

# VILLAGE OF NILES

*1000 Civic Center Drive  
www.uniles.com*



## Final Approved Meeting Minutes

Monday, September 14, 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/september14speak](http://www.vniles.com/september14speak). 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](mailto: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.*

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 required 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.

### **CALL TO ORDER**

The Niles Planning and Zoning Board was called to order at 7:05 P.M.

**PLEDGE OF ALLEGIANCE/ROLL CALL**

All rose for the Pledge of Allegiance.

PRESENT: 7 Chairman Thomas Kanelos, Commissioners Ted Karabatsos, Susan DeBartolo, Robert Schulter, Barbara Nakanishi, Terrence McConville, Morgan Dubiel

Also present was Director of Community Development Charles Ostman, Planner I Nathan Bruemmer and Village Attorney Danielle Grcic.

**APPROVAL OF MINUTES**

Chairman Kanelos asked if there were any additions, clarifications, or corrections to the minutes of August 10, 2020. There were none. He entertained a motion.

Commissioner DeBartolo moved to **approve** the minutes of August 10, 2020.

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

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

NAYS: 0

ABSTAIN: 1 Dubiel

There being six (6) 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**

- 1. 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.**

Chairman Kanelos verified with Village Attorney Danielle Grcic this case was continued from last month's meeting.

Nathan Bruemmer, Planner 1, presented this case. The applicant has submitted a memo of a parking study per the request of this Board. The applicant is present tonight.

Attorney Grcic stated after looking over last month's minutes, this item was in fact tabled. It has to be removed from that status. The motion does not need a second to be removed.

Commissioner Dubiel moved to remove this item from being **tabled** at the meeting of August 10, 2020.

AYES: 7 Dubiel, Karabatsos, DeBartolo, Schulter,  
Nakanishi, McConville, Kanelos  
NAYS: 0  
There being seven (7) affirmative votes the motion carried

Commissioner Dubiel noted on page 12 of 30 from the draft minutes – the first paragraph after it says zero parking. It says Mr. Enwia said they were initially approved for zoning. Then Mr. Ostman said there was an issue that had to go before the Zoning Board. The original application was approved. Then that was retracted by Mr. Ostman after the closing because he wanted it to go before the Zoning Board. Can you please comment, Mr. Ostman?

Charles Ostman, Directory of Community Development, said in talking to Nathan Bruemmer, there was never a formal approval.

Commissioner Dubiel said then at no time did Mr. Enwia have the expectation that his zoning was approved in advance of the purchase. He asked for the petitioner to come forward. He would like to clarify it.

Chairman Kanelos asked for the petitioner to come forward. Simon Enwia, CEO of Flawless Homes was sworn in.

Mr. Enwia said they left off last month with how parking would affect the area. He hired a professional parking study firm named DESMAN, founded in 1973. It is a top tier national firm that specializes in parking consulting, design and restoration. He also conducted a voluntary email survey of all the tenants, residential and commercial. All answered the emails except one. All the residents that replied said they parked at the bank, some for ten years. Both the parking study and email survey were sent to the Plan Commission. His findings felt the relief should be in his favor. This sheds light to an already dire parking situation which would be kept as status quo. Status quo would be to leave it as a doctor's office or a medical office, what it is currently. A doctor's office on average would see approximately nineteen patients per

day with up to three thousand active patients per year. A dental office will see nine to fifteen patients per day with an average of sixteen hundred active patients per year, not including staff. Adding staff would affect the traffic flow causing the bank to rescind the offer of allowing tenants/residents of this building to park in their lot because that would add up to thousands per year. That would increase parking in the neighborhood. Whereas, if they maintain these as residential units, that would mean three vehicles parked in the bank lot. These people go through credit and background checks. The study also found there was ample nighttime parking to allow for all residents to park in the bank. At 9:00 p.m. on Monday night, there were seven cars parked there.

Chairman Kanelos said he is looking through his packet and does not see a Desmond report. All he sees is a report about national averages. He sees nothing about how many cars were parked off street. He does see the email responses but nothing about cars parked on the street.

Commissioner Karabatsos said on page 4 it says there were twenty cars on the street and he read from the information on that page.

Mr. Enwia said that was compiled by one of his licensed agents along with pictures. The study by Desmond says there is a 1.16 parking requirement instead of 2 required by the Zoning Ordinance.

