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Agenda Items for February 23, 2015 Village Board Meeting

Joseph Messer <jmesser@barringtonhills-il.gov>

Thu, Feb 19, 2015 at 3:56 PM

To: Clerk VBH <clerk@barringtonhills-il.gov>, Robert Kosin <rkosin@barringtonhills-il.gov>

Cc: Michael Harrington <mharrington@barringtonhills-il.gov>, Colleen Konicek <ckonicek@barringtonhills-il.gov>, Martin McLaughlin <mmclaughlin@barringtonhills-il.gov>, Patty Meroni <pmeroni@barringtonhills-il.gov>, Fritz Gohl <FGohl@barringtonhills-il.gov>, Karen Selman <kselman@barringtonhills-il.gov>

Doloris & Bob-

Please put the following on the agenda as items for action (i.e., Village Board vote) at the February 23, 2015 Village Board Meeting:

Motion to Reconsider and Approve the Text Amendment Ordinance Concerning Horse Boarding

Motion to Set Compensation of Special Counsel

Thank you.

To ensure compliance with the Open Meetings Act, elected or appointed members of the public body may reply to this message, but they should not forward it or send a copy of the reply to other members of the public body.

**AN ORDINANCE AMENDING TITLE 5, ZONING REGULATIONS
SET FORTH IN CHAPTERS 2, 3 AND 5
REGARDING HORSE BOARDING**

WHEREAS, the Village of Barrington Hills (hereinafter the "Village") is a duly organized and existing Illinois home rule municipality pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*; and

WHEREAS, the Village of Barrington Hills is authorized and empowered, under the Municipal Code and the Code of Ordinances of the Village of Barrington Hills, to regulate properties located within the municipal boundaries of the Village; and

WHEREAS, in furtherance of this authorization, the Village of Barrington Hills has adopted a zoning code, set forth in Title 5 Zoning Regulations of the Village's Municipal Code to, among other purposes, effectuate the Village's planning program and to regulate individual property use by establishing use districts, building site requirements, setback, density, parking and height regulations, and by specifying external impact standards for noise, smoke, odor, glare and vibration; and

WHEREAS, the Village has established zoning classifications within the Village, which provide for allowable uses and special permit uses; and

WHEREAS, Section 5-10-6 of the zoning code of the Village of Barrington Hills authorizes the Village Zoning Board of Appeals to recommend in writing, upon the making of appropriate findings of fact, and the Board of Trustees to approve, amendments to the text of the zoning code; and

WHEREAS, horse boarding is regulated in the Village, as set forth in the zoning code, as a home occupation; and

WHEREAS, upon review of the Title 5 Zoning Regulations, and particularly, its authorization regarding horse boarding as a home occupation, the Village's Zoning Board of Appeals has received four Applications for amendment to the existing text concerning horse boarding and has filed its own Application for amendment following hearing of the Applications filed by other interested parties; and

WHEREAS, the Zoning Board of Appeals' Application for test amendment was filed for consideration in accordance with Section 5-10-6 of the zoning code; and

WHEREAS, Notice of the Public Hearing with respect to the proposed text amendment was published in the Daily Herald Newspaper in the Village of Barrington Hills, and additional notice of the hearing was provided, all as required by the statutes of the State of Illinois and the ordinances of the Village; and

WHEREAS, pursuant to said Notices, the Zoning Board of Appeals of the Village of Barrington Hills conducted a Public Hearing on December 2 and 3, 2014 as required by the statutes of the State of Illinois and the ordinances of the Village, and after hearing the Application, voted 4-2 to recommend approval of the text amendment offered by the Zoning Board of Appeals, in the version adopted by the Zoning Board of Appeals on December 3, 2014 in the form set forth in Exhibit "A," attached hereto and incorporated herein by reference; and

ORDINANCE 14-

WHEREAS, the Zoning Board of Appeals has forwarded its finding and recommendation to approve the text amendment to the Village Board, in the Findings and Recommendation, attached hereto and incorporated herein by reference as Exhibit "B;" and

WHEREAS, the President and Village Board of Trustees has considered the matter and determined that the recommended text amendment to Title 5 Zoning Regulations, Chapters 2, 3 and 5 be granted as recommended, as such action is believed to be in the best interests of the Village and its residents

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Barrington Hills, a home rule community located in Cook, Lake, Kane and McHenry Counties, Illinois, duly assembled at a regular meeting, as follows:

SECTION ONE: That the forgoing recitals are hereby incorporated by reference as if fully set forth herein.

