



**VILLAGE OF BARTLETT  
COMMITTEE MINUTES  
November 2, 2021**

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CALL TO ORDER

President Wallace called the Committee of the Whole meeting of November 03, 2021 of the President and Board of Trustees of the Village of Bartlett to order on the above date at 7:37 p.m.

ROLL CALL

PRESENT: Chairmen Deyne, Gandsey, Gunsteen, Hopkins, Reinke, Suwanski  
President Wallace

ABSENT: None

ALSO PRESENT: Village Administrator Paula Schumacher, Assistant Village Administrator Scott Skrycki, Economic Development Coordinator Tony Fradin, Sr. Management Analyst Sam Hughes, Management Analyst Joey Dienberg, Planning & Development Director Roberta Grill, Finance Director Todd Dowden, Public Works Director Dan Dinges, Public Works Engineer Bob Allen, Food & Beverage Manager Paul Petersen, Chief Patrick Ullrich, Deputy Chief Geoff Pretkelis, Village Attorney Bryan Mraz and Village Clerk Lorna Giles.

**BUILDING & ZONING, CHAIRMAN HOPKINS**  
**Liquor Store Special Use for Package Liquor Sales**

The petitioner is requesting a Special Use Permit to sell packaged liquor in a proposed liquor store to be located at 955 Rt. 59 in the B-3 (Neighborhood Shopping District). The Plan Commission reviewed the petitioners request and conducted the required public hearing at their meeting on October 14, 2021. They recommended approval of this request. Due to the concerns of adjacent residents at the Plan Commission meeting, staff reached out to the petitioner to discuss reducing the stores hours to 8:00am to 10:00pm Sunday-Thursday, and 8:00am to 12:00am midnight on Friday and Saturday, rather than the hours associated with the original request for a Class C EXT. liquor license.

Chairman Suwanski asked what the hours for Suburbia Liquors was.

Planning and Development Services Director, Roberta Grill stated at 10:00pm Monday – Thursday and 11:00pm Friday and Saturday.

Chairman Suwanski asked what time they opened.

Staff did not have that information at hand, but stated they are applying for the Class C rather than the Class C EXT. Those hours are limited in the mornings, and are 10:00pm during the week and 12:00am midnight on Friday and Saturday.



**VILLAGE OF BARTLETT  
COMMITTEE MINUTES  
November 2, 2021**

---

Chairman Hopkins asked if the board was going to receive a rendering of the store before they voted on it at the next meeting.

Ms. Grill stated they have not applied for a sign permit at this time.

Chairman Gandsey asked about the lighting.

Ms. Grill stated that they have not received any type of buildout permit at this time and the owner of the center controls the lighting, but staff can keep an eye out for that.

President Wallace stated the issues the residents have is store usage, has there been any other uses in this spot.

Ms. Grill stated it was formally the travel agency.

President Wallace asked if there were any other good uses for this site.

Ms. Grill stated it is not very large, 2,000 sq.ft. or under, there are other uses that could go in there, but this is what we have before us.

Chairman Reinke stated the neighbors are concerned that this establishment will be low quality and asked the petitioner to explain what he is going to do with this business.

Owner, Mr. Vadnerkar stated they have one store in Oak Brook and he did not think it was low quality. The product they have will attract people from the surrounding nice neighborhoods. They will not have onsite servicing or anything like that. Besides the liquor, they will have convenience items like eggs, milk, bread, those types of items.

Chairman Reinke asked if they were going to specialize in some type of liquor or will it be general purpose.

Mr. Vadnerkar stated they like to be heavier on wine and whiskey.

Chairman Reinke confirmed that they are not going to have any flashing lights in the store.

Mr. Vadnerkar stated they are not interested in those types of attractions.

Chairman Reinke asked how big the Oak Brook store was.

Mr. Vaderkar stated it is about 2,500 sq. ft.

President Wallace asked how long they have been operating that store.



**VILLAGE OF BARTLETT  
COMMITTEE MINUTES  
November 2, 2021**

---

Mr. Vaderkar stated since 2018.

Chairman Suwanski asked when they plan to open.

Mr. Vaderkar stated they don't need to open at 8:00am, they can open at 10:00am and they will go with whatever the village recommends for a closing time.

President Wallace stated he thought it would make the most sense to stick to the hours of the other liquor stores around there. He also asked when they get their deliveries.

Mr. Vaderkar stated they are usually in the morning and none after 4:00pm.

Chairman Reinke asked why they picked Bartlett.

Mr. Vaderkar stated its near a good neighborhood and there are so many opportunities to be successful here.

The item was forwarded on to the Village Board for a final vote.

