



RIVER FOREST ZONING BOARD OF APPEALS MEETING AGENDA

A meeting of the River Forest Zoning Board of Appeals will be held on Thursday, June 11, 2020 at 7:30 P.M. in the Community Room of the River Forest Village Hall, 400 Park Avenue, River Forest, Illinois.

- I. Call to Order
- II. Approval of the Minutes from the meeting of the Zoning Board of Appeals on March 12, 2020
- III. Text Amendment Request – Public Hearing Regarding the Following Proposed Amendment to the Village of River Forest Zoning Ordinance:
 - a. Additions and amendments to the definition of “home occupations” in Section 10-3-1 regarding “home kitchen operations,” as defined in Section 3.6 of the Illinois Food Handling Regulation Enforcement Act, 410 ILCS 625/3.6. Additions and amendments under consideration include whether to heighten, or lessen, the requirements for a home kitchen operation to operate as a home occupation, including whether a special use permit must first be obtained and whether performance standards for this use will be modified and / or added.
- IV. Approval of Findings of Fact for the Proposed Text Amendment related to Home Baking Operations from the meeting of the Zoning Board of Appeals on June 11, 2020
- V. Confirmation of Next Meeting
- VI. Public Comment
- VII. Adjournment

VILLAGE OF RIVER FOREST
ZONING BOARD OF APPEALS MEETING MINUTES
March 12, 2020

A meeting of the Village of River Forest Zoning Board of Appeals was held at 7:30 p.m. on Thursday, March 12, 2020 in the Community Room of the River Forest Village Hall, 400 Park Avenue, River Forest, Illinois.

I. CALL TO ORDER

The meeting was called to order at 7:30 p.m. Upon roll call, the following persons were:

Present: Members Dombrowski, Lucchesi, O'Brien, Schubkegel, Smetana, and Chairman Martin.

Absent: Member Berni

Also Present: Village Administrator Eric Palm, Secretary Clifford Radatz, and Village Attorney Carmen Forte, Jr.

II. APPROVAL OF FEBRUARY 12, 2020 ZONING BOARD OF APPEALS MEETING MINUTES

A MOTION was made by Member O'Brien and SECONDED by Member Lucchesi to approve the minutes of the February 12, 2020 Zoning Board of Appeals meeting as amended.

Ayes: Members Schubkegel, Dombrowski, Lucchesi, O'Brien, and Martin

Nays: None

Abstain: Member Smetana

Motion passed.

III. TEXT AMENDMENT REQUEST - PUBLIC HEARING REGARDING THE PROPOSED AMENDMENT TO THE VILLAGE OF RIVER FOREST ZONING ORDINANCE REGARDING MASSAGE THERAPY ESTABLISHMENTS

Chairman Martin called the public hearing to order regarding proposed text amendments to the River Forest Zoning Ordinance the reclassification of massage therapy establishments from a permitted use to a Special Use in the commercial zoning districts.

Secretary Radatz swore in all parties wishing to speak.

Village Administrator Eric Palm presented the petition for a text amendment on behalf of the Village Board of Trustees. He stated that, currently, massage therapy establishments are a permitted use in the C1, C2, C3 and ORIC zoning districts.

Permitted uses may be established without review or approval by the Zoning Board of Appeals, Plan Commission, Development Review Board or the Village President and Board of Trustees. Village staff recommended to the Village Board that the designation of massage therapy establishments be amended from Special Use to Permitted Use. Special Uses allow the establishments to be opened after a public hearing process, notice to the neighbors before a hearing before the Zoning Board of Appeals, and before approval by the Village Board of Trustees. Village Administrator Palm said the request was precipitated by the fact that, in recent months, a second business offering massage therapy services opened in the 7300 Block of North Avenue.

Village Administrator Palm said that, in certain commercial corridors, there can be a lower threshold for certain permitted businesses to open which can lead to the unintended consequence of certain business types being too clustered in one geographical area. He stated that the Special Use process provides an additional layer of review to consider conditions on the operation as well as the need for the proposed use. The Special Use process will help mitigate the land use clustering issue and allow the Village to have more compatible land uses in its key commercial corridors. In light of those reasons, the Village Board is asking the ZBA to consider this request. He invited questions.

