Exhibit F

IN RE: ALLIED RECYCLING/LAST CHANCE SALVAGE

APPLICATION NO. 12-2401-36

September 19, 2013

Southampton Planning/Zoning Appeal Hearing on the above-captioned matter was taken at the Southampton Municipal Building, 5 Retreat Road, Southampton, New Jersey, before BEVERLY M. BRITTON, License No. XI01639, a Certified Court Reporter and Notary Public of the State of New Jersey, on the above date, commencing at 6:45 p.m., there being present:

RIDGWAY & STAYTON, LLC,
BY: MICHAEL S. RIDGWAY, ESQUIRE,
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SOUTHAMPTON BOARD MEMBERS:
Tom Heller
RJ Haas
Pat Kennedy
Tim Murphy
Steve Zoltowski, Chairman
Rod Goettelmann
Larry Thomas
Evelyn Doherty
William Robbins
Sheri Hannah, Secretary

ALSO PRESENT:

Tom Coleman, Esquire
Tom Scangarello, Planner
Rakesh Darj, Engineer

James Miller
Alexander J. Litwornia
Gary Civalier

PY

CHAIRMAN ZOLTOWSKI: The township zoning board, township hearing, a special meeting for September 19th, 2013, 6:45. Please stand and respect the flag.

(Pledge of Allegiance.)

CHAIRMAN ZOLTOWSKI: I apologize for being late. It's my fault.

Roll call.

MS. HANNAH: Miss Doherty?

MS. DOHERTY: Here.

MS. HANNAH: Mr. Goettelmann?

MR. GOETTELMANN: Here.

MS. HANNAH: Mr. Haas?

MR. HAAS: (Not present.)

MS. HANNAH: Mr. Kennedy?

MR. KENNEDY: Here.

MS. HANNAH: Mr. Murphy?

MR. MURPHY: (Not present.)

MS. HANNAH: Mr. Robbins?

MR. ROBBINS: Here.

MS. HANNAH: Mr. Heller?

MR. HELLER: Here.

MS. HANNAH: Mr. Thomas?

MR. THOMAS: Here.

MS. HANNAH: Mr. Chairman?

CHAIRMAN ZOLTOWSKI: Here.

Reading of the statement of compliance with the Open Public Meetings Act.

MS. HANNAH: Pursuant to the Open Public Meetings Act, public notice of this meeting has been given by the zoning board of adjustments of the Township of Southampton in the following manner: Posting written notice on the official bulletin board at the municipal building, 5 Retreat Road, Southampton, New Jersey, on September 8th, 2013; mailing written notice to the Burlington County Times and the Central Record on September 8th, 2013; filing written notice with the secretary of -- of the zoning board of adjustments on September 8th, 2013; filing written notice with the clerk of Southampton Township on September 8th, 2013; mailing written notice to each person who has requested copies of the regular meeting schedule and who has prepaid any charge for said service.

CHAIRMAN ZOLTOWSKI: With the appointment of the environmental specialist?

MS. HANNAH: The township...

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MR. COLEMAN: Is this Doug Stewart?
MS. HANNAH: Yes.
MR. COLEMAN: Mr. Chairman, it's my understanding, and I'll defer to Sheri, my understanding is that the township requested that Mr. Stewart -- a report of which I think you all have received. I think does the town want him appointed in some manner or fashion?
MS. HANNAH: Yes.
CHAIRMAN ZOLTOWSKI: Is he present?
MS. HANNAH: No.
MR. COLEMAN: I don't think he is so...
CHAIRMAN ZOLTOWSKI: Okay.
MR. COLEMAN: I don't necessarily know if you need -- he's not going to testify this evening. I think the report speaks for itself. It's been provided.
It's been presented to Mr. Ridgway?
MR. RIDGEWAY: Yes.
MR. COLEMAN: And, in all honesty, I think the applicant knows what their environmental responsibility is. I'm glad it was brought to your attention but without him testifying this evening -- I'll defer to the

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board if you want to but...
CHAIRMAN ZOLTOWSKI: If he's not going to, Tim.
MR. COLEMAN: He's not here.
CHAIRMAN ZOLTOWSKI: Call to continue the application for Allied Recycling, Block 2401, Lot 36.02, 440 New Road for a use variance, minor site plan and -- do we need to address the certificate of nonconformance?
MR. COLEMAN: Yes, Mr. Chairman. I think that's just -- why don't we turn it over to Mr. Ridgway at this point and he can tell you. I think he's going to give us a brief overview of how we got here and go from there.
CHAIRMAN ZOLTOWSKI: But, also, I'd like to note that both of our alternates will be voting tonight and both of them have listened to the tape?
ALTERNATE ONE: Yes.
ALTERNATE TWO: Yes.
MR. RIDGWAY: Thank you, Mr. Chairman. Mike Ridgway, appearing on behalf of the applicant. I wanted to apologize to everyone for not attending the

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August scheduled meeting of the zoning board. I've been practicing law for 38 or 39 years now. It was the first hearing that I had ever missed. Unfortunately, I had some tick-borne illness and was in the hospital, taken right before the hearing, and it was unavoidable but I do apologize to the board for my absence.
MEMBER OF THE PUBLIC: Talk into the microphone, please.
MR. RIDGWAY: We don't have a microphone.
CHAIRMAN ZOLTOWSKI: Microphone is not a PA system. It's simply a recording system. Okay?
MR. COLEMAN: If you can't hear, please -- then come on up front, okay, but we're not going to have people yelling out all evening. Okay? If you can't hear, come on up front. There's -- there's eight seats up here.
Thank you.
MR. RIDGWAY: As the board solicitor said, I will give a brief recap to tell us how we got to this point.

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An application was made by -- to the property owner, Last Chance Salvage, and the operator, Allied Recycling, for an expansion of the pre-existing nonconforming use that has existed on that property since the 1940s. It has been licensed as a junk yard by the municipality since the ordinance was adopted, I think, sometime in the '70s or '80s.
A minor site plan was also applied for for the installation of a weight scale that would allow the site to operate more efficiently, more safely and more swiftly into the refurbishment, not only the expansion but the refurbishment of the -- two of the small buildings that are on the property. We did receive from the county planning board the approval for this application and after many months we received the Certificate of Filing from the New Jersey Pinelands for the proposed improvements on the site.
At the initial hearing back in March, extensive testimony was presented by the applicant, a representative of the applicant, Tom Gabrysiak, on behalf of Allied Recycling

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and Last Chance Salvage, and testimony was given by the prior owner of the property, Dan Giberson, who was the former president of Last Chance Salvage, actually past and current uses of the junk yard.

Briefly, since it was taken over by the new owners of Last Chance Salvage and rented to Allied Recycling, the place has undergone a relatively significant transformation; probably 30 thousand tires were taken off the site. It just runs in a much more efficient manner than it did in the past 40 or 50 years.

Also, expert testimony was provided by the applicant's engineer, Gary Civalier of Civalier Engineering & Srvyng, confirming the county planning board approval and the Pinelands approval and describing the previous approval from the Pinelands back in 1993 when this parcel was subdivided for, what we like to call, another parcel which was still owned by Mr. Giberson. In that 1993 site plan approval, the delineation of the amount of property on that lot that could be used for the junk yard was set in stone

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and, to this day, the applicant is still in compliance and will remain to be in compliance with respect to that delineation.

In addition, our planner, James Miller, testified as to the need for the approval for the expansion of a pre-existing nonconforming use as well as expert testimony with respect to the request for the site plan approval for the installation of the scale.

Part and parcel of the submissions that night were, I believe, seven exhibits. A-1 was a colored rendering of the site; A-2 were aerial site views from 1963; A-3 was the aerial site view from 1965; A-4 was the aerial site view from 1970 and A-5 was the aerial site view from 1995 which is subsequent to the time that the Falcon Drive and the development going into Falcon Drive was approved for single-family residential dwelling. Also, a survey was submitted, if I didn't say so, via the 1993 minor subdivision plan and approved by this township was also submitted into evidence.

We then went through the board's

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engineer's review letter of 2-19, 2013, and the planner's review letter of 2-5, 2013. And then we have not reviewed this but there was a subsequent planner's review letter of 6-10, 2013, that was submitted sometime after that March hearing.

The hearing was then opened to the public and several residents of the public spoke. I believe they submitted an exhibit as well with respect to a photograph of the site.

Subsequent to that meeting, there was some correspondence back and forth between the board's attorney and my attorney, along with Mr. Coleman's letter of April 4, 2013, and I have a few copies of that letter if we could submit that as -- I believe it's A-8 at this time?

MR. COLEMAN: A-8.

MR. RIDGWAY: And there was my response to Mr. Coleman's letter dated April 16, 2013, listing exhibits. And we could make that as A-9, if we could.

MR. COLEMAN: Sure. A-8 is what?

MR. RIDGWAY: A-8 is your

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correspondence to me of April 4, 2013. And A-9 was my response correspondence of April 16, 2013.

MR. COLEMAN: Okay.

MR. RIDGWAY: And I have a few copies here if you want to distribute those.

MR. COLEMAN: I think the board has previously seen these and had an opportunity to review these but we'll give them to Sheri for the record. Okay?

Do you need these, Mike?

MR. RIDGWAY: No, no, I have some other copies as well.

Those two letters, if I may, in many ways outline our position with respect to this application and -- and Mr. Coleman's position as well. It -- it sounds strange to say, I guess that's the best way of putting it, but -- but the issue on this application is relatively narrow.

Your ordinance defines junk yard in two separate locations. It defines junk yard in Chapter 4 of your General Licensing Ordinance. In 4-4.1, it defines, and I'm quoting, junk yard to mean a place, location,

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yard, covered or uncovered or place in the township kept, maintained or used for the purpose of buying and selling, exchanging or storing rags, old metal, old bottles, old glassware, old plumbing fixtures, old lumber, unregistered motor vehicles unfit for reconditioning, dismantled old motor vehicles or parts thereof, used motor vehicles or parts thereof, used motor vehicle parts, motor vehicle junk or any other old material commonly called junk.

Now, it's also defined in Chapter 12, your Land Development Ordinance, a shorter definition of pretty much the same thing, in my opinion: Any area of land, with or without buildings, devoted to the storage, keeping or abandonment of junk or debris, whether or not it's in connection with the dismantling, processing, salvage, sale or other use or disposition thereof of any material whatsoever.

Now, those two definitions are extremely expansive and they define a junk yard. It may be called a recycling center. It's a junk yard. People bring their old

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junk there, get some money for it, somebody breaks it down and resells it. It includes auto. It includes all those things defined in those two definitions that I read to you. And that junk yard definition, the more expansive one, has been in your ordinance since 1965. So, it's been in the books for quite some time.

And, again, Mr. Coleman and I discussed this application on a -- on a couple of occasions during our hiatus, if you will, and he indicated in the correspondence, not direct to me and not telling me what to do, but, I agreed with his assessment from a standpoint of giving the board a full view of this application, if you will, to amend our application to a certificate -- to request a certificate of nonconformance which means -- and, Mr. Coleman, I don't want to quote the law, I believe that would be an imposition, but, essentially, you can apply to the zoning board to state that is your use a nonconforming use in the town after a certain zoning has changed.

Now, in this case, it's before zoning

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even came into effect in 1954, I believe, because this use has been in effect since 1947, testimony was given at the March meeting. You can request of the board to give you what's called a certificate or a vote that says yes, we agree that this use has been in existence prior to, in this case, again, the enactment of the zoning standards of the township.

Also, and alternatively, we have amended our application to request a D-1 use variance request. In this case, I don't think it's appropriate but we've made the amended application nonetheless to ask for a use variance to allow the approval of this site if the board states that this site, as it's used now, doesn't come under the definition that I just described of a -- of a junk yard.

As I'm also sure you know, after the August meeting, litigation was commenced by the township and Judge Bookbinder remanded it back to this board to continue the earlier March hearing and move forward every month until a resolution is resolved by way of vote

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on any of the applications or any of the items that have been made by the applicant with respect to that site.

In speaking with Mr. Morris, the attorney for the township, initially, I think, there was a meeting set up between the applicant and the residents. It was -- it had been cancelled by the residents, we have no idea why but, again, we're always willing to talk to the residents and see if we can resolve any issues.

And I guess that leads us to where we are right now which is, if you're okay with it, Mr. Coleman, I can bring some testimony with respect to our pre-existing nonconforming use certificate. I'm going to bring up, I believe, three witnesses. And then what I would like to do is remind you that a lot of the testimony we put on back in March in terms of how this site has been used really would apply -- over the years, since 1947, really would apply to our argument for the certificate of nonconforming use.

I know five or six of the board members heard the testimony that was given

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back in March and the two members that are here this evening heard the -- they read the tapes -- or heard the tapes or read the transcripts so, therefore, they're familiar with that testimony anyway but I would like to just bring Mr. Gabrysiak up to go over a couple of things with respect to the use on that site.

CHAIRMAN ZOLTOWSKI: Before you go any further, let the record show that Mr. Haas has joined the hearing.

And, Tom, how should that be handled? Should Mr. Haas stay as an alternate nonvoting? He is not -- he's a board member or...

MR. COLEMAN: Yes. Mr. Haas will be listening and voting this evening. I don't think at this point Mr. Haas has missed anything material or -- or significant at this point in that the real crux of the testimony is about -- perfect timing, Mr. Haas -- so then I believe Mr. Tom Heller, second alternate, will be participating but not voting. Okay?

CHAIRMAN ZOLTOWSKI: Thank you.

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MR. RIDGWAY: Tom Gabrysiak, you can come up here.

MR. COLEMAN: Mr. Chairman, just so the record reflects, Mr. Gabrysiak, you were previously sworn and --

MR. GABRYSIAK: Yes, sir.

MR. COLEMAN: -- just to reaffirm that, do you swear that the testimony you're about to provide -- the continued testimony you're about to provide this evening is the whole truth and nothing but the truth so help you God?

MR. GABRYSIAK: I do.

MR. RIDGWAY: Mr. Gabrysiak, what's your position with respect to the property owner of Last Chance Salvage and the property operator of Allied Recycling?

MR. GABRYSIAK: I'm the president of both corporations.

MR. RIDGWAY: You purchased all of the outstanding stock of Last Chance Salvage back on July 27, 2012, is that correct?

MR. GABRYSIAK: Correct.

MR. RIDGWAY: Now, that's a little over a year ago?

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MR. GABRYSIAK: Correct.

MR. RIDGWAY: Prior to your purchase of Last Chance Salvage, were you operating that junk yard that had previously been operated by Mr. Pointsett, is that his name?

MR. GABRYSIAK: Yes.

(Discussion held off record.)

MR. GABRYSIAK: Previous to that, about two years previous to that, we were renting -- Allied Recycling was renting the property from Last Chance Salvage.

MR. RIDGWAY: Okay. And during -- so it's been a little over three years, July of 2010 to the present time, that you've been operating that site?

MR. GABRYSIAK: Correct.

MR. RIDGWAY: You have another junk yard up in Springfield Township on 206, is that correct?

MR. GABRYSIAK: Yes.

MR. RIDGWAY: Did you -- I want to say this in the correct way -- I don't want to say clean up that yard. Describe what you did in that yard over the past three years before you turned it around into Allied's

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junk yard.

MR. GABRYSIAK: Well, we started the process actually before we rented it. We were purchasing a lot of materials from the previous operator so -- he was ill so a lot of the things that he had collected over the years, we started to purchase from him. And at some point, I don't know exactly, about three years ago, we purchased what he had left on the property and then we rented -- Allied Recycling rented the -- the place from Last Chance Salvage.

MR. RIDGWAY: The grounds?

MR. GABRYSIAK: The grounds, yes.

MR. RIDGWAY: Now, when you were cleaning up, purchasing stuff from Mr. Pointsett, did you keep receipts for the things that you had purchased?

MR. GABRYSIAK: Absolutely.

MR. RIDGWAY: Before I start going over a lot of these receipts, can you describe what was on that site?

MR. GABRYSIAK: Just about everything you can imagine. The property was full. There was -- other than an eight-foot

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driveway snaking from the road -- from New Road in basically to the, I guess, the mechanics building and shop that's there. Other than that, every square inch of that property was covered in some type of material; piles, vehicles, debris, tires, hundreds of thousands of tires. There were -- just about anything you could imagine was on that property and every space was being occupied by a material type one way or another.

MR. RIDGWAY: So, it was not limited to cars?

MR. GABRYSIAK: No, absolutely not.

MR. RIDGWAY: I have here numerous receipts from Allied; customer truck service tickets, etc.

These are copies you have made of the originals in your office, is that correct?

MR. GABRYSIAK: Correct.

MR. RIDGWAY: Could you -- I don't want to spend the board's time going through a hundred receipts but I would like to hand you a few of them so you can describe what is on those receipts, the dates and what was

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taken out of that property.

MR. GABRYSIAK: This was from 6-10, 2010. This was a transfer of tires, 19,000 pounds, between our Southampton yard and Springfield.

MR. RIDGWAY: The next one?

MR. GABRYSIAK: Another receipt for tires transferred between New Road, Southampton, and Springfield for 18,000 --

MR. RIDGWAY: And do you see the --

MR. GABRYSIAK: -- pounds.

MR. RIDGWAY: -- date on that?

MR. GABRYSIAK: That's 6-9 of 2010.

MR. RIDGWAY: There are two consecutive dates.

Do you believe this -- briefly describe this invoice; the date and what was done.

MR. GABRYSIAK: This was the purchase receipt from Freeman Pointsett, the previous operator, for 9,380 pounds of light iron.

MR. RIDGWAY: And is light iron automobiles or is that...

MR. GABRYSIAK: And there's one Ford truck on here.

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MR. RIDGWAY: So, light iron's not automobiles?

MR. GABRYSIAK: No. Light iron's any --

MR. RIDGWAY: You can't recall --

MR. GABRYSIAK: -- undescribed metal that's not heavy steel, it's iron. It could be anything, appliances, it could be -- any type of scrap metal other than a nonporous metal which would be copper, brass...

MR. RIDGWAY: And what's the date of that one?

MR. GABRYSIAK: This was 8-28 of 2009.

MR. RIDGWAY: Here's the next one.

MR. GABRYSIAK: This was from 9-10 of 2009 for 30-yards of light iron and 30 yards of No. 1 steel and roll-off containers.

MR. RIDGWAY: So what I --

MR. GABRYSIAK: This -- this was purchased from Freeman Pointsett also.

MR. RIDGWAY: Light iron would be the same thing as -- not automobiles but --

MR. GABRYSIAK: Correct.

MR. RIDGWAY: -- washing machines --

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MR. GABRYSIAK: Automobiles would be listed as automobiles.

MR. RIDGWAY: Here's the next one.

MR. GABRYSIAK: This is also a purchase order for 280 pounds of aluminum from 10-1, 2009.

MR. RIDGWAY: What would aluminum be? Certainly not a vehicle.

MR. GABRYSIAK: No.

MR. RIDGWAY: Cans?

MR. GABRYSIAK: It could be -- it could be aluminum cans. It could have been, yes. A lot of things are made out of a aluminum; aluminum siding, I guess you could have, you could have doors, windows, that kind of stuff, aluminum cans.

MR. DARJ: This stuff was transferred out, yes.

MR. RIDGEWAY: Here's another one from 9-6-10.

Can you describe what's on here?

MR. GABRYSIAK: 9-6, 2010; 31,260 pounds of wood and debris.

MR. RIDGWAY: How many pounds?

MR. GABRYSIAK: 31,260.

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MR. RIDGWAY: Wood and other debris?
MR. GABRYSIAK: Yeah.
MR. RIDGWAY: Certainly not automobiles?
MR. GABRYSIAK: No.
MR. RIDGWAY: Okay. Here's another date.
Could you describe this, please?
MR. GABRYSIAK: 9-22, 2010. This says aluminum 13,020 pounds.
MR. RIDGWAY: So, it's 13 pounds of aluminum. Again --
MR. GABRYSIAK: 13,000 pounds.
MR. RIDGWAY: Again, not automobiles, aluminum; siding or whatever.
MR. GABRYSIAK: Something made of aluminum, yes.
MR. RIDGWAY: And here's another one. Can you give me the date? There's two of them on that one page. Give the dates and --
MR. GABRYSIAK: The first one is from -- well, they're both from Freeman Pointsett. 8,540 pounds of -- this doesn't say what it was.
MR. RIDGWAY: And what's --

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MR. GABRYSIAK: It was a thousand dollars, though, so -- the next one's 44 pounds of copper and 289 pounds of brass.
MR. RIDGWAY: And what would consist of copper and brass, fittings?
MR. GABRYSIAK: Copper would be, yeah. Plumbing pipes, probably, electrical wiring, that type of thing. Brass is typically -- it could be anything from automobile parts to, I don't know, ignition shells, something like that, or -- or anything else other than brass like figurines and -- this was 6-4, 2010, and 14,180 pounds of debris.
MR. RIDGWAY: And how many pounds is that again?
MR. GABRYSIAK: 14,000.
MR. RIDGWAY: Here's another one for you, Tom.
MR. GABRYSIAK: 6-2 of 2010; 26,120 pounds of wood and debris.
MR. RIDGWAY: 26,000 pounds of wood?
MR. GABRYSIAK: Yeah. This one's also for aluminum, 1140 pounds -- I'm sorry, 11,480 pounds, 2-18, 2010.

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MR. RIDGWAY: I could go on and on. There are literally 60 or 70 exhibits of these -- or 60-to-70 pages of these -- copies of these receipts that show that there was much more on that site that was taken off from Mr. Pointsett's prior junk yard than just automobiles.
CHAIRMAN ZOLTOWSKI: Should we mark this as Exhibit A-10?
MR. RIDGWAY: Exhibit A-10, this is just a sampling of -- of what we've put into evidence. This is what we put in evidence. This is a sampling of the receipts that Allied has produced.
MR. COLEMAN: Mr. Gabrysiak, these are receipts from your company prior to your occupancy of the property?
MR. GABRYSIAK: Of the receipts that he's shown me, half of them were receipts for materials purchased from the previous operator.
MR. COLEMAN: Um-hmm.
MR. GABRYSIAK: And then half of them were receipts, our trucking receipts, from where we transferred the materials from one

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yard to another.
MR. COLEMAN: Okay.
CHAIRMAN ZOLTOWSKI: Explain that again, the first part of that.
MR. GABRYSIAK: Half of those receipts were the receipts from materials that we had purchased from Freeman Pointsett before we rented the yard or bought the stock of Last Chance Salvage.
MR. COLEMAN: That would be -- that would be in '09? Because your prior testimony is you took -- took over in '10. So, would that be the nine receipts?
MR. GABRYSIAK: Probably, yes.
MR. COLEMAN: Okay. And the second half of those were?
MR. GABRYSIAK: And the second half were after we took over and started operating, the materials that we took out after that.
MR. RIDGWAY: But they were still Mr. Pointsett's materials.
MR. GABRYSIAK: Sure.
MR. RIDGWAY: You didn't bring anything in.

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MR. GABRYSIAK: No, no, it was before. We didn't start actually -- we weren't open for close to a year. The cleaning process was about a year just removing materials before we started, let's say, open, like the gate open, letting customers in.
MR. COLEMAN: Thank you.
MR. RIDGWAY: I have no further questions of Mr. Gabrysiak at this time.
CHAIRMAN ZOLTOWSKI: I have one.
Where are the aerial photographs, A-1 through A-5?
MR. COLEMAN: Well, don't we have the big ones? Don't we have big ones that you brought? I saw them floating around.
MR. MILLER: This is a new one.
(General Discussion.)
MR. RIDGEWAY: Yes, the historical exhibits, A-2 -- or A-2 through A-5 are eight-and-a-half by 11 so they weren't the large exhibits.
MR. COLEMAN: That was 2, 3, 4 and 5.
(General Discussion.)
CHAIRMAN ZOLTOWSKI: Proceed.

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Ms. Doherty?
MS. DOHERTY: I wanted to ask, can you tell me since you've taken over the operation which new kinds of materials you brought to the site that weren't there...
MR. GABRYSIAK: No, they're not.
MS. DOHERTY: They're not. So everything you're dealing with is the same as it was before?
MR. GABRYSIAK: Correct.
MR. COLEMAN: Mr. Chairman?
CHAIRMAN ZOLTOWSKI: Mr. Robbins has a question.
MR. ROBBINS: When you purchased these materials from Freeman Pointsett, I'm assuming you did so because they had some value to you, you could process them in some way and sell them at a higher price than what you bought them?
MR. GABRYSIAK: Correct.
MR. ROBBINS: So, in effect, when you bought that junk yard, it's a little bit like -- like the lumberman buying acreage with trees on it. You could cut the trees down and -- and sell them. And so you -- you

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bought the junk yard because there was certain accumulation of junk on there that had some value to you?
MR. GABRYSIAK: Well, what I did is I purchased the materials that were left from Freeman Pointsett and then I rented the property from Last Chance Salvage. Then two years later, we purchased Last Chance Salvage.
MR. ROBBINS: And in the process of cleaning it up, you were able to derive whatever the value these materials had.
MR. GABRYSIAK: Correct.
MR. ROBBINS: Thank you.
MR. GABRYSIAK: Can I say one more thing to the last question?
CHAIRMAN ZOLTOWSKI: Sure.
MR. GABRYSIAK: Not to mention the -- the purchase price that I paid when I bought the materials, didn't include the, say, couple hundred thousand dollars worth of expense that it cost me to remove things that had no value.
MR. ROBBINS: So, they were landfill?
MR. GABRYSIAK: Well, they -- they

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were transferred to another yard and then disbursed from there. And then mostly it's all recycling but it doesn't mean it has a value. All right? Does that clarify?
MR. ROBBINS: So --
MR. GABRYSIAK: No, what I'm trying to say is --
MR. ROBBINS: -- there are certain things that are recyclable --
MR. GABRYSIAK: What I'm trying to say is it cost us hundreds of thousands of dollars to clean this site.
MR. ROBBINS: But do you -- if something's recyclable but you can't sell it, you sort of give it to somebody to --
MR. GABRYSIAK: Well, a lot of recyclables cost money to recycle.
MR. ROBBINS: So you might have actually, in some cases, paid somebody?
MR. GABRYSIAK: Oh, absolutely.
CHAIRMAN ZOLTOWSKI: Mr. Haas?
MR. HAAS: I have a question for the applicant.
Are cars made of aluminum?
MR. GABRYSIAK: Some have aluminum,

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sure.
MR. HAAS: Are they made of light metal?
MR. GABRYSIAK: Yeah, well, parts of them are.
MR. HAAS: Are they made of copper, copper wiring?
MR. GABRYSIAK: There's copper wiring in a car. Absolutely.
MR. HAAS: And in the process of deconstructing a car on the premise, trees might have fallen, limbs might have fallen, there's accumulation of wood in the debris?
MR. GABRYSIAK: Well --
MR. ROBBINS: Fair assumption?
MR. GABRYSIAK: -- I would say that wood, lumber is different than tree wood. I mean we wouldn't remove tree wood. There's --
MR. HAAS: This is one --
MR. GABRYSIAK: -- 12 acres of trees there.
MR. HAAS: Did you inherit the wood, the lumber?
MR. GABRYSIAK: Yes.

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MR. HAAS: Okay.
MR. GABRYSIAK: I did.
MR. HAAS: Thank you.
MR. RIDGWAY: Anyone else?
(General discussion.)
MR. RIDGWAY: Would you give your full name?
MR. IVANS: Michael Ivans.
MR. COLEMAN: Michael Ivans.
Mr. Ivans, do you swear that the testimony you're about to provide this evening is the whole truth and nothing but the truth so help you God?
MR. IVANS: Yes, I do.
MR. RIDGWAY: Mr. Ivans, if you could just spell your name for the record, please.
MR. IVANS: I-V-I-N-S.
MR. COLEMAN: Thank you.
MR. RIDGEWAY: Mr. Ivins, just a few brief questions.
You're familiar with the site that's the subject of this application, the old classic junk yard?
MR. IVANS: Yes.
MR. RIDGWAY: Have you had occasion

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to be at that site prior to Allied taking over the site and subsequent to Allied taking over the site?
MR. IVANS: Yes.
MR. RIDGWAY: Could you briefly describe the difference in those -- those -- it's the same yard but it's two different yards, before and after?
MR. IVANS: Well, back when Pointsett was there and I was there, it looked like the old -- like Sanford & Son. That had everything. You name it, it was there. And -- so I took stuff there, a pickup truck load and he says, you know, I'll give you $25 for this. And there was a little bit of everything there, you know, appliances, there was some type of rims, some of this, some of that, and he would knock a couple dollars off if you had tires on the rims.
And then I've been there since then, since Allied, and it's like a different world. It's -- I mean I couldn't believe how much the place changed and got cleaned up and -- it's like a night-and-day difference.
MR. RIDGWAY: On your visits

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preAllied when you say you'd bring stuff there, were you friendly with Mr. Pointsett?
MR. IVANS: No. Actually, I was out of work for a little while from an accident and I was just trying to make some -- a little bit extra money from -- unemployment just doesn't do it so I -- we worked -- we -- my dad's, my parents' house, cleaned up stuff he had laying around, lawn mowers, some of this, some of that, anything kind of metal or value, I took it there.
MR. RIDGEWAY: Did you ever sell or drop off a car there?
MR. IVANS: Honestly, I don't really think I ever have.
MR. RIDGWAY: Things other than automobiles? I mean --
MR. IVANS: Yeah.
MR. RIDGWAY: -- as you just testified.
MR. IVANS: Correct. You just piled everything in the back of the pickup, metal, you know, weight and...
MR. RIDGWAY: Okay. I have no further questions of Mr. Ivins.

