

**ORDINANCE NO. 06-2023**

**AN ORDINANCE APPROVING A VARIANCE  
FROM THE GILBERTS UNIFIED DEVELOPMENT ORDINANCE**

*(Red Barn Animal Hospital – Northwest Corner of Route 72 and Center Drive)*

**WHEREAS**, Red Barn Holdings, LLC (“*Owner*”), is the owner of the property located at the corner of Route 72 and Center Drive, Gilberts, Illinois, which property is more specifically described on *Exhibit A* (“*Property*”); and

**WHEREAS**, the Property is currently zoned in the C-1 Commercial District and is subject to the certain Annexation Agreement and Development Agreement dated April 27, 2005, and recorded on June 13, 2005 in the Office of the Recorder of Deeds of Kane County, Illinois as Doc. No. 2005K066197 (“*Annexation Agreement*”), governing the territory known as the Gilberts Town Center; and

**WHEREAS**, the Owner previously received a special use permit to allow for the operation of an animal hospital on the Property pursuant to Ordinance No. 08-2022, approved by the Village Board of Trustees on April 19, 2022 (“*Special Use Permit*”); and

**WHEREAS**, the Owner has requested approval of variances from the following section of the Gilberts Unified Development Ordinance (“*UDO*”): (1) a variance from section 9-2(L)(4) of the UDO to allow for wall sign at a height of 29 feet instead of the maximum 20 feet; and (2) a variance from Section 9-2-(L)(a)(1) of the UDO to allow for a second wall sign that is not oriented towards a street (collectively, the “*Variances*”); and

**WHEREAS**, pursuant to notice duly published, the Gilberts Plan Commission/Zoning Board of Appeals held a public hearing on April 12, 2023, for the purpose of hearing and considering testimony on the Owner’s request for approval of the Variances; and

**WHEREAS**, at the conclusion of the public hearing, the Gilberts Plan Commission/Zoning Board of Appeals recommended approval of the Owner’s requested Variances, subject to certain conditions; and

**WHEREAS**, the Village Board makes the following findings of fact in reference to the application for approval of the Variances:

1. The Property in question cannot yield a reasonable return if permitted to be used only under the conditions allowed by the regulations in that district;
2. The extraordinary or exceptional conditions of the Property requiring the request for the Variances was not caused by the Owner;
3. The proposed Variances will alleviate a peculiar, exceptional or undue hardship, as distinguished from a mere inconvenience or pecuniary hardship;
4. The denial of the proposed Variances will deprive the Owner of the use permitted to be made by the owners of property in the immediate area;

5. The proposed Variances will result in structures that are appropriate to and compatible with the character and scale of structures in the area in which the Variances are being requested; and
6. There is no other means other than the requested Variances by which the alleged hardship or difficulty can be avoided or remedied to a degree sufficient to permit a reasonable use of the Property.

**NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES** of the Village of Gilberts, Kane County, Illinois as follows:

**Section 1.** **Recitals.** The recitals are incorporated into this Section 1 as if fully set forth.

**Section 2.** **Variances.** Subject to the conditions set forth in Section 3 of this Ordinance, the Village Board of Trustees hereby approves the following variances for the Property:

- A. A variance from Section 9-2(L)(4) of the UDO to allow for a wall sign at a height of 29 feet instead of the maximum 20 feet.
- B. A variance from Section 9-2-(L)(a)(1) of the UDO to allow for a second wall sign that is not oriented towards a street.

**Section 3.** **Conditions.** The approvals granted pursuant to Section 2 of this Ordinance are conditioned upon and limited by the following conditions, the violation of any of which shall, in the discretion of the President and Board of Trustees, be grounds for the repeal and revocation of the approvals granted by this Ordinance in accordance with applicable law. In addition, any violation of this Ordinance will be deemed a violation of the UDO and subject the Owner to enforcement proceedings accordingly.

- A. **Compliance with Plans.** The development, maintenance, and use of the Property will be in substantial conformance with the plans attached hereto as ***Exhibit B.***
- B. **No Authorization of Work.** This Ordinance does not authorize commencement of any work on the Property. Except as otherwise specifically provided in writing in advance by the Village, no work of any kind may be commenced on the Property pursuant to the approvals granted in this Ordinance unless and until all conditions of this Ordinance precedent to that work have been fulfilled and after all permits, approvals, and other authorizations for the work have been properly applied for, paid for, and granted in accordance with applicable law.
- C. **Compliance with Laws.** The UDO, the Building Code, and all other applicable Village ordinances and regulations shall continue to apply to the Property, and the development and use of the Property must comply with all laws and regulations of all other federal, state, and local governments and agencies having jurisdiction.

