

VILLAGE OF BARRINGTON HILLS

Zoning Board of Appeals NOTICE OF MEETING



Monday, June 20, 2016 ~ 7:30 pm
Village Hall - 112 Algonquin Road

AGENDA

1. Call to Order & Roll Call
2. Public Comments
3. [Vote] Minutes April 18, 2016
4. [Discussion: Commercial Horse Boarding Zoning Text](#)
5. Adjournment

Chairman: Dan Wolfgram

NOTICE AS POSTED

The following are materials submitted by the Board of Trustees. They are documents and information they believe will be beneficial to the Zoning Board of Appeals as they consider reviewing Commercial Horse Boarding Zoning in the Village.

2/2/10

Commercial Boarding in Barrington Hills

The boarding of horses in Barrington Hills is desirable from the equestrian community's point of view. Boarding of horses (horse boarding; boarding) means the keeping, training, breeding, raising and/or sheltering of horses in Barrington Hills if such horses are not owned by the occupant or owner of the property; it shall not include a livery, that is the keeping of horses for rent.

As spelled out in the Village Code, the boarding of horses in a stable and the training of horses and/or their riders shall be a permitted Home Occupation. Limited-facility boarding should be under the discipline of the Home Occupation ordinance and shall mean the boarding of nine (9) or fewer horses.

Expanded-facility (commercial boarding) shall be defined to include: (A) the boarding of more horses than may be permitted under the limited-facility boarding provision of the home occupation ordinance and/or (B) a facility having a barn/stable in excess of 2,700 square feet in size. Such a facility shall be considered a Commercial Boarding facility subject to the proposed requirements whether or not horses are boarded at the facility.

Barns greater than 2,700 square feet shall require a Special Use permit. The number of horses boarded on a given property is not subject to a single formula. Consideration must be given to the property's location, configuration, neighborhood, wetlands, vehicular access, parking, available pastures and manure disposal. In considering these variables, the number of boarded horses should not exceed two (2) horses per acre.

All buildings used in connection with any boarding facility shall comply with the setbacks required by the Zoning Code for accessory buildings.

Livery operations (leasing or renting horses by the hour or day for riding on or off the property in question) are prohibited.

Nothing in this recommendation shall be construed as applying to private facilities that shelter horses belonging solely to the owners/residents or occupants of the property. The equestrian and rural nature of Barrington Hills and the right to keep one's horses on private property is not in any way meant to be abridged by this recommendation.

Source: Equestrian Commission

Memo

To: Zoning Board of Appeals
From: Robert Kosin, Director of Administration
CC: Village President, Board of Trustees
Date: October 17, 2014
Re: Boarding Text Amendment

During the consideration of the LeCompte Text Amendment as amended by the ZBA, the Board of Trustees posed questions regarding underlying topics involving horse boarding. It is intended that a response from the ZBA is provided to the BOT for which a schedule was proposed of ninety days. The topics are as follows including the likely reference source for a response.

1. HUSBANDRY: What is the allowed number of horses per area? Comment. Information on density of horses has been examined by other jurisdictions but the underlying value has not reference the source. To that end, qualifying academic individuals in the area of equestrian husbandry may be consulted for their opinion on the subject.

2. PROPERTY TAX ASSESSMENT: If horse boarding is an allowed agricultural use, what is the potential property tax impact? Comment. The assessment value of property is that which is set by township assessor (except for Cook County) according to adopted guidelines by the Illinois Department of Revenue. A local assessor may be consulted for an opinion.

3. PLANNING:

[3.1] If horse boarding is an allowed commercial activity, does this create the potential for additional commercial activities in the Village?

[3.2] What is the effect of a permitted use of this type versus making it a special use?

Comment. Both questions go to the basic elements of planning meaning the identification of the trend of development and techniques of zoning regulations. The land use consultant who assisted the Village in the uses and revision of the Comprehensive Plan may be consulted for an opinion.

June 6, 2016

Mr. Daniel Wolfgram
Chairman Barrington Hills
Zoning Board of Appeals
211 Algonquin Road
Barrington Hills, Illinois
60010

Dear Board Members of ZBA:

I am a 64 year resident of our village, I am writing you about the up coming text amendment that you will or will not be amending for zoning codes. I feel that present home occupation use is correct on horse boarding at this time. The only suggestions that I have for your considerations are; (1) two horses per pastured acre, (2) ten acre minimum sight for that boarding facility. I also strongly feel that there should not be any special use permits to be issued for horse boarding. Now you have open up a Pan Dora Door's Box on what should have special use permits, depending on the pros-cons of that sitting ZBA membership.

Remember that this is a equestrian community, if ordinances are to restraining we could slow down real estate sales even more; loose two horse which promotes our Village to outsiders and the largest social event in Barrington Hills, Polo.

Respectfully,



F.H.Gohl Jr
354 Sutton Road
Barrington Hills

**AN ORDINANCE AMENDING TITLE 5, ZONING REGULATIONS
SET FORTH IN CHAPTERS 2, 3 AND 5
REGARDING HORSE BOARDING**

WHEREAS, the Village of Barrington Hills (hereinafter the "Village") is a duly organized and existing Illinois home rule municipality pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*; and

WHEREAS, the Village of Barrington Hills is authorized and empowered, under the Municipal Code and the Code of Ordinances of the Village of Barrington Hills, to regulate properties located within the municipal boundaries of the Village; and

WHEREAS, in furtherance of this authorization, the Village of Barrington Hills has adopted a zoning code, set forth in Title 5 Zoning Regulations of the Village's Municipal Code to, among other purposes, effectuate the Village's planning program and to regulate individual property use by establishing use districts, building site requirements, setback, density, parking and height regulations, and by specifying external impact standards for noise, smoke, odor, glare and vibration; and '

WHEREAS, the Village has established zoning classifications within the Village, which provide for allowable uses and special permit uses; and

WHEREAS, Section 5-10-6 of the zoning code of the Village of Barrington Hills authorizes the Village Zoning Board of Appeals to recommend in writing, upon the making of appropriate findings of fact, and the Board of Trustees to approve, amendments to the text of the zoning code; and

WHEREAS, horse boarding is regulated in the Village, as set forth in the, zoning code, as a home occupation; and

WHEREAS, upon review of the Title 5 Zoning Regulations, and particularly, its authorization regarding horse boarding as a home occupation, the Village's Zoning Board of Appeals has received four Applications for amendment to the existing text concerning horse boarding and has filed its own Application for amendment following hearing of the Applications filed by other interested parties; and

WHEREAS, the Zoning Board of Appeals' Application for test amendment was filed for consideration in accordance with Section 5-10-6 of the zoning code; and

WHEREAS, Notice of the Public Hearing with respect to the proposed text amendment was published in the Daily Herald Newspaper in the Village of Barrington Hills, and additional notice of the hearing was provided, all as required by the statutes of the State of Illinois and the ordinances of the Village; and

WHEREAS, pursuant to said Notices, the Zoning Board of Appeals of the Village of Barrington Hills conducted a Public Hearing on December 2 and 3, 2014 as required by the statutes of the State of Illinois and the ordinances of the Village, and after hearing the Application, voted 4-2 to recommend approval of the text amendment offered by the Zoning Board of Appeals, in the version adopted by the Zoning Board of Appeals on December 3, 2014 in the form set forth in Exhibit "A," attached hereto and incorporated herein by reference; and

Ordinance 14-19

WHEREAS, the Zoning Board of Appeals has forwarded its finding and recommendation to approve the text amendment to the Village Board, in the Findings and Recommendation, attached hereto and incorporated herein by reference as Exhibit "B;" and

WHEREAS, the President and Village Board of Trustees has considered the matter and determined that the recommended text amendment to Title 5 Zoning Regulations, Chapters 2, 3 and 5 be granted as recommended, as such action is believed to be in the best interests of the Village and its residents

NOW, THEREFORE, BE IT ORDAINED by the President and Board of Trustees of the Village of Barrington Hills, a home rule community located in Cook, Lake, Kane and McHenry Counties, Illinois, duly assembled at a regular meeting, as follows:

SECTION ONE: That the forgoing recitals are hereby incorporated by reference as if fully set forth herein.

