City of McHenry
Planning and Zoning Commission Minutes
May 15, 2019

Chairman Strach called the May 15, 2019 regularly scheduled meeting of the City of McHenry Planning and Zoning Commission to order at 7:30 p.m. In attendance were the following: Doherty, Gurda, Lehman, Strach, Sobotta, Thacker and Walsh. Absent: None. Also in attendance were Director of Economic Development Martin, Economic Development Coordinator Wolf, and Attorney Kelly Cahill.

Chairman Strach welcomed Mike Lehman to the Commission. He then opened the public portion of the meeting at 7:33 p.m. There was nobody in attendance who wished to address the Commission with public comment.

Approval of Minutes

Motion by Sobotta seconded by Doherty to approve the April 17, 2019 Regular Meeting minutes of the Planning and Zoning Commission as presented:

Voting Aye: Doherty, Gurda, Strach, Sobotta, and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: Lehman, Thacker.
Absent: None.

Motion carried 5-0.

Public Hearing: Wolf’s Comprehensive Services
File No. Z-947
4314A W Elm Street
Conditional use permit to allow an indoor amusement establishment to operate a raffle which would benefit the McHenry County Youth Sports Association (MCYSA)

Chairman Strach called the Public Hearing to order at 7:34 p.m. regarding File No. Z-947 an application for a conditional use permit to allow an indoor amusement establishment to operate a raffle which would benefit the McHenry County Youth Sports Association (MCYSA) for the property located at 4314A W Elm Street.

Chairman Strach stated Notice of the Public Hearing was published in the Northwest Herald on April 18, 2019. Notices were mailed to all abutting property owners of record as required by ordinance. The subject property was posted. A Certificate of Publication and Affidavit of Compliance with notice requirements are on file in the City Clerk’s Office.

In attendance were Thomas Lycos and Terra Lycos, 1 Gillingham Ct., Algonquin, IL 60102; and Timothy Lycos, 2391 Stanton Circle, Lake in the Hills, IL 60156 who were sworn in by Chairman Strach. Mr. Timothy Lycos stated they need a conditional use permit to hold a charitable raffle
which they have been granted a raffle license for and are here to answer any questions needed to allow the raffle to operate at the subject property.

Director of Economic Development gave the Staff report stating the applicant is proposing to lease a space in the McHenry Market Place Shopping Center (Angelo’s) to operate a raffle that would benefit the McHenry Youth Sports Association (MCYSA). A Conditional Use Permit is required for an indoor amusement in order to conduct a raffle of this kind.

The unit which is proposed to be utilized has no direct frontage, other than an entrance door, to the parking lot like the other units therefore it is more difficult to lease. The unit has been vacant for ten years. Staff believes the proposed use will be a destination, similar to the VFW, and draw people to the center. Some may visit other stores some may not. The application states there will be approximately 75 players per session. While the shopping center is technically under-parked due to its age staff does not anticipate a parking problem. This center has plenty of parking available throughout the day.

Director Martin stated the original portion of the current McHenry Market Place Shopping Center was constructed 40-50 years ago and the parking regulations have changed and evolved over the life of the center. Staff is not concerned about the loss of parking and believes a number of factors over many years have contributed to the development of this shopping center which also affected parking requirements. Nonetheless the shopping center owner needs to remain cognizant about temporary land uses, such as Christmas tree lots and others, particularly in the winter, which take up parking spaces.

Director of Economic Development Martin stated Staff recommends approval of a conditional use permit to allow an indoor amusement, raffle, at 4314A W Elm Street and Staff finds the requirements of Table 31, Conditional Use Permits, of the zoning ordinance have been met.

Chairman Strach invited questions and/or comments from the Commission.

Commissioner Gurda inquired what the hours of operation for the raffle would be. Tom Lycos responded hours are expected to be 4:30 p.m. until 9 or 9:30 pm with the raffle occurring at 7:00 p.m. six days a week. They are planning to be closed on Mondays so as not to conflict with VFW or any other bingo games.

Commissioner Thacker asked for clarification as to whether they would only be holding one raffle a day and if food or beverage are expected to be served. Tom Lycos responded that the raffle is basically the same as bingo and no food or beverage will be served; however participants will be allowed to bring in food and/or non-alcoholic beverages.

Commissioner Doherty asked for further clarification on how the raffle is run. Tom Lycos explained it is Bingo games where participants buy a card and raffle balls are pulled. Anyone can win.

Chairman Strach opened the floor to questions and comments from the audience.
The following attendees were sworn in:

Stephanie Teta, 5206 Malibu Ct., McHenry stated she is a long term resident and bingo player. She opined a bingo friendly establishment in McHenry is really needed. She stopped going to the VFW because the Queen of Hearts drawing overcame the bingo games and area bingo participants would appreciate an organization running bingo who understand bingo, care about the participants and want to run a valuable and honest bingo. She stated the clientele is mostly older and friendly.

