

STATE OF NEW YORK
TOWN OF GREENBURGH

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Public Hearings and Decisions Before
The Zoning Board of Appeals of
Greenburgh, New York, in Connection
with Various Applications in Relation
to the Town Ordinance of the Town of
Greenburgh,
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SPECIAL MEETING

September 7, 2023
7:00 p.m.

Greenburgh Town Hall
177 Hillside Avenue
Greenburgh, New York

BOARD MEMBERS:

- Eve Bunting-Smith, Chairperson
- Kristi Knecht
- Louis Crichlow
- Diane Ueberle
- Shauna Denkensohn
- Pauline Mosley

STAFF MEMBERS:

- Joseph Danko, Esq.
Town Attorney

- Edward Lieberman, Esq.
Deputy Town Attorney

- Elizabeth Gerrity
Deputy Building Inspector

- Garrett Duquesne
Deputy Commissioner

- Kyra L. Jones
Secretary to the Zoning Board of Appeals

Case No. ZBA 23-22: EDC 7 LLC / Thalle Industries, Inc., 50 Warehouse Lane South, [A.K.A. 7 Warehouse Lane] (P.O. Elmsford, N.Y.) - Appeal of Building Inspector Determination.

The Applicant is appealing from the issuance by the Building Inspector of:

- (1) a Notice of Non-Renewal of ZBA Special Permit 01-35; and
- (2) a Stop Work Order for Thalle Industries' operations at its Thalle "Virtual Quarry."

The property is located in the GI - General Industrial District and is designated on the Town Tax Map as parcel ID: 7.180-52-20.SE.

(Recording in progress.)

CHAIRPERSON BUNTING-SMITH: So this is Thursday September 7th, 2023. And this is a special meeting of the Town of Greenburgh Zoning Board of Appeals. And, first, we will start with the attendance.

MR. DUQUESNE: Okay. Kyra, would you be kind enough to do roll call for us?

MS. JONES: Sure.

MR. DUQUESNE: Thank you.

CHAIRPERSON BUNTING-SMITH: Starting with Chairperson Bunting-Smith?

CHAIRPERSON BUNTING-SMITH: Present.

MS. JONES: Okay. Louis Crichlow?

MR. CRICHLLOW: Present.

MS. JONES: Shauna Denkensohn?

MS. DENKENSOHN: Present.

MS. JONES: Kristi Knecht?

MS. KNECHT: Present.

MS. JONES: Pauline Mosley?

MS. MOSLEY: Present.

MS. JONES: Diane Ueberle?

MS. UEBERLE: Present.

MS. JONES: William Bland?

MR. DUQUESNE: William is absent today.

CHAIRPERSON BUNTING-SMITH: And as all who are present, both here and in person and on Zoom, are aware this is a one case that we are hearing this evening based on the issuance of a stop work order.

And that is ZBA Case Number 23-22, EDC 7 LLC, Thalle Industries, conducting as 50 Warehouse Lane South, village of Elmsford Post Office.

And we have before us an appeal by the applicant. We have an appeal by the applicant with respect to the stop work order. And we are going to take statements, which would be testimony. And that information that is being provided will be sworn and put on the record.

So who is here to -- yes?

MR. CHAFIZADEH: Yes. Madam Chair, pleasure.

Members of the Board, Mr. Lieberman, town staff, guests. My name is Darius Chafizadeh. I'm an attorney with the Law Firm Harris Beach representing Thalle Industries in this appeal. The appeal was filed on August 8th.

CHAIRPERSON BUNTING-SMITH: Let me say something.

MR. CHAFIZADEH: Sure.

CHAIRPERSON BUNTING-SMITH: I know you're an attorney, but I would like for you to have -- make some affirmation with respect to the information you're giving. If it's going to be your testimony or it's going to be an individual that you represent.

MR. CHAFIZADEH: There's going to be many -- we're going to have our individual represent, appear, the CEO of Thalle Industries. I'm an attorney. I've been before this Board numerous times. I've never seen an attorney affirm or swear before a zoning board, but I can affirm to my --

CHAIRPERSON BUNTING-SMITH: Well, you're going to give facts of the case with respect to what I would appreciate doing that.

MR. CHAFIZADEH: Okay.

CHAIRPERSON BUNTING-SMITH: It's not -- you're just outlining what the case is about, that might be different.

MR. CHAFIZADEH: Well, I've submitted the two letters. I think you've seen the August 8th, letter, September 5th letter. Doesn't matter either way. That's

fine. Whatever you prefer, Madam Chair.

CHAIRPERSON BUNTING-SMITH: All right. Well, what we would like to hear is sworn testimony, because we want to get to the real nuts and bolts of the case if we can.

MR. CHAFIZADEH: Sure. Sure. Okay. What I'd like to do first is introduce, Glenn Pacchiana. He's the CEO and president of Thalle Industries for a brief presentation before we start getting into the appear issues that we'd like address to the Board. To give a little background of Thalle and the property, if we could.

CHAIRPERSON BUNTING-SMITH: Okay.

MR. CHAFIZADEH: Okay. Mr. Pacchiana.

MR. PACCHIANA: Thank you, Chairperson Bunting and ZBA members. As I go, I'll ask you to please stop me at any time if you have any questions as present to you.

CHAIRPERSON BUNTING-SMITH: Now, we would like to have you sworn in.

MR. PACCHIANA: Sure.

CHAIRPERSON BUNTING-SMITH: At this point.

MR. PACCHIANA: Yep.

CHAIRPERSON BUNTING-SMITH: So would you raise your right hand, please. And would you swear -- I'm sorry.

Would you swear or affirm to tell the truth with respect to the information and facts that you are providing to this Board this evening?

MR. PACCHIANA: I do. I swear.

CHAIRPERSON BUNTING-SMITH: Thank you.

MR. PACCHIANA: Okay. Good evening, Members.

First and foremost, Thalle Industries is an environmentally-friendly green company that has had a great relationship with everyone it touches, whether it be the New York State Department of Environmental Conservation, Westchester County and for 26 years with the Town of Greenburgh.

We've had great relationships with with the previous three building inspectors, John Rocio, Steve Foleta, and Robert Dam. And with our neighbors, Paws Crossed Animal Rescue. And I want to thank you for being here tonight.

We aim to continue our essential relationship with the Board, with the Town and its administrative staff as we move forward in the future.

We're here today to talk about the Warehouse Lane recycling facilities. That operation was deemed a critical infrastructure facility by the federal government of the United States as well as by the governments of the State of New York.

The federal government defines critical infrastructure facilities as those quote, "Considered so vital to the United States that there incapacitation or

destruction would have a debilitating affect on security, national economic security, national public health or safety or a combination thereof.

New York State Executive Order 202.6 deemed the recycling facility and its environmentally-sensitive work as an essential industry during the COVID-19 pandemic. In fact, we remained in operation during the entire pandemic continuously, accepting and processing excavated materials from the Town of Greenburgh, the villages in the Town of Greenburgh, municipalities, public utilities, including Con Edison and contractors performing essential services in Westchester County and the Hudson Valley during the pandemic.

The Warehouse Lane recycling facility operates under a New York State Department of Environmental Conservation Part 360 Permit to turn waste into reusable aggregate products.

The facility historically recycles non-contaminated excavated materials including, rock, concrete, concrete products, asphalt, asphalt milling and mixed loads. And we turn those into recycled products.

We are not permitted by the DEC, nor the Town of Greenburgh, to accept tell petroleum-contaminated earth fill or aggregate. We never have. Have no intention of ever doing that.

A note; as of the stop work order, in order to work with the Town of Greenburgh, and to show a good-faith effort, we have stopped accepting asphalt and asphalt products at the facility.

The asphalt products that we were delivered to the recycling facility have traditionally been shipped to our asphalt plant in Fishkill, New York, where they are recycled into outgoing asphalt material.

When Route 9A was repaved last year in front of Warehouse Lane and Sam's Club, Thalle Industries supplied the asphalt for that facility and recycled asphalt, such as that which was taken in at our facility in Greenburgh, was taken to that -- to the site and mixed in to that project. That's what we do at this facility; we recycle material.

The Warehouse Lane facility recycles two out of every three loads of excavated material in Westchester County -- excuse me -- two out of every three tons of excavated material in Westchester County.

The facility recycles more than twice as much material as the other similarly four permitted facilities do when designed.

The other four facilities combined do not have the capacity to recycle the excavated material in Westchester County should the Thalle Industries recycling facility be shut down.

The Warehouse Lane recycling facility is approved by Con Edison to accept material excavated on Con Edison related projects. And we have been through an extremely serious long, arduous and complicated process with ConEd to receive this approval.

The ConEd Environmental Health and Safety webpage states quote, "It is the policy of Con Edison to be a leader in protecting the environment and ensuring the health and safety of its employees and the public."

This is why Con Edison relies on us to accept non-contaminated, excavated materials from Con Edison related projects. None of the other four facilities that accept excavated material in Westchester County are approved by Con Edison to receive material excavated on their projects.

The Warehouse Lane facility recycles the majority of material excavated by ConEd and ConEd contractors to maintain the gas and electric infrastructure in Westchester County and has done so for a number of years.

None of the other facilities registered with the DEC receive any excavated material from ConEd or ConEd-related projects in 2022, nor have any of them received any material from ConEd or ConEd contractors going as far back as 2013. And that was the furthest we could go back with the DEC to obtain the records.

Any work stoppage at the Warehouse Lane facility impairs ConEd's ability to carry out with their critical infrastructure products to maintain the gas and electric infrastructure in Westchester County.

Moreover, the Warehouse Lane and the Town of Greenburgh have enjoyed a very nice, mutually beneficial relationship for nearly 26 years.

For instance, for more than ten years, Supervisor Feiner and I have been part of the Golden Apple Expo Outreach, which is a monthly gathering of more than 50 leaders in Westchester County from the private sector, government and education.

And we work together to solve problems for the betterment of Westchester County, its municipalities and the people of Westchester County. Supervisor Feiner and I have gotten to know each other at these lunches.

And on Monday, July 24th, after the stop work order was issued, I spoke to Supervisor Feiner and sent an e-mail to him informing him of the stop work order, the impact to Con Edison, the layoffs and impact from the stop work order to 13 employees of Thalle Industries who work at the recycling facility: Jessie Lozada, Miguel Diaz, Joe Colovito, Carlos Lapaz, Majar Gonzalez, TJ Wilson, Brian Masi, Louis Gonzalez, Warren Shealy, Miguel Cardenas, Angel Diaz, John Klapkowski and Joe Landy.

And I would just like to say, Jessie Lozada, who lives in the Town of Greenburgh, runs the facility. He came to work for us six years ago as someone that started out picking up garbage. He worked at the site. We trained him. He now runs that facility.

We are a huge company based on giving people a job, promoting them through there and making careers out of them. As I said, he lives in Elmsford just down from our facility.

My email to Paul concluded with, Paul, I have and will always be willing to meet with whoever has an issue with Thalle Industries to work and find an amicable solution to allow everybody to work together in harmony.

I will happily take any recommendations you can give me to move this issue forward. As for the relationship with its neighbors: Thalle Industries is being honored by next door neighbor, Paws Crossed, on September 23rd in FDR Park.

Jennifer, president of Paws Crossed, wrote in a press -- in a recent press release, quote, "We are beyond grateful for the entire team at Thalle Industries. Since day one, they have been the most amazing, supportive neighbors helping us in so many capacities.

Donating rocks for our play yards, snowplowing our property every single storm. Using their equipment to move thousands of pounds of donated food for our magnificent

pets. I could go on and on. They are such an a inspiring group of people and we are so fortunate to have them as engaging members of this very special Paws Crossed animal rescue this family. This is what community looks like.

When the stop work order occurred, Jennifer reached out to me and asked what she could do to help. And with your permission, Madam Chair, I'd like to ask Jennifer to say a few words.

CHAIRPERSON BUNTING-SMITH: Certainly.

MS. ANGELUCCI: Hello.

CHAIRPERSON BUNTING-SMITH: Hello.

MS. ANGELUCCI: My name is Jennifer -- oh.

CHAIRPERSON BUNTING-SMITH: Your name is?

MS. ANGELUCCI: Jennifer Angelucci.

CHAIRPERSON BUNTING-SMITH: Yes. And do you swear or affirm that the information you're going to provide to this Board this evening is true to the best of your knowledge?

MS. ANGELUCCI: Yes. I do swear.

CHAIRPERSON BUNTING-SMITH: Thank you.

MS. ANGELUCCI: Can I sit, stand?

CHAIRPERSON BUNTING-SMITH: Either one.

MS. ANGELUCCI: Okay. I will sit. So the press release pretty much says what I wanted to say here today, but Thalle Industries has been fantastic neighbors to us

since the very first day that we moved into the facility.

And not only are they incredibly generous, they're compassionate towards the work we do in our shared community and because of this, we have selected them as honorees at this year's event.

And when we first opened we consulted with them on which would be the best solution for our play yards for our dogs. Which material would be the best for their paws so that they can be happy and play.

And not only did they consult with us on which would be best material, but they filled all four of our play yards for free at cost to us. And now every year -- we now have six play yards.

And every year, you know, the dogs kick out the stones. And they refill our play yards every year at no cost.

And during every snowstorm -- we never ask them to do this. During every snowstorm, they not only plow the road coming into Paws Crossed Animal Rescue, but they plow our entire parking lot.

And even on Sundays when Thalle Industries is closed, they send somebody to plow out our parking lot, so that we will be able to conduct business. And without that, we wouldn't be able to open and we would have to spend precious resources in hiring somebody to plow us out.

And each year we serve as the northeastern hub for a wonderful donation from Blue Buffalo. We receive a tractor-trailer full of food that gets distributed to all of the local animal shelters and also shelters throughout the northeast.

And we need a lot of help getting it out, because it's always loaded backwards or there's always some sort of issue. So this year asked Thalle if they could come help us.

And they sent an employee, sent them for eight hours to come to our facility with a forklift and unloaded all of our food for us so that we didn't have to do it by hand like we had in previous years.

And not only that, the next day when we wanted to rearrange things in the parking lot, they sent him again to move the pallets around so that we could get in and out of our property easily and that the other rescues could pick up their food.

And one of our light posts in our parking lot fell down. And before I even was able to have my morning tea, Thalle had called an electrician and had them there the very same day and replaced our light posts at no cost to us without us even having to lift a finger or ask a question, they replaced it because they drove through in the morning, saw that a light post had fallen. And before we could even

do anything, they had it replaced for us, again, at no cost.

And when truck traffic was getting on Warehouse Lane, because of all the trucks from coming into his facility, it was preventing some people from getting to the rescue. They had to have long lines. He actually hired somebody and brought somebody in to do traffic control so that our business would not be interrupted at all.

And recently, this is a small thing, but we recently had a perimeter fence installed on our property, because when dogs get loose, now with the bike trail, they could right onto bike trail onto Saw Mill.

There was a few areas in the fence that had gaps in it where dogs could fit underneath. And we asked them to come over and consult. And they immediately filled in rocks in all the sections where there was a possible breach in the fence line and they fixed that for us, again, at no cost.

And putting our relationship aside, I believe that with the three buildings we have, our facility, where we rescue dogs and cats that are in need of homes and that were unwanted, then recycling and then Brookfield the scrap yard as well, I think the social impact of these three business in this little corner of Greenburgh is something that Greenburgh should be incredibly proud of and that Greenburgh should fight to keep in business.

Because the social impact alone of the three of us

is enormous. And I think it goes to show what's important to our community.

And I think that Thalle really represents that in not only how they conduct their business, but how they treat their neighbors and their community.

And I will close by saying that if we were to lose Thalle Industries, it would be a massive loss for the pets and the people of Paws Crossed.

CHAIRPERSON BUNTING-SMITH: Thank you.

MR. PACCHIANA: Thank you, Jennifer. You prefer I sit? Am I imposing if I stand?

CHAIRPERSON BUNTING-SMITH: Whatever makes you comfortable.

MR. PACCHIANA: No. Just sometimes, if I get nervous, I can like move around a little bit.

CHAIRPERSON BUNTING-SMITH: Just don't dance around the table.

MR. PACCHIANA: We'll dance later if that's okay. Anyway, thank you, Jennifer.

So before I conclude, I would like to describe the Warehouse Lane complex. In addition to our recycling facility, there are six warehouses that are active 24 hours a day as well as the Paws Crossed Animal rescue that has animals on site 24 hours a day, 365 days a year.

This morning, between 6 and 7:30, there averages

one truck a minute entering and exiting that facility. During a random 20-minute period, we've watched the following trucks entering and exiting the facility.

There were four UPS trailers, three Expo double trailers. The Expo double trailer site next us to operates 24 hours, because the double trailers go out a lot at night. So this is a true 24-hour facility.