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CHAIRMAN ZOLTOWSKI: I have a question for both of you.
If there was so much steel, so much aluminum, so much copper, why did the previous owner get rid of it?
MR. IVANS: Get rid of the -- the business?
CHAIRMAN ZOLTOWSKI: No.
MR. GABRYSIAK: Can I speak up? Because --
CHAIRMAN ZOLTOWSKI: No, no, no.
There's value in steel, there's value in aluminum, there's value in copper. Why did the previous owner get rid of it?
MR. GABRYSIAK: Why did he not get rid of it? It's an operating business. I mean we have --
CHAIRMAN ZOLTOWSKI: Excuse me?
MR. GABRYSIAK: It's an operating business. The only thing I could imagine, I mean, we carry a large inventory of -- of different materials. I mean we buy and sell every day regardless of -- I mean, I can't -- I guess I don't really understand the question other than...

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CHAIRMAN ZOLTOWSKI: Why would you keep around valuable materials?
MR. GABRYSIAK: Because that -- we're in the junk business. That's what we do.
MR. IVANS: I think the previous guy used the word horder.
(General discussion.)
MR. GABRYSIAK: We carry a large inventory of different materials that are all valuable.
MR. SCANGARELLO: What I'm saying is if the previous owner found value in raw materials, why wouldn't he sell them himself?
MR. GABRYSIAK: Well, eventually he sold them to me.
MR. COLEMAN: So, that was part of his purchase price and you inherited his -- his stuff.
MR. GABRYSIAK: He did -- he did buy and sell. That's what he did. He bought and sold, you know, just the way every junk yard does.
MR. RIDGEWAY: Is it fair to say, Tom, that Mr. Pointsett had a different business mind set than you?

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MR. GABRYSIAK: I like to call it modern management.
MR. RIDGWAY: Okay, that's a fair assessment. But he wasn't as focused in your assessment, do you feel he was not as focused on making money and turning over the materials as you are?
MR. GABRYSIAK: I guess that's a fair assessment. I mean I -- I tend to run our business as little different than a lot of junk yards do because I have an active interest in turning a profit.
MR. RIDGWAY: Understood.
CHAIRMAN ZOLTOWSKI: Don't all business owners turn a profit? Isn't that --
MR. GABRYSIAK: Well --
CHAIRMAN ZOLTOWSKI: Isn't that the goal?
MR. GABRYSIAK: -- I -- I believe the goal of business is to turn a profit. Do all businesses turn a profit? I don't believe so.
CHAIRMAN ZOLTOWSKI: Isn't it possible as well that his business model was different, that he operated as a traditional

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junk yard as most of us know where you buy a car and you sell the parts off of it?
MR. GABRYSIAK: We still do that, too.
CHAIRMAN ZOLTOWSKI: On this lot?
MR. GABRYSIAK: Absolutely.
CHAIRMAN ZOLTOWSKI: How many cars do you have now?
MR. GABRYSIAK: About a hundred and sixty.
MR. COLEMAN: Mr. Gabrysiak, this part of the hearing, you're trying to establish a factual basis. As your attorney stated previously and the board's trying to -- to ferret out, if you will, what particular types of uses. So, I guess, are you prepared to testify as to what the business model was of the previous owner?
MR. GABRYSIAK: I can testify to what he told me. I spent countless hours talking to him before he passed on.
MR. COLEMAN: No. That would be hearsay.
MR. GABRYSIAK: Oh, well, I mean, he's -- he's not here to testify for us so...

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MR. RIDGWAY: Right. I understand.
Mr. Ivins, I have just -- as I just mentioned, this part of the hearing we're trying to establish a factual basis. Just to summarize your testimony, you -- you didn't work for either Mr. Gabrysiak or the prior owner of --
MR. IVANS: No.
MR. COLEMAN: You just had an opportunity, in your words, to take stuff there?
MR. IVANS: Correct.
MR. COLEMAN: Okay. And why don't you -- can you just clarify again what that stuff was?
MR. IVANS: Just -- a lot of stuff just laying around the yard and all. I -- back when I -- Mr. Pointsett was there, it was just -- I grew up with a farm and we had like a lot of just junk laying around everywheres and I just took everything, you know, stuff was laying outside, you know, whew, metal laying outside, parts of -- maybe parts of machinery, parts of like a Cotter or something or I remember cleaning up some, you

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know, couple of washing machines, one of them old type -- actually, I got in trouble for that -- it was an old antique washing machine where the washboard went through it, I remember getting rid of that and tires, rims, maybe like an old transmission or something.
MR. COLEMAN: Okay. That helps. Good. Thank you, Mr. Ivins.
MR. IVANS: I remember taking some fencing there, like the wire fence.
MR. GABRYSIAK: I -- I think I have a better idea of what your question was and -- I think the business model that Mr. Pointsett had was more of come to the yard and what do you got. So if you got a pickup truck full of scrap metal, here's 20 bucks, put it over there. If you have a -- a trunk full of magazines, you know what, give me five bucks and stick them over in that -- that trunk over there. You know, if you got a truck full of fence, you know, you rip down your wood fence or your tractor ran into it, you know, okay, I'll take 12 packs of that, put it over there, you know, that's -- that's the way he operated, you know, it didn't matter

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what it was, you either gave him a couple dollars or he gave you a couple of dollars. The material came in, the material went out.
CHAIRMAN ZOLTOWSKI: Then what would he do with that?
MR. GABRYSIAK: What do you -- what do you mean?
CHAIRMAN ZOLTOWSKI: If he took five rims in, what would he do with it?
MR. GABRYSIAK: I would say he either -- he sold them or he stuck them in the corner and let them sit there. I mean that's, you know, there was, you know, the first time I had visited that site, I already told you, there was no space. You couldn't walk. There was no place to walk that was bigger than this. You had to walk between piles, vehicles and whatever it would be, it was there and it was piled up. We removed it. So, basically, to get rid of the disaster that it was and to make it a -- a functioning business that worked well, environmental friendly, there's -- there's many reasons why we didn't leave it the way it was but that's the way he operated it.

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MR. RIDGWAY: Mr. Gabrysiak -- I'm sorry.
CHAIRMAN ZOLTOWSKI: Does your website state that you sell car parts, used car parts?
MR. GABRYSIAK: It does not.
CHAIRMAN ZOLTOWSKI: And you have no website listing of cars that you have available with the parts --
MR. GABRYSIAK: We do most of that on Craig's List, eBay, that type of stuff, and then the customers come to us and get the stuff.
MR. RIDGWAY: Mr. Gabrysiak, going back to the definition of junk yard that I had read earlier, on line two it says kept, maintained or used for the purpose of buying and selling, exchanging or storing and then it lists all of those things blah, blah, blah, blah.
You're much more of an active buyer and seller because turnover is what you want -- is where you make your money.
MR. GABRYSIAK: Right.
MR. RIDGWAY: Is it fair to assume

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that based upon your visits to that site, Mr. Pointsett was more of a buyer and storer than selling -- than active buyer and seller?
MR. GABRYSIAK: I would say so but I bought a bunch of stuff from him, yeah, so --
MR. RIDGWAY: But all within --
MR. GABRYSIAK: -- I would still --
MR. RIDGWAY: -- all within -- all of that would be under the umbrella of a junk yard ordinance or license. Whether you run your business one way or another, it's still under that junk yard definition.
MR. GABRYSIAK: Correct.
MR. COLEMAN: I promise you're not on trial here but I want to ask you a question.
MR. GABRYSIAK: I'm here to answer whatever questions you have.
MR. COLEMAN: Mr. Gabrysiak, your -- your attorney mentioned that the junk yard statute, I think, goes back to 1967 roughly?
MR. GABRYSIAK: I believe September 7, '65.
MR. COLEMAN: Okay, '65. A long time ago. 48 years, in fact. Okay.
I had an opportunity just to look at

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your -- your website as to -- it says we always pay more for all ferrous and non-ferrous metals and it lists steel, light iron, cast iron, copper, aluminum, lead, brass, batteries, computer, E-scrap and wire. I'm -- I'm concerned about the last couple; computers, E-scrap and wire.
If the original intent and purpose of this ordinance was drawn by the town fathers back in '65, '67, '68, whatever it may have been, do you think it was the intent and purpose of the town fathers then, given what -- what was read in there, to pick up computer, E-scrap and wire?
MR. GABRYSIAK: I don't believe in 1965 there was computers or E-scraps so we can start with that.
MR. COLEMAN: Right.
MR. GABRYSIAK: So, I couldn't imagine -- I can't -- I can't imagine that they -- the question is relative to anything. But I can tell you that my website is marketing is what it is.
MR. COLEMAN: Okay.
MR. GABRYSIAK: As any website is for

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any business.
MR. COLEMAN: Let me ask you this way --
MR. GABRYSIAK: It's -- the marketing --
MR. COLEMAN: Go ahead.
MR. GABRYSIAK: -- that we've put in place isn't relative to what materials come and go through any junk yard. What it is, it's relative to a way for me to make money.
MR. COLEMAN: Yes, and that's a good point. So, here's -- let me say -- let me come at it this way: If I -- I'm not sure what E-scrap is so don't hold that against me but if I brought a computer and quote, unquote E-scrap over, whether you're paying me or I'm paying you, are you going to take that?
MR. GABRYSIAK: Yeah.
MR. COLEMAN: Okay.
MR. RIDGWAY: And I will go back to the definition of junk yard. It's expansive in its terms. In the last -- the last eight words say or any other old material commonly called junk. Things are invented every day.

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So if nothing that was invented after 1965 could go in a junk yard, I'm not so sure that's what the town fathers meant in 1965. I think by listing all of these things, they were rather expansive.
MR. GABRYSIAK: Read the second one, the other one.
MR. COLEMAN: And I -- and I would submit they've had ample opportunity between now and 1965 to update that as well so -- but...
MR. RIDGWAY: Now, going back to the other ordinance that listed junk yard development --
MR. COLEMAN: Chapter 12.
MR. RIDGWAY: -- it says -- I'll just read the end of it. It says: Salvage, sale or other use or disposition thereof of any material whatsoever.
CHAIRMAN ZOLTOWSKI: Is it possible that that is just to cover all the bases, whether it's a seat that came out of a car? It's not a car but it's fabric at that point. It's a metal frame.
MR. RIDGWAY: I -- I think the

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ordinance said any material whatsoever. I think if you're going to update an ordinance every time an iPad or an iPod or an iPhone 5 or a 7 comes out, the town fathers are going to get nothing done.

CHAIRMAN ZOLTOWSKI: When we look at the licensing in -- in 4, it goes through the definition, which is very vague and all encompassing, license required, compliance required, term of license, application.

Under Application, there's an A, B, C, D, E. And A talks about the length of a fence, generally, I guess, for protection. So, B starts to talk about the area behind the fence in front of the building shall be for the receiving and unloading of vehicles only. All dismantling of vehicles shall be behind the office.

C talks about having a vacant area for firefighting purposes.

D talks about all gasoline, anti-freeze, crank-case oil must be drained and disposed by the licensed hauler. Tires must be stored in central area not over 300 square feet and four feet high.

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All those things are specific to automobiles. They don't mention anything about dropping off junk or dropping off used parts and it's very specific to automobiles to what I'd have to say 99 percent of the people if you ask them what a junk yard was is place where they went and bought used car parts. That's what I've done. That's what I know it to be.

MR. RIDGEWAY: And that's what we all remember as kids and I don't -- and I don't dispute that. But, too, we're going by the definition of what's in your ordinance and when you go to point B of 4.4 - 4.5, it says the receiving and unloading of vehicles only.

I'll go back to Mr. Ivins. When you brought your pickup truck or whatever, was -- your vehicle was unloaded by you or Pointsett and then you drove your vehicle off.

MR. IVANS: Correct.

MR. RIDGWAY: I don't -- it wouldn't be just unloading a vehicle off a trailer, I believe it's unloading a vehicle full of junk on to the ground.

CHAIRMAN ZOLTOWSKI: It doesn't say

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unloading a vehicle. It doesn't -- you can -- you can argue that. It doesn't say unloading of material, it says the unloading of a vehicle.

MR. RIDGWAY: Um-hmm.

MR. COLEMAN: I would hope that the board will take judicial notice from the '93 resolution that this town clearly has recognized this site from '93, you pick the date backward, as an auto salvage. If you look at that resolution, it says also, you know, the specific terms are, dah-dah-dah-dah, and other salvage-related operations. And that's really the focus of what Mr. Ridgway's attempting to do here is define what those other salvage-related activities are. Okay?

CHAIRMAN ZOLTOWSKI: Continue.

MR. RIDGWAY: With all due respect, I disagree with Mr. Coleman's assessment.

In 1993, that wasn't a use-lands application, it wasn't a site-plan application, it was a subdivision only before the planning board.

MR. COLEMAN: I'm just reading the

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definition. I'm just reading what was in the resolution.

MR. RIDGWAY: Understood. The -- the planning board has no authority to limit use for the property. They limited the demarcation line on that property. Nothing more. That was part of my argument to Mr. Coleman in my correspondence, in the letter.

I have no further questions of either Mr. Ivins or Mr. Gabrysiak.

One last witness, Mr. Giberson.

MR. ROBBINS: Mr. Chairman, can I ask one question?

CHAIRMAN ZOLTOWSKI: Yes. Mr. Robbins, one question.

MR. ROBBINS: When you went to the -- when you went to Freeman's and you dropped stuff off, how many people generally were there other than Freeman?

MR. IVANS: There were a couple kids running around there.

MR. ROBBINS: Mr. Freeman and a couple of kids?

MR. IVANS: Yeah. I don't -- I don't

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remember, it was so long ago. I don't know, 10, 11 years ago, I guess maybe so...
MR. ROBBINS: I mean that -- you were there more than once, sounds to me like?
MR. IVANS: Yeah, I was there a few times, couple of times.
MR. ROBBINS: That was generally, what, Mr. Freeman?
MR. IVANS: Yeah.
MR. ROBBINS: Or Mr. Pointsett.
MR. IVANS: Yeah, Mr. Pointsett and that's about it.
MR. ROBBINS: All right. Thank you.
CHAIRMAN ZOLTOWSKI: Ready?
MR. RIDGWAY: Yes.
MR. GIBERSON: Oh, okay.
MR. RIDGWAY: Mr. Giberson -- I'm sorry, go ahead.
MR. COLEMAN: Mr. Giberson, you were previously sworn in.
MR. GIBERSON: Yes.
MR. COLEMAN: Okay. And I just want to, again, remind you that the testimony you're about to offer this evening is subject to the truth and the whole truth and --

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MR. GIBERSON: Everything I know.
MR. COLEMAN: Okay. Have a seat, please.
MR. GIBERSON: Oh.
MR. RIDGWAY: Mr. Giberson, how long has this property been in your family?
MR. GIBERSON: I think my grandfather purchased it back in 1947.
MR. RIDGWAY: Well before you were born.
MR. GIBERSON: Ten years before I was born.
MR. RIDGWAY: Do you recall visiting that site as a youngster?
MR. GIBERSON: Often.
MR. RIDGWAY: Okay. And to backtrack one second, you did own and you still own area that surrounds about --
MR. GIBERSON: I own a hundred acres more around the junk yard.
MR. RIDGWAY: Okay. Not entirely surrounding the junk yard.
MR. GIBERSON: Huh?
MR. RIDGWAY: Not entirely surrounding the junk yard because there's

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New Road in front --
MR. GIBERSON: I don't own towards Falcon and I don't own the front but I own everything in the back all the way to Leisuretowne.
I'm talking loud so everybody can hear me.
MEMBER OF THE PUBLIC: Thank you.
MR. GIBERSON: Because I can't hear half the people when they talk.
MR. RIDGWAY: It's not because you're mad at me, is that correct?
MR. GIBERSON: Oh, no, I think they ought to have a microphone system.
MR. RIDGEWAY: How many operators on that site were there that you recall?
MR. GIBERSON: There has been two. Eddie Fuller -- my parents was first, Eddie Fuller and then Freeman -- not Freeman, sorry, Shenny (phonetic) Pointsett and then Freeman Pointsett.
MR. RIDGWAY: Do you know about when Freeman started running the junk yard?
MR. GIBERSON: When his dad passed away.

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MR. RIDGWAY: Which was yearwise? You don't have to know exactly but...
MR. GIBERSON: Seven or eight years prior to that, I think.
MR. RIDGWAY: Okay.
MR. GIBERSON: Maybe a little bit more than that.
MR. RIDGWAY: And, again, you've visited this site numerous times.
MR. GIBERSON: With my parents, my grandparents, everybody. We took junk there, took our trash there, I mean, when I say trash, cars, aluminum, refrigerators. The township, I think, now today even takes trash over there, aluminum.
MR. RIDGWAY: You say the township takes aluminum to that site?
MR. GIBERSON: Not aluminum, washer machines and stuff like that. They got to get rid of them someplace.
MR. RIDGWAY: And is that still done to this day, do you know, or is that...
MR. GIBERSON: That's something that I hear throughout the township.
MR. COLEMAN: But -- but

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Mr. Giberson, you do not specifically know --
MR. GIBERSON: I said that. I said I didn't know that.
MR. COLEMAN: I'm just trying to clarify what you said.
MR. GIBERSON: Okay.
MR. COLEMAN: You don't specifically know that --
MR. GIBERSON: They're picking up trash now which I say is trash is washing machines --
MR. COLEMAN: Um-hmm.
MR. GIBERSON: -- stuff like that.
MR. COLEMAN: Right.
MR. GIBERSON: They are taking it someplace. They're not storing at your place -- or the township.
MR. COLEMAN: Okay.
MR. RIDGWAY: In your visits to that site -- and you -- you testified that you brought various things other than cars to that site.
MR. GIBERSON: Tons of stuff.
MR. RIDGWAY: Over the years, can you describe some of the things you've seen at

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that site besides, obviously --
MR. GIBERSON: What I heard from --
MR. RIDGWAY: Not -- your personal recollection.
MR. GIBERSON: My personal? No. Like I said, get back to my dad, Stokie's here had tomato cans and they'd run over them with the steel tractors just to get the cans, to get the metal.
MR. RIDGWAY: Mr. Stokie -- the junk yard.
MR. GIBERSON: Yes, yes. That's what started it. That started it.
MR. RIDGWAY: Okay. So, your dad started the junk yard?
MR. GIBERSON: More or less.
MR. RIDGWAY: And it starting, it wasn't automobiles, per se, solely, it was Campbell's Soup cans?
MR. GIBERSON: Might have been 20 automobiles back in the day to junk.
MR. RIDGWAY: So, have you seen things other than automobiles on that site?
MR. GIBERSON: Everybody in here -- if it's out there, it's in there.

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MR. RIDGWAY: TVs?
MR. GIBERSON: If it's out there, it's in there.
MR. RIDGWAY: House refuse, countertops, things like that?
MR. GIBERSON: I seen boats in there.
MR. RIDGWAY: Boats?
MR. GIBERSON: Yeah.
MR. RIDGWAY: On that --
MR. GIBERSON: Wooden boats.
MR. RIDGWAY: -- site?
MR. GIBERSON: Oh, yeah.
MR. RIDGWAY: Okay. So based upon your personal knowledge, that site has not been limited to automobiles and tires?
MR. GIBERSON: No.
MR. RIDGWAY: Okay. Thank you. I have no further questions.
MR. COLEMAN: Mr. Giberson, do you have -- Mr. Giberson, do you have any ownership interest still in Last Chance Salvage?
MR. GIBERSON: He's not paid me in full.
MR. COLEMAN: Okay. Do you have any

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ownership interest in Allied Recycling?
MR. GIBERSON: None.
MR. COLEMAN: Do you have -- Mr. Giberson, is there any financial impact to you if the application is decided one way or the other?
MR. GIBERSON: No. He still owes me the money.
MR. COLEMAN: Okay. That's all.
MR. GIBERSON: Simple?
MR. COLEMAN: Yes. Thanks, Mr. Giberson.
CHAIRMAN ZOLTOWSKI: Excuse me.
MR. GIBERSON: Go ahead.
CHAIRMAN ZOLTOWSKI: At our last hearing, you had testified at one point that you said -- I think you said I didn't know what went on down there, I just collected a check.
MR. GIBERSON: Yeah, but I went in and --
CHAIRMAN ZOLTOWSKI: And what time frame was that?
MR. GIBERSON: If Freeman didn't bring me a check?

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CHAIRMAN ZOLTOWSKI: No, what year. What year did that happen where at that point you're stating that you didn't know what was going on at that site, you just collected a check?

MR. GIBERSON: Okay. Hold it. This is what happened. Freeman got sick and died of gangrene. Okay? His sister come. Sometimes I went to his sister's place to get a check. Sometimes she would bring the check. Then this other guy that was running the junk yard at that time, I went over to him many times before they would actually pay me. So, I was over there just more than -- Freeman run the junk yard, Eddie Fuller run the junk yard, my dad run the junk yard but I was never Freeman's boss or anything to say what he had to do with the junk yard. I didn't tell him what to clean up, what to sell. He was his own boss during that. The only thing I was worried about is making enough money to pay the taxes on the junk yard.

MR. COLEMAN: And the checks, Mr. Giberson, you refer to, they would be

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rent checks?

MR. GIBERSON: I rented the junk yard out. Other than that, I mean, Freeman was always inspected and he always kept everything up to date as far as what he had to do.

CHAIRMAN ZOLTOWSKI: Inspected by whom?

MR. GIBERSON: The DEP. Everybody. You just don't run a junk yard without people inspecting there.

CHAIRMAN ZOLTOWSKI: What is there -- what is there a fear of?

MR. GIBERSON: Contamination.

CHAIRMAN ZOLTOWSKI: From what?

MR. GIBERSON: Drain oil on the ground, gasoline on the ground, the antifreeze on the ground.

CHAIRMAN ZOLTOWSKI: From automobiles?

MR. GIBERSON: Automobiles, dishwashers, the anti-freeze, anything.

CHAIRMAN ZOLTOWSKI: Where did the wall of tires come from that surrounded the property?

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MR. GIBERSON: That started back with Eddie Fuller. Okay? Nobody had a home for tires. Freeman come up with that idea. He spent like 30-some thousand dollars for this machine. It's like a log splitter. It splits them three ways to get the rim off. Actually, the rim almost pays for the tire to get rid of. And I think maybe Tom owns that machine as of today. I'm not really sure. I don't know where it went but he would make enough money to get rid of the tires, you know, just get rid of them and the rims.

CHAIRMAN ZOLTOWSKI: How did he get rid of the tires if there was an eight-foot wall of tires surrounding the property?

MR. GIBERSON: He had tractor-trailer loads coming in and he would load them up and he was getting paid a buck and a half, two bucks a piece to get rid of them. Now, I don't have them records but I know what went on in that place.

MR. COLEMAN: And the DEP was okay with that?

MR. GIBERSON: Apparently. I never got no paperwork or anything onto it.

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See, I was up -- up against you guys in the '80s and everything -- I mean none of these people (indicating) showed up because Freeman did his own thing. He always hired or hauled cars out of there. Everybody knows that. Cars, he had tanks in there at one time, tank transmissions, he had washing machines. He had a whole truck load of washing machines when you'd take it down. And then he did -- what they used to do back in the olden days, he used to strip cars. He used to put them in 55-gallon drums, all the wires, light it on fire and there was your copper. And it was considered clean. I don't know about clean but it was -- it was stripped. And that's what they used to do back in the old days. I think -- my opinion, I think Tom's a better job than what Freeman does because Freeman was going to be a -- a train wreck in time because Freeman wasn't capable of doing this, his health wasn't there. It was going to be a major asset to whomever in the day.

CHAIRMAN ZOLTOWSKI: Who was the last prior operator prior to Allied?

MR. GIBERSON: That would be Freeman.
CHAIRMAN ZOLTOWSKI: Was there a lapse in time?
MR. GIBERSON: Yes. Freeman was sick for like three, four years and then Allied took over.
CHAIRMAN ZOLTOWSKI: Who ran the business in the three, four years?
MR. GIBERSON: His sister. Freeman's sister, okay? Her name was Linda or whatever. And she didn't have a clue, more or less. Okay? And there was this other guy that Freeman had hired and this guy was worse than a train wreck. He was taking cars out of there. Tom actually bought the stuff off of Freeman. Okay? This guy was in there stealing the cars and selling them to Friendship. That's how bad this place was. And, I mean, it was just a train wreck going to happen. But I think everything worked out for the good.
CHAIRMAN ZOLTOWSKI: And so it -- all along, you still own Last Chance Salvage?
MR. GIBERSON: I am Last Chance Auto Salvage.

Barry Durkins (phonetic) come out, which is a soil samplest, a specialist, licensed, he took samples, did this, did that, said you don't have anything to worry about, this ground is not contaminated. And he went through the whole spool because, like I said, I own a hundred acres behind all the way to Leisuretowne. And this was back in '83, '85. And that's what I brought up against the board back in the day then. And like I said, everything was fine then.
I just don't understand the people getting irate around the place because I think it's run 10 times better. That's the only thing I got to say. And like I said, it's always going to be a junk yard, always will be a junk yard, as far as I'm concerned.
CHAIRMAN ZOLTOWSKI: Just to clarify, during that time period, you owned the land, you owned Last Chance Auto Salvage --
MR. GIBERSON: I own Last Chance Auto Salvage.
CHAIRMAN ZOLTOWSKI: Another operator was operating the business and solely paying you rent?

CHAIRMAN ZOLTOWSKI: Okay.
MR. GIBERSON: Me and my mom coming out of Burlington, we decided to make that name.
CHAIRMAN ZOLTOWSKI: But when the other operators were there, what were they operating as?
MR. GIBERSON: It would have -- I think it was S&P Autos or S&S Autos.
MEMBER OF THE PUBLIC: It was P&S Auto.
MR. GIBERSON: P&S Autos? I, you know, but I held these license for -- since day one. And I always made sure everything was, you know, up to snuff.
And the DEP, like I said, they come in, did their thing. And I -- when I subdivided, okay, see, this was all one big block of ground at one time, okay, when I subdivided -- back in the day, which I thought was bad, okay, people used to just open up their drain plugs and drain oil on the ground, do this, do that. All right?
So one thing leads to another, I hired World Anderson Barnett (phonetic).

MR. GIBERSON: Correct.
CHAIRMAN ZOLTOWSKI: Thank you. Any other questions?
MR. KENNEDY: Yes, Mr. Chairman, I have a question.
CHAIRMAN ZOLTOWSKI: Mr. Kennedy?
MR. KENNEDY: You made a statement that the township brought material to the junk yard.
MR. GIBERSON: I don't -- I don't know if they did or didn't. I mean I'm just saying they collect --
MR. KENNEDY: That's why I'm asking.
MR. GIBERSON: They should bring it there to that place. It's local.
MR. KENNEDY: Well, at that point, are you saying that -- that the township is complicit in allowing an operation that wasn't approved in the junk yard?
MR. GIBERSON: I'm not saying...
MR. COLEMAN: I think, Mr. Kennedy, I think -- I'm not trying to defend Mr. Giberson, I think he -- he eloquently backpedaled and said he wasn't specifically sure that the township brought things there.

