

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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JANUARY 18, 2024  
7:00 p.m.

Greenburgh Town Hall  
177 Hillside Avenue  
Greenburgh, New York

BOARD MEMBERS:

- Eve Bunting-Smith, Chairperson
- Kristi Knecht
- Shauna Denkensohn
- Diane Ueberle
- William Bland

STAFF MEMBERS:

- Joseph Danko, Esq.  
Town Attorney
  
- Edward Lieberman, Esq.  
Deputy Town Attorney
  
- Garrett Duquesne, Commissioner  
Community Development and Conservation
  
- Liz Gerrity  
Deputy Building Inspector
  
- Kyra Jones, Secretary to the ZBA

(Whereupon, at 7:26 p.m. the meeting of the Zoning Board of Appeals of the Town of Greenburgh was called to order.)

(Recording in progress.)

CHAIRPERSON BUNTING-SMITH: Good afternoon, or good evening. It's been that kind of day for me. Good evening. This is January 18th, 2024. The meeting of the Zoning Board of Appeals for the Town of Greenburgh will come to order. First we will have the roll call for the board.

MS. JONES: Starting roll call. Eve Bunting-Smith?

CHAIRPERSON BUNTING-SMITH: Here.

MS. JONES: Kristi Knecht?

MS. KNECHT: Here.

MS. JONES: Louis Crichlow?

(NO RESPONSE)

MS. JONES: Diane Ueberle?

MS. UEBERLE: Here.

MS. JONES: William Bland?

MR. BLAND: Present.

MS. JONES: Shauna Denkensohn?

MS. DENKENSOHN: Here.

MS. JONES: Pauline Mosley?

(NO RESPONSE)

MS. JONES: That concludes roll call.

CHAIRPERSON BUNTING-SMITH: As you can see from the

agenda, we have five cases on tonight. However, Case 23-22, we would consider that we might adjourn that matter, because it is based upon the outcome that there is a grant of 23-21, that it would become moot.

Therefore, we would take a vote of that, I guess we can do it now.

Do I have -- okay. Please note that the Zoning Board has our next regular meeting on Thursday, February 15th at 7 p.m.

As usual, if we can't complete hearing any of the cases on tonight, it will be adjourned to another meeting to hopefully be completed at that time.

Also, as is usual, to save time, we will waive the reading of the property location and the relief sought for each case, however, the reporter will insert the information in the record. This information also appears on the agenda for tonight's meeting.

After the public hearing of tonight's cases, the Board will meet in this room to discuss the cases we've heard tonight.

Everyone here is welcome to listen to our deliberations at the time, but the public will not be permitted to speak or participate.

After our deliberations, we come back to this -- to our seats to announce the Board's decision on the formal

record, and it is for -- for it to be broadcast to the community.

If you're present and going to speak tonight, you must come up to the microphone and clearly state your name and address or professional affiliation. If you're not a named applicant, please spell your name for the record.

We have heard testimony on some of these cases at prior meetings. All prior testimony is already in the record and should not be repeated.

The first case to be heard tonight is Case 23-21, however, prior to doing that, I would like to make a motion that we would adjourn Case 23-22. Do I have anyone?

MS. DENKENSOHN: Second.

CHAIRPERSON BUNTING0SMITH: All in favor?

MR. BLAND: Was that pending the outcome?

CHAIRPERSON BUNTING0SMITH: Pending the outcome, yes, of 23-21. Yes.

MS. DENKENSOHN: Second.

THE COURT: All in favor?

MS. KNECHT: Aye.

MS. DENKENSOHN: Aye.

MS. UEBERLE: Aye.

MR. BLAND: Aye.

CHAIRPERSON BUNTING-SMITH: Chair votes aye.

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Case No. ZBA 23-21: EDC 7 LLC / Thalle Industries, Inc., 50 Warehouse Lane South (aka 7 Warehouse Lane (P.O. Elmsford, NY 10523) - Special Permit Modification and Renewal.

The Applicant has applied for the modification and renewal of a special permit previously granted by the ZBA on April 12, 2002 (ZBA Case 01-35) in order to resume and expand its rock crushing and aggregate reclamation facility. 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.

CHAIRPERSON BUNTING-SMITH: Thanks. So we get now to 23-21 Thalle Industries, Incorporated.

MR. STEINMETZ: May I proceed?

CHAIRPERSON BUNTING-SMITH: Yes, please.

MR. STEINMETZ: Good evening, Madam Chair, Members of the Board. David Steinmetz from the Law Firm of Zarin and Steinmetz. Pleased to be here this evening representing Thalle Industries.

I am joined this evening from Thalle; Glenn Pacchiana, Jeff Manganello, Jessie Lozado. From our development team, my colleague, Brian Sinsabaugh, who has appeared before you in the past. My co-counsel, Darius Chafizadeh.

On screen with us this evening is Peter Loyola,

from CLA Engineering.

Madam chair, Members of the Board, we also have several additional witnesses for this evening. Irv Gill is here, and I will present in a moment. Irv specializes in site operations and safety. He's MSHA, OSHA, first aid; all certified.

Ken Brezner; Ken is a professional engineer who worked for the New York State DEC as a regional materials management engineer for 35-plus years. He's here to address some specific Part 360 issues directly in response to the conditions and information that was presented most recently by the Town.

And also, making her return, Jennifer Angelucci, from Paws Crossed is here as well.

I'm going to try to be as efficient as possible, but we have a fair amount to cover. We were last here on December 14th. We appeared before you, we had submitted to you at that time a draft of a proposed permit for this matter.

I had submitted that the day before, on December 13th. On December 14th, our project engineer submitted a series of site plan illustrations with notes and legends and we had that before you on the 14th.

I want to start tonight, Madam Chair, and Members of the Board, first by offering an apology. I'm going to

apologize for two reasons. One, at the last meeting my client asked that I push for a vote. And I did what I was asked.

I think you all know, I pushed hard to try to conclude this matter. And you were not ready and you made that quite clear to me and our team.

Tonight, I'm asking, I'm apologizing a little in advance, I'm asking for your patience. We have a fair amount to cover, as I just said. I think you all know we got a rather voluminous submission from the Town.

They finally put a lot of information out there. And we're going to cover that and make sure it's all addressed and clear.

Although I submitted a draft permit on December 13th, I received the Town's proposed conditions 14 days later, on December 27th, despite the fact that you all told me we were not going to vote on the 14th and we were going to give the town a chance and you encouraged them to do it.

Two weeks after the meeting, I got a series changes. And those conditions changed, ironically, again when The Town filed it's 150-page submission on January 9th, 2024.

So I start tonight by telling you, with all due respect To the Town, this has been a moving target for

Thalle and for our professional team. We need you to understand, one of the reasons I have a full presentation tonight, is because the Town has changed its position in this matter.

I've been in front of you since July. They've changed their position on the hours of operation, on mixed loads, on asphalt, on pile heights, on truck scales, truck washes.

In January, they gave my team for the first time a testing report that they received back in November. It's not a big deal. We addressed it in our submission. I am happy to address it tonight.

But the fact that I got something in January that they filed stamped in in November, they assessed Thalle, they assessed Thalle \$120,000 in monitoring fees since the commencement of this matter.

Not one violation has been issued as a result of the professional engineering fees. They paid out and want my client to reimburse them for to the monitors.

Madam Chair, I mean no disrespect to the Town officials, and, in fact, I think you all know, the folks on the other side of the room, I deal with them on a multitude of matters and I'm going to be dealing with them on a multitude of matters going forward.

But on this one, I'm going to tell you, I believe



my friends on other side of the aisle are struggling with this. They're struggling with this because they don't have expertise in what we're dealing with tonight.

They're asking you to deal with some things that you have no particular expertise and you've never seen -- Madam Chair, you've been on this Board, I know, for quite some time. Some of you have as well. You have never had an application quite like this one.

So tonight, what I'm going to try to do on behalf of Mr. Pacchiana, Thalle Industries, and my entire team, is I'm going to try to assist you, as best I can professionally, in how to deal with this, and how to get to the end of this.

As I said last month, lots of fun coming here, but not that much fun that I want to keep coming here month after month.

In order to do this, I need to take a giant step back to set the stage for all of us. I need to do a little history. I need to go back 26 years, because the Town has called Thalle's credibility, their honesty, their business practices into question in this matter.

This is a business that has been in this Town for over two decades. My client feels that they have been mischaracterized before your Board for running a successful, vital recycling fist.