Chairman Martin recalled similar business establishments in the same block or half block previously and noted that the Village took no action to change those uses from permitted to special use. He asked Village Administrator Palm what the rationale is about this particular use. Village Administrator Palm responded that some of these establishments do not operate in a business-like manner. The Village would like an opportunity to review their operations, the operator, conduct additional inspections in addition to the typical inspections, hear from the community, and impose various conditions on the operation of the business such as parking, hours of operation, etc. that would not necessarily be needed for another use such as a realtor's office.

Chairman Martin asked Village Administrator Palm to explain the difference between this and having two grocery stores or restaurants on the same block or half block. He asked if that doesn't have the same problems with parking and inspections because the Village may want to see if they're living up to the codes. Village Administrator Palm stated that those operations typically come in under a planned development permit which often imposes various conditions on those developments. Chairman Martin noted the presence of certain stores on the same block on Lake Street that were not big enough to trigger a planned development and was curious what it is about massage therapy businesses that is causing the Village to want the Zoning Board of Appeals to change this.

Chairman Martin asked if Village Administrator is concerned about the recent problems with massage therapy establishments in Oak Park that got busted. Village Administrator Palm replied that he's concerned about the Village of River Forest. He stated that his primary concern is regarding the land use and clustering effect. The land use chart gives the ability to control the types of businesses that operate in the Village. He stated that he believes there

is a distinction between operating a massage therapy establishment and a realtor's or dentist's office.

In response to a question from Member O'Brien regarding licensing requirements for massage therapists, Village Administrator Palm confirmed that therapists have to be licensed through the State but the establishments are licensed through the Village. He stated that the State of Illinois amended the law.

Member Smetana asked how the land use of a massage therapy establishment different than a hair salon or a tanning salon or nail salon. He said he sees them as being similar in terms of how they operate, parking, etc. He said he's having difficult seeing how the impact of a massage establishment is different from a land use perspective as opposed to operational concerns. Member Smetana further explained that the Village could have two hair salons in the same block and he is not sure if the land use impact of two hair salons on the same block is any different than the land use impacts of two massage therapy establishments in the same block. He requested an explanation of how he would distinguish hair salon use from massage therapy use in the context of land use.

Village Administrator Palm stated that they are different services entirely. He said that massage services can be an accessory use to a salon or spa, but they are a different land use. He said salons and barber shops are used more by the general public on a continual basis whereas massage therapy establishments only offer that service. He noted that the Zoning Board of Appeals could examine the clustering effect of hair salons.

Chairman Martin stated that he is looking for is some rationale that sets massage therapy places apart from a hair dresser or barber shop because it seems to him that they are similar. He asked if this is just an occupation that the Village wants more control over. Village Administrator Palm replied that it is two-fold.

Every special use request, in part, is reviewing the land use and imposing conditions and oversight. The Special Use process requires a public hearing process and input from the neighboring residents and business, which is reasonable.

In response to a question from Member O'Brien regarding inspections and conduct once an establishment is operating, Village Administrator Palm explained that most of the contact is on the front end. He described the process that is followed to issue a business license and that massage therapy establishments are required to prove their therapists are licensed.

In response to a follow-up question by Member O'Brien regarding whether massage therapy establishments are checked on more often than hair stylists, Village Administrator Palm stated that they are not.

Village Administrator Palm explained that the businesses are responsible for complying with the Village's requirements. The Village has the ability to ensure compliance. In response to

another follow-up question from Member O'Brien, Village Administrator Palm replied that this occurs regardless of whether it's a permitted or special use.

Chairman Martin solicited any further questions and comments as well as public comments. Hearing none he closed the public hearing and solicited questions and discussion from the Zoning Board of Appeals Members.

