1. Call to Order.

2. Pledge of Allegiance to the Flag.

3. Roll Call.

4. Public Comment.

5. Minutes.
   May 7, 2020

6. Old Business.
   a) **HG-2003-S, Mugshots Bar & Grill (Public Hearing):** Consideration of a Special Use for outdoor seating associated with a permitted restaurant with an exception to reduce the required unobstructed adjacent sidewalk from five (5) feet to zero (0) feet, as required in Section 220.835 of the Village of Homer Glen Zoning Ordinance, for Mugshots Bar & Grill located at 13031 W 143rd Street, Homer Glen, Illinois in the C-1 Neighborhood Commercial Zoning District.

   b) **HG-1905-PAS, O’Malley Builders, Inc. (Public Hearing):** Consideration of a (1) a Plat of Subdivision with certain Variances; (2) a Map Amendment from A-2 Rural Residential to R3-A Single-family Residential District; and (3) Preliminary Site Improvement Plans for the proposed Windsor Court, Phase 2 subdivision located at 12513 W. Hadley Road, Homer Glen, Illinois.

   a) **HG-2005-SV, Aqua Pools, Inc. (Public Hearing):** Consideration of a (i) A Variance to reduce the required front building setback from eighty (80) feet to ten (10) feet, [Chapter 220, Attachment 2, Table 2A of the Village of Homer Glen Zoning Ordinance] (ii) A Special Use Permit to allow a swimming pool in the side yard, [Section 220-807 of the Village of Homer Glen Zoning Ordinance]; (iii) A Variance to reduce the required side yard setback for a swimming pool from twenty (20) feet to as little as seven (7) feet, [Section 220-812.C.1 and Chapter 220, Attachment 2, Table 2A of the Village of Homer Glen Zoning Ordinance]; (iv) A Variance to reduce the required side yard setback for a patio from twenty (20) feet to as little as three (3) feet, [Chapter 220, Attachment 2, Table 2A of the Village of Homer Glen Zoning Ordinance], and any other variances from the Homer Glen Zoning Ordinance as may be required for Aqua Pools Inc., located at 13445 W. 159th Street, Homer Glen, Illinois in the C-4 Highway Commercial Zoning District.

8. Reports of Plan Commissioners and Staff (includes Old Business).

IMPORTANT NOTE: DUE TO COVID-19, REMOTE PARTICIPATION IS AN OPTION AT THIS TIME. SEE INSTRUCTIONS TO PARTICIPATE.

To remotely attend or participate in the Plan Commission Meeting, please use the following link to join the meeting.

https://us02web.zoom.us/j/83170421667?pwd=R0czWGpzS0M2bEJBZmxaN01hOXN4QT09
Password: 006360

Or dial in US: +1 301 715 8592 or +1 312 626 6799

Webinar ID: 831 7042 1667 Password: 006360

If you plan to participate in public comment or the public hearing portion of the meeting, please inform Plan Commission Secretary Gia Cassin at gcassin@homerglenil.org. Comments and questions may also be submitted prior to the meeting and will be read in to the record at the meeting.
Agenda Item Number: 6.a.

To: Chairman and Members of the Homer Glen Plan Commission

From: Melissa King, Senior Planner/Project Manager

Meeting Date: June 18, 2020

Subject: Mugshots Outdoor Seating, Case No. HG-2003-S

**Item Title:** Consider a request for a Special Use Permit for outdoor seating associated with a permitted restaurant with an exception to reduce the required unobstructed adjacent sidewalk from five (5) feet to zero (0) feet, as required in Section 220.835 of the Village of Homer Glen Zoning Ordinance, for Mugshots Bar & Grill located at 13031 W 143rd Street, Homer Glen, Illinois in the C-1 Neighborhood Commercial Zoning District.

**Property Information**

**Location:** 13031 W 143rd Street, Homer Glen, Illinois

**PIN:** 16-05-11-200-028-0000

**Property Size:** 3.79 acres

**Existing Zoning/Use:** C-1 Neighborhood Commercial, Mixed Commercial

**Adjacent Zoning/Use:**
- N: C-2 Local Business / Restaurant (The Purple Onion)
- N: C-2 Local Business / Vacant
- E: C-3 General Business / Animal Hospital/Clinic (Animal Care Clinic)
- E: I-1 Industrial / Agriculture and Utility (ComEd)
- S: C-1 Neighborhood Commercial / Mixed Office and Financial Institutions (PNC Bank)
- S: R-4 Single-Family Residential / Old Oak Subdivision
- W: C-1 Neighborhood Commercial / Mixed Office, Commercial and Personal Service
- NW: A-1 Agricultural / Single Family Residential and Agricultural
**Background Information**
Mugshots Bar & Grill is a permitted restaurant located in a west end unit tenant space in one of the primary buildings of the “Orland Oak” commercial shopping center. The Orland Oak Shopping Center is located directly north of the Old Oak Subdivision. The restaurant is currently undergoing a commercial build-out and the tenant space does not currently have an outdoor seating area. Refer to the *Attachment 1* for the location of the current tenant space. An outdoor seating area associated with a permitted restaurant requires a Special Use Permit which requires a Public Hearing at Plan Commission and an approval from the Board of Trustees. The original application and request for the Special Use Permit was legally published, letters were sent to required adjacent property owners and a Public Hearing was scheduled for May 7, 2020.

**Public Inquiries received prior to the May 7, 2020 Plan Commission Meeting**
Following public noticing of the project, staff received comments from the neighbor located at 14412 Erin Ct. The resident concerns include the proximity of the outdoor seating area to their property, the noise associated with restaurant patrons, the smell from smoking/food and the possibility of boisterous behavior so close to their backyard. The email from the resident has been included as *Attachment 7*.

**Summary of the May 7, 2020 Plan Commission Meeting:**
On May 7, 2020, the original project was presented at a Public Hearing before the Plan Commission. Staff and the members of the Plan Commission addressed and deliberated on the issues of proximity of the outdoor seating area to a residential subdivision. There was discussion about whether or not the noise ordinance would provide sufficient regulation over the use of the outdoor seating area. Some options to remedy the issue were discussed and included the potential for a sound wall either at the southern end of the outdoor seating area or at the southern end of the building/alcove, the addition of evergreen trees along the north side of the adjacent property at 14412 Erin Court and self-restricted hours of operation. Please see *Attachment 6*, for an excerpt of the minutes from the May 7, 2020 Plan Commission Meeting.

**Public Testimony at the May 7, 2020 Plan Commission Meeting:**
There was no public testimony at the May 7, 2020 Public Hearing. The email from the concerned resident at 14412 Erin Court was read aloud by staff at the Plan Commission meeting on May 7, 2020.

**May 7, 2020 Plan Commission Recommendation:**
Following the Public Hearing, the Plan Commission voted 6-0 (Commissioner Kozor abstained) to approve staff’s recommended findings as the findings of the Plan Commission, and to recommend to the Village Board approval of a Special Use Permit to allow outdoor seating associated with a permitted restaurant with an exception to reduce the required unobstructed adjacent sidewalk from five (5) feet to zero (0) feet, as required in Section 220.835 of the Village of Homer Glen Zoning Ordinance, for Mugshots Bar & Grill located at 13031 W 143rd Street, Homer Glen, Illinois in the C-1 Neighborhood Commercial Zoning District.
Public Inquiries received prior to the May 27, 2020 Board Meeting
On May 21, 2020, staff received a second email from a resident that lives on Erin Court in the Old Oak Subdivision. The resident expressed concerns of the potential impact of the outdoor seating area on their neighborhood. Her concerns included impact on the community as a whole, sound/noise, late night disruptions, changes to a peaceful family neighborhood and partying patrons. Staff responded to the resident with an update on the project. The email from the resident was included in the packet to the Board, see Attachment 7.

Between May 23 and May 26, staff received three (3) additional emails from adjacent neighbors, see Attachment 7. The concerns from these neighbors were of similar nature to the those previously listed and include concerns about garbage/food/potential for rodents, smoking, sound/noise, late night disruptions/loitering in the parking lot, changes to a peaceful family neighborhood and partying patrons, request for reduced hours of operation and potential for sound barrier. The email from Tracy & Mickey Szafran also mentioned a number of existing code enforcement issues that have been handed over to the Building Department to handle. These emails were submitted to the Board of Trustees prior to the Board Meeting on May 27, 2020.

Public Testimony at the May 27, 2020 Board Meeting:
Six (6) residents spoke during the Public Comment portion of the Board Meeting.

