

**MINUTES OF THE MEETING OF THE ZONING PLANNING & APPEALS
COMMISSION OF THE VILLAGE OF METTAWA, LAKE COUNTY, ILLINOIS,**

**HELD AT THE HOUR OF 7:00 P.M. ON TUESDAY FEBRUARY 2, 2016
IN THE COTTONWOOD ROOM OF THE HILTON GARDEN INN,
26225 N. RIVERWOODS BOULEVARD, METTAWA, ILLINOIS**

I. CALL TO ORDER

Chairman Krusinski called the meeting to order at 7:03PM.

II. ROLL CALL

Upon a Call of the Roll, the following persons were:

Present: Commissioners Bohm, Hirsch, Leonard, Meluso, Pickell and Chairman Krusinski

Absent: Commissioner Busscher

Chairman Krusinski declared a quorum present.

Also present: Colleen Liberacki, Deputy Village Clerk; Village Administrator Bob Irvin and Village Attorney Gregory T. Smith of Klein, Thorpe & Jenkins, Ltd.

III. APPROVAL OF MINUTES:

Chairman Krusinski noted that one sentence on page 7 read, “the owner was not hear now” and it should read, “the owner was not **here** now.” It was moved by Commissioner Pickell, seconded by Commissioner Leonard to approve the minutes from the meeting of January 05, 2016, with the aforementioned change.

Upon a call of the roll the following voted:

Aye: Commissioners Bohm, Hirsch, Leonard, Meluso, Pickell and Chairman Krusinski

Nay: None

Chairman Krusinski declared the motion carried and placed the minutes on file.

IV. CALL OF CASES:

- A. PUBLIC HEARING: CASE NO. 15-SU-S-2: 14341 W. Old School Road -**
Application of Corporate Way, LLC for an amendment to an existing Special Use Permit to allow the Applicant to demolish all present structures and build and operate two large stables (consisting of 48 stalls), a manure shed, single family residence, an indoor arena and outdoor track and conduct a hunter, jumper & trainer business and related entitlements, in the R-1 Single Family Residence District.

1. Chairman Krusinski called the Public Hearing to order at 7:10 PM.

Upon a Call of the Roll, the following persons were:

Present: Commissioners Bohm, Hirsch, Leonard, Meluso, Pickell and Chairman Krusinski

Absent: Commissioner Busscher

Chairman Krusinski declared a quorum present.

Verbatim minutes of the Public Hearing have been taken by Cynthia A. Pavesich & Associates, certified court reporters of Chicago, Illinois, a transcript of which shall be placed on file in the Village Clerk's office.

Chairman Krusinski made opening remarks stating the expectations and functions of the Commission.

Chairman Krusinski further noted that this hearing was a continuation of the January 5, 2016 public hearing of the case arising from an application filed by Corporate Way, LLC for an amendment to an existing Special Use Permit to allow the Applicant to demolish all present structures and build and operate two large stables (consisting of 48 stalls in total), a manure shed, residence, an indoor arena and outdoor track and related entitlements in the R-1 Single Family Residence District.

Chairman Krusinski stated for the record that notice of the hearing on Case No. 15-SU-S-2 was published in the Daily Herald on January 15, 2016, in the manner required by law. The Village Attorney has the newspaper's certificate of publication, which is admitted as the Commission's **Exhibit #6**.

Four people in the audience filed as objectors, who were sworn in: Jeffrey and Juliet Stephenson of 14317 W. Riteway Road, Mettawa, Illinois; Donald Battaglia, attorney-at-law of Chicago, Illinois representing the objectors, the Stephenson's and Ashley Samaris, who each reside adjacent (south) of the Applicants; Ashley Samaris of 14319 W. Riteway Road, Mettawa, Illinois; Renee Cosmore and Jeff Wicklander, who was not a Mettawa resident, as distinguished by Dan Shapiro.

The following were sworn in as testifying on behalf of the Applicant, Corporate Way, LLC of Chicago, Illinois: Dan Shapiro, attorney-at-law of 300 N. La Salle, Chicago, Illinois; Ashley Netzky, Susie Banas, Ron McCormick, Don Fielding, and Tim Ball.