Timothy Justice, 1421 W Maude Ave., Arlington Heights (and business address is Little Caesar’s at 4320 W. Elm Street, McHenry) and his attorney, James J. Riebandt, DiMonte & Lizak LLC of Park Ridge. Attorney Riebandt stated Northwest Pizza Group operates a Little Caesars franchise which is located 6 doors away from this proposed site and Mr. Justice has operated that store for 12 years. He stated Mr. Justice’s lease with Heidner Properties prohibits adult activity in the center and they believe this type of gambling is an adult activity and violates the lease. He further stated they have no problem with McHenry County Youth Sports and support them and their efforts but are concerned about parking and the clientele that might participate. He added that Heidner properties has not responded to any of their calls or requests for a discussion and, while they’ve given concessions to Heidner Properties on other issues prior to this, they don’t wish to give concessions to them on this matter until all their issues and concerns are addressed. Mr. Justice stated he does not want to see the applicant spend money and continue with these proceedings only later to find out court proceedings for breaking prior lease agreements at the center with Heidner properties are underway and have them lose their lease. Mr. Justice explained several difficulties he has had with Heidner Properties and what caused him to retain an attorney to address his concerns. Attorney Riebandt stated they attended this hearing to state they will seek to enforce the rights of the tenant regarding no adult activity as is written in the lease. Mr. Justice stated he thinks they would be good neighbors but explained that adult activities can be construed differently today than when the lease and the City’s ordinances were written, but that gambling is an adult activity and the applicant could possibly add alcohol in their future operations.

Tim Lycos responded the applicants have no intention of ever serving alcoholic beverages as a part of their operations at this proposed site and participants can be age 18 and up, but he was confused if Mr. Justice had an issue with the Landlord, Heidner Properties, or with their raffle operation and whether or not it is an “adult” entertainment shop.

Attorney Cahill clarified that the lease issues stated by Mr. Justice and his attorney are a private issue and this use being focused on is not considered an adult use under the City’s code so in terms of zoning, the concerns stare not really a zoning consideration and they would be inappropriate to address at this hearing.

Attorney Riebandt stated their presence has nothing to do with Heidner but with Heidner’s violation of the lease in place that was contracted in 2007 in good faith. He further stated it is his opinion that gambling is an adult activity and will have a negative effect on their ability to do business, and Mr. Justice’s lease states adult activity is prohibited.
Commissioner Strach clarified that the lease Mr. Justice signed with Heidner has no purview to the commission and how they vote at this hearing, but is in fact a private matter. Mr. Justice stated if the property owner was present and would answer the questions in regard to the lease that have been repeatedly asked by both himself and his attorney, there would be no issue and he wouldn’t have been forced to address the issues at this hearing. Attorney Riebandt further stated they will be aggressive in enforcing the rights of the lease with Heidner and holding them to the lease terms and they do not want the applicant to have issues in the future.

Mr. Justice asked for clarification on what zoning regulation a bingo raffle falls under when money changes hands if it is not considered gambling by the City’s definition or code. Attorney Cahill stated it is considered an appropriate special use under the City’s code in that zoning district. Mr. Justice asked if Attorney Cahill was referring to the use of gambling. Attorney Cahill stated she was referring to the use of raffles.

Tom Lycos stated they believe the raffle will draw customers to Little Caesars rather than hinder their business. They will advertise for them and other local businesses as well.

Ms. Charlaine Tiffany, 4411 Home Ave., McHenry, asked if alcohol would be allowed or served at the facility. Tom Lycos responded there would not be alcohol. Ms. Tiffany stated a concern with the medical facility next door that the activities at this facility might cause excessive noise or disrupt patient treatment. Tom Lycos stated they do not anticipate any disruption of patient services. He stated that adults 18 years and up can enter his establishment but the demographic is 40 years plus and that population should not cause any noise or disruption of medical facility patients. Tom Lycos stated this type of raffle really has no similarity to video gambling establishments.

Tom Lycos stated they respect and recognize all of the concerns stated and clarified they have no intention of doing a queen of hearts type event but have every intention of being community friendly and a good neighbor.

Chairman Strach closed the public comment portion of the hearing at 8:01 pm.