There were three ten-foot Clancy color box trucks there. There were three 16-foot Serina box trucks there. There were five Amazon vehicles there. The Amazon facility operates 24 hours a day as well. So this is a true 24-hour facility.

The recycling operating hours have traditionally been Monday to Saturday, 6 a.m. to 3:30 p.m. and nights upon request. And these hours were picked not because of us, it's because our customers and the industries they serve dictate those hours.

Con Edison and the contractors doing work for Con Edison have to get on certain routes early because of traffic or operating hour restrictions.

So they excavate the material and they need to dispose of it and the first trucks are at our facility before 6 a.m. Some projects are only permitted to operate at night. New York State paved Route 9A last year. That was a night project.

So that project worked with our facility here on Warehouse Lane, as well as our asphalt plant in Fishkill, to be repave that 9A corridor.

So the contractors use our facility at night, whether it's for disposing excavated materials or obtaining material for the project. And we have never had a complaint from anybody about the hours of this facility.

Tonight, Madam Chairperson, we're asking the ZBA for three things: We're asking you, first, to allow the recycling facility to operate while a new special permit is being applied for. That application went in and we get to see you guys in two weeks, on September 21st.

We ask that you allow the recycling facility to return to its normal operating hours of 6 a.m. to 3:30 p.m. and nights upon request. At the request of the building department, we switched the hours to the 7 -- whatever the hours were in the permit.

And, third, we ask that you adjourn this meeting and allow Thalle Industries to pursue its application to the ZBA for a special use permit.

We have a long and solid track record of mutual respect between all of the governing and regulating bodies affecting our plant.

Working together to provide the local community and the surrounding area with an essential industry that they

can rely on. And have taken in and recycled non-contaminated products from our main utility as well as local businesses, large and small, who have no place to safely put their recycled matter if a work stoppage at our facility occurred.

Illegal dumping would occur and other essential businesses, like Con Edison, with critical processes that need our facilities to upkeep their facilities would stop, causing a risk to the community and the people of Westchester County.

I will do whatever it takes to partner safely and responsibly with the Town to resolve this matter expeditiously so that everybody is comfortable.

I just ask that we work together in the spirit of moving forward amicably, to resolve our differences, better understand each other and understand what's involved.

And I will happily accept any questions from anybody on the ZBA.

MR. CRICHLLOW: What does virtual recycling mean?

MR. PACCHIANA: So virtual quarry is a term that I trademarked. So we have a quarry in Fishkill, New York. And you're all welcome to come see it there.

In that quarry -- no, it's great. It's a very interesting trip. We've gotten up -- the business council has come up. We give tours. It's a great facility; worth

seeing.

At that quarry, we drill and blast granite, that's -- the material that we use to crush. So we drill and blast that material. We haul it to the main plant and then we crush it and we make it up into aggregate products.

The difference of this facility is that we don't drill and blast any material here. So, instead, we get material from the contractors or municipalities or ConEd.

The Town of Greenburgh's been coming to us since we've been open. And what we do is that rather than us drill and blast the material to make the products, the municipalities and Con Edison and contractors deliver the material to us, we then crush it.

And because we are quarry guys, unlike most other recycle facilities, we make them into recycled aggregate products that go back into the community.

So I dubbed -- we are a quarry, but we don't drill and blast the material. So I dubbed the name, virtual quarry. And we actually got it trademarked. So there's a trademark name, virtual quarry.

And I get a kick, because there's some other of our customers that come up there and I talk about our virtual quarry. And they shake their heads and scratch their heads, but that is where virtual quarry came from. So that is the trademark name of it.

I'll also mention; the other recycling facilities, most of those guys came from the garbage industry. Most people in the recycling business come from the garbage industry. They make all of their money on the tipping fees they get when they accept the material. We're not that way.

We make the bulk of our money by selling used good end product. One of the reasons, you know, when we went through the -- do you mind if I give a little interlude?

CHAIRPERSON BUNTING-SMITH: No.

MR. PACCHIANA: So back when we first got the permit, Bob Weinberg, got the permit in 2002. We've been operating there since 1997.

Bob Weinberg was the one at the time who said, I want to put a ten to 15,000 cubic yard limit in this permit.

And the reason he did it is there were some bad guys out there that would bring material into a facility, collect all this tipping fees, because you can make a lot of money if you're just going to dump it as garbage.

They filled the facility up and then they'd disappear. So Mr. Weinberg didn't want that to happen, so we put it in. And we didn't have a problem with that. When we first started the facility we, had one machine and one person on the site. We now have 13 people on that site and we recycle 68 percent of the material in Westchester County.

So the only reason the piles got big is because

we're recycling so much stuff for the infrastructure. The interesting thing, Board, is that none of the finished product piles we have -- and so when material comes in, it comes into our site. It is a solid waste. It's classified as a waste by the DEC. We pile it up. And does the pile get above 30 feet? It does. There's a 50-foot high rock wall there.

The material gets piled against that site. The reason the material gets high, the incoming material gets high, is that we can't control when the incoming material comes in.

If a project's going on, like when they demoed The White Plains Mall, the old White Plains Mall got demoed there. They brought all the concrete to our facility. They demoed that, all in two weeks. So all of a sudden you're getting 25,000 tons of material are coming to you in two weeks because that's the schedule of the contractors. We can't crush it that fast.

So what do we do? We pile it up and then material might not come in for a while. Then we crush that material and we make it into recycled products and ship it out. And we will.

It was funny, ironic, we got material from the Westchester Mall that was being knocked down. We recycled it and we shipped it up to Regeneron that was building the

state-of-the-art facility up the road.

So it's a really cool, essential industry and I would encourage all of you to come down and see it. And ask me answer questions. I'm a very open book. I work with the environmental group. I have a very good relationship with Scenic Hudson, who endorsed our quarry expansion in Fishkill, New York.

I have a very good relationship with Hudson Highlands Land Trust and I want to continue that relationship here.

CHAIRPERSON BUNTING-SMITH: Any other questions from the Board?

MR. CRICHLLOW: It actually says in the special permit that you are allowed to go from 10,000 cubic feet up to 15,000 cubic feet.

MR. PACCHIANA: Cubic yards.

MR. CRICHLLOW: I'm sorry. Yards. That's a lot more. I guess with an understanding that there is a fluctuation of what comes in and what goes out.

MR. PACCHIANA: Correct.

MR. CRICHLLOW: And how long it takes for you to be able to do that. So are you saying that you even go beyond 15,000 cubic yards on occasion?

MR. PACCHIANA: Up to now, we have.

MR. CRICHLLOW: Up to now you have?

MR. PACCHIANA: We have, yes.

MR. CRICHLLOW: Okay.

MR. PACCHIANA: We've received notices of violation a number of times before. Right. We've never received an actual violation. They've never gone more than we receive a notice.

And what typically happens is someone goes down the bike path, sees the material and says, oh, this looks unsafe. And they make a phone call.

So the building inspector comes out, he looks at it, and goes, whoa, your piles are too high. And it's usually the piles is the issue. So they go, knock the piles down. And we spend the next days and whatnot, knocking the piles down, getting them low. They come out and do another inspection. And it's quick. I mean, we will work really hard to do this. They come out; do another inspection. They go, awesome, the place looks great. We'll see you later.

The reason the quantity ends up becoming more is if you think of our facility, think of it like a bathtub. Okay. We have material coming in. That's the excavated material that comes in. That is a -- classified as a solid waste by New York State DEC. It either comes to us or it goes to a landfill.

So they bring it to us. Again, if you're working

on a project, if you're drilling and blasting rock, the drilling and blasting portion of say, the Regeneron Project, that lasts for two or three months. And then it's done for a while.

So you get a big surge of incoming material that you have to take when it comes, because I can't dictate when it comes. That is like the faucet on the bathtub. The incoming material comes in. The site is the bathtub. And the rock is in the bathtub.

And if you think of the bathtub as having a divider, the one half of the bathtub contains the rock that is the incoming material. We can't control that material. We have to take it when it comes.

We still at times tell people, you can't come in. We have too much stuff. You can't come in. As we crush the material, it becomes an aggregate product, a recycled aggregate product that can be sold back out and used in the community.

And we supply a lot of material to the villages -- all the villages in the Town of Greenburgh, the Town of Greenburgh, the state, the New York State -- the city DEP, we've supplied around the reservoirs from there. So this material is high quality aggregate products that are going out there rather than going to a landfill.

The other really cool thing about this is that the

trucks. If the Greenburgh trucks don't come to us to get the material, they either go north to our quarry up in Dutchess County, which is 50 miles away, or they go across the Tappan Zee Bridge into Rockland County to one of the Tilcon quarries.

So we are a really cool, essential place in the middle of this area surrounded with Paws Crossed and the Brookfield guys that we fit in there. So that's why we have the bathtub. That's why the material goes high because we have to get it when we can.

CHAIRPERSON BUNTING-SMITH: Go ahead.

MS. DENKENSOHN: We appreciate your candor. And we appreciate the vital service that you're doing and the neighborhood and all you're doing for Paws. Our job is the legality of the purpose. And all of that.

So in anything we say, it's not that we're attacking what you do. So my question is a couple of things in your candor that you have said is that your hours of operation don't match the variance that you were given.

MR. PACCHIANA: Correct.

MS. DENKENSOHN: Nor do the piles and all that. You mentioned that you're looking for a revised permit.

MR. PACCHIANA: We sent -- yes.

MS. DENKENSOHN: Maybe I'm missing the wrong one.

MR. PACCHIANA: No. It's fine.

MS. DENKENSOHN: Will those include those revisions?

MR. PACCHIANA: Yes. Look, I will be honest, if we were to sit here tonight, I'd say, take that existing permit you have, change the hours on it, change the height of the piles and the quality and we're done. I don't need anything else.

MR. STEINMETZ: Clarify the asphalt language.

MR. PACCHIANA: And we can clarify the asphalt language. But just, for the record on this, the -- there was an issue about, is asphalt a petroleum-contaminated product. It is not.

By the DEC definition, we are not -- and you're -- by your permit, we are not allowed to take in petroleum-contaminated products as well as any other hazardous material.

We can only take in un-contaminated rock, concrete, concrete products, asphalt, asphalt millings and mixed loads. That's it. So that's what we take in and that is what we applied for and we are coming before September 21st to present.

MS. DENKENSOHN: And when you get a project like ripping down the mall and you know what's going to come is something that's going to violate your permit. Have you ever reached out to the town and said, look, I'm going to

have this two-week period because of this project. Can you give me a little leeway? Have you ever done that?

MR. PACCHIANA: No. And what I did and I think I said this on the -- oh, okay. So we first had a Zoom meeting with the town officials when this first occurred. And I apologize to them --

MR. CRICHLLOW: When what occurred?

MR. PACCHIANA: When we first got the stop work order on June -- after my discussion -- July -- with Supervisor Feiner, he said -- we spoke to the business council. They called a meeting of town officials and us to try to see if we could work this thing out and start to see where everyone stayed.

And I was very candor. It was my fault for not introducing myself to the new building inspector, the new engineer, the new town attorney and the deputy town attorney.

And I said, that's on me. That is a hundred percent my fault. And I apologized to everyone at that meeting. We've had great relationships with the last three building inspectors.

To be perfectly honest, maybe we got too comfortable with each other where I probably should have come in earlier and modified the permit, but, you know, we kept going. We always had a good working relationship, and

we didn't.

I get it. That's why now we have no problem changing everything. And I want you guys to be happy with what's going on here. So, no, we did not, but it wasn't a lack of -- of -- there was no deceitfulness or anything here.

And the inspectors that have come out, you know, we saw the facility, and I always work together to make sure the Town of Greenburgh was in good shape and protected. I will also say, regarding the height, the piles and the quantities.

So, people die in our industry. Right, when you have an accident, we have heavy equipment, people die. So we strive very, very hard to be safe. I always tell all of my employees; the only thing that matter in our industry is safety and the environment. The rest doesn't make a difference.

Regarding safety; we bring outside inspectors into this facility, all of our facilities, once a month to conduct a mock MSHA or OSHA inspection. It's unannounced. And we go in there. At my facility, my guys have phenomenal safety records. We have a great -- our Workmens' Comp rates are some of the lowest in the industry, because we are very safe. And I take care of the employees.

I really -- every job they've done out there, I've

done myself, personally. So I would never ask an employee to do anything that I haven't done. And I would never treat an employee anyway like -- unless I would want to be treated that way.

So we really are very -- we work on the safety and wellness of the employees is the most important thing at Thalle Industries.

MR. CRICHLLOW: I'm happen to know what OSHA means. I don't know what MSHA.

MR. PACCHIANA: So MSHA -- so there's two agents, two groups that monitor us. OSHA; the Occupational Safety and Health Association. MSHA is the Mine Safety Health Association. So MSHA is just for quarries and facilities like us. We get MSHA inspections two to three times a year, all the time.

And the only way you can perform well with an MSHA inspection is your employees have to have the mindset that, if I see something wrong, I'm going to fix it or I'm going to report it so we can get it fixed.

And we have a phenomenal safety record with MSHA. You want to talk to the people in Albany, we're the poster-child of really working safe. Yes.

MS. MOSLEY: Yes. I would like to ask: Have you considered some alternate strategies for complying with the height of the piles? Such as, one, perhaps extending the

bathtub, and, two, perhaps making, instead of just one pile, two piles or three piles.

I don't know the exact square footage of your site, but perhaps maybe instead of just having a pile in one central location where it is in violation, maybe have two or perhaps building a hole, some sort of like a basement or something, that could help you comply to the guidelines.

Have you considered alternate strategies for trying to resolve what appears to be an ongoing issue? And especially since you don't know when a project is going to given you such a large amount of material that you then have to breakdown.

MR. PACCHIANA: Yep. That's a great question. Part of the challenges of that facility -- and that's why I really welcome everyone to come out. We are on a 14-acre site of which we are occupying two-and-a-half acres of it. The other 11-and-a-half acres is solid rock. There is more than two million tons of rock on that site. And it's not accessible.

This site again, history, of the site, this was supposed to be the seventh warehouse built in that facility. There's six other warehouses there.

When the landlord, Mr. Weinberg, originally built the facility for a FedEx facility, the deal ended up falling through and the facility sat empty for a number of years.

And that's when we got together with Mr. Weinberg and started. And, look, at first it was fine for us. The problem now is that there's such a demand for recycling and to stop sending waste to landfills that we're a victim of our own success.

MR. CHAFIZADEH: If I can interrupt one second. Just on the request, and these questions I think are great and we want to answer them and we will answer them all if you have them tonight. We are processing the other application for the amended special permit on the 21st.

This would be great. We're ready to answer them tonight. Perhaps they're better answered, and we're willing to answer them tonight too, on the 21st, that was Glenn's request to ask if we could adjourn tonight to keep the status quo as it is, everyone could go home and watch the football game.

MS. UEBERLE: But you're still asking us to, essentially, stop the stop order. Right? So if we were to do that and then we meet on the 21st, can you operate within what is in the existing use permit?

Because you're not operating in the those hours. Can you go back and operate in those hours? Can you keep the piles to that height? Because you're asking us to do that and adjourn, but then you're asking us, essentially, to given you permission to operate outside the permit.

MR. PACCHIANA: So let me clarify if I can. And, again, dialogue. I'm not a lawyer. I'm just sitting here. We knocked the piles down. All the piles are under 30 feet right now. We are there.

Is there 10,000 yards, 15,000 yards? It's down a lot. I can't tell you exactly. It's pretty close; right? I would go there and say, the site's safe. I can go there and state there's less than 15,000 yards there. It's close. It's in the area.

Regarding the hours; I would ask that you just allow us to do what we've done for 26 years. Right. And maybe we're turning an eye. I don't know what that is. You know, I'm not sure how that works. The one thing I would say to the Chairperson, we were never given a violation. We were given a notice of violation that states, The building department has reason to believe there may be a violation.

We were never given a hearing date. We were never -- and then we were given a stop work order that I believe was undeserved. And that may not be the legal term.

I would ask that we can look and say, okay, there's questions on both sides about this. Maybe we can just adjourn this to the 21st and let us come in and make the presentation for the special permit.

And I'll tell you one thing now, because I see your 21st agenda is very busy. I will answer any questions you

have this evening to shorten our time when we're going to do the special use permit.

Because you do have a crowded agenda. I will do anything you want and answer any questions. And if you want to come to the site prior to them, I'll give you a tour. You can speak to all our employees. I will let you do whatever you want to do to make you comfortable with our facility.

MR. CHAFIZADEH: And with those requests, though, that you said, the 30 feet is down. The cubic yards he explained. The other concrete and rock, the asphalt are not taken in.

