

**MINUTES OF THE SPECIAL 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 WEDNESDAY MAY 25, 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 Hirsch, Leonard, Meluso and Chairman Krusinski

Absent: Commissioners Bohm, Busscher and Pickell

Chairman Krusinski declared a quorum present.

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

III. APPROVAL OF MINUTES:

It was moved by Commissioner Meluso, seconded by Commissioner Leonard to approve the minutes from the meeting of May 03, 2016.

Upon a call of the roll the following voted:

Aye: Commissioners Hirsch, Leonard, Meluso 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. 16-SU-S-1: 14341 W. Old School Road - Application of Corporate Way, LLC for an amendment to an existing Special Use Permit – Deliberation and Recommendation on the Application.

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

Present: Commissioners Hirsch, Leonard, Meluso and Chairman Krusinski

Absent: Commissioners Bohm, Busscher and Pickell

Chairman Krusinski declared a quorum present.

Verbatim minutes of the Public Hearing have been taken by Jodi Feign of 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 for an amendment to the amendment of a Special Use Permit regarding Case No. 15-SU-S-2 granted by the Village Board at the recommendation of the Commission after the February 17, 2016 hearing for the R-1 Single Family Residence District.

Chairman Krusinski stated for the record that notice of the hearing on Case No. 16-SU-S-1 was published in the Daily Herald on May 10, 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 #1**.

Chairman Krusinski inquired if there were any objectors in the audience, and there was no response.

The following were sworn in as testifying on behalf of the Applicant, Corporate Way, LLC of Chicago, Illinois: Peter Friedman of Holland and Knight, attorney-at-law at 131 S. Dearborn Street, Chicago, Illinois, as co-counsel with Dan Shapiro; Ashley Netzky, Susie Banas and Eric Goebeler of The Goebeler Company of Libertyville, Corporate Way's builder.

Peter Friedman, 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 #2**.

Peter Friedman described their current issue, being the disposition of the homeowner's horses and their transport from their Florida home to their intended residence at 14341 W. Old School Road, due on June 1, 2016. Friedman stated that they were unaware that Ordinance 791 prohibited the owner to provide interim housing for her horses and managers on site while the construction of the approved plans would take place, and their intended use of the property was consistent with the previous use of the property, when it was leased back to Tim Towne for six months after the sale. He requested that the applicant be allowed to use the existing stables and temporary overnight housing structure for her managers. They request no other relief and will commit to:

1. Providing temporary dwelling in compliance with the Village's regulations.
2. Complete construction of permanent dwelling upon receipt of building permit, compressing if possible the period of time using the temporary dwelling.
3. June 1, 2016 deadline for moving horses to the address, or a significant hardship of \$50,000 would be imposed to find them new temporary boarding.
4. Would willingly provide required information to enable Village to issue a building permit for the temporary dwelling and complete the project in 7 – 14 days upon receipt.

5. At their own risk, they would move the horses in on or before June 1, 2016 and be willing to relocate them elsewhere should the Village not grant the occupancy permit for the temporary dwelling.
6. During the time prior to the temporary housing being completed, they will provide 24/7 presence and security on property to insure the wellbeing of the horses.

Chairman Krusinski felt it was important to advise Peter Friedman that the Commission does not have the authority to grant the relief that they are seeking. He stated that they were an advisory body of the Village Board and could only make recommendations to them. Attorney Smith questioned if a section of the Village Code would allow the Village Board to grant such relief, to which Attorney Friedman replied that he was not aware of such Village Code allowance.

Attorney Smith summarized the applicant's issue by stating that it was their wish to ask the Village Board not to enforce the code on June 1, 2016 and until the Village Board was able to meet on June 21, 2016. Commissioner Leonard inquired who would be able to grant such relief, since she did not think the Village Board had the authority to do so. Attorney Smith advised that the Zoning Official had the authority to enforce the Zoning Ordinance.

Commissioner Hirsch inquired how this violation evolved. Bob Irvin stated that the Village was informed that the horses were being moved to said property and the owners were advised that Ordinance 791 did not permit such an accommodation. Irvin further disagreed with Attorney Friedman on several issues: 1) at the public hearings preceding Ordinance 791, the owner's agents stated that the demolition of the existing structures on the property would occur in two phases, 2) if there was a plan initially to use the existing barn and associated dwelling during construction, no mention of it was made in the original application, two evenings of public hearings, or at the Village Board meeting where Ordinance 791 was deliberated and voted on, and 3) an additional application is the appropriate approach, to ask the Village not to enforce its own Codes would set a precedent. He encouraged the application and case hearing to proceed.

