



LAPORTE COUNTY
BOARD OF ZONING APPEALS

Government Complex 5th Level
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ANNEMARIE POLAN
Building Commissioner

May 19th, 2015

Dear Members:

The regular meeting of the La Porte County Board of Zoning Appeals was held Tuesday, **May 19th, 2015, at 6:00 p.m.** in the Assembly Room of the County Complex.

MEMBERS PRESENT: Melissa Mullins Mischke Dwayne Hogan
 Wally Pritz Glen Minich
 Candice Nelson

PRESENT: Annemarie Polan, Recording Secretary, Attorney Doug Biege; Darlene Pavey, Secretary

The Pledge of Allegiance.

APPROVAL OF MINUTES:

Dwayne Hogan asked for approval of the meeting minutes of April 21st, 2015.

Melissa Mullins Mischke made a Motion to approve the meeting minutes of April 21st, 2015 as presented. Candice Nelson seconded.

Dwayne Hogan asked if there are any questions, comments, or concerns.

All approved. Motion carried 5-0.

1. The Petition for a Special Exception for Jason & Ann Higley to raise ten (10) or fewer chickens at their residence, being housed in a chicken coop in a fenced area in the back yard. This property is located at 208 S. Longshore Drive, Walkerton, IN, Lincoln Twp., zoned R1B. **(This matter was tabled from the April 21st, 2015 meeting to May 19th, 2015 at 6:00 p.m.)**

Dwayne Hogan said that Mr. Higley is not seeking to construct a pole barn on his property at this time.

Attorney Biege said that there is no further notice necessary, but we need a Motion to take it off the table.

Melissa Mullins Mischke made a Motion to remove it from the table. Wally Pritz seconded.

Dwayne Hogan asked if there are any questions, comments, or concerns.

All approved. Motion carried 5-0.

Dwayne Hogan asked for name and address for the record.

Jason Higley, 208 S. Longshore Drive, Walkerton, Indiana 46574.

Ann Higley same address.

Mr. Higley said that they would still like to have the ten (10) or fewer chickens.

Dwayne Hogan asked the Higleys if they're going to have a fenced in back yard.

Mr. Higley said that there will be an enclosure.

Dwayne Hogan asked what the enclosure would be made of.

Mr. Higley said wire and wood.

Glen Minich asked Mr. Higley how far from the setback from the back yard he plans on putting that.

Mr. Higley said it's a mobile type of structure.

Dwayne Hogan asked if there are any questions, or concerns from the board.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 1.

Glen Minich said that his only concern is that this is going to be mobile and you're always supposed to keep vegetation underneath them. Glen said that we need to keep it away from the property lines --- sixteen (16') feet. Glen said that he knows that it's a small lot, but he thinks that gives him enough space to do what he wants to do.

Dwayne Hogan asked if there are any other concerns.

Glen Minich made a Motion that the Petition for a Variance for Jason & Ann Higley to raise ten (10) or fewer chickens at their residence being housed in a mobile chicken coop not to be moved any closer than sixteen (16') feet from the property line in a fenced area in the back yard be granted. Property is located at 208 S. Longshore Drive, Walkerton, Indiana, Lincoln Twp.

Melissa Mullins Mischke seconded.

Dwayne Hogan asked if there are any questions, comments, or concerns.

All approved. Motion carried 5-0.

2. The Petition for a Special Exception for Rick and Lynn Moore for training, selling and buying of firearms and shooting range. Business will be run out of home until such time existing barn can be converted into sales location with a 8x10 unlit sign. Mr. Moore applied for his ATF through the State of Indiana. This property is located at 9521 S. 900 W., Wanatah, IN, Clinton Twp., zoned Agricultural on 3.55 acres. **(This petition was tabled from the April 21st, 2015 meeting to May 19th, 2015 meeting at 6:00 p.m.)**

Dwayne Hogan said that Mr. Moore is not seeking a variance for the bathrooms in the existing pole barn at this time.

Attorney Biege said we need a Motion to remove the table. Attoreny Biege said no additional notice is necessary at this time.

Melissa Mullins Mischke made a Motion to remove Petition No. 2. From the table. Candice Nelson seconded.

Dwayne Hogan asked if there are any questions, or concerns from the board.

All approved. Motion Carried 5-0.

Dwayne Hogan asked for name and address for the record.

Rick Moore, 9251 S. 900 W., Wanatah, Indiana 46390.

Dwayne Hogan asked Mr. Moore what he would like to do this evening.

Mr. Moore said that he wanted to get a variance for buying and selling of firearms out of his home until they can convert their barn into a sales location. Mr. Moore said that he would also like to construct a shooting range. Mr. Moore said that he did the research that this board asked him to; he also met with the Sheriff and he has that to present to the board this evening.

Dwayne Hogan asked if the store hours would be Monday through Saturday 8:00 a.m. to 7:00 p.m.

Mr. Moore stated correct.

Dwayne Hogan said that if this passes, the range hours would be Monday through Saturday from 9:00 a.m. to 6:00 p.m.

Mr. Moore stated correct.

Dwayne Hogan asked if that would be one-hundred and twenty (120') feet from the road and four (4) lanes; two shooters per lane and follow all the NRA safety rules that apply.

Dwayne Hogan said that they have the dimensions for the range back stop at fifteen (15') feet in height and thickness is ten (10') feet.

Mr. Moore said that is correct. Mr. Moore said that on the second page you will see a map of the construction site; Mr. Moore said that was taken from the National Shooting Sports Foundation. Mr. Moore said that the chart on the bottom was the highest possible caliber and how much earth it takes to stop that.

Dwayne Hogan asked what those figures are according to.

Mr. Moore said those figures are according to the National Shooting Sports Foundation.

Melissa Mullins Mischke asked Mr. Moore if he met with the Sheriff.

Mr. Moore said that he met with Sheriff Boyd and he presented him this paper work and he said that he was very pleased with what he put together and that he was fine with this. Mr. Moore said that he liked the hours that he choose and not doing any night shooting.

Melissa Mullins Mischke asked Mr. Moore if Sheriff Boyd provided him anything in writing to substantiate that.

Mr. Moore said that Sheriff Boyd said that he was going to call Annemarie.

Annemarie Polan, Building Commissioner, said that she talked to Sheriff Boyd twice prior to Mr. Moore's appointment with him and any concerns that he had, he felt completely comfortable after speaking with Mr. Moore, he was very happy with what he was going to do.

Dwayne Hogan asked Mr. Moore if there is a name for the business.

Mr. Moore said that it's Moore Firearms, LLC and they also have Moore Firearms Academy in the gun barn.

Dwayne Hogan asked Mr. Moore if the sign is going to be 8x10 unlit.

Mr. Moore stated correct.

Dwayne Hogan asked if there are any other questions, or comments from the board.

Glen Minich said that his main concern is the noise. Mr. Minich said that we give notice to the adjoining property owners, but that doesn't include the four or five homes of a higher value in the area; Glen said that he noticed that there is an Angus Farm within a half of mile of the range and he's concerned about the noise and the property valuation of those neighboring homes once this range would be opened up. Glen said that he has two properties that have ranges and they're very disturbing – there is a lot of noise. Glen said that when we contact adjoining owners, that's not accounting for the neighbor that is a quarter mile away that's going to take the impact of all that noise.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 2.

Dwayne Hogan asked if there are further comments and questions of the board.

Glen Minich asked Mr. Moore if there is any way he can get rid of some of that noise. Glen said that there is nothing in the plan that talks about a buffer.

Mr. Moore said that they can go indoor. Mr. Moore said that the shooting stalls are actually going to be surrounded on three sides with a wall. Mr. Moore said that if you heard something a half a mile away, it would be very muffled and it wouldn't be as if you're standing there.

Dwayne Hogan said that it would be different in open air.

Mr. Moore said that it would be very different in open air. Mr. Moore said that with the design they're going with, it's really going to absorb a lot of the sound.

Annemarie Polan, Building Commissioner, told Glen that was one of the concerns that Sherriff Boyd had prior to speaking with Mr. Moore and again, he was pretty happy afterwards with everything that Mr. Moore came up with.