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MR. GIBERSON: Well, I don't -- that's something I don't know.
MR. COLEMAN: Okay.
MR. GIBERSON: But what I do know is like this: Freeman Pointsett used to donate cars to the Vincentown Fire Company, which I know for a fact, and they use the Jaws of Life on to it to practice and stuff and then Freeman would pick them up. I mean that -- I do know that. I don't know if that's got anything...
MR. KENNEDY: You made a comment about washers and dryers and stuff and --
MR. GIBERSON: I'm just saying, you guys charge five, 10 bucks to pick up washers and dryers. I don't know where they're going, to be honest with you. Just to clarify that.
MR. KENNEDY: That's all I have, Mr. Chairman.
CHAIRMAN ZOLTOWSKI: Thank you.
MR. RIDGWAY: If I could, Mr. Miller.
MR. COLEMAN: Mr. Miller, you were previously sworn and, again, just to affirm that the testimony you're about to provide

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this evening is the whole truth and nothing but the truth --
MR. MILLER: Yes.
MR. COLEMAN: -- so help you God? Thank you, Mr. Miller.
MR. RIDGWAY: Mr. Miller, if I could, your job this evening as a New Jersey licensed planner and recognized as an expert witness is to give your opinion as to why you feel it's appropriate for this board to grant a certificate of nonconforming use. In addition, and this is the job you find most distasteful, I've amended the application for a D-1 variance which you think in no way, shape or form this is a D-1 variance.
Could you please give your expert opinion to both that and, briefly, reiterate the expansions of nonconforming use as well?
MR. MILLER: Yes. My role in this application, as Mike explained, is to opine on whether or not I believe that the use is a pre-existing nonconforming use that would qualify for a certificate of nonconformance. And I've testified on that issue many instances of other uses of -- including other

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junk yards and there is a clear standing of review for making that decision and much of the evidence that's preceded my testimony will support that conclusion.
And what I want to begin with is the definition of the nonconforming use which appears in the Municipal Land Use Law and the land ordinance as well. A nonconforming use shall mean a use or activity which was lawfully -- lawful prior to the adoption, revision or amendment of the ordinance but which fails to conform to the requirements of the ordinance of the zoning district in which it is located by reasons of such adoption, revision or amendment.
And the Southampton ordinance states that the lawful use of land, buildings or structures existing when this chapter was adopted may continue even though they do not conform to this chapter. However, none shall be enlarged, extended, relocated, converted to another use or altered except in conformity with the chapter.
Now, this is a use which has lawfully been a junk yard since 1963. It's fallen

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within the local definitions of junk yard throughout that -- that time and, basically, it's my opinion that it's a pre-existing, legally nonconforming use consistent with the MLUL definition and is entitled to the rights and protection that result from that status.
And I believe that this fact is further documented by further review of the local ordinances and applicable physical evidence and I'll give you that as follows: First of all -- and I plan to read the definition into the -- the record again and I -- I think I still need to do that but, first of all, the definition of junk yard from the zoning ordinance is any area of land, with or without buildings, devoted to the storage, keeping or abandonment of junk or debris, whether or not it's in connection with the dismantling, processing, salvage, sale or other use or disposition thereof of any material whatsoever.
And that's a definition which has been in place since at least 2001 and probably for much longer.
And then there's the junk yard

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ordinance which was adopted in 1965 and that reads again: Junk yard shall mean a place, location, yard covered or uncovered or a place in the township kept, maintained or used for the purpose of buying and selling, exchanging or storing rags, old metals, old bottles, old glassware, old plumbing fixtures, old lumber, unregistered motor vehicles unfit for reconditioning, dismantling old motor vehicles of parts thereof, used motor vehicles or parts thereof, used motor parts, motor vehicle junk or any other old materials commonly called junk.

And, again, this has been stated earlier that these definitions are inclusive and they're also very consistent. Any land devoted to storage, keeping or abandonment of junk or debris. All activities that have occurred at this site as -- that have occurred since 1963, whether or not in connection with dismantling, processing, salvage and sale or other usage as per disposition of these materials. And any place, quote, kept, maintained or used for

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the purpose of buying and selling or exchanging or storing the wide variety of products listed in the definition which includes, quote, any other old material commonly called junk.

Again, the language can't -- couldn't be more expansive, it couldn't be more inclusive and it recognizes the fact that materials handled by a junk yard cover a wide array of potential materials and that it involves both the storage and potential and eventual reuse, sometimes the sale of these materials, sometimes the exchange of the materials for other materials because, in some cases, there's barter instead of an actual sale.

I also want to point out that the language in both definitions must take into account this site because there's never been a number -- a large number of junk yards in the community. At one point, the junk yard was amended to limit the number of junk yards to five. And in recent times, this has been the only operating junk yard within the community. So, the language in these two

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definitions had to have been cognitive of this particular facility because, basically, there wasn't any other facility that would have been subject to those definitions.

There was a lot of discussion at the last hearing about recycling and recycling centers as opposed to junk yards. I would submit that recycling is one of the activities, not the only activity, not the sole activity but one of the activities that does occur at junk yards. It's identified in the ordinances by the terms, quote, processing to the salvaging, end quote, and buying, selling and exchanging or storing, another quote from the ordinance. I would submit that recycling falls within that category but it's not the exclusive activity that the ordinance defines as part of the activity of a junk yard.

It also involves the long-term storage of material which, again, has been described by the previous witnesses and the keeping of junk and debris.

All of this is also documented by the aerials that the board received at the prior

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meeting.

Basically, the uses proposed by Allied is identical in every respect from a zoning perspective to the use which has occurred here historically, again, since 1965. And this remains true even if there's some variation in the operation. The facility does and continues and it has met these definitions throughout its history. It's common for any business or any operation to have some variation in its operational character over a period of time. If you think about a gas station, at one time gas stations all had repair bays. They now commonly -- they don't have repair bays but they might have a fast food or, rather, a food service or a convenience store as part of the gas station. It's still a service station but the use has evolved. And sometimes a junk yard is going have more or less of a given type of material, the business is going to be more or less active depending on how the management is -- is operating the business at the time but it still falls within -- and this use has always

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fallen within the broad definitions of junk yard that have been found in both the junk yard ordinance and the zoning ordinance.

And I would also add that sometimes the recycling is -- is more or less an euphemism for a junk yard in much the same way as a second-hand store could be called a consignment shop or a gas station a service station or a dump a landfill or a mine a resource extraction or a jail a correction center. There is a lot of different terminology. But at the end of the day, the ordinances' definition applies to the activities that have been in place and it characterizes the uses since the beginning.

The evidence is ample and conclusive. You've seen the aerials. I want to introduce two more aerials because the -- the prior aerials were prepared by our engineer. This is a two-oh-seven -- or 2007 aerial that I -- I took from the DEP website. And as you look at this aerial, you can readily see that there's both automobiles and piles of miscellaneous materials that were described by earlier witnesses.

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And then I also have a copy of the year 2000 aerial of this area from the DVRPC which, again, shows the same -- same sort of thing.

MR. COLEMAN: And that would be A-12?

MR. MILLER: Yes.

MR. COLEMAN: We'll call this the DVRPC aerial?

MR. MILLER: Yes. It's a little more cumbersome to hand around.

MR. COLEMAN: And what year was that again?

MR. MILLER: 2000.

MR. KENNEDY: 2000?

MR. MILLER: And it's one inch equals 200.

And what's nice about the DVRPC aerial, is that you can go to the DVRPC office, see the original negative and -- and the resolution is -- is better even than what's on the print. And when you examine all these different photographs, what's readily apparent is that there's material there over and above just automobiles. And that, again, has been documented by -- by the

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other witnesses so...

CHAIRMAN ZOLTOWSKI: I have to stop you there.

What -- what did you identify? What --

MR. MILLER: Piles --

CHAIRMAN ZOLTOWSKI: -- material --

MR. MILLER: Piles of material that were --

CHAIRMAN ZOLTOWSKI: What materials did you identify? What -- you're telling me a resolution. What did you identify that wasn't a car?

MR. MILLER: Piles of miscellaneous material.

CHAIRMAN ZOLTOWSKI: You don't know what it was?

MR. MILLER: That -- that would be --

CHAIRMAN ZOLTOWSKI: It could be a hood, it could be a door, it could be an engine block, it could be the...

MR. MILLER: Well, it's probably appliances and --

CHAIRMAN ZOLTOWSKI: You clearly identified that you saw an appliance in

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the -- in the resolution?

MR. MILLER: You cannot do that from --

CHAIRMAN ZOLTOWSKI: Okay. Thank you.

MR. MILLER: -- the resolution in the aerial.

CHAIRMAN ZOLTOWSKI: Please continue.

MR. MILLER: So, to sum up, in -- in many cases, aerial photography alone is sufficient to document that a pre-existing nonconforming use existed over a given period of time. But in this particular instance, we have not only the aerial photography but we have eyewitness accounts of people who personally have direct experience and have observed the handling of materials, not just automotive materials but materials of -- of many other sorts.

We also have documents that show that other materials were bought and sold at this location. There's a certificate of filing from the Pinelands Commission that identifies this location as a junk yard. And there's also a long series of licenses issued by the

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township again showing that this facility is a junk yard as defined by the township's junk yard ordinances. The only change here is the change in ownership.

The applicant also intends to put in some additional equipment but, in my mind, that doesn't change the use whatsoever. It's akin to the fact that a retail store might go from having all cashiers and processing things to having automated cashiers or an ATM that the bank didn't previously have, a bank, or, rather, an ATM. And I think that this scale falls into that category. It doesn't intensify the use, it just modernizes the use.

So, I think the evidence is very conclusive. This is a junk yard now. It was a junk yard in the past. It will continue to be a junk yard and -- and it well merits the status of a pre-existing nonconforming use. And, in my view, the board should grant the request for the certificate of nonconformity.

MR. RIDGWAY: Now, Jim, if you could, go over briefly --

CHAIRMAN ZOLTOWSKI: I just have one

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question before you do that.

You gave an example of a gas station and then expanding to a restaurant --

MR. MILLER: No.

CHAIRMAN ZOLTOWSKI: -- what they do to the -- yes, you did.

MR. MILLER: No.

CHAIRMAN ZOLTOWSKI: You said they add on food.

MR. MILLER: I didn't -- I said they have food service, yes.

CHAIRMAN ZOLTOWSKI: You said they add on food service. They would add on today, that might happen?

MR. MILLER: That's not a restaurant, though, that's food service.

CHAIRMAN ZOLTOWSKI: Okay. And if that gas station was there -- apparently a nonconforming use, adding that food on would nullify that nonconforming use, would it not?

MR. MILLER: No.

CHAIRMAN ZOLTOWSKI: It is not an expansion of what...

MR. MILLER: Now, let me -- let me amplify my -- my answer.

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A lot of this depends on how the ordinance definition reads. If, for example, you had a definition which occurs in some jurisdictions that limited a service station to the sale of petroleum products and auto repairs, then there might be a change of use. But that's not always the case with ordinances and service stations so you'd have to look at the ordinance that would be specific to the ordinance and that's really germane to the -- the case before you this evening.

Your ordinance says junk yard encompasses a very wide array of activities, products and what -- and so on. And, therefore, a lot of things can happen within that category over -- over time without changing the status of the use. It remains a junk yard as long as it meets the criteria in that ordinance definition.

CHAIRMAN ZOLTOWSKI: I have to ask one more question.

When was the first license issued to Last Chance or to whomever? When was the first actual license issued as a junk yard?

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What year?

MR. RIDGWAY: That question should probably be asked of Mr. Giberson. I don't know if he knows the exact year.

MR. GIBERSON: I would say back in the '60s.

MR. KENNEDY: Mr. Chairman, I have a question.

MR. GIBERSON: I got a record of back in the '60s. And it'd be William Giberson & Sons, which was my father. And ever since then, we've always held the junk yard.

CHAIRMAN ZOLTOWSKI: Mr. Kennedy.

MR. KENNEDY: I'd just like to ask Mr. Scangarello if he agrees with Mr. Miller's assessment of the ordinance.

(General discussion.)

MR. COLEMAN: Before you get there, Mr. Kennedy, that's a good question.

Mr. Miller, are you finished with your summary or do you have anything further for the board -- Mr. Scangarello or the board?

MR. MILLER: Let him finish.

MR. COLEMAN: Okay, yeah, I want you

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to finish. Go ahead.
MR. RIDGWAY: I will let him finish. I have a couple of questions.
MR. COLEMAN: Okay. We're going to get there. I just want him to finish.
MR. RIDGWAY: As we said earlier, you had given your testimony with respect to the D-2 which is somewhat different than a D-1 variance.
MR. MILLER: Yes.
MR. RIDGWAY: Although it's your opinion as a professional planner as to what is being proposed for this site which is the installation of a weigh scale which is basically a modernization of the existing use and the refurbishment of two existing businesses or two existing buildings on the site, not enlarging them but just refurbishing them, in no way warrants a D-1 variance.
Could you briefly describe the difference between D-1 and D-2 and why you feel in either instance the testimony that's been provided this evening would fall under a variance, whether it be D-2 or D-1?

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MR. MILLER: Well, a D-1 variance would basically create a -- a new use which was otherwise not permitted by the -- the zoning ordinance.
A D-2 variance deals with a pre-existing nonconforming use that's being altered or expanded in some manner that would trigger a variance. And the judgment, of course, comes into what degree of change constitutes an actual expansion of the use.
And in -- in this instance, the board felt that the installation of the scale could be viewed as an expansion of this pre-existing use and we presented testimony that it met the criteria for the fork that would permit that variance to be granted under the D-2 criteria.
MR. RIDGWAY: Okay. Putting aside for a moment all of the testimony that was submitted back in March and all of the testimony that's been presented this evening, if that site was just an auto salvage yard, nothing more, forget about the definition that allows it to be so much more and has a license to be so much more, with this

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location in this area in town if someone wanted to change that auto salvage to a recycling center, is there any other better spot than to use it in a place that was a former auto salvage yard?
MR. MILLER: No. It's already got that kind of a character. And generally --
MEMBER OF THE PUBLIC: No, it doesn't.
MR. MILLER: It clearly does. And as a result, you could base an argument that the site's particularly suited for that use because there's already an established use that's akin to that use. And part of that logic also goes to the fact that the use has been there for many, many years and the area has become accommodated to the use. And any type of impact would have been assimilated by the surrounding uses.
CHAIRMAN ZOLTOWSKI: Just to ask a question regarding that, you wouldn't -- you wouldn't suggest that a commercial zone where you could pave or concrete and control the waste and any possible runoff or drainage would be better than open dirt in the

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Pinelands, is that what you're stating, that an open Pinelands field is better than a paved or concreted commercial location?
MR. RIDGWAY: Mr. Chairman, I'm not sure you understood my question. My question was -- and I -- if that was an open field, my apologies -- my question was if that was an existing auto salvage yard would it be appropriate to be changed to a recycling center. That's my question.
CHAIRMAN ZOLTOWSKI: No, you said which -- would it be a good location. That's what you said.
MR. RIDGWAY: If -- would that be a --
CHAIRMAN ZOLTOWSKI: Now, I'm asking you, which is a better location: A place where you can have paving and/or concrete and control runoff and debris or open Pinelands dirt?
MR. MILLER: Well, there's -- the question isn't apropos to what we're discussing because this is not an open location, you know, and there isn't --
CHAIRMAN ZOLTOWSKI: Can I ask which

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is a more suitable -- is it a suitable location or is it a good location to do recycling?
MR. MILLER: Your question doesn't --
CHAIRMAN ZOLTOWSKI: And I'm asking you is it better to do it in a commercial location that can be paved or -- or concreted or in open dirt in the Pinelands? Which location would be better?
MR. MILLER: There's not enough information there to be able to opine on it. You'd have to know more detail than that.
CHAIRMAN ZOLTOWSKI: Okay. Thank you.
MR. RIDGEWAY: Let me ask my question again. Perhaps we can clear it up.
This site existing as it is now with -- if the board feels it's just an auto salvage yard, in your opinion would it be appropriate to be changed to a recycling center knowing there's only an auto salvage yard that's been there for 60-some years?
MR. MILLER: And would continue or have the right to continue, the answer's yes.
CHAIRMAN ZOLTOWSKI: Mr. Kennedy, you

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still want to -- you -- you haven't gotten your answer.
MR. KENNEDY: Mr. Haas has a question.
MR. COLEMAN: Go ahead.
MR. HAAS: All right. I have a question.
Is it possible when the laws or ordinances are written to cover a junk yard that the language that's in there was all encompassing in order to allow the disposal of, in those years, cars that had head linings which were cloths, dispose of a cloth, dispose of anything that didn't look -- or a symbol, even the wood on the side of a car, on the wood, is it possible that those laws were written so that someone can say, hey, they're doing an illegal operation, they're getting rid of clothes or cloth or something? Is it possible? Is that possible?
MR. MILLER: I -- I don't see how you can draw that conclusion based on the fact that the ordinance, for example, mentions things like bottles and -- and other type of

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debris.
MR. HAAS: And the wording of the materials, you can't say that that's possible?
MR. MILLER: I believe that if a township wanted to limit it to auto-related salvage, it would have structured the ordinance in a different manner.
MR. HAAS: We have had testimony tonight that the DEP has come on this property quite regularly. The DEP -- are you aware the DEP is changing the valuation on this property?
MR. MILLER: I'm not sure I understand your question of how -- the DEP doesn't value things, I don't believe.
MR. HAAS: Is -- are you aware that the DEP is changing the status of this property?
MR. COLEMAN: Maybe, Mr. Haas, maybe that question would be probably better posed for Mr. Gabrysiak.
MR. GABRYSIAK: I would be happy to answer it.
MR. HAAS: Well, I don't think so.

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This is a line of questioning --
MR. COLEMAN: Okay.
MR. HAAS: -- I'm trying to establish here.
Okay. We're considering prior use --
MR. COLEMAN: Um-hmm.
MR. HAAS: -- as nonconforming and, therefore, we -- we need to grant a certificate. That's what the argument is.
MR. COLEMAN: Yes.
MR. HAAS: I'm offering evidence or asking for evidence that the DEP has now rated you not a junk yard but a recycling center. They've changed your status.
MR. MILLER: I don't believe that's correct.
MR. HAAS: As of October the 1st, are they not?
MR. COLEMAN: Well, any of -- any of the witnesses can respond to that --
MR. HAAS: Yeah, anybody.
MR. COLEMAN: -- question.
MR. HAAS: Anyone.
MR. COLEMAN: Mr. Gabrysiak?
MR. GABRYSIAK: No, you're incorrect.

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The DEP has changed the regulations on scrap metal processing facilities. Okay? We operate in the Township of Southampton as a junk yard as I do in Springfield as a junk yard and as every other scrap metal operator in the State of New Jersey operates with a municipal license that says junk yard.

The new regulations that the DEP are enforcing or will be enforcing are regulations that are designed to keep these junk yards environmentally friendly. We are inspected and, truthfully, thank you to whoever it may be, we've been inspected by the DEP, the board of health, the state fire department, all within the last month, no violations, nothing wrong with that facility in any way and, you know, we do abide by whatever regulations that whatever state...

MR. HAAS: Okay.

MR. KENNEDY: Did you abide by the regulation when you put in the scale?

CHAIRMAN ZOLTOWSKI: Hold on.

Mr. Haas, continue.

MR. HAAS: The DEP, and I hear language, and we can submit this letter,

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that's fine, if it's not already submitted, the department of -- is revoking your RVR permit, which is a junk yard, and reissuing you as a recycling center as of October the 1st.

Does that constitute a change, a processing, from a junk yard to a recycling center?

MR. GABRYSIAK: No. It's still a junk yard. We're still licensing in the Township of Southampton as a junk yard.

MR. HAAS: You've had testimony that your claim is this has always been a recycling center, the DEP has always come on the property; therefore, why hasn't the DEP changed your permits or the previous owner's permits?

MR. GABRYSIAK: You do realize that that is a general permit, that everyone gets the same one. Okay? We are listed on that permit along with every other facility in the State of New Jersey. It's not written for us directly. It's written for all of the facilities in New Jersey and everyone is -- that's why they call it a general permit.

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Everyone's listed on that.

But I can tell you that as far as I know in the Township of Southampton -- I think we're the only junk yard. I mean is there anybody else with a -- with a license in Township of Southampton?

UNIDENTIFIED SPEAKER: Um-hmm.

MR. GABRYSIAK: Who -- who is it?

MR. HAAS: You just --

MR. GABRYSIAK: I heard somebody say there was.

MR. HAAS: Let's continue with this -- can we continue with this --

(General discussion.)

MR. GABRYSIAK: Does Red Lion have a license?

MR. HAAS: Can we continue with this question?

MR. GABRYSIAK: Yeah, well, I'm answering your question as I thought it was asked.

MR. HAAS: Okay. You're saying it's a general permit but there's categories to the permit, aren't there?

MR. GABRYSIAK: Sure.

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MR. HAAS: Okay.

MR. GABRYSIAK: The category that we're in is...

MR. HAAS: Were in or now in?

MR. GABRYSIAK: That we are in.

MR. HAAS: As of October 1st?

MR. GABRYSIAK: The category we are in is scrap metal processing and auto salvage. We have two categories.

MR. HAAS: An RVR you used to be and now you are a?

MR. GABRYSIAK: I -- I don't know the term RVR.

MR. HAAS: That's DEP terminology.

MR. COLEMAN: Mr. Haas --

MR. GABRYSIAK: I'm not familiar with what it means.

MR. COLEMAN: Mr. Haas, just for the record, what are you reading there?

MR. HAAS: Thank you. I'm reading a report from Stewart Environmental Associations, a report to Southampton Township.

MR. COLEMAN: Okay. And what's the date of that report?

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MR. HAAS: That report is dated -- I don't know. I'm sorry, I don't know. Perhaps you do know.
MR. COLEMAN: Is this the report that Mr. Steward provided?
MR. HAAS: Yes.
MR. COLEMAN: September -- okay. And this is the report that we -- we had an opportunity to forward to the applicant?
MR. HAAS: I hope so.
MR. COLEMAN: Yeah, we did.
MR. HAAS: Okay.
MR. COLEMAN: Go ahead, Mr. Haas.
MR. HAAS: No, I'm done with my line of questioning.
MR. COLEMAN: And it states it's dated September 13th.
(General discussion.)
MR. GABRYSIAK: Before -- before you continue, can I add one thing to that?
MR. HAAS: Sure.
MR. GABRYSIAK: The licensing that the DEP does, I'm licensed by the Township of Southampton. The permit that the DEP gives to us is a storm water discharge permit.

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MR. HAAS: Correct.
MR. GABRYSIAK: Okay? It's not licensing of a recycling place or a junk yard --
MR. HAAS: Forgive me for using --
MR. GABRYSIAK: -- it's a --
MR. HAAS: -- the wrong word.
MR. GABRYSIAK: It's a permit for discharging. So, basically, what they're permitting is our use, as defined by the Township of Southampton, they're allowing us to do that use and they are allowing us to be inspected by their -- by their organization. Okay? So it's not a license, it's a permit that they allow us --
MR. HAAS: Forgive me for using the wrong words.
MR. MILLER: -- to continue to operate --
MR. HAAS: I apologize.
MR. GABRYSIAK: -- underneath the guidelines that the township has already set up.
MR. COLEMAN: For storm water discharge permits.

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MR. HAAS: For storm water discharge permits.
MR. GABRYSIAK: Correct.
CHAIRMAN ZOLTOWSKI: Are you done?
MR. HAAS: I'm done.
CHAIRMAN ZOLTOWSKI: We're going to take a five-minute recess.
(Brief recess taken.)
CHAIRMAN ZOLTOWSKI: We are back in session.
Mr. Darj, you had something you...
MR. DARJ: Yeah, real quick before we -- I know that we need to get to Mr. Scangarello's -- answer any questions -- there was some discussion regarding the general permit, DEP general permit, and I just want to clarify a couple of things real quick just so -- because we sort of glossed over like it's -- almost sort of made light of, not that you were trying to make light of it, but, general permits are called general permits because, you know, they're -- they're permits for a specific -- specific activities that are recognized by the DEP but they are specific to individual applicants themselves

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and it's not that there's a list and everyone's on it. Everyone has their own specific general permit. They do have general conditions and -- although they are pretty extensive. So, I just wanted to clarify that.
The document that Mr. Haas was talking about actually summarized the general permit issued to Mr. Gabrysiak and it was dated September 9th, 2013. And, specifically, I guess, the paragraph that -- that was being summarized there was -- it says that as you are -- as you may be aware, the department mistakenly issued you a general permit that applies only to facilities that engage in vehicle recycling, the category RVR, on August 28th, 2012. Because you are in the business of vehicle recycling and scrap metal processing, the category SM2, the department is revoking the RVR permit and reissuing an SM2 permit. So, just to clarify. That's actually what you were talking about there. But there's quite a bit of extensive conditions on this -- on this permit which I -- I imagine we're going

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to be discussing, you know, if this application proceeds to a site plan.

CHAIRMAN ZOLTOWSKI: Mr. Scangarello.

MR. SCANGARELLO: To answer Mr. Kennedy's question and to try to put this in some sort of perspective that we can all -- that we can all deal with. And what I'd like to do is identify three stages or three levels of what I think we might consider doing.

When the ordinance was -- when the ordinance was established back in 1963, it dealt with -- it did deal with junk yards. Recycling wasn't even a -- an imagination or imagination in some people in 1963.

And then subsequent to that, our office authored three updates to the land development ordinance. And each time we updated the land development ordinance, it included the language that was established back in 1963.

Now, in order to get a use variance, as you all know, in the State of New Jersey, especially for a junk yard, it is probably the most impossible thing you could ever

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think of. In order to demonstrate that you have -- that you're preserving the -- the values, that you have something that's beneficial, that you're promoting the general welfare or you're doing something that's creating a desirable environment for a junk yard is -- and -- and the cases will tell you that it's just -- it's almost an impossible thing to achieve. Use variances are very difficult.

In this -- in this particular -- in this particular instance, and when you asked the question about the zoning, I think you have to consider the fact that to call it something other than a junk yard when it includes all these other things at this point in time would be a little bit -- a little bit difficult.

When the applicant talked about the history and when we went back and looked through the aerials that we found, it was pretty much -- it gave a clear indication of the fact that in -- as far back as 1995, the site was filled with automobiles and all kinds of other things that the resolution of

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the photographs, even as Mr. Miller indicated, would be difficult to tell you that they're all cars. And then as the applicant testified back in 2009, the site began to get cleaned up. In 2010, it was almost completely cleaned up. There was -- there was some other clearing that was going on in the site. And then back in 2012 up to now, the site gets -- is being filled up again. And it's obvious that the -- anyone living in that area, witnessing all of that, would be -- would be upset about it. And that's why -- that's why -- that's why the neighbors are here.

But your -- your job in this particular case is much more difficult because you have whether or not this is -- this can be considered a pre-existing use. It is a pre-existing use. It's a pre-existing nonconforming use. And there have been amendments to the ordinance that have stymied it from being enlarged or from anything else being -- anything else being done with it.

And the key word in that ordinance

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is, as we talked about it at the last meeting, is this word called commonly. Everything that commonly would be affiliated with a junk yard is a junk yard.

What your job is and I think the toughest thing that you have to do is evaluate the impact of the facility. And if you think the impact of the facility today is different than the impact of the facility as it was two years ago, two months ago, 10 years ago, whatever the case may be, then you have to consider the fact that it is a -- it is an expansion of the nonconforming use and the impact have changed and there's different criteria that's applied. And that different criteria would be the issuance of and consideration of another variance and I would agree it's -- I would agree that it's -- it's a D-2 variance and not a D-1 variance.

There are new permits that are required. And when we talk about -- we talk about new permits, we talk about permits that would be issued from -- any time there are new permits that are required, whether that be wetlands permits, whether that's something

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from the Pinelands, any new type of legislation, that's a new evaluation and that says something has changed, we need -- we all need to re-evaluate what is going on.

So the issue becomes as to whether or not, in your opinion, the scale, the addition of the scale is an expansion or a deviation of what was there. And that deviation or that expansion is going to create some new activity, whether that's truck activity, whether that's noise, whether that's more business, whether -- whatever it may be, it is something that was not anticipated, clearly was not anticipated, back in 1963, was not anticipated when we wrote -- we rewrote the ordinance back in the late '80s and back in the '90s and even in -- in 2000 and 2005 -- and I can't quite -- quite remember when that was -- but we never thought about the fact that that facility or any other type of facility like it would have other activities going on such as a scale in this particular -- in this particular case. And I think that's the difference. I think that says -- that could say to you if you

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think -- if you think about it or it could say -- or it could not say that to you. You could -- you can make -- you could have the opinion that says, okay, so there's something else new that's going on here that was not anticipated but we don't think it's a big deal. Or you could say, we think that we need to find out more about it and we need to act upon that issue because we think that issue may be creating some more activity that we had not anticipated and that they might require additional permits or that may require additional things going on. And I know that that might not be a -- a popular sentiment with -- with the applicant but I think it's a fair one.

And I think the threshold that you have, and threshold's probably not the word but I think the three steps that you need to take in considering all of this is, No. 1, is this something that was not thought about when the ordinance was written and when it was rewritten and it's something that has changed and it's something that you think is worthy of you looking at again and saying,

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you know what, in our opinion this is an expansion of misuse. It may be a small expansion, it may be a minor expansion but we don't know and we need to rule on that. And the way we rule on that is by -- is by considering it for a D-2 variance and we've heard a lot of testimony on that. So the first -- the first stage would be to say that -- to say that.

The second thing would be to have the hearing on the merits of the expansion and whether that -- or not that's going to cause any more deleterious effect or impact on the township and on the residents.

And, third, and probably most important, and this is what's important on every single use variance that you deliberate and every single use variance that -- the case that talked about -- the couple of cases that Mr. Miller talked about the first go around is the only way, the only way that you can consider in the planning world of approving such a variance is you're able to do it with certain conditions that mitigate the impact that you're going to be

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discovering through the second stage of -- of -- through the second stage of your deliberations.

And if you can do that subject to the comfort level of the people that live around there and make it better for the people that live around there because you're not -- if you leave it the way it is, it's not going to get better, it's going to continue to go on and the people that live out there and the people that are prepared to give you a presentation and show you all the activity that goes on there and how bad it looks and what -- and what bad neighbors these people are, that will continue. That will continue in perpetuity.

The only way that it stops and the only way that it gets better is if you all -- you all can proceed down the line with the second and third step to get you to the -- to the part where you're able to mitigate that impact to the satisfaction of those residents and in a reasonable way to the satisfaction of the applicant so that everybody has a comfort level and we can move on. And that's

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the -- that's your purpose and that's your job and that's what's identified in -- in every single difficult zoning case that's gone on throughout the State of New Jersey for the past 40 years. And this is a difficult one.

And all I'm saying to you is think about breaking it down into those three steps and deal with it that way, one step at a time, and I think that -- I think that we'll all achieve a positive result.

