

1 BEFORE THE DU PAGE COUNTY
2 ZONING BOARD OF APPEALS

Conditional Use and Variations) No. 25-046
4 for a video gaming terminal) Penny's Place
establishment)

October 29, 2025

6:00 p.m.

7 PROCEEDINGS HAD and testimony
8 taken before the DU PAGE COUNTY ZONING BOARD
9 OF APPEALS, taken at the DuPage County
10 Administration Building, 421 North County
11 Farm Road, Wheaton, Illinois, before LINDA M.
12 CIOSEK, C.S.R. a Notary Public qualified and
13 commissioned for the State of Illinois.

14 | BOARD MEMBERS PRESENT:

15 MR. ROBERT KARTHOLL, Chairman.

16 MR. JACK MURPHY, Commissioner.

17 MR. CARL SCHULTZ, Commissioner.

18 MR. DENNIS MORAN, Commissioner, via

19 Zoom.

20 MR. JIM JAROG, Commissioner, via Zoom.

21 MR. ZAIN RAHMAN, Commissioner, via

22 Zoom.

<p>1 ALSO PRESENT: 2 MS. ASHLYN KIRBY, Zoning 3 Administration Coordinator. 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	Page 2	<p>1 CHAIRMAN KARTHOLL: This is the DuPage 2 County Zoning Board of Appeals for October 3 29. And may I ask that you call the roll of 4 the members present. 5 MS. KIRBY: Member Murphy? 6 COMMISSIONER MURPHY: Here. 7 MS. KIRBY: Member Schultz? 8 COMMISSIONER SCHULTZ: Here. 9 MS. KIRBY: And Chairman Bob Kartholl. 10 CHAIRMAN KARTHOLL: Here. 11 Let the record reflect 12 that we have three members who have asked to 13 appear remotely. They have, in each 14 instance, work travel or general work 15 conflicts, so may I have a motion to permit 16 Mr. Moran, Mr. Jarog and Mr. Rahman. 17 COMMISSIONER MURPHY: I so move. 18 COMMISSIONER SCHULTZ: Second. 19 CHAIRMAN KARTHOLL: Motion by Mr. 20 Murphy, seconded by Mr. Schultz. All in 21 favor of the motion? 22 (Whereupon, all members 23 present responded aye.) 24 CHAIRMAN KARTHOLL: Any opposed?</p>	Page 4
<p>1 EXHIBITS 2 Page No. 3 Petitioner's Exhibit 1 8 4 Petitioner's Exhibit 2 10 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24</p>	Page 3	<p>1 (No response.) 2 CHAIRMAN KARTHOLL: Motion carries. 3 Let the record reflect that we now have six 4 members with the addition of Mr. Moran, Mr. 5 Jarog and Mr. Rahman. 6 Okay, we have no public 7 comment to be heard, I presume, other than 8 public comment that may be associated with 9 the hearing that we're about to hold on the 10 Zoning petition. We have no minutes to 11 approve, and so I will call our first and 12 only hearing that is 25-046 Penny's Place, 13 Blackhawk. 14 We have a request for a 15 conditional use to allow a video gaming cafe 16 in a B-1 Local Business Zoning District. 17 Two, a variation to allow 18 a video game cafe within a thousand feet of a 19 place of assembly and school. 20 Three, a variation to 21 allow a video gaming terminal establishment 22 within a thousand feet of an existing video 23 game cafe/restaurant, video gaming terminal 24 establishment.</p>	Page 5

