

MINUTES OF THE REGULAR 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 NOVEMBER 7, 2017 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 7:05 PM.

II. ROLL CALL

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

Present: Commissioners Clark, Leonard, Hirsch, Meluso, Murphy, Pickell and Chairman Krusinski

Absent: None

Chairman Krusinski declared a quorum present.

Also present: Village Attorney, Gregory T. Smith of Klein, Thorpe & Jenkins, Ltd; Village Administrator, Bob Irvin; Village Clerk, Sandy Gallo

III. APPROVAL OF MINUTES:

The ZPA meeting minutes for October 3, 2017 were reviewed. Commissioner Pickell voted Nay on page 3. It was moved by Commissioner Clark and seconded by Commissioner Murphy that the minutes of the ZPA meeting be approved and be placed on file.

Upon a call of the roll the following voted:

Aye: Commissioners Clark, Leonard, Hirsch, Murphy, Pickell and Chairman Krusinski

Nay: None

Absent: None

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

IV. CALL OF CASES:

Chairman Krusinski opened the continued public hearing on Case No. 17-TA-1 to order.

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

Present: Commissioners Clark, Leonard, Hirsch, Meluso, Murphy, Pickell and Chairman Krusinski

Absent: None

Case No. 17-TA-1: Application by the Village of Mettawa for Text Amendments Regarding: 1. residential lot coverages and accessory structures requirements, 2.

minimum dwelling sizes, 3. short term residential rentals, 4. amortization of non-conforming uses, 5. zoning application fees, audio visual and room rental fees and notices to be given for zoning applications, 6. time limit for appeals from Zoning Administrator's decisions, 7. horse and large stable requirements, 8. commercial use regulations in residential zoning districts, 9. reorganization of certain Zoning Ordinance sections, 10. timelines for construction and completion of improvements approved by a special use permit, 11. height of structures in residential zoning districts, and 12. matters related to those set forth above.

Chairman Krusinski stated if these text amendments are adopted the entire Village is affected with these changes no limitation is placed on certain parcels in Mettawa. The Commission heard a great deal of testimony and evidence on September 5th and October 3rd. The public hearing will now continue for further discussion.

Chairman Krusinski stated we are going to begin the review of the final text amendment draft and make any minor changes as needed.

Village Attorney Smith said the document being reviewed today indicates Draft October 30, 2017 on the top right hand corner. The first change is noted on page 7 from the October 3rd meeting, the ZPA proposed to add the following language, each week between such removals of manure may only be stored in appropriate containers, which shall be screened from view from adjacent lots and rights-of-way. Village Attorney Smith stated the ZPA recommends that the Village Board to resolve how compost manure should be handled throughout the Village. On page 11, the ZPA also recommends that the Village Board should "consider" a licensing operator for large stables as opposed to "adopting."

Village Attorney Smith said Always Faithful Stables submitted 6 request changes on their October 3rd memorandum that was distributed for the meeting. 1) The first change would be an addition to Section 15.301. This proposed change would indicate a structure that has been granted a special use permit for a large stable would not be subject to amortization or nonconforming status of the zoning ordinance. This proposed change will be part of the ZPA's deliberation. 2) The second change AFS indicated was to add language to clarify that new limitation that horses may only be on lots where a resident is also present. This limitation would not apply to legal conforming large stables or operations prior to January 1, 2017. 3) The third change is to allow special use permit prior to 1/1/17 to be allowed to build prior to the effective date of the new language. The third request relates to expanding large stable related structures. 4) The fourth change relates to the limitation of expanding a large stable type uses. 5) The fifth changed is within Section 15.1209 (c) legal nonconforming uses prior to 1/1/17 are allowed to continue. 6) The sixth requested change pertains to the definition of commercial use be modified to a minimum to exclude commercial use not-for-profit activities, grandfathered and safe-harbored legal nonconforming and confirming uses.

