**AN ORDINANCE APPROVING A MAP AMENDMENT REZONING THE PROPERTY LOCATED AT 32w939 ALGONQUIN ROAD FROM R1 SINGLE FAMILY RESIDENCE DISTRICT TO B3 GENERAL BUSINESS DISTRICT**

**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 conditional uses in each zoning district; 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, map amendments which would result in the rezoning of properties within the Village; and

**WHEREAS,** MKES Investments, LLC, applied for a map amendment to rezone the property bearing the common address 32W939 Algonquin Road (PIN 03-01-100-022) from R1 Single Family Residence District to B3 General Business District; and

**WHEREAS**, Notice of Public Hearing with respect to the map 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 the map amendment on September 22, 2020 as required by the statutes of the State of Illinois and the ordinances of the Village, and after hearing the application, voted 5-0, with 2 members absent, to recommend that the Village Board approve the map amendment, finding that the requested rezoning met the factors required in section 5-10-6 of the zoning code; and

**WHEREAS**, the Zoning Board of Appeals has forwarded its findings and recommendation in regard to the map amendment to the Village Board, in the Findings and Recommendation, attached hereto and incorporated herein by reference as Exhibit "A;" and

**WHEREAS,** the President and Village Board of Trustees has considered the matter and determined that the recommended map amendment to rezone the property located at 32W939 Algonquin Road from R1 Single Family Residence District to B3 General Business District be approved, based on the findings as set forth by the Zoning Board of Appeals, and on recognition of the following facts which make the subject property unique:

1. The subject property is a legal, nonconforming lot in the R1 Single Family Residence District;

2. The subject property is on the border of the Village, and located on Algonquin Road;

3. A commercial structure existed on the subject property as of the date of annexation of the subject property to the Village;

4. There is no residential use in the immediate vicinity of the subject property; and

5. The subject property has two curb cuts onto Algonquin Road.

**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 the map amendment applied for by MKES Investments, LLC to rezone the property located at 32W939 Algonquin Road, PIN 03-01-100-022, from R1 Single Family Residence District to B3 General Business District is hereby approved.

**SECTION THREE**: That the staff shall take all steps appropriate to revise the zoning map adopted by the Village to show the property as zoned B3 General Business District.

**SECTION FOUR**: 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 FIVE**: 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.

Ayes: 5 Nays: 1 Absent: 1

**PASSED AND APPROVED** by the President and Board of Trustees of the Village of Barrington Hills, this 26th day of October, 2020.

APPROVED:

Village President

ATTEST:

Village Clerk

**EXHIBIT A**

September 24, 2020

To: President and Board of Trustees
Village of Barrington Hills

RE: MKES Investments, LLC
Application for Map Amendment
Rezoning Property at 32W939 Algonquin Road

This is to advise you that the Zoning Board of Appeals (ZBA) held a public hearing on September 22, 2020 regarding a proposed map amendment to rezone the property located at 32W939 Algonquin Road (PIN 03-01-100-022) from R1 Single Family Residence District to B3 General Business District.

The proposed amendment was submitted for consideration by MKES Investments, LLC, the owner of the property, pursuant to the provisions of Title 5 – Zoning Regulations, Chapter 5 Administration.1 The hearing was held at Village Hall, where a quorum was present. Notice of the hearing was published in compliance with the Open Meetings Act and the zoning code and published in a timely manner in the Daily Herald.

The Village Zoning Code, Title 5 – Zoning Regulations, Chapter 5 Administration, Section 5-10-6 allows for amendments to the Zoning Code. 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. Where the purpose and effect of the proposed amendment is to change the zoning classification of particular property, the Zoning Board of Appeals shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:
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> 1. Existing uses of property within the general area of the property in question.
> 2. The zoning classification of property within the general area of the property in question.
> 3. The suitability of the property in question for the uses permitted under the existing zoning classification.
> 4. The trend of development, if any, in the general area of the property in question, including changes, if any, which may have taken place since the day the property in question was placed in its present zoning classification.
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> 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.

1 The Applicant has previously sought a text amendment which would have provided that professional offices could be located in the R1 Single Family Residence District pursuant to a special use. The ZBA and, subsequently, the Village Board denied the request.

**FACTS**

At the hearing, the ZBA heard testimony from the Village Administrator relative to notice of the hearing being properly provided. Ms. Paul also provided a zoning map of the Village showing the zoning and location of the property subject to the Application. The Applicant's representative, Arnold Isakhanian also testified. No member of the public was present, and in response to questioning, Ms. Paul testified that the Village had received no comment in opposition to the Application.

Mr. Isakhanian testified that the Applicant is the owner of property located at 32W939 Algonquin. The property is currently zoned R1 Single Family Residence, and, by a special use permit is permitted to be used as a day care center. This use has not materialized. The property has been vacant for a period of 11 years, the last 4 under current ownership.

The property is 2 acres in size, with the building located on the property being 4,700 square feet. It has two means of access to Algonquin Road. Mr. Isakhanian testified that the amount of traffic on Algonquin Road is not conducive to use of the property as a private residence, and there has been little interest in using the property pursuant to its special use permit approval. However, there has been some interest in the use of the property for a professional office, *ie.*, attorney, accountant, etc. In hopes of securing a tenant, the Applicant now seeks a map amendment to rezone the property from R1 Single Family Residence District to B3 General Business District.

Concerning the finding of facts required for rezoning of a property, Mr. Isakhanian testified that the zoning classification in the general area of the property is residential, however, in the immediate area of the property is an auto repair shop and vacant land. The property is located on Algonquin Road which is a highly trafficked roadway. Fronting on Algonquin Road and located in the area as it is, is not conducive to use of the property as a private residence. There has been no development in the area which would show a trend. However, the property as zoned has been vacant for 11 years

The members of the Zoning Board questioned:

1. How the property would be used if rezoned.
2. Whether BP District zoning would be more appropriate.
3. The future plans for Algonquin Road.
4. Whether rezoning would allow for liquor sales or gambling at the property.

In response, Mr. Isakhanian testified that the structure itself features a foyer and three rooms, and he does not envision anyone moving walls within the building. Ms. Paul testified that BP zoning is applicable to properties of 10 acres or more, therefore this property could not be zoned BP District. Mr. Isakhanian and Ms. Paul testified that future plans for Algonquin Road are not yet known, and Mr. Isakhanian stated that while unknown, he did not believe it would be amenable to have a residence on the property. Ingress and egress to the property has not been an issue in the past. Counsel and Ms. Paul commented that B3 General Business District zoning would allow for package liquor sales at the property, however issuance of any liquor license is subject to Village approval. Video gaming at the property is also subject to Village approval.

**FINDINGS/DECISION**

Following the close of the public hearing, Member Goss moved, seconded by Member Ahern, to approve the application for map amendment, because the Applicant has met all 4 of the factual requirements set forth in section 5-10-6, and to recommend approval of the application to the Village Board.

In discussion, the ZBA, discussed the findings required, and agreed that the facts needed to support the rezoning were met, in that the property is unique in its location and is not conducive to a private residence as currently permitted under R1 Single Family Residence District zoning.

On a roll call vote, all members present voted "aye," (5-0, 2 members absent), resulting in a recommendation to the Village Board that the Application for Map Amendment be approved.

Respectfully submitted,

*/s/ Dan Wolfgram*

Dan Wolfgram, Chairman
Zoning Board of Appeals
Village of Barrington Hills