

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

3 CHAIRMAN ZOLTOWSKI: Mr. Scangarello.

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

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

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

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

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

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

25 And the key word in that ordinance

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

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

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

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

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

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

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

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

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

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

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

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

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

1 discovering through the second stage of --
2 of -- through the second stage of your
3 deliberations.

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

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

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

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

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

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

22 MR. RIDGWAY: One more expert
23 witness.

24 CHAIRMAN ZOLTOWSKI: Tom?

25 MR. RIDGWAY: Yes, sir.

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

3 MR. RIDGWAY: Well --

4 CHAIRMAN ZOLTOWSKI: That's what you
5 said earlier.

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

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

11 MR. RIDGWAY: -- was going.

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

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

17 MR. DARJ: You've both practiced for
18 38 years.

19 MR. RIDGWAY: That's exactly right.

20 MR. DARJ: I think that --

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

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

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

5 MR. SCANGARELLO: Yes.

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

8 MR. SCANGARELLO: Yes, you do.

9 MR. RIDGWAY: -- et cetera.

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

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

16 MR. SCANGARELLO: Right.

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

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

1 much easier when we take things one at a
2 time. Because you're confusing every --
3 you're confusing them, you're -- I'm sure
4 90 percent of the people back here, they came
5 here tonight saying this is a bad thing but
6 we haven't even gotten to the point where
7 they can stand up and say this is a bad
8 thing. If he opens it up right now, they're
9 all going to get up and say it's a bad thing
10 and Tom's going say you're not allowed to say
11 it's a bad thing, we want -- we're only here
12 to talk about the certificate and the
13 nonconforming report so we're just wasting
14 time so we -- let's -- let's figure out what
15 we're going to do and take that road.

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

18 MR. RIDGWAY: You've convinced me.

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

22 MR. RIDGWAY: Understood.

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

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

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

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

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

6 MR. RIDGEWAY: No. He just
7 dropped --

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

11 MR. RIDGWAY: Correct.

12 CHAIRMAN ZOLTOWSKI: Okay.

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

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

17 MR. RIDGWAY: It says buying and
18 selling.

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

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

1 you have a junk yard license.

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

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

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

6 CHAIRMAN ZOLTOWSKI: Mr. Kennedy --

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

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

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

19 Am I correct?

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

23 What I'm saying to you is so much has
24 happened over the last -- since 1947, since
25 1963 to the year 2013 that you certainly need

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 MR. KENNEDY: And a sign.

18 MR. ROBBINS: Because in --

19 MR. COLEMAN: And a sign, excuse me.

20 MR. ROBBINS: Because their argument
 21 has been --

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

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

1 the scale, forget the buildings, forget the
 2 sign.

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

5 MR. RIDGWAY: Um-hmm.

6 MR. ROBBINS: -- because --

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

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

1 expansion which is going -- which is going
 2 on.

3 MR. COLEMAN: Correct.

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

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

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

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

1 find particularly persuasive.

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

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

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

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

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

1 site plan issues. That's when we talk about
 2 noise, hours of operation, machinery,
 3 equipment, all those other things. It's just
 4 is -- is the copper in, copper out, are the
 5 bottles in, bottles out, wood in, wood out.
 6 MR. ROBBINS: So what you're saying
 7 is that when one reads the language of our
 8 ordinances which were written at a time when
 9 this concept of recycling and recycling
 10 facilities was not imagined that -- frankly.
 11 Sadly but -- but that's the case. That's
 12 a -- that's a recent and, perhaps, a positive
 13 thing but -- but when these were written,
 14 that wasn't part of the equation but -- but
 15 what you're saying is but it doesn't matter,
 16 we got you because your -- because your
 17 language is too broad.
 18 MR. RIDGWAY: No.
 19 (General discussion.)
 20 MR. SCANGARELLO: No. He's saying --
 21 he's saying if that's your opinion, then you
 22 have to consider voting that they're not
 23 worthy of getting this particular
 24 nonconformance ordinance at this time.
 25 MR. RIDGWAY: And let me submit,

1 MR. COLEMAN: Maybe, Mike, maybe the
 2 disconnect here is that -- I'm not putting
 3 words in anyone's mouth, I think it's clearly
 4 recognized through the testimony that an auto
 5 salvage yard would be permitted there. Okay?
 6 MR. RIDGWAY: Um-hmm.
 7 MR. COLEMAN: Why don't you tell
 8 them, and -- and maybe this upfront would
 9 have clarified things further, why don't you
 10 tell the board what you're specifically
 11 asking them to vote for in a certificate of
 12 nonconforming use. Because that may help
 13 you. What uses?
 14 MR. RIDGWAY: Yes. All we're asking
 15 you to vote for is that the uses on that site
 16 are within the definition of the junk yard
 17 ordinance.
 18 MR. COLEMAN: And -- okay.
 19 MR. RIDGWAY: And --
 20 MR. COLEMAN: And we're going to take
 21 this --
 22 MR. RIDGWAY: Stop it?
 23 MR. COLEMAN: -- slow -- no. We're
 24 going to make it slow. Slow.
 25 MR. RIDGWAY: Okay.

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

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

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

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

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

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

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

25 Is that pretty much where we are?

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

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

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

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

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

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

5 CHAIRMAN ZOLTOWSKI: Miss Doherty?

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

8 CHAIRMAN ZOLTOWSKI: Okay.
9 Mr. Thomas?

10 MR. THOMAS: No questions.

11 CHAIRMAN ZOLTOWSKI: Mr. Goettelmann?

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

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

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

8 MR. GOETTELMANN: Fine.

9 CHAIRMAN ZOLTOWSKI: Mr. Kennedy?

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

16 MR. COLEMAN: A site plan issue.

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

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

1 come from your Springfield plant to use that
2 scale?

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

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

7 MR. GABRYSIAK: Yes.

8 MR. KENNEDY: That answers my
9 question.

10 CHAIRMAN ZOLTOWSKI: Mr. Haas?

11 MR. HAAS: No questions at this time.

12 CHAIRMAN ZOLTOWSKI: Mr. Heller?

13 MR. HELLER: No questions.

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

1 yeah.

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

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

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

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

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

1 this time what your testimony really could be
2 limited to.

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

5 (Count taken.)

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

11 (General discussion.)

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

15 As far as the history of --

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

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

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

1 MR. GSELL: Yes.
 2 MR. COLEMAN: Okay. The floor is
 3 yours.
 4 MR. GSELL: The ordinance was written
 5 three different times, '46, '67, '63,
 6 something like that, for the uses of junk
 7 yard. And was it ever argued at that point
 8 that the use changed? Probably not because
 9 the -- it was written and rolled. It's here.
 10 Obviously, it's different today. Something
 11 changed.
 12 CHAIRMAN ZOLTOWSKI: And -- and I --
 13 I have to stop you again. When -- at this --
 14 at this point --
 15 MR. GSELL: Right.
 16 CHAIRMAN ZOLTOWSKI: -- we're looking
 17 for the residents, especially the ones who
 18 maybe lived there a long period of time or
 19 lived directly near it.
 20 MR. GSELL: Right.
 21 CHAIRMAN ZOLTOWSKI: What has gone on
 22 out there and what's going on today.
 23 MR. GSELL: Correct.
 24 CHAIRMAN ZOLTOWSKI: Not about
 25 ordinance, what -- what -- what will you

1 MR. WISHART: Okay. May I use your
 2 exhibit?
 3 MR. RIDGEWAY: Certainly.
 4 MR. WISHART: I am trying to --
 5 CHAIRMAN ZOLTOWSKI: You might want
 6 to walk faster.
 7 (General discussion.)
 8 MR. WISHART: If we look at this,
 9 okay --
 10 (General discussion.)
 11 CHAIRMAN ZOLTOWSKI: We need to see
 12 it.
 13 MR. WISHART: All right.
 14 MR. COLEMAN: Mr. Wishart, why don't
 15 you go over by the television there and --
 16 MR. WISHART: We'll try to explain
 17 it.
 18 MR. COLEMAN: There we go so
 19 everybody can see it.
 20 MR. WISHART: Okay.
 21 CHAIRMAN ZOLTOWSKI: Please turn it
 22 towards the board, more towards me, that way.
 23 MR. WISHART: Okay. Let's actually
 24 look at the site itself. And we look at it,
 25 the tallest thing you see there is the

1 swear to that you believe has gone on in the
 2 past as far as you know or have been there
 3 and what's going on today.
 4 MR. GSELL: As -- as I know it, the
 5 place was very, very small, a real small
 6 operation, the locals would roll in and roll
 7 out, unload, drop off stuff just like it was
 8 testified earlier.
 9 Today, it is a larger operation. It
 10 has grown than what it was. That's it.
 11 CHAIRMAN ZOLTOWSKI: Thank you.
 12 MR. COLEMAN: Thank you.
 13 (General discussion.)
 14 MR. WISHART: John Wishart,
 15 W-I-S-H-A-R-T, One Falcon Drive.
 16 CHAIRMAN ZOLTOWSKI: Mr. Wishart --
 17 MR. WISHART: Yes.
 18 MR. COLEMAN: -- do you swear that
 19 the testimony that you're about to offer is
 20 the whole truth and nothing but the truth so
 21 help you God?
 22 MR. WISHART: I do.
 23 MR. COLEMAN: And it's John Wishart?
 24 MR. WISHART: John Wishart, yes.
 25 MR. COLEMAN: Go ahead.

1 building and a smattering of cars, correct?
 2 MR. SCANGARELLO: Can you point it
 3 out?
 4 MR. WISHART: Let's bring it up.
 5 (General discussion.)
 6 MR. WISHART: Right here. Okay?
 7 And when it was Pointsett's, there
 8 was a lot of junk cars there and -- but they
 9 were limited to one next to another. They
 10 were the old section, the newer section,
 11 whatever, but they were there.
 12 Since Allied has gone into
 13 recycling -- how tall are your recycling
 14 piles?
 15 MR. GABRYSIK: Can I respond?
 16 CHAIRMAN ZOLTOWSKI: You don't have
 17 to -- you don't have to answer that.
 18 MR. WISHART: You don't have to
 19 answer but a good estimate is 30, 35-foot
 20 tall. All right?
 21 In the permit, it states that one of
 22 the things under D, I think, it says where it
 23 has to be visual, right? Under your permit,
 24 your requirements.
 25 UNIDENTIFIED SPEAKER: Not visual,

1 to...

2 CHAIRMAN ZOLTOWSKI: Once again,
3 please -- please limit it to what --

4 MR. COLEMAN: The history.

5 MR. WISHART: The history. The
6 history was --

7 CHAIRMAN ZOLTOWSKI: -- and the
8 present.

9 MR. WISHART: -- that it was a small
10 junk yard, heavily wooded, sight unseen.
11 Okay? You could not visually see it from any
12 point in the neighborhood or from New Road.

13 That is no longer the point. It is
14 now a cleared operation. Vegetation has been
15 removed and piles of light aluminum, I would
16 consider light aluminum, light steel, now
17 tower --

18 CHAIRMAN ZOLTOWSKI: Okay.

19 MR. WISHART: -- above the trees. A
20 visual difference.

21 That's what you're asking for at this
22 point, right?

23 CHAIRMAN ZOLTOWSKI: Okay. Thank
24 you.

25 MR. WISHART: Okay. We'll argue the

1 exactly what it is. You've got cars there,
2 you got tires there. They're all potential
3 hazards because they have acrylics in them
4 that Rohm & Haas used to produce. The tires
5 have other toxic things. The tires catch
6 fire, you're going to have another Hiroshima
7 on your hands.

8 That's all I've got to say.

9 CHAIRMAN ZOLTOWSKI: Thank you.

10 MS. WISHART: Catherine Wishart,
11 W-I-S-H-A-R-T, One Falcon Drive, Southampton,
12 New Jersey.

13 I have a question for the board.

14 MR. COLEMAN: Miss Wishart, do you
15 swear --

16 MS. WISHART: Oh, yeah. I'm sorry.

17 MR. COLEMAN: -- that the testimony
18 you're about to provide is the whole truth
19 and nothing but the truth so help you God?

20 MS. WISHART: Yes, I do.

21 MR. COLEMAN: Okay.

22 MS. WISHART: Okay. I have a
23 question for the board.

24 Is there a difference between the
25 zoning board and the planning board?

1 other stuff out later.

2 (General discussion.)

3 CHAIRMAN ZOLTOWSKI: Sir, what's your
4 name?

5 MR. LERNER: Ben Lerner, L-E-R-N-E-R.

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

10 MR. LERNER: Correct.

11 MR. COLEMAN: Just for our -- can you
12 spell your name again?

13 MR. LERNER: L-E-R-N-E-R.

14 MR. COLEMAN: And address?

15 MR. LERNER: 26 Falcon Drive.

16 MR. COLEMAN: Go ahead, Mr. Lerner.

17 MR. LERNER: Okay. My credentials,
18 I'm an engineer, retired. I worked for Rohm
19 & Haas Company. My job was to handle waste
20 and dispose of it. New Jersey was the prime
21 place to put your waste back in the 50s and
22 '60s.

23 When I moved 34 years ago out here,
24 there was no industrial sites. What we're
25 visiting now is an industrial site. That's

1 MR. COLEMAN: Yes.

2 MS. WISHART: Okay. Because -- I'm
3 bringing this up because mister...

4 MR. RIDGWAY: Ridgway.

5 MS. WISHART: Ridgway. Okay, Mr. --
6 Mr. Ridgway pointed out that the zoning board
7 did not have the right to write the
8 resolution that identified this property,
9 30 -- of Lot 36.02 as for auto salvage use
10 only.

11 However, at the top of the resolution
12 that was not written by the zoning board,
13 that was written by the planning board.
14 Therefore, in -- if I'm correct, the planning
15 board does have the right to limit the scope
16 and use of given specific sites within the
17 township to assure that -- that residential
18 areas and areas of rural use are protected.

19 Since that resolution was passed by
20 the planning board and not the zoning board
21 and since the resolution specifically states
22 that it is to be used for auto salvage use
23 only, it seems to me that to allow
24 nonconforming use for recycling does not fit
25 under that permit.

1 Thank you.
 2 CHAIRMAN ZOLTOWSKI: I'll let you
 3 redirect because I...
 4 MR. RIDGWAY: Right. And I don't
 5 know if I misspoke or someone misheard me. I
 6 believe I was responding to Mr. Coleman's
 7 comments about the 1993 planning board
 8 resolution and that was by the planning
 9 board. And the comment I made was that the
 10 planning board can't determine the uses of
 11 that site. That's a zoning board decision.
 12 And the only reason that application was
 13 before the planning board was to divide that
 14 property off of Mr. Giberson's mother lot.
 15 That's the only reason that I made that
 16 comment.
 17 And the language in the resolution,
 18 Mr. Coleman and I respectfully disagree with
 19 what it says in there but my feeling was that
 20 they were concerned about a physical
 21 expansion because someone had previously
 22 expanded into the mother lot. The board
 23 has -- what a site plan -- when a
 24 subdivision's being put before the planning
 25 board, the planning board's not concerning

1 themselves with uses, they're only concerning
 2 themselves with the physical carving out of
 3 the lot from the mother lot.
 4 CHAIRMAN ZOLTOWSKI: And we could
 5 spend the night on that.
 6 MS. TOPHAN: Patricia Tophan,
 7 T-O-P-H-A-N, 450 New Road.
 8 MR. COLEMAN: Miss Tophan --
 9 MS. TOPHAN: Yes.
 10 MR. COLEMAN: -- the testimony that
 11 you're about to provide is the whole truth
 12 and nothing but the truth so help you God?
 13 MS. TOPHAN: Yes, it is.
 14 I have a question. I know you said
 15 that I cannot bring up the trucks but the
 16 trucks to me -- are we -- I thought we were
 17 doing the weigh-in station, too, whether this
 18 is...
 19 MR. COLEMAN: Are -- are the trucks
 20 related to -- are the comments concerning
 21 trucks related to the historical use and
 22 nature of the property?
 23 MS. TOPHAN: Yes, because we get --
 24 MR. COLEMAN: Then go ahead.
 25 MS. TOPHAN: The trucks are much

1 bigger. Can I show you the pictures? I will
 2 show the pictures that way.
 3 And, Bruce, you're doing a good job
 4 here. Okay? All right. Over there
 5 (indicating) so they can see them properly.
 6 MR. COLEMAN: I'm sorry, Miss
 7 Tophan --
 8 MS. TOPHAN: Yes.
 9 MR. COLEMAN: -- these are -- are
 10 these your -- your pictures?
 11 MS. TOPHAN: These are my pictures
 12 that I took --
 13 MR. COLEMAN: Okay.
 14 MS. TOPHAN: -- okay, on August --
 15 MR. COLEMAN: Slow down.
 16 MS. TOPHAN: -- on August the 14th.
 17 MR. COLEMAN: Slow down. How about
 18 we -- we're going to have to mark these into
 19 evidence, okay --
 20 MS. TOPHAN: Um-hmm.
 21 MR. COLEMAN: -- so you're -- you're
 22 going to have to give them to us. They're no
 23 longer yours --
 24 MS. TOPHAN: Yes, okay.
 25 MR. COLEMAN: -- okay? So, the first

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

1 MR. COLEMAN: When did you take this
 2 picture? What day?
 3 MS. TOPHAN: August the 14th.
 4 MR. COLEMAN: Thank you.
 5 UNIDENTIFIED SPEAKER: 10:20 a.m.
 6 MS. TOPHAN: This one (indicating) --
 7 CHAIRMAN ZOLTOWSKI: And the
 8 reference point is from where?
 9 MS. TOPHAN: This (indicating) is
 10 Allied Recycling. You can see it right there
 11 (indicating). For this truck to get out, it
 12 has to come all the way over this way
 13 (indicating).
 14 CHAIRMAN ZOLTOWSKI: No, no, no.
 15 Where are you taking the picture from?
 16 MS. TOPHAN: This yard (indicating).
 17 CHAIRMAN ZOLTOWSKI: Who's yard is
 18 it?
 19 MS. TOPHAN: That is Wolf's.
 20 CHAIRMAN ZOLTOWSKI: Oh, okay. It's
 21 not from the front of your house?
 22 MS. TOPHAN: No.
 23 CHAIRMAN ZOLTOWSKI: Oh, okay.
 24 MS. TOPHAN: No, no, no, no, no.
 25 CHAIRMAN ZOLTOWSKI: I'm sorry. Go

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

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

1 property. I understand --
 2 MS. TOPHAN: Okay.
 3 MR. COLEMAN: I'm not finished yet.
 4 I understand you're really concerned --
 5 MS. TOPHAN: Um-hmm.
 6 MR. COLEMAN: -- about the truck
 7 traffic out there.
 8 MS. TOPHAN: Right.
 9 MR. COLEMAN: The chairman was very,
 10 very specific at the start. You're going to
 11 have time tonight to talk about large purple
 12 trucks --
 13 MS. TOPHAN: Um-hmm.
 14 MR. COLEMAN: -- but now is not the
 15 time.
 16 MS. TOPHAN: But tonight you said
 17 we're over by 10:00.
 18 MR. COLEMAN: You're going to have
 19 time. It may not be tonight. I want to hear
 20 from you the historical nature of the
 21 property, okay? You're -- you're talking
 22 about a -- a material condition that is
 23 impacting you or the Wolf property --
 24 MS. TOPHAN: Right.
 25 MR. COLEMAN: -- okay, and that's not

1 what we're trying to decide right now.
 2 Nope, nope, nope, she's on, not you.
 3 CHAIRMAN ZOLTOWSKI: You can -- you
 4 can -- if what your point is -- if all you're
 5 trying to say is that size truck never came
 6 there before, then --
 7 MS. TOPHAN: No.
 8 CHAIRMAN ZOLTOWSKI: -- that's what
 9 you need to say.
 10 MS. TOPHAN: And if the weigh-in
 11 station wasn't there, this big truck would
 12 not be coming.
 13 CHAIRMAN ZOLTOWSKI: All right.
 14 Still, again, prior to this, have you ever
 15 seen a truck that size come down --
 16 MS. TOPHAN: No, I have never seen a
 17 truck, I swear to God, until recently. There
 18 are many other large trucks, this being the
 19 largest.
 20 MR. COLEMAN: Do you --
 21 MS. TOPHAN: All right?
 22 MR. COLEMAN: Do you know
 23 specifically, Miss Tophan, do you know
 24 specifically what's in -- everything that's
 25 in that truck?