Other than that, I -- once you get -- if you decide to do that and get to the second level, I can go through my report in detail, Rakesh can go through his report in detail. We each have reports that are on the variance level and also on the site plan. But we're not -- we're not quite there yet. We need you to tell us to get there.

MR. COLEMAN: I think before we get there, I think you have more testimony.

MR. RIDGWAY: One more expert witness.

CHAIRMAN ZOLTOWSKI: Tom?

MR. RIDGWAY: Yes, sir.

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CHAIRMAN ZOLTOWSKI: They're putting their whole show on right now.

MR. RIDGWAY: Well --

CHAIRMAN ZOLTOWSKI: That's what you said earlier.

MR. RIDGEWAY: -- obviously with a caveat because I didn't know where Mr. Scangarello --

CHAIRMAN ZOLTOWSKI: That's what I'm saying.

MR. RIDGWAY: -- was going.

CHAIRMAN ZOLTOWSKI: He's on a different -- you and him are not on the same page.

MR. RIDGEWAY: As usual, he's four levels above me. That's the best...

MR. DARJ: You've both practiced for 38 years.

MR. RIDGWAY: That's exactly right.

MR. DARJ: I think that --

MR. SCANGARELLO: What I anticipate Mr. Ridgway doing is if, in fact, you say you know what, let's take that road, let's take that three-step road and go that route, I would envision him wanting to put on some

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reminding testimony to you with respect to the D-2 variance.

MR. RIDGWAY: Well, we -- and we still have to go through --

MR. SCANGARELLO: Yes.

MR. RIDGWAY: -- your report, Kessler's report --

MR. SCANGARELLO: Yes, you do.

MR. RIDGWAY: -- et cetera.

MR. SCANGARELLO: Yes. And you still want to bring Al up to say if there are any traffic problems. I wouldn't be here if there were traffic problems.

MR. RIDGWAY: No, I want you to prove that there aren't any traffic problems.

MR. SCANGARELLO: Right.

MR. RIDGEWAY: Let me ask you a question, Tom, and I'll defer to you, should the board take that first step with respect to the nonconforming use and then, depending on what the answer is, decide to go through the reports and discuss Al's expert testimony?

MR. SCANGARELLO: I think if the board so wishes, that would -- it's just so

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much easier when we take things one at a time. Because you're confusing every -- you're confusing them, you're -- I'm sure 90 percent of the people back here, they came here tonight saying this is a bad thing but we haven't even gotten to the point where they can stand up and say this is a bad thing. If he opens it up right now, they're all going to get up and say it's a bad thing and Tom's going say you're not allowed to say it's a bad thing, we want -- we're only here to talk about the certificate and the nonconforming report so we're just wasting time so we -- let's -- let's figure out what we're going to do and take that road.

MR. COLEMAN: I think at this point, less is more.

MR. RIDGWAY: You've convinced me.

MR. COLEMAN: I'd love to hear from Al. I just don't know if the other -- if this is the time for Al.

MR. RIDGWAY: Understood.

MR. COLEMAN: I have a feeling we're going to hear from Al at some point this evening.

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CHAIRMAN ZOLTOWSKI: Okay. At this point, you have to go for the certificate of nonconformity.

MR. RIDGWAY: We are putting on our testimony, witnesses' expert testimony, with respect to the history of that site with respect to what's going on in that site, all we believe, within the purview of the definition, the expansive definition, of what a junk yard is in Southampton Township. We can read it ad infinitum. And I know you've made some specific comments about in the licensing permits it refers to things that you feel are referencing just to cars, and that may very well be true and I'm -- I'm not going to disagree with you, but you can have an expansive definition at the top, which this does, it talks about bottles, it talks wood, it talks about rags, it talks about all these other things that are in no way associated with cars and then down low it said with respect to cars, you've got to do these things. But the overall blanket top of the line above the full definition is all the things that are allowed in this township if

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you have a junk yard license.

And I know these board members may or may not have been to the site over the past -- you may not have even been alive back when this thing started back in 1947, but, in your mind, you may think what was there, you may think it's a P&S Auto but that doesn't mean P&S Auto -- P&S Auto exclusive. I don't know if any of you went to that site over the past number of years and saw, as was just testified to by the prior owner of the property and lessor of the property, or of all the testimony or the -- the exhibits that were given by Mr. Gabrysiak as to all these things that were pulled out of there. Yes, there might be a bit of copper or a bit of aluminum in the cars but we're -- we're talking about thousands of pounds of things of that stuff that was pulled off of that site. And the testimony of -- of Mike Ivans as well that he drove up in that truck with his TVs, his lawn mowers, washers, all these other things. So just because you're not aware of those things or you weren't aware of those things and just because in your mind

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you felt it was just automotive, you have to vote -- you should vote based upon what the facts are as presented to you.

CHAIRMAN ZOLTOWSKI: But Mr. Ivins didn't work there.

MR. RIDGEWAY: No. He just dropped --

CHAIRMAN ZOLTOWSKI: He has no idea that they didn't turn around and take a TV and take it to a landfill.

MR. RIDGWAY: Correct.

CHAIRMAN ZOLTOWSKI: Okay.

MR. RIDGWAY: Which you're allowed to do under the junk yard ordinance.

CHAIRMAN ZOLTOWSKI: But it was never stored there. You don't know that --

MR. RIDGWAY: It says buying and selling.

CHAIRMAN ZOLTOWSKI: And in cars, there's a lot of aluminum. Every manual transmission is aluminum. There's a lot of engine blocks that are aluminum. There is aluminum in cars.

MR. RIDGWAY: I don't know how many woodies we saw at that site but there was, as

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the evidence shows, significant amounts that were pulled out there. Again, all these other things that we've submitted to you.

MR. KENNEDY: Mr. Chairman, just because a thing's been pulled out of there --

CHAIRMAN ZOLTOWSKI: Mr. Kennedy --

MR. KENNEDY: -- doesn't necessarily mean that -- that the items were brought there illegally and the township knew that they were being brought there.

CHAIRMAN ZOLTOWSKI: Mr. Robbins, do you have anything?

MR. ROBBINS: Mr. Ridgway is arguing that -- that we should -- that we should issue a certificate of nonconformance. Mr. Scangarello is asking that we consider whether it's appropriate that a D-2 variance be voted upon.

Am I correct?

MR. SCANGARELLO: You're correct in that what he -- you're correct in what Mr. Ridgway is asking for.

What I'm saying to you is so much has happened over the last -- since 1947, since 1963 to the year 2013 that you certainly need

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to consider the fact that the things that have happened requires a reevaluation on your part and a reconsideration on your part as to whether or not what's going on in that site still functions in accordance with the zoning. Wetlands legislation's changed. Lots of things have changed and --

MR. ROBBINS: All right. And if we were to make that determination, then it would be a D-2 variance?

MR. SCANGARELLO: Well, the first thing you do is say that you don't believe that a certificate of nonconformance is -- should be granted in this particular case and the applicant submit the proper applications for a use variance, which he has done. In this particular case, he's made the application. He's saying it should be a D-2 variance and I would agree with that.

MR. ROBBINS: Are we -- do you want us to limit our -- our questions to these issues or can we ask questions of the other witnesses or the applicants and...

CHAIRMAN ZOLTOWSKI: At this point, it's -- it's limited to the -- the use, the

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nonconforming use, what historically it was and what's going on today.

MR. RIDGWAY: If I could, one more thing, Mr. Chairman, and I just whispered something to Mr. Coleman, if the board votes yes for the certificate of nonconformance, we still have to go through our site plan and all the other issues that they talked about.

MR. SCANGARELLO: You don't go through the -- you don't go through the variance.

MR. RIDGEWAY: No. If they vote no to the certificate of nonconformance, we still have to go through the D-2 variance and we still have to discuss all of the issues with respect to the site plan.

By voting yes to the certificate of nonconformance doesn't limit all of your oversight with respect to that site and the site plan application.

MR. COLEMAN: And I don't know how much D-2 testimony we need to hear. We heard it in March, we heard it tonight but we can go through it again. We've heard Jim ad nauseam, respectfully, go through the

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standard for a D-2 variance, whether it's cars, scrap, aluminum, wood, so forth, and he's -- he's beat that horse.

MR. ROBBINS: So -- so then the questions we should be asking of the applicant and the professionals that you've brought is -- is whether or not this pre-existing condition has been altered to a point whereby a variance might -- I guess what we should be asking is -- is how great or -- or how minimal, has there been any alteration in -- in this pre-existing condition?

MR. RIDGWAY: Well, my way of thinking, and it may not be the way the board or the way the professionals are thinking, is what's historically been there and what's there now, is it within the definition of your junk yard. Whether it was 90 percent autos in 1950 and 10 percent copper or whether there's 10 percent copper now and 90 percent autos is what has gone on there fit the definition of junk yard ordinance based upon the testimony and the exhibits submitted.

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MR. ROBBINS: And would that include our understanding and the -- and the surrounding residents' understanding of -- of what this junk yard was either through its level of activity, irregardless of what's in there, just through its hours of operation, its level of activity, the traffic it generates, the employees it has, does that -- is that --

MR. RIDGWAY: My view is -- for this vote, no. Okay? For this vote, no. Because we had a license to do all of those things. Okay? Whether there's traffic or not, the issue is do we fall under that definition umbrella. Those things can be addressed at a site plan issue because, quiet frankly, the junk yard ordinance says dawn to dusk. In the summertime, that place could be open until 9:00. If the board -- board votes again yes or no to the certificate and we move to the D-2 and the site plan level, the board can say, well, as Tom indicated earlier, this is the time where we can start looking at those issues and work with the residents to see, okay, the junk ordinance

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says 9:00. Well, Mr. Applicant, would you be willing in the summertime to stop your operations at 5:30 or 6:00 in the evening. That's -- that's the give and take of the site plan issue. That's not taking away based upon the vote you're going to give on the nonconformance certificate. The nonconformance certificate is just -- is what he's doing within the umbrella of that definition from a use standpoint.

MR. COLEMAN: And, remember, really, we -- we wouldn't even have any of these site plan issues if it weren't for the fact that he's applying for a permit or an approval to put a scale in which is there and to upgrade two buildings.

MR. KENNEDY: And a sign.

MR. ROBBINS: Because in --

MR. COLEMAN: And a sign, excuse me.

MR. ROBBINS: Because their argument has been --

MR. COLEMAN: If they go away, there's no site plan consideration.

MR. ROBBINS: Because -- because their argument has been that's the only

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expansion which is going -- which is going on.

MR. COLEMAN: Correct.

MR. ROBBINS: So -- so it might -- so one thing that we would be considering is whether we think there's an expansion that's been going on.

MR. RIDGWAY: That's the D-2 aspect.

MR. SCANGARELLO: If you vote -- there's three steps. If you take the second step, which is the D-2, it gives you a little bit more flexibility, a little more -- a little bit more leverage, I know it's a dirt word but it gives you a little bit more leverage of what you're able to do with respect to controlling measures for the installation of the scale which is the expansion of the activity should you choose to go that route.

MR. RIDGWAY: It's hard to put out of your mind but let's -- let's say the scale's not even there. On behalf of the applicant, I'm coming before the board and giving you a historical -- a historical perspective as to what was done on that site from 1947. Forget

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the scale, forget the buildings, forget the sign.

MR. ROBBINS: But, frankly, I'm having difficulty with your presentation --

MR. RIDGWAY: Um-hmm.

MR. ROBBINS: -- because --

MR. COLEMAN: Can you clarify which presentation? That's the key. That's the key.

MR. ROBBINS: Yeah. Your -- your presentation or your -- your premise, and -- and you said it in the -- in the March hearing, that the only -- that it's a very minor expansion, you're simply asking for a scale house which it's in the right place, it's -- it's what the modern scrap yard would have, and my difficulty is that just about every aspect, not -- not the types of materials but the way the materials are handled, the amount of materials, the -- the amount of activity. All of that is substantially different than it was before the present owner took over the operation. And -- and so your trying to limit it to the existence of the scale house, I -- I don't

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find particularly persuasive.

MR. RIDGWAY: Well -- and I'm not -- and perhaps I misspoke, I'm not trying to limit it to the scale house. From the March application to now, things have changed. Okay? We've amended our application in one significant way which is the certificate of nonconforming use.

And -- and Tom -- and, Tom, if you disagree with me, let me know but often times and, perhaps, most times, applicants come before the board for a certificate of nonconforming use not because they're doing anything, they're not -- they're not looking to -- to put another building up, they're not -- they're just looking for protection, whether it's for financing purposes or selling the property to a third-party that says what's been going on there was before our zoning ordinance.

Is that a fair representation? It's not -- it's difficult with this application because we've got all of this other extraneous stuff flying around which I'm trying to keep out of your heads with respect

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to just this portion that you're voting on. The fact that it's gotten busier, the fact that a hundred thousand tires or 40,000 or whatever number of tires have been pulled out, the fact that it's been noisier, that, to me, should not impact your decision for the pre-existing nonconforming use. The decision for the pre-existing nonconforming use only is is what happening there within this definition. Not -- not the scale. Forget the scale, okay? But as to what's coming in and what's going out, what's in that definition 4-4.1 or whatever it is. That's all. You don't talk about hours, you don't talk about busyness, you don't talk about noise. They're all your site plan issues. And you're going to get to them. I'm not saying if you vote yes to the nonconformance certificate -- it doesn't mean you don't get to those issues, all that means is that that -- what's been going on in that site is within the definition of the ordinance. Then if you -- whether you say yes or no, you're still going to go to the next level and say, okay, we've got these

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site plan issues. That's when we talk about noise, hours of operation, machinery, equipment, all those other things. It's just is -- is the copper in, copper out, are the bottles in, bottles out, wood in, wood out.

MR. ROBBINS: So what you're saying is that when one reads the language of our ordinances which were written at a time when this concept of recycling and recycling facilities was not imagined that -- frankly. Sadly but -- but that's the case. That's a -- that's a recent and, perhaps, a positive thing but -- but when these were written, that wasn't part of the equation but -- but what you're saying is but it doesn't matter, we got you because your -- because your language is too broad.

MR. RIDGEWAY: No.

(General discussion.)

MR. SCANGARELLO: No. He's saying -- he's saying if that's your opinion, then you have to consider voting that they're not worthy of getting this particular nonconformance ordinance at this time.

MR. RIDGWAY: And let me submit,

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we're all getting hung up on this word recycling. Okay? When 16-year-old Bobby bought his 1955 Chevy in there and it was stripped and the -- the owner of the junk yard sold this, that, they were recycling, you just didn't call it recycling but they were recycling that car. Okay? So you're getting hung up on this word recycling and it's the name we use because that's a pretty word, just like Mr. Miller said, old-age home is now a senior citizen's complex. Well, a junk yard's now a recycling center. And -- and if you look at the definition, that definition is expansive. I -- I would be disappointed in these board members if they had voted no because they said, well, this ordinance didn't think about recycling centers. We draft these ordinances to -- to cover everything. If you want to. And if you read that -- I'll read it again and I'm sure you've heard it a number of times tonight but it talks about bottles, wood, all of these different things being bought and sold. And that's what a junk yard does, that's what a recycling center does.

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MR. COLEMAN: Maybe, Mike, maybe the disconnect here is that -- I'm not putting words in anyone's mouth, I think it's clearly recognized through the testimony that an auto salvage yard would be permitted there. Okay?

MR. RIDGWAY: Um-hmm.

MR. COLEMAN: Why don't you tell them, and -- and maybe this upfront would have clarified things further, why don't you tell the board what you're specifically asking them to vote for in a certificate of nonconforming use. Because that may help you. What uses?

MR. RIDGEWAY: Yes. All we're asking you to vote for is that the uses on that site are within the definition of the junk yard ordinance.

MR. COLEMAN: And -- okay.

MR. RIDGWAY: And --

MR. COLEMAN: And we're going to take this --

MR. RIDGWAY: Stop it?

MR. COLEMAN: -- slow -- no. We're going to make it slow. Slow.

MR. RIDGWAY: Okay.

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MR. COLEMAN: And now we'll get to the second part. Now you have to determine whether the facts that have been presented this evening that you have enough clarification to determine what those quote, unquote, uses are other than an auto salvage yard. Okay?

MR. RIDGEWAY: And I'm going to read all of these uses.

MR. ROBBINS: No, no, no, you don't have to read them.

MR. RIDGWAY: Okay. And I'm going to say them if -- it's going to -- to really get everybody upset and maybe even my client upset because my view is because this site has had a junk yard license from whenever the first license came out, whatever the testimony, '65, 70, whatever, every year the township gave these guys a junk yard license. If all that was done on that site for the past 40 years was collect bottles and sell bottles, my position is they're allowed to now start collecting lumber and sell lumber because the license allows them to do that. The license allows them to do that.

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MR. ROBBINS: We just permitted a -- a privately-owned solar electrical generating facility to be located in a rural residential area just outside of -- so, by your argument, what we've granted them is a private electrical generating facility that just happens to right now be using solar but that -- but that at some time in the future if the definition changes, so does that usage.

MR. RIDGWAY: No. No. Because you've given them a specific grant of power by this use variance vote. The township granted us power, not the use granted us power to use a junk -- to get a junk yard license which all this is included.

A use variance for a specific site goes before this board, facts and situations, et cetera. The board says based upon those facts, you're allowed this there. Nothing more. We didn't extend anything else at all.

Now, if you gave them a use variance to use the entire 40 acres and they only built 20 this year and they used 20 the next year, yeah, that's an expansion but that came

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within the overall approval. It's -- to me, they're -- they're totally different things.

This is a license we got from the township to buy and sell, exchange or store rags, old metals, old bottles, old glassware, old plumbing fixtures, et cetera, et cetera, et cetera. And to me, it's painfully obvious, even if this wasn't an auto recycling yard exclusively for the past 40 years, we could go in there tomorrow and start exchanging bottles and rags because the license let's us do that. Now, factually, we haven't. I think we've been doing all of these things and the evidence has been submitted to you.

And the other thing that -- I don't want -- I can't press my luck, even if you say yes, that the junk yard licenses do that, you're not giving away any power. All you're doing is saying, okay, that's fine, now we're going to limit it by virtue of the site plan. Now we're talking about hours, now we're talking about traffic, now we're talking about everything else.

Is that pretty much where we are?

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MR. KENNEDY: Mr. Chairman, I have a question for...

MR. ROBBINS: Well, I'll let it -- I'll let it go through.

CHAIRMAN ZOLTOWSKI: Miss Doherty?

MS. DOHERTY: I really have no comments at this time.

CHAIRMAN ZOLTOWSKI: Okay. Mr. Thomas?

MR. THOMAS: No questions.

CHAIRMAN ZOLTOWSKI: Mr. Goettelmann?

MR. GOETTELMANN: I have a feeling that we haven't heard all of the testimony from all the -- but that is your call, Mr. Chairman, because they spoke the last meeting but we're -- we're close to 10:00 and I don't think we're going to be conclusive tonight so...

MR. COLEMAN: Mr. Goettelmann, I think the applicant's attorney has -- has given you enough testimony or has said that they're -- they've completed their testimony with respect to the certificate of nonconforming use. I see Mr. Litwornia here. That's a traffic issue which potentially

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could be a site plan issue but I don't think that Mr. Litwornia, and I could be wrong, I don't think he's going to come forward and talk about the historical nature of this property. Yes, you're right, you're going to hear some more from the applicant, just not at this time.

MR. GOETTELMANN: Fine.

CHAIRMAN ZOLTOWSKI: Mr. Kennedy?

MR. KENNEDY: The problem I have is that if this certificate of nonconforming use were to be granted, we still have the issue of the No Truck sign on the road. The fact that the township has deemed that road not suitable for large truck use...

MR. COLEMAN: A site plan issue.

MR. KENNEDY: Well, it's not a site plan issue if -- if the township says that you can't use the road for trucks.

MR. COLEMAN: Well, that's -- that's certainly an issue that's -- that's an enforcement issue in terms of the weight of the road and so forth and that's something that the applicant would have to deal with, you can't have a truck go over X pounds,

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yeah.

MR. KENNEDY: The other issue that I had was that your applicant made a statement that he complied with all regulations. And I asked him if he complied with regulations when he installed that scale and I want -- I want to see what his response is to that question.

MR. RIDGEWAY: Can I tell him? Can I respond if he's wrong?

MR. KENNEDY: No, I want him to respond. He made the -- he made the statement that he complied with all of the regulations. I want him to respond to that.

MR. GABRYSIAK: My response to that is the scale is a piece of equipment. It's a moveable piece of equipment and I really didn't think that there was any reason to have any -- any approvals for that. I've since been informed that that's not the case. Therefore, we're here making this application.

MR. KENNEDY: Okay. One other question I have: Are any of your vehicles that travel down New Road, do any of them

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come from your Springfield plant to use that scale?

MR. GABRYSIAK: Well, we have a scale at both locations.

MR. KENNEDY: Oh, you have a scale at Springfield?

MR. GABRYSIAK: Yes.

MR. KENNEDY: That answers my question.

CHAIRMAN ZOLTOWSKI: Mr. Haas?

MR. HAAS: No questions at this time.

CHAIRMAN ZOLTOWSKI: Mr. Heller?

MR. HELLER: No questions.

CHAIRMAN ZOLTOWSKI: Oh, boy. At this time, I'll open this application to the public. There's a few caveats. One, they're asking at this time just to be defined whether what they're doing is a conforming use and -- and we would grant them a certificate as such. So, any testimony you want to give at this time would be based upon that. Not about lights, not about noise or trucks but, basically, what you know has gone on at that site in the past and what's going on there today. That's basically what -- at

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this time what your testimony really could be limited to.

With that said, how many people would like to just come up and speak?

(Count taken.)

Okay. I'm going to try to limit it to three minutes each, I apologize, but at -- at 8-to-10 people apiece that's -- that's almost going to be half an hour. Okay? I do have a timer on my phone.

(General discussion.)

MR. GSELL: My name is Bruce Gsell, G-S-E-L-L. I have a property on 10 Ridge Road.

As far as the history of --

CHAIRMAN ZOLTOWSKI: Tom, should they be sworn in or just...

MR. COLEMAN: Yes, let's just -- for purposes of this application, let's swear them in.

Mr. Gsell, do you swear that the testimony or comments that you're going to provide -- the testimony you're going to provide this evening is the whole truth and nothing but the truth so help you God?

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MR. GSELL: Yes.
MR. COLEMAN: Okay. The floor is yours.
MR. GSELL: The ordinance was written three different times, '46, '67, '63, something like that, for the uses of junk yard. And was it ever argued at that point that the use changed? Probably not because the -- it was written and rolled. It's here. Obviously, it's different today. Something changed.
CHAIRMAN ZOLTOWSKI: And -- and I -- I have to stop you again. When -- at this -- at this point --
MR. GSELL: Right.
CHAIRMAN ZOLTOWSKI: -- we're looking for the residents, especially the ones who maybe lived there a long period of time or lived directly near it.
MR. GSELL: Right.
CHAIRMAN ZOLTOWSKI: What has gone on out there and what's going on today.
MR. GSELL: Correct.
CHAIRMAN ZOLTOWSKI: Not about ordinance, what -- what -- what will you

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swear to that you believe has gone on in the past as far as you know or have been there and what's going on today.
MR. GSELL: As -- as I know it, the place was very, very small, a real small operation, the locals would roll in and roll out, unload, drop off stuff just like it was testified earlier.
Today, it is a larger operation. It has grown than what it was. That's it.
CHAIRMAN ZOLTOWSKI: Thank you.
MR. COLEMAN: Thank you.
(General discussion.)
MR. WISHART: John Wishart, W-I-S-H-A-R-T, One Falcon Drive.
CHAIRMAN ZOLTOWSKI: Mr. Wishart --
MR. WISHART: Yes.
MR. COLEMAN: -- do you swear that the testimony that you're about to offer is the whole truth and nothing but the truth so help you God?
MR. WISHART: I do.
MR. COLEMAN: And it's John Wishart?
MR. WISHART: John Wishart, yes.
MR. COLEMAN: Go ahead.

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MR. WISHART: Okay. May I use your exhibit?
MR. RIDGEWAY: Certainly.
MR. WISHART: I am trying to --
CHAIRMAN ZOLTOWSKI: You might want to walk faster.
(General discussion.)
MR. WISHART: If we look at this, okay --
(General discussion.)
CHAIRMAN ZOLTOWSKI: We need to see it.
MR. WISHART: All right.
MR. COLEMAN: Mr. Wishart, why don't you go over by the television there and --
MR. WISHART: We'll try to explain it.
MR. COLEMAN: There we go so everybody can see it.
MR. WISHART: Okay.
CHAIRMAN ZOLTOWSKI: Please turn it towards the board, more towards me, that way.
MR. WISHART: Okay. Let's actually look at the site itself. And we look at it, the tallest thing you see there is the

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building and a smattering of cars, correct?
MR. SCANGARELLO: Can you point it out?
MR. WISHART: Let's bring it up.
(General discussion.)
MR. WISHART: Right here. Okay?
And when it was Pointsett's, there was a lot of junk cars there and -- but they were limited to one next to another. They were the old section, the newer section, whatever, but they were there.
Since Allied has gone into recycling -- how tall are your recycling piles?
MR. GABRYSIAK: Can I respond?
CHAIRMAN ZOLTOWSKI: You don't have to -- you don't have to answer that.
MR. WISHART: You don't have to answer but a good estimate is 30, 35-foot tall. All right?
In the permit, it states that one of the things under D, I think, it says where it has to be visual, right? Under your permit, your requirements.
UNIDENTIFIED SPEAKER: Not visual,

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to...
CHAIRMAN ZOLTOWSKI: Once again, please -- please limit it to what --
MR. COLEMAN: The history.
MR. WISHART: The history. The history was --
CHAIRMAN ZOLTOWSKI: -- and the present.
MR. WISHART: -- that it was a small junk yard, heavily wooded, sight unseen. Okay? You could not visually see it from any point in the neighborhood or from New Road.
That is no longer the point. It is now a cleared operation. Vegetation has been removed and piles of light aluminum, I would consider light aluminum, light steel, now tower --
CHAIRMAN ZOLTOWSKI: Okay.
MR. WISHART: -- above the trees. A visual difference.
That's what you're asking for at this point, right?
CHAIRMAN ZOLTOWSKI: Okay. Thank you.
MR. WISHART: Okay. We'll argue the

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other stuff out later.
(General discussion.)
CHAIRMAN ZOLTOWSKI: Sir, what's your name?
MR. LERNER: Ben Lerner, L-E-R-N-E-R.
MR. COLEMAN: Mr. Lerner, do you swear that the testimony you're about to provide this evening is the whole truth and nothing but the truth so help you God?
MR. LERNER: Correct.
MR. COLEMAN: Just for our -- can you spell your name again?
MR. LERNER: L-E-R-N-E-R.
MR. COLEMAN: And address?
MR. LERNER: 26 Falcon Drive.
MR. COLEMAN: Go ahead, Mr. Lerner.
MR. LERNER: Okay. My credentials, I'm an engineer, retired. I worked for Rohm & Haas Company. My job was to handle waste and dispose of it. New Jersey was the prime place to put your waste back in the 50s and '60s.
When I moved 34 years ago out here, there was no industrial sites. What we're visiting now is an industrial site. That's

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exactly what it is. You've got cars there, you got tires there. They're all potential hazards because they have acrylics in them that Rohm & Haas used to produce. The tires have other toxic things. The tires catch fire, you're going to have another Hiroshima on your hands.
That's all I've got to say.
CHAIRMAN ZOLTOWSKI: Thank you.
MS. WISHART: Catherine Wishart, W-I-S-H-A-R-T, One Falcon Drive, Southampton, New Jersey.
I have a question for the board.
MR. COLEMAN: Miss Wishart, do you swear --
MS. WISHART: Oh, yeah. I'm sorry.
MR. COLEMAN: -- that the testimony you're about to provide is the whole truth and nothing but the truth so help you God?
MS. WISHART: Yes, I do.
MR. COLEMAN: Okay.
MS. WISHART: Okay. I have a question for the board.
Is there a difference between the zoning board and the planning board?

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MR. COLEMAN: Yes.
MS. WISHART: Okay. Because -- I'm bringing this up because mister...
MR. RIDGWAY: Ridgway.
MS. WISHART: Ridgway. Okay, Mr. -- Mr. Ridgway pointed out that the zoning board did not have the right to write the resolution that identified this property, 30 -- of Lot 36.02 as for auto salvage use only.
However, at the top of the resolution that was not written by the zoning board, that was written by the planning board. Therefore, in -- if I'm correct, the planning board does have the right to limit the scope and use of given specific sites within the township to assure that -- that residential areas and areas of rural use are protected.
Since that resolution was passed by the planning board and not the zoning board and since the resolution specifically states that it is to be used for auto salvage use only, it seems to me that to allow nonconforming use for recycling does not fit under that permit.