1. Cathy Curtis moved to Homer for the open space. She has concerns about the children that live right behind this restaurant space. She indicated concerns about the view and concerns about the proximity of the outdoor seating on the side the building so close to the subdivision.

2. Krystal Johnson lives next door to Cathy Curtis. She doesn’t feel like the allowance of a bar/in residents’ backyards is consistent with the Village mission of “Community & Nature in Harmony”. She is also concerned about the view from her property.

3. Cynthia S. lives at 14112 Erin Court, directly behind the proposed outdoor seating area. She is very concerned with proximity to her property, with the potential for people lingering around the back, she mentioned that she had already called in a complaint about a contractor urinating from the roof (staff has addressed this with the landlord), and the extra noise that will be carried right into her home. She understands that the owners want to have a successful business. She is also concerned about the noise and the proximity of her children’s bedroom which are directly in line with the seating area. She appreciates the board listening and hearing out the concerns of the residents.

4. Melissa Prado is a resident in the Old Oak Subdivision and appreciates the business owners wanting an outdoor seating area. She would like them to be a good neighbor to the residents. Her family moved to this area to enjoy the open space and does not feel like this outdoor seating area would be consistent with village mission. She is concerned about the noise and the proximity of her children’s bedroom which are directly in line with the seating area. She appreciates the board listening and hearing out the concerns of the residents.

5. Tracy & Mickey Szafran have concerns about the potential for food droppings, how garbage will be handled and concerns about the potential for a rodent problem. She had questions about whether the area under the alcove would just be swept to the end of the grass or into the parking lot. She also indicated concerns about employee breaks in the rear of the building.

6. Susan S lives in the Old Oak Subdivision and had questions regarding how many people were notified about the public hearing, as she did not receive a letter. (staff verified that her property was just outside of the two hundred and fifty (250) foot radius for noticing). She also had concerns about how the noise ordinance is enforced.
Summary of the May 27, 2020 Board Meeting:
At the May 27, 2020 Board Meeting there was a general consensus for concern over the proximity of the outdoor seating area to the residential subdivision to the south. There were a number of comments and suggestions that are listed below:

1. Important to take into consideration the proximity of these outdoor seating areas when they are adjacent to residential, this was as also discussed as an important issue at the workshop on outdoor seating code updates.
2. Need to make sure the residents have a chance to speak at the Public Hearing.
3. Concern about the visibility from the residential homes to the south.
4. Does not think that a single sound barrier would suffice to cut down the noise.
5. Building Department should address code enforcement concerns directly with landlord.

There was general consensus to move the outdoor seating along the front of the building and the trustees urged staff to work with the applicant to rework the plan to limit the seating to the front and also provide ADA accommodations. There was a recommendation to remand the item back to the Plan Commission, rework the plan and hold another Public Hearing.

The owners of the restaurant spoke and indicated they would be willing to restrict patrons from using the rear door, they would clean up all the food/trash from the patio area. The owners indicated that they had looked at the front as the seating area in earlier iterations of the plan and would be willing to revisit the layout of the outdoor seating area.

May 27, 2020 Board Meeting Motion:
On May 27, 2020 following the item discussion and review, the Board of Trustees voted unanimously to remand the project back to the Plan Commission and requested that the applicant work with staff to come up with a solution along the front of the building.

Public Inquiry after the Board Meeting
It was brought to staffs’ attention that a petition was being circulated/signed not in support of the outdoor seating area.

Staff met with Susan S., she attended and spoke at the Board Meeting. She had some comments that she wanted to make clear. She supports the restaurant just not the outdoor seating area and specifically its proximity to the residential homes. She would prefer it to be limited to the front of the building. She is concerned about the window in the back of the building where the gaming room is located and wondered if a blackout film could be placed on the inside of the window. She indicated a code enforcement complaint regarding contractors on site and this was forwarded along to the Building Department.

Conformance with the Zoning Regulations
Code Requirements: Per §220-835 (Outdoor seating associated with permitted restaurant) of Chapter 220 (Zoning) of the Code of the Village of Homer Glen, outdoor seating areas such as this must be enclosed by a fence or wall at least three (3) feet in height and, when adjacent to a public walkway, at least five (5) feet of the walkway must remain unobstructed.

Original Outdoor Seating Area Site Plan: The plan for the outdoor seating area presented at the Plan Commission Meeting on May 7, 2020 and at the Board Meeting on May 27, 2020, as shown on Attachment 3, proposed an outdoor seating area that measured approximately fifty (50) feet by ten (10) feet and was to be located under the existing building alcove on an existing
pedestrian area on the western end of the building. The outdoor seating area proposed to extend the entire ten (10) feet out from the building leaving no pedestrian sidewalk clearance. This tenant space is an end unit and the existing ADA ramp north of the proposed outdoor seating area was proposed to be maintained to allow for access from the parking lot to building/tenant spaces. As shown on Attachment 3, the proposed outdoor seating area was proposed to be fully enclosed with fencing and two gates.

**Updated Outdoor Seating Area Site Plan:** Attachment 1 is an existing conditions aerial that shows the context of the property, adjacent zoning and the existing tenant space. Attachment 2 shows images of the existing conditions on site. Attachment 4 depicts an updated proposal for the outdoor seating area. The new plan limits the outdoor seating area to just the front of the tenant space on the north side and measures approximately one hundred and forty (140) feet north of the nearest property line to the south. The outdoor seating area measures approximately fifty (50) feet by ten (10) feet and will be located entirely under the existing building alcove. The plan proposes four (4) bollards to be installed between the pillars along the outside edge of the seating area. The plan also proposes a six (6) foot by six (6) foot privacy fence panel along the south edge of the outdoor seating area and a (6) foot by six (6) foot privacy fence panel at the south end of the building alcove. A number of landscaping upgrades have been proposed and include: the installation of three (3) shrubs along the south end of the alcove, a planter on the outside of the privacy fence proposed along the south edge of the outdoor seating area and landscape upgrades to the parking lot island located just west of the proposed outdoor seating area. Double ADA swing gates have been provided to ensure ADA access through the space. Staff will work with the applicant as they go through the building permit process to come up with a final seating plan that meets ADA clearance through the outdoor seating area. There is currently not any new lighting proposed as part of this petition; any future lighting must meet all applicable requirements in the Outdoor Lighting Ordinance in the Building Code. The applicant is still proposing to limit the hours of operation for the outdoor seating area to 10pm on weeknights and 12am on Friday and Saturday evenings.

**Findings of Fact:** Section 220-1207C(1-3) of the Code of the Village of Homer Glen states the required standards for making findings of fact for a Special Use Permit. The Code requires that the Plan Commissioners consider these standards in making its finding and determining a recommendation to send to the Village Board. See Attachment 5 for staff-suggested Findings of Fact.

**Conformance with Other Code Standards**

**Exterior Construction Standards (Chapter 75, Article II):** The Exterior Construction Standards do not apply to this request as the outdoor seating area’s expansion includes additional fencing exclusively.

**Lighting (Chapter 75, Article II):** The Lighting regulations do not apply to this request as no exterior lighting has been proposed as part of outdoor seating area’s expansion. Any proposed lighting shall meet the all applicable requirements in the Outdoor Lighting Ordinance in the Building Code regulations.

**Conservation Design (Chapter 107, Article IV):** The Conservation Design regulations do not apply to this request because the applicant has not proposed the development of a residential subdivision greater than ten (10) acres in area, nor have they proposed the development of a residential subdivision made up of lots less than one and one-half (1.5) acres in size.
**Tree Preservation (Chapter 107, Article III):** The Tree Preservation regulations do not apply to this request as the applicant has not requested the approval of a Preliminary Plat of Subdivision or proposed the division of the subject property, and the subject property is less than five (5) acres in size.

**Subdivision & Stormwater (Chapter 138, Article I):** The Subdivision regulations do not apply to this request as the applicant has not proposed the division of the subject property at this time. The Stormwater regulations do not apply to this request.

**Park Donation (Chapter 138, Article II):** The Park Donation regulations do not apply to this request as these regulations only apply when the final Plat for a residential subdivision or development has been approved, or when the final Plat for a Planned Unit Development has been approved.

**Conformance with Adopted Plans**

**Comprehensive Land Use Plan:** The Comprehensive Plan designates the subject property as Commercial.

**Transportation Plan:** The applicant’s proposal and requested Special Use Permit conform to the regulations and recommendations set forth within the Village of Homer Glen Transportation Plan.