MR. PACCHIANA: We haven't taken -- asphalt -- I stopped taking asphalt in; right? Again, and I will say, of the facilities that take in asphalt, we are the only one that owns an asphalt plant.

So our stuff comes in, we bring it to our facility in Fishkill, we grind it up and it goes back into the roadways there. So that is not a product that's being used as a waste product or anything.

MR. CHAFIZADEH: And then the other -- the one other issue is the 25 feet was one of the issues. We were too close to Paws Crossed. That has been removed and taken care of.

So we think all of the issues of the special permit

are there or on the cubic yards closer to there, but safe. There's been a couple other violations, I don't know if you've seen, that we have to submit a permit applications for.

We are processing those. That will be likely in tomorrow for the building permit and electrical permit and a plumbing permit, which will be in very soon. And then, lastly, I think there was -- oh, the stormwater runoff.

We have been working with the town engineer. I know we are not -- our engineer and him are not on the same page yet, but we hope in the next week or two they will be.

We want to work and work with the town and we think, you know, the stay would remain in effect. That is automatic under the law until the 21st. And, you know, we're making every effort to comply. We had a nice meeting yesterday at the site with town staff. So, you know, we think that the -- you know --

MR. DANKO: However, I will say, that the Town does not consent to that adjournment. And we'd like the opportunity to speak tonight as well.

CHAIRPERSON BUNTING-SMITH: Yes. We're going to give you that.

MR. DANKO: Joseph Danko, town attorney. Thanks for having me tonight. And I will speak after their turn. I just wanted to point out to you because you mentioned town

staff.

MR. CHAFIZADEH: Sure. I know. We did hear from the town staff today in an e-mail. That's, you know, I'm not going to quote them and put them on the record right now, but we will continue and want to continue working them.

I think we all want to do that and we think it could lead to a great facility. And you guys can ask these questions, like you said, can there be more space there? What can we do to make sure the pile are lower.

Is it 30 feet? Can we get 35 feet? Which will be discussed on the 21st. If we can keep it, maintain it, we work with the town in the next two weeks, and we'll be back before you, but we can also answer any question tonight and go through all the legalese, which we're glad to do.

MR. CRICHLLOW: So this was a lot of stuff to read in a very short period of time. And I remember seeing somewhere, and I've been trying to find it again. That irregardless of what happens tonight, you have every intention of starting operations up again? Is that true or am I mistaken?

MR. PACCHIANA: Right. We have been operating since we made the appeal to the Zoning Board --

MR. CHAFIZADEH: On August 8th.

MR. PACCHIANA: -- on August 8th. So we have been operating.

MR. CHAFIZADEH: And that's allowed under the law. There's a provision under the law of the Town Law 267, and the state law. Once the appeal gets filed, there's an automatic stay.

That's how we've been operating and once we started operating again, they brought the piles down right away to try to get in compliance with what the town staff wanted and we're pretty much on the goalline to getting there. We think.

MR. PACCHIANA: Yep. We stopped taking in asphalt at the request of the town. I do want to address the soil and erosion control for a minute if I could?

So we are an industrial site facility. We have a New York State DEC Stormwater Pollution Plan Permit. The DEC has three types of stormwater permit they issue: They issue an MS4 permit that the Town of Greenburgh actually has. They issue to municipalities about their stormwater.

They have industrial facility permits; that's what we have. And industrial facility permit is a permit on an industrial site that goes on in perpetuity. So it is not a construction site permit.

There's no start date, there's no end date. We don't submit what we're doing to the DEC or to anybody about what we do. It is our job to use best practices to maintain that site in proper code performance at all times.

We take regular samples of water off the site that we send to the DEC. A difference between a construction site permit versus an industrial site permit, is that on a construction site, they detain a lot of water and keep it on the site.

Different with our facility, they know that we can't do that. So our facility goes off the site. We have stone filters up there, we have filter fabric there. We have all the different ways so that the silk is removed from the water as best possible before it leaves the site.

Our job is to maintain is to maintain -- is to sample the water at the discharge facilities of the site. We have a discharge facility at the north end at the intersection of Warehouse Lane. We have a discharge facility at the south end by Paws Crossed. We sample the water there.

That water goes into two catch basins. The way the catch basins work is there's a sump in the catch basins, meaning that the pipe, the outlet pipe is higher than the bottom of the catch basin.

And the reason that's there is the water goes into the catch basin and solids or whatnot is supposed to settle down in there and the water leaves the site from the pipe that's above the bottom of the catch basin.

Those sumps typically get clogged. Right?

Material settles out, you have to dig it out. We have not had to dig out that facility this year. So despite the storm that we had that caused this shutdown on July 17th, we have not cleaned that sump out. Which tells me, our stormwater protection plans are doing the right thing.

So I then was concerned, of course, once we got the stop work order and we were told about the problem, I called the DEC. Right? Because I want to be the best in class at what we do.

I spoke to the head of permits, John Petronella, in New Paltz, and I spoke to, Natalie Brown, who is in charge of the stormwater pollution prevention plans who is in Tarrytown and I had a conversation with both of them.

And I said, would you like to come to the site? I said, please come. They said, no, your site is okay. I said, okay. I said, is there anything we can do? They said, no, your site is -- you're good. You know, we are in compliance.

I have a very good working relationship with everybody from the DEC. So, again, those guys -- I don't want to say like we're Hebrew National, we answer to a higher authority, but DEC is -- those guys are tough.

And the reason they take responsibility for industrial-sector permits is most municipalities don't have the capacity to handle these permits. Our permits are

250-page permit with regular reporting requirements that we produce to the DEC.

So that's the type of permit that we have. So they have the municipal permits that you have, they have the industry permits that we have, the third permit they have is a construction site permit, which is very similar to the permit -- the stormwater permit that the Town of Greenburgh has.

That's different. It's for a construction site. It has a start date and a stop date. The regulations to the -- the end-use regulations are different; right? They're required to detain the water on site. We are not required to that.

They know that the water is going to leave the site. We have to make sure the water is clean when it leaves the site.

We've taken -- after that, I've got pictures and videos from every storm after that. And I will tell you, I will maintain, I have four kids, on my kids, we did not cause that -- the -- what the report says, the water and the facilities and the silting up south of us, you know, down by the Teamsters facility, that was not caused by us.

That was not caused by us. And I welcome anyone to come out during the rain and we'll take a look at what's going on. Anything else?

MS. DENKENSOHN: The whole stormwater system which I saw. Obviously, you know, along the way, the silt builds up. What is the regular maintenance schedule for that so I can understand why it would or would not have failed or, you know, they're saying the building department says it did fail, but is there a regular maintenance schedule? I know you didn't have to clean out the sump pump. How often is it checked?

MR. PACCHIANA: Sump pump is checked all the time. So we have -- Jessie Loazada on site here is trained by the DEC as a soil and erosion control expert. Right? So he gets -- license gets renewed every three years.

We look at that facility after every storm. Because we are responsible to report to the DEC after every storm; is there a problem with the facility. So as soon as I call, I saw a problem that there was a potential problem -- I called the DEC right away and said, come out.

I'd rather not get into any -- I can get into more details of that. As far as the maintenance goes: So we have a sweeper that's on site that works all the time. On the road to pick up any material there.

We -- the way our facility works, if there's silt in the water, when it's on our site, and it leaves the site clean, that silt has to go somewhere. So where does it go? It goes in the swale, it goes along the road, it goes in the

stone on the road.

We end up cleaning that silt up. And we take it and what do we do? We put it back into the incoming material pile and we subbase out of it or something. So we are a total self-policing facility there.

MS. ANGELUCCI: And we can attest it does happen very, very regularly.

MR. PACCHIANA: The facility, the exit place is right near the Paws Crossed facility. So if you come down there and they see, whoa, it looks like there's silt in the swale or on the road. We're like, there is, because it's not going off the site.

MR. STEINMETZ: Explain what you mean by the road.

MR. PACCHIANA: So the road. So the roadway at our facility -- do you guys have the picture there? I don't know. If the look at the facility -- so this roadway here, that goes down, that is part of our official site; right? That's a private road. Our site goes up across -- actually the --

MR. CHAFIZADEH: I can do share, Glenn, and it shows this on the video if you want.

MR. PACCHIANA: Sure. That would be helpful.

MS. DENKENSOHN: Is this the road?

MR. PACCHIANA: That's the road.

MR. CHAFIZADEH: Can you see it here? Right here.

MR. PACCHIANA: Okay. Here's the road. So that -- our site -- do you have a pointy thing?

MR. CHAFIZADEH: I have one, but I'm not sure if it works.

MR. PACCHIANA: Okay. Our site has two discharge points. The first is right up here at the intersection of Warehouse Lane South and Warehouse Lane. The second is right down here. It's just -- this is the containers on Brookfield, this is the bike path. It is just between --

MR. CHAFIZADEH: It doesn't work on the TV.

MR. PACCHIANA: Just between the main Warehouse Lane road and the bike path, there are two catch basins. 95 percent -- and the high point on the site is right about here. Five percent, if we estimate, of the water, flows off to the north; right? That water is clean.

Because most of the water going to that part of the site comes from up here. It's undisturbed stuff. The water's clean.

I will say; we got out there and the town was concerned that water was leaving the site from the north -- was leaving the site from the north, coming here, going into the XPO facility and flowing into the Saw Mill River.

I said, look, I said, I don't think that's what's going on. And I'm a civil -- my background, I'm a civil engineer. I went to Cornell University. I've studied soil

and erosion control my entire life.

I didn't think that was what was going on, but I said to the town, I said, we will fix this. If that's what you believe, great. We came up here, we installed 400 feet of Jersey barrier along this area. I put filter fabric behind it with stone in the filter fabric to filter any water that would come onto the road from that north end of the property and installed it all the way down to the north discharge point.

MR. CHAFIZADEH: Discharge point is in blue and the Jersey barrier is in red there or at least close, pretty close, Glenn.

MR. PACCHIANA: Yeah. This is the -- Jersey barrier goes over here. I went up to that discharge point after all the storms we had after that and took pictures. When I say that there is zero water entering our site from the north off that hill.

Now there is water that enters -- leaves our site from the north, but that water is the water that comes that hits the road. Remember, the one thing about our facility, our facility is not an impervious area. The whole thing's pervious; right?

It is -- we're on rock, crushed rock and the water the bulk of the water goes down from our facility; right? And that's a blessing for us. So I don't -- unlike a

parking lot where all the water runs off, it doesn't.

Part of our design is that the water goes down through the ground and into the ground water. So we have the facility -- the piece up north that we do, the second piece down south which is right by this point.

This is where the second facility is. And if you zoom in, you can probably see. That might be it. That little dot might be the discharge point. There's a catch basin there. And it's right on our facility. It's like right on the borderline of our things and we go there and we clean the road, we clean the swale, we clean the area down there after all the storms.

Because that's what we have to do. If the water's dirty on our site and it leaves clean, that silt has to get deposited somewhere. And that's what we clean up after the storms.

That's why it's different than a construction site permit. That's why a construction site -- us getting a construction site permit, it's not the right permit for us. It's like asking the Town of Greenburgh to get an industrial facility permit; right?

It's not a -- you guys an MS4 permit. You have it. We're an industrial facility, we have an industrial facility permit.

MR. CRICHLLOW: Question: So your site, the

14 acres.

MR. PACCHIANA: The whole site here --

MR. CHAFIZADEH: It's in yellow.

MR. PACCHIANA: -- in yellow, this is the site, it's 14-and-a-half acres. And we are on this piece here, which is about two-and-a-half acres or so three acres.

MR. CRICHLLOW: So the other 11-and-a-half acres you said was solid granite?

MR. PACCHIANA: It's not granite. There's granite under there. Typically on these sites, there's topsoil on top of the rock; right? There's trees there. So trees won't grow on rock. So there's topsoil on it, but as soon as you go down not that far, it's rock.

In order to take the rock out there, there's two million tons of rock that have to come out. So that's -- that's a lot of rock.

MR. CRICHLLOW: That water has to go somewhere.

MR. PACCHIANA: The water --

MR. CRICHLLOW: Now, I do agree that the piles of stuff that you have there is a very good filtering process itself, but it goes through all the boulders and the crushed material that you create.

MR. PACCHIANA: Correct.

MR. CRICHLLOW: And that helps to filter it all by itself, but then you have 14 acres of the rest of your

property. Even though you have enough soil on it for trees to grow, once it gets to the granite, it has to go somewhere. And then it flows, what, I guess to the Saw Mill River. Is that not correct?

MR. PACCHIANA: So the water -- I can't speak to -- I mean, the water on the -- the -- let's call it the wooded part of the site; right? Sun goes down, when the ground's saturated, you know, the water, obviously, flows, runs on top.

The bulk of the water from our site leaves from the south end, which where we sample it, we do samples at both. The north end though, when I say, there's no water, after all the storms, since that big one, when we've been there, we've looked at it.

Have you ever seen water leaving from the north off our thing? No. The only water that leaves from the north comes from the road. It's what lands on road and just travels down the road.

We have sweepers on the road that go. There is a picture in your packet of the road dirty. And I will hundred percent that was on us. The sweeper broke down. Shame on us for not getting a rental sweeper that day, but that dirt on the road, the little, is not causing the flooding -- now there's one in here.

MR. CRICHLLOW: Another point is --

MR. PACCHIANA: Yep. Go ahead.

MR. CRICHLLOW: Because Pauline's idea was excellent. You know, if you can't go up, then why don't you go down? And make your bathtub larger, but, of course, you're solid granite. So unless you do a lot of blasting, you really can't do that. At least not in a very cost effective way.

MR. PACCHIANA: And the problem, too, it becomes a logistical problem. Because let's -- hypothetically, and I love talking through things like this.

If let's say we drill and blast the rock; right? First, that's good. I have some rock that we can put in the crusher, but then once we excavate, it's a really small site.

So the problem is, once we excavate the material down, I start getting nervous; right, because now we've got holes on the site. I mean, I think if you come out and we look at it, if the site were a lot bigger, I think it's a possibility.

We are really -- I mean, we are at the limit. I physically can't do anymore work on this site. And I have, you know, I've got -- I'm fortunate in that we've opened another facility in Montrose, New York, because we have such demand, but this facility is a really special, special site here.

MR. CRICHLLOW: Well, Jessie will tell that you Kristi and I were actually out there.

MR. PACCHIANA: Oh, great. Awesome.

MR. CRICHLLOW: So you can see --

MR. PACCHIANA: So you've seen?

MR. CRICHLLOW: Yeah. We saw the line that indicates where 30 feet is. And that's pretty tall.

MR. PACCHIANA: Yeah.

MR. CRICHLLOW: So I also saw that you are now down below that line.

MR. PACCHIANA: Yep.

MR. CRICHLLOW: It's not just one big mountain, though. There's a lot of mounds of stuff.

MR. PACCHIANA: Right.

MR. CRICHLLOW: Is there something that differentiates between garbage and let's say sanitation? When you say, garbage, what do you mean?

MR. PACCHIANA: So I don't say, garbage. I say waste.

MR. CRICHLLOW: No.

MR. PACCHIANA: And these are the easy terms. So, again, I'm not trying to be a wiseguy here with this. So when stuff is excavated from the ground in New York it is considered a waste. It's a waste product.

And the bottom line of the regulations are; if you

leave it on site, it's your own house, you leave it on site, it's not considered a waste product. Once it leaves the site it is a considered a waste product and needs to be disposed of appropriately.

Where this came from is there were guys in New York City that were selling this really nice black dirt to homeowners on Long Island. And they said, oh, look at this great topsoil we're using here.

That stuff they were excavating was actually coal ash from the old coal fire power plants. And they would mix it in and they'd sell it to these homeowners who thought they were topsoil, but they were really buying coal ash mixed with dirt.

A bunch of people were arrested. I mean, there were some big investigations into it. That's when New York State finally said, stop. Anything that comes out of the grounds, we're considering a solid waste until you turn it into a non-waste product. Our facility does that.

And the definition of it is is that these excavated products that are a waste and we have different piles there. We have a pile of concrete, we have a pile of asphalt -- not anymore. We had a pile of asphalt.

We have a big pile of rock. The rock and concrete are the two big piles by the facility on the right side as you come in. Those piles get 50 feet high.

MR. CHAFIZADEH: Not since --

MR. PACCHIANA: Not since the stop work order.
Prior to the stop -- thank you.

No. Prior to the stop work order, they were 50-feet high. We call a spade. It's the truth. We -- so we have rock, concrete, asphalt, that we don't have now, and we have mixed loads.

Mixed loads is ConEd material. ConEd, because of the constraints in the street, they drill a trench, they saw cut a trench, they excavate the material. We get typically there's asphalt on top of a concrete road, on top of subbase, on top of dirt.