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Thank you.
CHAIRMAN ZOLTOWSKI: I'll let you redirect because I...
MR. RIDGWAY: Right. And I don't know if I misspoke or someone misheard me. I believe I was responding to Mr. Coleman's comments about the 1993 planning board resolution and that was by the planning board. And the comment I made was that the planning board can't determine the uses of that site. That's a zoning board decision. And the only reason that application was before the planning board was to divide that property off of Mr. Giberson's mother lot. That's the only reason that I made that comment.
And the language in the resolution, Mr. Coleman and I respectfully disagree with what it says in there but my feeling was that they were concerned about a physical expansion because someone had previously expanded into the mother lot. The board has -- what a site plan -- when a subdivision's being put before the planning board, the planning board's not concerning

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themselves with uses, they're only concerning themselves with the physical carving out of the lot from the mother lot.
CHAIRMAN ZOLTOWSKI: And we could spend the night on that.
MS. TOPHAN: Patricia Tophan, T-O-P-H-A-N, 450 New Road.
MR. COLEMAN: Miss Tophan --
MS. TOPHAN: Yes.
MR. COLEMAN: -- the testimony that you're about to provide is the whole truth and nothing but the truth so help you God?
MS. TOPHAN: Yes, it is.
I have a question. I know you said that I cannot bring up the trucks but the trucks to me -- are we -- I thought we were doing the weigh-in station, too, whether this is...
MR. COLEMAN: Are -- are the trucks related to -- are the comments concerning trucks related to the historical use and nature of the property?
MS. TOPHAN: Yes, because we get --
MR. COLEMAN: Then go ahead.
MS. TOPHAN: The trucks are much

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bigger. Can I show you the pictures? I will show the pictures that way.
And, Bruce, you're doing a good job here. Okay? All right. Over there (indicating) so they can see them properly.
MR. COLEMAN: I'm sorry, Miss Tophan --
MS. TOPHAN: Yes.
MR. COLEMAN: -- these are -- are these your -- your pictures?
MS. TOPHAN: These are my pictures that I took --
MR. COLEMAN: Okay.
MS. TOPHAN: -- okay, on August --
MR. COLEMAN: Slow down.
MS. TOPHAN: -- on August the 14th.
MR. COLEMAN: Slow down. How about we -- we're going to have to mark these into evidence, okay --
MS. TOPHAN: Um-hmm.
MR. COLEMAN: -- so you're -- you're going to have to give them to us. They're no longer yours --
MS. TOPHAN: Yes, okay.
MR. COLEMAN: -- okay? So, the first

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one we're going to -- what will we mark these? We're going to call these -- we'll call this B-1, how's that?
MS. TOPHAN: So this --
MR. COLEMAN: Hold on. Just let me finish.
MS. TOPHAN: I have three minutes.
MR. COLEMAN: Don't worry, the clock has stopped. We're going to get to the -- we're going to get to the time, just bear with me.
MS. TOPHAN: All right.
MR. COLEMAN: There's a method to my madness here.
What do you want to call this photo? Let's just call it something.
MS. TOPHAN: Large purple truck. Very large purple truck. Eighty thousand pounds, I was told. It is a hundred and two inches wide going down a road that is only 20 foot wide with school buses coming down it. This truck (indicating) I took at around 10:20 in the morning. It came back in the afternoon and I have other pictures of it coming back out again, all right?

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MR. COLEMAN: When did you take this picture? What day?
MS. TOPHAN: August the 14th.
MR. COLEMAN: Thank you.
UNIDENTIFIED SPEAKER: 10:20 a.m.
MS. TOPHAN: This one (indicating) --
CHAIRMAN ZOLTOWSKI: And the reference point is from where?
MS. TOPHAN: This (indicating) is Allied Recycling. You can see it right there (indicating). For this truck to get out, it has to come all the way over this way (indicating).
CHAIRMAN ZOLTOWSKI: No, no, no. Where are you taking the picture from?
MS. TOPHAN: This yard (indicating).
CHAIRMAN ZOLTOWSKI: Who's yard is it?
MS. TOPHAN: That is Wolf's.
CHAIRMAN ZOLTOWSKI: Oh, okay. It's not from the front of your house?
MS. TOPHAN: No.
CHAIRMAN ZOLTOWSKI: Oh, okay.
MS. TOPHAN: No, no, no, no, no.
CHAIRMAN ZOLTOWSKI: I'm sorry. Go

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ahead.
MS. TOPHAN: This (indicating) is Wolf's. I saw the truck go down. I have seen many trucks go down filled like pickup trucks with debris in it. The other day, last Wednesday, which was, what, the 14th also, I believe -- or, the 11th, I'm sorry, the 11th, last Wednesday, at five after there was this large dump truck, a pick -- yeah, a dump truck, and it was just loaded to the top and with stuff just bouncing around.
At 8:25, there was another pickup truck went down. This one was loaded with stuff also. And there was a bathtub bouncing on the top. Now, we didn't see this stuff when the other junk yard was there. This did not happen. I, you know, I'm -- I was always outside in my yard working and I never saw those -- I mean I'm sure something went down. I've seen them with barbecue grills bouncing on top because they just load them up. I don't know if these people are picking them out of everybody's trash or what but, yes, this truck (indicating), very large, coming down my road. What is it going to do over a

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year's worth and bad weather in the winter? What's this road doing to do? It's already got cracks in it. This large truck (indicating) turning, now it had come this way (indicating), all the way around (indicating), it is almost on the property of the Wolf's property right there (indicating). That (indicating) is my car sitting there. Okay?
MR. COLEMAN: Okay. This is now Exhibit B-2.
And what is this one called?
MS. TOPHAN: Almost running over Wolf's property. Okay?
All right. This (indicating) is a better view of the truck, how large it is.
MR. COLEMAN: You've got to -- you've got to slow down here, okay?
MS. TOPHAN: Okay. Sorry.
MR. COLEMAN: Again, I'm -- I'm not trying to cut you off.
MS. TOPHAN: That's okay.
MR. COLEMAN: But you've got to talk about -- you're so far out of bounds here in terms of the historical nature of the

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property. I understand --
MS. TOPHAN: Okay.
MR. COLEMAN: I'm not finished yet. I understand you're really concerned --
MS. TOPHAN: Um-hmm.
MR. COLEMAN: -- about the truck traffic out there.
MS. TOPHAN: Right.
MR. COLEMAN: The chairman was very, very specific at the start. You're going to have time tonight to talk about large purple trucks --
MS. TOPHAN: Um-hmm.
MR. COLEMAN: -- but now is not the time.
MS. TOPHAN: But tonight you said we're over by 10:00.
MR. COLEMAN: You're going to have time. It may not be tonight. I want to hear from you the historical nature of the property, okay? You're -- you're talking about a -- a material condition that is impacting you or the Wolf property --
MS. TOPHAN: Right.
MR. COLEMAN: -- okay, and that's not

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what we're trying to decide right now.
Nope, nope, nope, she's on, not you.
CHAIRMAN ZOLTOWSKI: You can -- you can -- if what your point is -- if all you're trying to say is that size truck never came there before, then --
MS. TOPHAN: No.
CHAIRMAN ZOLTOWSKI: -- that's what you need to say.
MS. TOPHAN: And if the weigh-in station wasn't there, this big truck would not be coming.
CHAIRMAN ZOLTOWSKI: All right. Still, again, prior to this, have you ever seen a truck that size come down --
MS. TOPHAN: No, I have never seen a truck, I swear to God, until recently. There are many other large trucks, this being the largest.
MR. COLEMAN: Do you --
MS. TOPHAN: All right?
MR. COLEMAN: Do you know specifically, Miss Tophan, do you know specifically what's in -- everything that's in that truck?

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MS. TOPHAN: How could I tell?
MR. COLEMAN: That's a --
MS. TOPHAN: And this -- this here (indicating) is not pulled over so I'm --
MR. COLEMAN: That's a -- that's a yes --
MS. TOPHAN: -- assuming it's empty.
MR. COLEMAN: -- or a no.
MS. TOPHAN: I have no idea.
MR. COLEMAN: Okay.
UNIDENTIFIED SPEAKER: It's full.
MS. TOPHAN: Huh? It's full?
UNIDENTIFIED SPEAKER: When it's back like that --
MS. TOPHAN: Oh, when it's back like this (indicating) --
UNIDENTIFIED SPEAKER: -- it's a full truck.
MS. TOPHAN: -- it's full? Okay. See, I know nothing about that. Sorry.
I have a couple other pictures.
(General discussion.)
MR. COLEMAN: You're going to have to slow down. You've got to go back to B-3. You've got to tell me what that one is.

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MS. TOPHAN: B-3 was...
MR. COLEMAN: B-3.
UNIDENTIFIED SPEAKER: The loaded truck.
MS. TOPHAN: The loaded truck.
All right. This one here (indicating) would be number four.
MR. COLEMAN: Yes.
MS. TOPHAN: This (indicating) is the same truck coming down the road in the afternoon at approximately 1:30; 1:15, 1:30. As you can see, this truck (indicating) is almost one-tenth of a mile coming down the road. It is not on the right side of road yet, all right?
The other time I was right there (indicating). He saw me. This (indicating) is a few mailboxes down from my house, okay? I knew -- I saw it go down so I waited for it to come back. This concerns me that --
CHAIRMAN ZOLTOWSKI: But the -- the crux of it is, again, what is historically going on there and -- and what you're going to say. And I'm going to have to cut you off so...

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MS. TOPHAN: Well, he only had two trucks, two tow trucks, Mr. Pointsett did, all right, and this (indicating) we have many trucks, many different sizes, and that's what I'm pointing out. This (indicating) is the largest I seen. Allied has its own trucks, that -- they're large but not as large as this (indicating) but there are local people bringing stuff in, too.
And the another thing is this truck (indicating) is from Pennsylvania. It's not even a New Jersey truck so it is hauling stuff out to go to Pennsylvania.
MR. COLEMAN: Okay. This is, what, a Pennsylvania truck?
MS. TOPHAN: Yes. This (indicating) is a Pennsylvania truck from Morrisville.
MR. COLEMAN: Okay.
MS. TOPHAN: I have the name of the company. All right?
CHAIRMAN ZOLTOWSKI: I apologize, I'm going to have to cut you off.
MS. TOPHAN: Okay.
CHAIRMAN ZOLTOWSKI: I apologize.
MS. TOPHAN: This was No. 4 and this

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was No. 5.
MR. COLEMAN: Thank you, Miss Tophan.
MS. TOPHAN: Um-hmm. I have comments about stuff that was -- oh. At another point in time. Okay.
MR. BURKE: Lawrence Berk, 3 Falcon Drive, Southampton.
MR. COLEMAN: Mr. Burke, is the testimony you're about to provide this evening the whole truth and nothing but the truth so help you God?
MR. BURKE: Yes, it is. I'll try to stay within the guidelines, Chairman, but this past Saturday I took 23 photos of the property showing various junk as Mr. Ridgway referred to. He neglected to mention propane tanks and fiberglass boats, air conditioners and microwave ovens which are on the property.
I moved into this residence five years ago exactly, September of '08. When I moved in then, I heard no noise, I saw no lights, I couldn't see any debris. Now from 200 yards away from my back door, I can see piles and other debris. I can see an RV. I

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can see the backs of tractor-trailer trucks parked on the property. Five years ago, none of that was there.
CHAIRMAN ZOLTOWSKI: Can I ask you one question? I apologize. A previous resident stated how high the pile was and...
MR. BURKE: If I can see it from my back door 200 yards in the distance, it's got to be 50-to-60 feet high. My photos don't evidence that they're that high but you, you know, I think anyone can say if you can see something from 200 yards away, it's pretty damn high. The fence is only six feet high.
CHAIRMAN ZOLTOWSKI: Thank you.
MS. KING: Nancy King, 445 New Road.
CHAIRMAN ZOLTOWSKI: King?
MS. KING: King, K-I-N-G.
I just want to say that I --
MR. COLEMAN: Nancy, do you swear that the testimony you're about to provide this evening is the whole truth and nothing but the truth so help you God?
MS. KING: (No verbal response.)
MR. COLEMAN: Go ahead.
MS. KING: I have lived at my

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residence for about 30 years. I think what Pat was trying to say and what I will say is when Pointsett had that junk yard at any time in the last 30 years, I never saw an out-of-state truck, particularly that size, but never an out-of-state truck come down New Road. I personally never saw a washer, a refrigerator, an air conditioner going by my house and I live fairly close to the road and I'm outside a lot, too. Never. I saw an old guy with an old flat bed going about 10 miles an hour with one vehicle, one automobile or a pickup truck, on the back that he was hauling to Camden or wherever you took it because he didn't have a scale. He was running an auto salvage yard, a junk yard, not a recycling center. These big trucks that are going up and down -- well, I have to be honest, fairly recently I haven't seen too many of them. What a coincidence. In fact, I've seen none. The -- the clanging and banging, there's a little bit but not like it was a month ago. It just -- it's like something happened all of a sudden. No noise. No nothing. It's -- it's still there and I'm waiting for the

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leaves to come off the -- across the street from me because then I'll be able to see what the other people are seeing also. Right now, I can't with the bushes and that because I don't live as close as they do. But in the winter, I'll be able to see it very clearly. And it's nothing -- it's historical. It's nothing like it used to be. I grew up in Tabernacle. I've lived in this house for 30 years. I never saw anything like what is going on there. It's not what it used to be. It's nothing like it used to be.
CHAIRMAN ZOLTOWSKI: Thank you.
UNIDENTIFIED SPEAKER: Any other notes there?
MS. KING: Wait a minute, I'm having -- buy, sell.
I never saw people hauling things in there to sell. I was behind a truck personally several weeks ago, had a barbecue. It was a pickup truck loaded. It had a barbecue grill perched at the top and I was behind it but, of course, I backed off because my car is fairly new and I saw the grill, I don't know if it was secured or not,

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and where did I see it go, down past my house into Allied Recycling. I never saw personal people bring pickup truck loads. I see guys on bicycles going by with a milk crate on the back with a -- a few pieces of window or whatever it is in the back. I guess they're getting ten cents for it or something. I never saw that before. He was running a junk yard, not a recycling center. Sorry. Processing --

CHAIRMAN ZOLTOWSKI: I'm going to have to cut you off. Thank you.

The number is growing.

MR. JENKINS: Steven Jenkins.

MR. COLEMAN: Mr. Jenkins, do you swear the testimony you're about to provide this evening is the whole truth and nothing but the truth so help you God?

MR. JENKINS: Yes.

MR. COLEMAN: And, Mr. Jenkins, your address?

MR. MURPHY: 446 New Road.

MR. COLEMAN: Thank you, Mr. Jenkins.

MR. JENKINS: I grew up in Southampton. I grew up in Hampton Lakes and

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I live at 446 New Road. I've been there 20 years. I know the Fullers, the Pointsetts, hell, they kept my car running, you know, and I -- I've seen Pointsett's operation. I -- I mean the place was small. It was tiny. I used to walk through it to go dear hunting on the other side. There were no mountains of tires. That was a lie. There was no wall of tires. There were some tires lying in the driveway when you came in. Once you got in there, there were no tires. There were a lot of cars, a few school buses, some trucks. That's what it was. The wall of tires, that was a lie. If that was the case, I wouldn't have been able to walk through the junk yard to get to the other side. Okay?

And as far as traffic in and out of there, he had -- all I ever saw was one rolloff one-ton flat bed. I seen in the evenings, two crushed cars headed to Camden. The cars that he had in there, I seen him bring it on his flat bed one at a time. I've never seen anybody bring anything into that place. I've never even seen anybody bring a car in other than him.

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Now the lights are in my windows. The noise -- I come home from work at 5:30. There's tractors and stuff still beeping out there. I thought they were closed at 4:00. Obviously, they're not on Daylight Saving time yet. I don't know but it certainly isn't -- the mountain Pauline has seen, the mountains of metal and debris clearing the fence 20, 30 feet easy.

UNIDENTIFIED SPEAKER: And the trees have been...

MR. JENKINS: And the trees. Hell, I can see better now than I could before unfortunately. So, it's definitely been cleared out. And, you know, that's -- that's what I noticed.

CHAIRMAN ZOLTOWSKI: Thank you.

MS. SUNDSTROM: My name's Penny Sundstrom and I live at 19 Falcon Drive.

MR. COLEMAN: Mrs. Sundstrom, do you swear that the testimony you're about to provide here this evening is the truth so help you God?

MS. SUNDSTROM: I do.

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All I would like to do is to submit into evidence pictures that have been taken -- and since everybody has been talking about the piles of trash and debris, I'd like to submit into evidence this picture which shows how high it is in comparison to a full-sized van.

Do I...

MR. COLEMAN: This is B-6. We'll mark this as B-6.

MS. HANNAH: Do you want extra copies?

MS. SUNDSTROM: We have extra copies.

MR. COLEMAN: Mrs. Sundstrom, what are we calling these photos?

MS. SUNDSTROM: Piles of debris. Blight. We're calling it blight.

MR. PRICE: J.P. Price, 33 Falcon Drive.

CHAIRMAN ZOLTOWSKI: Is that actually Jay or is that initials?

MR. PRICE: My initials.

CHAIRMAN ZOLTOWSKI: But what's your given...

MR. PRICE: It's John.

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MR. COLEMAN: Just give me a second, Mr. Price, so I can catch up.
Mr. Price, do you swear that the testimony you're about to provide this evening is the whole truth and nothing but the truth so help you God?
MR. PRICE: I do.
I'm trying to stick with the thing and I do have a question so --
MR. COLEMAN: Your address again? I'm sorry.
MR. PRICE: 33 Falcon Drive.
MR. COLEMAN: Thank you, Mr. Price.
MR. PRICE: I've been there 30 years.
I have been in that facility. As a matter of fact, my -- my original '77 Monte Carlo about four years ago when I -- we picked it up, I went back there, looked at it, I -- I hardly saw anything, you know, I mean, some cars and buses and things like that but I have seen -- and I only saw flatbed trucks once in a while, you know, with a car on top of it going out, coming in and -- but now I've seen these big trucks so that's a difference.

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I do have one question. So, I heard quite a bit about one of the things that you're trying to do is that -- that it's more than an auto salvage and you read it's supposed to be an auto place and -- because of all of the things that were found in there but if that was not supposed to be there and the township over the years didn't do, sorry, due diligence to know that because it was very small and quiet, does that make it become as big as it wants to be because it wasn't supposed to have all of those things there but since we found out it is, now that's the basis it sounds like of why we're allowed to do this or you want to do this. Is that a true statement or am I wrong?
CHAIRMAN ZOLTOWSKI: Well, the problem is is that if -- if you're stating that there -- that there is stuff in there and -- and it's -- the ordinance says it can be there, then he's not in violation.
MR. PRICE: I understand. But when you were reading first and --
CHAIRMAN ZOLTOWSKI: The problem is is we're looking for history that says, yes

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he did accept stuff like that, yes he did throw it in the yard and store it there or he didn't or maybe the -- maybe there was five washing machines and they are all his.
MR. PRICE: Right.
CHAIRMAN ZOLTOWSKI: Where -- where did this stuff come from? Did he accept stuff or did he not? What -- what was his primary business? What -- what did he do there?
MR. PRICE: But even if he did accept it, what I'm saying if he wasn't supposed to accept it, no one's there checking that. Does that make it right to say -- somebody coming in 10 years later saying, well, look, it encompasses all of these things. That -- that's all I was asking.
CHAIRMAN ZOLTOWSKI: He is allowed to, yes. The ordinance says he's allowed.
MR. PRICE: Okay. And, by the way, that grill that was on the top, I think it was the Eagle's -- Eagle's tailgating party.
MR. COLEMAN: The ordinance says old metals.
Would you say, Mr. Price, that the --

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that the grill is old metal?
MR. PRICE: Yeah, but the wood --
MR. COLEMAN: Yes or no.
MR. PRICE: Yes.
MR. COLEMAN: All right. And it says wood, too.
MR. PRICE: Right. I was just referring to what you had said that you had thought when you thought it was auto salvage only and that there were some other ordinances because it's been changed like three times, I guess, so...
MR. COLEMAN: Okay. Thank you.
CHAIRMAN ZOLTOWSKI: Thank you, Mr. Price.
MR. GIBERSON: Am I allowed to say anything?
UNIDENTIFIED SPEAKER: No.
MR. GIBERSON: I just want to say a couple of words.
CHAIRMAN ZOLTOWSKI: You need to come on up.
MR. GIBERSON: Listen to this.
MR. COLEMAN: Come on up, Mr. Giberson.

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MR. GIBERSON: Back in the day when I got the junk yard license --
(General discussion.)
MR. COLEMAN: Mr. Giberson, you've already been sworn in.
MR. GIBERSON: Yes.
MR. COLEMAN: Okay. You've already been sworn in, okay, you're -- you're going to limit this, okay?
MR. GIBERSON: Yes, just a few words.
MR. COLEMAN: No, you're going to limit this, as the Chairman said, just to the historical nature of that property.
MR. GIBERSON: Yeah, but that's -- okay.
MR. COLEMAN: Go ahead.
MR. GIBERSON: Back in the day when I was up against everybody in '85 when Mister -- what was his name? The big guy.
MR. RIDGWAY: Rogers.
MR. GIBERSON: Huh?
MR. RIDGWAY: Bob Rogers.
MR. GIBERSON: Bob Rogers; he was down here in front of everybody, Pinelands, wetlands, everybody, that junk yard cannot be

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no bigger than 3.5 acres and not one tree can be cut on that property. That's the only thing was said tonight. I held up to it and he did, too.
MEMBER OF THE PUBLIC: 3.5 acres?
MR. GIBERSON: 3.5 acres out of 12.6.
CHAIRMAN ZOLTOWSKI: The ordinance says today three.
MR. GIBERSON: Three? Okay. 3.5, I thought. And it's not getting any bigger as far as sizewise with trees. Go in there and look for stumps.
CHAIRMAN ZOLTOWSKI: All right. Anyone else?
Public portion closed.
Mr. Robbins?
MR. ROBBINS: I don't have any further questions.
CHAIRMAN ZOLTOWSKI: Miss Doherty?
MS. DOHERTY: I don't have any.
CHAIRMAN ZOLTOWSKI: Mr. Thomas?
MR. THOMAS: No further questions.
CHAIRMAN ZOLTOWSKI: Mr. Goettelmann?
MR. GOETTELMANN: No questions.
CHAIRMAN ZOLTOWSKI: Mr. Kennedy?

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MR. KENNEDY: Nothing.
CHAIRMAN ZOLTOWSKI: Mr. Haas?
MR. HAAS: No.
CHAIRMAN ZOLTOWSKI: Mr. Heller?
MR. HELLER: No.
CHAIRMAN ZOLTOWSKI: At this time, what would the board like to do?
MR. ROBBINS: I'll make a motion. And...
CHAIRMAN ZOLTOWSKI: This is a motion strictly dealing with the certificate of nonconformance?
MR. ROBBINS: Correct. And...
CHAIRMAN ZOLTOWSKI: And you can -- just to let you know, you can make a motion to say that they can do this but they can't do that.
MR. ROBBINS: I, you know, I'll -- I'll make the motion so that yes is yes and no is no. In other words, it's -- it's a positive motion, not a -- you wouldn't be voting affirmatively against this motion.
CHAIRMAN ZOLTOWSKI: Right. We always make them in the positive.
MR. ROBBINS: Correct. So...

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MR. COLEMAN: Mr. Robbins?
MR. ROBBINS: Yes.
MR. COLEMAN: Can I just -- in conjunction with or in connection with your motion that you're going to roll out in a second, I want you or any member of the board that may second that to set forth on the record specifically the facts or the facts that you haven't heard tonight that support your motion. Okay? Because this is factually driven. Okay?
MR. ROBBINS: I'll try.
MR. COLEMAN: Good.
MR. ROBBINS: I would make a motion that this board grant a certificate of nonconformance to the applicant, Allied Recycling, because the testimony given by the applicant and various witnesses support their assertion that the current use falls within the guidelines of Southampton's junk yard ordinance and is therefore -- meets the criteria of granting this certificate.
CHAIRMAN ZOLTOWSKI: We have a motion.
Do we have a second?

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MR. HAAS: Second.
CHAIRMAN ZOLTOWSKI: Any discussion for the motion?
I have a question. Is this a majority vote?
MR. COLEMAN: It is.
MR. HELLER: Mr. Chairman, I -- I have a question about the -- kind of the terms of the -- the vote.
The question is is the use of the property historically different than it is now? Am I correct about that?
CHAIRMAN ZOLTOWSKI: Yes, that's the question that we're all trying to answer.
MR. HELLER: As I consider my vote, may I take into account the scale today as opposed to the scale historically? The scale of the operation.
CHAIRMAN ZOLTOWSKI: If -- if you feel that that has changed what has historically gone out there.
MR. HELLER: Okay. Other factors such as noise, lighting, sizes of piles of material, are -- may -- are historically different but would also be considered down

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the road perhaps with other actions or other applications.
Am I correct about that?
CHAIRMAN ZOLTOWSKI: Other parts of this application?
MR. HELLER: No, of subsequent applications such as a variance or a site plan.
CHAIRMAN ZOLTOWSKI: For this application for this -- for this applicant?
MR. HELLER: Yes, for this applicant.
CHAIRMAN ZOLTOWSKI: Yes.
MR. HELLER: Okay. Thank you.
CHAIRMAN ZOLTOWSKI: Yes. This is not the end all of it.
MR. HELLER: Thank you.
CHAIRMAN ZOLTOWSKI: Any other discussion?
Roll call.
MR. COLEMAN: So, Mr. Robbins, just so I have it clear, this is a -- your motion, for the reasons you set forth on the record, is the grant of a certificate of nonconformance to allow or to permit a junk yard consistent with the township ordinance

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which defines junk yard? That it's current use is consistent with that definition.
MR. ROBBINS: That's my motion.
MR. COLEMAN: Okay, good. I just wanted to clarify that.
Thank you, Mr. Robbins.
CHAIRMAN ZOLTOWSKI: Roll call.
MS. HANNAH: Miss Doherty?
MS. DOHERTY: I'm going to abstain.
MR. COLEMAN: Miss Doherty, this is an important vote.
MS. DOHERTY: No, I know it is.
MR. COLEMAN: No, no, no, let me finish. This is an important vote and if you're going to abstain, you have to -- I want you to specifically state on the record why you're abstaining, okay?
MS. DOHERTY: I have a mixed -- I -- I have it very hard to clarify in my mind a yes and no --
MR. COLEMAN: Okay.
MS. DOHERTY: -- in regards to Mr. Scangarello's comments --
MR. COLEMAN: Okay.
MS. DOHERTY: -- in regards to the

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fact of what the applicants had to say.
MR. COLEMAN: Okay.
MS. DOHERTY: I -- I just don't have a clear yes or no.
MR. COLEMAN: Okay. I didn't want to have to state this but I think the law is -- in my mind, it's pretty clear, okay, that if you abstain for any reason other than a conflict where you just can't vote on the situation, your vote has been construed by -- your abstention vote has been construed by the courts in the State of New Jersey, whether or not you like it or not, to go with the majority. Okay? So, I'm just cautioning you that.
CHAIRMAN ZOLTOWSKI: Okay. There are six people left. If it's three and three, where does her vote go?
MR. COLEMAN: We have neither.
CHAIRMAN ZOLTOWSKI: Neither?
MR. COLEMAN: Yeah. That's why I -- I can't force you to vote but it's -- but let's -- let's hear the rest of the votes.
MS. HANNAH: Mr. Goettelmann?
MR. GOETTELMANN: Yes.

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MS. HANNAH: Mr. Haas?
MR. HAAS: No.
MS. HANNAH: Mr. Kennedy?
MR. KENNEDY: Yes.
MS. HANNAH: Mr. Robbins?
MR. ROBBINS: No.
MS. HANNAH: Mr. Heller?
MR. HELLER: No.
MS. HANNAH: Chairman Zoltowski?
CHAIRMAN ZOLTOWSKI: No.
Sorry, the certificate did not pass.
MR. COLEMAN: Mr. Chairman, it is now 9:55. Are we -- the applicant's attorney is asking me where we're headed the rest of the evening.
CHAIRMAN ZOLTOWSKI: A couple of the board members have expressed their desire not to stay late. I don't know what -- is there a legal...
MR. COLEMAN: Well, we could -- we could stay here all evening. I will tell you, though, we started at 6:30. There -- I'm not going to say court cases but there are a number of court cases that say you really shouldn't go late into the evening

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because you -- you dull the senses of board members and the applicant and so forth. I don't think that's the case at 9:55 but we're not going to sit here until 12:55 either, especially in light of the fact we started at 6:30 or 6:45.
MR. RIDGWAY: And we have two letters to go through -- actually, three because Mr. Scangarello issued a third letter or a second letter, we have a traffic expert, we have a bunch of site plan issues to go through as well the D-2.
CHAIRMAN ZOLTOWSKI: Lengthy. We have two applicants already for October?
MS. HANNAH: Yes.
CHAIRMAN ZOLTOWSKI: I mean is the board in favor of another special date?
MR. KENNEDY: I am.
CHAIRMAN ZOLTOWSKI: Mr. Robbins?
MR. ROBBINS: I'm assuming it would be a Thursday?
CHAIRMAN ZOLTOWSKI: Is there any -- it doesn't have to be, right?
(General discussion.)
CHAIRMAN ZOLTOWSKI: Mr. Robbins?