Chairman Kanelos said there is concern there would be a flood of people if it would remain a medical/dental office. However, it has been for years. If that flood of people has not happened for years, what makes Mr. Enwia think there would be a problem now.

Mr. Enwia said the person who sold them the building was 85 years old and retired. The past ten years, he was taking only current patients, no one new. He had no staff members, no hygienist or assistants. Obviously if this were to be a new medical/dental office, it would likely be a lot busier. These are averages Desmond found in their study for doctors and dentists offices.

Commissioner Dubiel asked to get caught up a bit on the case since he was not at last month's meeting. Currently, who owns the building?

Mr. Enwia said Flawless Homes LLC of which he is the CEO.

Commissioner Dubiel asked if this was Flawless Homes only property.

Mr. Enwia said no sir. He said they own over a dozen properties. And this is not his first time before a zoning board.

Commissioner Dubiel asked Mr. Enwia if he considered himself fairly sophisticated when it comes to properties.

Mr. Enwia said yes.

Commissioner Dubiel asked Mr. Enwia to look at page 12 of the draft minutes from the August 10, 2020 meeting. At two places – first it looks like a response to Chairman Kanelos and then to Commissioner Schuler. You continued under sworn testimony that you were initially approved for zoning. Then you said it was retracted after they closed. Is that accurate testimony?

Mr. Enwia said before the purchase they asked about the parking issue. The non-formal approval at that time was ‘it should be okay because we are dropping the parking requirement’ but the formal approval for zoning which is what he was referring to, was post-closing when they submitted plans. In those initial plans there were areas like zoning, building, plumbing, electrical – that was approved when he got that sheet from Niles. The line item is still there as approved, but in the second line item that approval was retracted so they were asked to go through the hearing process. His testimony was correct in that there was a formal approval for zoning from that sheet they received based on the permit. Before they closed on the property, they asked what they [Staff] thought was going to happen because obviously they do not want to spend all this time and money to find out it is not what they think it is. So before closing was a non-formal ‘it should be okay’. Post-closing, they did receive the approval from the Village of Niles on their letterhead. He can find that in his email and submit it.

Commissioner Dubiel said he would like to see it. He stated Mr. Enwia knew going into this purchase that it was zero parking, correct?

Mr. Enwia said correct. It sounds like a disaster going from seventeen parking spots to zero. But the truth is they are going from zero to zero. For the zoning requirements, they are going from seventeen to sixteen. From the parking study they are going from seventeen to approximately thirteen. In all areas it is always favorable for the relief they are asking for.

Commissioner Dubiel you went into this knowing it was a zero-parking property. This was a market purchase. [Mr. Enwia confirmed this] The market price probably reflected the zero-parking situation. Prior to buying this building Mr. Enwia submitted building plans.

Mr. Enwia said it is a non-conforming building and the price reflected that. He submitted the actual permit plans upon purchase. They were asking

questions and speculating pre-purchase. Post-purchase they submitted the permit plans.

Commissioner Dubiel said when you submitted plans before purchase, you mean you just had a conversation when Staff said it would likely be approved, is that what you are saying?

Mr. Enwia reiterated what he said earlier. It was officially approved for zoning meaning he received that on the permit application on the Village of Niles letterhead.

Commissioner Dubiel asked Mr. Ostman to address that formal approval. It is important because of how he will vote. He asked Mr. Enwia again if he bought this property on speculation after speaking with Staff.

Chairman Kanelos said one thing is after the purchase. He feels Mr. Dubiel is more concerned with what Mr. Enwia was told before the purchase.

Mr. Enwia said before the purchase he was advised there should not be a problem because they are going down in requirements. He has the email stating this from Nathan Bruemmer.

Chairman Kanelos asked Attorney Grcic if Mr. Bruemmer needs to be sworn in since he is testifying. She stated yes.

Nathan Bruemmer, 3345 Central Park Ave., Chicago, IL was sworn in. From what he remembers, Simon [Mr. Enwia] and he were doing some corresponding when he was doing research on whether or not this would be approved. He remembered Mr. Enwia submitted plans with what he is currently proposing upstairs and in the basement. He had this concept for vanilla box retail where he was going to knock everything down. After crunching those numbers, he determined he would eventually need a variation because that was going to increase the total with a retail concept. Then he thinks Staff advised Mr. Enwia could do the top but would need a variation for the bottom. Once he submitted plans after purchasing, Staff realized that was incorrect and found the Zoning Code states even if you are doing a major alteration or change of use you need to have parking match.

