

**ORDINANCE 2011-61**  
**APPROVING A SPECIAL USE**  
**AS REQUIRED IN APPENDIX B, SECTION VIII (B)(3)(z) FOR A**  
**FULL SERVICE RESTAURANT AT**  
**7165 N. MILWAUKEE AVENUE, NILES, ILLINOIS**

**WHEREAS**, the question of granting a special use to 7165 N. Milwaukee Avenue, included in this ordinance was referred to the Plan Commission and Zoning Board of Appeals to hold a public hearing;

**WHEREAS**, a public hearing was held on November 7, 2011, after proper notice in a manner provided by law;

**WHEREAS**, the Plan Commission and Zoning Board of Appeals has made a report, containing findings of fact and recommending the granting of the special use for a full service restaurant at 7165 N. Milwaukee Avenue, Niles, IL 60714; and

**WHEREAS**, the corporate authorities of the Village of Niles, Cook County, Illinois have duly considered said Plan Commission Recommendation.

**NOW, THEREFORE, BE IT ORDAINED**, by the President and Board of Trustees of the Village of Niles, Cook County, Illinois, as a Home Rule Municipality, as follows:

**SECTION 1:** The materials and exhibits attached to this ordinance are incorporated by reference and made a part of this ordinance.

**SECTION 2:** A Special Use as required in Appendix B, Section VIII (B)(3)(z) for a full service restaurant at 7165 N. Milwaukee Avenue, Niles, IL 60714 is approved.

**SECTION 3:** This Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

**PASSED:** This 13<sup>th</sup> day of December, 2011  
**AYES:** 6 Hanusiak, Hynes, LoVerde, Palicki, Preston, Przybylo  
**NAYS:** 0  
**ABSENT:** 0

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Village Clerk

**APPROVED** by me this 13<sup>th</sup> day of December, 2011.

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President of the Village of Niles  
Cook County, Illinois

**ATTESTED AND FILED** in my office this 13<sup>th</sup> day of December, 2011, and published in pamphlet form as provided by law in the Village of Niles, Illinois.

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Village Clerk

**FINDINGS OF FACT AND RECOMMENDING  
DECISION OF THE ZONING BOARD OF APPEALS  
VILLAGE OF NILES, ILLINOIS  
November 7, 2011**

**11-ZP-21      Iqbal Ali  
                 Jackson Ave Subs, Inc.  
                 120 S. State St.  
                 Chicago, IL 60603**

**Requesting approval of a Special Use to Appendix B Section VIII (B)(3)(z) for a full service restaurant and to Appendix B Section X (B)(10)(nn) for parking credits at 7165 N. Milwaukee Ave., Niles, IL 60714.**

Mr. Wlodarski presented case 11-ZP-21. Subject property 7165 N. Milwaukee Ave., Niles, IL 60714. Legal notice was published for all cases in front of the Board tonight on October 20, 2011 in The Bugle Newspaper. Letters were mailed out to all properties located within 250 ft. of the subject properties Staff has been working with the petitioner to get documentation there would be no negative effects for parking concerning the other tenants, being Starbucks and the Vein Center currently in Fountain Plaza. They did submit some information that is in the packets. They were hoping for more detailed information and also working with the landlord who was to deliver information from Starbucks to ease the concerns they may or may not have had. At this time the department does not feel comfortable making a recommendation for approval. But the petitioner said they will be able to provide more information that is not yet in the packet. Hopefully the petitioner will put your mind at ease from this point forward. The department has reviewed it and feels comfortable. The department wanted that extra information they will hopefully provide you tonight. This Board is a recommending Board to the Board of Trustees.

Commissioner Dubiel requested to add the packet as Exhibit I.

In response to a question from Commissioner Schulter, Mr. Wlodarski said if the petitioner is prepared to present everything they are required to present tonight, there could be a favorable recommendation made right away.

In response to a question from Vice-Chairman Dimond, Mr. Wlodarski stated Starbucks has no issues in regard to parking and they were going to send a letter detailing such. But the village has not yet received the letter.

In response to a question from Commissioner Troiani, Mr. Wlodarski stated the Vein Clinic is still going in at the corner and regarding ADA requirements, all such requirements are met.

Chairman Kanelos asked if there were any other questions for Mr. Wlodarski from the Commissioners or the public. There were none. At this time he asked for the petitioner to step forward.

The following four (4) individuals stepped to the podium and were sworn in:  
Christine Fink, District Manager, Starbucks, 3317 N. Wolcott, Chicago, IL.  
Murad Favad, Subway, 124 W. Chicago Ave., Downers Grove, IL.  
Iqbal Ali, Subway, 8457 N. Drake, Skokie, IL.  
Paul Kolpak, Attorney, 6767 N. Milwaukee Ave., Niles, IL.

