

VILLAGE OF ARLINGTON HEIGHTS

ORDINANCE NO. 2023-_____

AN ORDINANCE GRANTING A SPECIAL USE PERMIT AND
VARIATIONS FOR A BUILDING EXPANSION AT WESTGATE ELEMENTARY SCHOOL
(500 S. Dwyer Ave.)

ADOPTED BY THE
PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF ARLINGTON HEIGHTS
THIS ____ DAY OF _____, 2023.

Published in pamphlet form
by the authority of the
President and Board of Trustees
of the Village of Arlington Heights,
Cook County, Illinois this
_____ day of _____, 2023

Village Clerk

{00130776.3}

AN ORDINANCE GRANTING A SPECIAL USE PERMIT AND
VARIATIONS FOR A BUILDING EXPANSION AT WESTGATE ELEMENTARY SCHOOL
(500 S. Dwyer Ave.)

WHEREAS, Arlington Heights School District 25 (“*Applicant*”) is the owner of record of that certain property located in the R-3 One Family Dwelling District (“*R-3 District*”), commonly known as 500 South Dwyer Avenue, and legally described in Exhibit A attached to and, by this reference, made a part of this Ordinance (“*Property*”); and

WHEREAS, the Property is currently used for an elementary school, and is improved with an elementary school building, parking lots, and other related improvements (collectively, the “*Existing Improvements*”); and

WHEREAS, the Applicant desires to expand the elementary school building on the Property and make other modifications to the Existing Improvements (“*Proposed Improvements*”); and

WHEREAS, pursuant to Section 5.5-1 of “The 2002 Comprehensive Amendment of the Zoning Ordinance of the Village of Arlington Heights,” as amended (“*Zoning Code*”), the Property may only be used for a school upon issuance by the Village Board of Trustees of a special use permit therefor; and

WHEREAS, the Village has not previously issued a special use permit for the operation of a school on the Property, and, therefore, the current use of the Property for an elementary school is legal non-conforming; and

WHEREAS, pursuant to Section 7.4 of the Zoning Code, the Applicant may not expand the use of the Property for an elementary school except upon issuance by the Board of Trustees of a special use permit; and

WHEREAS, pursuant to Section 5.1-3.6 of the Zoning Code, the maximum permitted building height on the Property in the R-3 District is 25 feet; and

WHEREAS, the Applicant desires to construct the Proposed Improvements at a height of 27 feet, in violation of Section 5.1-3.6 of the Zoning Code; and

WHEREAS, pursuant to Section 6.5-2 of the Zoning Code, an accessory structure may only be located in a rear yard on the Property in the R-3 District; and

WHEREAS, the Applicant desires to construct an accessory structure consisting of play equipment as part of the Proposed Improvements within a side yard, in violation of Section 6.5-2 of the Zoning Code; and

WHEREAS, pursuant to Section 6.5-7.b of the Zoning Code, the maximum permitted accessory structure size on the Property in the R-3 District is 300 square feet; and

WHEREAS, the Applicant desires to construct an accessory structure consisting of play equipment as part of the Proposed Improvements of 850 square feet, in violation of Section 6.5-7.b of the Zoning Code; and

WHEREAS, pursuant to Section 6.15-1.2.a.2 of the Zoning Code, all paved service areas abutting a residential district, street, or off-street parking areas more than four parking spaces must be effectively

screened on each side adjoining or fronting on any property situated in a residence district by a well-maintained wall, fence, or densely planted compacted hedge, of six feet in height; and

WHEREAS, the Applicant desires to construct the Proposed Improvements without providing a six foot tall wall, fence, or densely planted compact hedge on the western side of the south parking lot, in violation of Section 6.15-1.2.a.2 of the Zoning Code; and

WHEREAS, pursuant to Section 6.15-1.2.b of the Zoning Code, landscaped islands equal in area to at least one parking space, protected by durable materials, and containing at least one live shade tree at a minimum of four inches in diameter, is required at the end of every 20 parking spaces, or beneath every light pole, and at the end of all rows of car parking spaces, on the Property in the R-3 District; and