Commissioner Dubiel said therefore Mr. Enwia gave Mr. Bruemmer some preliminary ideas that made Staff think that yes, this would meet zoning and perhaps was a mistake on Mr. Bruemmer's part; or was this just conversation back and forth as you would with anybody else. Then when you got the actual plans you found the variation was actually needed. It is important that he get all the facts before voting.

Mr. Bruemmer stated he remembers before Mr. Enwia purchased the building Staff said he would likely need a variation if he proceeded with the vanilla box retail concept. After the facts and zoning review, it was determined that even a change of use on the upstairs would require a change in zoning as well.

Commissioner Dubiel asked if this was an unusual process. Let's say he came to you and said I am thinking of this, would Staff carefully research it and would it become a firm idea. How does the process work?

Mr. Bruemmer said Staff does their best to get the most robust, accurate answer anytime someone has a question. However, sometimes things come to light.

Commissioner Dubiel asked if what Mr. Enwia said then is the same thing he is presenting now?

Mr. Bruemmer said the second floor is the same but the first floor is different than what he initially proposed.

Commissioner Schulter said one of the reasons he asked this to be tabled last month was so the Commissioners could visit the property to see if there were parking issues. Did everybody actually drive by [except for Commissioner Dubiel who was not at last month's meeting] to take a look at the parking?

Chairman Kanelos said he did on several occasions including this morning.

Commissioner Schulter said he drives past there six days a week. In his observation, this has been a non-conforming, non-use building for many years because there is no parking for anybody. The developer is trying to get a parking agreement from the bank, but the bank will not sign one. He understands that because if the bank gets sold, then parking would come with it and it could be an issue for selling the bank. For years he has noticed there are vehicles in the bank lot before it opens; also, on weekends when the bank is closed and at night when it is closed. Personally, he does not think there is an issue with parking there.

Commissioner DeBartolo said she drives past there four times a day. The same two to three black vehicles are in the parking lot at different times of the day and night. It appears someone in the building works nights because she has gone by late at night but those vehicles are always in the lot closest to this building.

Chairman Kanelos asked if she went over to Oak Street.



Commissioner DeBartolo answered how would she know which cars belonged to residents?

Chairman Kanelos said he was on Oak Street about 9:30 this morning and there were five cars parked there. His concern is the ten houses there have one car garages. This morning there were three cars on Oak and seven cars on Prospect where the two streets come together. Five of those were already in the cul-de-sac. He thinks in the evenings there are more cars parked there. Did anyone else drive by there?

Commissioner McConville said he has lived in the area a long time and agrees with Commissioner Schuler. This has been a non-conforming property for many, many years. He sees cars in the bank parking lot at odd hours and he did check Oak and Prospect but it seems most everyone using that building parks in the bank lot.

Commissioner Dubiel continued the zoning discussion. The bank would not give Mr. Enwia a formal lease. That disturbs him because now there will be five cars there and if the bank building gets sold, those cars get dumped on the street. He did notice farther west on Oakton near the 7-11 there is additional parking. It is a little bit of a walk. Has the petitioner tried to secure more parking elsewhere? If he wants more time to try and work this out, he is happy to table it again. It was thoughtful of what Commissioner Schuler did last month to table the case.

Mr. Ostman said there is a section in the Zoning Code if you are going to grant a variation based on the facts of another person's property, in this case the bank, it is required with a written document identifying that property and it has to be recorded with Cook County Recorder of Deeds that parking is identified for the apartments and the Village of Niles is a party to that document that is being recorded. An example of this is the townhomes on Nordica. For a long time, the townhomes were using the parking lot at the apartment complex across the street. At times they used the shopping center parking lot also. Five years ago, the shopping center pulled their approval away where the townhomes used to park. Two weeks ago, the apartment complex did the same thing and pulled their approval of letting townhome residents' park. It does happen where the approval may be a handshake today but that seems to be going away. For the longest time, the gas station did allow the people from this building to park alongside the east side of the station. About two years ago he got directly involved when the gas station did not want the tenants from that building parking there. This is why the building's trashcans are not allowed on the gas station property anymore. That is why there is a section in the Zoning Code if you are going to identify another person's property to be used for parking requirements, that

document should be created and recorded with the Cook County and the Village of Niles.

