

VILLAGE OF BARRINGTON HILLS

Zoning Board of Appeals



Monday, August 18, 2014 ~ 7:30 pm
MacArthur Room – 112 Algonquin Road
NOTICE OF MEETING

AGENDA

1. Organizational
 - 1.1 Call to Order
 - 1.2 Roll Call

PUBLIC MEETING

2. [Recommend] Discussion/Vote Text Amendment – LeCompte (TO BE TABLED)
3. [Recommend] Discussion/Vote Text Amendment - Elder, RCBH (TO BE TABLED)
4. Discussion Horse Boarding Text Amendment – ZBA (TO BE TABLED)
5. Discussion Meeting Calendar Text Amendment
 - 5.1 LeCompte Horse Boarding Text Amendment
 - 5.2 Elder, RCBH Horse Boarding Text Amendment
 - 5.3 Hammond Horse Boarding Text Amendment
 - 5.4 Drury Horse Boarding Text Amendment
6. Discussion Meeting Calendar
 - 6.1 Gopin Home Occupation - Appeal
7. Public Comments
8. Adjournment
Chairman: Judith K. Freeman
Special Meeting – August 27, 2014
Next Regular Meeting Monday, September 15, 2014

PROCEDURES

Abbreviated for Posting

1. Petitioner or spokesperson will outline requested relief.
2. Witness or Experts in support of request.
3. Questions from members.
4. Questions/Comments from the public as follows:
 - a. If you wish to make a comment during a discussion period, please raise your hand so the Chairman can recognize you.
 - b. For purposes of the official record of the meeting, please identify yourself before making your comment.
 - c. Please restrict yourself to one question or comment at a time and limit your remarks to three minutes in order to give others a fair opportunity to be heard.

NOTICE AS POSTED

PUBLIC HEARING

Before the Zoning Board of Appeals

Village of Barrington Hills

Re: Text Amendment/Horse Boarding and Training

Notice is hereby given that a Public Hearing will be held on Monday, July 21, 2014 at 7:30 p.m. by the Zoning Board of Appeals of the Village of Barrington Hills at Countryside School, 205 W. County Line Road, Barrington Hills, concerning a proposed text amendment from Benjamin B. LeCompte to the Village's Zoning Ordinance, Title 5 of the Village Code; specifically an amendment to Section 5-3-4 of the Zoning Ordinance, "Regulations for Specific Uses" eliminating, as a home occupation, boarding and training of horses, and adding, as a newly defined specific use, the boarding and training of horses, with specific regulations governing such use.

A copy of the Zoning Ordinance and the proposed amendment is available for examination at the office of the Village Clerk at the Village Hall 112 Algonquin Road, weekdays between 9:00 a.m. and 5:00 p.m. Also a copy of this notice and amendment is available at the Village website www.barringtonhills-il.gov

All interested parties are invited to attend the Public Hearing and will be given an opportunity to be heard. Written comments on the application for text amendment to be made part of the record of this proceeding will be accepted in person, by fax or email in the office of the Village Clerk through 5 p.m. July 21, 2014.

By: Village Clerk
Village of Barrington Hills
clerk@barringtonhills-il.gov
Fax 847.551.3050

**PETITION FOR TEXT AMENDMENT
TO THE VILLAGE OF BARRINGTON HILLS ZONING CODE**

To: Don Schuman, Zoning Enforcement Officer, Village of Barrington Hills, Illinois

Benjamin B. LeCompte, III, residing at 350 Bateman Road, Barrington Hills, Illinois, and as a resident affected by the subject matter of the proposed amendment, hereby petitions for the following text amendment to the Village Zoning Code and requests that a ZBA notice of hearing on this amendment be published as prescribed by code no later than June 20, 2014 and hearing on such amendment be held on Monday July 7, 2014 or as soon thereafter as can be accommodated by the ZBA. The zoning code shall be amended by deleting section 5-3-4(D)3(g), and amending sections 5-2-1, and 5-3-4(A) such that the respective sections of section 5-3-4 shall now read:

5-2-1: DEFINITIONS:

The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry (including the boarding and training of horses, horse riding instruction, as well as the breeding and raising of horses as an occupation) and the necessary accessory uses for handling or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

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 zoning title apply.**

2) **Boarding And Training Of Horses:** For the purpose of clarification of existing law and not modifying its intent, and irrespective of the fact that boarding horses in a pasture or stable, training of horses, and horse riding instruction represent, by definition, commercial activities, such activities have never violated and do not presently violate the spirit and intent of the Village's Zoning code and are and have always been legally permitted uses.

a) **Regulations:** The following provisions listed in this subsection 5-3-4(A)2(a) shall apply prospectively to all boarding, training, and riding of horses, including horse riding instruction, from the date of this enactment forward:

- I. No persons engaged to facilitate such boarding, riding or training, other than the immediate family residing on the premises and the individual horses owners shall be permitted to carry out their functions except between the hours of six o'clock (6:00) AM and eight o'clock (9:00) PM, and 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 six o'clock (6:00) AM and nine o'clock (9:00) PM. These hourly restrictions shall not apply in the event of veterinary emergencies.
- II. No outdoor riding, training, or riding lessons, other than by the immediate family residing on the premises shall take place before 8:00 AM or after 8:30 PM.
- 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 and arenas shall only be directed onto the property on which such uses occur such that there is no direct illumination of

any adjacent property from such lighting.

V. While no one wants excessive traffic and noise that would infringe upon their neighbors' rights to the peaceful enjoyment of their properties, the term excessive is relative and ripe for abuse in interpretation by either the barn owner or the neighbor. Accordingly, any complaint about such shall be handled in an independent and objective manner, which is specifically set forth in section 5-3-4(A)2(c) below.

VI. There shall be a limit on the number of horses that any facility is allowed to board such that:

1. For all horses boarded in a pasture for which there is no indoor stall there shall not be in excess of one boarded horse per zoning lot acre.

