Ablamowize Addition to Niles, Part of Lot 31 in WM West & others Subdivision, and part of Lots 1 and 2 in the Subdivision of Lot 19 in WM West & Others Subdivision into a single cohesive lot.

Chairman Kanelos asked if there were any questions for Staff from the Commissioners. Hearing none, he asked if the petitioner was present.

Tom Powers, Village Engineer and Fred Braun, Director of Public Works, both of the Village of Niles Public Works Facility at 6849 W. Touhy Ave., came to the podium and were sworn in.

Mr. Powers said the intent is to create a secure area for the Police Department and the water plant.

Chairman Kanelos asked if there were any questions from the Commissioners. There were none. There were no questions from the public.

Chairman Kanelos entertained a motion for 20-ZP-08.

Commissioner DeBartolo moved to **approve** item 20-ZP-08. This is a request for approval of a Variation from Section 18-171 of the Village Ordinance (as allowed by Section 18-172) to allow a fence that extends beyond the front building line at 7104 Touhy Ave.

Chairman Kanelos asked if the motion includes that the petitioners have met the burden of proof set forth in Niles' ordinance.

Commissioner DeBartolo answered yes.

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

AYES: 5 DeBartolo, Schulter, Nakanishi, Karabatsos,
Kanelos

NAYS: 0

ABSENT: 2 McConville, Dubiel

There being five (5) affirmative votes the motion carried

Chairman Kanelos then entertained a motion on 20-ZP-09.

Commissioner DeBartolo moved to **approve** item 20-ZP-09, a request for approval of a plat of subdivision for the property located at 7000 - 7114 Touhy Avenue.

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

AYES: 5 DeBartolo, Schulter, Nakanishi, Karabatsos,
Kanelos

NAYS: 0

ABSENT: 2 McConville, Dubiel

There being five (5) affirmative votes the motion carried

This Board has the final say for item 20-ZP-08.

However, for item 20-ZP-09 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.

3. 20-ZP-10, 8100 Oakton St.

A request for approval of a Variation from Niles Zoning Ordinance Section 10.4 (Table 10-2) to allow for a reduction in the required number of parking spaces from 16 to 0.

Nathan Bruemmer presented this case. Legal notice was published in The Bugle on July 23, 2020. Notices to all property owners within 250 ft. were mailed July 23, 2020 as well. An onsite sign was posted on the property on July 23, 2020. A notice was placed online and in the Village Hall. Mr. Simon Enwia of Flawless Homes, LLC, recently purchased the two-story building at 8100 Oakton St. the property currently has 5 small commercial spaces on the first floor, and two apartment units and a dentist's office on the second floor. Mr. Enwia is proposing to convert the dentist's office space into three additional apartment units on the second floor, resulting in 5 total upstairs units, while leaving the existing commercial spaces on the first floor. The building was built in the early 1960's, and the property has no onsite parking. It is unclear exactly how this came to be, but the applicant's submitted materials reference an 'accidental sell-off' of the parking lot by the previous owner. The property is being shown on the overhead screen. When more than one use occupies the same lot, the total number of required parking spaces is the sum of the separate requirements for each use (section 10.4 (C)). While we have established there is no onsite parking at this property, the required parking for the existing uses onsite would be 17 stalls. There is a breakdown in the packet. By converting the dentist's office into three apartments, it would reduce the required number of spaces by 1, down to 16. Even though the number of spaces is being reduced by 1, section 10.1 (C) states 'when any structure is increased in size through additions, expansions, or any increase in floor area, or if additional dwelling units are created, then additional parking and loading spaces must be provided as required by this Ordinance,' thus requiring Mr. Enwia to seek zoning relief.

Chairman Kanelos asked how does one accidentally sell property? Do we have any idea how this happened?

Mr. Bruemmer said Staff has no idea how this happened.

Chairman Kanelos asked if Commissioners have any questions for Staff.

Commissioner Schulter said notice was put out to all nearby residents. Did you get any feedback?

Mr. Bruemmer said he has a few letters to read during the public comment period. He received a few phone calls expressing concern about parking, notably people who live on Prospect Court. They were advised they could attend the Zoom meeting or send an email but have not done so yet.

Chairman Kanelos asked if it was common to obtain permits to build residential units that do not have parking onsite.

Mr. Bruemmer said it would have to be sent for a variation.

Chairman Kanelos then said it would be very rare for a building or modification to a building to get approved with no parking.

Mr. Bruemmer said yes.

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

Let the record show Commissioner Terrence McConville joined the meeting at 7:33 P.M.

Petitioner Simon Enwia, Flawless Homes LLC, 4819 Main St., Skokie, IL 60077, was sworn in. He recently purchased the Banneret building from the dentist, Dr. McMahon. The dentist has owned it for decades. Originally the building had 5 apartments on top with commercial space on the ground floor. Dr. McMahon converted 3 or 4 apartments to his dental office. Subsequently Mr. Enwia is trying to restore the apartments back to their original shape. The parking is unique. The current tenants, both commercial and residential, have not received any complaints. Keeping this as a dental office or a similar type of use would be more of a burden for parking in the area. If this request is denied, we would then have to keep the upstairs office in place so there would be no changes in the parking situation. They [his company] feel it is a bigger issue that way as opposed to changing it to 1-bedroom apartments. The reason being you would have the doctor, nurses, front end staff, patients coming in. They understand there is a requirement for 2 parking spaces per apartment. From what he has seen, 1-bedroom apartments do not usually have 2 cars. There is public transportation and

with the gig economy, people are not needing their cars as much. They feel it would benefit the tenants, the neighbors, and the Village if they could go back to having 3 additional 1-bedroom apartments.

Chairman Kanelos asked where people park now?

Mr. Enwia said parking happens at the bank [NorthSide Community Bank] next door. The bank has no objections or promotions for that parking. They are not going to sign any type of long-term lease for overnight parking. There have been no issues. It is a gentlemen's agreement the seller previously had with the bank. Overnight residential tenants are parking at the bank. During the day some park in the neighborhood nearby. This is based on asking the tenants in the building. He spoke with the bank vice-president and he has no issues with overnight parking. They simply cannot have any kind of contract on paper.

Commissioner Schulter asked how long Mr. Enwia has owned the property.

Mr. Enwia answered since March 31, 2020.

Commissioner Schulter said the previous owner sold the parking area. Is that correct?

Mr. Enwia said he has tried to piece together what happened before he was even born. When the Banneret building was constructed, there was a grocery store where the bank now stands to the east and there was a gas station to the west. There were parcels that belonged to the supermarket and the gas station. His understanding is they were sold off. The gas station was surveyed years ago and found that the parking spots they thought belonged to the Banneret building were sold off some time ago and do belong to the gas station.

