

**ORDINANCE AMENDING SECTIONS 5-10-3 AND 5-10-4
OF THE VILLAGE CODE**

WHEREAS, the Zoning Board of Appeals of the Village of Barrington Hills, Illinois, a home-rule municipality (the "Village") has reviewed the administrative provisions of the Village Zoning Code and has determined that it would be in the best interest of the Village to amend Sections 5-10-3 and 5-10-4 of the Zoning Code;

WHEREAS, on May 20, 2013 the Village Zoning Board of Appeals ("ZBA"), pursuant to the direction of the Village Board, held a public hearing to consider public comments on the proposed amendatory language to Sections 5-10-3 and 5-10-4 ("Text Amendment") prepared by the Village Attorney with assistance from the ZBA. Pursuant to a motion by ZBA Member Anderson, seconded by ZBA Member Mullen, the ZBA voted to recommend approval of the proposed Text Amendment to the Board of Trustees for the Village; and

WHEREAS, in order to promote the health, safety, morals and general welfare of the Village and to protect the public health and safety of the citizens residing in the Village, the President and the Board of Trustees of the Village find and believe it to be in the best interest of the Village to amend Sections 5-10-3 and 5-10-4 as provided in this Ordinance.

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

Section 1. Incorporation of Preambles. The Village Board hereby finds that the recitals contained in the preambles to this Ordinance are true and correct and does incorporate them into this Ordinance by this reference.

Section 2. Compliance Certificates. Section 5-10-3 of the Village Code, Compliance Certificates shall be, and the same hereby is, amended to read as follows:

"5-10-3: COMPLIANCE CERTIFICATES:

No building, or addition thereto, constructed after the effective date hereof, and no addition to a previously existing building shall be occupied, and no land vacant on the effective date hereof shall be used for any purpose, until a certificate of compliance has been issued by the Enforcing Officer. No change in a use other than that of a permitted use shall be made until a certificate of compliance has been issued by the Enforcing Officer. Every certificate of compliance shall state that the use or occupancy complies with all the provisions of this Zoning Title.

(A) Application for Compliance Certificate: Every application for a building permit shall be deemed to be an application for a compliance certificate. Every application for a compliance certificate for a new use of land where no building permit is required shall be made directly to the Enforcing Officer.

(B) Issuance of Compliance Certificate: No compliance certificate for a building or addition thereto constructed after the effective date hereof shall be issued until construction has been completed and the premises inspected and certified by the Enforcing Officer to be in conformity with the plans and specifications upon which the building permit was based. No compliance certificate for a building or addition thereto, constructed after the effective date hereof shall be issued and no addition to a previously existing building shall be occupied until the premises have been inspected and certified by the Enforcing Officer to be in compliance with all the applicable performance standards of the zoning district in which it is located and all violations of the Village Code have been resolved and all fines and penalties assessed against the owner or the property under any of the provisions of the Village Code have been paid in full. Pending the issuance of a regular certificate, a temporary certificate may be issued, to be valid for a period not to exceed six (6) months from its date during the completion of any addition or during partial occupancy of the premises.

(C) Any person who occupies or uses a building or structure without the issuance of a certificate of compliance shall be liable for a fine of not more than Seven Hundred Fifty Dollars (\$750.00). Each day such violation continues shall be deemed a separate offense.

A compliance certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, not later than fourteen (14) days after the Enforcing Officer is notified in writing that the building or premises is ready for occupancy."

Section 3. Variations. Section 5-10-4 of the Village Code, Variations, shall be and the same hereby is, amended to read as follows:

"5-10-4: VARIATIONS:

(A) Purpose: The Zoning Board of Appeals, after a public hearing, may determine and vary the regulations of this Zoning Title in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board makes findings of fact in accordance with the standards hereinafter prescribed, and further finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Zoning Title, relating to the use, construction or alteration of buildings or structures or the use of each portion of land.