<p>1 The matter was published 2 in the Daily Herald on October 29. Daily 3 Herald, right? It just says October 29th. 4 Oh, no, it does. I'm sorry. October 29 is 5 today. The matter was published in the Daily 6 Herald on October 15, 2025, and I have 7 objections filed by the Village of Wheaton 8 and the Village of Glen Ellyn. 9 No other comments from any 10 of the authorities to whom we have circulated 11 the petition.</p> <p>12 Are you -- who's the 13 petitioner?</p> <p>14 MR. THIESSEN: I'm the tenant. I 15 think the landlord is here as well.</p> <p>16 MR. FISCHER: I'm the landlord.</p> <p>17 CHAIRMAN KARTHOLL: Who's presenting 18 the case?</p> <p>19 MR. THIESSEN: I'll present our case, 20 but I also want our landlord to hear because 21 we've been a tenant here and he's our third 22 property owner, which is not a bad thing, but 23 there's some history here, and I think this 24 is my third time before the Board on</p>	Page 6	Page 8
<p>1 different zoning issues we've had.</p> <p>2 CHAIRMAN KARTHOLL: I just want to 3 know --</p> <p>4 MR. THIESSEN: I will present our 5 case.</p> <p>6 CHAIRMAN KARTHOLL: What's your name, 7 sir?</p> <p>8 MR. THIESSEN: It's Mike Thiessen, 9 T-h-i-e-s-s-e-n. I'm an owner, one of the 10 owners of Blackhawk Restaurant Group, Penny's 11 Place at that location.</p> <p>12 CHAIRMAN KARTHOLL: Okay. And are you 13 going to make comments associated with the 14 petition?</p> <p>15 MR. FISCHER: No, I'm Rich Fischer, 16 I'm the lawyer for Fischer & Hogan, LLC, the 17 landlord, and I'm just here in case you guys 18 have any questions about their status as a 19 tenant.</p> <p>20 CHAIRMAN KARTHOLL: Well, in the event 21 that we do, why don't you be sworn in at the 22 same time.</p> <p>23 (Whereupon, the oath was 24 duly administered by the</p>	Page 7	Page 9

<p>1 (Whereupon, Petitioner's 2 Exhibit 2 was marked for 3 identification.)</p> <p>4 CHAIRMAN KARTHOLL: Any other 5 exhibits?</p> <p>6 MR. THIESSEN: No, sir.</p> <p>7 CHAIRMAN KARTHOLL: All right why 8 don't you proceed with your presentation.</p> <p>9 MR. THIESSEN: Okay. So, we've been 10 open since May of 2022, about three 11 and-a-half years. We've had no issues 12 related to either the neighborhood or tenants 13 or landlord. We've had no violations related 14 to public health, we've had a state gaming 15 license, a state liquor license, a County 16 liquor license, a County health inspection, 17 fire inspections. So over the last forty-one 18 months on all of those issues, there's been 19 no downgrade, no failure, no probation, no 20 nothing. If there was any detrimental use to 21 the neighborhood, I would have thought that 22 it would have come up during that period of 23 time since this is a new distance requirement 24 to the church that's behind us. We've had no</p>	Page 10	<p>1 community and we hope that you can see your 2 way to give us this requested variance.</p> <p>3 CHAIRMAN KARTHOLL: You received a 4 violation notice?</p> <p>5 MR. THIESSEN: No, sir.</p> <p>6 CHAIRMAN KARTHOLL: Okay. Is that 7 your presentation?</p> <p>8 MR. THIESSEN: Yes, sir.</p> <p>9 CHAIRMAN KARTHOLL: All right, I'm not 10 asking any questions to clarify it.</p> <p>11 Any questions from any 12 members of the Board?</p> <p>13 COMMISSIONER MORAN: No questions 14 here.</p> <p>15 CHAIRMAN KARTHOLL: All right, thanks.</p> <p>16 COMMISSIONER RAHMAN: No questions.</p> <p>17 CHAIRMAN KARTHOLL: Audience members, 18 any comment from any audience members? All 19 right, two people? Just two, three? Would 20 you raise your hand and be sworn in.</p> <p>21 (Whereupon, the oath was 22 duly administered by the 23 Notary.)</p> <p>24 CHAIRMAN KARTHOLL: When you begin, I</p>	Page 12
<p>1 police activity, we've had no calls to our 2 site. I can't speak to the mall as a whole, 3 I can only speak to me as a petitioner.</p> <p>4 And then in the past we 5 have met all previous requirements of the 6 County, both building code requirements, life 7 safety requirement, health requirements, 8 everything from three-compartment sinks to 9 grease traps that we had to add to everything 10 else. So, I think this is just simply, in my 11 opinion, a change of distance between us and 12 the church that's been behind us.</p> <p>13 But we have been an active 14 participant in this mall for, like I said, 15 forty-one months. Never missed a rent 16 payment, never missed the County property tax 17 payment, and our tax revenue to the County 18 has gone up steadily over the last period of 19 time from '23 to '24. Our tax revenue 20 increase on the County portion alone was 21 almost 15 percent. From '24 to this year 22 2025, we're going to be up 21 percent.</p> <p>23 We're very happy with this 24 location, we love being a member of this</p>	Page 11	<p>1 don't care who goes first, but when you begin 2 would you state your name, spell your last 3 name so that we can get it in the record, 4 tell us your address and where you are in 5 relation to the property. Then tell us 6 whether you support or oppose the petition, 7 and then the clock starts after all those 8 preliminaries and you get about three minutes 9 to make a statement.</p> <p>10 Who would like to go 11 first?</p> <p>12 MR. SMAISTRAL: I'll go first.</p> <p>13 CHAIRMAN KARTHOLL: Go right ahead.</p> <p>14 MR. SMAISTRAL: My name is Greg 15 Smaistrala, G-r-e-g S-m-a-i-s-t-r-a, I live 16 in the Glen Ellyn Woods and I am the 17 president of our civic association. I object 18 to this, and the reasons are I don't think 19 this neighborhood is the right location for a 20 gambling establishment. We already have a 21 lot of gambling going on in this little 22 neighborhood already, and I don't think it is 23 wise to have it here. Too close to schools, 24 too close to churches. A lot of kids go to</p>	Page 13

