

**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, FEBRUARY 8, 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 7:00PM.

**II. ROLL CALL**

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

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

Absent: Commissioners Busscher and Hirsch

Chairman Krusinski declared a quorum present.

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

**III. APPROVAL OF MINUTES:**

The ZPA meeting minutes were reviewed. A motion was moved by Commissioner Leonard and seconded by Commissioner Meluso to approve the minutes for the meeting of December 6, 2016.

Upon a call of the roll the following voted:

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

Nay: None

Absent: Commissioners Busscher and Hirsch

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

**IV. CALL OF CASES:**

CASE NO: 17-SU-S-1: 14157 W. Riteway Road- Application for an Amendment to an Existing Special Use Permit to allow for:(i) the expansion of the existing large stable to contain eleven (11) horse stalls; an indoor riding arena; two(2) feed rooms, two (2) wash areas, a storage room, a utility room, an office, and a bathroom; (ii) an outdoor arena; (iii) a parking area; (iv) a manure dumpster; and (v) related improvements reflected in the application.

Upon a call of the roll the following voted:

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

Absent: Commissioners Busscher and Hirsch

Chairman Krusinski declared there is a quorum present.

Chairman Krusinski said the ZPA Committee received Attorney Smith's memo dated December 8<sup>th</sup> and two Village Board meeting minutes supporting the request for a ZPA text amendment review process. The list of text amendments to be reviewed resulted from discussions at Village Board Meeting, Trustees' submittals and residents' requests. The manner in which these amendments were to be addressed by the ZPA Commissioner was to be in a Workshop as a public forum. Chairman Krusinski asked to include the following four documents received by ZPA Commissioners for this meeting to be placed on file. The documents to be placed on file are the following: Attorney Smith's memo dated December 8, 2016; Board Meeting minutes dated July 19, 2016 and October 18, 2016; and Administrator Irvin's memo dated October 12, 2016.

Attorney Smith said he will be continue to provide an updated memo after each Workshop with a summary of the discussion and any consensus reached on the items before the ZPA. No text amendment can be codified in the Village's Zoning Ordinance until after the ZPA holds a Public Hearing and the Committee makes a recommendation and the Village Board adopts an ordinance amending the Zoning Ordinance.

Chairman Krusinski said the ZPA meeting is reviewing matters that affect zoning and planning in the Village. A Commissioner is in fact a finding body which has no final authority. No decision is finalized at this meeting yet can only make recommendation to the Village President and Board of Village Trustees. This meeting minute will be transcribed by a Court Reporter. All statements and witness are given under oath.

Chairman Krusinski said the following cases have been published in the Daily Herald. Certification of the Daily Herald publication on January 21, 2017 has been submitted as **Exhibit 1**.

Chairman Krusinski said the applicant has provided evidence that all real estate owners within 1,000 feet of the applicant's property have received notification of this hearing within the time frame required by the Village Zoning Ordinance. The proof of mailings has been submitted as **Exhibit 2**.

Nick Standiford the Attorney for Timothy and Amy Farmer, said the property is located on the Northeast side of Mettawa within the R-1 district. In 2000, the Village President along with the Village Trustees granted the original owners a SUP for a large stable which included 11 stalls. The Farmers would like to utilize this SUP that was granted to them for their 11 stalls. The applicants are not considering increasing the number of stalls, only to add office, tack rooms, among other necessary rooms. Even with the additional rooms, the lot coverage of this project is less than the 15% which meets the Village code requirements. The Farmer's structure is 33 feet shorter than the Corporate Way recent structure approved. The Farmers are also addressing the utility connections by rerouting them to reduce their exposure. Within the code

section 15.201, it states a large stable may include an indoor riding arena. As a result, when the SUP was approved in 2000 for a large stable this granted the Farmer's the opportunity to build an indoor riding arena. An indoor riding arena is necessary for the winter months to allow the horses to run. As for the parking spaces, the 8 parking space will not create high traffic to this street. The Farmer's architect, Adam Lyons, considered the visibility of the stable from the southernmost point of the lot when creating his drawings. Mr. Lyons drawings of the stable were done to address any concerns from the surroundings neighbors. The Farmer's compiled letters and emails received from the adjacent resident's as proof of approval from the Farmer's architecture plans. The resident's letters of approval have been submitted as **Exhibit 3**.