(B) Application for Variation and Notice of Hearing: An application for a variation shall be made by the owner of the subject property, or if by another person having an interest therein, with the written concurrence of the owner of the subject property. An application for a variation shall be filed in writing with the Enforcing Officer. The application shall contain such information as the Zoning Board of Appeals may from time to time, by rule, require. Notice of the time and place of such public hearing shall be published at least once, not less than fifteen (15) days before the hearing, in a newspaper of general circulation in the Village. The published notice may be supplemented by such additional form of notice as the Board, by rule, may require.

(C) Standards for Variations: The Zoning Board of Appeals shall not vary the regulations of this Title, as authorized in subsection (A) hereof, unless it shall make findings based upon the evidence presented to it in each specific case that:

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.

The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards established in this subsection (C) to reduce or minimize the effect of such variation upon other property in the neighborhood, and to better carry out the general intent of this Title. If the petitioner is in violation of any provision of the Village Code or is subject to any fines or penalties imposed under any provision of the Village Code, the Zoning Board of Appeals may condition the granting of any variation upon the petitioner first correcting or curing any such violation or paying any such fines or penalties.

(D) Authorized Variations: Variations from the regulations of this Zoning Title shall be granted by the Zoning Board of Appeals only in accordance with the standards established in subsection (C) hereof, and may be granted only in the following instances and in no others:

1. To permit any yard or setback less than the yard or setback required by the applicable regulations.

2. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots but in no event shall the respective area and width of the lot or lots be less than ninety percent (90%) of the required area and width.
3. To permit the same off-street parking facility to qualify as required facilities for two (2) or more uses provided the substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.
4. To reduce the applicable off-street parking or loading facilities required by not more than one parking space or loading space or twenty percent (20%) of the applicable regulations, whichever number is greater.
5. To increase by not more than twenty five percent (25%) the maximum distance that required parking spaces are permitted to be located from the use served.
6. To increase by not more than twenty percent (20%) the gross area of any sign.
7. To increase by not more than ten percent (10%) the maximum gross floor area of any use so limited by the applicable regulations.
8. To exceed any of the authorized variations allowed under this subsection, when a lot of record or a zoning lot, vacant or legally used on April 1, 1963 is, by reason of the exercise of the right of eminent domain by an authorized governmental body or by reason of a conveyance under threat of an eminent domain proceeding, reduced in size so that the remainder of said lot of record or zoning lot or structure on said lot does not conform with one or more of the regulations of the district in which said lot of record of zoning lot or structure is located.
9. To permit increases in the height of fences and walls permitted as obstructions in required yards. The concurring vote of five (5) members of the Zoning Board of Appeals shall be necessary to grant a variation. No order of the Zoning Board of Appeals granting a variation shall be valid for a period longer than six (6) months from the date of such order unless a building permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period. The Zoning Board of Appeals may, upon application made within said six (6) months, for good cause, extend said time an additional six (6) months;

provided, that said time limit shall not apply and there shall be no fixed time limit in cases where the variation granted is a variation as to the area or width of a lot or lots granted under (D)2 of this Section, if a plat containing the lot or lots in question, utilizing the said area or width variation as granted, and conforming to law, including the Barrington Hills Subdivision Ordinance (if applicable), shall be recorded in the office of the Recorder of Deeds or (if applicable) registered in the office of the Registrar of Titles, within two (2) years of the date of the order of the Zoning Board of Appeals granting said variation.

10. To permit the location of a satellite antenna, private, on a lot or lots where it would otherwise be prohibited solely because of insufficient screening, but in no event shall the requirement for screening be waived along the front yard line.

Section 4. Validity. Should any part or provision of this Ordinance be declared by a court of competent jurisdiction to be invalid, the same shall not affect the validity of the Ordinance as a whole or any part thereof other than the part declared to be invalid.

Section 5. Superseder and Effective Date. All ordinances, resolutions, motions and orders, or parts thereof, in conflict herewith, are to the extent of such conflict hereby superseded; and this Ordinance shall be in full force and effect from and after its passage and approval in the manner provided by law.

PASSED THIS 24th day of June, 2013.

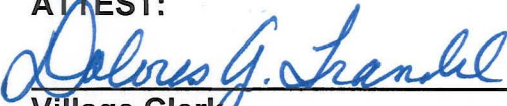
AYES: 6

NAYS: 0

ABSENT: 1.

