

VILLAGE OF BARRINGTON HILLS

Zoning Board of Appeals NOTICE OF MEETING



Monday, September 21, 2015 ~ 7:30 pm
MacArthur Room - 112 Algonquin Road

AGENDA

1. Call to Order & Roll Call
2. [Public Comments](#)
3. [\[Vote\] Minutes August 17, 2015](#)

PUBLIC HEARING

4. [385 Spring Creek Road - Special Use Artificial Lake](#)
5. [789 Plum Tree Road - Special Use Artificial Lake](#)
6. [300 Donlea Road - Special Use Artificial Lake](#)

PUBLIC MEETING

7. [Vote] 385 Spring Creek Road - Special Use Artificial Lake
8. [Vote] 789 Plum Tree Road - Special Use Artificial Lake
9. [Vote] 300 Donlea Road - Special Use Artificial Lake
10. Adjournment

Chairman: Dan Wolfgram

NOTICE AS POSTED

**VILLAGE OF BARRINGTON HILLS
ZONING BOARD OF APPEALS
MacArthur Room – Village Hall
Monday, August 17, 2015**

1. **Call to Order/Roll Call:** The Meeting was called to Order at 7:30 p.m. by Chairman Dan Wolfgram. On roll call, the following members were present:

Dan Wolfgram, Chairman
Debra Buettner
Richard Chambers
Jan Goss
Patrick J. Hennelly
Jim Root
David Stieper

Absent: None

Staff Present: Robert Kosin, Village Administrator
Mary E. Dickson, Legal Counsel

2. **Public Comments**

There was no public comment.

3. **Minutes**

July 20, 2015

Member Goss moved, seconded by Member Chambers to approve the minutes of July 20, 2015. On a voice vote, all Members voted “aye.” No nays. The Motion Carries.

4. **Public Hearing**

261 Aberdeen Road - - Variance, Side Yard Setback

Chairman Wolfgram opened the public hearing.

Administrator Kosin opened the public hearing providing testimony relative to background of the application, and the procedural notice requirements having been followed. Applicants’ attorney Suzanne Fitch presented testimony in support of the petition for variance. As set forth in the application, Applicants seek a variance to the required side yard setback to allow them to construct a private stable within the east side yard setback requiring a 5 foot variance. Letters of support from neighbors were made a part of the record. Ms. Fitch presented testimony relative to the factual standards for allowance of a variance pursuant to the Zoning Code.

There were no questions or comments forthcoming from any member of the public. Various questions were asked by members of the Zoning Board of Appeals. The public hearing as closed.

5. Public Meeting

261 Aberdeen Road - - Variance, Side Yard Setback

Member Chambers moved, seconded by Member Goss to adopt the findings of fact as set forth by the Applicant as presented in their Application for zoning variation.

Roll Call: Chairman Wolfgram, Members Buettner, Chambers, Goss, Hennelly, Root and Stieper voting “aye.” The Motion Carries.

Member Stieper moved, seconded by Member Buettner, as follows:

That the application for variance for the requested five foot encroachment within the 100 foot side yard setback requirement on the easterly property line for a private stable be **approved**, specifically that the applicant met their burden of establishing the following:

That the requested setback falls within the parameters of §5-10-4(D)(2) of the Zoning Code in that the requested prohibited area and width of the lot is less than 90% of the required area and width; and (1) the property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the district for which it is zoned; and (2) the plight of the owner is due to unique circumstances; and (3) the variation if granted will not alter the essential character of the locality.

Discussion: General discussion was held relative to the facts leading to the requested variance and whether any conditions should apply to the grant of variance.

Roll Call: Chairman Wolfgram, Members Buettner, Chambers, Goss, Hennelly, Root and Stieper voting “aye.” The Motion Carries.

6. Adjournment

Motion to adjourn by Member Hennelly, seconded by Member Stieper. On a voice vote, all members voting “aye.” The meeting stands adjourned at 8:14 p.m.

Approved: _____

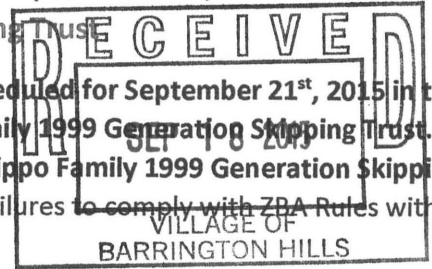
Dated: _____

PUBLIC COMMENTS

Public Comments are submitted by the public and are not reviewed or endorsed by the Village.