Glen Minich said that if we move in that direction to approve something like this and if Doug's comfortable with the overall build of the backstops and all that, he thinks that this should be for one year until we find out what the reaction is in the neighborhood because it's one thing to have a good neighbor policy, but once we give you (inaudible), we're not making you liable for the noise and he's not comfortable with that unless we give it some time for everybody to be able to come to terms with this.

Wally Pritz disagreed with what was just said. Wally said that he thinks that this gentleman is going to go into the expense of opening up a sales office, or sales room for the firearms, we shouldn't limit it to his ability; why should he open up a business for one year. Wally said that if you want to address strictly the noise part of it, he thinks that would be different a program.

Melissa Mullins Mischke said that her concern is not with the selling and buying of the firearms, but maybe the shooting range portion of it for one year.

Glen Minich said that he thinks that there are some very positive aspects in what we're doing here, but there is a big difference between a training facility and an open public shooting range. Glen said the size, the scope, and the amount of firing that is going to be going on.

Wally Pritz said that for this gentleman to actively construct this shooting range would need more than one year. Wally said that we need to give him at least two years because it's going to take a few months to get this unit in operation.

Dwayne Hogan asked Mr. Moore how long he anticipates this construction for the firing range.

Mr. Moore said probably six months.

Attorney Biege asked Mr. Moore how much it's going to cost to construct the shooting range portion.

Mr. Moore said that a lot of the cement that he's putting in there he's getting from his property and the dirt. Mr. Moore said that there will be a cost in the shooting lanes. Mr. Moore said that he's not really sat down and got a figure on that.

Dwayne Hogan asked Mr. Moore how many instructors he plans on having.

Mr. Moore said that right now he has three instructors that teach for them. Mr. Moore said for the range itself at that size and for classes and things, it will depend on the class size and what kind of training they're doing.

Mr. Moore said that if it's a beginner they usually have one instructor per three students on a range.

Glen Minich said that he thinks that the noise is going to affect the neighborhood. Glen said that we do have a great range in KIP that he's sure a lot of people use for training.

Mr. Moore said that is a public range. Mr. Moore said that when he uses a range for training and he brings new students on there, he doesn't want anybody else on the range.

Wally Pritz said that he thinks that this is a positive step forward where we have a gentleman that has opened up an instructing facility for young people so they can understand the use of a firearm. Wally said that he doesn't think that we should be putting obstacles for this gentleman to proceed to train the young people in firearms.

Glen Minich said that he's not questioning that part, he's questioning the location.

Mr. Moore said for what it's worth, you come out to the property and he could fire some pretty high caliber things and if you would stand on the road which you're referring to with the cattle

farm, you would hear a very muffled sound. Mr. Moore said that the neighbors that would hear it would be very muffled because they're beyond the woods and it absorbs the sound of the direction that they're shooting. Mr. Moore said that the way that works, and that distance, it would be a great muffled sound. Mr. Moore said that it wouldn't be like gun shots outside of your house. Mr. Moore said that if you're in side, you might not hear it at all.

Dwayne Hogan asked the pleasure of the board.

Candice Nelson said that she's okay with making a motion, but there is so many things. Candice said she doesn't know what to say.

Glen Minich said that bearing the cost of the station itself; Glen said there's not going to be very much money in that. Glen said that we're talking about bringing other people in to shoot. Glen said that he still stands as far as the business, he'll live with that, but he still believes that the range should be looked at in another year after the neighbors and everybody talking about the amount of noise that it can create.

Candice Nelson asked Mr. Moore what the Sherriff said in his conversation.

Annemarie Polan, Building Commissioner, said that noise was one of the things that the Sherriff has concern about prior to meeting with Rick. Annemarie said that after they met, the Sherriff just eliminated all his concerns and he said that he was very very comfortable.

Wally Pritz said that he feels if the Sherriff is satisfied with all the concerns that were raised, he thinks they're the people that are more familiar with gunshot sound then we are. Wally said that he thinks that we ought to at least give this gentleman two years.

Melissa Mullins Mischke said that she would give him two years; she thinks that's reasonable and she lives down in that neighborhood and she's not discounting the firearms education, but she thinks the noise is a concern. Melissa said that way we can follow-up and make sure there are no complaints from the neighbors.

Attorney Biege said you can address the special exception on the gun business if you choose to do and the special exception to be reviewed in a period of two years.

Dwayne Hogan said that he just wanted to make sure that we're solid on the findings of fact.

Attorney Biege said that he has that.

Melissa Mullins Mischke made a Motion that the Petition for Special Exception for Rick and Lynn Moore for training, selling and buying of firearms and shooting range be granted with the business hours of Monday through Saturday from 8:00 a.m. 7:00 p.m. for store hours and

Monday through Saturday from 9:00 a.m. to 6:00 p.m. for shooting range hours with an 8x10 unlit sign. Property is located at 9251 S. 900 W in Wanatah will revisit the shooting range in two years. Candice Nelson and Wally Pritz seconded.

Dwayne Hogan asked if there are any questions, comments, or concerns.

All approved. Motion carried 5-0.

3, The Petition for a "Special Exception" for Nancy C. Wickizer (owner) Professional Tower Services, LLC, an Indiana Limited Liability Company (Lessee), by attorney Ralph Howes to erect a 340 foot guyed tower to service the area in Hudson Township near Hudson Lake. This property is located at 8822 N. 750 E., New Carlisle, IN, Hudson Twp., zoned Ag. on 18 acres of land.

Attorney Biege said that notice is adequate.

Dwayne Hogan asked for name and address for the record.

Andrew Voltz, said that he's an attorney at Howes and Howes in La Porte appearing on behalf of Professional Towers Services, LLC, which is an Indiana Limited Liability Company that has been formed for purposes of obtaining an option to lease and erect a cellular communications tower at the address that was indicated. Attorney Voltz said that you have a packet in front of you that was prepared by what will eventually be the operators of the cell phone tower. Attorney Voltz said that they do business in the State of Ohio as Tower King and represented here this evening by Grant Phillips. Attorney Voltz said that he will be available for questions if anyone has any.

Attorney Voltz said that this was an area that was zoned A for Agricultural, and pursuant to the zoning ordinance there is no specific exception that exists other than a variance in order to construct/erect a cell phone tower of this nature. Attoreny Voltz said that the cellular tower will be approximately three-hundred and forty (340') feet tall with an above sea level approaching one-thousand (1000') feet. Attoreny Voltz said that they do have the FAA notice that went out, as well as the notice that went out to airport authorities in both Michigan City Airport Authority and La Porte Airport Authority sixty (60) days prior to this hearing as required by the statute.

Attorney Voltz said that the property owner is Nancy Wickizer and she is here as well. Attorney Voltz said in addition, as required by the zoning ordinance, a placard was placed on the property ten (10) days prior to the hearing. Attorney Voltz said that photography evidence has been presented to attorney Biege.

Melissa Mullins Mischke asked attorney Voltz to explain the distance of your request with three-hundred forty (340') feet; usually we deal with one-hundred ninety nine (199') feet while this tower is so much higher.

Attorney Voltz said that he will defer to Mr. Phillips and he can come up and explain these questions. Attorney Voltz said that he has a more professional approach when it comes to the reason and rationale for the height of the tower.

Dwayne Hogan asked for name and address for the record.

Grant Phillips, 23434 Elliott Road, Defiance, Ohio 43512.

Mr. Phillips said that the main purpose of this tower is to service the lake and the surrounding community. Mr. Phillips said that there are large three-hundred and forty foot (340') towers in the county. Mr. Phillips said that he actually found through his due diligence that there are three over three-hundred and forty (340') feet; two over three-hundred twenty nine (329') feet and eighty-one towers over two-hundred (200') feet.

Mr. Phillips said that if you look over the map that he provided in the packet, there are three towers in the area that simply don't work; one being too short and one that is of taller height is over loaded and can't accommodate antennas for our customers. Mr. Phillips said that they need the higher height to provide a better signal for their customers to the surrounding areas; especially the lake.