Dan Shapiro, attorney for the Applicants, presented the Deputy Village Clerk with copies of the notices sent to residents within 1,000 feet of the property and the receipts of delivery. They were entered into the record as **Exhibit #7**.

Dan Shapiro advised that members of the Corporate Way, LLC team who were involved in the planning and building of the desired structures and landscaping: Ron McCormick of McCormick Architects of Lake Geneva; Don Fielding of Greengard Engineering, Inc. of Lincolnshire, IL; and Tim Ball, Landscape Architect of Rocco Fiore and Sons of Libertyville, IL were present and willing to assist with questions.

Dan Shapiro outlined the changes (referencing a January 19, 2016 letter from Shapiro to the ZPA) to the original application for an amendment to the existing Special Use Permit and initially presented the large foam core board depicting an aerial view and street view photos of the present condition of the property. He wished to address the variation of height, issue of residency and responses to standards of special use.

Shapiro noted that the driveway on Riteway Road was moved further north away from the objecting homeowners and imposed a left turn only for exiting the property. He noted that the manure shed could not be moved to a better spot and received a letter from the manure removal contractor giving assurances that the removal vehicle was a contained unit, as well as the shed itself. He further noted that all plans for this property was a vast improvement over its current condition, as depicted in the enlarged photos presented.

Dan Shapiro stated that the outside lighting was detailed to reflect downward and shielded, estimating 8 to 10 light fixtures and none extra were needed around the track, as there was no anticipated outside night riding. Shapiro further noted that a single-family residence was substituted for the original the duplex and sand pathways would be used for the track, as opposed to impervious surface, which would reduce the calculations of impervious surface.

Chairman Krusinski was especially interested in the exact figures for impervious surface, since there were many figures being presented (net percentage, gross percentage, square feet). He further stipulated that Old School Road should not be included in the impervious surface figures, but that Riteway Road should be included in the gross numbers as it is a private road.

Dan Shapiro called upon Ron McCormick of McCormick Architects of Lake Geneva to answer that inquiry. Ron McCormick presented an enlarged overview of the property and stated that the revised gross impervious surface is now 19.7%. He further noted that the sand track at the edge of the property was not an impervious surface. Chairman Krusinski questioned the presence and capacity of the retention and detention ponds on the site. Ron McCormick replied that there was no retention or detention pond on the site and not much grading was done around the perimeter of the property. Chairman Krusinski questioned if this feature was required by Code or zoning, to which McCormick replied he did not know.

Don Fielding of Greengard Engineering, Inc. of Lincolnshire, IL addressed the issue by showing an enlarged layout of the subdivision and indicated two detention basins existing inside the track that runs through several properties. Fielding stated that these basins, and an additional one located behind a tree line are all located inside the subdivision, but outside the subject property. Commissioner Pickell questioned if those ponds would meet today's standards with all the other structures in place since the creation of the ponds. Fielding replied that the ponds were designed for the prior standards and it was likely that the design had been grandfathered in with the

addition of the newer structures. Commissioner Pickell questioned if that was only true if the impervious structure calculation was not exceeded, to which Fielding replied that it was not necessary if the structure conformed to the original design. Commissioner Pickell questioned the gross square footage of Lot 8, to which Ron McCormick replied 639,940 square feet, approximately 14 acres.

Dan Shapiro introduced his client, Ashley Netzky, who described her life's association with horses, noting that she used to ride at Horse Form, the predecessor of Always Faithful Horse Farm. Commissioner Leonard was concerned with the residency requirement and asked about Netzky's capability of owning and operating a large stable. Ashley Netzky replied that she had not previously owned such a stable, but grew up with horses, and performed many of the associated tasks. She stated that she is not as hands on with those tasks now, but has hired people to do the work, such as a groomer, trainer and assistant trainer. She stated that they are in the process of interviewing a manager as well. Ashley Netzky stated that she would not run this farm as a commercial enterprise. She detailed that a total of three families (including hers) and their 18 horses, would be regular visitors and boarders on this property and that would be the extent of the planned activity.

