

**FINDINGS AND RECOMMENDATIONS OF THE  
ZONING BOARD OF APPEALS FROM THE  
September 23, 2009 PUBLIC HEARING**

**Text Amendment to Sections 5-2-1 and 5-3-4**

**WHEREAS**, the Zoning Board of Appeals ("ZBA") for the Village of Barrington Hills, Illinois (the "Village") held a public hearing on June 15, 2009 to discuss the proposal of the ZBA to amend Sections 5-2-1, 5-3-4 and 5-9-3, of the Village Zoning Ordinance (the "Zoning Code") with respect to amending the definition of "Animal Husbandry," to add a definition for the term "Livestock," to expand the scope of the Home Occupation Ordinance and to permit the Village to regulate commercial agriculture; and

**WHEREAS**, the ZBA finds it to be in the best interest of the Village to amend the Zoning Code regarding amendments to the Home Occupation Ordinance and the definitions of Animal Husbandry and Livestock as well as amending the zoning code to permit the Village to regulate commercial agriculture and therefore, pursuant to Section 5-10-6(G) of the Village Code, the ZBA submits to the Village Board of Trustees the following findings and recommendations regarding amending Sections 5-2-1 and 5-3-4 of the Zoning Code.

**NOW THEREFORE**, the ZBA makes the following findings and recommendations pursuant to the September 23, 2009, public hearing:

1. Following discussion by the ZBA at the public hearing that began on June 15, 2009, continued to July 22, 2009, and concluded on September 23, 2009, the ZBA recommends to the Village Board that it pass an ordinance to amend the Zoning Code as follows (strike-through represents language deleted from the existing Zoning Code and underline represents language added to the existing Zoning Code):

Chapter 2  
ZONING DEFINITIONS

5-2-1 DEFINITIONS

**ANIMAL HUSBANDRY:** The breeding, ~~and~~ raising, training and boarding of domestic livestock, ~~but specifically excluding dogs and cats.~~

**LIVESTOCK:** Horses, cattle, sheep, llamas, alpacas, donkeys and other domestic farm animals that create a similarly limited impact on property and adjoining landowners and occupants, but specifically excluding dogs and cats.

In the construction of this zoning title, the words and definitions contained in this chapter shall be observed and applied, except when the context clearly indicates otherwise. Words used in the present tense shall include the future, and words used in the singular number shall include the plural number and the plural the singular; the word "shall" is mandatory and not discretionary; the word "may" is permissive; the word "lot" ~~shall include the words "piece" and "parcel";~~ the word "building" includes all other structures of every kind regardless of similarity to buildings,

and the phrase "used for" shall include the phrases "arranged for", "designed for", "intended for", "maintained for" and "occupied for".

\* \* \* \*

AWNING: A roof like cover, temporary in nature, which projects from the wall of a building ~~and overhangs the public way.~~

\* \* \* \*

DWELLING, TWO-FAMILY: A "two-family dwelling" is a building containing two (2) dwelling units only.

\* \* \* \*

FRONTAGE: All the property fronting on one side of a street, or road ~~or public way~~, between the two (2) nearest intersecting streets, or roads ~~or public ways~~ measured along the line thereof, or if dead ended, then all of the property abutting on one side between an intersecting street, or road ~~or public way~~ and the dead end thereof, ~~or in the case of an interior lot not fronting on a public or platted street or road, all the property abutting the front lot or yard line.~~

FRONTAGE, ZONING LOT: The "frontage of a zoning lot" is all the property of such zoning lot fronting on a street, or road ~~or public way~~ and measured between the side lot lines, or in the case of an interior lot not fronting on a ~~public or platted street or road~~, all of the property abutting the front lot or yard line.

\* \* \* \*

~~KENNEL: Any premises, on which more than three (3) dogs or cats are maintained, boarded, bred or cared for in return for remuneration, or are kept for the purpose of sale.~~

LIMITED ACCESS HIGHWAY: A ~~traffic way~~ street or road, including expressways and toll roads for through traffic, in respect to which owners or occupants of abutting property or lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such ~~traffic way~~ street or road.

\* \* \* \*

LOT, CORNER: A "corner lot" is a lot situated at the intersection of two (2) streets, or roads ~~or public ways~~, the interior angle of such intersection not exceeding one hundred thirty five degrees (135°).