**Motion for Consideration**

Is there a motion to adopt staff’s findings as the findings of the Plan Commission and to recommend _______________ (approval / approval with conditions / denial) of a Special Use Permit for outdoor seating associated with a permitted restaurant with an exception to reduce the required unobstructed adjacent sidewalk from five (5) feet to zero (0) feet, as required in Section 220.835 of the Village of Homer Glen Zoning Ordinance, for Mugshots Bar & Grill located at 13031 W 143rd Street, Homer Glen, Illinois in the C-1 Neighborhood Commercial Zoning District [Mugshots Outdoor Seating, Case No. HG-2003-S], subject to the following conditions:

1. The location of the outdoor seating area shall be limited to the area under the alcove along the front or north side of the tenant space, as shown on Attachment 4.
2. Provide one (1) bollard in the middle of each opening between the columns of the building alcove along the north edge of the outdoor seating area, for a total of four (4) bollards. Bollards shall meet the Building Code regulation for vehicle impact protection.
3. Update the parking lot landscaping island at the west end of the proposed outdoor seating area to include ornamental grasses.
4. Provide a six (6) foot by six (6) foot privacy fence panel along the south edge of the outdoor seating area. Provide a six (6) foot by six (6) foot privacy fence panel at the south end of the building alcove.
5. Provide one (1) planter on the south side of the privacy fence along the south edge of the outdoor seating area.
6. Provide three (3) shrubs at the south end of the building alcove.
7. Closing hours of operation for only the outdoor seating area will be restricted to 10pm on weekdays from Sunday through Thursday and 12am on Fridays and Saturdays.

**Attachments**

1. Existing Conditions – Aerial
2. Existing Conditions – Site Images
3. Original Site Plan of Proposed Outdoor Seating Area
4. Updated Site Plan of Proposed Outdoor Seating Area
5. Staff-Suggested Findings of Fact
6. Excerpt of the DRAFT Minutes from the May 7, 2020 Plan Commission Meeting
7. Emails from Adjacent Property Owners
Attachment 1: Existing Conditions – Aerial and Plat
Attachment 2: Existing Conditions – Site Images

Looking southeast, Old Oak Subdivision is in background of image.

Tenant Frontage, area of proposed outdoor seating area.
Looking south down building alcove.
Looking northeast from the property line adjacent to Old Oak Subdivision

Looking northeast from adjacent property owner yard.
Attachment 3: Original Site Plan of Proposed Outdoor Seating Area
Attachment 4: Updated Site Plan of Proposed Outdoor Seating Area

- Existing ADA ramp to remain
- Parking lot landscape island to be upgraded with ornamental grasses
- Four (4) bollards to be provided in between building columns
- ADA compliant gate
- 50' x 10' outdoor seating area
- ADA compliant gate
Attachment 5: Staff-Suggested Findings of Fact

Standards for Special Use Permit

Section 220-1209D of the Code of the Village of Homer Glen states the required standards for making findings of fact for a special use (and any amendments thereto). The following are the categories with staff’s suggested findings (in italics):

1. That the establishment, maintenance or operation of the special use will not be detrimental to, or endanger, the public health, safety, morals, comfort or general welfare.

   The Special Use Permit to establish an outdoor seating area for Mugshots Bar & Grill is within close proximity to adjacent residential properties where there is some concern about the use, noise, smell, etc. The proposed outdoor seating area will be canopied and fenced per all relevant regulations and standards. Since the Plan Commission Meeting on May 7, 2020 and the Board Meeting on May 27, 2020, staff has worked with the applicant to provide an updated proposal that limits the area of the outdoor seating area to only the north side of the building along the front of the tenant space. The applicant will also provide landscaping at the southern end of the alcove and updated landscaping in a parking lot island directly west of the proposed seating area. The applicant is also proposing to restrict hours of operation for the outdoor seating area to 10pm on weeknights and 12 midnight on Friday and Saturday nights.

2. The proposed use at the proposed location will not have an undue or substantial adverse effect, above and beyond that inherently associated with such use, irrespective of the location in the particular zoning district, upon adjacent property, the character of the neighborhood, or other matters affecting the public health, safety and welfare of the community.

   The Special Use Permit to establish an outdoor seating area for Mugshots Bar & Grill is within close proximity to adjacent residential properties where there is some concern about the use, noise, smell, etc. Since the Plan Commission Meeting on May 7, 2020 and the Board Meeting on May 27, 2020, staff has worked with the applicant to provide an updated proposal that limits the area of the outdoor seating area to only the north side of the building along the front of the tenant space. The applicant will also provide landscaping at the southern end of the alcove and updated landscaping in a parking lot island directly west of the proposed seating area. The applicant is also proposing to restrict hours of operation for the outdoor seating area to 10pm on weeknights and 12 midnight on Friday and Saturday nights. Mugshots Bar & Grill is located in an area of mixed commercial that includes other restaurants, retail, and other mixed commercial uses.

3. That the special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.
The Special Use Permit to establish an outdoor seating area for Mugshots Bar & Grill is within close proximity to adjacent residential properties where there is some concern about the use, noise, smell, etc. Since the Plan Commission Meeting on May 7, 2020 and the Board Meeting on May 27, 2020, staff has worked with the applicant to provide an updated proposal that limits the area of the outdoor seating area to only the north side of the building along the front of the tenant space. The applicant will also provide landscaping at the southern end of the alcove and updated landscaping in a parking lot island directly west of the proposed seating area. The applicant is also proposing to restrict hours of operation for the outdoor seating area to 10pm on weeknights and 12 midnight on Friday and Saturday nights. The proposal will maintain pedestrian access throughout the site and will not significantly impact the access or availability for patrons to the area. The proposed site plan does not impact vehicular traffic.

4. The proposed use at the particular location is desirable to provide a service or facility in the interest of public convenience and the gain to the public and all or a part of the community exceeds the hardship imposed upon the property owner.

The Special Use Permit will expand upon a restaurant facility that is of interest to the public for its convenience and “place-making” value and will add value to the restaurant use.

5. The proposed special use is generally suitable for the particular zoning district and will not adversely affect development of adjacent properties in accord with the applicable district regulations.

The Special Use Permit is to be located in the C-1 Local Business District, a “community shopping district” whose purpose is to meet weekly needs in areas that are centrally located. Restaurants, particularly full-service establishments, are typically not places of daily importance to consumers, making the restaurant use an appropriate match for the C-1 Local District. Furthermore, outdoor seating is a complementary use to restaurant establishments, making the requested Special Use Permit suitable for this location.

6. That the establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

The establishment of the Special Use Permit requested will not impede the normal and orderly development and improvement of the surrounding property, particularly because an outdoor seating area is compatible with other retail and restaurant uses already present in the area.

7. That the exterior architectural appeal and functional plan of any proposed structure will not be so at variance with either the exterior architectural appeal and functional plan of the structures already constructed, or in the course of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.

The proposal for a Special Use Permit for an outdoor seating area includes a perimeter fence. The materials for the outdoor seating area are not regulated by the exterior materials standards, but are appropriate for the space and relate to the architecture of the building. In addition, the proposal will certainly match the functional plan of the overall structure within which Mugshots Bar & Grill is located.
8. That the adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

The adequate utilities, access roads, drainage and/or necessary facilities for the purposes of the Special Use Permit requested have been or are being provided as part of the request.

9. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

The Special Use Permit requested will not impact vehicular traffic throughout the site, as the outdoor seating area is being proposed in an existing expanded pedestrian area.

10. The proposed use has been considered in relation to the location, goals and objectives of the Village’s Comprehensive Plan and is in general accord with the guidelines of the plan.

The Special Use Permit requested has been considered in relation to the location, goals and objectives of the Village’s Comprehensive Plan and is indeed in general accord with the guidelines of the plan.
HG-2003-S, Mugshots Bar and Grill: Consideration of a Special Use for outdoor seating associated with a permitted restaurant with an exception to reduce the required unobstructed adjacent sidewalk from five (5) feet to zero (0) feet, as required in Section 220.835 of the Village of Homer Glen Zoning Ordinance, for Mugshots Bar & Grill located at 13031 W. 143rd Street, Homer Glen, Illinois in the C-1 Neighborhood Commercial Zoning District.

Senior Planner King presented the Background information on this case. Mugshots Bar & Grill is a permitted restaurant located in a west end unit tenant space in one of the primary buildings of the “Orland Oak” commercial shopping center. The restaurant is currently undergoing a commercial build-out and the tenant space does not currently have an outdoor seating area. The applicant is proposing an outdoor seating area directly outside of the tenant space and underneath and existing alcove. The proposed space will occupy a ten (10) by fifty (50) foot area. A proposed seating plan has been provided with approximately 9 tables and a minimum of a three (3) foot fence or wall will be included. A minimum of a five (5) foot walkway is requirement is included in the proposal, and there is currently an existing ADA ramp just north of the proposed outdoor seating section. Senior Planner King concluded her presentation.