We're the only facility that accepts mixed loads from ConEd. And what we do, unlike the other facilities, most of the other -- remember, most of the other facilities are garbage guys. So they get it in, they just crush it into something --

MR. CRICHLLOW: Didn't you just use the word, garbage?

MR. PACCHIANA: No, they do, but they are garbage.

MR. STEINMETZ: Glenn, you need no explain the differences MSW and everything else because you've now -- you're not hearing the question. Mr. Crichlow has asked you whether you accept garbage.

MR. PACCHIANA: No. We do not accept garbage.

MR. CHAFIZADEH: When you say, garbage guys, you're referring to the other facilities that are run by --

MR. PACCHIANA: The other recycling facilities are run traditionally by people from the sanitation industry. We are not. We are a quarry company that got into the recycle business. That's why I believe we are so successful. We separate everything out.

MR. STEINMETZ: Are you allowed to accept MSW?

MR. PACCHIANA: No. What's --

MR. STEINMETZ: Municipal solid waste?

MR. PACCHIANA: No. Absolutely not.

MR. STEINMETZ: Garbage from garbage trucks?

MR. PACCHIANA: No. We are only allowed to accept excavated materials that include; rock, concrete, concrete products, asphalt, asphalt millings and mixed loads. We are not permitted to accept dirt. That was one of the things in there. We do not accept dirt.

MR. CRICHLow: All right. To tell you the truth, I do understand that you aren't municipal --

MR. PACCHIANA: Okay. Sorry about that.

MR. CRICHLow: -- garbage. And all I was asking for you to do was explain why you used the word, garbage, when in fact it is waste.

MR. PACCHIANA: Got it. It is waste.

MR. CRICHLow: I think you are using the word

garbage and waste --

MR. PACCHIANA: Yep. No, that's my fault. I apologize.

MR. CRICHLLOW: Okay. So you explained it then.

MS. KNECHT: I just want, can you just clarify one more time about the asphalt? So when the asphalt comes in, you were accepting asphalt, but now you don't accept the asphalt?

MR. PACCHIANA: Correct. We have accepted asphalt, maybe not in the very beginning, but over the previous 26 years, we have accepted asphalt. And I can give you all the quantities. And we've accepted a decent amount. I think we've accepted 26,000 tons of asphalt last year.

That asphalt comes to the facility. We typically don't process asphalt at that facility, because we're too busy with processing the rock and concrete and other products.

We take the asphalt, we put it into a truck that goes up to our asphalt plant and dumps it there. In Fishkill, they crush and process the asphalt into a recycled asphalt product, most of which then goes back into our asphalt plant and gets put into the roads as asphalt.

MS. KNECHT: So this, facility, though, is not permitted asphalt?

MR. PACCHIANA: The -- it's we have a gray area.

This is a gray area, because asphalt -- aggregate products, recycled aggregate products include asphalt. I didn't want to get into an argument or, you know, a fight about it.

I said, look, we'll clean it up in the new permit. What it is, a recycled -- asphalt and asphalt products is not petroleum-contaminated waste or aggregate. That is different.

And that's very clear in the DEC, because neither your permit nor the DEC permit permits us to take in any contaminated products or any petroleum-contaminated products, including, petroleum-contaminated soil and aggregate. Asphalt is not that.

MS. DENKENSOHN: So asphalt in a city street would have petroleum product in it.

MR. PACCHIANA: So asphalt is --

MS. DENKENSOHN: Or on it from all the cars going over it.

MR. PACCHIANA: So asphalt from -- asphalt in the -- in the roadway, let's say. And we can talk -- forget the stuff on the road. Okay. We can cover that in a second.

Asphalt is the very bottom of the crude oil product. After they distill off the jet fuel and everything else, they're left with this product, asphalt, that at room temperature is a solid.

Our asphalt -- when you put it on a road, it's

heated up to 300 degrees. It becomes flowable at that point. So the asphalt that we accept is the solid asphalt from the roadway.

Might there be some petroleum on top if there was an oil spill there? Maybe, but the DEC is pretty good about cleaning everything up. We don't accept any petroleum-contaminated products at all.

And I have had people that try to sneak it in. We'll load it back in their truck and tell them, get out. We do not accept that. That is not allowed at our facility.

MS. DENKENSOHN: It's a discussion for another time.

MR. PACCHIANA: It's fine.

MS. DENKENSOHN: I worked at New York City Traffic for 20 years. The roads get slick. And when it rains, they're covered with petroleum. They're slick.

MR. CHAFIZADEH: So the asphalt's gone now. And, you know, that can be discussed on the 21st. We'd love to. Again, we can get a lot of legalese to go too here tonight.

Again, we make the request. And I understand the Town's objecting and you want to hear from them, again, to adjourn tonight to the 21st. We maintain the status quo, we keep the piles down.

We make sure the stormwater is working. We work with the town engineer. We're not going to be 25 feet next

to any property line. The cubic yards get to stay right around where it is now and we adjourn to the 21st.

And then we can go through all the things on the 21st. If it's 35 feet or 30, whatever it is, we'll work with you with that on the 21st.

MS. DENKENSOHN: This is back to what the stop order is: Where is the drain in relation to like this road? So where is all that silt? It rains, that silt's going to go somewhere. And it looks like it's on the other side of the barricade.

MR. PACCHIANA: So this silt -- this is -- this is -- that location.

MR. CHAFIZADEH: I will share this. Hold on.

MR. PACCHIANA: Yeah. Can you put the site up. I'll show you where that location is.

MS. DENKENSOHN: Where does this drain too?

MR. PACCHIANA: This drains into our facility here. This is the entrance to our facility. This is -- here. Right here. That site, that picture is taken right here. So --

MR. CHAFIZADEH: So right at that letter there?

MR. PACCHIANA: So right on this -- at the drain coming in. That roadway you're looking at, you are looking into our facility.

So Warehouse Lane sits down here. This goes into

our facility.

MR. LIEBERMAN: Can you identify what that is a picture of? Where in your materials that is? Is it Exhibit A, Exhibit B, is it Exhibit 10?

MR. CHAFIZADEH: I think that's in the stop work -- that's in the submission by the building inspector.

MR. PACCHIANA: That's the building inspector's report.

MS. DENKENSOHN: The building inspector's report.

MR. LIEBERMAN: So that needs to be explained for the record, Exhibit 2.

MR. CHAFIZADEH: Let me do that. Actually, it's parts of the memorandum of the building inspector. One of the exhibits attached to that. We did not include that in our submission. That's in the memorandum as an attachment to the building inspector's -- I believe it's the August --

MS. DENKENSOHN: July 24th --

MR. CHAFIZADEH: 28th.

MS. DENKENSOHN: It's dated, July 24th, 2023.

MR. CHAFIZADEH: Oh, that was attached to the -- the notice of nonrenewal also. It's in two places I believe.

MR. LIEBERMAN: As exhibit what?

MR. CHAFIZADEH: What does it say, Exhibit 2?

MS. DENKENSOHN: This is Exhibit 2.

MR. CHAFIZADEH: Okay. I can identify it better. I'm sorry. So, Exhibit 2 to our initial submission, dated August 8th, 2023, includes a letter of July 24th, 2023, which is a notice of nonrenewal. It's attached to that document as Exhibit 2.

No, I'm sorry. It's not a numbered document. It's Exhibit 2 to the August 8th letter as one of the photos in that document.

MR. LIEBERMAN: That's your letter.

MS. DENKENSOHN: No.

MR. CHAFIZADEH: Correct. It's my letter, but it's the July 24th --

MR. LIEBERMAN: No, I understand.

MR. CHAFIZADEH: So my letter's August 8th, 2023. Exhibit 2 is July 24th, 2023. And it's one of the photos attached to that --

MR. LIEBERMAN: Right.

MR. CHAFIZADEH: -- letter.

MR. PACCHIANA: But those photos came from the building inspector. They were part of the building inspector's notes --

MR. LIEBERMAN: No. Understood. I just want the record to --

MR. PACCHIANA: Okay. Yeah.

MR. CHAFIZADEH: No. We appreciate it. Yeah. We

appreciate it.

MR. PACCHIANA: Okay. Sorry.

MR. CHAFIZADEH: So I know the Town does not want to adjourn to the 21st. We would like to. We can go through a lot of the legal arguments now, but if you want to hear that issue first, and whether we would like you to consider that first?

CHAIRPERSON BUNTING-SMITH: Well, I'd like to hear from the Town at this point.

MR. CHAFIZADEH: Yeah. Sure. We do have a lot of legal stuff to address too that we have not yet that's part of our letters, but we'd like to address the adjournment issue first, if that's possible.

CHAIRPERSON BUNTING-SMITH: We'll have to convene in order to discuss that. I mean, we may as well hear everything at this point.

MR. CRICHLLOW: Because you're not going to have that much time on the 21st.

MR. CHAFIZADEH: No. We understand.

MR. PACCHIANA: No, that's fine. Yeah.

MR. CHAFIZADEH: Hold it until the 21st to go through and process the special permit amendment and this is another, a secondary issue that we have. The stop work order.

And if things are positive on the 21st on the

amendment and the special permit, whether the height, if we got everything worked out with the town engineer, if we have the building permit and electrical permit and plumbing permits all in place, you know, we think that's a positive direction.

And then we're going to get into nitty gritty of, you know, how high can the piles be, how much cubic yards can we take in, things like that will be the focal point of that day.

There's a lot of legalese today. We've brought in and submitted in our papers of August 8th that we don't think the building inspector has the authority under your Town code to issue the stop work order.

CHAIRPERSON BUNTING-SMITH: We understand that, but you've raised the issue with respect to, you know, what it is you ultimately want. So we're trying to see where we are.

MR. CHAFIZADEH: Okay.

MR. PACCHIANA: Thank you.

MR. CHAFIZADEH: You know, if you understand the issue on under Section 100 of your code that's in our letters, great. We tried to walk through everything we possibly can to address all the issues, but we would note, you know, the two issues for the stop work order.

Number one, our first issue is they don't have

authority to issue the stop work under your code. Your code specifically talks about stopping construction in 100.

That's 100-10(a) and 100-10(b). 100-10(b) specifically cited in the stop work order says -- talks about construction work. It doesn't talk about an ongoing facility.

And that makes sense; that construction work that violates or is dangerous needs to be stopped. It happens in every municipality in New York State and in the country.

That's not what we have here. We don't have that situation. We have an ongoing facility that's operating pursuant to a special permit.

Now, the special permit also, there was alleged violations of the special permit. 100(b) and I can read it for you: In the stop work order -- I'm reading from the stop work order issued -- upon receipt of a stop work order, all work on any building or structure or any excavation, gradient or filling operation referred to therein shall immediately be stopped.

That's not us. That's a construction of a building, of a facility. Not an ongoing industrial operation that is permitted by the town already.

So that's issue number one. The Town has made the argument, no, you have to look at A and B differently, A and B don't work together, but they're both in the stop work

orders and, clearly, are limited to a construction site.

And it makes sense; can't have the building inspector come in on day one and say, you know, you're operating a facility, a business and you got to shut down.

And these are peoples's jobs, these are people's livelihoods. It doesn't happen. If there's a health risk, you got a health department issue, obviously, the county deals with that.

If you have a construction issue where buildings could fall down and hurt people, that's when the stop work order would apply, and that's what your code addresses.

You know, we dealt with the erosion-control issues too. Was one of the issues that the stop work order was allegedly issued and why the special permit was not renewed. Now, we would know, that the -- we are operating under the DEC SPDES permit. We believe that's our permit.

For 20-something years, we have operated through that permit. Never had a permit with the Town, ever, for stormwater control. Now, the Town's engineer may want conditions on the new permit, which is fine. We will work with the Town to do that and make sure that things -- that we're not having any mud or any silt anywhere.

We think we're complying with that now. If he thinks we're not, our engineer has been in many discussions with him. We will work with him going forward, but that's

not a reason to shut us down.

Because there may be some issue that an engineer thinks is silt going somewhere, when the DEC, who's permitting us doesn't think so. They haven't violated us. No one's actually violated us.

One of the other issues, you know, there was a comment in the letter of July 24th of notice of nonrenewal that we're over 30 feet. And there's also the comment in the notice of violation that says we're a hundred feet piles in height.

Now that we put in our letter. I don't know if you've looked at the issue in the submissions. And I can show it on the share screen, but we are never close to a hundred feet.

A hundred feet would be at top of those -- and I'll show you in the computer.

MR. CRICHLLOW: Yes. A hundred feet would be pretty tall.

MR. STEINMETZ: Yes. Beyond tall.

MR. CHAFIZADEH: And I have a rendering of this which can sort of help you look at that. Let me get to the right page. So there were some submissions too that had the actual outline in red, but if you see, approximately here, the top of those trees are at a hundred feet.

Even the photos that were submitted by the building

inspector are nowhere near the tops of those trees. There is a light pole in one of the photos that is 30 feet in height, which we now have complied with and it's down to that level. So it's right there.

It's on a different angle a little bit, but it's well below the tops of that, and obviously -- but, you were out on the site. As you can, see the piles are not anywhere near hundred feet here.

MS. DENKENSOHN: Exhibit N.

MR. PACCHIANA: Oh, yes. Exhibit N. That's right. Thank you.

MR. CHAFIZADEH: Thank you. So we wanted to bring that to your attention.

MR. PACCHIANA: Can I just say one thing on that? A hundred foot pile, there's a natural angle of repose of stone. Stone is not like the Twin Towers that go straight up.

A hundred -- for a pile to be a hundred feet tall, that pile would be over the driveway, over our trailer, over the bike path and end up in Brookfield's property. So there was no hundred-foot piles ever.

MR. CHAFIZADEH: Then we went through this, but quickly, the notice of nonrenewal indicated the greater than 10,000 yards. We've brought that down under the -- around the permit requirements of 15,000. The height's down.

Other rock and concrete.

We disagree on the asphalt issue with the Town on that, but Thalle has removed the asphalt from the site. So that's not an issue.

MR. PACCHIANA: Temporarily.

MR. CHAFIZADEH: Temporarily. Until we process our permit, which we we will seek to have asphalt and discuss that with you on the 21st.

Again, we're nowhere near the 25 feet too and there's no need -- we actually didn't know what the 25-foot -- excuse me -- the steep slope permit request was for in the violation. It was never explained to us what the issue was.

Bottom line is, though, we want to work with the Town, we want to work with the ZBA to make Thalle continue to be, you know, positive in this community.

And we look forward to continuing to work for the Town -- with the Town. And in the meantime, what our initial request was, let's just adjourn this to the 21st and we'll see where go on the amendment to the special permit, but ultimately, we want -- we're requesting that our appeal be granted and that we continue to operate under the existing special permit.

You know, the existing special permit, there was some comments in the -- in the letter of --

MR. DUQUESNE: Just stop share when you're not sharing.

MR. CHAFIZADEH: Sure. Sorry about that.

MR. DUQUESNE: That's fine.

MR. CHAFIZADEH: You're good. There was some comments in the letter too of Mr. Morabito on August 28th of, that we didn't have the Town building inspector granting the new renewals.

We had two renewals from 2020 and 2021 that were granted to us. I spoke to the building inspector -- the previous two building inspectors ago, who's now the deputy in Yorktown.

I said, were there any issues with the site? He goes, at times the height of the piles would go high, I'd go there, I'd issue the notice of violation. I think in '19 and 2022 there was one too by the next building inspector, and they would come down.

So no violations were actually issued. We worked with the building inspector. We want to continue to do that here, but the comment that we didn't have renewals in any of the years was inaccurately stated.

So I think that's important you for to you look at, but that's our presentation. Again, any questions you have but, again, in the short term, we'd like to adjourn this, work with the Town and try to move this forward on the 21st.

Thank you.

CHAIRPERSON BUNTING-SMITH: All right.

MR. DANKO: Good evening. Joseph Danko; Town Attorney. Chairperson, Board, town staff and guests, thank you for having us here today. I'll be brief because I'd like the town staff, who are the experts on this issue, to really address the matters at hand today.

We heard a lot of testimony from the applicants, but I really believe the last few minutes of discussion is what should be the focus tonight; the two issues at hand, whether the building inspector and the building department had the authority to issue a stop work order and whether they had the authority to seize the renewal of the special permit.

I'd like to point out that at the time that the stop work order was put into place, that the applicant was clearly in violation of several provisions of the special permit.

Including the number of number of cubic yards, including the number of feet of the piles. We can have disagreement about the asphalt and I know that will be addressed on the 21st. And if it's adjourned further, we'll continue to have discussions on that.

They also were in violation of the hours of operation. Town staff at that time set up a Zoom meeting to

meet with the CEO and the attorney and staff and we had what I would have considered a productive discussion.

And at that moment we had advised the applicant that if they were to come in compliance with all of the conditions of the special permit, and if they would submit a new application, then we would rescind the stop work order.

