

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 TUESDAY JULY 20, 2016 IN THE SAVANNA 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 Attorney Gregory T. Smith of Klein, Thorpe & Jenkins, Ltd.

III. APPROVAL OF MINUTES:

No minutes to approve.

IV. CALL OF CASES:

A. CONTINUATION OF PUBLIC HEARING: CASE NO. 16-SU-S-2: 855 Bradley Road - Application for a Text Amendment to the Village of Mettawa Zoning Code and for an Amendment to an existing Special Use Permit.

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

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 Cheryl Sandecki 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 continuance was for an amendment to the amendment of a Special Use Permit regarding Case No. 16-SU-S-2: 855 Bradley Road, Always Faithful Stables - Application for a Text Amendment to the Village of Mettawa Zoning Code and for an Amendment to an existing Special

Use Permit for the R-1 Single Family Residence District, which included a liquor and food license for the private equestrian club and an increase of 1.8% of impervious surface due to the request for an arena and run-to shelter.

Chairman Krusinski noted that if there were any additional objectors in the audience, they would get a chance to speak and asked for a monologue format, as opposed to dialogue, so that the comments could be recorded accurately. He stated that the applicant would get a chance to address the comments after all objectors' testimony and comments. He further advised that the applicant emailed the Zoning Commission this afternoon requesting that his application be bifurcated between 1) the request for a new arena and run-to shelter, and 2) the private equestrian amenities. He stated that the applicant would seek a resolution to the request for the arena and run-to shelter tonight and pursue the equestrian club request at a later date.

Chairman Krusinski inquired if there were any additional objectors in the audience, and there were numerous hands raised. He asked those people to stand and be sworn in to testify truthfully: Barbara Peter, Dorothy Kruglick, Kevin Hinschelwood, Kevin Hinschelwood, Thomas Lys, Peter Liphard, Mancuso, Ron Pink and Susie Banas.

The following were sworn in as testifying on behalf of the Applicant, Always Faithful Stables: Peter Friedman of Holland and Knight, attorney-at-law at 131 S. Dearborn Street, Chicago, Illinois, Ed Casas and Kristen Casas.

Barbara Peter (26520 Longwood Road) spoke, stating she was part of the Forest Haven area, a 50-year resident. She related how initially they were part of the Libertyville Countryside Association, started by Charlie Schmidt, which for \$10/family would employ pre-emptive legal services from Eva Schwartzman. She felt this was effective until the event of Granger, Costco and the hotel, which has resulted in a significant increase in traffic. She stated that they moved to Mettawa due to the 5-acre zoning ordinance and is very adverse to changing that.

Dorothy Kruglick (103 Indian Ridge Road) felt that a change to the R-1 zoning was getting stretched and that the Always Faithful property is pretty dense. She stated that she was concerned with the additional traffic and ensuing issues that the restaurant and liquor license would bring.

Kevin Hinschelwood (103 Indian Ridge Road) felt that the proposed amendment would degrade what Mettawa stands for and does not like alcohol use at a stable, associated traffic and how it would bring about an unsafe situation.

Thomas Lys (25300 Nektosha Way) expressed concern about the village and felt that they needed to maintain the zoning as is. He liked the uniqueness of Mettawa and did not want it to become like every other community, by the erosion of the contract. He did not see the necessity for the Special Use Permit and that there were many

more reasons not to grant it. He felt that the line was drawn and that is where it should stay.

Peter Liphard (705 Bradley Road) stated that he was against serving alcohol and the equestrian club was a bad idea. He was concerned about the increase of 1.8% of impervious surface, and questioned why the current impervious surface was over the limit. He further stated that he did not see a need for an extra arena, as they have enough staff to oversee the riders and why not stick to the contract. He also would like more notice about future public hearings.

Jess Ray asked to speak; even though he had already spoken last month and Chairman Krusinski assured him that there would be an opportunity according to the protocol.

Rick Mancuso (25880 N. St. Mary's Road) stated that Always Faithful was the finest horse facility anywhere and should be considered an asset to the Village. He further stated he liked progress, such as the hotel and Costco and liked the direction the equestrian club was taking the Village.

Ron Pink (27096 Southwoods) stated that R-1 zoning was very important and has been to 90% of the Village Board meetings over the past 7.5 years. He supported the Granger movement and he has walked his dog by the facility and thinks it is a first class structure and thinks an additional arena is a good idea.