WHEREAS, the Applicant desires to construct the Proposed Improvements without providing the required landscaped islands at each end of the two central rows of parking within the south parking lot, in violation of Section 6.15-1.2.b of the Zoning Code; and

WHEREAS, the Applicant desires to construct the Proposed Improvements without providing the required landscaped islands at the western end of the northernmost parking row within the south parking lot, and on both ends of the southernmost parking row within the south lot, in violation of Section 6.15-1.2.b of the Zoning Code; and

WHEREAS, the Applicant desires to construct the Proposed Improvements without providing the required landscaped islands within parking rows containing more than 20 parking spaces within the west parking lot, in violation of Section 6.15-1.2.b of the Zoning Code; and

WHEREAS, pursuant to Sections 8 and 12 of the Zoning Code, the Applicant has filed an application for approval of: (i) a special use permit to allow the use of the Property for an elementary school; and (ii) variations from Sections 5.1-3.6, 6.5-2, 6.5-7.b, 6.15-1.2.a.2, and 6.15-1.2.b of the Zoning Code to permit the construction of the Proposed Improvements on the Property (collectively, the “**Requested Relief**”); and

WHEREAS, a public hearing of the Plan Commission of the Village to consider approval of the Requested Relief was duly advertised in the *Daily Herald* on January 10, 2023, and held on January 25, 2023; and

WHEREAS, on January 25, 2023, the Plan Commission made findings and recommendations in support of the Requested Relief, with conditions; and

WHEREAS, the President and Board of Trustees have determined that the Requested Relief meets the required standards for special use permits and variations as set forth in Sections 8.2 and 12.2 of the Zoning Code; and

WHEREAS, the President and Board of Trustees have determined that it will serve and be in the best interest of the Village to grant the Requested Relief, subject to the conditions, restrictions, and provisions of this Ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE PRESIDENT AND BOARD OF TRUSTEES OF THE VILLAGE OF ARLINGTON HEIGHTS:

SECTION 1. RECITALS. The facts and statements contained in the preamble to this Ordinance are found to be true and correct and are hereby adopted as part of this Ordinance.

SECTION 2. GRANT OF SPECIAL USE PERMIT. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 4 of this Ordinance, and in accordance with, and pursuant to, Section 8 of the Zoning Code and the home rule powers of the Village, the Village hereby grants a special use permit to the Applicant for the use of the Property for an elementary school.

SECTION 3. GRANT OF VARIATIONS. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 4 of this Ordinance, and in accordance with, and pursuant to, Section 12 of the Zoning Code and the home rule powers of the Village, the Village hereby grants the following variations to the Applicant in connection with the Proposed Improvements of the Property:

- A. Building Height. A variation from Section 5.1-3.6 of the Zoning Code to increase the maximum building height of the Proposed Improvements, from 25 feet to 27 feet.
- B. Accessory Structure Location. A variation from Section 6.5-2 of the Zoning Code to allow the accessory structure play equipment portion of the Proposed Improvements within a side yard and outside of a rear yard.
- C. Accessory Structure Size. A variation from Section 6.5-7.b of the Zoning Code to increase the size of the accessory structure play equipment portion of the Proposed Improvements, from 300 square feet to 850 square feet.
- D. Landscape Screen. A variation from Section 6.15-1.2.a.2 of the Zoning Code to omit the requirement for a 6' tall landscape screen along the western side of the south parking lot portion of the Proposed Improvements;
- E. Landscape Islands. A variation from Section 6.15-1.2.b of the Zoning Code to omit the required landscape islands at the end of the two central rows of parking within the south parking lot portion of the Proposed Improvements.
- F. Landscape Islands. A variation from Section 6.15-1.2.b of the Zoning Code to omit the required landscape islands at the western end of the northern most parking row within the south parking lot and on both ends of the southernmost parking row within the south parking lot portions of the Proposed Improvements.
- G. Interim Landscape Islands. A variation from Section 6.15-1.2.b of the Zoning Code to omit the requirement for interim landscape islands within parking rows containing more than 20 parking stalls within the west parking lot portion of the Proposed Improvements.