1 MS. TOPHAN: How could I tell?
 2 MR. COLEMAN: That's a --
 3 MS. TOPHAN: And this -- this here
 4 (indicating) is not pulled over so I'm --
 5 MR. COLEMAN: That's a -- that's a
 6 yes --
 7 MS. TOPHAN: -- assuming it's empty.
 8 MR. COLEMAN: -- or a no.
 9 MS. TOPHAN: I have no idea.
 10 MR. COLEMAN: Okay.
 11 UNIDENTIFIED SPEAKER: It's full.
 12 MS. TOPHAN: Huh? It's full?
 13 UNIDENTIFIED SPEAKER: When it's back
 14 like that --
 15 MS. TOPHAN: Oh, when it's back like
 16 this (indicating) --
 17 UNIDENTIFIED SPEAKER: -- it's a full
 18 truck.
 19 MS. TOPHAN: -- it's full? Okay.
 20 See, I know nothing about that. Sorry.
 21 I have a couple other pictures.
 22 (General discussion.)
 23 MR. COLEMAN: You're going to have to
 24 slow down. You've got to go back to B-3.
 25 You've got to tell me what that one is.

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

1 MS. TOPHAN: Well, he only had two
 2 trucks, two tow trucks, Mr. Pointsett did,
 3 all right, and this (indicating) we have many
 4 trucks, many different sizes, and that's what
 5 I'm pointing out. This (indicating) is the
 6 largest I seen. Allied has its own trucks,
 7 that -- they're large but not as large as
 8 this (indicating) but there are local people
 9 bringing stuff in, too.
 10 And the another thing is this truck
 11 (indicating) is from Pennsylvania. It's not
 12 even a New Jersey truck so it is hauling
 13 stuff out to go to Pennsylvania.
 14 MR. COLEMAN: Okay. This is, what, a
 15 Pennsylvania truck?
 16 MS. TOPHAN: Yes. This (indicating)
 17 is a Pennsylvania truck from Morrisville.
 18 MR. COLEMAN: Okay.
 19 MS. TOPHAN: I have the name of the
 20 company. All right?
 21 CHAIRMAN ZOLTOWSKI: I apologize, I'm
 22 going to have to cut you off.
 23 MS. TOPHAN: Okay.
 24 CHAIRMAN ZOLTOWSKI: I apologize.
 25 MS. TOPHAN: This was No. 4 and this

1 was No. 5.

2 MR. COLEMAN: Thank you, Miss Tophan.

3 MS. TOPHAN: Um-hmm. I have comments
4 about stuff that was -- oh. At another point
5 in time. Okay.

6 MR. BURKE: Lawrence Berk, 3 Falcon
7 Drive, Southampton.

8 MR. COLEMAN: Mr. Burke, is the
9 testimony you're about to provide this
10 evening the whole truth and nothing but the
11 truth so help you God?

12 MR. BURKE: Yes, it is. I'll try to
13 stay within the guidelines, Chairman, but
14 this past Saturday I took 23 photos of the
15 property showing various junk as Mr. Ridgway
16 referred to. He neglected to mention propane
17 tanks and fiberglass boats, air conditioners
18 and microwave ovens which are on the
19 property.

20 I moved into this residence five
21 years ago exactly, September of '08. When I
22 moved in then, I heard no noise, I saw no
23 lights, I couldn't see any debris. Now from
24 200 yards away from my back door, I can see
25 piles and other debris. I can see an RV. I

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

1 can see the backs of tractor-trailer trucks
2 parked on the property. Five years ago, none
3 of that was there.

4 CHAIRMAN ZOLTOWSKI: Can I ask you
5 one question? I apologize. A previous
6 resident stated how high the pile was and...

7 MR. BURKE: If I can see it from my
8 back door 200 yards in the distance, it's got
9 to be 50-to-60 feet high. My photos don't
10 evidence that they're that high but you, you
11 know, I think anyone can say if you can see
12 something from 200 yards away, it's pretty
13 damn high. The fence is only six feet high.

14 CHAIRMAN ZOLTOWSKI: Thank you.

15 MS. KING: Nancy King, 445 New Road.

16 CHAIRMAN ZOLTOWSKI: King?

17 MS. KING: King, K-I-N-G.

18 I just want to say that I --

19 MR. COLEMAN: Nancy, do you swear
20 that the testimony you're about to provide
21 this evening is the whole truth and nothing
22 but the truth so help you God?

23 MS. KING: (No verbal response.)

24 MR. COLEMAN: Go ahead.

25 MS. KING: I have lived at my

1 leaves to come off the -- across the street
2 from me because then I'll be able to see what
3 the other people are seeing also. Right now,
4 I can't with the bushes and that because I
5 don't live as close as they do. But in the
6 winter, I'll be able to see it very clearly.
7 And it's nothing -- it's historical. It's
8 nothing like it used to be. I grew up in
9 Tabernacle. I've lived in this house for 30
10 years. I never saw anything like what is
11 going on there. It's not what it used to be.
12 It's nothing like it used to be.

13 CHAIRMAN ZOLTOWSKI: Thank you.

14 UNIDENTIFIED SPEAKER: Any other
15 notes there?

16 MS. KING: Wait a minute, I'm
17 having -- buy, sell.

18 I never saw people hauling things in
19 there to sell. I was behind a truck
20 personally several weeks ago, had a barbecue.
21 It was a pickup truck loaded. It had a
22 barbecue grill perched at the top and I was
23 behind it but, of course, I backed off
24 because my car is fairly new and I saw the
25 grill, I don't know if it was secured or not,

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

10 Processing --

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

13 The number is growing.

14 MR. JENKINS: Steven Jenkins.

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

19 MR. JENKINS: Yes.

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

22 MR. MURPHY: 446 New Road.

23 MR. COLEMAN: Thank you, Mr. Jenkins.

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

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

10 UNIDENTIFIED SPEAKER: And the trees
11 have been...

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

17 CHAIRMAN ZOLTOWSKI: Thank you.

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

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

25 MS. SUNDSTROM: I do.

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

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

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

8 Do I...

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

11 MS. HANNAH: Do you want extra
12 copies?

13 MS. SUNDSTROM: We have extra copies.

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

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

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

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

22 MR. PRICE: My initials.

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

25 MR. PRICE: It's John.

1 MR. COLEMAN: Just give me a second,
2 Mr. Price, so I can catch up.

3 Mr. Price, do you swear that the
4 testimony you're about to provide this
5 evening is the whole truth and nothing but
6 the truth so help you God?

7 MR. PRICE: I do.

8 I'm trying to stick with the thing
9 and I do have a question so --

10 MR. COLEMAN: Your address again?
11 I'm sorry.

12 MR. PRICE: 33 Falcon Drive.

13 MR. COLEMAN: Thank you, Mr. Price.

14 MR. PRICE: I've been there 30 years.

15 I have been in that facility. As a
16 matter of fact, my -- my original '77 Monte
17 Carlo about four years ago when I -- we
18 picked it up, I went back there, looked at
19 it, I -- I hardly saw anything, you know, I
20 mean, some cars and buses and things like
21 that but I have seen -- and I only saw
22 flatbed trucks once in a while, you know,
23 with a car on top of it going out, coming in
24 and -- but now I've seen these big trucks so
25 that's a difference.

1 he did accept stuff like that, yes he did
2 throw it in the yard and store it there or he
3 didn't or maybe the -- maybe there was five
4 washing machines and they are all his.

5 MR. PRICE: Right.

6 CHAIRMAN ZOLTOWSKI: Where -- where
7 did this stuff come from? Did he accept
8 stuff or did he not? What -- what was his
9 primary business? What -- what did he do
10 there?

11 MR. PRICE: But even if he did accept
12 it, what I'm saying if he wasn't supposed to
13 accept it, no one's there checking that.

14 Does that make it right to say -- somebody
15 coming in 10 years later saying, well, look,
16 it encompasses all of these things. That --
17 that's all I was asking.

18 CHAIRMAN ZOLTOWSKI: He is allowed
19 to, yes. The ordinance says he's allowed.

20 MR. PRICE: Okay. And, by the way,
21 that grill that was on the top, I think it
22 was the Eagle's -- Eagle's tailgating party.

23 MR. COLEMAN: The ordinance says old
24 metals.

25 Would you say, Mr. Price, that the --

1 I do have one question. So, I heard
2 quite a bit about one of the things that
3 you're trying to do is that -- that it's more
4 than an auto salvage and you read it's
5 supposed to be an auto place and -- because
6 of all of the things that were found in there
7 but if that was not supposed to be there and
8 the township over the years didn't do, sorry,
9 due diligence to know that because it was
10 very small and quiet, does that make it
11 become as big as it wants to be because it
12 wasn't supposed to have all of those things
13 there but since we found out it is, now
14 that's the basis it sounds like of why we're
15 allowed to do this or you want to do this.
16 Is that a true statement or am I wrong?

17 CHAIRMAN ZOLTOWSKI: Well, the
18 problem is is that if -- if you're stating
19 that there -- that there is stuff in there
20 and -- and it's -- the ordinance says it can
21 be there, then he's not in violation.

22 MR. PRICE: I understand. But when
23 you were reading first and --

24 CHAIRMAN ZOLTOWSKI: The problem is
25 is we're looking for history that says, yes

1 that the grill is old metal?

2 MR. PRICE: Yeah, but the wood --

3 MR. COLEMAN: Yes or no.

4 MR. PRICE: Yes.

5 MR. COLEMAN: All right. And it says
6 wood, too.

7 MR. PRICE: Right. I was just
8 referring to what you had said that you had
9 thought when you thought it was auto salvage
10 only and that there were some other
11 ordinances because it's been changed like
12 three times, I guess, so...

13 MR. COLEMAN: Okay. Thank you.

14 CHAIRMAN ZOLTOWSKI: Thank you,
15 Mr. Price.

16 MR. GIBERSON: Am I allowed to say
17 anything?

18 UNIDENTIFIED SPEAKER: No.

19 MR. GIBERSON: I just want to say a
20 couple of words.

21 CHAIRMAN ZOLTOWSKI: You need to come
22 on up.

23 MR. GIBERSON: Listen to this.

24 MR. COLEMAN: Come on up,
25 Mr. Giberson.

1 MR. GIBERSON: Back in the day when I
 2 got the junk yard license --
 3 (General discussion.)
 4 MR. COLEMAN: Mr. Giberson, you've
 5 already been sworn in.
 6 MR. GIBERSON: Yes.
 7 MR. COLEMAN: Okay. You've already
 8 been sworn in, okay, you're -- you're going
 9 to limit this, okay?
 10 MR. GIBERSON: Yes, just a few words.
 11 MR. COLEMAN: No, you're going to
 12 limit this, as the Chairman said, just to the
 13 historical nature of that property.
 14 MR. GIBERSON: Yeah, but that's --
 15 okay.
 16 MR. COLEMAN: Go ahead.
 17 MR. GIBERSON: Back in the day when I
 18 was up against everybody in '85 when
 19 Mister -- what was his name? The big guy.
 20 MR. RIDGWAY: Rogers.
 21 MR. GIBERSON: Huh?
 22 MR. RIDGWAY: Bob Rogers.
 23 MR. GIBERSON: Bob Rogers; he was
 24 down here in front of everybody, Pinelands,
 25 wetlands, everybody, that junk yard cannot be

1 MR. KENNEDY: Nothing.
 2 CHAIRMAN ZOLTOWSKI: Mr. Haas?
 3 MR. HAAS: No.
 4 CHAIRMAN ZOLTOWSKI: Mr. Heller?
 5 MR. HELLER: No.
 6 CHAIRMAN ZOLTOWSKI: At this time,
 7 what would the board like to do?
 8 MR. ROBBINS: I'll make a motion.
 9 And...
 10 CHAIRMAN ZOLTOWSKI: This is a motion
 11 strictly dealing with the certificate of
 12 nonconformance?
 13 MR. ROBBINS: Correct. And...
 14 CHAIRMAN ZOLTOWSKI: And you can --
 15 just to let you know, you can make a motion
 16 to say that they can do this but they can't
 17 do that.
 18 MR. ROBBINS: I, you know, I'll --
 19 I'll make the motion so that yes is yes and
 20 no is no. In other words, it's -- it's a
 21 positive motion, not a -- you wouldn't be
 22 voting affirmatively against this motion.
 23 CHAIRMAN ZOLTOWSKI: Right. We
 24 always make them in the positive.
 25 MR. ROBBINS: Correct. So...

1 no bigger than 3.5 acres and not one tree can
 2 be cut on that property. That's the only
 3 thing was said tonight. I held up to it and
 4 he did, too.
 5 MEMBER OF THE PUBLIC: 3.5 acres?
 6 MR. GIBERSON: 3.5 acres out of 12.6.
 7 CHAIRMAN ZOLTOWSKI: The ordinance
 8 says today three.
 9 MR. GIBERSON: Three? Okay. 3.5, I
 10 thought. And it's not getting any bigger as
 11 far as sizewise with trees. Go in there and
 12 look for stumps.
 13 CHAIRMAN ZOLTOWSKI: All right.
 14 Anyone else?
 15 Public portion closed.
 16 Mr. Robbins?
 17 MR. ROBBINS: I don't have any
 18 further questions.
 19 CHAIRMAN ZOLTOWSKI: Miss Doherty?
 20 MS. DOHERTY: I don't have any.
 21 CHAIRMAN ZOLTOWSKI: Mr. Thomas?
 22 MR. THOMAS: No further questions.
 23 CHAIRMAN ZOLTOWSKI: Mr. Goettelmann?
 24 MR. GOETTELMMANN: No questions.
 25 CHAIRMAN ZOLTOWSKI: Mr. Kennedy?

1 MR. COLEMAN: Mr. Robbins?
 2 MR. ROBBINS: Yes.
 3 MR. COLEMAN: Can I just -- in
 4 conjunction with or in connection with your
 5 motion that you're going to roll out in a
 6 second, I want you or any member of the board
 7 that may second that to set forth on the
 8 record specifically the facts or the facts
 9 that you haven't heard tonight that support
 10 your motion. Okay? Because this is
 11 factually driven. Okay?
 12 MR. ROBBINS: I'll try.
 13 MR. COLEMAN: Good.
 14 MR. ROBBINS: I would make a motion
 15 that this board grant a certificate of
 16 nonconformance to the applicant,
 17 Allied Recycling, because the testimony given
 18 by the applicant and various witnesses
 19 support their assertion that the current use
 20 falls within the guidelines of Southampton's
 21 junk yard ordinance and is therefore -- meets
 22 the criteria of granting this certificate.
 23 CHAIRMAN ZOLTOWSKI: We have a
 24 motion.
 25 Do we have a second?

1 MR. HAAS: Second.
 2 CHAIRMAN ZOLTOWSKI: Any discussion
 3 for the motion?
 4 I have a question. Is this a
 5 majority vote?
 6 MR. COLEMAN: It is.
 7 MR. HELLER: Mr. Chairman, I -- I
 8 have a question about the -- kind of the
 9 terms of the -- the vote.
 10 The question is is the use of the
 11 property historically different than it is
 12 now? Am I correct about that?
 13 CHAIRMAN ZOLTOWSKI: Yes, that's the
 14 question that we're all trying to answer.
 15 MR. HELLER: As I consider my vote,
 16 may I take into account the scale today as
 17 opposed to the scale historically? The scale
 18 of the operation.
 19 CHAIRMAN ZOLTOWSKI: If -- if you
 20 feel that that has changed what has
 21 historically gone out there.
 22 MR. HELLER: Okay. Other factors
 23 such as noise, lighting, sizes of piles of
 24 material, are -- may -- are historically
 25 different but would also be considered down

1 which defines junk yard? That it's current
 2 use is consistent with that definition.
 3 MR. ROBBINS: That's my motion.
 4 MR. COLEMAN: Okay, good. I just
 5 wanted to clarify that.
 6 Thank you, Mr. Robbins.
 7 CHAIRMAN ZOLTOWSKI: Roll call.
 8 MS. HANNAH: Miss Doherty?
 9 MS. DOHERTY: I'm going to abstain.
 10 MR. COLEMAN: Miss Doherty, this is
 11 an important vote.
 12 MS. DOHERTY: No, I know it is.
 13 MR. COLEMAN: No, no, no, let me
 14 finish. This is an important vote and if
 15 you're going to abstain, you have to -- I
 16 want you to specifically state on the record
 17 why you're abstaining, okay?
 18 MS. DOHERTY: I have a mixed -- I --
 19 I have it very hard to clarify in my mind a
 20 yes and no --
 21 MR. COLEMAN: Okay.
 22 MS. DOHERTY: -- in regards to
 23 Mr. Scangarello's comments --
 24 MR. COLEMAN: Okay.
 25 MS. DOHERTY: -- in regards to the

1 the road perhaps with other actions or other
 2 applications.
 3 Am I correct about that?
 4 CHAIRMAN ZOLTOWSKI: Other parts of
 5 this application?
 6 MR. HELLER: No, of subsequent
 7 applications such as a variance or a site
 8 plan.
 9 CHAIRMAN ZOLTOWSKI: For this
 10 application for this -- for this applicant?
 11 MR. HELLER: Yes, for this applicant.
 12 CHAIRMAN ZOLTOWSKI: Yes.
 13 MR. HELLER: Okay. Thank you.
 14 CHAIRMAN ZOLTOWSKI: Yes. This is
 15 not the end all of it.
 16 MR. HELLER: Thank you.
 17 CHAIRMAN ZOLTOWSKI: Any other
 18 discussion?
 19 Roll call.
 20 MR. COLEMAN: So, Mr. Robbins, just
 21 so I have it clear, this is a -- your motion,
 22 for the reasons you set forth on the record,
 23 is the grant of a certificate of
 24 nonconformance to allow or to permit a junk
 25 yard consistent with the township ordinance

1 fact of what the applicants had to say.
 2 MR. COLEMAN: Okay.
 3 MS. DOHERTY: I -- I just don't have
 4 a clear yes or no.
 5 MR. COLEMAN: Okay. I didn't want to
 6 have to state this but I think the law is --
 7 in my mind, it's pretty clear, okay, that if
 8 you abstain for any reason other than a
 9 conflict where you just can't vote on the
 10 situation, your vote has been construed by --
 11 your abstention vote has been construed by
 12 the courts in the State of New Jersey,
 13 whether or not you like it or not, to go with
 14 the majority. Okay? So, I'm just cautioning
 15 you that.
 16 CHAIRMAN ZOLTOWSKI: Okay. There are
 17 six people left. If it's three and three,
 18 where does her vote go?
 19 MR. COLEMAN: We have neither.
 20 CHAIRMAN ZOLTOWSKI: Neither?
 21 MR. COLEMAN: Yeah. That's why I --
 22 I can't force you to vote but it's -- but
 23 let's -- let's hear the rest of the votes.
 24 MS. HANNAH: Mr. Goettelmann?
 25 MR. GOETTELMMANN: Yes.