Mr. Kolpak stated both the landlord and the Village attempted to reach out to Starbucks to get the information but they were not able to get anything in writing. However, tonight they have Ms. Fink who can answer for Starbucks.

Upon being questioned by Attorney Kolpak, Mr. Favad stated they would be moving their store from it's current location on Touhy and Harlem in Chicago to the above mentioned property in Niles. He further stated that the peak hours for Starbucks were at a time when they would not have many customers and that their morning sales were typically limited to four (4) to ten (10) customers.

In response to a question from Commissioner Dubiel, Mr. Favad stated that the majority of their employees use public transportation.

In response to a question from Commissioner Schuller, Mr. Favad stated that in the mornings they would have no more than 1-2 employees working, therefore employee parking should not be an problem.

In response to a question from Commissioner Dubiel, Ms. Fink stated that now that Starbucks has been open at that location for over a month they have discovered that their estimate that 65% of their peak morning hours business would be drive-through is an understatement and that the actual number is closer to 70%. She also stated that she does not believe that there will be a parking issue because of the extremely high percentage of drive-through customers at that location.

Chairman Kanelos stated the following clarification. 65% of Starbucks business is in the morning and of that 70% is drive thru. There are six (6) employees in the morning hours – four (4) park on site and two (2) take public transportation. Subway – two (2) employees maximum in the morning; 10% - 15% of business in the morning with the majority of the business in the afternoon. Therefore Subway will be doing 90% of their business when Starbucks is doing 35% of theirs.

In response to a question from Commissioner Dubiel, Mr. James Kozonis, property owner, approached the podium and was sworn in. He stated that they have all the necessary equipment to manage and remove snow from the parking lot if necessary. They will not lose any parking to snow piles.

In response to a question from Vice Chairman Dimond, Mr. Kozonis stated that the one remaining unity has no tenant signed as of yet.

Chairman Kanelos asked if there were any other questions from the Commissioners or the public. There were none. At this time he entertained a motion.

## **POSITION OF VILLAGE**

The Community Development Department has no objection to this request. None of the remaining village departments has any objection to the granting of this request

## **FINDINGS**

- 1. Establishment, Maintenance, or Operation, of the Special Use will not be detrimental to or endanger the public health, safety or general welfare.**

There is no evidence that the establishment, maintenance or operation of the Special Use will be detrimental to or endanger the public health, safety or general welfare.

- 2. Establishment, Maintenance, or Operation of the Special Use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the uses already permitted, nor diminish and impair property values within the neighborhood.**

There is no evidence that the maintenance or operation of the Special Use will be injurious to the use and enjoyment of other property in the immediate vicinity for the uses already permitted, nor will it diminish and impair property values within the neighborhood.

- 3. Establishment, Maintenance, or Operation of the Special Use will not impede the normal and orderly development and improvement of surrounding property for permitted use.**

There is no evidence that the maintenance or operation of the Special Use will impede the normal and orderly development and improvement of surrounding property for permitted use.

**4. Conformance to Regulations.**

The establishment, maintenance or operation of the Special Use, shall in all other respects conform to all Village of Niles Ordinances, unless otherwise authorized by the Village of Niles Zoning Board of Appeals.

Commissioner Dubiel moved that **11-ZP-21, Iqbal Ali, Jackson Ave Subs, Inc., 120 S. State St., Chicago, IL 60603 - requesting approval of a Special Use to Appendix B Section VIII (B)(3)(z) for a full service restaurant and to Appendix B Section X (B)(10)(nn) for parking credits at 7165 N. Milwaukee Ave., Niles, IL 60714 be approved.** In conjunction with making the motion the Board makes the finding that the Special Use is necessary for the public convenience. The public health, safety and welfare will in no way be jeopardized; that the Special Use will not cause any substantial injury to the value of other property in the neighborhood in which it is located.

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

AYES:	6	Dimond, Surace, Nakanishi, Schuler, Dubiel, Kanelos
NAYS:	1	Troiani

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

**RECOMMENDATION:**

Based upon the foregoing, the Zoning Board of Appeals recommends that **11-ZP-21, Iqbal Ali, Jackson Ave Subs, Inc., 120 S. State St., Chicago, IL 60603 - requesting approval of a Special Use to Appendix B Section VIII (B)(3)(z) for a full service restaurant and to Appendix B Section X (B)(10)(nn) for parking credits at 7165 N. Milwaukee Ave., Niles, IL 60714 be approved.**

Respectfully Submitted,

ZONING BOARD OF APPEALS

Thomas N. Kanelos, Chairman