

**MERRILLVILLE BOARD OF ZONING APPEALS
AUGUST 26, 2015
6:30 PM**

The Board of Zoning Appeals meeting of August 26, 2015 was called to order by Chairman Minchuk at 6:30pm and led the group in the Pledge of Allegiance.

ROLL CALL

Members in attendance were Mr. Holtz here, Robert Bigelow here and Tim Fortier here, Chuck Stojakovich here and Mr. Minchuk here. Let the record show we have 5 here tonight. Staff in attendance was Dorinda Gregor, Attorney Touchette.

MINUTES: June 24, 2015

Chairman Minchuk stated minutes from June 24, 2015 any additions or corrections.

Mr. Holtz said I wasn't here for that meeting so I will be abstaining so.

Chairman Minchuk asked if there is anybody else.

Mr. Bigelow stated Mr. Chairman I will make a motion to approve the minutes as presented.

Mr. Fortier second the motion.

Voice vote was unanimous.

COMMENTS FROM THE CHAIRMAN:

Chairman Minchuk proceeded I will 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 with you. 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.

COMMUNICATION:

None

OLD BUSINESS:

None

NEW BUSINESS

**Z30uV8-0815 DEVELOPMENT VISIONS GROUP, INC. (DVG. INC.)
PETITIONEER**

INDIANA/KENTUCKY/OHIO REGIONAL COUNCIL OF CARPENTERS

(IKORCC), OWNER. Located at approximately 7000-7098 Mississippi Street for a Variance of use approval in a C-5, Office and Research zoning district on 18.52 acres for an educational/training facility and possible retail and office uses.

Thank you my name is Ryan Marovich of DVG 11065 Broadway in Crown Point. I am representing the Indiana/Kentucky/ Ohio Regional Council of Carpenters. We are planning a training and administration facility at the address that you just mentioned. It is about a mile north of 73rd on the west side of Mississippi Street between I 65 and Mississippi. It is currently zoned C-5 and they are looking to develop this 18.5 acres into 5 lots and the use variance is requested to allow the training and administration facility within a C-5 zoning district. The property is adjacent to the IBEW just to the south on the North West corner of 73rd and Mississippi and we will be consistent with the nature of the surrounding uses. There is a similar facility in Greenwood Indiana that this will be closely modeled after just south of County Line Road on I 65 so with that we will be open to questions.

Chairman Minchuk said Dorinda

Mrs. Gregor read her staff report.

Mr. Touchette said just so I am clear so we are here on a Use Variance for the facility the training facility and also on the restaurants right

Mrs. Gregor said on the restaurant or retail

Mr. Marovich said those could also be there aren't any definite plans at this point. It could be a credit union or something else related to the carpenters union.

Mrs. Gregor said it could be something that falls within a C-5 but they wanted to have everything in place just in case they attracted one of those uses.

Mr. Touchette said I was just making sure the record was clear.

Chairman Minchuk asked if anyone has any questions or

Mr. Holtz said so just because we would issue the variance anything in a C-5 would go in there.

Mrs. Gregor replied yes.

Mr. Touchette said at the workshop meeting that we had we talked about ingress/egress off of Mississippi Street and we talked about the possibility of a road running on the interior of the property line of the interior lots do we need to discuss that anymore.

Mrs. Gregor replied no that was at the subdivision level

Mr. Holtz said so it doesn't matter to the plan.

Mrs. Gregor said it is just the uses we are concerned about.

Mr. Holtz said I also know they talked about possible subdividing the lots would that come before us or would it come before the Plan Commission.

Mrs. Gregor said it would come back to the Plan Commission if they resub divide some of those lots

Chairman Minchuk said you understand all of that. What is there right now?

Mrs. Gregor said it is vacant farm land.

Chairman Minchuk said ok is there anybody in the audience have anything for or against.

Good Evening Mr. Shawn Pettit 1612 East 87th Court Merrillville Indiana, Ward 6 Councilman, Merrillville Redevelopment Commission President and Plan Commission President. I cannot begin to express my desire for this project gentlemen. This is exactly what the Mississippi Street TIF district intended to do. We have seen a fabulous facility that Ryan was associated with IBEW Local 697 we have got the Teamsters in the Mississippi Street TIF district. This is a welcome addition. The Plan Commission is Mr. Bigelow, Mr. Holtz and Mr. Touchette know we went through the subdivision process everything is in order. Obviously this will come to us at the Council and it has my undying support and gratitude for what their trying to do out there so it is going to be a beautiful facility and we look forward to having that 11 million dollar investment in the Mississippi Street TIF District. So thank you gentlemen.

Chairman Minchuk said you forgot to mention the electrician's that is a beautiful place to.

Mr. Pettit said they have a beautiful place also.

Mr. Holtz asked is there no other facility in northwest Indiana or are they moving from somewhere.

Mr. Marovich said they are moving from Hobart on Union Street and US 6.

Chairman Minchuk asked there are no other questions. None from the audience except Mr. Pettit. Can I get a motion please?

Mr. Bigelow said Mr. Chairman I move that we grant this petitioner the zoning request that he is requesting.

Mr. Stojakovich said Mr. Chairman I would like to second Z30uV8-0815

Mrs. Gregor said just for the record it is not a zone change. It is a Use Variance.