They feel that they have been called disingenuous, dishonest. Thalle's been operating on this site since the 1990s, around 1997. The interesting thing is in 2001, and I will get to a little bit of history that I learned recently, apparently, there was a need to apply for a special use permit, which your Board issued on April 18, 2002.

Your Board issued a special permit quote, "For a rock crushing and aggregate reclamation facility to permit rock crushing and the store -- doesn't say store, it just says, the store, of rock and concrete."

But I want to remind you what you have in your record. My colleague, Brian, dug through the records that the Town made sure we were given a large dump in a DropBox.

Madam Chair, maybe this sounds familiar to you, maybe this sounds familiar to Ms. Gerrity, who was actually your secretary on the Board at that time. I found a letter dated February 12th, 2001, from the gentleman we all know, the esteemed Bob Weinberg, from RMC.

Bob Weinberg was involved at the front-end of this whole matter, because his company owned the property. Bob writes a letter. He talks about the excavation permit that he had for his property, quote, "Has been in place for 18 years."

I didn't realize, despite all the conversations I've had with my client and my team, none of them made it

clear to me that the property had already been excavated, excavated for 18 years before 2001.

Bob Weinberg told you all that when he wrote a letter to the Zoning Board of Appeals. He then said quote, "Those processing operations were always supplemented by offsite material delivered by trucks, from excavation and highway rebuilding in our area.

This operation was well known to the Town. This should sound familiar; which on several occasions delivered its own materials to us for crushing and disposition.

So one thing we know for sure, the Town knew about. The Town knew that there had been activity going on since God knows when, back in the 80s. The Town had been delivering material to this site. It's still delivering material to this site.

We all know that. It's part of the frustration in this matter. At no time in the past 20 years has this not been the case and we have never been required to take out a special permit.

Bob Weinberg is a posthumous legend at least in the world of land use real estate and development in my world. So on 2001, a very esteemed gentleman was frustrated because the Town said you need to get a special permit for this operation.

So what happened? He got a special permit.

Interestingly enough, he wasn't the only person involved. Ruth Roth from Cuddy and Feder, was the attorney for RMC. Ruth said, and the transcript that the Town provided to me shows, she said, on January 17th, 2002.

So he writes his letter in February '01. He spends the next year in front of your Board processing his special permit. Ruth gets up in a meeting and says, This is the type of use that is a necessary in a community.

It now accepts a lot of stone and rock from the Thruway Authority, picture roads, asphalt, from the Thruway Authority, which is now blasting down in the Irvington area and on the thruway. That was January '02.

And for those of us who appear in the Town of Greenburgh on a fairly regular basis in front of your Board, Town Board, and the Planning Board, there's another institution in this Town and that's Ella Prise.

Ella shows up at the meeting on March 21, 2002. And Ella says, As you probably have read, the DOT is going to do more. According to the report, they accepted the rock and crushed it from the exit 5 287 intersection repairs and the DOT is going to do some more major repairs.

I do that simply to make one point; rock, stone, gravel, soil, and asphalt has been coming in and out of the this property 20 years, 30 years.

Once the permit was secured by Thalle, the April

'02 permit, you all issued, this Board issued, Thalle applied to the DEC.

Jeff Manganello, sitting here in row three, submitted for a Part 360 application to the New York State DEC. And he actually indicated what he was doing, not by cobbling together his own words. He checked the box. I repeat; he checked the box on the Part 360 form, an official form, dated November 19th, 2002, that Thalle was going to operate, follow my words, not Jeff's words, that's the New York State Government's words.

Going to be operating a quote, "Processing facility receiving only recognizable, uncontaminated, concrete, asphalt, pavement, brick, soil or rock. Under Section 360-16.1D, as in David. No magic to this.

Madam Chair, Members of the Board, nothing has changed in 21 years. Yeah, the operation grew. Indeed, the operation modernized. Indeed, the operation became more critical to the county, to Con Edison, to local contractors, probably to The Town of Greenburgh and the surrounding villages, et cetera.

Never, never in 26 years has anyone sought to close down this facility. Never has the creditability and capability of Thalle, its professionals and all of its employees been questioned by the Town, by the county, by the DEC, by OSHA, MSHA. Never has Thalle been called

disingenuous.

Now, in its latest submission, which we received on January 9, 2024, the Town tries to cobble together some nefarious scheme that Thalle perpetrated for 26 years. They applied, and this is what they say in their memo.

They applied for one thing, they came been the Zoning Board, and it's called a rock aggregate and reclamation facility. And Jeff Manganello goes in front of the DEC six months later, now, all of a sudden it's got asphalt, it's got soil and dirt and brick. Come on.

He checked the box on the state-authorized form to disclose what everyone, including Ruth Roth, Ella Prizer, your Board, Bob Weinberg, all knew was happening at this facility. Come on.

The site operates in plain daylight. This is an outdoor operation. This is not happening inside some building under the darkness of night. It's on a public bike path.

Ironically, I learned, a public bike path that my client paid money to allow the public to sit on a bench right near the site. So if you don't want people looking at what's going on, maybe you don't fund Westchester County to put a bench on the bike path.

Come on. Everyone knew in 2001 that this site would take in road and construction materials. I am

frustrated, and I will try to park it, no pun intended, because I have spent months trying to defend the notion of mixed loads and asphalt coming into this facility as if it's some bad thing. I shouldn't have to do that.

I shouldn't have to waste my time, and his money, their money, your time. The DEC defines commercial aggregate as follows, follow the words: Commercial aggregate under the New York State Regulations; sand, gravel, crushed stone, or similar engineer or recycled material used as a marketable commodity in concrete manufacturing, asphalt manufacturing.

Production of concrete products are the construction of foundations, bases and roads.

Six, NYCRR Section 360.2B48, the DEC tells us that certain things that some of us might otherwise consider to be waste, waste products. They're actually a really good thing.

They're actually referred to under State law and regulatory scheme as quote, "Beneficial uses if properly handled and recycled."

In fact, the State of New York has told all of us by promulgating regulations, that there are certain things that are predetermined. Predetermined as a beneficial use.

We the State, are going to tell you, the public, that there are certain things that are really cool, really

good. We're going to determine in advance, they're good for society. Such as, quote, "Materials generated outside the City of New York with no evidence of historical impacts, such as reported spill events, or visual or other indications. Odors of chemical or physical contamination." Closed quote.

Quote, "Recycled aggregate, if generated from uncontaminated, recognizable concrete brick or rock," closed quote.

Quote, "Recycled material or residue generated from uncontaminated asphalt pavement and asphalt millings," closed quote. That's from 6NYCRR Section 360.12.

So the DEC regulation that we know govern our operation, we've been telling you that for months, they acknowledge that this facility has a bud. A beneficial use determination.

They're proud they have a bud. They're running a recycling operation so we can all drive around in the community knowing that we're using recycled materials to build our roads and our foundations and our footings and backfill trenches for ConEd.

Making unfounded assertions forcing my client to pay over a hundred thousand dollars for monitors who have no expertise in these matters, but they're really good at sitting at the end of the driveway trying to sell their



pickup truck and watching trucks going back and forth.

Folks, this is wrong. We all shouldn't be part of this. This is wrong. This is a highly and heavily regulated industry. They have a Part 360 DEC registration.

They have a DEC-approved stormwater pollution prevention plan, a SWPPP. They have a county air permit. They have a Westchester Solid Waste Commission license.

They undergo OSHA and MSHA inspections. They have an incredible safety record. They have no, no noise violations in 26 years.

This site is located in the Town's General Industrial Zoning District. It is surrounded, and I think you've all been out there, but for the benefit of the record, it's surrounded by a junkyard.

A metal recycling and solid waste transfer station, a lovely dog pound, a rock cliff, enormous warehouses, and the Saw Mill River Parkway. This site satisfies the requirements to be located in a GI Zoning District.

I'm going to try to present witnesses now as efficiently as possible, and though she may not be the most important witness, I know she's going to be the best witness.

Jennifer Angelucci I want to get in and out of here as quickly as possible. She was here before. She was kind enough to come back again. She's from Paws Crossed.

And the only reason that Thalle and I have asked Jennifer to return, is despite her testimony in the small conference room in September, the access to Paws Crossed, the functionality, the safety of getting to Paws Crossed, has been called into question repeatedly by the Town in their permit conditions.