Commissioner Pickell asked Attorney Standiford when referencing the original SUP; the comment was the plat agreement indicated they can have a large stable.

Commissioner Leonard said an SUP for a large stable may include an indoor arena. However, a separate SUP is required to be filed in order to be granted a permit for an indoor arena.

Commissioner Pickell said 5 acre property owners need to comply with the zoning ordinance relating to buildable land. Commissioner Pickell asked Attorney Standiford if the Farmers have been issued any other special use variance outside of the 6 horses.

Commissioner Leonard asked Attorney Standiford how will this large stable benefit the community.

Attorney Standiford said the larger stable will benefit the community by providing lessons throughout the winter months.

Commissioner Leonard said you do not have a special use permit to board horses. The Farmers were not grandfathered to board horses even with the SUP granted in 2000.

Chairman Krusinski asked Attorney Smith to comment on the two questions at hand. Firstly, is the arena being considered a complementary use to the larger stable as being stated. Secondly, how do we address the boarding of horses which is not inclusive in the 2000 special use permit specification.

Attorney Smith said the indoor riding arena does require a special use permit approval for an indoor riding arena. The definition for a large structure states it may contain a structure such as indoor riding arena for their special usage. Attorney Smith added the notice for the public hearing was sent to include indoor and outdoor arena for a large stable. Applicants can decide if their application is structure or use related or both. The application the Farmers have submitted is a structure relief of the property. The submitted application does not govern any uses on the property. Attorney Smith said the current owners have not been granted express permission to board horses under Ordinance 422. Attorney Smith said in the interest of boarding horses, this fact is not

part of the application; this was not published nor sent as part of the public hearing agenda. As a result, the ZPA Commissioners cannot make a recommendation regarding Farmer's boarding horses.

Commissioner Clark asked if the Farmers will need to come before the ZPA to submit an application to board horses.

Chairman Krusinski asked Attorney Smith how will the ZPA precede with the fact the Farmer's are currently boarding horses.

Attorney Smith said if the applicants would like to express permission of boarding horses they will need to submit an SUP application. The applicant will need to come before the ZPA as a public hearing for their special use request and then forwarded onto the Village Board. The application at hand is solely requesting stable structure recommendation.

Commission Pickell said Corporate Way did not exceed the square footage of the old building structure. Commissioner Pickell asked how many out buildings can be constructed on a 5 acre property.

Administrator Irvin said the Village does not have any regulations on the number of out buildings per property. The code includes the 15% building coverage; however, no limitations have been set on the number of out buildings per property. Subsequently, any building over 2,000 square feet will require a special use permit.

Adams Lyons, Farmer's Architect said an accessory building is a subordinate to the primary structure.

Commission Clark said per James Anderson the Farmer's have eliminated the shed from their application.

Tim Farmer answered the shed was eliminated to reduce the footprint and stay within the ordinance coverage requirement.

Adams Lyons said the whole old barn will be demolished in order to address code setback requirements.

Attorney Standiford would like to submit the January 10<sup>th</sup> memo from James Anderson to be **Exhibit 4**.

Commissioner Clark commented your prior application you modeled a layout which included 21 stalls. However, your current application includes only 11 stalls, subsequently; you added several other rooms and renamed them. Commissioner Clark commented is there any way you would consider pairing down the various other rooms.

Attorney Standiford said the Farmer's are willing to consider a reduction in the number of rooms to receive the ZPA's approval for their structure.

Chairman Krusinski said the memo from James Anderson confirmed the Farmer's 15% coverage and the setback being addressed. The only deviations are the driveway changes. Chairman Krusinski said the driveways are usually aligned to the cross driveways so that you don't have a convergence of driveways.

Adam Lyons said the 3 driveways will be used accordingly. The property will have one driveway to service as the principle structure. The two other driveways will be used to service the stable. The zoning code states a limitation of 2 driveways. However the codes restriction pertains to a single family residence.

Tim Farmer said one of the service driveways will covered in grass. This service drive will only be used in the case of an emergency to exit the horses from the stable.

Attorney Smith asked Adam Lyons what is the square footage of the indoor riding arena.

Adam Lyons said the indoor riding arena measures 130 x 70.