**Proposed Text Amendment for Massage and Bodywork Establishments**

Ms. Grill stated staff is looking for direction concerning massage and bodywork establishments. Currently, these businesses are permitted by right in commercial districts as a personal service under the zoning ordinance. Staff is seeking direction for the following proposed text amendment. The first text amendment would prohibit massage and bodywork establishments in all commercial, industrial, public land and planned development zoning district. Two, it would allow massage and body work establishments as accessory uses to certain principal uses. They would be accessory to a medical facility or a chiropractic office or beauty salon. Three, it would permit massage and bodywork establishments by right in the office/research district and four, it would allow massage and bodywork establishments in certain PUD Districts where office uses are permitted by right or where office uses would be a special use like Blue Heron and Southwind business parks. As a result of these proposed text amendments, the existing establishments currently located in the commercial districts would become non-conforming uses and would have a 5-year amortization period in which said uses would be discontinued.

Chairman Deyne confirmed that under this ordinance, a chiropractor could still have a massage therapist.

Ms. Grill stated that is correct.



**VILLAGE OF BARTLETT  
COMMITTEE MINUTES  
November 2, 2021**

---

Chairman Gunsteen asked if a Massage Envy type of place would be a special use under this.

Ms. Grill stated they would not be permitted in a commercial district.

Chairman Suwanski asked if there were different licensing for asian bodywork vs. massage therapy.

Ms. Grill stated there is.

Chairman Gandsey stated it seems like the root cause is they don't have licenses.

Ms. Grill stated that is not a problem, everyone gets a license and we check that.

Ms. Suwanski stated that in the incident that brought this up, there were people who were not licensed.

Ms. Grill stated that is correct, when we check they are licensed.

Village Administrator Schumacher stated that when they come and apply for their license, there is a thorough check of the licenses that are issued by the state and a background check that is done. The people who work in those establishments do not always stay and the owner may have the appropriate license, but maybe not the employees. It has been something that is not unique to one establishment. They have found it in most of the establishments they monitor and respond to complaints from.

Chairman Reinke asked why they are permitted only in the Office/Research District.

Village Attorney Mraz stated you can't just exclude uses altogether, that would be exclusionary zoning. That being said, certain uses can be restricted. The thinking was we didn't want to combine this type of use with industrial uses where it is allowed by right. We have a current massage business in an OR District on West Bartlett and they have not had a problem. Staff thinks this would be defensible if challenged. There has been a history of issues with massage establishments. 1999, J Spa at 199 E. Lake St.- revocation, 2001, Salon 59 at 1007 W. Stearns rd.- revocation, a new owner at 199 E. Lake St. doing business as Q Spa- suspension of license. All of these suspensions involve charges of prostitution, depending on the level, suspensions entailed the establishment often going out of business and a new owner replacing them. 2015, Zen Spa at 949 S. Rt. 59- suspension 10 days, shortly after a new establishment in the same local was suspended as well. 2019, another suspension for a number of individuals living at the unit. There have been several complaints about 377 S. Prospect and you are aware of the most recent business at 140 Bartlett Plaza. That was an original licensed corporate location, they sold the business to a gentleman who did not get a new massage



**VILLAGE OF BARTLETT  
COMMITTEE MINUTES  
November 2, 2021**

---

establishment license and later they had an incident there that you are aware of. Based on that, the entity created an LLC, applied for a license and it was denied based on the incident that took place. That denial was September 23<sup>rd</sup>, 2021. As of October 1<sup>st</sup>, that business owner sold the business to another massage establishment, and as of yesterday, they got their ducks in a row in terms of what they need to do for their lease. The village has some very restrictive licensing requirements, but when we shut down a business, they sell the business and it happens again and again. We are not alone; many municipalities have this issue. We believe our position is defensible because if you look at the case law, there is case where the court looks at the percentage of permitted acreage of the village. If you look at the OR Districts and PUD's where OR is allowed, it is 1.85% and 2.35% if you back out the forest preserve property. In the other case, they only had a 6-month amortization that could be extended for a year. They did not permit it as an accessory use and further, the amortization is 5 years with our suggested changes. There was also a case in 2021 that involved downzoning and the court basically said that if you have a rational basis and you have these secondary affects and its an ongoing problem, one way beyond licensing to approach it is to zone it out of the way. Staff has not eliminated it completely, but we have limited to certain areas.

Chairman Suwanski asked if the village requires insurance.

Attorney Mraz stated we have strict licensing requirements. In the instance you are aware of, the business was sold and we were not informed so the new owners did not get a license.

President Wallace stated the most recent one was not very typical. The question here is how do you create an environment where you are not trying to license it out of business, we want to zone it into a situation we can handle.

Chairman Reinke stated that it makes sense to restrict them to the OR District and PUD District. He fully supports a shorter amortization schedule.

Attorney Mraz stated he thinks we could justify a 3 year amortization schedule.

Chairman Suwanski asked if we have talked to any licensed massage therapists.