Steve Wood and John Smoger, owners of Mugshots Bar & Grill provided some additional information, including that this restaurant is a sports bar and they are currently considering including an outdoor television, with the controllers remaining inside the facility, and they may play music outside as well. They are considering limiting the hours for the outdoor seating section. They were planning to move forward, if approved, for June or July, all things considered.

Chairman Backal asked for a motion to open the Public Hearing. Member Foley made a motion to open the public hearing, seconded by Member Hand. All in favor, zero (0) opposed, the motion carried.

One (1) letter was received by a resident for public comment. Senior Planner King read the letter aloud, written by Cynthia Saenger, who lives directly behind this end of the Orland Oak mall. Ms. Saenger provided a detailed letter explaining personal family situations and health issues she is concerned about that could be impacted by the outdoor seating, including smoke and loud crowds. This resident did provide a solution to the smoking issue and suggested it be placed at the front of the store, making it further from her property. (see attached letter).

The public hearing concluded and Member Foley made a motion to close the Public Hearing, seconded by Member Stanly. All in favor, zero (0) opposed, the motion carried.

The Plan Commission discussed this case and some possible scenarios to provide some form of barrier between the restaurant and the property owner behind. The restaurant is approximately seventy-five (75) feet off of the rear property line of resident Saenger. Suggestions included construction of some type of wall at the back end of this outdoor seating area, that included some form of entry/exit. Discussion about finding a way to minimize the
visibility and buffer the noise were discussed. The owners of the restaurant were open to ideas and willing to consider anything.

Chairman Backal asked for a motion. Member Verdun made a motion to adopt staff's findings as the findings of the Plan Commission and to recommend for approval of a Special Use Permit for outdoor seating associated with a permitted restaurant with an exception to reduce the required unobstructed adjacent sidewalk from five (5) feet to zero (0) feet, as required in Section 220.835 of the Village of Homer Glen Zoning Ordinance, for Mugshots Bar & Grill located at 13031 W. 143rd Street, Homer Glen, Illinois in the C-1 neighborhood Commercial Zoning District [Mugshots Outdoor Seating, Case No. HG-2003-S]. The motion was seconded by Member McGary.

A Roll Call vote was taken. All were in favor to approve for outdoor seating, zero (0) opposed. The motion passed unanimously. This will be presented at an upcoming Village Board Meeting.
Hello, My name is Cynthia Saenger, I live at 14412 S Erin Ct in Homer Glen. We moved here in 2013 and couldn’t be happier. My husband and I have 3 young children 8, 10 and 14. I am writing you with the concern of a new business they are opening about 20 feet from my back yard. It is a Bar called Mugshots. My family has been through some trying times these past few years. My daughter Hailee Saenger just got over a battle with Cancer. Lymphoma….. she has had a rough go the past few years. (The Town of Homer Glen was and is AMAZING the support everyone gave us is so humbling) And before this my husband has had a Major Heart Attack that nearly killed him called the Widow Maker and now has a pace maker and defibrillator in his chest at 44. I come from a Family of Bar Owners. My parents own a bar in Hickory Hills, My Brother Owns a bar in Palos Heights and My other Brother owns a bar in Rockford. So I am writing to you to see if there is anything we can do about the Zoning they are requesting for an outdoor Seating Area. As this will definitely affect our little strip of homes. We love to sit in our yard and swim, BBQ, Hang with neighbors and I feel the last thing the QUIET town of Homer glen Needs is an out door area of people Eating Drinking and SMOKING right outside my backyard and the backyard of a few other homes. I get that these guys want a Booming Bar Business…… My Family was all about it as I said they own bars I manage a Bar! However what they are asking to do so close to community homes and out in the open can and will affect many of us. Especially the health of my family or any of my wonderful neighbors….. the last thing any of us needs is added noise and pollution from Cigarettes, Cigars or Marijuana! I am very concerned!!!. Its bad enough we will have constant traffic now in and out and for God knows how early into the morning hours possibly 2 a.m. But they need to consider the family neighborhood they are so close to. With children, Families that need sleep to work the next day Etcetera. I tell you of the health issues my daughter and husband have because they are doing ok now but extra pollutions from this place and Smoke from people smoking outside will affect them. Not to mention we have to already deal with the smell of Dumpsters out back and junk these business owners have thrown out their back doors and into our view. Don’t get me wrong I understand We bought this house knowing there is a strip mall behind it. But NEVER in a Million Years did I think we would have a Loud Noisey BAR in out yard. This is the area of the old village hall. Had normal and decent business hours an closed on weekends. This is all going to change for us and a few others that this new Bar Mugshots is not considering. I ask that you please direct me in some way how I can help this out door zoning not happen. Myself and some other neighbors have received a letter about Case No HG-2003-s for a meeting April 2nd. Which I don’t think will happen now due to the Covid-19 Lockdown but I am very concerned. I get they want a Bar and Pub there and that’s going to be bad enough til 2 am. But an outdoor area will be Aweful for these young family’s to have to put up with. I Love Homer Glen and I am so happy we decided to move here and I don’t want to Move ever! I am so sad that this is even an option for these guys. Ok thank you for reading. I hope you and your family is well. Stay safe sorry to bother you with something that may NOT seem like that big of an issue right now but it weighs on my heart as a Mother and Wife and Resident and as I said I bartend I know the bar industry and I am not OK with this at all. It will affect us in a big way Believe Me I KNOW ok Thank You Again for reading. Stay Healthy and let me know How We can make our voices heard as the hearing will be cancelled now I’m sure! Take Care!

Sincerely
Cynthia Saenger

Note: The homeowner also submitted a request to add a designated smoking area out front of the restaurant due to the proximity of the rear exit of the restaurant to the adjacent residential properties.
From: Melissa Rose [mailto:melis4186@gmail.com]
Sent: Thursday, May 21, 2020 7:40 AM
To: Melissa King <MKing@homerglenil.org>
Subject: Mugshots Outdoor Patio Concerns

Hello Melissa,

My name is Melissa Prado- I am a resident of Homer Glen and live on Erin Ct., directly behind where the approved Outdoor Patio for Mugshots Bar & Grill will be located. I know a few of my neighbors have already reached out but I wanted to reach out as well to ensure the village understands the potential impact this will have on our community. I did significant research before purchasing this home and sound quality/tranquility was important to me in location. When we first purchased our home that space was the old Village Hall. I never considered it would be converted into a bar with an outdoor patio adjacent to our outdoor living space. From my Master Bedroom window I can already clearly hear when garbage is being picked up or taken out in that alley. I have zero doubts that I will clearly hear the loud conversations, potential music and unavoidable disruptions late into the night.

I have two small children who I chose to raise in Homer Glen because of our village's values: community & nature in harmony. I wanted them to have a peaceful & safe upbringing. This approval of an outdoor bar patio literally in our backyard is in direct conflict of what you and your team work so hard for. From my twin four year old's bedroom window i can see clearly where this patio will go and it breaks my heart to think that this home that we have worked tirelessly to update, enhance and build into our dream home will be overshadowed by people drinking and partying late into the night.

It is my understanding that this permit has already been approved. While this is extremely disappointing to my family & me, I would like to know what is being done to protect the safety & well-being of the children who reside directly behind this bar? How late will this permit go until? What type of landscaping will be required by the village to ensure the sound is being deflected? The answers to these questions will fortunately or unfortunately help us decide if we are able to continue living in this neighborhood.

Thank you in advance for considering what I've written and for any help or insight you can provide.

Best,
Melissa Prado
From: Kristal Johnson [mailto:kristal.johnson77@gmail.com]
Sent: Saturday, May 23, 2020 8:09 PM
To: Melissa King <MKing@homerglenil.org>
Subject: Plans for Mugshots

Melissa,

As a very concerned Homer Glen citizen, I would like some additional information on the plans for the new Mugshots outdoor seating. We live at 14351 S. Golden Oak Dr and we can see that area from our backyard. My husband and I want to know what are the stipulations for how late that area will be open and what plans will be put in place for noise deflection. The reason we moved to Homer Glen with our small child was for a peaceful, family community and we certainly pay enough taxes for it. Not to see a crappy sports bar from our backyard that will have loud drinking patrons outside until the late night. I also would like to know if citizens are allowed to come to their final meeting on 5/27 to hear their plans and provide feedback. Please advise.