Chairman Krusinski called for any additional first time objectors, to which there were none and then advised the applicant it was his turn to address the Commission and audience members, as well as an opportunity for the applicant to answer any subsequent questions.

Ed Casas stood and addressed the Zoning Commission and residents in the audience, stating that he has had a tremendous commitment to the level of integrity of Mettawa and assured everyone that his request would not have a negative impact, due to his concern and purpose. He wanted to touch on three points: 1) He focused on the perceived lack of transparency, and how they figured a way to add an arena to their equine facility for a special use of 70 horses, having the benefit of an equine advisory group involved. He stated their specialty was jumping and most activity took place in the morning or late afternoon, and the facility closes at 8:00pm. He advised that in his club, there were international competitors and novice riders using the same arena and safety was an issue, which was induced by the limited indoor riding area and hours of operation.

Ed Casas felt that there was transparency, as he had attended round-the-town meetings with the Village engineers and Village Board meetings inquiring about his idea/request and associated protocol. He intended to keep hosting special events and would never decline the Village access to his facility.

2) He believed that his club would be a contribution to the Village. He stated that food and alcohol was catered and served at a recent MOLA event he hosted, but no one else in the community noticed. He again reminded those present about the level of scrutiny a liquor and food license would require and the income associated with this amenity is not much. He affirmed his commitment to his private members and their guests at the 20 events per year and without any complaints. He felt that this was a unique asset for the Village, as a boarding facility is a break-even proposition.

Ed Casas stated that he wanted to maintain a level of membership, which was operated out of a passion for the sport and wanted to maximize the allowed use of the facility and the convenience to the members. He felt that under the R-1 zoning and right for special use permit (amendment/permit) had no defined term for "equestrian club". He wanted to define it, along with the associated standards and attributes and the way to go about this was the text amendment. He pointed out that he was not changing the use, as this was just a legal mechanism to operate as he had been. He further stated that if they were deemed qualified for a change to the text in the amendment, it would be consistent with their needs. He tried to allay the fears about precedent setting and corruption of the ordinance and avenue to further exploitation.

Ed Casas understood that differing views were appropriate and his counsel has a summary of case law prepared, referencing the Supreme Court involvement of special use permit in a residential area. He stated that he solicited input from residents and those with the strongest opposing opinions refused to meet with him. He stated that he wanted a collaborative effort and sought objectivity and an open and fair exchange of ideas.

3) Ed Casas addressed the question of space and noted that the site plan was submitted as part of the package variance, which as of today amounts to an increase of 18,000 s.f. for the proposed arena and run-to shelter. It was important to him that certain structures be centralized on the 22 acres for easy access and the large semi-trucks from vendors and transporting horses that need to turn around. Also, he wanted easy access for emergency and fire vehicles as well. He further stated if you add up the increase in impervious surface, the maximum allowed was 15% and it would change to 16.8% with his proposal.

Ed Casas stated that the number of horses permitted was a matter of public record and 1500 s.f. space was the recommended ratio per boarding horse per property. He advised that the amount of space for the arena they were seeking was 50% less than the required capacity. He further advised that horses have to exercise every day and safety issues allow for no more than 7 horses in the arena at one time. He wanted to make it work with the intended rights he acquired when he bought the property. Ed Casas felt that the added structures would not conflict with the impervious surface needs or the aesthetic views of the property.

Ed Casas indicated that he is respectful of the residents, which was his responsibility, but it was also the residents' responsibility to listen and to be fully informed. He stated that he wanted to separate his application into two parts, 1) the proposed arena and run-to shelter and 2) the food and liquor license. He stated that he approached the Village Board about his idea and was encouraged to pursue the application, but was informed that there would be no guarantees. He wanted to proceed now with the structure request in hopes that it would be granted, due to the limited optimal timing for building the arena and run-to shelter. Ed Casas stated that there were initially two forms of membership, but now a third is being considered for Mettawa residents only. He had no desire to have a large number of people running through his property and wanted to create a legacy of value. He wanted homeowner input in the creation of the business plan and asked that his counsel read two paragraphs from the Supplemental Submittal regarding the proposed arena.

Chairman Krusinski presented the Deputy Village Clerk with the Supplemental Submittal in Support of Always Faithful Stables Zoning Application, which is entered into the record as Commission's **Exhibit #6**.

Chairman Krusinski presented the Deputy Village Clerk with the additional emails from residents expressing opinions about CASE NO. 16-SU-S-2, which is entered into the record as Commission's **Exhibit #7**.