Member Schubkegel stated that she believes this is a matter of having more control over who is working in the Village and whether Special Use is a reasonable way of going about it. Chairman Martin said he does not see this is a land use issue. He said he thinks it has to do with an occupation that has a bad reputation and the Village wanting to exert more control.

Member Schubkegel asked if zoning is the way the Village historically had control over what organizations and businesses opened in the town. Village Administrator Palm replied that zoning is a tool the Village has at its discretion to determine where it wants certain businesses, and what types of businesses it wants.

Village Attorney Carmen Forte stated that regardless of the character of the business, the clustering effect is a large consideration in a special use process. The impact on and proximity to neighboring properties and businesses of the new business is something the Zoning Board of Appeals would consider at a special use hearing. In addition, the hearing is open to the public, which is a stakeholder.

A MOTION was made by Member Dombrowski and SECONDED by Member Schubkegel to recommend to the Village Board of Trustees that the proposed text amendment be approved.

AYES Chairman Martin and Members Schubkegel, Dombrowski, and Lucchesi

NAYS Members Smetana and O'Brien

Motion Passed.

IV. APPROVAL OF FINDINGS OF FACT FOR THE PROPOSED TEXT AMENDMENT RELATED TO MASSAGE THERAPY ESTABLISHMENTS FROM THE MEETING OF THE ZONING BOARD OF APPEALS ON MARCH 12, 2020 AS AMENDED

Chairman Martin asked if the Members who did not vote in favor of recommending approval of the Text Amendment to comment on the reasons for their vote so that it could be included in the Findings of Fact. Member O'Brien stated that she feels it was directed at one type of business and that it does not have to do with the clustering or the land use. Member Smetana stated that the effects of the use are not distinguishable from other uses that are permitted under the Zoning Ordinance.

A MOTION was made by Member Dombrowski and SECONDED by Member Schubkegel to approve the Findings of Fact and recommendation as amended regarding the Proposed Text Amendment.

Ayes: Members Dombrowski, Lucchesi, O'Brien, Schubkegel and Martin.

Nays: None
Motion passed.

V. CONFIRMATION OF APRIL 9, 2020 MEETING

Chairman Martin noted that the next regularly scheduled meeting of the Zoning Board of Appeals is scheduled on April 9, 2020. In response to a question from Chairman Martin, Secretary Radatz noted that there are no pending applications and that it might just be the meeting minutes on the Agenda.

VI. PUBLIC COMMENT

None.

VII. ADJOURNMENT

A MOTION was made by Member O'Brien and SECONDED by Member Dombrowski to adjourn the meeting at 7:58 p.m.

Ayes: Chairman Martin, Dombrowski, Lucchesi, O'Brien, Smetana and Schubkegel
Nays: None
Motion passed.

Respectfully Submitted:



Lisa Scheiner, Secretary

Date: _____
Frank Martin, Chairman
Zoning Board of Appeals



Village of River Forest
Village Administrator's Office

400 Park Avenue
River Forest, IL 60305
Tel: 708-366-8500

MEMORANDUM

Date: May 26, 2020

To: Frank Martin, Chairman, Zoning Board of Appeals

From: Lisa Scheiner, Assistant Village Administrator

Subj: Proposed Text Amendments – Home Baking Operations

Issue:

At its May 26, 2020 meeting, the Village Board of Trustees unanimously voted to recommend that a petition be sent to the Zoning Board of Appeals to consider text amendments to the Zoning Ordinance regarding home baking operations. The purpose of the June 11, 2020 public hearing is for the Zoning Board of Appeals to consider the proposed text amendments. This hearing has been advertised on the Village's website, a legal notice was published at the Village Hall, on the Village website, and in the *Wednesday Journal* in accordance with the requirements of the Zoning Ordinance.

Petition:

Pursuant to Section 10-5-5 of the River Forest Zoning Ordinance, the Village Board of Trustees has petitioned the Zoning Board of Appeals to consider text amendments to amend the Section 10-3-1 of the Zoning Ordinance to allow home bakers to bake certain products in their home and sell them directly to customers.