Chairman Krusinski said the following documents will be added as **Exhibit 3**. 1) The memorandum from the Chairman of the ZPA providing background on all the work having been completed by the ZPA. 2) A documents from Keith Gray. Mr. Gray stated the Village has made a number of land purchases. The Village's purchase of land provides no assurance of future developments as future Boards have authority to sell or develop it. Mr. Gray added the only way to ensure conservation easement is it to be held and controlled by an entity not the Village. 3) A resubmittal of an email sent by Judy Friedman dated November 7th. 4) The compost facility permit from the Illinois State University Department of Agriculture. 5) Lakes Disposal list dated 10/26/17 listing the properties and their dumpster/totes sizes within Mettawa.

Chairman Krusinski opened the public hearing for public testimony.

Ed Casas, Always Faithful Stable owner (855 N. Bradley Road) said he appreciates Councils review regarding the additions to the text amendment and creating modifications which are consistent with grandfathering and safe-harboring in relation to the large stables for existing SUPs. Mr. Casas' second concept was to clarify the language the ordinances or the text amendments are being drafted. Mr. Casas' would like to ensure the grandfathered and safe-harbor status supersedes the text amendment changes.

Resident, Leslie O'Donnell (25575 N. St. Marys Rd) said her question is on page 10, Section C, regarding horse clinics not being permitted. Chairman Krusinski asked Mrs. O'Donnell if her concern was in regards to private or public events. Mrs. O'Donnell said she would like to understand why she can't hire horse instructors to train her horses.

Resident, Dr. Richard Fantus (14253 W Riteway) said he read the Chairman's letter and he would like to commend the ZPA for all their work. Dr. Fantus added the letter reflects the plurality not the minority. Dr. Fantus asked if the Chairman could comment on the Always Faithful Stable provisions they had submitted.

Resident, Judy Friedman (25310 St. Marys Rd) said she would like clarification on page 14, Section 3, regarding the advancement in modern technology if that was going to prohibit future improvements. Village Attorney Smith said on page 8 and the top of page 9, the ZPA is proposing that existing large stables can continue to do but not expand their large stable related uses. Ms. Friedman said she finds it very limiting to improve their current stables. Chairman Krusinski said the limitation is based on the expansion not the care or the maintenance of the stable.

Village Administrator Irvin said the third change AFS is proposing can be viewed as a belt and suspenders action. Village Administrator Irvin said if you have an approved and valid special use and you have not built, you will not be denied the building permit to construct.

Mrs. Friedman said she purchased her stable in 1970 and the efficiency of her location is not the state of the art like other locations. Mrs. Friedman asked the ZPA Committee what is the Village's vision for this community. Mrs. Friedman said she finds this ordinance to be very prohibiting.

Commissioner Leonard said the surrounding properties cannot be used as housing developments. Housing development is against the zoning ordinances in the Village.

Dr. Fantus asked if moving forward would a SUP be amended to expand their facility. Commissioner Meluso said you would not be able to expand. Village Attorney Smith confirmed no expansion would be allowed.

Mrs. O'Donnell asked if she added a round pen that is not covered for training would that would be allowed. However, if I covered the round pen I would not be allowed.

Mr. Casas' made a recommendation that the provisions have a thoughtful review prior to these amendments being set to absolute with no consideration.

Chairman Krusinski said the draft text amendment does reflect certain limitation and that is the intended purpose. The maintenance and improvement of the current structure is not limited, only the expansion of the facility is restrictive.

Mr. Casas' said he would like the existing operators to seek changes to the text amendments. Structures will need to be improved or modified to continue our business success as oppose to limiting us. Chairman Krusinski said to have the language would be difficult to include what is allowed versus what is not allowed. The ordinance would have no strength.

Dr. Fantus said he does not see the halo effect for the community when the large business operators improve their structures.

Mrs. O'Donnell said the property next to her arena sold within a few weeks. Mrs. O'Donnell said she would like to address on page 12, the limitation for not operating for one year. Village Administrator Irvin said this page only effects new special uses.

Mr. Casas' said the more you limit the property the more you limit the value. Mr. Casas'said absent a study this can be negative for the community.

Village Administrator Irvin said the more definitive the language can be stated, no conflict is available.