SECTION TWO: That Title 5 Zoning Regulations, Chapters 2, 3 and 5 be amended as set forth in Exhibit "A," attached hereto and incorporated herein by reference, and a clean copy of which amendment is attached hereto and incorporated herein by reference as Exhibit "C."

SECTION THREE: That all other ordinances and resolutions, or parts thereof, in conflict with the provisions of this Ordinance, are, to the extent of such conflict, expressly repealed.

SECTION FOUR: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

PASSED by the Board of Trustees of the Village of Barrington Hills, the 15th day of December, 2014. Roll Call.

AYES: 5 (Harrington, Meroni, Selman, Messer, Gohl)

NAYES: 1 (Konicek)

ABSENT: 1 (McLaughlin)

ABSTAIN: 0

Veto Reported by the Village President at the Board of Trustee's Meeting of January 26, 2015.

A Veto Override was Passed by the Board of Trustees of the Village of Barrington Hills, the 23rd Day of February 23, 2015. Roll Call.

AYES: 5 (Harrington, Meroni, Selman, Messer, Gohl)

NAYS: 2 (Konicek, McLaughlin)

ABSENT: 0

ABSTAIN: 0

ATTEST:


Village Clerk

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SET FORTH IN CHAPTERS 2, 3 AND 5
REGARDING HORSE BOARDING**

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WHEREAS, in furtherance of this authorization, the Village of Barrington Hills has adopted a zoning code, set forth in Title 5 Zoning Regulations of the Village's Municipal Code to, among other purposes, effectuate the Village's planning program and to regulate individual property use by establishing use districts, building site requirements, setback, density, parking and height regulations, and by specifying external impact standards for noise, smoke, odor, glare and vibration; and

WHEREAS, the Village has established zoning classifications within the Village, which provide for allowable uses and special permit uses; and

WHEREAS, Section 5-10-6 of the zoning code of the Village of Barrington Hills authorizes the Village Zoning Board of Appeals to recommend in writing, upon the making of appropriate findings of fact, and the Board of Trustees to approve, amendments to the text of the zoning code; and

WHEREAS, horse boarding is regulated in the Village, as set forth in the zoning code, as a home occupation; and

WHEREAS, upon review of the Title 5 Zoning Regulations, and particularly, its authorization regarding horse boarding as a home occupation, the Village's Zoning Board of Appeals has received four Applications for amendment to the existing text concerning horse boarding and has filed its own Application for amendment following hearing of the Applications filed by other interested parties; and

WHEREAS, the Zoning Board of Appeals' Application for test amendment was filed for consideration in accordance with Section 5-10-6 of the zoning code; and

WHEREAS, Notice of the Public Hearing with respect to the proposed text amendment was published in the Daily Herald Newspaper in the Village of Barrington Hills, and additional notice of the hearing was provided, all as required by the statutes of the State of Illinois and the ordinances of the Village; and

WHEREAS, pursuant to said Notices, the Zoning Board of Appeals of the Village of Barrington Hills conducted a Public Hearing on December 2 and 3, 2014 as required by the statutes of the State of Illinois and the ordinances of the Village, and after hearing the Application, voted 4-2 to recommend approval of the text amendment offered by the Zoning Board of Appeals, in the version adopted by the Zoning Board of Appeals on December 3, 2014 in the form set forth in Exhibit "A," attached hereto and incorporated herein by reference; and

ORDINANCE 14-

WHEREAS, the Zoning Board of Appeals has forwarded its finding and recommendation to approve the text amendment to the Village Board, in the Findings and Recommendation, attached hereto and incorporated herein by reference as Exhibit "B;" and

WHEREAS, the President and Village Board of Trustees has considered the matter and determined that the recommended text amendment to Title 5 Zoning Regulations, Chapters 2, 3 and 5 be granted as recommended, as such action is believed to be in the best interests of the Village and its residents

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SECTION FOUR: That this Ordinance shall be in full force and effect from and after its passage, approval, and publication in pamphlet form as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Barrington Hills, this 15th day of December, 2014.

AYES: _____

NAYES: _____

ABSENT: _____

ABSTAIN: _____

Village President

ATTEST:

Village Clerk

EXHIBIT A
TEXT AMENDMENT

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 bold, underline represents language added to the existing Zoning Code):

Chapter 2
ZONING DEFINITIONS

5-2-1: DEFINITIONS:

AGRICULTURE: The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, ~~and animal and poultry husbandry, (including and the breeding, boarding, and training of horses and riders as a hobby or a n-occupation)~~ and the accessory uses needed for the following: the handling or storing of produce, conducting animal husbandry, and for the breeding, boarding, and training of horses and rider instruction. It is recognized specifically that buildings, stables or structures associated with the breeding, boarding, and training activities (Boarding and Training Facilities) may exceed the size of building associated with residential or other uses of the land, without affecting a determination that the use of such land is deemed Agricultural. ~~; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. This definition of Agriculture shall not be construed as encompassing or extending to daily or hourly rental of horses. Such amended definition is retroactive and in full force and effect as of June 26, 2006.~~

Chapter 3
GENERAL ZONING PROVISIONS

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.,
- 2)

2 Boarding and Training of Horses and Rider Instruction:

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

i.) The hours of operation of Boarding and Training Facilities shall be (a) employees (not residing on the property): from six o'clock (6:00) AM to nine o'clock(9:00) PM or 30 minutes past dusk, whichever is later; (b) boarders and riders receiving instruction: from seven o'clock (7:00) A.M. to eight thirty o'clock (8:30) P.M. or dusk, whichever is later; (c) use of machinery, seven o'clock (7:00) AM to nine o'clock (9:00) PM. These hourly restrictions shall not apply in the event of emergencies.

ii.) No property shall be allowed to conduct the activities subject to the regulations under this Section 5-3-4(A)2 that is not located on the same zoning lot or lots under the same ownership and/or control as the residence of the owner or operator of the related facility.

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, stables and arenas shall only be directed onto the property for which such uses occur such that there is no direct illumination of any adjacent property from such lighting. In all respects, lighting for any activities or structures used in agriculture shall comply with all other provisions of the Village Code.

v) Nuisance causing activities: It is unlawful for any person operating a Boarding and Training Facility to allow or permit any animal to cause serious or habitual disturbance or annoyance by frequent or habitual noisy conduct, which shall annoy, injure or endanger safety, health, comfort or repose of others. Noisy conduct is defined as noise which can be heard continuously within

an enclosed structure off the property of the Boarding and Training Facility for more than fifteen (15) minutes and which annoys, injures or endangers the safety, health, comfort or repose of others. In addition to the foregoing specific limitations, no Boarding or Training Facility shall cause or create any act, which endangers public health or results in annoyance or discomfort to the public, said act being defined as a nuisance under Title 7, Chapter 1 of this Code.

vi) There shall be a limit on the number of horses that a Boarding and Training Facility is allowed to board such that there shall not be in excess of two boarded horses per zoning lot acre.

vii) Properties subject to the provisions of this Section 5-3-4(A)(2) shall ensure that traffic associated with the agricultural operations is reasonably minimized, particularly at properties where access is from private roads, and including at times any events such as charity outings or clinics.

viii) Properties subject to the provisions of this Section 5-3-4(A)(2) shall provide indoor toilets for use by employees, boarders and riders and shall not rely on outdoor portable toilets for ordinary operations.

ix) Properties subject to the provisions of this Section 5-3-4(A)(2) shall comply with the maximum floor area ratio requirements applicable to single family detached dwellings as specified in Section 5-5-10-1 herein.

(D)Home Occupation: The intent of this subsection is to provide peace, quiet and domestic tranquility within all residential neighborhoods within the village and in order to guarantee to all residents freedom from nuisances, fire hazards, excessive noise, light and traffic, and other possible effects of business or commercial uses being conducted in residential districts. It is further the intent of this subsection to regulate the operation of a home occupation so that the general public will be unaware of its existence. A home occupation shall be conducted in a manner which does not give an outward appearance nor manifest characteristics of a business which would infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units or infringe upon or change the intent or character of the residential district.

1. Authorization: Subject to the limitations of this subsection, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any residential zoning district.