Mr. Fortier yes, Mr. Holtz yes, Mr. Bigelow yes Mr. Stojakovich yes and Ryan I want to commend you because this is another fantastic project that you are working

on. Everyone doesn't know that there is another big one that you are working on and that is in progress right now and he is doing a great job for the Town of Merrillville.

Mr. Marovich replied thank you very much.

Chairman Minchuk said they know this because they are with the sewer district that is why. You didn't ask for my vote.

Mr. Stojakovich replied Mr. Minchuk yes and that is why I asked what nothing is there right now and it is making our Town more beautiful so I appreciate it. See Dorinda and she will tell you what the next step is.

Motion carries 5-0.

OTHER BUSINESS:

1. MODERN DROP FORGE

Located at 8757 Colorado Street in a M-2, Limited Industrial Corridor Overlay district and M-1, Limited Industrial zoning district to further discuss the paved interior drive area condition placed on the variance approve by the Merrillville Board of Zoning Appeals under case #Z3v2-0112 on 1-25-12 (See attached minutes.)

Mr. Fortier said Mr. Chairman before we start the case I have a statement that I need to make. I made a commitment to the people of Merrillville when I became a member of the Board of Zoning Appeals to objectively and non-bias decide which request are in the best interest of the town in accordance with the rules and regulations established by the town. I always try to honor my commitments but in this case I think that I have lived with the constant noise and clatter produced by my new neighbor and the negative affect it has had on me that my ability to make a non-bias decision as to what is based for the petitioner as well as the Town of Merrillville has been tainted for this reason I am going to disqualify myself from this matter.

Good evening Members for the record Shawn Pettit 1612 E 87th Court Merrillville Indiana. I am the Ward 6 Councilman where this project is located. The reason I am here tonight gentlemen is under advise of the Town Attorney John Bushemi requesting that this variance be reconsidered after the property owner/tax payer and I stress that gentlemen because my view in the 12 years that I have been on this Council and with this Town since 1997 is the tax payers are my bosses are your bosses that is the bottom line they pay the taxes they fund the general fund we service at their beckon call quite frankly and that has been my philosophy and as you can see it served me successful on my third term in office. I have been here total on one hand of twice in the 12 years that I have been in office the BZA number one for a petition about 5 years ago and this is the 2nd time. So I don't come here flipitly. I don't come here and get involved in BZA business I let you gentlemen make your decision however when the largest economic development project in the Towns history that owner that taxpayer one of my bosses comes to me and says there is an issue with the drive I need to react. I need to sit and talk with you gentlemen in a calm setting I don't want to worry about two years ago I want to apologize to you and to the property owners I didn't monitor this after the Council gave the tax abatement and they got in I should have and that is shame on

me for the developmental variance however it has come back on to my plate as a Councilman and again I feel that I have to ask for your consideration to repeal Z3v2-0112 and allow the gravel drive to remain as is with considerations that the gentlemen from Modern Forge will detail as far as gravel repairs that will be made to that drive. There are numerous on both sides gravel drive and paved drives out in what we refer as the panhandle there is a long gravel drive just to the south of Polo Con Industries that goes to a utility structure that MCD has a lift station has a paved drive. Mr. Fortier has a paved drive. There are other drives on Colorado, Clay and Grand Boulevard that are both paved and graveled there is been some unfortunate in consistency in administering this portion of the code with that being said I don't want to dwell on that I also don't want to dwell on what happened last month. What you were told two years ago by Chester that is not the issue the issue is I am responding to one of my bosses again one of the largest economic development project of \$35 million dollars too this local economy I have to request this and I hope you gentlemen can understand that you can respect that. The job I have done I think that it speaks for itself in the Town Of Merrillville and I hope you will consider repealing this variance for these gentlemen. If you have any questions I would be happy to answer them. Folks from Modern Forge are here as far as details of how they are going to repair the gravel drive and what material they are going to use and we will see what happens I guess ok guys.

Chairman Minchuk said Mr. Pettit what I have to say is and this is speaking for myself. Even though you don't want to dwell on the past we were lied to sitting up here how many times have we been lied to? Many many times

Mr. Pettit replied yes.

Chairman Minchuk said that is why most of us took that stand. I don't live there like Mr. Fortier does I don't live in that area. So that was what we were basing things upon how we were explained to and then all of sudden things were totally different.

Mr. Pettit said we have been through that John and any of the ones can contest Ric has been with me the longest on the Plan Commission I always use the term sold a bill of goods. Subdivision Dorinda how long have we been together almost 25 years we have seen petition come before us we have seen promises made to us on the Town level and we are going to build this and we are going to build that and then low in behold an \$11 million dollar hospital doesn't go on 93rd Avenue it goes down to Crown Point we have to lay on PUD's were we are granting extensions on PUDs this happens all the time.

Chairman Minchuk said I used to be on the board with you.

Mr. Pettit said I do apologize John if you guys felt that you were lied to by the contractor. These gentlemen didn't know about this they have come in after they moved in to the building. They were not here when the variance was granted they relied on their contractor and that is some of the problems that Dorinda and I have the Town runs into with these contractors that is why they are licensed that is why we look at them that is why we have a guy like Dan Brown and some of our inspectors that are watching these guys we want the qualified inspectors doing the job. My understanding is that gentlemen that came before you two years isn't even with the company any longer from what I was told.

