

ORDINANCE 2012-62

APPROVING AN AMENDMENT TO SPECIAL USE ORDINANCE 2004-41 FOR EXPANSION OF EXISTING USE AND VARIATION TO APPENDIX B SECTION VII(B)(14) IN INCREASE THE MAXIMUM IMPERMEABLE SURFACE LOCATED AT 7333 N. CALDWELL AVE., NILES, ILLINOIS

WHEREAS, the question of granting a special use and variation to 7333 N. Caldwell Ave., 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 October 1, 2012, 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 an amendment to Special Use Ordinance 2004-41 for expansion of existing use and Variation to increase the maximum impermeable surface located at 7333 N. Caldwell Ave., Niles, IL 60714; and

WHEREAS, the corporate authorities of the Village of Niles, Cook County, Illinois have duly considered said Plan Commission and Zoning Board of Appeals 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: Approving an amendment to Special Use Ordinance 2004-41 for expansion of existing use and Variation to increase the maximum impermeable surface to 73% from the maximum allowed 60% located at 7333 N. Caldwell Ave., Niles, IL 60714 with the following condition: construct five larger concrete gas curbs in the first five parking spaces adjacent to the playground at the neighboring church, 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 27th day of November, 2012
AYES: 5 Hanusiak, Hynes, LoVerde, Preston, Przybylo
NAYS: 1 Palicki
ABSENT: 0

Deputy Village Clerk

APPROVED by me this 27th day of November, 2012.

President of the Village of Niles
Cook County, Illinois

ATTESTED AND FILED in my office this 27th day of November, 2012, and published in pamphlet form as provided by law in the Village of Niles, Illinois.

Deputy Village Clerk

**FINDINGS OF FACT AND RECOMMENDING
DECISION OF THE ZONING BOARD OF APPEALS
VILLAGE OF NILES, ILLINOIS
October 1st, 2012**

12-ZP-28

**Mr. Douglas Pasma, Architect
1601 Sherman Ave.
Evanston, IL 60201**

Requesting an amendment to Special Use ordinance 2004-41 for expansion of existing use and a variation to Appendix B Section VII (B)(14) to increase the maximum impermeable surface to 73% from the maximum allowed 60% at 7333 N Caldwell Ave., Niles, Illinois 60714, PIN #10-30-403-025-0000.

Charles Ostman stepped to the podium to present case 12-ZP-28. Legal notice for this case was published on September 13, 2012 in The Bugle Newspaper and letters were mailed out to all the property owners within 250' of the subject property. This is the Harvest Bible Chapel. It has been at this location since 2005. In 1971 the subject property was rezoned to R-1 Special Use, Ordinance 1971-17 for a church – the Belden Avenue Baptist Church. In 2001 Crossway Baptist Church occupied the property until 2005. In 2004 it was noted that the zoning map incorrectly identified the property as R-1 without the Special Use. Ordinance 2004-41 was adopted to insure the property was correctly identified as a Special Use. This request is to expand the building and is an amendment to Ordinance 2004-41. The expansion of the building will include seating for 560 in the main auditorium and six classrooms for educational purposes. It should be noted the parking requirement for the 560 seat auditorium does meet the current zoning code. The third edition of the ITE Parking Publication indicates the parking demand for the average Sunday services is one vehicle for every two attendees. Niles code reflects the parking requirement of one vehicle for every four attendees. The request for the variation to increase the maximum impervious surface from 60% to 73% is appropriate for the use. The entire property is required to meet the Storm Water Management Ordinance for storm water detention. This ordinance typically is just for a residential purpose. In this case it is sort of a commercial use on a residential zoning lot. The applicant has indicated the classrooms will be used by elementary and junior high aged persons. The classrooms are not part of the parking requirements for the reasons of Section X (B)(10)(ff).

Chairman Kanelos asked if there were any questions for Mr. Ostman from the Board.

Commissioner Dubiel asked if R-1 is the zoning for churches in Niles.

Mr. Ostman said yes. For a church to be on a piece of property it has to be zoned R-1 Special Use.

Commissioner Troiani asked if this is in a flood plain.

Mr. Ostman answered that it is not. When the Village gets a piece of property like this and it is used for commercial purposes, there is a storm water detention ordinance that kicks into place that you have to retain a lot of the storm water on your property and slowly release it into the storm sewer. Mr. Ostman further stated this will be an improvement. Two years ago there was no storm water management in place. Now this is in place and the property owner has to retain that storm water on site.

Chairman Kanelos asked if there were other questions from the Commissioners. There were none. There was one question from the public.

Mr. George Anastasiadis, 1325 Perry St., Des Plaines, IL 60016 stepped to the podium and was sworn in. He represents St. Haralambos Greek Orthodox Church on Caldwell, next door to the subject property. Regarding water retention, you said it is zoned Residential Special Use. Is that upgraded to commercial use or is it still water retention for residential use?

Mr. Ostman said the regulations they had to follow are for commercial use.

In response to a question from Commissioner Dubiel, Mr. Ostman stated the petitioner cannot dump water on properties that are contiguous to their property.

There were no other questions for Mr. Ostman. Chairman Kanelos then asked the petitioner to step forward.