Attorney Friedman of Holland and Knight for the applicant read from the Supplemental Submittal on pages 10 & 11, last and first paragraph on each page respectively, addressing Structural Zoning Relief and how their request differentiates from other properties, associated hardship and this request addresses same. He noted that the operational zoning relief would be addressed at a later date. The additional purpose of the bifurcation of the application was to give the applicant time to construct a sound business plan that would satisfy the Zoning Commission.

Ed Casas introduced Susie Banas, also a Mettawa resident, as their Director of Operations. She stated that regarding the area layout of the proposed additional arena was smaller than the three larger arenas (with farms that had less horses) the Village Board approved in the last few years. She further stressed the safety ratio of 7 horses in the arena at one time and that for jumps to be consistent with the competition the riders are preparing for, there were a maximum of 8 obstacles set up, when there should be 15 obstacles.

Chairman Krusinski asked if the applicant had any additional information to provide, to which Casas replied that he would reserve that opportunity for later, if necessary. Chairman Krusinski asked if there were any non-objecting speakers, to which several responded.

Former Mayor Jess Ray acknowledged a prior email sent to Ed Casas regarding the workmanship and noted that their perspectives were different, which was appropriate to speak about, but not denigrate anyone. He noted that the applicant's preparatory

meetings demonstrated good will, and understood that food was not a revenue source, but liquor was. He stated that not only the applicant invested in his property the necessary maintenance, and that all residents of Mettawa have that obligation and was not germane to the issues. In regards to the additional arena vs. hardship of space limitations and his unwillingness to meet with Casas, Jess Ray stated that in order to be fully informed, (as he is not a horse owner) he requested that other horse stable owners be present at the meeting to fully address all issues intelligently, but that never happened. He stated that he could not argue case law, as he did not have those resources at his disposal, but read the Village Code regarding the private lands in an urban community, regulating individual's property use and issues of noise, smoke, odor, glare and promoting the public health and safety. He stated that this is what was restricting certain additions. He objected to the applicant's request to separate the two issues in his original request, stating that this seemed like a strategy of divide and conquer. He felt that this equestrian facility was great as it is now and the additional arena is in conflict with the Village.

Tom Lys spoke again, noting that the Village codes apply to all, not exempting those wanting an exception. He further stated that if horse density was a problem on this site and he has 8 horses at 1600 s.f. allowance per horse, the problem with Always Faithful was that they had too many horses. He cautioned that a variance is issued to the property not the person and would be transferred with a sale. He stated that the attorney and operations manager referenced that they currently have 230 s.f. per horse and this would set a precedent for others to follow. Lys was less worried about the owners of Always Faithful, but more so of the next owner to follow or the next applicant for a special use permit.

Wendy Clark stood and was sworn in. She was concerned about the issue of impervious surface increase by 1.8% and that the Village engineers should address this. She further inquired if the two issues were going to be separated, to which Chairman Krusinski replied that they would determine tonight if the application would be bifurcated. Wendy Clark noted that if the special use permit was granted, this was not the typical indoor arena allowed and the R-1 zoning must maintain the integrity and that she never had a problem before sharing the arena with a novice rider.

Bob Price stood and was sworn in. He clarified that he had 24 acres, and a special use permit for 24 horses, but no variance was necessary. He further stated that Casas bought a stable with an allowance of 70 horses grandfathered in on 17 acres and they subsequently bought the adjoining 5-acre property with a house. Now, he stated, Casas has 40 horses and due diligence is standard. He further noted that spending money on a horse facility was the norm, not the exception.

Tom Heinz (27157 N. St. Mary's Road) stood and was sworn in. He stated he was an architect for Equestrian Connection, which had 20 horses and added 8 stalls. Since this applicant was already operating as a club, the request was reasonable and

this was a paper change, not a facility change, since he was already doing it. He also added that as an architect for new housing, he is aware that the Army Corps of Engineers assessed the property and it was in good shape.

Rick Mancuso stated that he liked the idea even more after what he has heard, makes things better, thinks the stable is a real asset and community resale value would be good.

Village Trustee John Maier (2325 Twin Drive) stood and was sworn in. He stated he was the adjacent property owner to Always Faithful and has lived here since 1962 and he once lived in the house that Always Faithful purchased and has noted the deteriorating condition of the property and adjoining stable since a chain of subsequent owners up until it was purchased by the applicant. He has noted improved drainage on his own property, including the absence of odor and the multi-colored algae he had been battling for some time, due to the surface water run-off of the previous property owners' lack of attention. His quality of quiet living has not changed, as he was unaware of the 60 events hosted over the last 3 years. He stated that he has not been adversely affected, but positively affected.