<p>1 the 7-Eleven by themselves, a lot of kids 2 walk to school right through that area. I 3 object. That's all I have to say. 4 CHAIRMAN KARTHOLL: Okay, thank you, 5 Next? 6 MR. NELSON: Good evening, my name is 7 Glenn Nelson, N-e-l-s-o-n. I live in the 8 Glen Ellyn Woods Subdivision, I'm three 9 houses away from Penny's Place. I'm here to 10 strongly object to the zoning petition for 11 Penny's Place for the variance and 12 conditional use. 13 This petition asked for a 14 conditional use and two variances to allow 15 video gaming at the location even though the 16 DuPage County Zoning Ordinance requires a 17 thousand foot separation from places of 18 assembly and from other gaming 19 establishments. 20 The proposed site is less 21 than a thousand feet from St. Barnabas 22 Episcopal Church and Arbor View Elementary 23 School, both of which serve families and 24 youth. And it is near Glenbard South High</p>	Page 14	<p>1 the courts upheld a denial for precisely this 2 reason. 3 In addition, in another 4 case law, Gallik versus County of Lake, an 5 Illinois Appellate Court 2002 case, the 6 courts supported the Zoning Board's full 7 authority to deny variances and conditional 8 use licenses. Gallik versus County of Lake 9 specifically states conditional use permits 10 and zoning variations must be based on 11 substantial evidence and cannot be granted 12 arbitrarily or contrary to public welfare. 13 I urge the Board to uphold 14 the County's thousand foot rule and deny this 15 petition. DuPage County established the 16 thousand foot buffer for a reason, to protect 17 children, families and the character of our 18 community. Approving this petition would 19 undo that protection and directly conflict 20 with state law, County ordinance and legal 21 precedent. In short, allowing an exception 22 here would weaken the law and harm our 23 community. Granting relief here sets a 24 dangerous precedent for future petitions.</p>	Page 16
<p>1 School and athletic fields. It is also 2 within 300 feet in the same mall of three 3 other video gaming cafes being 7-Eleven; MW 4 Thai, which also has a gaming named Annie's 5 Slots; and Park Liquors which has a cage in 6 there for gaming but it does not yet have 7 gaming machines. 8 Approving these waivers 9 would directly undermine the County's 10 protective standards. Illinois law supports 11 denial. The Video Gaming Act requires and 12 empowers regulators like the Zoning Board to 13 prevent undue concentration of video gaming 14 and to deny licenses where gaming would be 15 inconsistent with the Act's integrity. And 16 the Video Gaming Act is 230ilcs 40/25. It 17 was adopted to protect public welfare, youth, 18 and neighborhood business integrity and 19 explicitly states the thousand foot 20 separation between gaming uses and places of 21 assembly, schools, and other gaming sites. 22 Case law in Hometown Plaza 23 versus Illinois Gaming Board, the courts 24 upheld -- this is an Illinois 2017 case --</p>	Page 15	<p>1 It is ironic that the 2 thousand foot rule exists to protect areas of 3 assembly and schools, but then a 300-foot 4 limit is set for who gets notified of the 5 video gaming application, effectively 6 hindering opposition from the people and 7 parents of children who frequent areas of 8 assembly and schools. It should be noted 9 that Naperville and Lombard have video gaming 10 prohibition, as do many other affluent 11 municipalities across the Chicago metro area, 12 which Glen Ellyn is one of those affluent 13 areas. So, by allowing a variance here, it's 14 as if Naperville and Lombard are saying we 15 don't want you here, but Glen Ellyn will take 16 you. That's not the kind of thing we really 17 want to see. 18 It should also be noted -- 19 CHAIRMAN KARTHOLL: Glen Ellyn has 20 filed an objection, sir. 21 MR. NELSON: What? 22 CHAIRMAN KARTHOLL: Glen Ellyn has 23 filed an objection. 24 MR. NELSON: Oh, yeah, yeah, yeah.</p>	Page 17

