

**AN ORDINANCE GRANTING A SPECIAL USE PERMIT ALLOWING FOR THE
CONSTRUCTION, USE AND MAINTENANCE
OF AN ARTIFICIAL LAKE AT 300 DONLEA ROAD**

WHEREAS, Section 5-10-7 of the Zoning Code of the Village of Barrington Hills ("Village") authorizes the Village Zoning Board of Appeals ("ZBA") to recommend, and the Board of Trustees to approve, special uses within the zoning districts of the Village; and

WHEREAS, Michael and Jamie Lerner ("Applicant") applied for a Special Use Permit to allow for the construction, use and maintenance of an artificial lake on property they own located at 300 Donlea Road ("Property"), within the R-1 Residential District, which Application is on file with the Village's Building Department as of the date of hearing; and

WHEREAS, Section 5-5-3(A) of the Village's Zoning Code classifies an artificial lake as a special use within the R-1 Residential District; and

WHEREAS, on September 21, 2015 and continuing to October 19, 2015, the ZBA, with six members present and voting on this matter, held a public hearing on the application for Special Use, prior to which time all notice of the public hearing was published in a timely manner in the Daily Herald as well as posted in the Village Hall, and individual notice was provided to all property owners within two hundred fifty feet (250) of the Property, as recorded in the most recent County real estate tax records, and notice was properly posted on the Property; and

WHEREAS, Section 5-10-7(E) of the Village Zoning Code establishes standards which must be met before the ZBA may recommend approval of a Special Use Permit; and

WHEREAS, at the close of the public hearing, the ZBA made all necessary findings of fact as to compliance with the standards set forth in Section 5-10-7(E) of the Village Zoning Code, and recommended on a unanimous vote of the six members present and voting that the Special Use Permit be granted, as are set forth in the Findings of Fact and Recommendations in Exhibit A attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED, by the President and Board of Trustees of the Village of Barrington Hills, Cook, Kane, Lake and McHenry Counties, Illinois, as a home rule municipality the following;

SECTION ONE: The Special Use Permit is hereby granted to allow for the construction, use and maintenance of an artificial lake on the Property, in substantial compliance with the plans submitted by Land Technology, Inc., last revision date 10/8/2015, at the ZBA public hearing on October 19, 2015, and that said artificial lake is hereby granted, subject to the following condition, in keeping with the standards set forth in Section 5-10-7(E):

1. Village Engineer's approval of the survey to be submitted showing appropriate lot lines.

SECTION TWO: If any part or provision of this Ordinance shall be held or deemed invalid, such invalidity shall not have the effect of rendering another part or provision of this Ordinance invalid.

SECTION THREE: This Ordinance shall be in full force and affect from and after its passage and approval as provided by law.

Ayes: Nays: Absent:

PASSED AND APPROVED by the President and Board of Trustees of the Village of Barrington Hills, Illinois, this 19th day of November, 2015.

APPROVED:

ATTEST:

Village President

Village Clerk

November 13, 2015

To: President and Board of Trustees
Village of Barrington Hills

RE: Application for Special Use Permit
To Allow Construction of An Artificial
Lake –300 Donlea Road

This is to advise you that at a public hearing of the Zoning Board of Appeals (“ZBA”) held at 7:30 P.M. on Monday, September 21, 2015 and thereafter continued to October 19, 2015, in the MacArthur Room of the Village Hall, where a quorum was present, the ZBA considered the application of Michael and Jamie Lerner (“Applicant”) for the grant of a Special Use Permit to allow the construction and maintenance of an artificial lake on their property at 300 Donlea Road (“Property”), identified as PINs 01-04-100-027; 01-04-100-018 and 01-05-401-004.

Notice of the hearing was published in a timely manner in the Daily Herald as well as posted in the Village Hall. Proof of individual notice, by registered mail, return receipt requested, was submitted for all property owners within 250 feet as recorded in the office of the tax assessor of Barrington Township, and the notice of the hearing was properly posted on the Property.

The Applicant was represented at the initial public hearing by counsel, but appeared on their own behalf on October 19, 2015, and both testified in support the Application for Special Use Permit, which information was also provided as part of the Application, which is on file with the Village.

FACTS

Applicant owns the Property, comprised of approximately 17 acres, improved with a residential home and several outbuildings. Applicant proposes to create an artificial lake with a brook as a water feature on the Property. The artificial lake will be lined and, with the brook, will cover approximately two-thirds of an acre. The lake will be fed and maintained by overland storm water flow and supplemented by the existing well on the Property. Michael Lerner testified that he had commenced construction on the Property prior to knowing a permit was required, and, that he has since stopped work while awaiting the permit. Also testifying in support of the Applicant was Dana DuBois of Land Technology, Inc. which created the Site Plan for the artificial lake. Questions arose regarding filling of the lake, and whether it was negatively impact on surrounding property owners. Mr. DuBois testified that it would not. Village engineer Dan Strahan also testified, stating that the Village became aware of construction activity in July 2015 and notified the Applicant to stop work. Mr. Strahan testified that there is no setback

requirement in the Code for artificial lakes, and because the lake is to be lined, there is no requirement for soil borings. At this time, all engineering issues have been addressed, and there is no issue relative to filling the pond as it will have no measurable effect on the aquifer. Once constructed, the Applicant will have the obligation of maintaining the water level in the pond

FINDINGS

The ZBA, after having examined the facts as presented, and taking in consideration the testimony set forth during the public hearing, voted 6 – 0, with one member absent, to recommend approval of the Application for Special Use Permit, finding that the facts set forth in the Application, and as testified to at public hearing, are sufficient for the approval of the grant of the Special Use Permit, those facts being:

Standards for Special Use Permit:

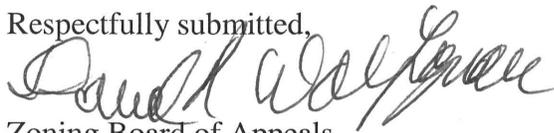
1. That the establishment, maintenance, or operation of the special use will not detrimental to or endanger the public health, safety, morals, comfort or general welfare.
2. That the special use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish property or impair property values within the neighborhood.
3. That the establishment of the special use will not impede the normal and orderly development and improvement of surrounding property for uses permitted in the district.
4. That adequate utilities, access roads, drainage and/or other facilities have been or are being provided.
5. 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 and roads.
6. That the special use shall in all other respects conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the board of trustees pursuant to the recommendations of the zoning board of appeals.

RECOMMENDATION

The Zoning Board of Appeals recommends that the Village Board approve the request for Special Use Permit to allow an artificial pond in the R-1 Zoning District as applied for, on the following condition:

1. Village Engineer's approval of the survey to be submitted showing appropriate lot lines.

Respectfully submitted,



Zoning Board of Appeals
Village of Barrington Hills