Commissioner Leonard inquired who would live on site, to which Netzky replied that her two groomers and one manager would be living 24/7 on the property. Chairman Krusinski asked for detailed use of the property. Ashley Netzky replied that this would be a hunter/jumper facility with 6 – 10 horses per family and that she would also buy and sell horses out of this farm. She described her animals as athletic competitive horses, not field horses and these animals were on a special diet and routine for the purpose of national competition (Zone 5). Chairman Krusinski asked Netzky to elaborate on the suggested charity events that might potentially take place at the farm. Ashley Netzky described herself as a very philanthropic person and sits on 4 boards of charitable organizations. She thought that her association with any one of these charities might at some time in the future offer an opportunity to host a charitable event, but that nothing is planned at this time.

Commissioner Bohm inquired how often Netzky would be on site, to which she replied that she estimated 4 – 5 times a week she would be riding, with the exception of December thru April, as the horses were located in Florida for winter competition. Attorney Smith asked how many horses would be boarded at one time, to which Netzky replied that there were 48 stalls planned, and they have 21 horses between all 3 families, but she could imagine that 25 – 27 horses might be likely. Attorney Smith further inquired in addition to the horses belonging to the three families, how many horses would be boarded in addition, to which Netzky estimated that 20 more horses could be located on site for boarding. Chairman Krusinski inquired if boarding would also be part of her business, to which Netzky replied that she was seeking only compensation for the expense of feeding and maintaining the horses, not a revenue stream.

Attorney Smith advised that should there be special events held at this residence, with reasonable attendance, it would be necessary to seek a permit for such. Netzky repeated that she was not planning any events at this time.

Chairman Krusinski inquired about the future plans for Lot 7, to which Netzky stated that this lot would remain a derby field for the time being, and perhaps later her own home would be built on this lot. Attorney Smith inquired about the presence of a 75ft scenic easement along Old School Road in the plans, to which Ron McCormick stated that it was located in the plans. Commissioner Leonard inquired about plans for a septic field. Dan Shapiro was confident that they would be able to provide a septic field on Lot 8 and the backup plan was to access Lot 7, if necessary. Chairman Krusinski asked about a present septic system on the property, to which Don Fielding replied that there were two septic fields, one southwest of the house and another parallel to the road and south of the barns, and they were planning to discard those and create two new systems, one for the single-family house and another for the stable/arena.

Commissioner Leonard expressed concern over the ability to provide these septic fields, since the amount of planned building structures limits the required open land and opportunity for passable soil borings. Dan Shapiro assured her that should there be a deficit of acceptable area, the septic back up plan for Lot 8 is to access Lot 7. Susie Banas echoed this answer, as she referenced this procedure done elsewhere and the area was disguised with non-operating paddocks.

Dan Shapiro advised the commission that his client wanted to keep the track that was previously accessed by other neighbors however, they would require easements and hold harmless statements from the neighbors. If this were not achieved, it would be left as open space and not maintained. He again reminded those present that the residence would be used by 3 families and their 18 horses, which would result in less traffic that had previously been there.

Commissioner Meluso asked why there was an issue with the sandy track if it was not an impervious surface, to which Dan Shapiro replied that engineers have differing opinions on that subject. Chairman Krusinski reminded everyone that the commission would rely on the expertise of the village engineers regarding the subject matter of impervious vs. pervious surfaces, retention and detention ponds. Commissioner Leonard stated that the village engineers preferred that these features were shown on the site plan. Commissioner Hirsch noted that this property was higher than the surrounding neighbors and was concerned about the runoff and lack of drainage plan. Don Fielding stated that there was no topographical relief map at this time however; the existing detention facility is at the lowest part of the property. He also acknowledged that the culverts need repair and correction work done, which was part of the project.

