

**AN ORDINANCE APPROVING A SPECIAL USE PERMIT
FOR AN ELEMENTARY SCHOOL AT 160J BATEMAN ROAD**

WHEREAS, the Village of Barrington Hills (“Village”) is a duly organized and existing Illinois home rule municipality pursuant to the Illinois Municipal Code, 65 ILCS 5/1-1-1 *et seq.*; and

WHEREAS, Section 5-10-7 of the Village’s Zoning Code authorizes the Zoning Board of Appeals (“ZBA”) to recommend, and the Board of Trustees to approve, special uses within the zoning districts of the Village; and

WHEREAS, Kamala Hunt Diefenthaler PhD and Jason Timothy Diefenthaler (“Applicant”) applied for the grant of a special use permit to allow the operation of a private elementary school at the property at 106J Bateman Road (the “Property”), within the R-1 Residential District, identified by Property Index No. 01-19-102-013; and

WHEREAS, Section 5-5-3(A) of the Village Zoning Code classifies “Elementary Schools” as a special use within the R-1 Residential District; and

WHEREAS, on July 15, 2024, the ZBA, with five members present and voting on this matter, held a public hearing on the application for a special use permit, prior to which time a notice of the public hearing was published in a timely manner in the Daily Herald as well as posted in the Village Hall, and individual notice was provided to all property owners within two hundred fifty feet (250) of the Property, as recorded in the most recent County real estate tax records, and notice of said hearing was properly posted on the Property; and

WHEREAS, Section 5-10-7(D) of the Village Zoning Code provides that for each application for a special use, the ZBA shall report to the Board of Trustees of the Village its findings and recommendations, including the stipulations of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest; and

WHEREAS, Section 5-10-7(E) of the Village Zoning Code establishes standards which must be met before the ZBA may recommend approval of a special use permit; and

WHEREAS, at the close of the public hearing, the ZBA made the necessary findings of fact as to compliance with the standards set forth in Section 5-10-7(E) of the Village Zoning Code, which is attached hereto as Exhibit A, and recommended on a vote of 1-4, which results in a vote to not recommend the approval of the special use permit; and

WHEREAS, the Illinois Municipal Code, 65 ILCS 5/11-31-1.1, provides that when a proposal for special use has failed to receive the approval of the ZBA, the application for zoning approval can only be approved by a favorable vote of a majority of all trustees then holding office.

NOW, THEREFORE, BE IT ORDAINED, by the President and Board of Trustees of the Village of Barrington Hills, Cook, Kane, Lake and McHenry Counties, Illinois, as a home rule municipality the following:

Section One: The ZBA’s above referenced findings of fact and recommendation is accepted and incorporated herein by reference.

Section Two: Upon consideration of the Findings of Fact, the special use permit is hereby approved.

Section Three: If any part or provision of this Ordinance shall be held or deemed invalid, such invalidity shall not have the effect of rendering another part or provision of this Ordinance invalid.

Section Four: This Ordinance shall be in full force and effect from and after its passage and approval as provided by law.

PASSED AND APPROVED by the President and Board of Trustees of the Village of Barrington Hills, Illinois, this 22nd day of July, 2024.

Ayes: 0
Nays: 4 (Hoffmann, Strauss, Ekstrom, Riff)
Absent: 2 (Clarke, Hills)

APPROVED:

Village President

ATTEST:

Village Clerk

Denied

Exhibit A

July 17, 2024

To: President and Board of Trustees
Village of Barrington Hills

RE: Application for Special Use Permit
Elementary School

This is to advise you that at a public hearing of the Zoning Board of Appeals (“ZBA”) held at 7:30 P.M. on Monday, July 15, 2024, in the MacArthur Room of the Village Hall, where a quorum was present, the ZBA considered the application of Kamala Hunt Diefenthaler and Jason Timothy Diefenthaler (“Applicant”) for the grant of a Special Use Permit to allow the operation of an elementary school at the property located at 160J Bateman Road (“Property”), identified as PIN 01-19-102-013.

Notice of the hearing was published in a timely manner in the Daily Herald as well as posted in the Village Hall. Proof of individual notice, by registered mail, return receipt requested, and personal delivery was submitted for all property owners within 250 feet as recorded in the office of the tax assessor of the appropriate township, and the notice of the hearing was properly posted on the Property.

FACTS

The Applicant provided a booklet of information concerning the proposed School, and testified as follows. The Applicant applied for the Special Use Permit to operate a private elementary school for a maximum of 15 students in grades kindergarten through third grade at the Property. The Applicant’s four children will be in educated in the School.

Ms. Diefenthaler will serve as the primary educator, overseeing the operations of the School. At present one other employee may be hired, depending on the number of students enrolled.

In response to the required Findings of Fact, the Applicant submitted a written response which is contained in the Village’s records on this matter and testified at the hearing. The Applicant testified that there are no planned changes to the Property, other than a request that the Village approve signage to indicate the presence of the School. The Property is located at the intersection of Bateman and Dundee Road, in an area where the closest, and only adjoining neighbor is a horse farm.

The Applicant testified that a Comprehensive Risk Management Assessment of the outdoor space will be conducted to ensure the safety of the students on site. A minimum of one adult will supervisor the children in all outdoor activities.