Melissa Mullins Mischke asked Mr. Phillips if he already has existing subscribers that are going to go in the antenna.

Mr. Phillips said most definitely. They certainly wouldn't build a tower without any customers.

Melissa Mullins Mischke asked Mr. Phillips how many customers are going on the antenna.

Mr. Phillips said currently one on the tower, but the tower can accommodate multiple subscribers if you go to the page where it shows a simple design of the tower and you can see that this tower is built --- they went with a three-hundred forty (340') foot tower that can accommodate so many antennas; if you look at this, they're large dishes and many cellular (inaudible). Mr. Phillips said that he has designed this tower to accommodate multiple customers on a single tower to eliminate the need for other towers to be built in the area.

Melissa Mullins Mischke asked Mr. Phillips that the tower that is the nearest one that is failing, how many subscribers are on that one.

Mr. Phillips said that you can see it; it's off the toll road and he doesn't know exactly, but where his customers wants to put their antennas there is not available space on that tower. Mr. Phillips said that tower is a guyed tower as well.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 3.

Dwayne Hogan asked if there are any other questions, or concerns from the board.

Glen Minich asked Mr. Phillips why a guy wire. Glen asked if we can do it without. Glen told Mr. Phillips that he is kind of at a high elevation to begin with.

Mr. Phillips said that the customer needed three-hundred and forty (340') feet and in order to erect a three-hundred and forty (340') foot tower --- if you look through the county, all the existing towers that are over three-hundred (300') feet are guyed towers and you can get so much more strength out of a guyed tower than you can with a self-support, or monopole. Mr. Phillips said simply put, the monopole traditionally you build around a two-hundred (200') feet self-supporter up to two-hundred and fifty (250') feet and after that, you're building that tower. Mr. Phillips said that is standard practice in the industry.

Glen Minich asked what the foot print of this guyed tower is.

Mr. Phillips is up at the bench going over the site plan of the packet that he presented to the board.

Mr. Phillips said that everything will be fenced within a one-hundred by one-hundred compound and from anchor to anchor, the anchor will extend two-hundred and thirty eight (238') feet out past the center of the tower. Mr. Phillips said that they have placed the tower in such a position it won't fall outside of the property; it won't fall on the highway and it won't fall on any neighboring homes. Mr. Phillips said that it's really placed in a truly ideal place for a tower.

Glen Minich asked how many property owners signed off on the cards on this one.

Attorney Biege said that there were four, and notice was also given to both of the airports.

Melissa Mullins Mischke said that she just wants to clarify that this is a lit tower.

Mr. Phillips said that it will be lit with a red and white beacon.

Wally Pritz asked who the tower manufacturer is.

Mr. Phillips said that it's Swager Communications out of Fremont, Indiana.

Melissa Mullins Mischke said that she didn't see in her packet that showed exactly on the parcel where you intend to place the tower and also any easement access to the tower.

Mr. Phillips is up at the bench going over the site plan with the board members.

Board members speaking amongst themselves.

Dwayne Hogan asked if there are any remonstrators here this evening.

Dwayne Hogan asked the pleasure of the board.

Candice Nelson made a Motion that the petition for a "Special Exception" for Nancy C. Wickizer (owner) Professional Tower Services, LLC, and Indiana Limited Liability company (Lessee) to erect a three-hundred forty (340') foot guyed tower to service the area in Hudson Township near Hudson Lake, property located at 8822 N. 750 E., New Carlisle, IN, Hudson Twp., zoned Agricultural on 18 acres of land be granted. Wally Pritz seconded.

Dwayne Hogan asked if there are any questions, comments or, concerns.

Voting Aye: Glen Minich, Candice Nelson, Wally Pritz and Dwayne Hogan.

Voting Nay: Melissa Mullins Mischke

Motion carried 4-1.

4. The Petition for Richard Schreiber for Variance of Developmental Standards to construct a pole barn/shop two-thousand four hundred sixty-four (2,464') square feet with a bathroom, insulation and heat. There is an existing barn on this property which will be torn down after new construction. This property is located at 0534 W. 900 N., La Porte, IN., Springfield Twp., zoned Agriculture on 18.13 acres.

Attorney Biege said that notice is adequate.

Dwayne Hogan asked for name and address for the record.

Richard Schreiber, 2231 Island Drive, Michigan City, Indiana.

Dwayne Hogan asked Mr. Schreiber what he would like to do this evening.

Mr. Schreiber said that he's requesting a variance to build a pole barn with a septic and heat at property located at 0534 W. 900 North.

Dwayne Hogan asked Mr. Schreiber when he plans on starting this.

Mr. Schreiber said by August.

Glen Minich asked Mr. Schreiber if he has any future plans on putting a house on this property.

Mr. Schreiber stated no. Mr. Schreiber said that he had a house there and he lived there for twenty years and he's renting it out for a farmer. Mr. Schreiber said that he will be using this pole barn for equipment storage.

Dwayne Hogan asked Mr. Schreiber what kind of shop.

Mr. Schreiber said it will have a concrete floor, heat, insulated and one bathroom.

Dwayne Hogan asked if this will be one level.

Mr. Schreiber stated one level.

Melissa Mullins Mischke asked Mr. Schreiber if this is going to be used strictly for storage.

Mr. Schreiber stated correct.

Melissa Mullins Mischke said no renting or living in this.

Mr. Schreiber stated no.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 4.

Dwayne Hogan asked if there are any further comments, or concerns from the board.

Dwayne Hogan asked the pleasure of the board.

Melissa Mullins Mischke made a Motion that the Petition for Richard Schreiber for a Variance of Developmental Standards to construct a pole barn/shop two-thousand four hundred sixty-four (2,464') square feet with a bathroom, insulation and heat be granted, with the understanding that the old barn will be torn down after construction of the new pole barn/shop on property located at 0534 W. 900 N., La Porte, Springfield Twp., zoned Agricultural on 18 acres of land.

Glen Minich seconded.

Dwayne Hogan asked if there are any questions, comments, concerns, or clarifications needed.

Melissa Mullins Mischke told Mr. Schreiber that she just wanted to remind him that there is no renting or residential use out of this.

Mr. Schreiber stated correct.

All approved. Motion carried 5-0.

5. The Petition for Bob & Lynn Schult for a Variance of Developmental Standards to construct an attached 2 ½ car garage (24x35) with electric to their home within only fifty-two (52') feet from Fail Road. This property is located at 3252 N. Fail Road, La Porte, IN, Kankakee Twp., zoned Ag. on 1.50 acres of land.

Attorney Biege said that notice is adequate.

Dwayne Hogan asked for name and address for the record.

Bob Schult, 3252 N. Fail Road, La Porte, Indiana.

Dwayne Hogan asked Mr. Schult what he would like to do this evening.

Mr. Schult said that they're looking to build a garage onto the front of their house. Mr. Schult said that it will be an attached garage. Mr. Schult said that they really don't have any place else where they could put the garage on their property where it would serve very well functionally.

Dwayne Hogan told Mr. Schult that it's a pretty busy road there.

Mr. Schult said sometimes.

Glen Minich asked Mr. Schult if he has a turnaround in his driveway where he can get turned around and pull back out to the road.

Mr. Schult said that they're going to do the driveway as well. Mr. Schult said that it won't be a horseshoe, but there will be plenty of room to back out of the garage.

Melissa Mullins Mischke asked Mr. Schult if he has a sketch where it would show the location of that building of the reconfigured driveway.

Mr. Schult is up at the bench going over the site plan with the board members.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 5.

Dwayne Hogan asked if there are any comments, questions, or concerns from the board.

Board members speaking amongst themselves.

Glen Minich told Mr. Schult that the home is closer to the road than a lot of the homes in that area.

Mr. Schult said that as a matter of fact, the house immediately north of them is only twenty-five to thirty foot from the road and there is no turnaround in that driveway. Mr. Schult said that it's not an occupied residence – it's only a rental.

Glen Minich said that the picture didn't show that, but he noticed that when he drove by and he thought it was an abandoned property.