2. Definition: A "home occupation" is any lawful business, profession, occupation or trade conducted from a principal building or an accessory building in a residential district that:

- a. Is conducted for gain or support by a full time occupant of a dwelling unit; and
- b. Is incidental and secondary to the principal use of such dwelling unit for residential occupancy purposes, except that is it recognized that any barn, stable, or arena, may exceed the size of the dwelling unit; and
- c. Does not change the essential residential character of such dwelling unit or the surrounding neighborhood.

3. Use Limitations:

a. Employee Limitations:

- (1) The owner of every home occupation shall be a person that is a full time occupant of the dwelling unit where such occupation is conducted.
- (2) No more than two (2) employees or subcontractors, other than the full time occupants of a dwelling unit shall be engaged or employed in connection with, or otherwise participate in the operation of, a home occupation at any one time. This limitation on the number of employees or subcontractors shall not apply to employees or subcontractors who are not present and do not work at the dwelling unit devoted to such home occupation.

b. Structural Limitations:

- (1) No alteration of any kind shall be made to the dwelling unit where a home occupation is conducted that would change its residential character as a dwelling unit, including the enlargement of public utility services beyond that customarily required for residential use.
- (2) No separate entrance from the outside of the building where the home occupation is located shall be added to such building for the sole use of the home occupation.

c. Operational Limitations:

- (1) Every home occupation shall be conducted wholly within either: a) a principal building or b) an accessory building, but not both.
- (2) The floor area ratio (FAR) of the area of the building used for any such home occupation shall not exceed .01 (exclusive of garage floor area devoted to permissible parking of vehicles used in connection with the home occupation), with the exception of any barn, stable, or arena.
- (3) There shall be no direct retail sales of merchandise, other than by personal invitation or appointment, nor any permanent display shelves or racks for the display of merchandise to be sold in connection with the home occupation.
- (4) No routine attendance of patients, clients, customers, subcontractors, or employees (except employees and subcontractors as provided in subsection (D)3a(2) of this section) associated with any home occupation shall be permitted at the premises of the home occupation, provided, however, that the attendance of up to four (4) persons at any one time may be allowed for the purpose of receiving private instruction in any subject of skill. "Routine attendance" means that the conduct of the home occupation requires persons, other than the owner or permitted employees and

subcontractors, to visit the premises of the home occupation as part of the regular conduct of the occupation, without regard to the number, frequency, or duration of such visits.

- (5) No vehicle or mechanical, electrical, or other equipment, that produces noise, electrical or magnetic interference, vibration, heat, glare, emissions, odor, or radiation outside the principal building or accessory building containing the home occupation that is greater or more frequent than that typical of vehicles or equipment used in connection with residential occupancy shall be used in connection with any home occupation.
- (6) All storage of goods, materials, products or merchandise used or sold in conjunction with a home occupation shall be wholly within the principal building or accessory building containing the home occupation.
- (7) No refuse in excess of the amount permitted under section 5-3-9 of this chapter shall be generated by any home occupation.
- (8) There shall be a limit on the number of horses that are subject to the home occupation activity such that there shall not be in excess of one boarded horse per zoning lot acre.

d. Signage And Visibility:

- (1) No exterior business signs on a principal building, accessory building or vehicle used in connection with the home occupation, shall be permitted in connection with any home occupation unless otherwise permitted under section 5-5-11 of this title.
- (2) There shall be no exterior indications of the home occupation or exterior variations from the residential character of the principal building or accessory building containing the home occupation.

e. Traffic Limitations: No home occupation shall generate significantly greater vehicular or pedestrian traffic than is typical of residences in the surrounding neighborhood of the home occupation.

f. Nuisance Causing Activities: In addition to the foregoing specific limitations, no home occupation shall cause or create any act, which endangers public health or results in annoyance or discomfort to the public, said act being defined as a nuisance under title 7, chapter 1 of this code.

g. Boarding and Training Of Horses and Riders: The boarding and training of horses and rider instruction shall be a permitted home occupation. For properties of less than ten acres these activities are regulated under Section 5-3-4(D) herein, and in addition must comply with the restrictions under Section 5-3-4(A)2i, iii, and viii. For properties of ten acres or larger, these activities are regulated solely under Section 5-3-4(A)2 herein. 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)

Section 5-5-2(A) to be amended to add the following accessory use:

Breeding, boarding, and training of horses, and rider instruction, as regulated under Section 5-3-4(A)(2) or Section 5-3-4(D) as applicable.

EXHIBIT B

ZBA FINDINGS OF FACT/RECOMMENDATION

December 8, 2014

To: President and Board of Trustees
Village of Barrington Hills

RE: ZBA Application for Text Amendment -
Horse Boarding

This is to advise you that the Zoning Board of Appeals (ZBA) held a public hearing commencing on December 2 and continuing to December 3, 2014 regarding a proposed amendment to the zoning code relative to horse boarding. The proposed amendment was submitted for consideration by the ZBA, which served as the "Applicant" pursuant to the provisions of Title 5 – Zoning Regulations, Chapter 5 Administration, Section 5-10-6 of the Village Code. The hearings were held at Countryside Elementary School, where a quorum was present on each night. Notice of the hearings was published in compliance with the Open Meetings Act, and published in a timely manner in the Daily Herald.

At the hearing, the ZBA heard testimony from the Applicants and/or their representatives, and from the public at large.

FACTS

The Village Zoning Code, Title 5 – Zoning Regulations, Chapter 5 Administration, Section 5-10-6 allows for amendments to the Zoning Code. Section 5-10-6 (A) provides:

Authority: For the purposes of promoting the public health, safety, morals, comfort and general welfare, conserving the values of property throughout the village, and lessening or avoiding congestion in the public roads and highways, the president and the board of trustees of the village may, from time to time, in the manner hereinafter set forth, amend the regulations imposed and the districts created by this title; provided, that in all amendatory ordinances adopted under the authority of this section, due allowance shall be made for existing conditions, the conservation of property values, the directions of building development to the best advantage of the entire Village, and the uses to which property is devoted at the time of the effective date hereof. (Ord. 63-1, 4-1-63)

For purposes of an amendment to the text of the Zoning Code, the ZBA must make findings of fact and its recommendation to the Board of Trustees in writing, pursuant to section 5-10-6(F), which provides:

F) Findings of Fact and Recommendations of the Zoning Board of Appeals:
Within a reasonable time after the close of the hearing on a proposed amendment, the Zoning Board of Appeals shall make written findings of fact

and shall submit same together with its recommendation to the Board of Trustees of the Village. . . .

The Zoning Board of Appeals shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such an amendment is in the public interest and is not solely for the interest of the applicant. . . .

On December 4, 2014, immediately following the close of the public hearing, the ZBA met to discuss the facts presented on the Application for Text Amendment. ZBA Member Kurt Anderson opened discussion of the Application by presenting minor revisions to the Text proposed, based on the testimony of Village of Barrington Hills Zoning Enforcement Officer Don Schumann, who recommended various modifications related to enforcement. The ZBA Text Amendment, as amended by Member Anderson, is attached hereto. Member Anderson moved to recommend the Text Amendment; a motion which was seconded by ZBA Member Karen Rosene. Considerable discussion ensued over the Text Amendment.

FINDING

The ZBA, after having examined the Application for Text Amendment, with revisions proposed by Member Anderson, and taking into consideration the testimony heard in the public hearing for horse boarding, adopted the following finding as to the Text Amendment:

1. That the text amendment, as proposed, addresses the concerns of the health, safety, and welfare of the community arising out of the breeding, boarding, and training of horses and riders within the village. It's designed to eliminate or address the issues of nuisance as well as traffic and safety for residences of the village.

This finding was adopted on a 4-2 vote with Members Anderson, Freeman, Rosene, and Benkendorf voting "aye," and Members Stieper and Wolfgram voting "no." The motion to adopt this finding carried.

RECOMMENDATION

The Application for Text amendment, as amended by Member Anderson, was adopted on a 4-2 vote to recommend, with Members Anderson, Freeman, Rosene and Benkendorf voting "aye" and Members Stieper and Wolfgram voting "no." The motion to recommend carried.

Respectfully submitted,

Julith K. Free, Chair, Zoning Board of Appeals
Zoning Board of Appeals
Village of Barrington Hills

Exhibit C

Chapter 5

RESIDENTIAL DISTRICTS

5-5-2(A) to be amended to add the following accessory use:

Breeding, boarding, and training of horses, and rider instruction, as regulated under Section 5-3-4(A)(2) or Section 5-3-4(D) as applicable.