Dan Shapiro asked for a height variance on the cupola, however Commissioner Hirsch thought that the applicant should consider reducing the height. Shapiro stated

that if they were to reduce the height of the building, this would impact the overall size of the building and, subsequently safety, since this is to be a hunting and jumping facility. Susie Banas stated that this facility needed 10 – 14 jumps in order to reflect what the competitions were requiring. Ron McCormick stated that this was a 6/12 pitch roof, and if it were reduced to a 4/12 or a 3/12 pitch, the building would start looking like a garage. He stressed that the requirement of the riding style and safety factor were what was driving the building design. He stated that the cupola was for light and ventilation and adds quality and character to the building. Tim Ball, Landscape Architect of Rocco Fiore and Sons of Libertyville, IL added that in addition to complementing the architecture, the landscaping plans included grading and planting to screen the roofline from the southern view. He further stated that the planned berm would accommodate the drainage needs.

Chairman Krusinski asked for all non-objectors to pose their questions regarding the applicant's testimony. Dr. Richard Fantus stated that his family was the first to build in the equestrian area and had noted that the retention pond does not work as well as it should, due to the decay of the subject property. He further noted that the grade was not pitched correctly and the manure spread over the land did not help matters. His question was about the height of the outside lighting, and wanted clarification about the height, as he desires as little light pollution as possible suggesting 3K lumens vs. 4K lumens. He otherwise supports the project.

Mike Herpy of 14310 West Old School Road questioned the validity of the proposed single-family home if 3 unrelated members are living in it. Also, he needed clarification regarding the grandfather rules, if they were intact if the structure was torn down or if the new regulations would apply. He also felt that this was a business if they are buying and selling horses. Tom Glusic of 27240 N. Longwood Drive noted that the ponds overflow into one another and the culverts are undersized and do not flow west to the Des Plaines River as it should. He asked if the engineers on the project could look into this problem. Don Fielding had not made an inspection, but would look into it as part of the analysis.

Chairman Krusinski noted that storm water management and culvert repair is part of the engineering permit process, which would call into play the engineering expertise and become their responsibility. He addressed the grandfather clause as it related to the retention pond criteria, stating that the design and engineering would be subject to current codes and restrictions. That variance may or may not be approved.

Chairman Krusinski advised in regards to the proposed single-family home was a condition of the residence application and the applicant has stated the manager would take her place in the residence. Netzky added that the grooms are related and she is still interviewing a prospective manager. Chairman Krusinski noted that there was a commercial nature to the residence and they needed to address present and future use. Tom Glusic inquired about present special use permit allowing boarding, lessons and how this would transfer to a new owner in the future. Chairman

Krusinski noted that the applicant was asking for a variation with an amendment. Attorney Smith advised that Ordinance 423 granted in 2000 for this property, which was already being used as a boarding facility, and the permit ran with the titled use of the property, which extended to the next owner.

Jeff Stephenson was unclear about the grandfather concept as how it applied to the drainage under a new ordinance. Chairman Krusinski advised that new detention ordinances were in place and this however, did not preclude the repair and maintenance of existing drainage and new ordinances were more restrictive. He further advised that this was an opportunity for a do over for the failing culverts and inadequate retention/detention ponds, as this project would require the repair and improvement of same. Attorney Smith noted that Lake County must review the permits/plans as well for storm water management compliance. Commissioner Meluso asked if the several feet of accumulated manure on the property would be removed, to which Dan Shapiro replied yes.

Chairman Krusinski asked if the objectors wanted to cross-examine the Corporate Way team with any questions. Julie Stephenson was concerned with the strategy of addressing the retention and detention ponds, since they were located on her property and the ensuing disruption thereof. Chairman Krusinski stated that this was a legal matter, not a ZPA issue, and it should be addressed with Don Fielding. Fielding stated that he could not affect any grading or water flow without the expressed permission of the homeowner whose land contained the ponds.

Donald Battaglia, attorney representing the objectors, the Stephenson's and Ashley Samaris, outlined his concerns regarding the special use permit in an email/letter previously issued from his office on February 1, 2016, which was entered into the record as **Exhibit #8**.