Commissioner Leonard said the drawing included the arena to measure 9,298.12.

Attorney Smith asked Adam Lyons to state the square footage for the outside riding arena.

Adam Lyons said the outside riding arena is about 175 x 75.

Chairman Krusinski said within the James Anderson memo dated January 10, 2017 the impervious area was stated to be 14.99%.

Attorney Smith asked Adam Lyons how you arrived with 8 parking spaces for the structure.

Adam Lyons said the parking space was derived based on family needs and the possible riders taking lessons.

Chairman Krusinski said we will now open the case to be heard by the objectors.

### **PRESENTATION OF OBJECTIONS**

Dr. Richard Fantus (14253 W Riteway Road) used a PowerPoint presentation to state his case. Dr. Fantus addressed his concern on the new stable becoming a commercial enterprise due to its magnitude. He said this structure would reduce property value and

create unnecessary congestion on a residential road. Given the timeline for the last 56 years, this subdivision has not only changed owners but the Village imposed an ordinance stating one horse per one acre. Dr. Fantus presented an image of the Farmer's website stating the boarding and sale of their horses was intended for commercial use. Dr. Fantus presented the Farmer's December 2015 application which included 21 stalls. Dr. Fantus stated no other 5 acre lot in Mettawa has an indoor riding arena.

An objection was made by Attorney Standiford indicating there was no relevance stating neither the current activity of truckload nor the handling of utilities on the property, to the application being deliberated. Attorney Smith asked Chairman Krusinski to rule on the objection if the information presented has any relevance to the case. Chairman Krusinski asked Dr. Fantus to focus on the zoning issue.

Dr. Fantus presented images of equipment left unattended on the lot, the white siding walls paint peeling as a reference of negligence to the parcel.

An objection was made by Attorney Standiford indicating the photo indicating winter 2015 was not the Farmer's property. Attorney Smith asked Chairman Krusinski to make a ruling on the objection requested. Chairman Krusinski asked Dr. Fantus to stay focused on the zoning matter and not to discuss the character depiction of who owned the building at that time.

Dr. Fantus presented a picture of a dumpster overflowing with manure.

Tim Farmer objected to the pictures presented of the horse manure which was not relevant to the application. Chairman Krusinski ruled on the objection from Tim Farmer, no assumptions can be made as evidence.

Dr. Fantus displayed the dumpster which included manure overflowing due to the 4 horses on the property. He indicated the seeding and the vegetation was planted using manure. Dr. Fantus addressed the three driveways will create congestion and safety concerns on the residential road. Dr. Fantus said this structure never had 11 stalls. This stable that was grandfathered for the 11 stables is non-confirming to the zoning code in 2000. This structure is a variance to the Mettawa code. The presentation has been entered as **Exhibit 5**.

Pam Fantus an Objector decided not to speak due to the lack of time.

Dan Shapiro from Dan Shapiro Law is the Corporate Way Attorney. Attorney Shapiro said Corporate Way completed a rigorous review through the ZPA Committee when they were being considered for a special use permit. Attorney Shapiro said it is righteous that the Farmer's application be reviewed and held to the high standards as Corporate Way was measured. Celebration Farm is a commercial use barn and they state this on their website by offering horse camps along with horse breeding. Corporate

Way reduced their number of horses from 50 to 48. Celebration Farm is not a 20 acres parcel; they are a 5 acres property.

Objection was made by Tim Farmer about the Celebration Farm website being referenced because it is not in use and it cannot be referred by Mr. Shapiro.

Attorney Shapiro said the Farmer's application listed the property as 5 acres and it will continue to house 11 horses. However, the Farmer's have never owned 11 horses. The new stable is set to be built at 18,677 square feet which creates a large increase in horse per ratio. Corporate Way was asked to ensure the manure shed was addressed in a timely manner to reduce any adversely effects on the neighbors. Celebration Farm does not address their manure shed location of 250 feet away from any dwellings. In addition, the current application does not include the following factors that Corporate Way had to present; lighting, parking area, screening on the parking lot, and impervious surface coverage.

Chairman Krusinski asked if there were any other objectors who wish to be heard at this time.