EXHIBIT C

TEXT AMENDMENT "CLEAN COPY"

Exhibit C

Chapter 2

ZONING DEFINITIONS

5-2-1: DEFINITIONS:

AGRICULTURE: The use of land for agricultural purposes, including farming, dairying, pasturage, apiculture, horticulture, floriculture, viticulture, animal and poultry husbandry and the breeding, boarding, and training of horses and riders as a hobby or occupation, and the accessory uses needed for the following: the handling or storing of produce, conducting animal husbandry, and for the breeding, boarding, and training of horses and rider instruction. It is recognized specifically that buildings, stables or structures associated with the breeding, boarding, and training activities (Boarding and Training Facilities) may exceed the size of building associated with residential or other uses of the land, without affecting a determination that the use of such land is deemed Agricultural. This definition of Agriculture shall not be construed as encompassing or extending to daily or hourly rental of horses. Such amended definition is retroactive and in full force and effect as of June 26, 2006.

Chapter 3

GENERAL ZONING PROVISIONS

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 impose regulations or require permits with respect to land used or to be used for agricultural purposes.

2) Boarding and Training of Horses and Rider Instruction:

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

i.) The hours of operation of Boarding and Training Facilities shall be (a) employees (not residing on the property): from six o'clock (6:00) AM to nine o'clock (9:00) PM or 30 minutes past dusk, whichever is later; (b) boarders and riders receiving instruction: from seven o'clock (7:00) A.M. to eight thirty o'clock (8:30) P.M. or dusk, whichever is later; (c) use of machinery, seven o'clock (7:00) AM to nine o'clock (9:00) PM. These hourly restrictions shall not apply in the event of emergencies.

ii.) No property shall be allowed to conduct the activities subject to the regulations under this Section 5-3-4(A)2 that is not located on the same zoning lot or lots under the same ownership and/or control as the residence of the owner or operator of the related facility.

Exhibit C

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, stables and arenas shall only be directed onto the property for which such uses occur such that there is no direct illumination of any adjacent property from such lighting. In all respects, lighting for any activities or structures used in agriculture shall comply with all other provisions of the Village Code.

v.) Nuisance causing activities: It is unlawful for any person operating a Boarding and Training Facility to allow or permit any animal to cause serious or habitual disturbance or annoyance by frequent or habitual noisy conduct, which shall annoy, injure or endanger safety, health, comfort or repose to others. Noisy conduct is defined as noise which can be heard continuously within an enclosed structure off the property of the Boarding and Training Facility for more than fifteen (15) minutes and which annoys, injures or endangers the safety, health, comfort, or repose of others. In addition to the foregoing specific limitations, no Boarding or Training Facility shall cause or create any act, which endangers public health or results in annoyance or discomfort to the public, said act being defined as a nuisance under Title 7, Chapter 1 of this Code.

vi.) There shall be a limit on the number of horses⁵ that a Boarding and Training Facility is allowed to board such that there shall not be in excess of two boarded horses per zoning lot acre.

vii.) Properties subject to the provisions of this Section 5-3-4(A)(2) shall ensure that traffic associated with the agricultural operations is reasonably minimized, particularly at properties where access is from private roads, and including at times any events such as charity outings or clinics.

viii.) Properties subject to the provisions of this Section 5-3-4(A)(2) shall provide indoor toilets for use by employees, boarders and riders and shall not rely on outdoor portable toilets for ordinary operations.

(ix) Properties subject to the provisions of this Section 5-3-4(A)(2) shall comply with the maximum floor area ratio requirements applicable to single family detached dwellings as specified in Section 5-5-10-1 herein.

...

(D) Home Occupation: The intent of this subsection is to provide peace, quiet and domestic tranquility within all residential neighborhoods within the village and in order to guarantee to all residents freedom from nuisances, fire hazards, excessive noise, light and traffic, and other possible effects of business or commercial uses being conducted in residential districts. It is further the intent of this subsection to regulate the operation of a home occupation so that the general public will be unaware of its existence. A home occupation shall be conducted in a manner which does not give an outward appearance nor manifest characteristics of a business which would infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units or infringe upon or change the intent or character of the residential district.

Exhibit C

1. Authorization: Subject to the limitations of this subsection, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any residential zoning district.

2. Definition: A "home occupation" is any lawful business, profession, occupation or trade conducted from a principal building or an accessory building in a residential district that:

a. Is conducted for gain or support by a full time occupant of a dwelling unit; and

b. Is incidental and secondary to the principal use of such dwelling unit for residential occupancy purposes, except that it is recognized that any barn, stable, or arena, may exceed the size of the dwelling unit; and

c. Does not change the essential residential character of such dwelling unit or the surrounding neighborhood.

3. Use Limitations:

a. Employee Limitations:

(1) The owner of every home occupation shall be a person that is a full time occupant of the dwelling unit where such occupation is conducted.

(2) No more than two (2) employees or subcontractors, other than the full time occupants of a dwelling unit shall be engaged or employed in connection with, or otherwise participate in the operation of, a home occupation at any one time. This limitation on the number of employees or subcontractors shall not apply to employees or subcontractors who are not present and do not work at the dwelling unit devoted to such home occupation.

b. Structural Limitations:

(1) No alteration of any kind shall be made to the dwelling unit where a home occupation is conducted that would change its residential character as a dwelling unit, including the enlargement of public utility services beyond that customarily required for residential use.

(2) No separate entrance from the outside of the building where the home occupation is located shall be added to such building for the sole use of the home occupation.

c. Operational Limitations:

(1) Every home occupation shall be conducted wholly within either: a) a principal building or b) an accessory building, but not both.

(2) The floor area ratio (FAR) of the area of the building used for any such home occupation shall not exceed .01 (exclusive of garage floor area devoted to permissible parking of vehicles used in connection with the home occupation) with the exception of any barn, stable or arena.

(3) There shall be no direct retail sales of merchandise, other than by personal invitation or appointment, nor any permanent display shelves or racks for the display of merchandise to be sold in connection with the home occupation, with the exception of any barn, stable or arena.

Exhibit C

(4) No routine attendance of patients, clients, customers, subcontractors, or employees (except employees and subcontractors as provided in subsection (D)3a(2) of this section) associated with any home occupation shall be permitted at the premises of the home occupation, provided, however, that the attendance of up to four (4) persons at any one time may be allowed for the purpose of receiving private instruction in any subject of skill. "Routine attendance" means that the conduct of the home occupation requires persons, other than the owner or permitted employees and subcontractors, to visit the premises of the home occupation as part of the regular conduct of the occupation, without regard to the number, frequency, or duration of such visits.

(5) No vehicle or mechanical, electrical, or other equipment, that produces noise, electrical or magnetic interference, vibration, heat, glare, emissions, odor, or radiation outside the principal building or accessory building containing the home occupation that is greater or more frequent than that typical of vehicles or equipment used in connection with residential occupancy shall be used in connection with any home occupation.

(6) All storage of goods, materials, products or merchandise used or sold in conjunction with a home occupation shall be wholly within the principal building or accessory building containing the home occupation.

(7) No refuse in excess of the amount permitted under section 5-3-9 of this chapter shall be generated by any home occupation.

(8) There shall be a limit on the number of horses that are subject to the home occupation activity such that there shall not be in excess of one boarded horse per zoning lot acre.

d. Signage And Visibility:

(1) No exterior business signs on a principal building, accessory building or vehicle used in connection with the home occupation, shall be permitted in connection with any home occupation unless otherwise permitted under section 5-5-11 of this title.

(2) There shall be no exterior indications of the home occupation or exterior variations from the residential character of the principal building or accessory building containing the home occupation.

e. Traffic Limitations: No home occupation shall generate significantly greater vehicular or pedestrian traffic than is typical of residences in the surrounding neighborhood of the home occupation.

f. Nuisance Causing Activities: In addition to the foregoing specific limitations, no home occupation shall cause or create any act, which endangers public health or results in annoyance or discomfort to the public, said act being defined as a nuisance under title 7, chapter 1 of this code.

g. Boarding And Training Of Horses and Riders: The boarding and training of horses and rider instruction shall be a permitted home occupation. For properties of less than ten acres these activities are regulated under Section 5-3-4(D) herein, and in addition must comply with the restrictions under Section 5-3-4(A)2i., iii., and viii. For properties of ten acres or larger, these activities are regulated solely under Section 5-3-4(A)2 herein.