- There was a promise of reduced traffic, however, consider the potential regarding future use.
- Special Use Permit 15.1203 was conditional upon the owner's permanent residence located on the property, and they would like Lot# 7 adjoined to secure that.
- Access on Riteway Road used for commercial purpose is still too close to a walking path in addition to the blind curve being dangerous and would like to restrict this road for emergency purposes only and have Old School Road be the sole access road. This is a safety issue and an attempt to secure the residential quality of the neighborhood.
- 21% impervious surface is over the limit and they would like to see the strictest and highest engineering standards imposed.
- The building size is still an issue and maximum height variation is 11 feet cupola contributes to a 56-foot high structure. They would like the structure to be no higher than 45 feet high.
- Manure building is still too close to the other homeowners and 100 feet from the property line.
- The above-mentioned points detrimentally affect everyone's property values.

Dan Shapiro presented his rebuttal:

- Both ordinances are recorded instruments that run with the property title
- 48 stalls are being proposed, only 3 clients maximum and no lessons given. The previous owner had 18 clients and more horses
- Driveway off of Riteway Road served a safety purpose, as requested by the fire department.
- Village's impervious surface concerns will be met and water can be treated; village engineers must approve prior to implementation
- Residency requirement has made previous exceptions, and the owner stated she would be visiting 4 -5 times a week in addition to 3 staff members living there 24/7. Always Faithful Farms was an example of such.
- Height concerns are no different than the exceptions made for a steeple variation vs. a cupola
- Manure shed is no worse than the current conditions and a big improvement.
- Proposed structures and plans would be a big improvement over current conditions and property values would reflect that.

Chairman Krusinski stressed compliance to standards and Dan Shapiro noted:

- Lot coverage variation 15 – 20% impervious surface and that this would not have an adverse impact nor alter the character of the residential neighborhood.
- Height requirements of the 11-foot cupola not detrimental and consistent with exceptions made for the steeple.
- Residency requirement would be satisfied, as the homeowner would visit 4 -5 times a week and 3 staff members would be there 24/7
- Special Use standards are not addition additional uses, and would not exceed requested stables
- Consolidation of building uses mitigates disruption of adjacent lands
- They would have adequate accommodation for utilities and 20 parking stalls.

Ashley Samaris objected to the service entrance driveway on Riteway Road, due to the danger it posed, the increased lot coverage with building structures, the building height over 45 feet and the proximity of this commercial enterprise to the homeowners in a residential neighborhood.

Julie Stephenson felt that waiving the residency requirement would change the character of the residential neighborhood and limit future use as a residential property, should the property change hands, as there would be no room to build a suitable home for someone who did want to live there. She was concerned about the type of commercial traffic using the Riteway Road driveway entrance due to the danger imposed and the smell of the manure shed would still be an issue. She further noted that any competitive events were prohibited, and any potential charitable event would be a competition, even if described as something else. She was concerned that the applicant also wanted the residence building priority waived, since if there were no residence initially, there would be no one to look after the

animals while the house was being built.

Renee Cosmore echoed concerns of the residency requirement, in addition to the unknown factor of a barn manager yet to be hired. She noted that the size of the arena needed only to be 14,000 square feet, however, the applicant wanted 25,000 square feet. Jeff Stephenson shared concern that the engineers had not yet looked into the impact to other homeowners regarding water runoff, manure shed and potential future use. Donald Battaglia spoke, adding that the commission needed sound facts, not drawn conclusions to satisfy their concerns, that the service driveway off of Riteway Road was still a concern and felt that the village was opening a door for future use not intended.