Mr. Schult said that its rental property that the folks next to him own and sometimes they rent it and sometimes they don't. Mr. Schult said that it has been vacant for a while. Mr. Schult said that if you go down a little further to the north, there are a couple of homes there that are fairly close to the road --- thirty to forty feet. Mr. Schult said that he can understand your concern about the traffic, because they have to back out he's not always comfortable with that and that's part of the reason they're going to do the driveway the way that they are so they don't have to back out.

Glen Minich said that he thinks that he's doing all he can ---

Mr. Schult said that they wanted to put a horseshoe driveway in there, but again they can't because of the way the property is.

Annemarie Polan, Building Commissioner, asked Mr. Schult if he has the reconfigured drawing of the driveway. Annemarie said that she didn't see that.

Glen Minich asked Annemarie if she wanted to see it.

Annemarie Polan, Building Commissioner, said that if you guys are okay with it, she didn't know they were going to do that.

Annemarie Polan, Building Commissioner, is up at the bench going over the site with the driveway.

Dwayne Hogan asked Annemarie if she is okay with this.

Annemarie Polan, Building Commissioner, stated yes.

Dwayne Hogan asked the pleasure of the board.

Glen Minich made a Motion for Bob & Lynn Schult for a Variance of Developmental Standards to construct an attached two and half car garage (24x35) with electric to their home within only fifty-two (52') feet from Fail Road be granted. Property is located at 3252 N. Fail Road, La Porte, Indiana. Melissa Mullins seconded.

Dwayne Hogan asked if there are any questions, comments, or concerns.

Wally Pritz asked that in that Motion do we have an area where he could back into and come out.

Glen Minich said that we certainly add that it be built to the standard that was shown in the drawing.

All approved. Motion carried 5-0.

6. The Petition for James and Sharon Van Kley for a Variance of Developmental Standards to construct a garage with the floor not lower than the IDNRBFE of 802.1. This

elevation would be in conjunction with the elevation of other structures in the neighborhood. This property is located at 335 Island Drive, La Porte, IN., Center Twp., zoned R1B.

Attorney Biege said that notice is adequate.

Dwayne Hogan asked for name and address for the record.

James Van Kley, 19111 Vernon Ave., Lansing, Illinois.

Dwayne Hogan asked Mr. Van Kley would he would like to do this evening.

Mr. Van Kley said that he appeared before you in December and he thought everything was well and fine and he was ready to build a garage on his property. Mr. Van Kley said that he had a surveyor come out there and layout the garage. Mr. Van Kley said that he said he had to go up two feet above flood plain. Mr. Van Kley said that when that water comes down Grayson Ave. he would have so it would flow right through and he moved it over off his property off center for that reason. Mr. Van Kley said that if he puts that garage back over where it could be he would create a flood.

Dwayne Hogan told Mr. Van Kley he would and the water would go the other way.

Mr. Van Kley said that he's requesting that he can build it on the (inaudible) flood plain level.

Glen Minich said that he saw almost three sets of stakes; there were some real lower grade stakes. Glen asked if that is closer to where we're going.

Mr. Van Kley said that the lower one is his property line and the ten foot is where he would start. Mr. Van Kley said that on the far one towards the pond area is five feet above.

Glen Minich said that it makes a lot more sense bringing it down and lessen the flooding for everybody.

Dwayne Hogan asked if there are any remonstrators here this evening for Petition No. 6.

Dwayne Hogan asked if there are any concerns of the board.

Attorney Biege asked Mr. Van Kley what standard are the blue ribbons on the stake.

Annemarie Polan, Building Commissioner, said that all she knows is the engineer was out there and what he came up with wasn't going to work. Annemarie said that the BFE was 802.4 and that wasn't going to work and he would end up flooding the street.

Attorney Biege said that he was in the Military and BFE means something very different.

Annemarie Polan, Building Commissioner said that it's the base flood elevation.

Glen Minich said that we want to construct a garage with the floor lower than the IDNRBFE of 802.1

Attorney Biege asked Mr. Van Kley if that is where he wants to put it.

Mr. Van Kley said correct.

Attorney Biege asked what standard is it that we don't want it to go.

Annemarie Polan, Building Commissioner, said the BFE. Annemarie said that she spoke with Laura at DNR and she was hoping that we would just get her blessing for Mr. Van Kley. Annemarie said that really this is just a formality.

Attorney Biege said that the variance is actually from the base flood elevation.

Annemarie Polan, Building Commissioner, said that is right.

Attorney Biege said that is what he wanted to make sure. Attoreny Biege said that he will rewrite the finding to reflect that.

Dwayne Hogan asked if there are any other questions from the board.

Glen Minich made a Motion that the Petition for James and Sharon Van Kley for a Variance of Developmental Standards to construct a garage with the floor not lower than the IDNRBFE of 802.1 be granted. This property is located at 335 Island Drive, La Porte, IN., Center Twp., zoned R1B. Candice Nelson seconded.

Dwayne Hogan asked if there are any other comments, concerns, or clarifications.

All approved. Motion carried 5-0.

7. The Petition for Melinda G. Gaw for a variance for continued placement of a mobile home with a different resident. There was a variance for this mobile home granted on October 18th, 2011 for a two year period, which expired October 18th, 2013. This property is located at 6315 N. 300 W., Michigan City, IN., Springfield Twp., zoned R2.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Melinda Gaw, 6377 N. 300 W., Michigan City, Indiana

Ms. Gaw stated that she wanted to get a variance to keep the mobile home on this property. Ms. Gaw stated that a life time friend lives there and does not pay her rent. Ms. Gaw stated that she takes care of the farm and her animals when she is away.

The Board wants to table this matter to June 16th, 2015 at 6:00 p.m. so they can research the stipulations to the previous variances that were granted on this property.

Glen Minich made a Motion to table this to June 16th, 2015 at 6:00 p.m. until they have all the facts in front of them. Candice Nelson seconded.

Dwayne Hogan asked if there are any further questions, comments, or concerns.

All approved. Motion carried 5-0.

8. The Petition for Marv Crook (Seller) and Guy Salisbury and Ryan Bailey (Prospective Buyers) for a Special Exception to operate a sand mine. This property is located at 16766 S. 250 W., Hanna, IN., Prairie Twp., zoned Agricultural on 90 acres of land.

Dwayne Hogan asked if he could have a show of hands on how many remonstrators are here this evening for Petition No. 8.

Attorney Biege said notice is adequate.

Dwayne Hogan asked for name and address for the record.

Guy Salisbury, his current operating address is 14532 S. State Road 39, Hanna.

Mr. Salisbury said that they're a partnership and his partner is here with him this evening.

Ryan Bailey, 30950 Johnson Road, North Liberty, Indiana 46554

Dwayne Hogan asked what they would like to do this evening.

Mr. Salisbury said that they have pictures; and they want to give their intentions with the sand mine.

Mr. Salisbury said that right now he operates a sand and gravel pit that is existing just south of 30 on State Road 39. Mr. Salisbury said that they're purchasing this land and they're State capped in a State Program and a Federal mine site. Mr. Salisbury said that they're approved by Federal and State. Mr. Salisbury said that the property is zoned Agricultural and there has been a wetland determination which is good through the Soil and Water. Mr. Salisbury said that everything is approved and they're approved by the DNR.

Mr. Salisbury said that there is an existing pond there and they've done test hole digging for the past couple of years little by little and approved by the State. Mr. Salisbury said that they plan on doing the same thing there that they do on their site at State Road 39 and its two point four miles away. Mr. Salisbury said that they're going to employ up to twenty –five to thirty people. Mr. Salisbury said that they have some adjoining land owners that couldn't make it tonight and they wanted me to mention their name. Mr. Salisbury said that it's Jim McGroarty.

Mr. Salisbury said that they're working in an area of this ninety acres per year that would be like one to five acres in a concentrated area. Mr. Salisbury said that the rest of the property will be farmed. Mr. Salisbury said that they're going to introduce main line electric – three phase electric that will be brought in and they will pay for. Mr. Salisbury said that many adjoining land owners would be main line and it will be the first electric to get fixed if there is an outage.