2. For all horses boarded in a barn with supplemental nutrition there shall not be in excess of 2 boarded horses per zoning lot acre, without regard to whether those acres also have pasture boarded horses.

3. These restrictions on number of boarded horses shall only apply prospectively and, furthermore, shall not pertain to any barn that was in operation prior to June 16, 2014.

b) Compliance: Should any resident be aggrieved by an alleged violation of any regulation in this section 5-3-4(A), said resident, before taking any other action, must report such alleged violations to the zoning enforcement officer, at which time said officer shall inspect the property, commission an independent

study of the alleged violation, and perform any further due diligence such officer feels appropriate.

If at the conclusion of such due diligence the zoning officer finds the property to be in non-compliance, based on the data collected and how such data compares with like facilities in the Village, the property owner shall be given 30 days to bring their facility into compliance. At the end of such period the zoning officer shall again inspect the property, and if, in the discretion of the officer, the property remains non-compliant, the zoning officer shall issue a cease and desist of all non owner equestrian activity until such time that the property can be brought into compliance and accepted as such by the zoning officer.

If a cease and desist is issued the property owner shall have 45 days to appeal the zoning officer's decision to the ZBA for hearing. If within such period the property owner has not appealed to the ZBA the decision of the zoning officer shall become final and the cease and desist shall remain in effect until such time that the property is brought into compliance, as determine by the zoning officer. All other compliance regulations shall be subordinate to this section 5-3-4(A)2(b)

c) Retroactivity: Subject to the severability clause in section 1-2-4, with the exception of the above subsection 5-3-4(A)2(a), which specifically states otherwise, the entirety of the additions in 5-2-1 and 5-3-4(A) and the deletion of 5-3-4(D)3(g) shall be primarily and secondarily retroactive and are in full force and effective as of June 26, 2006, *nunc pro tunc*.

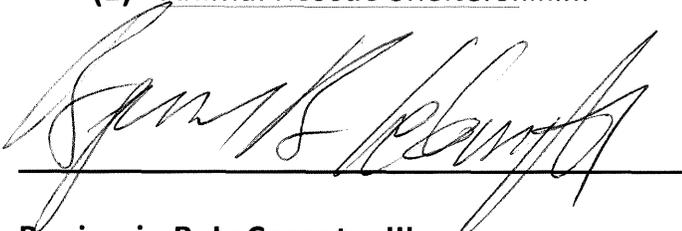
(B) Public Utility:.....

(C) Tents:.....

(D) Home Occupation:.....~~3(g) Boarding And Training Of Horses: Notwithstanding anything to the contrary contained in this subsection (D), the boarding of horses in a~~

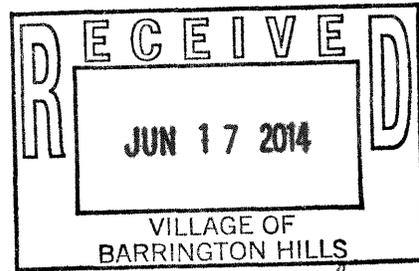
~~stable and the training of horses and their riders shall be a permitted home occupation; provided that no persons engaged to facilitate such boarding, other than the immediate family residing on the premises, shall be permitted to carry out their functions except between the hours of eight o'clock (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, 6-26-2006)~~

(E) Animal Rescue Shelters:.....



Benjamin B. LeCompte, III

June 17, 2014



Dolores Sandel

PUBLIC HEARING
Before the Zoning Board of Appeals
Village of Barrington Hills
Re: Text Amendment/Horse Boarding and Training

Notice is hereby given that a Public Hearing will be held on Monday, July 21, 2014 at 7:30 p.m. by the Zoning Board of Appeals of the Village of Barrington Hills at Countryside School, 205 W. County Line Road, Barrington Hills, concerning a proposed text amendment from Jason Elder to the Village's Zoning Ordinance, Title 5 of the Village Code; specifically an amendment to the following sections of the Zoning Ordinance: Section 5-2-1 "Definitions" to amend the definition of "Agriculture," Section 5-3-4 "Regulations for Specific Uses" eliminating, as a home occupation, boarding and training of horses, and adding specific regulations for the boarding, breeding, riding and training of horses, and Section 5-5-2(A) to add, as accessory uses "boarding, breeding, riding and/or training of horses."

A copy of the Zoning Ordinance and the proposed amendment is available for examination at the office of the Village Clerk at the Village Hall 112 Algonquin Road, weekdays between 9:00 a.m. and 5:00 p.m. Also a copy of this notice and amendment is available at the Village website www.barringtonhills-il.gov

All interested parties are invited to attend the Public Hearing and will be given an opportunity to be heard. Written comments on the application for text amendment to be made part of the record of this proceeding will be accepted in person, by fax or email in the office of the Village Clerk through 5 p.m. July 21, 2014.

By: Village Clerk
Village of Barrington Hills
clerk@barringtonhills-il.gov
Fax 847.551.3050

PETITION FOR TEXT AMENDMENT
TO THE VILLAGE OF BARRINGTON HILLS ZONING CODE

To: Don Schuman, Zoning Enforcement Officer, Village of Barrington Hills, Illinois

The Riding Club of Barrington Hills ("RCBH"), with a mailing address of P.O. Box 418, Barrington Hills, Illinois, is a Private, Non-Profit Club as defined under section 5-2-1 of the Village Zoning Code (hereinafter "Zoning Code"). Many of the members of the RCBH are residents of Barrington Hills and are affected by the subject matter of these proposed Text Amendments, and the RCBH and various undersigned landowners hereby petition for the following Text Amendments to the Village Zoning Code, and request that a ZBA notice of hearing on these amendments be published as prescribed by code no later than July 30 2014 and hearing on such amendment be held on July 30 2014 or as soon thereafter as can be accommodated by the ZBA. The Zoning Code shall be amended by amending sections 5-2-1, 5-3-4, and 5-5-2(A) and deleting section 5-3-4(D)3(g), and such that the respective sections of the Zoning Code shall now read:

5-2-1: DEFINITIONS:

AGRICULTURE: The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, poultry, animal husbandry, and the boarding, breeding, riding, or training of horses as a hobby or as an occupation. Agriculture includes the necessary accessory uses for handling or storing produce, conducting animal husbandry, and for the boarding, breeding, riding or training of horses. It is recognized specifically that buildings, stables or structures associated with the boarding, breeding, riding or training of horses may exceed the size of buildings associated with residential or other uses of the land, without affecting a determination the use of land is deemed Agricultural.