Commissioner DeBartolo asked if they are increasing the overnight parking, can the bank take an additional 6 to 8 cars and will the gentlemen's agreement stay in place? She thinks the residents will park around the corner in the Prospect Court cul-de-sac.

Mr. Enwia said he cannot say what the bank may do. The bank has 40 to 50 parking spots adjacent to the Banneret building. He wants the Board to know that because he bought the property during the Covid crisis, his company forgave all the leases for one month on the property. They have commissioned a mural for the side of the building. That was in lieu of rent from one of the tenants who is an artist.

Commissioner DeBartolo thanked him for helping the people of Niles. What if a tenant has a party or they have kids come visit? Where is everyone going to park?

Mr. Enwia understands this is a non-compliant parking issue. They also recognize these are 1-bedroom apartments and do not think there will be families living there. They are trying to choose the option that is least destructive. They believe if they do not get the variance, it will be more detrimental to keep it as a medical office.

Chairman Kanelos asked why he thought it would be more detrimental.

Mr. Enwia said based on minimum requirement from the Zoning Department. They are looking at a medical office that would require 7 parking spaces as opposed to three 1-bedroom apartments that would require 6 spots. They feel it would be less than that. In the leases, they will say there is no parking included with this property. That would deter potential tenants but at least they will understand the situation. With a dental office you will see several people going in and out, besides staff. They think that number will be more than any type of residential use. So far there are zero problems from the residential tenants or the commercial tenants.

Commissioner DeBartolo asked if this was taken into consideration because of the pandemic and there was not a lot of traffic in and out of the building.

Mr. Enwia said the commercial space, yes. Many of them were closed. The residential tenants were still there parking day and night and there were no problems with the bank because of parking.

Commissioner DeBartolo said that there are supposedly 7 parking spots for the dental office. But if that is changed to apartments, you do not see anything detrimental with the increase in cars overnight?

Mr. Enwia said he thinks if there were to be a problem, it would be parking during the day, not overnight. Currently there are 5 commercial tenants including the dental office. Based on how it is now, they are looking at 4 overnight residential parking spots and 13 for the commercial tenants. If it changes how they are proposing, it will balance it out a little more.

Chairman Kanelos asked if he could see a situation where neighbors would not complain about parking during the day whereas if tenants start parking overnight the Chairman says it could be a problem. He asked Mr. Bruemmer if he has heard from the neighbors.

Mr. Bruemmer read 3 emails he received.

Jim Cash, 8015 W. Prospect Ct., Niles

I am a homeowner on Prospect Court for 24 years. My concerns for change of use for parking and traffic are:

1. We have a great number of school children on Prospect. Added traffic would complicate the issue.
2. Resident and visitor parking will be limited.
3. Public services will be greatly affected. We now have snow removal and leaf pick up curb to curb without side cars.
4. It would bring in outside people with no respect for residents.
5. There is no parking for anyone in this building at 8100 Oakton. My understanding is that people in building now use bank parking next door. New owner needs obtain parking on Oakton Street per zoning for business and apartments and not on Prospect Court.

Claudia Antal, 8109 W. Prospect Ct., Niles

I am very sad to hear this beautiful cul-de-sac might be the new parking lot for the apartment building at 8100 Oakton St. We bought this house 2 years ago especially for the quietness of this area. We would never have purchased it if we knew this situation might happen. Please take into consideration the residents who have been living here more than 20 years and the new residents who chose to live here. We also accepted to pay the property taxes for this area just because we love it the way it is.

Soon B. Lee, 8114 W. Prospect Ct., Niles

Because of the reduction of parking at the apartment building at 8100 Oakton St., residents of this building will park on our lane and we will have a parking problem. Garbage pickup, lawnmowing cars [service], snow cleaning and it will be too crowded in the area. Please consider it. Thank you.

Mr. Bruemmer had a couple of call-ins and they echoed those same sentiments.

Chairman Kanelos said the Covid pandemic has the Board handling things in a different way. Normally they like to have people come in person and who can be sworn in and questioned about their testimony. It is unfortunate it cannot be that way right now. What would your response be now that parking is going to be an issue? Chairman Kanelos said it would be an issue for him personally as well.

Mr. Enwia answered essentially, they are going to park there anyway in the current use. They are trying to change that burden because if residents think it is dangerous with strangers coming in and out, it will be worse with a

medical office that has more traffic than 3 1-bedroom apartments which may or may not have vehicles. They are looking at it as going from 16 to 0 when in fact they are changing it from one medical office to 3 small units. He suspects most people will continue parking at the bank which has not been a problem. He does not have control of the bank so he cannot force tenants to do that. Whoever may park on the cul-de-sac, he cannot predict. Are they going to be residents from the apartments upstairs or clients of the businesses on the ground floor? If they must choose, he understands it is a non-compliance issue. He feels it is the lesser of two evils.

Chairman Kanelos said that is your assessment that it is the lesser of two evils. People may feel the overnight parking is a bigger issue than the daytime parking.

Commissioner Karabatsos asked what is the occupancy for the building right now?

Mr. Enwia said it is 100% occupied.

Commissioner DeBartolo asked how many people in the building have cars? Do you know what bus route runs down Oakton to get to major areas?

Mr. Enwia knows that the 2 existing apartments have one vehicle each. There is an artist, a salon, a dental lab [not connected with the former dentist office upstairs] and an accessory business.

Commissioner Nakanishi stated Pace bus 226 has a route on Oakton from Jefferson Park.

Chairman Kanelos asked if when he purchased the property, did he know it had no parking?

Mr. Enwia said they knew there was a parking deficiency and it was brought up to Village Staff. They felt by reducing the parking requirement there would not be any issues with the change. He knew there was zero parking. It is a unique building.

Chairman Kanelos said if you knew this was a parking problem when you purchased the building, it is a hardship that you created. There was no guarantee and you took the risk placed yourself in this position.

Mr. Enwia said they purchased the building with the belief the parking requirement could be changed without an issue. He disagrees because they did their due diligence and asked if this would be a problem.

Chairman Kanelos asked if anybody at the Village told you there would be a problem to have zero parking.

Mr. Enwia said they were initially approved for zoning and then Chuck [Ostman] realized there was an issue that had to go before the Zoning Board. The original application was approved. But then that approval was retracted after closing by Chuck when he wanted it to go to the Zoning Board.

Commissioner Schulter asked if it was retracted after you closed on the property?

