

MERRILLVILLE BOARD OF ZONING APPEALS
August 27, 2014
6:30 PM

The Board of Zoning Appeals meeting of August 27, 2014 was called to order by Chairman John Minchuk at 6:30pm and led the group in the Pledge of Allegiance. Members in attendance were John Minchuk, Chuck Stojakovich, Ric Holtz and Tim Fortier. Mrs. Krafft was absent. Staff in attendance were Dorinda Gregor, Attorney Touchette and Sedrick Green of Robinson Engineers.

Mr. Stojakovich said let the record show that we have 4 out of 5 of our BZA members present tonight for this meeting.

Chairman Minchuk asked if we have any communications. Do we need to go through those now?

COMMUNICATIONS:

Mrs. Gregor replied we can go through them at the time that the petitioner refers to that.

Chairman Minchuk asked for any questions or comments on our minutes previous minutes from July 23, 2014.

MINUTES: July 23, 2014

Ric Holtz replied no, just some minor spelling errors and maybe a word or two missing but other than that. I would like to make a motion to approve the minutes from May 28th 2014.

Mr. Stojakovich seconded the motion.

Chairman Minchuk said all in favor by saying Aye

Mr. Holtz said I will rescind that it should be July 23, 2014. I was looking at the word minutes and those where the minutes from last time so.

Mr. Stojakovich said the minutes of July 23, 2014. Alright we got that

COMMENTS FROM CHAIRMAN:

Chairman Minchuk stated I call the case by case number and name of the petitioners I would ask that you come forward state your name and address for public record at which time you will be given an opportunity to present your case accompanied by any professionals that you may wish to have. After that we will have the open the case for further comment. If you are desirous of speaking for or against any case we ask that you please sign in at the registry in the center of the isle. We will have a question and answer period followed by a staff report pertaining to each case presented this evening. We will also render a decision either for or against or a deferral for more information or other reasons which we will state. Would you please at this time silence any communication devices, cell phones or pagers. We will appreciate it. Thank you.

OLD BUSINESS:

None

NEW BUSINESS:

Z20V7-0814 STEVE LEWIS, PETITIONER & OWNER, Located at 7812 Marshall Street for a Variance from Sec. 21-12(9) and Sec. 21-136 Setbacks on a legal non-conforming lot to reduce the side yard setback from 6' to 0' and reduce the required 10' setback from the house to the detached garage to 4' in an R-2 Single Family Residential Zoning District to utilize the existing concrete pad on a detached garage that will be demolished.

Jerry Doppler of Doppler Construction. Basically what it is the garage to rebuild the garage the pad is relatively in good shape rebuild it as it is. It is more of a money with the homeowner.

Chairman Minchuk said whose are we talking about yours or his.

Mr. Doppler replied his.

Chairman Minchuk said he has to state his name and address.

My name is Steve Lewis 7812 Marshall Street

Jerry Doppler said the reason for using the same pad it is in relatively good shape instead of all the extra cost involved in moving the garage back. It is more of a money issue for the homeowner and it has been there and I believe you have pictures you can see what kind of shape it is in we are going to rebuild it exactly the way it is now in the same place.

Mrs. Gregor asked did you speak to the adjacent property owners. We did get letters back but no one wrote in or.

Jerry Doppler said they went to the homeowner he and his mother went to them all and they had absolutely no objections.

Mrs. Gregor read her staff report. Conditions if approved for this petitioner only at this location only and for this use only.

Chairman Minchuk asked any questions.

Mr. Fortier said I assume Dorinda that we are going through this because the original garage was there prior to the code and zoning that we have now.

Mrs. Gregor replied yes absolutely.

Mr. Holtz said I went out there and looked at it and since it is already to me it is alright with them putting it right on the same pad shouldn't be any issue but it has already been there

Mrs. Gregor said and they are not enlarging it is going to remain the same so

Chairman Minchuk asked if there is anyone for or against. Anybody in the audience that would like to remonstrate for or against. Seeing none can I get a motion please?

Mr. Fortier said I would like to make a motion that we approve the request on case number Z20v7-0814 for this petitioner at this location for this use only.

Mr. Holtz replied I will seconded it

Chairman Minchuk called for a roll call vote please

Mr. Fortier yes, Ric Holtz yes, Sylvia Krafft is not here today, Chuck Stojakovich yes and Mr. Minchuk yes.
Motion carries

Chairman Minchuk said see Dorinda before you do anything.

Mrs. Gregor said so you can apply for you permit.

Jerry Doppler said can I do that tomorrow or as soon as I can?

Mrs. Gregor replied tomorrow or after Labor Day.

Z21V8-0814 SCOTT REDER, PETITIONER & OWNER, Located Prairie Creek Phase I for a Variance from Sec.19-12(1) and Sec. 19-125(a) to suspend the requirement for a developer to provide a two year maintenance bond for public improvements in a PUD, Planned Unit Development for Prairie Creek Phase I for the Town of Merrillville to accept streets and certain improvements.

Chairman Minchuk said we do have some letters on that. Chuck Stojakovich do you want to read the letters.

Mr. Stojakovich said the first letter on this case is dated August 25, 2014 and is to the Merrillville Board of Zoning Appeals.

The Town of Merrillville has been informed by Scott Reder the developer of Prairie Creek Subdivision that he is not able to provide a maintenance bond for the road improvements due to credit issues. The Town Council and I believe that it is in the best interest of the Town to waive the Bond requirements. The Town Council would them be able to accept the streets into the inventory and the Town would be able to start maintaining them. Signed by Mr. Bruce Spires, Town Manager.

Mr. Stojakovich said the second letter dated August 27th in reference to the acceptance of the streets by the Town of Merrillville. This is from Robinson Engineering which we do have a representative here tonight.

On April 30, 2014 Scott Reder Developer of Prairie Creek Subdivision, Chasiti Stanley, treasurer of Prairie Creek Property Owners Association met with Town Representatives, Matt Lake, Stormwater Department and Bruce Spires, Town Manager onsite for a final walk through of Phase I and the Detention Pond. The existing final infrastructure was installed and has been functioning since the fall of 2012.

Prairie Creek Developer Scott Reder and the Property Owners Association have complied with the recommendations from the Town of Merrillville Stormwater Department regarding repairs and maintenance on the Detention Pond.

After performing field reviews, we conclude that these streets meet the acceptable standards of the town of Merrillville. We recommend accepting Phase I only into the Town of Merrillville Street Inventory which boundaries included; 73rd and Whitcomb to the south, West 71st Ave and Hendricks Street on the east and approximately the north property line of 6986 Whitcomb Street.

If any further assistance is needed or you wish to discuss further, please do not hesitate to call.

Very truly your,
Robinsons Engineering, LTD
Sedrick M Green, Jr.

CC: Dorinda Gregor
Bruce Spires
file

Mr. Stojakovich said Mr. Green is available here tonight.

Chairman Minchuk asked if Scott Reder is here.

Mrs. Gregor said no he is not here.

Mr. Stojakovich said Sedrick Green from Robinson Engineering.

Mrs. Gregor said I think that there is a President of the Homeowners Association here.

Mr. Jeff Brewer, President of the Homeowners Association said as the letters indicate the developers has taken the steps to get the streets and the detention pond ready for the streets to be taken over by the Town. The work has been inspected by the engineers and recommended for approval by the Town Manager and we would like to see the streets in the first phase taken over by the Town.

Chairman Minchuk asked Sedrick do you have anything.

Mr. Green said no the only thing was there was just a few signs that needed the logo on them. He provided I do believe in the packet the estimate for those signs to be ordered and they are supposed to be ordered and delivered.

Mr. Brewer said those have been put in place

Mr. Green said the signs with the logo the ones that were in question I do believe where the ones on 72nd. He stills has the incorrect signs up but the signs with the logo are the ones that are supposed be ordered

Mr. Brewer said I know that he had some new ones and those were installed and I could double check I think that those are in place.

Mr. Green said if he has them already I know he probably didn't have them installed yet. That is something that could be given over to the Town and I guess it will be totally up to the Town if they just want to hold it until something happens to that one sign that way they will have a backup and won't have to order, but it's really not

Chairman Minchuk said but that won't be detrimental to the case.

Mr. Green replied no

Chairman Minchuk said he said Robert Green not Sedrick that was what threw me off.

Mr. Brewer asked what street sign are you were referring to.

Mr. Green said I believe it was 72nd and Wallace

Mr. Brewer replied 72nd and Wallace

Mr. Green said yes

Mr. Brewer replied I will double check that for you.

Mrs. Gregor read her staff report.

Mr. Touchette said I would like to say a couple of things here.

Mr. Stojakovich said you go ahead because I have a few questions.