Chairman Minchuk said that was what we were told also.

Mr. Pettit said so it is an unfortunate situation but again I hope we can go pass that and to look what currently needs to done. These gentlemen want their Certificate of Occupancy they have a couple of other items on that punch list with Dorinda and one of them is this driveway. I don't know how to say this there is a lot of money on the table. These guys picked Merrillville and want to be here they have got 200 jobs out there. 100 transferred and 100 of those were created of those 100 40 Of them are from Crown Point, Merrillville and Hobart. That is more than the 10% requirement that we request on the tax abatement petition. We don't demand that they create jobs in Merrillville we ask them to hire Merrillville residence or people that can stay here. They have been an outstanding neighbor since they have been here. Noise aside it is going to happen it is zoned industrial they are where they are supposed to be and I am extremely excited about them being here along with Polo Con along with that Colorado street corridor. I wouldn't have supported a half a million road reconstruction if we didn't want that down there. Jody do you want to go into the detail of the driveway for these gentlemen as far as the repairs you guys are going to make via gravel.

Mrs. Gregor said I would ask that both of those gentlemen sign in because they didn't sign in last month.

Mr. Holtz said should we consider pulling Chester's license since Chester had a representative that lied to this board.

Mrs. Gregor said that gentlemen isn't with them anymore.

Mr. Holtz said it doesn't matter it Chester should have you have agents

Mr. Pettit said with all due respect Ric going back again going back to the history and this is something that you folks probably read about in the paper. I know John has had some intimate dealings out there. Let's take a look at the Rain Club. The Rain Club came to the Town of Merrillville and got variance did they not Dorinda. Special exceptions and they were going to do this and that and everything then we find out that the activities in there and the activities out there prompted the town to basically kick them out of Town. We took their business license away so you could go that route. There gone they aren't gone they are obviously in business. These gentlemen the Hines family Gregg Hines the President they have paid Chester and I don't know if you have any retainage with them or not or what the contract is with them but I don't know again I guess what I want to get passed is blaming and yes you were lied to. I need to move these guys forward and I need to get them their CO so they can close out there construction loan. The investment they have made in this Town cannot be stress enough that is what I am looking at as a councilman job creation and investment in this Town. Grant you I have been lied to sitting on the board for 12 years as a councilman, plan commission member and redevelopment member. It is not really an outside lie Ric so much as they tell you something and it doesn't come about.

Jody Parks from Modern Forge said that is why I got up for because I don't like our name Modern Forge associated with liar because that is not us.

Mr. Touchette said I understand that but you read that to and what he said about your operation simply wasn't true.

Mr. Parks said we read that like the day of we were coming here and I didn't even know who the guy was I never met the man. We thought the variance of the drive was exactly what you were asking for. Dave is our project manager but when we found out that wasn't what was supposed to have been done the results were still what we were looking for. They weren't bringing the gravel to the road. Now that I see on 2012 how we are going to maintain it every Monday it is on the calendar we have a guy that if there is any debris he sweeps it and there usually isn't maybe a couple of rocks here and there and so that is every week. We are committed to the gravel road \$24,000.00 the fencing all that is going to be done probably in the next 3 weeks.

Mr. Pettit said one other thing Jody that caught my attention at least guys we have two large industrial employers down there and the difference between Modern Drop is the weight of the trucks versus what Poly Con brings in. Poly Con does have a lot of asphalt and they did do a lot of improvements on the back side. They are doing a large addition and I right Dorinda. They are out for bid on a very big addition which we will consider economic incentives for that with job creations. I guess what I am concerned about is would make these gentlemen spend the money on asphalt and in 3 years it is going to break down because of the weight of the steel that they are bringing in and taking out. Every 3 years you are going to pay and in this environment as we can attest to with our local streets. The weather is a killer on asphalt in this climate. I just don't think that it is cost effective for them not to have a gravel drive out there. Based on Poly Con is hauling lighter plastic resin versus the heavier steel that these gentlemen use in the manufacturing of the forging of their products so that was the other thing lead me to kind of ask for this and you know. The only other thing that I can ask Dorinda and I always go to this. This is also one of my Mantra when this was before the BZA 2 years ago were there any remonstrators.

Mrs. Gregor replied I don't think so.

Mr. Pettit said there again that is another key because with all due respect you guys had a discussion not with these gentlemen in the past you don't get the phone call the councilman get the phone calls and that is why I am elected because I can take that heat. When I try and fix something I am also going to do everything in my power to try and fix it for our property tax payers. If there is no remonstrator on a petition and there is no one out there calling me complaining or calling the town and complaining the highest investment of your property is my mantra and it always will be and again it served me well. I hope you guys can understand why I came tonight what I am asking for and hopefully we can come to some accord.

Mr. Holtz said your current asphalt is not being degraded right now is it.

Mr. Parks said no we put special road mix on that.

Mr. Holtz said how thick is it

Mr. Parks said it has a 6 or 8" base and it has held up very well.

Mr. Holtz said I guess my problem is you get companies that come in and they agree to it and then if it I suppose you are saying that every tax payer complain somebody on the Council is going to correct it.