Mr. Enwia stated yes. There was a formal approval after they closed, then that was retracted. He went through the whole process. They would not have purchased the property if they thought they were going into a hodge-podge. This was the original use of the property – 5 apartments upstairs with commercial businesses on the ground floor.

Commissioner Schulter said this building has been like this for years. Essentially what you are asking is to reduce it by one parking spot. Did the Village tell you how long there has been no parking for this building?

Mr. Enwia said yes. If residents see it going from 16 to 0 it is going to freak them out. But they are not seeing the full merits of the case. He said no one knows how long no parking has been in effect. The dentist who recently retired is 85 years old and has been there a long time. At some point years ago a survey taken for the building found that the parking spots they were using on the west side belong to the gas station.

Chairman Kanelos asked if he tried to make an arrangement with the gas station.

Mr. Enwia said they are using their spots and cannot spare any parking spots.

Commissioner DeBartolo asked about the art studio. She believes they park on the side by the gas station.

Mr. Enwia said there is a nice-looking fence to keep people from parking at the gas station.

Mr. Ostman said he thought there was some kind of agreement with the gas station but that went away 4 to 6 years ago.

Commissioner Schulter asked Mr. Ostman about the building. Mr. Enwia is asking to change the parking requirements but what happened to the zoning requirements when the building was constructed.

Mr. Ostman stated that happened so long ago he has no information regarding the parking requirements. This is one of two properties in the Village of Niles that has no parking for a business/residential combination.

Commissioner Schulter said Mr. Enwia is converting a dental office into apartments. Didn't he need a permit to do that – then all this parking problem would have come up at that time.

Mr. Ostman said no permit was required. It is permitted to go from residential to commercial in a mixed-use building. That is new with the new zoning code that was adopted several years ago. Prior to that, how it occurred, he has no idea. The only other property like this is at Oakton and Oriole. There is business on the ground floor and residential units above and they do not have their own parking.

Mr. Bruemmer said in every commercial district in town there can be residential units above retail spaces.

Commissioner Schulter said based on Mr. Enwia's information, the existing parking is 17, even though there are none. The proposed use is cutting it to 16. Is that per the Comprehensive Plan? And if we do not approve it, it will stay status quo because there is nothing you can do about it.

Mr. Ostman said yes. The concern he has is the adjacent parking on residential streets.

Chairman Kanelos agrees because he thinks the overnight parking would tend to be on the residential street. To be honest, if there are 5 or 10 cars overnight at the bank, all it takes is one inconsiderate person leaving garbage causing the bank to say no more overnight parking here. Do we have any streets set up in Niles for permit parking only?

Mr. Ostman said Franks Avenue has a sign for residential parking and they require approval from the police department for guests. Another may be Ebinger but he is not certain. There may be some streets where a sign is erected that says residential parking only but that is not enforceable. There is no ordinance that supports it.

Commissioner Schulter asked Mr. Enwia about what he said earlier – that this building is 100% occupied.

Mr. Enwia said yes, apart from the dentist office that is being converted into 3 apartments.

Commissioner Schuller asked Mr. Ostman if the Village had anyone drive to the location of this building during the day or at night to see about the parking situation. Has the Village had any issues with people from the neighborhood complaining about this parking issue? Historically, this is not a troublesome area, correct?

Mr. Ostman said no because there have been no complaints. The only complaint received going back a few years ago was between the gas station and the building owner. The gas station did not want any of the building's patrons parking at the gas station. Again, he knows the bank has allowed the building residents to park on their property. But it would have to be recorded as an agreement with the bank to ensure continuous use. No, there has been no trouble based on sparse occupancy.

Commissioner Karabatsos asked Mr. Enwia if he has bought other properties and made them contingent on certain things. Was the dental office vacant when he closed on the property? Did he market the dental office to see if another dentist would be interested in that space?

Mr. Enwia said yes, he has bought other properties. The dental office became vacant upon closing. They did not market the dental office because they were going full force with the apartments believing that before closing and after closing that would not be a problem. They did ask about it. Currently, the construction status for the 3 apartments is pending based on the outcome of this hearing.

Commissioner Karabatsos asked Mr. Ostman is there was a demolition permit issued for the dental office.

Mr. Ostman said there was no permit issued.

Mr. Enwia said they took out the appliances, the flooring and items that do not need a permit. There have been walls demolished.

Commissioner Nakanishi said it was brought up about signage for residential parking only, but it is not enforceable. What about parking by permit signs such as those near a train station? Is that a possibility for those 2 cul-de-sac streets?

Mr. Ostman said the Village refrains on any type of permit parking.

Chairman Kanelos asked why is that?

Mr. Ostman said he does not know.

Chairman Kanelos said right now they can leave it the way it is with the 17 spaces and they will have to put some sort of commercial business on the second floor. But changing it to 3 more apartments and approving the parking change by 1, there is a possibility it could increase the parking problem on the street.

Mr. Ostman said, in his opinion, yes.

Commissioner Schulter said he would like to table this until next month. He never knew there was no parking over there.

Chairman Kanelos when parking issues like this have come up in years past, often the petitioners were made to do a parking study. Why can't they do a study that tells how many visits there are, how many people, how many do park in the bank, etc.?

Mr. Ostman said you can certainly request a parking study.

Commissioner Schulter feels the 7 Commissioners should drive over there and see for themselves the actual parking situation. It is a unique situation. He does not feel it would be fair to vote on it without seeing the property set up.

Chairman Kanelos entertained a motion.

Commissioner Schulter moved to **table** item 20-ZP-10, 8100 Oakton St., a request for approval of a Variation from Niles Zoning Ordinance Section 10.4 (Table 10-2) to allow for a reduction in the required number of parking spaces from 16 to 0. This item will be heard at the next meeting on September 14, 2020.

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

AYES: 4 Schulter, Nakanishi, McConville, Kanelos

NAYS: 2 Karabatsos, DeBartolo

ABSENT: 1 Dubiel

There being four (4) affirmative votes the motion carried

Chairman Kanelos told the petitioner to provide any additional information from the commercial and residential tenants, finding out where they park, maybe have them put in writing where they park – all of that would help in making a decision next month.

Mr. Enwia said he could set up a walk thru at the building for the Commissioners and will get a survey from the tenants.

Chairman Kanelos said if the petitioner could just get a parking study/survey done, that would be fine. The rest of the Commissioners can drive by at various times of the day, evening, and weekends to get a feel of the traffic and parking.

There is no need to send out a new notification. The Village will notify people who sent in comments that this matter has been tabled.