Dorothy Kruglick stressed that this was R-1 zoning and the request was not applicable.

Ed Casas has no bad feelings towards the objecting homeowners and he does want their input for the pending business plan, so that Always Faithful Stables does not adversely impact Mettawa, and be consistent with the case law of the state. He stated he has no interest in commercialization and embraces the same principals as homeowners, as well as preserve the integrity of the community. He further advised those present that they chose to buy the stable because of the Mettawa principles and wanted to realize the full use of his property. He noted that a Village trustee was his closest neighbor and he is happy with them as neighbors. He alluded to the mention of assumed due diligence being a part of his purchase, but he stated that his daughter's passion was riding horses and they simply followed it, with no plan in mind to create the equestrian club. He stated the issue is having a purpose to maintain property longevity and reducing the horse population of his stable is not the solution, as they paid for that right. Casas is pursuing the variance and this circumstance is unique to the permit, but wants collaboration from the neighbors to make it a win/win result.

Attorney Friedman noted that the variance his client is seeking for the proposed arena and run-to shelter is very small and less than others have requested. Casas clarified that the increase in impervious surface was slightly more than 15% total. Chairman Krusinski inquired if there were any more final remarks from the applicant, to which there were none. Bob Irvin noted that the requirement for the amendment was a notice to all homeowners within 2,000 s.f. of the property and it covered both the operating hardship and building hardship issues in the application. Chairman Krusinski added that in addition to the other legal requirements, there

were postings, website publications and email blasts for notifications. He advised the commissioners that they could now ask questions of the applicant.

Commissioner Leonard inquired if the applicant knew that the arena would not have been big enough for their needs, why did they not make the house smaller to stay within the bounds of impervious surface requirements, to which Casas replied that in their original estimates, they thought that they were well within the bounds of the requirements, but he should have known.

Commissioner Leonard stated that these questions were not a matter of issues with the applicant's integrity or anything personal, but as a function of her job to uphold the Village's ordinance. Attorney Smith inquired about the current square footage of the existing arena and the additional square footage of the proposed arena, to which Kristen Casas replied that the existing arena was 75'x95' (14,625 s.f.) and the proposed arena was 135'x76' (10,260 s.f.). Ed Casas added that the manure shed and aeration included a total of 13,268 s.f. for the structure in question.

Commissioner Bohm inquired if this would be the last request for an additional arena, and that these dimensions would satisfy their need to expand, to which Ed Casas replied this would be satisfactory and would not compromise horse safety. Commissioner Bohm hypothesized that if this space was not enough, would Casas cut back on the horse population. Ed Casas replied that they would work with scheduling first before cutting back on the number of horses.

Commissioner Hirsch inquired what the current horse population was, approximately 40, she estimated, to which Ed Casas replied that the average population in the non-winter months was between 40 and 50 horses. Commissioner Hirsch inquired about the plan for the intended 70 horses, to which Ed Casas replied that they can be at full capacity, and now 64 stalls are claimed, but during the winter months, some horses are located elsewhere and the clients are obligated to pay for the stalls. Commissioner Hirsch inquired about the not-for-profit status of the stable, to which Ed Casas replied that they are registered with the state and the federal government as a 501c7 status, which the income and expense result in zero excess. Chairman Krusinski inquired if there was a tax-exempt status, to which Ed Casas replied no.

Commissioner Leonard requested that since part of the basis of this application involved their 501(c)(7) status, they should furnish proof of same, as it was pertinent to the discussion. Ed Casas was reluctant to comply due to the proprietary information on the application however, Attorney Smith felt that this proof of this status was pertinent. Ed Casas explained that he did not want the application details to become part of the public record. Chairman Krusinski assured him that the financial information could be omitted.

Chairman Krusinski solicited the commissioners for input about bifurcating the application, to which Commissioner Pickell responded that there was no reason to

separate, and one complicated issue becomes more complex. Chairman Krusinski thought the separation made sense and easy to separate, one was a club issue and the other was a building hardship. Attorney Smith advised how to achieve the split without renoticing all homeowners within 2,000 ft. Commissioner Bohm inquired about the possibility of a public hearing, to which Attorney Smith replied that it was part of the record. Chairman Krusinski advised that the other commissioners agreed to separate the request. Attorney Smith advised that it was best to continue the deliberation of the text amendment for a future date and deliberate the building hardship tonight. Commissioner Meluso wanted all information regarding the building hardship and operational hardship to better understand the issues. Ed Casas replied that he wanted to get as much feedback from as many residents as possible to address all parts and construct a complete business plan.