SECTION TWO: That Title 5 Zoning Regulations, Chapters 2, 3 and 5 be amended as set forth in Exhibit "A," attached hereto and incorporated herein by reference, and a clean copy of which amendment is attached hereto and incorporated herein by reference as Exhibit "C."

SECTION THREE: That all other ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, expressly repealed.

SECTION FOUR: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Barrington Hills, this 15th day of December, 2014.

AYES: _____

NAYES: _____

ABSENT: _____

ABSTAIN: _____

Village President

ATTEST:

Village Clerk

EXHIBIT A
TEXT AMENDMENT

Exhibit A

Chapter 2

ZONING DEFINITIONS

5-2-1: DEFINITIONS:

AGRICULTURE: The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, and animal and poultry husbandry, ~~(including and the breeding, boarding, and training of horses and riders as a hobby or an occupation), and the necessary accessory uses needed for the following: the handling or storing of the produce, conducting animal husbandry, and for the breeding, boarding, and training of horses and rider instruction.~~ It is recognized specifically that buildings, stables or structures associated with the breeding, boarding, and training activities (Boarding and Training Facilities) may exceed the size of building associated with residential or other uses of the land, without affecting a determination that the use of such land is deemed Agricultural; ~~provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.~~ This definition of Agriculture shall not be construed as encompassing or extending to daily or hourly unsupervised rental of horses. Such amended definition is retroactive and in full force and effect as of June 26, 2006.

Chapter 3

GENERAL ZONING PROVISIONS

5-3-4: REGULATIONS FOR SPECIFIC USES:

(A) Agriculture:

1) Other than those regulations specifically provided for in Section 5-3-4(A)2(a) below, the provisions of this title shall not be exercised so as to impose regulations or require permits with respect to land used or to be used for agricultural purposes, or with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for agricultural purposes upon such land, except that such buildings or structures for agricultural purposes may be required to conform to building or setback lines. In the event that the land ceases to be used solely for agricultural purposes, then, and only then, shall the provisions of the this zoning title shall apply.

2) Boarding and Training of Horses and Rider Instruction:

a) Regulations: The following provisions listed in this subsection 5-3-4(A)2(a) shall apply to the boarding and training of horses and rider instruction:

i.) The hours of operation of Boarding and Training Facilities shall be (a) employees (not residing on the property): from six o'clock (6:00) AM to nine o'clock (9:00) PM or 30 minutes past dusk, whichever is later; (b) boarders and riders receiving instruction: from seven o'clock (7:00) A.M. to eight thirty o'clock (8:30) P.M. or dusk, whichever is later; (c) use of machinery, seven o'clock (7:00) AM to nine o'clock (9:00) PM. These hourly restrictions shall not apply in the event of emergencies.

Exhibit A

outward appearance nor manifest characteristics of a business which would infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units or infringe upon or change the intent or character of the residential district.

1. Authorization: Subject to the limitations of this subsection, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any residential zoning district.

2. Definition: A "home occupation" is any lawful business, profession, occupation or trade conducted from a principal building or an accessory building in a residential district that:

a. Is conducted for gain or support by a full time occupant of a dwelling unit; and

b. Is incidental and secondary to the principal use of such dwelling unit for residential occupancy purposes, except that it is recognized that the accessory building or buildings, such as any barn, stable, or arena, may exceed the size of the dwelling unit; and

c. Does not change the essential residential character of such dwelling unit or the surrounding neighborhood.

3. Use Limitations:

a. Employee Limitations:

(1) The owner of every home occupation shall be a person that is a full time occupant of the dwelling unit where such occupation is conducted.

(2) No more than two (2) employees or subcontractors, other than the full time occupants of a dwelling unit shall be engaged or employed in connection with, or otherwise participate in the operation of, a home occupation at any one time. This limitation on the number of employees or subcontractors shall not apply to employees or subcontractors who are not present and do not work at the dwelling unit devoted to such home occupation.

b. Structural Limitations:

(1) No alteration of any kind shall be made to the dwelling unit where a home occupation is conducted that would change its residential character as a dwelling unit, including the enlargement of public utility services beyond that customarily required for residential use.

(2) No separate entrance from the outside of the building where the home occupation is located shall be added to such building for the sole use of the home occupation.

c. Operational Limitations:

(1) Every home occupation shall be conducted wholly within either: a) a principal building or b) an accessory building, but not both.

(2) The floor area ratio (FAR) of the area of the building used for any such home occupation shall not exceed .01 (exclusive of garage floor area devoted to permissible parking of vehicles used in connection with the home occupation) with the exception of any accessory building or buildings such as a barn, stable or arena.