Petition regarding ZBA's Public Hearing currently scheduled for September 21st, 2015

RE: the Sanfilippo Family 1999 Generation Skipping Trust



We, the undersigned, object to the holding of the ZBA's Public Hearing currently scheduled for September 21st, 2015 in the Notice of Public Hearing for Application for Special Use Permit for the Sanfilippo Family 1999 Generation Skipping Trust. Our reasons to seek and demand cancellation of this Public Hearing is that the Sanfilippo Family 1999 Generation Skipping Trust has failed to comply with the REQUIRED Rules of Notice and Petition. These failures to comply with ZBA Rules with our specific references and comments are enumerated below as numbers 1-9.

I. Relating to Rules of Notice and Petition: Cancellation of the September 21st Hearing

1. *"One Original and eight copies of the type written petition and all supplemental attachments (surveys, legals, plats, plans, etc) shall be provided when the petition is filed, at least 30 days before the hearing date."*
 - a. Letter by Daniel Strahan (Village Engineer) dated August 27, 2015 states the final plans have not been completed or received for his review.
 - b. Daniel Strahan reviewed an application which was not completed or signed by the property owners for the Lake County Watershed Development (LCWD) indicating that while the LCWD application was almost completed it was not submitted for review as required in Rule (7) b. The Rule 7 (b) must be completed before any application can be set for public hearing.
 - c. The petitioner fails to acknowledge in their petition that the change of the lake is to accommodate a Fragrance Gallery. This Fragrance Gallery is to be added to a larger business that is operating outside of village code for an R-1 Zone and the Petitioner has failed to file for a Special Use permit for this Fragrance Gallery. The Special Use petition for the Lake must be considered in light of the Fragrance Gallery and the related building permits and applications for the same Fragrance Gallery.
2. *"The Petition shall be signed by the legal owner(s)..."*
 - a. The Owner of Record and Beneficiaries of the 789 Plum Tree Road property is the Trust of *The Sanfilippo Family 1999 Generation Skipping Trust*. Jasper B. Sanfilippo, James J. Sanfilippo, Jeffrey T. Sanfilippo, John E. Sanfilippo and Lisa Sanfilippo are beneficiaries and controllers of this trust.
 - b. The Sanfilippo Family 1999 Generation Skipping Trust: Jasper B. Sanfilippo and James J. Sanfilippo are the Co-Trustees and Jeffrey T. Sanfilippo is the designated spokesperson.
 - c. Jasper B. Sanfilippo and James J. Sanfilippo are the Co-Trustees and Jeffrey T. Sanfilippo are the parties who are responsible for this special use permit. Therefore, all have a direct and indirect interest in 789 Plum Tree Road.
3. *"The Petition Shall be Sworn To"*
 - a. The affidavit signed stating *"that all information contained within is true and correct to the best of our knowledge"* is signed and dated on 6-10-15 by Jasper B. Sanfilippo and James J. Sanfilippo, **however the signatures are affirmed by the Notary 2.5 months later on 8/20/15.**
 - b. This date discrepancy is an unexplained oddity especially considering three studies submitted in the report were not completed at the date the affidavit was signed: The Mionx Corporation study is dated June 16th; DK Environmental Services Study is dated July 20th 2015; and the TLI Survey is dated 8/17/15. **It is impossible the full application was reviewed by the signers of the petition on June 10, 2015.**
4. *"A plat of survey shall be provided detailing the improvements involved and where necessary, or in cases where they may be affected, detailing the improvements or uses of adjoining properties"*

The full engineering plans, or a completed plat of survey have not been presented as required by Rule 4.

 - a. The study that was conducted by Mionx Corporation is inappropriately included as an engineering study in the petition for the reasons stated below which are quoted from "Page 6 Introduction" of the study.
 - i. *"The ALL Appropriate Inquiry Phase One Environmental Site Assessment is exploratory in nature and is not meant to define problems as no samples were taken during the visit. The assessment was visual only and was restricted to only those items that were viewed and which were in plain sight."*