APPROVED THIS 24th day of June, 2013.

ATTEST:


Village Clerk


Village President

**FINDINGS AND RECOMMENDATIONS OF THE
ZONING BOARD OF APPEALS FROM THE
MAY 20, 2013 PUBLIC HEARING**

Text Amendment to Sections 5-10-3 and 5-10-4

WHEREAS, the Zoning Board of Appeals ("ZBA") for the Village of Barrington Hills, Illinois (the "Village") held a public hearing on May 20, 2013 to discuss the proposal of the ZBA to amend Sections 5-10-3 and 5-10-4, of the Village Zoning Ordinance (the "Zoning Code"); and

WHEREAS, the ZBA finds it to be in the best interest of the Village to amend Sections 5-10-3 and 5-10-4 of the Zoning Code.

NOW THEREFORE, the ZBA makes the following findings and recommendations pursuant to the May 20, 2013, public hearing:

1. Following discussion by the ZBA at the public hearing on May 20, 2013, 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):

"5-10-3: COMPLIANCE CERTIFICATES:

No building, or addition thereto, constructed after the effective date hereof, and no addition to a previously existing building shall be occupied, and no land vacant on the effective date hereof shall be used for any purpose, until a certificate of compliance has been issued by the Enforcing Officer. No change in a use other than that of a permitted use shall be made until a certificate of compliance has been issued by the Enforcing Officer. Every certificate of compliance shall state that the use or occupancy complies with all the provisions of this Zoning Title.

(A) Application for Compliance Certificate: Every application for a building permit shall be deemed to be an application for a compliance certificate. Every application for a compliance certificate for a new use of land where no building permit is required shall be made directly to the Enforcing Officer.

(B) Issuance of Compliance Certificate: No compliance certificate for a building or addition thereto constructed after the effective date hereof shall be issued until construction has been completed and the premises inspected and certified by the Enforcing Officer to be in conformity with the plans and specifications upon which the building permit was based. No compliance certificate for a building or addition thereto, constructed after the effective date hereof shall be issued and no addition to a previously existing building shall be occupied until the premises have been inspected and certified by the Enforcing Officer to be in compliance with all the applicable performance standards of the zoning district in which it is located and all violations of the Village Code have been resolved and all fines and penalties assessed against the owner or the

property under any of the provisions of the Village Code have been paid in full. Pending the issuance of a regular certificate, a temporary certificate may be issued, to be valid for a period not to exceed six (6) months from its date during the completion of any addition or during partial occupancy of the premises.

(C) Any person who occupies or uses a building or structure without the issuance of a certificate of compliance shall be liable for a fine of not more than Seven Hundred Fifty Dollars (\$750.00). Each day such violation continues shall be deemed a separate offense.

A compliance certificate shall be issued, or written notice shall be given to the applicant stating the reasons why a certificate cannot be issued, not later than fourteen (14) days after the Enforcing Officer is notified in writing that the building or premises is ready for occupancy.”

“5-10-4: VARIATIONS:

(A) Purpose: The Zoning Board of Appeals, after a public hearing, may determine and vary the regulations of this Zoning Title in harmony with their general purpose and intent, only in the specific instances hereinafter set forth, where the Board makes findings of fact in accordance with the standards hereinafter prescribed, and further finds that there are practical difficulties or particular hardships in the way of carrying out the strict letter of the regulations of this Zoning Title, relating to the use, construction or alteration of buildings or structures or the use of each portion of land. (Ord. 63-1, 4-1-63)

(B) Application for Variation and Notice of Hearing: An application for a variation shall be made by the owner of the subject property, or if by another person having an interest therein, with the written concurrence of the owner of the subject property. An application for a variation shall be filed in writing with the Enforcing Officer. The application shall contain such information as the Zoning Board of Appeals may from time to time, by rule, require. Notice of the time and place of such public hearing shall be published at least once, not less than fifteen (15) days before the hearing, in a newspaper of general circulation in the Village. The published notice may be supplemented by such additional form of notice as the Board, by rule, may require. (Ord. 63-1, 4-1-63; amd. Ord. 72-3, 3-27-72)

(C) Standards for Variations: The Zoning Board of Appeals shall not vary the regulations of this Title, as authorized in subsection (A) hereof, unless it shall make findings based upon the evidence presented to it in each specific case that:

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.