It's been seven weeks since we've had that discussion. Currently, I hear now the piles are below 30 feet. That's great to hear. I think that was done recently, because Town staff has been out there several times and I don't believe that that was the case for a long amount of time.

If you go to Thalle's website right now, you can see that they're still operating starting at 6 a.m. and the special permit states they should start at 7:30 a.m. and they're also operating on Saturdays as well, which was not allowed under the special permit.

I think one thing that's been misconstrued a bit here tonight in terms of the cubic yards is this 15,000-foot number. First of all, you've heard tonight orally. I've heard it previously too, and I've also seen it in writing that they have not been in compliance with this provision.

I'd just like to point out that the threshold level is not actually 15,000 feet. If you look at condition one of the 2002 special permit, it states, No more than 10,000

cubic yards of material shall be permitted to be stored or processed on the site at any one time, except for peak periods for up to one week in length. When up to 15,000 cubic yards of material may be stored.

MR. CRICHLLOW: So, I'm sorry, did you make the same mistake that I made in terms of yards versus feet?

MR. DANKO: No. Yards.

MR. CRICHLLOW: You said 15,000 feet.

MR. DANKO: I said, feet. I apologize. Then I did make that mistake as well. It's yards.

So at this moment they're stating they're getting close to 15,000 yards. That still would not be in compliance with condition one of the 2002 special permit. They should be under 10,000 cubic yards, and only go up 15,000 for one week in time.

I think I'll let the expert speak. We have department Building Inspector, Liz Gerrity here and town engineer, Jason Capola.

I'd just like to point out that when the stop work order was put into effect, these conditions were not complied with. Seven weeks later, these conditions are still not complied with.

And I'll let them speak, unless you wanted to ask me questions first or I can have them go.

MS. MOSLEY: I just have one question. There was

no date stamp on the letter. So when was it sent?

MR. DANKO: Which letter?

MS. MOSLEY: The letter. That -- the letter on December 20th, 2022.

MR. DANKO: Okay. So that letter was sent to us. The -- you're talking about not giving another renewal?

MS. MOSLEY: Right. There's no date stamp.

MR. DANKO: That was on the stop work order. If you look at the stop work order, that says nonrenewal of the special permit, at that time, it wasn't like January 1st we issued it.

It was at the time of the stop work order, but I'd like to point out that at that Zoom session, we did say, we would allow you to continue operating under the previous special permit conditions if they could be met.

MS. MOSLEY: So it was verbally?

MR. DANKO: Yes.

MS. MOSLEY: It wasn't written?

MR. DANKO: The nonrenewal was written first in the stop work order and then in a letter dated July -- I believe maybe 24th. I don't have the exact date in front of me right now.

But, again, we're also willing to work with the applicant. And at that time -- and they were, and I will say they were very quick to file a special permit. I

believe a week or two after the having that discussion, the special permit was in, which is very helpful --

MR. STEINMETZ: Requesting modifications.

MR. DANKO: Requesting modifications, but also asking that the previous special permit be followed and that still has not occurred to this day.

MR. CRICHLow: Which it sounds to me, as if it would be very difficult for them to stay within the restrictions of the special permit as it is currently written.

MR. DANKO: I would submit that if the applicant knew that that special permit cannot be complied with many years ago, that they should have applied for a special permit well in advance of receiving a stop work order.

MR. STEINMETZ: But the Town could ignore it for 20 years?

CHAIRPERSON BUNTING-SMITH: Let's -- let's.

MR. STEINMETZ: I'm sorry. I'm sorry. I couldn't resist, Madam Chair.

MR. DANKO: We have new staff. I'm the new town attorney. We have a newer building inspector. We have a newer engineer. More recently employed engineer here. And as Mr. Steinmetz will attest to, we're employed by the Town to comply with our town code and town, state and federal laws.

And I can't speak for previous administrations. We're here to do the job that needs to be done today.

MR. CHAFIZADEH: But the covenant that we're not in compliance now, we brought it down to 30 feet; right? That's a given and conceded. The only real issue is are we above the 10,000 cubic yards; right?

The only real issue. And that's an interpretation of whether we're around 15,000 or below. Everything else is complied with. The fact that our website says 6:30, I think the testimony was already that we're complying with the special permit on that timeframe.

CHAIRPERSON BUNTING-SMITH: I would like to let --

MR. DANKO: Thank you.

CHAIRPERSON BUNTING-SMITH: Go ahead.

MR. CHAFIZADEH: Yeah. But you got to be accurate.

MR. DANKO: You spoke for over an hour and we did not.

MR. STEINMETZ: That was Glenn.

CHAIRPERSON BUNTING-SMITH: Yes. Let's hear their presentation. Okay?

MS. GERRITY: Good evening. My name is Elizabeth Gerrity. I am Deputy building inspector for the Town of Greenburgh. And I would like to thank Thalle and Paws Crossed for coming and giving their presentation tonight.

CHAIRPERSON BUNTING-SMITH: All right. Let's swear

you in first, Ms. Gerrity.

MR. DANKO: Would you like to swear me in post?

MS. GERRITY: Post swear.

CHAIRPERSON BUNTING-SMITH: Well, you only read, I thought. Yes.

MR. STEINMETZ: I'll vouch for you, Joe.

MR. DANKO: Thank you.

CHAIRPERSON BUNTING-SMITH: All right. Yes, again, Ms. Gerrity, do you swear or do you affirm that the information that you are providing to this Board this evening is true to the best of your knowledge.

MS. GERRITY: It is, Madam chair.

CHAIRPERSON BUNTING-SMITH: Thank you.

MS. GERRITY: So, again, my name is Liz Gerrity. I'm the department building inspector. I'm here representing the building department. And I'm going to provide a very brief summary, because I think most of what I was going to discuss this evening has already been put in the record.

Basically, I just want to say the building inspector is charged with administering and enforcing town and state codes.

The building inspector has the power and the duty to issue a stop work order under section 100 5A4. Town Code 100 5A5 specifically authorizes the building inspector to

issue a stop work order to halt work that is not in compliance with the conditions set forth in the Zoning Board of Appeals decision.

That's already been put on the record. This has been -- is not a disputed fact that the applicant's were not in compliance with the Zoning Board conditions or certain ones of the Zoning Board conditions.

On May 12th, the building inspector, Frank Morabito, observed violations of the conditions of the special permit 01-35 and properly issued a notice of violation, number 23-15123, providing Thalle with 30 days to respond to that violation.

Thalle never responded or acknowledged this notice of violation. The building inspector conducted a reinspection of Thalle, July 19th, 2023, and, again, observed continued violations of ZBA special permit 01-35 and issued a stop work order. Providing notice to Thalle that their special permit had expired.

This stop work order was properly issued in compliance with town code. In an effort to work with Thalle, the building inspector offered not no completely shut down the site, rather, to limit the operation to restrict inbound material and processing allowing them to continue outbound material.

Town staff has spent, and Thalle can attest, many

hours trying to help with the stop work order in an effort to provide you with the path to lift that stop work order.

However, while Thalle is willing and has been continually willing to work with the town, they cannot seem to be able to work within the confines of the zoning decision.

After meetings on July 24th, the building inspector formally issued a notice of nonrenewal of the special permit approval, 01-35, per condition seven of the approval.

In conclusion, the building inspector was simply performing his job. The enforcement of the town codes and the conditions of the Zoning Board. That is it.

There was a violation of the Zoning Board. The building inspector saw it. A notice of violation was issued. It was not remedied. A stop work order was issued and the notice of nonrenewal. And that's where we are.

CHAIRPERSON BUNTING-SMITH: So when did you first hear any response or communications from them after the notice was issued?

MS. GERRITY: Not until the stop work order was posted.

MR. CRICHLLOW: What was the duration of time between the two?

MS. GERRITY: So the initial notice of violation was May -- I don't want to misstate the date, but it was

May 12th, 2023. And then the stop work order was posted July 19th, 2023.

MS. KNECHT: And the notice of nonrenewal?

MS. GERRITY: Notice of nonrenewal the -- a formal notice of nonrenewal was July 24th, 2023. So it was shortly thereafter.

We had several meetings with Thalle, their representatives, on Zoom, in person, on site, and we were trying to come up with a path that they could move forward and we could lift the stop work order and they can comply with the within the conditions of the Zoning Board special permit, but as Glenn had said, the site just wasn't working within those conditions.

So the -- we're limited. We're required to. We did what we needed to do as a building department. It's unpleasant. It's not something that the building department likes to do, but we're mandated to do that.

CHAIRPERSON BUNTING-SMITH: Could you tell us if there are any conditions that the town would accept at this point on a temporary basis until we can get this resolved?

MS. GERRITY: I don't think the building department has the authority to modify the conditions of the special permit. If conditions are set forth in a decision from the Zoning Board, the building inspector has no authority, nor the building department has authority to modify those

conditions. It would be the Zoning Board that would have to make those modifications.

CHAIRPERSON BUNTING-SMITH: I understand. But so when you said you were trying to work out a path.

MS. GERRITY: That they could bring the piles down. That they could bring the cubic yards down. That they could operate within the confines of the hours.

So that was all -- as we were working towards. There were also other issues that were brought to our attention when they were coming in with different materials.

That there were structures put on the site. That that is not subject to this. It's part of a separate application and Thalle is working towards that and getting into compliance with building, plumbing, electrical, other things that have been put through over the years and just were never filed for. So that's where we are right now.

CHAIRPERSON BUNTING-SMITH: Are any of those violations with respect to the electrical and other items that you -- not in conjunction with the piles, but are any of those of an issue at this point that would present a danger that we should be aware of?

MS. GERRITY: The -- well, there is, if you look at the safety codes in New York State, the failure to file the electrical permit, the failure to have that inspected. There was a backflow that was not inspected.

So there are water issue, although, it's not potable water, it's not used for drinking purposes, but the electric is a safety issue that would need to get filed for.

Thalle did file an electrical permit. It was limited to a service. They have to expand that, because there's other items that also have to be filed for in addition to their building permit.

So there have been -- electrical was not just brought to the site. There's trailers, there's storage sheds. There's other things that have been added to the site over the years. And electrical has been brought to them and that has not been filed for.

So that's what we're trying, as a building department, to work with them to remedy.

MR. PACCHIANA: Madam Chair, a couple of things: That electrical permit, we installed the electric in 2016. We've received notice of violations from the building department for the lights that it's powering in 2019 there.

That electric's been there for almost ten years. The sites -- we do not have a footing on that site. Every piece is a piece of mobile equipment.

You tell me to get out of there, I could vacate that facility in a week and be gone. You wouldn't know we're there. We're getting all the building permits and all the electrical -- everything you've done, we've done.

Regarding the plumbing, we've done backflow inspections every year on that. I'm sorry. There wasn't one officially signed when we did it in 2019 that was, but we do backflow inspections every year. We have the records of that.

MR. CRICHLLOW: Okay. I just need to make sure that we're clear. That has nothing to do with what we're trying to decide.

MR. PACCHIANA: No. No. Okay. I'm sorry.

MR. CRICHLLOW: Tonight or on the 21st of September.

MR. PACCHIANA: I understand. I'm sorry. I apologize.

MR. CRICHLLOW: Don't do that again.

MR. PACCHIANA: Okay. I apologize.

MR. CRICHLLOW: Because I was about to ask a question.

MR. PACCHIANA: I'm sorry.

MR. CRICHLLOW: From what I was able to observe, and listening to what Thalle was saying tonight, it sounds like they're able to comply with two out of the three violations in the stop work order: Bringing the height down. Don't ask me how you determine what 10,000 cubic yards look like.

CHAIRPERSON BUNTING-SMITH: I was going to ask that.

MS. GERRITY: That's going to have to be certified

by an engineer and an architect that the quantities on site are the quantities that are ten thousand or less.

MR. CRICHLLOW: It sounds like the the third one is the hours of operation.

MS. GERRITY: Which seems like an easy fix.

MR. CRICHLLOW: Well, it may be an easy fix, except from what I was understanding in terms of when stuff comes in at 6:00 in the morning, because stuff has to -- work has to happen at 8 a.m. or stuff comes in late at night.

Maybe the Saturday can be something that's easily rectified, but once you're in the construction business, you know that, you know, that the hours that they work are -- I wouldn't want to work them.

So they could say, you can't come in at 6:00 in the morning, but then the trucks will still be there at 6:00 in the morning parked until 7 or 8:00, whenever the hours in the special permit dictates.

MS. GERRITY: So that would be something that Thalle, as you know, and this is speaking -- we can't modify those hours that are in the conditions.

MR. CRICHLLOW: Yeah. We can.

MS. GERRITY: But you can. But where I am right now, this is what we're asking for the appeal. If they can adjust those hours. Those hours kind of are tandem to the construction noise hours that are currently in the town

code.

So I would assume that's where the original Board got that information from and just transferred it in. Whether that meets Thalle's needs now, that's something that we can address when they're applying for the application for special permit.

MR. CRICHLLOW: So the stop work order can't be lifted until such time as Thalle comes before the Board on the 21st of September to apply for a revised special permit?

MS. GERRITY: No. No. No. We have given them, if they can bring, and I actual sent an e-mail that their counsel referred to earlier. This is exactly the path that would need to be met to have the stop work order lifted.

To follow the four corners of the Zoning Board decision. Abide by every decision. File for the plumbing, the building, the electrical. All the components that are on there, so we can release the stop work order and they can continue to operate within the confines of the Zoning Board decision, but it's our understanding that, based on the information that we've received tonight, based on previous conversations with Thalle, that they're unable to keep within the quantities.

The pile heights seem to be an easy fix for them, which is great, but they're going to vary, you know, so we're going to have to have somebody monitoring it.

If it's within those two weeks, I'm sure that that's something that can be done done.

MR. STEINMETZ: With that information, Madam Chair, that I think would be helpful to the Board, David Steinmetz. I affirm everything I'm about to say is true.

I'm responsible, on behalf of Thalle, for securing a renewed, reissued and modified special permit. That's why I'm here tonight to listen to your deliberations and discussions.

I am not here seeking an appeal of the stop work order. However, I think no one has made it clear to your Board, right now, and I am trying to answer a question that I feel is implicit.

If you adjourn this matter and don't decide that appeal, the relief that the applicant needs and that society needs is in place. Under Section 267-A the New York State Town Law, right now there's no stop work order, but Mr. Chafizadeh did what he felt compelled to do on behalf of our mutual client, because he felt that the stop work order wasn't properly issued.

You don't need to decide that. We've explained that to counsel cooperatively and openly. We've explained that to staff.

We're here tonight because we had no choice, but to do this. Why? For all the reasons Glenn spent an hour

explaining that this is an essential industry. So we did what we needed to do so that everybody in this room has their roads taken care of, their gas lines taken care of and their water lines taken care of.

So we did what we needed to do. What I need to do is work with you in two weeks so that Liz and Jason and Joe are comfortable that you have a permit in 2023 that makes sense.

The permit that this Board issued in 2002 is outdated. Maybe it should have never been adopted. I'm glad I wasn't the attorney representing Thalle in 2002, but I'm here in 2023. And I'm going to make sure that you and we and Thalle knows the rules of the road.

We get it. This business isn't going anywhere. You know that, and I know that. This business needs to be here, you know that, and I know that. The people who work there, they deserve to work there.

We should all keep them employed. I don't think the supervisor and the Town Board wants them to be unemployed.

Give us two weeks to -- we heard your questions. You guys did a great job of signaling to us what we need to do with you in two weeks.

So we're not -- Liz isn't going to change her position. I know that and she's made clear why it's her

position.

We tried to not even waste your time tonight. Darius and I did everything we could so that you all didn't have to come out on a special meeting and set this whole thing up.

You did what you needed to do. You decide. We told, Joe, don't do this. I knew this was going to happen. Here we are, it's now 9:00. I knew we'd get to this point. Took two hours, but at least you guys played your cards. I know what my issues are.

Give us a chance. We'll come back; we'll deal with asphalt, we'll deal with quantity, we'll deal with hours of operation. We'll deal with everything we need to. You don't need to adjudicate the stop work order. It's already stayed. You're not going to decide this tonight. You don't have everything you need in front of you. When has this Board ever decided something in one meeting?

CHAIRPERSON BUNTING-SMITH: Oh, now.

MR. STEINMETZ: Come on. Give me a break on that one.

MS. DENKENSOHN: You're assuming that it will be decided in two weeks.

MR. STEINMETZ: It may not be, it may not be, but in the meantime, Shauna, the one thing that you should know is that Glenn has bent over backwards. In the interim he

changed the hours of operation.

Despite what Liz said, and it sounds like a misstatement to me, we changed the hours of operation. We told Joe -- forget what it says on the website. We changed the hours of operation.