Mr. Touchette said I don't think what the petitioner presented in his paper work is really accurate I would like to set the record straight. I understand you are not the petitioner. Scott Reder is the petitioner and what he has submitted he said that the banks are not willing to release funds for the bonding of the developments. Well I think that the letter that we got from the Town Manager from Mr. Spires is more accurate when he said that the developer hasn't provided a maintenance bond because of his credit issues. Banks don't issue bonds as a general rule maintenance that would be an insurance company issues those. Apparently the developer doesn't have the money to pay for the insurance company to issue the bond and the way I see the situation here is the homeowners are kind of on the hook right now for this snow plowing and maintaining of the roads but for the maintenance bond ok from what I understand from the Town Engineer is that the roads are completely done and they are up to code and so that is the hold up here now I have a question is there this is Phase I that we are talking about here now correct.

Mrs. Gregor replied yes

Mr. Touchette asked if there is a Phase II that is being built also.

Mrs. Gregor replied yes

Mr. Touchette asked if this is the same developer.

Mrs. Gregor replied yes.

Mr. Touchette said he has the money to proceed with Phase II but he doesn't have the money to buy the Maintenance Bond.

Mrs. Gregor said I am not for sure if he hasn't already or previously sold those lots in the past and then the money has depleted.

Mr. Touchette replied ok. I can see this is one of those no harm no foul here because you do have to do something to take care of the people that in good faith that bought their homes in Phase I know looking through the Towns regulation here there is also a requirement that developers purchase Performance Bonds for 4 years and the Performance Bonds are to make sure that the roads get build up to the standards that they are supposed to be. Now not speaking so much to the issue that is here tonight but for this Phase II I think that you will have to keep close track here that the roads are built in a timely fashion and they are completed in a timely fashion. I don't know if his 4 years has run on his Performance Bond. I haven't seen a Performance Bond here. I haven't seen it but if there is a Performance

Mrs. Gregor said I think that his Performance Bond has expired also because this development has been going so therefore

Mr. Touchette said so we are kind of relying on the developer to finish the roads. Are Phase II roads completed yet he Sedrick?

Mr. Green replied no.

Mr. Touchette said I just make these remarks because this is a situation that could be easily remedied ok for the homeowners ok. Now as far as the developer that has cash problems and the roads are done yet. I mean that this could be another problem coming up on the horizon here.

Mrs. Gregor replied we are aware of that.

Mr. Touchette said I just want the homeowners to be aware of that too ok so because at a certain point the Town can help you out on this type of a deal but if the developer doesn't finish the roads that is quite a situation there. Someone ends up paying or roads end up going unfinished and not taken in

Mr. Brewer said I understand I hear what you are saying.

Chairman Minchuk said if I remember last time when he was coming through with the BZA and the Plan Commission the one thing that he stated was I live there I want to make sure it is right well he don't live there anymore. So does that mean he forgot about Phase II the residence? That's my question.

Mr. Green said I would like to make a comment that there are currently builders building in Phase II and also there is another permit for a home to be built in Phase I. There is one of the last lots in Phase I and I have that right here in front of me. 3716 West 72nd Avenue lot #22 so there is a builder building there and that is from Accent Homes. Don't know when those lots were purchased but building is still continuing in Phase I and Phase II as far as who will complete the infrastructure. Normally builders do not finish infrastructure they just build the homes and sell the homes and they leave. The developer who is technically still the owner of that infrastructure until it is accepted can be an issue the only other thing that I can think of is before he starts selling another home or before a builder actually continues to build in Phase II make sure he gets some type of way that a Performance Bond and a Maintenance Bond be established so that Phase II can be finished. He does have a Phase III

Mrs. Gregor replied I am thinking that he sold those lots already. Those lots have been paid for by these contractors who probably sitting on the lots because the economy took a slide and so now they are willing to start building and to get their investments turned over.

Mr. Touchette said I understand what both of you are saying. I was kind of thinking along the lines of what Sedrick was thinking. See the thing is it may have been these developers bought the lots and they may be selling houses to people

Mr. Green said the builders

Mr. Touchette replied the builders bought some lots and they are selling houses to people and the people that are buying the houses may not be aware that there could be a problem with the roads getting finished later on.

Mr. Green said or any other type of improvements that needs to be

Mrs. Gregor asked are you involved with Phase II at all with the Homeowners Association

Mr. Brewer replied yes.

Mrs. Gregor replied so you kind of are working

Mr. Brewer said we are working together with the homeowners. I can't speak to Scott in his situation I can only speak in the terms of the Homeowners Association and what Scott has indicated to us is that he intends to finish the roads in Phase II. There is a coat down and there as the construction and that sort of stuff develops or continues at some point he would do that second layer as more homes are put into the area but I can only speak to what he has told us. I can speak for him

Mrs. Gregor said so Phase II residences are aware of that if and I am throwing If out if the Town had accepted the Phase I streets that their streets are not going to get plowed unless you guys plow them.

Mr. Brewer said that is correct

Chairman Minchuk said and they all understand that.

Mr. Brewer replied yes.

Mr. Touchette asked if there are many lots to be build on yet in Phase II.

Mr. Brewer said yes.

Mr. Stojakovich said yes quite a few.

Mr. Brewer said we have two active builders Accent and Luxor

Mr. Touchette said Mr. Reder is not here tonight so he can explain to us how he intends to finish these roads because quite frankly I don't believe him.

Chairman Minchuk said do you know how many times we have been lied to Attorney Touchette. I have been on the Boards, BZA and Plan Commission for quite a while I couldn't count on my fingers and toes

and probably everyone else sitting up here how many times we have been lied too or exaggerated to I am sorry.

Mr. Stojakovich said he is not saying from Mr. Reder just in general.

Chairman Minchuk said the comments were I live here I am going to take care of it and everything is going to be done.

Mr. Touchette said he is talking about Mr. Reder there.

Chairman Minchuk said it is in the record. So that is where my concern is.

Mrs. Gregor said Mr. Reder really needs to be here to answer some questions that are very valid and important.

Mr. Touchette said I understand that the Town is going to take his Phase I roads I assuming we will have a positive vote here for this. I am not a voting member.

Mr. Holtz said what about Phase II what happens with that in making sure.

Mr. Touchette said right and I just think that the Town Council might want to consider I mean this has to go in front of the Town Council after

Mrs. Gregor said this will move forward to the Town Council as acceptance of the street if the Variance is approved.

Mr. Touchette said right so this is going to go to the Town Council and I would think that they might want to consider the status of Phase II in future building permits and getting Mr. Reder in here before a bad situation gets worse and you know a bunch more people built homes and then they end up with roads that are not finished.

Chairman Minchuk said we are all homeowners in Merrillville. I own a home in Merrillville I pay taxes and I had a builder build my home and all of a sudden he was gone and our Association said they don't know what to do. You know where I live at and the builders gone. We had problems with the houses and different things whatever no one could find him. We are on our own and that is what I want our taxpayers in that subdivision to know if it is not done he could say I don't have the money and they are responsible and I know Phase I we should approve I am not in favor of it myself because we need to send a message that if you don't take care of your properties and you take care of Phase II we are not going to help you with Phase I. Like you said the bond has expired haven't they. Why weren't they renewed that's my personal feeling?

Mr. Touchette said the things about Phase I is that the roads are done right know Ok and it is the people you are not really helping Scott Reder out you are helping the homeowners. So but as far as future building permits going out for Phase II I would seriously question whether that should go on.

Chairman Minchuk said should we send a message that tells him that.

Mr. Touchette said I don't think he is going to hear this message if you were to deny this petition here tonight I don't think Scott Reder is affected ok it is the Homeowners that are paying for the snow plowing and for the maintenance so that is the message he is not going to hear. Now if building permits were not to be issued anymore in Phase II Scott Reder might get the message ok and maybe some of these builders that he sold lots too they may put pressure on him. They might sue him. I really am kind of surprised the man isn't here tonight it is like he dumped his problems on the homeowners laps and the laps of the BZA and next to the Town Council.

Mr. Green said I would also like to state that you know that everyone in your subdivision they actually need to know that it is not their responsible to plow roads to take care of the detention pond before the developer has completed his project first. There is no way your property owners association should only be taking care of common areas in the subdivision once it is turned over. So hopefully everyone in your subdivision understands that. That is not their responsibility and responsibility of any property owners association where a new development is going in.

Mr. Touchette said I think that the homeowners association that they realize that it is not their responsibility but this last winter we had a choice of either we paid to have the roads plowed or we have no plowed road because Mr. Reder was nowhere to be found.

Mr. Green said there are other Avenues I mean bring up a lawsuit against him to get the money to pay for it to have it.

Mrs. Gregor said it is our office that receives the complaints why aren't our roads plowed.

