

BEFORE THE DU PAGE COUNTY  
ZONING BOARD OF APPEALS

December recommendation Meeting) Z25-042  
Z-25-043, Z25-044, Z25-045, Z25-046, Z25-048

December 4, 2025

5:30 p.m.

## PROCEEDINGS HAD and testimony

taken before the DU PAGE COUNTY ZONING BOARD  
OF APPEALS, taken at the DuPage County  
Administration Building, 421 North County  
Farm Road, Wheaton, Illinois, before LINDA M  
CIOSEK, C.S.R. a Notary Public qualified and  
commissioned for the State of Illinois.

#### BOARD MEMBERS PRESENT:

MR. ROBERT KARTHOLL, Chairman.

MR. ZAIN RAHMAN, Commissioner.

MR. CARL SCHULTZ, Commissioner.

MR. JACK MURPHY, Commissioner.

MR. DENNIS MORAN, Commissioner.

MR. JIM JAROG, Commissioner.

#### ALSO PRESENT:

MR. PAUL HOSS, Zoning & Planning  
Administration Coordinator.

MS. ASHLYN KIRBY, Zoning

<p>1 Administration Coordinator. 2 3 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 hearing was October 23rd. Penny's Place 2 Blackhawk, October 29; the Lucky 7 Bistro 3 October 30; and the Lucky 7 Bistro November 4 20, '25. We have had access to those minutes 5 before the meeting, so may I invite a motion 6 to approve those respective meeting minutes. 7 COMMISSIONER MURPHY: I so move. 8 COMMISSIONER SCHULTZ: Second. 9 CHAIRMAN KARTHOLL: Motion by Mr. 10 Murphy, seconded by Mr. Schultz. 11 Is there any discussion on 12 any of those sets of minutes? 13 (No response.) 14 CHAIRMAN KARTHOLL: If there is none, 15 then all in favor of the motion please 16 signify by saying aye. 17 (Whereupon, all 18 commissioners responded 19 aye.) 20 CHAIRMAN KARTHOLL: Any opposed? 21 (No response.) 22 CHAIRMAN KARTHOLL: The motion is 23 carried and the minutes are approved. 24 The next case, the first</p>	Page 4
<p>1 CHAIRMAN KARTHOLL: Let's go on the 2 record. This is the DuPage County Zoning 3 Board of Appeals recommendation meeting for 4 December 4, 2025. I will skip the roll call 5 and acknowledge that all of the sitting 6 members of the Board are present this 7 evening. 8 I'd also indicate that 9 there's no public comment to be heard that's 10 not related to any of these cases. 11 And then we have a number 12 of minutes to approve. I will read a list 13 and then I'll take a single motion to approve 14 all of the minutes. And if anyone has 15 individual comments on any particular set of 16 minutes, we can go over that in the comments 17 after the motion. 18 First is the October 19 recommendation meeting of October 2. Second 20 is 25-042, 7-Eleven Park Boulevard case heard 21 September 24. Next is the 7-Eleven Maple 22 Avenue case of October 9, then the 7-Eleven 23 Park Boulevard case, let's see, of October 24 15th. Then SMM Management, the date of the</p>	Page 3	<p>1 substantive case, is 25-042, 7-Eleven Park 2 Boulevard, a Milton Township case, and I need 3 a motion on that case. 4 COMMISSIONER MORAN: Mr. Chairman, I 5 would like to make a motion to deny. And all 6 these cases are going to be a little rough 7 due to the fact they were coming at us using 8 that their practical difficulties and 9 hardships were that they have already been in 10 business, and that's not what we're looking 11 at. We're looking -- so in my head, all six 12 of them I put that to the side and let them 13 present their case, and by no means did they 14 show me on the Park Boulevard one that they 15 had any practical difficulties or hardships 16 so that's why I will be denying this case. 17 CHAIRMAN KARTHOLL: Is there a second 18 to that motion? 19 COMMISSIONER MURPHY: I'll second it. 20 CHAIRMAN KARTHOLL: Motion by Mr. 21 Moran, seconded by Mr. Murphy. I have to say 22 -- let me just clarify one thing: Practical 23 difficulty or hardship has unique meaning in 24 the Zoning Code. We all recognize that there</p>	Page 5