Dan Shapiro gave his closing statement and outlined the following facts:

- The boarding lease expires the end of March, and 18 Towne clients will experience disruption
- Manure smell should not be an issue if the shed door is closed or the manure is in a paddock
- Always Faithful is an example of providing a residency for grooms and the homeowner is located off site.
- This is not a commercial enterprise
- Landscape plans include screening structures from the south view

Chairman Krusinski noted that he had read 168 pages of manuscript and the minutes from the January Zoning, Planning and Appeals Commission meeting. He said that the outcome could be a recommendation to the Village Board, and can approve, deny or make changes to the application. He stated that the commission would weigh the evidence along with present regulations and their interpretations. He stated that part of the decision making process is to put himself in the position of the homeowners, but that this project would give the village an opportunity for a do over regarding the condition of the property, buildings, drainage and landscape. He noted that the proper setbacks were not observed with the existing buildings on site. He also advised those present that he had made a trip over to the subject property and observed his own concerns.

Chairman Krusinski noted that the size of the building was a concern and the height of the cupola was subject to interpretation. He further stated that any existing legal issues were not under the purview of the ZPA, and need to be addressed by the property owners for the future use of the entire subdivision. Commissioner Hirsch inquired if the commercial traffic associated with this property could use the driveway on Old School Road for access instead of Riteway Road, to which Ron McCormick replied that they alleviated that concern by moving the driveway access further north of the curve.

Dr. Fantus noted that there was previous existing commercial traffic on Riteway Road with the large horse trailers using that access. Commissioner Pickell inquired how many driveway cuts there were on Riteway Road for this property, to which

Ron McCormick replied they were reducing the 4 curb cuts to one. Commissioner Meluso inquired if the cupola windows would be moveable, to which McCormick replied that he was not sure, but would analyze the ventilation situation.

Attorney Smith noted the 45-day time limit imposed once the hearing was closed and suggested a continuance. Commissioner Leonard cautioned that there was much material to be reviewed with far reaching consequences to arrive at a proper decision, and the hour was late, to which Commissioner Hirsch agreed. Chairman Krusinski suggested setting a meeting in two weeks, that this would be a posted meeting, but not a public hearing including additional testimony. Attorney Smith cautioned that no new information could be considered, and Commissioner Bohm thought no more public hearing was necessary. Dan Shapiro asked if the applicant's consultants would need to be present, to which both Attorney Smith and Chairman Krusinski replied that they would not need to be present. Chairman Krusinski suggested setting Wednesday, February 17 at 7:00pm as the meeting date for deliberating all evidence and arriving at a recommendation for the Village Board.

V. COMMUNICATIONS:

Dr. Richard Fantus read a letter to the ZPA commission regarding the validity of special use permit 422 issued to homeowners of Lot# 1. He felt that the permit was issued under false pretenses, caused by a misrepresentation of the evidence submitted. Chairman Krusinski was unsure of what should be the next step, but advised Dr. Fantus that the ZPA commission was a recommending body operating under the authority of the Village Board, not an investigative/inspection unit. He further suggested to Dr. Fantus to pursue this with the Village Board.

VI. REVIEW OF REPORTS OF COMMISSION COMMITTEES: None Presented

VII. OLD BUSINESS:

Commissioner Bohm inquired of the Comprehensive Plan status, to which Bob Irvin replied that he was working on a draft with the Strategic Planning Workshop, following the public hearing. Chairman Krusinski noted that there was at least one confirmed March 1 meeting due to the workshop being planned and word of a couple of other zoning applications in the works. He asked that the commission members be mindful of the possible upcoming ZPA meeting dates with the intent to attend.

Commissioner Leonard thought it might be helpful to request from the Village Board the ability to review the verbiage of the special use permits, as it was so vague and had room for improvement. Her motivation was that she had noted that the original intent of some of these special use permits resulted in far different results than intended. Bob Irvin agreed that it could be done and it was not an uncommon practice. Chairman Krusinski noted that this was a double-edged sword and that the Village of Mettawa was a very unique community. Attorney Smith suggested setting the policy and the Comprehensive Plan and then amend the ordinance to

reflect that desire.

VIII. NEW BUSINESS

None

IX. ADJOURNMENT

With no further business to discuss, it was moved by Commissioner Pickell, seconded by Commissioner Bohm that the meeting be adjourned.

With unanimous consent, Chairman Krusinski declared the motion carried and the meeting adjourned at 10:21PM.

Colleen Liberacki, Deputy Village Clerk