

**AN ORDINANCE APPROVING A TEXT AMENDMENT
TO ADD CANINE DAY CARE AS A PERMITTED USE IN THE
B3 GENERAL BUSINESS DISTRICT
AND TO REVISE REGULATIONS CONCERNING OUTDOOR ACTIVITIES
RELATED THERETO**

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, Section 5-10-6(B) of the Village’s Municipal Code provides that a property owner may initiate an amendment to the text of the zoning code; and

WHEREAS, MKES Investments, LLC applied to amend the text of the zoning code relative to permitted uses enumerated in the B3 General Business District, to add to Section 5-6-3(c)2 Canine Daycare and/or Doggy Daycare with Grooming, Training and Boarding, and to amend Section 5-6-3(C)1.c to read: All business, servicing or processing, except for off street parking or loading, shall be conducted within completely enclosed buildings, except for Canine Daycare where some outdoor activities shall be permitted within enclosed fenced in yard with supervision as part of the services provided; and

WHEREAS, Notice of Public Hearing with respect to the proposed text amendment was published in the Daily Herald Newspaper in the Village of Barrington Hills, as required by the village code and statutes of the State of Illinois; and

WHEREAS, pursuant to said Notice, the Zoning Board of Appeals of the Village of Barrington Hills conducted a Public Hearing on the Amendment at a special call meeting on May 10, 2021 and after hearing the amendment, the Zoning Board of Appeals voted 3-4 in favor of the application for amendment, resulting in a recommendation to the Village Board to deny the amendment; and

WHEREAS, the Zoning Board of Appeals has forwarded its findings and recommendation in regard to the 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 proposed text amendment to Section 5-6-3(C)1.c to read: All business, servicing or processing, except for off street parking or loading, shall be conducted within

completely enclosed buildings, except for Canine Daycare where some outdoor activities shall be permitted within enclosed fenced in yard with supervision as part of the services provided be approved, 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 6, Section to add to Section 5-6-3(c)2 Canine Daycare and/or Doggy Daycare with Grooming, Training and Boarding, and to amend 5-6-3(C)1.c to read: All business, servicing or processing, except for off street parking or loading, shall be conducted within completely enclosed buildings, except for Canine Daycare where some outdoor activities shall be permitted within enclosed fenced in yard with supervision as part of the services.

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.

Ayes: 0
Nays: 6 (Strauss, Ekstrom, Buettner, Konicek, Croll, Cecola)
Absent: 0
Abstain: 1 (Riff)

PASSED AND APPROVED by the President and Board of Trustees of the Village of Barrington Hills, this 24th day of May, 2021.

APPROVED:

ATTEST:

Village President

Village Clerk

EXHIBIT A

May 11, 2021

To: President and Board of Trustees
Village of Barrington Hills

RE: MKES Investments, LLC
Application for Text Amendment -
Permitted Uses – B3 Zoning District

This is to advise you that the Zoning Board of Appeals (ZBA) held a public hearing on May 10, 2021 at a special meeting regarding a proposed amendment to the zoning code relative to the list of uses permitted in the B3 Business District within the Village.

The proposed amendment was submitted for consideration by MKES Investments, LLC, pursuant to the provisions of Title 5 – Zoning Regulations, Chapter 5 Administration. The hearing was held remotely via zoom, with 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. . . .

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.

FACTS

At the hearing, the ZBA heard testimony from the Village Administrator relative to notice of the hearing being properly provided and from the Applicant’s representative, Arnold Isakhanian. Mr. Isakhanian testified that the Applicant is the owner of property zoned B3 in the Village, and that it seeks to add to the list of permitted uses the following to section 5-6-3(c)2, to add Canine Daycare and/or Doggy Daycare with Grooming, Training and Boarding, and to amend Section 5-6-3(C)1.c to read: All business, servicing or processing, except for off street parking or loading, shall be conducted within completely enclosed buildings, except for Canine Daycare where some outdoor activities shall be permitted within enclosed fenced in yard with supervision as part of the services provided.

Mr. Isakhanian testified that the canine daycare industry is regulated by the State, which requires properly trained staff, sanitation and safety. It is a licensed industry. The use of

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canine daycare is far less intrusive than other uses permitted in the B3 District. Allowing the amendment will allow the Applicant to bring a desirable business into the Village, which will be used by residents, and will allow the property the Applicant owns to be used in a way it should be.

ZBA members expressed their concern that allowance of a canine daycare would result in noise issues to nearby properties, and could increase traffic, as drop-off and pick-up of dogs would be a daily event. Questions also centered on the number of dogs such a facility could board overnight, and the impact of a large number of dogs being outside could have on the neighbors due to barking. Relative to traffic, the Applicant stated that when the property was used for child care, the police confirmed that there were no traffic issues related to the operation, as the property has two points of ingress/egress. Relative to noise, the Applicant said the owner/operator would keep noise from the dogs to a minimum, and would have to be responsive to any complaints which the barking of dogs could generate.

The Applicant testified that overnight kenneling is only one part of the permitted use; that the use would also allow for day care and grooming of dogs. Pursuant to state law, the Applicant stated that the owner/operator of the canine day care would not be required to be at the facility during night-time hours, but would have to install a fire alarm system.

Discussion also ensued relative to the village code allowance for Animal Rescue Shelters found in section 5-3-4(E). The Applicant responded that the canine day care facility is not an animal rescue shelter, and the provision would not allow the use. This section is also applicable only to allow animal rescue shelters in the R1 District, as a special use.

Written comment in opposition to the text amendment was made by resident Pamela Cools, and tendered to all members of the ZBA.

Dawn Rosch, 308 N. River Road, Fox River Grove, testified that she intends to purchase the property and operate the canine day care from the facility. The current facility has three large rooms allowing the dogs to be separated. Most dogs will not be in overnight care. All dogs will go outside in shifts 2-3 times each day, with only 10-15 dogs outside at any one time.

FINDING

The ZBA, after having examined the Application for Text Amendment, and hearing the testimony at hearing, determined that permitting a canine day care in the B3 District could lead to noise emanating from barking dogs, and they were concerned about regulating the use without knowing the extent of state regulation and licensing of such facilities.

Following the close of the public hearing, Member Goss moved, seconded by Member Hennelly, to approve the application for text amendment made by MKES Investments LLC to section 5-6-3(c)2, to add Canine Daycare and/or Doggy Daycare with Grooming, Training and Boarding, and to amend Section 5-6-3(C)1.c to read: All business, servicing or processing, except for off street parking or loading, shall be conducted within completely enclosed buildings, except for Canine Daycare where some outdoor activities shall be

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permitted within enclosed fenced in yard with supervision as part of the services provided, finding that the amendment was in the public interest and not solely for the Applicant.

On a roll call vote, the vote was 3 yes, 4 no, and the Motion failed, resulting in a recommendation to the Village Board that the Application for Text Amendment be denied.

Respectfully submitted,

/s/ Dan Wolfgram

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