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 the Zoning Code shall not be interpreted 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, stables or structures used or to be used for agricultural purposes upon such land, except that such buildings or structures used for agricultural purposes may be required to conform to building or setback lines. In the event that the land ceases to be used for agricultural purposes, then the provisions of the Zoning Code shall apply.

2) Boarding, Breeding, Riding And Training Of Horses:

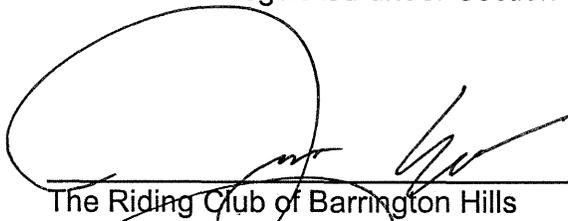
a) Regulations: The following provisions listed in this subsection 5-3-4(A)2(a) shall apply to the boarding, training, breeding and riding of horses:

- I. The hours of operation of a property engaged in the boarding, breeding, riding and training of horses shall be 6 am to 8 pm for employees other than the immediate family residing on the premises, and 8 am to 8 pm or dusk (whichever is later) for boarders, and 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 6 am and 8 pm. These hourly restrictions shall not apply in the event of veterinary emergencies.
- II. All properties subject to these 5-3-4(A)(2) provisions 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.
- III. Lighting for barns, stables and arenas shall only be directed onto the property on which such uses occur such that there is no direct illumination of any adjacent property from such lighting.
- IV. Properties subject to the provisions of this Section 5-3-4(A)(2) shall ensure traffic associated with affected operations is reasonably minimized, particularly at properties where access is from private roads, and including at times of any charity or other event, such as a clinic.
- V. The number of horses to be maintained at any facility subject to the provisions of this Section 5-3-4 shall be two horses per acre, plus one horse per each boxed stall.
- VI. Properties subject to this Section 5-3-4(A)(2) shall provide for indoor (including within a barn or stable) toilets for use by employees and boarders, and shall not rely on the use of outdoor portable toilets for ordinary operations.

(B) ~~5-3-4(D)(3)(g) Home Occupation:.....3(g) Boarding And Training Of Horses: Notwithstanding anything to the contrary contained in this subsection (D), the boarding of horses in a stable and the training of 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, 6-26-2006)~~

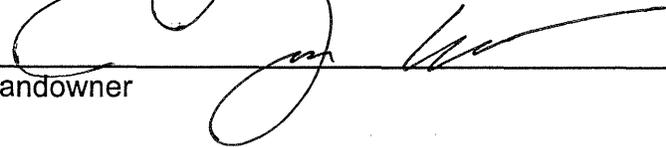
In addition, the petitioners request that Section 5-5-2(A) be amended to add the following accessory uses:

Boarding, breeding, riding and/or training of horses, which are hereby regulated under Section 5-3-4(A)(2).



The Riding Club of Barrington Hills

June 30, 2014



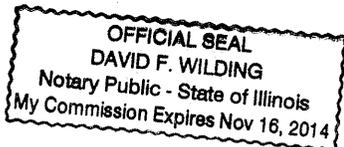
Landowner

Landowner

Landowner

STATE OF ILLINOIS)
)ss
COUNTY OF Cook)

Subscribed and sworn to before me this 30 day of June, 2014.





Notary Public

PETITION FOR TEXT AMENDMENT

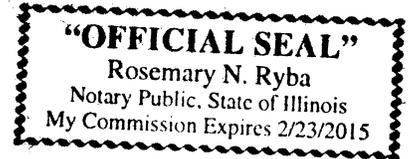
TO THE VILLAGE OF BARRINGTON HILLS ZONING CODE

To: Don Schuman, Zoning Enforcement Officer, Village of Barrington Hills, Illinois

James C. Hammond, 2 Woodcreek Road, Barrington Hills, Illinois, as a 23-year resident affected by the subject matter of the proposed amendment, hereby petitions for the following text amendment to the Village Zoning Code and requests that a ZBA notice of hearing on this amendment be published as prescribed by code no later than July 31, 2014 and hearing on such amendment be held on Monday, August 18, 2014 or as soon thereafter as can be accommodated by the ZBA.

The purpose of this amendment is to provide a way of bringing into zoning conformance those commercial boarding operations in the Village that may not presently meet the conditions of the Home Occupation Ordinance. Commercial Horse Boarding would become an allowed special use in R-1 Zoning Districts subject to the conditions as outlined in the submitted amendment.

[Handwritten signature] 7-29-14
Rosemary N. Ryba



Proposed Horse Boarding Text Amendment Overview

Background: During a period from 2009 to 2010, our Barrington Hills Equestrian Commission and Zoning Board of Appeals members worked hand-in-hand to craft zoning text amendments differentiating and regulating "Home Occupation" and "Commercial Boarding" facilities existing within the Village's Zoning Code.

Countless hours of meetings and language drafting were expended in the effort, only to have the resulting amendments tabled for unknown reasons.

Current Situation: I recently attended a public hearing held by the ZBA on July 21st, 2014, and after listening to all of the comments made concerning the two amendment proposals it occurred to me that resident concerns can be categorized into three groups.

One group of speakers were concerned that the proposals before the board would allow for commercial boarding operations to expand their existing operations, or large new boarding operations could be built on land near to them without neighbors having any say in the matter.

The second group showed concern that existing commercial boarding operations were in jeopardy under the current Home Occupation Ordinance, and wanted them protected with the proposed code amendments. The last group believed that boarding has worked for the last eight years under the Home Occupation Ordinance, so why change it.

