



**VILLAGE OF BARTLETT  
ZONING BOARD OF APPEALS  
AGENDA  
228 MAIN STREET  
March 3, 2022  
7:00 P.M.**

- I. Roll Call
- II. Approval of the February 3, 2022 meeting minutes
- III. **(#21-16) Massage Establishments and Bodywork Approach Businesses**

Text Amendment

*AMENDING THE BARTLETT ZONING CODE, TITLE 10, TO MAKE MASSAGE ESTABLISHMENTS AND BODYWORK APPROACH BUSINESSES PROHIBITED USES IN THE B-1, B-2, B-3, B-4, I-1, I-2 EDA, P-1, AND PD (IN CERTAIN EVENTS) ZONING DISTRICTS; MAKING THEM ACCESSORY USES TO CERTAIN PRINCIPAL USES IN THE B-1, B-2, B-3, B-4 AND PD ZONING DISTRICTS; AND MAKING MASSAGE ESTABLISHMENTS AND BODYWORK APPROACH BUSINESSES PERMITTED USES IN THE OR DISTRICT AND IN A PD DISTRICT WHERE THE SOLE UNDERLYING ZONING IS OR AND/OR WHERE OR USES ARE EXPRESSLY LISTED AS PERMITTED IN A PUD*

**PUBLIC HEARING**

- IV. Old Business/New Business
- V. Adjournment



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M. Werden called the meeting to order at 7:00 pm.

**Roll Call**

Present: M. Werden, J. Banno, C. Deveaux, G. Koziol, and M. Sarwas

Absent: B. Bucaro

Also Present: Planning & Development Services Director, Roberta Grill, Village Planner, Kristy Stone, and Associate Planner, Devin Kamperschroer

**Approval of Minutes**

A motion was made to approve the January 6, 2022 meeting minutes.

Motioned by: J. Banno

Seconded by: C. Deveaux

**Roll Call**

Ayes: G. Koziol, J. Banno, C. Deveaux, and M. Werden

Nays: None

Abstain: M. Sarwas

The motion carried.



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**(#21-17) Zoning Ordinance – Chapter 13: Administration and Enforcement**

**Text Amendment**

**PUBLIC HEARING**

**The following exhibits were presented:**

**Exhibit A – Notification of Publication**

**Exhibit B – Letter from Bob Bucaro**

**R. Grill** the Village Board Committee of the Whole directed the staff to draft a text amendment to the Zoning Ordinance, specifically Chapter 13: Administration and Enforcement for your review. This proposed amendment repeals the existing Chapter 13 in its' entirety and adds the new Chapter 13 language, which would create the Planning & Zoning Commission. It also states the new P & Z Commission's jurisdiction and authority, and would abolish the existing Plan Commission and Zoning Board of Appeals while updating all of the public hearing notification requirements, specifies the special use permit findings for adult-use cannabis dispensing centers and/or adult-use cultivation centers, and identifies the Planning & Development Services Director title, power and duties. The proposed ordinance is attached. I would be happy to answer any questions. **M. Werden** I know this has been discussed for a long time. Apparently, several villages in the area have done this and it seems that it expedites things for the developers. We have had cases that have lingered before they could move onto the next commission. Whereas the Plan Commission could negotiate things with the developers, we could not on the Zoning Board. We were a yes or no vote. Since we were a 7-member board, we always had to have at least 4 votes going one way; otherwise, it was a roll call vote. I think this is probably going to broaden the horizons and probably be a good thing for the Village. The only thing we could do if we could not get a consensus on the Zoning Board was to have the petitioner come back the next month with a new proposal. I think this is going to get rid of that and we will be able to get things done in one meeting. **G. Koziol** it seems like this is going to do good things for the Village, its' residents, and businesses in smoothing out the process. I can think of a number of instances when something took place at the Zoning Board at one meeting and then the petitioner had to return a week later for a Plan Commission meeting. Combining the 2 functions into one meeting is really logical. **R. Grill** I would like to read into the record the letter from **Bob Bucaro** "Dear Mike, Regarding tonight's ZBA meeting, specifically Case #21-17 Zoning Ordinance Chapter 13 Text Amendment considering I am unable to attend the meeting in person, I would like to make the following comments for the public hearing. I am supportive of Village processes that are business and developer friendly. Processes need to be efficient and effective when placing demands and requirements on the petitioners. As we discussed previously, I felt a joint meeting of separate ZBA and Plan Commission when a petitioner has items pertaining to both commissions would solve some of the inefficiencies of the current separate meeting for each commission. The petitioner would only have to attend 1 meeting not 2 and the process timeline would be a little shorter. However, this joint meeting would likely be cumbersome and possibly confusing because of the involvement of 2 separate commissions. The solution I now believe is to have 1 commission that handles all issues related to zoning and planning. Therefore, I am supportive of the Zoning Ordinance Chapter 13 Text