1 MS. HANNAH: Mr. Haas?
 2 MR. HAAS: No.
 3 MS. HANNAH: Mr. Kennedy?
 4 MR. KENNEDY: Yes.
 5 MS. HANNAH: Mr. Robbins?
 6 MR. ROBBINS: No.
 7 MS. HANNAH: Mr. Heller?
 8 MR. HELLER: No.
 9 MS. HANNAH: Chairman Zoltowski?
 10 CHAIRMAN ZOLTOWSKI: No.
 11 Sorry, the certificate did not pass.
 12 MR. COLEMAN: Mr. Chairman, it is now
 13 9:55. Are we -- the applicant's attorney is
 14 asking me where we're headed the rest of the
 15 evening.
 16 CHAIRMAN ZOLTOWSKI: A couple of the
 17 board members have expressed their desire not
 18 to stay late. I don't know what -- is there
 19 a legal...
 20 MR. COLEMAN: Well, we could -- we
 21 could stay here all evening. I will tell
 22 you, though, we started at 6:30. There --
 23 I'm not going to say court cases but there
 24 are a number of court cases that say you
 25 really shouldn't go late into the evening

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

1 MR. ROBBINS: (No verbal response.)
 2 CHAIRMAN ZOLTOWSKI: Yes, you're okay
 3 with a special date?
 4 MR. ROBBINS: We can -- we can -- I'm
 5 okay with it, it's going to be difficult but
 6 I'm certainly okay with it.
 7 CHAIRMAN ZOLTOWSKI: Ms. Doherty?
 8 MS. DOHERTY: (No verbal response.)
 9 CHAIRMAN ZOLTOWSKI: Mr. Thomas?
 10 MR. THOMAS: I'm okay. Anything.
 11 CHAIRMAN ZOLTOWSKI: Mr. Kennedy?
 12 MR. KENNEDY: No problem.
 13 CHAIRMAN ZOLTOWSKI: Mr. Haas?
 14 MR. HAAS: No problem as long as it's
 15 a Thursday.
 16 MR. SCANGARELLO: This is what, the
 17 third Thursday?
 18 CHAIRMAN ZOLTOWSKI: Do you need to
 19 check your schedule or do you need to -- I
 20 mean...
 21 MR. COLEMAN: You're not going to --
 22 he won't be noticed any longer but...
 23 (General discussion.)
 24 MR. COLEMAN: The third Thursday of
 25 October, we're meeting on the 10th, would be

1 the 17th.
 2 MR. RIDGWAY: Not to anyone's fault
 3 but we anticipated cleaning this up this
 4 evening.
 5 (General discussion.)
 6 MR. COLEMAN: Mr. Chairman, what I
 7 would suggest is I would carry them to your
 8 next -- just a suggestion, carry them to your
 9 next zoning board hearing because it doesn't
 10 look like we're going to get a date here and,
 11 perhaps, notify those two applicants that are
 12 on for that evening that their applications
 13 may be pushed to the November meeting. And,
 14 again, start early.
 15 CHAIRMAN ZOLTOWSKI: What's on the
 16 agenda?
 17 (General discussion.)
 18 CHAIRMAN ZOLTOWSKI: Does anybody
 19 have an issue if it's not a Thursday?
 20 (General discussion.)
 21 CHAIRMAN ZOLTOWSKI: The 29th is the
 22 fifth Tuesday.
 23 Gentlemen?
 24 (General discussion.)
 25 MR. RIDGEWAY: The 29th?

1 CHAIRMAN ZOLTOWSKI: The room's
2 available the 29th?

3 (General discussion.)

4 CHAIRMAN ZOLTOWSKI: So, this
5 application's going to proceed on
6 October 29th which is a Tuesday, you will not
7 be renoticed, at 6:30 again. There will be
8 no -- no more notification. This is your
9 notification.

10 And if you don't understand, at -- at
11 this point, the applicant will go for a
12 variance and if they're granted the variance,
13 they will move forward with a site plan.

14 MR. COLEMAN: Let's -- why don't we
15 have the applicant clarify where --

16 CHAIRMAN ZOLTOWSKI: I'm sorry.

17 MR. COLEMAN: No, no, you -- you
18 summarized it.

19 Why don't we have the applicant
20 clarify what they're expecting to transpire
21 on the 29th.

22 (General discussion.)

23 MR. COLEMAN: No, no, because I think
24 that -- I think it makes more sense, more
25 detail for us just to -- so we're prepared on

1 attorney, the residents have our information.
2 If they want to meet prior to, we'll make
3 ourselves available, do it at my office,
4 Allied's other site in Springfield or even
5 if -- the township municipal building is
6 available, we're more than willing to meet
7 with those parties.

8 CHAIRMAN ZOLTOWSKI: All right. And
9 that may behoove you to do that. It may
10 behoove you to reach out to them and involve
11 the community.

12 MR. RIDGEWAY: Um-hmm. Understood.

13 CHAIRMAN ZOLTOWSKI: Is there any
14 other discussion from the public?

15 UNIDENTIFIED SPEAKER: We're meeting
16 at 6:30 here?

17 CHAIRMAN ZOLTOWSKI: 6:30, October
18 29th, Tuesday. I'll try not to be late.

19 MR. COLEMAN: We need a -- we need to
20 vote on that motion.

21 CHAIRMAN ZOLTOWSKI: What motion?

22 MR. COLEMAN: You need a vote to
23 carry it to the 29th. You, the board does.

24 You decided it but you need to vote on it.

25 CHAIRMAN ZOLTOWSKI: Keep the noise

1 the 29th.

2 MR. RIDGWAY: And as we all know, the
3 board granted -- denied the motion to grant a
4 certification of a nonconforming use.

5 The applicant now has the burden of
6 securing a D-2 variance from the board which
7 is an expansion of a pre-existing
8 nonconforming use. The expansion being the
9 weigh scale, the refurbishment of the two
10 existing buildings and, in addition, there's
11 the sign as well on the front of the
12 building.

13 And experience has in the past --
14 well, they're mostly review letters, we're
15 almost doing the D-2 and the site plan almost
16 at the same time to see if accommodations, as
17 Tom said, could be reached based upon review
18 of the professionals' letters if the
19 applicant can prove his D-2 variance but also
20 prove that the proposed use at that site will
21 be something satisfactory for this board.

22 MR. SCANGARELLO: And for the public.

23 MR. RIDGWAY: And for the public.

24 And then, again, as -- as we said
25 previously and by the -- the township

1 down, please.

2 (General discussion.)

3 MS. HANNAH: Who seconded it, please?

4 (General discussion.)

5 CHAIRMAN ZOLTOWSKI: We're still in
6 session. Please.

7 MR. GOETTELMANN: I'll second that.

8 CHAIRMAN ZOLTOWSKI: All in favor?

9 (Vote taken unanimously, not
10 individually.)

11 CHAIRMAN ZOLTOWSKI: Any opposed?

12 MR. HAAS: Aye.

13 CHAIRMAN ZOLTOWSKI: Okay.

14 MR. HAAS: I won't be here.

15 CHAIRMAN ZOLTOWSKI: You wouldn't be
16 here?

17 (General discussion.)

18 CHAIRMAN ZOLTOWSKI: Motion to
19 adjourn.

20 All in favor?

21 (Vote taken unanimously, not
22 individually.)

23 CHAIRMAN ZOLTOWSKI: We're adjourned.

24 *****

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CERTIFICATION

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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

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

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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. 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, RIDGWAY AND STAYTON, LLC, THREE EAST STOW ROAD, SUITE 290 MARLTON, NJ 08053-3172 PHONE: (856) 810-7723 COUNSEL FOR APPLICANT

GERROW COURT REPORTING, LLC CERTIFIED COURT REPORTERS 1101 LAUREL OAK ROAD, SUITE 110 VOORHEES, NJ 08043 TEL (856) 784-7909 FAX (856) 309-1405

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. GOETTELMMANN: 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?

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



Handwritten initials 'PY'

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...

1 MR. COLEMAN: Is this Doug Stewart?
 2 MS. HANNAH: Yes.
 3 MR. COLEMAN: Mr. Chairman, it's my
 4 understanding, and I'll defer to Sheri, my
 5 understanding is that the township requested
 6 that Mr. Stewart -- a report of which I think
 7 you all have received. I think does the town
 8 want him appointed in some manner or fashion?
 9 MS. HANNAH: Yes.
 10 CHAIRMAN ZOLTOWSKI: Is he present?
 11 MS. HANNAH: No.
 12 MR. COLEMAN: I don't think he is
 13 so...
 14 CHAIRMAN ZOLTOWSKI: Okay.
 15 MR. COLEMAN: I don't necessarily
 16 know if you need -- he's not going to testify
 17 this evening. I think the report speaks for
 18 itself. It's been provided.
 19 It's been presented to Mr. Ridgway?
 20 MR. RIDGEWAY: Yes.
 21 MR. COLEMAN: And, in all honesty, I
 22 think the applicant knows what their
 23 environmental responsibility is. I'm glad it
 24 was brought to your attention but without him
 25 testifying this evening -- I'll defer to the

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

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

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

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

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

14 Also, expert testimony was provided
15 by the applicant's engineer, Gary Civalier of
16 Civalier Engineering & Srvyng, confirming the
17 county planning board approval and the
18 Pinelands approval and describing the
19 previous approval from the Pinelands back in
20 1993 when this parcel was subdivided for,
21 what we like to call, another parcel which
22 was still owned by Mr. Giberson. In that
23 1993 site plan approval, the delineation of
24 the amount of property on that lot that could
25 be used for the junk yard was set in stone

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

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

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

25 We then went through the board's

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

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

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

19 MR. COLEMAN: A-8.

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

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

25 MR. RIDGWAY: A-8 is your

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

4 MR. COLEMAN: Okay.

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

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

11 Do you need these, Mike?

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

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

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

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

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

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

1 even came into effect in 1954, I believe,
2 because this use has been in effect since
3 1947, testimony was given at the March
4 meeting. You can request of the board to
5 give you what's called a certificate or a
6 vote that says yes, we agree that this use
7 has been in existence prior to, in this case,
8 again, the enactment of the zoning standards
9 of the township.

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

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

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

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

25 Now, in this case, it's before zoning

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

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

12 And I guess that leads us to where we
13 are right now which is, if you're okay with
14 it, Mr. Coleman, I can bring some testimony
15 with respect to our pre-existing
16 nonconforming use certificate. I'm going to
17 bring up, I believe, three witnesses. And
18 then what I would like to do is remind you
19 that a lot of the testimony we put on back in
20 March in terms of how this site has been used
21 really would apply -- over the years, since
22 1947, really would apply to our argument for
23 the certificate of nonconforming use.

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

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

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

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

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

5 CHAIRMAN ZOLTOWSKI: Thank you.

1 MR. GABRYSIAK: Correct.

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

6 MR. GABRYSIAK: Yes.
7 (Discussion held off record.)

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

12 MR. RIDGWAY: Okay. And during -- so
13 it's been a little over three years, July of
14 2010 to the present time, that you've been
15 operating that site?

16 MR. GABRYSIAK: Correct.

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

20 MR. GABRYSIAK: Yes.

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

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

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

6 MR. GABRYSIAK: Yes, sir.

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

13 MR. GABRYSIAK: I do.

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

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

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

23 MR. GABRYSIAK: Correct.

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

1 junk yard.

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

13 MR. RIDGWAY: The grounds?

14 MR. GABRYSIAK: The grounds, yes.

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

19 MR. GABRYSIAK: Absolutely.

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

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

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

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

14 MR. GABRYSIK: No, absolutely not.

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

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

20 MR. GABRYSIK: Correct.

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

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

3 MR. GABRYSIK: No. Light iron's
4 any --

5 MR. RIDGWAY: You can't recall --

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

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

13 MR. GABRYSIK: This was 8-28 of
14 2009.

15 MR. RIDGWAY: Here's the next one.

16 MR. GABRYSIK: This was from 9-10 of
17 2009 for 30-yards of light iron and 30 yards
18 of No. 1 steel and roll-off containers.

19 MR. RIDGWAY: So what I --

20 MR. GABRYSIK: This -- this was
21 purchased from Freeman Pointsett also.

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

24 MR. GABRYSIK: Correct.

25 MR. RIDGWAY: -- washing machines --

1 taken out of that property.

2 MR. GABRYSIK: This was from 6-10,
3 2010. This was a transfer of tires,
4 19,000 pounds, between our Southampton yard
5 and Springfield.

6 MR. RIDGWAY: The next one?

7 MR. GABRYSIK: Another receipt for
8 tires transferred between New Road,
9 Southampton, and Springfield for 18,000 --

10 MR. RIDGWAY: And do you see the --

11 MR. GABRYSIK: -- pounds.

12 MR. RIDGWAY: -- date on that?

13 MR. GABRYSIK: That's 6-9 of 2010.

14 MR. RIDGWAY: There are two
15 consecutive dates.

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

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

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

24 MR. GABRYSIK: And there's one Ford
25 truck on here.

1 MR. GABRYSIK: Automobiles would be
2 listed as automobiles.

3 MR. RIDGWAY: Here's the next one.

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

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

9 MR. GABRYSIK: No.

10 MR. RIDGWAY: Cans?

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

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

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

21 Can you describe what's on here?

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

24 MR. RIDGWAY: How many pounds?

25 MR. GABRYSIK: 31,260.

1 MR. RIDGWAY: Wood and other debris?
 2 MR. GABRYSIK: Yeah.
 3 MR. RIDGWAY: Certainly not
 4 automobiles?
 5 MR. GABRYSIK: No.
 6 MR. RIDGWAY: Okay. Here's another
 7 date.
 8 Could you describe this, please?
 9 MR. GABRYSIK: 9-22, 2010. This
 10 says aluminum 13,020 pounds.
 11 MR. RIDGWAY: So, it's 13 pounds of
 12 aluminum. Again --
 13 MR. GABRYSIK: 13,000 pounds.
 14 MR. RIDGWAY: Again, not automobiles,
 15 aluminum; siding or whatever.
 16 MR. GABRYSIK: Something made of
 17 aluminum, yes.
 18 MR. RIDGWAY: And here's another one.
 19 Can you give me the date? There's two of
 20 them on that one page. Give the dates and --
 21 MR. GABRYSIK: The first one is
 22 from -- well, they're both from Freeman
 23 Pointsett. 8,540 pounds of -- this doesn't
 24 say what it was.
 5 MR. RIDGWAY: And what's --

1 MR. GABRYSIK: It was a thousand
 2 dollars, though, so -- the next one's
 3 44 pounds of copper and 289 pounds of brass.
 4 MR. RIDGWAY: And what would consist
 5 of copper and brass, fittings?
 6 MR. GABRYSIK: Copper would be,
 7 yeah. Plumbing pipes, probably, electrical
 8 wiring, that type of thing. Brass is
 9 typically -- it could be anything from
 10 automobile parts to, I don't know, ignition
 11 shells, something like that, or -- or
 12 anything else other than brass like figurines
 13 and -- this was 6-4, 2010, and 14,180 pounds
 14 of debris.
 15 MR. RIDGWAY: And how many pounds is
 16 that again?
 17 MR. GABRYSIK: 14,000.
 18 MR. RIDGWAY: Here's another one for
 19 you, Tom.
 20 MR. GABRYSIK: 6-2 of 2010;
 21 26,120 pounds of wood and debris.
 22 MR. RIDGWAY: 26,000 pounds of wood?
 23 MR. GABRYSIK: Yeah. This one's
 24 also for aluminum, 1140 pounds -- I'm sorry,
 25 11,480 pounds, 2-18, 2010.

1 MR. RIDGWAY: I could go on and on.
 2 There are literally 60 or 70 exhibits of
 3 these -- or 60-to-70 pages of these -- copies
 4 of these receipts that show that there was
 5 much more on that site that was taken off
 6 from Mr. Pointsett's prior junk yard than
 7 just automobiles.
 8 CHAIRMAN ZOLTOWSKI: Should we mark
 9 this as Exhibit A-10?
 10 MR. RIDGWAY: Exhibit A-10, this is
 11 just a sampling of -- of what we've put into
 12 evidence. This is what we put in evidence.
 13 This is a sampling of the receipts that
 14 Allied has produced.
 15 MR. COLEMAN: Mr. Gabrysiak, these
 16 are receipts from your company prior to your
 17 occupancy of the property?
 18 MR. GABRYSIK: Of the receipts that
 19 he's shown me, half of them were receipts for
 20 materials purchased from the previous
 21 operator.
 22 MR. COLEMAN: Um-hmm.
 23 MR. GABRYSIK: And then half of them
 24 were receipts, our trucking receipts, from
 25 where we transferred the materials from one

1 yard to another.
 2 MR. COLEMAN: Okay.
 3 CHAIRMAN ZOLTOWSKI: Explain that
 4 again, the first part of that.
 5 MR. GABRYSIK: Half of those
 6 receipts were the receipts from materials
 7 that we had purchased from Freeman Pointsett
 8 before we rented the yard or bought the stock
 9 of Last Chance Salvage.
 10 MR. COLEMAN: That would be -- that
 11 would be in '09? Because your prior
 12 testimony is you took -- took over in '10.
 13 So, would that be the nine receipts?
 14 MR. GABRYSIK: Probably, yes.
 15 MR. COLEMAN: Okay. And the second
 16 half of those were?
 17 MR. GABRYSIK: And the second half
 18 were after we took over and started
 19 operating, the materials that we took out
 20 after that.
 21 MR. RIDGWAY: But they were still
 22 Mr. Pointsett's materials.
 23 MR. GABRYSIK: Sure.
 24 MR. RIDGWAY: You didn't bring
 25 anything in.

1 MR. GABRYSIAK: No, no, it was
2 before. We didn't start actually -- we
3 weren't open for close to a year. The
4 cleaning process was about a year just
5 removing materials before we started, let's
6 say, open, like the gate open, letting
7 customers in.

8 MR. COLEMAN: Thank you.

9 MR. RIDGWAY: I have no further
10 questions of Mr. Gabrysiak at this time.

11 CHAIRMAN ZOLTOWSKI: I have one.
12 Where are the aerial photographs, A-1
13 through A-5?

14 MR. COLEMAN: Well, don't we have the
15 big ones? Don't we have big ones that you
16 brought? I saw them floating around.

17 MR. MILLER: This is a new one.
18 (General Discussion.)

19 MR. RIDGEWAY: Yes, the historical
20 exhibits, A-2 -- or A-2 through A-5 are
21 eight-and-a-half by 11 so they weren't the
22 large exhibits.

23 MR. COLEMAN: That was 2, 3, 4 and 5.
24 (General Discussion.)

25 CHAIRMAN ZOLTOWSKI: Proceed.

1 bought the junk yard because there was
2 certain accumulation of junk on there that
3 had some value to you?

4 MR. GABRYSIAK: Well, what I did is I
5 purchased the materials that were left from
6 Freeman Pointsett and then I rented the
7 property from Last Chance Salvage. Then two
8 years later, we purchased Last Chance
9 Salvage.

10 MR. ROBBINS: And in the process of
11 cleaning it up, you were able to derive
12 whatever the value these materials had.