**Section 4.** **Failure to Comply.** Upon failure or refusal of the Owner to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, the approvals in Section 2 of this

Ordinance for the Property (“*Conditioned Approval*”), will, at the sole discretion of the Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Board of Trustees will not revoke the Conditioned Approval unless it first provides the Owner with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Board of Trustees regarding the revocation. In the event of revocation, the development and use of the Property will be governed solely by the regulations of the C-1 Commercial District and the terms of the Annexation Agreement while it is in effect, as the same may, from time to time, be amended. Further, in the event of revocation, the Village Administrator and Village Attorney are authorized and directed to bring all zoning enforcement actions as may be appropriate under the circumstances. The Owner acknowledges that public notices and hearings have been held with respect to the adoption of this Ordinance, have considered the possibility of the revocation provided for in this Section 4, and agree not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right, provided that the notice to the Owner required by this Section 4 is given.

**Section 5.** **Binding Effect.** The privileges, obligations, and provisions of each and every section of this Ordinance are for the sole benefit of, and shall be binding on, the Owner.

**Section 6.** **Severability.** In the event a court of competent jurisdiction finds this Ordinance or any provision hereof to be invalid or unenforceable as applied, such finding shall not affect the validity of the remaining provisions of this ordinance and the application thereof to the greatest extent permitted by law.

**Section 7.** **Repeal and Saving Clause.** All ordinances or parts of ordinances in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall affect any rights, actions, or cause of action which shall have accrued to the Village of Gilberts prior to the effective date of this Ordinance.

**Section 8.** **Effective Date.** Upon its passage and approval according to law, this Ordinance shall, by authority of the Board of Trustees, be published in pamphlet form; provided, however, that this Ordinance shall be of no force or effect unless and until the Owner has executed and filed with the Village its unconditional agreement and consent, in the form attached to this Ordinance as *Exhibit C*, within 30 days following the passage of this Ordinance.

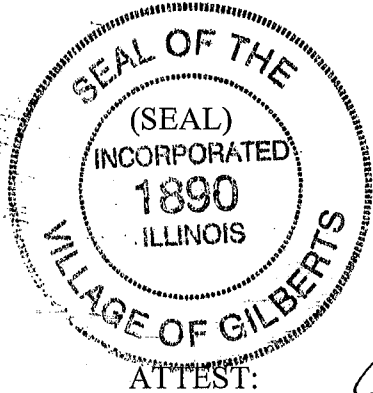
**PASSED BY VOTE OF THE BOARD OF TRUSTEES** of the Village of Gilberts, Kane County, Illinois, this 18<sup>th</sup> day of April 2023.

	<u>Ayes</u>	<u>Nays</u>	<u>Absent</u>	<u>Abstain</u>
Trustee Jeanne Allen	<input checked="" type="checkbox"/>	_____	_____	_____
Trustee Dan Corbett	<input checked="" type="checkbox"/>	_____	_____	_____
Trustee Lou Hacker	<input checked="" type="checkbox"/>	_____	_____	_____
Trustee Brandon Coats	<input checked="" type="checkbox"/>	_____	_____	_____
Trustee Justin Redfield	<input checked="" type="checkbox"/>	_____	_____	_____
Trustee David LeClercq Sr.	_____	_____	<input checked="" type="checkbox"/>	_____
President Guy Zambetti	_____	_____	_____	_____

APPROVED this 18<sup>th</sup> day of April, 2023.

  
 \_\_\_\_\_  
 Guy Zambetti, Village President

ATTEST:   
 Kelly Mastera, Village Clerk,



**Exhibit A**

*Description of the Property*

LOT 290 IN GILBERT TOWN CENTER-UNIT 1A, BEING A PART OF THE NORTH HALF OF SECTION 24, AND PART OF THE SOUTHWEST QUARTER OF SECTION 13, TOWNSHIP 42 NORTH, RANGE 7 EAST OF THE THIRD PRINCIPAL MERIDIAN THEREOF RECORDED NOVEMBER 22, 2005 AS DOCUMENT 2005K140427, AND ANY AMENDMENTS SUBSEQUENT THERETO IN KANE COUNTY, ILLINOIS.