Attorney Shapiro said there are various surrounding neighbors who are not present at this meeting who object to the following application. Attorney Shapiro said Corporate Way special use permit did not grant permission for an indoor arena. The Farmer's will need to apply for the indoor arena.

Attorney Standiford said when his client tried to submit an application in a prior year and a number of objections were heard. Subsequently, when Corporate Way submitted their application the same objections were not apparent.

Dr. Fantus objected Attorney Standiford's commentary being personally directed to Dr. Fantus as an objector.

Attorney Standiford said Adam Lyons emailed Dr. & Mrs. Fantus to discuss the blueprints of the Farmer's stable to address any of the Fantus' concern relating to the size and aesthetic of the development. Several aspects of the Farmer's stable were modified to support the Fantus' concerns. The emails exchanges with Dr. & Mrs. Fantus have been submitted as **Exhibit 6**.

Pam Fantus said their initial discussion was with Tim Towne not with Amy and Tim Farmer. The Fantus objected the Farmer's stable due to the magnitude of the structure. Tim Towne sold the 20 acres to Corporate Way. The Fantus later meet with Amy and Tim Farmer in their home and addressed their disapproval of the new structure.

Dr. Fantus objected the submittal of emails which being recorded as Exhibit 6. The objection is to the communication predated from the last ZPA meeting of October 15, 2016. Dr. Fantus said they approved Corporate Way based on their size, character of the

owner. Chairman Krusinski said the object will be noted in relevance to date of when the email was originated.

Attorney Standiford said the Farmer's application is different due to the fact they are trying to enhance their facility to support their 11 approved horses.

Tim Farmer said Celebration Farm is the operations inside of Shadowbrook Farm. We had 33 horses and now we are downsizing to only 11. The type of horses we train are athletes. The indoor arena is necessary to properly exercise these types of animals. We have worked vigorously to address any and all necessary compliance issues for the last 13 months. We are not seeking any variance to our property. Mr. Farmer said the structure is being built compliant to the current Village code. The Village Engineer has approved this stable.

Commissioner Clark said one of the corrections on the square footage mentioned by Attorney Shapiro was you removed your patio. Commissioner Clark also asked has the septic system on the property been revised to support your house. Tim Farmer said the final septic system will meet the requirements of the Village. Commission Clark asked Mr. Farmer what are your future plans in relation to boarding horses. Commissioner Clark asked Mr. Farmer will the plans of boarding horses change the size of the barn.

Tim Farmer said the arena size would not be reduced. Mr. Farmer said consideration to reducing the number of stalls could be revised. As for the dumpster mentioned earlier, Mr. Farmer said the plan is to have a 20 yard dumpster, the current size is an 8 yard. This dumpster will be placed 250 feet from the residence in accordance to the ordinance requirements.

Attorney Smith said the Village Engineer, James Anderson memo which was signed by Yamin, states the improvement if built as proposed comply with the zoning code restrictions.

Commissioner Pickell said how are we addressing the 2,000 square feet.

Administrator Irvin said a permit is issued when you meet the setback coverage of less than 15%. Anderson memo states the Farmer's calculation is indeed under the 15% requirement. An accessory building above 2,000 square feet requires a special use permit to be filed. A large stable is not defined as an accessory building in the code.

Commissioner Leonard said on the information received from Attorney Smith dated January 26<sup>th</sup>, it indicates all 7 standards need to be met in order to classify as a special use.

Attorney Smith confirmed to approve a special use request all 7 standards need to be reviewed.



Julie Stevenson (14371 N Riteway Road) said the Farmers were meeting the code requirement for a large stable barn of less than 15% .

### **PRESENTATION IN FAVOR**

Julie Stephenson (14371 W Riteway Road) said she has would like to speak as a character witness for Amy Farmer. Ms. Stephenson has known Amy Farmer for the last 41 years. Amy Farmer has been avid horse rider for a number of years. More importantly, she will be a resident that resides on her barn.

Ashley Samaras (14319 W Riteway Road) said she fully supports the Farmer's application.

Tim Towne (14388 W Riteway Road) said he purchased the subdivision Shadowbrook Farm. The subdivision was made into 8 lots. The water main system needed to be installed. The Village agreed to a recapture ordinance for the water main system. The Village preferred the lots to be classified as 5 acres and 65 horses were approved for the subdivision. At this time, Lot 1 was approved for 11 horse stalls. Corporate Way was purchased with the special use that was approved to that land.