13 MR. GABRYSIAK: Correct.

14 MR. ROBBINS: Thank you.

15 MR. GABRYSIAK: Can I say one more
16 thing to the last question?

17 CHAIRMAN ZOLTOWSKI: Sure.

18 MR. GABRYSIAK: Not to mention the --
19 the purchase price that I paid when I bought
20 the materials, didn't include the, say,
21 couple hundred thousand dollars worth of
22 expense that it cost me to remove things that
23 had no value.

24 MR. ROBBINS: So, they were landfill?

25 MR. GABRYSIAK: Well, they -- they

1 Ms. Doherty?

2 MS. DOHERTY: I wanted to ask, can
3 you tell me since you've taken over the
4 operation which new kinds of materials you
5 brought to the site that weren't there...

6 MR. GABRYSIAK: No, they're not.

7 MS. DOHERTY: They're not. So
8 everything you're dealing with is the same as
9 it was before?

10 MR. GABRYSIAK: Correct.

11 MR. COLEMAN: Mr. Chairman?

12 CHAIRMAN ZOLTOWSKI: Mr. Robbins has
13 a question.

14 MR. ROBBINS: When you purchased
15 these materials from Freeman Pointsett, I'm
16 assuming you did so because they had some
17 value to you, you could process them in some
18 way and sell them at a higher price than what
19 you bought them?

20 MR. GABRYSIAK: Correct.

21 MR. ROBBINS: So, in effect, when you
22 bought that junk yard, it's a little bit
23 like -- like the lumberman buying acreage
24 with trees on it. You could cut the trees
25 down and -- and sell them. And so you -- you

1 were transferred to another yard and then
2 disbursed from there. And then mostly it's
3 all recycling but it doesn't mean it has a
4 value. All right? Does that clarify?

5 MR. ROBBINS: So --

6 MR. GABRYSIAK: No, what I'm trying
7 to say is --

8 MR. ROBBINS: -- there are certain
9 things that are recyclable --

10 MR. GABRYSIAK: What I'm trying to
11 say is it cost us hundreds of thousands of
12 dollars to clean this site.

13 MR. ROBBINS: But do you -- if
14 something's recyclable but you can't sell it,
15 you sort of give it to somebody to --

16 MR. GABRYSIAK: Well, a lot of
17 recyclables cost money to recycle.

18 MR. ROBBINS: So you might have
19 actually, in some cases, paid somebody?

20 MR. GABRYSIAK: Oh, absolutely.

21 CHAIRMAN ZOLTOWSKI: Mr. Haas?

22 MR. HAAS: I have a question for the
23 applicant.

24 Are cars made of aluminum?

25 MR. GABRYSIAK: Some have aluminum,

1 sure.
 2 MR. HAAS: Are they made of light
 3 metal?
 4 MR. GABRYSLAK: Yeah, well, parts of
 5 them are.
 6 MR. HAAS: Are they made of copper,
 7 copper wiring?
 8 MR. GABRYSLAK: There's copper wiring
 9 in a car. Absolutely.
 10 MR. HAAS: And in the process of
 11 deconstructing a car on the premise, trees
 12 might have fallen, limbs might have fallen,
 13 there's accumulation of wood in the debris?
 14 MR. GABRYSLAK: Well --
 15 MR. ROBBINS: Fair assumption?
 16 MR. GABRYSLAK: -- I would say that
 17 wood, lumber is different than tree wood. I
 18 mean we wouldn't remove tree wood.
 19 There's --
 20 MR. HAAS: This is one --
 21 MR. GABRYSLAK: -- 12 acres of trees
 22 there.
 23 MR. HAAS: Did you inherit the wood,
 24 the lumber?
 25 MR. GABRYSLAK: Yes.

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

1 MR. HAAS: Okay.
 2 MR. GABRYSLAK: I did.
 3 MR. HAAS: Thank you.
 4 MR. RIDGWAY: Anyone else?
 5 (General discussion.)
 6 MR. RIDGWAY: Would you give your
 7 full name?
 8 MR. IVANS: Michael Ivans.
 9 MR. COLEMAN: Michael Ivans.
 10 Mr. Ivans, do you swear that the
 11 testimony you're about to provide this
 12 evening is the whole truth and nothing but
 13 the truth so help you God?
 14 MR. IVANS: Yes, I do.
 15 MR. RIDGWAY: Mr. Ivans, if you could
 16 just spell your name for the record, please.
 17 MR. IVANS: I-V-I-N-S.
 18 MR. COLEMAN: Thank you.
 19 MR. RIDGWAY: Mr. Ivins, just a few
 20 brief questions.
 21 You're familiar with the site that's
 22 the subject of this application, the old
 23 classic junk yard?
 24 MR. IVANS: Yes.
 25 MR. RIDGWAY: Have you had occasion

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

1 CHAIRMAN ZOLTOWSKI: I have a
2 question for both of you.

3 If there was so much steel, so much
4 aluminum, so much copper, why did the
5 previous owner get rid of it?

6 MR. IVANS: Get rid of the -- the
7 business?

8 CHAIRMAN ZOLTOWSKI: No.

9 MR. GABRYSIAK: Can I speak up?
10 Because --

11 CHAIRMAN ZOLTOWSKI: No, no, no.

12 There's value in steel, there's value
13 in aluminum, there's value in copper. Why
14 did the previous owner get rid of it?

15 MR. GABRYSIAK: Why did he not get
16 rid of it? It's an operating business. I
17 mean we have --

18 CHAIRMAN ZOLTOWSKI: Excuse me?

19 MR. GABRYSIAK: It's an operating
20 business. The only thing I could imagine, I
21 mean, we carry a large inventory of -- of
22 different materials. I mean we buy and sell
23 every day regardless of -- I mean, I can't --
24 I guess I don't really understand the
25 question other than...

1 MR. GABRYSIAK: I like to call it
2 modern management.

3 MR. RIDGWAY: Okay, that's a fair
4 assessment. But he wasn't as focused in your
5 assessment, do you feel he was not as focused
6 on making money and turning over the
7 materials as you are?

8 MR. GABRYSIAK: I guess that's a fair
9 assessment. I mean I -- I tend to run our
10 business as little different than a lot of
11 junk yards do because I have an active
12 interest in turning a profit.

13 MR. RIDGWAY: Understood.

14 CHAIRMAN ZOLTOWSKI: Don't all
15 business owners turn a profit? Isn't that --

16 MR. GABRYSIAK: Well --

17 CHAIRMAN ZOLTOWSKI: Isn't that the
18 goal?

19 MR. GABRYSIAK: -- I -- I believe
20 the goal of business is to turn a profit. Do
21 all businesses turn a profit? I don't
22 believe so.

23 CHAIRMAN ZOLTOWSKI: Isn't it
24 possible as well that his business model was
25 different, that he operated as a traditional

1 CHAIRMAN ZOLTOWSKI: Why would you
2 keep around valuable materials?

3 MR. GABRYSIAK: Because that -- we're
4 in the junk business. That's what we do.

5 MR. IVANS: I think the previous guy
6 used the word horder.

7 (General discussion.)

8 MR. GABRYSIAK: We carry a large
9 inventory of different materials that are all
10 valuable.

11 MR. SCANGARELLO: What I'm saying is
12 if the previous owner found value in raw
13 materials, why wouldn't he sell them himself?

14 MR. GABRYSIAK: Well, eventually he
15 sold them to me.

16 MR. COLEMAN: So, that was part of
17 his purchase price and you inherited his --
18 his stuff.

19 MR. GABRYSIAK: He did -- he did buy
20 and sell. That's what he did. He bought and
21 sold, you know, just the way every junk yard
22 does.

23 MR. RIDGEWAY: Is it fair to say,
24 Tom, that Mr. Pointsett had a different
25 business mind set than you?

1 junk yard as most of us know where you buy a
2 car and you sell the parts off of it?

3 MR. GABRYSIAK: We still do that,
4 too.

5 CHAIRMAN ZOLTOWSKI: On this lot?

6 MR. GABRYSIAK: Absolutely.

7 CHAIRMAN ZOLTOWSKI: How many cars do
8 you have now?

9 MR. GABRYSIAK: About a hundred and
10 sixty.

11 MR. COLEMAN: Mr. Gabrysiak, this
12 part of the hearing, you're trying to

13 establish a factual basis. As your attorney
14 stated previously and the board's trying

15 to -- to ferret out, if you will, what
16 particular types of uses. So, I guess, are

17 you prepared to testify as to what the
18 business model was of the previous owner?

19 MR. GABRYSIAK: I can testify to what
20 he told me. I spent countless hours talking
21 to him before he passed on.

22 MR. COLEMAN: No. That would be
23 hearsay.

24 MR. GABRYSIAK: Oh, well, I mean,
25 he's -- he's not here to testify for us so...

1 MR. RIDGWAY: Right. I understand.
 2 Mr. Ivins, I have just -- as I just
 3 mentioned, this part of the hearing we're
 4 trying to establish a factual basis. Just to
 5 summarize your testimony, you -- you didn't
 6 work for either Mr. Gabrysiak or the prior
 7 owner of --

8 MR. IVANS: No.

9 MR. COLEMAN: You just had an
 10 opportunity, in your words, to take stuff
 11 there?

12 MR. IVANS: Correct.

13 MR. COLEMAN: Okay. And why don't
 14 you -- can you just clarify again what that
 15 stuff was?

16 MR. IVANS: Just -- a lot of stuff
 17 just laying around the yard and all. I --
 18 back when I -- Mr. Pointsett was there, it
 19 was just -- I grew up with a farm and we had
 20 like a lot of just junk laying around
 21 everywheres and I just took everything, you
 22 know, stuff was laying outside, you know,
 23 whew, metal laying outside, parts of -- maybe
 24 parts of machinery, parts of like a Cotter or
 25 something or I remember cleaning up some, you

1 what it was, you either gave him a couple
 2 dollars or he gave you a couple of dollars.
 3 The material came in, the material went out.

4 CHAIRMAN ZOLTOWSKI: Then what would
 5 he do with that?

6 MR. GABRYSIAK: What do you -- what
 7 do you mean?

8 CHAIRMAN ZOLTOWSKI: If he took five
 9 rims in, what would he do with it?

10 MR. GABRYSIAK: I would say he
 11 either -- he sold them or he stuck them in
 12 the corner and let them sit there. I mean
 13 that's, you know, there was, you know, the
 14 first time I had visited that site, I already
 15 told you, there was no space. You couldn't
 16 walk. There was no place to walk that was
 17 bigger than this. You had to walk between
 18 piles, vehicles and whatever it would be, it
 19 was there and it was piled up. We removed
 20 it. So, basically, to get rid of the
 21 disaster that it was and to make it a -- a
 22 functioning business that worked well,
 23 environmental friendly, there's -- there's
 24 many reasons why we didn't leave it the way
 25 it was but that's the way he operated it.

1 know, couple of washing machines, one of them
 2 old type -- actually, I got in trouble for
 3 that -- it was an old antique washing machine
 4 where the washboard went through it, I
 5 remember getting rid of that and tires, rims,
 6 maybe like an old transmission or something.

7 MR. COLEMAN: Okay. That helps.
 8 Good. Thank you, Mr. Ivins.

9 MR. IVANS: I remember taking some
 10 fencing there, like the wire fence.

11 MR. GABRYSIAK: I -- I think I have a
 12 better idea of what your question was and --
 13 I think the business model that Mr. Pointsett
 14 had was more of come to the yard and what do
 15 you got. So if you got a pickup truck full
 16 of scrap metal, here's 20 bucks, put it over
 17 there. If you have a -- a trunk full of
 18 magazines, you know what, give me five bucks
 19 and stick them over in that -- that trunk
 20 over there. You know, if you got a truck
 21 full of fence, you know, you rip down your
 22 wood fence or your tractor ran into it, you
 23 know, okay, I'll take 12 packs of that, put
 24 it over there, you know, that's -- that's the
 25 way he operated, you know, it didn't matter

1 MR. RIDGWAY: Mr. Gabrysiak -- I'm
 2 sorry.

3 CHAIRMAN ZOLTOWSKI: Does your
 4 website state that you sell car parts, used
 5 car parts?

6 MR. GABRYSIAK: It does not.

7 CHAIRMAN ZOLTOWSKI: And you have no
 8 website listing of cars that you have
 9 available with the parts --

10 MR. GABRYSIAK: We do most of that on
 11 Craig's List, eBay, that type of stuff, and
 12 then the customers come to us and get the
 13 stuff.

14 MR. RIDGWAY: Mr. Gabrysiak, going
 15 back to the definition of junk yard that I
 16 had read earlier, on line two it says kept,
 17 maintained or used for the purpose of buying
 18 and selling, exchanging or storing and then
 19 it lists all of those things blah, blah,
 20 blah, blah.

21 You're much more of an active buyer
 22 and seller because turnover is what you
 23 want -- is where you make your money.

24 MR. GABRYSIAK: Right.

25 MR. RIDGWAY: Is it fair to assume

1 that based upon your visits to that site,
 2 Mr. Pointsett was more of a buyer and storer
 3 than selling -- than active buyer and seller?

4 MR. GABRYSIK: I would say so but I
 5 bought a bunch of stuff from him, yeah, so --

6 MR. RIDGWAY: But all within --

7 MR. GABRYSIK: -- I would still --

8 MR. RIDGWAY: -- all within -- all of
 9 that would be under the umbrella of a junk
 10 yard ordinance or license. Whether you run
 11 your business one way or another, it's still
 12 under that junk yard definition.

13 MR. GABRYSIK: Correct.

14 MR. COLEMAN: I promise you're not on
 15 trial here but I want to ask you a question.

16 MR. GABRYSIK: I'm here to answer
 17 whatever questions you have.

18 MR. COLEMAN: Mr. Gabrysiak, your --
 19 your attorney mentioned that the junk yard
 20 statute, I think, goes back to 1967 roughly?

21 MR. GABRYSIK: I believe
 22 September 7, '65.

23 MR. COLEMAN: Okay, '65. A long time
 24 ago. 48 years, in fact. Okay.

25 I had an opportunity just to look at

1 any business.

2 MR. COLEMAN: Let me ask you this
 3 way --

4 MR. GABRYSIK: It's -- the
 5 marketing --

6 MR. COLEMAN: Go ahead.

7 MR. GABRYSIK: -- that we've put in
 8 place isn't relative to what materials come
 9 and go through any junk yard. What it is,
 10 it's relative to a way for me to make money.

11 MR. COLEMAN: Yes, and that's a good
 12 point. So, here's -- let me say -- let me
 13 come at it this way: If I -- I'm not sure
 14 what E-scrap is so don't hold that against me
 15 but if I brought a computer and quote,
 16 unquote E-scrap over, whether you're paying
 17 me or I'm paying you, are you going to take
 18 that?

19 MR. GABRYSIK: Yeah.

20 MR. COLEMAN: Okay.

21 MR. RIDGWAY: And I will go back to
 22 the definition of junk yard. It's expansive
 23 in its terms. In the last -- the last eight
 24 words say or any other old material commonly
 25 called junk. Things are invented every day.

1 your -- your website as to -- it says we
 2 always pay more for all ferrous and
 3 non-ferrous metals and it lists steel, light
 4 iron, cast iron, copper, aluminum, lead,
 5 brass, batteries, computer, E-scrap and wire.
 6 I'm -- I'm concerned about the last couple;
 7 computers, E-scrap and wire.

8 If the original intent and purpose of
 9 this ordinance was drawn by the town fathers
 10 back in '65, '67, '68, whatever it may have
 11 been, do you think it was the intent and
 12 purpose of the town fathers then, given
 13 what -- what was read in there, to pick up
 14 computer, E-scrap and wire?

15 MR. GABRYSIK: I don't believe in
 16 1965 there was computers or E-scrap so we
 17 can start with that.

18 MR. COLEMAN: Right.

19 MR. GABRYSIK: So, I couldn't
 20 imagine -- I can't -- I can't imagine that
 21 they -- the question is relative to anything.
 22 But I can tell you that my website is
 23 marketing is what it is.

24 MR. COLEMAN: Okay.

25 MR. GABRYSIK: As any website is for

1 So if nothing that was invented after 1965
 2 could go in a junk yard, I'm not so sure
 3 that's what the town fathers meant in 1965.
 4 I think by listing all of these things, they
 5 were rather expansive.

6 MR. GABRYSIK: Read the second one,
 7 the other one.

8 MR. COLEMAN: And I -- and I would
 9 submit they've had ample opportunity between
 10 now and 1965 to update that as well so --
 11 but...

12 MR. RIDGWAY: Now, going back to the
 13 other ordinance that listed junk yard
 14 development --

15 MR. COLEMAN: Chapter 12.

16 MR. RIDGWAY: -- it says -- I'll just
 17 read the end of it. It says: Salvage, sale
 18 or other use or disposition thereof of any
 19 material whatsoever.

20 CHAIRMAN ZOLTOWSKI: Is it possible
 21 that that is just to cover all the bases,
 22 whether it's a seat that came out of a car?
 23 It's not a car but it's fabric at that point.
 24 It's a metal frame.

25 MR. RIDGWAY: I -- I think the

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

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

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

19 C talks about having a vacant area
 20 for firefighting purposes.

21 D talks about all gasoline,
 22 anti-freeze, crank-case oil must be drained
 23 and disposed by the licensed hauler. Tires
 24 must be stored in central area not over
 25 300 square feet and four feet high.