Chairman Kanelos said at one time the Village owned part of that property belonging to the bank – the far eastern portion. That is not the case anymore, correct?

Mr. Ostman said correct. That entire property where the bank sits was the Trident Center which has since been relocated to the Senior Center in the Civic Center. NorthSide Community Bank entered into a disagreement with the Village because there was some contamination on part of the property which abuts the vacant gas station. That property was not included in the sale. Several years later a sale occurred for the most eastern part of that parking lot.

Commissioner Schulter asked Mr. Ostman about the former agreement with the gas station to the west and the former building owner. Was it a verbal agreement or in writing?

Mr. Ostman said it was verbal. No one wants to tie up their land with a written agreement.

Commissioner Schulter addressed Commissioner Dubiel since he was not at the previous meeting. There was never any parking at this building. They are not asking for additional parking. What they are trying to do is turn a couple of units into residential instead of business. So, you are going from zero net to zero net. It is just related to parking.

Chairman Kanelos said he understands that. Right now, they have two apartments. He understands the averages but they do not always work out. Whereas the doctor's office had more traffic during the day, they have no overnight traffic. His concern is taking a legal non-conforming and making it conforming by adding apartments upstairs; now the number of overnight parking is increasing. If the bank ever says no, all those cars would be dumped onto the streets. There is already a significant number of cars parked on the streets behind the building. He is concerned leaving it the way it is, it is what it is – backwards. We do not want to make it potentially worse just because right now it is zero to zero.

Commissioner Dubiel said that is his concern as well. There was a little used office there. The buyer testified he knew it was zero parking going in. It hinges on if there were any promises made to him by the Village. It is not something he could vote for unless there was anything misleading by Staff from the Village.

Mr. Enwia said the DESMAN Traffic Study counted twenty-one free spaces if you count the seven cars that were there. Basically, there are twenty-eight free spaces overnight with seven being used. You could sum that up to five or ten or however you want to do it. With twenty-one spaces that are free, even if you took all the overnight parking, that would leave you with sixteen spaces.

Commissioner Dubiel said they cannot count the street. It does not belong to the petitioner. You need to find somewhere you could have a lease or perhaps purchase another property.

Mr. Enwia said there is public parking allowed on the street.

Commissioner Dubiel said that does not count for zoning variations.

Chairman Kanelos said it is legal for someone to park there since it is public property. But when they consider variances for parking, that burden is not put on the public roads. Otherwise any business that came in could say they can park on the street. The Zoning Board has to think differently than the average person regarding street parking. It is unfortunate that the bank will not work with you for such a small number of cars.

Mr. Enwia said the status quo is the bank is allowing people to park there. We are not looking for a permanent change from the bank. He believes a dentist office may shift that status quo and push everybody into the street which is not what the Commission wants. Overnight parking at the bank would increase the number from two to five. [But if the site remained an office] You would increase the number of cars by fifteen to twenty cars, that may interfere with the bank's operations.

Chairman Kanelos said he does not think the daytime cars on the street are as big an issue as nighttime.

Commissioner DeBartolo reminded the Board there was a case not too long ago where they asked a petitioner to secure parking and it ended up being dropped.

Commissioner Schulter said he thought that was a little different because they wanted additional parking. This has no parking.

Chairman Kanelos entertained a motion.

Commissioner Nakanishi moved to **approve** item 20-ZP-10. 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.

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

AYES: 3 Nakanishi, McConville, Schulter

NAYS: 4 Dubiel, Karabatsos, DeBartolo, Kanelos  
There being four (4) negative votes the motion did not pass.