...

Submitted by President Martin J. McLaughlin

- A. No differentiation between village, county state, private. Road Ingress and egress
 - a. Preferential locations - Public trail v. Private
- B. Services that required to accommodate operations - delivery, hay feed, waste removal.
- C. Do the operations cause fire, safety or security concerns
- D. Tax liability, revenues decrease threshold
- E. Hours of operation
- F. Present property owner
- G. Horse bridal tag chip technology
- H. Professional Bond/Construction Code

5-3-4: REGULATIONS FOR SPECIFIC USES: (*Ordinance 14-19 as adopted is subject to a judicial challenge 2015 CH 03461 Drury v Barrington Hills (Cook County) and should only be relied upon to the extent the provisions of the ordinance may be amended in part or deleted in its entirety,*)

(A) Agriculture:

1. Permits: Other than those regulations specifically provided for in subsection (A)2a of this section, the provisions of this title shall not impose regulations or require permits with respect to land used or to be used for agricultural purposes.
2. Boarding And Training Of Horses And Rider Instruction: (*Ordinance 14-19 as adopted is subject to a judicial challenge 2015 CH 03461 Drury v Barrington Hills (Cook County) and should only be relied upon to the extent the provisions of the ordinance may be amended in part or deleted in its entirety*).
 - a. Regulations: The following provisions listed in this subsection (A)2a shall apply to the boarding and training of horses and rider instruction:
 - (1) Hours: The hours of operation of boarding and training facilities shall be: a) employees (not residing on the property): from six o'clock (6:00) A.M. to nine o'clock (9:00) P.M. or thirty (30) minutes past dusk, whichever is later; b) boarders and riders receiving instruction: from seven o'clock (7:00) A.M. to eight thirty o'clock (8:30) P.M. or dusk, whichever is later; c) use of machinery: seven o'clock (7:00) A.M. to nine o'clock (9:00) P.M. These hourly restrictions shall not apply in the event of emergencies.
 - (2) Activities Located On Same Lot: No property shall be allowed to conduct the activities subject to the regulations under this subsection (A)2 that is not located on the same zoning lot or lots under the same ownership and/or control as the residence of the owner or operator of the related facility.
 - (3) Waste Management: All barns shall have an animal waste management protocol consistent with published acceptable standards and in full compliance with section 7-2-5 of this code.
 - (4) Lighting: Lighting for barns, stables and arenas shall only be directed onto the property for which such uses occur such that there is no direct illumination of any adjacent property from such lighting. In all respects, lighting for any activities or structures used in agriculture shall comply with all other provisions of this code.
 - (5) Nuisance Causing Activities: It is unlawful for any person operating a boarding and training facility to allow or permit any animal to cause serious or habitual disturbance or annoyance by frequent or habitual noisy conduct, which shall annoy, injure or endanger safety, health, comfort or repose of others. "Noisy conduct" is defined as noise which can be heard continuously within an enclosed structure off the property of the boarding and training facility for more than fifteen (15) minutes and which annoys, injures or endangers the safety, health, comfort or repose of others. In addition to the foregoing specific limitations, no boarding or training facility shall cause or create any act, which endangers public health or results in annoyance or discomfort to the public, said act being defined as a nuisance under title 7, chapter 1 of this code.

- (6) Number Of Horses: There shall be a limit on the number of horses that a boarding and training facility is allowed to board such that there shall not be in excess of two (2) boarded horses per zoning lot acre.
- (7) Traffic: Properties subject to the provisions of this subsection (A)2 shall ensure that traffic associated with the agricultural operations is reasonably minimized, particularly at properties where access is from private roads, and including at times any events such as charity outings or clinics.
- (8) Toilets: Properties subject to the provisions of this subsection (A)2 shall provide indoor toilets for use by employees, boarders and riders and shall not rely on outdoor portable toilets for ordinary operations.
- (9) Floor Area Ratio: Properties subject to the provisions of this subsection (A)2 shall comply with the maximum floor area ratio requirements applicable to single-family detached dwellings as specified in section 5-5-10-1 of this title. (Ord. 14-19, 12-15-2014)

(B) Public Utility: The following uses are permitted in any district:

Cables.

Conduits.

Laterals.

Pipelines.

Poles.

Towers.

Vaults.

Wires.

Any other similar distributing equipment of a public utility.

(C) Tents:

1. No tent shall be erected, used or maintained for living quarters.
2. The requirements for tents used for purposes other than residential shall be as specified in subsection 1-6-9(D)6 of this code. (Ord. 93-10, 9-27-1993)

(D) Home Occupation: The intent of this subsection is to provide peace, quiet and domestic tranquility within all residential neighborhoods within the village and in order to guarantee to all residents freedom from nuisances, fire hazards, excessive noise, light and traffic, and other possible effects

of business or commercial uses being conducted in residential districts. It is further the intent of this subsection to regulate the operation of a home occupation so that the general public will be unaware of its existence. A home occupation shall be conducted in a manner which does not give an outward appearance nor manifest characteristics of a business which would infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their dwelling units or infringe upon or change the intent or character of the residential district.

1. Authorization: Subject to the limitations of this subsection, any home occupation that is customarily incidental to the principal use of a building as a dwelling shall be permitted in any residential zoning district.
2. Definition: A "home occupation" is any lawful business, profession, occupation or trade conducted from a principal building or an accessory building in a residential district that:
 - a. Is conducted for gain or support by a full time occupant of a dwelling unit; and
 - b. Is incidental and secondary to the principal use of such dwelling unit for residential occupancy purposes, except that it is recognized that any barn, stable, or arena, may exceed the size of the dwelling unit; and
 - c. Does not change the essential residential character of such dwelling unit or the surrounding neighborhood.

3. Use Limitations:

a. Employee Limitations:

- (1) The owner of every home occupation shall be a person that is a full time occupant of the dwelling unit where such occupation is conducted.
- (2) No more than two (2) employees or subcontractors, other than the full time occupants of a dwelling unit shall be engaged or employed in connection with, or otherwise participate in the operation of, a home occupation at any one time. This limitation on the number of employees or subcontractors shall not apply to employees or subcontractors who are not present and do not work at the dwelling unit devoted to such home occupation.

b. Structural Limitations:

- (1) No alteration of any kind shall be made to the dwelling unit where a home occupation is conducted that would change its residential character as a dwelling unit, including the enlargement of public utility services beyond that customarily required for residential use.
- (2) No separate entrance from the outside of the building where the home occupation is located shall be added to such building for the sole use of the home occupation.

c. Operational Limitations:

- (1) Every home occupation shall be conducted wholly within either: a) a principal building or

b) an accessory building, but not both.

- (2) The floor area ratio (FAR) of the area of the building used for any such home occupation shall not exceed 0.01 (exclusive of garage floor area devoted to permissible parking of vehicles used in connection with the home occupation), with the exception of any barn, stable, or arena.
- (3) There shall be no direct retail sales of merchandise, other than by personal invitation or appointment, nor any permanent display shelves or racks for the display of merchandise to be sold in connection with the home occupation.
- (4) No routine attendance of patients, clients, customers, subcontractors, or employees (except employees and subcontractors as provided in subsection (D)3a(2) of this section) associated with any home occupation shall be permitted at the premises of the home occupation, provided, however, that the attendance of up to four (4) persons at any one time may be allowed for the purpose of receiving private instruction in any subject of skill. "Routine attendance" means that the conduct of the home occupation requires persons, other than the owner or permitted employees and subcontractors, to visit the premises of the home occupation as part of the regular conduct of the occupation, without regard to the number, frequency, or duration of such visits.
- (5) No vehicle or mechanical, electrical, or other equipment, that produces noise, electrical or magnetic interference, vibration, heat, glare, emissions, odor, or radiation outside the principal building or accessory building containing the home occupation that is greater or more frequent than that typical of vehicles or equipment used in connection with residential occupancy shall be used in connection with any home occupation.
- (6) All storage of goods, materials, products or merchandise used or sold in conjunction with a home occupation shall be wholly within the principal building or accessory building containing the home occupation.
- (7) No refuse in excess of the amount permitted under section 5-3-9 of this chapter shall be generated by any home occupation.
- (8) There shall be a limit on the number of horses that are subject to the home occupation activity such that there shall not be in excess of one boarded horse per zoning lot acre.