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

5 MR. RIDGWAY: Um-hmm.

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

18 CHAIRMAN ZOLTOWSKI: Continue.

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

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

25 MR. COLEMAN: I'm just reading the

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

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

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

20 MR. IVANS: Correct.

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

25 CHAIRMAN ZOLTOWSKI: It doesn't say

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

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

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

12 One last witness, Mr. Giberson.

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

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

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

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

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

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

1 remember, it was so long ago. I don't know,
 2 10, 11 years ago, I guess maybe so...
 3 MR. ROBBINS: I mean that -- you were
 4 there more than once, sounds to me like?
 5 MR. IVANS: Yeah, I was there a few
 6 times, couple of times.
 7 MR. ROBBINS: That was generally,
 8 what, Mr. Freeman?
 9 MR. IVANS: Yeah.
 10 MR. ROBBINS: Or Mr. Pointsett.
 11 MR. IVANS: Yeah, Mr. Pointsett and
 12 that's about it.
 13 MR. ROBBINS: All right. Thank you.
 14 CHAIRMAN ZOLTOWSKI: Ready?
 15 MR. RIDGWAY: Yes.
 16 MR. GIBERSON: Oh, okay.
 17 MR. RIDGWAY: Mr. Giberson -- I'm
 18 sorry, go ahead.
 19 MR. COLEMAN: Mr. Giberson, you were
 20 previously sworn in.
 21 MR. GIBERSON: Yes.
 22 MR. COLEMAN: Okay. And I just want
 23 to, again, remind you that the testimony
 24 you're about to offer this evening is subject
 25 to the truth and the whole truth and --

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

1 MR. GIBERSON: Everything I know.
 2 MR. COLEMAN: Okay. Have a seat,
 3 please.
 4 MR. GIBERSON: Oh.
 5 MR. RIDGWAY: Mr. Giberson, how long
 6 has this property been in your family?
 7 MR. GIBERSON: I think my grandfather
 8 purchased it back in 1947.
 9 MR. RIDGWAY: Well before you were
 10 born.
 11 MR. GIBERSON: Ten years before I was
 12 born.
 13 MR. RIDGWAY: Do you recall visiting
 14 that site as a youngster?
 15 MR. GIBERSON: Often.
 16 MR. RIDGWAY: Okay. And to backtrack
 17 one second, you did own and you still own
 18 area that surrounds about --
 19 MR. GIBERSON: I own a hundred acres
 20 more around the junk yard.
 21 MR. RIDGWAY: Okay. Not entirely
 22 surrounding the junk yard.
 23 MR. GIBERSON: Huh?
 24 MR. RIDGWAY: Not entirely
 25 surrounding the junk yard because there's

1 MR. RIDGWAY: Which was yearwise?
 2 You don't have to know exactly but...
 3 MR. GIBERSON: Seven or eight years
 4 prior to that, I think.
 5 MR. RIDGWAY: Okay.
 6 MR. GIBERSON: Maybe a little bit
 7 more than that.
 8 MR. RIDGWAY: And, again, you've
 9 visited this site numerous times.
 10 MR. GIBERSON: With my parents, my
 11 grandparents, everybody. We took junk there,
 12 took our trash there, I mean, when I say
 13 trash, cars, aluminum, refrigerators. The
 14 township, I think, now today even takes trash
 15 over there, aluminum.
 16 MR. RIDGWAY: You say the township
 17 takes aluminum to that site?
 18 MR. GIBERSON: Not aluminum, washer
 19 machines and stuff like that. They got to
 20 get rid of them someplace.
 21 MR. RIDGWAY: And is that still done
 22 to this day, do you know, or is that...
 23 MR. GIBERSON: That's something that
 24 I hear throughout the township.
 25 MR. COLEMAN: But -- but

1 Mr. Giberson, you do not specifically know --
 2 MR. GIBERSON: I said that. I said I
 3 didn't know that.
 4 MR. COLEMAN: I'm just trying to
 5 clarify what you said.
 6 MR. GIBERSON: Okay.
 7 MR. COLEMAN: You don't specifically
 8 know that --
 9 MR. GIBERSON: They're picking up
 10 trash now which I say is trash is washing
 11 machines --
 12 MR. COLEMAN: Um-hmm.
 13 MR. GIBERSON: -- stuff like that.
 14 MR. COLEMAN: Right.
 15 MR. GIBERSON: They are taking it
 16 someplace. They're not storing at your
 17 place -- or the township.
 18 MR. COLEMAN: Okay.
 19 MR. RIDGWAY: In your visits to that
 20 site -- and you -- you testified that you
 21 brought various things other than cars to
 22 that site.
 23 MR. GIBERSON: Tons of stuff.
 24 MR. RIDGWAY: Over the years, can you
 25 describe some of the things you've seen at

1 that site besides, obviously --
 2 MR. GIBERSON: What I heard from --
 3 MR. RIDGWAY: Not -- your personal
 4 recollection.
 5 MR. GIBERSON: My personal? No.
 6 Like I said, get back to my dad, Stokie's
 7 here had tomato cans and they'd run over them
 8 with the steel tractors just to get the cans,
 9 to get the metal.
 10 MR. RIDGWAY: Mr. Stokie -- the junk
 11 yard.
 12 MR. GIBERSON: Yes, yes. That's what
 13 started it. That started it.
 14 MR. RIDGWAY: Okay. So, your dad
 15 started the junk yard?
 16 MR. GIBERSON: More or less.
 17 MR. RIDGWAY: And it starting, it
 18 wasn't automobiles, per se, solely, it was
 19 Campbell's Soup cans?
 20 MR. GIBERSON: Might have been 20
 21 automobiles back in the day to junk.
 22 MR. RIDGWAY: So, have you seen
 23 things other than automobiles on that site?
 24 MR. GIBERSON: Everybody in here --
 25 if it's out there, it's in there.

1 MR. RIDGWAY: TVs?
 2 MR. GIBERSON: If it's out there,
 3 it's in there.
 4 MR. RIDGWAY: House refuse,
 5 countertops, things like that?
 6 MR. GIBERSON: I seen boats in there.
 7 MR. RIDGWAY: Boats?
 8 MR. GIBERSON: Yeah.
 9 MR. RIDGWAY: On that --
 10 MR. GIBERSON: Wooden boats.
 11 MR. RIDGWAY: -- site?
 12 MR. GIBERSON: Oh, yeah.
 13 MR. RIDGWAY: Okay. So based upon
 14 your personal knowledge, that site has not
 15 been limited to automobiles and tires?
 16 MR. GIBERSON: No.
 17 MR. RIDGWAY: Okay. Thank you. I
 18 have no further questions.
 19 MR. COLEMAN: Mr. Giberson, do you
 20 have -- Mr. Giberson, do you have any
 21 ownership interest still in Last Chance
 22 Salvage?
 23 MR. GIBERSON: He's not paid me in
 24 full.
 25 MR. COLEMAN: Okay. Do you have any

1 ownership interest in Allied Recycling?
 2 MR. GIBERSON: None.
 3 MR. COLEMAN: Do you have --
 4 Mr. Giberson, is there any financial impact
 5 to you if the application is decided one way
 6 or the other?
 7 MR. GIBERSON: No. He still owes me
 8 the money.
 9 MR. COLEMAN: Okay. That's all.
 10 MR. GIBERSON: Simple?
 11 MR. COLEMAN: Yes. Thanks,
 12 Mr. Giberson.
 13 CHAIRMAN ZOLTOWSKI: Excuse me.
 14 MR. GIBERSON: Go ahead.
 15 CHAIRMAN ZOLTOWSKI: At our last
 16 hearing, you had testified at one point that
 17 you said -- I think you said I didn't know
 18 what went on down there, I just collected a
 19 check.
 20 MR. GIBERSON: Yeah, but I went in
 21 and --
 22 CHAIRMAN ZOLTOWSKI: And what time
 23 frame was that?
 24 MR. GIBERSON: If Freeman didn't
 25 bring me a check?

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

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

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

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

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

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

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

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

1 rent checks?

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

7 CHAIRMAN ZOLTOWSKI: Inspected by
 8 whom?

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

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

14 MR. GIBERSON: Contamination.

15 CHAIRMAN ZOLTOWSKI: From what?

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

19 CHAIRMAN ZOLTOWSKI: From
 20 automobiles?

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

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

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

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

1 MR. GIBERSON: That would be Freeman.
2 CHAIRMAN ZOLTOWSKI: Was there a
3 lapse in time?

4 MR. GIBERSON: Yes. Freeman was sick
5 for like three, four years and then Allied
6 took over.

7 CHAIRMAN ZOLTOWSKI: Who ran the
8 business in the three, four years?

9 MR. GIBERSON: His sister. Freeman's
10 sister, okay? Her name was Linda or
11 whatever. And she didn't have a clue, more
12 or less. Okay? And there was this other guy
13 that Freeman had hired and this guy was worse
14 than a train wreck. He was taking cars out
15 of there. Tom actually bought the stuff off
16 of Freeman. Okay? This guy was in there
17 stealing the cars and selling them to
18 Friendship. That's how bad this place was.
19 And, I mean, it was just a train wreck going
20 to happen. But I think everything worked out
21 for the good.

22 CHAIRMAN ZOLTOWSKI: And so it -- all
23 along, you still own Last Chance Salvage?

24 MR. GIBERSON: I am Last Chance Auto
5 Salvage.

1 Barry Durkins (phonetic) come out, which is a
2 soil samplest, a specialist, licensed, he
3 took samples, did this, did that, said you
4 don't have anything to worry about, this
5 ground is not contaminated. And he went
6 through the whole spool because, like I said,
7 I own a hundred acres behind all the way to
8 Leisuretowne. And this was back in '83, '85.
9 And that's what I brought up against the
10 board back in the day then. And like I said,
11 everything was fine then.

12 I just don't understand the people
13 getting irate around the place because I
14 think it's run 10 times better. That's the
15 only thing I got to say. And like I said,
16 it's always going to be a junk yard, always
17 will be a junk yard, as far as I'm concerned.

18 CHAIRMAN ZOLTOWSKI: Just to clarify,
19 during that time period, you owned the land,
20 you owned Last Chance Auto Salvage --

21 MR. GIBERSON: I own Last Chance Auto
22 Salvage.

23 CHAIRMAN ZOLTOWSKI: Another operator
24 was operating the business and solely paying
25 you rent?

1 CHAIRMAN ZOLTOWSKI: Okay.

2 MR. GIBERSON: Me and my mom coming
3 out of Burlington, we decided to make that
4 name.

5 CHAIRMAN ZOLTOWSKI: But when the
6 other operators were there, what were they
7 operating as?

8 MR. GIBERSON: It would have -- I
9 think it was S&P Autos or S&S Autos.

10 MEMBER OF THE PUBLIC: It was P&S
11 Auto.

12 MR. GIBERSON: P&S Autos? I, you
13 know, but I held these license for -- since
14 day one. And I always made sure everything
15 was, you know, up to snuff.

16 And the DEP, like I said, they come
17 in, did their thing. And I -- when I
18 subdivided, okay, see, this was all one big
19 block of ground at one time, okay, when I
20 subdivided -- back in the day, which I
21 thought was bad, okay, people used to just
22 open up their drain plugs and drain oil on
23 the ground, do this, do that. All right?

24 So one thing leads to another, I
25 hired World Anderson Barnett (phonetic).

1 MR. GIBERSON: Correct.

2 CHAIRMAN ZOLTOWSKI: Thank you.
3 Any other questions?

4 MR. KENNEDY: Yes, Mr. Chairman, I
5 have a question.

6 CHAIRMAN ZOLTOWSKI: Mr. Kennedy?

7 MR. KENNEDY: You made a statement
8 that the township brought material to the
9 junk yard.

10 MR. GIBERSON: I don't -- I don't
11 know if they did or didn't. I mean I'm just
12 saying they collect --

13 MR. KENNEDY: That's why I'm asking.

14 MR. GIBERSON: They should bring it
15 there to that place. It's local.

16 MR. KENNEDY: Well, at that point,
17 are you saying that -- that the township is
18 complicit in allowing an operation that
19 wasn't approved in the junk yard?

20 MR. GIBERSON: I'm not saying...

21 MR. COLEMAN: I think, Mr. Kennedy, I
22 think -- I'm not trying to defend
23 Mr. Giberson, I think he -- he eloquently
24 backpedaled and said he wasn't specifically
25 sure that the township brought things there.

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

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

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

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

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

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

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

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

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

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

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

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

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

1 meeting.

2 Basically, the uses proposed by
 3 Allied is identical in every respect from a
 4 zoning perspective to the use which has
 5 occurred here historically, again, since
 6 1965. And this remains true even if there's
 7 some variation in the operation. The
 8 facility does and continues and it has met
 9 these definitions throughout its history.
 10 It's common for any business or any operation
 11 to have some variation in its operational
 12 character over a period of time. If you
 13 think about a gas station, at one time gas
 14 stations all had repair bays. They now
 15 commonly -- they don't have repair bays but
 16 they might have a fast food or, rather, a
 17 food service or a convenience store as part
 18 of the gas station. It's still a service
 19 station but the use has evolved. And
 20 sometimes a junk yard is going have more or
 21 less of a given type of material, the
 22 business is going to be more or less active
 23 depending on how the management is -- is
 24 operating the business at the time but it
 25 still falls within -- and this use has always

1 fallen within the broad definitions of junk
 2 yard that have been found in both the junk
 3 yard ordinance and the zoning ordinance.
 4 And I would also add that sometimes
 5 the recycling is -- is more or less an
 6 euphemism for a junk yard in much the same
 7 way as a second-hand store could be called a
 8 consignment shop or a gas station a service
 9 station or a dump a landfill or a mine a
 10 resource extraction or a jail a correction
 11 center. There is a lot of different
 12 terminology. But at the end of the day, the
 13 ordinances' definition applies to the
 14 activities that have been in place and it
 15 characterizes the uses since the beginning.
 16 The evidence is ample and conclusive.
 17 You've seen the aerials. I want to introduce
 18 two more aerials because the -- the prior
 19 aerials were prepared by our engineer. This
 20 is a two-oh-seven -- or 2007 aerial that I --
 21 I took from the DEP website. And as you look
 22 at this aerial, you can readily see that
 23 there's both automobiles and piles of
 24 miscellaneous materials that were described
 25 by earlier witnesses.

1 other witnesses so...
 2 CHAIRMAN ZOLTOWSKI: I have to stop
 3 you there.
 4 What -- what did you identify?
 5 What --
 6 MR. MILLER: Piles --
 7 CHAIRMAN ZOLTOWSKI: -- material --
 8 MR. MILLER: Piles of material that
 9 were --
 10 CHAIRMAN ZOLTOWSKI: What materials
 11 did you identify? What -- you're telling me
 12 a resolution. What did you identify that
 13 wasn't a car?
 14 MR. MILLER: Piles of miscellaneous
 15 material.
 16 CHAIRMAN ZOLTOWSKI: You don't know
 17 what it was?
 18 MR. MILLER: That -- that would be --
 19 CHAIRMAN ZOLTOWSKI: It could be a
 20 hood, it could be a door, it could be an
 21 engine block, it could be the...
 22 MR. MILLER: Well, it's probably
 23 appliances and --
 24 CHAIRMAN ZOLTOWSKI: You clearly
 25 identified that you saw an appliance in

1 And then I also have a copy of the
 2 year 2000 aerial of this area from the DVRPC
 3 which, again, shows the same -- same sort of
 4 thing.
 5 MR. COLEMAN: And that would be A-12?
 6 MR. MILLER: Yes.
 7 MR. COLEMAN: We'll call this the
 8 DVRPC aerial?
 9 MR. MILLER: Yes. It's a little more
 10 cumbersome to hand around.
 11 MR. COLEMAN: And what year was that
 12 again?
 13 MR. MILLER: 2000.
 14 MR. KENNEDY: 2000?
 15 MR. MILLER: And it's one inch equals
 16 200.
 17 And what's nice about the DVRPC
 18 aerial, is that you can go to the DVRPC
 19 office, see the original negative and -- and
 20 the resolution is -- is better even than
 21 what's on the print. And when you examine
 22 all these different photographs, what's
 23 readily apparent is that there's material
 24 there over and above just automobiles. And
 25 that, again, has been documented by -- by the

1 the -- in the resolution?
 2 MR. MILLER: You cannot do that
 3 from --
 4 CHAIRMAN ZOLTOWSKI: Okay. Thank
 5 you.
 6 MR. MILLER: -- the resolution in the
 7 aerial.
 8 CHAIRMAN ZOLTOWSKI: Please continue.
 9 MR. MILLER: So, to sum up, in -- in
 10 many cases, aerial photography alone is
 11 sufficient to document that a pre-existing
 12 nonconforming use existed over a given period
 13 of time. But in this particular instance, we
 14 have not only the aerial photography but we
 15 have eyewitness accounts of people who
 16 personally have direct experience and have
 17 observed the handling of materials, not just
 18 automotive materials but materials of -- of
 19 many other sorts.
 20 We also have documents that show that
 21 other materials were bought and sold at this
 22 location. There's a certificate of filing
 23 from the Pinelands Commission that identifies
 24 this location as a junk yard. And there's
 25 also a long series of licenses issued by the

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

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

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

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

25 CHAIRMAN ZOLTOWSKI: I just have one

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

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

21 CHAIRMAN ZOLTOWSKI: I have to ask
22 one more question.

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

1 question before you do that.

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

4 MR. MILLER: No.

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

7 MR. MILLER: No.

8 CHAIRMAN ZOLTOWSKI: You said they
9 add on food.

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

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

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

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

21 MR. MILLER: No.

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

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

1 What year?

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

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

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

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

13 CHAIRMAN ZOLTOWSKI: Mr. Kennedy.

14 MR. KENNEDY: I'd just like to ask
15 Mr. Scangarello if he agrees with
16 Mr. Miller's assessment of the ordinance.
17 (General discussion.)

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

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

24 MR. MILLER: Let him finish.

25 MR. COLEMAN: Okay, yeah, I want you

1 to finish. Go ahead.

2 MR. RIDGWAY: I will let him finish.
3 I have a couple of questions.

4 MR. COLEMAN: Okay. We're going to
5 get there. I just want him to finish.

6 MR. RIDGWAY: As we said earlier, you
7 had given your testimony with respect to the
8 D-2 which is somewhat different than a D-1
9 variance.

10 MR. MILLER: Yes.

11 MR. RIDGWAY: Although it's your
12 opinion as a professional planner as to what
13 is being proposed for this site which is the
14 installation of a weigh scale which is
15 basically a modernization of the existing use
16 and the refurbishment of two existing
17 businesses or two existing buildings on the
18 site, not enlarging them but just
19 refurbishing them, in no way warrants a D-1
20 variance.

21 Could you briefly describe the
22 difference between D-1 and D-2 and why you
23 feel in either instance the testimony that's
24 been provided this evening would fall under a
25 variance, whether it be D-2 or D-1?

1 location in this area in town if someone
2 wanted to change that auto salvage to a
3 recycling center, is there any other better
4 spot than to use it in a place that was a
5 former auto salvage yard?

6 MR. MILLER: No. It's already got
7 that kind of a character. And generally --

8 MEMBER OF THE PUBLIC: No, it
9 doesn't.

10 MR. MILLER: It clearly does. And as
11 a result, you could base an argument that the
12 site's particularly suited for that use
13 because there's already an established use
14 that's akin to that use. And part of that
15 logic also goes to the fact that the use has
16 been there for many, many years and the area
17 has become accommodated to the use. And any
18 type of impact would have been assimilated by
19 the surrounding uses.

20 CHAIRMAN ZOLTOWSKI: Just to ask a
21 question regarding that, you wouldn't -- you
22 wouldn't suggest that a commercial zone where
23 you could pave or concrete and control the
24 waste and any possible runoff or drainage.
25 would be better than open dirt in the

1 MR. MILLER: Well, a D-1 variance
2 would basically create a -- a new use which
3 was otherwise not permitted by the -- the
4 zoning ordinance.

5 A D-2 variance deals with a
6 pre-existing nonconforming use that's being
7 altered or expanded in some manner that would
8 trigger a variance. And the judgment, of
9 course, comes into what degree of change
10 constitutes an actual expansion of the use.

11 And in -- in this instance, the board
12 felt that the installation of the scale could
13 be viewed as an expansion of this
14 pre-existing use and we presented testimony
15 that it met the criteria for the fork that
16 would permit that variance to be granted
17 under the D-2 criteria.

18 MR. RIDGWAY: Okay. Putting aside
19 for a moment all of the testimony that was
20 submitted back in March and all of the
21 testimony that's been presented this evening,
22 if that site was just an auto salvage yard,
23 nothing more, forget about the definition
24 that allows it to be so much more and has a
25 license to be so much more, with this

1 Pinelands, is that what you're stating, that
2 an open Pinelands field is better than a
3 paved or concreted commercial location?

4 MR. RIDGWAY: Mr. Chairman, I'm not
5 sure you understood my question. My question
6 was -- and I -- if that was an open field, my
7 apologies -- my question was if that was an
8 existing auto salvage yard would it be
9 appropriate to be changed to a recycling
10 center. That's my question.

11 CHAIRMAN ZOLTOWSKI: No, you said
12 which -- would it be a good location. That's
13 what you said.

14 MR. RIDGWAY: If -- would that be
15 a --

16 CHAIRMAN ZOLTOWSKI: Now, I'm asking
17 you, which is a better location: A place
18 where you can have paving and/or concrete and
19 control runoff and debris or open Pinelands
20 dirt?