Exhibit A

~~horses and their riders shall be a permitted home occupation; provided that no persons engaged to facilitate such boarding, other than the immediate family residing on the premises, shall be permitted to carry out their functions except between the hours of eight o'clock (8:00) A.M. and eight o'clock (8:00) P.M. or sunset, whichever is later, and further provided that no vehicles or machinery, other than that belonging to the immediate family residing on the premises shall be permitted to be operated on the premises except during the hours of eight o'clock (8:00) A.M. and eight o'clock (8:00) P.M. or sunset, whichever is later. (Ord. 06-12, 6-36-2006).~~

...

Chapter 5

RESIDENTIAL DISTRICTS

5-5-2(A) to be amended to add the following accessory use:

Breeding, boarding, and training of horses, and rider instruction, as regulated under Section 5-3-4(A)(2) or Section 5-3-4(D) as applicable.

EXHIBIT B

ZBA FINDINGS OF FACT/RECOMMENDATION

December 8, 2014

To: President and Board of Trustees
Village of Barrington Hills

RE: ZBA Application for Text Amendment -
Horse Boarding

This is to advise you that the Zoning Board of Appeals (ZBA) held a public hearing commencing on December 2 and continuing to December 3, 2014 regarding a proposed amendment to the zoning code relative to horse boarding. The proposed amendment was submitted for consideration by the ZBA, which served as the "Applicant" pursuant to the provisions of Title 5 – Zoning Regulations, Chapter 5 Administration, Section 5-10-6 of the Village Code. The hearings were held at Countryside Elementary School, where a quorum was present on each night. Notice of the hearings was published in compliance with the Open Meetings Act, and published in a timely manner in the Daily Herald.

At the hearing, the ZBA heard testimony from the Applicants and/or their representatives, and from the public at large.

FACTS

The Village Zoning Code, Title 5 – Zoning Regulations, Chapter 5 Administration, Section 5-10-6 allows for amendments to the Zoning Code. Section 5-10-6 (A) provides:

Authority: For the purposes of promoting the public health, safety, morals, comfort and general welfare, conserving the values of property throughout the village, and lessening or avoiding congestion in the public roads and highways, the president and the board of trustees of the village may, from time to time, in the manner hereinafter set forth, amend the regulations imposed and the districts created by this title; provided, that in all amendatory ordinances adopted under the authority of this section, due allowance shall be made for existing conditions, the conservation of property values, the directions of building development to the best advantage of the entire Village, and the uses to which property is devoted at the time of the effective date hereof. (Ord. 63-1, 4-1-63)

For purposes of an amendment to the text of the Zoning Code, the ZBA must make findings of fact and its recommendation to the Board of Trustees in writing, pursuant to section 5-10-6(F), which provides:

F) Findings of Fact and Recommendations of the Zoning Board of Appeals: Within a reasonable time after the close of the hearing on a proposed amendment, the Zoning Board of Appeals shall make written findings of fact

and shall submit same together with its recommendation to the Board of Trustees of the Village. . . .

The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. . . .

On December 4, 2014, immediately following the close of the public hearing, the ZBA met to discuss the facts presented on the Application for Text Amendment. ZBA Member Kurt Anderson opened discussion of the Application by presenting minor revisions to the Text proposed, based on the testimony of Village of Barrington Hills Zoning Enforcement Officer Don Schumann, who recommended various modifications related to enforcement. The ZBA Text Amendment, as amended by Member Anderson, is attached hereto. Member Anderson moved to recommend the Text Amendment; a motion which was seconded by ZBA Member Karen Rosene. Considerable discussion ensued over the Text Amendment.

FINDING

The ZBA, after having examined the Application for Text Amendment, with revisions proposed by Member Anderson, and taking into consideration the testimony heard in the public hearing for horse boarding, adopted the following finding as to the Text Amendment:

1. That the text amendment, as proposed, addresses the concerns of the health, safety, and welfare of the community arising out of the breeding, boarding, and training of horses and riders within the village. It's designed to eliminate or address the issues of nuisance as well as traffic and safety for residences of the village.

This finding was adopted on a 4-2 vote with Members Anderson, Freeman, Rosene, and Benkendorf voting "aye," and Members Stieper and Wolfgram voting "no." The motion to adopt this finding carried.

RECOMMENDATION

The Application for Text amendment, as amended by Member Anderson, was adopted on a 4-2 vote to recommend, with Members Anderson, Freeman, Rosene and Benkendorf voting "aye" and Members Stieper and Wolfgram voting "no." The motion to recommend carried.