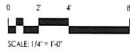
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**Exhibit B**

*Plans*

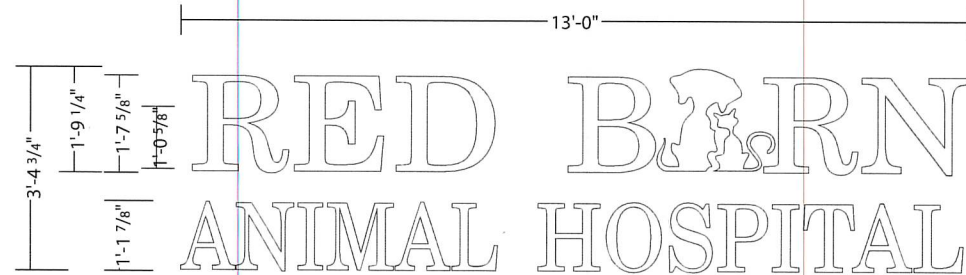


1 EAST ELEVATION  
Scale: 1/8" = 1'



- ONE (1) SET OF FACE LIT - LED ILLUMINATED CHANNEL LETTERS WITH MOUNTED FLUSH TO BUILDING FASCIA

5" RETURNS = PAINTED SATIN MAP BLACK  
 1" TRIMCAP = GEMINI STANDARD WHITE  
 FACES = 7328 WHITE ACRYLIC  
 ILLUMINATION = 7100K BRIGHT WHITE LED



Enlarged view  
Scale: 1/2" = 1'

SCALE: Mixed



7933 W Hwy 6, Westville, IN 46391

PROJECT: Red Barn Animal Hospital  
 20 N Center  
 Gilberts, IL 60140

REP: Shaun O'Brien 219-406-0218

DATE: 11-15-2022

DRAWING: SO-0403-2

PROJECT #: 220936

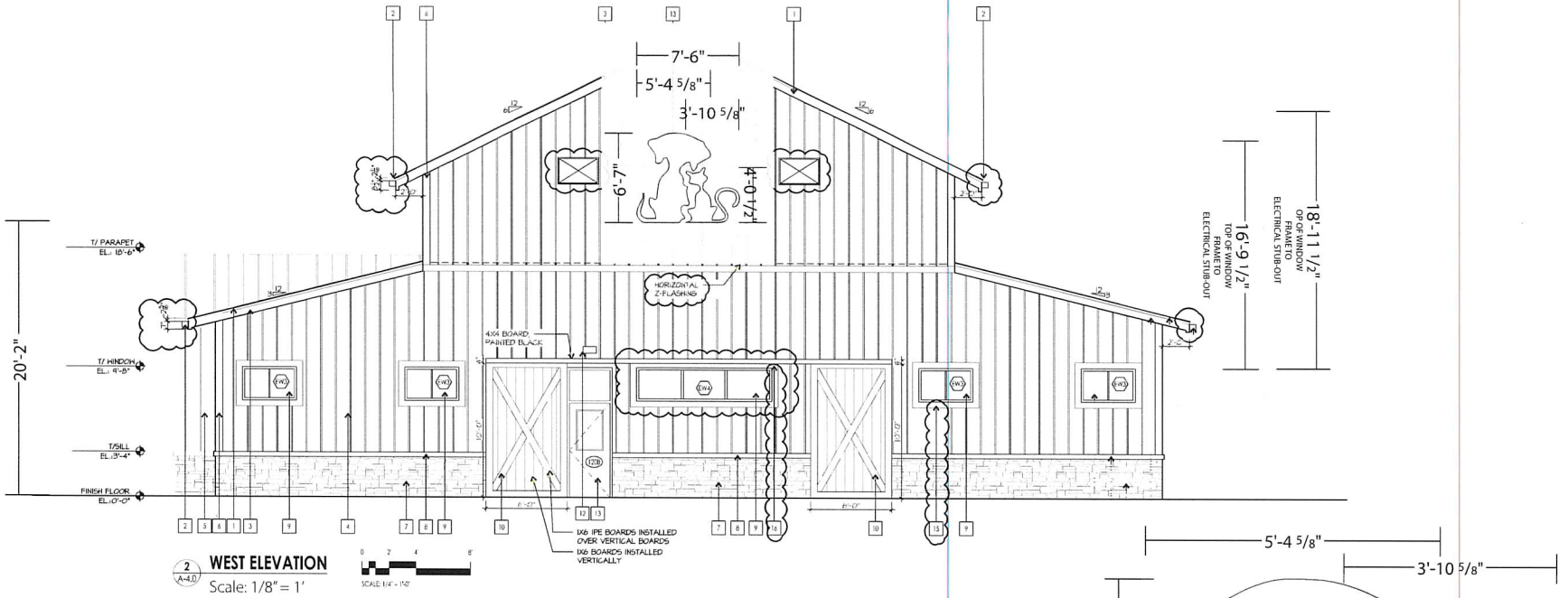
REVISIONS:

1.

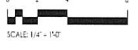
CLIENT APPROVAL: \_\_\_\_\_

By signing this print, I understand that I am accepting all aspects of this drawing. This includes artwork, specifications, dimensions, spelling and all other representations herein. I also understand that color representations on this print are approximate, and may not match actual colors produced.

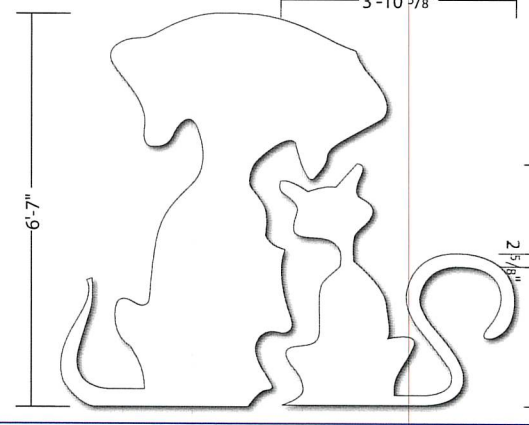




**WEST ELEVATION**  
Scale: 1/8" = 1'



1/6" PFB BOARDS INSTALLED OVER VERTICAL BOARDS  
1/6" BOARDS INSTALLED VERTICALLY



SCALE: Mixed

- **ONE (1) SET OF FACE LIT - LED ILLUMINATED CHANNEL LOGOS (ONE DOG, ONE CAT) MOUNTED FLUSH TO BUILDING FASCIA**
- 5" RETURNS = PAINTED SATIN MAP BLACK**
- 1" TRIMCAP = GEMINI STANDARD WHITE**
- FACES = 7328 WHITE ACRYLIC**
- ILLUMINATION = 7100K BRIGHT WHITE LED**



7933 W Hwy 6, Westville, IN 46391

PROJECT: Red Barn Animal Hospital  
E Higgins Rd  
Gilberts, IL 60140

REP: Shaun O'Brien 219-406-0218

DATE: 3-3-2023  
DRAWING: SO-0403-6

PROJECT #: 220936

REVISIONS:  
1.

CLIENT APPROVAL: \_\_\_\_\_

By signing this print, I understand that I am accepting all aspects of this drawing. This includes artwork, specifications, dimensions, spelling and all other representations herein. I also understand that color representations on this print are approximate, and may not match actual colors produced.





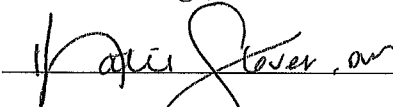
**Exhibit C**

*Unconditional Agreement and Consent*

Pursuant to Section 8 of Ordinance No. 06-2023, and to induce the Village to grant the approval provided for in that Ordinance, the undersigned acknowledges for itself and its successors and assigns in title to the Property that it:

1. has read and understand all of the terms and provisions of Ordinance No. 06-2023;
2. hereby unconditionally agrees to accept, consent to, and abide by all of the terms, conditions, restrictions, and provisions of this Ordinance, the UDO, and all other applicable codes, ordinances, rules, and regulations;
3. acknowledges and agrees that the Village is not and shall not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village's issuance of any permits for the use of the Property, and that the Village's issuance of any permit does not, and shall not, in any way, be deemed to insure the Owner against damage or injury of any kind and at any time;
4. acknowledges that the public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, have considered the possibility of the revocation provided for in the Ordinance, and agree not to challenge any revocation on the grounds of any procedural infirmity or any denial of any procedural right; and
5. represents and acknowledges that the person signing this Unconditional Agreement and Consent is duly authorized to do so on behalf of the Owner.

**Red Barn Holdings, LLC**

By: 

Its: Owner

Date: 4/20/23