Chairman Minchuk asked if there are any other board members have any questions.

Mr. Stojakovich replied yes I just want to make a couple of statements. You guys are taking a gamble with that Phase II. That could be a chance the roads are going to look like the subdivision down the street to your to the West that developer went belly up and there are not final streets in there. That is horrible in there and nothing has been done. You could be put in the same situation and never have finished the streets.

Mr. Touchette said but your developer is still around.

Mr. Brewer said and the other thing is I guess from the standpoint that we can sue and we still would be in the same situation of having to take care of the situation to make it livable. If we don't take care of the detention point and he doesn't take care of the detention

Mr. Green said the one good thing about you have on your side is he does have future property that he will want to develop and he would also have property adjacent to your subdivision where he currently lives or previous lived. That is the one good thing about it he wouldn't be able to sell all that for anything if you take action before the subdivision gets fixed and possible you can get reimbursed for the expenses that have incurred so that is one of your options. That is the best option because he already made plans for Phase III and IIII and then he owns additional land.

Chairman Minchuk said he has no credit. How could he do that without credit?

Mr. Green said that is the thing. I don't know his situation he has collateral but maybe his credit is bad and he doesn't want to use what he can have profitable for collateral so therefore he would potentially lose everything. He can have bad credit but be able to walk around and be functional because he can sell the other land and have another developer take it over and then they then wouldn't have a recourse because he could sell it for 5 million dollars and still walk away from Phase II versus he can't sell the rest of his land until he takes care of

Chairman Minchuk said today we are talking about Phase I. Why don't we just go on that and I will tell you in the future I will remember Phase II and I will remember the words of Scott "I live there and I want to make sure it is right". I will never forget those words.

Mr. Holtz asked where is the 6986 Whitcomb because I was driving out there and is it basically where the surface changes as far as the

Mr. Green said correct where it goes from the finished surface at the right of the gutter where it drops down to where it is just north of I think 70th Lane.

Mr. Holtz said so the town is willing to fix the surface top once they get it.

Mr. Touchette said Phase I has the final.

Mr. Holtz said the surface top may only last another few years on Whitcomb. I have drove on it and it looks pretty bad and there are some gutters that look pretty bad too that will probably have to be replaced. I just wanted to make sure

Mr. Green said the other comment would be to this or the Plan Commission is to have the builders install a construction entrance somewhere else to access through Mr. Reders other property.

Mrs. Gregory said there was supposed to be another construction entrance off of Hendricks Street.

Mr. Green said at 71st it looks like it was turned into the actual road

Chairman Minchuk said could we work something out with that

Mr. Stojakovich said that was something I was going to ask.

Chairman Minchuk said I want to get this one over first.

Mr. Touchette said with the condition of taking over the roads you don't want all the construction traffic going over the road that we just took over and beating them to death with heavy trucks when they were supposed to have a construction entrance that is the whole idea of the construction entrance in fact that is why they are allowed to do the rough coat of blacktop first because the idea is we are going to be

constructing we are going to be driving trucks in and out let's get that done and then we will put the finished coat on and so we won't beat the finished coat up with trucks.

Mr. Fortier said if the Town were to take over ownership of these roads and maintenance we could set a weight limit on these roads.

Mr. Touchette said I don't know

Mr. Green said there is already a weight limit on residential roads

Mr. Fortier said which would restrict the construction traffic

Mr. Green said here again when you have that you have limitations where it is not constant and when you are in active development it is constant so that is why you would recommend a construction entrance so the construction traffic would go in and once they are done with construction they abandon and return it back to green open space or whatever or work their way out of the construction entrance if it is a long lot that they are going to build on.

Chairman Minchuk said in other words what you are saying the entrance for Phase II so people won't have to go through Phase I.

Mr. Green said right

Chairman Minchuk said how are we going to get him to do that he won't even show up to the meeting how are we going to get him to do that.

Mrs. Gregor said by deferring this until he does show up at the meeting.

Mr. Touchette said you could so that. The homeowners are not on the hook for any snowplowing right now. It is coming up and this issue of the construction entrance if the contractors are told that they can't be driving on the existing road without a construction entrance everything halts in the development end of this and maybe that shakes it loose to where Mr. Reder would actually grace us with his presents.

Chairman Minchuk said like I said before send a message. He has got to get that message like I said first all they were in a big hurry and now all of a sudden he is not taking care of his responsibilities leaving you and the homeowner's just out to dry.

Mr. Brewer said and that is the last thing that we want to be in that position and that is why we have been trying to work with the Town and work with whoever to try and push this thing forward to the point and I guess from my position what I am looking to do is trying to protect at least part of the association and that is the folks in the first Phase and that is where the majority of the people live so my goal is to figure out a way to protect them as we try and work and figure out how to address these issues in Phase II. I totally hear what you are saying in terms of us taking over and being responsible for activities and the detention pond and plowing the street and those kind of things. The approach that we have taken is we tried and have implored Scott and everything other than sue him to try and get things taken care of. As things get to the point where they have to be dealt with we have stepped up and taken care of things because we know that if the detention pond doesn't function right we flood, other people flood so we have tried to make sure that those things are taken place and taken care of so everyone is protected so I would love to see us work together and work out a plan to move forward in terms of Phase II and those issues but I would also like to see the Phase I people taken care of in a timely manner.

Chairman Minchuk said I agree Sedrick with you 100% if you shut down until they open up that construction road you are sending a message for Phase I and Phase II both. I agree with that I don't know if anyone else does but I totally agree with that totally agree we need to send him a message. If you want to speak come up to the center isle and state your name and address.

Sir said I don't mean to be cutting in or intruding we are speaking on Phase II and I am currently looking for a permit to build a home in Phase II through Luxor Homes. This is my first board meeting and I am kind of concerned and worried now if a permit isn't given will my home at that point be built. I am hearing you guys talking about maybe shut down that Phase II of the development and that is where I am looking to build at. I just have some concerns.

Chairman Minchuk said we also got to be concerned with the people in Phase I. If they are having problems can you imagine the problems that you are going to have in the future?

The gentlemen said he agreed and that is why I am glad that I am here today. This is all new to me. I got a letter in the mail said I was welcome to attend and I am hearing all of this stuff and it is scaring me right now. I am concerned about both Phases. I am concerned about Prairie Creek Subdivision as a whole.

Chairman Minchuk said this isn't the last Phase so you have to understand that from here it goes to the Town Council and they have the last say so on aye or nay it is not us we send a recommendation to the Council whether we agree with it or not and my main thing is sending a message to Scott Reder saying you have to take care of what you have already which is Phase I and then in Phase II is he going to forget you guys. Next thing you have no roads completed you have drainage problems and he is nowhere to be found.

I did hear someone mention to put pressure on the developer and I am totally in favor of it now because like I said this is all new to me I had no idea that any of this was going on. Basically I just know that we are looking to build in that Phase and we are thinking

Chairman Minchuk said he did that to them can you imagine what he is going to do to you.

The gentlemen said understood.

Mr. Stojakovich replied if I am not mistaken you are ready to apply for a building permit aren't you because you paid your tap in fees for your sewer. That's another thing has not been done I need to make a comment as far as the sewers in Prairie Creek have not been dedicated to the Merrillville Conservancy District. I don't want to get into legal stuff with that too. The Conservancy District needs to own those sewers to take care of them and repair them.

Mr. Brewer asked is that a separate process from the streets being taken over.

Mr. Stojakovich replied yes it is. I have as build's they are still building there we will get in and take care of you just like the Town Council is stepping up to take care of the citizens of Merrillville. That is what they are doing with this letter. They are not going to let you guys hang ok they are going to help you guys but how far can they go. They have to send a message to Mr. Reder. Town Council is going to back you up trust me they are going to do whatever they got to do to take care of you and take care of your streets and keep you guys safe there.

Chairman Minchuk said they will do what we ask them to do we will give them a list of what we ask them to do but we are only a recommendation they will accept our recommendations nine times out of ten.

Mr. Fortier said I am understanding that the Town Engineer has approved these roads according to the infrastructure requirements stone base binder coat base coat top coat so these roads are acceptable to become owned by the Town of Merrillville so

Mrs. Gregor said the only thing lacking is the developer has not posted that 2 year maintenance bond that is they should fail that maintenance bond will pay for the repairs of that

Mr. Fortier said and that is what we are asking to be waived.

Mr. Stojakovich replied yes

Mr. Fortier said except the roads as they are now and have no recourse for the next two years if they are inadequate.

Mr. Stojakovich said the Town according to this letter the Town says they will take care of any problems for the next two years or forever. When they accept them they will step up to the plate and take care of the roads.

Mr. Green said when they accept the roads they will be maintaining them and when the winter comes they will plow Phase I.