Attorney Smith and the commissioners discussed possible dates for the continued deliberation of the operational hardship and all required information should be submitted in due time. It was agreed to resume this hearing at the Tuesday, October 4, 2016 regularly scheduled Zoning Commission meeting date.

It was moved by Commissioner Pickell, seconded by Commissioner Bohm to approve the following motion as stated by Chairman Krusinski, to bifurcate the application for an amendment to the Special Use Permit regarding Case No. 16-SU-S-2 by deliberating on the building hardship tonight and rescheduling the public hearing for the operational hardship on Tuesday, October 4, 2016.

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

Nay: None

Chairman Krusinski declared the motion carried

Chairman Krusinski announced that the public hearing section of the meeting was closed at 9:30pm and the deliberation by the commissioners would begin, noting that no more input from the audience or applicant was allowed unless they were specifically asked a question. Chairman Krusinski summarized that they would now consider the lot coverage and arena size in their deliberations. Commissioner Bohm questioned if they approved the additional building, would it set an undesirable precedent, to which Chairman Krusinski replied every time this commission made a decision, it set a precedent, as was its nature. He further stated that their decision tonight does not necessarily allow or compel the commission to make changes for others and each application has to stand on its own merit. He noted that the ZPA has made deviations before where 15% lot coverage was at issue and the applicant has done much to mitigate drainage issues where impervious surface was considered.

Commissioner Leonard questioned if building size was affected by any regulations, to which Bob Irvin replied 30,000 s.f. maximum was the limit. Chairman Krusinski felt that the prime concern was impact to lot coverage, to which Commissioner Bohm added that it was not a problem for a previous applicant, i.e. Corporate Way.

Attorney Smith stated that the lot coverage was increasing from 14.2% to 16.5%. Commissioner Pickell urged the others to look at the safety hardship as a basis for the addition, noting that no homeowner wanted change, but if change was granted, it must be supported; the community should get behind it and support it to exist. It should be their job to discuss how to make it possible, but be careful not to impact the neighbors and he noted that you could not see the arena from the street. Commissioner Pickell felt that this was a positive change and no downside. Commissioner Hirsch agreed with him and felt with the Storm Water Management improvements, it was important to support the application. Commissioner Leonard agreed and saw no downside, as other stables have had similar variances. Chairman Krusinski shared that he looked over the plans and found them exemplary, and the water retention and Storm Water Management improvements went beyond the requirements. He further stated that since the applicant went beyond the 15% maximum impervious surface allowed, the engineers might have to review, even with the considerable amount of open space. Commissioner Meluso thought the facility would be safe for the animals also.

Chairman Krusinski inquired if there were any further comments or discussion, to which there were none. Attorney Smith inquired about any conditions on a recommendation of approval. Commissioner Leonard felt that there was no need, as this was a small variation.

It was moved by Commissioner Pickell, seconded by Commissioner Hirsch to approve the following motion as stated by Chairman Krusinski: to recommend to the Village Board an approval of the bifurcated application for an amendment to the Special Use Permit regarding Case No. 16-SU-S-2 for the addition of a 13,268 s.f. indoor (with an updated site plan) arena and a 643 s.f. run-in shelter.

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

Nay: None

Chairman Krusinski declared the motion carried.

It was then moved by Commissioner Bohm, 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-2.

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

Nay: None

Chairman Krusinski declared the motion carried.

V. COMMUNICATIONS:

Bob Irvin noted that the 8/2/16 meeting package was delivered to each of the commissioners who were present tonight. This package concerned the O'Donnell property special use permit and a special use permit application for a guesthouse on Shagbark.

VI. REVIEW OF REPORTS OF COMMISSION COMMITTEES:

None Presented

VII. OLD BUSINESS:

None presented.

VIII. NEW BUSINESS

Chairman Krusinski announced that there would be no September 6, 2016 meeting. Commissioner Bohm stated he would like to see a chart of all other properties which have lot coverage approaching or over 15% impervious surface, to which Bob Irvin agreed to furnish at the next meeting.

IX. ADJOURNMENT

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

With unanimous consent, Chairman Krusinski declared the motion carried and the meeting adjourned at 9:52 PM.

Colleen Liberacki, Deputy Village Clerk