Sincerely
Kristal Johnson
From: Tracy Szafran [mailto:mat6599@yahoo.com]
Sent: Monday, May 25, 2020 8:35 PM
To: Melissa King <MKing@homerglenil.org>
Subject: Mugshots

Hello Melissa,
My name is Tracy Szafran. My family and I currently live behind the strip mall where Mugshots is set to open. I have a lot of concern not only for the establishment opening, but the outdoor seating area as well. My husband and I were well aware of the strip mall when we purchased this home 20+ years ago, so with that being said, we have been around for quite some time, as far back as when there was a bar located as the east end of the strip mall.

20 years ago when the bar was at the east end, we saw way too much and we were not even directly behind it. From hearing beer bottles being thrown out at the end of the night/early morning, to hearing fights, people screaming and running through yards to mention a few. Then when the deli moved in 10 years ago, we have had garbage issues in the alley, along with mice in our home, that we never had prior to that. Yes, we did call the Village for the garbage issue and the Village was quick to respond and had the deli owners acquire another dumpster as needed. Now, there will be another food/bar place added to this mess already. At any given time, you can drive behind the strip mall and see nothing but garbage scattered everywhere. The property owner/management team of the strip mall have NEVER taken care of anything back there, we the home owners have and it’s old. I am tired of picking up garbage behind my house weekly when we cut our lawn. The alley way has nothing but pot holes due to delivery trucks coming and going from the deli. These delivery trucks have knocked off the sewer cap in the easement numerous times, as I have called the village to have it put back on multiple times. There are ruts in the grass due to these same delivery trucks for the deli and now there will be more with another food establishment coming in here.

We see people in the alley all times of the day and night: dumping garbage, hanging out, puking, smoking etc and it is unacceptable. So now I am sure there will be more of this, especially with the option of an outdoor area. Speaking of this outdoor eating area, how is this even sanitary in a residential populated area. I have concern over food being dropped on the concrete, which is going to invite rodents etc., let alone the garbage in the dumpsters attracting rodents. Will this patio be cleaned every night? If so, with what? Hoping not just water as that will not take all the funk away that will be left behind. I have a yard that backs up to this area, children playing in my yard daily and can guarantee you there will be more rodents to come.

I have quite a few questions here:
How will rodent control be handled?
How will insects be handled?
How will garbage be handled?
How many dumpsters will be piling up with garbage? Left over food garbage, which attracts all insect/rodents/animals.
How many times with the dumpster lids actually be closed for the evening? (as you can see in photos attached - lids are always left open - attracting animals)
We had a raccoon in our yard last year and it attacked my 90lb dog, almost killing him.
How often will garbage be picked up? Whatever it is, needs to be more than it is now as another day is already needed for the current occupants of this strip mall.
How will unruly people be handled? Bars=fights=people thrown out of the bar=people fighting behind my home
Where will people be smoking? 15' away from the entry way = parking lot = behind my home for my family and I to smell and inhale.
Who will be cleaning up the cigarettes left behind?
Privacy - we will have none as a home owner
The dumping of beer bottles all night long, as my kids and our bedroom are at the back of the house.
Noise ordinance?
People gathering in the parking lot?
What are the days and hours of operation of this business?
What are the days and hours of operation of the outside seating area?
This is a disaster waiting to happen. Garbage isn't cleaned up appropriately now, so why will it be any different for this establishment?
Who's responsibility is it for clean up? The establishment or the property owner? Who will control/enforce this?
There are utility issues back here that aren't even covered up (photo attached). I have a transformer behind my shed with tree roots uplifting the transformer, but no one will even take responsibility for that either for years now. We lost power to half our house due to that years ago, and still nothing. Maybe when people are walking through the alley and the transformer blows, does damage to my home or kills someone, maybe then it will be dealt with. I can go on and here, but I feel that I am just wasting my time here.
I have attached some photos of what the current situation behind the strip mall looks like and it is not pretty and this is without the new establishment even up and running. Again, I understand we purchased a home behind a strip mall, but to allow outside dining is very concerning. I would like to be kept up to date as to what is happening here. If you have any other questions or comments, please feel free to contact me at 708-519-0267.
Thank you,
Tracy & Mickey Szafran
I am writing this letter to express my strong opposition of allowing the outdoor patio area to be approved for Mugshots Bar and Grill.

My in laws have been living here in Homer Glen for over 28 years and are located directly behind the Old Oak shopping center on Erin Court. They are now senior citizens and my father in law has many health concerns. The noise, pollution, and behavior of people under the influence so close to his property would have a negative impact on his overall health condition. He is connected to a dialysis machine over 9 hours a day and if by chance any problems or concerns should happen on his property due to the bar/patio traffic he is unable to quickly disconnect himself from his treatment and take care of the issues.

My inlaws are also one of the primary babysitters for my children. They care for my children several times a week. If my kids are playing in the yard I'm afraid of the traffic and behavior it can bring to the area with people that are under the influence.

Many years ago there was a bar in the same shopping center. There was no outdoor patio and we still had drunken people running through our yards, loud noise from people under the influence and garbage and broken glass everywhere. I cant even imagine how much worse it will he with an outdoor patio. Please take this into consideration when making your decision for the approval of an outdoor patio.

Thank you,
Liana Garcia
Agenda Item Number: 6.b

To: Chairman and Members of the Homer Glen Plan Commission

From: Vijay Gadde, AICP, Director of Planning and Zoning

Meeting Date: June 18, 2020

Subject: Windsor Court, Phase 2 Subdivision, HG-1905-PAS

Item Title: Consider a request for a (1) a Plat of Subdivision with certain Variances; (2) a Map Amendment from A-2 Rural Residential to R3-A Single-family Residential District; and (3) Preliminary Site Improvement Plans for the proposed Windsor Court, Phase 2 subdivision located at 12513 W. Hadley Road, Homer Glen, Illinois.

Property Information
Location: 12513 Hadley Road (Attachment 1)

Property Size: 6.99 acres

Existing Zoning/Use: A-2 Rural Residential / Single-family Home

                      E: R-3 Single-family Residential / Single-family Homes
                      S: A-1 Agricultural / Single-family Home
                      W: A-2 Rural Residential / Vacant

Background Information
The applicant, O'Malley Builders, Inc., is proposing a seven-lot subdivision as an extension of the Windsor Court Subdivision as depicted on the attached plat of subdivision (see Attachment 2). The Village previously approved a different plat of subdivision via Ordinance 18-022. As the applicant was unable to get Will County's approval for the new roadway with access from Hadley Road, he is proposing a revised plan with no new permanent access from Hadley Road.

At the May 22, 2019 Village Board meeting, the applicant was requested to speak with Will County as well as Homer Township Fire Protection District to come up with an acceptable plan. The attached revised Plat of Subdivision includes a 12'-wide paved emergency access via the existing driveway to Hadley Road. Also attached is a letter from the Homer Township Fire Protection District indicating approval subject to documentation of maintenance by developer/HOA and review of signage to ensure access remains clear (see Attachment 3).
Since it has been some time since this was tabled by the Village Board, the Village Board, at its April 8, 2020 meeting, remanded this review back to the Plan Commission prior to a final vote by the Village Board.

**Conformance with Zoning Regulations**

**Plat of Subdivision:** The applicant is seeking approval of the Preliminary and Final Plat of Subdivision along with preliminary Site Improvement Plans.

**Map Amendment:** The applicant is also seeking a Map Amendment from A-2 Rural Residential to R3-A Single-family Residential District with the following Variances:

a. Reduce the required front/corner setbacks from 40' to 30';

b. Reduce the minimum required lot width from 100' to 76.5'; and

c. Reduce the minimum required lot frontage from 90' to 76.5'.

**Findings of Fact:** Section 220-1208D of the Code of the Village of Homer Glen states the required standards for making findings of fact for a Map Amendment. *The Code requires that the Plan Commissioners consider these standards in making its finding and determining a recommendation to send to the Village Board (see Attachment 4).*

**Conformance with other Code Standards**

**Exterior Construction Standards (Chapter 75, Article II):**
The Exterior Construction Standards apply to this request as the applicant is proposing a new single-family subdivision. *Pictures depicting model homes that could be built on Lots 1-6 are shown in Attachment 5.*

**Lighting (Chapter 75, Article II):**
The Lighting regulations apply to this request as the applicant is proposing decorative lights as a part of the streets aping. *The applicant agreed to comply with the Village’s Outdoor Lighting regulations.*

**Subdivision & Stormwater (Chapter 138, Article I):**
The Subdivision of Land regulations apply to this request as the applicant is requesting the approval of a plat of subdivision. Section 138-3, Subdivision of Land Code, requires all subdivisions of 25 or more lots must have at least two means of ingress and egress. The proposed subdivision, combined with the platted Windsor Court, Phase 2 subdivision exceeds 25 lots. *The applicant is proposing a 12’-wide paved emergency access via the existing driveway to Hadley Road.*

**Tree Preservation and Conservation Subdivision (Chapter 138, Article I):**
The Tree Preservation regulations apply to this request as the applicant is requesting the approval of a plat of subdivision. *The Village Arborist reviewed the previous version of the tree survey and concluded the applicant is not required to provide any reforestation as he is not removing more than 50% of significant trees. The tree survey needs to be updated.*

The Conservation Subdivision regulations do not apply to this request because the applicant has not proposed the development of a residential subdivision greater than ten (10) acres in area.