Chairman Minchuk asked the gentlemen to state his name and address.

Robert Williams resides at 3763 69th Place and I am in the beginning of the second Phase going on 5 years when there was only 2 homes there when I moved out there and now the contractors come in with the trucks and leaving big pot holes. They have been there for a couple of years now. They should at least put pressure on them to patch it up.

Mrs. Gregor said once again that is the responsibility of your developer and he is not here.

Mr. Brewer said we have talked to Scott as recently as Sunday to get them patched up.

Mr. Touchette said and what did he have to say

Mr. Brewer replied that Scott said he would get it done.

Mrs. Gregor said I spoke with Scott 2 days ago and he said he would try to be here and that is where that stands.

Mr. Brewer said I spoke with him yesterday and that was when he informed me that he was not going to be able to be here his job has him in other states and so he was able to be back for this.

Mr. Fortier asked can we accept these roads with a contingency that they are not used for construction traffic.

Mrs. Gregor said there is no construction entrance for the Phase II so

Mr. Touchette replied I think that we could do that with the recommendation that when the Town Council accepts them that they make that a condition which would be a good recommendation.

Chairman Minchuk asked if there is anyone else that would like to speak for or against.

Mr. Holtz said my only question is that we had a developer just south of here with that pond that has a bond how are they able to put money aside to finish that pond but a developer doesn't have enough money set aside for finishing the roads.

Mr. Touchette replied because they didn't do it. They could have if that had done it in advance. The thing with the pond out there the developer wanted something from somebody and that somebody they wanted it from told the developer well you have to put up this money and so it got put in an escrow account. You have to use your leverage when you got it on people. That is what they did there.

Mr. Holtz said so the Town only ask for bonds for 4 years and then the 4 years passes and they don't renew it the Town doesn't say anything. I am just asking I don't know.

Mr. Touchette said I think that is what happened in this situation. Typically a Performance Bond if there is a requirement that the roads be finished within 4 years if your 4 years are coming up you would notify the bond company that the roads aren't done and you tell the developer the roads aren't done finish the roads you had 4 years to do it.

Mrs. Gregor said what usually happens is those bonding agency will notify the Town. They tell us the bond is ready to expire and are they up to spar yet if there not they go back to the developer and say we will continue this bond at this same amount.

Mr. Touchette said right they can do that or the Town is the beneficiary of the bond and at a certain point if the developer doesn't step up then the Town makes a claim like an insurance policy to the bond company to finish the roads. Now at that point it is up to the bond company and the developer to fight it up who pays. Somebody pays the bond company if they pay they are going to go after the developer. With reputable developers you hardly ever get into making claims on their bonds I mean they might extend the bond apparently in this case

Mrs. Gregor said they can't reduce the bond because not everything is completed.

Mr. Touchette said you can make changes in the bond

Chairman Minchuk said he didn't extend the bond because he didn't have the money. I have one more person to come up. Please state your name

Joan Crawford resides at 3712 West 70th Lane I am in the first Phase. What I am asking about is what you said about the sewer. How does that affect us?

Mr. Stojakovich replied it is just another legal aspect that has to be done by the developer. He has to dedicate these sewers the ownership of the sewers to the Conservancy District that they officially own them and we can get into it and do any kind of repairs that need to be done to the sewers not only repairs but maintain them also.

Mr. Touchette said what happens is like Phase I is done and the developer is ready to turn over the sewers and the roads to the Town and turn over the sewers to the conservancy districts. The developers give as built drawings of the sewers it is like survey showing where the sewers are and gives that to the conservancy. The conservancy sends out their trucks and they have TV cameras and they run those camera through the sewers to make sure they are properly constructed that there are no breaks in it when that is done the developer in essence gives a deed to the conservancy for the sewers and the sewers are all

supposed to be installed within easements that are shown on the plat of the subdivision so it is basically tying up loose legal ends that the developer hasn't done yet not to say there is anything wrong with your sewers. I don't know that MCD guys have televised those lines yet. It is not unusual to find one or two small....

Changed tape

Mr. Green said to make sure that the developer did not make an illegal connection which means putting your storm water in to your sanitary sewer. So if you have a sump pump in your home making sure that the builder did not connect your sump pump into your sanitary sewer.

Mr. Touchette said so chances are you are ok it is just loose legal ends that the developer needs to tie up here just like the street. He kind of let the ship run adrift here and thinks that he is going to keep building things and that is what we are talking about sending him a message get back here even if you did move you need to at least have someone here that can tie up these loose ends you have to do.

Mrs. Crawford said he really needs to be sent a message. Thank you

Chairman Minchuk asked if there is anyone else before we decide what we are going to do.

Mr. Brewer said the only thing I would say is I would like to sit with you guys and with Scott and map out a plan to move forward in terms like you were talking about. I was under the impression that the streets, sewers were all moving at one time I see that is not the case so there are certain things that I don't know and so it would be good for me to be a little bit more knowledgeable about some of these particulars and I think that we can work together to try and figure out the way forward and so I would love to sit down and set up something with you guys to do that.

Chairman Minchuk said after the meeting you can speak to Chuck and set something up with him and Sedrick do you want to help them out. I would really appreciate it. I am worried and this board is worried about our tax paying citizens who might get messed over. When this came up Chuck and I and I know we aren't supposed to talk about it but we just fumed because we both remember that meeting where we were told that I live here and I will take care of it and I won't let nothing happen. Both of us were sitting here and just fuming I will be honest I know Scott and I know him very well for years and Chuck has known him for a long time but when we see this we were just fuming. He comes up with all this good stuff I live here and everything is going to be good I will take care of Merrillville and I am a residence of here and then when this happened we both looked at each other and we just cannot believe this. We cannot believe it. It is typically of developers not all some to get up and move away you will never see them again according to the one I bought from so what I am saying is we are going to do our best that we can for you. It is going to be hard for Phase I and Phase II if we go with Phase I we won't send a message to Phase II and you are going to get stuck as they did if not worse. So we are going to try to do the best we can to send a message Mr. Reder through the Town Council. We cannot do it but we can send a message through the Town Council and when each board member votes I would like for them to explain how they are voting and why. If they desire to do that so you will understand what we are coming from. Any other questions before we ask for a motion. Seeing none I need a motion in favor of or not in favor of or deferral. If there is not motion then we will just defer it to the Town Council and then they will know how we feel about it I guarantee you.

Mr. Fortier said I wasn't sure if I got an answer on my question if we can make a recommendation or a condition that the roads if approved here are not used for construction traffic is that something we can do.

Mr. Touchette said I think you can make a non-binding recommendation to the Town Council.

Mr. Fortier said then what I would like to do is approve this Variance from Section 19-21 and Section 19-125(a) under the condition that construction traffic be restricted from these roadways owned by the Town of Merrillville.

Mr. Holtz seconded the motion

Chairman Minchuk asked for a roll vote Chuck.

Mr. Fortier yes, Ric Holtz well I am not pleased that the Town as to bail out a developer but for the sake of the citizens in Merrillville I will vote yes. Mr. Stojakovich said Mr. Holtz I am going to echo your decision too I want to give Kudos to your Town Council like I said they will not leave you hanging on this they are going to do whatever they have to get this going in the right direction I am pretty sure and I am going to give it the favorable recommendation so that you can start living a normal life get your streets plowed and all that. Mr. Minchuk said kind of what I said in the beginning lets send a message to Mr. Reder saying you better get this done I don't want to see the people in Phase II end up like in Phase I. I will go ahead and say yes so you can get your roads plowed so like he said live a normal life again

without worrying about the streets getting plowed or fixed. I really think that Mr. Reder needs to know that he can just get up and leaving and just leaving you guys in the dark. I have seen that done in the Town of Merrillville so many times it discuss me. I will vote yes.

Motion carries 4-0

Chairman Minchuk so we can move on

Z22V9-0814 MICHAEL DZUROCHAK, PETITIONER & OWNER, Located at 9215 Clark Road for a Variance from Sec. 21-12(7)a. to allow a fence in a front yard in an R-3, Two Family Residential zoning district to deter vehicular and pedestrian trespassing and for safety while maintaining property.

Chairman Minchuk said I was there this afternoon did you see that gray jeep pull into your driveway that was me. State your case and then we will have Dorinda state hers and then we will go for questions.

Mr. Dzurochak 9215 Clark Road I have almost 11 wooded acres with 540 foot of frontage and as all the farm fields around me are being developed I am getting a greatly increased traffic and incidence of trespassing so I would like to put a fence in my front yard.

Chairman Minchuk said Dorinda

Mrs. Gregor said we do have a letter of correspondence too.