Recommendation: I hereby recommend that the Zoning Board consider revisiting the proposed language which the Zoning Board and Equestrian Commission together drafted back in 2010. The amendment which I am proposing is primarily their work, with some changes to criteria differentiating the two classifications of boarding facilities. The key components of this amendment are:

- Any existing facility boarding six or more horses may apply for exemption from applying for a Special Use Permit, provided they meet minimal criteria for the application as outlined in the proposed amendment (see 5-3-14-H).
- Any existing facility boarding five or less horses will continue to operate under the Home Occupation Ordinance.
- Any newly proposed horse boarding facility designed to board six or more horses would be required to apply for a Special Use Permit.
- Any newly proposed stable in excess of 2,700 square feet would require a Special Use Permit.
- A maximum of one boarded horse is allowed per acre dedicated to the keeping of horses.
- Boarding facilities will remain classified as R-1 under codes not covered by this amendment.

There are other definitions and criteria outlined in the original Zoning Board draft amendment that address horse boarding which should be familiar to some members of the Zoning Board.

In advance of presenting to this proposed text amendment that follows, I would like to thank the members of the board for their consideration and their devotion of personal time to address matters such as this important one for all the residents of Barrington Hills.

5-3-14 REGULATIONS FOR COMMERCIAL HORSE BOARDING:

- (A) SPECIAL USE: Commercial horse boarding is a permitted special use in the R1 District within the Village, provided, however, no special use permit for commercial horse boarding shall be granted unless such commercial horse boarding operation complies with the provisions of this Section 5-3-14.
- (B) PURPOSE AND INTERPRETATION: The purpose of this Section 5-3-14 is to provide specific regulations for the operation of commercial horse boarding facilities within the Village. The boarding of horses in the Village is a desirable activity from the point of view of the equestrian community and the Village at large but such activity must be managed in the context of the residential nature of the Village and its desire to maintain the peace, quiet and domestic tranquility within all of the Village's residential neighborhoods. It is the further intent of this ordinance to regulate the operation of commercial horse boarding facilities so that the general public and neighboring residences will enjoy reasonable freedom from fire hazards, excessive noise, light and traffic and other nuisances.
- (C) DEFINITIONS: For purposes of this Section 5-3-14, defined terms shall have the meanings ascribed to them in Section 5-2-1 and this Subsection 5-3-14(C).

BOARDED HORSES: Horses that are not owned by the owners or occupants of the property where the horses are kept.

BOARDING: The keeping and/or sheltering of Boarded Horses, provided, however, boarding of horses shall not include a livery stable.

COMMERCIAL HORSE BOARDING: The boarding of six (6) or more Boarded Horses and/or the use of a stable or series of stables for boarding operations that exceed, in the aggregate, 2,700 square feet of space under roof.

LIMITED-FACILITY BOARDING: The boarding of five (5) or fewer Boarded Horses, which shall be a permitted use, without the need for a special use permit, and regulated as a Home Occupation under Section 5-3-4(D) of the Zoning Code.

LIVERY STABLE: A stable where horses are kept for hire.

- (D) FACILITY REQUIREMENTS:
- (i) All buildings, excluding stables, used in connection with commercial horse boarding, shall be considered accessory uses and shall comply with the setback requirements for agricultural buildings and structures.
 - (ii) Stables used in connection with commercial horse boarding shall be considered accessory uses and shall comply with the setback requirements for stables.
 - (iii) All buildings, including, but not limited to stables, used in connection with commercial boarding shall be considered agricultural buildings for the purpose of building permit review and shall be classified as utility buildings under the BOCA 1990 Building Code, so constructed, equipped and maintained to address fire and safety hazards in accordance with Village Ordinances and the BOCA Building Code.
- (E) SCOPE: In the course of reviewing any request for a special use permit required under this Section 5-3-14, the Zoning Board of Appeals may limit the number of Boarded Horses permitted to be boarded at any one time and shall consider the following factors in its determination: (i) location of the property, (ii) configuration of the property, (iii) character of the surrounding neighborhood, (iv) proximity of the boarding facility to wetlands, artificial lakes or other watercourses, (v) vehicular access to the boarding facility, (vi) available parking, (vii) available pasture, (viii) manure disposal plan, (ix) such other factors as the Zoning Board of Appeals may deem appropriate for consideration; provided, however, notwithstanding the foregoing, the total number of Boarded Horses shall not exceed one (1) Boarded Horse per acre dedicated solely to the keeping of horses.
- (F) SPECIAL USE APPLICATION REQUIREMENTS: In addition to any requirements of Section 5-10-7, an applicant for a special use permit for commercial horse boarding shall submit the following documentation and information:
- (i) A site plan clearly indicating the size, location and setback from property lines of any buildings and other improvements, structures or facilities, such as pasturage, parking areas and riding arenas, intended by the applicant to be used in connection with the operation of a commercial horse boarding facility, as well as the current on-site land uses and

zoning, current adjacent land uses and zoning, adjacent roadways, location of existing utilities, existing and proposed means of access, fencing and landscaping/screening.

- (ii) A survey of the property prepared by an Illinois licensed land surveyor dated within ninety (90) days of the application.
 - (iii) Such other additional information reasonably requested by the Zoning Board of Appeals.
- (G) EXCLUSIONS: Nothing in this Section 5-3-14, shall be construed to apply to private facilities that shelter horses belonging solely to the owners and/or occupants of the property where such horses are kept and nothing herein shall be construed to limit the number of horses a person may own and keep on their own property other than Boarded Horses.
- (H) LIMITED EXEMPTION: Any commercial horse boarding facility operating outside the limitations of conditions established under the Home Occupation section of the code, and having not been previously cited by the Village for any infractions of the Zoning Code, for a period of 90 days from the date of July 31, 2014, shall be exempt from the conditions of this Section 5-3-14, providing that the property be registered and inspected by the Zoning Enforcement Officer within this time frame. However, should any facility identified as qualifying under this limited exemption expand its operation from current levels of horse boarding, then it would be subject to the conditions of Section 5-3-14.