Mr. Salisbury said that they're putting together with the county a plan for the road maintenance. Mr. Salisbury said that right now they have been coming down to enter the site on 1650 and then turning on 250 and it would be the best way for them for cutting costs for getting a short road right out to 250, but what they did – he has a map –

Mr. Salisbury is up at the bench going over the site plan with the board members.

Mr. Salisbury said that they will be bonded on 1650 to maintain the road because they're going to be exempt from the frost law. Mr. Salisbury said that their hours of operation will be weekdays – they're a union company and they want to try eliminate all the overtime they can. Mr. Salisbury said that they usually start operation at 6:00 in the morning until 4:00 p.m., Monday through Friday. Mr. Salisbury said that is their current operation on Highway 39.

Dwayne Hogan asked Mr. Salisbury what union he's involved with.

Mr. Salisbury said Local 150 Operating Engineers.

Dwayne Hogan told Mr. Salisbury that he said twenty-five to thirty employees. Dwayne asked if that is twenty-five to thirty new employees, or twenty-five to thirty existing employees.

Mr. Salisbury stated new.

Dwayne Hogan asked how many existing employees he has.

Mr. Salisbury said that they are going to keep their existing employees where they're at. Mr. Salisbury said that they will have to hire new employees and part of those employees are there as a restaurant facility that they're going to try to open up as a banquet hall. Mr. Salisbury said that Jim Kabacinski is in La Porte here and he's going to run that for them.

Dwayne Hogan asked if the new employees will be all 150 Operating Engineers.

Mr. Salisbury said that some will and some won't.

Dwayne Hogan asked if that is prevailing wage.

Mr. Salisbury said that they will be paying prevailing wage.

Mr. Salisbury said that there is a berm that is twelve to fifteen foot in height which is constructed along three of the property lines – practically two of the property lines, so it will absorb any sound – they have some pictures of those.

Mr. Salisbury is up at the bench going over the pictures with the board of the berm.

Melissa Mullins Mischke said that when she was looking at the picture of the land that we were originally presented, it shows the pond area and the then north to 1650. Melissa asked Mr. Salisbury if they were going to start mining from the existing pond south.

Mr. Salisbury is up at the bench going over the site plan with the board members.

Mr. Salisbury said that the berm is going to exist until the mine site is complete and then they can destruct the berm at that point and it will be lake view property. Mr. Salisbury said that it will be a seventy-five acre lake when they're done.

Glen Minich asked attorney Biege if that is common to remove the berm after it's constructed.

Attorney Biege stated yes. Attorney Biege said that part of the application for a mine and the zoning code requires a plan, and the berm would be part of the requirement upon completion. Attorney Biege said that DNR and the Feds have requirements on how you leave it.

Mr. Salisbury said that when they leave this property when they're done mining there, they're going to greatly increase the property value of every surrounding land owner. Mr. Salisbury said that they're going to have lake front property.

Dwayne Hogan asked where the restaurant is on that property.

Mr. Salisbury is up at the bench going over the site plan with the board members.

Mr. Salisbury said that it's his understanding that some people, or some person, was claiming that they damaged their well, or had influence on their well – drinking water. Mr. Salisbury said that what they did was bring in a well expert and they're only digging ten (10') foot deep. Mr. Salisbury said that they're not pumping any water out and everything is self-contained. Mr. Salisbury said that they brought in the well expert tonight if anyone has any questions.

Melissa Mullins Mischke asked Mr. Salisbury if those are generally shallow wells out there.

Mr. Salisbury said that he can't answer that and maybe the expert can. Mr. Salisbury said that he knows that there is a state law of how they can be. Mr. Salisbury said that he's sure you'd have to follow the guidelines of the State.

Glen Minich said that the ditches maintain the water level. Glen said that the water table is only four (4') feet below the ground.

Wally Pritz asked Mr. Salisbury when he is done with the property, is he going to have a county park.

Mr. Salisbury said that they haven't gone that far yet. Mr. Salisbury said that there are a lot of insurance issues and to do something like that the liability is just crazy. Mr. Salisbury said that he can't answer that.

Glen Minich asked Mr. Salisbury if he's going to continue with the ten (10') foot depth, or are you going to bring in a dredger and go deeper.

Mr. Salisbury said that they had a study done and it shows that their deposit there is between thirty and fifty foot, and right now their dredge for their current facility is about forty-three foot and that's all the equipment that they have now. Mr. Salisbury said that he can't say that they're going to go any deeper or not.

Mr. Salisbury said that everything will be self-contained. Mr. Salisbury said that they're not pumping any water off.

Melissa Mullins Mischke said that she knows Mr. Young is in the audience, but you have worked with the county and this road that you're proposing to build, would be built to county standards, minus the frost law exemption.

Mr. Young said that the road he's going to build would be on his own property. Mr. Young said that he thinks that his jurisdiction would come in when he reaches the county road; there would be a proper bond in place and he would have to give that to the Commissioners to see what that would be. Mr. Young said that by coming out the way they plan to come out, they're taking almost all the phones out of play. Mr. Young said that he doesn't have any problem with it.

Melissa Mullins Mischke said that she's not familiar with the drainage along the south side of 1650. Melissa asked Mr. Young if he would work with them when they apply for the driveway permit --- for culverts and drainage.

Mr. Young said that would all be taken into consideration. Mr. Young said that there is also where 250 west ties into 1650 from the south as you're looking to the west, there is kind of a high berm there and he thinks that would have to be a requirement for the line of sight.

Glen Minich said that Mr. Salisbury said something about being exempt from frost laws. Mr. Minich told Mr. Young that we have several sandpits in the area and to his knowledge, nobody is really exempt from frost laws. Glen said that they operate at half capacities

Mr. Young said that if they put down a sufficient bond ---- this would be a Commissioner's decision. Mr. Young said that he thinks that if they put down a sufficient bond and the road was built to specifications, he thinks that it could be done.

Dwayne Hogan asked for remonstrators. Dwayne asked if there is a spokesperson for the remonstrators.

REMONSTRATORS:

Jerold Huber, 17334 S. 250 West., Hanna, IN 46340. Mr. Huber said that he has a couple photograph layouts. Mr. Huber said that there are twelve homes that are adjacent to this property. Mr. Huber said that he looked at the 2405 – the decision criteria and six of those items he would like to briefly address.

Mr. Huber said that the general welfare. Mr. Huber said that there is potential to public safety due to the increased truck traffic. Mr. Huber said that those roads are narrow and there is no shoulder and a ditch on one side. Mr. Huber said that there are children on bikes.

Mr. Huber said that probably another major issue is surrounding property on the land value. Mr. Huber said that studies show that with sand mining operations there is a thirty (30') percent drop in surrounding property values. Mr. Huber said that it is much more difficult to sell a property due to noise and traffic.

Mr. Huber said that the increase of traffic, machine noise and dust; Mr. Huber is that there is a concern about the effect on drinking water and quality. Mr. Huber said that he lives up on a hill and the water table is twenty-two feet and the actual well is thirty feet. Mr. Huber said that the well is very shallow.

Mr. Huber said that as far as public facilities and services, there would be heavy truck traffic and requiring repairs more often at the expense of the county.

Mr. Huber said the developmental requirements --- the facility would significantly alter the existing character of the general vicinity which is houses surrounded by farm land.

Mr. Huber said that the county land development plan says the key issue stated in the plan is the need to protect the existing economic base, particularly agricultural. Mr. Huber said that he doesn't think they will be doing any farming on this land thirty years from now.

Mr. Huber said that he knows the site on 39 is a lake, but he doesn't think that any one has built houses on that. Mr. Huber said that he doesn't think that the lake has increased the value of those properties. Mr. Huber said that those are his key points.

Teresa Struble, 16891 S. 250 W., Hanna, Indiana, 46340. Ms. Struble said that she actually lives right across the street from this property. Mr. Struble said that those berms are not keeping the noise down; they're not keeping the dust out. Ms. Struble said that she hears those trucks all day long. Ms. Struble said that they have a lot more children in the area now than they used to and she's concerned about their safety. Ms. Struble said that she has had a couple of the dump trucks pull out in front of her and she's concerned about the safety issues and the noise.