\* \* \* \*

LOT, THROUGH: A "through lot" is a lot having a pair of opposite lot lines along two (2) or more or less parallel ~~public~~ streets or roads, and which is not a corner lot. On a "through lot," ~~both street~~ each of the lot lines abutting such streets or roads shall be deemed front lot lines.

LOT AREA, GROSS: The "gross lot area" is the area of a horizontal plane bounded by the front, side and rear lot lines.

(A) Only for purposes of determining "gross lot area" in an R-1 District:

1. The front lot line shall be deemed to be the center line of ~~an existing or dedicated public street or road, or platted street or road~~ a street or road if the lot abuts a street or

road, provided however that for purposes of determining gross lot area, the front lot line shall extend no more than thirty three (33`) feet from the actual front lot line; and

2. For a corner lot, the side lot line abutting a street or road shall be deemed to be the center line of such street or road, provided for purposes of determining gross lot area, such side lot line shall extend no more than thirty three (33`) feet from the actual side lot line; and

3. No more than two and one-half (2-1/2) acres of the lot lying below the base flood elevation shall be included in computing gross lot area.

(B) For purposes of determining "gross lot area" in all other districts:

~~1. The front lot line shall be a line parallel to and abutting an existing or dedicated public street or road, or platted street or road and~~

2. No part of the lot lying below the base flood elevation shall be included in computing gross lot area.

(C) In all cases, that portion of the lot lying above the base flood elevation used in computing gross lot area must be a contiguous parcel of land.

\* \* \* \*

LOT LINE, FRONT: The "front lot line" shall be that boundary of a lot which is along the center line or parallel to the center line of an ~~existing or dedicated public street or road, or platted~~ **abutting** street or road, provided that the right of way of such ~~public street or road or platted~~ street or road shall be deemed to be no more than sixty six feet (66') in width for the purpose of determining such front lot line in an R1 District.

The owner of a corner lot shall select one of such streets or roads as the "front lot line".

In the case of a lot that does not abut upon a ~~dedicated public street or road or a platted street or~~ road, the "front lot line" shall be the lot line intersected by the primary access road to the lot.

\* \* \* \*

MARQUEE or CANOPY: A "marquee" or "canopy" is a roof-like structure of a permanent nature which projects from the wall of a building ~~and overhangs the public way.~~

\* \* \* \*

~~PUBLIC: The term "public" shall imply the provision of a service to ten (10) or more zoning lots.~~

~~PUBLIC WAY: A "public way" is any sidewalk, street, alley, highway or other public thoroughfare.~~

\* \* \* \*

SETBACK: "Setback" is the minimum horizontal distance between the front a lot line of the building or structure and the front yard line and a building, sign or other improvement, as the context may require.

\* \* \* \*

**STREET OR ROAD:** A public or private right of way which affords a primary means of access to ~~abutting property~~ **and abuts multiple lots**, excepting driveways to ~~buildings~~ **which serve a single lot**.

\* \* \* \*

**USE, PRINCIPAL:** A "principal use" is the main use of land or buildings as distinguished from a subordinate or accessory use. A "principal use" may be either "permitted" or "special". A zoning lot may have only one principal use.

**USE, SPECIAL:** A "special use" is a use, either public or private, which because of its unique characteristics, cannot be properly classified as a permitted use in any particular district or districts. After due consideration, in each case, of the impact of such use upon neighboring land and of the public or private need for the particular use at the particular location, such "special use" may or may not be granted **in accordance with Section 5-10-7 of this title**.

\* \* \* \*

**YARD:** An open space, on the same zoning lot with a building ~~or structure~~, unoccupied and unobstructed from its lowest level to the sky, except as otherwise permitted in section 5-3-9 **(F)** of this title. A "yard" extends along a lot line, except that in the case of a front yard it shall extend along the front yard line, and to a depth or width specified in the yard requirements for the zoning district in which such zoning lot is located.

**YARD, CORNER SIDE:** A "corner side yard" is a side yard which faces a ~~public street~~ **or road**.

**YARD, CORNER SIDE:** A "corner side yard" is a side yard which faces a public street.

**YARD, FRONT:** A "front yard" is a yard extending along the full length of the front yard line between the side lot lines.