21 MR. MILLER: Well, there's -- the
22 question isn't apropos to what we're
23 discussing because this is not an open
24 location, you know, and there isn't --

25 CHAIRMAN ZOLTOWSKI: Can I ask which

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

1 debris.
 2 MR. HAAS: And the wording of the
 3 materials, you can't say that that's
 4 possible?
 5 MR. MILLER: I believe that if a
 6 township wanted to limit it to auto-related
 7 salvage, it would have structured the
 8 ordinance in a different manner.
 9 MR. HAAS: We have had testimony
 10 tonight that the DEP has come on this
 11 property quite regularly. The DEP -- are you
 12 aware the DEP is changing the valuation on
 13 this property?
 14 MR. MILLER: I'm not sure I
 15 understand your question of how -- the DEP
 16 doesn't value things, I don't believe.
 17 MR. HAAS: Is -- are you aware that
 18 the DEP is changing the status of this
 19 property?
 20 MR. COLEMAN: Maybe, Mr. Haas, maybe
 21 that question would be probably better posed
 22 for Mr. Gabrysiak.
 23 MR. GABRYSIAK: I would be happy to
 24 answer it.
 25 MR. HAAS: Well, I don't think so.

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

1 This is a line of questioning --
 2 MR. COLEMAN: Okay.
 3 MR. HAAS: -- I'm trying to establish
 4 here.
 5 Okay. We're considering prior use --
 6 MR. COLEMAN: Um-hmm.
 7 MR. HAAS: -- as nonconforming and,
 8 therefore, we -- we need to grant a
 9 certificate. That's what the argument is.
 10 MR. COLEMAN: Yes.
 11 MR. HAAS: I'm offering evidence or
 12 asking for evidence that the DEP has now
 13 rated you not a junk yard but a recycling
 14 center. They've changed your status.
 15 MR. MILLER: I don't believe that's
 16 correct.
 17 MR. HAAS: As of October the 1st, are
 18 they not?
 19 MR. COLEMAN: Well, any of -- any of
 20 the witnesses can respond to that --
 21 MR. HAAS: Yeah, anybody.
 22 MR. COLEMAN: -- question.
 23 MR. HAAS: Anyone.
 24 MR. COLEMAN: Mr. Gabrysiak?
 25 MR. GABRYSIAK: No, you're incorrect.

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

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

19 MR. HAAS: Okay.

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

22 CHAIRMAN ZOLTOWSKI: Hold on.

23 Mr. Haas, continue.

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

1 Everyone's listed on that.

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

7 UNIDENTIFIED SPEAKER: Um-hmm.

8 MR. GABRYSIK: Who -- who is it?

9 MR. HAAS: You just --

10 MR. GABRYSIK: I heard somebody say
11 there was.

12 MR. HAAS: Let's continue with

13 this -- can we continue with this --

14 (General discussion.)

15 MR. GABRYSIK: Does Red Lion have a
16 license?

17 MR. HAAS: Can we continue with this
18 question?

19 MR. GABRYSIK: Yeah, well, I'm
20 answering your question as I thought it was
21 asked.

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

25 MR. GABRYSIK: Sure.

1 that's fine, if it's not already submitted,
2 the department of -- is revoking your RVR
3 permit, which is a junk yard, and reissuing
4 you as a recycling center as of October the
5 1st.

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

9 MR. GABRYSIK: No. It's still a
10 junk yard. We're still licensing in the

11 Township of Southampton as a junk yard.

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

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

1 MR. HAAS: Okay.

2 MR. GABRYSIK: The category that
3 we're in is...

4 MR. HAAS: Were in or now in?

5 MR. GABRYSIK: That we are in.

6 MR. HAAS: As of October 1st?

7 MR. GABRYSIK: The category we are
8 in is scrap metal processing and auto
9 salvage. We have two categories.

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

12 MR. GABRYSIK: I -- I don't know the
13 term RVR.

14 MR. HAAS: That's DEP terminology.

15 MR. COLEMAN: Mr. Haas --

16 MR. GABRYSIK: I'm not familiar with
17 what it means.

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

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

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

1 MR. HAAS: That report is dated -- I
 2 don't know. I'm sorry, I don't know.
 3 Perhaps you do know.
 4 MR. COLEMAN: Is this the report that
 5 Mr. Steward provided?
 6 MR. HAAS: Yes.
 7 MR. COLEMAN: September -- okay. And
 8 this is the report that we -- we had an
 9 opportunity to forward to the applicant?
 10 MR. HAAS: I hope so.
 11 MR. COLEMAN: Yeah, we did.
 12 MR. HAAS: Okay.
 13 MR. COLEMAN: Go ahead, Mr. Haas.
 14 MR. HAAS: No, I'm done with my line
 15 of questioning.
 16 MR. COLEMAN: And it states it's
 17 dated September 13th.
 18 (General discussion.)
 19 MR. GABRYSIK: Before -- before you
 20 continue, can I add one thing to that?
 21 MR. HAAS: Sure.
 22 MR. GABRYSIK: The licensing that
 23 the DEP does, I'm licensed by the Township of
 24 Southampton. The permit that the DEP gives
 25 to us is a storm water discharge permit.

1 MR. HAAS: For storm water discharge
 2 permits.
 3 MR. GABRYSIK: Correct.
 4 CHAIRMAN ZOLTOWSKI: Are you done?
 5 MR. HAAS: I'm done.
 6 CHAIRMAN ZOLTOWSKI: We're going to
 7 take a five-minute recess.
 8 (Brief recess taken.)
 9 CHAIRMAN ZOLTOWSKI: We are back in
 10 session.
 11 Mr. Darj, you had something you...
 12 MR. DARJ: Yeah, real quick before
 13 we -- I know that we need to get to
 14 Mr. Scangarello's -- answer any questions --
 15 there was some discussion regarding the
 16 general permit, DEP general permit, and I
 17 just want to clarify a couple of things real
 18 quick just so -- because we sort of glossed
 19 over like it's -- almost sort of made light
 20 of, not that you were trying to make light of
 21 it, but, general permits are called general
 22 permits because, you know, they're -- they're
 23 permits for a specific -- specific activities
 24 that are recognized by the DEP but they are
 25 specific to individual applicants themselves

1 MR. HAAS: Correct.
 2 MR. GABRYSIK: Okay? It's not
 3 licensing of a recycling place or a junk
 4 yard --
 5 MR. HAAS: Forgive me for using --
 6 MR. GABRYSIK: -- it's a --
 7 MR. HAAS: -- the wrong word.
 8 MR. GABRYSIK: It's a permit for
 9 discharging. So, basically, what they're
 10 permitting is our use, as defined by the
 11 Township of Southampton, they're allowing us
 12 to do that use and they are allowing us to be
 13 inspected by their -- by their organization.
 14 Okay? So it's not a license, it's a permit
 15 that they allow us --
 16 MR. HAAS: Forgive me for using the
 17 wrong words.
 18 MR. MILLER: -- to continue to
 19 operate --
 20 MR. HAAS: I apologize.
 21 MR. GABRYSIK: -- underneath the
 22 guidelines that the township has already set
 23 up.
 24 MR. COLEMAN: For storm water
 25 discharge permits.

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

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

3 CHAIRMAN ZOLTOWSKI: Mr. Scangarello.

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

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

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

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

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

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

25 And the key word in that ordinance

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

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

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

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

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

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

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

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

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

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

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

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

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

1 discovering through the second stage of --
2 of -- through the second stage of your
3 deliberations.

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

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

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

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

12 Other than that, I -- once you get --
13 if you decide to do that and get to the
14 second level, I can go through my report in
15 detail, Rakesh can go through his report in
16 detail. We each have reports that are on the
17 variance level and also on the site plan.

18 But we're not -- we're not quite there yet.
19 We need you to tell us to get there.

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

22 MR. RIDGWAY: One more expert
23 witness.

24 CHAIRMAN ZOLTOWSKI: Tom?

25 MR. RIDGWAY: Yes, sir.

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

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

5 MR. SCANGARELLO: Yes.

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

8 MR. SCANGARELLO: Yes, you do.

9 MR. RIDGWAY: -- et cetera.

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

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

16 MR. SCANGARELLO: Right.

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

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

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

3 MR. RIDGWAY: Well --

4 CHAIRMAN ZOLTOWSKI: That's what you
5 said earlier.

6 MR. RIDGWAY: -- obviously with a
7 caveat because I didn't know where
8 Mr. Scangarello --

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

11 MR. RIDGWAY: -- was going.

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

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

17 MR. DARJ: You've both practiced for
18 38 years.

19 MR. RIDGWAY: That's exactly right.

20 MR. DARJ: I think that --

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

1 much easier when we take things one at a
2 time. Because you're confusing every --
3 you're confusing them, you're -- I'm sure
4 90 percent of the people back here, they came
5 here tonight saying this is a bad thing but
6 we haven't even gotten to the point where
7 they can stand up and say this is a bad
8 thing. If he opens it up right now, they're
9 all going to get up and say it's a bad thing
10 and Tom's going say you're not allowed to say
11 it's a bad thing, we want -- we're only here
12 to talk about the certificate and the
13 nonconforming report so we're just wasting
14 time so we -- let's -- let's figure out what
15 we're going to do and take that road.

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

18 MR. RIDGWAY: You've convinced me.

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

22 MR. RIDGWAY: Understood.

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

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

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

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

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

6 MR. RIDGEWAY: No. He just
7 dropped --

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

11 MR. RIDGWAY: Correct.

12 CHAIRMAN ZOLTOWSKI: Okay.

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

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

17 MR. RIDGWAY: It says buying and
18 selling.

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

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

1 you have a junk yard license.

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

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

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

6 CHAIRMAN ZOLTOWSKI: Mr. Kennedy --

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

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

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

19 Am I correct?

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

23 What I'm saying to you is so much has
24 happened over the last -- since 1947, since
25 1963 to the year 2013 that you certainly need

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 MR. KENNEDY: And a sign.

18 MR. ROBBINS: Because in --

19 MR. COLEMAN: And a sign, excuse me.

20 MR. ROBBINS: Because their argument
21 has been --

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

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

1 the scale, forget the buildings, forget the
2 sign.

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

5 MR. RIDGWAY: Um-hmm.

6 MR. ROBBINS: -- because --

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

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

1 expansion which is going -- which is going
2 on.

3 MR. COLEMAN: Correct.

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

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

9 MR. SCANGARELLO: If you vote --

10 there's three steps. If you take the second
11 step, which is the D-2, it gives you a little
12 bit more flexibility, a little more -- a
13 little bit more leverage, I know it's a dirt
14 word but it gives you a little bit more
15 leverage of what you're able to do with
16 respect to controlling measures for the
17 installation of the scale which is the
18 expansion of the activity should you choose
19 to go that route.

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

1 find particularly persuasive.

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

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

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

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

1 site plan issues. That's when we talk about
 2 noise, hours of operation, machinery,
 3 equipment, all those other things. It's just
 4 is -- is the copper in, copper out, are the
 5 bottles in, bottles out, wood in, wood out.
 6 MR. ROBBINS: So what you're saying
 7 is that when one reads the language of our
 8 ordinances which were written at a time when
 9 this concept of recycling and recycling
 10 facilities was not imagined that -- frankly.
 11 Sadly but -- but that's the case. That's
 12 a -- that's a recent and, perhaps, a positive
 13 thing but -- but when these were written,
 14 that wasn't part of the equation but -- but
 15 what you're saying is but it doesn't matter,
 16 we got you because your -- because your
 17 language is too broad.
 18 MR. RIDGWAY: No.
 19 (General discussion.)
 20 MR. SCANGARELLO: No. He's saying --
 21 he's saying if that's your opinion, then you
 22 have to consider voting that they're not
 23 worthy of getting this particular
 24 nonconformance ordinance at this time.
 25 MR. RIDGWAY: And let me submit,

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

1 MR. COLEMAN: Maybe, Mike, maybe the
 2 disconnect here is that -- I'm not putting
 3 words in anyone's mouth, I think it's clearly
 4 recognized through the testimony that an auto
 5 salvage yard would be permitted there. Okay?
 6 MR. RIDGWAY: Um-hmm.
 7 MR. COLEMAN: Why don't you tell
 8 them, and -- and maybe this upfront would
 9 have clarified things further, why don't you
 10 tell the board what you're specifically
 11 asking them to vote for in a certificate of
 12 nonconforming use. Because that may help
 13 you. What uses?
 14 MR. RIDGWAY: Yes. All we're asking
 15 you to vote for is that the uses on that site
 16 are within the definition of the junk yard
 17 ordinance.
 18 MR. COLEMAN: And -- okay.
 19 MR. RIDGWAY: And --
 20 MR. COLEMAN: And we're going to take
 21 this --
 22 MR. RIDGWAY: Stop it?
 23 MR. COLEMAN: -- slow -- no. We're
 24 going to make it slow. Slow.
 25 MR. RIDGWAY: Okay.

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

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

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

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

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

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

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

25 Is that pretty much where we are?

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

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

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

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

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

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

5 CHAIRMAN ZOLTOWSKI: Miss Doherty?

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

8 CHAIRMAN ZOLTOWSKI: Okay.
9 Mr. Thomas?

10 MR. THOMAS: No questions.

11 CHAIRMAN ZOLTOWSKI: Mr. Goettelmann?

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

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

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

8 MR. GOETTELMANN: Fine.

9 CHAIRMAN ZOLTOWSKI: Mr. Kennedy?

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

16 MR. COLEMAN: A site plan issue.

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

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

1 come from your Springfield plant to use that
 2 scale?

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

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

7 MR. GABRYSIAK: Yes.

8 MR. KENNEDY: That answers my
 9 question.

10 CHAIRMAN ZOLTOWSKI: Mr. Haas?

11 MR. HAAS: No questions at this time.

12 CHAIRMAN ZOLTOWSKI: Mr. Heller?

13 MR. HELLER: No questions.

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

1 yeah.

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

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

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

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

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

1 this time what your testimony really could be
 2 limited to.

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

5 (Count taken.)

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

11 (General discussion.)

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

15 As far as the history of --

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

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

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

1 MR. GSELL: Yes.
 2 MR. COLEMAN: Okay. The floor is
 3 yours.
 4 MR. GSELL: The ordinance was written
 5 three different times, '46, '67, '63,
 6 something like that, for the uses of junk
 7 yard. And was it ever argued at that point
 8 that the use changed? Probably not because
 9 the -- it was written and rolled. It's here.
 10 Obviously, it's different today. Something
 11 changed.
 12 CHAIRMAN ZOLTOWSKI: And -- and I --
 13 I have to stop you again. When -- at this --
 14 at this point --
 15 MR. GSELL: Right.
 16 CHAIRMAN ZOLTOWSKI: -- we're looking
 17 for the residents, especially the ones who
 18 maybe lived there a long period of time or
 19 lived directly near it.
 20 MR. GSELL: Right.
 21 CHAIRMAN ZOLTOWSKI: What has gone on
 22 out there and what's going on today.
 23 MR. GSELL: Correct.
 24 CHAIRMAN ZOLTOWSKI: Not about
 25 ordinance, what -- what -- what will you

1 MR. WISHART: Okay. May I use your
 2 exhibit?
 3 MR. RIDGEWAY: Certainly.
 4 MR. WISHART: I am trying to --
 5 CHAIRMAN ZOLTOWSKI: You might want
 6 to walk faster.
 7 (General discussion.)
 8 MR. WISHART: If we look at this,
 9 okay --
 10 (General discussion.)
 11 CHAIRMAN ZOLTOWSKI: We need to see
 12 it.
 13 MR. WISHART: All right.
 14 MR. COLEMAN: Mr. Wishart, why don't
 15 you go over by the television there and --
 16 MR. WISHART: We'll try to explain
 17 it.
 18 MR. COLEMAN: There we go so
 19 everybody can see it.
 20 MR. WISHART: Okay.
 21 CHAIRMAN ZOLTOWSKI: Please turn it
 22 towards the board, more towards me, that way.
 23 MR. WISHART: Okay. Let's actually
 24 look at the site itself. And we look at it,
 25 the tallest thing you see there is the

1 swear to that you believe has gone on in the
 2 past as far as you know or have been there
 3 and what's going on today.
 4 MR. GSELL: As -- as I know it, the
 5 place was very, very small, a real small
 6 operation, the locals would roll in and roll
 7 out, unload, drop off stuff just like it was
 8 testified earlier.
 9 Today, it is a larger operation. It
 10 has grown than what it was. That's it.
 11 CHAIRMAN ZOLTOWSKI: Thank you.
 12 MR. COLEMAN: Thank you.
 13 (General discussion.)
 14 MR. WISHART: John Wishart,
 15 W-I-S-H-A-R-T, One Falcon Drive.
 16 CHAIRMAN ZOLTOWSKI: Mr. Wishart --
 17 MR. WISHART: Yes.
 18 MR. COLEMAN: -- do you swear that
 19 the testimony that you're about to offer is
 20 the whole truth and nothing but the truth so
 21 help you God?
 22 MR. WISHART: I do.
 23 MR. COLEMAN: And it's John Wishart?
 24 MR. WISHART: John Wishart, yes.
 25 MR. COLEMAN: Go ahead.

1 building and a smattering of cars, correct?
 2 MR. SCANGARELLO: Can you point it
 3 out?
 4 MR. WISHART: Let's bring it up.
 5 (General discussion.)
 6 MR. WISHART: Right here. Okay?
 7 And when it was Pointsett's, there
 8 was a lot of junk cars there and -- but they
 9 were limited to one next to another. They
 10 were the old section, the newer section,
 11 whatever, but they were there.
 12 Since Allied has gone into
 13 recycling -- how tall are your recycling
 14 piles?
 15 MR. GABRYSLAK: Can I respond?
 16 CHAIRMAN ZOLTOWSKI: You don't have
 17 to -- you don't have to answer that.
 18 MR. WISHART: You don't have to
 19 answer but a good estimate is 30, 35-foot
 20 tall. All right?
 21 In the permit, it states that one of
 22 the things under D, I think, it says where it
 23 has to be visual, right? Under your permit,
 24 your requirements.
 25 UNIDENTIFIED SPEAKER: Not visual,

1 to...

2 CHAIRMAN ZOLTOWSKI: Once again,
3 please -- please limit it to what --

4 MR. COLEMAN: The history.

5 MR. WISHART: The history. The
6 history was --

7 CHAIRMAN ZOLTOWSKI: -- and the
8 present.

9 MR. WISHART: -- that it was a small
10 junk yard, heavily wooded, sight unseen.
11 Okay? You could not visually see it from any
12 point in the neighborhood or from New Road.

13 That is no longer the point. It is
14 now a cleared operation. Vegetation has been
15 removed and piles of light aluminum, I would
16 consider light aluminum, light steel, now
17 tower --

18 CHAIRMAN ZOLTOWSKI: Okay.

19 MR. WISHART: -- above the trees. A
20 visual difference.

21 That's what you're asking for at this
22 point, right?

23 CHAIRMAN ZOLTOWSKI: Okay. Thank
24 you.

25 MR. WISHART: Okay. We'll argue the

1 exactly what it is. You've got cars there,
2 you got tires there. They're all potential
3 hazards because they have acrylics in them
4 that Rohm & Haas used to produce. The tires
5 have other toxic things. The tires catch
6 fire, you're going to have another Hiroshima
7 on your hands.

