

VILLAGE OF ARLINGTON HEIGHTS

ORDINANCE NO. 2023-_____

AN ORDINANCE GRANTING A VARIATION
FOR THE BETTY HAAG ACADEMY OF MUSIC
(3255 N. Arlington Heights Rd.)

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

AN ORDINANCE GRANTING A VARIATION
FOR THE BETTY HAAG ACADEMY OF MUSIC
(3255 N. Arlington Heights Rd.)

WHEREAS, _____ (“**Owner**”) is the owner of that certain property located in the M-1 Research, Development, and Light Manufacturing District (“**M-1 District**”), commonly known as 3255 N. Arlington Heights Road, Arlington Heights, Illinois, and legally described in Exhibit A attached to and, by this reference, made a part of this Ordinance (“**Property**”); and

WHEREAS, the Betty Haag Academy of Music (“**Applicant**”) desires to lease Suite 505 within the building on the Property, consisting of approximately 2,593 square feet (“**Subject Premises**”), for music conservatory, music instruction, and related administrative uses for both the Betty Haag Academy of Music and the Magical Strings of Youth, a not-for-profit organization (collectively, the “**Proposed Use**”); and

WHEREAS, pursuant to “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 the Proposed Use upon issuance by the Village Board of Trustees of a land use variation therefor; and

WHEREAS, pursuant to Section 12 of the Zoning Code, the Applicant has filed an application for approval of a land use variation to allow the Proposed Use within the Subject Premises on the Property (“**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* newspaper on March 7, 2023, and held on March 22, 2023; and

WHEREAS, on March 22, 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 land use variations as set forth in Section 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 VARIATION. Subject to, and contingent upon, the conditions, restrictions, and provisions set forth in Section 3 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 a land use variation to permit the Proposed Use in the Subject Premises of the Property.

SECTION 3. 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 Section 2 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 Use 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, the development, use, operation, and maintenance of the Proposed Use and of the Property must substantially comply with the undated Floor Plans submitted by the Applicant and consisting of two sheets, a copy of which is attached to and, by this reference made a part of this Ordinance as Exhibit B (“Plans”).
- C. Landscaping. The Applicant must cause the installation of landscaping in accordance with the Property’s Village-approved site plan to the satisfaction of the Village no later than June 30, 2023.
- D. Sound Attenuation System. Within 30 days after receipt of a written notice from the Village that noise from the Proposed Use is unreasonably interfering with the enjoyment of life or with any lawful business or activity outside of the Subject Premises, as determined by the Village, the Applicant must install sound installation panels within the walls of abutting adjacent tenant spaces in the building on the Property, as depicted in the sound attenuation materials plans provided by the Applicant, a copy of which is attached to, and by this reference made a part of this Ordinance as Exhibit C.

SECTION 4. 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 5. 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 Section 2 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 Section 2 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 M-1 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 6. AMENDMENTS. Any amendments to the approvals granted in Section 2 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 Village Code.

SECTION 7. 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 8. 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 Owner and the Applicant with the Village Clerk of an Unconditional Agreement and Consent, in the form of Exhibit D 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 Owner and the Applicant do not file fully executed copies of the Unconditional Agreement and Consent, as required by Section 8.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

EXHIBIT A

LEGAL DESCRIPTION OF THE PROPERTY

TRACT 1:

LOTS 1 AND 2 IN FAIRVIEW LANE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND PART OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS

TRACT 2:

THAT PART OF LOT 3 IN FAIRVIEW LANE SUBDIVISION, BEING A SUBDIVISION OF PART OF THE NORTHWEST QUARTER OF THE NORTHWEST QUARTER AND PART OF THE NORTH HALF OF THE SOUTHWEST QUARTER OF THE NORTHWEST QUARTER OF SECTION 8, TOWNSHIP 42 NORTH, RANGE 11, EAST OF THE THIRD PRINCIPAL MERIDIAN, IN COOK COUNTY, ILLINOIS, LYING NORTHERLY OF A LINE DRAWN FROM A POINT IN THE WEST LINE OF SAID LOT 3, SAID POINT BEING 111.89 FEET SOUTH OF THE NORTHWEST CORNER OF SAID LOT 3, TO A POINT IN THE EAST LINE OF SAID LOT 3, SAID POINT BEING 342.21 FEET SOUTH OF THE NORTHEAST CORNER OF SAID LOT 3.