d. Signage And Visibility:

- (1) No exterior business signs on a principal building, accessory building or vehicle used in connection with the home occupation, shall be permitted in connection with any home occupation unless otherwise permitted under section 5-5-11 of this title.
- (2) There shall be no exterior indications of the home occupation or exterior variations from the residential character of the principal building or accessory building containing the home occupation.

e. Traffic Limitations: No home occupation shall generate significantly greater vehicular or pedestrian traffic than is typical of residences in the surrounding neighborhood of the home occupation.

f. Nuisance Causing Activities: In addition to the foregoing specific limitations, no home occupation shall cause or create any act, which endangers public health or results in annoyance or discomfort to the public, said act being defined as a nuisance under title 7, chapter 1 of this code.

g. Boarding And Training Of Horses And Riders: The boarding and training of horses and rider instruction shall be a permitted home occupation. For properties of less than ten (10) acres these activities are regulated under this subsection (D), and in addition must comply with the restrictions under subsections (A)2a(1), (A)2a(3), and (A)2a(8) of this section. For properties of ten (10) acres or larger, these activities are regulated solely under subsection (A)2 of this section. (Ord. 14-19, 12-15-2014)

(E) Animal Rescue Shelters: The intent of this subsection is to protect the public health and safety of citizens of the village and to promote the general welfare of the citizens and animals residing in the village by encouraging the compassionate housing and care of domestic animals, including, but not limited to, such domestic animals as dogs, cats and horses, that otherwise would not have adequate shelter, provided that such housing and care does not violate the peace, quiet and domestic tranquility within all residential neighborhoods within the village including, but not limited to, guaranteeing to all citizens residing in the village freedom from nuisances, fire hazards, excessive noise, light and traffic, and other possible effects of operating an animal rescue shelter in residential districts.

1. Authorization: Subject to the limitations of this subsection, any animal rescue shelter shall be permitted as a special use in the R1 zoning district under subsection 5-5-3(A) of this title.

2. Definition: An "animal rescue shelter" is a facility operated and maintained from a principal building or accessory building that is incidental and secondary to the principal use of a dwelling unit used for residential occupancy purposes and that does not change the essential residential character of such dwelling unit or the surrounding neighborhood, for the purpose of providing for and promoting the welfare, protection and humane treatment of domestic animals, including, but not limited to, dogs, cats and horses, that otherwise would not have adequate shelter.

3. Standards: Any animal rescue shelter shall adhere to the following standards and shall comply with all applicable federal, state, county and municipal laws, ordinances, rules and regulations:

a. Construction And Maintenance: All facilities shall be constructed and maintained so as to provide comfort and safety for animals and all areas of the property shall be maintained in a clean and orderly condition, free of objectionable odors.

b. Ventilation: Adequate heating and cooling shall be provided for the comfort of the animals and the facility shall have sufficient ventilation in all areas such that the air is completely circulated at least three (3) times per hour.

c. Lighting: Proper lighting shall be provided in all rooms utilized for the care and confinement of animals. Outside lighting shall be adequate to assist animal caregivers and clients but shall not be obtrusive to neighboring properties.

- d. Water: Potable water shall be available within the facility and each animal shall at all times have reasonable access to an adequate supply of clean, fresh, potable water.
- e. Basic Sanitation: Any equipment, instruments or facilities used in the confinement and treatment of animals shall be clean and sanitary at all times to protect against the spread of diseases, parasites and infection.
- f. Waste Disposal: Covered waste containers, impermeable by water, shall be used for the removal and disposal of animal and food wastes, bedding, animal tissues, debris and other waste. Disposal facilities shall be operated so as to minimize insect or other vermin infestation and to prevent odor and disease hazards or other nuisance conditions.
- g. Animal Housing Areas: Any facility confining animals shall have individual cages, pens, exercise areas or stalls to confine said animals in a comfortable, sanitary and safe manner.
- h. Medical Care: All animals housed within an animal rescue shelter shall receive adequate veterinary care by a veterinarian licensed under the veterinary medicine and surgery practice act of 2004, as amended, in order to promote the health and welfare of such animal.
- i. Runs And Exercise Areas: Other than transport to and from the animal rescue shelter, at all times that animals are not confined within the sheltered portion of the facility, such animals shall be confined to runs and exercise areas. All runs and exercise areas shall be set back not less than one hundred feet (100') from all front, side and rear lot lines and shall be of adequate size to allow comfort and exercise. Runs and exercise areas shall provide and allow for effective separation in such a manner as to protect against escape or injury. Each animal shall at suitable intervals, but not less frequently than once every twenty four (24) hours, receive adequate exercise suitable for the species' physical condition and age, sufficient to maintain an adequate level of physical conditioning for the animal.
- j. Disposal Of Deceased Animals: The facility shall use refrigeration and employ a procedure for the prompt, sanitary and safe disposal of deceased animals that complies with all applicable state and municipal laws, ordinances and regulations.
- k. Vehicles And Equipment: No vehicle or mechanical, electrical, or other equipment, that produces noise, electrical or magnetic interference, vibration, heat, glare, emissions, odor, or radiation outside the principal building or accessory building containing the animal rescue shelter that is greater or more frequent than that typical of vehicles or equipment used in connection with residential occupancy shall be used in connection with any animal rescue shelter.
- l. Storage: All storage of goods, materials, products or merchandise incidental to the care and adoption of animals that is used or sold in conjunction with an animal rescue shelter shall be wholly within the principal building or accessory building containing the animal rescue shelter.
- m. Nutrition: Each animal shall at suitable intervals, but not less frequently than once every

twenty four (24) hours, receive a quantity of wholesome foodstuff suitable for the species' physical condition and age, sufficient to maintain an adequate level of nutrition for the animal.

- n. Number Of Animals: There shall be no more animals housed within an animal rescue shelter at any one time than is reasonable for the adequate and proper care of all animals within said shelter.
4. Employee Limitations: The owner of an animal rescue facility shall be a person or an entity controlled by a person that is a full time occupant of the dwelling unit where such facility is operated. No more than four (4) employees or volunteers, other than the full time occupants of a dwelling unit shall be present at the facility or otherwise participate in the operation of an animal rescue shelter at any one time.
5. Signage And Visibility: No exterior business signs on a principal building, accessory building or vehicle used in connection with the animal rescue shelter, shall be permitted in connection with any animal rescue shelter unless otherwise permitted under section 5-5-11 of this title.
6. Traffic Limitations: No animal rescue shelter shall generate significantly greater vehicular or pedestrian traffic than is typical of residences in the surrounding neighborhood of the animal rescue shelter.
7. Nuisance Causing Activities: It is unlawful for any person operating an animal rescue shelter to allow or permit any animal to cause serious or habitual disturbance or annoyance by frequent or habitual howling, yelping, barking or otherwise noisy conduct, which shall annoy, injure or endanger safety, health, comfort or repose of others. An animal is harbored in violation of this subsection if, without provocation, it makes noise that can be heard continuously within an enclosed structure off the property of the animal rescue shelter for more than fifteen (15) minutes and which annoys, injures or endangers the safety, health, comfort or repose of others. In addition to the foregoing specific limitations, no animal rescue shelter shall cause or create any act, which endangers public health or results in annoyance or discomfort to the public, said act being defined as a nuisance under title 7, chapter 1 of this code.
8. Inspections: In addition to any required inspections by applicable federal, state or county governmental agencies, all animal rescue shelters shall be subject to annual inspections conducted by the village, at the sole cost and expense of the owner and/or operator of such animal rescue shelter.
9. Licenses: No person shall engage in the operation of an animal rescue shelter without a valid license issued by: a) the Illinois department of agriculture and b) the village pursuant to the issuance of a special use permit in accordance with the provisions of section 5-10-7 of this title. (Ord. 09-07, 7-27-2009)

July 20, 2011

President and Board of Trustees
Village of Barrington Hills
112 Algonquin Road
Barrington Hills, IL 60010

RE: Commercial Horse Boarding

Dear President and Trustees:

After many months of discussion of the commercial horse boarding issue in Barrington Hills, we have reached a consensus on a proposed manner of regulating boarding in the Village. We are respectfully requesting that you review and discuss our proposal and if it is acceptable to you, that you refer it back to the Zoning Board of Appeals to conduct a public hearing so that we may make the appropriate recommendation to the Board of Trustees for its adoption. The specific language that we have discussed and are proposing is attached hereto as Exhibit A.