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MR. ROBBINS: (No verbal response.)
CHAIRMAN ZOLTOWSKI: Yes, you're okay with a special date?
MR. ROBBINS: We can -- we can -- I'm okay with it, it's going to be difficult but I'm certainly okay with it.
CHAIRMAN ZOLTOWSKI: Ms. Doherty?
MS. DOHERTY: (No verbal response.)
CHAIRMAN ZOLTOWSKI: Mr. Thomas?
MR. THOMAS: I'm okay. Anything.
CHAIRMAN ZOLTOWSKI: Mr. Kennedy?
MR. KENNEDY: No problem.
CHAIRMAN ZOLTOWSKI: Mr. Haas?
MR. HAAS: No problem as long as it's a Thursday.
MR. SCANGARELLO: This is what, the third Thursday?
CHAIRMAN ZOLTOWSKI: Do you need to check your schedule or do you need to -- I mean...
MR. COLEMAN: You're not going to -- he won't be noticed any longer but...
(General discussion.)
MR. COLEMAN: The third Thursday of October, we're meeting on the 10th, would be

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the 17th.
MR. RIDGWAY: Not to anyone's fault but we anticipated cleaning this up this evening.
(General discussion.)
MR. COLEMAN: Mr. Chairman, what I would suggest is I would carry them to your next -- just a suggestion, carry them to your next zoning board hearing because it doesn't look like we're going to get a date here and, perhaps, notify those two applicants that are on for that evening that their applications may be pushed to the November meeting. And, again, start early.
CHAIRMAN ZOLTOWSKI: What's on the agenda?
(General discussion.)
CHAIRMAN ZOLTOWSKI: Does anybody have an issue if it's not a Thursday?
(General discussion.)
CHAIRMAN ZOLTOWSKI: The 29th is the fifth Tuesday.
Gentlemen?
(General discussion.)
MR. RIDGEWAY: The 29th?

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CHAIRMAN ZOLTOWSKI: The room's available the 29th?
(General discussion.)
CHAIRMAN ZOLTOWSKI: So, this application's going to proceed on October 29th which is a Tuesday, you will not be renoticed, at 6:30 again. There will be no -- no more notification. This is your notification.
And if you don't understand, at -- at this point, the applicant will go for a variance and if they're granted the variance, they will move forward with a site plan.
MR. COLEMAN: Let's -- why don't we have the applicant clarify where --
CHAIRMAN ZOLTOWSKI: I'm sorry.
MR. COLEMAN: No, no, you -- you summarized it.
Why don't we have the applicant clarify what they're expecting to transpire on the 29th.
(General discussion.)
MR. COLEMAN: No, no, because I think that -- I think it makes more sense, more detail for us just to -- so we're prepared on

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the 29th.
MR. RIDGWAY: And as we all know, the board granted -- denied the motion to grant a certification of a nonconforming use.
The applicant now has the burden of securing a D-2 variance from the board which is an expansion of a pre-existing nonconforming use. The expansion being the weigh scale, the refurbishment of the two existing buildings and, in addition, there's the sign as well on the front of the building.
And experience has in the past -- well, they're mostly review letters, we're almost doing the D-2 and the site plan almost at the same time to see if accommodations, as Tom said, could be reached based upon review of the professionals' letters if the applicant can prove his D-2 variance but also prove that the proposed use at that site will be something satisfactory for this board.
MR. SCANGARELLO: And for the public.
MR. RIDGWAY: And for the public.
And then, again, as -- as we said previously and by the -- the township

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attorney, the residents have our information. If they want to meet prior to, we'll make ourselves available, do it at my office, Allied's other site in Springfield or even if -- the township municipal building is available, we're more than willing to meet with those parties.
CHAIRMAN ZOLTOWSKI: All right. And that may behoove you to do that. It may behoove you to reach out to them and involve the community.
MR. RIDGEWAY: Um-hmm. Understood.
CHAIRMAN ZOLTOWSKI: Is there any other discussion from the public?
UNIDENTIFIED SPEAKER: We're meeting at 6:30 here?
CHAIRMAN ZOLTOWSKI: 6:30, October 29th, Tuesday. I'll try not to be late.
MR. COLEMAN: We need a -- we need to vote on that motion.
CHAIRMAN ZOLTOWSKI: What motion?
MR. COLEMAN: You need a vote to carry it to the 29th. You, the board does. You decided it but you need to vote on it.
CHAIRMAN ZOLTOWSKI: Keep the noise

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down, please.
(General discussion.)
MS. HANNAH: Who seconded it, please?
(General discussion.)
CHAIRMAN ZOLTOWSKI: We're still in session. Please.
MR. GOETTELMANN: I'll second that.
CHAIRMAN ZOLTOWSKI: All in favor?
(Vote taken unanimously, not individually.)
CHAIRMAN ZOLTOWSKI: Any opposed?
MR. HAAS: Aye.
CHAIRMAN ZOLTOWSKI: Okay.
MR. HAAS: I won't be here.
CHAIRMAN ZOLTOWSKI: You wouldn't be here?
(General discussion.)
CHAIRMAN ZOLTOWSKI: Motion to adjourn.
All in favor?
(Vote taken unanimously, not individually.)
CHAIRMAN ZOLTOWSKI: We're adjourned.
****

CERTIFICATION

I, BEVERLY M. BRITTON, a Certified Court Reporter and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and correct transcript of the deposition in the above-captioned matter.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

This transcript is in compliance with NJ ADC 13:43-5.9, NJ ADC 13:43-5.8 and NJ ADC 13:43-5.4.

_____

BEVERLY M. BRITTON, CCR
License No. XIO1639
Notary Public No. 2072819
State of New Jersey
My Commission Expires
on 4-15-2015

Dated: October 11, 2013

C E R T I F I C A T I O N

I, BEVERLY M. BRITTON, a Certified Court Reporter and Notary Public of the State of New Jersey, do hereby certify that the foregoing is a true and correct transcript of the deposition in the above-captioned matter.

I further certify that I am neither attorney nor counsel for, nor related to or employed by any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this case, nor am I financially interested in this action.

This transcript is in compliance with NJ ADC 13:43-5.9, NJ ADC 13:43-5.8 and NJ ADC 13:43-5.4.

Beverly M Britton

BEVERLY M. BRITTON, CCR
License No. XIO1639
Notary Public No. 2072819
State of New Jersey
My Commission Expires
on 4-15-2015

IN RE: ALLIED RECYCLING/LAST CHANCE SALVAGE

APPLICATION NO. 12-2401-36

September 19, 2013

Southampton Planning/Zoning Appeal Hearing on the above-captioned matter was taken at the Southampton Municipal Building, 5 Retreat Road, Southampton, New Jersey, before BEVERLY M. BRITTON, License No. XIO1639, a Certified Court Reporter and Notary Public of the State of New Jersey, on the above date, commencing at 6:45 p.m., there being present:

RIDGWAY & STAYTON, LLC,
BY: MICHAEL S. RIDGWAY, ESQUIRE,
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SOUTHAMPTON BOARD MEMBERS:
Tom Heller
RJ Haas
Pat Kennedy
Tim Murphy
Steve Zoltowski, Chairman
Rod Goettelmann
Larry Thomas
Evelyn Doherty
William Robbins
Sheri Hannah, Secretary

ALSO PRESENT:

Tom Coleman, Esquire
Tom Scangarello, Planner
Rakesh Darj, Engineer

James Miller
Alexander J. Litwornia
Gary Civalier

PY

CHAIRMAN ZOLTOWSKI: The township zoning board, township hearing, a special meeting for September 19th, 2013, 6:45. Please stand and respect the flag.

(Pledge of Allegiance.)

CHAIRMAN ZOLTOWSKI: I apologize for being late. It's my fault.

Roll call.

MS. HANNAH: Miss Doherty?

MS. DOHERTY: Here.

MS. HANNAH: Mr. Goettelmann?

MR. GOETTELMANN: Here.

MS. HANNAH: Mr. Haas?

MR. HAAS: (Not present.)

MS. HANNAH: Mr. Kennedy?

MR. KENNEDY: Here.

MS. HANNAH: Mr. Murphy?

MR. MURPHY: (Not present.)

MS. HANNAH: Mr. Robbins?

MR. ROBBINS: Here.

MS. HANNAH: Mr. Heller?

MR. HELLER: Here.

MS. HANNAH: Mr. Thomas?

MR. THOMAS: Here.

MS. HANNAH: Mr. Chairman?

CHAIRMAN ZOLTOWSKI: Here.

Reading of the statement of compliance with the Open Public Meetings Act.

MS. HANNAH: Pursuant to the Open Public Meetings Act, public notice of this meeting has been given by the zoning board of adjustments of the Township of Southampton in the following manner: Posting written notice on the official bulletin board at the municipal building, 5 Retreat Road, Southampton, New Jersey, on September 8th, 2013; mailing written notice to the Burlington County Times and the Central Record on September 8th, 2013; filing written notice with the secretary of -- of the zoning board of adjustments on September 8th, 2013; filing written notice with the clerk of Southampton Township on September 8th, 2013; mailing written notice to each person who has requested copies of the regular meeting schedule and who has prepaid any charge for said service.

CHAIRMAN ZOLTOWSKI: With the appointment of the environmental specialist?

MS. HANNAH: The township...

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MR. COLEMAN: Is this Doug Stewart?
MS. HANNAH: Yes.
MR. COLEMAN: Mr. Chairman, it's my understanding, and I'll defer to Sheri, my understanding is that the township requested that Mr. Stewart -- a report of which I think you all have received. I think does the town want him appointed in some manner or fashion?
MS. HANNAH: Yes.
CHAIRMAN ZOLTOWSKI: Is he present?
MS. HANNAH: No.
MR. COLEMAN: I don't think he is so...
CHAIRMAN ZOLTOWSKI: Okay.
MR. COLEMAN: I don't necessarily know if you need -- he's not going to testify this evening. I think the report speaks for itself. It's been provided.
It's been presented to Mr. Ridgway?
MR. RIDGEWAY: Yes.
MR. COLEMAN: And, in all honesty, I think the applicant knows what their environmental responsibility is. I'm glad it was brought to your attention but without him testifying this evening -- I'll defer to the

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board if you want to but...
CHAIRMAN ZOLTOWSKI: If he's not going to, Tim.
MR. COLEMAN: He's not here.
CHAIRMAN ZOLTOWSKI: Call to continue the application for Allied Recycling, Block 2401, Lot 36.02, 440 New Road for a use variance, minor site plan and -- do we need to address the certificate of nonconformance?
MR. COLEMAN: Yes, Mr. Chairman. I think that's just -- why don't we turn it over to Mr. Ridgway at this point and he can tell you. I think he's going to give us a brief overview of how we got here and go from there.
CHAIRMAN ZOLTOWSKI: But, also, I'd like to note that both of our alternates will be voting tonight and both of them have listened to the tape?
ALTERNATE ONE: Yes.
ALTERNATE TWO: Yes.
MR. RIDGWAY: Thank you, Mr. Chairman. Mike Ridgway, appearing on behalf of the applicant. I wanted to apologize to everyone for not attending the

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August scheduled meeting of the zoning board. I've been practicing law for 38 or 39 years now. It was the first hearing that I had ever missed. Unfortunately, I had some tick-borne illness and was in the hospital, taken right before the hearing, and it was unavoidable but I do apologize to the board for my absence.
MEMBER OF THE PUBLIC: Talk into the microphone, please.
MR. RIDGWAY: We don't have a microphone.
CHAIRMAN ZOLTOWSKI: Microphone is not a PA system. It's simply a recording system. Okay?
MR. COLEMAN: If you can't hear, please -- then come on up front, okay, but we're not going to have people yelling out all evening. Okay? If you can't hear, come on up front. There's -- there's eight seats up here.
Thank you.
MR. RIDGWAY: As the board solicitor said, I will give a brief recap to tell us how we got to this point.

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An application was made by -- to the property owner, Last Chance Salvage, and the operator, Allied Recycling, for an expansion of the pre-existing nonconforming use that has existed on that property since the 1940s. It has been licensed as a junk yard by the municipality since the ordinance was adopted, I think, sometime in the '70s or '80s.
A minor site plan was also applied for for the installation of a weight scale that would allow the site to operate more efficiently, more safely and more swiftly into the refurbishment, not only the expansion but the refurbishment of the -- two of the small buildings that are on the property. We did receive from the county planning board the approval for this application and after many months we received the Certificate of Filing from the New Jersey Pinelands for the proposed improvements on the site.
At the initial hearing back in March, extensive testimony was presented by the applicant, a representative of the applicant, Tom Gabrysiak, on behalf of Allied Recycling

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and Last Chance Salvage, and testimony was given by the prior owner of the property, Dan Giberson, who was the former president of Last Chance Salvage, actually past and current uses of the junk yard.

Briefly, since it was taken over by the new owners of Last Chance Salvage and rented to Allied Recycling, the place has undergone a relatively significant transformation; probably 30 thousand tires were taken off the site. It just runs in a much more efficient manner than it did in the past 40 or 50 years.

Also, expert testimony was provided by the applicant's engineer, Gary Civalier of Civalier Engineering & Srvyng, confirming the county planning board approval and the Pinelands approval and describing the previous approval from the Pinelands back in 1993 when this parcel was subdivided for, what we like to call, another parcel which was still owned by Mr. Giberson. In that 1993 site plan approval, the delineation of the amount of property on that lot that could be used for the junk yard was set in stone

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and, to this day, the applicant is still in compliance and will remain to be in compliance with respect to that delineation.

In addition, our planner, James Miller, testified as to the need for the approval for the expansion of a pre-existing nonconforming use as well as expert testimony with respect to the request for the site plan approval for the installation of the scale.

Part and parcel of the submissions that night were, I believe, seven exhibits. A-1 was a colored rendering of the site; A-2 were aerial site views from 1963; A-3 was the aerial site view from 1965; A-4 was the aerial site view from 1970 and A-5 was the aerial site view from 1995 which is subsequent to the time that the Falcon Drive and the development going into Falcon Drive was approved for single-family residential dwelling. Also, a survey was submitted, if I didn't say so, via the 1993 minor subdivision plan and approved by this township was also submitted into evidence.

We then went through the board's

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engineer's review letter of 2-19, 2013, and the planner's review letter of 2-5, 2013. And then we have not reviewed this but there was a subsequent planner's review letter of 6-10, 2013, that was submitted sometime after that March hearing.

The hearing was then opened to the public and several residents of the public spoke. I believe they submitted an exhibit as well with respect to a photograph of the site.

Subsequent to that meeting, there was some correspondence back and forth between the board's attorney and my attorney, along with Mr. Coleman's letter of April 4, 2013, and I have a few copies of that letter if we could submit that as -- I believe it's A-8 at this time?

MR. COLEMAN: A-8.

MR. RIDGWAY: And there was my response to Mr. Coleman's letter dated April 16, 2013, listing exhibits. And we could make that as A-9, if we could.

MR. COLEMAN: Sure. A-8 is what?

MR. RIDGWAY: A-8 is your

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correspondence to me of April 4, 2013. And A-9 was my response correspondence of April 16, 2013.

MR. COLEMAN: Okay.

MR. RIDGWAY: And I have a few copies here if you want to distribute those.

MR. COLEMAN: I think the board has previously seen these and had an opportunity to review these but we'll give them to Sheri for the record. Okay?

Do you need these, Mike?

MR. RIDGWAY: No, no, I have some other copies as well.

Those two letters, if I may, in many ways outline our position with respect to this application and -- and Mr. Coleman's position as well. It -- it sounds strange to say, I guess that's the best way of putting it, but -- but the issue on this application is relatively narrow.

Your ordinance defines junk yard in two separate locations. It defines junk yard in Chapter 4 of your General Licensing Ordinance. In 4-4.1, it defines, and I'm quoting, junk yard to mean a place, location,

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yard, covered or uncovered or place in the township kept, maintained or used for the purpose of buying and selling, exchanging or storing rags, old metal, old bottles, old glassware, old plumbing fixtures, old lumber, unregistered motor vehicles unfit for reconditioning, dismantled old motor vehicles or parts thereof, used motor vehicles or parts thereof, used motor vehicle parts, motor vehicle junk or any other old material commonly called junk.

Now, it's also defined in Chapter 12, your Land Development Ordinance, a shorter definition of pretty much the same thing, in my opinion: Any area of land, with or without buildings, devoted to the storage, keeping or abandonment of junk or debris, whether or not it's in connection with the dismantling, processing, salvage, sale or other use or disposition thereof of any material whatsoever.

Now, those two definitions are extremely expansive and they define a junk yard. It may be called a recycling center. It's a junk yard. People bring their old

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junk there, get some money for it, somebody breaks it down and resells it. It includes auto. It includes all those things defined in those two definitions that I read to you. And that junk yard definition, the more expansive one, has been in your ordinance since 1965. So, it's been in the books for quite some time.

And, again, Mr. Coleman and I discussed this application on a -- on a couple of occasions during our hiatus, if you will, and he indicated in the correspondence, not direct to me and not telling me what to do, but, I agreed with his assessment from a standpoint of giving the board a full view of this application, if you will, to amend our application to a certificate -- to request a certificate of nonconformance which means -- and, Mr. Coleman, I don't want to quote the law, I believe that would be an imposition, but, essentially, you can apply to the zoning board to state that is your use a nonconforming use in the town after a certain zoning has changed.

Now, in this case, it's before zoning

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even came into effect in 1954, I believe, because this use has been in effect since 1947, testimony was given at the March meeting. You can request of the board to give you what's called a certificate or a vote that says yes, we agree that this use has been in existence prior to, in this case, again, the enactment of the zoning standards of the township.

Also, and alternatively, we have amended our application to request a D-1 use variance request. In this case, I don't think it's appropriate but we've made the amended application nonetheless to ask for a use variance to allow the approval of this site if the board states that this site, as it's used now, doesn't come under the definition that I just described of a -- of a junk yard.

As I'm also sure you know, after the August meeting, litigation was commenced by the township and Judge Bookbinder remanded it back to this board to continue the earlier March hearing and move forward every month until a resolution is resolved by way of vote

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on any of the applications or any of the items that have been made by the applicant with respect to that site.

In speaking with Mr. Morris, the attorney for the township, initially, I think, there was a meeting set up between the applicant and the residents. It was -- it had been cancelled by the residents, we have no idea why but, again, we're always willing to talk to the residents and see if we can resolve any issues.

And I guess that leads us to where we are right now which is, if you're okay with it, Mr. Coleman, I can bring some testimony with respect to our pre-existing nonconforming use certificate. I'm going to bring up, I believe, three witnesses. And then what I would like to do is remind you that a lot of the testimony we put on back in March in terms of how this site has been used really would apply -- over the years, since 1947, really would apply to our argument for the certificate of nonconforming use.

I know five or six of the board members heard the testimony that was given

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back in March and the two members that are here this evening heard the -- they read the tapes -- or heard the tapes or read the transcripts so, therefore, they're familiar with that testimony anyway but I would like to just bring Mr. Gabrysiak up to go over a couple of things with respect to the use on that site.

CHAIRMAN ZOLTOWSKI: Before you go any further, let the record show that Mr. Haas has joined the hearing.

And, Tom, how should that be handled? Should Mr. Haas stay as an alternate nonvoting? He is not -- he's a board member or...

MR. COLEMAN: Yes. Mr. Haas will be listening and voting this evening. I don't think at this point Mr. Haas has missed anything material or -- or significant at this point in that the real crux of the testimony is about -- perfect timing, Mr. Haas -- so then I believe Mr. Tom Heller, second alternate, will be participating but not voting. Okay?

CHAIRMAN ZOLTOWSKI: Thank you.

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MR. RIDGWAY: Tom Gabrysiak, you can come up here.

MR. COLEMAN: Mr. Chairman, just so the record reflects, Mr. Gabrysiak, you were previously sworn and --

MR. GABRYSIAK: Yes, sir.

MR. COLEMAN: -- just to reaffirm that, do you swear that the testimony you're about to provide -- the continued testimony you're about to provide this evening is the whole truth and nothing but the truth so help you God?

MR. GABRYSIAK: I do.

MR. RIDGWAY: Mr. Gabrysiak, what's your position with respect to the property owner of Last Chance Salvage and the property operator of Allied Recycling?

MR. GABRYSIAK: I'm the president of both corporations.

MR. RIDGWAY: You purchased all of the outstanding stock of Last Chance Salvage back on July 27, 2012, is that correct?

MR. GABRYSIAK: Correct.

MR. RIDGWAY: Now, that's a little over a year ago?

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MR. GABRYSIAK: Correct.

MR. RIDGWAY: Prior to your purchase of Last Chance Salvage, were you operating that junk yard that had previously been operated by Mr. Pointsett, is that his name?

MR. GABRYSIAK: Yes.

(Discussion held off record.)

MR. GABRYSIAK: Previous to that, about two years previous to that, we were renting -- Allied Recycling was renting the property from Last Chance Salvage.

MR. RIDGWAY: Okay. And during -- so it's been a little over three years, July of 2010 to the present time, that you've been operating that site?

MR. GABRYSIAK: Correct.

MR. RIDGWAY: You have another junk yard up in Springfield Township on 206, is that correct?

MR. GABRYSIAK: Yes.

MR. RIDGWAY: Did you -- I want to say this in the correct way -- I don't want to say clean up that yard. Describe what you did in that yard over the past three years before you turned it around into Allied's

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junk yard.

MR. GABRYSIAK: Well, we started the process actually before we rented it. We were purchasing a lot of materials from the previous operator so -- he was ill so a lot of the things that he had collected over the years, we started to purchase from him. And at some point, I don't know exactly, about three years ago, we purchased what he had left on the property and then we rented -- Allied Recycling rented the -- the place from Last Chance Salvage.

MR. RIDGWAY: The grounds?

MR. GABRYSIAK: The grounds, yes.

MR. RIDGWAY: Now, when you were cleaning up, purchasing stuff from Mr. Pointsett, did you keep receipts for the things that you had purchased?

MR. GABRYSIAK: Absolutely.

MR. RIDGWAY: Before I start going over a lot of these receipts, can you describe what was on that site?

MR. GABRYSIAK: Just about everything you can imagine. The property was full. There was -- other than an eight-foot

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driveway snaking from the road -- from New Road in basically to the, I guess, the mechanics building and shop that's there. Other than that, every square inch of that property was covered in some type of material; piles, vehicles, debris, tires, hundreds of thousands of tires. There were -- just about anything you could imagine was on that property and every space was being occupied by a material type one way or another.

MR. RIDGWAY: So, it was not limited to cars?

MR. GABRYSIAK: No, absolutely not.

MR. RIDGWAY: I have here numerous receipts from Allied; customer truck service tickets, etc.

These are copies you have made of the originals in your office, is that correct?

MR. GABRYSIAK: Correct.

MR. RIDGWAY: Could you -- I don't want to spend the board's time going through a hundred receipts but I would like to hand you a few of them so you can describe what is on those receipts, the dates and what was

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taken out of that property.

MR. GABRYSIAK: This was from 6-10, 2010. This was a transfer of tires, 19,000 pounds, between our Southampton yard and Springfield.

MR. RIDGWAY: The next one?

MR. GABRYSIAK: Another receipt for tires transferred between New Road, Southampton, and Springfield for 18,000 --

MR. RIDGWAY: And do you see the --

MR. GABRYSIAK: -- pounds.

MR. RIDGWAY: -- date on that?

MR. GABRYSIAK: That's 6-9 of 2010.

MR. RIDGWAY: There are two consecutive dates.

Do you believe this -- briefly describe this invoice; the date and what was done.

MR. GABRYSIAK: This was the purchase receipt from Freeman Pointsett, the previous operator, for 9,380 pounds of light iron.

MR. RIDGWAY: And is light iron automobiles or is that...

MR. GABRYSIAK: And there's one Ford truck on here.

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MR. RIDGWAY: So, light iron's not automobiles?

MR. GABRYSIAK: No. Light iron's any --

MR. RIDGWAY: You can't recall --

MR. GABRYSIAK: -- undescribed metal that's not heavy steel, it's iron. It could be anything, appliances, it could be -- any type of scrap metal other than a nonporous metal which would be copper, brass...

MR. RIDGWAY: And what's the date of that one?

MR. GABRYSIAK: This was 8-28 of 2009.

MR. RIDGWAY: Here's the next one.

MR. GABRYSIAK: This was from 9-10 of 2009 for 30-yards of light iron and 30 yards of No. 1 steel and roll-off containers.

MR. RIDGWAY: So what I --

MR. GABRYSIAK: This -- this was purchased from Freeman Pointsett also.

MR. RIDGWAY: Light iron would be the same thing as -- not automobiles but --

MR. GABRYSIAK: Correct.

MR. RIDGWAY: -- washing machines --

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MR. GABRYSIAK: Automobiles would be listed as automobiles.

MR. RIDGWAY: Here's the next one.

MR. GABRYSIAK: This is also a purchase order for 280 pounds of aluminum from 10-1, 2009.

MR. RIDGWAY: What would aluminum be? Certainly not a vehicle.

MR. GABRYSIAK: No.

MR. RIDGWAY: Cans?

MR. GABRYSIAK: It could be -- it could be aluminum cans. It could have been, yes. A lot of things are made out of a aluminum; aluminum siding, I guess you could have, you could have doors, windows, that kind of stuff, aluminum cans.

MR. DARJ: This stuff was transferred out, yes.

MR. RIDGEWAY: Here's another one from 9-6-10.

Can you describe what's on here?

MR. GABRYSIAK: 9-6, 2010; 31,260 pounds of wood and debris.

MR. RIDGWAY: How many pounds?

MR. GABRYSIAK: 31,260.

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MR. RIDGWAY: Wood and other debris?
MR. GABRYSIAK: Yeah.
MR. RIDGWAY: Certainly not automobiles?
MR. GABRYSIAK: No.
MR. RIDGWAY: Okay. Here's another date.
Could you describe this, please?
MR. GABRYSIAK: 9-22, 2010. This says aluminum 13,020 pounds.
MR. RIDGWAY: So, it's 13 pounds of aluminum. Again --
MR. GABRYSIAK: 13,000 pounds.
MR. RIDGWAY: Again, not automobiles, aluminum; siding or whatever.
MR. GABRYSIAK: Something made of aluminum, yes.
MR. RIDGWAY: And here's another one. Can you give me the date? There's two of them on that one page. Give the dates and --
MR. GABRYSIAK: The first one is from -- well, they're both from Freeman Pointsett. 8,540 pounds of -- this doesn't say what it was.
MR. RIDGWAY: And what's --

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MR. GABRYSIAK: It was a thousand dollars, though, so -- the next one's 44 pounds of copper and 289 pounds of brass.
MR. RIDGWAY: And what would consist of copper and brass, fittings?
MR. GABRYSIAK: Copper would be, yeah. Plumbing pipes, probably, electrical wiring, that type of thing. Brass is typically -- it could be anything from automobile parts to, I don't know, ignition shells, something like that, or -- or anything else other than brass like figurines and -- this was 6-4, 2010, and 14,180 pounds of debris.
MR. RIDGWAY: And how many pounds is that again?
MR. GABRYSIAK: 14,000.
MR. RIDGWAY: Here's another one for you, Tom.
MR. GABRYSIAK: 6-2 of 2010; 26,120 pounds of wood and debris.
MR. RIDGWAY: 26,000 pounds of wood?
MR. GABRYSIAK: Yeah. This one's also for aluminum, 1140 pounds -- I'm sorry, 11,480 pounds, 2-18, 2010.

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MR. RIDGWAY: I could go on and on. There are literally 60 or 70 exhibits of these -- or 60-to-70 pages of these -- copies of these receipts that show that there was much more on that site that was taken off from Mr. Pointsett's prior junk yard than just automobiles.
CHAIRMAN ZOLTOWSKI: Should we mark this as Exhibit A-10?
MR. RIDGWAY: Exhibit A-10, this is just a sampling of -- of what we've put into evidence. This is what we put in evidence. This is a sampling of the receipts that Allied has produced.
MR. COLEMAN: Mr. Gabrysiak, these are receipts from your company prior to your occupancy of the property?
MR. GABRYSIAK: Of the receipts that he's shown me, half of them were receipts for materials purchased from the previous operator.
MR. COLEMAN: Um-hmm.
MR. GABRYSIAK: And then half of them were receipts, our trucking receipts, from where we transferred the materials from one

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yard to another.
MR. COLEMAN: Okay.
CHAIRMAN ZOLTOWSKI: Explain that again, the first part of that.
MR. GABRYSIAK: Half of those receipts were the receipts from materials that we had purchased from Freeman Pointsett before we rented the yard or bought the stock of Last Chance Salvage.
MR. COLEMAN: That would be -- that would be in '09? Because your prior testimony is you took -- took over in '10. So, would that be the nine receipts?
MR. GABRYSIAK: Probably, yes.
MR. COLEMAN: Okay. And the second half of those were?
MR. GABRYSIAK: And the second half were after we took over and started operating, the materials that we took out after that.
MR. RIDGWAY: But they were still Mr. Pointsett's materials.
MR. GABRYSIAK: Sure.
MR. RIDGWAY: You didn't bring anything in.