We brought the piles down to 30 feet in height. We're working on figuring out -- my obligations -- I think I asked for 50,000 cubic yards.

MS. DENKENSOHN: I didn't hear that the hours of operation were changed.

MR. STEINMETZ: Glenn?

MS. DENKENSOHN: We have not heard that.

MR. STEINMETZ: Can we clear that up for the record.

MR. PACCHIANA: I thought I said it. And if I didn't, that's my fault. We changed the hours of operation.

MR. CRICHLow: I didn't hear you say that.

MR. PACCHIANA: I'm sorry. That's my fault. And it's not in my notes. That is a hundred percent my fault. Once we heard it, we changed the hours of operation.

MS. DENKENSOHN: To what?

MR. PACCHIANA: To the permit. 7:30 to -- look, we close at 3:30. We work 7:30 to 3:30.

MR. STEINMETZ: When was the change made?

MR. PACCHIANA: Changed immediately.

CHAIRPERSON BUNTING-SMITH: So the hours?

MR. PACCHIANA: No. No. The hours of operation. We changed the hours of operation almost immediately when we --

MR. DANKO: That's not what it says in your papers.

MR. STEINMETZ: Whose papers?

MR. DANKO: It said you would be willing to change the hours of operation going forward.

MR. PACCHIANA: That is our mistake.

MR. CHAFIZADEH: What date was that one?

MR. PACCHIANA: We have changed hours of operation.

MR. CHAFIZADEH: The hours of operation are going to shut down a business for one hour when the entire warehouses there are all 24/7. We will -- if someone believes that we're there at 6:59 instead of 7, we will start at 7.

If that's going to push this off, so you can decide David's application, great. We will do that; right? And we think we are --

MR. CRICHLLOW: I'm sorry. Wait. Wait.

MR. STEINMETZ: Did you or did you not --

MR. PACCHIANA: No, we did.

MR. CHAFIZADEH: I'm not out there every day.

MR. CRICHLLOW: And I'm hearing that it's been done.

MR. STEINMETZ: I think you did.

CHAIRPERSON BUNTING-SMITH: Excuse me. We have to make a record here if you want to do this. And I don't mind everyone speaking, but not at the same time. So let's finish what you're saying. Sit down. And then the other person can talk. There we go.

MR. CHAFIZADEH: I cede the floor to Mr. Pacchiana.

MR. PACCHIANA: Madam Chair, we did change the hours of operation. When we spoke to counsel, he advised us, he said, let's fix everything we can and meet every condition in the permit we can.

The first one we did was change the hours of operation. And the first call I got was from Con Edison and the contractors saying, why are you stopping us?

And I didn't want to get into it. I just said we can't -- we have to change the hours right now.

CHAIRPERSON BUNTING-SMITH: Next question.

MR. PACCHIANA: For me?

CHAIRPERSON BUNTING-SMITH: Yes.

MR. PACCHIANA: Sorry.

CHAIRPERSON BUNTING-SMITH: So the pile is somewhere around 15,000 --

MR. PACCHIANA: 15,000.

CHAIRPERSON BUNTING-SMITH: -- square yards.

MR. PACCHIANA: Cubic yards.

CHAIRPERSON BUNTING-SMITH: Cubic yards. I'm

sorry. And if nothing is done between now and the 21st, what's going to happen to that pile? How does that affect your business?

MR. PACCHIANA: So, again, it's the bathtub affect; right? So we take material in --

CHAIRPERSON BUNTING-SMITH: No, I get that. I'm talking about as you're running your business here.

MR. PACCHIANA: We are going to try to comply as best we can. You've hindered us. I will tell you right now, our sales are down 40 percent.

CHAIRPERSON BUNTING-SMITH: But wait. Wait. Wait. You had a pile that apparently appeared to be 50-feet high as opposed to whatever.

MR. PACCHIANA: Correct.

CHAIRPERSON BUNTING-SMITH: How many cubic yards was that approximately?

MR. PACCHIANA: If we're going to -- and this is a guess and estimate.

CHAIRPERSON BUNTING-SMITH: Yeah.

MR. PACCHIANA: If there were 30,000 yards, 40,000 yards on site before between the uncrushed material and the finished material. Let's say that's about where it is. Let's say it's 40.

CHAIRPERSON BUNTING-SMITH: Okay. Just take a number.

MR. PACCHIANA: Say it's 40.

CHAIRPERSON BUNTING-SMITH: From that 40, where are you now?

MR. PACCHIANA: We are down to 15.

CHAIRPERSON BUNTING-SMITH: And how long did it take to get from the 40 to the so-called 15?

MR. PACCHIANA: A month, give or take. About a month.

CHAIRPERSON BUNTING-SMITH: Okay. All right.

MR. PACCHIANA: Yeah. Give or take. I'm sorry. Apologize.

CHAIRPERSON BUNTING-SMITH: But the business is still running?

MR. PACCHIANA: The business is running, however, the business is running at a reduced rate.

CHAIRPERSON BUNTING-SMITH: I understand.

MR. PACCHIANA: So, yes. The business is operating. Our sales right now are about -- in the beginning when we were only allowed to ship material off the site, our sales went down 90 percent. So for a month our sales were down 90 percent.

We then -- once we got the piles down and we stayed the stop work order, we then started accepting limited material. ConEd was -- we had to accept the ConEd material.

So the ConEd material comes in and that comes in

and goes out all the time. Our sales right now are down 40 percent.

MR. STEINMETZ: Glenn, explain what you've applied for in the the modified permit since we have the time tonight.

MR. PACCHIANA: So in the modified permit we applied for -- did we put a height? 50-foot high pile of incoming material --

MR. STEINMETZ: Against the wall.

MR. KELLY: -- against the wall. Remember, there's a 50-foot high wall there. So we are going to pile the material against the wall. And we may modify to 60, but it's 50 to 60 feet there.

We've put in a 50,000-yard requirement. Again, the reason that was put in is so we don't leave and leave you with a 50,000-yard mess to clean up. And the third --

MR. STEINMETZ: And we located the piles.

MR. PACCHIANA: Oh, we located the piles, yes. We submitted a drawing with you that shows what each stuff is for each pile so that you can understand the site.

MR. STEINMETZ: Our engineer will be here on the 21st, Madam Chair, to explain. We didn't bring him tonight, because we didn't think we would go into this.

He will explain why what we're now asking for is a more logical, cleaner way to organize the site with multiple

product piles. The largest of which would be the one against the wall that you two saw when you went out there. The other piles would be 30 feet or lower.

The 50,000 cubic yard amount that I put in my application is because I don't want Liz and Frank to have come out and violate these guys. I would rather be realistic as to what you all have lived with for 21 years until this now -- this cathartic moment is here. So let's clean it up. We're going to do it.

MS. DENKENSOHN: The assumption is your permit also includes changing the hours.

MR. PACCHIANA: Our new permit does, yes.

MS. DENKENSOHN: You were listing the items to be changed and you didn't include that.

MR. PACCHIANA: Correct.

MR. STEINMETZ: You're right. We did, because of the reality of how the site has operated, but you're right. I didn't say that.

MR. CRICHLLOW: You keep forgetting about the hours.

MR. PACCHIANA: I apologize.

MS. DENKENSOHN: The question -- the stop order does deal with the runoff. Are there provisions in the new permit to deal with the runoff issue that you guys are negotiating?

MR. DANKO: I think our town engineer can speak to

that. He hadn't had a chance yet.

MR. STEINMETZ: The answer is, yes. We are trying.

MR. DANKO: They're working on it.

MR. PACCHIANA: Yeah. We are trying.

MR. STEINMETZ: We are trying to work through all of that.

MR. PACCHIANA: We are trying.

MS. MOSLEY: So I have a question. So my concern is they're putting together a plan of compliancy which we're hearing bits and fragments, the hours, the piles.

Do you have in writing this plan of compliancy and the tentative dates? Because for me, what I'm struggling with is in the two weeks that you're requesting this to be hold for two weeks we are responsible.

Our jurisdiction, as the Board, is we're responsible for the risk. What happens in those two weeks if those piles, and if those plans of compliancy are not maintained and sustained? What happens?

Because then that puts your job back at risk. So that to me is the real core question. What happens in the two weeks? Who's going to be maintaining and monitoring that to make sure that this plan of compliancy is sustained throughout the two weeks.

MS. GERRITY: It would have to be a co-joined effort between the engineering department, the building

department and more than likely, Thalle's engineer to provide us with documentation that they are within the quantities, the height, to give us something that's signed and sealed.

Going out and eyeballing piles and say, that's a 15,000, that's -- it's impossible. You need to have somebody certify the quantities. You need to have somebody certify the heights.

There are some, you know, you could gauge things by eyeball, but that's what we would need to see in order to show compliance with the current decision.

MS. MOSLEY: Correct. Because I would hate in the two weeks that they would get another violation. While we're trying to clean this up, then another violation would occur.

So my concern is, you know, after hearing all of the facts, how can we collaboratively, the Town and this organization, put something in writing and come up with a real concrete plan of compliancy? Step by step that keeps them in compliance.

Gives some sort of accountability to both parties such that we can reach the two weeks in a successful timeframe that maintains the ordinances by the Zoning Board, while at the same time, gives them some sort of financial relief.

We do not want to, definitely, this company has been here for 20 years. We're happy with what they're doing. We don't want to crush them.

So we're trying to meet the objectives of both parties while at the same time upholding the mandate of the ordinance of the Zoning Board. So what would you recommend?

MS. GERRITY: Well, my place isn't to provide a recommendation. My place is to say, this is what the Zoning Board decision says. Until the Zoning Board decision is changed, the building department is mandated to follow those regulations.

We're mandated to require building permits, electrical permits, plumbing permits. We're waiting for those to get filed and they're working on that.

MS. UEBERLE: Can I --

MR. DANKO: Can I also point out -- yes.

MS. UEBERLE: But that's what all of that is separate from why we're here tonight. We're here tonight with the special permit about the hours; right, the height, and the overall, which, essentially, they're complied with, which is what we asked them to do. And we wouldn't have -- if they had done it, you know, we wouldn't be here because you guys would have lifted yourselves.

MS. GERRITY: Correct.

MS. UEBERLE: So what was your plan pre-this, and

they say, we've done it for compliance? Because, you know, 10,000 to 15,000, while that's a lot, we're talking two weeks. They can go to 15,000 for a week. We're just talking a week; right? It seems, you know --

MS. GERRITY: What you're asking the building department to do is outside the scope of our authority. We are mandated to keep it -- and I understand what you're asking. You're asking: How are we going to determine whether they are complaint?

That's going to be applicants to provide us with information and our town engineer can give you a little more background. I don't, you know --

MS. UEBERLE: Okay.

MS. GERRITY: He will be able to provide that to you.

MR. CRICHLLOW: There is one thing that I wanted to state and that is I don't think anybody wanted to here tonight. I felt that it was very important for us to listen and understand what the problem problem was tonight. Because otherwise you would never be getting any kind of a decision on the 21st of September.

MR. PACCHIANA: I appreciate that. Yeah.

MR. CRICHLLOW: It would have to be adjourned. Then we're already talking about October, whereas it sounds to me as if you guys need this special permit revised sooner

rather than later.

MR. PACCHIANA: Yes. Fair.

MS. KNECHT: Just on the notice of renewal, so, maybe, I don't know if your attorneys are going to explain, but you wanted us to also reverse the notice of nonrenewal or you wanted the notice?

MR. CHAFIZADEH: Yeah. There's two parts of it. The notice of nonrenewal if there's authority for the building inspector to do the notice of nonrenewal, which, you know, we're not sure it isn't outlined in our papers, we have an appeal of that. Under the special permit, it provides for an appeal. So we've appealed that part of it too.

And I would note on the notice of violation; right, the notice of violation is issued. On the bottom -- in every notice of violation that's issued in the Town of Greenburgh, it's probably dozens a day, I would bet; right?

What do they do? They work with the applicant to remedy the situation. Did we do it right away, in a week, two weeks, three weeks, but we're doing it.

And we're working with them. And we're getting there. If they don't do it, they go to local court. Town court is full of violations, probably three times a week. They never brought us in the court. They stopped our business. And they're hurting people by doing it.

So what we're asking for is just to continue with what we're doing now, which is very close to compliance with this -- with this special permit. Very close.

And then in the -- when stay is in place under New York State law and we work for the new special permit with reviewed requirements.

We're not -- there's a provision under the law too. If they think there's a health and safety immediate danger, they could have filed an affidavit to say that. They didn't do that. And the stay wouldn't be in existence. They didn't do that, the town. The town didn't bring us to court. They stopped us in our tracks.

And we followed the law. And the had stay in place and what did we do? We got the material out of there. We lowered the pile. We moved the pile away from the neighbors. We're complaint.

Changed the hours. I forgot that one again. But that's what we're asking. Let's us process this special permit. Don't shut us down.

MS. DENKENSOHN: Nobody has said you can't come on the 21st. So please don't imply that we did, because you're saying, please let us process the special permit. That's the 21st.

MR. CHAFIZADEH: No. No. No. I'm not saying. Maybe I misunderstood. I'm not saying we're not coming on

the 21st. Let us operate until we can process the special permit on the 21st, because these are two are separate issues. There's the appeal of the stop work order --

MS. DENKENSOHN: We understand.

MR. CHAFIZADEH: And then the process. So, IF I misspoke, I apologize. I didn't think I did, but I may have. It's late.

CHAIRPERSON BUNTING-SMITH: But the concern is how you're going to operate until we can get this resolved.

MR. CHAFIZADEH: Like --

CHAIRPERSON BUNTING-SMITH: We don't want it to be down and then up again.

MR. CHAFIZADEH: There's no plan on that.

CHAIRPERSON BUNTING-SMITH: That's the problem.

MS. DENKENSOHN: Has anybody, just throwing this out, has anyone discussed -- and understanding your constraints, that the town provide the company with a list of engineering firms that can do daily, hourly inspections for the next two weeks because we do not want everyone town department depleted watching this one site.

MS. GERRITY: Certainly something that we could -- I mean, that's not normally something the town does is provide applicants with lists of engineers, but --

MR. CHAFIZADEH: We have our professional engineers.

MS. DENKENSOHN: I understand you have an engineer that you have chosen and everything else. And I'm trying to say, I know the City of New York has a list.

MR. DANKO: Can I just point out that the applicant has known for over 20 years that they have not been in compliance with this special provision. And they have made -- I didn't cut you off. They've made a lot of money using those heights throughout the years.

We're talking about 40,000. Over 10,000. That's four times what they're allowed for a 20-year span. Now, we're talking about in two weeks that they cannot come in compliance with 10,000 square feet -- 10,000 cubic yards. Sorry. I keep doing that.

That's all we're asking. To come in compliance with the previous special permit. To me, I don't see how money is an issue at that point. And I think we have worked together over the past few weeks.

That would be the way to resolve this as you decide the special permit moving forward. Just come into compliance with what you were given in 2002 for safe to operate the stop work order.

You know, I don't want to speak for Liz and Frank, but would be rescinded until a new special permit is decided. I think that's the obvious route to move forward.

MR. CRICHLLOW: The only thing -- now, at first I

was saying there were two out of three, but now it sounds like you're changing your hours of operation. You've reduced the height of the piles. Now we just don't know how many cubic yards you have on your site.

MR. STEINMETZ: Even if you told us to reduce it, how long would it take us to reduce it? It would probably take the two weeks of operations to do it.

MS. DENKENSOHN: He says it's reduced.

CHAIRPERSON BUNTING-SMITH: No. He doesn't say it's reduced.

MR. CRICHLLOW: He says he thinks.

MR. PACCHIANA: It's in the ballpark.

MS. UEBERLE: What hours of operation are you looking for?

MR. STEINMETZ: The new hours?

MS. UEBERLE: Yeah.

MR. PACCHIANA: We've revised the hours. We would go back to our initial hours, which are 6 to 3:30 and Saturdays. That's what we would prefer to do. We changed it -- and I'm sorry I wasn't clear on this. We did change it to 7:30 to 3:30.

MR. CHAFIZADEH: And Glenn brought up the operation of that whole warehouse facility.

CHAIRPERSON BUNTING-SMITH: Yeah, he did. We understand that. We know. Everybody else is 24/7.

MR. CRICHLLOW: I thought it was from 7 a.m. to 7:00 p.m. or sunset whichever?

MR. PACCHIANA: Whatever that is correct. The bottom line is --

MS. DENKENSOHN: 7:30 a.m. to 7 p.m. or sunset.

MR. PACCHIANA: The reality is that contractors excavate material. They don't -- by 3:00 we're done, because they're getting off the roads, unless it's a night project.

And sometimes we have worked at night. We'll open the facility for night work. Day work, by 3:00 they're done, because they're getting off the road. They start at 6. That's why the hours reflects what the actual industry is.