1. Moving a lake which impacts two Wetlands – at the very least – requires more than a visual inspection of the surface area of some of the property in question and should include assessment of elements below the surface of both the land and water.
- ii. *“Observations and recommendations are the results of practices and conditions observed, and information obtained by Mionx Corporation at the time of the site visit, and do not purport to imply or guarantee full compliance with Local, State or Federal regulations which may be applicable to such practices and conditions, nor do assessments, reports or recommendations signify or imply that other hazards do not exist.”*
 1. What is the value of this study in meeting the requirements for (4) if these basic risks and requirements are not included in the report? Potential risks and required laws are not accurately explored or reported on in the petition.
- iii. *“This report cannot be used for demolition, development, or remodeling purposes.”*
 1. The Petition involves all three actions: demolition, development, and remodeling.
- iv. *“This report is exclusively for the use and benefit of Mr. Jeffrey Sanfilippo, and is not for the use or benefit of, nor may be relied upon by any other person or entity, without the express written consent of Mionx Corporation”*
 1. The Petition fails to provide evidence that this consent was granted for this report to be included in the petition by the entity known as the Sanfilippo Family 1999 Generation Skipping Trust.
 2. This statement specifically forbids the use of this study for this petition.
- b. The Mionx Study (page 56) makes this incredible statement of fact: *“No previous Environmental Site Assessment or engineering reports relevant to Recognized Environmental Conditions were reported to Mionx Corporation regarding the property”*
 - i. This study was completed on June 16th and affirms no Environmental Site Assessment or engineering reports studies were made available to them. This affirms that the study is incomplete in its assessments.
- c. Page 60 which is part of the questionnaire filled out for the study states in question (12) *“If the property is served by a private well or non-public water system, have contaminants been identified in the well or system that exceed guidelines applicable to the water system, or has the well been designated as contaminated by any government environment, or health organization?”*
The Property Owner marks the answer as UNKNOWN. We believe that such a test should be conducted before any consideration of shifting water systems in the 2 wetlands on the property should be made.
5. *“Special Uses involving artificial lakes.... Shall require soil boring data, elevation and/or topographical surveys, and engineering studies addressing existing and changed conditions for drainage, topography, vegetation, etc.”*
 - a. According to TSC’s April 22, 2015 report written by Michael Machalinski, (page 1 and 2) **the soil boring study presented was done strictly for the Fragrance Gallery**. The boring map included in the report clearly illustrates that the area of the Lake was not tested.
 - i. The report states: *“The analysis and recommendations submitted in this report are based upon the data obtained from three (3) soil borings performed at the locations indicated on the Boring Location Plan. This report does not reflect any variations which may occur between these borings or elsewhere on the site, the nature and extent of which may not become evident until during the course of constructions”*
 1. Therefore the three boring samples submitted are not valid as the map shows ALL three locations to be specifically located under the gravel and clay foundation of the proposed Fragrance Gallery and not in the wetlands where the lake is situated.
 - b. The FEMA Flood Map included in the petition indicates that this property is in a “moderate or special flood zone”. The impact of moving the lake should be studied in light of this fact.

6. *"The petition shall contain the following minimum information.... (a) – (e)"*

- a. Part (d) and (e) require *"specific descriptions"* and *"factual statements"*. The petitioner fails to identify the fact that the Fragrance Gallery will require a Special Use permit as it is not a normal or permitted usage for an R-1 zone.

7. *"Petitioner shall conform to the following notice requirements..."*

- a. *"Shall serve notice of the petition and the hearing date upon the owners of all contiguous or adjoining properties within 250 feet of the petitioner's property.... If petitioner, directly or indirectly, owns or controls adjoining or contiguous property, notice shall be given to the owner of the next contiguous or adjoining property."*
 - i. The Owner of Record and Beneficiaries of the 789 Plum Tree Road is the Trust of: The Sanfilippo Family 1999 Generation Skipping Trust. Jasper B. Sanfilippo, James J. Sanfilippo, Jeffrey T. Sanfilippo, John E. Sanfilippo and Lisa Sanfilippo are the beneficiaries of this Trust.
 - ii. Jasper B. Sanfilippo, James J. Sanfilippo, Jeffrey T. Sanfilippo control the activities of the Sanfilippo Family 1999 Generation Skipping Trust and therefor the property of 789 Plum Tree Road.
 - iii. All 5 members of the Sanfilippo family have ownership and beneficiary interest in the Sanfilippo Family 1999 Generation Skipping Trust and multiple contiguous properties to 789 Plum Tree, **therefore the owners of all properties that are contiguous to 789 Plum Tree were not notified.**
 - iv. The list of properties that are contiguous includes both James J. and Jasper B.'s homes. These two families have both direct and in-direct control of 789 Plum Tree, and the petition itself.
 - v. All Contiguous Property Owners were not served notice and must be identified in the petition and so noticed for the scheduling of the Public Hearing by the ZBA.
- b. *"The petitioner shall be responsible to provide notice to state or federal agencies of their opportunity to provide comment on the purpose of the petition"*
 - i. Petitioner fails to identify all state or federal agencies that should be notified.
 - ii. Petitioner failed to identify any state or federal agencies that were notified.
 - iii. Petitioner filled out an application for the LCWD but failed to apply for the actual permit thus preventing LCWD's opportunity to comment on the purpose of the petition.
 - iv. The DK Environmental Services Inc study identified that there are two wetlands impacted by this project and that the US Army Corp of Engineers has jurisdiction over these wetlands. The Petitioner failed to provide proof that they notified the Army Corp of Engineers of the project.
 - v. The same study (page 40) states that *"Generally the following three steps must be attempted before authorization is issued"* by US Army Corp of Engineers
 1. *Avoid wetlands and waters of the US*
 2. *Minimize wetland and waters of the US fill and*
 3. *Provide compensatory mitigation*Conditions 1 and 2 were not met by the petition and condition 3 is not adequately outlined especially since the engineering plans for actual lake re-construction have yet to be submitted.
 - vi. The Petitioner's own study states the Army Corps has jurisdiction and that the current lake is in a Wetland A and the property drains into a second Wetland B which is Spring Creek and Riparian Zone.
 1. The Village Engineer should commission a Wetland Engineer to study the impact of the current lake on Wetland B because it is easy to see that the silt from the current lake has already dammed up some of the waters that run through the property.
 2. This should especially be done since the Petitioner has seemingly admitted in the Mionx study that environmental impact studies were not done for the first lake.