**YARD, FRONT, LINE:** The "front yard line" is the line parallel to the front lot line and coincident with the boundary of the ~~public right of way~~ **street or road** within the area of the zoning lot. In the case of interior lots not fronting or coincident with the boundary of a ~~public right of way~~ **street or road** within the area of the zoning lot ("~~public rights of way~~" to include ~~public streets or roads or platted streets or roads~~) **lot**, the front yard line is the line parallel **same as** to the front lot line.

**YARD, INTERIOR SIDE:** An "interior side yard" is a side yard which is located immediately adjacent to another zoning lot or to an alley separating such side yard from another zoning lot.

**YARD, REAR:** A "rear yard" is a yard extending along the full length of the rear lot line between the side lot lines.

YARD, SIDE: A "side yard" is a yard extending along a side lot line from the front yard to the rear yard.

YARD, TRANSITIONAL: A "transitional yard" is that yard which must be provided on a zoning lot, in a business district, which adjoins a zoning lot in a residence district, or that yard which must be provided in a zoning lot, in the light industrial district, which adjoins a zoning lot in either a residence or business district.

\* \* \* \*

### Chapter 3

#### GENERAL ZONING PROVISIONS

**5-3-4 (A) Agriculture:** 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 non-commercial agricultural purposes, except ~~or~~ with respect to the erection, maintenance, repair, alteration, remodeling or extension of buildings or structures used or to be used for any agriculture purposed upon such land. ~~except that such buildings or structures for agricultural purposes may be required to conform to building 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.~~

**5-3-4(D)(3)(g) Home Occupation:** ~~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~~ The breeding, raising, training and boarding of livestock is a permitted home occupation subject to the provisions of subsections 3(a) – 3(f), excluding 3(a)(2) and 3(c)(2), of this section 5-3-4-(D); provided that no persons engaged to facilitate such boarding, breeding, raising or training other than the immediate family residing on the premises, shall be permitted to carry out their activities except between the hours of six eight o'clock a.m. and eight o'clock p.m. or sunset, whichever is later, other than in emergency situations. It is further provided that no person engaged to facilitate such boarding, breeding, raising or training shall operate machinery or vehicles on the premises other than passenger cars or light trucks except between the hours of seven o'clock a.m. and eight o'clock p.m. or sunset, whichever is later. Harvesting crops after sunset is permitted under this rule.

\* \* \* \*

#### 5-3-8: ACCESSORY BUILDINGS, STRUCTURES AND USES:

\* \* \* \*

~~(B) — Percentage of Required Yard Occupied: No detached accessory building or buildings shall occupy more than fifty percent (50%) of the area of a required yard. (Reserved)~~

\* \* \* \*

#### 5-3-9: BULK REGULATIONS:

(A) Continued Conformity With Bulk Regulations: The maintenance of yards and other open space and minimum lot area legally required for a building shall be a continuing obligation of the owner of such building or of the property on which it is located, as long as the building is in existence. Furthermore, no legally required yards, other open space,

or minimum lot area allocated to any building shall, by virtue of change of ownership or for any other reason, be used to satisfy yard, other open space or minimum lot area requirements for any other building zoning lot.

- (B) Division Of Zoning Lots: No improved zoning lot shall hereafter be divided into two (2) or more zoning lots unless all improved zoning lots resulting from each such division shall conform with all the applicable bulk regulations of the zoning district in which the property such zoning lot is located.

\* \* \* \*

## Chapter 5 RESIDENTIAL DISTRICTS

### 5-5-2: PERMITTED USES:

Permitted uses of land or buildings, as hereinafter listed, shall be permitted in the districts indicated under the conditions specified. Other than accessory uses, only one of the enumerated permitted uses may be established on a zoning lot. Unless otherwise specifically set forth, wherever a permitted use is named as a major category in this chapter, it shall be deemed to include all and only those itemized uses listed under the said major category in the R1 through R4 districts, as set forth in this section. No building or zoning lot shall be devoted to any use other than a use permitted hereinafter in the zoning district in which such building or zoning lot shall be located, with the exception of the following:

Special uses allowed in accordance with the provisions of section 5-5-3 of this chapter.