I want you to hear from the woman who runs Paws Crossed and drives that access every day she goes there. Is she threatened by the piles, is she threatened by the equipment?

Is she concerned about debris or anything on the road. I want that to be clear, because we've offered a very simple condition that we have for months. We will make sure that the access to Paws Crossed doesn't get obstructed by anything.

I think that's -- I don't want to speak for her. I think that's probably good enough for Jennifer, but I'll let Jennifer speak very briefly. Please.

MS. ANGELUCCI: Hello everyone. Jennifer Angelucci, President and CEO of Paws Crossed Animal Rescue.

CHAIRPERSON BUNTING-SMITH: One second, please.

MS. ANGELUCCI: Oh, sorry.

MR. LIEBERMAN: There's been a request that in view of the fact that it's been done in this particular case, and no reflection on the witness, that all witnesses be sworn.

MR. STEINMETZ: We think that's a terrific idea.

MS. ANGELUCCI: Happy to.

CHAIRPERSON BUNTING-SMITH: All right.

MR. BLAND: Do you swear to tell the truth and nothing but the truth?

MS. ANGELUCCI: I swear to tell the whole truth and nothing but the truth.

MR. BLAND: So help you God?

MS. ANGELUCCI: So help me God.

MR. STEINMETZ: Ask her to swear on her dog.

MS. ANGELUCCI: That's more like it. So I have been with Paws Crossed. I started Paws Crossed back in 2015. We took over the property in 2016. And prior to that, I was affiliated with a former animal rescue and that was Pets Alive Westchester.

So I have been there since I was 21 years old. So other ten years now. And getting access into the animal rescue has never been an issue. It absolutely never has. And I don't see a time where it ever would be.

And bringing up safety, I think that we wouldn't feel safety without Thalle as our neighbors. We know that they always have our back. If there's anything that we were even remotely uncomfortable with, we know that it would just take a text message or a phone call to Glenn, or to Jessie, and the problem would be handled immediately.

When we felt unsafe on property because of people harassing us, they are always there as backup for us. And as you know, we honor them at our September event. I won't get into that again, because we did go over it last time.

And I wasn't at all surprised to hear that they won one of the best places to work in Westchester in 914 Inc. Magazine. And that is because they are so good to their employees.

And I think, to make this very quick, I think that it would be -- it should be something that Greenburgh is proud to have, a recycling center, an animal and a scrap yard all in a small area.

It is -- the social impact of that I think is something that Greenburgh should be proud of.

MR. STEINMETZ: Jennifer, I have one question for you.

MS. ANGELUCCI: Yeah.

MR. STEINMETZ: Next to the access way, there are piles of gravel, item four stone, there are sometimes pieces of equipment parked there. At any time, has any of the material, the equipment, or any of their operation, either caused you concern, stress, harm, injury, or obstructed your access?

MS. ANGELUCCI: No. Not at all.

MR. STEINMETZ: Thank you.

MS. ANGELUCCI: Not at all. In fact, they fill all of our play yards for our dogs. So without them, the pets at Paws Crossed would greatly suffer and we would suffer as well.

We can't imagine having any other neighbors and we really don't want any other neighbors. They don't complain about the dogs barking. We certainly make a lot more noise than them.

So we are very grateful to them and we wholeheartedly support them. I will come here and speak as many times as I have to, to hopefully get them to stay as our neighbors.

MR. STEINMETZ: Thank you, Jennifer.

MR. BLAND: I don't think there's going to be a cross, but I do have one question. And, obviously, I know of you all and I know these shelters. It's how they feel about their animals. Being that they're so close to the ground, you know, any sediment, or anything that may be on the ground, has there ever been fear of contaminants towards the animals?

Because, obviously, they're in close proximity to the trail way, to the spill way, anything like that? And I know you all walk the dogs. I ride my bike there.

So I know you guys walk the dogs pretty much between there and 119, but your thoughts in terms of the

cleanliness of the area, or as it relates to the animals in particular, not the humans, but to the animals in particular.

MS. ANGELUCCI: Well, I think that us, we go to them for material for our play yards. So I think that shows enough that we believe it's so safe that we have all of our play yards filled with their material.

So it was never a question of safety. And that was our first choice. And they filled each and every one of our play yards and then we have them refill them every year.

And they do that at no cost to us. So we feel very, very safe. We have no issues. We've had any issues. And our dogs play on their material every single day.

MR. BLAND: Okay. Thank you.

MR. STEINMETZ: Madam Chair, my next witness will be Irvin Gill. Irvin is from Catamount Consulting. He's got a background, and, Irv, you can start to come up. He's got a background in mining and rock aggregate recycling facilities.

He's got 40 years of experience in mining and rock processing. He's here tonight, folks, to address the safety of the site, it's pile sizes of process and unprocessed materials. The location of those piles, and the equipment.

And the fact that some of that equipment is benched on top of piles. He will also briefly address what Jennifer

just did, because we also asked Irv to specifically come out and look at the access way, and give us his opinion about the proximity of piles and equipment to the access way.

Irv, I'd ask you to come up and address the topic; so piles, pile size, in general, safety of the site.

MR. GILL: Okay. Thank you.

MR. BLAND: Are we swearing him in to?

CHAIRPERSON BUNTING-SMITH: Yes.

MR. STEINMETZ: We should

MR. BLAND: Raise your right hand, please. Do you swear to tell the whole truth and nothing but the truth so help you God?

MR. GILL: So help me God. First of all, I'd like to correct -- actually, I'm finishing my 50th year in the mining industry. I started 51 in June.

MR. STEINMETZ: Glenn told me to make you younger.

MR. GILL: It won't work, Glenn. I have actually been mining and mining actively for 44 years. I've been six years as a consultant. I don't know where to start.

MR. STEINMETZ: Talk about the site, your visits to the site and the piles.

MR. GILL: I've been visiting, actually Thalle for about six years. I have visited the Elmsford site off and on for six years. The last two years, I believe I come every month. To keep an eye on it.

I walk down, I walk the site. I am sharing my expertise that I have with them, both in production, safety issues, preventive maintenance issues, layout of the land, what their product looks like to me.

And I have not had an issue in any way, shape or form in the several years. Any small things that ever do come up, as pretty much like Jennifer just said, small text to Jessie, and everything is taken care of.

I've never really seen any serious issue with anything. Addressing the stock piles: There isn't much to say. You have a stock pile. It's being fed by a conveyor belt, generally.

That means by its very nature, the material falling down their falls down to its natural angle of stability, that's called angle of repose. That makes it stable.

There is no people working around there. The machinery works around there. The machines maintain the piles as it were as they dig in. They reach up and down, they knock it down. That's all by procedures. I can't see a particular problem with it.

The layout of the land; they have five acres, I believe it's five acres under permit there. They have the machinery, they have the roadways, which must be maintained open all the way around the property to allow access in and out, for the machines and for the customers.



There is a natural limit to how much products going to be on there. There's a natural limit to how high it is by the very footprint of the pile.

MR. STEINMETZ: So, Irv, so couple of quick questions.

MR. GILL: Sure.

MR. STEINMETZ: Are there self-limiting factors that govern pile height and pile size.

MR. GILL: Yeah, geometry. I mean, in the word, the Greek word, is geo metry; right? Measuring of the land. All products -- every material on earth has an angle of repose.

An angle repose is not a set number, if that makes sense. It's more like a great idea. For example, we just had some really, I was going to say crappy, but I can't say that -- bad weather lately; right?

And the roads up here, Saw Mill Parkway, 55 miles an hour. I am sure there were times when we can't go 55 miles an hour; right?

In that case, the speed limit is a concept. So we have the same thing with angled repose. Angle repose changes with the nature of the product, with how its made.

With what other inclusions are inside of it? Like, is the product big or small? There's blends sometimes versus everything being say marble-like where it's all about

the same.

There's moisture content. I'll give you a great example: We've all been to the Jersey Shore; right? We've all been down there hanging out or -- no? Oh, man.

MR. STEINMETZ: Some shore somewhere, Shauna.

MR. GILL: You've been to the shore somewhere. You've been to the shore somewhere. And I'm sure at some point, you were a kid, and you played with the sand. It was way back away from the water.

It was very, very, dry. And you take a bucket full of it, and you go to dump it down and make a pile. When you lift the bucket up, it just goes, bluh. Because it's dry and sandy. Angle of repose for dry sand is about like that. About ten degrees. It doesn't make a pile.