MR. CRICHLLOW: From 6 to 3.

MR. PACCHIANA: Yep.

MR. CRICHLLOW: Or 7 to 3. Okay.

MR. CAPOLA: My name is Jason Capola, town Engineer. I swear that everything I'm about to say is true.

CHAIRPERSON BUNTING-SMITH: Thank you.

MR. DANKO: Thank you for coming, Jason.

MR. CAPOLA: You know, I've been sitting in the back. So I would just want to note that that's a pretty easy way to determine volumes on sites like this.

You take either -- you can do it two ways. You can

do it by a survey machine. You go up with a person with a stick and they shoot the different heights.

And you come up with, you know, a topographic survey of your piles. And you can determine volumes, a volumetric analysis of those files. Or you can shoot it with LiDAR from a drill like that. Takes five minutes.

And if you would do that, it would be a pretty quick and easy way to tell if you're within the ten to 15,000 cubic yard range.

CHAIRPERSON BUNTING-SMITH: When you say how quick and easy, could you give us a number?

MR. CAPOLA: These LiDAR machines with the drones usually take five, ten minutes to do. You just go up there. They roam around the site, come back down, you stick the stick in the machine and it loads all the data into can and then you can do a volumetric analysis very quickly.

CHAIRPERSON BUNTING-SMITH: Okay.

MR. CRICHLow: But now you were saying that the original 10,000 cubic yard restriction was brought up by somebody --

MR. STEINMETZ: The landlord.

MR. PACCHIANA: The landlord. The Weinberg.

MR. CRICHLow: And to what degree does it really affect what it looks like on your site? I mean, if it's 10,000 cubic yards or 30,000 cubic yards or 50,000 cubic

yards, if you're going to pile to 50 feet up against a 50-foot wall, you're going to be more than ten thousand cubic yards anyway.

MR. PACCHIANA: Correct.

MR. CRICHLow: So what difference does it make of what the yardage, the cubic yardage is?

MR. STEINMETZ: You mean the modified permit or now?

MR. CRICHLow: I'm sorry?

MR. STEINMETZ: In the modified permit or right now?

MR. CRICHLow: In the modified permit.

MR. STEINMETZ: Because we want to -- we want -- go ahead.

MR. CHAFIZADEH: Well the difference does it make to whom, to us or in general?

MR. CRICHLow: In general.

MR. CHAFIZADEH: Yeah. I don't think it does. I mean, Glenn.

CHAIRPERSON BUNTING-SMITH: It does in a sense, because back then it was a matter of traffic and other things that were going on.

MR. CRICHLow: Well, back then, from what I'm understanding what was said, that limitation was instituted because he was afraid of -- what was the word -- piracy --

MR. PACCHIANA: Putting material on the site and then abandoning the site. And, remember, when we did the permit at the time, we had one machine and one operator there. We do more work right now in a week than we did all year back then.

MR. STEINMETZ: The landlord consents to the modified permit conditions. They're very well aware of what their tenant has been doing for 21 years. Mr. Weinberg's concerns of 2002 were never things that he needed to be concerned with as time went on.

MR. CRICHLow: Okay. Is he still alive?

MR. STEINMETZ: He recently passed within the last year.

MR. CRICHLow: Oh, I'm sorry to hear that.

MR. STEINMETZ: Yes.

MR. CRICHLow: But, other words, we wont' make any misstatement that way, but when your revised special permit request comes in, is it now going to reflects a more realistic --

MR. STEINMETZ: It does.

MR. CRICHLow: -- cubic yardage.

MR. STEINMETZ: It does. You have it. It's been filed. We filed --

MR. CRICHLow: Not me personally.

MR. STEINMETZ: Well, I hope you've got it.

MS. UEBERLE: They said earlier 50,000.

MR. STEINMETZ: 50,000 cubic yards. We filed that several weeks ago.

MR. CRICHLLOW: Okay. And that's realistic? Doable for the next 20 years? If you're going to be here that long.

MR. PACCHIANA: Yeah. I mean, we wanted to make the fewest changes possible to the permit. Because we went through this. So that's why we changed three things in the permit; the hours, the height, the pile size.

If you asked me as you -- that is one of the smarter questions that I've heard her in forever -- who cares about the quantities. The original reason the quantities were there is because they didn't want us to leave that material on site.

I would just assume not have quantities there. It doesn't do anything. It doesn't regulate us. We're only a two-and-a-half acre facility. We can only fit so much material on there.

And we're going to be gone. If Greenburgh comes in and says, that whole area is now going to become condominiums, you got a year to get off, we get off. Give us a couple months. We'll process everything and move.

So I don't know that -- I agree with you. In fact, on our next permit, I would prefer not to put quantities on

there. It doesn't affect anything.

MR. CRICHLLOW: So you have two weeks to rethink this.

MR. PACCHIANA: Thank you. I appreciate that very much.

MR. KNECHT: I just realized that you don't own the site.

MR. STEINMETZ: Correct.

MS. KNECHT: You're leasing the site.

MR. CHAFIZADEH: The quantities do affect the traffic though and the truck sizes.

MS. DENKENSOHN: No. I think we were asking you the question to cover the next two weeks that Pauline was concerned about.

MS. MOSLEY: Right.

MS. DENKENSOHN: How do we make sure that we meet the building inspector's needs. I mean, you know, that they're living up to what they do and trying to come up with a solution for -- a two-week solution.

MR. STEINMETZ: We're prepared to offer a stipulation for the record provided my client consents that I think will address the professor's concern. Because it's in our, it's in his best interest to not violate my proposed stipulation.

So to make maybe life easier, I would offer a

stipulation on behalf of Thalle Industries. And in the next two weeks when we return for this Board on September 21st, number one, Thalle will comply with the revised hours of operation, which are --

MS. DENKENSOHN: 7:30 to 7:00 p.m.

MR. STEINMETZ: 7:30 to 7:00 p.m.

MR. DANKO: Monday through Friday.

Mr. PACCHIANA: Monday through Friday.

MR. STEINMETZ: No pile shall exceed 30 feet in height. And we have learned from the Town's engineer how we can verify that to cover our own butt. Number three, the site shall not exceed -- I'm putting in my proposed stipulation 15,000 cubic yards, because I think that's probably a realistic number of more or less what's there.

MR. DANKO: Can you repeat that? I didn't hear what you said.

MS. DENKENSOHN: You're not talking about realistic. They have to stick and enforce the stipulation, which is 10,000.

MR. STEINMETZ: Number four.

MS. UEBERLE: 15,000 for a week to --

MS. DENKENSOHN: For one week. And we've got to cover, two weeks.

CHAIRPERSON BUNTING-SMITH: Well, they're going to keep it coming down. They're not going to add to it.

MR. STEINMETZ: Correct.

MS. DENKENSOHN: Okay. I'm just saying if you put that in --

MR. STEINMETZ: This is a proposed stipulation and I'm trying to provide Shauna something that avoids Liz having to come out and violate us and Glenn having a violation.

It's in not in our mutual -- you can provide revise it in a second.

Number four, no asphalt related to asphalt products can be brought onto the site and remain on site. If they come on, they've got to leave immediately. They're not getting off a truck where somebody from the town or someone else, note for the record, the town has brought asphalt to this property. That will not come to this facility for the next two weeks.

MR. CRICHLLOW: The Town of Greenburgh?

MR. PACCHIANA: Yes.

MR. STEINMETZ: Town of Greenburgh. They come and break up its roads. Where do you think it goes? It's not in your backyard or mine.

MR. CRICHLLOW: You are going to add asphalt in to specify --

MR. STEINMETZ: That will be discussed on the 21st. It's already in our submission to you for the 21st. And

we'll discuss that as expeditiously as possible on the 21st.

But this stipulation, provided Glenn is willing to accept it, provides you with protection. That my client has parameters within which he and their operations can exist.

It's in their interest not to violate it, because we want to come back on the 21st. We want to see a lot of smiling, rested faces.

MS. MOSLEY: Can you change the nomenclature to not just stipulation, but a stipulation for a plan of compliancy because that makes it more clear and more detailed of what the stipulation is for.

MR. STEINMETZ: I adopt the amendment.

MR. DANKO: Also, can we say just to meet the special conditions of the special permit of 2002 as opposed to listing out each condition. I'd just like to point out, that is what we requested seven weeks ago via Zoom. And so I didn't want to be here tonight either.

And if that would have been completed with seven weeks ago, we wouldn't have the stop work order still issued.

MR. STEINMETZ: I'm not looking to argue with Joe, because I really, really appreciate his cooperation, but I failed to say one thing, because I think that that's a little disingenuous.

Had we not gotten, had we not got gotten relief

from the stop work order, we could not process. If we could not process, we could not bring our piles down.

So thank goodness Darius Chafizadeh and his firm filed the appeal that brought us here tonight, because that gave us, under Section 267 A, the relief that I was hoping Joe and Liz and Frank could give us so that we can cooperatively. They wouldn't because -- they said, well, you can just pull stuff off. You can't pull stuff off that sire. You've seen it. You got to make it smaller to get it off that site. You got to process it,

MS. DENKENSOHN: Let's move forward, not backwards.

MR. STEINMETZ: Tell Joe not to go backwards either.

CHAIRPERSON BUNTING-SMITH: They're bound by the law.

MR. STEINMETZ: Got it.

CHAIRPERSON BUNTING-SMITH: We as jurisdiction --

MR. STEINMETZ: Let's do the stip. Come on, let's do the stip. Going once, going twice.

MS. DENKENSOHN: Wait. Wait. Wait. Just one other thing: Where is the verification in that?

MR. STEINMETZ: Shauna, the same verification, with all due respect, that you and your wonderful Town of Greenburgh have had for 21 years. It's the same verification that you're going to have tomorrow --

MS. DENKENSOHN: But then someone is going to have to be there for the next two weeks.

MR. STEINMETZ: No, they're not. No, they're not. Everybody who rides the bike path --

MS. DENKENSOHN: That's your statements. That's not what I'm seeing down there.

MR. STEINMETZ: Did you put a monitor in place? Hire an outside monitor come and look at the site every. What do you want it?

MR. LIEBERMAN: There's one more issue and that is I believe Glenn said that you will be filing permits tomorrow for any of the things that need permits that were set forth in the violation.

MR. STEINMETZ: Thank you, Ed. You're right. We'll add that to the fifth point of the stip. All of the Liz's technical violations and permits that she's requested, which we talked about on site for an hour yesterday, will be taken care of.

MR. DANKO: And we can say there have been good faith efforts to comply with those provisions and we're working together to make sure those are all set.

MR. CAPOLA: So I would also note that one of the reasons why the quarries are supposed to be small, is it does impact traffic. It does impact truck size.

CHAIRPERSON BUNTING-SMITH: That's what I said.

Yeah.

MR. CAPOLA? And we did note that the bridge on Warehouse Lane is damaged. It's damaged. And the reason why it's damaged is because you have trucks constantly, one -- one a minute; right?

MR. PACCHIANA: That's with none of our trucks on there.

MR. CAPOLA: But I'm just saying.

MR. PACCHIANA: One a minute with none of our trucks.

MR. CAPOLA: One minute at least.

CHAIRPERSON BUNTING-SMITH: Who's responsible to maintain that bridge?

MR. CAPOLA: It's a private --

MR. PACCHIANA: It's the property owners. It's the property owner. It's not a municipal bridge, it's not a state bridge, it's a private bridge. And it's not owned by us.

And I've spoke to the -- I've reached out to overtime property owner, you know, again, to work with them. The bridge is not structurally unsound, it's not going to fall down. I know the engineers that have inspected it --

MR. DANKO: Well --

MR. CHAFIZADEH: Glenn, the bridge is by all the other warehouses.

MR. PACCHIANA: Right.

MR. CHAFIZADEH: All the other warehouses, his one a minute were all the other property.

MR. PACCHIANA: All the other trucks without any of us.

MR. CAPOLA: So you're saying there's one a minute plus your trucks?

MR. PACCHIANA: There was one a minute --

MR. STEINMETZ: They're not our trucks. They're the world's trucks.

MR. PACCHIANA: Right. The world's trucks. Everyone's else's trucks that need to come to my client's property.

MR. CHAFIZADEH: Amazon trucks. These were all approved by the Town of Greenburgh to allow that. If the private owner has an issue with their bridge over X number of years it's been there, probably since the place was built, they need to repair it.

MR. DUQUESNE: Guys, we really can't. We might have to go to a a point where only the person sitting in this chair can speak, because it's not working. And it's not fair. I apologize for the room. We had a complication, but we can't doesn't do that.

MR. PACCHIANA: We appreciate it.

MR. STEINMETZ: Thank you.

MR. CAPOLA: I believe that the bridge was rehabilitated ten years ago or something, yeah. Ten years ago. And it's already very poor condition.

MR. STEINMETZ: Glenn, are you willing to agree to the terms of this stipulation?

MR. PACCHIANA: What I would ask is that you please allow us to operate from 6 to 3:30. That's putting a really.

MS. KNECHT: You said you're already in compliance.

MR. PACCHIANA: No. We are going right now. We are operating 7 until whatever the hours are. I'm telling you, I'm getting calls from ConEd and the contractors every day asking us to please open at 6. They're excavating materials from the road at 6 and they have no place to go.

MR. DANKO: The town cannot consent to that.

MR. CHAFIZADEH: Who said that?

MR. DANKO: I said the town cannot accept that. I'm talking about town staff.

MS. DENKENSOHN: We're talking two weeks.

MR. PACCHIANA: Okay. If you're going to tell me --

MR. CHAFIZADEH: Correct.

CHAIRPERSON BUNTING-SMITH: How would that affect the material coming in, though?

MR. PACCHIANA: What we did is --

CHAIRPERSON BUNTING-SMITH: Because, obviously, from what you're saying, you're not getting the materials that, obviously, you were getting previous to this. And, therefore, it does affect your bottom line. So, that would mean to us that the pile would be increasing.

MR. PACCHIANA: So what we have done, because I realize we have this special permit. We've diverted as much material as we can to our facility we opened up in Montrose just a month or so ago.

Con Edison has one facility in Westchester County that's approved to accept material. And that's Warehouse Lane.

CHAIRPERSON BUNTING-SMITH: Right.

MR. PACCHIANA: And ConEd trucks start at 6 a.m. So ConEd has called me and said, can we please bring material to Warehouse Lane.

CHAIRPERSON BUNTING-SMITH: Which would result in what approximately?

MR. PACCHIANA: Saying that ConEd material goes in and out. So ConEd is in a total separate area. And the ConEd material that comes in, they come in, we screen their material, we make it into sand, we load their truck up and it goes out. So the ConEd.

CHAIRPERSON BUNTING-SMITH: When you say it goes out, what's the turnover?

MR. PACCHIANA: We have -- if we have -- the ConEd material can stay on the site if you go through the total -- maybe a week, not even.

If we take in -- I think this time last year we took in 3,000 tons of of ConEd material a week. And we would sell ConEd 3,000 tons of ConEd material a week.

So if you look at ConEd, it's very contained, because a truck comes in to dump, it takes material and goes out. It's different than say an excavation site where the big pile is. We have a parking garbage coming down.

They bring in 20,000 yards of material in a three-week period. That's not what's happening. We're not asking for that. All I'm asking is, please, let me bring the material in from 6 until our normal working hours. We will not accept -- we will not make the piles grow any bigger.

CHAIRPERSON BUNTING-SMITH: But could you limit that ConEd?

MR. PACCHIANA: I could try.

CHAIRPERSON BUNTING-SMITH: Well --

MR. PACCHIANA: If ConEd and ConEd-related contractors, because those are the guys at ConEd, if that's what you want, I could do that.

CHAIRPERSON BUNTING-SMITH: Well, I'm trying not to -- I'm trying to keep you in business and I'm trying to

satisfy what you say that, you know, they need you -- at least ConEd does -- in order to do what they can continue to do, but we don't want to just increase this while you're trying it get this permit and it's just like business as usual. That's what I'm saying.

MR. PACCHIANA: I understand. If you give us ConEd and the ConEd contractors and that's all you're comfortable with -- look, I have to live with it. I'm going to work with you guys.

CHAIRPERSON BUNTING-SMITH: Do we need Saturdays for them?

MR. PACCHIANA: Do we need Saturdays at least? Do we need to be open on Saturdays? Yes? You think for sure.

MR. LOZADO: Yes.

MR. PACCHIANA: The ConEd and the guys?

MR. LOZADO: ConEd does a lot of work on the weekend.

MR. PACCHIANA: The problem is this: The hours that ConEd works is dictated by the municipalities.

MR. DANKO: Did you accept ConEd today?

MR. PACCHIANA: Yes.

MR. DANKO: What time did you accept ConEd today?