**PETITION FOR TEXT AMENDMENTS
TO THE VILLAGE OF BARRINGTON HILLS ZONING CODE**

August 13, 2014

To: Don Schuman, Zoning Enforcement Officer, Village of Barrington Hills, Illinois

The undersigned, James J. Drury III, a landowner and resident of the Village of Barrington Hills, Illinois ("Village"), with an address of 7 Deepwood Road, and affected by the subject matter addressed herein hereby petition the Village for the following Text Amendments to the Village Code (hereafter, "Zoning Code"), and request that a Zoning Board of Appeals ("ZBA") notice of hearing on these amendments be published as prescribed by code no later than August 26 2014 and hearing on such amendment be held on September 15, 2014 or as soon thereafter as can be accommodated by the ZBA.

The proposed Text Amendments amends Zoning Code Sections 5-2-1 (Definitions), 5-3-4 (D) 3 (g) (Home Occupancy boarding), 5-5-3 (Special Uses) and 5-10-7 (Special Uses).

Recently, the ZBA notified Village residents of two proposed text amendments regarding Commercial Horse Boarding, and a hearing was held at Countryside School. Both of those proposals would redefine "Agriculture" to include horse boarding, thus permitting large-scale commercial horse boarding operations on R1-zoned properties throughout the Village without notifying or protecting the rights of the affected property owners. The purpose of these proposed Text Amendments is to permit horse boarding on a case-by-case basis as a Special Use, providing the petitioner meets specified criteria.

The proposed Text Amendments would continue to permit small scale horse boarding among friends under the Home Occupation Ordinance, without a need to notify or obtain permission from the Village. Landowners wishing to operate large-scale horse boarding operations would be required to meet certain criteria and obtain Village approval. These Text Amendments define the process and conditions under which such a business could operate while preserving the rights to the quiet enjoyment of residents' properties.



ORDINANCE AMENDING SECTIONS 5-2-1, 5-3-4, 5-5-3 and 5-10-7

(Drafting Note: all changes underlined and in bold; while not changed section titles are also in bold for reviewer convenience)

5-2-1 Definitions:

That the definition of Agriculture be amended to state in its entirety:

AGRICULTURE: The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture and animal and poultry husbandry (including the breeding and raising of horses as an occupation; **but not the boarding of horses**) and the necessary accessory uses for handling or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities.

That the following defined terms be added:

AFFECTED PARTIES: Adjacent property owners, private road association (if there is private road access from any Boarding Facility), and non-adjacent property owners located on the same public road as the Boarding Facility within one-quarter (1/4) mile in either direction.

BOARDED HORSES: Horses that are not owned by the landowners or occupants of the property where the horses are kept.

BOARDING FACILITY: Any facility or property space proposed to be used or used in connection with a Commercial Boarding operation.

COMMERCIAL BOARDING: The boarding of five (5) or more boarded horses on any property; provided that the maximum number of boarded horses shall not exceed twenty (20). Commercial Boarding is permitted where the landowner receives a Special Use Permit.

GRAZING ACRE: That fenced-in portion of a property onto which horses are normally allowed during daylight hours. Grazing acres include pastures, mud lots and paddocks, but not those portions of the property that include the residence, pool, tennis court or other sports fields, nor shall it include agricultural or hay fields, streams and wetlands, or other portions of the property not suitable for the pasturing of horses.

HORSE BOARDING: Supplying food and lodging to boarded horses for pay. Boarding of four (4) or fewer horses is permitted under and subject to the Home Occupation Ordinance.

5-3-4 REGULATIONS FOR SPECIFIC USES

Section 5-3-4 (D) (3) (g) (Small-scale Horse Boarding permitted by the Home Occupation Ordinance) shall be amended to state in its entirety:

Boarding And Training Of Horses: ~~Notwithstanding anything to the contrary contained in this subsection (D), The boarding of horses~~ **The Horse Boarding of four (4) or fewer** horses in a stable and the training of horses and their riders shall be a permitted home occupation, provided that no persons engaged to facilitate such **Horse B**boarding, other than the immediate family residing on the premises, shall be permitted **on the property to carry out their functions** except between the hours of **eight six** o'clock (~~68:00~~) A.M. and **eight seven** o'clock (~~78:00~~) 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 nine o'clock (98:00)** A.M. and **eight five o'clock (58:00)** P.M. ~~or sunset, whichever is later~~. **No horse boarding customers shall be permitted on the property except between the hours of eight o'clock (8:00) A.M. and seven o'clock (7:00) P.M.** (Ord. 06-12, 6-26-2006; Amended: , 2014)

5-5-3 SPECIAL USES

Section 5-5-3 (A) shall be amended to include the term "**Commercial Boarding**" to the list of Special Uses.

5-10-7 SPECIAL USES

(Drafting Note: Since all of the following is new text the proposed Text Amendment language is shown as clean and non-redlined)

A new subsection (J), Commercial Boarding, shall be added to Section 5-10-7, as follows:

Commercial Boarding is a permitted Special Use in R1 Districts within the Village, provided such Commercial Boarding operation complies with the provisions of this Section 5-10-7 (J). Special Use permits issued under this subsection (J) shall not exceed a period of five (5) years from the date of issuance, and thereafter, the property owner will need to reapply for another Special Use permit. In addition, no Special Use permit for Commercial Boarding shall be granted to any property owner or boarding operator who has been found in violation of Village zoning laws or for whom their Boarding Facilities do not or have not complied fully with the building permits issued them.

1. PURPOSE, INTENT AND INTERPRETATION: The purpose of this Section is to provide specific regulations for the operation of Commercial Boarding facilities within the Village. The boarding of horses for a Commercial Boarding operation must be managed in the context of the residential nature of the Village and its desire to maintain the peace, quiet and domestic tranquility within all of the Village's residentially zoned areas. In permitting Commercial Boarding, this Section shall be interpreted to respect

and protect the rights of all residents to live in a peaceful, quiet and tranquil environment, and enjoy freedom from fire hazards, excessive noise, light and traffic and other nuisances associated with commercial operations.