4. 20-ZP-11, 8337 Waukegan Rd.

A request for approval of a Variation from Niles Zoning Ordinance Section 10.3(C)(4)(e) to allow a driveway that extends in front of the house (towards the interior side lot line furthest from the driveway).

Nathan Bruemmer presented this case. A legal notice was placed in The Bugle on July 23, 2020. Notices were sent to properties within 250 ft. of this location on July 22, 2020. A sign was placed onsite on July 23, 2020 and notification is on the Village website and posted in the Village Hall. The petitioner is seeking to reconstruct his non-conforming driveway by replacing the existing asphalt with concrete. An aerial photo is being shown overhead. The driveway currently extends in front of the house by approximately 6.5 ft. He explained the Zoning Ordinance and stated the petitioner is seeking a Variation because the portion of his driveway extending in front of his house extends toward the interior lot line furthest from the driveway.

Chairman Kanelos asked Mr. Ostman if the Village knows when and if that driveway was done with a permit.

Mr. Ostman said that was not researched.

Commissioner Schuller asked if the resident is present. The answer is yes.

Commissioner Karabatsos said on that block there are 5 others houses with the exact layout. Since there is no street parking, a lot of people park on the sidewalk. He is curious if the residents get citations or do the police let them park there.

Mr. Ostman said in the year 2005 they were getting a lot of requests for this same thing. One resident requested paving his entire front yard. That is how this language was adopted.

Chairman Kanelos asked about the width of the driveway at 19.5 ft. Is that in compliance with what is allowed?

Mr. Ostman said yes.

Commissioner Karabatsos said that is depressed curb the whole way. There is no raised curb on that entire Waukegan section.

Commissioner Schulter said he lives 2 blocks from there. He does not think the petitioner put the driveway in. It was that way when he bought the house.

There were no other questions for Staff.

Chairman Kanelos called for the petitioner. Mr. & Mrs. Mouhsine Baaddi came forward and were sworn in. The driveway was like this when they moved in a long time ago. They are trying to make it look nicer because it looks so bad. There is no parking on the street there so if they do not replace the driveway like it is now, they will have to park far away. If they have company, they ask them to park across the street at Main and Waukegan. They are thinking about the weather too. They need that space. He just found out about this when he applied for the permit. That is why they want to replace it the same way it looks.

Commissioner Schulter asked how long they owned the property.

Mr. Baaddi answered since June 2016 – 4 years.

Commissioner Schulter asked Mr. Ostman if the Village knew about these types of driveways, would the residents have to put in some type of barrier so people could not drive into the house? If someone loses control, they could drive right into the house.

Mr. Ostman said this happens in many municipalities. They do not allow that in Niles. Here the driveway must lead to a parking structure, unlike some other municipalities where the driveway can dead end into the building itself.

Commissioner Schulter asked the petitioner if he has considered asking the Village to put a parking spot in front of the house running parallel with

Waukegan. There are other residents who have done that on Waukegan. He knows exactly where they live because he lives 2 blocks away.

Mr. Baaddi said no, they have not considered it. Mrs. Baaddi said it would be too tight.

Commissioner Karabatsos said there are 3 or 4 houses along that stretch of Waukegan Road that have the same driveway layout.

Commissioner DeBartolo asked if the Baaddis use their garage. Also, when you pull back to the garage, can you pull one car around to the right and the other to the left?

Mr. Baaddi said they do not park in the garage. It is used for storage. If they put 2 cars in the driveway, they must back one out to get the first car in. Then the 2nd car goes in. Their work schedules differ so they are in and out of the driveway at different times.

Commissioner DeBartolo said there was another case like this at an earlier date. Does the Board know how that turned out? She is not sure if they want to set a precedent for putting another space next to a driveway in front of the house.

Chairman Kanelos said he would like to see the other houses along Waukegan that have this same setup.

The entire area was shown on the overhead. There were 4 other houses on the block that have the same feature.

Chairman Kanelos asked if there were any other questions for the petitioners. There were none. There were no questions from the public. He entertained a motion.

Commissioner DeBartolo moved to **approve** item 20-ZP-11, 8337 Waukegan Rd., requesting approval of a Variation from Niles Zoning Ordinance Section 10.3(C)(4)(e) to allow a driveway that extends in front of the house (towards the interior side lot line furthest from the driveway).

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

AYES:	6	DeBartolo, Schulter, Nakanishi, McConville, Karabatsos, Kanelos
NAYS:	0	
ABSENT:	1	Dubiel

There being six (6) affirmative votes the motion carried

5. 20-ZP-12, 8144 Overhill Ave.

A request for approval of a Variation from Section 4.3(A) to allow a rear yard setback (west) of 31' where 40' is required.

Mr. Bruemmer presented the case. Legal notice was published in The Bugle on July 23, 2020. Notices to all property owners within 250 ft. were mailed on July 22, 2020. A sign was posted on the property on July 23, 2020. The agenda was posted on the Village website and in the Village Hall. The property owner is Teresa Bonifacy. Earlier this year she began construction on an overhang/canopy intended to cover an existing patio behind her house. She did not apply for a building permit before beginning construction. Village Building inspectors noticed the partially completed project and put a stop work order on it. The subject property is zoned R-2, which requires a rear yard setback of 40 ft. The overhand encroaches 9 ft. into the required setback.

There are pictures of the work in the packet.

Commissioner Schulter said the applicant had a contractor start construction before they were issued a permit, correct? Was the contractor or homeowner fined?

Chairman Kanelos said that is not relevant to the zoning.

Mr. Ostman said if this is denied, they would either remove the structure or [inaudible]. The petitioner had just completed major remodeling of the house.

Chairman Kanelos said he is concerned this is less of a covering and more of the start of a three-season room. What happens if we approve this? Would the petitioner have to get a permit to enclose it?

Mr. Ostman said he would have to check with the building inspectors. It would need a foundation.

Commissioner Karabatsos asked how big the existing canopy was if this is a replacement.

Mr. Bruemmer said there was no existing canopy. There was just the existing concrete patio.

There were no more questions for Staff.

Chairman Kanelos called Teresa Bonifacy and Mr. Bonifacy, 8144 Overhill Ave., to the podium and they were sworn in.

Mrs. Bonifacy said they wanted to have a shaded area because the backyard faces west. Also, it would prevent the snow from coming into the house when they let the dog out. It is her fault they did not get a permit. That is where she went wrong. She knows they are short about 8 ft., but it is not a danger to anyone. Since it is in the back, they are not causing any viewing problems with the neighbors.