SECTION 4. CONDITIONS. Notwithstanding any use or development right that may be applicable or available pursuant to the provisions of the Zoning Code, the approvals granted pursuant to Sections 2 and 3 of this Ordinance are hereby expressly subject to, and contingent upon, the development, use, and maintenance of the Property in compliance with each and all of the following conditions:

- A. Compliance with Regulations. Except to the extent specifically provided otherwise in this Ordinance, the development, use, operation, and maintenance of the Proposed Improvements and the Property must comply at all times with all applicable Federal, State, and Village statutes, codes, ordinances, and regulations, as the same have been or may be amended from time to time.
- B. Compliance with Plans. Except for minor changes and site work approved by the Village Director of Building & Life Safety (for matters within their permitting authority) in

accordance with all applicable Village standards, and except as may be approved pursuant to Sections 4.C and 4.D of this Ordinance, the development, use, operation, and maintenance of the Proposed Improvements and of the Property must be in substantial compliance with the following plans (collectively, the “Plans”):

1. The Site Plan, prepared by STR Partners, LLC and consisting of one sheet, with a last revision date of January 6, 2023, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit B**;
 2. The Floor Plan, prepared by STR Partners, LLC and consisting of one sheet, with a last revision date of January 6, 2023, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit C**;
 3. The Roof Plan, prepared by STR Partners, LLC and consisting of one sheet, with a last revision date of November 21, 2022, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit D**;
 4. The Building Elevations / Color Rendering, prepared by STR Partners, LLC consisting of one sheet, with a last revision date of November 21, 2022, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit E**;
 5. The Westgate Elementary School Building Addition and Renovations plans and drawings, prepared by Eriksson Engineering Associates, Ltd. consisting of 17 sheets, with a last revision date of January 18, 2023, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit F**;
 6. The Landscape Plan, prepared by Eriksson Engineering Associates, Ltd. consisting of two sheets, with a last revision date of January 18, 2023, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit G**; and
 7. The Site Plan – Photometric Calculations, prepared by STR Partners, LLC consisting of 1 sheet, with a last revision date of January 19, 2023, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit H**.
 8. The Underfloor – Plumbing Plan, prepared by STR Partners, LLC consisting of three sheets, with a last revision date of January 6, 2023, a copy of which is attached to and, by this reference, made a part of this Ordinance as **Exhibit I**.
- C. Parking Demand. If enrollment at the elementary school on the Property exceeds or is projected to exceed 661 students within the expanded building, the Applicant must promptly provide written notice to the Village and demonstrate, to the satisfaction of the Village Manager, that adequate on-site parking can accommodate peak demand and that drop-off and pick-up operations will not create unsafe vehicular or pedestrian movements. Thereafter, the Applicant must either: (1) implement improvements on the Property as may be necessary, in the determination of the Village Manager, to accommodate the increased vehicular traffic and parking generated by the increased enrollment; or (2) obtain approval of the Board of Trustees of appropriate amendments to the special use permit granted pursuant to this Ordinance.

- D. Emergency Access. Notwithstanding anything in the Plans to the contrary, the Applicant must install the proposed access gate for the northern emergency egress curb cut to the west side of the sidewalk on the Property, at a specific location to be approved in advance by the Village Engineer.
- E. Drop Off and Pick-Up Coordination. The Applicant will coordinate and work with the Village and neighbors of the Property regarding traffic and safety issues related to student drop-off and pick-up activity within the vicinity of the Property.
- F. Stormwater Information. The Applicant must provide the Village with stormwater information necessary to verify compliance with all Metropolitan Water Reclamation District of Greater Chicago and Village regulations to the satisfaction of the Village.
- G. Design Commission. The Applicant must comply with all required conditions imposed by the Village Design Commission at its meeting on January 24, 2023.