**Park Donation (Chapter 138, Article II):**
The Park Donation regulations apply to this request as the subject property is planned for a residential subdivision.
Conformance with Adopted Plans

Comprehensive Land Use Plan:
The Comprehensive Plan designates the subject properties as *Single-family – Rural*.

Transportation Plan:
The applicant is not proposing any new access from W. Hadley Road.

**Motion for Consideration**
Is there a motion to recommend ____________ (approval / approval with conditions / denial) of
(1) a Plat of Subdivision and Preliminary Site Improvement Plans; and (2) a Map Amendment
from A-2 Rural Residential to R3-A Single-family Residential District with the following
Variances for the proposed Duke Subdivision located at 12513 W. Hadley Road, Homer Glen,
Illinois with the following Variances and subject to documentation of maintenance by
developer/HOA and review of signage to ensure the emergency access remains clear?

Variances:
- a. Reduce the required front/corner setbacks from 40’ to 30’;
- b. Reduce the minimum required lot width from 100’ to 76.5’; and
- c. Reduce the minimum required lot frontage from 90’ to 76.5’.

**Attachments**
1. Aerial Map of 12513 Hadley Road
2. Preliminary and Final Plat of Subdivision
3. Letter from Homer Township Fire Protection District
4. Staff-Suggested Findings of Fact
5. Model Homes
Current and Proposed Zoning of the Area Surrounding the Proposed O'Malley Court Subdivision
Attachment 2 – Preliminary and Final Plat of Subdivision
March 02, 2020

Village of Homer Glen
Attn: Vijay S. Gadde, Director of Planning and Zoning
14240 W. 151st St.
Homer Glen, IL 60491

Re: Road accessibility-Windsor Ct

Dear Director Gadde,

This letter is to follow up on the review of the proposal submitted for the additional homes on Windsor Ct. The plan would be approved with the following notes:

1. Provide documentation of who will be responsible for the maintenance of the road such as snow removal and clearing any trees that may overhang onto the driveway. This shall include if the builder is responsible during development and then placed in the association covenants.
2. Provide details of the sign locations and types of signs that will be placed on the driveway to identify that it is to remain clear for access.

If you have any questions, please feel free to contact us for further information.

Sincerely,

[Signature]

Dave Bricker
Deputy Chief
Chapter 220-1208D of the Code of the Village of Homer Glen lists the standards by which the Plan Commission shall make the findings of fact. The following are categories with staff’s recommended findings in italics:

1. **Existing uses of property within the general area of the property in question.**
   
   *The existing uses within the general area of the property in question are rural residential on the subject property and single-family residences to the north, south and west.*

2. **The zoning classification of property within the general area of the property in question.**
   
   *The subject property is zoned A-2 Rural Residential with a single-family home. The adjacent zoning and uses are summarized below:*
   
   - **N:** R-2 Single-family Residential / Single-family Homes
   - **E:** R-3 Single-family Residential / Single-family Homes
   - **S:** A-1 Agricultural / Single-family Home
   - **W:** A-2 Rural Residential / Vacant

3. **The suitability of the property in question to the uses permitted under the existing zoning classification.**
   
   *The property will continue to be used for residential purposes.*

4. **The trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification.**
   
   *There has been limited new development in the general area of the subject property.*

5. **The change in zoning is in conformance with the comprehensive plan of the Village and its official map.**
   
   *The subject property is designated as Single-Family Rural in the Comprehensive Plan.*

6. **The length of time the property has been vacant as zoned, considered in context of the land development in the area surrounding the subject property.**
   
   *The subject property is not vacant.*

7. **The extent to which property values are diminished by particular zoning restrictions.**
   
   *It is not expected that property values will be diminished as the property will be developed into a new subdivision.*
Attachment 5 – Model Homes
**Tree Preservation Notes**

1. **Tree Protection Detail**

   - **Type of Tree**
   - **Location**
   - **Size**
   - **Condition**
   - **Protection Details**

<table>
<thead>
<tr>
<th>Tree Type</th>
<th>Location</th>
<th>Size</th>
<th>Condition</th>
<th>Protection Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>White Oak</td>
<td>Lot 1</td>
<td>Large</td>
<td>Healthy</td>
<td>Minimum setback of 10 feet</td>
</tr>
<tr>
<td>Elm</td>
<td>Lot 2</td>
<td>Medium</td>
<td>Good</td>
<td>Tree circle with 10 feet radius</td>
</tr>
<tr>
<td>Birch</td>
<td>Lot 3</td>
<td>Small</td>
<td>Poor</td>
<td>Surround with protective fencing</td>
</tr>
<tr>
<td>Maple</td>
<td>Lot 4</td>
<td>Large</td>
<td>Excellent</td>
<td>Tree circle with 15 feet radius</td>
</tr>
<tr>
<td>Cherry</td>
<td>Lot 5</td>
<td>Medium</td>
<td>Moderate</td>
<td>Tree circle with 10 feet radius</td>
</tr>
</tbody>
</table>

**Existing Tree Inventory**

- **Lot 1**: White Oak - Large
- **Lot 2**: Elm - Medium
- **Lot 3**: Birch - Small
- **Lot 4**: Maple - Large
- **Lot 5**: Cherry - Medium

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*Scales:

1" = 50 feet*

*North*
HOMER GLEN PLAN COMMISSION
MEMORANDUM

To: Chairman and Members of the Homer Glen Plan Commission

From: Melissa King, Senior Planner

Meeting Date: June 18, 2020

Agenda Item Number: 7.a.

Subject: Aqua Pools, Case No. HG-2005-SV

Item Title: Consider for approval (i) A Variance to reduce the required front building setback from eighty (80) feet to ten (10) feet, [Chapter 220, Attachment 2, Table 2A of the Village of Homer Glen Zoning Ordinance] (ii) A Special Use Permit to allow a swimming pool in the side yard, [Section 220-807 of the Village of Homer Glen Zoning Ordinance]; (iii) A Variance to reduce the required side yard setback for a swimming pool from twenty (20) feet to as little as seven (7) feet, [Section 220-812.C.1 and Chapter 220, Attachment 2, Table 2A of the Village of Homer Glen Zoning Ordinance]; (iv) A Variance to reduce the required side yard setback for a patio from twenty (20) feet to as little as three (3) feet, [Chapter 220, Attachment 2, Table 2A of the Village of Homer Glen Zoning Ordinance] for Aqua Pools Inc., located at 13445 W. 159th Street, Homer Glen, Illinois.

Property Information

Location: 13445 W 159th Street

Property Size: 34,216 square feet / 0.78 acres

Existing Zoning/Use: C-4 Highway Commercial

Adjacent Zoning/Use: N: C-3 General Business / Undeveloped
E: C-4 Highway Commercial / Commercial Parking and Storage
S: Split Zoning: C-4 Highway Commercial and A-2 Rural Residential / Commercial Parking, Storage and Undeveloped
W: C-4 Highway Commercial / Commercial Freight Shipping and Trucking
Site Plan Review
The following plans are reviewed per the Zoning Code requirements: Pool Plan for 13445 W 159th Street, Homer Glen, Illinois.

Background
The applicant Aqua Pools, a longstanding business in the Village of Homer Glen is proposing to construct an approximately twelve (12) foot by twenty-six (26) foot in-ground display pool and patio/pool deck in the side yard directly west of the principle structure on the property at 13445 W 159th Street. The pool requires a Special Use Permit to be installed in a side yard. The pool and patio/pool deck require Variances to the required side yard setbacks. While reviewing the proposal for the pool it came to the attention of staff that the front building setback for the principle structure was a legal non-conformity. In order to establish the legality of the principle structure the applicant has also requested a reduction to the required front building setback. See below a detailed analysis for each of these requests.