Commissioner Schulter asked who built this canopy? Was it a friend or a contractor? Did you know you needed a permit?

Mr. Bonifacy said he built it.

Chairman Kanelos said that is not part of this request.

Commissioner Schulter said he feels it is part of it.

Chairman Kanelos said the Board is here only for the rear yard setback. The Village takes care of any permits or penalties involved. He asked for the Village Attorney Danielle Grcic to answer this. She said that is correct.

Commissioner DeBartolo asked how they plan to finish the front or the sides.

Mrs. Bonifacy said they are not planning to put anything on the side. They are going finish the collar ties and rafters with tongue and groove pine. The underside is going to be left as is.

Commissioner DeBartolo asked if they were going to use the top for storage.

Mr. Bonifacy said no.

Commissioner Karabatsos asked Mr. Ostman if the petitioner purchased a pergola and attached it to the house, would it be the same issue.

Mr. Ostman said yes if it is attached to the building. It would still have to meet all the setbacks. If it was a free-standing pergola, that would be different.

Chairman Kanelos asked if there were any more questions for the petitioners or if there were questions from the public. There were none. He entertained a motion.

Commissioner DeBartolo moved to **approve** item 20-ZP-12, 8144 Overhill Ave., a request for approval of a Variation from Section 4.3(A) to allow a rear yard setback (west) of 31 ft. where 40 ft. is required.

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

AYES: 5 DeBartolo, Schulter, Nakanishi, McConville,
Karabatsos

NAYS: 1 Kanelos

ABSENT: 1 Dubiel

There being five (5) affirmative votes the motion carried

6. 20- ZP-15, Text Amendment

A request for various text amendments to Village of Niles Code of Ordinances, Appendix B Zoning Ordinance which includes, but is not limited to, Section 5.2 (Uses), Table 8-1 (Use Matrix), Section 8.5 (Use Definitions), Table 10-2 (Off-Street Parking Requirements), Section 13 (Ordinance Administrators), Section 15.3 (Special Use), Section 15.4 (Variation), Section 16.3 (Nonconforming Structure).

Kate Lockerby, Senior Planner, presented Proposed Zoning Text Amendments 2020. She will stop between each proposed amendment for questions and a vote or she will present the entire package and the Commissioners can vote on the complete presentation. It is up to the Board.

Chairman Kanelos said whatever she would like to do is fine.

Ms. Lockerby is going to present proposed text amendments to Appendix B of the Village of Niles Code or Ordinances (Zoning Ordinance) as recommended by the Director of Community Development.

PROPOSED ZONING TEXT AMENDMENTS, 2020

** all new text is in yellow and underlined, language proposed for removal is ~~stricken~~, and current language not proposed to change is in normal print.**

1. Section 5.2 – Uses, to modify the uses allowed at corners in the C-2, C-3, and C-4 Districts.

Background:

Currently the Zoning Ordinance requires, within the C-2, C-3, and C-4 Districts, ground floor uses on corner lots are limited to those listed under the "Retail" category in Table 8-1: Use Matrix and said limitation extends for 250 feet along the lot lines. Confusion has arisen in a few common instances, one being regarding minor corners where major commercial uses may not choose to locate/other types of uses may be appropriate and a second being where the corner lot is significantly narrower than 250 feet and the non-corner lots would still fall within the 250 foot distance.

Recommendation:

It is recommended that the section be modified to clarify that the imposed requirement is only at intersections with traffic signals, and that this requirement applies to 250 feet from the intersections, not only corner lots.

Suggested Text:

A. Uses Generally

1. [Section 8](#) lists permitted and special principal uses and temporary uses for the commercial districts.
2. In the C-3 District, uses are restricted per Figure 5.4: C-3 District Use Restrictions. Generally, Table 8-1 lists the uses allowed in the C-3 District unless Figure 5.4 indicates specific additional permissions or restrictions for uses.
3. Within the C-2, C-3, and C-4 Districts, ground floor uses ~~on corner lots~~ **at corners at intersections with traffic signals** are limited to those listed under the "Retail" category in Table 8-1: Use Matrix. This limitation extends for 250 feet along the lot lines along each intersecting street and applies to any ground floor space where 50% or more of the space's frontage is located within this 250-foot measurement.
4. Residential density limits are controlled by bulk, height, parking, and other zoning regulations.

2. Section 8.2 -Table 8-1 - Use Matrix, to add 'Dwelling – Above the Ground Floor' as a permitted use in the ENT-MU District and 'Dwelling – Townhouse' and 'Dwelling – Multi-Family' as a special use in the ENT-MU District, and to change 'Dwelling – Single Family', 'Dwelling – Townhouse', and 'Dwelling – Multi-Family' from permitted uses to special uses in the C-3 District.

Background:

Currently there are no residential uses allowed in the ENT-MU District. However, the Touhy Triangle Plan calls for certain types of residential developments within the long-term plan. Additionally, Dwelling – Single Family, Dwelling - Townhouse, and Dwelling – Multi-Family are all uses that are allowed by right in the C-3 District. When the Zoning Ordinance was revised, it was not intended to allow these types of uses within the C-3 District as of right.

Recommendation:

It is recommended that Dwelling – Above the Ground Floor be added to the ENT-MU District as a permitted use, and Dwelling – Townhouse and Dwelling – Multi-Family be added to the ENT-MU District as special uses. It is also recommended that Dwelling – Single Family, Dwelling - Townhouse, and Dwelling – Multi-Family all be changed from permitted uses to special uses in the C-3 District.

Suggested Text:

TABLE 8-1: USE MATRIX															
RESIDENTIAL	R-1	R-2	R-2-35	R-3	R-4	C-1	C-2	C-3	C-4	C-5	M	ENT-MU	OR	P-I	Use Standard
Community Residence – Small	P	P	P	P	P										Sec. 8.3.B
Community Residence – Large															Sec. 8.3.B
Dwelling – Above the Ground Floor						P	P	P	P	S		P			
Dwelling – Single-Family	P	P	P	P	P			P S							Sec. 8.3.G
Dwelling – Two-Family				P	P										Sec. 8.3.G
Dwelling – Townhouse				P	P			P S	P	S		S			
Dwelling – Multi-Family					P			P S	P	S		S			
Residential Care Facility				S	S		S			S					Sec. 8.3.T

- Section 8.2 -Table 8-1 - Use Matrix, to change 'Outdoor Seating' from special use to a permitted use in the ENT-MU District.