Chairman Krusinski referenced the letter from Attorney Dan Shapiro on April 21, 2016 and stated that it was not in the ZPA purview to act on a request for forbearance of application of the Zoning Ordinance. Attorney Smith advised that Zoning Ordinance 15.402.B states that Village's Zoning Official (Anderson & Associates) has the authority over inspection of structures and compliance. Chairman Krusinski summarized the applicant's new request, that they are requesting temporary use of the existing dwelling and stables and wanted to know what the time frame was after the issuance of the building permit for building completion. Bob Irvin stated that only one single permit would be required for all temporary and permanent work. Eric Goebeler advised that the land and earth movement would take place prior to any permanent work building and he is awaiting word from the civil engineers before he can start that work. He would

anticipate one month for the land and earth movement and another six months for the building of the permanent duplex housing structure for the managers, which would start after the issuance of the building permit.

Chairman Krusinski wanted a realistic time frame in order to consider this request, to which Eric Goebeler replied that eight months was a more realistic time frame, post-permitting. He stated he had no control over the permitting process, but he would be submitting the paperwork for the duplex (5/27), manure shed (5/27) and large barn (6/7) and could only guess when they would be granted. He thought an eight month period was reasonable for construction post-permit. There was discussion between all parties regarding what time frame was realistic and how the timing of the permits would affect the progress of the building. The Commission was willing to consider the request, but felt reluctant to have an open-ended time frame and the permitting process of the civil, septic and duplex was relative to the progress. They also wanted flexibility in their response to accommodate any unforeseen complications, such as the weather, which might delay things.

Commissioner Leonard stated that the Village had an ordinance for a very good reason that required people occupy the property when horses were present and summarized the allowance of temporary housing so that the horses could be brought in. Chairman Krusinski interpreted the application as a request to allow temporary quarters until the permanent residence could be finished, and to grant such relief by allowing existing facility to be occupied without due process of permits. Attorney Friedman asked that the homeowner be allowed to have the horses in the existing barn and managers in the temporary dwelling until the certificate of occupancy could be granted. He stated this would likely be a two week period they would be at risk and would relocate the horses should the Village state they were not compliant with the building code.

Attorney Smith inquired of the hardship imposed if this request was not granted, to which Attorney Friedman stated there would be \$50,000 in associated cost to find alternative boarding arrangements for the horses. He presented a site plan which showed two structures, which was admitted as the Commission's **Exhibit #3**. The Goebeler Company response was admitted as the Commission's **Exhibit #4**. Susie Banas noted that the very structure the homeowner wanted the manager to occupy was leased to Tim Towne for the last six months and they had made improvements at that time for the lessee.

Resident Maria Rojas of 141075 W. Old School Road spoke for the first time, and was promptly sworn in. She wanted to be informed as to what was going on, since this was the first time she was hearing about the proposed building and demolition and since she lived next door, she was rather surprised. Ashley Netzke spoke to her directly, explaining the plan to build a new barn, 28-stall stable, groom's quarters, new fenced area and entrance, all within 12 - 14 months, and at that point Maria

Rojas was satisfied. Chairman Krusinski inquired if there were any more issues or objectors, to which there was no response. Attorney Friedman advised his presentation was complete.

Chairman Krusinski declared that the public hearing portion of the application was now closed and the deliberations would begin. Commissioner Leonard was concerned about the wellbeing of the horses, if they were allowed to occupy the property before the Village Board granted permission for temporary housing. Ashley Netzke replied that she would hire a security company to occupy the premises 24/7, in addition to her managers, who would do rotations.

Bob Irvin inquired if the existing septic field was being used during the prior occupancy of the temporary dwelling, to which Eric Goebeler replied yes. Bob Irvin noted that there were no time frames in Ordinance 791 and Attorney Smith thought it would be appropriate to add up the time frames for each of the proposed structures to come up with an outside date for completion, which would impose a deadline for the temporary housing. Chairman Krusinski inquired once again if there were any other objectors, to which there was no response. Chairman Krusinski then presented a letter of support for temporary occupancy relief from Dr. Richard Fantus, an immediate neighbor and this was entered into the record as **Exhibit #5**.

Chairman Krusinski stated that the issue of granting use of barn for temporary occupancy of full-time employees was not under the purview of the ZPA and was not sure who had the legal and technical authority to do so. He stated that they only have the authority to recommend based on the time frame, which would expire in eight month's time after the issuance of the building permit. Attorney Friedman stated their wishes to bring the horses onto the property on or before June 1, 2016, and asked about the possibility of a special board meeting to accommodate this.

Bob Irvin advised had been in contact with Mayor Urlacher, who was polling the Village Board members to see if a special meeting could be conducted next week. He further stated realistically that the Memorial Day holiday, the legal 48-hour required notice of all meetings, the return of the court reporter's transcript all played into the timing. He did add that the Village engineers thought that the Goebeler response, Exhibit #4 was appropriate and acceptable. The Anderson & Associates (Village Engineers) report to Bob Irvin on May 18, 2016 was entered into the record as **Exhibit #6**.