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MR. GABRYSIAK: No, no, it was before. We didn't start actually -- we weren't open for close to a year. The cleaning process was about a year just removing materials before we started, let's say, open, like the gate open, letting customers in.
MR. COLEMAN: Thank you.
MR. RIDGWAY: I have no further questions of Mr. Gabrysiak at this time.
CHAIRMAN ZOLTOWSKI: I have one.
Where are the aerial photographs, A-1 through A-5?
MR. COLEMAN: Well, don't we have the big ones? Don't we have big ones that you brought? I saw them floating around.
MR. MILLER: This is a new one.
(General Discussion.)
MR. RIDGEWAY: Yes, the historical exhibits, A-2 -- or A-2 through A-5 are eight-and-a-half by 11 so they weren't the large exhibits.
MR. COLEMAN: That was 2, 3, 4 and 5.
(General Discussion.)
CHAIRMAN ZOLTOWSKI: Proceed.

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Ms. Doherty?
MS. DOHERTY: I wanted to ask, can you tell me since you've taken over the operation which new kinds of materials you brought to the site that weren't there...
MR. GABRYSIAK: No, they're not.
MS. DOHERTY: They're not. So everything you're dealing with is the same as it was before?
MR. GABRYSIAK: Correct.
MR. COLEMAN: Mr. Chairman?
CHAIRMAN ZOLTOWSKI: Mr. Robbins has a question.
MR. ROBBINS: When you purchased these materials from Freeman Pointsett, I'm assuming you did so because they had some value to you, you could process them in some way and sell them at a higher price than what you bought them?
MR. GABRYSIAK: Correct.
MR. ROBBINS: So, in effect, when you bought that junk yard, it's a little bit like -- like the lumberman buying acreage with trees on it. You could cut the trees down and -- and sell them. And so you -- you

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bought the junk yard because there was certain accumulation of junk on there that had some value to you?
MR. GABRYSIAK: Well, what I did is I purchased the materials that were left from Freeman Pointsett and then I rented the property from Last Chance Salvage. Then two years later, we purchased Last Chance Salvage.
MR. ROBBINS: And in the process of cleaning it up, you were able to derive whatever the value these materials had.
MR. GABRYSIAK: Correct.
MR. ROBBINS: Thank you.
MR. GABRYSIAK: Can I say one more thing to the last question?
CHAIRMAN ZOLTOWSKI: Sure.
MR. GABRYSIAK: Not to mention the -- the purchase price that I paid when I bought the materials, didn't include the, say, couple hundred thousand dollars worth of expense that it cost me to remove things that had no value.
MR. ROBBINS: So, they were landfill?
MR. GABRYSIAK: Well, they -- they

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were transferred to another yard and then disbursed from there. And then mostly it's all recycling but it doesn't mean it has a value. All right? Does that clarify?
MR. ROBBINS: So --
MR. GABRYSIAK: No, what I'm trying to say is --
MR. ROBBINS: -- there are certain things that are recyclable --
MR. GABRYSIAK: What I'm trying to say is it cost us hundreds of thousands of dollars to clean this site.
MR. ROBBINS: But do you -- if something's recyclable but you can't sell it, you sort of give it to somebody to --
MR. GABRYSIAK: Well, a lot of recyclables cost money to recycle.
MR. ROBBINS: So you might have actually, in some cases, paid somebody?
MR. GABRYSIAK: Oh, absolutely.
CHAIRMAN ZOLTOWSKI: Mr. Haas?
MR. HAAS: I have a question for the applicant.
Are cars made of aluminum?
MR. GABRYSIAK: Some have aluminum,

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sure.
MR. HAAS: Are they made of light metal?
MR. GABRYSIAK: Yeah, well, parts of them are.
MR. HAAS: Are they made of copper, copper wiring?
MR. GABRYSIAK: There's copper wiring in a car. Absolutely.
MR. HAAS: And in the process of deconstructing a car on the premise, trees might have fallen, limbs might have fallen, there's accumulation of wood in the debris?
MR. GABRYSIAK: Well --
MR. ROBBINS: Fair assumption?
MR. GABRYSIAK: -- I would say that wood, lumber is different than tree wood. I mean we wouldn't remove tree wood. There's --
MR. HAAS: This is one --
MR. GABRYSIAK: -- 12 acres of trees there.
MR. HAAS: Did you inherit the wood, the lumber?
MR. GABRYSIAK: Yes.

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MR. HAAS: Okay.
MR. GABRYSIAK: I did.
MR. HAAS: Thank you.
MR. RIDGWAY: Anyone else?
(General discussion.)
MR. RIDGWAY: Would you give your full name?
MR. IVANS: Michael Ivans.
MR. COLEMAN: Michael Ivans.
Mr. Ivans, do you swear that the testimony you're about to provide this evening is the whole truth and nothing but the truth so help you God?
MR. IVANS: Yes, I do.
MR. RIDGWAY: Mr. Ivans, if you could just spell your name for the record, please.
MR. IVANS: I-V-I-N-S.
MR. COLEMAN: Thank you.
MR. RIDGEWAY: Mr. Ivins, just a few brief questions.
You're familiar with the site that's the subject of this application, the old classic junk yard?
MR. IVANS: Yes.
MR. RIDGWAY: Have you had occasion

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to be at that site prior to Allied taking over the site and subsequent to Allied taking over the site?
MR. IVANS: Yes.
MR. RIDGWAY: Could you briefly describe the difference in those -- those -- it's the same yard but it's two different yards, before and after?
MR. IVANS: Well, back when Pointsett was there and I was there, it looked like the old -- like Sanford & Son. That had everything. You name it, it was there. And -- so I took stuff there, a pickup truck load and he says, you know, I'll give you $25 for this. And there was a little bit of everything there, you know, appliances, there was some type of rims, some of this, some of that, and he would knock a couple dollars off if you had tires on the rims.
And then I've been there since then, since Allied, and it's like a different world. It's -- I mean I couldn't believe how much the place changed and got cleaned up and -- it's like a night-and-day difference.
MR. RIDGWAY: On your visits

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preAllied when you say you'd bring stuff there, were you friendly with Mr. Pointsett?
MR. IVANS: No. Actually, I was out of work for a little while from an accident and I was just trying to make some -- a little bit extra money from -- unemployment just doesn't do it so I -- we worked -- we -- my dad's, my parents' house, cleaned up stuff he had laying around, lawn mowers, some of this, some of that, anything kind of metal or value, I took it there.
MR. RIDGEWAY: Did you ever sell or drop off a car there?
MR. IVANS: Honestly, I don't really think I ever have.
MR. RIDGWAY: Things other than automobiles? I mean --
MR. IVANS: Yeah.
MR. RIDGWAY: -- as you just testified.
MR. IVANS: Correct. You just piled everything in the back of the pickup, metal, you know, weight and...
MR. RIDGWAY: Okay. I have no further questions of Mr. Ivins.

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CHAIRMAN ZOLTOWSKI: I have a question for both of you.
If there was so much steel, so much aluminum, so much copper, why did the previous owner get rid of it?
MR. IVANS: Get rid of the -- the business?
CHAIRMAN ZOLTOWSKI: No.
MR. GABRYSIAK: Can I speak up? Because --
CHAIRMAN ZOLTOWSKI: No, no, no.
There's value in steel, there's value in aluminum, there's value in copper. Why did the previous owner get rid of it?
MR. GABRYSIAK: Why did he not get rid of it? It's an operating business. I mean we have --
CHAIRMAN ZOLTOWSKI: Excuse me?
MR. GABRYSIAK: It's an operating business. The only thing I could imagine, I mean, we carry a large inventory of -- of different materials. I mean we buy and sell every day regardless of -- I mean, I can't -- I guess I don't really understand the question other than...

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CHAIRMAN ZOLTOWSKI: Why would you keep around valuable materials?
MR. GABRYSIAK: Because that -- we're in the junk business. That's what we do.
MR. IVANS: I think the previous guy used the word horder.
(General discussion.)
MR. GABRYSIAK: We carry a large inventory of different materials that are all valuable.
MR. SCANGARELLO: What I'm saying is if the previous owner found value in raw materials, why wouldn't he sell them himself?
MR. GABRYSIAK: Well, eventually he sold them to me.
MR. COLEMAN: So, that was part of his purchase price and you inherited his -- his stuff.
MR. GABRYSIAK: He did -- he did buy and sell. That's what he did. He bought and sold, you know, just the way every junk yard does.
MR. RIDGEWAY: Is it fair to say, Tom, that Mr. Pointsett had a different business mind set than you?

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MR. GABRYSIAK: I like to call it modern management.
MR. RIDGWAY: Okay, that's a fair assessment. But he wasn't as focused in your assessment, do you feel he was not as focused on making money and turning over the materials as you are?
MR. GABRYSIAK: I guess that's a fair assessment. I mean I -- I tend to run our business as little different than a lot of junk yards do because I have an active interest in turning a profit.
MR. RIDGWAY: Understood.
CHAIRMAN ZOLTOWSKI: Don't all business owners turn a profit? Isn't that --
MR. GABRYSIAK: Well --
CHAIRMAN ZOLTOWSKI: Isn't that the goal?
MR. GABRYSIAK: -- I -- I believe the goal of business is to turn a profit. Do all businesses turn a profit? I don't believe so.
CHAIRMAN ZOLTOWSKI: Isn't it possible as well that his business model was different, that he operated as a traditional

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junk yard as most of us know where you buy a car and you sell the parts off of it?
MR. GABRYSIAK: We still do that, too.
CHAIRMAN ZOLTOWSKI: On this lot?
MR. GABRYSIAK: Absolutely.
CHAIRMAN ZOLTOWSKI: How many cars do you have now?
MR. GABRYSIAK: About a hundred and sixty.
MR. COLEMAN: Mr. Gabrysiak, this part of the hearing, you're trying to establish a factual basis. As your attorney stated previously and the board's trying to -- to ferret out, if you will, what particular types of uses. So, I guess, are you prepared to testify as to what the business model was of the previous owner?
MR. GABRYSIAK: I can testify to what he told me. I spent countless hours talking to him before he passed on.
MR. COLEMAN: No. That would be hearsay.
MR. GABRYSIAK: Oh, well, I mean, he's -- he's not here to testify for us so...

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MR. RIDGWAY: Right. I understand.
Mr. Ivins, I have just -- as I just mentioned, this part of the hearing we're trying to establish a factual basis. Just to summarize your testimony, you -- you didn't work for either Mr. Gabrysiak or the prior owner of --
MR. IVANS: No.
MR. COLEMAN: You just had an opportunity, in your words, to take stuff there?
MR. IVANS: Correct.
MR. COLEMAN: Okay. And why don't you -- can you just clarify again what that stuff was?
MR. IVANS: Just -- a lot of stuff just laying around the yard and all. I -- back when I -- Mr. Pointsett was there, it was just -- I grew up with a farm and we had like a lot of just junk laying around everywheres and I just took everything, you know, stuff was laying outside, you know, whew, metal laying outside, parts of -- maybe parts of machinery, parts of like a Cotter or something or I remember cleaning up some, you

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know, couple of washing machines, one of them old type -- actually, I got in trouble for that -- it was an old antique washing machine where the washboard went through it, I remember getting rid of that and tires, rims, maybe like an old transmission or something.
MR. COLEMAN: Okay. That helps. Good. Thank you, Mr. Ivins.
MR. IVANS: I remember taking some fencing there, like the wire fence.
MR. GABRYSIAK: I -- I think I have a better idea of what your question was and -- I think the business model that Mr. Pointsett had was more of come to the yard and what do you got. So if you got a pickup truck full of scrap metal, here's 20 bucks, put it over there. If you have a -- a trunk full of magazines, you know what, give me five bucks and stick them over in that -- that trunk over there. You know, if you got a truck full of fence, you know, you rip down your wood fence or your tractor ran into it, you know, okay, I'll take 12 packs of that, put it over there, you know, that's -- that's the way he operated, you know, it didn't matter

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what it was, you either gave him a couple dollars or he gave you a couple of dollars. The material came in, the material went out.
CHAIRMAN ZOLTOWSKI: Then what would he do with that?
MR. GABRYSIAK: What do you -- what do you mean?
CHAIRMAN ZOLTOWSKI: If he took five rims in, what would he do with it?
MR. GABRYSIAK: I would say he either -- he sold them or he stuck them in the corner and let them sit there. I mean that's, you know, there was, you know, the first time I had visited that site, I already told you, there was no space. You couldn't walk. There was no place to walk that was bigger than this. You had to walk between piles, vehicles and whatever it would be, it was there and it was piled up. We removed it. So, basically, to get rid of the disaster that it was and to make it a -- a functioning business that worked well, environmental friendly, there's -- there's many reasons why we didn't leave it the way it was but that's the way he operated it.

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MR. RIDGWAY: Mr. Gabrysiak -- I'm sorry.
CHAIRMAN ZOLTOWSKI: Does your website state that you sell car parts, used car parts?
MR. GABRYSIAK: It does not.
CHAIRMAN ZOLTOWSKI: And you have no website listing of cars that you have available with the parts --
MR. GABRYSIAK: We do most of that on Craig's List, eBay, that type of stuff, and then the customers come to us and get the stuff.
MR. RIDGWAY: Mr. Gabrysiak, going back to the definition of junk yard that I had read earlier, on line two it says kept, maintained or used for the purpose of buying and selling, exchanging or storing and then it lists all of those things blah, blah, blah, blah.
You're much more of an active buyer and seller because turnover is what you want -- is where you make your money.
MR. GABRYSIAK: Right.
MR. RIDGWAY: Is it fair to assume

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that based upon your visits to that site, Mr. Pointsett was more of a buyer and storer than selling -- than active buyer and seller?
MR. GABRYSIAK: I would say so but I bought a bunch of stuff from him, yeah, so --
MR. RIDGWAY: But all within --
MR. GABRYSIAK: -- I would still --
MR. RIDGWAY: -- all within -- all of that would be under the umbrella of a junk yard ordinance or license. Whether you run your business one way or another, it's still under that junk yard definition.
MR. GABRYSIAK: Correct.
MR. COLEMAN: I promise you're not on trial here but I want to ask you a question.
MR. GABRYSIAK: I'm here to answer whatever questions you have.
MR. COLEMAN: Mr. Gabrysiak, your -- your attorney mentioned that the junk yard statute, I think, goes back to 1967 roughly?
MR. GABRYSIAK: I believe September 7, '65.
MR. COLEMAN: Okay, '65. A long time ago. 48 years, in fact. Okay.
I had an opportunity just to look at

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your -- your website as to -- it says we always pay more for all ferrous and non-ferrous metals and it lists steel, light iron, cast iron, copper, aluminum, lead, brass, batteries, computer, E-scrap and wire. I'm -- I'm concerned about the last couple; computers, E-scrap and wire.
If the original intent and purpose of this ordinance was drawn by the town fathers back in '65, '67, '68, whatever it may have been, do you think it was the intent and purpose of the town fathers then, given what -- what was read in there, to pick up computer, E-scrap and wire?
MR. GABRYSIAK: I don't believe in 1965 there was computers or E-scraps so we can start with that.
MR. COLEMAN: Right.
MR. GABRYSIAK: So, I couldn't imagine -- I can't -- I can't imagine that they -- the question is relative to anything. But I can tell you that my website is marketing is what it is.
MR. COLEMAN: Okay.
MR. GABRYSIAK: As any website is for

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any business.
MR. COLEMAN: Let me ask you this way --
MR. GABRYSIAK: It's -- the marketing --
MR. COLEMAN: Go ahead.
MR. GABRYSIAK: -- that we've put in place isn't relative to what materials come and go through any junk yard. What it is, it's relative to a way for me to make money.
MR. COLEMAN: Yes, and that's a good point. So, here's -- let me say -- let me come at it this way: If I -- I'm not sure what E-scrap is so don't hold that against me but if I brought a computer and quote, unquote E-scrap over, whether you're paying me or I'm paying you, are you going to take that?
MR. GABRYSIAK: Yeah.
MR. COLEMAN: Okay.
MR. RIDGWAY: And I will go back to the definition of junk yard. It's expansive in its terms. In the last -- the last eight words say or any other old material commonly called junk. Things are invented every day.

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So if nothing that was invented after 1965 could go in a junk yard, I'm not so sure that's what the town fathers meant in 1965. I think by listing all of these things, they were rather expansive.
MR. GABRYSIAK: Read the second one, the other one.
MR. COLEMAN: And I -- and I would submit they've had ample opportunity between now and 1965 to update that as well so -- but...
MR. RIDGWAY: Now, going back to the other ordinance that listed junk yard development --
MR. COLEMAN: Chapter 12.
MR. RIDGWAY: -- it says -- I'll just read the end of it. It says: Salvage, sale or other use or disposition thereof of any material whatsoever.
CHAIRMAN ZOLTOWSKI: Is it possible that that is just to cover all the bases, whether it's a seat that came out of a car? It's not a car but it's fabric at that point. It's a metal frame.
MR. RIDGWAY: I -- I think the

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ordinance said any material whatsoever. I think if you're going to update an ordinance every time an iPad or an iPod or an iPhone 5 or a 7 comes out, the town fathers are going to get nothing done.

CHAIRMAN ZOLTOWSKI: When we look at the licensing in -- in 4, it goes through the definition, which is very vague and all encompassing, license required, compliance required, term of license, application.

Under Application, there's an A, B, C, D, E. And A talks about the length of a fence, generally, I guess, for protection. So, B starts to talk about the area behind the fence in front of the building shall be for the receiving and unloading of vehicles only. All dismantling of vehicles shall be behind the office.

C talks about having a vacant area for firefighting purposes.

D talks about all gasoline, anti-freeze, crank-case oil must be drained and disposed by the licensed hauler. Tires must be stored in central area not over 300 square feet and four feet high.

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All those things are specific to automobiles. They don't mention anything about dropping off junk or dropping off used parts and it's very specific to automobiles to what I'd have to say 99 percent of the people if you ask them what a junk yard was is place where they went and bought used car parts. That's what I've done. That's what I know it to be.

MR. RIDGEWAY: And that's what we all remember as kids and I don't -- and I don't dispute that. But, too, we're going by the definition of what's in your ordinance and when you go to point B of 4.4 - 4.5, it says the receiving and unloading of vehicles only.

I'll go back to Mr. Ivins. When you brought your pickup truck or whatever, was -- your vehicle was unloaded by you or Pointsett and then you drove your vehicle off.

MR. IVANS: Correct.

MR. RIDGWAY: I don't -- it wouldn't be just unloading a vehicle off a trailer, I believe it's unloading a vehicle full of junk on to the ground.

CHAIRMAN ZOLTOWSKI: It doesn't say

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unloading a vehicle. It doesn't -- you can -- you can argue that. It doesn't say unloading of material, it says the unloading of a vehicle.

MR. RIDGWAY: Um-hmm.

MR. COLEMAN: I would hope that the board will take judicial notice from the '93 resolution that this town clearly has recognized this site from '93, you pick the date backward, as an auto salvage. If you look at that resolution, it says also, you know, the specific terms are, dah-dah-dah-dah, and other salvage-related operations. And that's really the focus of what Mr. Ridgway's attempting to do here is define what those other salvage-related activities are. Okay?

CHAIRMAN ZOLTOWSKI: Continue.

MR. RIDGWAY: With all due respect, I disagree with Mr. Coleman's assessment.

In 1993, that wasn't a use-lands application, it wasn't a site-plan application, it was a subdivision only before the planning board.

MR. COLEMAN: I'm just reading the

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definition. I'm just reading what was in the resolution.

MR. RIDGWAY: Understood. The -- the planning board has no authority to limit use for the property. They limited the demarcation line on that property. Nothing more. That was part of my argument to Mr. Coleman in my correspondence, in the letter.

I have no further questions of either Mr. Ivins or Mr. Gabrysiak.

One last witness, Mr. Giberson.

MR. ROBBINS: Mr. Chairman, can I ask one question?

CHAIRMAN ZOLTOWSKI: Yes. Mr. Robbins, one question.

MR. ROBBINS: When you went to the -- when you went to Freeman's and you dropped stuff off, how many people generally were there other than Freeman?

MR. IVANS: There were a couple kids running around there.

MR. ROBBINS: Mr. Freeman and a couple of kids?

MR. IVANS: Yeah. I don't -- I don't

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remember, it was so long ago. I don't know, 10, 11 years ago, I guess maybe so...
MR. ROBBINS: I mean that -- you were there more than once, sounds to me like?
MR. IVANS: Yeah, I was there a few times, couple of times.
MR. ROBBINS: That was generally, what, Mr. Freeman?
MR. IVANS: Yeah.
MR. ROBBINS: Or Mr. Pointsett.
MR. IVANS: Yeah, Mr. Pointsett and that's about it.
MR. ROBBINS: All right. Thank you.
CHAIRMAN ZOLTOWSKI: Ready?
MR. RIDGWAY: Yes.
MR. GIBERSON: Oh, okay.
MR. RIDGWAY: Mr. Giberson -- I'm sorry, go ahead.
MR. COLEMAN: Mr. Giberson, you were previously sworn in.
MR. GIBERSON: Yes.
MR. COLEMAN: Okay. And I just want to, again, remind you that the testimony you're about to offer this evening is subject to the truth and the whole truth and --

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MR. GIBERSON: Everything I know.
MR. COLEMAN: Okay. Have a seat, please.
MR. GIBERSON: Oh.
MR. RIDGWAY: Mr. Giberson, how long has this property been in your family?
MR. GIBERSON: I think my grandfather purchased it back in 1947.
MR. RIDGWAY: Well before you were born.
MR. GIBERSON: Ten years before I was born.
MR. RIDGWAY: Do you recall visiting that site as a youngster?
MR. GIBERSON: Often.
MR. RIDGWAY: Okay. And to backtrack one second, you did own and you still own area that surrounds about --
MR. GIBERSON: I own a hundred acres more around the junk yard.
MR. RIDGWAY: Okay. Not entirely surrounding the junk yard.
MR. GIBERSON: Huh?
MR. RIDGWAY: Not entirely surrounding the junk yard because there's

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New Road in front --
MR. GIBERSON: I don't own towards Falcon and I don't own the front but I own everything in the back all the way to Leisuretowne.
I'm talking loud so everybody can hear me.
MEMBER OF THE PUBLIC: Thank you.
MR. GIBERSON: Because I can't hear half the people when they talk.
MR. RIDGWAY: It's not because you're mad at me, is that correct?
MR. GIBERSON: Oh, no, I think they ought to have a microphone system.
MR. RIDGEWAY: How many operators on that site were there that you recall?
MR. GIBERSON: There has been two. Eddie Fuller -- my parents was first, Eddie Fuller and then Freeman -- not Freeman, sorry, Shenny (phonetic) Pointsett and then Freeman Pointsett.
MR. RIDGWAY: Do you know about when Freeman started running the junk yard?
MR. GIBERSON: When his dad passed away.

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MR. RIDGWAY: Which was yearwise? You don't have to know exactly but...
MR. GIBERSON: Seven or eight years prior to that, I think.
MR. RIDGWAY: Okay.
MR. GIBERSON: Maybe a little bit more than that.
MR. RIDGWAY: And, again, you've visited this site numerous times.
MR. GIBERSON: With my parents, my grandparents, everybody. We took junk there, took our trash there, I mean, when I say trash, cars, aluminum, refrigerators. The township, I think, now today even takes trash over there, aluminum.
MR. RIDGWAY: You say the township takes aluminum to that site?
MR. GIBERSON: Not aluminum, washer machines and stuff like that. They got to get rid of them someplace.
MR. RIDGWAY: And is that still done to this day, do you know, or is that...
MR. GIBERSON: That's something that I hear throughout the township.
MR. COLEMAN: But -- but

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Mr. Giberson, you do not specifically know --
MR. GIBERSON: I said that. I said I didn't know that.
MR. COLEMAN: I'm just trying to clarify what you said.
MR. GIBERSON: Okay.
MR. COLEMAN: You don't specifically know that --
MR. GIBERSON: They're picking up trash now which I say is trash is washing machines --
MR. COLEMAN: Um-hmm.
MR. GIBERSON: -- stuff like that.
MR. COLEMAN: Right.
MR. GIBERSON: They are taking it someplace. They're not storing at your place -- or the township.
MR. COLEMAN: Okay.
MR. RIDGWAY: In your visits to that site -- and you -- you testified that you brought various things other than cars to that site.
MR. GIBERSON: Tons of stuff.
MR. RIDGWAY: Over the years, can you describe some of the things you've seen at

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that site besides, obviously --
MR. GIBERSON: What I heard from --
MR. RIDGWAY: Not -- your personal recollection.
MR. GIBERSON: My personal? No. Like I said, get back to my dad, Stokie's here had tomato cans and they'd run over them with the steel tractors just to get the cans, to get the metal.
MR. RIDGWAY: Mr. Stokie -- the junk yard.
MR. GIBERSON: Yes, yes. That's what started it. That started it.
MR. RIDGWAY: Okay. So, your dad started the junk yard?
MR. GIBERSON: More or less.
MR. RIDGWAY: And it starting, it wasn't automobiles, per se, solely, it was Campbell's Soup cans?
MR. GIBERSON: Might have been 20 automobiles back in the day to junk.
MR. RIDGWAY: So, have you seen things other than automobiles on that site?
MR. GIBERSON: Everybody in here -- if it's out there, it's in there.

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MR. RIDGWAY: TVs?
MR. GIBERSON: If it's out there, it's in there.
MR. RIDGWAY: House refuse, countertops, things like that?
MR. GIBERSON: I seen boats in there.
MR. RIDGWAY: Boats?
MR. GIBERSON: Yeah.
MR. RIDGWAY: On that --
MR. GIBERSON: Wooden boats.
MR. RIDGWAY: -- site?
MR. GIBERSON: Oh, yeah.
MR. RIDGWAY: Okay. So based upon your personal knowledge, that site has not been limited to automobiles and tires?
MR. GIBERSON: No.
MR. RIDGWAY: Okay. Thank you. I have no further questions.
MR. COLEMAN: Mr. Giberson, do you have -- Mr. Giberson, do you have any ownership interest still in Last Chance Salvage?
MR. GIBERSON: He's not paid me in full.
MR. COLEMAN: Okay. Do you have any

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ownership interest in Allied Recycling?
MR. GIBERSON: None.
MR. COLEMAN: Do you have -- Mr. Giberson, is there any financial impact to you if the application is decided one way or the other?
MR. GIBERSON: No. He still owes me the money.
MR. COLEMAN: Okay. That's all.
MR. GIBERSON: Simple?
MR. COLEMAN: Yes. Thanks, Mr. Giberson.
CHAIRMAN ZOLTOWSKI: Excuse me.
MR. GIBERSON: Go ahead.
CHAIRMAN ZOLTOWSKI: At our last hearing, you had testified at one point that you said -- I think you said I didn't know what went on down there, I just collected a check.
MR. GIBERSON: Yeah, but I went in and --
CHAIRMAN ZOLTOWSKI: And what time frame was that?
MR. GIBERSON: If Freeman didn't bring me a check?

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CHAIRMAN ZOLTOWSKI: No, what year. What year did that happen where at that point you're stating that you didn't know what was going on at that site, you just collected a check?

MR. GIBERSON: Okay. Hold it. This is what happened. Freeman got sick and died of gangrene. Okay? His sister come. Sometimes I went to his sister's place to get a check. Sometimes she would bring the check. Then this other guy that was running the junk yard at that time, I went over to him many times before they would actually pay me. So, I was over there just more than -- Freeman run the junk yard, Eddie Fuller run the junk yard, my dad run the junk yard but I was never Freeman's boss or anything to say what he had to do with the junk yard. I didn't tell him what to clean up, what to sell. He was his own boss during that. The only thing I was worried about is making enough money to pay the taxes on the junk yard.

MR. COLEMAN: And the checks, Mr. Giberson, you refer to, they would be

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rent checks?

MR. GIBERSON: I rented the junk yard out. Other than that, I mean, Freeman was always inspected and he always kept everything up to date as far as what he had to do.

CHAIRMAN ZOLTOWSKI: Inspected by whom?

MR. GIBERSON: The DEP. Everybody. You just don't run a junk yard without people inspecting there.

CHAIRMAN ZOLTOWSKI: What is there -- what is there a fear of?

MR. GIBERSON: Contamination.

CHAIRMAN ZOLTOWSKI: From what?

MR. GIBERSON: Drain oil on the ground, gasoline on the ground, the antifreeze on the ground.

CHAIRMAN ZOLTOWSKI: From automobiles?

MR. GIBERSON: Automobiles, dishwashers, the anti-freeze, anything.

CHAIRMAN ZOLTOWSKI: Where did the wall of tires come from that surrounded the property?

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MR. GIBERSON: That started back with Eddie Fuller. Okay? Nobody had a home for tires. Freeman come up with that idea. He spent like 30-some thousand dollars for this machine. It's like a log splitter. It splits them three ways to get the rim off. Actually, the rim almost pays for the tire to get rid of. And I think maybe Tom owns that machine as of today. I'm not really sure. I don't know where it went but he would make enough money to get rid of the tires, you know, just get rid of them and the rims.

CHAIRMAN ZOLTOWSKI: How did he get rid of the tires if there was an eight-foot wall of tires surrounding the property?

MR. GIBERSON: He had tractor-trailer loads coming in and he would load them up and he was getting paid a buck and a half, two bucks a piece to get rid of them. Now, I don't have them records but I know what went on in that place.

MR. COLEMAN: And the DEP was okay with that?

MR. GIBERSON: Apparently. I never got no paperwork or anything onto it.