TRACT 3:

THAT PART OF VACATED DUNTON AVENUE VACATED BY DOCUMENT 25261194 DATED OCTOBER 1, 1979 AND RECORDED NOVEMBER 29, 1979 AND DESCRIBED AS FOLLOWS: BEGINNING AT THE NORTHWEST CORNER OF THE AFORESAID LOT 1; THENCE WEST ALONG AN EXTENSION LINE OF THE AFORESAID LOT 1 FOR 60.00 FEET MORE OR LESS, TO A POINT WHICH IS THE NORTHEAST CORNER OF THE AFORESAID LOT 2; THENCE SOUTH ALONG THE EAST LINE OF THE AFORESAID LOT 2 FOR 260.00 FEET MORE OR LESS, TO A POINT WHICH IS THE SOUTHEAST CORNER OF AFORESAID LOT 2; THENCE EAST ALONG THE NORTH LINE OF THE AFORESAID LOT 3 FOR 60.00 FEET MORE OR LESS, TO A POINT WHICH IS THE SOUTHWEST CORNER OF THE AFORESAID LOT 1; THENCE NORTH ALONG THE WEST LINE OF THE AFORESAID LOT 1 FOR 260.00 FEET MORE OR LESS TO THE PLACE OF BEGINNING, ALL IN COOK COUNTY, ILLINOIS.

LOTS 1 AND 2 OF THE DENTAL LTD. SUBDIVISION IN THE NORTHWEST 1/4 OF THE NORTHWEST 1/4 OF SECTION 8, TOWNSHIP 42 NORTH, RANGE 11 EAST OF THE THIRD PRINCIPAL MERIDIAN ACCORDING TO THE PLAT THEREOF RECORDED MARCH 22, 1977 AS DOCUMENT NUMBER 23859585, EXCEPT FOR THAT PART OF LOT 2 DEDICATED TO THE VILLAGE OF ARLINGTON HEIGHTS BY PLAT OF DEDICATION ON NOVEMBER 27, 1974, AND RECORDED AS DOCUMENT NUMBER 23086909, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF LOT 2; THENCE WEST ALONG AN EXTENSION OF THE CENTER LINE OF FAIRVIEW LANE FOR 23.30 FEET; THENCE SOUTHERLY ALONG A CURVE CONCAVE EASTERLY HAVING A RADIUS OF 50 FEET AND WHOSE TANGENT FORMED AN ANGLE OF 90 DEGREES TO THE LAST-DESCRIBED COURSE AT THE LAST DESCRIBED POINT FOR 50.77 FEET TO A POINT IN THE LAST LINE OF THE AFORESAID LOT 2; THENCE NORTH 42.50 FEET TO THE PLACE OF BEGINNING, IN COOK COUNTY, ILLINOIS

Commonly known as: 3255 N. Arlington Heights Road, Arlington Heights, Illinois.

PINs: 03-08-102-037-0000 and 03-08-102-036-0000

{00131672.2}

EXHIBIT B

PLANS

(attached)