As you are aware, this issue has been under consideration for several years and numerous meetings and discussions have taken place with regard to it. We have had various "white papers" submitted to us by the Equestrian Commission and a number of proposals that have been made by the Legal Committee, the Equestrian Commission and others. We are aware of the situation with Oakwood Farms and the recent holding by the Illinois Appellate Court denying the claim by Oakwood Farms that horse boarding is agriculture and therefore a permitted use.

In 2005, the ZBA recommended and the Board of Trustees approved changes to the Home Occupation Ordinance, which allowed horse boarding as a home occupation. While we considered simply allowing all boarding operations to operate as home occupations, we felt that was not the best approach. Larger boarding operations can have impacts on the surrounding properties. In these circumstances, we are recommending that larger boarding operations should be required to obtain a Special Use Permit. The special use permit requirement would allow the community to have some involvement in whether such operations are appropriate at that particular location and, if so, under what conditions they should operate. As a result, we are suggesting that those facilities that board ten (10) horses or more be regulated as Special Uses. We discussed, at length, requiring stables or barns of a certain size to also obtain a Special Use Permit, but in the end determined that was burdensome and potentially overreaching.

We feel that the attached proposal represents a good balance between preserving and protecting the equestrian nature of the Village while taking into account the concerns of residents who might be impacted by larger boarding facilities.

Very truly yours,

Judith Freeman – Chairman
Zoning Board of Appeals

cc: Copy to each of the ZBA members

EXHIBIT A

5-2-1 DEFINITIONS

ANIMAL HUSBANDRY: The breeding, raising, training and boarding of domestic livestock.

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.

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 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.

5-3-4(D)(3)(g) Home Occupation: 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), 3(b)2, 3(c)(2) and 3(c)4 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 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 six o'clock a.m. and eight o'clock p.m. or sunset, whichever is later. The harvesting of crops in connection with the breeding, racing, training and boarding of livestock after sunset is permitted under this Section.

5-3-13 REGULATIONS FOR COMMERCIAL HORSE BOARDING:

- (A) **SPECIAL USE:** Commercial horse boarding is a permitted special use in the R1 District within the Village subject to the provision of Section 5-10-7, provided, however, no special use permit for commercial horse boarding shall be granted unless such commercial horse boarding operation also complies with the provisions of this Section 5-3-13.
- (B) **PURPOSE AND INTERPRETATION:** The purpose of this Section 5-3-13, 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 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 5-3-13, defined terms shall have the meanings ascribed to them in Section 5-2-1 and this Subsection 5-3-13(C).

BOARDING: The keeping and/or sheltering of horses in which the owners or occupants of the property do not have an ownership interest in exchange for money, provided, however, boarding of horses shall not include a livery stable.

COMMERCIAL HORSE BOARDING: The boarding of ten (10) or more horses.

LIMITED-FACILITY BOARDING: The boarding of nine (9) or fewer 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 of the Zoning Code.

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

PRIVATE STABLE: A barn, stable, arena or other facility where horses owned by the owner or occupant of the property are kept.

(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 5-3-13, the Zoning Board of Appeals may limit the number of 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) storm water drainage, (v) vehicular access to the boarding facility, (vi) parking plan, (vii) manure disposal plan, (viii) lighting plan, and (ix) such other factors as the Zoning Board of Appeals may deem appropriate for consideration concerning healthy, safety and welfare of the community and surrounding neighborhood.

(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, existing and proposed means of access, fencing and landscaping/screening.
 - (ii) Such other additional information necessary to a decision by the Zoning Board of Appeals.
- (G) EXCLUSIONS: Nothing in this Section 5-3-13, shall be construed to apply to private stables or to limited-facility boarding facilities.

5-9-3(D)(3) Stables: Notwithstanding the foregoing provisions of this Section 5-9-3(D), any non-conforming barn, stable, arena or other structure used for an equestrian purpose which is destroyed or damaged by fire or other casualty or other acts of God may be restored or rebuilt to the same extent as existed prior to such fire or other casualty, including any such nonconformity.

Suzanne M. Fitch
ATTORNEY AT LAW

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September 3, 2014

VIA E-MAIL: rkosin@barringtonhills-il.gov and clerk@barringtonhills-il.gov
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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:

As you know, my firm represents certain residents of the Village of Barrington Hills. Thank you for reviewing my letter dated August 12, 2014, which is attached to this letter for reference purposes. Also attached to this letter is a Text Amendment Comparison Chart. It lists all of the important protections for the neighbors of horse boarding operations which are found in the Home Occupation Section 5-3-4(D). (Since the breeding and raising of horses is a permitted agricultural use, it is not part of this analysis). The Chart compares the Home Occupation protections with the provisions found in the LeCompte, Elder, Drury and Hammond Text Amendments.

As you can see, many of the important protections of the Home Occupation Ordinance are not found in these proposed text amendments despite the fact that many of these protections could be applied to larger-scale boarding operations. **As a zoning board, you have the power to incorporate these protections into your final Text Amendment to ensure that the expansion of larger-scale horse boarding does not have any negative unintended consequences or cause any irreparable harm to neighboring landowners.**

The Drury Text Amendment and Hammond Text Amendment both set forth a good framework for differentiating between smaller-scale and larger-scale horse boarding operations. In addition to looking at the number of horses and capping horses per acre, it would also be possible to include limitations on the number of clients in a home occupation boarding operation. My last letter suggested setting the limit at four. The Drury Text Amendment also contains good definitions that would be useful in a final text amendment.

Although I included the Drury and Hammond Text Amendments in the attached Comparison Chart, there are many important details in these two text amendments that are not included in the chart. Furthermore, since these text amendments suggest a limit of one horse per acre, this regulation alone can serve to lessen any potential negative impacts of living next to a horse boarding facility. Most importantly perhaps is the fact that these two text amendments make larger-scale horse boarding a Special Use. The last page of the Comparison Chart lists the

Special Use Standards that the zoning board would need to apply in deciding whether to grant a special use. The special use process would give the public the opportunity to comment on the application through a public hearing.

The proponents of the LeCompte and Elder Text Amendments make the argument that horse boarding belongs under the category of Agriculture because it is similar to cattle, poultry, swine, horse breeding and other agricultural-type operations. However, the Village already studied this issue and chose to place horse boarding under Home Occupation. See *ORDINANCE NO. 06-12*. In so doing, the Illinois Appellate Court found that the Village tied horse boarding to all of the regulations outlined in the Home Occupation Section 5-3-4(D). *LeCompte v. Zoning Board of Appeals for the Village of Barrington Hills*, 2011 IL App (1st) 100423, ¶ 39. Therefore, taking horse boarding out of this section is a major departure from the current law. In addition, the Zoning Code provides that no regulations or permits can be applied to land used for agricultural purposes, so going from reasonable regulations to no regulations at all is too drastic of a change.

Admittedly, larger-scale horse boarding cannot remain in the Home Occupation Section 5-3-4(D). A home occupation business must be incidental and secondary to the principal use of the property as a home residence. Although a stable is a detached accessory building, that building must be subordinate to and serve a principal building or principal use. The Illinois Appellate Court stated that "because the LeComptes are using the stable for the commercial boarding of horses, which is a primary use and not a subordinate use, it is a use that does not comport with the Village's Zoning Code." *LeCompte v. Zoning Board of Appeals for the Village of Barrington Hills*, 2011 IL App (1st) 100423, ¶ 34. In my opinion, if the stable exists to house horses belonging to the owners of the property, the stable would be subordinate to the principal building. Furthermore, boarding a few horses belonging to friends and neighbors would be an allowable home occupation business under Section 5-3-4(D).

We agree with the proponents of the LeCompte and Elder Text Amendments that we need a text amendment to preserve the rural, equestrian nature of the community. The only options are to place larger-scale horse boarding entirely under Home Occupation, entirely under Agriculture, or accept a compromise of these two mutually exclusion positions. A compromise is the only way to bring together both sides of this contentious debate and avoid years of resident complaints and litigation.