In review of the location of the Property, the Applicant intends to operate the School in such a fashion as to avoid impact on neighbors. Pick up and drop off times will be flexible, allowing for a two-hour window to reduce the number of vehicles on the street and driveway at any one time.

The limitation of a maximum of 15 students and no changes to the Property, other than a sign, will not hinder development of neighboring properties.

The Property has adequate utilities to serve the School, without putting any strain on sewer and water. The water quality will be tested weekly and serviced as needed. The septic system will be tested, and maintenance undertaken as needed.

The Property driveway is 265 feet long, allowing pick up and drop off without congestion. The vehicles associated with pick up/drop off will not impact traffic in the area.

The Applicant will conform in all other respects with the Village Code.

Testimony was also heard from:

David Stieper, 7 Fernwood. Mr. Stieper testified he had no objection to the Applicant or the School but believed it should be considered under Home Occupation provisions, rather than as a Special Use. He stated his concern for the Applicant's expansion plans, which, if a Special Use was granted, would be harder to deny. The Village does not have any other private school in the Village operating from a home with a Special Use. The Special Use is a zoning methodology which should be used sparingly and is a "disruption" to the R1 Single Family zoning. If such was granted, he testified it should not "run with the land" but be allowed for a short, specified time.

Dymphna Roman, 160K Bateman. Ms. Roman testified in support of the Applicant. She stated that she lives next door to the Property and that the operation of the School is not an issue. She fully supported the Applicant, whose family is wonderful, and she praised Ms. Deifenthaler's credentials to be teacher.

Dennis Galitano, 4 Fernwood Drive. Mr. Galitano provided a written statement to the ZBA, and also testified in opposition to the Special Use Application. He believes that the Applicant is seeking to operate a private business out of a home, and for this purpose, Home Occupation rules should apply. He stated the ZBA had to protect the boundaries of the R1 zoning in the Village as well as in all other areas. He also testified about traffic concerns, as the intersection of Dundee and Bateman is a unique intersection, which has been the scene of many traffic accidents.

Elida Kaydo, 2 Eagle Point Dr. Ms. Kaydo testified in support of the Applicant, stating she knows the Applicant who, she stated, brings a lot to the community. Allowance of Special Use will increase the educational opportunities in the Village.

Bobby Ferguson, 7 Eagle Point Drive. Mr. Ferguson testified that when he heard of the Applicant desire to open a private school, he determined to get to know the Applicant, about the School, the educational philosophy, and how it would be impacted by the intersection of Dundee and Bateman. He supports the Applicant after his research. He is aware of the incidence of traffic and accidents at Bateman and Dundee but testified that an addition of up to 15 cars will not substantially increase the traffic or incidence of accidents.

Jason Diefenthaler (co-applicant) , 160J Bateman. Mr. Diefenthaler testified that while the application references proposed future expansion, there is no expansion of the use proposed at this time. The Property does not allow for construction of a barn, although a barn was referenced in the Application for future growth. He stated that while traffic is a concern, the addition of a maximum of 15 students will not increase traffic. He also testified that a Home Occupation is not ideal.

The Applicant further responded to all statements made. The Applicant testified that when she went to the Village, she was informed that the only option available to open the proposed School was through the Special Use process. In response to questions, she stated that the hours of operation will be Monday-Friday, 7 a.m. – 4 p.m., and that only grades one through third will be offered, but that she wants the flexibility to change the grade levels as her children age. There will be just one additional employee if there are more than eight students enrolled.

ZBA members asked various questions, principally relative to Home Occupation standards, traffic, and whether Special Use is appropriate in a residence. On questioning, Ms. Paul, Director of Administration informed the ZBA that there was just one other Special Use granted in the R1 District for operation of a Day Care outside of daycares located in religious institutions. The facility did not include a single-family residence and ultimately did not open. That property has since been rezoned for business use.

FINDINGS

The ZBA, after having examined the facts as presented, and taking in consideration the testimony set forth during the public hearing, voted 1-5 to recommend approval of the Application for the Special Use Permit, finding that of the facts set forth in the Application, and as testified to at the public hearing, the Applicant could not satisfy the following standards:

Standards for Special Use Permit:

2. That the special use permit will not be injurious to the use and enjoyment of other property in the immediate vicinity for the purposes already permitted, nor substantially diminish property or impair property values within the neighborhood.

The School, to be operated from a private home, is not in line with the R1 District, and would therefore impact on the use and enjoyment of other properties and impair neighboring property values. The ZBA must consider all of Barrington Hills, and a precedent should not be set regarding allowing a special use to operate within a private home.

4. That adequate utilities, access roads, drainage and/or other facilities have been or are being provided.

For proper operation, there should be a turn lane to get into and out of the Property for the safety of the School.

5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets and roads.

The same concern as noted in response to Finding 4.

RECOMMENDATION

On a vote of 1-5, the Zoning Board of Appeals recommends that the Village Board not approve the request for a Special Use Permit to allow for operation of an Elementary School at the Property.

Respectfully submitted,

Zoning Board of Appeals
Village of Barrington Hills