8 That's all I've got to say.

9 CHAIRMAN ZOLTOWSKI: Thank you.

10 MS. WISHART: Catherine Wishart,
11 W-I-S-H-A-R-T, One Falcon Drive, Southampton,
12 New Jersey.

13 I have a question for the board.

14 MR. COLEMAN: Miss Wishart, do you
15 swear --

16 MS. WISHART: Oh, yeah. I'm sorry.

17 MR. COLEMAN: -- that the testimony
18 you're about to provide is the whole truth

19 and nothing but the truth so help you God?

20 MS. WISHART: Yes, I do.

21 MR. COLEMAN: Okay.

22 MS. WISHART: Okay. I have a
23 question for the board.

24 Is there a difference between the
25 zoning board and the planning board?

1 other stuff out later.

2 (General discussion.)

3 CHAIRMAN ZOLTOWSKI: Sir, what's your
4 name?

5 MR. LERNER: Ben Lerner, L-E-R-N-E-R.

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

10 MR. LERNER: Correct.

11 MR. COLEMAN: Just for our -- can you
12 spell your name again?

13 MR. LERNER: L-E-R-N-E-R.

14 MR. COLEMAN: And address?

15 MR. LERNER: 26 Falcon Drive.

16 MR. COLEMAN: Go ahead, Mr. Lerner.

17 MR. LERNER: Okay. My credentials,
18 I'm an engineer, retired. I worked for Rohm
19 & Haas Company. My job was to handle waste
20 and dispose of it. New Jersey was the prime
21 place to put your waste back in the 50s and
22 '60s.

23 When I moved 34 years ago out here,
24 there was no industrial sites. What we're
25 visiting now is an industrial site. That's

1 MR. COLEMAN: Yes.

2 MS. WISHART: Okay. Because -- I'm
3 bringing this up because mister...

4 MR. RIDGWAY: Ridgway.

5 MS. WISHART: Ridgway. Okay, Mr. --
6 Mr. Ridgway pointed out that the zoning board
7 did not have the right to write the
8 resolution that identified this property,
9 30 -- of Lot 36.02 as for auto salvage use
10 only.

11 However, at the top of the resolution
12 that was not written by the zoning board,
13 that was written by the planning board.

14 Therefore, in -- if I'm correct, the planning
15 board does have the right to limit the scope
16 and use of given specific sites within the
17 township to assure that -- that residential
18 areas and areas of rural use are protected.

19 Since that resolution was passed by
20 the planning board and not the zoning board
21 and since the resolution specifically states
22 that it is to be used for auto salvage use
23 only, it seems to me that to allow
24 nonconforming use for recycling does not fit
25 under that permit.

1 Thank you.
 2 CHAIRMAN ZOLTOWSKI: I'll let you
 3 redirect because I...
 4 MR. RIDGWAY: Right. And I don't
 5 know if I misspoke or someone misheard me. I
 6 believe I was responding to Mr. Coleman's
 7 comments about the 1993 planning board
 8 resolution and that was by the planning
 9 board. And the comment I made was that the
 10 planning board can't determine the uses of
 11 that site. That's a zoning board decision.
 12 And the only reason that application was
 13 before the planning board was to divide that
 14 property off of Mr. Giberson's mother lot.
 15 That's the only reason that I made that
 16 comment.
 17 And the language in the resolution,
 18 Mr. Coleman and I respectfully disagree with
 19 what it says in there but my feeling was that
 20 they were concerned about a physical
 21 expansion because someone had previously
 22 expanded into the mother lot. The board
 23 has -- what a site plan -- when a
 24 subdivision's being put before the planning
 25 board, the planning board's not concerning

1 bigger. Can I show you the pictures? I will
 2 show the pictures that way.
 3 And, Bruce, you're doing a good job
 4 here. Okay? All right. Over there
 5 (indicating) so they can see them properly.
 6 MR. COLEMAN: I'm sorry, Miss
 7 Tophan --
 8 MS. TOPHAN: Yes.
 9 MR. COLEMAN: -- these are -- are
 10 these your -- your pictures?
 11 MS. TOPHAN: These are my pictures
 12 that I took --
 13 MR. COLEMAN: Okay.
 14 MS. TOPHAN: -- okay, on August --
 15 MR. COLEMAN: Slow down.
 16 MS. TOPHAN: -- on August the 14th.
 17 MR. COLEMAN: Slow down. How about
 18 we -- we're going to have to mark these into
 19 evidence, okay --
 20 MS. TOPHAN: Um-hmm.
 21 MR. COLEMAN: -- so you're -- you're
 22 going to have to give them to us. They're no
 23 longer yours --
 24 MS. TOPHAN: Yes, okay.
 25 MR. COLEMAN: -- okay? So, the first

1 themselves with uses, they're only concerning
 2 themselves with the physical carving out of
 3 the lot from the mother lot.
 4 CHAIRMAN ZOLTOWSKI: And we could
 5 spend the night on that.
 6 MS. TOPHAN: Patricia Tophan,
 7 T-O-P-H-A-N, 450 New Road.
 8 MR. COLEMAN: Miss Tophan --
 9 MS. TOPHAN: Yes.
 10 MR. COLEMAN: -- the testimony that
 11 you're about to provide is the whole truth
 12 and nothing but the truth so help you God?
 13 MS. TOPHAN: Yes, it is.
 14 I have a question. I know you said
 15 that I cannot bring up the trucks but the
 16 trucks to me -- are we -- I thought we were
 17 doing the weigh-in station, too, whether this
 18 is...
 19 MR. COLEMAN: Are -- are the trucks
 20 related to -- are the comments concerning
 21 trucks related to the historical use and
 22 nature of the property?
 23 MS. TOPHAN: Yes, because we get --
 24 MR. COLEMAN: Then go ahead.
 25 MS. TOPHAN: The trucks are much

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

1 MR. COLEMAN: When did you take this
 2 picture? What day?
 3 MS. TOPHAN: August the 14th.
 4 MR. COLEMAN: Thank you.
 5 UNIDENTIFIED SPEAKER: 10:20 a.m.
 6 MS. TOPHAN: This one (indicating) --
 7 CHAIRMAN ZOLTOWSKI: And the
 8 reference point is from where?
 9 MS. TOPHAN: This (indicating) is
 10 Allied Recycling. You can see it right there
 11 (indicating). For this truck to get out, it
 12 has to come all the way over this way
 13 (indicating).
 14 CHAIRMAN ZOLTOWSKI: No, no, no.
 15 Where are you taking the picture from?
 16 MS. TOPHAN: This yard (indicating).
 17 CHAIRMAN ZOLTOWSKI: Who's yard is
 18 it?
 19 MS. TOPHAN: That is Wolf's.
 20 CHAIRMAN ZOLTOWSKI: Oh, okay. It's
 21 not from the front of your house?
 22 MS. TOPHAN: No.
 23 CHAIRMAN ZOLTOWSKI: Oh, okay.
 24 MS. TOPHAN: No, no, no, no, no.
 25 CHAIRMAN ZOLTOWSKI: I'm sorry. Go

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

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

1 property. I understand --
 2 MS. TOPHAN: Okay.
 3 MR. COLEMAN: I'm not finished yet.
 4 I understand you're really concerned --
 5 MS. TOPHAN: Um-hmm.
 6 MR. COLEMAN: -- about the truck
 7 traffic out there.
 8 MS. TOPHAN: Right.
 9 MR. COLEMAN: The chairman was very,
 10 very specific at the start. You're going to
 11 have time tonight to talk about large purple
 12 trucks --
 13 MS. TOPHAN: Um-hmm.
 14 MR. COLEMAN: -- but now is not the
 15 time.
 16 MS. TOPHAN: But tonight you said
 17 we're over by 10:00.
 18 MR. COLEMAN: You're going to have
 19 time. It may not be tonight. I want to hear
 20 from you the historical nature of the
 21 property, okay? You're -- you're talking
 22 about a -- a material condition that is
 23 impacting you or the Wolf property --
 24 MS. TOPHAN: Right.
 25 MR. COLEMAN: -- okay, and that's not

1 what we're trying to decide right now.
 2 Nope, nope, nope, she's on, not you.
 3 CHAIRMAN ZOLTOWSKI: You can -- you
 4 can -- if what your point is -- if all you're
 5 trying to say is that size truck never came
 6 there before, then --
 7 MS. TOPHAN: No.
 8 CHAIRMAN ZOLTOWSKI: -- that's what
 9 you need to say.
 10 MS. TOPHAN: And if the weigh-in
 11 station wasn't there, this big truck would
 12 not be coming.
 13 CHAIRMAN ZOLTOWSKI: All right.
 14 Still, again, prior to this, have you ever
 15 seen a truck that size come down --
 16 MS. TOPHAN: No, I have never seen a
 17 truck, I swear to God, until recently. There
 18 are many other large trucks, this being the
 19 largest.
 20 MR. COLEMAN: Do you --
 21 MS. TOPHAN: All right?
 22 MR. COLEMAN: Do you know
 23 specifically, Miss Tophan, do you know
 24 specifically what's in -- everything that's
 25 in that truck?

1 MS. TOPHAN: How could I tell?
 2 MR. COLEMAN: That's a --
 3 MS. TOPHAN: And this -- this here
 4 (indicating) is not pulled over so I'm --
 5 MR. COLEMAN: That's a -- that's a
 6 yes --
 7 MS. TOPHAN: -- assuming it's empty.
 8 MR. COLEMAN: -- or a no.
 9 MS. TOPHAN: I have no idea.
 10 MR. COLEMAN: Okay.
 11 UNIDENTIFIED SPEAKER: It's full.
 12 MS. TOPHAN: Huh? It's full?
 13 UNIDENTIFIED SPEAKER: When it's back
 14 like that --
 15 MS. TOPHAN: Oh, when it's back like
 16 this (indicating) --
 17 UNIDENTIFIED SPEAKER: -- it's a full
 18 truck.
 19 MS. TOPHAN: -- it's full? Okay.
 20 See, I know nothing about that. Sorry.
 21 I have a couple other pictures.
 22 (General discussion.)
 23 MR. COLEMAN: You're going to have to
 24 slow down. You've got to go back to B-3.
 25 You've got to tell me what that one is.

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

1 MS. TOPHAN: Well, he only had two
 2 trucks, two tow trucks, Mr. Pointsett did,
 3 all right, and this (indicating) we have many
 4 trucks, many different sizes, and that's what
 5 I'm pointing out. This (indicating) is the
 6 largest I seen. Allied has its own trucks,
 7 that -- they're large but not as large as
 8 this (indicating) but there are local people
 9 bringing stuff in, too.
 10 And the another thing is this truck
 11 (indicating) is from Pennsylvania. It's not
 12 even a New Jersey truck so it is hauling
 13 stuff out to go to Pennsylvania.
 14 MR. COLEMAN: Okay. This is, what, a
 15 Pennsylvania truck?
 16 MS. TOPHAN: Yes. This (indicating)
 17 is a Pennsylvania truck from Morrisville.
 18 MR. COLEMAN: Okay.
 19 MS. TOPHAN: I have the name of the
 20 company. All right?
 21 CHAIRMAN ZOLTOWSKI: I apologize, I'm
 22 going to have to cut you off.
 23 MS. TOPHAN: Okay.
 24 CHAIRMAN ZOLTOWSKI: I apologize.
 25 MS. TOPHAN: This was No. 4 and this

1 was No. 5.

2 MR. COLEMAN: Thank you, Miss Tophan.

3 MS. TOPHAN: Um-hmm. I have comments
4 about stuff that was -- oh. At another point
5 in time. Okay.

6 MR. BURKE: Lawrence Berk, 3 Falcon
7 Drive, Southampton.

8 MR. COLEMAN: Mr. Burke, is the
9 testimony you're about to provide this
10 evening the whole truth and nothing but the
11 truth so help you God?

12 MR. BURKE: Yes, it is. I'll try to
13 stay within the guidelines, Chairman, but
14 this past Saturday I took 23 photos of the
15 property showing various junk as Mr. Ridgway
16 referred to. He neglected to mention propane
17 tanks and fiberglass boats, air conditioners
18 and microwave ovens which are on the
19 property.

20 I moved into this residence five
21 years ago exactly, September of '08. When I
22 moved in then, I heard no noise, I saw no
23 lights, I couldn't see any debris. Now from
24 200 yards away from my back door, I can see
25 piles and other debris. I can see an RV. I

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

1 can see the backs of tractor-trailer trucks
2 parked on the property. Five years ago, none
3 of that was there.

4 CHAIRMAN ZOLTOWSKI: Can I ask you
5 one question? I apologize. A previous
6 resident stated how high the pile was and...

7 MR. BURKE: If I can see it from my
8 back door 200 yards in the distance, it's got
9 to be 50-to-60 feet high. My photos don't
10 evidence that they're that high but you, you
11 know, I think anyone can say if you can see
12 something from 200 yards away, it's pretty
13 damn high. The fence is only six feet high.

14 CHAIRMAN ZOLTOWSKI: Thank you.

15 MS. KING: Nancy King, 445 New Road.

16 CHAIRMAN ZOLTOWSKI: King?

17 MS. KING: King, K-I-N-G.

18 I just want to say that I --

19 MR. COLEMAN: Nancy, do you swear
20 that the testimony you're about to provide
21 this evening is the whole truth and nothing
22 but the truth so help you God?

23 MS. KING: (No verbal response.)

24 MR. COLEMAN: Go ahead.

25 MS. KING: I have lived at my

1 leaves to come off the -- across the street
2 from me because then I'll be able to see what
3 the other people are seeing also. Right now,
4 I can't with the bushes and that because I
5 don't live as close as they do. But in the
6 winter, I'll be able to see it very clearly.
7 And it's nothing -- it's historical. It's
8 nothing like it used to be. I grew up in
9 Tabernacle. I've lived in this house for 30
10 years. I never saw anything like what is
11 going on there. It's not what it used to be.
12 It's nothing like it used to be.

13 CHAIRMAN ZOLTOWSKI: Thank you.

14 UNIDENTIFIED SPEAKER: Any other
15 notes there?

16 MS. KING: Wait a minute, I'm
17 having -- buy, sell.

18 I never saw people hauling things in
19 there to sell. I was behind a truck
20 personally several weeks ago, had a barbecue.
21 It was a pickup truck loaded. It had a
22 barbecue grill perched at the top and I was
23 behind it but, of course, I backed off
24 because my car is fairly new and I saw the
25 grill, I don't know if it was secured or not,

1 and where did I see it go, down past my house
 2 into Allied Recycling. I never saw personal
 3 people bring pickup truck loads. I see guys
 4 on bicycles going by with a milk crate on the
 5 back with a -- a few pieces of window or
 6 whatever it is in the back. I guess they're
 7 getting ten cents for it or something. I
 8 never saw that before. He was running a junk
 9 yard, not a recycling center. Sorry.
 10 Processing --
 11 CHAIRMAN ZOLTOWSKI: I'm going to
 12 have to cut you off. Thank you.
 13 The number is growing.
 14 MR. JENKINS: Steven Jenkins.
 15 MR. COLEMAN: Mr. Jenkins, do you
 16 swear the testimony you're about to provide
 17 this evening is the whole truth and nothing
 18 but the truth so help you God?
 19 MR. JENKINS: Yes.
 20 MR. COLEMAN: And, Mr. Jenkins, your
 21 address?
 22 MR. MURPHY: 446 New Road.
 23 MR. COLEMAN: Thank you, Mr. Jenkins.
 24 MR. JENKINS: I grew up in
 25 Southampton. I grew up in Hampton Lakes and

1 Now the lights are in my windows.
 2 The noise -- I come home from work at 5:30.
 3 There's tractors and stuff still beeping out
 4 there. I thought they were closed at 4:00.
 5 Obviously, they're not on Daylight Saving
 6 time yet. I don't know but it certainly
 7 isn't -- the mountain Pauline has seen, the
 8 mountains of metal and debris clearing the
 9 fence 20, 30 feet easy.
 10 UNIDENTIFIED SPEAKER: And the trees
 11 have been...
 12 MR. JENKINS: And the trees. Hell, I
 13 can see better now than I could before
 14 unfortunately. So, it's definitely been
 15 cleared out. And, you know, that's -- that's
 16 what I noticed.
 17 CHAIRMAN ZOLTOWSKI: Thank you.
 18 MS. SUNDSTROM: My name's
 19 Penny Sundstrom and I live at 19 Falcon
 20 Drive.
 21 MR. COLEMAN: Mrs. Sundstrom, do you
 22 swear that the testimony you're about to
 23 provide here this evening is the truth so
 24 help you God?
 25 MS. SUNDSTROM: I do.

1 I live at 446 New Road. I've been there 20
 2 years. I know the Fullers, the Pointsetts,
 3 hell, they kept my car running, you know, and
 4 I -- I've seen Pointsett's operation. I -- I
 5 mean the place was small. It was tiny. I
 6 used to walk through it to go deer hunting on
 7 the other side. There were no mountains of
 8 tires. That was a lie. There was no wall of
 9 tires. There were some tires lying in the
 10 driveway when you came in. Once you got in
 11 there, there were no tires. There were a lot
 12 of cars, a few school buses, some trucks.
 13 That's what it was. The wall of tires, that
 14 was a lie. If that was the case, I wouldn't
 15 have been able to walk through the junk yard
 16 to get to the other side. Okay?
 17 And as far as traffic in and out of
 18 there, he had -- all I ever saw was one
 19 rolloff one-ton flat bed. I seen in the
 20 evenings, two crushed cars headed to Camden.
 21 The cars that he had in there, I seen him
 22 bring it on his flat bed one at a time. I've
 23 never seen anybody bring anything into that
 24 place. I've never even seen anybody bring a
 25 car in other than him.

1 All I would like to do is to submit
 2 into evidence pictures that have been
 3 taken -- and since everybody has been talking
 4 about the piles of trash and debris, I'd like
 5 to submit into evidence this picture which
 6 shows how high it is in comparison to a
 7 full-sized van.
 8 Do I...
 9 MR. COLEMAN: This is B-6. We'll
 10 mark this as B-6.
 11 MS. HANNAH: Do you want extra
 12 copies?
 13 MS. SUNDSTROM: We have extra copies.
 14 MR. COLEMAN: Mrs. Sundstrom, what
 15 are we calling these photos?
 16 MS. SUNDSTROM: Piles of debris.
 17 Blight. We're calling it blight.
 18 MR. PRICE: J.P. Price, 33 Falcon
 19 Drive.
 20 CHAIRMAN ZOLTOWSKI: Is that actually
 21 Jay or is that initials?
 22 MR. PRICE: My initials.
 23 CHAIRMAN ZOLTOWSKI: But what's your
 24 given...
 25 MR. PRICE: It's John.

1 MR. COLEMAN: Just give me a second,
2 Mr. Price, so I can catch up.

3 Mr. Price, do you swear that the
4 testimony you're about to provide this
5 evening is the whole truth and nothing but
6 the truth so help you God?

7 MR. PRICE: I do.
8 I'm trying to stick with the thing
9 and I do have a question so --

10 MR. COLEMAN: Your address again?
11 I'm sorry.

12 MR. PRICE: 33 Falcon Drive.

13 MR. COLEMAN: Thank you, Mr. Price.

14 MR. PRICE: I've been there 30 years.

15 I have been in that facility. As a
16 matter of fact, my -- my original '77 Monte
17 Carlo about four years ago when I -- we
18 picked it up, I went back there, looked at
19 it, I -- I hardly saw anything, you know, I
20 mean, some cars and buses and things like
21 that but I have seen -- and I only saw
22 flatbed trucks once in a while, you know,
23 with a car on top of it going out, coming in
24 and -- but now I've seen these big trucks so
25 that's a difference.