Mr. Parks said that is what the correction is.

Mr. Holtz said I know when I was reading the minutes they were saying keep the road as far as the gravel road up to grade but it is still right now it is in horrible condition.

Mr. Parks said in what notes was that.

Mr. Holtz said the minutes of the original 2012

Mr. Parks said I believe that they said keep the asphalt driveway maintained.

Mr. Holtz said they also said they would maintain the gravel.

Mr. Parks said I read the minutes also but didn't remember seeing that.

Mr. Stiles said we have a major upgrade starting the week of the 8th of September coming up we have already issued the purchase order. I believe it is 8' of #53 going on it will be rolled in and pressed in and they are also going to repair the ditches along the side so we get good drainage across of the road.

Mr. Parks said that is what I said the last time was we have had gravel roads for a hundred year leading right up to main in Blue Island and we have never had an issue. We have always maintained them that is just what we do that is our business.

Mr. Touchette said what Ric is saying is that Duvall said that you would maintain the gravel road 3 times a year or that was what was said in the minutes and I know that.

Mr. Stiles said we had someone representing us

Mr. Touchette said it is hard to separate out but you said at the last meeting from what was said at the first meeting. I think something that needs to be made clear is what you are really asking for the variance that they got was so that they did not need to have a blacktopped driveway ok. You asked Shawn for the variance to be vacate they don't want the variance vacated. There was a condition placed on the variance and the condition was that the road would be the gravel part of the road it would not be gravel it would go blacktop you know how they go into and then turn to the north that would be paved all the way around the curve ok and the paving would stop at the curve.

Mr. Holtz said the normal variance would you have to have a total asphalt drive. If you want this vacated then they have to put in the full asphalt drive.

Mr. Pettit said we want the condition modified.

Mr. Stiles said that is what we asked for last month for it to be left as is because the results of what the original one was still the same. There wasn't gravel spilling out on to Colorado that was what we asked for last month and not to do the addition.

Mr. Touchette said so you are asking for the condition was put on it

Mr. Pettit said be vacated or removed Thank You Mr. Touchette.

Chairman Minchuk asked if there is anyone else.

Mr. Stojakovich asked is that road being used right now.

Mr. Stiles replied yes.

Mr. Stojakovich asked how do they get through the lake that is there

Mr. Touchette asked how do they get through what.

Mr. Stojakovich said the lake that would be just east of the part that is real nice gravel and all the potholes. I was out there yesterday and I didn't get out there today unless there a grader out there and there is a lake going across the whole road that you can't even drive by.

Mr. Park said that is what we were saying last month we were doing an upgrade \$24,000.00 on that road. That was the original roadway that we first put in. We knew there was going to be settling we knew there was going to be repairs to be done and that was what David was saying it will be the first upgrade that starts September 8th.

Mr. Stojakovich said I think that Mr. Pettit hit it on the head so we do know the trucks are going to be driving on there are going to be heavy trucks. They are going to be hauling scrap ok and you guys put in a nice drive that this road is going to lead to before it goes out to Colorado ok what's going to be in the middle of all them semi-truck tires going out on Colorado Shawn that is my main concern.

Mr. Pettit said the Indiana 53 Dave isn't that a fine limestone when it gets wet it gets hard just like concrete. They will press it and then it will get hard.

Mr. Stojakovich you have the public Shawn citizen's here you have tax payers drive on Colorado which was just patched. Colorado's base isn't for all this heavy trucks ok it is going to get torn up in a few years.

Mr. Pettit said in all due respect Mr. Stojakovich it was when Welsh & Kelly redid that base with a liquefying concrete for the base which is 10-2-1 by our standards we knew that Poly-Con trucks we meet with Poly-Con. Poly-Con called me and said Shawn what are you going to do with the condition of this road. Bruce and I met with Poly-Con on several occasions when Robinson designed that they specifically designed it to handle the truck traffic once it was improved that NSU building sat vacant for 10 years was sold immediately so it has been designed for truck traffic. Colorado has been designed for truck traffic with the base yes.

Mr. Stojakovich said my main concern is the public traffic and it is a highly traveled road now especially with the construction on Mississippi and with the dust when it rains that road is going to do nothing but gray the gravel everything is going to be on Colorado if this 1st portion is not paved and put to the standard that you have your other drive going in that was all we were asking

Mr. Stiles said Mr. Touchette said at the last meeting he goes by their quite often to Home Depot and he stated that he doesn't see gravel. I look at it every day now trust me. There is not gravel or not a gray film there is none of that.

Mr. Stojakovich said I still think that we need to listen to their plan that they are going to present to us what they are going to do with this road. That is why you guys came up here the first time. We still need to know your plan and what you are going to do to make this road work for everybody.

Mr. Stiles said which road are you talking about.

Mr. Stojakovich said the gravel road the condition that you are going to give us how you are going to maintain it and all that god stuff. Is there a plan there yet?

Mr. Stiles said we maintain our gravel roads as needed. 2012 someone said 3 times a year you can't say 3 times a year you don't know how well it is going to hold up how bad the winter is how much rain so you don't know it could go 3-5 years that you don't do anything. They have had them for a hundred years.