## **NEW BUSINESS**

### **1. 20-ZP-03, 8307 Golf Rd.**

**A request for a Special Use Permit to allow a 'Massage Services Establishment' at My Salon Suite, 8307 W. Golf Rd., Niles, IL 60714 as required by Section 8.2(A) of the Zoning Ordinance.**

Nathan Bruemmer presented this case. A legal notice was published in The Bugle on August 27, 2020. Notices were mailed out to all property owners within 250' on August 25, 2020. An onsite sign was placed on the property on August 26, 2020. The agenda was posted online on the Village of Niles website and is posted in the lobby of the Village Hall. Mr. Toni Gozali is currently the owner of My Salon Suite at 8307 W. Golf Road, Niles in Four Flags Shopping Center. The property is zoned C-2, general commercial. My Salon Suite is a nationwide franchise that offers private individual suites for service professionals such as hair stylists, aestheticians, etc. to rent for a flat fee. The location is divided into twenty-eight suites. Mr. Gozali would like to rent two suites [numbers 128 and 134] to massage therapists. Currently massage therapists are required to have a Special Use in the C-2 district. The request for the Special Use would cover the two suites requested in the application. Store policy requires each massage therapist to be licensed by the state and carry liability insurance.

Chairman Kanelos said the police department does not see any problem on this case with public safety. Mr. Bruemmer stated the massage therapists have to meet state and local requirements in order to be licensed. He asked if there were any questions for Staff from the Commissioners. There were none.

Toni Gozali, the petitioner, 8307 W. Golf Rd., Niles, came forward and was sworn in. He had no additional information for his case.

Commissioner Dubiel asked how many massage therapy places are in Niles?

Mr. Gozali said he only knows of two in Golf Mill Shopping Center and another one on Milwaukee Ave.

Commissioner Dubiel asked Staff if they know how many massage businesses are in Niles.

Mr. Ostman said there is one in Golf Mill. There is another one at the south end of Milwaukee Avenue and one more in Point Plaza Shopping Center.

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

Commissioner Nakanishi moved to **approve** item 20-ZP-03, a request for a Special Use Permit to allow a 'Massage Services Establishment' at My Salon Suite, 8307 W. Golf Rd., Niles, IL 60714 as required by Section 8.2(A) of the Zoning Ordinance.

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

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

NAYS: 2 Dubiel, DeBartolo

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.

**2. 20-ZP-14, 8565 Dempster St.**

**A request for a Special Use Permit to allow an Electronic Message Center at Global Clinic, 8565 W. Dempster St. as required by Section 78-92(3)(H)(b) of the Village Ordinance.**

Nathan Bruemmer said a legal notice for this case was published in The Bugle on August 27, 2020. Notices to all property owners within 250' were mailed out August 25, 2020. The onsite sign was placed on August 26, 2020 and tonight's agenda was posted online and in the lobby of the Village Hall as well. Mr. Robby Whitehead of Olympik Signs is the applicant. He is proposing to fabricate a 14' by 9' 7" double sided internally illuminated LED sign for Global Clinic, an existing physical therapy clinic at 8565 W.

Dempster, Niles. The new sign will be in the same location as the previous sign which has been removed. The new sign is composed of an internally illuminated LED light box and an electronic messaging center. The EMC will broadcast messages directly correlated to the services Global Clinic provides along with other urgent healthcare services taking place within the building. Per Section 78-92(3)(H)(b) of the sign code, the ground sign may have a portion of the sign used as an electronic message center provided the subject has no less than 200' of right-of-way frontage on which the sign is located. The subject property has about 160' of frontage. Section 78-92(4)(C) states that Electronic Message Center signs that do not comply may apply for a Special Use Permit to erect the sign.

Chairman Kanelos asked if there were any questions from the Commissioners for Staff.

Commissioner McConville asked how tall was the old sign.

Chairman Kanelos said this one actually shorter than the old sign. It is 14' by 9' 7". The sign itself is approximately 8' x 8' but the bottom third will be electronic.

Mr. Bruemmer said to answer Commissioner McConville, the old sign was 17' 6".

Chairman Kanelos asked if the petitioner was present.

Robby Whitehead, Olympik Signs, 1130 N. Garfield St., Lombard, IL 60148, came to the podium and was sworn in. He had nothing else to add to this case.

Commissioner Dubiel said he thinks the sign looks great. The black portion at the top measuring 8' x 1-3/4' [from the picture in tonight's packet] asked if it was decorative.

Mr. Whitehead said yes, it is a decorative element.

Chairman Kanelos said the only reason this requires a Special Use is because the width of the lot is not big enough. Everything else is within the code, correct?