Mr. Stojakovich said of correspondence on this case is a copy of the public hearing for tonight and explains everything and on the bottom is a hand written note that reads as follows:
I have no objection of Mike Dzurochak putting up a fence on the above stated property.

Linda Nichols
4395 West 92nd Place

Mr. Stojakovich said so one of your neighbors is in favor

Mrs. Gregor read her staff report. If this should be approved for this petitioner only at the location only for this use only.

Chairman Minchuk asked if there are any questions.

Mr. Holtz said I was out there too what vehicle traffic is going on your property.

Mr. Dzurochak said I have had snowmobiles, ATV and when the branches came down people actually drove through shallow part of the ditch and drove through my front yard. They don't respect people's property anymore.

Chairman Minchuk said I see you already have the poles up

Mr. Dzurochak said I sort of jump the gun

Mrs. Gregor said yes he started the job and then the Town went out and told him he had to stop. Then he was explained that he had to file for this Variance. He was unaware that a permit was required.

Mr. Stojakovich said understood.

Chairman Minchuk said I do see a hardship in this case.

Mr. Holtz asked is the fence on 92nd Place

Mr. Dzurochak said yes.

Mr. Holtz said we have already seen the poles will you be extending the poles from the north of your drive to that fence too.

Mr. Dzurochak said I intend to yes.

Mr. Holtz replied ok.

Mr. Sedrick said you own Parcel I and Parcel II.

Mr. Dzurochak replied yes.

Chairman Minchuk asked if there is anyone in the audience that would like to speak for or against. Seeing none can I get a motion?

Mr. Holtz said I would like to make a motion to approve case number Z22V9-0814 for this petitioner only, for this use only at this location only.

Mr. Stojakovich said I will second that as read.

Mr. Fortier yes, Mr. Ric Holtz yes, Chuck Stojakovich yes and Mr. Minchuk yes.
Motion carries 4-0

Mrs. Gregor said you can obtain your permit tomorrow.

Z23V10-0814 PRAIRIE POINT PHASE 4 LLC, PETITIONER & OWNER, Located at 2000 West 91st Drive for a Variance from Sec. 21-191(2)(b) to allow a second multi-family residential development sign in an R-5, Multi-Family Residential zoning district for additional identification for a new phase of apartments north of 91st Drive to be known as the Reserves at Prairie Point,.

Richard Anderson 9211 Broadway Merrillville Indiana. I have just given Dorinda the original of the Publication Notice which I had faxed to her earlier. Basically the Owner and Petitioner is Prairie Point Phase 4 LLC we are talking about an area north of 91st Drive. I don't know if you have maps in your packets I can pass one through. Basically I will pass 3 different maps through. The one map is Bing map that shows where the sign is going. The second one is a map that shows where lot 29 is from the Assessor's office and the third is a Manhardt drawing it is basically a site plan but what I have done is circle in green where the sign will go. The zoning for this is R-5 Multi-Family Residential the area that we are talking about is located north of 91st Drive. On the maps that you are going to look especially the Bing map it doesn't show that there are any buildings there whatsoever because the Bing maps are not up to date. The south side of 91st drive going all the way to 93rd is owned by a related entity of Prairie Point 4 but not Prairie Point 4. The developmental variance is for an additional identification sign for in a related multi-family development so basically the first sign is on 93rd Avenue near Hayes Street if you have been out there and basically the 2nd sign that is being proposed is on 91st Drive which is 2/10 of a mile if we figure that a mile has 10 blocks in it is basically 2/10 of a mile from the first sign. There not related signs all the property around these signs are owned by the developer so there is no one else involved in regards to the signs. Both signs are on premise signs so we are not talking about an off premise sign we are talking about the fact of two signs the project is large when you take the calculation of the area the reserves land area is about 40 acres 39.156 the original Prairie Point is 27.329 so you are talking about 70 acres of property so this is not where you are coming in and saying I want two signs and I am on an acre property and I got two entrances. The thing about it is the amenities between these two projects is different one is called the Reserves and one is called Prairie Point. The reason is when you go through the web site I have copies if you want to see them basically what you are looking at is there is and upgrade in the second section it is granite countertops, washers and dryers in every unit and the appliances are upgrades as far as they are stainless steel etc. So what they are trying to do here is have some identification of the units that are on 91st. We all know that right now 91st doesn't go anywhere except that it goes past it goes to Taft Street and dead ends into this project and basically the property to the east of this is owned by the school. So whether there will ever be a school built there I don't know but that is basically the property to the east. Again I think the intent of the ordinance is to make sure we don't have too much signage. If you look at the maps that I gave you it is basically pretty far apart you can't see one sign from the other and if you have a copy I assume you all have a copy of this sign it is not like we are trying to put up a billboard. It is a monument sign like the other that would sit on Lot 29 which is kind of half way in between the two roadways which is Cleveland and Hayes so what we would ask is that the monument sign which is a Developmental Variance be approved the setback is in the setback range so there is no question of the size of the sign and I think what we would ask is that is if you are going to approve it that the project that it be tied to this project so if the entity name changes I don't think we want to have to come back and say that it is not approved but it can be approved for this project at this location. I guess what the questions is I got to thinking about it today if you want to you can but I think that it doesn't make a lot of sense when it is an apartment complex. If you have any questions I would be glad to answer them.

Mrs. Gregor read her staff report.

Chairman Minchuk asked if there are any questions.

Mr. Holtz said it explains why I did not see the sign on 91st because it is on 93rd so and I guess from when I was out there and I don't know if you have been out there but there is a spot where a lot of slag is just north of 91st.

Mr. Anderson said to be honest with you when I drove around there is was raining so I didn't look that closely but it should be half way between the two streets approximately is where Lot 29 and where the dot is on that one drawing and a circle in green.

Mr. Holtz said I just saw the slag I thought that maybe that was probably the base where they were looking to put it at. I know when Dorinda read her staff report they are two separate entities.

Mr. Anderson replied yes.

Mr. Holtz said but the same petitioner.

Mr. Anderson said not really what she is saying is that the manager of both of them is Mr. Weiss the underling ownership is different of the two of them and once is called Prairie Point and one is called Prairie Point 4 LLC so basically you have two entities here. When this project was originally developed and we probable started this in 1999 so it is not like yesterday. Dorinda felt that I should come before you because when we first did it it was 400 and some apartments in this area so even though it is different entities and what has happened since 2000 people want different things in apartment living so in order to get up with that the floor plans are a little different.

Mr. Holtz said the outside is different that is for sure.

Mr. Green said the one question that I have is just to make sure if I am reading this correctly the current or proposed right of way line is that directly behind that sidewalk.

Mr. Anderson said we have to be 10 foot off of the property line.

Mr. Green said so is the sign going to be exactly 10 feet from the property line. The only thing that I would say is to make sure that the site distance for people entering and exiting the drives their views are not obstructed that would be the only thing I would say.

Mr. Anderson said it should be low enough that it is not.

Mr. Sedrick said well it is not lower it is actually higher but it just needs to make sure it is set further back because of the sign if I am saying it correctly the man in the image of it is saying it is 6 foot.

Mr. Anderson said the 10 foot is why at least from what I understand is the 10 foot setback is so that you have the site.

Mrs. Gregor said the visibility.

Mr. Green said well no that's not the only reason the obstruction is for when someone is getting ready to turn out they can see far enough down the street and if someone is coming down the street before somebody comes out. It is it is a little bit more than that especially for the height. That is the only thing that I would say needs to be looked at. The site distance for entering and exiting the property. It looks like it may be ok.

Mr. Touchette asked so do you thing that we should defer this is that what you are saying. Free to look at this.

Mr. Green said engineering can take a look at it to make sure.

Mrs. Gregor said they are not going to put the sign up without a permit and I won't issue a permit until this is approved.

Mr. Touchette said so when you permit the sign then you will make the final adjustments as to

Mr. Anderson said if you have 10 feet that's what the whole purpose of the ordinance is that you are not putting it up there. But I am ok with that we can do it at the time of the permitting.

Mr. Touchette said so rather than have it be for this petitioner, at this location for this use you want it for this project.

Mr. Anderson said yes until the project changes I don't think the sign should change

Mr. Touchette said or it might be different LLC or something like that by the time

Mr. Anderson said it happens from time to time.

Chairman Minchuk asked if there is anyone in the audience that would like to speak. Seeing none can I get a motion?

Mr. Holtz said I would like to make a motion to approve case number Z23V10-0814 for this project, for this use and for this location only.

Mr. Fortier seconded the motion

Chairman Minchuk asked for a roll call vote please

Mr. Fortier yes, Mr. Ric Holtz yes, Chuck Stojakovich yes, and Mr. Minchuk yes.
Motion carries 4-0

Mr. Anderson said Thank you very much.