<p>1 is some hardship and difficulties, but the  2 meaning of those words have special  3 significance within the Zoning Code, I just  4 want to point out. And I agree with your  5 analysis, Mr. Moran. This is not the place  6 to resolve non-zoning issues of difficulties  7 and inequities, estoppel issues, et cetera.  8 That could be done in other forums, but we  9 have to have evidence and testimony related  10 to zoning matters. So, I'm in accord with  11 your motion myself.</p> <p>12 Anybody else have a  13 comment?</p> <p>14 (No response.)</p> <p>15 CHAIRMAN KARTHOLL: Okay, would you  16 then call the roll on the motion to deny.</p> <p>17 MS. KIRBY: Member Moran?</p> <p>18 COMMISSIONER MORAN: Aye.</p> <p>19 MS. KIRBY: Member Murphy?</p> <p>20 COMMISSIONER MURPHY: Aye.</p> <p>21 MS. KIRBY: Member Rahman?</p> <p>22 COMMISSIONER RAHMAN: Aye.</p> <p>23 MS. KIRBY: Member Schultz?</p> <p>24 COMMISSIONER SCHULTZ: Aye.</p>	Page 6	<p>1 my comments. I don't want to necessarily  2 make the same statements in every case, and I  3 hope the record indicates that we can adopt  4 the same rationale. Essentially we need  5 zoning information to deal with zoning  6 issues, and no such information was presented  7 in this case either.</p> <p>8 Any further discussion?</p> <p>9 (No response.)</p> <p>10 CHAIRMAN KARTHOLL: Please call the  11 roll on the motion to deny.</p> <p>12 MS. KIRBY: Member Jarog?</p> <p>13 COMMISSIONER JAROG: Aye.</p> <p>14 MS. KIRBY: Member Moran?</p> <p>15 COMMISSIONER MORAN: Aye.</p> <p>16 MS. KIRBY: Member Murphy?</p> <p>17 COMMISSIONER MURPHY: Aye.</p> <p>18 MS. KIRBY: Member Rahman?</p> <p>19 COMMISSIONER RAHMAN: Aye.</p> <p>20 MS. KIRBY: Member Schultz?</p> <p>21 COMMISSIONER SCHULTZ: Aye.</p> <p>22 MS. KIRBY: And Chairman Bob Kartholl?</p> <p>23 CHAIRMAN KARTHOLL: Aye.</p> <p>24 The motion passes by a</p>	Page 8
<p>1 MS. KIRBY: Member Jarog?</p> <p>2 COMMISSIONER JAROG: Aye.</p> <p>3 MS. KIRBY: And Chairman Bob Kartholl?</p> <p>4 CHAIRMAN KARTHOLL: Aye.</p> <p>5 The motion is 6 in favor  6 and none opposed to deny, and will go forward  7 to the County Development Committee  8 accordingly.</p> <p>9 That takes us to 0-43,  10 7-Eleven Maple Avenue, the Lisle Township  11 case. Any motion?</p> <p>12 COMMISSIONER JAROG: Yeah, I would  13 make a motion to deny just off the same  14 reasoning as the first case that we were  15 discussing with the Zoning issues and not  16 demonstrating the variations.</p> <p>17 CHAIRMAN KARTHOLL: Is there a second  18 to that motion?</p> <p>19 COMMISSIONER MORAN: I'll second it.</p> <p>20 CHAIRMAN KARTHOLL: Seconded by Mr.  21 Moran.</p> <p>22 Any further discussion?</p> <p>23 (No response.)</p> <p>24 CHAIRMAN KARTHOLL: I have to repeat</p>	Page 7	<p>1 vote of 6 in favor and none opposed.</p> <p>2 Let's go to 044, the  3 7-Eleven Lloyd Avenue case in Milton  4 Township. A motion, please.</p> <p>5 COMMISSIONER MORAN: Again, I'll make  6 a motion to deny for the same reasonings that  7 we were talking about earlier. The  8 presentation did not give me anything. And  9 like I said, like you said, Bob, all these we  10 get what's going on, but they just didn't --  11 anything else for the zoning purposes wasn't  12 shown.</p> <p>13 CHAIRMAN KARTHOLL: There was just no  14 zoning testimony presented.</p> <p>15 And is there a second to  16 that motion?</p> <p>17 COMMISSIONER RAHMAN: Second.</p> <p>18 CHAIRMAN KARTHOLL: Mr. Rahman has  19 seconded. And is there a discussion on this  20 motion?</p> <p>21 (No response.)</p> <p>22 CHAIRMAN KARTHOLL: All right, please  23 call the roll.</p> <p>24 MS. KIRBY: Member Moran?</p>	Page 9