Mr. Ostman said yes, that is correct.

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

Commissioner Dubiel moved to **approve** item 20-ZP-14 requesting a Special Use Permit to allow an Electronic Message Center at Global Clinic, 8656 W. Dempster St. as required by Section 78-92(3)(H)(b) of the Village Ordinance.

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

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

NAYS: 0

There being seven (7) affirmative votes the motion carried

Chairman Kanelos stated this Board is a recommending Board to the Board of Trustees who can either confirm or negate this 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-16, 8360 Oconto Ave.**

**A request for approval of two Variations from Niles Zoning Ordinance Section 4.3(A) to allow a corner side yard setback of 14.67' where 19.85' is required, and a height of 32.5' where a maximum height of 32' is permitted, as well as a Variation from Niles Zoning Ordinance Section 9.4 to allow a porch that encroaches 11.58' into the corner side yard setback where a maximum encroachment of 3.97 is permitted.**

Nathan Bruemmer presented this case. A legal notice was published in The Bugle on August 27, 2020. Notices were mailed to all property owners withing 250' on August 25, 2020. An onsite sign was placed on the property on August 26, 2020 and a copy of the agenda was put online on the Village website and posted in the lobby of the Village Hall. Mr. Rafal Komosa is the applicant and he is proposing to construct a second story addition to his home at 8360 Oconto Ave. The property is zoned R-2 and is located on a corner lot. Mr. Komosa is seeking three variations for this project. The first is from Section 4.3(A) to allow a corner side yard setback of 14.67' where 19.85' is required. The first floor of Mr. Komosa's home has an existing corner side yard setback of 14.67'. While he is not increasing the non-conformity outwards, Section 16.3(F) states that if a structure with a non-conforming corner side yard is being enlarged or extended vertically, they must seek a variation. The second variation is also from Section 4.3(A) that is to allow a building height of 32.5' where a maximum permitted rate is 32'. Lastly, the third variation is from Section 9.4 to allow a porch that encroaches 11.58' into

the required corner yard setback where a maximum encroachment of 3.97', aka 20% of the required yard, is permitted. The porch will extend 6.4' from the same building line leaving 8.27' between the porch and the property line as shown in the diagram of the packet.

Chairman Kanelos asked if there were any questions for Staff. He has a question. He is surprised by the second request to go to 32.5' versus 32'. As a builder, he knows you can change the pitch by a couple of inches and you meet the 32'. Was that suggested to the petitioner?

Mr. Bruemmer said it was brought to the petitioner's attention. But as long as he was going for two other variations, he included this. The building sits on a slight slope so at grade it was a half foot taller. The petitioner can answer the question.

Commissioner Dubiel said he is looking at 32' on the plan. But are you saying because of the grade it kicked it up a foot? Is the grade at the front or back of the house? Was the architect consistent?

Mr. Bruemmer said yes. He showed the plans on the overhead screen and explained the reasoning.

There was more discussion about the grade of the property.

Chairman Kanelos is looking at the plan. Does the main ridge line running east/west sit higher than the ridge lines from two gables running north/south?

Mr. Bruemmer said yes, it does look like that.

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

Rafal Komosa, petitioner and owner of the home at 8360 N. Oconto, came forward and was sworn in. He had nothing else to add.

Chairman Kanelos asked if there was a particular reason he did not opt to drop the pitch by ½ foot. It would hardly be noticeable in the design.

Mr. Komosa said he thinks the way the yard goes down it really does not show the issue. He thought it was going to be 32'. There were no more questions for the petitioner. There were no questions from the public.



Chairman Kanelos entertained a motion. Since there were three items requested in the two variations, he asked the Commissioner vote on each item separately.

Commissioner Dubiel moved to **approve** 20-ZP-16, 8360 Oconto Ave. A request for approval of a Variation from Niles Zoning Ordinance Section 4.3(A) to allow a corner side yard setback of 14.67' where 19.85' is required.

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

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

NAYS: 0

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

Commissioner Dubiel moved to **approve** 20-ZP-16, 8360 Oconto Ave. A request for approval of a Variation from Niles Zoning Ordinance Section 4.3(A) to allow a height of 32.5' where a maximum height of 32' is permitted.