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Amendment as presented for the public hearing related to case #21-17. Respectfully submitted, Bob Bucaro, Commissioner, Zoning Board of Appeals." **M. Werden** asked if there were any comments from the committee. **C. Deveaux** are we going to be discussing cannabis? **R. Grill** it is currently in the code. This chapter provides findings of fact for special use permits, which adult-use cannabis in most of the districts that it is allowed is by a special use permit and findings of fact are required. These are specifically listed in this chapter rather than in the definition chapter. **C. Deveaux** will there be 9 people on this committee? **R. Grill** yes, it will consist of 9 members. The 9 members would be appointed by the Mayor with the consent of the Board. Instead of this committee, which was 7 members having a quorum of 4, 9 members would need to have a quorum of 5 members. **M. Werden** if only 5 members attended a meeting all 5 members would have to be on the same side for the vote. **R. Grill** yes, for a majority positive recommendation for variations.

**M. Werden** opened the public hearing portion of the meeting.

**M. Hopkins** of 425 W. Railroad Avenue came forward and was sworn in by **M. Werden**. **M. Hopkins** as a member of the Plan Commission, my question for staff is; besides the mechanism of combing the 2 commissions, what substantial changes to current policy and procedure in terms of the decision-making roles of the commission versus the staff or the commissions in relationship to the Village Board are in this document? **R. Grill** those really did not change except that it is just 1 recommending body that sends their recommendation to the Village Board. **M. Hopkins** what about when we look at administrative approval of a site plan. **R. Grill** that is done by the staff, exactly like we have now. **M. Hopkins** the limitations on the Village Board's power to grant variations with percentages and that sort of thing, is that the same? **R. Grill** that is the same. We actually cleaned it up and added more of the items that the Zoning Board typically reviews as far as variations. That is clearly spelled out now. It was not as clear before. **M. Hopkins** there are no changes in role, scope, or purview, it is just a combination mechanism. **R. Grill** exactly. **M. Werden** have you had any calls from anyone in the public? **R. Grill** just 1 email. **C. Deveaux** I have a friend in Streamwood who was involved in their combination and he said it has worked out very well for them. **M. Sarwas** it does make sense.

**G. Koziol** made a motion to pass along **a positive recommendation** to the Village Board to approve case (#21-17) **a text amendment to the Zoning Ordinance – Chapter 13: Administration and Enforcement, creating a new Planning and Zoning Commission.**

Motioned by: **G. Koziol**

Seconded by: **M. Sarwas**

**M. Werden** closed the public hearing portion of the meeting.

**Roll Call**

**Ayes: J. Banno, M. Werden, G. Koziol, M. Sarwas, and C. Deveaux**

**Nays: None**

**The motion carried.**



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**Old Business/ New Business**

**R. Grill** we do have another text amendment next month and we will have a meeting next month. **C. Deveaux** will the committees stay the way they are until this is approved by the Village Board? **R. Grill** yes, the Zoning Board's recommendation will go back to the Village Board Committee and then it goes to the Village Commission for a vote. The Mayor would then appoint individuals to the new Planning and Zoning Board with the consent of the Village Board. **M. Werden** when would that likely happen? **R. Grill** I do not have dates. We do have Plan Commission and Zoning Board of Appeals meetings scheduled in March. **G. Koziol** those involved would probably say they are just doing their jobs, but a lot of time and effort has gone into getting this done. I would like to thank the staff for a job well done on getting this together to present to the Village Board for final approval. Thank you again.