Background:

A few businesses have been interested in operating outdoor seating at restaurants located within the ENT-MU Zoning District. However, outdoor seating is currently listed as a special use in the ENT-MU district. Upon discovering this, Staff internally discussed this issue and determined that, since the purpose of the ENT-MU district is to serve as an entertainment area, it appears that allowing outdoor seating in said district would be an attractive benefit to restaurants in the area and should be allowed by right.

Recommendation:

It is recommended that the section be modified to allow Outdoor Seating in the ENT-MU district by right.

Suggested Text:

RETAIL	R-1	R-2	R-2-35	R-3	R-4	C-1	C-2	C-3	C-4	C-5	M	ENT-MU	OR	P-I	Use Standard
Outdoor Seating						P	P	P	P	P	S	SP	P	P	Sec. 8.3. O

- Section 8.5 – Use Definitions, to add a definition for 'Contractor and Construction Office'.

Background:

Currently there is no definition of a "Contractor and Construction Office" yet said use is listed in Table 8-1: Use Matrix. Potential businesses have inquired about locating these types of uses in town but there is no distinction between it being an office use and whether or not outside storage would be allowed ancillary to said use.

Recommendation:

It is recommended that a definition for these types of uses be added to the Zoning Ordinance.

Suggested Text:

Contractor and Construction Office. Offices for businesses in the conduct of any building trade or building craft, together with land and/or structures used for the storage of equipment, vehicles, machinery, or building materials related to and used by the building trade or craft. A contractor office with no equipment or material storage is considered an office.

- Section 10.4 (Table 10-2: Off-Street Parking Requirements), to add parking requirements for Cosmetic Tattoo, Catering Establishments, Repair and Service – Indoor, Small Engine Repair and Service, Animal and Pet Sales, Animal and Pet Adoption, Micro-Brewery/Micro-Distillery, and Video Gaming Café uses.

Background:

In our normal course of business, we determined that the Zoning Ordinance does not currently outline parking requirements for Video Gaming Cafés and Micro-Breweries/Distilleries. This is problematic because Section 10.4 B of the Zoning Ordinance reads: "Certain uses listed within the districts do not have parking requirements, these uses are not listed in Table 10-2." As the uses listed above are listed in the use table but do not have parking requirements in Table 10-2, it could be interpreted that they do

not have parking requirements, but that is not accurate. These uses require providing parking on-site. Staff has reviewed the Zoning Ordinance to determine if there are other uses that are listed in the use matrix that do not currently have parking requirements outlined in the Zoning Ordinance. We found that there are six additional uses that are in the use matrix but not in the parking regulations (Cosmetic Tattoo, Catering Establishment, Repair and Service – Indoor, Small Engine Repair and Service, Animal and Pet Sales, and Animal and Pet Adoption).

Recommendation:

It is recommended that the following parking requirements be added to Table 10-2 of the Zoning Ordinance.

Suggested Text:

TABLE 10-2: OFF-STREET PARKING REQUIREMENTS	
USE	PARKING SPACES REQUIRED
SERVICE	
Cosmetic Tattoo	3 per 1,000 s.f. of GFA
Catering Establishment	3 per 1,000 s.f. of GFA
Repair and Service – Indoor	3 per 1,000 s.f. of GFA
Small Engine Repair and Service	3 per 1,000 s.f. of GFA
RETAIL	
Animal and Pet Sales	3 per 1,000 s.f. of GFA
Animal and Pet Adoption	The Planning and Zoning Board shall determine parking requirements.
Micro-Brewery/Micro-Distillery	<p>Areas that are devoted to tanks/warehousing: 1 parking stall per 1,000 s.f. of GFA</p> <p>Areas that are devoted to taprooms/seating: 10 parking stalls per 1,000 s.f. of GFA (excluding kitchen area)</p>
Video Gaming Cafe	3 per 1,000 s.f. of GFA

- 6. Section 13 – Ordinance Administrators and Section 15.4 - Variations, to give the Village Board final authority on variations that are requested in conjunction with other zoning actions (Special Use, Rezoning, etc.)

Background:

There have been a few instances where an applicant has sought approval of a variation and another, separate zoning action (i.e. a Special Use). Both requests for the same project goes to the Planning and Zoning Board at the same time. The Planning and Zoning Board has final authority on variations, yet is advisory for all other zoning actions. It makes sense to ensure that variations, when requested in conjunction with another zoning request, are not approved until the Village Board approves the project.

Recommendation:

At this time, it is recommended that the ultimate authority for projects that involve variations and a separate zoning request be evaluated. Upon preliminary review, it appears that the Village Board should have final authority on variations that involve other zoning actions that the Village Board has final authority.

Suggested Text:

It is suggested that Sections 13 (Ordinance Administrators) and Section 15.4 (Variation) be amended as follows:

SECTION 13. - ORDINANCE ADMINISTRATORS

13.1 - DESIGNEES

Certain Village officials within this Section are cited as having powers that may also be administered by a designee, indicated by the language "or his/her designee." The ability to direct powers to a designee applies to the actions of such officials throughout this Ordinance.

13.2 - VILLAGE BOARD

The Village Board has the following powers, pursuant to this Ordinance:

- A. To make final decisions on zoning text and map amendment applications (Section 15.2).
- B. To make final decisions on special use applications (Section 15.3).
- C. To make final decisions on planned unit development applications (Section 12).
- D. **To make final decisions on variations from the terms provided in this ordinance when said variations are requested in conjunction with a zoning text or map amendment application, a special use application, or a planned unit development application. (Section 15.4). In the event that there is a conflict with this section and any other section in this Code of Ordinances this section shall govern.**

13.3 - PLANNING AND ZONING BOARD

Creation. The Planning and Zoning Board is hereby created and is hereby designated as the Planning and Zoning Board referred to in this ordinance.

Membership. The Planning and Zoning Board shall consist of seven members appointed by the President of the Village Board by and with the advice and consent of the Village Trustees. The term shall be for one year. The appointing authority has the power to remove any member of the board for cause and after public hearing. Vacancies shall be filled for the unexpired term of the member whose place has become vacant. All members of the Planning and Zoning Board shall serve as ex-officio members of the Economic Development and Neighborhood Renewal Commission.

Officers and staffing. One of the members so appointed shall be named as Chairperson by the President of the Village Board by and with advice and consent of the Village Trustees. One of the members so appointed shall be named as Vice-Chairperson by the President of the Village Board by and with the advice and consent of the village trustees. In the event of the absence of the Chairperson, the Vice-Chairperson shall act in their place and stead as acting chairperson. The President of the Village Board by and with the advice and consent of the village trustees shall appoint a Secretary from the members.