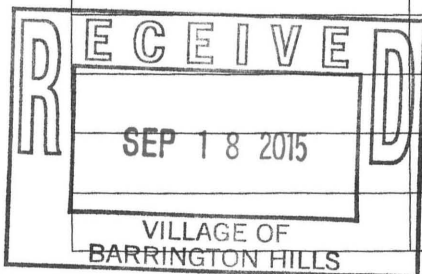
- ## II. Violation of State and Local Laws and Breach of R-1 Zoning Regulations and Laws in Barrington Hills:

Signed by

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Signed by

[illegible]

- c. **The petitioner is required to file a petition that is viable to go forward on the date of the hearing.** This is the SECOND time this petitioner has filed a fatally flawed petition. This is an extreme inconvenience to the neighborhood and the property owners who have contiguous properties.
8. **“ZBA Shall Cause Publication...” – Why has the ZBA scheduled and posted this Public Hearing when their own rules that regulate and authorize such actions are not complied with?**
9. ***“No Publication shall be made or hearing scheduled until the petitioner conforms to all the above rules and necessary filing fees is deposited with the Village Treasurer.”***
 - a. The filing fee was filed on August 25th. The letter from VLK Law was signed and dated August 21st – proving that the Hearing was improperly scheduled before the filing fee was paid.
 - b. The fees were paid and the petition filed on August 25th. This is 27 days before the scheduled hearing. Rule (1) mandates “at least 30 days” before the hearing date. **Rule 9 requires that filing fee and full petition to have been filed at least 30 days before the hearing.**

II. Violation of State and Local Laws and Breach of R-1 Zoning Regulations and Laws in Barrington Hills:

1. The Sanfilippo Family 1999 Generation Skipping Trust and the beneficiaries of this Trust are operating multiple business at 789 Plum Tree Road. We respectfully request the Village of Barrington Hills to immediately conduct a full analysis of the businesses activities at 789 Plum Tree Road and to require that the Sanfilippo Family and their multiple enterprises comply with all state and local laws as well as all laws and regulations in Barrington Hills for an R- 1 Zone.

Signed by

Name	Address	Comments	Date	Barrington Hills Resident or Contingent Property Owner
Candace	7 Jane Ln, Barrington Hills		09-16-15	Contingent
[Signature]	7 Jane Ln, Barrington Hills		09-16-15	Contingent
Dan L. [Signature]	17 Surrey Ln, BH		9-17-15	"
Ruby Rexer	17 Surrey Ln B.H.		9-17-15	"
Jocelyn [Signature]	20 Surrey Ln B.H.		9-17-15	BH Resident
[Signature]	20 Surrey Ln P-H		9-17-15	BH Resid

A rectangular stamp with "RECEIVED" at the top, "SEP 18 2015" in the center, and "VILLAGE OF BARRINGTON HILLS" at the bottom.

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[illegible]

- [illegible]

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Signed by

Name	Address	Comments	Date	Barrington Hills Resident or Contingent Property Owner
Krystal Koskimen	1 Surrey Lane	My room faces the street (Plum Tree) and is right across the way from the petitioners. Every time they hold a party, their inconsiderately loud music wakes me up or keeps me awake until 2am. Even with my windows closed I witness several cars turning around in the driveway whenever one of their business events begin, and 15 mins before the last one a car remained parked outside the house until I sat staring at them for 10 mins. We don't live behind fences or have fancy gates to keep intruders out. We moved here for the peace + quiet. Please stop letting them take the inherent qualities of Barrington Hills away from	9-21-15	

some of ~~the~~ the residents just because

they have money. Enough is enough!!!