<p>1        COMMISSIONER MORAN: Aye.  2        MS. KIRBY: Member Rahman?  3        COMMISSIONER RAHMAN: Aye.  4        MS. KIRBY: Member Murphy?  5        COMMISSIONER MURPHY: Aye.  6        MS. KIRBY: Member Schultz?  7        COMMISSIONER SCHULTZ: Aye.  8        MS. KIRBY: Member Jarog?  9        COMMISSIONER JAROG: Aye.  10      MS. KIRBY: And Chairman Bob Kartholl?  11      CHAIRMAN KARTHOLL: Aye.  12               The motion passes by a  13 vote of 6 in favor and none opposed.  14               That takes us to the 0-45  15 SMM Management case in Lisle. Is there a  16 motion?  17      COMMISSIONER MORAN: I'd like to make  18 a motion to approve, this one a little  19 differently.  20      CHAIRMAN KARTHOLL: Motion by Mr.  21 Moran.  22      COMMISSIONER MORAN: The thousand feet  23 is really close door-to-door, so I had no  24 problem with that. And, in essence, he had</p>	Page 10	<p>1 looking at my notes for the wrong case.  2        MR. HOSS: Sorry about that.  3        CHAIRMAN KARTHOLL: Which, let me get  4 to this. Yeah, okay, you're right, it's  5 simply that he was the first in this case.  6 And also there was some testimony that there  7 is a buffer between the others, so I want to  8 add that, and then I have no other comments  9 on this one.  10               Any further comments?  11               (No response.)  12      CHAIRMAN KARTHOLL: Then please call  13 the roll.  14      MS. KIRBY: Member Moran?  15      COMMISSIONER MORAN: Aye.  16      MS. KIRBY: Member Schultz?  17      COMMISSIONER SCHULTZ: Aye.  18      MS. KIRBY: Member Rahman?  19      COMMISSIONER RAHMAN: Aye.  20      MS. KIRBY: Member Murphy?  21      COMMISSIONER MURPHY: Aye.  22      MS. KIRBY: Member Jarog?  23      COMMISSIONER JAROG: Aye.  24      MS. KIRBY: And Chairman Bob Kartholl?</p>	Page 12
<p>1        proven that he was the first gaming facility  2 in the area, so then the other one with  3 another video gaming terminal within a  4 thousand feet, he was actually the first one  5 to have a gaming facility there. So that's  6 why I'm going to vote for the petition.  7        CHAIRMAN KARTHOLL: Is there a second  8 to that motion?  9        COMMISSIONER SCHULTZ: I'll second  10 that.  11      CHAIRMAN KARTHOLL: Motion by Mr.  12 Moran, seconded by Mr. Schultz. I'll add  13 that the testimony was not only that he was  14 the first, but the other facility doesn't yet  15 have a license, so technically there's no  16 violation at this point.  17               And then there's another  18 distinction here, there is what I think to be  19 a unique circumstance in that there is a  20 small parcel of land totally surrounded by  21 Addison Township, so -- I'm sorry, Mr. Hoss,  22 you want to interrupt?  23      MR. HOSS: This is Downers Grove.  24      CHAIRMAN KARTHOLL: I'm sorry, I'm</p>	Page 11	<p>1        CHAIRMAN KARTHOLL: Aye.  2               The motion passes to  3 approve by a vote of 6 in favor and none  4 opposed.  5               That takes us to 0-46,  6 Penny's Place, Blackhawk, Milton Township.  7 And it's 0-46, for those like me who are  8 having trouble keeping track of all their  9 notes. Is there a motion on this case?  10      COMMISSIONER MORAN: Motion to deny.  11      COMMISSIONER MURPHY: Second.  12      COMMISSIONER MORAN: Again, same  13 issue, just no case there for when it comes  14 to what we need to hear.  15      CHAIRMAN KARTHOLL: All right. Any  16 further discussion?  17               I concur again with Mr.  18 Moran's rationale.  19               And then would you call  20 the roll on the motion to deny, please.  21      MS. KIRBY: Member Moran?  22      COMMISSIONER MORAN: Aye.  23      MS. KIRBY: Member Murphy?  24      COMMISSIONER MURPHY: Aye.</p>	Page 13