You go down to the water, and get that same bucket of wet sand, shake it out a little bit, and go, thoom. And there you have a sand castle; right?

So moisture content has something to do with it. It's to limit the stability.

MR. STEINMETZ: Irv, in your appearance, have you seen other rock processing facilities with regulated angles of repose where you're coming in and saying, guys, you're not 35 degrees, you need to be 45 degrees, or vice versa?

MR. GILL: No. Nobody -- either MSHA or OSHA are the two regulatory agencies and that have no regulations

on standards on that. What they have is how to safely operate around stock piles. That's all.

MR. STEINMETZ: One of the other questions that has come into play in this proceeding is whether or not Thalle should have equipment benched up on top of the main pile on the front right with the large pieces of material that come in.

MR. GILL: Well, I have never seen it done exactly as you're saying. I haven't seen the big excavator sitting up on top of the main pile, because he couldn't reach it. He has a small pad that gives him the right height to grab the -- safely grab a bucket of material, and then be able to safely lower it into the feeder of this big rock crushing machine.

And he can see inside, see what's going on. He can't be blind. So it's an industry standard. If you go to any construction site, you will always see an excavator makes a pad of material and make a ramp where he goes up to the top.

The material in this case that they're using is perfect for this. It has chunks of rock and concrete and hard, like, it's like the reenforcing bar in the concrete.

And then finer material that packs it around it and takes up the air space. As this machine weighs 20 tons, it goes, climbs up and down it, it settles down and compresses

it and makes a very firm path.

MR. STEINMETZ: At any time that you've visited the site in the six years that you've been going, have you seen an unsafe condition concerning the equipment?

MR. GILL: No.

MR. STEINMETZ: At any time have you seen an unsafe condition concerning the piles?

MR. GILL: No.

MR. STEINMETZ: Have you seen an unsafe condition concerning the location of the piles?

MR. GILL: No.

MR. STEINMETZ: Even the piles that are near Jennifer's access way to the dog pound?

MR. GILL: No. I was just there yesterday. And I actually heard piles right by the pound have a roadway there. I couldn't imagine how we could possibly get the stone from the pile to come down, go across the road and come down in the dog work areas.

The roadway itself, going along the roadway, we've got the concrete barriers and the blocks which make a larger area. It makes it harder for material to get across there. I mean, it's a rock. It just doesn't move by itself.

MR. STEINMETZ: So, Irv, I referenced the fact that you're MSHA certified.

MR. GILL: Yes.

MR. STEINMETZ: OSHA certified and first aid certified; am I correct?

MR. GILL: Well, actually, no. I'm an MSHA instructor in two different fields MSHA. There's Part 46 and 48. 46 is -- both are surface mines, but it's basically I handle everything on the surface; sand, gravel, rock, minerals, gold, everything else. I teach safety. I'll be doing that 7:30 tomorrow morning.

MR. STEINMETZ: So let's talk about safety for a moment. One of the things that has come into question from the Town is whether or not if there were a situation at the Thalle Site, whether there would be access to get to employees using equipment or otherwise for first responders.

In your professional opinion, is there anything that impedes first responders from getting safe access to the property?

MR. GILL: As it sits now there's -- I have -- give me a second.

MR. STEINMETZ: Take your time. Take all the time you need.

MR. GILL: Only because I'm trying to see how that would be a problem. I cannot, in my mind, understand how an employee would have gotten in the situation that would have been untenable for EMS to get to him.

First of all, they have baskets there. I mean, if

we're talking about only a stock pile area, the employees, the grounds people don't work there. Work around stock piles, the machine does. Okay.

You have a big machine, couldn't get in room. And the reach on top of it goes up 25 feet. The piles are probably not much more than 25 or 30 feet on most of the stocks piles.

MR. STEINMETZ: What about the guy working in the excavator or the piece of equipment on top of the benched area?

MR. GILL: On that little benched area, there's nothing above him, because they have it -- like, if this this is where he's working on my podium here. Imagine there's an excavator sitting here working.

And right here, where the lawyer is, there's a big pile of rock. This is called character assessment. You have a big excavator here digging.

And the materials over here, there's like a little gully where he's always pulling it up and in. To get from here to here is almost a mathematical impossibility. The rocks don't leap.

Even if they fall, will tumble down as they disturb the pile, which is what he'll do. He'll reach up with his bucket sometimes. And you'll see him grade it in rock, tumble some rocks down, so he has an easier scoop to pick it

up and come over here and dump.

Having the material jump over here would be -- nothing's impossible, but the number's right next to zero for probabilities.

MR. STEINMETZ: Irv, in addition to inspecting something like Thalle's reclamation and recycling facility, you inspect the mine properties as well?

MR. GILL: Yes.

MR. STEINMETZ: Do mine properties have equipment at even higher elevations, and bigger piles?

MR. GILL: Well, Thalle's yard up there has got one twice that height. I mean, I'm not -- I don't have a scanner, but it looks to be at least a hundred feet high, maybe 75 or 80 coming off the -- 57s? About a hundred feet on the Telehandler.

They -- it's an extendable -- a Telehandler is an extendable conveyor belt that also moves. It's on tracks. So it just feeds. It constantly goes -- as the pile goes up, it goes up, and it feeds out and out.

And you can put 50,000, 100,000 tons of product into one pile and there's no problem.

MR. STEINMETZ: Irv, at any time, do you make safety recommendations to Jessie, to Jeff, to Glenn, and ask them to modify things and adjust things?

MR. GILL: Every month. Every month. I do monthly

site audits. That's when I come in with Catamount. They're not my only customer. I do other people where I come around and will make suggestions to them for safety. For some -- usually procedural, and even, production.

MR. STEINMETZ: Is that custom and practice in the industry, or are they the only site you go to and make suggestions?

MR. GILL: No, you don't know me. I'll tell everybody. I'd go into a restaurant and tell them they've got problems.

The first thing I do walk into a restaurant is go look at all the fire extinguishes. That's just a habit. I will never go -- I am never going to get trapped in there. I don't care how good the food is. I'm going to get out that door with my wife.

So this is just what it is. And they've been very attentive. I have had other customers that have been less attentive. It's a suggestion and it goes very, very thorough.

MR. STEINMETZ: Irv, I have nothing further. I appreciate your time. Thank you for coming out and talking about safety and Thalle's operation.

MR. GILL: Thank you, everybody.

CHAIRPERSON BUNTING-SMITH: Are there any records that are kept that you look at at times?



MR. GILL: I'm sorry?

CHAIRPERSON BUNTING-SMITH: Any records that are kept by Thalle that you look at at any time on your visit?

MR. GILL: I -- in preparation for this meeting, I attempted to find any OSHA records, because, basically, they're covered by OSHA and DEC at this particular site.

There are none, because there have been no citations, nor any loss day injuries. So I had nothing to find. I actually had people working on it at our headquarters up in Orangeburg, New York.

We were pulling our hair out. I was trying to find something. There was nothing to pull out. I will, if I go into a site, do that on an MSHA site.

By the way, you all understand, MSHA means, Mine Safety and Hazard Administration. Mining industry has their own safety organization.

I will pull out their number, I'll pull out their address, and I can pull out any citations, but there was nothing down here in Elmsford for us to find.

CHAIRPERSON BUNTING-SMITH: So there's no records that the company itself has to keep for you to or any of the others to parous?

MR. GILL: If there has been an injury or citation, they have to have them, but there aren't any. There's none on record.

MS. DENKENSOHN: I have a few questions. So the OSHA and MSHA regulations, do they differentiate between a site that may be 10,000 or a 100,000 acres versus one that's five or 20 acres?

MR. GILL: That's a very good question. I'm not sure OSHA. MSHA does, I think OSHA just calls them construction sites. Whereas the Mine Safety and Hazard Administration, which this place is not a mine, all right, has a small permit, large permit.

So one is five acres and one is anything over five acres. That generally has to do with how much they're monitored by MSHA. However, they still have been to be inspected twice a year by the Mine Safety and Hazard Administration.

MS. DENKENSOHN: So this isn't a mine, so MSHA doesn't apply?

MS. GILL: No. It's a recycling area. MSHA a stock pile -- higher standards.

MS. DENKENSOHN: Right. Okay. I just wanted to try to figure out which -- so we're saying the OSHA regulations are the ones that do it, and they don't differentiate by size?

MS. GILL: No.