Objection was made by Attorney Shapiro regarding Tim Towne making commentary of Corporate Way when their application is not at hand. Chairman Krusinski noted the objection.

Tim Towne (14388 Riteway Road) said Riverside Preserve has a 21 stall barn. This barn is falling apart. Deerpath Farm has a special use on 4 acres and they are not allowed to build on this lot. Stan Taylor has an indoor arena and he has a small farm which violates the impervious surface ratio.

Objection was made by Attorney Shapiro regarding Tim Towne stating Corporate Way had originally agreed to keep the race track as part of the land. Chairman Krusinski noted the objection.

Chairman Krusinski said the submitted plan for Corporate Way is a vast improvement from the prior years. Your facility would also be considered an improvement, compared to what the location is now. Chairman asked the Farmer's if you are not approved for the special use permit, what are your plans with the existing structure.

Tim Farmer said the building needs to be improved. The building will be maintained to support our horses.

Chairman Krusinski said the application before the ZPA Commissioners is not a compliance issue to the zoning matter. The issue before the ZPA is a request which includes a stable and a large arena.

Attorney Smith said all the objective requirements of the Zoning Ordinance have been met in the application before the ZPA according to the Zoning Administrator. Attorney Smith said due to the type of application for this large stable and arena, the ZPA is being requested to evaluate if the 7 subjective standards are being met.

Commissioner Pickell asked does the ZPA not consider a stable or barn an accessory building.

Commissioner Leonard said many residents can build an accessory building. A barn requires a special use permit to be built.

Attorney Standiford said he would like enter into file Trustee Denis Bohm's email stating Celebration Farm development could be considered a commercial enterprise. This email is being filed as **Exhibit 7**.

Attorney Shapiro said he would like to submit his presentation to be on file. Attorney Shapiro's electronic version will be filed as **Exhibit 8**.

Chairman Krusinski asked if the applicant had a final statement.

Chairman Krusinski closed the public hearing to the public. The ZPA Commissioners will now deliberate.

Commissioner Pickell said residents should be certified to build on their property. However, with that said this structure is huge to which it will be seen from the main road. Commissioner Pickell said this structure is not good for Mettawa.

Commissioner Leonard said this structure is too large for the 5 acres parcel. She would consider new plans if the structure was significantly reduced.

Commissioner Clark said she is confused regarding the 2,000 square feet versus accessory building occupying of 5%. Commissioner Clark also added if we grant approval to build this barn will it result in other matters such as boarding horses request be brought back to the ZPA.

Commissioner Meluso said the Farmer's did not speak to their commercial use interest.

Chairman Krusinski asked if the Commissioner Leonard and Clark objection is the outdoor arena.

Tim Farmer has asked the ZPA Commissioner to only approve the 11 stall barn.

Chairman Krusinski said any modifications to the application cannot be approved without following the proper protocol.

Chairman Krusinski said no question the current structure is large. I have a concern about the arena bringing issues to the neighborhood. A group of residents have expressed they are in favor of the barn, due to our horse community.

Administrator Irvin said due to the continuum application the Village will need to have the final documents by February 17<sup>th</sup>. This will allow no less than 15 days no more than 30 days in order meet state filing requirements on the publication. The notice requirements do not need to be completed again.

Chairman Krusinski said on March 7<sup>th</sup>, Corporate Way's application will be heard. A quorum was confirmed for the next scheduled meeting.

Chairman Krusinski asked for a motion to continue the public hearing for Corporate Way. Commissioner Leonard moved to motion to continue the public hearing for Corporate Way to March 7<sup>th</sup>, the motion was seconded by Commissioner Clark.

Upon a call of the roll the following voted:

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

Nay: None

Absent: Commissioners Busscher and Hirsch

Chairman Krusinski declared the motion carried for a continuum hearing for Corporate Way application.

A new ZPA meeting workshop has been scheduled for February 16<sup>th</sup>.

V. COMMUNICATIONS:

None

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 Meluso that the meeting be adjourned.

With unanimous consent, Chairman Krusinski declared the motion carried and the meeting adjourned at 9:50 PM.

---

Sandy Gallo, Village Clerk