<p>1 I'm stating this from just a general 2 viewpoint.</p> <p>3 CHAIRMAN KARTHOLL: Yeah, I get it.</p> <p>4 MR. NELSON: Also, the location of the 5 owners of the residences are also not in Glen 6 Ellyn, so of course they wouldn't mind having 7 them here because they don't live here.</p> <p>8 CHAIRMAN KARTHOLL: Okay, thank you 9 very much. And the lady?</p> <p>10 MR. O'KEEFE: My name is Alma O'Keefe, 11 O'K-e-e-f-e. I live on Mulberry Lane in Glen 12 Ellyn Woods and right nextdoor to Glenn. I 13 object because I've lived in Glen Ellyn Woods 14 for 39 years and I don't appreciate seeing 15 that type of establishment grow larger. We 16 already have enough. Let's keep it there, or 17 lessen it.</p> <p>18 I personally have seen an 19 acquaintance of ours, my husband and I, who 20 has been addicted to gambling for a good 21 majority of his adult life and I know how 22 that has affected that family, and even 23 friendships that we try to have with those 24 people. Their only goal is to get out there</p>	Page 18	<p>1 THE COURT REPORTER: Can you spell 2 their last name?</p> <p>3 MS. KIRBY: It is W-i-e-d-m-e-y-e-r.</p> <p>4 CHAIRMAN KARTHOLL: Great, thank you 5 very much.</p> <p>6 Do you have any final 7 remarks, sir?</p> <p>8 MR. THIESSEN: No, only in the sense 9 that I understand this is not obviously the 10 first time that we hear objections to our 11 location. We've been at the Zoning Board a 12 couple of times. The distances seem to 13 continually change, so I think in the past 14 where we've had opportunities or things have 15 come up like this, typically the designation 16 is existing noncompliant, because we were 17 granted various licenses at various municipal 18 levels of government over the years under 19 those rules at that time. So to take a 20 negative action now is probably detrimental 21 to not only us, but potential growth that you 22 can't count on what you're licensed in in 23 DuPage County based on when you go and you 24 build.</p>	Page 20
<p>1 and gamble. And I don't like the idea that 2 not only Glen Ellyn or the whole State of 3 Illinois is being becoming known for our 4 casinos. That's not a good draw or a good 5 look. I don't care for that.</p> <p>6 CHAIRMAN KARTHOLL: Okay.</p> <p>7 MS. O'KEEFE: Yes, I object.</p> <p>8 CHAIRMAN KARTHOLL: Thank you very 9 much.</p> <p>10 And then you have a 11 statement you want to read into the record 12 that was submitted in writing by another 13 objector.</p> <p>14 MS. KIRBY: Correct.</p> <p>15 "As a long time resident 16 of Glen Ellyn Woods, my husband and 17 I strongly object to the proliferation 18 of gaming so close to our home. First 19 it was 7-Eleven, then the Thai 20 restaurant, and now a dedicated gaming 21 store. We don't want or need a gaming 22 mall in our residential neighborhood. 23 We ask that you shut this down. Jane 24 and Stan Wiedmeyer."</p>	Page 19	<p>1 We'll have then a loss of 2 our investment, we'll have a loss of a tenant 3 to our landlord, which we are a good rent 4 payer, on time. We've now got to lay out 20 5 to 24 people, and as I said, this has been 6 existing for three and-a-half years so this 7 is not an expansion of gaming in Glen Ellyn. 8 This is an existing location that has 9 actively participated with little to no 10 impact on public services, neighborhood 11 welfare, and has been an active contributor 12 to the tax base and the employment base not 13 only in DuPage County, but the other 14 employees that work and where they live. 15 Because I don't live in 16 Glen Ellyn, it's not fair to say that I'm not 17 interested in the welfare of our general 18 area. I live in the western suburbs, but I 19 don't live in Glen Ellyn. That doesn't mean 20 I don't care about the welfare of our 21 suburbs. 22 So, as a business, we are 23 a good, solid rent- and tax-paying business. 24 And we hope that you can see to grant us this</p>	Page 21