Chairman Minchuk said see Dorinda

Z24E12-0814 REGION CLEAN FILL, LLC., PETITIONER

ESTATE OF WALTER DAVID REINHARD, Located at 4348-4360 West 73rd Avenue for a Special Exception approval in an A-1, Agricultural zoning district on a combine total of 42.337 acres of A-1 and R-1 zoning districts for a proposed clean fill facility to be known as 73rd Avenue Clean Fill Facility

Z25uV3-0814 REGION CLEAN FILL, LLC., PETITIONER

ESTATE OF WALTER DAVID REINHARD, Located at 4348-4360 West 73rd Avenue for a Variance of use approval in an R-1, Single Family Residential zoning District on a combine total of 42.337 acres of A-1 and R-1 zoning districts for a proposed clean fill facility to be known as 73rd Avenue Clean Fill Facility.

Thank you Mr. Chairman I am Jeff Ban I am with DVG Inc., 110065 Broadway Crown Point. I am the project Manager for this petition and to my right is Bill Hack the petitioner representing Regional Clean Fill LLC.

Mr. Hack said prior to our submittal of our applications for this petition we spend a lot of time talking with the Town Administration and numerous Town Council members to see whether or not this is a facility in use on this site that we are going to talk about here in a minute that was acceptable to the Town After getting some affirmative direction with this project that was when we started to work with Dorinda and the Planning office in filing our applications for both Variance of Use and Special Exception. We are representing the property located at 4354 West 73rd Avenue is generally between Whitcomb Street and Cline Avenue on the north side of 73rd Avenue. It consists of about 42 acres and it was the former sand mine operation of the Southlake Sand and Materials facility. The former facility was a permitted use through your ordinances and presumably through your BZA's at the time that they were operating and they operated that sand mining facility and they did also do some filling in that location between the time period of about 1980 through 2003 when pretty much the operations of the sand mining and filling had concluded. The proposed Region Clean Fill facility it proposes to fill a couple of the ponds that are on site that were the result of the excavation sand mineral extraction process that occurred over numerous decades. What we are proposing to do is looking to fill those ponds with clean fill. Non hazardous materials. Things that are kind of associated with construction activity even quite frankly public works when you fix a sewer or dig a ditch you have extra fill that needs to go and currently the Towns Public Works department hauls it all the way over to the east side of town off of Randolph Street where the Town owns property and there is cost and time associated with that that having a clean fill facility closer to the central operations of the town makes some sense but the kinds of material that would be going into this facility would be sand an clay, gravel and miscellaneous aggregate concrete and asphalt brick and concrete block black dirt kind of like organic fill like leaves and that nature tree stumps and leaves and brush. There would be no directional lumber there would be no structural steel that comes off of a construction site that is a different kind of filling operation and requires a different kind of permitting process through the state. On site we would also purpose to do some recycling and Mr. Hack has several other facilities that we will talk about in a second but he processes a lot of this material that is coming in if we know it is clean sand then we will isolate it and get it off to the side. If it is clean structural clay we will do the same thing and quite frankly when we have concrete coming in there may be times where a portable concrete crusher and make recycled concrete to have it hauled out to be used somewhere else. The existing topography on the site is probable 80-90% is water. There ae two ponds that are separated by a drainage lateral that drains a considerable amount of area south of 73rd Avenue but there is a north pond which we are referring to and a south pond and both ponds north and south have tremendously sever site slops and quite frankly are very dangerous and in our discussion with some of the Town officials prior to this from a public safety perspective if any trespassing occurred which as I have spent a lot of time out there looking at the site there are kids from neighborhoods nearby that are sitting on the side

fishing. It would be near to impossible to do a rescue to get into these site because of the side slopes are so sever. Ground elevations are anywhere from 640 to 630 on the north pond with a surface water elevation of about 622 and a pond depth of about 25 feet. The south pond again has ground elevations from about 658 to 630 and the surface water elevation 621 with an average measured depth of pond at 26 feet. Again it is really important to note in your decision making process here that these abandoned sand minds have tremendously sever side slopes and they are very difficult to access and because of that it is really a very dangerous situation and in its current condition and as it has been in the last ten years nothing really can occur on the property because of the majority of the property being consisting of ponds. The previous use as I indicated was a sand mining operation and also a fill operation and recently the town took action in both 1995 and in 1990 to permit this facility to mine sand and also be used as excavation and fill area so what we are asking for is not something that hasn't already been permitted at this location by another operator so I think that there is some presence in terms of how this property has been used in decades past and it is consisted with what we are proposing to do with this petition. We are currently looking to fill the two sand mining ponds to the adjacent ground elevations to eliminate the side slopes and we thing that the volume of space in these two ponds will take about 8-12 years to fully fill and in our discussions with the Town and talking with some of the department heads what we would like to propose is if it is approved by this board it will go to the Town Council and will end with an agreement with the council on a closure plan but there has been discussion making this type of facility a park use open space use once it is all filled or in talking with some of the Stormwater management department heads the idea of possible not filling it all the way and filling it to an elevation that allows the creek to fill the pond areas to provide some storm water management so we still are going to be discussing those kind of closures ideas with the Town Council so we will need to kind of continue that to develop that. Some of the things that I think if you are or to approve this tonight and send it to the council some of the conditions and commitments that we will be making in the discussion that we have had in the town is that on the west bound direction of traffic we would want to make truck access not inhibit the free flow of traffic on the west bound direction of 73rd Avenue so we would develop a right dedicated turn lane into the facility. We would also look to construction so of a perimeter landscape berm to help better secure the site and in the front create a better entry gate a physical gate so that we can secure the site. Right now the site Bill and I were talking and it just has the tendency of the driveway that goes into the old sand mine area sand mine driveway and it has the tendency of just being a dumping ground and every couple of weeks there is new stuff that people have dumped there so I think that by permitting this it will kind of help promote the elimination of that process. We would certainly create a Stormwater prevention plan and worked with the Towns Stormwater department to appropriately permit this through the town and then file our Rule 5 notices of intend. In talking with the Town they thought that maybe it would be a good idea to establish a Town 73rd Avenue enhancement fund to support any future improvements of 73rd Avenue throughout this whole site and we have committed to post and work with the Town to post access to the site only from State road 55 to 73rd Avenue West bound on to 73rd Avenue into the site and we would fund the signage and work with the Towns Street Department administration to make sure we post the signs as they need to be. We anticipate over the life of this to have a volume of 1.4 million cubic yards of fill and if we do a Stormwater management facility with the Stormwater department we would look at potentially nearly 68 acre feet of Stormwater storage which is pretty substantial. I provided to you a power point presentation which is kind of using as my script right now. In there we kind of projected 10 years' worth of filling in volumes that would **aquacade** to one of the things that we have talked to the Town about was sharing in creating a tipping fee if you will for every load that is delivered into the site the Town would receive \$6.00 per load and on the average a load is about 12 yards per truck so as we provided some of this information we are thinking over a 10 year period that town would be looking at receiving about \$590,000.00 in using some of those funds to put in 73rd Avenue improvement is the Town so choose over the life of the facility we think that we would be just under \$750,000.00 worth of revenue generated at \$6.00 a load to the Town for the Town to be using it as they see fit. Again thinking that it would be appropriate to put it into street improvements. Also from a cost of operations of the time it takes a Public Works truck to drive from the center part of Town out to the east side and back the additional gas that it costs we are thinking the ability to have a nearby fill facility for the kinds of things that the Town has in their general ordinary course of business we think that it makes some sense too. So after this the things that we still need to do if so approved we would need the Variance and Special Use approval here. We would then if approved by the Town Council we would be going to the Stormwater board in the Stormwater department to get a Stormwater permit file our Rule 5 we would start doing the work. I identify the schedule in the event this is approved through the Council in the September time frame we would be filing for our Stormwater Water permit in September filing our IDEM Rule 5 in October and hopefully begin shaping and fill operations in middle or late November and then do the improvements to 73rd Avenue the following spring once the paving and asphalt plants open and secure the site in November and begin filling operations sometime in December 2014. So we think that this is a positive thing for the Town. If the plants are open which if this past winter is any indication of this coming winter and I'm not sure that is the case anyway we will do the best we can to get a decal lane done and improved by the end of the year but in the event that it is not it will the first part of the spring. Bill here to my right is someone who knows what he is doing when it comes to these facilities because he owns and operates a similar facility in Porter County and permitted app through the Porter County Council and their BZA it is a facility called Duneland 28 just very near the Wheeler High School complex. He was actively involved with the fill operations at the Munster Land Fill and it was contracted

with the Town to do a lot of the filling and the capping as the Munster Landfill was operated and also has done a lot of work with the Lake County Solid Waste District as a certified compose operator. So this is his business he knows what he is doing and I think that you have a very good operator here for the facility.