The Village of Barrington Hills can craft a final Text Amendment which pulls together all of the best ideas from the four proposed text amendments. Through your careful deliberation and analysis of all the issues, you can inform the Village of the protections/provisions that you want incorporated into the Village's final Text Amendment.

Sincerely,



Suzanne M. Fitch

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

Enclosures: Letter to ZBA dated August 12, 2014, Comparison Chart Four Text Amendments

Suzanne M. Fitch, ATTORNEY AT LAW

Comparison of Current Zoning Code Regulations Regarding the Boarding of Horses and Training of Horses and Riders
and the Four Proposed Text Amendments Submitted by LeCompte, Elder, Drury and Hammond

Type of Regulation	Home Occupation Section 5-3-4(D)	LeCompte Text Amendment	Elder Text Amendment	Drury Text Amendment	Hammond Text Amendment
Preamble/Intent	<p>Provide peace, quiet and domestic tranquility</p> <p>Freedom from nuisances, fire hazards, excessive noise, light and traffic</p> <p>Goal not to change the intent or character of the residential district</p>	Provisions of this title shall not be exercised so as to impose regulations or require permits with respect to land used for agricultural purposes	Provisions of this title shall not be exercised so as to impose regulations or require permits with respect to land used for agricultural purposes	<p>Maintain peace, quiet and domestic tranquility</p> <p>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</p>	<p>Maintain peace, quiet and domestic tranquility</p> <p>Reasonable freedom from fire hazards, excessive noise, light and traffic and other nuisances</p>
Residential Use Component Section 5-5-2 Permitted Uses states "Home Occupations, as accessory only to single-family detached	<p>Business must be incidental and secondary to the principal use of the property as a home residence</p> <p>Business can be conducted from principal building (home) or accessory</p>	<p>No requirement that a home residence exist on the property</p> <p>Horse boarding and training business can take up 100% of the property</p>	<p>No requirement that a home residence exist on the property</p> <p>Horse boarding and training business can take up 100% of the property</p>	No requirement that a home residence exist on the property unless special use states that it is accessory only to single-family detached dwellings	No requirement that a home residence exist on the property unless special use states that it is accessory only to single-family detached dwellings

dwelling"	building, but not both				
Business Owner	Business owner must reside on the property	Business owner is not required to reside on the property Owner of horse boarding operation may have no connection to the Village of Barrington Hills	Business owner is not required to reside on the property Owner of horse boarding operation may have no connection to the Village of Barrington Hills	Business owner is not required to reside on the property Owner of horse boarding operation may have no connection to the Village of Barrington Hills	Business owner is not required to reside on the property Owner of horse boarding operation may have no connection to the Village of Barrington Hills
Nuisance Abatement	Unlawful to cause or create any act which endangers public health or results in annoyance or discomfort to the public Chief of police and building and zoning enforcement officer have the power to abate the nuisance	Aggrieved resident must report violation to zoning enforcement officer who cannot take any action until he/she has inspected the property, commissioned an independent study and given property owner opportunities to correct the violation and file an appeal	No specific Nuisance Abatement provisions	See Non-Compliance in Text Amendment	No specific Nuisance Abatement provisions
Special Use Permit *See Special Use Standards on Last Page	No Special Use Permit required	No Special Use Permit required	No Special Use Permit required	Special Use Permit required for 5 or more horses	Special Use Permit required for 6 or more horses

Floor Area Ratio (FAR)	Area of building used for business must not exceed .01	Unlimited size of stables/structures associated with boarding, breeding, riding and training of horses	Unlimited size of stables/structures associated with boarding, breeding, riding and training of horses	FAR of 0.04 Limit of 25,000 square feet for barns, riding arenas, auxiliary buildings and parking areas	See Special Use Standard #6
Signage Sect. 5-5-11 of the Zoning Code allows for nonflashing, nonilluminated signs in the residential districts	Subject to regulations of Sect. 5-5-11 Residential dwelling or driveway entrance can have 1 nameplate not exceeding 1 sq. foot in area indicating the name or address of the occupant or a permitted occupation (2 nameplates allowed for corner zoning lot)	Subject to regulations of Sect. 5-5-11 Nonresidential buildings can have a single identification sign, not exceeding 6 sq. feet in area, indicating only name and address of building (2 signs allowed for corner zoning lot)	Subject to regulations of Sect. 5-5-11 Nonresidential buildings can have a single identification sign, not exceeding 6 sq. feet in area, indicating only name and address of building (2 signs allowed for corner zoning lot)	Subject to regulations of Sect. 5-5-11 Nonresidential buildings can have a single identification sign, not exceeding 6 sq. feet in area, indicating only name and address of building (2 signs allowed for corner zoning lot)	Subject to regulations of Sect. 5-5-11 Nonresidential buildings can have a single identification sign, not exceeding 6 sq. feet in area, indicating only name and address of building (2 signs allowed for corner zoning lot)
Visibility	No exterior indications or variations from residential character	No limitations	No limitations	Facilities maintained inside and out, including painting or staining all wooden fences and walls and sound roofing materials	No limitations

Lighting	No exterior indications or variations from residential character	No direct lighting on adjacent property	No direct lighting on adjacent property	No exterior night lighting except for entrances and walkways No light presenting a non-residential profile	No limitations
Hours of Operation	8:00 a.m. to 8:00 p.m. or sunset, whichever is later (no restriction for immediate family residing on the premises) Vehicles and Machinery, other than that belonging to immediate family, can be operated between 8:00 a.m. and 8:00 p.m. or sunset, whichever is later	6:00 a.m. to 9:00 p.m. No hourly restrictions for family residing on property or horse owners	6:00 a.m. to 8:00 p.m. for employees (no restriction for family residing on property) 8:00 a.m. to 8:00 p.m. or dusk for boarders Vehicles and Machinery not owned by residents can only be operated between 6:00 a.m. and 8:00 p.m.	6:00 a.m. to 7:00 p.m. for employees (no restriction for immediate family residing on property) Horse boarding customers permitted on property between 8:00 a.m. and 7:00 p.m. Vehicles and Machinery can only be operated between 9:00 a.m. and 5:00 p.m.	No limitations
Traffic	Vehicular and Pedestrian Traffic cannot be significantly greater than typical residence	No limitations	Traffic should be "reasonably minimized"	Written permission for private road access. Parking limited to 1 car space per boarded	See Special Use Standard #5

				horse stall and max of 10 spaces and no overnight parking of non-resident horse trailers	
Employees and Subcontractors	No more than 2 employees or subcontractors (other than business owners) present at the business at any one time	No limitations	No limitations	No limitations	No limitations
Clients and Customers	No routine attendance of clients/customers Except: Up to 4 persons at any one time can attend business for private instruction (e.g. horse riding lessons)	No limitations	No limitations	No limitations	No limitations
Number of Horses	No limitations	No limitations	No limitations	1 Horse (boarded/land-owner-owned) per Grazing Acre Maximum of 20 boarded horses	1 Boarded Horse per Acre dedicated solely to the keeping of horses
Refuse/Waste	No refuse in excess of Sect. 5-3-9	Animal Waste Management	Animal Waste Management Protocol	Stalls cleaned daily, No piles of manure in pastures or paddocks, Test water for pollutants	No limitations

***The Standards for Granting a Special Use per Village of Barrington Hills Zoning Code Section 5-10-7(E)**

Section 5-10-7(E) provides that no special use shall be recommended by the Zoning Board of Appeals unless the Board finds the following:

1. Use cannot be detrimental to or endanger public health, safety, morals, comfort or general welfare.
2. Use cannot be injurious to the use and enjoyment of property in immediate vicinity and cannot substantially diminish and impair property values within the neighborhood.
3. Use will not impede the normal and orderly development and improvement of surrounding property.
4. Adequate utilities, access roads, drainage and/or other necessary facilities exist or are being provided.
5. Adequate measures have been taken to provide ingress and egress so designed to minimize traffic congestion.
6. Use will conform to the applicable regulations of the district in which it is located, except as such regulations may in each instance be modified by the board of trustees pursuant to the recommendation of the zoning board of appeals.

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August 12, 2014

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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)