Exhibit "A"
Suite 505
2,593 SF

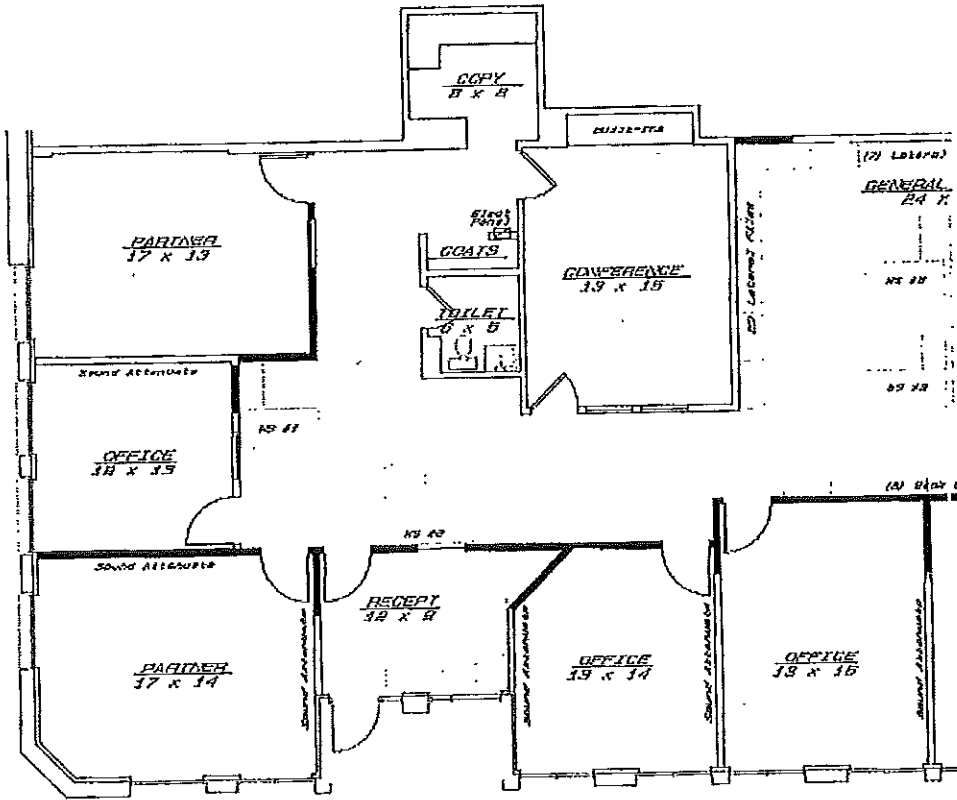


Exhibit "A"
 Suite 505
 2,593 SF

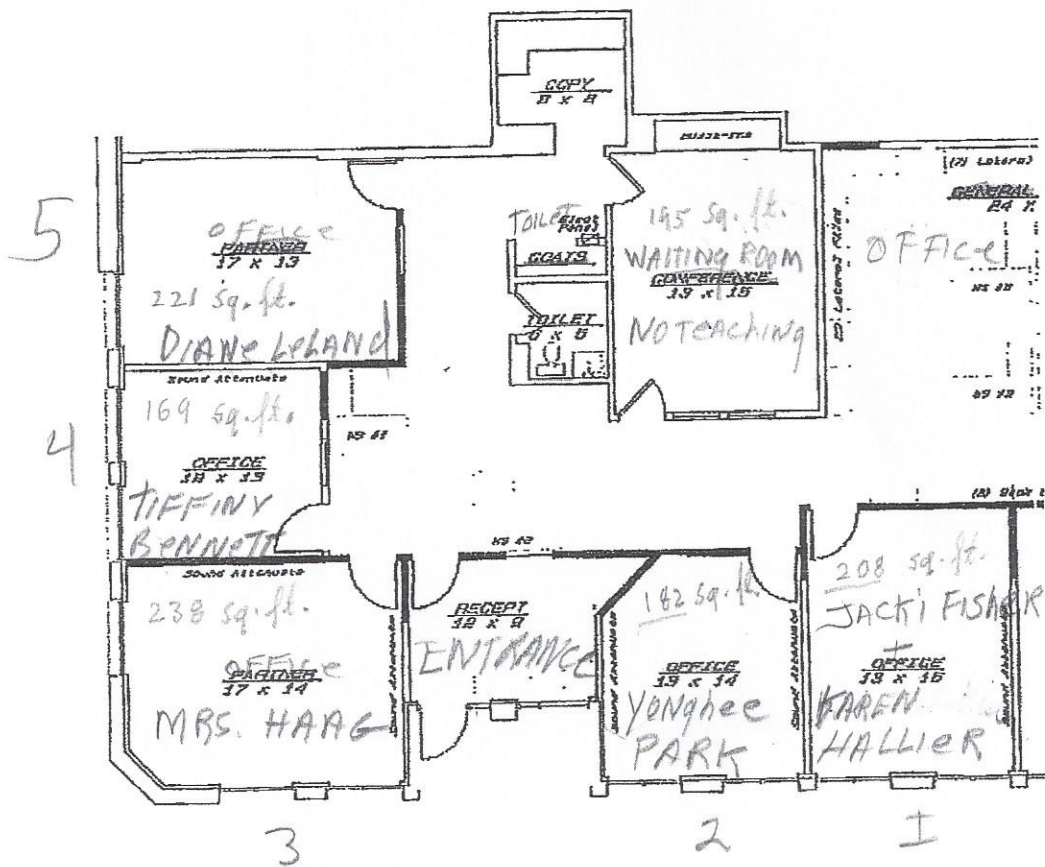


EXHIBIT C

SOUND ATTENUATION SYSTEM PLANS

(attached)

- If required, ownership would apply the below acoustical panels on adjoining wall between practice room and neighboring space.

[← Back to results](#)



Burdurly 50 Pack Acoustic Panels Soundproof Studio Foam for Walls Sound Absorbing Panels Sound Insulation Wedge for Studio, 1" X 12" X 12" (Black)

Brand: Burdurly

★★★★☆ 4,355 ratings | 97 answered questions

-14% **\$43⁹⁹**

List Price: \$50.99

✓prime Overnight

FREE Returns

Eligible for Return, Refund or Replacement within 30 days of receipt

- **【Eco-friendly and Safety】** Made of high quality environmentally polyurethane foam, these studio foam are durable and effective, no health risks, safe to use.
- **【Noise Absorbing】** Our sound foam panels can dampen and diffuse mid to low frequency sound waves inside of a room, to minimize interference, increases increasing sound clarity.
- These soundproofing foam panels come with 24 pack in the package, each tile is 1 square foot of 1 inch thick acoustic wedge, 12 pack covers an area of 12 square feet.
- **【Easy to Install】** These studio sound absorbing panels can be used as acoustic cover for walls, ceilings and doors, just easily attach it with staples, nails, screws, tacks or glue.
- **【Widely Usage】** Our sound dampening foam panels are great for recording studios, vocal booths, control rooms, also ideal for home theaters, professional movie theaters, concert halls and more.

EXHIBIT D

UNCONDITIONAL AGREEMENT AND CONSENT

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

WHEREAS, _____ (“*Owner*”) is the owner of that certain property located in the M-1 Research, Development and Light Manufacturing District (“*M-1 District*”), commonly known as 3255 N. Arlington Heights Road, Arlington Heights, Illinois, and legally described in Exhibit A attached to and, by this reference, made a part of this Ordinance (“*Property*”); and