**M. Werden** asked if there was a motion to adjourn.

**Motioned by: G. Koziol**

**Seconded by: J. Banno**

**Motion passed by unanimous voice vote.**

**The meeting was adjourned at 7:15 pm.**

**PLANNING & DEVELOPMENT SERVICES MEMORANDUM**

**22-14**

DATE: February 21, 2022

TO: The Chairman and Members of the Zoning Board of Appeals

FROM: Roberta Grill, Planning & Development Services Director 

RE: **(#21-16) Proposed Text Amendment to Title 10 Zoning: Massage Establishments and Bodywork Approach Businesses**

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**DISCUSSION**

Currently massage establishments and bodywork approach businesses are permitted by right in commercial districts as a personal service under the Zoning Ordinance. As directed, staff has drafted the attached text amendment to the Zoning Ordinance that would:

- (a) prohibit massage establishments and bodywork approach businesses in all Commercial, Industrial, Public Lands and in certain Planned Development Zoning Districts;
- (b) allow massage establishments and bodywork approach businesses as accessory uses to certain principal uses (i.e. medical facilities, beauty salons/parlors, physical therapy, chiropractic and physician's offices);
- (c) permit massage establishments and bodywork approach businesses by right in the Office/Research District; and
- (d) allow massage establishments and bodywork approach businesses in certain Planned Development Districts or in Planned Unit Developments where Office/Research uses are expressly listed as permitted by right (i.e. Blue Heron and Southwind).

Staff understands that hair and/or nail salons may also wish to offer massage therapy as an ancillary use. The attached text amendment addresses this issue by requiring a beauty parlor/salon to also apply for a massage establishment or bodywork approach license, if massage or body work is proposed as an accessory use.

Also included as part of this text amendment is the elimination of nonconforming land uses. If this text amendment is approved, the establishments currently located in a commercial zoning district would become nonconforming and would have a three (3) year amortization period within which said uses shall be discontinued.

**RECOMMENDATION**

Staff recommends approval of the attached draft text amendment to the Zoning Ordinance.

/rbg

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ORDINANCE 2022 - \_\_\_\_\_

**AN ORDINANCE AMENDING THE BARTLETT ZONING CODE, TITLE 10, TO MAKE MASSAGE ESTABLISHMENTS AND BODYWORK APPROACH BUSINESSES PROHIBITED USES IN THE B-1, B-2, B-3, B-4, I-1, I-2 EDA, P-1, AND PD (IN CERTAIN EVENTS) ZONING DISTRICTS; MAKING THEM ACCESSORY USES TO CERTAIN PRINCIPAL USES IN THE B-1, B-2, B-3, B-4 AND PD ZONING DISTRICTS; AND MAKING MASSAGE ESTABLISHMENTS AND BODYWORK APPROACH BUSINESSES PERMITTED USES IN THE OR DISTRICT AND IN A PD DISTRICT WHERE THE SOLE UNDERLYING ZONING IS OR, AND/OR WHERE OR USES ARE EXPRESSLY LISTED AS PERMITTED USES IN A PUD**

**BE IT ORDAINED** by the President and Board of Trustees of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, as follows:

**SECTION ONE:** That Title 10, Chapter 2, Section 10-2-2, entitled "DEFINITIONS" of the Bartlett Municipal Code is amended to add the following definitions:

"BODYWORK APPROACH BUSINESS" as that term is defined in Section 3-29B-1: of the Bartlett Municipal Code.

"MASSAGE ESTABLISHMENT" as that that term is defined in Section 3-29A-1: of the Bartlett Municipal Code.

"MASSAGE THERAPIST" as that term is defined in Section 3-29A-1: of the Bartlett Municipal Code.