2. APPLICATION: All landowners seeking a Commercial Boarding Special Use permit must comply with subsections (A) through (H) of this Section 5-10-7, and in addition to the requirements set forth in subsection (C) must submit to the ZBA with applicant's permit application:

(i) A site plan clearly indicating the size, location and setback from property lines of any buildings and other improvements, structures or facilities, such as pasturage, parking areas and riding arenas, intended by the applicant to be used in connection with the operation of a Commercial Boarding facility, as well as the current on-site land uses and zoning, current adjacent land uses and zoning, adjacent roadways, location of existing utilities, existing and proposed means of access, fencing and landscaping/screening.

(ii) A survey of the property prepared by an Illinois licensed land surveyor dated within ninety (90) days of the application.

(iii) Written statements by all Affected Parties granting their permission to the proposed Commercial Boarding.

(iv) A fire emergency plan developed in conjunction with and approved by the local fire department covering the subject property.

(v) Proof of availability of business insurance with the Village as named the party being covered sufficient to protect the Village from liabilities arising from the operation of the Commercial Boarding facility. The amount of insurance coverage shall be specified by the Village based on the size of the Commercial Boarding operation and such other factors as deemed relevant by the Village after consultation with its auditors and or insurance advisors.

(vi) Such other additional information as shall be requested by the ZBA.

3. CONSIDERATION: In considering a request for a Commercial Boarding Special Use permit, the ZBA shall consider the following factors:

(i) location of the property

(ii) configuration of the property

(iii) character of the surrounding neighborhood

(iv) proximity of each Boarding Facility to wetlands, artificial lakes or other watercourses

Proposed Commercial Boarding Text Amendment

- (v) vehicular access to each Boarding Facility
- (vi) available parking
- (vii) available pasture Grazing Acres
- (viii) manure disposal plan
- (ix) access, shared or otherwise
- (x) such other relevant factors as the ZBA may deem appropriate.

In addition, the Village Board of Trustees shall have the right to place further restrictions or requirements on the applicant as conditions for granting a Special Use permit.

In considering each Commercial Boarding Special Use, the ZBA will record in the public record the number and names of Affected Parties who have granted and denied their permission. If less than all Affected Parties have granted permission to the proposed Commercial Boarding, then the applicant shall have the burden of proving that the proposed operation will NOT interfere with the peace, quiet and domestic tranquility of all Affected Parties. Overriding the failure to obtain the unanimous permission of the Affected Parties shall require a unanimous (100%) vote by both the ZBA and Village Board of Trustees.

4. USE LIMITS: Special Use permits shall not exceed the following restrictions:

- a. Horses
 - (i) One (1) horse (boarded or resident/landowner-owned) per Grazing Acre
 - (ii) A maximum of twenty (20) boarded horses per Commercial Boarding operation regardless of the total amount of Grazing Acres
- b. Hours of operation:
 - (i) Employees: from 6:00 A.M. to 7:00 P.M.; animal health emergencies may be addressed at any hour, if needed
 - (ii) Boarding customers: from 8:00 A.M. to 7:00 P.M.
 - (iii) Use of machinery: from 9:00 A.M. to 5:00 P.M.

5. FACILITIES AND OPERATIONS

- a. Barn, riding, auxiliary buildings and parking area size: A Commercial Boarding FAR of 0.04, with a maximum combined Boarding Facility (not including the residence or other buildings not involved in the Commercial Boarding operation) limit of 25,000 square feet for barns, riding arenas, auxiliary buildings and parking areas, regardless of total property acreage. Larger existing Boarding Facilities may be grandfathered through a one-time

- process (if approved for a Special Use permit before December, 2015), provided, however, that in no circumstance shall any new construction on the property be allowed in excess of the 25,000 square foot limit.
- b. Setback requirements for barn, arenas, auxiliary buildings and parking area: Minimum of one-hundred (100) feet PLUS thirty-seven (37) feet for each 5,000 square feet of combined barn/arena/auxiliary buildings/parking area, calculated proportionally, from all non-public road property lines. Setback requirements from public road property lines shall be as specified in the Village Zoning Code for R1 properties. However, if the Affected Parties grant their written permission for an exception, this setback may be reduced, provided the minimum setback is one hundred (100) feet. If an existing Commercial Boarding operator cannot meet the setback requirements and the Affected Parties will not provide their written permission to a reduction, the Village may grant the applicant a waiver, provided the applicant otherwise meet all other zoning requirements, there were no past or existing complaints by the Affected Parties with respect to the subject Commercial Boarding operation, and there are no current or past violations of the applicant with respect to compliance with the Village's zoning ordinances.
 - c. Fire Safety: Every Boarding Facility stable (not including the indoor arena) over 5,000 square feet must be equipped with readily accessible Fire Department approved fire extinguishers (1 for each 1,500 square feet of stable), an automated fire monitoring system connected to the local fire department system, and illuminated fire exits (signs and area emergency lighting). In addition, barns over 10,000 square feet must be equipped with a sprinkler or other fire suppressant system that covers all fire escape routes. Boarding Facilities must work with the Fire Department to train employees on evacuation procedures and extinguisher operation, and conduct drills quarterly. Upon request, the Commercial Boarding operator shall provide written procedures and logs demonstrating the conduct of the quarterly drills.
 - d. Traffic and Parking: The limits shall be:
 - (i) Parking lot size: Limited to 1 car space per boarded horse stall with a maximum of ten (10) spaces.
 - (ii) Events will require a Special User permit. Event parking can use paddock/pasture areas.
 - (iii) Private road access: Requires written permission of the road association
 - (iv) Class size: Will be limited to maximum size of 6; and no more than two classes per day.
 - e. Horse Trailer Parking: No overnight parking of non-resident horse trailers is permitted.
 - f. Lighting: The area immediately around entrances and walkways may be lighted for safety purposes. No other exterior night lighting is permitted. Outdoor arenas may not be lighted at night. Further, no light may emanate from the interior, such as from riding arena windows or translucent panels, if that light presents a non-residential profile or non-residential lumen levels.