MS. DENKENSOHN: Of the site. Do the OSHA regulations that, to your knowledge, have any rules or

regulations covering the height and the angle of repose?

MR. GILL: Yes. I have a very simple answer; no.

MS. DENKENSOHN: Okay. This is kind of a hole that exists in all the laws?

MR. GILL: No. It's not a hole, because it's covered by geometry again.

MS. DENKENSOHN: No, but nobody's regulating the geometry or anything else.

MR. GILL: No, it's done. We come in and there's a floor plan. It's called, the ground control plan of any industry. They have their setup, because they have to have X number of machines working. Y number of pieces of movable equipment moving.

And this all fits into an equation for roadways. Whatever's left is where the stock piles are.

MS. DENKENSOHN: Well, just to clarify: There is no rules or law that says how many pieces of equipment they have to have operating?

MR. GILL: No.

MS. DENKENSOHN: Okay. You said they had to have a certain number of pieces of equipment. And I'd like you to clarify that that wasn't something optional.

MR. GILL: Well, it's not -- yes, it's optional to their business plan, when they decide they're going to have a concrete recycling, and over here they're going to be

doing soil. They're different machines.

MS. DENKENSOHN: At this moment, that's what they decided to do?

MR. GILL: Ever since I've been there, yes.

MS. DENKENSOHN: Okay. All right. Thank you.

MR. GILL: Okay. That was a good question. Any more?

MS. DENKENSOHN: I'm just trying to understand the rules, what's out there, what isn't out there. What's covered, what's not covered. Thank you.

MR. GILL: Thank you very much for your time.

MR. BLAND: Hold on. I have two. We didn't get a cross from the other side. I'll just ask this question. The name of your company is what, and you're hired by Thalle to inspect?

MR. GILL: I missed the first part.

MR. STEINMETZ: Name of the company.

MR. GILL: Oh. The company I work with is Catamount Consulting. I run the Pennsylvania area. I should have come down from Redding, Pennsylvania, but I worked my way up and down Route 87, much more fun than 287, believe me.

MR. BLAND: And of the sidebar, I want to move forward as well as their witnesses that they're bringing forward. Not that I take exception, but you did make a

comment about the safety aspect, obviously, the geometry where the equipment. And that's in a perfect world.

So I think part of the question that you were asked by the attorney was; if an accident were to happen, and I won't name the particular municipality, as we're coming close to the anniversary.

But we did have a local municipality not long ago that OSHA does cover confined space. And we had two firemen go down in a hole, that knowing better, they probably would not have. And it was human error.

We almost lost secondary individual who went down to recovery the first. So this issue of safety and understanding the roadway, and we're talking about the geometry of where things are going to be.

I think the question I have: In the advent of if something catastrophic or something accidental happen, what are the precautions to be able to cover individuals where there's not either more property damage or further life loss? That's the simplest way that I can ask that question.

MR. GILL: Hypothetically, because I'm trying to think of the situation. Let's -- since you bring up confined space, let me deal with that.

We had the same issue down in Redding, Pennsylvania, where I was. We had one of the local water authority. We had two water authority repairmen went down

into the culvert, they were changing out out a valve. One of the values hinges blew off, hit the guy in the chest, knocked him back down.

Now, they were both doing -- if you guys don't know; confined space -- I'll try to be brief. Confined space is an OSHA definition. It had three possibilities. One, you have to have limited access; right? This room is about -- kind of a confined space. We don't have unlimited access; right?

We can't jump through a window, go through the roof. Two, you have to be able to get in there and do our job, as we are tonight. Three, the only thing that doesn't make this an actual confined space is that we're not allowed to have -- it's not set up for human habitation for extended period of time.

And we are here. It's comfortable. It's air. We have chairs, et cetera. So the confined space, getting into a culvert, climbing under a piece of equipment, let's say; right? Some kind of a steel box.

Well, there are no hoppers there that I've seen. So we have very little -- well, let's say, for example, they had some kind of a hopper there that was holding the material. That doesn't exist.

And, yes, a man were to fall in it, because he had to climb a ladder and fell in and got to the extent of his

harness, and we have it pull him out.

There would have a plan, because I know our company has worked with Glenn to come up a confined space plan for their sites. And something like this would be, okay, there was another man up in a hydraulic lift, the basket which they have right there.

You can now pull the man out. We can get him down to the ground. By the time EMS gets there, which usually happens on mine sites, he's already been extracted by the employees, because it takes, say ten minutes to get out there.

So unless it requires something like the jaws of life, which, again, I don't know how that would happen, because they have tools there that are much bigger than anything you would see on a fire department.

Does that makes sense?

MR. BLAND: Right. So talking about the piles and where the equipment is and wherever the machinery would be on the piles. If something were to happen, you're testing that there is space to be able to cover the vehicle, recover the individual around those piles?

MR. GILL: I believe so, yes.

MR. BLAND: Thank you 123450.

MR. GILL: Thank you very much, everybody.

CHAIRPERSON BUNTING-SMITH: Thank you.

MR. STEINMETZ: Madam Chair, Members of the Board, our next witness will be Ken Brezner from Walden Engineering. Ken is an expert in DEC regulations, specifically, Part 360 Mining and Recycling. He was a regional materials management engineer for the DEC for 35 or possibly more years.

We brought him here tonight because some of the conditions that were set forth in the Town's January 8th memo, we felt didn't really make a lot of sense. They seem to be inconsistent with custom and practice in the industry, and inconsistent with how sites like this operate safely.

So we asked Ken, and, Ken, you can come forward. We asked Ken to come in and specifically address -- should we pause, Madam Chair?

MS. UEBERLE: No.

MR. BLAND: She's grabbing her coat.

MS. UEBERLE: She's grabbing her coat.

CHAIRPERSON BUNTING-SMITH: No. Go ahead. I'm just getting my coat.

MR. STEINMETZ: Okay. We've asked Ken to come in and speak to mixed loads, whether it makes a difference if it's coming from road construction or some other construction.

And I will remind the Board that the Town in its conditions, although, back in December, they told us, no



mixed loads. In January, they told us, okay, maybe mixed loads, but only mixed loads from road construction.

So we're going to ask Ken to address that. In addition, in December, the Town told us, no asphalt at all. Then, in January, asphalt was allowed, but only under certain situations, in particular, where it was put into some kind of containment structure.

So we're going to ask Ken to address mixed loads, asphalt, and I'll ask you some questions, Ken, if you'd like, but first, if you'd introduce yourself and state your credentials.

MR. BREZNER: First of all, Mr. Bland, I don't swear. I have testified in court. I affirm.

MR. BLAND: You affirm.

MR. BREZNER: So I do so affirm in this matter tonight, I will say the truth, the whole truth, and nothing but the truth.

MR. BLAND: I appreciate that. Thank you.

MR. BREZNER: Okay. So my name is Kenneth Brezner. I'm a professional engineer licensed in the State of New York and New Jersey.

I joined New York State DEC in January 1988 in the Division of Air. I moved over to the Division of Solid and Hazardous Materials. Its changed its name overtime, in September 1989.

I've been in that position until the time I retired, which was June 2022. I've handled -- I was in many different positions, as I got promoted multiple times in that.

So I start off as an assistant engineer, got promoted to a senior engineer, to associate engineer, to finally a principal engineer.

One year I had a hiatus from the New York City office where I was in September 1989, and I got -- one year I was in the New Paltz office, and I moved back to get promoted in 2011.

I was trained, actually, as a chemical engineer, and that's what I took my CE in, but I worked as an environmental engineer.

So I handled when I was in the DEC, I've handled nearly every type of solid waste facility between transfer stations, construction demolition facilities, waste highers, waste oil, regulated medical waste, asbestos waste.

So I've handled a lot of different things. And I've seen a lot of different experiences over my time.

One area, if you talked about New York City, I know that very well, and a dealt with -- a lot of my job had to deal with construction demolition processing facilities under the old 360-16.

So I'm very familiar with facilities of this ilk.

MR. STEINMETZ: Ken, if you would just, let's address a couple of things very specifically. The Town has differentiated between mixed loads from road construction and mixed loads from non-road construction. Is there a difference in your professional opinion?

MR. BREZNER: So in DEC regulations, there is no difference. They don't care. The regulations have no differentiation between whether it comes from underneath the road, whether it comes from a homeowner, whether it comes from an industrial site.