Glen Minich asked Ms. Struble if it makes it easier that their plan is that the trucks aren't going to run on 250, but they're actually going to enter and exit from 1650.

Ms. Struble said that they're digging right across the street from her and she hears the machinery too. Ms. Struble said that she's not sure where they plan on putting this road on 1650 where they would not be driving past houses, unless they circle around. Ms. Struble said that there are houses on 1650.

Mr. Minich said that there are a couple of farms on 1650.

Ms. Struble said that there are children and horses. Ms. Struble asked where the road was going to be.

Dwayne Hogan is taking the map into the back of the room to show the remonstrators where the road is going to be potentially placed.

Melissa Mullins Mischke said that this is an Ag area and she certainly lives in the neighborhood and she has Ag equipment up and down the roads all the time and it's noisy. Ms. Mischke said that when she comes home there is dust from farming.

Ms. Struble said that's not year around. Ms. Struble said that you have the planting in the spring and the harvesting in the fall.

Melissa Mullins Mischke said that sometimes its seven days a week and three quarters of the year. Melissa said that there is some noise associated with some of the equipment and she doesn't disagree that the dust and all those things are disruptive. Melissa said that she knows that when she's home and equipment is going by, it is noisy, but again, that is kind of expected in Ag area.

Remonstrators going over the site map.

Board members speaking amongst themselves.

Lesley Metts, 16588 S. 250 W., Hanna, Indiana 46340. Ms. Metts said that she thinks that their biggest concern is that they have been digging for a while and they have the trucks going in and

out. Ms. Metts said that the owners of the dump trucks fly and she has four children and three dogs. Ms. Metts said that the three older ones are aware enough to know to watch and the other one is six. Ms. Metts said that if something happened they would feel bad and she would feel lost to lose one of her children. Ms. Metts said that there are so many blind areas in that area, even if they came up 1650 heading west, there is a big hill there; either way, there are kids that ride their bikes; there is horseback riding. Ms. Metts said that it's liability for everyone in that area and it would be a big loss. Ms. Metts said that she doesn't want them to lose either, but she thinks as a community it would make them lose a lot.

Ms. Metts said that they might plan to live there for years, until we have a lake front property. Ms. Metts asked how it's going to affect them when they want to sell their home. Ms. Metts said who's going to want to buy it living next to a ground pit. Ms. Metts said that it's going to decrease the property sale; it's going to decrease their property value as a whole, and this really needs to be further investigated before any rational decisions are made. Ms. Metts said that is her personal opinion.

Tammy Moser, 17061 S. 250 W., Hanna, Indiana 46340. Ms. Moser said that she is the community school bus driver and on 250 West., she has fifteen children alone, and on 1650 all the way up to where you're talking about putting in the road, there are eleven children that are school age; Ms. Moser said that they're talking about twenty-six children. Ms. Moser said that these truck drivers are not driving the safest; they need to take into consideration where our children are at and our homes. Ms. Moser said that she would appreciate if the board would take some time to think about this.

Florian Mareska, 17633 S. 250 W., Hanna. Mr. Mareska said that the spot they're talking about making a new road, just to the east of that there is a hill. Mr. Mareska said that anybody coming from the east if there is a truck pulling out, that truck is going to take up the whole road when he makes that turn. Mr. Mareska said that if anybody is coming over that hill when he's pulling out is an accident waiting to happen. Mr. Mareska said that their test digging has been going on for a year and a half to two years. Mr. Mareska said that there are days when they have running trucks out of there one after the other, eight hours a day. Mr. Mareska said that he really doesn't call that test digging.

Mr. Mareska said that he also thinks that hiring twenty-five to thirty people is an exaggeration unless they're going to be running two shifts, or they're county truck drivers. Mr. Mareska said that usually truck drivers are not connected with gravel pitting, they're hired by somebody else -- a trucking outfit.

Mr. Mareska said that they're looking for this variance now and why didn't they look for this variance two years ago when they started digging sand out of that pond. Mr. Mareska said that pond when it originally started was just dug to build a berm. Mr. Mareska said that pond has probably increased ten times over its original size already. Mr. Mareska said that he doesn't

think that they're really talking in good faith about what is going on over there for the past two years.

Dwayne Hogan asked if there are any remonstrators for Petition No. 8.

Bill Warner, 3555 W. 1350 South, Hanna 46340. Mr. Warner said that he owns farm ground west of this property and he has seen what Mr. Salisbury has been doing. Mr. Warner said that he's not bothering me and he talked about a three phase. Mr. Warner said that he has an irrigation there with a diesel engine. Mr. Mareska said that as far as his property, it's not bothering him.

Dwayne Hogan asked if there are any other remonstrators here for this Petition.

Brian Bailey, 30970 Johnson Road, North Liberty, Indiana. Mr. Bailey said that one thing he has seen in St. Joe and La Porte County is the dwindling and shooting down of a lot of monies. Mr. Bailey said that it has almost created a monopoly. Mr. Bailey said that the people that pay for that he has to pass that on to the people that are building homes; the people that are putting up facilities that need aggregate for their concrete. Mr. Bailey said that the concrete is raised up drastically in prices over the past few years and everything has to be trucked in. Mr. Bailey said that most of the facilities here in La Porte, close by, that are selling product to you the public, have to have it trucked in because they're not getting it here. Mr. Bailey said that is a great expense.

Mr. Bailey said that most of the things that he heard tonight he understands and it sounds like a lot of them can be addressed. Mr. Bailey said that he would hate to see something turned down just because all the options weren't looked at. Mr. Bailey said that road signs --- he remembers the Hunt Lake Gravel Pit in Rolling Prairie ---- worst place in the world --- big hill right at the top entrance to the facility right over the hill. Mr. Bailey said he doesn't ever remember once an accident happening there, but it was well marked. Mr. Bailey said that it was well marked and the road was improved - school buses stopped there all the time and children are in that area, including his daughter.

Mr. Bailey said that he's fortunate to live in St. Joe County and in his township they have IN Tek, (inaudible) and IN-Kote). Mr. Bailey said that they have the lowest tax base in St. Joe County and it has improved the value of their property because people see how much taxes they pay and those three businesses cover most of the expenses that we all expect which is fire, police - the roads were improved for the traffic in those situations.

Mr. Bailey said that we need growth and businesses to share the tax burden for us if we expect the police and fire; it all helps. Mr. Bailey said that it is zoned Agricultural; he's a farmer and he goes down the road with a tractor that is twenty-one foot wide and it covers the whole road. Mr. Bailey said that it is more dangerous than a truck driving down the road that is eight feet wide. Mr. Bailey said that if there are risks involved in any of this, he hopes we can all work through it.

Dwayne Hogan asked if there is anything else.

Dwayne Hogan asked the board's pleasure.

Mr. Mareska said that what Mr. Bailey was talking about industry in the Rolling Prairie area, he's sure that property was all changed as far as zoning goes. Mr. Mareska said that their tax rate is different. Mr. Mareska said that he's asking for a Special Exception; it's not going to change the tax rate. Mr. Mareska said that the county is not going to get any more money out of this than it already is being zoned Agricultural. Mr. Mareska asked how is that going to improve the fire department, or anyone else.

Attorney Biege said that the property is assessed differently.

Glen Minich said that it's capped at three (3%) percent by State Law.

Attorney Biege said that is on the tax level, but the way the property itself is based upon its use.

Glen Minich said the value of the gravel pit will carry a higher assessment.

Mr. Mareska said that he's looked at the current gravel pit on 39 and 30, and he looks what they're paying on taxes and it's zoned Agricultural, they're really not paying any more than what farming is on that property. Mr. Mareska said that it's not going to change that much.

Attorney Biege said that this is an issue with the County Assessor. Attorney Biege said that the information coming before the board needs to be accurate and if you don't have any assessment credentials, he thinks that we should move on.

