



**Zoning Board of Appeals
AGENDA & NOTICE OF MEETING
MONDAY, NOVEMBER 9, 2020 6:30 PM
Village Hall with limited capacity.
112 Algonquin Road
Barrington Hills, IL 60010**

**To listen to the meeting, dial 508-924-1464.
Remote participation is unavailable.**

- 1. Call to Order & Roll Call**
- 2. Public Comments**
- 3. Minutes**
 - 3.1 [Vote] Minutes - October 19, 2020
[10-19-20 ZBA Minutes Draft.pdf](#)
- 4. Proposed ZBA Text Amendment - Special Use: Place of Assembly**
- 5. Adjournment**

NOTICE AS POSTED

Zoning Board of Appeals Agenda Item Report

Meeting Date: November 9, 2020

Submitted By: Nikki Panos

Submitting Department:

Item Type: Minutes

Agenda Section: Minutes

Subject:

[Vote] Minutes - October 19, 2020

Suggested Action:

Attachments:

[10-19-20 ZBA Minutes Draft.pdf](#)

**VILLAGE OF BARRINGTON HILLS
ZONING BOARD OF APPEALS**

**Village Hall, 112 Algonquin Road, Barrington Hills, IL
Monday, October 19, 2020**

- 1. Call to Order/Roll Call:** The Meeting was called to Order at 6:30 p.m. by Chairman Dan Wolfgram. On roll call, the following members were present:

Dan Wolfgram, Chairman
David Stieper
Patrick J. Hennelly
Susan Ahern
Arnold Cernik
Jan Goss*

Absent
Jim Root

*Arrived following roll call at 6:35 p.m.

Staff Present: Anna Paul, Village Administrator
Mary Dickson, Legal Counsel

- 2. Public Comment:**

On Chairman Wolfgram's call for public comment on matters not appearing on the agenda, there was no comment.

- 3. Approval of Minutes – September 22, 2020**

Member Stieper moved, seconded by Member Hennelly, to approve the minutes of the September 22, 2020 meeting.

On a voice vote: all members present voted "aye." The Motion Carried.

- 4. Public Hearing – 67 Hills and Dales Setback Variation**

Chairman Wolfgram called the public hearing to order.

Village Administrator Anna Paul and Andy Hueppe, representative of the Applicant, were placed under oath.

Ms. Paul testified to notice of the hearing being published in the Daily Herald. Mr. Hueppe testified to having given personal notice of the hearing to those owners of property adjoin his.

Discussion relative to notice ensued, as Ms. Paul testified that three owners of property, within 250 of the Applicant parcel were not provided personal notice of the hearing. These properties are separated from the Applicant parcel by a 100

foot railway right of way. Counsel Dickson informed the ZBA that the village code did not require notice to owners of property within 250 feet, nor did State law, which requires such notice only in municipalities of more than 500,000 in population. The notice provision at issue is in the ZBA's Rules of Notice and Petition, which were adopted in October 2012. Relative to such notice, the Rules provide that "the petitioner shall serve notice of the petition and hearing date upon the owner of all contiguous or adjoining properties within 250 feet of petitioner's property." Mr. Hueppe testified he provided notice to all properties adjoining his. He did not provide notice to those on the other side of the railroad tracks, as they did not adjoin his. Counsel stated that pursuant to law, where notice to properties within 250 feet is required, the 250 feet will exclude property which is a public way, street, alley or the like. Under her interpretation of the law, it would not exclude railway property, thus this property is considered in the 250 foot calculation.

The ZBA concluded it would hear the matter notwithstanding any technical defect in notice, as the Applicant has given notice to all properties adjoining his.

The Applicant testified that the purpose of the variation is to allow construction of a garage/pole barn in a portion of his property which would require a variation to the setback from the required 50 feet to 32 feet. Location of the garage/pole barn is necessitated to avoid an existing septic field, and to align with an existing driveway. There is currently a barn built in 1978 on the property, which intrudes into the setback as it is only 18 feet from the side yard.