The Zoning Board of Appeals may impose such conditions and restrictions upon the premises benefited by a variation as may be necessary to comply with the standards established in this subsection (C) to reduce or minimize the effect of such variation upon other property in the neighborhood, and to better carry out the general intent of this Title. If the petitioner is in violation of any provision of the Village Code or is subject to any fines or penalties imposed under any provision of the Village Code, the Zoning Board of Appeals may condition the granting of any variation upon the petitioner first correcting or curing any such violation or paying any such fines or penalties.

(D) Authorized Variations: Variations from the regulations of this Zoning Title shall be granted by the Zoning Board of Appeals only in accordance with the standards established in subsection (C) hereof, and may be granted only in the following instances and in no others:

1. To permit any yard or setback less than the yard or setback required by the applicable regulations.
2. To permit the use of a lot or lots for a use otherwise prohibited solely because of the insufficient area or width of the lot or lots but in no event shall the respective area and width of the lot or lots be less than ninety percent (90%) of the required area and width.
3. To permit the same off-street parking facility to qualify as required facilities for two (2) or more uses, provided the substantial use of such facility by each user does not take place at approximately the same hours of the same days of the week.
4. To reduce the applicable off-street parking or loading facilities required by not more than one parking space or loading space or twenty percent (20%) of the applicable regulations, whichever number is greater.
5. To increase by not more than twenty five percent (25%) the maximum distance that required parking spaces are permitted to be located from the use served.
6. To increase by not more than twenty percent (20%) the gross area of any sign.
7. To increase by not more than ten percent (10%) the maximum gross floor area of any use so limited by the applicable regulations.
8. To exceed any of the authorized variations allowed under this subsection, when a lot of record or a zoning lot, vacant or legally used on April 1, 1963 is, by reason of the exercise of the right of eminent domain by an authorized governmental body or by reason of a conveyance under threat of an eminent domain proceeding, reduced in size so that the remainder of said lot of record or zoning lot or structure on said lot does not conform with one or more of the regulations of the district in which said lot of record of zoning lot or structure is

located. (Ord. 63-1, 4-1-63)

9. To permit increases in the height of fences and walls permitted as obstructions in required yards. (Ord. 72-2, 3-27-72) The concurring vote of five (5) members of the Zoning Board of Appeals shall be necessary to grant a variation. No order of the Zoning Board of Appeals granting a variation shall be valid for a period longer than six (6) months from the date of such order unless a building permit is obtained within such period and the erection or alteration of a building is started or the use is commenced within such period. The Zoning Board of Appeals may, upon application made within said six (6) months, for good cause, extend said time an additional six (6) months; provided, that said time limit shall not apply and there shall be no fixed time limit in cases where the variation granted is a variation as to the area or width of a lot or lots granted under (D)2 of this Section, if a plat containing the lot or lots in question, utilizing the said area or width variation as granted, and conforming to law, including the Barrington Hills Subdivision Ordinance³ (if applicable), shall be recorded in the office of the Recorder of Deeds or (if applicable) registered in the office of the Registrar of Titles, within two (2) years of the date of the order of the Zoning Board of Appeals granting said variation⁴. (Ord. 63-1, 4-1-63; amd. Ord. 79-10, 4-24-79)

10. To permit the location of a satellite antenna, private, on a lot or lots where it would otherwise be prohibited solely because of insufficient screening, but in no event shall the requirement for screening be waived along the front yard line. (Ord. 84-17, 7-23-84)

2. Mr. Kent Anderson, 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, which motion was seconded by Mr. George Mullen, ZBA Member and passed on a vote of six (6) ayes and zero (0) nays (Ms. Dara Valin being absent), and therefore, the ZBA recommends that Sections 5-10-3 and 5-10-4 of the Zoning Code be amended.

3. The ZBA further finds that amending Sections 5-10-3 and 5-10-4 as recommended herein is in the public interest and not solely for the benefit of a single applicant.

Dated this ____ day of June, 2013

Judith Freeman, Chairman