We look at it say if it doesn't have contamination, that's why the regulations talked about at the time regulated, recognizable, uncontaminated concrete, asphalt, rock, brick and soil. The abbreviation is RUCARBS.

That's what we used for so many years. And these types of facilities in the processing facilities, which is the official term they used at the time, was to handle -- to take in any combination of RUCARBS.

MR. STEINMETZ: So if I were to tell you that this facility was only going to be allowed to take road mixed loads, but not from the right of way next to it, would that make sense to you?

MR. BREZNER: Not the DEC regulation.

MR. STEINMETZ: Okay. Let's talk about asphalt for a moment. Is asphalt typically received at recycling

facilities of this nature?

MR. BREZNER: Yes.

MR. STEINMETZ: And can it be done safely?

MR. BREZNER: Yes.

MR. STEINMETZ: Is asphalt, petroleum -- is asphalt typically petroleum contaminated?

MR. BREZNER: No. And I'll explain that. Asphalt is a product that these facilities all the time take. The facility -- asphalt is not a petroleum contaminated material.

It is only considered petroleum contaminated with, give you an example, there is an asphalt area that there was a truck that spilled -- a petroleum truck that fell over and leaked.

So if an oil truck fell over, the asphalt that absorbed that petroleum would be petroleum contaminated, but if you go just a few feet away from that, have no petroleum contaminated, it's not considered petroleum contaminated.

It is occurred asphalt, whether it's asphalt pavement, asphalt millings.

MR. STEINMETZ: Does Part 360, that would regulate this facility, does it mandate containment structures?

MR. BREZNER: No. And I've dealt with this for many years. And I have very direct conversations with staff and the New York State DEC Division of Water.

And they have never regulated, required any handling of water that touches asphalt millings or asphalt pavement beyond the normal swip of these facilities.

MR. STEINMETZ: Does asphalt leach into the soil or nearby waterways?

MR. BREZNER: So, again, if the thing is -- I can give you -- go through the reasons, which I'm not going to go through, because I don't want to bore you for half an hour.

So basically, because of the compounds that are in -- that are the binder in the asphalt, are very large compounds. They don't want to leach into the water.

So, therefore, they stay bound on the particulars onto the asphalt and they don't contaminate the water. Several EPA documents state that way, et cetera, so the answer is, no, they don't leach into the water.

The only exception is when you have colt or ash, which is what's used in like cold, you know, when it's very cold, they're doing a patch, but the regular asphalt is put on the road around the world.

All over the world they use asphalt. And nobody's concerned about the leaching that comes off of that beyond the normal swip.

New York is only -- they just have to follow the regular swip that's used by DEC and approved by DEC, whether

it's dirt, rock coming from asphalt, et cetera.

MR. STEINMETZ: There have been some concerns, Ken, raised in this matter by the Town about longley soils on this property that could cause safety and other concerns.

MR. BREZNER: And the DEC has never -- the regulations make no difference, whether it's clay, longley soil, silty soil, sand.

They -- the natural angle -- the natural -- like it comes off a conveyer, it naturally wants to go to a certain angle. So, no. DEC regulations don't have anything of concerns about safety -- of differentiating anything with that.

MR. STEINMETZ: Ken, I appreciate it. Madam Chair, I have nothing further for Mr. Brezner. If the Board has a question, but he was really here to address mixed loads and asphalt and longley soils.

CHAIRPERSON BUNTING-SMITH: So how does the product, particularly asphalt, how is that product known to be contaminated or not contaminated when it's brought for recycling.

MR. BREZNER: So under the New York State law, and under the State Solid Waste Management Plan, the State of New York is officially saying, we want the asphalt to be reused.

Particularly, be reused as in the asphalt -- making

of new asphalt. So it doesn't -- you should ask the question: What way would you think that asphalt would be contaminated?

If it's coming from a road, there's a piece of asphalt pavement the size of that table. What's going to contaminate it? If it's got an oil spill, okay, then it's contaminated. If it's not, what's going to mix into it to be contaminated?

MR. STEINMETZ: How does one determine that? I think what the Chair was driving at, and I related some of these comments from the regs earlier, is visual inspection and smelling odor inspection standard practice for a facility like this?

MR. BREZNER: Yes. That's a standard practice.

MS. DENKENSOHN: Having spent 20 years working for New York City Department of Transportation, and before that I did water, so I am familiar with some of that.

But with New York City DOT, we often felt that the roadway -- and discussed -- that the roadways were contaminated by heavy usage of trucks and cars. And that was not pure, clean asphalt.

MR. BREZNER: So chemically, how is it going to be contaminated when there's a binder which makes it -- the water from that will sheen off, as you see that it does. Are you worried about the particulars from the -- coming off

of the trucks that are now on the surface of that?

Because it's not going to go impact the binder into the asphalt mix itself.

MS. DENKENSOHN: What it did do is it made the asphalt slippery. And I think any of us who have gotten, you know, who have skidded on a road that's heavily used, that has a lot of, you know, we've all seen gas fumes coming out of, you know, their trucks.

You know, the tail piles and all of that that builds up overtime. So I just know from the experience I have, that we did have a very big differentiation between contaminated asphalt and asphalt that was not -- that wasn't reusable.

It could still go in and become glassphalt or go into the asphalt recycling plant, which was a very specific thing, but it was considered not pure clean asphalt.

MR. STEINMETZ: And, Ms. Denkensohn, for the record, I want to respond, because we've said this previously, and I want to make sure the whole Board is clear: What you're describing, and I've seen that slippery asphalt that you're describing.

And I'm not going to get into a debate. I'll defer to the expert on whether or not it can leach or contaminate, which we're being told it's not. The kind you're describing is the precise kind that they, at Thalle, will identify,



either visually, or by smell, and immediately it will leave the site. So that asphalt is not coming into this property. I just want to make sure.

I don't want your question to cloud the record that somehow that asphalt is coming in or we're advocating that asphalt come in. Am I correct about that?

MS. DENKENSOHN: But, I just want to clarify that DEC is not making -- there's no -- Thalle may have decided that they don't want to handle that, but is there a regulation in place that prevents that?

MR. STEINMETZ: Yes. The Part 360 registration has to be recognizable, uncontaminated. And the DEC regulations specifically direct my client to inspect, both visually and by odor.

So we're missing one another. And I apologize if my answer was not clear enough the first time. This site, this site, under Part 360-15, is not permitted to accept that kind of asphalt that you're describing.

MS. DENKENSOHN: And I guess my confusion is the gentleman who is the expert is saying, DEC does not have regulations that differentiate.

MR. BREZNER: If it's contaminated, as I said before, like, there was an oil spill.

MS. DENKENSOHN: But that's not an oil spill.

MR. BREZNER: So you're saying that all the asphalt

in the entire world is contaminated.

MS. DENKENSOHN: No.

MR. BREZNER: Because, and I'm saying, if you go to the India, you go to China, they have trucks, and the trucks have particulars that come off the back of those trucks from the diesel fumes and the gasoline fumes, and you're saying that those fumes are contaminating the surface layer of the particulars on that, going on the surface layer of the asphalt and that's being runoff when you have a rain?

MS. DENKENSOHN: I am not here to argue with you. I'm just saying, it's not all asphalt. It's not every sidewalk. It's not every driveway. It's not every low traffic road. There are -- roads are differently done.

MR. BREZNER: So I've been handlings for 30 years. I've dealt with Assistant Commissioner Reedy, do you remember her?

Ans we talked about this type of stuff at length, about how they want to have a recycling facility, they wanted to store the -- they take the asphalt millings from different contractors and we've had those discussions.

There was never any discussion from her about saying, well, certain asphalt in the city has to segregated from other asphalt.

MS. DENKENSOHN: Do most of those go to asphalt recycling plants?

MR. BREZNER: Basically, yes.

MS. DENKENSOHN: Okay. So that's -- that's a very specific plant that only handles asphalt.

MR. BREZNER: And this facility is saying they want to take it to their Fishkill facility, which is an asphalt plant to take in asphalt. Which is the best way the DEC wants it to happen.

MR. STEINMETZ: I want to be clear on that; because I'm not even positive Ken knows that we made this offer, but the condition that we placed in our draft permit, dated December 13th, 2023, No processing of asphalt on this property.

And just to -- I want to get the exact cite so that I could respond to your question from two minutes ago. The registration document that we have from the DEC is for quote, "Processing facilities receiving only recognizable, uncontaminated, uncontaminated, concrete, asphalt, pavement, brick, soil or rock," citing -- I mis-cited. I said 50 -- 360-161D1I.