Proposed Commercial Boarding Text Amendment

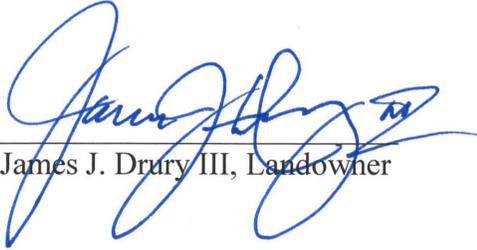
- g. Indoor bathroom facilities: Facilities shall be provided for employees and customers. Outdoor portable facilities shall not be used for Commercial Boarding operations.
- h. Waste & Manure:
 - (i) Stalls must be cleaned (mucked) daily and the waste manure/bedding mix stored in an appropriately sized dumpster, then hauled to a public waste processing facility not less than once a week. Storage or spreading of manure on the property is not permitted. If manure is kept on premise, placement cannot be closer than 300 feet to neighboring properties
 - (ii) Piles of manure in pastures or paddocks are not allowed, and must be picked up and disposed of in accordance with the terms of subsection (viii)(a) above.
 - (iii) For all Commercial Boarding operations with an average of more than ten (10) horses (Boarded Horses or applicant-owned horses), the Village reserves the right to test nearby well water and streams and ponds for manure and animal related pollutants in excess of federal EPA and Illinois EPA guidelines and regulations. If there are excess levels that reasonably appear to be the result of the Commercial Boarding operation, the Commercial Boarding operation shall be closed immediately and remain closed until the remedies are implemented to avoid future problems, and the pollutants abate.
- i. Facilities Upkeep: All Boarding Facilities must be maintained to a high level, inside and out, including painting or staining all wooden fences and walls, and sound roofing materials.

6. LIABILITIES: Each Commercial Boarding operator shall maintain business liability insurance to protect the Village from negligence and other lawsuits in amounts specified by the Village auditor or insurance advisor, which amount shall not be less than \$1,000,000.

7. NON-COMPLIANCE: In the case of non-compliance with the provisions of this Section and/or any additional restrictions imposed in the Special Use permit, the Village shall provide written notice to the Commercial Boarding operator. The written notice shall specify the area(s) of non-compliance and provide the operator with fourteen (14) calendar days to remedy the non-compliance (the "cure period"). If, after the expiration of the 14 day period, the Commercial Boarding operator has not complied with the terms of this Section or any additional restrictions imposed in the Special Use permit, the Village shall issue a cease and desist letter and such operator shall immediately suspend all Commercial Boarding operations until a compliance plan is submitted to the Village and approval of such plan is voted on by the Village Board of Trustees. If the Commercial Boarding operator continues to operate in non-compliance with the terms of this Section and any additional restrictions imposed in the Special Use permit beyond the 14 day cure period, the operator shall be subject to a fine of \$1,000 per day. Further, in connection with any enforcement action required to be taken by the Village against

Proposed Commercial Boarding Text Amendment

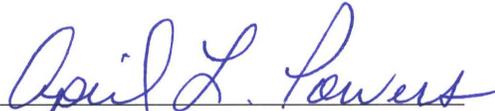
operator for continued violations after the cure period, operator shall reimburse the Village for any and all enforcement costs, including attorneys' fee and expenses.

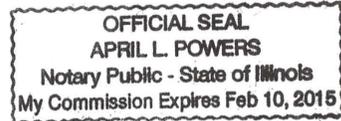

James J. Drury III, Landowner

August 13, 2014

STATE OF ILLINOIS)
) ss
COUNTY OF COOK)

Subscribed and sworn to before me this 13 day of August, 2014.


Notary Public



FAX COVER SHEET

TO	Village of Barrington Hills Zoning Board
COMPANY	
FAX NUMBER	18475513050
FROM	Suzanne Fitch
DATE	2014-08-12 21:54:02 GMT
RE	Letter to Zoning Board of Appeals

COVER MESSAGE

Please distribute this letter to the Chair and Members of the Zoning Board of Appeals

Suzanne M. Fitch
ATTORNEY AT LAW

403 N. Gary Avenue
Wheaton, Illinois 60187

(630)606-7670 / Fax (630) 741-3130
e-mail: FitchAtLaw@yahoo.com

August 12, 2014

VIA E-MAIL: rkosin@barringtonhills-il.gov and clerk@barringtonhills-il.gov
and FAX: (847) 551-3050

Chair Judith Freeman and Members of the Village of Barrington Hills Zoning Board of Appeals
Village of Barrington Hills
112 Algonquin Road
Barrington Hill, Illinois 60010-5199

Re: LeCompte and Elder Horse Boarding Text Amendments

Dear Chair Freeman and Members of the Zoning Board of Appeals:

My firm represents certain residents of the Village of Barrington Hills. I have been retained to review the legality and consequences of two Zoning Code text amendments which expand commercial horse boarding within the Village (LeCompte Text Amendment and Elder Text Amendment). My law practice includes zoning law, and I also serve on a Planning and Zoning Board for the City of Wheaton. As a fellow zoning board member, I appreciate your obligation to understand the law before acting to change it by text amendment.

I am familiar with the history of this issue in the Village and the litigation which resulted in two Illinois Appellate Court decisions. I have reviewed your Zoning Code and the many provisions that currently allow for the boarding, breeding, riding and training of horses. The LeCompte Text Amendment and Elder Text Amendment create a new category for commercial horse boarding which could forever change the residential character of Barrington Hills. If this Board would consider a new text amendment, it would be possible to achieve the objectives of the LeCompte and Elder Text Amendments while preserving the residential tranquility of Barrington Hills. I urge you to work toward a new compromise text amendment rather than rushing through this process by voting on a text amendment that will result in years of resident complaints and litigation.