MR. PACCHIANA: 7:30.

MR. DANKO: So why can't you accept ConEd at 7:30 for the next two weeks and stay in compliance.

MR. PACCHIANA: Because the trucks sit there and wait. The ConEd trucks just sat there parked for an hour-and-a-half. All we're doing is causing the people here more money, because they're hiring trucks, they're putting out overtime, because they can't -- they have to stop the job until they can fill the truck, get it dumped and go back.

Because every excavated material that comes out has to go away. So if we keep the trucks delayed for an hour-and-a-half or two hours, instead of them having four trucks, they need eight trucks.

MR. DANKO: Can't they go to your other site?

MR. PACCHIANA: No ConEd is is not permitted to go there. We sent some material up there and I processed it there and brought it all back to this facility. That is not allowed. ConEd made it very clear, no facility -- no materials to go to the other site.

They have a really deep and complicated process to get approved. And we're the only facility approved in Westchester to accept ConEd material.

MR. CRICHLow: So this request is to be open at 6:30.

MR. PACCHIANA: 6:00.

MR. CRICHLow: Or 6.

MR. PACCHIANA: I'm sorry.

MR. CRICHLLOW: A.m. for the next two weeks only for ConEd and ConEd contractors.

MR. PACCHIANA: If that's what this Board is comfortable doing, I will live with that, yes.

MS. KNECHT: It's pending approval of a new special permit.

CHAIRPERSON BUNTING-SMITH: Yeah. We don't know how long it will be.

MS. KNECHT: Two weeks would be great.

MR. CRICHLLOW: Right. We don't know if we're going to approve it on the 21st of September, or even if we do, it will be October before we --

CHAIRPERSON BUNTING-SMITH: Right. But at that time at least they will have the ability to move, you know.

MR. CRICHLLOW: Okay. And, I'm sorry, one question on clarification: When you say that ConEd is pretty much in balance, they bring their stuff in and they take their stuff out.

Is it all in the same truck? In other words, they bring in their stuff and you have to process stuff that you load onto the -- so the truck leaves with something in it. It just doesn't drop off their stuff and leave empty.

MR. PACCHIANA: Typically, they drop off and pick up. So they drop stuff off and they leave empty. Now, that's not to say that in the beginning of the day -- yeah.

MS. DENKENSOHN: You just contradicted yourself.

MR. PACCHIANA: So in the beginning, they will drop stuff off in one pile, they'll drive to another pile and get loaded up and haul material off site. That doesn't happen for every load, especially, first thing in the morning, they're excavated, they have more material they bring in.

Towards the end of the day when they have to backfill the road and get filled up, the truck may not dump, but it will come in and just buy the material so that it needs to backfill the road.

So all in all, ConEd is pretty balanced by the end of the day. And the ConEd material is not those two big piles that we see. They're in their own separate area because it is a mixed load of stuff that we treat differently.

MR. CRICHLLOW: All right. Thank you. You clarified what I was trying to figure out. When you said it comes in and it goes out and it's pretty well balanced, I just wanted to know how it's coming in and goes out.

MR. PACCHIANA: Right. I apologize for not being clear.

CHAIRPERSON BUNTING-SMITH: So are you in a position to reject anyone else who tries to get in during that 6 to 7:30?

MR. PACCHIANA: If that's --

CHAIRPERSON BUNTING-SMITH: So that they can go to perhaps one of your other facilities?

MR. PACCHIANA: If that's the conditions that we have to be given to live with now, we'll live with it.

MR. CRICHLLOW: Until such time.

MR. PACCHIANA: Until such time as we submit the new special permit and --

MR. CHAFIZADEH: Hopefully --

MR. PACCHIANA: -- and hopefully we get that.

MS. UEBERLE: What percentage is ConEd of your business?

MR. PACCHIANA: ConEd is probably -- I would say 30. I'd say a 30. It's a third.

MS. UEBERLE: And they work Saturdays?

MR. PACCHIANA: Yeah. ConEd are the people that work Saturdays and nights.

CHAIRPERSON BUNTING-SMITH: Right.

MR. PACCHIANA: ConEd's the night guys. I mean, that's ConEd, except when there's a special project like when repaved Route 9A last year; right? Then we worked. We worked -- our asphalt plant worked at night and our facility here worked at night, but it's ConEd is really the people.

MR. CAPOLA: I have a question about the ConEd material. Why is it special that it's only allowed to be processed at your facility?

MR. PACCHIANA: Because ConEd has a very strict environmental health and safety --

MR. CAPOLA: Like, is there something in their material that makes it different than some other materials?

MR. PACCHIANA: No. ConEd does it from their liability standpoint. We are the only facility that meet the requirements that they have to accept their material and recycle it and put it back in there. None of the other facilities could get past the ConEd approval process.

MR. CAPOLA: I'm just confused on like why is it different than something else?

MR. PACCHIANA: I don't understand.

MR. CAPOLA: Like if I excavate for a sewer or a water main, what makes that dirt different than for gasoline or --

MR. PACCHIANA: From ConEd or from say a regular contractor?

MS. DENKENSOHN: Why are you approved from ConEd? How did you get approved?

MR. STEINMETZ: I think he's asking is it the material or it's the operation that you're performing.

MR. PACCHIANA: So Con Edison has a very strict process. There's not a lot of difference between material being excavated from a -- by a contractor and -- that's not doing ConEd work and say doing work for the Town of

Greenburgh versus material that's being worked at for ConEd.

The big difference with ConEd is that the ConEd material is the only material that we accept where the stuff's all mixed together; asphalt, concrete, dirt, it's a lot harder to process.

So what we do, we screen that material. We do extra screening before we crush it, et cetera. So that's the difference from our end of it. From ConEd's end, ConEd has only a few facilities that accept excavated materials.

We're the only facility in Westchester County that is approved by ConEd to recycle excavated materials. The other facilities that are approved are transfer stations or dumps.

So that's why ConEd likes to use us so much.

MR. CAPOLA: So the material does have asphalt in it?

MR. PACCHIANA: The ConEd material has bits of asphalt in it. It might have some concrete in it. It might have stone in it.

MR. CAPOLA: It's dirt too?

MR. PACCHIANA: It's mixed up. It's mixed excavation. That's the mixed loads. If you look on our report, there's a report from the DEC. We're the only facility in Westchester County that accepts mixed loads, which is the ConEd facility.

MR. DANKO: I thought you said you stopped taking in asphalt, but now we're talking about asphalt is still being brought there on a daily basis.

MR. PACCHIANA: So the mixed loads is not -- when we classify it, this is an internal term for us. If you come to our site, you will see piles. You will see a pile of asphalt, it doesn't exist right now, because we don't have any of the site.

We have a pile of concrete, we have a pile of stone and we have a ConEd fill, which is mixed loads. They're all segregated. The ConEd mixed loads is a mixture, it's a mixed load. It's got a little bit of concrete, it's got a little bit of rock, it's got a little bit of dirt, it's got a little bit of asphalt in it.

We treat that material very differently than we do the concrete or rock that is segregated at the site.

MR. DANKO: I'm sorry, but we've been told all night that asphalt had stopped coming into the facility and now at the third or so hour, we're being told that asphalt is still being accepted.

MR. PACCHIANA: There is some incidental asphalt in the material we receive from ConEd. If ConEd excavates a trench that's six-feet deep, there may be an-inc-and-a-half of asphalt on there that comes mixed in. It is not recognizable asphalt.

I can't segregate it. I can't use it at our asphalt plant facility. It is a different product. If I was unclear about that, that was my -- it was not trying to be deceitful that we're sneaking asphalt in.

MS. UEBERLE: It was actually very clear to me.

MR. PACCHIANA: Okay. I'm sorry.

MS. UEBERLE: Okay. I'm sorry.

MS. UEBERLE: No, it was. I think this is probably the third time you've told us that.

MR. PACCHIANA: Okay. I'm sorry.

MS. UEBERLE: No. It was very clear.

MR. PACCHIANA: Thank you.

MR. CAPOLA: Typically roadway sections are at least three inches of -- accumulates asphalt and another six inches of base course which has, you know, oil in it as well. Just informational.

MS. DENKENSOHN: Depends if it's been scarified --

CHAIRPERSON BUNTING-SMITH: I can't hear you.

MR. CAPOLA: Yeah. You can mill, but that's not usually what they do when they --

MS. DENKENSOHN: It depends if the roadway has been scarified first. Where they go in, and then they take the asphalt off first. You're doing a whole rebuild of the infrastructure.

MR. CAPOLA: When they dig trenches, they usually

saw cut.

MS. DENKENSOHN: Right. You're doing a simple trench, yeah.

CHAIRPERSON BUNTING-SMITH: So where are we?

MR. CHAFIZADEH: Stipulation.

MR. STEINMETZ: So I'm the one that proffered the stipulation. I didn't ask your Board to approve it or sign off on it or swear to it. It was an offer of behalf of Thalle so that you all would be comfortable in effect holding this matter over until September 21st. So it's still the same thing.

MR. CHAFIZADEH: With the stay in place.

MR. STEINMETZ: We've clarified this ConEd issue. So my first point, Thalle will comply with the revised hours of operation other than ConEd and ConEd contractors which would be permitted to come in at 6:00 in the morning and on Saturdays. No pile will exceed --

CHAIRPERSON BUNTING-SMITH: I asked that they eliminate Saturdays.

MR. STEINMETZ: And I think --

MR. PACCHIANA: Jessie replied that ConEd really on -- they have a lot of work on Saturdays. So we would prefer --

MR. STEINMETZ: So I left it in there because that's what we heard.

MR. DANKO: Can I clarify that for one second? So does that mean that ConEd only 6:30 to 7 a.m. on Saturday and that other trucks can come the rest of the day or?

MR. STEINMETZ: Only ConEd would be coming in on Saturday. No other -- correct me if I'm wrong; only ConEd and ConEd-related contractors are getting in on Saturday for the next two weeks.

MR. PACCHIANA: So on Saturday -- the way it works on Saturday is we have two customers there; ConEd doing their work, and the little six-wheelers, that are the mom's and pop's who are home on the weekend that are working with the local gardener to come in there.

We don't do a lot of work on Saturdays. It's not our big day, but we stay open for ConEd and for the mom's and pop's that are fixing their septic tank our putting their gardening in there.

CHAIRPERSON BUNTING-SMITH: And are the hours the same?

MR. PACCHIANA: The hours on Saturday are 6 to 2. 6 to 2.

CHAIRPERSON BUNTING-SMITH: All right. Continue.

MR. STEINMETZ: We would still maintain that no pile shall exceed 30 feet in height. The site shall not exceed 15,000 cubic yards. I'd love some help with how to articulate, because I know as defendant, we will not take

pure asphalt material. Good.

Number five, the technical permits; for plumbing, electrical, et cetera, from the building department, shall be processed with all -- in all good faith and filed tomorrow. We're asking that you -- having heard that respectfully --

MR. PACCHIANA: The only thing about planning tomorrow, some of the building permits required their trailers and equipment. They wanted specs. I just don't know if they're going to have every I doted and T crossed for that.

As long as we work in good faith, can we just -- Liz, if we continue our process in good faith as we have, is that good enough for the permits?

MS. GERRITY: As long as you're filing a -- sorry. As long as there's a complete application filed with the building department and we went over the requirements of that and I put national in the email so everybody was on the same page, that's no problem.

MR. PACCHIANA: We will keep it. Great. Thank you.

MS. GERRITY: Yep.

CHAIRPERSON BUNTING-SMITH: Is there anything they left out?

MR. LIEBERMAN: I'm not sure that there was.

MR. STEINMETZ: Ed, we can't hear you.

CHAIRPERSON BUNTING-SMITH: No. I was just asking him was there anything that --

MR. LIEBERMAN: They asked the question. All right. I suggest that since you've already -- have you reduced this to writing?

MR. STEINMETZ: I just took notes.

MR. LIEBERMAN: That's fine. That's good enough.

MR. STEINMETZ: And we want to add one more to it to make Joe happy. And hopefully the Board. My client will commit to having a monitor monitoring the site and the stipulation of compliance and operation for the next two weeks.

MR. LIEBERMAN: All right. And I would ask that that be signed tonight before we leave.

MR. STEINMETZ: Okay. We'll do whatever you want. You have sworn testimony. You made these people swear --

MR. LIEBERMAN: No. Because this meeting will end and we don't have a meeting for another two weeks. We're adjourning this meeting based on a representation that this will be signed.

MR. CHAFIZADEH: How about tomorrow morning, Ed?

MR. LIEBERMAN: No.

MR. STEINMETZ: Fine. Fine. Fine. Fine.

MR. DANKO: And I just want the record to reflect

that while I greatly appreciate the monitor being added, that town staff doesn't agree with the hours of operation, but we respect any decision that the Board makes. Just want the record to be clear on that.

MR. CRICHLLOW: And that is for the next two weeks or more?

MR. STEINMETZ: For the next two weeks or until such time.

MR. LIEBERMAN: Until the Board determines the application for the revised permit.

MR. STEINMETZ: Ed, do you really need something signed tonight at this point?

MR. LIEBERMAN: Yes.

MR. PACCHIANA: Let's write it down.

MS. UEBERLE: You said you didn't agree with the hours. Can you tell us why?

MR. DANKO: Just because of what deputy building inspector Gerrity said that earlier that we have to comply with the provisions of the town code and the special permit. And my request was to comply exactly with the special permit.

MS. UEBERLE: Okay. But does it put a hardship on you guys or?

MR. DANKO: No, it does not.

MS. UEBERLE: Okay.

MR. DANKO: I'm just looking to comply with those provisions.

MS. UEBERLE: Okay.

MR. DANKO: Thank you.

MR. PACCHIANA: Ms. Ueberle, the hours, since we're being upfront, the 7:30 hours do put a hardship on us and the contractors. So --

CHAIRPERSON BUNTING-SMITH: I understand.

MS. DENKENSOHN: Don't push it. Really, you got a lot tonight.

MR. STEINMETZ: Don't stand up without permission.

MR. DANKO: I don't want to mess up -- sorry. Again, can't we just have their party sign attesting to that that's what they'll do over the next two or more weeks and it can just be a one0party signature to submit to the Zoning Board?

MR. LIEBERMAN: Well, it's not a stipulation. A stipulation is between two.

MR. STEINMETZ: Look, Ed, we've offered it for the record. I think it's clear as day. It's been repeated for the record multiple times. I've got memos of the Zoning Board --

MS. DENKENSOHN: I'll stay here for a half an hour. I'll stay.

MR. LIEBERMAN: Write it up.

MR. STEINMETZ: Joe, it's being done. It's being done.

MR. DUQUESNE: Do we want to close the public hearing, take a five-minute break and do all this?

CHAIRPERSON BUNTING-SMITH: That would be nice.

MR. DANKO: We appreciate your time tonight.

(Recording stopped.)

CHAIRPERSON BUNTING-SMITH: And we are back on the record. We have had a whiled this evening to say the least. And everyone has been able to speak, and, perhaps, the record won't necessarily spell out who it was who was speaking, but I think we have come to at least partial temporary resolution to try and ameliorate the situation to some extent.

In the best interest of the town as well as trying to express what I heard tonight was not crush the applicant. So what is it that's being proposed?

MR. CHAFIZADEH: Madam Chair, thank you. Thalle has signed and agreed to a number of conditions that have been discussed with the town, with the ZBA council and, Mr. Pacchiana, the CEO of Thalle Industries has signed that agreement.

And it's been distributed to the ZBA, the ZBA attorney and the Town.

And as a result of that, we'd request, on behalf of

Thalle, that the matter today, the appeal, be adjourned until the September 21st meeting.

And we'll address other issues then related to this appeal as well as the amended special permit application on that date.

So the request for the adjournment with this agreement in place.

CHAIRPERSON BUNTING-SMITH: All right.

Having heard the request as made, do we have a motion --

MR. LIEBERMAN: There's no motion. We're adjourning.

CHAIRPERSON BUNTING-SMITH: Oh, that's right. We're adjourning. Sorry. I'm just tired at this point.

MS. DENKENSOHN: I thought we needed to vote to adjourn, though.

MR. LIEBERMAN: No. You're adjourning for all purposes.

CHAIRPERSON BUNTING-SMITH: No, we're all purposes, because it is on the agenda. Okay. All right.

MR. CHAFIZADEH: Thank you, Madam Chair and everybody's patience and great questions.

MR. PACCHIANA: Thank you.

MR. STEINMETZ: We really appreciate your time.

(Recording stopped.)

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

THIS IS TO CERTIFY THAT THE FOREGOING
IS A TRUE AND ACCURATE TRANSCRIPTION
OF THE ORIGINAL STENOGRAPHIC RECORD.

Michel A. DeMasi, Jr.

Official Court Reporter