~~Uses lawfully established on April 1, 1963.~~

~~Uses lawfully established on April 1, 1963, and rendered nonconforming thereafter, shall be subject to the regulations of chapter 9 of this title.~~

(A) Permitted Uses, R1 District: The following uses are permitted in the R1 district:

- 1. Single-family detached dwellings.**
- 2. Agriculture**
- 3. Signs, as regulated by section 5-5-11 of this chapter.**
- 4. Accessory uses, incidental to and on the same or an adjacent zoning lot or lots under one ownership, as the principal use:**
  - a. Agricultural buildings and structures.**
  - b. Garages and carports, as accessory only to single-family detached dwellings.**
  - c. Greenhouses and conservatories, private.**
  - d. Guesthouses, private, as accessory only to single-family detached dwellings.**

- e.** Home occupations, **as accessory only to single-family detached dwellings.**
- f.** Living quarters, detached, for persons employed on the premises if occupied only by such persons and their immediate family, **as accessory only to single-family detached dwellings.**
- g.** Playhouses and summer houses.
- h.** (Reserved)
- i.** Roadside stands, **as accessory only to agriculture.**
- j.** Satellite antennas, private.
- k.** Sewage disposal units, individual, as regulated by section 5-3-5 of this title.
- l.** Stables.
- m.** Storage of building materials and equipment, and temporary buildings for construction purposes, for a period not to exceed the duration of such construction.
- n.** Swimming pools, **as accessory only to single-family detached dwellings.**
- o.** Tennis courts, private, **as accessory only to single-family detached dwellings.** The lighting of tennis courts by artificial illumination is prohibited.
- p.** Tool houses, sheds and other similar buildings, for the storage of domestic supplies.
- q.** Water systems, individual, as regulated by section 5-3-5 of this title.

~~Agriculture.~~

~~Signs, as regulated by section 5-5-11 of this chapter.~~

~~Single family detached dwellings.~~

\* \* \* \*

**5-5-3: SPECIAL USES:**

Special uses, as hereinafter listed, may be allowed in the zoning districts indicated, subject to the issuance of special use permits in accordance with the provisions of section 5-10-7 of this title. Unless otherwise specifically set forth, wherever a special use is named as a major category in this chapter, it shall be deemed to include all and only those itemized uses listed under the said major category in the R1 district, subsection (A) of this section.

(A) Special Uses, R1 District: The following special uses may be allowed in the R1 district:

- 1.** Accessory uses, incidental to and on the same or adjacent zoning lot or lots under one ownership as the principal use, as established in subsection 5-5-2(A) of this chapter.
- 2.** Amateur radio and television stations and towers (transmitting and receiving).
- 3.** Artificial lakes.
- 4.** Boathouses, private.
- 5.** Cemeteries:
  - a.** Cemeteries.
  - b.** Mausoleums, crematories and columbariums in cemeteries.
- 6.** Educational institutions and cultural institutions,
  - a.** Athletic fields and playgrounds on the grounds of educational or cultural institutions.
  - b.** Colleges, junior colleges and universities, including fraternity and sorority houses, dormitories and other structures and facilities necessary in the operation of a college or university, but not business colleges or trade schools.
  - c.** Nursery, elementary and high schools.
  - d.** Public libraries and public art galleries.
- 7.** (Reserved)
- 8.** Landfill.
- 9.** Private landing fields for aircraft.
- 10.** Public utility and service uses.
  - a.** Electric substations.
  - b.** Fire stations.
  - c.** Gas regulator stations.
  - d.** Police stations.
  - e.** Post offices.
  - f.** Railroad right of way, but not including railroad yards and shops.
  - g.** Telephone exchanges and telephone transmission equipment buildings.
  - h.** Waterworks, reservoirs, pumping stations and filtration plants.
  - i.** Other governmental buildings, including a village hall.
- 11.** Recreational facilities.
  - a.** Athletic fields and playgrounds in public parks.
  - b.** Buildings, clubhouses and accessory structures, located on the grounds of athletic fields, playgrounds, recreational clubs, golf courses and polo fields,

including the sale therein of sports equipment and the serving of beverages, including alcoholic beverages, and food, if incidental to the principal activity.

c. Forest preserves.

d. Golf courses, but not including commercially operated driving ranges, pitch and putt, miniature or par 3 courses, and not including buildings or structures.

e. Grounds of recreational clubs, noncommercial.

f. Polo fields, except their buildings and structures.

g. Public parks.