"ASIAN BODYWORK APPROACH PRACTITIONER" as that term is defined in Section 3-29B-1: of the Bartlett Municipal Code.

"BODYWORK APPROACH PRACTITIONER": Any person who, for any consideration or gratuity whatsoever, engages in or performs any Asian bodywork approach services or other bodywork approach services and is licensed as such or as a massage therapist or is issued a license or business certificate by the Illinois department of financial and professional regulation authorizing said person to perform Asian bodywork approach services and/or other bodywork approach services, or if the bodywork approach services the person intends to perform are exempt under Section 25 of the Massage Licensing Act, then a person issued a bodywork approach practitioner's license by the Village pursuant to Section 3-29B:\_\_\_\_\_ of the Bartlett Municipal Code.



“OTHER BODYWORK APPROACH” as that term is defined in Section 3-29B: \_\_\_\_\_ of the Bartlett Municipal Code.

**SECTION TWO:** That Title 10, Chapters 6, 7, 8 and 9, Sections 10-6A-6, 10-6B-6, 10-6C-6, 10-6D-6, 10-7A-6, 10-7C-6 and 10-8A-6 of the Bartlett Municipal Code are each amended to make and list “Massage establishments”, and “bodywork approach businesses” as prohibited uses thereby making them prohibited uses in each of the B-1 Village Center District, B-2 Local Convenience Shopping District, B-3 Neighborhood Shopping District, B-4 Community Shopping District, I-1 Light Industry District, I-2 EDA General Industry Economic Development Area District (“I-2 EDA”), and P-1 Public Lands District; and Section 10-9A-6 of the Bartlett Municipal Code is amended to add new subsection C which states that “The following are prohibited uses in any Planned Development District: “Massage establishments” and “bodywork approach businesses”; and to make “Massage establishments”, and “bodywork approach businesses” prohibited uses in each PD Planned Development District designated for commercial or industrial, except such Planned Development Districts in which the sole underlying zoning is OR Office/Research, or in which a special use or special use permit was or is hereafter granted to approve of a Planned Unit Development that includes the permitted uses listed in the OR Office/Research District by reference as permitted uses in such Planned Unit Development or in such area(s) of a PUD designated as OR Office/Research designated on an approved preliminary and/or final PUD Plan as OR Office/Research or for OR Office/Research uses, notwithstanding that the list of permitted uses or special uses for said PUD may also include commercial and/or industrial uses as permitted and special uses at the time of its adoption.

**SECTION THREE:** That Title 10, Chapters 6, 7, 8 and 9, Sections 10-6A-5, 10-6B-5, 10-6C-5, 10-6D-5, 10-7A-5, 10-7C-5, 10-8A-5 and 10-9A-5 of the Bartlett Municipal Code, are each amended to add “Massage establishments and bodywork approach businesses” as accessory uses but only incidental to the following principal uses in each of the B-1, B-2, B-3, B-4, P-1, and PD Zoning Districts and in Planned Unit Developments where the underlying zoning is B-1, B-2, B-3, B-4, P-1, and/or PD and includes the following principal uses as permitted or special uses:

“Massage establishments”, and “bodywork approach businesses” are accessory uses only to the following principal uses:

1. Beauty parlors, provided (i) the person, firm, partnership, limited liability company or corporation owning or operating a beauty parlor or conducting a cosmetology, esthetics, hair braiding, nail technology salon or barber shop has a certificate of registration issued by the Illinois department of financial and professional regulation and is subject to the registration requirements of the Barber, Cosmetology, Esthetics, Hair Braiding and Nail Technology Act of 1986 (225 ILCS 410/1-1, *et. seq*); and (ii) the operation has procured and holds a current massage establishment license pursuant to Title 3, Chapter 29A of the Bartlett Municipal Code, and/or a bodywork approach establishment business

license pursuant to Title 1, Chapter 28B of the Bartlett Municipal Code for said accessory use(s);