Mrs. O'Donnell said she has residential buildings along with commercial uses on her lot. Mrs. O'Donnell asked would you separate a residential request from a commercial when it's on the same parcel. Village Administrator Irvin said it

depends on what is permitted on an R-1 zone. An SUP received for construction has language that is confined to that structure and site plan with no variation.

Mrs. Friedman said she can think of three older residents that have over 20 acres and their locations can be turned into housing development.

Chairman Krusinski asked if the Committee had any additional questions from the public before it was closed.

Commissioner Meluso asked Mr. Casas' why he wanted to modify and exclude not-for-profit activities. Mr. Casas' said you can't do anything in an R-1 zone deemed as an exchange. Mr. Casas' indicated this request is not only meant for Always Faithful yet a community activity.

The public hearing was closed at 8:19 pm.

Chairman Krusinski said the first point under consideration is on page 10(c) private versus public trainers. Commissioner Leonard said residents should be able to bring trainers for existing boarders. Village Administrator Irvin said removing prohibiting outsiders. Village Attorney Smith will make the change to state what is not allowed to be clear regarding horse clinics.

Commissioner Clark said the next change was to be made on page 11. Village Attorney Smith said he will change the word "adopt" to reflect "consider."

Chairman Krusinski said the next change is on page 12(d), the void of an SUP if not used within one year. Village Attorney Smith said we can flip-flop C and D. The letter C provides the extension of time. It would allow an applicant to apply for the extension for building permits and then commence the construction. This would also allow an extension to be requested to the Village Board, and the Board can decide whether or not to grant it.

Village Administrator Irvin said any large accessory building over 2,000 requires a special use permit and a building permit to be pulled. The Village issued an SUP in 2009/2011 that has never been built, under this ordinance it is still valid.

Chairman Krusinski said the next revision is 15.301, Section F on page 14, which is being requested by Always Faithful. Chairman Krusinski stated he did not see the need for the first provision request. Village Attorney Smith said it is meant to validate any legal nonconforming uses and elevate the variation in the special use permits that were granted to a higher status to make it clear what the intentions are. Commissioner Leonard said the ordinances already states if you have been granted approval for something even though the codes changed, your activity is grandfathered. Village Attorney Smith said this is a policy issue. The changes being requested are meant to reinforce the grandfathered, safe-harbor uses and structures previously approved by the Village.

Chairman Krusinski said revisions outlined 2, 3, 5 do provide what was allowed and already granted not changing but a reinforcement to existing large stables SUPs.

Commissioner Pickell asked if the conflict is creating confusion, what harm do we have to be redundant. Village Attorney Smith said the revisions are meant to eliminate conflicts.

Commissioner Leonard asked if all of these requests could be condensed under Section 15. Village Attorney Smith stated 2, 3, 5 get in the core of large stables. Village Attorney Smith said he can draft a single package to include elements of Always Faithful requests. Chairman Krusinski said it's better to have sections to list specific things as oppose to a broad section.

Chairman Krusinski stated to not include provision 1 but include 2, 3, and 5. The three provisions speak to the elements we are revising within the ordinances. Chairman Krusinski said that provision 4 is not needed given it is dealing with a conflict between what was already granted and a legal status. Village Attorney Smith said the 4th provision calls out to the conflict between the terms of the zoning ordinance, the village code, and a legal nonconforming or conforming large stable this part of the scope all alterations are allowed.

Mr. Casas' stated the policy continues to be the safe-harbor and grandfather to all prior uses.

Village Attorney Smith said the desire if there is a disagreement or a conflict between the two documents sometimes the Village Administrator will need to make the interpretation. The idea from Mr. Casas' is what document controls the conflict.

Commissioner Leonard said if a special use is in effect, they have the terms in which it was approved.

Chairman Krusinski said he has issues with provision 6.

Commissioner Hirsch said she is uncomfortable with the provisions.

Commissioner Clark said provisions 1, 4, 6 should not be included.

Mr. Casas said provision 6 states you are prohibited to do any commercial activity in R-1; even though your SUP allows you commercial activity.

Commissioner Leonard said the commercial activity stipulation is for boarding horses. Village Administrator Irvin said no reference is made about boarding horse in the Always Faithful SUP. Village Administrator Irvin added any ordinances

approved in 2000, does not make mention of boarding horses. The later ordinances are more specific.