I want the record clear: Under 360-16, we cannot take contaminated asphalt.

MR. BREZNER: And that's correct. The regulations are very clear that you can't take contaminated asphalt. So if there's knowledge, which this facility normally, the custom is, and that's how facilities -- they smell it, they

look at it. If there's contamination, they're obligated to reject it.

MR. STEINMETZ: Thank you. Anything further for Mr. Brezner?

MR. BLAND: Yeah. Just one small thing. I know that the DEC covers this or whatever is. Is there a chain of custody in terms of even receiving it before it comes to you?

So in the off-chance that you're saying, 287 there's a major oil spill, an oil tanker goes over. They want to pick up that roadway.

Is there any responsibility prior to your inspection on site? Like, what would be that chain of custody? Who signs off on that to approve that, if we wanted to check that that actually is in fact, that this is clean asphalt.

How would that process work?

MR. STEINMETZ: So if I understand the question, Mr. Bland, that, again, comes into the site. In terms of chain of custody; a contractor is digging up 287, whether the contractor has its own truck, or has a separate trucking company, they're picking up that material and putting it in a truck.

MR. BLAND: Correct.

MR. STEINMETZ: That truck is then coming to an

appropriate facility. If the truck has contaminated asphalt on it, 99 times out of a hundred, they know they're not going to that facility, because they're not going to take that material.

MR. BLAND: But in the off-chance that they attempted to?

MR. STEINMETZ: If they attempted to, then it would be subject, under the DEC regulation, and under my client's protocol, to a visual inspection and a smell test, both, as we've been told in these proceedings, before it gets out of the truck, and after it's dumped on the ground.

And if it's dumped on the ground, and it's not like it's never happened, I think Thalle testified, Mr. Pacchiana testified, that if stuff is deposited on the ground.

And it's like, uh oh, you know, what the hell are you guys doing -- excuse me -- what are you -- what the heck are you guys doing dropping this off? Got to get it out of here.

It gets picked up, put back on a truck, and it goes to a site, as Ms. Denkensohn said, that is otherwise certified and permitted to take contaminated asphalt.

MS. DENKENSOHN: Just on your section -- so basically, you're saying the asphalt material now is a storage location for it?

MR. STEINMETZ: Correct. That's exactly right.

It's spending a short period of time --

MS. DENKENSOHN: It's a storage facility for it.

MR. STEINMETZ: It is a repository to then go off, and the reason it's doing that, I'm going to go back to what I said a while ago, because of the bud. The bud tells us, thank goodness these guys are taking and storing asphalt from mixed loads and otherwise.

Because it's good for us in society for someone to recycle that and put it back into the next road construction project. And they are part of the chain of custody. It comes into -- it comes into Greenburgh, it rests there until it is filling up a truck.

That truck then goes to Fishkill. And in Fishkill, they are manufacturing recycled asphalt that we're getting put back into our roads and driveways in connection with a beneficial use determination.

MR. BREZNER: Any further questions?

MR. STEINMETZ: Thank you Mr. Brezner.

Now, Madam Chair, Members of the Board, there are a few other -- I'm going call them, secondary, or extraneous topics, that I can do now, or wait until after the Town presents.

Because I definitely want to respond on the notion of the condition and debt that they advocated in their memo under SEQRA. I want to deal with that, but I don't need to

deal with that now.

I am prepared to deal with the one incident of some DDT that Jason spotted in a report that we found out about six weeks after the Town stamped this information in. We're happy to talk about that.

There's material submitted about a vacuum truck that we both read about and talked about with staff and we're happy to speak to that. To me, those are all kind of secondary, minor things. I believe we can resolve them quickly and simply.

What I want to make sure you know, I am ready, when you are, to go condition by condition through the permit. Their language juxtaposed against the language we submitted to you on December 13th, and explain to you.

There are several areas we're in agreement. They took our language and used a lot of it. There are several areas where we are in disagreement.

My presentation tonight was designed to set up in advance why we have disagreement, why we think they are wrong, why we think they do not have the expertise in these areas that maybe they wish they had.

Those areas relate to: Pile heights and sizes, mixed loads -- don't have to just be from road construction, asphalt, not a bad thing. Safety; we are safe.

Those are the substantive disconnects that I've

trying to convince Joe and his team, that our permit was properly, carefully and thoughtfully drafted.

We stand by that, despite having Zoom calls with the entire staff, despite the fact that they said one thing in December and another thing in January, we stand by where we are. We haven't deviated from that. In fact, and I want to -- I'll add one more apology.

I apologized that I brought in two witnesses tonight. David, why did you bring in witnesses on January 18th, you've been standing in front of us for months? Why?

Because for months, for months, I tried my hardest, pragmatically, legally, and not to convince them, you guys are wrong. What are you doing? They've never had a violation in 26 years. Why are you doing this?

But they didn't back off. They flip-flopped on too many issues to the point of frustration, and then they submitted this last round. And on January 9th when I read their conditions, I picked up the phone, and I said, I'm done.

I'm going into the next meeting on the 18th, Glenn. I want a DEC expert. He found Ken Brener. Never met him, never heard of the guy, glad I met him.

I want your safety guy that you keep talking to me about. You heard about him, but we'd never spoken. That's



why they came tonight.

So I apologize I didn't bring them in sooner, but I got to tell you folks, I didn't need them sooner, you didn't need them sooner. We've wasted five months.

I'm done. I'm happy to go line-by-line through the permit. We're ready to get a permit. We're ready to get a permit tonight. I know it's time.

So, again, Madam Chair, it's your call. You want me to do C and D? I'll do C and D now. You want me to do DDT nonsense? I'll do that now.

CHAIRPERSON BUNTING-SMITH: I would like to hear from the Town.

MR. STEINMETZ: Good. Me too.

MR. DANKO: Good evening. Joseph Danko, Town attorney. Would you like to swear me in?

MR. BLAND: Do you swear to tell the whole truth and nothing but the truth so help you God?

MR. DANKO:: I do.

MR. BLAND: Thank you.

MR. DANKO: So I am joined here tonight by Elizabeth Gerrity, who is the Deputy Building Inspector. We have Jason Coppola, who's the Town Engineer. I also have Lieutenant Matthews. They will all be speaking. I'll be brief, since I am not an expert these matters, but I did want to point a few things out.

First of all, our submission was made on January 8th, not January 9th. We complied with the ten-day requirements in advance of this hearing, and in compliance with your rules and regulations. Just wanted to clear that for the record.

We're not OSHA, we're not MSHA, we're not the DEC, but we are the Town of Greenburgh, and we do have the right, through state law, zoning ordinances, and case law, and the Code of the Town of Greenburgh, to install or at least request that you install conditions through a special permit, that regulates the use of land. And that's exactly what we're here to do tonight.

The Town has proposed conditions, which are fair and reasonable and which relate only to use of land. And we have to desire, nor the ability to regulate any business operations.

While we've worked relentlessly on this matter throughout the past several months to resolve as many conditions as we can, and I agree with David, that we have resolved some, and there are just some left outstanding.

Unfortunately, we believe we've reached a point that no further concessions can be made. And I believe the applicant would agree with that as well.

Because of that, we have set forth conditions that we believe are fair and reasonable and which will ensure the

safety of the surrounding neighborhood, and the residents of the Town of Greenburgh.

Contrary to the applicant's statements earlier today, and in prior hearings, our staff does have the expertise to advise on these conditions. And you'll see that tonight.

To be frank with you, it's quite disheartening and it's condescending, to hear over and over again, that we do not know what we're talking about, or that these individuals do not know what they're talking about. And I think you'll see from the presentation tonight that they do and I hope you take their information into account.

David used the term, moving target. I agree, he's right. The target has moved, that's because we've come closer together over the past several months, and we do agree on many of those conditions.

Each side has made concessions since that first meeting long ago on September 7th in the Lee F. Jackson room. I disagree that the Town has flip-flopped. That was another term that was used.

We have gathered more information throughout the months and conditions may have changed, but I don't think flip-flopping is a proper way to clarify what has been done.

Another reason our conditions may have changed is that for months we have been making information requests to

the applicant, which have either not been shared, or were shared much later than we've made those requests, or still have not been shared to this date.

So it is hard to make a list of conditions, when there's a lot of information to be sought and that information is shared over a long period of time.