Mr. Douglas Pasma, Architect, 1601 Orrington Ave., Evanston, IL 60201 approached the podium and was sworn in. [This address is different from the one in the agenda description.] He went through the site plan on the overhead. There is a one story frame building with a basement on the property. They propose to take down that frame parsonage. They will meet the requirement for parking [for the added seats] on the property around the building to the south and east and north. The north area is to be the new parking. To the east is existing parking. The south portion has some parking but they will be adding to that parking by the removal of that frame building. There will be a full underground onsite detention system that would go under the north portion of the parking lot that would maintain the requirements of the storm water management ordinance. They have an existing 260 seat worship space. They will add just over 290 seats for a total 560 seats. An entrance lobby and some classrooms are on the east and north sides of the building with main entrances to the south and east and a small entrance to the north. It is a one story building. The addition would have compatible materials – brick veneer, sufficient areas of glass and stucco material on the higher areas of the new worship space.

Commissioner Nakanishi clarified the green shaded areas [on the overhead] are detention areas – dry basins.

There were no more questions for the petitioner from the Commissioners.

From the public, Mr. Anastasiadis went to the podium to speak once more.

He has a few questions for Mr. Pasma. He asked about the three exits from the parking lot. Is the exit that leads to Natchez Ave. being used by Harvest Bible?

Mr. Pasma said it is being used with permission of the neighboring landowner.

Mr. Anastasiadis said does that mean it is not a legal access point, so if that property changes hands again, that access point is potentially not an exit.

Mr. Pasma deferred to Niles to comment on that and let the church speak of the landowner as they have been using that access since they have been on site.

Mr. Anastasiadis said he isn't sure of the current status but at one time that entrance and exit was blocked by the current property owner who purchased the property in 2011. Being a parishioner at the neighboring church, he and the parishioners at the Harvest Bible Chapel know that traffic is already congested in that area. It is usually just Sunday morning but there are during programs during the week at both churches. With the new addition that would make for a lot of traffic in and out of Harvest's parking lot with only two exits [if they can't use the third exit out to Natchez.] That is a concern.

Chairman Kanelos asked Mr. Ostman if there are only two exits and entrances does it still meet the requirements necessary based on the amount of parking.

Mr. Ostman answered that it does.

Mr. Anastasiadis had another question based on the submission made in January 2012. Sheet 6 of 6 – the landscape plan. For those that don't know, St. Haralambos Church is just to the north of Harvest Bible. Is there enough of an easement? It seems like the parking lot is built quite close to the property line of his church.

Mr. Pasma said there is a 10' setback on the north and a 6' setback on the south. It is cumulative of 16' which is the requirement for a side yard setback.

Mr. Anastasiadis said with the parking lot so close to the playground can it be included in your plan to have some type of protection for that playground?

Mr. Pasma said he thinks the church wouldn't have any problem working out some kind of reciprocal relationship protecting that playground. But the playground is not on Harvest Bible's property. He thinks this is outside of the jurisdiction of the zoning ordinance but the churches should be able to work something out.

Chairman Kanelos stated the Board can make such issues a condition of the special use amendment .

At this time, a member of the Harvest Bible Church stepped forward and was sworn in.

Fred Adams, 523 Cole, South Elgin, IL spoke. He described different things that could be installed in that corner near the playground for safety. They look forward to serving the people of the community for a long time to come.

Mr. Anastasiadis said he would like protection of the playground to be added as a condition. Also, with this water retention, does that require surrounding neighbors to increase their water retention? Or will Harvest Bible's water retention be sufficient.

Chairman Kanelos said Harvest Bible's storm water plan has to prevent any runoff from their property onto neighboring properties.

Chairman Kanelos asked if there were more questions from the public or the Commissioners. 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 have 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 Troiani moved **12-ZP-28 requesting an amendment to Special Use ordinance 2004-41 for expansion of existing use and a variation to Appendix B Section VII (B)(14) to increase the maximum impermeable surface to 73% from the maximum allowed 60% at 7333 N Caldwell Ave., Niles, Illinois be approved** and that it meets the following standards: a) is deemed necessary for the public convenience at that location; b) is so designed, located and proposed to be operated so the public health, safety and welfare will be protected; c) will not cause substantial injury to the value of the property in the neighborhood in which it is located.

Seconded by Commissioner Nakanishi with a friendly amendment. She added the condition that the concerns of the adjacent church [St. Haralambos] be addressed concerning the safety of the children in their playground area. That the condition would be to place oversized concrete gas curbs in the first five parking spaces adjacent to the playground.

Commissioner Troiani accepted this as a friendly amendment.

On roll call the vote was:

AYES: 6 Surace, Troiani, Nakanishi, Schulter, Dubiel, Kanelos

NAYS: 0

ABSENT: 1 Dimond

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

RECOMMENDATION:

Based upon the foregoing, the Zoning Board of Appeals recommends that **12-ZP-28 requesting an amendment to Special Use ordinance 2004-41 for expansion of existing use and a variation to Appendix B Section VII (B)(14) to increase the maximum impermeable surface to 73% from the maximum allowed 60% at 7333 N Caldwell Ave., Niles, Illinois be approved**

Respectfully Submitted,

ZONING BOARD OF APPEALS

Thomas N. Kanelos, Chairman