The purpose of this letter is to offer an alternative to the LeCompte and Elder text amendments - one that preserves horse boarding under home occupation, as many residents desire, while fixing the errors in that section of the Zoning Code. This letter also proposes a new section of the Zoning Code for larger boarding operations that can offer less restrictive standards under a special use permit framework, similar to the current Animal Rescue Shelter section. It is my hope that such an incremental approach will both preserve the peace and quiet of the residential neighborhoods while allowing for the continued existence of larger scale boarding operations in the Village.

Your current Zoning Code already allows for the breeding and raising of horses as an occupation in the residential districts- it is a permitted Agricultural Use. The boarding of horses in a stable and the training of horses and their riders is also allowed in the residential districts as a home occupation. The Illinois Appellate Court stated that all the requirements of Section 5-3-4 (D) Home Occupation (including limitations as to employees, clients, customers, vehicles, building size, operations, traffic, signage etc.) apply to the boarding and training of horses. The Court emphasized the importance of these limitations, stating, "While the Zoning Code does permit the boarding and training of horses as a home occupation, it must be done in a manner that maintains the peace, quiet and domestic tranquility within all residential neighborhoods in an R-1 zoned district." *LeCompte v. Zoning Board of Appeals for the Village of Barrington Hills*, 2011 IL App (1st) 100423, ¶ 39.

The Illinois Appellate Court also found that "Several sections of the Zoning Code support the conclusion that its drafters did not intend for the commercial boarding of horses to be a permitted primary use in an R-1 zoned district." *LeCompte v. Zoning Board of Appeals for the Village of Barrington Hills*, 2011 IL App (1st) 100423, ¶ 37. The Court distinguished between the negligible effects on the neighborhood of a small home occupation boarding facility and the "significant increase in the traffic and noise in the neighborhood" created by a large commercial boarding operation. *LeCompte v. Zoning Board of Appeals for the Village of Barrington Hills*, 2011 IL App (1st) 100423, ¶ 39.

The authors of the LeCompte and Elder Text Amendments placed all commercial horse boarding under Section 5-3-4(A) Agriculture, whether small or large, quiet or disruptive. This is problematic since that section expressly states that no regulations can be imposed on the land with the exception of building and setback lines. At the July 2014 public hearing, the authors of the text amendments stated that they would accept a Floor Area Ratio requirement as part of their proposal if the Zoning Board thought it was needed. We feel that, not only must the residents be assured that Floor Area Ratio applies to all horse boarding facilities, but that the bulk regulations (including lot area and average lot width) should also apply, in addition to certain, but not all, of the requirements of the Home Occupation Section 5-3-4(D). The Zoning Board should work with the community to decide which regulations should apply to larger scale boarding operations. The LeCompte and Elder proposals to place horse boarding under 5-3-4(A) would jeopardize the many protections residents have in the peaceful occupancy of their homes and the character of their residential neighborhoods.

Instead of deleting Section 5-3-4(D)(3)(g), the subsection allowing for horse boarding as a home occupation, I would revise that section to continue to allow for smaller scale horse boarding as a permitted home occupation. A key problem is that subsection 5-3-4(D)(3)(c)(4) of the Home Occupation ordinance does not allow for the routine attendance of clients and customers, but only allows for up to four persons at any one time to receive private instruction in any subject of skill. This shortcoming can be fixed for smaller scale horse boarders so that a home occupation horse boarding facility can have up to four clients. (This number is consistent with the current number of clients allowed to receive instruction at a home occupation business at any one time). Four clients would be the total number allowed, and clients would be counted based upon actual individual owners and not associations, companies or groups of owners. This proposal of up to four clients would serve to avoid a debate about the number of horses that can be permitted at a home occupation boarding facility since the nuisance provisions of that section should protect the neighbors, and as such, the number of horses can vary based on circumstances unique to each situation. Finally, since the Court directed that horse boarding must comply with

the regulations set forth in 5-3-4(D) Home Occupation, the phrase "Notwithstanding anything to the contrary contained in this subsection D" can simply be removed.

Since larger scale horse boarding facilities will not comply with Section 5-3-4(D) Home Occupation using this new definition based on the number of clients, it would be best to create a new subsection (F) under Section 5-3-4. A larger scale horse boarding operation could be defined as those with more than 4 clients. Subsection (F) could include some of the protections provided by the Home Occupation paragraphs along with the limitations outlined in the LeCompte and Elder Text Amendments.

There is precedent for creating a new subsection (F) by looking at subsection (E) which regulates Animal Rescue Shelters. The Animal Rescue Shelters subsection (E) creates a framework whereby animal rescue shelters are subject to certain regulations (pertaining to vehicles and equipment, number of animals, employees, signage, traffic, nuisance etc.) and are categorized in Section 5-5-3 as a Special Use. Larger scale horse boarding operations (those with more than 4 clients) could mirror this same framework. In addition to the regulations provided by new subsection (F), residents would have the additional protection of being able to participate in the special use permit process by attending a public hearing. The public hearing would give the community the opportunity to weigh in on matters that are difficult to measure, such as, noise, odor, traffic and other types of nuisances which impact the public health and safety. Also, we would be open to including language so that the special use permit could run with the land.

It is my understanding that, even though the public hearing was formally closed, board members have continued to accept written comment and communicate about the matter outside of the open meeting. The residents deserve to be heard and all communications, including this letter, should be included as part of the public record.

I urge you to reopen the public hearing so that this letter, and any other communications, can be included in the public record. I further ask that you not take any action on the LeCompte and Elder Text Amendments, and instead, continue the matter so that an alternative text amendment can be presented for your consideration. In my experience, zoning boards must act carefully in changing the law. All possible scenarios should be fully considered and debated by the community before action is taken.

Sincerely,



Suzanne M. Fitch

Cc: Martin J. McLaughlin, Village President (via e-mail: mmclaughlin@barringtonhills-il.gov)