SECTION 5. RECORDATION; BINDING EFFECT. A copy of this Ordinance will be recorded on title to the Property with the Cook County Clerk's Recording Division. This Ordinance and the privileges, obligations, and provisions contained herein inure solely to the benefit of, and are binding upon the Applicant and each of its heirs, representatives, successors, and assigns.

SECTION 6. FAILURE TO COMPLY WITH CONDITIONS. Upon the failure or refusal of the Applicant to comply with any or all of the conditions, restrictions, or provisions of this Ordinance, as applicable, the approvals granted in Sections 2 and 3 of this Ordinance may, at the sole discretion of the Village President and Board of Trustees, by ordinance duly adopted, be revoked and become null and void; provided, however, that the Village President and Board of Trustees may not so revoke the approvals granted in Sections 2 and 3 of this Ordinance unless they first provide the Applicant with two months advance written notice of the reasons for revocation and an opportunity to be heard at a regular meeting of the Village President and Board of Trustees. In the event of revocation, the development and use of the Property will be governed solely by the regulations of the R-3 District and the applicable provisions of the Village Code, as the same may, from time to time, be amended. Further, in the event of such revocation, the Village Manager and Village Attorney are hereby authorized and directed to bring such enforcement action as may be appropriate under the circumstances.

SECTION 7. AMENDMENTS. Any amendments to the approvals granted in Sections 2 or 3 of this Ordinance that may be requested by the Applicant after the effective date of this Ordinance may be granted only pursuant to the procedures, and subject to the standards and limitations, provided in the Zoning Code.

SECTION 8. SEVERABILITY. If any provision of this Ordinance or part thereof is held invalid by a court of competent jurisdiction, the remaining provisions of this Ordinance are to remain in full force and effect, and will be interpreted, applied, and enforced so as to achieve, as near as may be, the purpose and intent of this Ordinance to the greatest extent permitted by applicable law.

SECTION 9. EFFECTIVE DATE.

- A. This Ordinance will be effective only upon the occurrence of all of the following events:
 - 1. Passage by the Village President and Board of Trustees in the manner required by law; and

2. The filing by the Applicant with the Village Clerk of an Unconditional Agreement and Consent, in the form of Exhibit J attached to and, by this reference, made a part of this Ordinance, to accept and abide by each and all of the terms, conditions, and limitations set forth in this Ordinance and to indemnify the Village for any claims that may arise in connection with the approval of this Ordinance.

B. In the event the Applicant does not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 9.A.2 of this Ordinance, within 30 days after the date of final passage of this Ordinance, the Village President and Board of Trustees will have the right, in their sole discretion, to declare this Ordinance null and void and of no force or effect.

AYES:

NAYS:

PASSED AND APPROVED THIS ___ day of _____, 2023

Village President

ATTEST:

Village Clerk

Village President

ATTEST:

Village Clerk

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

PARCEL 1: THE EAST 400.0 FEET OF THAT PART OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, LYING WEST OF A LINE DRAWN FROM A POINT IN THE NORTH LINE OF THE SOUTH 7.87 CHAINS OF THE SOUTHWEST QUARTER OF SECTION 30, TOWNSHIP AND RANGE AFORESAID, WHICH POINT IS 30.16 CHAINS EAST OF THE WEST LINE OF THE SOUTHWEST QUARTER OF SAID SECTION 30 TO A POINT IN THE NORTHWEST QUARTER OF SAID SECTION 31, WHICH IS 7.29 CHAINS NORTH OF THE SOUTH LINE AND 10.0 CHAINS WEST OF THE EAST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 31 (EXCEPT THEREFROM THE NORTH 1,319.95 FEET AS MEASURED AT RIGHT ANGLES TO THE NORTH LINE OF SAID NORTHWEST QUARTER AND EXCEPT THE SOUTH 7.29 CHAINS OF SAID NORTHWEST QUARTER) IN COOK COUNTY, ILLINOIS.