Guy Salisbury said to everyone against, they want to be friendly neighbors to all of you guys. Mr. Salisbury said that most of the complaints were about using 250 and the muddy roads, sand and trucks pulling out. Mr. Salisbury said that they're going to absorb that cost of building that road out to 1650. Mr. Salisbury said that the hill that they were talking about is going to affect any vision; they looked at it from people coming from the west.

Mr. Salisbury said that they have the county road superintendent already working with them. Mr. Salisbury said that there will be adequate signage, and if there's not, let them know and they will get it fixed. Mr. Salisbury said that there will never be any dewatering pumps; they're not going to be displacing water. Mr. Salisbury said that it is all going to be self-contained.

Mr. Salisbury said that the road on 1650; they're going to bond for a total replacement of the road if there is ever any problems. Mr. Salisbury said that he farms also and the last gentleman is most grossly not true because he does pay a lot of taxes and they just got reassessed at the gravel pit.

Melissa Mullins Mischke said that we're not going to discuss any assessment issues.

Mr. Salisbury said that this property is in a flood plain in all sides except for him and he's saving that that spot for him and it's not for sale. Mr. Salisbury said that he knows the concerns of the kids, but they're not going to be using 250; the only reason they would use 250 if they just want their personal vehicles coming in and out.

Mr. Salisbury said that their machinery isn't any louder than a farm tractor. Mr. Salisbury said that on the weekend they unhooked their backup beepers to help that, but on a federal mine site, they cannot do that; that will be the only thing they're going to do here, and it's going to be during business hours.

Melissa Mullins Mischke asked Mr. Salisbury if there is a way to maneuver the equipment around on the property that the dumps trucks would be backing up less and going forward more.

Mr. Salisbury said absolutely. Mr. Salisbury said that their new road will be coming and they will have a radius turnaround. Mr. Salisbury said that the only back up beepers would be the pay loader getting his pile and loading it.

Dwayne Hogan asked the number of employees.

Mr. Salisbury said that all twenty-five to thirty employees are not all going to be on the mine site; they will be with the banquet facility that Jim Kabacinski will bringing along. Mr. Salisbury said that there is an existing lodge and somebody left the window up and they ran out of LP and it froze and broke and it's gutted. Mr. Salisbury said that they want to fix it back up. Mr. Salisbury said that it's not going to happen overnight, but they're not going to tear it down.

Melissa Mullins Mischke asked Mr. Salisbury if he could talk a little bit about the dust issues. Melissa asked if he will be able to keep the dust on the property.

Mr. Salisbury said that they're governed by part of FMSHA a mine safety health administration; it's a federal agency and they have more power and they're governed by them versus the president. Mr. Salisbury said that they mandate their dust protection. Mr. Salisbury said that they have been spraying calcium chloride, but actually they kind of deferred from that because there is a chance that it could contaminate water. Mr. Salisbury said that they're just putting clean stone --- washed stone and there is no dust. Mr. Salisbury said that they're going to talk to the county to use more of that for dust control.

Melissa Mullins Mischke said with the respect to the dust --- you were digging longer

Mr. Salisbury said that they did a narrow strip -- they have had all these tests done and it's like thirty-five thousand dollars for these tests, but they dug to try to make sure everything is in order.

Melissa Mullins Mischke asked Mr. Salisbury if 4:00 p.m. would be his quitting time.

Mr. Salisbury said that the only time is if our county has a blizzard coming and needed sand for our roads. Mr. Salisbury said that they demand that we're open on Saturday. Mr. Salisbury said that they're working four tens now. Mr. Salisbury said that there could be US 30 being paved and one of their main customers is Walsh & Kelly and they might get the job and for the roads to be reopened they need more material -- trying to work with everybody.

Melissa Mullins Mischke was asking Mr. Salisbury about hours of operation.

Attorney Biege said that the hours of operation are set out in the Special Exception ordinance; there is a section for mining. Attorney Biege said that it is 7:00 a.m to 7:00 p.m. and there are situations in which that would go beyond and those situations are set out.

Melissa Mullins Mischke told attorney Biege that she totally understands what he's saying, she just wanted to make sure the public and remonstrators were aware of the difference.

Attorney Biege said that it's already in the zoning code and not a discretion of the board.

Mr. Salisbury said that people think that lake property devalues their property; he doesn't know how they can say that because they're greatly going to improve the property over there.

Candice Nelson asked Mr. Salisbury if there is something he can do to address the bus, children and truck drivers. Ms. Nelson said she has concerns about that, not saying that she has any problem with what you're doing because she supports this, but she can understand as a parent.

Mr. Salisbury said that they have to maintain a certain speed limit on the mine site. Mr. Salisbury said that as soon as it hits the county road, that would be up to the county to post it. Mr. Salisbury said that they're not going to allow traffic to turn west, it will be one shot to Highway 29 and it will be posted. Mr. Salisbury said that he can't control what a truck driver does, or anybody, but they can govern what happens on the site.

Candice Nelson asked Mr. Salisbury if the truck drivers would be working for his company.

Mr. Salisbury said that they don't have any truck drivers. Mr. Salisbury said that their main company is the county, Walsh & Kelly and (inaudible) concrete. Mr. Salisbury said that they all have their own trucks.

Mr. Salisbury said that he just wanted to stress that they want to work good with their neighbors.

Glen Minich said that he thinks that we really need to take this all in, and if you would take it all in too, because we're going to have to table this because he doesn't think that we can come with a full decision here. Mr. Minich said that he would like everybody to give some thought to this before the next meeting, because he thinks Mr. Salisbury is going to have to come up with a kind

of dust suppression that's going to really satisfy these people. Mr. Minich told Mr. Salisbury that he's going to have to come up with a plan to put up a bigger berm between you and probably even plant some divider, because this is going to be a long term thing. Mr. Minich said that these people could turn their homes two or three times before that is completed.

Mr. Salisbury told Mr. Minich that Ms. Struble is in an area where the berm doesn't exist and she is on the short end of the stick where they're using 250 right now. Mr. Salisbury said that he doesn't think that she would hear equipment of them mining. Mr. Salisbury said that when they go to 1650 they will finish that berm and hopefully cut her house out of the noise.

Glen Minich said that it's going to be a difficult situation at best and he thinks that we need everybody to talk and come to a better conclusion and we're going to have to make some concessions.

Melissa Mullins Mischke said that she thinks that there are a lot of logistics like you said involved; maybe there is some creative method that you can do on your side of the road to help eliminate some of the noise.

Glen Minich said that he thinks that it needs to be thought through a little bit because he thinks that you're doing a great thing by bringing it out to 1650, but at the same point, the project is going to be long term and those trucks are going to be running a distance of nearly three quarters of a mile down a path, and that's when you're really going to have to have that dust depression in place.

Mr. Salisbury said that wouldn't be a problem.

Board members speaking amongst themselves.

Glen Minich said that he would like to table this.

Wally Pritz said that he would like to make one statement. Mr. Pritz said that he thinks that we're talking in generalities, when they're under federal guidelines on everything they have to do. Mr. Pritz said that he thinks that is what we should be looking at, more so than just generally saying that we have to reduce the dust. Mr. Pritz said that he doesn't think that we should be involved when they are federally mandated.

Glen Minich said that it is such an open area once the pit is going to be open and the homes are all to the east side. Mr. Minich said that it's going to have to have a good buffer between them and the road. Mr. Minich said that it has to be more sufficient than this.

Board members speaking amongst themselves.

Candice Nelson asked Mr. Salisbury what happens if they're not in compliance.

Mr. Salisbury said the FMSHA is one-hundred times worse than OSHA.

Candice Nelson asked what kind of insurance does the public have if you're not compliant.

Mr. Salisbury said that they plan on being there a while and just let them know. Mr. Salisbury said that they have to operate like FMSHA is there every day.

Melissa Mullins Mischke said that she thinks that it's very important that everyone that lives in the neighborhood probably didn't know you were governed by such an agency, now they can do some research and find out if they have a complaint. Melissa said they know they can go to this governing body and make a complaint. Melissa said that we want to make sure that we're all doing our due diligence before we make a decision on this.

Mr. Salisbury asked if they can operate now.