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See, I was up -- up against you guys in the '80s and everything -- I mean none of these people (indicating) showed up because Freeman did his own thing. He always hired or hauled cars out of there. Everybody knows that. Cars, he had tanks in there at one time, tank transmissions, he had washing machines. He had a whole truck load of washing machines when you'd take it down. And then he did -- what they used to do back in the olden days, he used to strip cars. He used to put them in 55-gallon drums, all the wires, light it on fire and there was your copper. And it was considered clean. I don't know about clean but it was -- it was stripped. And that's what they used to do back in the old days. I think -- my opinion, I think Tom's a better job than what Freeman does because Freeman was going to be a -- a train wreck in time because Freeman wasn't capable of doing this, his health wasn't there. It was going to be a major asset to whomever in the day.

CHAIRMAN ZOLTOWSKI: Who was the last prior operator prior to Allied?

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MR. GIBERSON: That would be Freeman.
CHAIRMAN ZOLTOWSKI: Was there a lapse in time?
MR. GIBERSON: Yes. Freeman was sick for like three, four years and then Allied took over.
CHAIRMAN ZOLTOWSKI: Who ran the business in the three, four years?
MR. GIBERSON: His sister. Freeman's sister, okay? Her name was Linda or whatever. And she didn't have a clue, more or less. Okay? And there was this other guy that Freeman had hired and this guy was worse than a train wreck. He was taking cars out of there. Tom actually bought the stuff off of Freeman. Okay? This guy was in there stealing the cars and selling them to Friendship. That's how bad this place was. And, I mean, it was just a train wreck going to happen. But I think everything worked out for the good.
CHAIRMAN ZOLTOWSKI: And so it -- all along, you still own Last Chance Salvage?
MR. GIBERSON: I am Last Chance Auto Salvage.

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CHAIRMAN ZOLTOWSKI: Okay.
MR. GIBERSON: Me and my mom coming out of Burlington, we decided to make that name.
CHAIRMAN ZOLTOWSKI: But when the other operators were there, what were they operating as?
MR. GIBERSON: It would have -- I think it was S&P Autos or S&S Autos.
MEMBER OF THE PUBLIC: It was P&S Auto.
MR. GIBERSON: P&S Autos? I, you know, but I held these license for -- since day one. And I always made sure everything was, you know, up to snuff.
And the DEP, like I said, they come in, did their thing. And I -- when I subdivided, okay, see, this was all one big block of ground at one time, okay, when I subdivided -- back in the day, which I thought was bad, okay, people used to just open up their drain plugs and drain oil on the ground, do this, do that. All right?
So one thing leads to another, I hired World Anderson Barnett (phonetic).

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Barry Durkins (phonetic) come out, which is a soil samplest, a specialist, licensed, he took samples, did this, did that, said you don't have anything to worry about, this ground is not contaminated. And he went through the whole spool because, like I said, I own a hundred acres behind all the way to Leisuretowne. And this was back in '83, '85. And that's what I brought up against the board back in the day then. And like I said, everything was fine then.
I just don't understand the people getting irate around the place because I think it's run 10 times better. That's the only thing I got to say. And like I said, it's always going to be a junk yard, always will be a junk yard, as far as I'm concerned.
CHAIRMAN ZOLTOWSKI: Just to clarify, during that time period, you owned the land, you owned Last Chance Auto Salvage --
MR. GIBERSON: I own Last Chance Auto Salvage.
CHAIRMAN ZOLTOWSKI: Another operator was operating the business and solely paying you rent?

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MR. GIBERSON: Correct.
CHAIRMAN ZOLTOWSKI: Thank you.
Any other questions?
MR. KENNEDY: Yes, Mr. Chairman, I have a question.
CHAIRMAN ZOLTOWSKI: Mr. Kennedy?
MR. KENNEDY: You made a statement that the township brought material to the junk yard.
MR. GIBERSON: I don't -- I don't know if they did or didn't. I mean I'm just saying they collect --
MR. KENNEDY: That's why I'm asking.
MR. GIBERSON: They should bring it there to that place. It's local.
MR. KENNEDY: Well, at that point, are you saying that -- that the township is complicit in allowing an operation that wasn't approved in the junk yard?
MR. GIBERSON: I'm not saying...
MR. COLEMAN: I think, Mr. Kennedy, I think -- I'm not trying to defend Mr. Giberson, I think he -- he eloquently backpedaled and said he wasn't specifically sure that the township brought things there.

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MR. GIBERSON: Well, I don't -- that's something I don't know.
MR. COLEMAN: Okay.
MR. GIBERSON: But what I do know is like this: Freeman Pointsett used to donate cars to the Vincentown Fire Company, which I know for a fact, and they use the Jaws of Life on to it to practice and stuff and then Freeman would pick them up. I mean that -- I do know that. I don't know if that's got anything...
MR. KENNEDY: You made a comment about washers and dryers and stuff and --
MR. GIBERSON: I'm just saying, you guys charge five, 10 bucks to pick up washers and dryers. I don't know where they're going, to be honest with you. Just to clarify that.
MR. KENNEDY: That's all I have, Mr. Chairman.
CHAIRMAN ZOLTOWSKI: Thank you.
MR. RIDGWAY: If I could, Mr. Miller.
MR. COLEMAN: Mr. Miller, you were previously sworn and, again, just to affirm that the testimony you're about to provide

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this evening is the whole truth and nothing but the truth --
MR. MILLER: Yes.
MR. COLEMAN: -- so help you God?
Thank you, Mr. Miller.
MR. RIDGWAY: Mr. Miller, if I could, your job this evening as a New Jersey licensed planner and recognized as an expert witness is to give your opinion as to why you feel it's appropriate for this board to grant a certificate of nonconforming use. In addition, and this is the job you find most distasteful, I've amended the application for a D-1 variance which you think in no way, shape or form this is a D-1 variance.
Could you please give your expert opinion to both that and, briefly, reiterate the expansions of nonconforming use as well?
MR. MILLER: Yes. My role in this application, as Mike explained, is to opine on whether or not I believe that the use is a pre-existing nonconforming use that would qualify for a certificate of nonconformance. And I've testified on that issue many instances of other uses of -- including other

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junk yards and there is a clear standing of review for making that decision and much of the evidence that's preceded my testimony will support that conclusion.
And what I want to begin with is the definition of the nonconforming use which appears in the Municipal Land Use Law and the land ordinance as well. A nonconforming use shall mean a use or activity which was lawfully -- lawful prior to the adoption, revision or amendment of the ordinance but which fails to conform to the requirements of the ordinance of the zoning district in which it is located by reasons of such adoption, revision or amendment.
And the Southampton ordinance states that the lawful use of land, buildings or structures existing when this chapter was adopted may continue even though they do not conform to this chapter. However, none shall be enlarged, extended, relocated, converted to another use or altered except in conformity with the chapter.
Now, this is a use which has lawfully been a junk yard since 1963. It's fallen

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within the local definitions of junk yard throughout that -- that time and, basically, it's my opinion that it's a pre-existing, legally nonconforming use consistent with the MLUL definition and is entitled to the rights and protection that result from that status.
And I believe that this fact is further documented by further review of the local ordinances and applicable physical evidence and I'll give you that as follows: First of all -- and I plan to read the definition into the -- the record again and I -- I think I still need to do that but, first of all, the definition of junk yard from the zoning ordinance is any area of land, with or without buildings, devoted to the storage, keeping or abandonment of junk or debris, whether or not it's in connection with the dismantling, processing, salvage, sale or other use or disposition thereof of any material whatsoever.
And that's a definition which has been in place since at least 2001 and probably for much longer.
And then there's the junk yard

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ordinance which was adopted in 1965 and that reads again: Junk yard shall mean a place, location, yard covered or uncovered or a place in the township kept, maintained or used for the purpose of buying and selling, exchanging or storing rags, old metals, old bottles, old glassware, old plumbing fixtures, old lumber, unregistered motor vehicles unfit for reconditioning, dismantling old motor vehicles of parts thereof, used motor vehicles or parts thereof, used motor parts, motor vehicle junk or any other old materials commonly called junk.

And, again, this has been stated earlier that these definitions are inclusive and they're also very consistent. Any land devoted to storage, keeping or abandonment of junk or debris. All activities that have occurred at this site as -- that have occurred since 1963, whether or not in connection with dismantling, processing, salvage and sale or other usage as per disposition of these materials. And any place, quote, kept, maintained or used for

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the purpose of buying and selling or exchanging or storing the wide variety of products listed in the definition which includes, quote, any other old material commonly called junk.

Again, the language can't -- couldn't be more expansive, it couldn't be more inclusive and it recognizes the fact that materials handled by a junk yard cover a wide array of potential materials and that it involves both the storage and potential and eventual reuse, sometimes the sale of these materials, sometimes the exchange of the materials for other materials because, in some cases, there's barter instead of an actual sale.

I also want to point out that the language in both definitions must take into account this site because there's never been a number -- a large number of junk yards in the community. At one point, the junk yard was amended to limit the number of junk yards to five. And in recent times, this has been the only operating junk yard within the community. So, the language in these two

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definitions had to have been cognitive of this particular facility because, basically, there wasn't any other facility that would have been subject to those definitions.

There was a lot of discussion at the last hearing about recycling and recycling centers as opposed to junk yards. I would submit that recycling is one of the activities, not the only activity, not the sole activity but one of the activities that does occur at junk yards. It's identified in the ordinances by the terms, quote, processing to the salvaging, end quote, and buying, selling and exchanging or storing, another quote from the ordinance. I would submit that recycling falls within that category but it's not the exclusive activity that the ordinance defines as part of the activity of a junk yard.

It also involves the long-term storage of material which, again, has been described by the previous witnesses and the keeping of junk and debris.

All of this is also documented by the aerials that the board received at the prior

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meeting.

Basically, the uses proposed by Allied is identical in every respect from a zoning perspective to the use which has occurred here historically, again, since 1965. And this remains true even if there's some variation in the operation. The facility does and continues and it has met these definitions throughout its history. It's common for any business or any operation to have some variation in its operational character over a period of time. If you think about a gas station, at one time gas stations all had repair bays. They now commonly -- they don't have repair bays but they might have a fast food or, rather, a food service or a convenience store as part of the gas station. It's still a service station but the use has evolved. And sometimes a junk yard is going have more or less of a given type of material, the business is going to be more or less active depending on how the management is -- is operating the business at the time but it still falls within -- and this use has always

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fallen within the broad definitions of junk yard that have been found in both the junk yard ordinance and the zoning ordinance.

And I would also add that sometimes the recycling is -- is more or less an euphemism for a junk yard in much the same way as a second-hand store could be called a consignment shop or a gas station a service station or a dump a landfill or a mine a resource extraction or a jail a correction center. There is a lot of different terminology. But at the end of the day, the ordinances' definition applies to the activities that have been in place and it characterizes the uses since the beginning.

The evidence is ample and conclusive. You've seen the aerials. I want to introduce two more aerials because the -- the prior aerials were prepared by our engineer. This is a two-oh-seven -- or 2007 aerial that I -- I took from the DEP website. And as you look at this aerial, you can readily see that there's both automobiles and piles of miscellaneous materials that were described by earlier witnesses.

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And then I also have a copy of the year 2000 aerial of this area from the DVRPC which, again, shows the same -- same sort of thing.

MR. COLEMAN: And that would be A-12?

MR. MILLER: Yes.

MR. COLEMAN: We'll call this the DVRPC aerial?

MR. MILLER: Yes. It's a little more cumbersome to hand around.

MR. COLEMAN: And what year was that again?

MR. MILLER: 2000.

MR. KENNEDY: 2000?

MR. MILLER: And it's one inch equals 200.

And what's nice about the DVRPC aerial, is that you can go to the DVRPC office, see the original negative and -- and the resolution is -- is better even than what's on the print. And when you examine all these different photographs, what's readily apparent is that there's material there over and above just automobiles. And that, again, has been documented by -- by the

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other witnesses so...

CHAIRMAN ZOLTOWSKI: I have to stop you there.

What -- what did you identify? What --

MR. MILLER: Piles --

CHAIRMAN ZOLTOWSKI: -- material --

MR. MILLER: Piles of material that were --

CHAIRMAN ZOLTOWSKI: What materials did you identify? What -- you're telling me a resolution. What did you identify that wasn't a car?

MR. MILLER: Piles of miscellaneous material.

CHAIRMAN ZOLTOWSKI: You don't know what it was?

MR. MILLER: That -- that would be --

CHAIRMAN ZOLTOWSKI: It could be a hood, it could be a door, it could be an engine block, it could be the...

MR. MILLER: Well, it's probably appliances and --

CHAIRMAN ZOLTOWSKI: You clearly identified that you saw an appliance in

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the -- in the resolution?

MR. MILLER: You cannot do that from --

CHAIRMAN ZOLTOWSKI: Okay. Thank you.

MR. MILLER: -- the resolution in the aerial.

CHAIRMAN ZOLTOWSKI: Please continue.

MR. MILLER: So, to sum up, in -- in many cases, aerial photography alone is sufficient to document that a pre-existing nonconforming use existed over a given period of time. But in this particular instance, we have not only the aerial photography but we have eyewitness accounts of people who personally have direct experience and have observed the handling of materials, not just automotive materials but materials of -- of many other sorts.

We also have documents that show that other materials were bought and sold at this location. There's a certificate of filing from the Pinelands Commission that identifies this location as a junk yard. And there's also a long series of licenses issued by the

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township again showing that this facility is a junk yard as defined by the township's junk yard ordinances. The only change here is the change in ownership.

The applicant also intends to put in some additional equipment but, in my mind, that doesn't change the use whatsoever. It's akin to the fact that a retail store might go from having all cashiers and processing things to having automated cashiers or an ATM that the bank didn't previously have, a bank, or, rather, an ATM. And I think that this scale falls into that category. It doesn't intensify the use, it just modernizes the use.

So, I think the evidence is very conclusive. This is a junk yard now. It was a junk yard in the past. It will continue to be a junk yard and -- and it well merits the status of a pre-existing nonconforming use. And, in my view, the board should grant the request for the certificate of nonconformity.

MR. RIDGWAY: Now, Jim, if you could, go over briefly --

CHAIRMAN ZOLTOWSKI: I just have one

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question before you do that.

You gave an example of a gas station and then expanding to a restaurant --

MR. MILLER: No.

CHAIRMAN ZOLTOWSKI: -- what they do to the -- yes, you did.

MR. MILLER: No.

CHAIRMAN ZOLTOWSKI: You said they add on food.

MR. MILLER: I didn't -- I said they have food service, yes.

CHAIRMAN ZOLTOWSKI: You said they add on food service. They would add on today, that might happen?

MR. MILLER: That's not a restaurant, though, that's food service.

CHAIRMAN ZOLTOWSKI: Okay. And if that gas station was there -- apparently a nonconforming use, adding that food on would nullify that nonconforming use, would it not?

MR. MILLER: No.

CHAIRMAN ZOLTOWSKI: It is not an expansion of what...

MR. MILLER: Now, let me -- let me amplify my -- my answer.

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A lot of this depends on how the ordinance definition reads. If, for example, you had a definition which occurs in some jurisdictions that limited a service station to the sale of petroleum products and auto repairs, then there might be a change of use. But that's not always the case with ordinances and service stations so you'd have to look at the ordinance that would be specific to the ordinance and that's really germane to the -- the case before you this evening.

Your ordinance says junk yard encompasses a very wide array of activities, products and what -- and so on. And, therefore, a lot of things can happen within that category over -- over time without changing the status of the use. It remains a junk yard as long as it meets the criteria in that ordinance definition.

CHAIRMAN ZOLTOWSKI: I have to ask one more question.

When was the first license issued to Last Chance or to whomever? When was the first actual license issued as a junk yard?

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What year?

MR. RIDGWAY: That question should probably be asked of Mr. Giberson. I don't know if he knows the exact year.

MR. GIBERSON: I would say back in the '60s.

MR. KENNEDY: Mr. Chairman, I have a question.

MR. GIBERSON: I got a record of back in the '60s. And it'd be William Giberson & Sons, which was my father. And ever since then, we've always held the junk yard.

CHAIRMAN ZOLTOWSKI: Mr. Kennedy.

MR. KENNEDY: I'd just like to ask Mr. Scangarello if he agrees with Mr. Miller's assessment of the ordinance.

(General discussion.)

MR. COLEMAN: Before you get there, Mr. Kennedy, that's a good question.

Mr. Miller, are you finished with your summary or do you have anything further for the board -- Mr. Scangarello or the board?

MR. MILLER: Let him finish.

MR. COLEMAN: Okay, yeah, I want you

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to finish. Go ahead.
MR. RIDGWAY: I will let him finish. I have a couple of questions.
MR. COLEMAN: Okay. We're going to get there. I just want him to finish.
MR. RIDGWAY: As we said earlier, you had given your testimony with respect to the D-2 which is somewhat different than a D-1 variance.
MR. MILLER: Yes.
MR. RIDGWAY: Although it's your opinion as a professional planner as to what is being proposed for this site which is the installation of a weigh scale which is basically a modernization of the existing use and the refurbishment of two existing businesses or two existing buildings on the site, not enlarging them but just refurbishing them, in no way warrants a D-1 variance.
Could you briefly describe the difference between D-1 and D-2 and why you feel in either instance the testimony that's been provided this evening would fall under a variance, whether it be D-2 or D-1?

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MR. MILLER: Well, a D-1 variance would basically create a -- a new use which was otherwise not permitted by the -- the zoning ordinance.
A D-2 variance deals with a pre-existing nonconforming use that's being altered or expanded in some manner that would trigger a variance. And the judgment, of course, comes into what degree of change constitutes an actual expansion of the use.
And in -- in this instance, the board felt that the installation of the scale could be viewed as an expansion of this pre-existing use and we presented testimony that it met the criteria for the fork that would permit that variance to be granted under the D-2 criteria.
MR. RIDGWAY: Okay. Putting aside for a moment all of the testimony that was submitted back in March and all of the testimony that's been presented this evening, if that site was just an auto salvage yard, nothing more, forget about the definition that allows it to be so much more and has a license to be so much more, with this

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location in this area in town if someone wanted to change that auto salvage to a recycling center, is there any other better spot than to use it in a place that was a former auto salvage yard?
MR. MILLER: No. It's already got that kind of a character. And generally --
MEMBER OF THE PUBLIC: No, it doesn't.
MR. MILLER: It clearly does. And as a result, you could base an argument that the site's particularly suited for that use because there's already an established use that's akin to that use. And part of that logic also goes to the fact that the use has been there for many, many years and the area has become accommodated to the use. And any type of impact would have been assimilated by the surrounding uses.
CHAIRMAN ZOLTOWSKI: Just to ask a question regarding that, you wouldn't -- you wouldn't suggest that a commercial zone where you could pave or concrete and control the waste and any possible runoff or drainage would be better than open dirt in the

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Pinelands, is that what you're stating, that an open Pinelands field is better than a paved or concreted commercial location?
MR. RIDGWAY: Mr. Chairman, I'm not sure you understood my question. My question was -- and I -- if that was an open field, my apologies -- my question was if that was an existing auto salvage yard would it be appropriate to be changed to a recycling center. That's my question.
CHAIRMAN ZOLTOWSKI: No, you said which -- would it be a good location. That's what you said.
MR. RIDGWAY: If -- would that be a --
CHAIRMAN ZOLTOWSKI: Now, I'm asking you, which is a better location: A place where you can have paving and/or concrete and control runoff and debris or open Pinelands dirt?
MR. MILLER: Well, there's -- the question isn't apropos to what we're discussing because this is not an open location, you know, and there isn't --
CHAIRMAN ZOLTOWSKI: Can I ask which

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is a more suitable -- is it a suitable location or is it a good location to do recycling?

MR. MILLER: Your question doesn't --

CHAIRMAN ZOLTOWSKI: And I'm asking you is it better to do it in a commercial location that can be paved or -- or concreted or in open dirt in the Pinelands? Which location would be better?

MR. MILLER: There's not enough information there to be able to opine on it. You'd have to know more detail than that.

CHAIRMAN ZOLTOWSKI: Okay. Thank you.

MR. RIDGEWAY: Let me ask my question again. Perhaps we can clear it up.

This site existing as it is now with -- if the board feels it's just an auto salvage yard, in your opinion would it be appropriate to be changed to a recycling center knowing there's only an auto salvage yard that's been there for 60-some years?

MR. MILLER: And would continue or have the right to continue, the answer's yes.

CHAIRMAN ZOLTOWSKI: Mr. Kennedy, you

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still want to -- you -- you haven't gotten your answer.

MR. KENNEDY: Mr. Haas has a question.

MR. COLEMAN: Go ahead.

MR. HAAS: All right. I have a question.

Is it possible when the laws or ordinances are written to cover a junk yard that the language that's in there was all encompassing in order to allow the disposal of, in those years, cars that had head linings which were cloths, dispose of a cloth, dispose of anything that didn't look -- or a symbol, even the wood on the side of a car, on the wood, is it possible that those laws were written so that someone can say, hey, they're doing an illegal operation, they're getting rid of clothes or cloth or something? Is it possible? Is that possible?

MR. MILLER: I -- I don't see how you can draw that conclusion based on the fact that the ordinance, for example, mentions things like bottles and -- and other type of

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debris.

MR. HAAS: And the wording of the materials, you can't say that that's possible?

MR. MILLER: I believe that if a township wanted to limit it to auto-related salvage, it would have structured the ordinance in a different manner.

MR. HAAS: We have had testimony tonight that the DEP has come on this property quite regularly. The DEP -- are you aware the DEP is changing the valuation on this property?

MR. MILLER: I'm not sure I understand your question of how -- the DEP doesn't value things, I don't believe.

MR. HAAS: Is -- are you aware that the DEP is changing the status of this property?

MR. COLEMAN: Maybe, Mr. Haas, maybe that question would be probably better posed for Mr. Gabrysiak.

MR. GABRYSIAK: I would be happy to answer it.

MR. HAAS: Well, I don't think so.

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This is a line of questioning --

MR. COLEMAN: Okay.

MR. HAAS: -- I'm trying to establish here.

Okay. We're considering prior use --

MR. COLEMAN: Um-hmm.

MR. HAAS: -- as nonconforming and, therefore, we -- we need to grant a certificate. That's what the argument is.

MR. COLEMAN: Yes.

MR. HAAS: I'm offering evidence or asking for evidence that the DEP has now rated you not a junk yard but a recycling center. They've changed your status.

MR. MILLER: I don't believe that's correct.

MR. HAAS: As of October the 1st, are they not?

MR. COLEMAN: Well, any of -- any of the witnesses can respond to that --

MR. HAAS: Yeah, anybody.

MR. COLEMAN: -- question.

MR. HAAS: Anyone.

MR. COLEMAN: Mr. Gabrysiak?

MR. GABRYSIAK: No, you're incorrect.

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The DEP has changed the regulations on scrap metal processing facilities. Okay? We operate in the Township of Southampton as a junk yard as I do in Springfield as a junk yard and as every other scrap metal operator in the State of New Jersey operates with a municipal license that says junk yard.

The new regulations that the DEP are enforcing or will be enforcing are regulations that are designed to keep these junk yards environmentally friendly. We are inspected and, truthfully, thank you to whoever it may be, we've been inspected by the DEP, the board of health, the state fire department, all within the last month, no violations, nothing wrong with that facility in any way and, you know, we do abide by whatever regulations that whatever state...

MR. HAAS: Okay.

MR. KENNEDY: Did you abide by the regulation when you put in the scale?

CHAIRMAN ZOLTOWSKI: Hold on.

Mr. Haas, continue.

MR. HAAS: The DEP, and I hear language, and we can submit this letter,

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that's fine, if it's not already submitted, the department of -- is revoking your RVR permit, which is a junk yard, and reissuing you as a recycling center as of October the 1st.

Does that constitute a change, a processing, from a junk yard to a recycling center?

MR. GABRYSIAK: No. It's still a junk yard. We're still licensing in the Township of Southampton as a junk yard.

MR. HAAS: You've had testimony that your claim is this has always been a recycling center, the DEP has always come on the property; therefore, why hasn't the DEP changed your permits or the previous owner's permits?

MR. GABRYSIAK: You do realize that that is a general permit, that everyone gets the same one. Okay? We are listed on that permit along with every other facility in the State of New Jersey. It's not written for us directly. It's written for all of the facilities in New Jersey and everyone is -- that's why they call it a general permit.

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Everyone's listed on that.

But I can tell you that as far as I know in the Township of Southampton -- I think we're the only junk yard. I mean is there anybody else with a -- with a license in Township of Southampton?

UNIDENTIFIED SPEAKER: Um-hmm.

MR. GABRYSIAK: Who -- who is it?

MR. HAAS: You just --

MR. GABRYSIAK: I heard somebody say there was.

MR. HAAS: Let's continue with this -- can we continue with this --

(General discussion.)

MR. GABRYSIAK: Does Red Lion have a license?

MR. HAAS: Can we continue with this question?

MR. GABRYSIAK: Yeah, well, I'm answering your question as I thought it was asked.

MR. HAAS: Okay. You're saying it's a general permit but there's categories to the permit, aren't there?

MR. GABRYSIAK: Sure.

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MR. HAAS: Okay.

MR. GABRYSIAK: The category that we're in is...

MR. HAAS: Were in or now in?

MR. GABRYSIAK: That we are in.

MR. HAAS: As of October 1st?

MR. GABRYSIAK: The category we are in is scrap metal processing and auto salvage. We have two categories.

MR. HAAS: An RVR you used to be and now you are a?

MR. GABRYSIAK: I -- I don't know the term RVR.

MR. HAAS: That's DEP terminology.

MR. COLEMAN: Mr. Haas --

MR. GABRYSIAK: I'm not familiar with what it means.

MR. COLEMAN: Mr. Haas, just for the record, what are you reading there?

MR. HAAS: Thank you. I'm reading a report from Stewart Environmental Associations, a report to Southampton Township.

MR. COLEMAN: Okay. And what's the date of that report?

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MR. HAAS: That report is dated -- I don't know. I'm sorry, I don't know. Perhaps you do know.
MR. COLEMAN: Is this the report that Mr. Steward provided?
MR. HAAS: Yes.
MR. COLEMAN: September -- okay. And this is the report that we -- we had an opportunity to forward to the applicant?
MR. HAAS: I hope so.
MR. COLEMAN: Yeah, we did.
MR. HAAS: Okay.
MR. COLEMAN: Go ahead, Mr. Haas.
MR. HAAS: No, I'm done with my line of questioning.
MR. COLEMAN: And it states it's dated September 13th.
(General discussion.)
MR. GABRYSIAK: Before -- before you continue, can I add one thing to that?
MR. HAAS: Sure.
MR. GABRYSIAK: The licensing that the DEP does, I'm licensed by the Township of Southampton. The permit that the DEP gives to us is a storm water discharge permit.

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MR. HAAS: Correct.
MR. GABRYSIAK: Okay? It's not licensing of a recycling place or a junk yard --
MR. HAAS: Forgive me for using --
MR. GABRYSIAK: -- it's a --
MR. HAAS: -- the wrong word.
MR. GABRYSIAK: It's a permit for discharging. So, basically, what they're permitting is our use, as defined by the Township of Southampton, they're allowing us to do that use and they are allowing us to be inspected by their -- by their organization. Okay? So it's not a license, it's a permit that they allow us --
MR. HAAS: Forgive me for using the wrong words.
MR. MILLER: -- to continue to operate --
MR. HAAS: I apologize.
MR. GABRYSIAK: -- underneath the guidelines that the township has already set up.
MR. COLEMAN: For storm water discharge permits.

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MR. HAAS: For storm water discharge permits.
MR. GABRYSIAK: Correct.
CHAIRMAN ZOLTOWSKI: Are you done?
MR. HAAS: I'm done.
CHAIRMAN ZOLTOWSKI: We're going to take a five-minute recess.
(Brief recess taken.)
CHAIRMAN ZOLTOWSKI: We are back in session.
Mr. Darj, you had something you...
MR. DARJ: Yeah, real quick before we -- I know that we need to get to Mr. Scangarello's -- answer any questions -- there was some discussion regarding the general permit, DEP general permit, and I just want to clarify a couple of things real quick just so -- because we sort of glossed over like it's -- almost sort of made light of, not that you were trying to make light of it, but, general permits are called general permits because, you know, they're -- they're permits for a specific -- specific activities that are recognized by the DEP but they are specific to individual applicants themselves

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and it's not that there's a list and everyone's on it. Everyone has their own specific general permit. They do have general conditions and -- although they are pretty extensive. So, I just wanted to clarify that.
The document that Mr. Haas was talking about actually summarized the general permit issued to Mr. Gabrysiak and it was dated September 9th, 2013. And, specifically, I guess, the paragraph that -- that was being summarized there was -- it says that as you are -- as you may be aware, the department mistakenly issued you a general permit that applies only to facilities that engage in vehicle recycling, the category RVR, on August 28th, 2012. Because you are in the business of vehicle recycling and scrap metal processing, the category SM2, the department is revoking the RVR permit and reissuing an SM2 permit. So, just to clarify. That's actually what you were talking about there. But there's quite a bit of extensive conditions on this -- on this permit which I -- I imagine we're going