Chairman Krusinski declared the public hearing closed at 8:22pm. He reiterated the applicant's request to begin using the barn for horses and temporary quarters for staff and managers on or before June 1, 2016. Commissioner Leonard had no problem with staff being present and would like to make sure the codes are strictly enforced by the Village Engineer requirements. Chairman Krusinski noted that they could state the conditions for approval and recommendation to the Village Board, but the ZPA could not determine if the Village Board would grant relief. Commissioner Meluso believed that \$50,000 expense was a true hardship that would

be imposed, but he wanted to see that the horses were cared for. He was also concerned about setting a precedent, but believed that the 24/7 security presence would hobble any future precedent. He stated he was in support of the application.

There were deliberations back and forth about an appropriate “sunset” date to be included in the motion, however, there were no satisfying dates, as the date of the permit issuance was out of the builder’s control. It was finally decided to set the time frame at completion of the duplex eight month’s post permit issuance.

It was moved by Commissioner Leonard, seconded by Commissioner Hirsch to approve the following motion as stated by Chairman Krusinski, to recommend approval of the application for an amendment to the Special Use Permit regarding Case No. 16-SU-S-1 with the following stipulations:

1. The existing large stable on the Subject Property, which exists as of the date of this Report (“Existing Large Stable”), may be temporarily used by the Applicant as a large stable for horses without the presence of an owner-occupied single family residence on the Subject Property, so long as the temporary dwelling unit on the Subject Property required below (“Temporary Dwelling Unit”) is built, maintained, and occupied in accordance with the approvals granted by the Village, beginning on the date the Village grants a temporary or final certificate of occupancy for the Temporary Dwelling Unit, and ending on the date the Existing Large Stable is demolished.
2. The Temporary Dwelling Unit shall be built on the Subject Property, as depicted in Public Hearing Exhibits 3 and 4, except that the plans for the Temporary Dwelling Unit shall be modified as directed by the Village Engineer from time to time, including as set forth in Public Hearing Exhibit 6, and the Applicant shall comply with all directions from the Village Engineer regarding the construction and maintenance of the Temporary Dwelling Unit. The Temporary Dwelling Unit shall be occupied continuously by the Applicant, or the Applicant’s manager beginning on the date the Village grants a temporary or final certificate of occupancy for the Temporary Dwelling Unit. Thereafter, the Temporary Dwelling Unit shall be continuously occupied until the earlier of the date the Village grants the single family home approved in Ordinance 791 (“Permanent Residence”) a final certificate of occupancy, or eight (8) months from the date the last Village-issued permit is issued to Applicant relative to the construction of the Permanent Residence. If the Permanent Residence does not receive a final certificate of occupancy within eight (8) months from the date the last Village-issued permit is issued, no horses shall be allowed within any large stable on the Subject Property until such time as the Permanent Residence receives a final certificate of occupancy, and until such time as all other applicable conditions in Ordinance 791 are met.
3. Up to twenty-nine (29) horses may be located in the Existing Large Stable if,

and so long as, the Temporary Dwelling Unit is occupied in compliance with the terms of this Ordinance.

Comment: Two (2) conditions are recommended with regard to the Application, in order to ameliorate any negative effects on adjoining properties:

1. The Temporary Dwelling Unit shall be built as approved by the Village Engineer, with such changes to the plans for the Temporary Dwelling Unit as directed by the Village Engineer.
2. The Applicant shall apply for all permits needed to build the Permanent Residence within fourteen (14) days of the approval of the amended special use permit.

Aye: Commissioners Hirsch, Leonard, Meluso and Chairman Krusinski
Nay: None

Chairman Krusinski declared the motion carried

It was then moved by Commissioner Hirsch, seconded by Commissioner Leonard to authorize Chairman Krusinski to draft, sign and forward to the President and Board of Trustees a Report of the Zoning, Planning and Appeals Commission containing Findings of Fact and their Recommendation regarding Case No. 16-SU-S-1.

Aye: Commissioners Hirsch, Leonard, Meluso and Chairman Krusinski
Nay: None
Chairman Krusinski declared the motion carried

V. COMMUNICATIONS:

None presented.

VI. REVIEW OF REPORTS OF COMMISSION COMMITTEES:

None Presented

VII. OLD BUSINESS:

None presented.

VIII. NEW BUSINESS

It was agreed that the June meeting could be cancelled and the July 5, 2016 meeting would be moved to July 12, 2016 to avoid holiday conflicts. Chairman Krusinski asked that all members make a special effort to attend the July meeting, as there were two zoning applications pending.

IX. ADJOURNMENT

With no further business to discuss, it was moved by Chairman Krusinski seconded by Commissioner Leonard that the meeting be adjourned.

With unanimous consent, Chairman Krusinski declared the motion carried and the meeting adjourned at 8:54PM.

Colleen Liberacki, Deputy Village Clerk