1 he did accept stuff like that, yes he did
2 throw it in the yard and store it there or he
3 didn't or maybe the -- maybe there was five
4 washing machines and they are all his.

5 MR. PRICE: Right.

6 CHAIRMAN ZOLTOWSKI: Where -- where
7 did this stuff come from? Did he accept
8 stuff or did he not? What -- what was his
9 primary business? What -- what did he do
10 there?

11 MR. PRICE: But even if he did accept
12 it, what I'm saying if he wasn't supposed to
13 accept it, no one's there checking that.

14 Does that make it right to say -- somebody
15 coming in 10 years later saying, well, look,
16 it encompasses all of these things. That --
17 that's all I was asking.

18 CHAIRMAN ZOLTOWSKI: He is allowed
19 to, yes. The ordinance says he's allowed.

20 MR. PRICE: Okay. And, by the way,
21 that grill that was on the top, I think it
22 was the Eagle's -- Eagle's tailgating party.

23 MR. COLEMAN: The ordinance says old
24 metals.

25 Would you say, Mr. Price, that the --

1 I do have one question. So, I heard
2 quite a bit about one of the things that
3 you're trying to do is that -- that it's more
4 than an auto salvage and you read it's
5 supposed to be an auto place and -- because
6 of all of the things that were found in there
7 but if that was not supposed to be there and
8 the township over the years didn't do, sorry,
9 due diligence to know that because it was
10 very small and quiet, does that make it
11 become as big as it wants to be because it
12 wasn't supposed to have all of those things
13 there but since we found out it is, now
14 that's the basis it sounds like of why we're
15 allowed to do this or you want to do this.
16 Is that a true statement or am I wrong?

17 CHAIRMAN ZOLTOWSKI: Well, the
18 problem is is that if -- if you're stating
19 that there -- that there is stuff in there
20 and -- and it's -- the ordinance says it can
21 be there, then he's not in violation.

22 MR. PRICE: I understand. But when
23 you were reading first and --

24 CHAIRMAN ZOLTOWSKI: The problem is
25 is we're looking for history that says, yes

1 that the grill is old metal?

2 MR. PRICE: Yeah, but the wood --

3 MR. COLEMAN: Yes or no.

4 MR. PRICE: Yes.

5 MR. COLEMAN: All right. And it says
6 wood, too.

7 MR. PRICE: Right. I was just
8 referring to what you had said that you had
9 thought when you thought it was auto salvage
10 only and that there were some other
11 ordinances because it's been changed like
12 three times, I guess, so...

13 MR. COLEMAN: Okay. Thank you.

14 CHAIRMAN ZOLTOWSKI: Thank you,
15 Mr. Price.

16 MR. GIBERSON: Am I allowed to say
17 anything?

18 UNIDENTIFIED SPEAKER: No.

19 MR. GIBERSON: I just want to say a
20 couple of words.

21 CHAIRMAN ZOLTOWSKI: You need to come
22 on up.

23 MR. GIBERSON: Listen to this.

24 MR. COLEMAN: Come on up,
25 Mr. Giberson.

1 MR. GIBERSON: Back in the day when I
 2 got the junk yard license --
 3 (General discussion.)
 4 MR. COLEMAN: Mr. Giberson, you've
 5 already been sworn in.
 6 MR. GIBERSON: Yes.
 7 MR. COLEMAN: Okay. You've already
 8 been sworn in, okay, you're -- you're going
 9 to limit this, okay?
 10 MR. GIBERSON: Yes, just a few words.
 11 MR. COLEMAN: No, you're going to
 12 limit this, as the Chairman said, just to the
 13 historical nature of that property.
 14 MR. GIBERSON: Yeah, but that's --
 15 okay.
 16 MR. COLEMAN: Go ahead.
 17 MR. GIBERSON: Back in the day when I
 18 was up against everybody in '85 when
 19 Mister -- what was his name? The big guy.
 20 MR. RIDGWAY: Rogers.
 21 MR. GIBERSON: Huh?
 22 MR. RIDGWAY: Bob Rogers.
 23 MR. GIBERSON: Bob Rogers; he was
 24 down here in front of everybody, Pinelands,
 25 wetlands, everybody, that junk yard cannot be

1 MR. KENNEDY: Nothing.
 2 CHAIRMAN ZOLTOWSKI: Mr. Haas?
 3 MR. HAAS: No.
 4 CHAIRMAN ZOLTOWSKI: Mr. Heller?
 5 MR. HELLER: No.
 6 CHAIRMAN ZOLTOWSKI: At this time,
 7 what would the board like to do?
 8 MR. ROBBINS: I'll make a motion.
 9 And...
 10 CHAIRMAN ZOLTOWSKI: This is a motion
 11 strictly dealing with the certificate of
 12 nonconformance?
 13 MR. ROBBINS: Correct. And...
 14 CHAIRMAN ZOLTOWSKI: And you can --
 15 just to let you know, you can make a motion
 16 to say that they can do this but they can't
 17 do that.
 18 MR. ROBBINS: I, you know, I'll --
 19 I'll make the motion so that yes is yes and
 20 no is no. In other words, it's -- it's a
 21 positive motion, not a -- you wouldn't be
 22 voting affirmatively against this motion.
 23 CHAIRMAN ZOLTOWSKI: Right. We
 24 always make them in the positive.
 25 MR. ROBBINS: Correct. So...

1 no bigger than 3.5 acres and not one tree can
 2 be cut on that property. That's the only
 3 thing was said tonight. I held up to it and
 4 he did, too.
 5 MEMBER OF THE PUBLIC: 3.5 acres?
 6 MR. GIBERSON: 3.5 acres out of 12.6.
 7 CHAIRMAN ZOLTOWSKI: The ordinance
 8 says today three.
 9 MR. GIBERSON: Three? Okay. 3.5, I
 10 thought. And it's not getting any bigger as
 11 far as sizewise with trees. Go in there and
 12 look for stumps.
 13 CHAIRMAN ZOLTOWSKI: All right.
 14 Anyone else?
 15 Public portion closed.
 16 Mr. Robbins?
 17 MR. ROBBINS: I don't have any
 18 further questions.
 19 CHAIRMAN ZOLTOWSKI: Miss Doherty?
 20 MS. DOHERTY: I don't have any.
 21 CHAIRMAN ZOLTOWSKI: Mr. Thomas?
 22 MR. THOMAS: No further questions.
 23 CHAIRMAN ZOLTOWSKI: Mr. Goettelmann?
 24 MR. GOETTELMMANN: No questions.
 25 CHAIRMAN ZOLTOWSKI: Mr. Kennedy?

1 MR. COLEMAN: Mr. Robbins?
 2 MR. ROBBINS: Yes.
 3 MR. COLEMAN: Can I just -- in
 4 conjunction with or in connection with your
 5 motion that you're going to roll out in a
 6 second, I want you or any member of the board
 7 that may second that to set forth on the
 8 record specifically the facts or the facts
 9 that you haven't heard tonight that support
 10 your motion. Okay? Because this is
 11 factually driven. Okay?
 12 MR. ROBBINS: I'll try.
 13 MR. COLEMAN: Good.
 14 MR. ROBBINS: I would make a motion
 15 that this board grant a certificate of
 16 nonconformance to the applicant,
 17 Allied Recycling, because the testimony given
 18 by the applicant and various witnesses
 19 support their assertion that the current use
 20 falls within the guidelines of Southampton's
 21 junk yard ordinance and is therefore -- meets
 22 the criteria of granting this certificate.
 23 CHAIRMAN ZOLTOWSKI: We have a
 24 motion.
 25 Do we have a second?

1 MR. HAAS: Second.
 2 CHAIRMAN ZOLTOWSKI: Any discussion
 3 for the motion?
 4 I have a question. Is this a
 5 majority vote?
 6 MR. COLEMAN: It is.
 7 MR. HELLER: Mr. Chairman, I -- I
 8 have a question about the -- kind of the
 9 terms of the -- the vote.
 10 The question is is the use of the
 11 property historically different than it is
 12 now? Am I correct about that?
 13 CHAIRMAN ZOLTOWSKI: Yes, that's the
 14 question that we're all trying to answer.
 15 MR. HELLER: As I consider my vote,
 16 may I take into account the scale today as
 17 opposed to the scale historically? The scale
 18 of the operation.
 19 CHAIRMAN ZOLTOWSKI: If -- if you
 20 feel that that has changed what has
 21 historically gone out there.
 22 MR. HELLER: Okay. Other factors
 23 such as noise, lighting, sizes of piles of
 24 material, are -- may -- are historically
 25 different but would also be considered down

1 which defines junk yard? That it's current
 2 use is consistent with that definition.
 3 MR. ROBBINS: That's my motion.
 4 MR. COLEMAN: Okay, good. I just
 5 wanted to clarify that.
 6 Thank you, Mr. Robbins.
 7 CHAIRMAN ZOLTOWSKI: Roll call.
 8 MS. HANNAH: Miss Doherty?
 9 MS. DOHERTY: I'm going to abstain.
 10 MR. COLEMAN: Miss Doherty, this is
 11 an important vote.
 12 MS. DOHERTY: No, I know it is.
 13 MR. COLEMAN: No, no, no, let me
 14 finish. This is an important vote and if
 15 you're going to abstain, you have to -- I
 16 want you to specifically state on the record
 17 why you're abstaining, okay?
 18 MS. DOHERTY: I have a mixed -- I --
 19 I have it very hard to clarify in my mind a
 20 yes and no --
 21 MR. COLEMAN: Okay.
 22 MS. DOHERTY: -- in regards to
 23 Mr. Scangarello's comments --
 24 MR. COLEMAN: Okay.
 25 MS. DOHERTY: -- in regards to the

1 the road perhaps with other actions or other
 2 applications.
 3 Am I correct about that?
 4 CHAIRMAN ZOLTOWSKI: Other parts of
 5 this application?
 6 MR. HELLER: No, of subsequent
 7 applications such as a variance or a site
 8 plan.
 9 CHAIRMAN ZOLTOWSKI: For this
 10 application for this -- for this applicant?
 11 MR. HELLER: Yes, for this applicant.
 12 CHAIRMAN ZOLTOWSKI: Yes.
 13 MR. HELLER: Okay. Thank you.
 14 CHAIRMAN ZOLTOWSKI: Yes. This is
 15 not the end all of it.
 16 MR. HELLER: Thank you.
 17 CHAIRMAN ZOLTOWSKI: Any other
 18 discussion?
 19 Roll call.
 20 MR. COLEMAN: So, Mr. Robbins, just
 21 so I have it clear, this is a -- your motion,
 22 for the reasons you set forth on the record,
 23 is the grant of a certificate of
 24 nonconformance to allow or to permit a junk
 25 yard consistent with the township ordinance

1 fact of what the applicants had to say.
 2 MR. COLEMAN: Okay.
 3 MS. DOHERTY: I -- I just don't have
 4 a clear yes or no.
 5 MR. COLEMAN: Okay. I didn't want to
 6 have to state this but I think the law is --
 7 in my mind, it's pretty clear, okay, that if
 8 you abstain for any reason other than a
 9 conflict where you just can't vote on the
 10 situation, your vote has been construed by --
 11 your abstention vote has been construed by
 12 the courts in the State of New Jersey,
 13 whether or not you like it or not, to go with
 14 the majority. Okay? So, I'm just cautioning
 15 you that.
 16 CHAIRMAN ZOLTOWSKI: Okay. There are
 17 six people left. If it's three and three,
 18 where does her vote go?
 19 MR. COLEMAN: We have neither.
 20 CHAIRMAN ZOLTOWSKI: Neither?
 21 MR. COLEMAN: Yeah. That's why I --
 22 I can't force you to vote but it's -- but
 23 let's -- let's hear the rest of the votes.
 24 MS. HANNAH: Mr. Goettelmann?
 25 MR. GOETTELMMANN: Yes.

1 MS. HANNAH: Mr. Haas?
 2 MR. HAAS: No.
 3 MS. HANNAH: Mr. Kennedy?
 4 MR. KENNEDY: Yes.
 5 MS. HANNAH: Mr. Robbins?
 6 MR. ROBBINS: No.
 7 MS. HANNAH: Mr. Heller?
 8 MR. HELLER: No.
 9 MS. HANNAH: Chairman Zoltowski?
 10 CHAIRMAN ZOLTOWSKI: No.
 11 Sorry, the certificate did not pass.
 12 MR. COLEMAN: Mr. Chairman, it is now
 13 9:55. Are we -- the applicant's attorney is
 14 asking me where we're headed the rest of the
 15 evening.
 16 CHAIRMAN ZOLTOWSKI: A couple of the
 17 board members have expressed their desire not
 18 to stay late. I don't know what -- is there
 19 a legal...
 20 MR. COLEMAN: Well, we could -- we
 21 could stay here all evening. I will tell
 22 you, though, we started at 6:30. There --
 23 I'm not going to say court cases but there
 24 are a number of court cases that say you
 25 really shouldn't go late into the evening

1 MR. ROBBINS: (No verbal response.)
 2 CHAIRMAN ZOLTOWSKI: Yes, you're okay
 3 with a special date?
 4 MR. ROBBINS: We can -- we can -- I'm
 5 okay with it, it's going to be difficult but
 6 I'm certainly okay with it.
 7 CHAIRMAN ZOLTOWSKI: Ms. Doherty?
 8 MS. DOHERTY: (No verbal response.)
 9 CHAIRMAN ZOLTOWSKI: Mr. Thomas?
 10 MR. THOMAS: I'm okay. Anything.
 11 CHAIRMAN ZOLTOWSKI: Mr. Kennedy?
 12 MR. KENNEDY: No problem.
 13 CHAIRMAN ZOLTOWSKI: Mr. Haas?
 14 MR. HAAS: No problem as long as it's
 15 a Thursday.
 16 MR. SCANGARELLO: This is what, the
 17 third Thursday?
 18 CHAIRMAN ZOLTOWSKI: Do you need to
 19 check your schedule or do you need to -- I
 20 mean...
 21 MR. COLEMAN: You're not going to --
 22 he won't be noticed any longer but...
 23 (General discussion.)
 24 MR. COLEMAN: The third Thursday of
 25 October, we're meeting on the 10th, would be

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

1 the 17th.
 2 MR. RIDGWAY: Not to anyone's fault
 3 but we anticipated cleaning this up this
 4 evening.
 5 (General discussion.)
 6 MR. COLEMAN: Mr. Chairman, what I
 7 would suggest is I would carry them to your
 8 next -- just a suggestion, carry them to your
 9 next zoning board hearing because it doesn't
 10 look like we're going to get a date here and,
 11 perhaps, notify those two applicants that are
 12 on for that evening that their applications
 13 may be pushed to the November meeting. And,
 14 again, start early.
 15 CHAIRMAN ZOLTOWSKI: What's on the
 16 agenda?
 17 (General discussion.)
 18 CHAIRMAN ZOLTOWSKI: Does anybody
 19 have an issue if it's not a Thursday?
 20 (General discussion.)
 21 CHAIRMAN ZOLTOWSKI: The 29th is the
 22 fifth Tuesday.
 23 Gentlemen?
 24 (General discussion.)
 25 MR. RIDGEWAY: The 29th?

1 CHAIRMAN ZOLTOWSKI: The room's
2 available the 29th?

3 (General discussion.)

4 CHAIRMAN ZOLTOWSKI: So, this
5 application's going to proceed on
6 October 29th which is a Tuesday, you will not
7 be renoticed, at 6:30 again. There will be
8 no -- no more notification. This is your
9 notification.

10 And if you don't understand, at -- at
11 this point, the applicant will go for a
12 variance and if they're granted the variance,
13 they will move forward with a site plan.

14 MR. COLEMAN: Let's -- why don't we
15 have the applicant clarify where --

16 CHAIRMAN ZOLTOWSKI: I'm sorry.

17 MR. COLEMAN: No, no, you -- you
18 summarized it.

19 Why don't we have the applicant
20 clarify what they're expecting to transpire
21 on the 29th.

22 (General discussion.)

23 MR. COLEMAN: No, no, because I think
24 that -- I think it makes more sense, more
25 detail for us just to -- so we're prepared on

1 attorney, the residents have our information.
2 If they want to meet prior to, we'll make
3 ourselves available, do it at my office,
4 Allied's other site in Springfield or even
5 if -- the township municipal building is
6 available, we're more than willing to meet
7 with those parties.

8 CHAIRMAN ZOLTOWSKI: All right. And
9 that may behoove you to do that. It may
10 behoove you to reach out to them and involve
11 the community.

12 MR. RIDGEWAY: Um-hmm. Understood.

13 CHAIRMAN ZOLTOWSKI: Is there any
14 other discussion from the public?

15 UNIDENTIFIED SPEAKER: We're meeting
16 at 6:30 here?

17 CHAIRMAN ZOLTOWSKI: 6:30, October
18 29th, Tuesday. I'll try not to be late.

19 MR. COLEMAN: We need a -- we need to
20 vote on that motion.

21 CHAIRMAN ZOLTOWSKI: What motion?

22 MR. COLEMAN: You need a vote to
23 carry it to the 29th. You, the board does.
24 You decided it but you need to vote on it.

25 CHAIRMAN ZOLTOWSKI: Keep the noise

1 the 29th.

2 MR. RIDGEWAY: And as we all know, the
3 board granted -- denied the motion to grant a
4 certification of a nonconforming use.

5 The applicant now has the burden of
6 securing a D-2 variance from the board which
7 is an expansion of a pre-existing
8 nonconforming use. The expansion being the
9 weigh scale, the refurbishment of the two
10 existing buildings and, in addition, there's
11 the sign as well on the front of the
12 building.

13 And experience has in the past --
14 well, they're mostly review letters, we're
15 almost doing the D-2 and the site plan almost
16 at the same time to see if accommodations, as
17 Tom said, could be reached based upon review
18 of the professionals' letters if the
19 applicant can prove his D-2 variance but also
20 prove that the proposed use at that site will
21 be something satisfactory for this board.

22 MR. SCANGARELLO: And for the public.

23 MR. RIDGEWAY: And for the public.

24 And then, again, as -- as we said
25 previously and by the -- the township

1 down, please.

2 (General discussion.)

3 MS. HANNAH: Who seconded it, please?

4 (General discussion.)

5 CHAIRMAN ZOLTOWSKI: We're still in
6 session. Please.

7 MR. GOETTEL MANN: I'll second that.

8 CHAIRMAN ZOLTOWSKI: All in favor?

9 (Vote taken unanimously, not
10 individually.)

11 CHAIRMAN ZOLTOWSKI: Any opposed?

12 MR. HAAS: Aye.

13 CHAIRMAN ZOLTOWSKI: Okay.

14 MR. HAAS: I won't be here.

15 CHAIRMAN ZOLTOWSKI: You wouldn't be
16 here?

17 (General discussion.)

18 CHAIRMAN ZOLTOWSKI: Motion to
19 adjourn.

20 All in favor?

21 (Vote taken unanimously, not
22 individually.)

23 CHAIRMAN ZOLTOWSKI: We're adjourned.

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

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

17 This transcript is in compliance with
18 NJ ADC 13:43-5.9, NJ ADC 13:43-5.8 and NJ ADC
19 13:43-5.4.
20

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22 BEVERLY M. BRITTON, CCR
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State of New Jersey
24 My Commission Expires
on 4-15-2015
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Dated: October 11, 2013

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