Attachment:

- Legal Notice
- Memo & Attachments from Lisa Scheiner, Assistant Village Administrator



**PUBLIC HEARING NOTICE
ZONING BOARD OF APPEALS
RIVER FOREST, ILLINOIS**

Public Notice is hereby given that a public hearing will be held by the Zoning Board of Appeals of the Village of River Forest, Cook County, Illinois, on Thursday, June 11, 2020 at 7:30 p.m. by telephone audio conference and / or in the First Floor Community Room of the River Forest Village Hall, 400 Park Avenue, River Forest, Illinois. Pursuant to the Illinois Governor's Executive Orders and disaster declarations related to the COVID-19 pandemic, physical attendance at the public hearing may not be available, or may be limited to no more than 10 individuals, with Zoning Board of Appeals members, staff and consultants having priority over members of the public. Public testimony and comments regarding the subjects of the public hearing may be made by telephone during the hearing, and written public testimony and comments submitted to the Zoning Board of Appeals before the hearing will be entered into the public hearing record. You may submit your public testimony and comments via email in advance of the public hearing by 12:00 pm on Thursday June 11, 2020 to Assistant Village Administrator Lisa Scheiner at lscheiner@vrf.us. You may listen to the hearing and participate by a telephone conference call as follows, dial-in number: 1-312-626-6799 with meeting id: 861 1999 2667. If you would like to participate over the phone, please contact Assistant Village Administrator Lisa Scheiner by telephone at (708) 714-3554 or by email at lscheiner@vrf.us by 12:00 pm on Thursday, June 11, 2020. The purpose of the public hearing is to consider the following text amendments to the Village's Zoning Ordinance:

Additions and amendments to the definition of "home occupations" in Section 10-3-1 regarding "home kitchen operations," as defined in Section 3.6 of the Illinois Food Handling Regulation Enforcement Act, 410 ILCS 625/3.6. Additions and amendments under consideration include whether to heighten, or lessen, the requirements for a home kitchen operation to operate as a home occupation, including whether a special use permit must first be obtained and whether performance standards for this use will be modified and / or added.

The additions and amendments to the Village of River Forest Zoning Ordinance include, but are not be limited to, those described above, and such other regulations as the Zoning Board of Appeals and/or Village President and Board of Trustees may determine are appropriate.

The petitioner for the Text Amendments is the Village President and Board of Trustees.

This public hearing is being held pursuant to direction given by the Village President and Board of Trustees for the Zoning Board of Appeals to consider these amendments, for additional information visit www.vrf.us.

All interested persons will be given the opportunity to be heard at the public hearing. **For public comments to be considered by the Zoning Board of Appeals and Village Board of Trustees in their decision, they must be included as part of the public hearing record at the hearing before the Zoning Board of Appeals.**

For further information or for a copy of the proposed text amendments, please contact Assistant Village Administrator Lisa Scheiner at (708) 714-3554 or at lscheiner@vrf.us or visit www.vrf.us.

Sincerely,
Clifford Radatz
Secretary, Zoning Board of Appeals



Village of River Forest

Village Administrator's Office

400 Park Avenue
River Forest, IL 60305
Tel: 708-366-8500

MEMORANDUM

Date: May 20, 2020

To: Catherine Adduci, Village President
Village Board of Trustees

From: Lisa Scheiner, Assistant Village Administrator

Subj: Proposed Text Amendments to the River Forest Zoning Ordinance

Issue: Recently, the Village was approached by River Forest resident Laura Riff, who requested that the Village consider modifications to its regulations in order to allow home bakers to sell directly to customers. In order to do so, the Village must consider amendments to the Zoning Ordinance and Health and Sanitation regulations in the Village Code.