Commissioner Doherty asked for clarification as to whether the request is for a one-time raffle use or a continual use for many years of raffle nights. Tom Lycos stated the request is for ongoing use six days a week. Commissioner Doherty inquired if the raffle is strictly for this one charity or would other charities be able to benefit from a raffle night and who determines the split of the proceeds of the raffle. Tom Lycos clarified that the license is for one charity (MCYSA) but since it is ongoing use the possibility of other charitable groups benefitting from a raffle exists but would require further discussion with MCYSA. He stated they (the applicant) and the charity keep track of the percentage split and the 501(c)(3) reporting. Wolf’s Comprehensive Services is not a 501(c)(3) organization, however, McHenry County Youth Sports Association (MCYSA) is.

Commissioner Lehman inquired if the applicant operates raffles at any other locations. Tom Lycos responded they did not.
Commissioner Walsh clarified that the medical facility hours are such that they would most likely not be open when the raffle facility is open so there should be no conflict.

Commissioner Gurda asked for confirmation that no food or alcohol service would occur at the facility. Tom Lycos responded they will not typically provide food, except for possibly during a holiday event, and will never allow or provide alcohol service, however participants can bring in their own food and non-alcoholic beverages.

Motion by Doherty seconded by Walsh to recommend to the City Council with regard to File No. Z-947 an application for a conditional use permit to allow an indoor amusement, raffle, for the property located at 4314A W Elm Street and Staff finds that the criteria in Table 31 of the zoning ordinance have been met.

Voting Aye: Doherty, Gurda, Lehman, Sobotta, Strach, Thacker and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: None.
Absent: None.

Motion carried 7-0

Chairman Strach closed the Public Hearing regarding File No. Z-947 at 8:08 pm.

Public Hearing: Gary E. Tonyan
File No. Z-948
1207 N Park Street

Variance from Table 20 to allow an accessory structure greater than 1,000 square feet in floor area; Variance from the required minimum rear yard building setback for an accessory structure; and a Variance from the required minimum setback from existing principal and accessory structures

Chairman Strach called the Public Hearing to order at 8:09 p.m. regarding File No. Z-948 an application for a Variance from Table 20 to allow an accessory structure greater than 1,000 square feet in floor area; Variance from the required minimum rear yard building setback for an accessory structure; and a Variance from the required minimum setback from existing principal and accessory structures and any other variances required for a garage addition for the property located at 1207 N Park Street.

Chairman Strach stated Notice of the Public Hearing was published in the Northwest Herald on April 27, 2019. Notices were mailed to all abutting property owners of record as required by ordinance. The subject property was posted. A Certificate of Publication and Affidavit of Compliance with notice requirements are on file in the City Clerk’s Office.

In attendance were Gary Tonyan, 1207 Park Street, McHenry and Chuck Tonyan, 1621 Park St., McHenry, who were sworn in by Chairman Strach. Gary Tonyan stated he is requesting variances because he put an addition on his garage to pull his truck inside that needs variances.
Director of Economic Development gave the Staff report stating the applicant is seeking three variances to expand an existing detached garage to 1,150 square feet in order to park a work truck inside the garage. The variances include: a garage exceeding 1,000 square feet, a rear yard building setback variance and a variance between the principal structure and the accessory structure.

Director Martin stated the addition will bring the total square footage to 1,150 square feet and will be flush with the existing garage and not have any adverse impact on the neighborhood. The addition must be consistent in style in color as the home due to its size. Further the truck will no longer be parked outdoors. Staff supports the additional square footage.

The applicant also needs two additional variances, a rear yard setback variance and a variance from the distance from the existing home. Both of these variances are required regardless of what the applicant does and are not of any result of any action taken by the applicant. The rear setback variance is nonconforming currently at 3.5 feet and is required to be 12.5 feet and the setback from the home is nonconforming currently at 18 feet and is required to be 20 feet. By proposing an addition the applicant must address these nonconformities as well. Staff has no problem with these variances. The applicant is not making these nonconformities any more nonconforming.

Director of Economic Development Martin stated Staff recommends approval of a Variance from Table 20 to allow an accessory structure greater than 1,000 square feet (1,150 square feet) in floor area; a Variance from the required minimum rear yard building setback for an accessory structure from 12.5 feet to 3.5 feet; and a Variance from the required minimum setback from existing principal and accessory structures, from 20 feet to 18 feet; and Staff finds all requirements in Table 32 of the zoning ordinance have been met.

Chairman Strach invited questions and/or comments from the Commission.

Commissioner Walsh asked what the tolerance is by the City for variances on this type of request. Director Martin stated approval has been given for variances over 1000 square feet for accessory structures previously. The second two variances are existing and nothing can be done about them but they need to be addressed because of the garage addition. The commission has been lenient as long as the requests make sense and do not have an adverse impact on the neighborhood. Discussion ensued about this request actually improving the neighborhood aesthetics.

Chairman Strach opened the floor to questions and comments from the audience. There was nobody in attendance who wished to address the Commission regarding this matter.