Village Administrator Irvin added a recommendation has been made by the Village Board to add a definition of commercial use to the Village code.

Commissioner Leonard said if you're talking about raising funds you come to the Village for a permit versus a not-for-profit event.

Village Administrator Irvin said we don't issue permits for fund raisers. The Village has had various charitable which have occurred at the resident homes with tents in the past and no permits were issued nor were any no issues reported.

Chairman Krusinski said in section 15.201 you will find the definition of commercial use. However, if we add the not-for-profit within this definition it will muddy the water.

Chairman Krusinski would like to recommend approval of the request for items 2, 3 and 5.

Commissioner Leonard stated I see no problem with the approval of these provisions; however, does it tie the Village's hands or does it state what you have been approved you get to keep.

Village Attorney Smith said he has reviewed 2, 3 and 5 provisions. The provisions allow to continued uses and maintenance of structures which were grandfathered or safe-harbored.

Commissioner Pickell asked Village Attorney Smith if you would feel at risk if provision 1 and 4 were being discussed. Village Attorney Smith said he can't answer this question. However, the fact that the large stable owners included these provision states they feel at risk.

Commissioner Pickell asked about provision 1 and 4; if a new Board could take away something that has been granted. If the owners are protected, adding 1 and 4 will make no difference if they were included. Also keeping in mind if these two provisions would allow someone to sneak and work out something different than what this group had intended, I would be against 1 and 4.

Mr. Casas' said he is only protecting what he has been granted.

Commissioner Pickell asked Mr. Casas' if he felt protected if provisions 1 and 4 were stricken. Mr. Casas' replied yes.

Village Attorney Smith said provision 1 and 4 are really policy questions. If a conflict is experienced the Village will look to the ordinances or the legal

nonconforming status to resolve the issue.

Chairman Krusinski said what has been granted by the Board intentions is not to undo what has been granted.

Chairman requested for a motion to approve the revisions that have been drafted dated October 30, 2017 to be voted.

Village Attorney Smith recommended a motion to the Village Board to approval of the text amendments proposed in the draft document dated October 30, 2017 with the following changes; 1) On page 10 Section 4 (c), the words “borders and” be stricken; 2) On page 11, the word adopt be replaced with consider; 3) on page 12 Section C and D be switched to allow the applicant or special use permit holder be allowed to request extensions; 4) On page 12, Section 12 it applies on or after the date of the ordinance; 5) On page 14 and 15, the requests from Always Faithful Stables to include 2, 3 and 5.

The motion was moved by Commissioner Hirsch and seconded by Commissioner Leonard.

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

Aye: Commissioners Clark, Leonard, Hirsch, Meluso, Murphy, Pickell and Chairman Krusinski

Nay: None

Absent: None

Chairman Krusinski said the motion carries.

Chairman Krusinski asked for a motion to be authorized to draft, sign and forward to the President and Board of Trustees a report of the ZPA containing Findings and Facts and our recommendations regarding this case.

The motion was moved by Commissioner Clark and seconded by Commissioner Leonard.

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

Aye: Commissioners Clark, Leonard, Hirsch, Meluso, Murphy, Pickell and Chairman Krusinski

Nay: None

Absent: None

Chairman Krusinski said the motion carries.

V. **COMMUNICATIONS:**

Chairman Krusinski stated the next ZPA meeting will be held on December 5th. We will be hearing a case. Commissioner Pickell and Hirsch are not available for the December meeting.

The 2018 meetings will be approved at the November Village Board meeting.

Village Administrator Irvin said one of the considerations at the November Village Board meeting is the Cole's application to possibly be sent back to the ZPA due to the guest house being larger than the main home.

VI. REVIEW OF REPORTS OF COMMISSION COMMITTEES:

None

VII. OLD BUSINESS:

None

VIII. NEW BUSINESS:

None

IX. ADJOURNMENT:

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

With unanimous consent, Chairman Krusinski declared the motion carried and the meeting adjourned at 9:18 pm.

Sandy Gallo,
Village Clerk