<p style="text-align: right;">Page 14</p> <p>1 MS. KIRBY: Member Rahman?    2 COMMISSIONER RAHMAN: Aye.    3 MS. KIRBY: Member Schultz?    4 COMMISSIONER SCHULTZ: Aye.    5 MS. KIRBY: Member Jarog?    6 COMMISSIONER JAROG: Aye.    7 MS. KIRBY: And Chairman Bob Kartholl?    8 CHAIRMAN KARTHOLL: Aye.    9           The motion passes by a    10 vote of 6 in favor and none opposed. It will    11 go forward to the Development Committee    12 accordingly.    13           And we have 48, Lucky 7    14 Bistro, an Addison Township case. Is there a    15 motion on this case?    16 COMMISSIONER MORAN: I make a motion    17 to approve on this case. He presented a very    18 good case, and he's only looking for one    19 variation, which is the video gaming cafe    20 within another thousand feet. And I read all    21 the notes, and not only that, he went to the    22 other video conferencing and they have no    23 problem with the competition I guess you'd    24 want to say. And if I read it correctly,</p>	<p style="text-align: right;">Page 16</p> <p>1 surrounded by an un -- an area that is    2 otherwise unregulated because of the    3 decisions of that municipality. So, that    4 seemed to be a distinction that is worth    5 noting for the record.    6           Anything else?    7           (No response.)    8 CHAIRMAN KARTHOLL: Please call the    9 roll on the motion to approve.    10 MS. KIRBY: Member Moran?    11 COMMISSIONER MORAN: Aye.    12 MS. KIRBY: Member Murphy?    13 COMMISSIONER MURPHY: Aye.    14 MS. KIRBY: Member Rahman?    15 COMMISSIONER RAHMAN: Aye.    16 MS. KIRBY: Member Schultz?    17 COMMISSIONER SCHULTZ: Aye.    18 MS. KIRBY: Member Jarog?    19 COMMISSIONER JAROG: Aye.    20 MS. KIRBY: And Chairman Bob Kartholl?    21 CHAIRMAN KARTHOLL: Aye.    22           The motion passes by a    23 vote of 6 in favor and none opposed.    24           And that's all of the</p>
<p style="text-align: right;">Page 15</p> <p>1 Addison Township does not have a thousand    2 foot rule, if I did read that correctly,    3 which I may be off on that. So this one,    4 that's why I'm voting to approve.    5 CHAIRMAN KARTHOLL: All right. Is    6 there a second? Oh, yeah, okay, so my -- do    7 we have a second to that?    8 COMMISSIONER MURPHY: I'll second.    9 CHAIRMAN KARTHOLL: Second -- motion    10 by Mr. Moran and seconded by Mr. Murphy.    11           Any further comments on    12 this case?    13           (No response.)    14 CHAIRMAN KARTHOLL: All right, now I    15 get to say my speech about the thousand feet    16 is not triggered because Royal does not yet    17 have the license. And the unique    18 circumstance is that this small parcel is    19 totally surrounded by Addison, and all of the    20 reasons for these thousand foot objections    21 really don't seem to apply where you have    22 this isolated spot. You know, the traffic    23 concentration and things of that nature don't    24 seem to apply where you have an isolated spot</p>	<p style="text-align: right;">Page 17</p> <p>1 cases that we have for this evening. There's    2 no old business to be considered, no new    3 business to be considered, and so if there's    4 nothing else from any member of the Board, we    5 are ready to adjourn. All right, we are so    6 adjourned.    7 MR. THIESSEN: Is there public comment    8 on these cases?    9 CHAIRMAN KARTHOLL: No, the public    10 comment on these case was made during the    11 course of the hearing, but I'll reopen public    12 comment because I may have confused you. So    13 I'll reopen public comment and give you three    14 minutes if you want to make --    15 MR. THIESSEN: Mine was more of a    16 clarification, so --    17 CHAIRMAN KARTHOLL: Well, do you have    18 a question?    19 MR. THIESSEN: I have a question. I'm    20 in the Blackhawk Restaurant Group Penny's,    21 and I was denied for zoning after being in    22 existence for three years. I just want to    23 make sure I understand as I report back.    24 CHAIRMAN KARTHOLL: Yeah, that's</p>