Chairman Strach closed the public comment portion of the hearing 8:15 pm.

Motion by Doherty seconded by Lehman to recommend to the City Council with regard to File No. Z-948 an application for a Variance from Table 20 to allow an accessory structure greater than 1,000 square feet (1,150 square feet) in floor area; a Variance from the required minimum rear yard building setback for an accessory structure from 12.5 feet to 3.5 feet; and a Variance from the required minimum setback from existing principal and accessory structures, from 20 feet to 18 feet; and Staff finds that the criteria in Table 32 of the zoning ordinance have been met.
Motion carried 7-0

Chairman Strach closed the Public Hearing regarding File No. Z-948 at 8:20 pm.

**File No. Z-949**  
**Preliminary and Final Plat: 1st Amendment to Heidner Properties Subdivision**

Chairman Strach called the discussion to order at 8:20 p.m. regarding File No. Z-949 an application for a Preliminary and Final Plat of Subdivision 1st Amendment to Heidner Properties Subdivision submitted by Thornton LLC, 2600 James Thornton Way, Louisville, KY 40223.

Director Martin provided the Commission with the Staff Report regarding this matter stating the applicant subdivided the property approximately three years ago into two lots and is currently seeking to re-subdivide the property into three lots.

The preliminary and final plats are being combined due to the relative simplicity of the request and in accordance with the Subdivision Control and Development Ordinance.

The Final Plat of Subdivision for the subject property was presented. Director Martin stated the applicant is simply moving lot lines; Lot 2 remains the same and Lot 1 is being subdivided into two lots.

Staff has reviewed the plat and believes the final plat is in substantial conformance with all city ordinances relating to a final plat of subdivision and recommends the Planning and Zoning Commission approve the Final Plat of Subdivision 1st Amendment to Heidner Properties Subdivision with conditions as presented.

Chairman Strach invited questions and/or comments from the Commission.

Mr. Drew Zazofsky, 2600 James Thornton Way, Louisville, KY 40245, representing Thorntons, was sworn in by Commissioner Strach.

Commissioner Strach asked for clarification on the request to split the property into three lots now. Mr. Zazofsky stated Heidner was going to own the entire property and now Thorntons is going to lease just a portion of the property. This action will define Thornton’s leased premises. Heidner will own the strip center and the car wash that has already been submitted and Thorntons will lease the middle portion. The division is basically for tax purposes to create three separate titled lots.

There were no questions by the Commissioners.
Director Martin asked if Thorntons is ready to move forward with building the station. Mr. Zazofsky stated yes, they are working on final engineering plans and the bid process has started. It will be tough, but they are trying to do their best to get the fueling station in this year.

Commissioner Strach asked if state approval is needed for entrance and turn lanes. Mr. Zazofsky stated they already have verbal approval.

Commissioner Thacker asked if the entire property will possibly be completed by the end of the year or just the Thorntons. Mr. Zazofsky stated he is unsure about Heidner’s plans but Thorntons is ready to complete their portion of the property. Commissioner Strach asked if the layout/design will be similar to the plans for the pump station previously presented before the Commission. Mr. Zazofsky stated yes. Commissioner Strach stated this is basically just a change in the layout of the third lot.

Motion by Walsh, seconded by Gurda, to recommend to City Council that the Preliminary and Final Plat of Subdivision 1st Amendment to Heidner Properties Subdivision, be approved, subject to the following conditions, as presented:

1. Compliance with all revisions and comments pertaining to site engineering by Staff and City engineer.
2. Plat must be recorded within six months of City Council approval by ordinance and;
3. A stormwater permit, along with a stormwater pollution prevention plan, shall be submitted and approved by the city engineer and staff prior to construction or any site work being completed.

Voting Aye: Gurda, Lehman, Strach, Sobotta, Thacker and Walsh.
Voting Nay: None.
Not Voting: None.
Abstaining: Doherty.
Absent: None.

Motion carried 6-0

Chairman Strach closed the discussion regarding File No. Z-949 at 8:25 p.m.

Staff Report

Director Martin stated that the June 19, 2019 regularly scheduled meeting will be held at 7:30 p.m. if any cases come in. He welcomed Mike Lehman stating he will be an asset to the Commission.

Adjournment

Motion by Sobotta seconded by Gurda to adjourn the meeting at 8:30 p.m.
Voting Aye: Doherty, Gurda, Lehman, Strach, Sobotta, Thacker and Walsh.  
Voting Nay: None.  
Not Voting: None.  
Abstaining: None.  
Absent: None.  

Motion carried 7-0.  

The meeting was adjourned at 8:30 p.m.  

Respectfully submitted,  

______________________________________________________________________  
Shawn Strach, Chairman  
City of McHenry  
Planning & Zoning Commission