Mr. Stojakovich said don't you think it would be a benefit to pave it and have a solid road down so you wouldn't have to do all that maintenance. Gravel roads are not permanent.

Chairman Minchuk said the trucks

Mr. Stiles said the only traffic are steel trucks.

Mr. Stojakovich said steel trucks are going to make ruts in that gravel road.

Chairman Minchuk said what I am saying is when I worked in the steel mills and I have seen where they put asphalt down and pave it I have seen where those trucks just tear that up and you would have to have it done every year or every couple of years.

Mr. Stojakovich said I think that the whole idea was the curves the one to the north back to the east was to take all those rocks before it hit the main street as a precaution for the citizens.

Mr. Stiles said it is doing that there is no gravel on Colorado. There isn't anything

Mr. Stojakovich said the first part of your curves like I said I was there yesterday I didn't get a chance to get there today. It is beautiful gravel the rest of the road you can't even drive a SUV on it.

Mr. Stiles said that road is not traffic for that.

Mr. Stojakovich said crater left and right on your own property.

Mr., Holtz said that road was supposed to be maintain now you are

Mr. Stiles said like I said this is the first time we are upgrading the drive since construction is over and some of it settled and left some bad spot on there but it is all going to be fixed and filled in and repaired with 8" of new stone put on.

Mr. Parks said that was the only thing when they put the road in it was just laid in with gravel they never really the shoulders weren't maintained so you don't have the proper run off. That is what we are doing now. The road should hold up much better.

Mr. Pettit said Chuck to your point about the plan the plan is going to be dictated by what your gentlemen decide to do tonight. If you are going to stick to your guns and make them do asphalt then they are going to have to go back to an engineer and have an asphalt design. If you relax that condition then they need some direction from us the Town you guys are you going to allow gravel out there As I requested as they want then they can get some direction into Dorinda before this takes place on September 8th

Mr. Stojakovich asked Shawn if that has been engineered the part that has been put in already. Has any plans been given to the town as of yet.

Mr. Parks said I have a cross section sketch that I can send

Mr. Holtz said I know that we asked last time for you to give it to Bob the engineer and he is not here today but.

Mr. Stojakovich said 30 days ago we asked for your plans to go to the Town Engineer and still nothing. Can we still get a plan to go to the Town to go to Shawn and Dorinda to let us know what you are doing. You guys are good neighbors.

Mr. Pettit said you guys have to give them direction do you want gravel in there or do you want asphalt and then they can do the plan. I am asking as a Ward Councilman that we allow them to remain as gravel and they will submit that plan to Bob and Dorinda. I guarantee it ok but you can't sit there and go back and forth

Mr. Stiles said there is going to be gravel either way right.

Mr. Touchette said it was 140 feet was the condition to be paved and that would just go around the curb and the whole rest of it will be gravel and that is if nothing changes. It is just a matter as to how much gravel Shawn so you are still going to get a cross section for the part of the gravel that you are going to maintain right.

Mr. Bigelow said just out of curiosity the 45 foot that runs straight north that is already paved what is the thickness of asphalt in the portion and the thickness of the stone underneath.

Mr. Park said I believe there is 3 inches of asphalt and maybe 6 inches of binder Underneath that and then under there is actually tile going underneath the road so it might 8 or 10 inches of stone something like that.

Mr. Bigelow said so you are saying we actually have 9 inches of asphalt plus the stone is that what I am hearing you say.

Chairman Minchuk asked plus your binder.

Mr. Bigelow said 6 inches of binder plus 3 inches of surface is 9 inches that is what is there now on the 45 foot stretch correct. How is that holding up?

Mr. Park said so far it is holding up pretty well I haven't seen any problems.

Mr. Holtz asked if you have an estimation of what it will cost to do the 100 foot at the same level.

Mr. Park said do we have a cost. The last one we had was like 19,000.00 or \$18 something.

Mr. Holtz said for the same material

Mr. Stiles replied yes. Again I am hear speaking for the owner. You guys might think that \$18,000.00 is a lot of money. I am telling you this project has gone over budget tremendously. So we are getting down to the end and he is watching and we are watching every dollar. So if you think that \$18,000.00 isn't a lot of money it is. It is a lot of money. That is why we came last month to see about getting the variance changed because the outcome of what we were expecting with the road paved is the same. There are not stones going out on Colorado it has the same purpose it is doing what it was supposed to do with the 140 feet extra or the 45 feet that is there now. It is doing what we thought it would do.

Mr. Holtz said if you do the gravel that you have scheduled for September 8th will that change anything whether or not to if we say ok we want to see what your drive is going to look like in 30 days come before us and if that looks good then we could vote one way or another on this asphalt

Mr. Pettit said I am not following you Ric.

Mr. Holtz said I am saying go ahead and do your gravel

Mr. Park said we are doing that regardless

Mr. Holtz said all I am saying is I want to see what that looks like before I can say yes if that looks like it is good gravel and it looks like it is going to be maintained and you have got it documented with our engineer with how it is going to be maintained I can see post-pone whether are not we are going to say yes or no on the variance for 30 days.

