

Niles Charter Township Zoning Board of Appeals
March 15, 2017
Special Meeting

Chairman Van Dyke called the meeting to order at 7:02 p.m. at the Township Hall, 320 Bell Road, Niles, Michigan.

Pledge of Allegiance: The Pledge was recited.

Roll Call:

- Present: Smothermon, Hoffman, Durm-Hiatt and Van Dyke
- Absent: Ellis
- Present: ZA Hartman, and RS Ernsberger

Approval of Agenda: Durm-Hiatt motioned to approve the March 15, 2017 Niles Charter Township Zoning Board of Appeals meeting Agenda, Smothermon seconded the motion.

All voting in favor.

MOTION

CARRIED.

Approval of Minutes: Smothermon motioned to approve the Niles Charter Township Zoning Board of Appeals January 24, 2017 meeting minutes as submitted, Hoffman seconded the motion.

All voting in favor.

MOTION

CARRIED.

New Business: Chairman Van Dyke opened the public hearing at 7:04 pm. Van Dyke asked ZA Hartman if any correspondence was received on the application. Hartman stated no correspondence was received, one resident came in the office and reviewed the application and is present at this hearing. Chairman Van Dyke opened the floor to the applicant and their representatives, Richard Blasey and Ian Graham from Bergmann Associates. Mr. Blasey explained that the applicant, Dollar Tree, is asking for four (4) variances at 3134 S. 11th Street. The variances include; Woodlawn front yard setback, 11th Street front yard setback, Placement of loading area in side setback instead of rear setback and reduction in parking dimensions. ZA Hartman reminded the Commission Members that Wal-Mart and Lowe's both were granted these types of variances due to parcel sizes along the 11th Street Corridor. Ms. Hartman also reminded the members that there are seven (7) standards to be met. Mr. Van Dyke opened the floor to the public in favor of the application. Mr. James Ringler of 107 Beeson, Niles, identified himself as the listing agent. The property's legal description indicates 142' of depth and 192' of frontage. This parcel and its description was created prior to the five lane highway, MDOT took 60' of the property. The property is restricted on the north and the Murdock's are more than willing to sell Dollar Tree 52' of their property. Dollar Tree will make that purchase if all required permits are issued and they can move forward with the plan. Mr. Van Dyke opened the floor to those opposed of the application. Mr. David Easterbrook, owner of Dairy Queen at 3135 and 3145 S. 11th Street, Niles, had some questions and concerns. He is concerned that MDOT & INDOT use the Murdock Lane for a turn around and if Dollar Tree purchases that he does not want them to begin using his property for that turn around. Will the egress safely line up properly with other egresses? The

applicant said they will work with MDOT to properly create the egress. And lastly, he is concerned about drainage. The applicant stated they will attach to the existing drainage system. Mr. Van Dyke closed the public hearing at 7:20 pm.

The Zoning Board of Appeals members began deliberations. Ms. Durm-Hiatt confirmed location of loading area in the side setback. Mr. Van Dyke added the dock entrance would be on Woodlawn. The applicant confirmed the loading in the side and entrance off of Woodlawn. Mr. Van Dyke questioned if there was screening planned. The applicant stated the plan includes screening to match the building type and loading dock. Mr. Hoffman confirmed with ZA Hartman that there are overlay problems. Mr. Hoffman added that it is a great project, but the applicant would not meet Item F. The applicant created the issue by purchasing a parcel too small for the project to meet current zoning. Mr. Hoffman stated the Township needs to address the overlay problems as soon as possible. Mr. Van Dyke stressed that the issue could not be addressed here and now by the Zoning Board of Appeals. Mr. Hoffman stated the Planning Commission should resolve this issue. Ms. Durm-Hiatt added the township could lose potential businesses and the issue has to be corrected. ZA Hartman added there are a number of properties along 11th Street that do not follow the setbacks, parcels exist as they were created. The applicant or owner did not create this issue. MDOT took 60' of the property. Should we block businesses? Mr. Hoffman stated it's not the job of the ZBA to violate the ordinance. Durm-Hiatt confirmed the square footage of the building would be 10,000 square feet and the applicant confirmed. ZA Hartman maintained it would not be a violation. She confirmed with Williams and Works, the Township's Planner, whether or not granting these variances would be a violation. William and Works confirmed when some property owners have a right in a certain area, the Township can't deny other property owners in that area that same right. Mr. Smothermon said it is a substantial right that should be granted to all property owners.

Smothermon motioned to approve the variance application from Dollar General at 3134 and 3158 S. 11th Street, Parcel # 11-14-8700-0024-02-9 and the southern portion of Parcel #11-14-0123-0109-00-5 for four (4) variances including a reduction from 40' to 30' on Woodlawn, a reduction from 40' to 25' on 11th Street, placement of the loading dock in the side yard setback instead of the rear setback, and a reduction in parking dimensions on 24 spaces from 10' x 20' to 9' x 20' and 13 spaces reduced from 10' x 20' to 9.5' x 20' due to meeting the standards of Section 28.08 in the Zoning Ordinance, Durm-Hiatt seconded the motion.

Mr. Blasey questioned the dimensions used in the motion. Mr. Hoffman stated an amendment would be necessary.

Smothermon amended the motion to a reduction from 35' to 10' on Woodlawn, a reduction from 35' to 21.5' on 11th Street, placement of the loading dock in the side yard setback instead of the rear setback, and a reduction in parking dimensions on 24 spaces from 10' x 20' to 9' x 20' and 13 spaces reduced from 10' x 20' to 9.5' x 20' due to meeting the standards of Section 28.08 in the Zoning Ordinance, Durm-Hiatt seconded the motion.

Smothermon, Durm-Hiatt and Van Dyke voting in favor, Hoffman voting against. **MOTION CARRIED.**

Other Business: Durm-Hiatt requested a meeting with the Planning Commission to work on ordinance issues. Hartman said she would bring the comments to the Planning Commission.

Public Comment: Mr. James Ringler commented that we need to accommodate growth in the Township. He is very much in favor of reviewing the zoning ordinance. Mr. Easterbrook

applauded the deliberation process, but believes it to be too expensive for property owners. He also stated he is glad to see growth along 11th Street.

Adjournment: Durm-Hiatt motioned to adjourn the meeting at 8:02 p.m., motion supported by Hoffman.

All voting in favor.

MOTION CARRIED.

Respectfully submitted,

Teri Ernsberger, Recording Secretary

Approved 3/15/2017 at ZBA meeting