Respectfully submitted,

Julith K. Free, Chair, Zoning Board of Appeals
Zoning Board of Appeals
Village of Barrington Hills

Exhibit C

Chapter 2

ZONING DEFINITIONS

5-2-1: DEFINITIONS:

AGRICULTURE: The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, animal and poultry husbandry and the breeding, boarding, and training of horses and riders as a hobby or occupation, and the accessory uses needed for the following: the handling or storing of produce, conducting animal husbandry, and for the breeding, boarding, and training of horses and rider instruction. It is recognized specifically that buildings, stables or structures associated with the breeding, boarding, and training activities (Boarding and Training Facilities) may exceed the size of building associated with residential or other uses of the land, without affecting a determination that the use of such land is deemed Agricultural. This definition of Agriculture shall not be construed as encompassing or extending to daily or hourly rental of horses. Such amended definition is retroactive and in full force and effect as of June 26, 2006.

Chapter 3

GENERAL ZONING PROVISIONS

5-3-4: REGULATIONS FOR SPECIFIC USES:

(A) Agriculture:

1) Other than those regulations specifically provided for in Section 5-3-4(A)2(a) below, the provisions of this title shall not impose regulations or require permits with respect to land used or to be used for agricultural purposes.

2) Boarding and Training of Horses and Rider Instruction:

a) Regulations: The following provisions listed in this subsection 5-3-4(A)2(a) shall apply to the boarding and training of horses and rider instruction:

i.) The hours of operation of Boarding and Training Facilities shall be (a) employees (not residing on the property): from six o'clock (6:00) AM to nine o'clock (9:00) PM or 30 minutes past dusk, whichever is later; (b) boarders and riders receiving instruction: from seven o'clock (7:00) A.M. to eight thirty o'clock (8:30) P.M. or dusk, whichever is later; (c) use of machinery, seven o'clock (7:00) AM to nine o'clock (9:00) PM. These hourly restrictions shall not apply in the event of emergencies.

ii.) No property shall be allowed to conduct the activities subject to the regulations under this Section 5-3-4(A)2 that is not located on the same zoning lot or lots under the same ownership and/or control as the residence of the owner or operator of the related facility.

Exhibit C

iii.) All barns shall have an animal waste management protocol consistent with published acceptable standards and in full compliance with 7-2-5 of the Village's Municipal Code.

iv.) Lighting for barns, stables and arenas shall only be directed onto the property for which such uses occur such that there is no direct illumination of any adjacent property from such lighting. In all respects, lighting for any activities or structures used in agriculture shall comply with all other provisions of the Village Code.

v.) Nuisance causing activities: It is unlawful for any person operating a Boarding and Training Facility to allow or permit any animal to cause serious or habitual disturbance or annoyance by frequent or habitual noisy conduct, which shall annoy, injure or endanger safety, health, comfort or repose to others. Noisy conduct is defined as noise which can be heard continuously within an enclosed structure off the property of the Boarding and Training Facility for more than fifteen (15) minutes and which annoys, injures or endangers the safety, health, comfort, or repose of others. In addition to the foregoing specific limitations, no Boarding or Training Facility shall cause or create any act, which endangers public health or results in annoyance or discomfort to the public, said act being defined as a nuisance under Title 7, Chapter 1 of this Code.

vi.) There shall be a limit on the number of horse that a Boarding and Training Facility is allowed to board such that there shall not be in excess of two boarded horses per zoning lot acre.

vii.) Properties subject to the provisions of this Section 5-3-4(A)(2) shall ensure that traffic associated with the agricultural operations is reasonably minimized, particularly at properties where access is from private roads, and including at times any events such as charity outings or clinics.

viii.) Properties subject to the provisions of this Section 5-3-4(A)(2) shall provide indoor toilets for use by employees, boarders and riders and shall not rely on outdoor portable toilets for ordinary operations.

(ix) Properties subject to the provisions of this Section 5-3-4(A)(2) shall comply with the maximum floor area ratio requirements applicable to single family detached dwellings as specified in Section 5-5-10-1 herein.

...

(D) Home Occupation: The intent of this subsection is to provide peace, quiet and domestic tranquility within all residential neighborhoods within the village and in order to guarantee to all residents freedom from nuisances, fire hazards, excessive noise, light and traffic, and other possible effects of business or commercial uses being conducted in residential districts. It is further the intent of this subsection to regulate the operation of a home occupation so that the general public will be unaware of its existence. A home occupation shall be conducted in a manner which does not give an outward appearance nor manifest characteristics of a business which would infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units or infringe upon or change the intent or character of the residential district.

Exhibit C

1. Authorization: Subject to the limitations of this subsection, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any residential zoning district.