**12.** Religious institutions.

a. Athletic fields and playgrounds on the grounds of religious institutions.

b. Churches, chapels, temples and synagogues.

c. Columbariums associated with religious institutions.

d. Rectories, parsonages and parish houses.

(B) Special Uses, R2 District: Any use allowed as a special use in the R1 district.

(C) Special Uses, R3 District: Any use allowed as a special use in the R1 district, with the exception of the following:

1. Amateur radio and television stations and towers (transmitting and receiving).

2. (Reserved)

3. Private landing fields for aircraft.

(D) Special Uses, R4 District: Any use allowed as a special use in the R1 district, with the exception of the following:

1. Amateur radio and television stations and towers (transmitting and receiving).

2. (Reserved)

3. Private landing fields for aircraft.

\* \* \* \*

5-5-6-3: MINIMUM FRONT YARD, ACCESSORY USES:

\* \* \* \*

Roadside stands, ~~on zoning lots where the principal use is agricultural:~~

R1 20 feet

R2 20 feet **Not allowed**

R3 20 feet **Not allowed**

R4 20 feet **Not allowed**

5-5-7-3: MINIMUM INTERIOR SIDE YARD, ACCESSORY USES:

Roadside stands, ~~on zoning lots where the principal use is agriculture:~~

- R1 75 feet
- R2 ~~75 feet~~ **Not allowed**
- R3 ~~75 feet~~ **Not allowed**
- R4 ~~75 feet~~ **Not allowed**

\* \* \* \*

5-5-8-3: MINIMUM CORNER SIDE YARD, ACCESSORY USES:

Roadside stands, ~~on zoning lots where the principle use is agriculture:~~

- R1 75 feet
- R2 ~~75 feet~~ **Not allowed**
- R3 ~~75 feet~~ **Not allowed**
- R4 ~~75 feet~~ **Not allowed**

\* \* \* \*

5-5-9-3: MINIMUM REAR YARD, ACCESSORY USES:

Roadside stands, ~~on zoning lots where principle use is agricultural:~~

- R1 No requirements
- R2 ~~No requirements~~ **Not allowed**
- R3 ~~No requirements~~ **Not allowed**
- R4 ~~No requirements~~ **Not allowed**

\* \* \* \*

5-5-11: SIGNS

In residence districts signs shall be classified and permitted in accordance with the regulations set forth hereinafter.

(A) R1 District:

- 1. In an R1 district, the following non-flashing, non-illuminated signs are permitted under the conditions specified:

\* \* \* \*

b. For sale or for rent signs, subject to the following:

\* \* \* \*

Chapter 9  
NONCONFORMING BUILDINGS, STRUCTURES, USES

Notwithstanding anything to the contrary in the public record, including the submission of proposed draft language to amend Chapter 9 of the Zoning Code by the Village Legal Committee, the ZBA recommends that no changes to made to Chapter 9 of the Zoning Code.

2. Ms. Judith Freeman, ZBA Member made a motion to recommend to the Village Board of Trustees that it pass an ordinance to amend the Zoning Code as set forth in Section 1 above, provided however, the effective date of such Text Amendments shall coincide with the effective date of future text amendments to the Zoning Code regarding the regulations of commercial boarding of livestock in the Village pursuant to a motion by Mr. George Mullen, ZBA Member, seconded by Mr. Joe Messer, ZBA Member and passed on a vote of seven (7) ayes and zero (0) naves to request that the Village Board direct the ZBA to hold future public hearings regarding a text amendment to the Zoning Code to regulate commercial boarding of livestock within the Village and further that, should the Village fail to enact such text amendment to regulate commercial boarding, then the text amendments recommended in Section 1 above shall not be enacted. Member Messer seconded the motion of Member Freeman and Member Freeman's motion was carried on a vote of seven (7) ayes and zero (0) naves, and therefore, the ZBA recommends that Sections 5.2.1 and 5-3-4 of the Zoning Code be amended, contingent upon future text amendment(s) to regulate commercial boarding as set forth herein.

3. The ZBA further finds that amending Sections 5-2-1 and 5-3-4 as recommended herein is in the public interest and not solely for the benefit of a single applicant.

Dated this \_\_\_\_ day of \_\_\_\_\_, 2009

\_\_\_\_\_  
Jonathan Knight, Chairman