In support of the facts requisite to the grant of a variation, the Applicant testified to the factors and the ZBA asked questions and commented as follows:

1. The property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in the district for which it is zoned.

Mr. Hueppe testified as to the owner's desire to locate the garage/pole barn at the end of an existing driveway, and erecting it in such a way as to avoid the existing septic field. To abide by the existing setback would reduce the size of the garage to a single car structure. He further testified that the barn on site is located with the setback, and was constructed in 1978.

2 . The plight of the owner is due to unique circumstances

Mr. Hueppe testified that the house and barn are built on the property, and there is a need for the garage/pole barn, and the location desired was selected to make the property aesthetically cohesive.

3. The variation, if granted, will not alter the essential character of the locality.

Mr. Hueppe testified that the construction of the garage/pole bar will enhance the character of the locality, not alter it.

In response to the Applicant, Member Stieper pointed out that the village, through the ZBA, takes very seriously any request for a grant of a variation from the village code, and noted that variations are not often granted. During the hearing, Commissioner Goss questioned whether the owner had investigated moving the existing septic so that a garage/pole barn could be built outside of the setback. Mr. Hueppe testified this had not been considered. The size of the proposed garage (6 cars) was also discussed. Commissioner Cernik questioned the Applicant as to the purchase of the property and the knowledge of the site before acquisition, such that the Applicant could have known of the need of a variance prior to purchasing the property.

Member Stieper moved, seconded by Member Ahern to close the public hearing.

On a voice vote: all members presented voted “aye.” The Motion Carried.

5. Public Meeting – 67 Hills and Dales Setback Variation

Member Stieper moved, seconded by Member Hennelly, to approve the request for variation.

In discussion, Member Stieper stated that the Applicant had not submitted facts in support of the elements required for a variation. First, even without the variation, the property is a conforming R1 Residential Use; thus, it would continue to yield a reasonable return even without the variance being granted. The plight of the owner is not unique. Commissioner Cernik stated it was a classic case of caveat emptor, and it was the responsibility of the owner prior to purchase to know what was allowable on site. The Commissioners concluded no hardship was shown by the applicant which required the grant of the variance. The Commissioners also concurred that a variance would change the essential character of the locality by allowing construction of a large garage/pole barn in the setback.

On a roll call vote:

	Aye	No	Absent	Abstain
Dan Wolfgram		X		
David Stieper		X		
Patrick J. Hennelly		X		
Jim Root			X	
Susan Ahern		X		
Jan Goss		X		
Arnold Cernik		X		

The Motion Failed.

6. Text Amendment Discussion

Administrator Paul presented to the ZBA for discussion a draft of the text amendment to allow for a “Place of Assembly.” The suggested text is an amalgam

of the text proposed by the Village's planner, Teska and Associates, and that proposed by the planner for the Sanfilippo Foundation, and reviewed and added to by Ms. Paul and Counsel. The ZBA discussed the proposed text, suggesting certain specific changes, including:

- Changing "Place of Assembly" to "Eleemosynary Institution";
- Changing the minimum front, side or rear setback from the suggested 100 feet to 300 feet;
- Changing the cost of plan review from \$20.00 to \$100.00 and requiring it annually;
- Changing the number of activities exceeding 50 attendees from more than twice to more than once;
- Inserting language to require that an Eleemosynary Institution be of a smaller FAR than the existing single-family dwelling;
- Inserting language to state that any special use permit will not run with the land; and
- Inserting language to require compliance with the lighting ordinance

The suggested revisions will be made in a red-line version of the text amendment for further discussion of the proposed text amendment at a future meeting.

7. Adjournment

Member Goss moved, seconded by Member Hennelly, to adjourn the meeting.

On a voice vote, all Members voted "aye." The Motion carried.

The meeting stands adjourned.