

July 11, 2014

To: Robert W. Scarnechia  
9500 Church Road  
Barrington Hills, IL 60010-5199

President and Board of Trustees  
Village of Barrington Hills

RE: Scarnechia Application  
Variance to Floor Area Ratio  
9500 Church Road

### **FINDINGS OF FACT/DECISION**

This is to advise you of the Findings of Fact/Decision of the Zoning Board of Appeals which resulted in the **denial** of the application of Robert W. Scarnechia for a variance to permitted floor area ratio (Title 5, Chapter 5, Section 5-5-10-1) to permit construction of an addition to an existing residence, such as to allow the total buildable area of 12,657 sq. ft. on the lot, commonly identified as 9500 Church Road, where 12,070 sq. ft. is otherwise allowed by the Zoning Ordinance.

A public hearing of the Zoning Board of Appeals (ZBA) was held at 7:30 P.M. on Monday, June 16, 2014, in the MacArthur Room of the Village Hall, where a quorum was present. Following the public hearing, the ZBA concluded its consideration of the application. Notice of the hearing was published in a timely manner in the Daily Herald as well as posted in the Village Hall. Proof of individual notice, by registered mail, return receipt requested, was submitted for all property owners within 250 feet as recorded in the office of the tax assessor of Barrington Township.

The ZBA heard testimony, statements and received exhibits requiring the presentation by Derek Watson, of Orbis Companies, on behalf of the Applicant.

### **FACTS**

The Village Zoning Ordinance allows for a maximum floor area ratio of .05 times the lot area in the R1 Zoning District. In this matter, the allowed floor area would be 12,073 sq. ft. Applicant Robert W. Scarnechia, owner of the property at 9500 Church Road (the "Property") applied for a variance to increase the allowed square footage from 12,073 sq. ft. to 12,657 sq. ft., an increase of 584 sq. ft. Existing conditions on site, as testified to by the Applicant, establish that there is a change in grade around the house from above 843 foot elevation on the Northwest side of the residence to 835 foot elevation on the Southeast side of the residence, and sloping further lower past an existing deck. This change in topography results in the ½ height elevation of the basement to be .63 feet

above the Finished Lot Grade Level of 840.11. This difference results in the basement square feet being included in the floor area ratio, adding 3,530 sq. ft. to the existing floor area ratio.

The Applicant submitted written factual support for the standards required pursuant to Title 5, Chapter 10, Section 5-10-4 (c), said facts being found in his written application made in this cause, and the facts were presented orally at hearing through the presentation of the Applicant's counsel, James Kaiser, and the applicant's representative Derek Watson.

Neighbor Miryana Schubert spoke in opposition to the application; neighbor Paul Lady expressed interest in commenting, but made none.

Pursuant to Title 5, Chapter 10, Section 5-10-4 (D), the ZBA is vested with the final authority to grant variances to the Zoning Ordinance.

### **FINDINGS**

The ZBA, after having examined the facts as presented, and taking into consideration the testimony of the Applicant's representatives, found that the facts set forth by the Applicant did not support the request for variance, specifically:

1. **Standard for reasonable return:**

The Property is currently improved with a single family residence, in-ground pool and recently constructed 1200 sq. ft. barn. Total allowable square footage floor area is 12,073 sq. ft. The Applicant testified that by including the basement in the floor area ratio calculation, because it is essentially 6 inches too high, it does not allow the owner to get a reasonable return on the property versus other properties of the same nature. The ZBA found that the Applicant failed to present sufficient factual evidence to meet this standard.

2. **Unique Circumstances which cause the owner's plight.**

The Applicant's information states that his plight is caused by the topography of the Property which exposes much of the basement walls above the finished lot grade level resulting in the floor area of the basement being included in the Floor Area Ratio. The Applicant's testimony concerning the facts required for the variance establish that the Applicant created the circumstances causing his plight when he recently constructed a barn on the Property, and did not take into account the effect on existing floor area ratio during design or construction of the barn, nor did he consider the effect it would have on his existing property and the allowable floor area ratio calculations. Accordingly, the ZBA found that the Applicant failed to meet this standard.

3. **Variation will not alter the essential character of the locality.**

The Applicant, through his representatives, testified that the variance would not alter the essential character of the locality because of the general size of the lots in the area and because the overall size of the main floors of the house remain in character with the area. The ZBA found that the Applicant failed to set forth sufficient evidence that the variation, if granted, could not alter the essential character of the locality.

**DECISION**

Pursuant to Title 5, Chapter 10, Section 5-10-4 (D) , the ZBA, after public hearing, may determine to vary the regulations of the Zoning Title in harmony with their general purpose and intent, only in specific circumstances where the ZBA makes findings of fact in accordance with the standards set forth.

In this matter, after careful consideration of the aforementioned findings, the ZBA adopted the findings of fact set forth hereinabove, and as a result of these Findings of Fact, voted 0-5 to approve the request for variance, resulting in unanimous denial of the application.

This is a final decision of the Village of Barrington Hills relative to this Application for Variance. Pursuant to the Illinois Municipal Code, 65 ILCS 5/11-13-13, all final administrative decisions of the ZBA shall be subject to judicial review pursuant to the provisions of the Administrative Review Law.

Respectfully submitted,



Chairman  
Zoning Board of Appeals  
Village of Barrington Hills



# MESSER, STILP & STRICKLER, LTD.

A PROFESSIONAL CORPORATION  
ATTORNEYS AT LAW

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166 WEST WASHINGTON, SUITE 300  
CHICAGO, ILLINOIS 60602-2390  
312-334-FIRM FAX 312-334-3434  
www.messerstilp.com

JOSEPH S. MESSER  
312-334-3440  
Messer@MesserStilp.com

THOMAS R. STILP  
312-334-3441  
Stilp@MesserStilp.com

NICOLE M. STRICKLER  
312-334-3442  
Strickler@MesserStilp.com

DANA PERMINAS  
KATHERINE OLSON  
STEPHANIE STRICKLER

ADMINISTRATION  
CHRISTINE JOSEPH  
JENNIFER MCMAHON  
ALLA MIROSHNYCHENKO

July 23, 2014

**Via Email & U.S. Mail**

Village of Barrington Hills  
Attn: Dolores Trandel, Village Clerk  
112 Algonquin Road  
Barrington Hills, Illinois 60010  
clerk@barringtonhills-il.gov

Re: Withdrawal of Petition for Amendment to Special Use Permit issued to 170 Old  
Sutton Road, Barrington Hills IL 60010

Dear Ms. Trandel:

This correspondence will serve as formal notice that petitioner, Passion for Polo, LLC ("Petitioner"), hereby withdraws its current Petition for Amendment from consideration by the Board of Trustees for The Village of Barrington Hills. Petitioner intends to seek reconsideration of the Zoning Board of Appeals decision regarding the Petition.

Please contact me at (312) 334-3465 should you have any questions regarding this correspondence.

Sincerely,

Stephanie A. Strickler, Esq.