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

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

NAYS: 1 Kanelos

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

Commissioner Dubiel moved to **approve** 20-ZP-16, 8360 Oconto Ave. A request for approval of a Variation from Niles Zoning Section 9.4 to allow a porch that encroaches 11.58' into the corner side yard setback where a maximum encroachment of 3.97 is permitted.

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

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

NAYS: 0

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

**4. 20-ZP-18, 7510 Lawler Ave.**

**A request for approval of a Variation from Niles Zoning Ordinance Section 4.3(A) to allow a front yard setback (south) of 18.65' where 25' is required, and a Variation from Section 9.4 to allow a porch that encroaches 9.35' into the required setback where a maximum encroachment of 5' is permitted.**

Nathan Bruemmer said case 20-ZP-18 is at 7510 Lawler Ave., Niles. A legal notice was published in The Bugle on August 27, 2020. Notices to all property owners within 250' were mailed out August 25, 2020. The onsite sign was placed on the property on August 26, 2020. An agenda for tonight's meeting was placed on the Village website and also posted in the lobby of the Village Hall. Mr. Mike Ivanovic is the applicant. He is proposing to extend the overhang of his roof towards the front yard and to also construct a new awning over his concrete stoop. The overhang will be extended by 2' while the new awning covering the stoop will be extended 5' from the building line. The property is zoned R-2 single family residential. The R-2 district requires a front yard setback of 25' while Mr. Ivanovic's property has an existing front yard setback of 20.65'. He also noted if you look at this block on Google maps most of the houses are set back in the 20' area. Mr. Ivanovic is seeking two variations on the project. The first Variation from Niles Zoning Ordinance Section 4.3(A) to allow a front yard setback (south) of 18.65' where 25' is required. The second Variation is from Section 9.4 to allow a porch that encroaches 9.35' into the required setback where a maximum encroachment of 5' is permitted.

Chairman Kanelos said the stoop is already there. Mr. Ivanovic is covering the existing stoop, correct? The Zoning Code defines it as a porch according to Mr. Bruemmer. He did say both times he drove by the property, the sign was laying on the ground. Perhaps someone from the Village could contact the homeowner and make sure the sign is up.

Commissioner Dubiel asked if there is any thought to revisiting the code, particularly where there is a high degree of these types of homes that have now become kind of non-conforming. This is clearly an improvement; the home is beautiful and there is already an existing stoop. Is there some way these could be reclassified so some of these owners do not have to go through this process?

Mr. Ostman said on an annual basis, the Senior Planner and Nathan go through last year's cases and bring information to the Building and Zoning Committee with recommended changes to the Zoning Code. That is how those changes are initiated. This is probably something that will be looked at for next year.

Chairman Kanelos said he agreed. If they are looking at increasing the porch size, a petitioner would have to bring it to this Board. But for covering this type of stoop, he does recommend changes be made. He asked if there were other questions for Staff from the Commissioners. There were none. He called for the petitioner.

Mike Ivanovic, 7510 W. Lawler Ave., Niles, came forward and was sworn in. He had nothing to add to this case.

Chairman Kanelos asked if there were any questions for the petitioner from the Commissioners. There were none. There was one person from the public area that was going to come to the meeting, but they did not attend. He entertained a motion.

Commissioner Dubiel moved to **approve** item 20-ZP-18, 7510 Lawler Ave. A request for approval of a Variation from Niles Zoning Ordinance Section 4.3(A) to allow a front yard setback (south) of 18.65' where 25' is required, and a Variation from Section 9.4 to allow a porch that encroaches 9.35' into the required setback where a maximum encroachment of 5' is permitted.

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

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

NAYS: 0

There being seven (7) affirmative votes the motion carried

Chairman Kanelos said to Staff he noticed in the plans for this case there is no site plan for proposed. It is nice to have that so you can see where things are in relationship to the property/lot lines. Those are typically required for permits. Is there a reason they do not have it for this case?

Mr. Bruemmer said he thinks it is because they had the plat of survey and the diagram showing the encroachments.

**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: 7 Dubiel, Karabatsos, DeBartolo, Schuler,  
Nakanishi, McConville, Kanelos

NAYS: 0

There being seven (7) affirmative votes the motion carried

The meeting adjourned at 8:20 p.m.

Kathleen Janessa, Recording Secretary