Conformance with Zoning Regulations
Front Building Setback Variance:
The existing principle structure has been in existence at this location since prior to 1997 and Village incorporation. The building is currently located ten (10) feet from the front property line, refer to site plan (Attachment 3). The applicant is requesting a reduction in the front setback for the existing principle structure from the required eighty (80) feet to ten (10) feet. The conditions of this request are unique due to the legal taking of property along the front property line during the widening of 159th Street. Not having the front setback variance could impact the potential replacement of the structure if more than fifty (50) percent of the non-conforming structure was damaged in the future. The following list describes the evidence of hardship to support the request for the Variance:

1. The existence of the existing principle structure at its current location since prior to 1997 and Village incorporation.
2. The reduction of the property along the front property line as a result of the widening of 159th Street reduced the front setback to its current measurement of ten (10) feet.

Special Use Permit for Pool in Side Yard:
For situations in which a hardship prevents the property owner from locating a swimming pool in the rear yard, a request may be submitted to receive a Special Use Permit to allow a swimming pool in the side yard [§220-807 (Permitted obstructions in yards) of Chapter 220 (Zoning) of the Code of the Village of Homer Glen]. The applicant is proposing to install an in-ground pool in the side yard directly west of the principle structure on a commercial property for use as a display area/extension of retail showroom and a technology test bed and is requesting the approval of a Special Use Permit to locate the proposed in-ground pool in the side yard. The following list describes the evidence of hardship to support the request for the Special Use Permit:
1. The east side of the building is the existing parking lot and would not be a suitable location for the installation of an in-ground pool/display area.
2. The principle structure extends nearly all the way to the rear property line; making it nearly impossible to install a pool in the rear yard.
3. Even if it was physically possible to install the pool in the required rear yard, which it is not, the company is looking to install this pool as an extension of their main retail space which is near the front of the principle structure.

Side Setback Variance for Pool and Patio/Pool Deck:
Village setback requirements for pools in the C-4 Highway Commercial District are as follows:

- At least twenty (20) feet from side property lines
- At least ten (10) feet from rear property lines
- At least ten (10) feet from the principle structure
- Must comply with allowable impervious coverage

Village setback requirements for patios/pool decks in the C-4 Highway Commercial District are as follows:

- At least twenty (20) feet from side property lines
- At least twenty (20) feet from rear property lines
- Must comply with allowable impervious coverage

The proposed in-ground pool is proposed approximately seven and a half (7.5) feet from the side property line and requires a Variance to reduce the required twenty (20) foot side setback. The proposed patio/pool deck is proposed approximately three (3) feet from the side property line and requires a Variance to reduce the required twenty (20) foot side setback. The proposed in-ground pool meets the required ten (10) foot distance between the edge of the swimming pool and the principle structure, refer to the site plan (Attachment 3). Pools are required to be enclosed by a fence of at least four (4) feet in height and this area currently has a perimeter fence and is only accessible from the showroom. The maximum impervious surface allowed in the C-4 Highway Commercial District is seventy-five (75) percent. The proposed impervious surface percentage of the site, including the proposed pool and patio/pool deck, is twenty-seven (27) percent. The proposed pool and patio/pool deck must meet all other applicable Village codes when it is reviewed during the permit process. The following list describes the evidence of hardship to support the request for the Variances:

1. The plight of the owner is unique because the in-ground pool is proposed to be installed on the west side of the commercial building and utilized as an outdoor extension of the showroom as a marketing piece for sales of the pool installation service. This area has been used for many years as an area to display spas and above ground pools.
2. The dimension between the building and the property line along this side of the building is only thirty (30) feet, refer to site plan for dimensions (Attachment 3).
A twenty (20) foot side setback is required for a pool and a ten (10) foot side setback is required for a patio. It would be difficult to place these accessory structures on this side of the building without a reduction to the both the pool/patio setbacks.

3. The east side of the commercial building is the main parking lot for the business and main entrance to the building and is not a suitable location for this in-ground pool.

**Conformance with the Code**

**Exterior Construction Standards (Chapter 75, Article II):**
The Exterior Construction Standards do not apply to this request.

**Lighting (Chapter 75, Article II):**
The Lighting regulations do not apply to this request as no outdoor lighting has been proposed as part of this project. If any new lighting is proposed in the future then an outdoor lighting permit and review will be required.

**Conservation Design (Chapter 107, Article IV):**
The Conservation Design regulations do not apply to this request because the applicant has not proposed the development of a residential subdivision greater than ten (10) acres in area, nor have they proposed the development of a residential subdivision made up of lots less than one and one-half (1.5) acres in size.

**Tree Preservation (Chapter 107, Article III):**
The Tree Preservation regulations do not apply to this request as this property is smaller than five (5) acres in area. Total area of common ownership parcels in this area is just over four (4) acres.

**Subdivision & Stormwater (Chapter 138, Article I):**
The Subdivision regulations do not apply to this request as the applicant has not proposed the division of the subject property at this time. The Stormwater regulations do apply to this request and a grading plan will have to be reviewed/approved by the Development Services Director during the normal Building Permit process.

**Park Donation (Chapter 138, Article II):**
The Park Donation regulations do not apply to this request as these regulations only apply when the final Plat for a residential subdivision or development has been approved, or when the final Plat for a Planned Unit Development has been approved.

**Conformance with Adopted Plans**

**Comprehensive Land Use Plan:**
The Comprehensive Plan designates the subject property as Commercial. The proposed use is consistent with the Comprehensive Plan.

**Transportation Plan:**
The applicant’s requested Variances and Special Use Permit conform to the regulations and recommendations set forth within the Village of Homer Glen Transportation Plan.
There are no changes to the existing ingress or egress along W 159th Street as part of this request.

**Findings of Fact**
Section 220-1207D(1-10) of the Code of the Village of Homer Glen states the required standards for making findings of fact for a Special Use Permit and for Variances. The Code requires that the Plan Commissioners consider these standards in making its finding and determining a recommendation to send to the Village Board.

**Motion for Consideration**
Is there a motion to adopt staff’s findings as the findings of the Plan Commission and to recommend ____________ (approval / approval with conditions / denial) of (i) A Variance to reduce the required front building setback from eighty (80) feet to ten (10) feet, [Chapter 220, Attachment 2, Table 2A of the Village of Homer Glen Zoning Ordinance] (ii) A Special Use Permit to allow a swimming pool in the side yard, [Section 220-807 of the Village of Homer Glen Zoning Ordinance]; (iii) A Variance to reduce the required side yard setback for a swimming pool from twenty (20) feet to as little as seven (7) feet, [Section 220-812.C.1 and Chapter 220, Attachment 2, Table 2A of the Village of Homer Glen Zoning Ordinance]; (iv) A Variance to reduce the required side yard setback for a patio from twenty (20) feet to as little as three (3) feet, [Chapter 220, Attachment 2, Table 2A of the Village of Homer Glen Zoning Ordinance], and any other variances from the Homer Glen Zoning Ordinance as may be required for Aqua Pools Inc., located at 13445 W. 159th Street, Homer Glen, Illinois. [Aqua Pools, Case No. HG-2005-SV]?

**Attachments**
1. Aerial of the Subject Property
2. Images of Existing Conditions
3. Pool Plan
4. Staff-Suggested Findings of Fact – Special Use Standards
5. Staff-Suggested Findings of Fact – Variance Standards
Attachment 2 – Images of Existing Conditions
Attachment 3 – Pool Plan
Attachment 4 – Staff-Suggested Findings of Fact
Standards for Special Use Permits

Chapter 220-1209D(1-10) of the Code of the Village of Homer Glen lists the standards by which the Plan Commission shall make the findings of fact. The following are the categories with staff’s recommended findings in *italics*:

The Plan Commission shall make written findings of fact and shall refer to any exhibits containing plans and specifications for the proposed special use, which shall remain a part of the permanent record of the Plan Commission. The Plan Commission shall submit its findings and a summary of the record, together with its recommendation, to the Village Board for final action. All exhibits containing plans and specifications shall remain part of the permanent records of the Plan Commission. No special use shall be recommended by the Plan Commission unless such Commission shall find that:

1. The establishment, maintenance or operation of the special use will not be detrimental to, or endanger, the public health, safety, morals, comfort or general welfare.

   The Special Use Permit requested would allow the applicant to locate the proposed in-ground pool in the subject property’s side yard. The business is installing the pool for purposes as a technology test bed and for marketing the pool installation service the company provides. The pool will not be open to the public for swimming but instead as a part of the marketing of the business.

2. The proposed use at the proposed location will not have an undue or substantial adverse effect, above and beyond that inherently associated with such use, irrespective of the location in the particular zoning district, upon adjacent property, or the character of the neighborhood.