2. Definition: A "home occupation" is any lawful business, profession, occupation or trade conducted from a principal building or an accessory building in a residential district that:

a. Is conducted for gain or support by a full time occupant of a dwelling unit; and

b. Is incidental and secondary to the principal use of such dwelling unit for residential occupancy purposes, except that it is recognized that any barn, stable, or arena, may exceed the size of the dwelling unit; and

c. Does not change the essential residential character of such dwelling unit or the surrounding neighborhood.

3. Use Limitations:

a. Employee Limitations:

(1) The owner of every home occupation shall be a person that is a full time occupant of the dwelling unit where such occupation is conducted.

(2) No more than two (2) employees or subcontractors, other than the full time occupants of a dwelling unit shall be engaged or employed in connection with, or otherwise participate in the operation of, a home occupation at any one time. This limitation on the number of employees or subcontractors shall not apply to employees or subcontractors who are not present and do not work at the dwelling unit devoted to such home occupation.

b. Structural Limitations:

(1) No alteration of any kind shall be made to the dwelling unit where a home occupation is conducted that would change its residential character as a dwelling unit, including the enlargement of public utility services beyond that customarily required for residential use.

(2) No separate entrance from the outside of the building where the home occupation is located shall be added to such building for the sole use of the home occupation.

c. Operational Limitations:

(1) Every home occupation shall be conducted wholly within either: a) a principal building or b) an accessory building, but not both.

(2) The floor area ratio (FAR) of the area of the building used for any such home occupation shall not exceed .01 (exclusive of garage floor area devoted to permissible parking of vehicles used in connection with the home occupation) with the exception of any barn, stable or arena.

(3) There shall be no direct retail sales of merchandise, other than by personal invitation or appointment, nor any permanent display shelves or racks for the display of merchandise to be sold in connection with the home occupation, with the exception of any barn, stable or arena.

Exhibit C

(4) No routine attendance of patients, clients, customers, subcontractors, or employees (except employees and subcontractors as provided in subsection (D)3a(2) of this section) associated with any home occupation shall be permitted at the premises of the home occupation, provided, however, that the attendance of up to four (4) persons at any one time may be allowed for the purpose of receiving private instruction in any subject of skill. "Routine attendance" means that the conduct of the home occupation requires persons, other than the owner or permitted employees and subcontractors, to visit the premises of the home occupation as part of the regular conduct of the occupation, without regard to the number, frequency, or duration of such visits.

(5) No vehicle or mechanical, electrical, or other equipment, that produces noise, electrical or magnetic interference, vibration, heat, glare, emissions, odor, or radiation outside the principal building or accessory building containing the home occupation that is greater or more frequent than that typical of vehicles or equipment used in connection with residential occupancy shall be used in connection with any home occupation.

(6) All storage of goods, materials, products or merchandise used or sold in conjunction with a home occupation shall be wholly within the principal building or accessory building containing the home occupation.

(7) No refuse in excess of the amount permitted under section [5-3-9](#) of this chapter shall be generated by any home occupation.

(8) There shall be a limit on the number of horses that are subject to the home occupation activity such that there shall not be in excess of one boarded horse per zoning lot acre.

d. Signage And Visibility:

(1) No exterior business signs on a principal building, accessory building or vehicle used in connection with the home occupation, shall be permitted in connection with any home occupation unless otherwise permitted under section [5-5-11](#) of this title.

(2) There shall be no exterior indications of the home occupation or exterior variations from the residential character of the principal building or accessory building containing the home occupation.

e. Traffic Limitations: No home occupation shall generate significantly greater vehicular or pedestrian traffic than is typical of residences in the surrounding neighborhood of the home occupation.

f. Nuisance Causing Activities: In addition to the foregoing specific limitations, no home occupation shall cause or create any act, which endangers public health or results in annoyance or discomfort to the public, said act being defined as a nuisance under [title 7, chapter 1](#) of this code.

g. Boarding And Training Of Horses and Riders: The boarding and training of horses and rider instruction shall be a permitted home occupation. For properties of less than ten acres these activities are regulated under Section 5-3-4(D) herein, and in addition must comply with the restrictions under Section 5-3-4(A)2i., iii., and viii. For properties of ten acres or larger, these activities are regulated solely under Section 5-3-4(A)2 herein.

...

Exhibit C

Chapter 5

RESIDENTIAL DISTRICTS

5-5-2(A) to be amended to add the following accessory use:

Breeding, boarding, and training of horses, and rider instruction, as regulated under Section 5-3-4(A)(2) or Section 5-3-4(D) as applicable.