Again the closure plan is something that we will have some more discussion with the Council. If they want to see a park or they want to see a pond and we are committed to do whatever the Council would like to see happen. So with that I think that I would like to shut up and see if there are any questions that you have and I think again for the record I believe all the proper notices have been mailed and public advertisement posted in the newspaper so I think a public hearing is appropriate to be held tonight.

Chairman Minchuk asked Dorinda to read her staff report.

Mrs. Gregor said it is about the same thing. Just to go over the staff report because the property has two separate zonings I did put it on the same staff report however they were two different requirements one for a Use Variance and one for a Special Exception.

Mr. Ban said I forgot to say that this property has a zoning line cutting right down the center of the property. On the West side it is zoned agricultural and east side is R-1 and in the R-1 zoning district we are required to do a Variance of Use because there is no permitted fill facility allowed in the Town Ordinances. Under agricultural it is a permitted use with a Special exception.

Chairman Minchuk said I see two remonstrators. Ladies did you have anything to say for or against it. Either one of you. Nothing-Questions. Questions board.

Mr. Holtz said when you talk about the leaves and the grass as far as the decomposing as far as the ground caving in considering Mount Baldy I guess that is part of the reasons. I 'm saying they said as far as the reason why the sand caved in on the kid is because trees decomposed underneath the sand. If they are going to use this has a park later on is there a chance I don't know how much you plan on putting in grass.

Mr. Ban replied yes that is all a function of who is doing what and what needs to come in. It is compacted and that is a good point and some of this material comes in it is separated and isolated to the extend that there is a significant amount of compose that might be looking to do some kind of composing area and becomes peat and it becomes and after use. So I think that your point is well taken but as I have stood in his Duneland 28 facility there is a lot of heavy trucks and there is a compacting machine that will because the more we compact the more volume we have so there is economic value to do the compaction.

Mr. Holtz asked how is the water going to be drained is it as you fill it in the water is going to be

Mr. Ban replied it is going to be displaced. We are not discharging any water at this point in time to the adjacent ditch. What is there and what you see in the photo that is kind of the natural level of ground water and so the idea is to just start filling and we do understand at that level it is not going to be compacted but it is at a depth that we believe that there will be weight on top of it over time that will consolidate that before it is ultimately turned over to be a park or pond.

Mr. Holtz said as you fill it in the water is just going to naturally go flowing to.

Mr. Ban said that is exactly right.

Mr. Touchette asked what kind of equipment will you have on site.

Mr. Ban replied pay loaders, compactors, bulldozers that is generally what we use to manage the material on the site. The trucks that will be delivery this are trucks from private contractors or Walsh and Kelly might be doing a paving contract and might need to get ready of some asphalt chunks and so it will be their trucks that will be coming in to the facility dumping and once it is dumped it will handled managed and places by Bills crew which are the pay loaders.

Chairman Minchuk said they will be coming down 73rd Avenue right.

Mr. Ban said correct.

Chairman Minchuk said so what is going to happen to our streets and what is going to happen to the people that live across the street and the kids playing out in the roads I mean not playing in the roads but kids crossing the roads and you have all those apartments across the street and houses. What is going to protect the children and the people that live in that area from getting run over by a truck or coming out of their driveway and get hit by a truck and the roads being torn up and sand or dirt dumped in the road who is going to take care that.

Mr. Ban said from the standpoint of the material that ends up as a result of this operation the responsibility of cleaning that up will be this operator Region Clean Fill, LLC from the perspective of wear and tear on the roads we had a lot of discussion with had a lot of discussion with the Town officials about this and again for 20 some odd years this was operated as a sand pit and you had equally and quite frankly because of sand being more dense that this fill with lots of air space in it had similar kinds of traffic 73rd Avenue didn't fall apart it has been illustrated to us that 73rd Avenue is in pretty good condition structurally and the anticipation by Town officials is not there and Sedrick if you want to dispute that let me know. You said in one of the meeting that we had we had some similar discussion with that and that is kind of the \$6.00 per load fee generating funds to help if there is issues there. For the perspective of our projections of in terms of number of trucks per day they equate to somewhere around 35 trucks per day from the starting and to 50 trucks per day by the time we project toward the end which isn't a lot. I would probably argue with you that there were a lot more trucks per day leaving that sand minding operation when it was operating as sand mine.

Chairman Minchuk said there weren't any apartments across the street either or condos or whatever they want to call them. They weren't there back then you had the houses but you didn't have the condos. My interest I agree with you on the roads I have now problem with that but the safety of the children and the people in the area that is the only thing that I am concerned with. You said 35-50 trucks a day ok \$6.00 per load how much is a kids life worth.

Mr. Ban said I agree with you it is absolutely price less. I actually did Mr. Minchuk lived in that area when the sand mining operation was taking place in the mid 80's and the Broadmoor apartments is where I lived for a number of years and I do remember a lot of that development on the south west corner being there. The 4-plexes

Chairman Minchuk said southwest but not southeast

Mr. Ban said that is correct you are exactly right but anyway

Chairman Minchuk said was just my question I am just worried about public safety just make sure my concerns are known.

Mr. Ban said I don't think that Mr. Hack we want it to be a safe operation too and so for his customer invoicing his customer communication have some kind of disclaimer that talks about safety and making sure your truck drivers follow the speed limit and the designated truck route from 55 in.

Chairman Minchuk said signs up on 73rd

Mr. Ban said absolutely

Chairman Minchuk said be aware of turning trucks.

Mr. Ban said I think that we could do all of that. We have the responsibility to do all that. I think that is a great point.

Chairman Minchuk asked if there is anyone else.

Mr. Fortier said first of all I need to state that I have been advised by legal to disclose that for the record that I have done work for DVG but at this time I have no involvement or vested interest in this project. Now my questions hours of operation

Mr. Hack said we will be looking to work Monday thru Saturday and generally we would be expected to be open at 6:30am and probable finishing up around 6:30 or 700 p.m. think that I would like to qualify that by saying that there may be construction activity if the Town has a construction project that is being specifically done at night to minimize community impact it happens a lot we would like to have that facility open to receive material to assist and support that kind of project but we don't see that happening a ton of time but typical hours would be 6:30 am to 6:30 p.m.

Change of tape

Mrs. Gregor said we have a new one we are just waiting to use all the old ones.

Chairman Minchuk said just waiting to use the old tapes up. Right

Mr. Fortier said the recycling portion of this what type of noise will be associated with that.

Mr. Ban said probably the recycling portion will be a function of a portable concrete crusher and from the perspective of adjacent properties. There are several properties that would hear it we kind of actually

talked about how we could minimize that and to the extent that we would we would put it down. Once the ponds are filled up we would try and place that concrete crushing machine below grade elevation through the majority of the filling operation so that we would kind of have the sides provide some sound abatement. Security berms that we would be looking at doing and they could be anywhere from 8 to 10 feet tall along the perimeter they would also act as sound barrier.

Mr. Fortier said know would they have the same times of operations as receiving materials.

Mr. Ban said correct and I would say to you that the concrete crushing would only be done between 6:30 and 6:30 and we would not do anything after hours in the event that there is a specific concrete project.

Mr. Touchette said that was one of my questions. The concrete crusher I heard that. Is that a noisy thing? I think that if I were a neighbor if you were crushing concrete at 6:30 in the morning I might get a little irritated.

Mr. Ban said if we need to restrict that a little bit different I don't think that we would have an issue with that. So if want to say concrete crusher at 8:00am or 9:00am to 5:00pm that I think that we would be ok with that.

Mr. Green said **I think that Mr.Reinhard** all of us met once before earlier in the year and I do believe that you expressed that the concrete crusher will not be there the whole time you were just thinking about bringing it in during certain times that you have a load crush it and then move it off site right so it will not be something...

Mr. Ban said you are right it is a portable plant it is not a permanent foundation or we are not asking for a building permit it would just be bringing it in as we get a pile of concrete again trying to do recycling rather than to put it into fill one thing I didn't say that we have this \$6.00 fee based on what is being filled but we are also saying to the Town whatever we haul out in terms of recycled or processed material \$6.00 per truck going out to deliver stone to a construction job that is not in my numbers I assumed some kind of conservative way of looking at it so this is what our estimates are based on his experience in Porter County has far as the quantity of fill that he has experienced in the last couple of years. The concrete crusher plant would be a portable thing and I can't really tell you until start experiencing how much concrete we get whether it is going to be there one month out of the year in terms of total time or 2 months out of the year.

Mr. Touchette said so what time do you think would be a good time to crush concrete as far as.

Mr. Ban replied 8:00am to 5:00pm is that reasonable?