Mr. Stojakovich said you are asking for a trial period. Put the gravel in and see

Mr. Pettit said guys speaking on the part of Modern as what Jody just said about the Hines family so we are going to spend \$24,000.00 on gravel by September 8th and if for whatever reason we get a gully washer or we get something to affect that they come back to you guys and you are going to make them pave it at \$18,000.00 you guys are out \$42,000.00 for something that quite frankly.

Mr. Touchette said they're going to do this road work anyway right

Mr. Pettit for \$24,000.00 in September 8th they are already spending that money now if you guys are not acceptable to the gravel that they do on September 8th and then they have to come back according to Ric and put asphalt and that is another \$18,000.00 out of their pocket that is \$42,000.00 for a driveway. That better last until my daughter is dead if you are going to make them do that I mean come on we are talking about a driveway for industrial use.

Mr. Holtz said they are going to spend the \$24,000.00 anyway

Mr. Pettit said right they are going to spend the \$24,000.00 but that ought to be enough and not make them come back in 30 days and possible spend another \$18,000.00 in asphalt.

Mr. Holtz said I guess maybe it is more of a faith issue for me if they had a representative come before the board and say this is what we are going to do and then they don't do it then how do I know that they are saying we are going to spend this \$24,000.00 and it is going to be great and we are supposed to accept it.

Mr. Pettit said if you guys are lasting condition for the gravel Dave is going to submit a drawing and a written plan to Dorinda and Bob from Robinson. Bob signs off on that. That is what I pay Bob for the Town Engineer to do he signs off on it he is on the hook then if this thing fails Robinson is on the hook once the give the plan and it doesn't hold up who is on the hook.

Mr. Holtz said why they didn't do this in the last 30 days.

The gentlemen from Modern Forge at one time well we weren't sure which way we were going to go. I was hoping to get this driveway going before we even came here. It is the best plan I am sure it is going to work

Mr. Pettit said well I will take the heat on this one Jody. I was the one that didn't have the 30 days because when I heard about this and read about this in the paper I connected Mr. Bushemi after a council meeting and asked him about this situation because again I got the President of the largest economic development calling me wanting to know what we can do to fix this situation. So if you want to blame someone for not having the drawing can blame me I asked for the 30 day deferral and I asked the President and Dorinda to put this back on the agenda.

Jody said I wasn't going to say anything Shawn.

Mr. Pettit said that is what I get paid for so you know I don't know what more I can say guys you know. Again I came to you and asked you for some consideration and I don't know what else I can do. Again that is why we pay Bob to do the engineering to design this road.

Chairman Minchuk said you have had to repeat yourself 5 time already by saying yes let's make our decision or however you want to do it. If you want to wait for next month to see how it turns out they say they will have a guarantee on the \$24,000.00 that they are doing on September 8th I mean it is something that we have to make a decision on. We could sit here until 9:00pm talking about it.

Mr. Stojakovich said when can you have the drawings done the cut sections done for the engineer to look at. To say it is ok and give their blessings.

Mr. Parks said they are done.

Mr. Pettit said bring them over by noon tomorrow guys. Dorinda do me a favor call Bob in the morning and tell him that I am asking that he review this thing immediately. The guys will have the drawing in by Noon and be done with it by 4:30.

Mr. Bigelow said when you do it specify the type of stone the depth of the stone and the fact that we had also talked about a bio-degradable spray that can be put on it and seal that road in. It is not a pavement just a spray they used to use old motor oil but we can't use that anymore but there is a bio-degradable products that can keep the dust at a very maximum and helps to seal to where it will compact it nice and tight so you don't lose all your stone in to your drainage ditches on both sides.

Mr. Stiles said I would agree to look into that and see what it costs to do something like that. I will agree to do that

Mr. Bigelow said it should be a fairly cost affective because it is going to minimize the amount of stone kick out by the truck as they go around the corner. It will cut down the dust especially during dry periods.

Chairman Minchuk said last question is there anyone in the audience that would like to speak for or against this. Seeing none. We need to make some kind of decision tonight. That is part of our decision. These gentlemen have been very patient trying to come back with us and talk to us and I hope that you realize that last meeting we were not being unkind, unfriendly we weren't trying to disrupt anything that you were doing we just when by our previous meeting were told what was going to happen and it never happened and when you came in you were just as clueless as we were so I definitely understand that part but we do have to make some kind of decision tonight and not sit here and talk another couple of hours about it. So seeing no other comments I would like to get a motion please for or against, referral something.

Mr. Stojakovich said my whole life when problems come up there has to be a viable solution to them. Yes you guys are a huge company a multi-million dollar company I can't see there being any money problems but that is just my like I said I am not going to let any personal feelings I am on this board I want to represent the Town of Merrillville the best I could and like I said my concerns are Colorado ok with all the heavy truck traffic. But if you guys can come up with a viable plan cross section of that road and what you are going to do to it and the engineer will put their stamp on it and our Town inspectors or whoever from the Town Shawn goes out there and checks that road and makes sure it is being taken care of I can go with this and see how it goes.

Mr. Pettit said it is going to be one other thing Chuck the gentlemen that is going to approve the plan tomorrow is going to be the inspector.

Mr. Stojakovich said he could be wrong and if this doesn't work what is going to happen then. Our we back at the drawing table.

Mr. Stiles said no I can only tell you we have had gravel roads with these steel trucks for one hundred years right up to main roadways we have maintained them as needed that is the plan is to maintain.