The commission may, at the discretion of the Village Board of trustees, employ a paid secretary or staff, or both, whose salaries, wages, and other necessary expenses shall be provided for by the Village of Niles from the public funds. If said Plan Commission shall deem it advisable to secure technical advice or services, it may be done upon authority from the Village Board of trustees and appropriations by the Village Board of trustees therefor.

Meetings. All meetings of the Planning and Zoning Board shall be held at the call of the Chairperson, and at such other times as the Planning and Zoning Board may determine. The Chairperson, or in his absence the acting Chairperson, may administer oaths and compel the attendance of witnesses. All regular meetings of the Planning and Zoning Board shall be open to the public. The Planning and Zoning Board shall keep minutes of its proceedings, showing the vote of each member upon every question, or if absent or failing to vote, indicating that fact, and shall also keep records of its examinations and other official actions. Every decision upon which the Planning and Zoning Board is required to act under this ordinance shall be a public record. The commission shall keep written records of its proceedings, which shall be open at all times to public inspection.

Jurisdiction and authority. In the absence of an appointment of a Board of Appeals under the provisions of the ordinances of the Village of Niles to perform the function of such Board of Appeals and to have all of the powers incidental thereto, the Planning and Zoning Board is hereby invested with the following jurisdiction and authority:

- (a) To hear and decide, **or make recommendations to the Village Board,** on variations from the terms provided in this ordinance in the manner set forth in the applicable statutes of the State of Illinois and subject to the standards set forth in this section (15.4); and
- (b) To hear and decide appeals from any order, requirement, decision, or determination made by the Director of Community Development under this ordinance (15.9).
- (c) To hear and decide all matters referred to it or upon which it is required to pass under this ordinance.

Additionally, in the absence of an appointment of a Plan Commission under the provisions of the ordinances of the Village of Niles to perform the function of such Plan Commission and to have all of the powers incidental thereto, the Planning and Zoning Board is hereby invested with the following jurisdiction and authority:

- (d) To make recommendations to the Village Board on zoning text and map amendment applications (Section 15.2).
- (e) To make recommendations to the Village Board on special use applications (Section 15.3)
- (f) To make recommendations to the Village Board on planned unit development applications (Section 12).

Additionally, the Planning and Zoning Board is hereby invested with the following jurisdiction and authority:

- (g) To initiate, direct, and review, from time to time, studies of the provisions of this ordinance and to make reports of its recommendations to the Village Board.
- (h) To recommend to the Village Board of trustees of the Village of Niles, the subdivision or consolidation of any lot(s).
- (i) At any time or times, before or after the formal adoption of the official comprehensive plan by the corporate authorities, an official map may be designated by ordinance, which may consist of the whole area included within the official comprehensive plan, or one or more separate geographical or functional parts, and may include all or any part of the contiguous unincorporated area within 1½ miles from the corporate limits of the Village of Niles. All requirements for public hearing, filing of notice of adoption with the county recorder of deeds, and filing of said plan and ordinances, including the official map, with the village clerk shall be complied with as provided for by law. No map or plat of any subdivision or resubdivision presented for record affecting land within the corporate limits of the Village of Niles or within contiguous territory which is not more than 1½ miles beyond the corporate limits shall be entitled to record or shall be valid unless the subdivision shown thereon provides for standards of design, and standards governing streets, alleys, public ways, ways for public service facilities, streetlights, public grounds, size of lots to be used for residential purposes, storm[water] and floodwater runoff channels and basins, water supply and distribution, sanitary sewers, and sewage collection and treatment in conformity with the applicable requirements of the ordinances, including the official map.
- (j) In order to make adequate provisions for the preparation of a comprehensive village plan for the guidance, direction and control of the growth and development or redevelopment of the Village of Niles and contiguous territory not more than 1½ miles beyond the corporate limits and not included in any municipality, the Planning and Zoning Board for the Village of Niles is hereby invested with the following powers under authority of an act of the General Assembly of the State of Illinois entitled "Illinois Municipal Code" approved May 29, 1961, and effective July 1, 1961, and as amended:
 - i. To prepare and recommend to the Village Board of Trustees of the Village of Niles, a comprehensive plan for the present and future development or redevelopment of said village and contiguous unincorporated territory not more than 1½ miles beyond the corporate limits of said village and not included in any other municipality. Such plan may be adopted in whole or in separate geographical or functional parts, each of which, when adopted shall be the official comprehensive plan, or part thereof, of the Village of Niles.

Such plan shall be advisory except as to such part thereof as has been implemented by ordinances duly enacted by the Village Board of trustees. All requirements for public hearing, filing of notice of adoption with the county recorder of deeds and filing of said plan and ordinances with the municipal clerk shall be complied with as provided by law. To provide for the health, safety, comfort, and convenience of the inhabitants of the Village of Niles and contiguous territory, such plan or plans shall establish reasonable standards of design for subdivisions and for resubdivisions of unimproved land and of areas subject to redevelopment in respect to public improvements as herein defined and shall establish reasonable requirements governing the location, width, course, and surfacing of public streets and highways, alleys, ways, for public service facilities, curbs, gutters, sidewalks, streetlights, parks, playgrounds, school grounds, size of lots to be used for residential purposes, stormwater drainage, water supply and distribution, sanitary sewers, and sewage collection and treatment. The requirements specified herein shall become regulatory only when adopted by ordinance.

- ii. To designate land suitable for annexation to the municipality and the recommended zoning classification for such land upon annexation.
- iii. To recommend to the Village Board of Trustees of the Village of Niles, from time to time, such changes in the comprehensive plan, or any part thereof, as may be deemed necessary.
- iv. To prepare and recommend to the Village Board of trustees, from time to time, plans and/or recommendations for specific improvements in pursuance of the official comprehensive plan.
- v. To give aid to the officials of the Village of Niles charged with the direction of projects for improvements embraced within the official plan, or parts thereof, to further the making of such improvements and generally to promote the realization of the official comprehensive plan.
- vi. To arrange and conduct any form of publicity relative to its activities for the general purpose of public understanding.
- vii. To cooperate with the municipal or regional planning commissions and other agencies or groups to further the local planning program and to ensure harmonious and integrated planning for the area.
- viii. To exercise such other powers germane to the powers granted under authority of an act of the General Assembly of the State of Illinois entitled "Illinois Municipal Code" approved May 29, 1961, and effective July 1, 1961, and as amended, as may be conferred by the Village Board of Trustees of the Village of Niles.

Decisions.