2. Hospitals, nursing homes, sanitoriums or any facility at which a health care worker duly licensed by the State of Illinois provides, on an ongoing basis, professional health care services to individuals, including but not limited to, an occupational therapist licensed under the Illinois Occupational Therapy Practice Act (225 ILCS 75/1, *et seq.*);
3. A physical therapist licensed under the Medical Practice Act (225 ILCS 60/1) or under the Illinois Physical Therapists Act (225 ILCS 90/1, *et seq.*);
4. A physician licensed under the Medical Practice Act (225 ILCS 60/1, *et seq.*);
5. A naprapath licensed under the Illinois Naprapathic Act (225 ILCS 63/1, *et seq.*); or
6. A chiropractic physician licensed under the Medical Practice Act (225, ILCS 60/1).

**SECTION FOUR:** That Title 10, Chapter 5, Section 10-5-1: entitled “USES IN THE OFFICE/RESEARCH DISTRICT”, subsection 10-5-1:A entitled “Permitted Uses” of the Bartlett Municipal Code, is amended to add “massage establishments”, and “bodywork approach businesses” as permitted uses in the OR Office/Research Zoning District by amending Table 5-1 in Section 10-5-1 to add the following uses and designations under the heading “Nonresidential Uses” and use designations therefor after “Offices, business and professional, including research facilities and tech centers or laboratories”, subject to compliance with the following Additional Standards:

Massage establishments, P, Title 3 Chapter 29A of the Bartlett Municipal Code  
Bodywork approach businesses, P, Title 3, Chapter 29B of the  
Bartlett Municipal Code

**SECTION FIVE:** That Title 10, Chapter 9, Article A entitled “PD Planned Development District”, Section 10-9A-3 entitled “Permitted Uses” of the Bartlett Municipal Code is hereby amended to add new subsection 10-9A-3:E as follows:

- E. Massage establishments and bodywork approach businesses are permitted uses only within a PD Planned Development District designated solely for OR Office/Research uses, or in Planned Unit Developments where the underlying zoning is OR Office/Research, or within such areas of a Planned Unit Development shown and designated

as OR Office/Research on an approved preliminary and/or final PUD plan, or which expressly lists Office/Research uses as permitted uses.

**SECTION SIX:** That Title 10, Chapter 9, of the Bartlett Municipal Code entitled “PLANNED UNIT DEVELOPMENTS” is amended to add to Section 10-9-4: entitled “USES ALLOWED” the following new subsection 10-9-4:D which states as follows:

- D. Massage establishments, and bodywork approach businesses are permitted uses in Planned Unit Developments where the underlying zoning is OR Office/Research, or within such areas of a Planned Unit Development shown and designated as OR Office/Research on an approved preliminary and/or final PUD plan, or which expressly lists Office/Research uses as permitted uses.

**SECTION SEVEN:** That Title 10, Chapter 10, Section 10-10-2 of the Bartlett Municipal Code is hereby repealed, and is hereby amended to replace said repealed section with new Section 10-10-2: NONCONFORMING USE OF LAND, which states as follows:

10-10-2: NONCONFORMING USE OF LAND:

- A. The nonconforming use of land not involving a building or structure, or in connection with which any building or structure thereon that is incidental or accessory to the principal use of the land, may be continued subject to the following provisions:
  - 1. Discontinuance of a Nonconforming Use: If a nonconforming use of any land is discontinued for a period of thirty (30) days, it shall not thereafter be renewed, and any subsequent use of such land shall conform to the regulations of the district in which such land is located.
  - 2. Expansion of Nonconforming Use. A nonconforming use of land shall not be expanded, extended or enlarged in any way.
  - 3. Change to a Nonconforming Use. Whenever a nonconforming use of land is changed to or replaced by a conforming use of land, such premises shall not thereafter revert to the nonconforming use.
  - 4. Elimination of Nonconforming Use. The nonconforming use of land shall be discontinued and cease three (3) years from the effective date of this title in each of the following cases:
    - (a) Where no structures are employed in connection with such use.
    - (b) When the only structures or other physical improvements are accessory or incidental to such use.