Mr. Pettit said with all due respect I trust Robinson Engineering impeccable Chuck there is not going to be a problem. We are getting into looking at this plan again and dissecting this again and like John said we are going to be I have nothing to do I could stay here until midnight that is how important this is to me ok. The engineer will take care of this that is what we, I the council to do and they have done many street in this town including Colorado, 97th all my stuff out in the panhandle haven't had a problem out there yet with Robinson so they bless it it is going to work and it is an interior road. Not even a road it is an access back to deliver material and take materials out. It is not even a dedicated right of way within the subdivision of the Town Of Merrillville and we are sitting here brow beating this road that is on private property.

Mr. Stojakovich said my whole concern was Colorado even from the get go.

Mr. Pettit said it was my concern as well I wouldn't have authorize the \$550,000.00 out of the Mississippi Street Tiff to rebuild the road that is my number one priority all of those roads That 9 million dollar road on Mississippi Street is my priority 97th Avenue for \$175,000.00 is my priority you think that I am going to let these guys damage roads any development damage roads. This is an interior drive gentlemen that we have sat here for 45 minutes and beat to death like John said. You guys take your action that you want to take ok. I don't know what else to do guys it is not that hard it is not rocket science this is an interior drive that services their steel haulers to manufacture products.

Mr. Holtz said they did have a representative come before this board saying this is what they were going to do.

Chairman Minchuk said we are going back to square one

Mr. Pettit said we are Ric. I have been promised things from this that and others. I was promised from Mr. Schepel at his subdivision at Wilson I was promised a hospital on 93rd Avenue I have been promised, the list goes on and on. Don't hang your hat on the last two years. I am sorry.

Chairman Minchuk said I can't make a motion because I am the President or whatever you call me I have been called a lot of things but I can't make a motion but if someone would make one I would to get this over with because we have other business to proceed to.

Mr. Bigelow said Mr. Chairman I would like to remove the pavement on the 170 foot long curved portion of this road with the specification that they come back with plans and present them to our town engineer for proper grades stone preferable Indiana 53B with a bio-degradable seal coat that can go over that.

Mr. Holtz said that is something they will maintain. I realize it is a private road but we want it maintained. I am talking about if they don't maintain that drive it is going to come out on Colorado.

Chairman Minchuk said like I said I have worked in the steel mills I seen paved roads and road that are all cracked up and I have seen stone road they just have to make sure that the trucks sometime gets stone caught in the tire and that is where you come in with the bio-degradable spray because I remember that we used to use oil at one time and spray it to keep it packed. I have seen that the last 30 years. But they can't use it anymore. If you keep Colorado clean that was the fact back two years ago but that was what I asked. Can you keep Colorado clean? Rocks are going to fall off but if you are promising to keep it clean and we got it in the records before noon tomorrow with their plan and September 8th you said you were going to start on it.

Mr. Stiles said the week of the 8th right after Labor Day.

Chairman Minchuk said well when you start on it would you please let Dorinda know and I would like to have our Town Engineer if I could request that if he could go out there and work with these gentlemen too make sure everything is going the right way.

Mr. Stojakovich said once they put their stamp on it they will be there.

Chairman Minchuk said I agree we need to make some kind of decision. We don't what to be here until 10:00 beating a dead horse cause we are going to go around and around. I understand Mr. Fortier's problems I totally do I live behind it probably why I don't hear it. Because I don't hear the noises I hear ambulance going to the hospital all night but I finally got used to it. It took me awhile I am hoping but I am sorry I am going along with this we have a motion and I need a second it.

Mr. Holt said could we put on there that Mr. Bigelow said they will maintain the road.

Chairman Minchuk said it is on there already. They have to maintain that road.

Mr. Holtz said Colorado which also means their drive the gravel drive.

Mr. Stiles said Colorado and that what we agreed to maintain and keep the rocks off of it because it doesn't happen.

Mr. Holtz said I keep going back to saying

Mr. Stiles said we will maintain the road as needed we don't want our steel trucks getting stuck back there. That would be the worst thing in our business that could ever happen.

Mr. Holtz said ok as long as you are maintaining I will second it.

Chairman Minchuk asked for a roll call vote please.

Let the record show that Mr. Fortier has obtained from this. Mr. Holtz yes, Mr. Bigelow yes and Mr. Stojakovich said I am going to say yes I am putting my faith in that man as a Councilman and as you guys as a multi-million company ok that is all over the country. I have always put my faith in Robinson because I do a

lot of business with them. I haven't seen anything that is life shattering is wrong and we are here to solve this I hope everybody holds up their end. Mr. Minchuk yes I am fine with it too.

Motion carries 4 with one abstain.

Mr. Pettit, Mr. Stiles and Mr. Parker all thanked the Board.

Number 2 under other business.

PAUL'S PAVING, Contractors license-possible suspension/revocation of sub-contractor license (CON 2013-11504)

Good evening members my name is Attorney Chris Anderson address is 3940 West 37th Avenue, Hobart Indiana here with Paul Stanley from Paul's Paving. Paul can you tell the board your address.

Paul Stanley said I live at 6890 Meadow View Lane Merrillville Indiana.