- (a) All final decisions on variations arrived at by the Planning and Zoning Board as provided in Section 15.4 shall require a majority vote of all its members and shall be subject to judicial review in accordance with applicable statutes of the State of Illinois.
- (b) All final decisions of appeals from decisions of the Director of Community Development arrived at by the Planning and Zoning Board as provided in Section 15.9 shall require a majority vote of all its members and shall, in all instances, be final administrative determinations subject to judicial review in accordance with applicable statutes of the State of Illinois.

* * *

15.4 – VARIATION

A. Purpose

The purpose of the variation process is to provide a narrowly circumscribed means by which relief may be granted from unforeseen applications of this Ordinance that create particular hardships, usually as a modification to a dimensional or quantitative requirement of the zoning ordinance.

B. Initiation

A property owner in the Village, or person expressly authorized in writing by the property owner, may file an application for a variation. A property owner, or his/her designee, may only propose a variation for property under his/her control.

C. Authority

The Planning and Zoning Board will take formal action on variation applications unless said variation applications are in conjunction with a zoning text or map amendment application, a special use application, or a planned unit development application. If a variation is requested in conjunction with a zoning text or map amendment application, a special use application, or a planned unit development application, the Planning and Zoning Board shall be an advisory body to the Village Board and the Village Board shall have final authority on variations in these instances. Additionally, ~~However,~~ the Director of Community Development is authorized to grant certain administrative exceptions, as described in Section 15.5 (Administrative Exceptions).

D. Procedure

All applications must be filed with the Director of Community Development. Once it is determined that the application is complete, the Director of Community Development will schedule the application for consideration by the Planning and Zoning Board.

1. Action by Planning and Zoning Board

- a. Within 60 days of receipt of a complete application, unless an extension of time is agreed to by the applicant and the Director of Community Development, the Planning and Zoning Board will consider the variation at a public hearing.
- b. The Planning and Zoning Board must evaluate the application based upon the evidence presented at the public hearing, pursuant to the approval standards of this section.
- c. Within 60 days of the close of the public hearing, the Planning and Zoning Board must either approve, approve with conditions, or deny the variation, or make a recommendation to the Village Board regarding the variation, unless an extension is agreed to by the applicant.

2. Conditions

- a. The Planning and Zoning Board may impose such conditions and restrictions upon the variation as may be deemed necessary for the protection of the public health, safety, and welfare.
- b. The Planning and Zoning Board may grant a variation that is less than that requested when it has been decided that the applicant is entitled to some relief of the hardship, but not to the entire relief requested in the variation application.

3. Action by Village Board

If the requested variation is required to be reviewed by the Village Board, the Village Board must act on the variation within 60 days of receipt of the Planning and Zoning Board recommendation. The Village Board may take action in the form of approval, approval with conditions, or denial of the requested variation(s), remand the issue back to the Planning and Zoning Board for further consideration, or table the discussion until a future meeting of the Village Board.

7. Section 15.3G – Special Use Expiration, to set a timeline for vacancies of special uses and the time in which the special use would expire if the use is abandoned for more than a certain period of time.

Background:

Currently there is nothing in the Zoning Ordinance that would make a special use null and void if a property is abandoned for a certain period of time. As circumstances can change over time and special uses are approved based on specific criteria, it is important to give the Village control of the demise of a

special use, especially if the business which received the special use has closed and remained vacant for an extended period of time.

Recommendation:

It is recommended that the following section (15.3G-1-e) be added to the Zoning Ordinance to deal with properties that have been abandoned for more than six months.

Suggested Text:

G. Expiration

1. A special use approval expires if any one of the following conditions occurs and no request for an extension of the special use approval is pending:
 - a. When an approved special use is changed to another use.
 - b. For special uses approved in conjunction with new construction or additions or enlargements to an existing structure, the special use approval expires within one year of the date of approval if a building permit has not been issued, subject to 2. below.
 - c. For special uses approved in conjunction with an existing structure or on a lot where no structure is planned, the special use approval expires within one year of the date of approval if the structure or site have remained vacant or if the special use has not commenced, subject to Section '2' below.
 - d. For special uses approved in conjunction with a preliminary plan for a planned unit development, the special use approval expires in conjunction with the preliminary plan expiration.
 - e. **When the special use has been abandoned for six months or more.**
2. In the event that a lawsuit or other legal challenge is filed against an approved special use permit, the calculation of the one-year time limit for the expiration of that special use is suspended from the date the lawsuit or legal challenge is filed until a final decision, after any and all appeals, is rendered.

-
8. **Section 16.3F – Extension of Walls for Nonconforming Single-Family and Two-Family Dwellings, to allow for a second story addition to follow the existing foundation line in a vertical or horizontal fashion in the front yard, as it is currently allowed in the interior side or rear yard.**

Background:

There have been a number of inquiries by residents with ranch-style homes with non-conforming front yard setbacks. If these residents wanted to put a second story addition on their home, they would have to hold the second story back to conform with the current district setbacks or seek a variation for a front yard setback. As the Village of Niles is interested in promoting re-investment in homes without placing an undue hardship on a resident, it is suggested that the non-conforming section of the Zoning Ordinance be revised to allow for a second story addition to follow the existing foundation line in a vertical or horizontal direction, up to a maximum encroachment of 20%. This is consistent with the allowances for interior side and rear yards.

Recommendation:

It is recommended that the section be modified to allow for (non-conforming) front yard setback requirements to be included in the non-conforming section.

Suggested Text:

- F. Extension of Walls for Nonconforming Single-Family and Two-Family Dwellings

Where a single-family or two-family dwelling is deemed nonconforming because of encroachment into the required **front**, interior side or rear yard by 20% or less of that required by the district, the structure may be enlarged or extended vertically or horizontally along the same plane as defined by the existing perimeter walls, so long as the resulting structure does not increase the degree of the existing nonconformity or otherwise violate this Ordinance.

This concluded Ms. Lockerby's presentation.

Chairman Kanelos made a motion.

Commissioner DeBartolo moved to **approve** item 20-ZP-15, a request for various text amendments as requested by Charles Ostman, Director of Community Development.

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

AYES: 6 DeBartolo, Schuler, Nakanishi, McConville,
Karabatsos, Kanelos

NAYS: 0

ABSENT: 1 Dubiel

There being six (6) affirmative votes the motion carried

DISCUSSIONS

None

ADJOURNMENT

Chairman Kanelos entertained a motion to adjourn.

Commissioner DeBartolo moved to adjourn.

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

AYES: 6 DeBartolo, Schuler, Nakanishi, McConville,
Karabatsos, Kanelos

NAYS: 0

ABSENT: 1 Dubiel

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

The meeting adjourned at 9:04 p.m.