<p>1 variance as an existing business that has 2 been approved multiple times under multiple 3 different variations of this zoning at this 4 location.</p> <p>5 CHAIRMAN KARTHOLL: All right.</p> <p>6 MR. THIESSEN: And I believe we were 7 the first to have gaming, everybody else has 8 come separate. And there was nobody along 9 the way, any liquor license hearing, zoning 10 variation, state hearing, state liquor 11 license hearing or gaming hearing that had 12 any problem with us existing for the last 13 three and-a-half years.</p> <p>14 Thank you.</p> <p>15 CHAIRMAN KARTHOLL: Okay, thank you 16 very much. What's our date, December 4, 5?</p> <p>17 MS. KIRBY: 4.</p> <p>18 CHAIRMAN KARTHOLL: All right, we'll 19 consider this case on December 4 at 5:30 in 20 this room. That's our recommendation 21 meeting. We have several of these other 22 similar cases that will be heard on the same 23 evening.</p> <p>24 So, thank you very much.</p>	<p>Page 22</p> <p>1 STATE OF ILLINOIS)) SS. 2 COUNTY OF DU PAGE) 3 I, LINDA M. CIOSEK, C.S.R. 4 No. 084-2892, duly qualified and commissioned 5 for the State of Illinois, County of DuPage, 6 do hereby certify that at the request of the 7 DU PAGE COUNTY ZONING BOARD OF APPEALS, 8 subject to the usual terms and conditions of 9 Veritext, reported in shorthand the 10 proceedings had and testimony taken at the 11 public hearing of the above-entitled cause, 12 and that the foregoing transcript is a true, 13 correct and complete report of the testimony 14 so taken at the time and place hereinabove 15 set forth.</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21 <i>Linda M. Ciosek</i> CERTIFIED SHORTHAND REPORTER</p> <p>22</p> <p>23 My Commission Expires: 24 July 26, 2026.</p>
<p>1 We'll close --</p> <p>2 MR. THIESSEN: 5:30 p.m. here?</p> <p>3 CHAIRMAN KARTHOLL: 5:30. We'll close 4 the record, and thank you very much.</p> <p>5 Wait, I forgot to say 6 there is no old business and there is no new 7 business, so now I can close the record and 8 adjourn.</p> <p>9 (Which were all the 10 proceedings had and 11 testimony taken in the 12 above-entitled cause.)</p> <p>13</p> <p>14</p> <p>15</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	<p>Page 23</p>

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