PARCEL 2: THAT PART OF THE NORTHWEST QUARTER OF SECTION 31, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN BOUNDED BY A LINE DESCRIBED AS FOLLOWS: COMMENCING A POINT ON THE NORTH LINE OF THE SOUTH 7.29 CHAINS OF THE NORTHWEST QUARTER OF SAID SECTION 31, 691.96 FEET WEST, AS MEASURED ALONG SAID LINE, OF THE EAST LINE OF SAID NORTHWEST QUARTER; THENCE WEST ALONG NORTH LINE OF THE SOUTH 7.29 CHAINS AS AFORESAID, 368.05 FEET TO THE SOUTHEAST CORNER OF LOT 344 IN UNIT OF REUTER'S WESTGATE SUBDIVISION NO. 2, BEING A SUBDIVISION IN THE WEST HALF OF SAID SECTION 31; THENCE SOUTH ALONG AN EXTENSION OF THE EAST LINE OF SAID LOT 344 EXTENDED SOUTH, 130.0 FEET; THENCE EAST PARALLEL WITH THE NORTH LINE OF THE SOUTH 7.29 CHAINS, AS AFORESAID, 368.84 FEET TO A POINT ON A LINE 691.96 FEET WEST OF THE EAST LINE OF SAID NORTHWEST QUARTER; THENCE NORTH ALONG A LINE, 130.0 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS.

Commonly known as: 500 South Dwyer Avenue, Arlington Heights, Illinois.

PINs: 03-31-100-022-0000 and 03-31-100-043-0000

EXHIBIT B

SITE PLAN

EXHIBIT C
FLOOR PLAN

EXHIBIT D
ROOF PLAN

EXHIBIT E

BUILDING ELEVATIONS / COLOR RENDERING

EXHIBIT F

WESTGAGE ELEMENTARY SCHOOL BUILDING ADDITION
AND RENOVATIONS PLANS AND DRAWINGS

EXHIBIT G
LANDSCAPE PLANS

EXHIBIT H

SITE PLAN – PHOTOMETRIC CALCULATIONS

EXHIBIT I

UNDERFLOOR – PLUMBING PLAN

EXHIBIT J

UNCONDITIONAL AGREEMENT AND CONSENT

TO: The Village of Arlington Heights, Illinois (“*Village*”):

WHEREAS, Arlington Heights School District 25 (“*Applicant*”) is the owner of record of that certain property located in the R-3 One Family Dwelling District, commonly known as 500 S. Dwyer Place (“*Property*”); and

WHEREAS, Ordinance No. 2023-_____, adopted by the Village President and Board of Trustees on _____, 2023 (“*Ordinance*”), grants a special use permit and variations to the Applicant for the expansion and continued operation of an elementary school; and

WHEREAS, Section 9 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Applicant files, within 30 days following the passage of the Ordinance, their unconditional agreement and consent to accept and abide by each and all of the terms, conditions, and limitations set forth in the Ordinance;

NOW, THEREFORE, the Applicant does hereby agree and covenant as follows:

1. The Applicant hereby unconditionally agrees to, accepts, consents to, and will abide by, each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.

2. The Applicant acknowledges that public notices and hearings have been properly given and held with respect to the adoption of the Ordinance, has considered the possibility of the revocation provided for in the Ordinance, and agrees not to challenge any such revocation on the grounds of any procedural infirmity or a denial of any procedural right.

3. The Applicant acknowledges and agrees that the Village is not and will not be, in any way, liable for any damages or injuries that may be sustained as a result of the Village’s granting of the special use permit and the variations for the Property or its adoption of the Ordinance, and that the Village’s approvals do not, and will not, in any way, be deemed to insure the Applicant against damage or injury of any kind and at any time.

4. The Applicant hereby agrees to hold harmless and indemnify the Village, the Village’s corporate authorities, and all Village elected and appointed officials, officers, employees, agents, representatives, and attorneys, from any and all claims that may, at any time, be asserted against any of such parties in connection with the Village’s adoption of the Ordinance granting the special use permit and the variations for the Property.

[SIGNATURES ON FOLLOWING PAGE]

Dated: _____, 2023

ATTEST:

ARLINGTON HEIGHTS SCHOOL DISTRICT 25

By: _____

By: _____

Its: _____

Its: _____