<p>1 right, it was denied.</p> <p>2 MR. THIESSEN: Like denied for my 3 application, like denied for --</p> <p>4 CHAIRMAN KARTHOLL: Because you didn't 5 present a zoning case. You didn't present a 6 case for zoning.</p> <p>7 MR. THIESSEN: As an existing 8 business? I guess I'm already in business 9 for three years. You've already granted the 10 zoning three different times.</p> <p>11 CHAIRMAN KARTHOLL: Yeah, that's why I 12 said there may be remedies elsewhere, but not 13 for -- you can't -- let me try to explain an 14 analogy. If somebody comes here and says I 15 built my garage in the wrong spot without a 16 permit, now they find that I'm in violation 17 because of setback rules. We have, for many 18 years, said we don't punish you, we don't 19 make a decision based on whether or not you 20 have a permit, and we don't grant you relief 21 or denial because you are already existing. 22 We take it as what we call in those kind of 23 cases a greenfield site and see if you can 24 present a zoning case as to why your garage</p>	Page 18	<p>1 By the way, if you were to 2 go directly to the Court, the Court would say 3 have you exhausted your administrative 4 remedies, namely this.</p> <p>5 MR. THIESSEN: That's why I want to 6 just know what the process is. That's why 7 I'm asking about the process.</p> <p>8 CHAIRMAN KARTHOLL: Well, check it out 9 with the staff and they'll give you some 10 guidance. And that's true for all of you.</p> <p>11 Okay. Well, once again, I 12 guess we're adjourned for the evening while 13 we make our way home through the cold. 14 (Which were all the 15 proceedings had and 16 testimony taken in the 17 above-entitled cause.)</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p>	Page 20
<p>1 should be where you already put it. But you 2 have to present the zoning case for the 3 setback variations, as an example.</p> <p>4 (Off the record 5 discussion.)</p> <p>6 CHAIRMAN KARTHOLL: Well, that's 7 obvious. You have had approvals by other 8 departments, but Zoning has never treated any 9 of these cases before. None of them have 10 ever come to Zoning.</p> <p>11 MR. THIESSEN: That's not true, I've 12 been here twice before and the zoning has 13 changed on two different occasions since 14 we've been in business.</p> <p>15 CHAIRMAN KARTHOLL: Well, the record 16 is what it is.</p> <p>17 MR. THIESSEN: Okay, that's fine. So 18 mine is a legal appeal? I go to the County?</p> <p>19 CHAIRMAN KARTHOLL: I don't want to go 20 that far.</p> <p>21 MR. THIESSEN: I'm not asking you to 22 give me advice, I want to know the process.</p> <p>23 CHAIRMAN KARTHOLL: You can talk to 24 the staff and they'll tell you the advice.</p>	Page 19	<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 CERTIFIED SHORTHAND REPORTER</p> <p>22</p> <p>23 My Commission Expires: 24 July 26, 2026.</p>	Page 21

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Illinois Code of Civil Procedure

Article II, Part E

Rule 207, Signing and Filing Depositions

**Signing and Filing Depositions**

(a) Submission to Deponent; Changes; Signing.

Unless signature is waived by the deponent, the officer shall instruct the deponent that if the testimony is transcribed the deponent will be afforded an opportunity to examine the deposition at the office of the officer or reporter, or elsewhere, by reasonable arrangement at the deponent's expense, and that corrections based on errors in reporting or transcription which the deponent desires to make will be entered upon the deposition with a statement by the deponent that the reporter erred in reporting or transcribing the answer or answers involved. The deponent may not otherwise change either the form or substance of his or her answers. The deponent shall provide the officer with an electronic or physical address to which notice is to be sent when the transcript is available for examination and signing. When the deposition is fully transcribed, the officer shall deliver to the deponent, at the address supplied,

notice that it is available and may be examined at a stated place at stated times, or pursuant to arrangement. After the deponent has examined the deposition, the officer shall enter upon it any changes the deponent desires to make, with the reasons the deponent gives for making them. If the deponent does not appear at the place specified in the notice within 28 days after the mailing of the notice, or within the same 28 days make other arrangements for examination of the deposition, or after examining the deposition refuses to sign it, or after it has been made available to the deponent by arrangement it remains unsigned for 28 days, the officer's certificate shall state the reason for the omission of the signature, including any reason given by the deponent for a refusal to sign. The deposition may then be used as fully as though signed, unless on a motion to suppress under Rule 211(d) the court holds that the reasons given by the deponent for a refusal to sign require rejection of the deposition in whole or in part.

(b) Certification, Filing, and Notice of Filing.

(1) If the testimony is transcribed, the officer

shall certify within the deposition transcript that the deponent was duly sworn by the officer and that the deposition is a true record of the testimony given by the deponent. A deposition so certified requires no further proof of authenticity

(2) Deposition transcripts shall not be filed with the clerk of the court as a matter of course. The party filing a deposition shall promptly serve notice thereof on the other parties and shall file the transcript and any exhibits in the form and manner specified by local rule.

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VERITEXT LEGAL SOLUTIONS

COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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