Analysis: Until recently, the State of Illinois did not allow people to sell baked foods made in "home kitchen operations" directly to consumers. The State relaxed the requirements in 410 ILCS 625/3.6, which is attached, allowing people to sell certain baked goods made in a "home kitchen operation" directly to consumers if:

- The municipality allows it by adopting an ordinance.
- The food is "non-potentially hazardous baked goods," meaning "baked goods, such as, but not limited to, breads, cookies, cakes, pies, and pastries are allowed. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants, or a combination of these fruits."
- Monthly gross sales are under \$1,000 and the food is labeled as being produced in a home kitchen and with the food name and allergen information.

Under this State law, the Village may adopt an ordinance allowing home kitchen operations to make and sell the baked goods allowed under State law. However, there are two areas of the Village's Code that must be amended to allow this: zoning regulations (Title 10) and health and sanitation regulations (Title 6).

Zoning Regulations: A home kitchen operation is a "home occupation" under Section 10-3-1 of the Zoning Ordinance. Home occupations are currently permitted commercial uses of residential dwellings, which the Village strictly regulates in the definition of "home occupation."

In other words, home occupations are already permitted uses in all residential zoning districts as well as the C2 and C3 commercial zoning districts. Within the “home occupation” definition, there are two conditions limit a property owner’s ability to establish a home kitchen operation:

- Condition “O” states that a “special use permit shall be required for any home occupation involving the handling or preparation of food”
 - This condition requires a home kitchen operation to first receive a special use permit before opening up, because it is a home occupation “involving the handling or preparation of food.” A special use permit can only be granted after submitting an application to the Zoning Board of Appeals (ZBA), mailed and published notice, a public hearing before the ZBA, a recommendation by the ZBA and action by the Village Board.
- Condition “F” states that “[n]o stock-in-trade or other commodity shall be kept, displayed, sold or offered for sale upon the premises, except that sales by electronic means, which otherwise comply with this definition, are permitted.”
 - This condition prohibits the storage of “stock-in-trade or other commodities” at a home. Baking in a home kitchen operation requires storage of commodities, like flour, sugar and eggs at the home, which would be a violation of this condition.

The Village can consider modifying its zoning regulations through the text amendment procedure and petitioning the Zoning Board of Appeals to consider the text amendments that would:

- Amend condition O to read: “A special use permit shall be required for any home occupation involving the handling or preparation of food, except that no special use permit shall be required for a “home kitchen operation” as defined in 410 ILCS 625/3.6, as amended.”
- Amend condition F to read: “No stock-in-trade or other commodity shall be kept, displayed, sold or offered for sale upon the premises, except (1) that sales by electronic means, which otherwise comply with this definition, are permitted, and (2) that stock-in-trade and commodities may be kept upon the premises of a “home kitchen operation” as defined in 410 ILCS 625/3.6, as amended.”

Health and Sanitation Regulations: The Village’s health and sanitation regulations must also be amended to allow home kitchen operations. If the Board wishes to proceed with this matter, the Village will obtain input from its consulting health inspector to determine the necessary amendments to these requirements. These amendments do not require referral to another advisory body (like the ZBA) and can be presented to the Village Board of Trustees at the same time the ZBA’s recommendation is considered.

Request for Board Action: If the Village Board of Trustees concurs with Staff’s recommendation, the following action would be appropriate:

- Direct the Village Administrator to proposed the aforementioned text amendment to the Zoning Board of Appeals for a public hearing and recommendation.

- Direct Village Staff and the Village's consulting health inspector to prepare amendments to the Village's health and sanitation regulations to allow home baking operations.

Documents Attached:

- 410 ILCS 625/3.6
- Zoning Ordinance Section 10-3-1 Definition of "Home Occupation"

(410 ILCS 625/3.6)

Sec. 3.6. Home kitchen operation.

(a) For the purpose of this Section, "home kitchen operation" means a person who produces or packages non-potentially hazardous baked goods, as allowed by subsection (a-5), in a kitchen of that person's primary domestic residence for direct sale by the owner or a family member. A home kitchen operation does not include a person who produces or packages non-potentially hazardous baked goods for sale by a religious, charitable, or nonprofit organization for fundraising purposes; the production or packaging of non-potentially hazardous baked goods for these purposes is exempt from the requirements of this Act. The following conditions must be met in order to qualify as a home kitchen operation:

(1) Monthly gross sales do not exceed \$1,000.