Austin Hopkins, 976 S. Chippendale, stated he has been a licensed massage therapist for 8 years. He had a chance to talk to a couple of the trustees and the conversations have lasted over an hour because this is not a simple issue. This text amendment proposes that the big massage franchises are no longer welcome in the Village of Bartlett. Additionally, you are taking a licensed profession and saying that you can no longer have a storefront on a busy road in the village where you could try to grow your business. He wanted to start with curtains in the windows. This is an important issue because Bartlett's massage ordinance is one of the best in the state and Batavia modeled their ordinance



## **VILLAGE OF BARTLETT COMMITTEE MINUTES November 2, 2021**

---

off of ours. They took it a step further and established a massage commissioner which is tied to the liquor commissioner. Maybe that is something to look into. So, we have a good massage ordinance, but it is not being enforced. Currently, Bartlett has two massage establishments that are violating our ordinance. They have curtains in the windows which is against the massage ordinance, as it stands. If we are not enforcing that part of the ordinance, what else is not being enforced. He stated he would like to sit down with staff and Attorney Mraz and go through applications and inspection reports and identify other problems to make it more difficult for these places to operate. We can have more inspections, make sure the hot water is working, make sure the sheets are kept in a cabinet, etc. These are all things that are already in the ordinance. It also states that a village representative can come in and inspect at any reasonable time. Other towns even make sure that every employee has an ID on them, so if they are not on the massage therapist log, they would be in violation. The other problem is there are exemptions. You are exempting chiropractors, medical offices, physical therapists and beauty salons. In the beauty salon license they can practice massage. What's to say we shut them down then they change and become a salon with massage in the back. You can no longer regulate what signage they put in the window, curtains and certain types of advertisements. Staff should focus on what's in the ordinance, there should be a checklist.

President Wallace thanked Mr. Hopkins for his assistance with the original massage ordinance.

Chairman Reinke asked about Massage Envy for example. If they wanted to open up a facility, they are within their legal rights to file an application for zoning relief, correct?

Attorney Mraz stated it would have to be in the OR District and they might not want to go in that district. He stated Austin was instrumental in the regulations we have and helping to close the loophole for asian bodyworks and their practitioners. We would still have our current massage establishment regulations and license requirements. We can not regulate the massage therapists themselves because that comes from the state.

President Wallace stated that he thinks this should be pushed to another committee to digest this information. He suggested that we should look into opening it up a bit to see what it would take to get a Massage Envy type of place and what we would need to do to adjust our restrictions.

Chairman Deyne asked if Mr. Hopkins could be involved in drafting this new restriction.

Attorney Mraz stated that trying to attract the legitimate franchises will be difficult because you can not discriminate between the different businesses.

Chairman Reinke stated the ordinance can not be written so Massage Envy can get in but a competitor cannot.



**VILLAGE OF BARTLETT  
COMMITTEE MINUTES  
November 2, 2021**

---

President Wallace stated there might be a way to write the ordinance to allow for a more professional place.

Chairman Gandsey asked if we reached out to the current businesses that would be impacted by this ordinance. They might have good input.

Chairman Deyne asked about the new massage parlor.

Attorney Mraz stated there is a new owner who bought it, did not have their ducks in a row on the lease and it is now a new lease with the landlord and the new owner and they are set to get a license.

Chairman Deyne confirmed that they would have 3 or 5 years before leaving then depending on the amortization that is passed.

Attorney Mraz stated that was correct.

Chairman Gunsteen asked if it could be amended so that any business that wants a massage table would have to go through the process, rather than carving out certain businesses that would be exempt. He agreed that it would be easy to put a nail facility in the front and have an operation in the back. If we could regulate businesses with a massage table, that might be helpful.

Attorney Mraz stated we cannot. In terms of exclusionary zoning and it getting challenged, the courts do not give you credit for your special uses. They want to know where it is permitted as a right and they look at the total square miles of the municipality and the zones in which you allow it. They look at it on a case by case business.

President Wallace stated he wants Attorney Mraz and staff to go back to work and figure out some more ideas. He stated the board will be adjourning to Executive Session to Discuss the Sale of Village Owned Property Pursuant to Section 2(c)6 of the Open Meetings Act and we will be Discussing Pending or Probable Imminent Litigation Pursuant to Section 2(c)11 of the Open Meetings Act.

There being no further business to discuss, Chairman Reinke moved to adjourn the committee meeting and that motion was seconded by Chairman Deyne.

**ROLL CALL VOTE TO ADJOURN**

**AYES:** Chairman Deyne, Gandsey, Gunsteen, Hopkins, Reinke, Suwanski  
**NAYS:** None



**VILLAGE OF BARTLETT  
COMMITTEE MINUTES  
November 2, 2021**

---

ABSENT: None  
MOTION CARRIED

The meeting was adjourned at 8:13 p.m.

Samuel Hughes  
Deputy Village Clerk