   The pool will be located in a side yard directly adjacent to a freight/trucking company. The character of this area along 159th Street is a mix of Commercial and Light Industrial Uses. As this pool will not be used as a residential swimming pool and more as a marketing component of the store floor, it is consistent with the character and contributes to the expansion of the existing pool business.

3. The special use will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish and impair property values within the neighborhood.

   The Special Use Permit, if approved, will not hinder surrounding properties from successfully implementing improvements or using such properties, as intended, for commercial purposes. Staff is not an expert on property values.

4. The proposed use at the particular location is deemed necessary for the public convenience and the gain to the public and all or a part of the community exceeds the hardship imposed upon the property owner.
This standard is not generally applicable to this situation as the proposal would not be intended for the benefit of the public.

(5) The proposed use is generally suitable for the particular zoning district and will not adversely affect development of adjacent properties in accord with the applicable district regulations.

The proposed in-ground pool is indeed suitable as an accessory use to a pool business and should in no way adversely affect the potential development of adjacent properties.

(6) The establishment of the special use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.

The approval of the requested Special Use Permit will not adversely affect the use or development and improvement of the surrounding properties.

(7) The adequate utilities, access roads, drainage and/or necessary facilities have been or are being provided.

All necessary utilities for the use of the proposed pool are present on-site and the construction of this pool must meet all Building Code Regulations.

(8) Adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

This standard is not applicable to the requested Special Use Permit as the proposal will have no impact on the ingress and egress of the subject property or the surrounding public streets.

(9) The proposed use has been considered in relation to the location, goals and objectives of the Village's Comprehensive Plan and is in general accord with the guidelines of the plan.

The Village's Comprehensive Plan designates this area as Commercial. Swimming pools are not commonly associated with Commercial Businesses; but in this case staff finds the accessory use suitable for a pool installation business a technology test bed, marketing and display of services/materials. In conclusion, the proposed in-ground pool is in general accord with the vision of the Comprehensive Plan for this property and its surroundings.

(10) The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, including planned developments, except as such regulations may, in each instance, be modified by the Village Board, pursuant to the recommendations of the Plan Commission.
As discussed in staff’s report to the Plan Commission, the proposal will comply with all regulations required of in-ground pools located in the C-4 Highway Commercial Zoning District. With the exception of the Variance request to reduce the side yard setback, refer to the Variance factors provided as part of this staff report.
Attachment 5 – Staff-Suggested Findings of Fact
Standards for Variances

Chapter 220-1207C(1-3) of the Code of the Village of Homer Glen lists the standards by which the Plan Commission shall make the findings of fact. The following are the categories with staff’s recommended findings in *italics*:

1. The Plan Commission shall not vary the provisions of this Ordinance as authorized unless it has made findings based upon the evidence presented to it in the following cases:

   (a) That the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that zone.

      *Front Building Setback Variance:* Not having the front setback variance could impact the applicant’s ability to sell the property for a reasonable price and it could also impact its potential replacement if more than fifty (50) percent of the non-conforming structure was damaged.

      *Side Setback Variance for Pool and Patio/Pool Deck:* The requested Variances will not impact the applicant’s ability to sell the property for a reasonable return.

   (b) That the plight of the owner is due to unique circumstances.

      *Front Building Setback Variance:* The plight of the owner is unique due to the legal taking of property along the front property line during the expansion of the 159th Street Corridor. The building has been in existence on this site since prior to 1997.

      *Side Setback Variance for Pool and Patio/Pool Deck:* The plight of the owner is unique because the in-ground pool is proposed to be installed on the west side of the commercial building and utilized as an outdoor extension of the showroom as a marketing piece for sales of the pool installation service. This area has been used for many years as an area to display spas. The dimension between the building and the property line along this side of the building is only thirty (30) feet. With a twenty (20) foot side setback required for a pool and ten (10) foot setback for a patio, it would be difficult to place these accessory structures on this side of the building without a reduction to the both the pool/patio setbacks. The east side of the commercial building is the main parking lot for the business and main entrance to the building.

   (c) That the Variance, if granted, will not alter the essential character of the locality.

      *Front Building Setback Variance:* The Variance, if granted, is not likely to alter the essential character of the locality. There are approximately four
principle structures on other lots to the west of this property with similar non-conforming building setbacks.

*Side Setback Variance for Pool and Patio/Pool Deck:* The Variances, if granted, is not likely to alter the essential character of the locality. This area has been used for years as an extension of the showroom and as a display area for spas/pool equipment within the required setback

2. A Variance shall be recommended to the Village Board only if the evidence, in the judgment of the Plan Commission, sustains each of the three conditions enumerated in Subsection C(1).

3. For the purpose of supplementing the above standards, the Plan Commission, in making its determination, shall also take into consideration the extent to which the following facts, favorable to the applicant, have been established by the evidence:

   (a) That the particular surroundings, shape, or topographical conditions of the specific property involved will bring a particular hardship upon the owner, as distinguished from a mere inconvenience, if the strict letter of the regulations was carried out.

   *Front Building Setback Variance:* The property’s surroundings do play a role in the particular hardship. The property was impacted by a legal taking of property along the front property line during the expansion of the 159th Street Corridor that resulted in a direct impact to the front building setback. The building has been in existence on this site since prior to 1997, prior to the incorporation of the Village of Homer Glen and the adoption of applicable Village Codes.

   *Side Setback Variance for Pool and Patio/Pool Deck:* The distance between the existing building and the west property line is only thirty (30) feet and creates a particular hardship for installing a pool with a required twenty (20) foot setback and a pool deck with a required ten (10) foot setback.

   (b) That the conditions upon which the petition for Variance is based would not be applicable, generally, to other property within the same zoning classification.

   *Front Building Setback Variance:* The conditions for this petition could be applicable to some of the nearby properties that share the conditions of the taking along 159th Street and also their existence prior to Village incorporation. The Variance would not be applicable to all developed properties in the C-4 Highway Commercial Zoning District and any undeveloped properties in the C-4 Highway Commercial Zoning District would have to comply with current bulk zoning regulations.
**Side Setback Variance for Pool and Patio/Pool Deck:** The applicant owns a pool company and the staff support of an in-ground pool as an accessory structure to a commercial business is intimately tied to this business use and not likely to be generally applicable to other properties within the same zoning classification.

(c) That the purpose of the Variance is not exclusively based upon a desire to make more money out of the property.

Front Building Setback Variance: The purpose of the requested Variances is not exclusively based upon a desire to make more money out of the property, but to provide legality to a non-conforming building.

**Side Setback Variance for Pool and Patio/Pool Deck:** The purpose of the installation of the pool is to clean up and expand the display area.

(d) That the alleged difficulty or hardship has not been created by any person presently having an interest in the property.

Front Building Setback Variance: The building and parking lot have been in existence and operating since prior to 1997, prior to Village Incorporation, so the applicant could not have known what current Village Codes would require.

**Side Setback Variance for Pool and Patio/Pool Deck:** The building and parking lot have been in existence and operating since prior to 1997, prior to Village Incorporation, so the applicant could not have known what current Village Codes would require.

(e) That the granting of the Variance will not be detrimental to the public welfare or unduly injurious to other property or improvements in the neighborhood in which the property is located.

Front Building Setback Variance: The granting of the Variance will not be detrimental to the public welfare or be unduly injurious to other property or improvements in the neighborhood in which the property is located.

**Side Setback Variance for Pool and Patio/Pool Deck:** The granting of the Variances will not be detrimental to the public welfare or be unduly injurious to other property or improvements in the neighborhood in which the property is located.

(f) That the exterior architectural appeal and functional plan of any proposed structure will not be so at Variance with the exterior architectural appeal and functional plan of the structures already constructed, or in the course
of construction in the immediate neighborhood or the character of the applicable district, as to cause a substantial depreciation in the property values within the neighborhood.

**Front Building Setback Variance:** The Village’s exterior materials standards do not apply to this Variance request.

**Side Setback Variance for Pool and Patio/Pool Deck:** The Village’s exterior materials standards do not apply to the requested Variances. However, the proposed pool fits within the property’s overall functional plan and will be an upgrade to the existing condition of the side yard/display area.

(g) That the proposed Variance will not impair an adequate supply of air to adjacent property, substantially increase the danger of fire, otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.

**Front Building Setback Variance:** The proposed Variance will not impair an adequate supply of air to adjacent property, substantially increase the danger of fire, otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.

**Side Setback Variance for Pool and Patio/Pool Deck:** The proposed Variance will not impair an adequate supply of air to adjacent property, substantially increase the danger of fire, otherwise endanger the public safety or substantially diminish or impair property values within the neighborhood.