(2) The food is a non-potentially hazardous baked good, as described in Section 4 of this Act.

(3) A notice is provided to the purchaser that the product was produced in a home kitchen.

(4) The food package is affixed with a label or other written notice is provided to the purchaser that includes:

(i) the common or usual name of the food product; and

(ii) allergen labeling as specified in federal labeling requirements by the United States Food and Drug Administration.

(5) The food is sold directly to the consumer.

(6) The food is stored in the residence where it is produced or packaged.

(a-5) Baked goods, such as, but not limited to, breads, cookies, cakes, pies, and pastries are allowed. Only high-acid fruit pies that use the following fruits are allowed: apple, apricot, grape, peach, plum, quince, orange, nectarine, tangerine, blackberry, raspberry, blueberry, boysenberry, cherry, cranberry, strawberry, red currants, or a combination of these fruits.

(b) The Department of Public Health or the health department of a unit of local government may inspect a home kitchen operation in the event of a complaint or disease outbreak.

(c) The requirements of this Section apply only to a home kitchen operation located in a municipality, township, or county where the local governing body having the jurisdiction to enforce this Act or the rules adopted under this Act has adopted an ordinance authorizing home kitchen operations.

HOME OCCUPATIONS: An occupation carried on, in or from a dwelling unit (but not an accessory building) by a member of the family residing therein, which is clearly incidental and secondary to the use of the dwelling for residential occupancy and does not change the character thereof; provided the following requirements are met by such home occupation:

A. Except where a special use permit has been obtained, every home occupation shall be conducted wholly within a dwelling unit;

B. Home occupations involving any outdoor activity shall require additional review in the form of a special use permit and shall be subject to all the standards and provisions provided in chapter 18 of this title;

C. No more than one person shall be employed other than a member of the family residing in the dwelling unit;

D. No more than two clients or customers shall visit the premises at the same time. In no case shall any client or customer visit the premises between the hours of nine o'clock P.M. and seven o'clock A.M.;

E. There shall be no signs, activities, lighting or display that will indicate from the exterior that the building is being used, in part, for any purpose other than that of a residential dwelling;

F. No stock-in-trade or other commodity shall be kept, displayed, sold or offered for sale upon the premises, except that sales by electronic means, which otherwise comply with this definition, are permitted;

G. There shall be no commodities sold or services rendered that require receipt or delivery of merchandise, goods or equipment by other than a passenger motor vehicle or by parcel or letter carrier mail service using vehicles typically employed in residential deliveries. No deliveries by semi-tractor/trailer- trucks and related to the home occupation are permitted;

H. There shall be no noise, odor, dust, vibration, smoke, glare, television or radio interference, fire hazard or any other hazard emanating from the dwelling so as to create a nuisance;

I. No home occupation shall involve the use of noxious, toxic or harmful materials, or on-site staging, displaying or assembling of any commercial vehicles;

J. All home occupations shall require a business license which shall be subject to annual renewal;

K. The use of any equipment or process which adversely effects the fire rating of the dwelling or fire district is prohibited;

L. There shall be no separate entrance or any structural alteration that specifically accommodates the occupation or changes the residential character of the dwelling, provided, however, that reasonable means to accommodate physically disabled clients or customers may be employed;

M. Any type of manufacturing process that is allowed in a commercial district is prohibited;

N. Only one home occupation shall be conducted in any dwelling unit;

O. A special use permit shall be required for any home occupation involving the handling or preparation of food;

P. The care or treatment of animals, other than those owned by the occupant, is prohibited;

Q. The home occupation shall be subject to unannounced inspections by Village personnel provided, however, that probable cause exists to believe that a violation of law has occurred;

R. The home occupation must be for the gain or support of a full- time occupant of the dwelling unit;

S. The generation of refuse in excess of limits currently established for residential dwellings is prohibited; and

T. Outdoor storage of any materials is prohibited.