Mr. Fortier said that is regular working hours.

Chairman Minchuk said you have houses and apartments around there. I just going what if working midnights or you have people that work evenings and sleep during the day. You are going to have problems no matter what you do. You can't satisfy everybody I have worried about the public, concrete crusher maybe someone gets in there and gets crushed I am worried about the trucks going in and out somebody getting run over but if you keep worry about this stuff you can't never progress forward so.

Mr. Touchette replied and someone can get in there know and drown.

Mr. Fortier said we just had a tragedy in Hobart from one of these sand pits that wasn't monitored properly and they are trying to monitor it properly.

Mr. Touchette asked what are the hours for contractors to work in the Town.

Mrs. Gregor replied 6:00am to 5:00

Mr. Touchette said 8:00 sounds good.

Chairman Minchuk said you can do 2 separate things with concrete crushing. It could be separate timing from the actual operation.

Mr. Fortier said correct that is what

Mr. Touchette said first you get a pile of concrete and then you crush it.

Mr. Hack said some might be crushed. It is a convenience factor for getting customers or even the Town. Having that product there

Chairman Minchuk said it doesn't have to safe hours of operation

Mrs. Gregor said 6:00 am to 9:00pm construction hours.

Chairman Minchuk said it is just a matter of common sense. These are your neighbors that can protect or whatever so you might want to be more convenient for you neighbors.

Mr. Stojakovich said Jeff this seems like a win/win situation for the Town and I just hope that they sit down with you and hear everything out and then they the tipping fees they may use the money to put some streets in Prairie Creek Phase II .

Mr. Fortier said I didn't want to be funny but I was thinking that myself since it was pretty nearby. Is there going to be anyone monitoring the fill coming in and approving it.

Mr. Ban said yes in terms of the actual material itself.

Mr. Fortier said because we all know some people like to bring stuff in that shouldn't be brought in.

Mr. Ban replied it is property such time that there is a relation with the Town that it becomes a park or a pond. It may be his property forever so from his perspective he has every reason to become concerned about environmentally what is being brought in is appropriate if he is operating this bringing in non-permitted items he has issues from IDEM and for whatever else. To answer your question a security officer hired by him that reports to the Town or the State that monitors what is coming in and out. It is a self-monitoring thing no difference than any other business working under the laws of the State and the Town and if for some reason something happens that somebody thinks that something inappropriate is happening he has to be accountable and can be stopped. I think that your point is if there is anything that is not listed in here has clean fill that is being discharged operations or seize and assist.

Mr. Touchette asked if asphalt shingles clean fill.

Mr. Hack replied no sir

Mr. Touchette said because that is one of the things that I can see someone trying to slip in on you.

Mr. Hack said I get calls daily and we don't except them

Mr. Fortier said I just don't want to see sludge from the Mills coming in as clean fill.

Mr. Hack said we have geologists and stuff at my beckon call to read analytical and all the stuff that goes on with it being environmental safe.

Mr. Green asked doesn't IDEM require you to have testing at least once a year for a fill operation of the type of operation that you are referring too.

Mr. Hack replied no.

Chairman Minchuk replied they didn't require that. It is highly unusual.

Mr. Green said I thought for certain the fill operations they do but

Chairman Minchuk said they do junk yards at least twice a year.

Mr. Touchette replied not clean fill facilities

Mr. Fortier said as he is operating this he has to keep an eye on it it is his property.

Mr. Holtz said the entrance that I am looking for has that bluish fence on it right now.

Mr. Ban said yes it is recessed back off the road by 40 or 50...

Mr. Holtz said you are planning on putting in 150 foot decal.

Mr. Ban said we are going to be working out the details with Sedrick and the Town Managers office

Mr. Holtz said if it was 150 foot you going to have to be buying and that decal lane is going to be very close to those people's homes.

Mr. Ban said we are going to try to work within the existing right of way and doing what we have got there that is the plan. Is working within the 73rd Avenue road way.

Mr. Holtz said do you know if the homeowners complaint about when the trucks were pulling out of there. Don't know

Mr. Touchette replied nobody is here.

Mrs. Gregor said they all got notified.

Mr. Hack said as far as I remember correctly that some of them where employed there. I can't be there all the time.

Mr. Holtz said you said you are planning on building a building like an entrance way building.

Mr. Ban said there might be a temporary storage and office trailer.

Mr. Holtz said I was under the impression the way I was reading it that there

Chairman Minchuk asked will that behind the fence.

Mr. Ban said it would be behind the fence.

Mrs. Gregor said so you will move the fence out a little bit closer to the road. No

Mr. Hack said we want them to pull in and be off the road and beautify the entrance.

Mr. Holtz asked how wide is that entrance.

Mr. Ban said we would be looking at doing a width anywhere from 30 to 36 feet wide.

Mr. Holtz said I know that you said that your road you planned on if you widen it would be enough for two trucks in bound and out bound at the same time

Mr. Ban said also making turns in bound and out bound at the same time

Mr. Holtz said I am just looking at the front entrance are you looking at approximately 200 feet.

Mr. Ban said we have and I don't think that it is quite that wide I think it is about 170-175 feet.

Mr. Touchette asked will it be paved.

Mr. Ban said yes we anticipate not anticipate we are planning to pave from 73rd avenue in and through the gate and we were kind of talking about 100 foot of pavement so that when the trucks are coming out of the facility there is a place for the truck tires to loose material so that he could have a street sweeper

Mr. Hack said it is easier to maintain with a sweeper.

Chairman Minchuk asked if they are going to be scaling the trucks out.

Mr. Hack replied no sir no scales.

Chairman Minchuk said so when they come out you will not know how much weight they will have.

Mr. Hack said going out or coming in no you go by the yard

Chairman Minchuk said you said that you are going to have some things going out.

Mr. Hack said we have a rough estimate of what a yard of material is to the ton

Chairman Minchuk asked how many yard to a bucket. How many buckets but there is no weight on them

Mr. Ban said it doesn't have one in Porter County and it seems to work well there.

Chairman Minchuk said this is Merrillville

Mr. Hack said I understand I am sorry

Mr. Holtz asked if you are doing the north first or the south.

Mr. Ban said we will be doing the south pond first

Chairman Minchuk asked if there are any other questions. A motion

Mr. Fortier said I would like to make a motion first of all that we on Z24E12-0814 for the Special Exemption to approve it.

Mr. Stojakovich seconded that Mr. Chairman

Chairman Minchuk asked for a roll call vote

Mr. Fortier yes, Mr. Holtz I know that I am hesitating yes, Chuck Stojakovich yes and Mr. Minchuk yes. Motion carries 4-0

Chairman Minchuk said next one

Mr. Fortier said I would also like to make a motion to approve Z25uV3-0814 with the conditions that the recycling portion of this operation be limited to the hours of 8:00am to 7:00pm and the hours of operation 6:00am to 7:00pm for allowing for occasional extended hours. Since our construction hours start at 6:00am.

Mrs. Gregor said for this petitioner only at this location only for this use only.

Mr. Fortier said correct the Pettit rule applies here.

Mr. Stojakovich said I would like to seconded that too Mr. Chairman.

Chairman Minchuk asked for a roll call vote

Mr. Fortier yes, Mr. Holtz said I have been sitting here thinking if I can ask a question now. How does the water flow I mean.

Mr. Ban said do you mean how does the water flow from the ponds.

Mr. Holtz said you are filling it up how does it no flow into other peoples yards.

Mr. Ban said remember this is sand and so we are pre-seeing the sand being able to help migrate that water away through the ground water flow.

Mr. Touchette said I don't think that they will be able to dump enough in one day to make it over flow. I mean it is going to be a slow process of filling that up.

Mr. Ban said we have like 18 to 20 feet of distance from the water level to the ground level right now so has we are filling we are not displacing it to go up it is going to be finding its way back down to the ground water over the years of filling.

Mr. Holtz said so you are saying the water is not already level with the ground.

Mr. Ban replied no-no the water is about 16 to 20 feet deep below ground level right now.

Mr. Holtz said ok I thought that you would be coming in and it is already dropping as you are dumping.

Mr. Ban said it is pretty scary looking. That is what the slopes are about 15 to 20 feet around the perimeter of these ponds. They are very, very dangerous.

Mr. Holtz said ok Yes is my vote, Mr. Stojakovich yes, how about Mr. Minchuk yes.

Motion carries 4-0

Chairman Minchuk said just checked with Dorinda tomorrow.

Mr. Stojakovich said it has been a pleasure Mr. Ban again.

Bza08-27-14

Mr. Stojakovich made a motion for adjournment

Chairman Minchuk asked all in favor
Four ayes-4-0

Meeting adjourned at 8:27 PM

Respectfully submitted
Janet Rosko