Mr. Stojakovich asked how are you related to Paul's Paving

Mr. Stanley replied I am President.

Chairman Minchuk asked where is Paul's Paving.

Mr. Stanley said I am a small time operator. I work out of my home

Chairman Minchuk said you work out of your house

Mr. Stanley replied yes.

Mr. Anderson said I believe we are here to address my client is here I guess to accept responsibility for his actions. He did a job a small paving job here without following the rules without getting a permit prior to doing that job he is here to admit this and accept responsibility and throw our mercy at the board today whatever the punishment should be. At that particular time there was a major financial issue that he was dealing with involving some grandkids that he had to take care of so times where tough and that is no excuse for what he did what he did was wrong in addition we have had a long conversation about this issue and I think that we both agree based on our conversation that the board will probably agree that it is better to get permission first rather than do a job without getting a permit and then coming here and asking for forgiveness and throw our mercy here today. So in addition I believe he has done a lot of business and a lot of good work in the Town of Merrillville. This was an isolated incidence given the circumstances not justified but hopefully the board will understand the situation and also give consideration for the hundred about hundreds of jobs that he has followed the proper procedure and so we are here and I know the purpose discuss whether or not his license should be suspended or possible revoked but we are hoping upon the circumstance's that he would be available to answer any further questions that you might have.

Mrs. Gregor said this wasn't really an isolated incidence he has done this in the past.

Mr. Anderson said I stand corrected

Mrs. Gregor said he has always been a quality contractor. We have never received a complaint. We would not have brought him up for one instance to the Board of Zoning Appeals. I do make a recommendation and I hardly ever make a recommendation to the Board that they place Paul's Paving on a probationary period for the board to determine for the time that they choose for Mr. Stanley to be sure he follows all the rules and regulations from this day forward. I mentioned to him that I would work with him in any situation but he has to make sure that he has obtained the necessary permits.

Mr. Touchette said are you Paul Stanley.

Mr. Stanley replied yes.

Mr. Touchette asked if it is a corporation or LLC.

Chairman Minchuk said it says here the address is 60 Lone Court in Hobart.

Mr. Stanley said my son lives there sir.

Chairman Minchuk said the business is located in Hobart.

Mr. Stanley said but I live here in Merrillville.

Chairman Minchuk said but the business is listed in Hobart.

Mr. Stanley replied yes sir.

Mr. Touchette said Mr. Stanley that it is not an issue with your work ok. You have to make sure the paper work is right and when you come in here and get a permit to file an application and sometimes you need to bring in subsequent paper work like a drawing. You need to get all that paperwork in and the permit has to be issued and you have to pay the permit fee before you do any of the work. OK.

Mr. Stanley said yes sir I understand

Mr. Touchette said if you don't do it that way you will violate your probation. If you just follow the rules there shouldn't be any problems. It is depending if the board is willing to

Mr. Fortier said I don't think that anyone up here wants to take business away from anybody. You have been in business a long time that I know of and do good work. You have never taken money from someone and not did the work. I don't understand all the paperwork no I don't if Dorinda wasn't here for me to ask questions I would be lost to. She is a great source make sure you keep up with her.

Chairman Minchuk said there is no way we want to take away your lively hood. We have had people do things and ask for permits and you are not the only one we have seen this many times so like in our last case we don't like for people to lie to us about something or tell us well we will get a permit and the store has already been opened. So a probation period we would say maybe 6 months or a year.

Mr. Touchette asked Dorinda what she thought.

Mrs. Gregor said well license renewals are in the month of January. You may be able to go through the first 3 months or first part of next year. I don't know how far you paved into the year.

Mr. Stanley said about November we are about over.

Chairman Minchuk said when they shut down the asphalt plants.

Mr. Touchette said the probationary should really be in the asphalt season. We are fast approaching the end of asphalt season.

Mrs. Gregor said maybe into May it would get you started back again. Let him keep doing work until May and if there are no violations of your probation then you will just continue working ok. You will still be able to work.

Chairman Minchuk said no one is going to pull your license.

Mr. Stanley said I appreciate that.

Mr. Touchette said once the probationary period you will still have to follow the rules.

Mr. Bigelow said Mr. Chairman I would like to suggest that the probationary period run until December 2016 so that we cover all of next year's paving. So it would be a total of 16 months. The last 4 months of 2015 and all of 2016.

Chairman Minchuk said that is fine I will go along with that and that is your recommendation.

Mr. Fortier said I will second that.

Mrs. Gregor said we ended up catching a contractor and he said he had never been licensed to do work in the Town of Merrillville yet he was doing work at one of the hospitals and we triple fined him on his license and triple fined him on his permit and we ended up putting a stop order on the job until he got all of his paper work in. It cost that gentlemen \$2,200.00 and all it would have cost it was \$400.00.

Mr. Fortier said don't go to Drop Forge because they aren't going to do any paving.

Mr. Fortier yes, Mr. Holtz yes, Mr. Bigelow yes, Mr. Stojakovich yes, and Chairman Minchuk yes.

Motion carries 5-0

Chairman Minchuk said just remember to get your permits.

Mr. Holtz made a motion to adjourn

Mr. Stojakovich second the motion.

Meeting adjourned at 7:40P.M.

Respectfully Submitted
Janet Rosko