WHEREAS, the Betty Haag Academy of Music (“*Applicant*”) desires to lease Suite 505 within the building on the Property, consisting of approximately 2,593 square feet (“*Subject Premises*”), for music conservatory, music instruction, and related administrative uses for both the Betty Haag Academy of Music and the Magical Strings of Youth, a not-for-profit organization (collectively, the “*Proposed Use*”); and

WHEREAS, Ordinance No. 2023-_____, adopted by the Village President and Board of Trustees on _____, 2023 (“*Ordinance*”), grants a variation to the Applicant for the operation of the Proposed Use in the Subject Premises on the Property; and

WHEREAS, Section 8 of the Ordinance provides, among other things, that the Ordinance will be of no force or effect unless and until the Owner and the Applicant file, 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 Owner and the Applicant do hereby agree and covenant as follows:

1. The Owner and the Applicant hereby unconditionally agree to, accept, consent to, and will abide by, each and all of the terms, conditions, limitations, restrictions, and provisions of the Ordinance.
2. The Owner and the Applicant acknowledge 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 Owner and the Applicant acknowledge and agree 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 variation 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 Owner and the Applicant against damage or injury of any kind and at any time.
4. The Owner and the Applicant hereby agree 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 variation for the Property.

[SIGNATURES ON FOLLOWING PAGE]

Dated: _____, 2023

ATTEST: _____

By: _____

By: _____

Its: _____

Its: _____

ATTEST: BETTY HAAG ACADEMY OF MUSIC

By: _____

By: _____

Its: _____

Its: _____