Annemarie Polan, Building Commissioner, said that she just wanted to let the people know up here that it's a Special Exception and not a variance. Annemarie said that the "Use" for Special Exception is not an incompatible use for that area; it's more of a compatible use, but it's here to be reviewed and maybe put some restrictions on it.

Attorney Biege said that they can work now and the board can grant it and you can set it for another review. Attorney Biege said that he wants to echo what Annemarie is saying, they're allowed to do this in an Ag area. Attorney Biege said that the only reason we're here is so the board can review really to make sure they're complying with all the requirements. Attorney Biege said that he also wants to emphasize the FMSHA Federal Agency is very very strict. Attorney Biege said that they have resources that the La Porte County Government does not have. Attorney Biege said that they can enforce rules and regulations that La Porte County does not have. Attorney Biege said that it goes way beyond zoning.

Attorney Biege said that he just wanted to make sure that the public is clear on this. Attorney Biege said to Dwayne Hogan, Board President that the board can grant this and set it for review.

Board members speaking amongst themselves with Mr. Salisbury.

Glen Minich said with all that's being said, he thinks that we want to make a Motion to table this until next month. Glen told Mr. Salisbury that they want you to come to terms with the neighbors. Glen said that it is an allowable thing going on out there, but we need to respect it; this is a neighborhood and that land was also sold off for residential lots along that road. Mr. Minich told Mr. Salisbury that he's going to have to make some concession with doing some extended stuff. Glen said that he would like to table this until next month.

Melissa Mullins Mischke seconded.

Dwayne Hogan asked if there are any clarifications.

Candice Nelson said that she will vote with the board, but she's fine with what they're doing. Candice told Mr. Salisbury that he has a higher office than us regulating. Candice said that if she was one of the people in the community and something wasn't going the way she liked it, she would be the first one to call in and complain.

Wally Pritz said that he has no objection with what's being proposed, but he does have a question. Wally asked what we can ask for that we know that's not violating what FMSHA already has in place.

Attorney Biege said that he doesn't know what it is that we're asking for because none of that stuff is in the book. Attorney Biege said that you don't have authority to go beyond what is in the book and anything that is required in the book doesn't even come close what is already required by FMSHA, DNR and IBNR. Attorney Biege said that if the board choose, to order, but if we're challenged later it may be struck down, your authority only goes so far. Attorney Biege said again, this is not a variance and when we're looking at this type of application all we're doing is checking to make sure nothing is funny. Attorney Biege said that this is the lowest standard the board has in its review over anything else that is brought; it's already allowed.

Board members speaking amongst themselves.

Glen Minich said again, he thinks that everybody needs some time to think this out. Glen said that he thinks that giving a little additional buffer between your plant and their properties is going to make a big difference to them.

Mr. Salisbury asked if they could have a certain time period to get that done.

Glen Minich said absolutely. Glen said that he's asking that we come back next month and we're going to have a plan and a drawing to help with that.

Annemarie Polan, Building Commissioner, asked if he can go through with the contractual part that Mr. Salisbury was talking about. Annemarie said that she thinks that is what he needs to know.

Melissa Mullins Mischke asked to vote on the Motion that's on the table, and then if it's denied, she told Wally that he can make a new Motion.

Dwayne Hogan said that there is a Motion on the table.

Voting Aye: Glen Minich and Melissa Mullins Mischke.

Voting Nay: Dwayne Hogan, Wally Pritz and Candice Nelson.

Motion denied 3-2.

Dwayne Hogan said that he will entertain a Motion.

Wally Pritz made a Motion that the Petition for Marv Crook (Seller) and Guy Salisbury and Ryan Bailey (Prospective Buyers) for a Special Exception to operate a sand mine be granted. This property is located at 16766 S. 250 W., Hanna, IN., Prairie Twp., zoned Agricultural on 90 acres of land.

Glen Minich asked Wally if he's going to include a restriction on where the driveway is going to be.

Board members speaking amongst themselves.

Glen Minich asked attorney Biege what's the restricted buffer between the plant and the county road.

Attorney Biege said that there is no requirement from the county's stand point. Attorney Biege said that he's pretty sure the Federal Regulations have requirements.

Board members speaking amongst themselves.

Dwayne Hogan asked if we're clear with the Motion.

Attorney Biege said that we have a Motion to approve the petition, subject to installation of a main entry into the mine at 1650 as drawn.

Glen Minich asked Wally if we would ask for some additional buffer against 250 to where additional green space can be put between them and all these residences.

Wally Pritz told Glen if he would like to make that part of the Motion he thinks that would be a great idea.

Glen Minich asked how much would be acceptable where you could do some buffering between you and those neighbors.

Guy Salisbury said that it's along 250 and they would extend that and beautify that.

Glen Minich said that he's talking about the width more than the length go get some depth off the road to where you can get a row of some pines in there, or something that is going to be a screen between these people and the pit.

Guy Salisbury said that they're in the standard right now with Federal Agencies.

Melissa Mullins Mischke told Mr. Salisbury that she knows that he's in the standard, but you have a room full of people that are unhappy about what you might be doing. Melissa said that what she and Glen have been trying to do is try to -----

Attorney Biege said that there might be restrictions on what they can plant. Attorney Biege said that he thinks the width of the buffer may be easier than trying to determine on what he can plant because they have restrictions on what they can do.

Glen Minich said can we talk about width of a buffer and some screening between you and the neighbors.

Guy Salisbury asked if it would be acceptable if we planted some arborvitaes because it grows faster all the way down. Mr. Salisbury said that would make a big wall.

Mr. Salisbury said that they also have to look at the utilities.

Wally Pritz asked Mr. Salisbury how long he thinks it will take to extend that buffer past the ladies' home that you were referring to.

Mr. Salisbury said that they will get it done. Mr. Salisbury said that they're sympathetic with her; it needs to be done – he would say in a week.

Glen Minich said that they would like to add that they will supply a one-hundred foot buffer from 250 for screening.

Attorney Biege said with a one-hundred foot width buffer. Attorney Biege said that we're going to extend the existing berm to the full length of 250.

Mr. Salisbury said to their existing entrance.

Board members speaking amongst themselves.

Attorney Biege said that the problem with screening, we just can't say screening. Attorney Biege said that if you want screening you prescribe what type of plant, how it's to be spaced, when it's to be planted and replaced. Attorney Biege said that's the problem with screening because we have a full chapter about landscaping and screening and it's very complicated. Attorney Biege said that the other problem is, they're moving dirt and the Feds have regulations.

Dwayne Hogan said that we have a Motion. Dwayne asked for a second.

Candice Nelson seconded.

Dwayne Hogan asked does anyone want to take a chance on reading this back.

Attorney Biege said that we have a Motion to grant the Special Exception, subject to a new driveway being installed from the main entry of the mine at 1650 South, a one-hundred foot

buffer from mining operations to 250 West, and the existing berm on 250 being extended to the entryway.

Glen Minich asked if that includes the bonding.

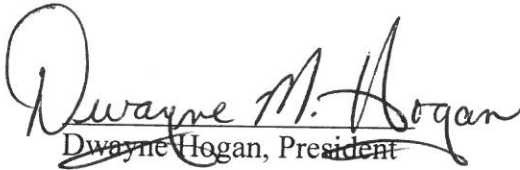
Attorney Biege said that is the County Highway and a different issue.

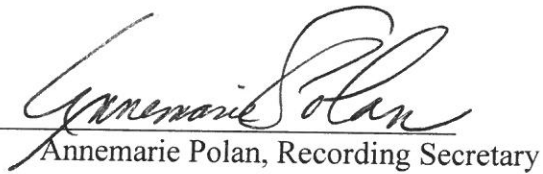
Voting Aye: Dwayne Hogan, Wally Pritz, and Candice Nelson.

Voting Nay: Glen Minich and Melissa Mullins Mischke.

Motion carried 3-2. Motion passed.

There being no further business before the Board of Zoning this evening, meeting adjourned at 8:35 p.m.


Dwayne Hogan, President


Annemarie Polan, Recording Secretary