- B. The nonconforming use of land involving a building or structure that is a principal use of the land or of a building or structure thereon, whether owned or leased, may be continued subject to the following provisions:
1. Discontinuance of a Nonconforming Use: If a nonconforming use of any land, including use of any building or portion of a building or structure thereon, is discontinued for a period of thirty (30) days, it shall not thereafter be renewed, and any subsequent use of such land, building and/or structure thereon shall conform to the regulations of the district in which such land is located.
  2. Expansion of Nonconforming Use. A nonconforming use of land, or building and/or structure thereon, shall not be expanded, extended or enlarged in any way.
  3. Change to a Nonconforming Use. Whenever a nonconforming use of land, or of a building or structure on said land, is changed to or replaced by a conforming use of land and/or building or structure thereon, such premises and/or the use of such building, structure or portion thereof shall not thereafter revert to the nonconforming use.
  4. Elimination of Nonconforming Use. The nonconforming use of land, and/or of any building or structure thereon, or portion thereof, shall be discontinued and cease within three (3) to five (5) years from the later of (a) the effective date of this Title; or (b) the date of passage of any ordinance amending the Zoning Code under a prior enactment of the Zoning Code, or interpretation of said prior Zoning Code by custom, make such use a prohibited use, either expressly or due to the failure in any such amendment to make it a prohibited or special use in the underlying zoning district for said land as determined by the corporate authorities based on a case by case analysis weighing the public benefit against the property owner and/or tenant's loss.
- C. Elimination of Massage Establishments and Bodywork Approach Businesses as Nonconforming Uses. After considering the specific public purpose or interest that is being served by the elimination of "massage establishments" and "bodywork approach businesses" as permitted or special uses in the various commercial zoning districts, but the allowance of such uses as accessory uses incidental to certain permitted or special principal uses in those commercial zoning districts, and considering the typical financial loss to affected property owners and/or commercial tenants by the elimination of such nonconforming uses, including the average purchase price of property, the amount of investment in property, including average build out costs of leased spaces for such uses, the average income earned and lost over a typical commercial lease term, and the other permitted or special uses to which the said properties, whether leased or owned, can still be put to use as of right and/or as a special use, the corporate authorities have determined and do hereby find that a three (3) year amortization period within which said uses shall terminate is fair and reasonable. Accordingly, the nonconforming uses of land and/or the nonconforming use of any building or structure thereon, or on a portion thereof, specifically used as a "massage

establishment” and/or “bodywork approach business” as a primary use shall be discontinued and shall cease three (3) years from the enactment of Ordinance 2022-\_\_\_\_\_ which amended the Zoning Code to make said uses prohibited uses in certain zoning districts, including the B-1, B-2, B-3, B-4, P-1 and PD Districts (except in certain circumstances) as set forth in said Ordinance.

**SECTION EIGHT: SEVERABILITY.** The various provisions of this Ordinance are to be considered as severable, and if any part or portion of this Ordinance shall be held invalid by any Court of competent jurisdiction, such decision shall not affect the validity of the remaining provisions of this Ordinance.

**SECTION NINE: REPEAL OF PRIOR ORDINANCES.** All prior Ordinances and Resolutions in conflict or inconsistent herewith are hereby expressly repealed only to the extent of such conflict or inconsistency.

**SECTION TEN: EFFECTIVE DATE.** This Ordinance shall be in full force and effect upon passage and approval.

ROLL CALL VOTE:

AYES:

NAYS:

ABSENT:

PASSED:

APPROVED:

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Kevin Wallace, Village President

ATTEST:

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Lorna Giles, Village Clerk

CERTIFICATION

I, the undersigned, do hereby certify that I am the Village Clerk of the Village of Bartlett, Cook, DuPage and Kane Counties, Illinois, and that the foregoing is a true, complete and exact copy of Ordinance 2022-\_\_\_\_\_ enacted on \_\_\_\_\_, 2022 and approved on \_\_\_\_\_, 2022, as the same appears from the official records of the Village of Bartlett.

\_\_\_\_\_  
Lorna Giles, Village Clerk

DRAFT