I'd like to quickly address the monitoring situation and put it on the record and remind the Board, that on the September 7th meeting, Thalle did sign a document agreeing to monitoring throughout this process.

They thereafter came up to us and said it was becoming too expensive and that someone was not needed full time. The monitor was then pulled from the site full time, in fact, I don't think there was a monitor there for several weeks at all.

Now, I had made the request that the monitor go for just a few hours a week. I'm not sure if that process has begun again, but we do recognize that if they had excessive costs, we wanted to reduce them to be fair and reasonable, work cooperatively moving forward.

I do want to point out that, with all due respect to the representative from Paws Crossed, that the Town must enforce safety provisions to all its residents, even if some of the residents do not agree with our determinations.

There was also a comment made about they wouldn't

want any other neighbor. We are not looking to have Thalle removed from the property. We're just looking for fair and reasonable conditions to be put on the property moving forward.

Before I let the others speak, I'd just like to say that there is a lot to digest here. This has been a long period of time. I know that one of the Board members have requested a comparative list of just the conditions.

I think that was a great idea, because I think it does come down to the few differences that we just disagree at this point. And when you look at them side-by-side, I don't believe it's that many, especially compared to where we began several months ago.

So I will -- I had more to say, but since you adjourned the stop work order and nonrenewal, I won't speak on those tonight. And I'll ask that Liz Gerrity give her presentation.

Are you using that computer?

MS. GERRITY: Yes.

MR. DANKO: Okay.

MS. GERRITY: Do you want to swear me in, Madam Chair?

MR. BLAND: Will you both raise your right hand. Do you swear to tell the whole truth and nothing but the truth so help you God?

MR. COPPOLA I do.

MS. GERRITY: I do.

I just want to put on the record that the monitor is here. They're just via Zoom.

MR. STEINMETZ: Can you state who, Liz, from the monitor?

MS. GERRITY: Guy Mezzancello and Joe Cermele. I'm sorry. I didn't state my name for the record. My name is Elizabeth Gerrity. I'm the Deputy Building Inspector for the Town of Greenburgh.

We're here tonight because we would like to move Thalle forward and get their special permit granted. We're just asking to have it granted with safety conditions that the Town feels very strongly are needed to allow this. What they want, in a limited manner, to move forward.

Jason and I have worked hundreds of hours looking at this project, reviewing this project, researching the project, meeting with the applicants, on-site, Zoom, at Town hall.

So I think it's important, although, Mr. Steinmetz did a very good job at proving a history, it started actually, Robert Martin was using the site. They were blasting and there's been stories about the rocks going onto the Saw Mill River Road, and going to adjoining areas.

So the site was used an excavation site since the

early 80s as a permit was granted by the Town to use the site in the 80s.

In 2001, when it became known to the Town that Robert Martin was no longer using the site for themselves, but for commercial purposes with Thalle, a notice of violation was issued for the special permit.

So that was in 2001, which started the site. This is a -- kind of a pixilated version, but it's the site, what it looked like in the conditions in 2000. If you just note, there's some limited piles where the large pile is on the right-hand side.

Applicant went to the Zoning Board, they received a special permit, which we're all familiar with. In red are the different conditions, which were the 30-foot height, 15,000 cubic yards. Those had been just at issue. Here is the site plan that was approved in 2001. Again, it was a very small site at the time when it was approved.

So every year Thalle would send, after they got their approval on the right-hand side of the screen, in its renewal request, former building inspector Lucido and Fraietta would review the request and respond in writing. The elevate renewal was in 2021.

In 2019, former building inspector Fraietta issued a violation notice and here is Google image of what the site looked like then for very similar violations that were

received recently from the current building inspector for violating the stop -- the special use permit of 0135.

In June 2022, this is what the site looked like when Robert Dam was the building inspector who also issued a violation notice to Thalle for excessive pile heights and quantities of material. Here's another image from 2022.

It's a copy of the notice of violation that Mr. -- former building inspector Robert Dam issued. In May 2023, current building inspector, Frank Morabito, was at the site. Observed excessive piles along the roadway, which is on the left-hand-side.

And as you can see from the trucks and the rocks face, estimated probably 50 feet, depending on how you're looking at it. Google image from 2023, and then the notice of violation that the applicant never responded to.

A stop work order was issued in July of 2023 after there was no response to the notice of violation. You notice the small figures at the bottom, that is the site. Those are the workers. And at the top of the site, so you can just see scale wise,

MR. DANKO: Liz?

MS. GERRITY: Yes.

MR. DANKO: How much time had passed between the notice of violation and the stop work order being issued?

MS. GERRITY: Approximately 45 days.



MR. DANKO: Okay. So I just want the record to reflect that at that point, the issues were not only not remedied, but there was also no correspondence from Thalle to the Town to at least show good faith efforts to remedy those conditions?

MS. GERRITY: Correct. What is on the screen now is a comparison that was done by our engineering department between the 2001 site plan to the 2023 site plan, which we have previously shared with the applicant, just showing how the -- this site has expanded since then.

Okay. This is a something I've also shared with the applicants. This is Westchester County GIS slide tool, which you can take any two years at any given time and compare the two using a slide tool.

Again, on the left-hand side, you'll see the 2001 site as it existed and on the right-hand-side, as I slide over, you'll see it morph into what it became today.

So you can see that on the upper portion of the screen where it was trees and vegetation is now the pile that was used. And towards the back, towards Paws Crossed, the pile has expanded out.

Also there's relocatable buildings that have been put in, electrical, plumbing, other improvements were made to the site. And the roadway was expanded. So I think this is just useful for the Board and for the audience to see the

change in site over the years.

So the 2003 site plan, which the applicant submitted, they do show on the left-hand side, closest to Paws Crossed, that they have moved back on their own, the piles 25 feet, which we asked them and they did to the front. They moved some of the piles back. They've limited and took down the majority of the large piles.

We were out at the site not that long and it is -- there's a blue mark that Jeff had pointed out that they're saying is the 30-foot mark, but, again, the stipulated agreement, this is, again, from September 7th, and this is what was agreed to.

According to our monitor who, again, is on the call, back in September, they were not down to the 30-foot height. The applicant spray-painted blue line on a rock base is now 30 feet.

The hours of operation, the monitors were unable to obtain manifests as they weren't sure who was coming from ConEd, but they were able to write down trucks names and numbers.

We didn't know about Saturdays. The monitors weren't provided enough information to make that determination. Picking up materials on Saturdays, again, the monitor was unable to gain that information, because they couldn't tell what trucks were from ConEd and who

wasn't.

The hours of operation, based on the 2002 noise study, processing likely violates the noise ordinance. So 6 a.m. to 3 p.m., based on the 2002 noise study, that is in the record, it would violate the noise ordinance. Thalle --

MR. DANKO: And can I just point out that we have requested more recent noise studies to be done and they have not provided any information to show that the information from 2002 was not accurate. So that's why we say, likely. We're unsure, but we have sought that information, and that has not been provided.

MS. GERRITY: Thank you, Joe. The 15,000 cubic yards of material is currently violating based on our survey that we've gotten at 40,015 as of December 28th.

According to the monitor, they took photos that asphalt was being accepted at the time that they said they weren't.

Permit applications: The permits, this is correct, the permits were filed. They were just on hold. I have been working with the applicant to perfect the applications and they're well moving towards doing that.

The monitor was directed to leave the site for various reasons and they've been remaining outside. So it was very difficult for them to ensure compliance and I know both the, you know, Guy and Joe, are on Zoom.

I don't know if they have any further comments about that. If they want to just jump on.

MR. DUQUESNE: They would have have the ability to un-mute if they would like to speak,

MS. GERRITY: Okay. So, the monitor, this is the drone shot they took of the site in September as it looked. The reporting quantities, according to Ward Carpenter, from September 14th, was 46,890 total cubic yards. Currently, December 28th, it's at 40,015. So it hasn't gotten down tremendously.

And, again, I just want to point out that the Town staff, we are looking not to restrict cubic yards, even though it's indicated on here. We're just looking to keep the pile heights and the angle of repose recorded so that it can be measured.

With condition one, and as David had suggested, we've provided the conditions to the Board that we're recommending. And I would just like to run down them.

So condition one is for noise. We are not attempting nor are we conditioning specific hours of operation. Under the hours of operation cannot be regulated because it's for internal operations of the site, however, under our general list powers under the noise ordinance, processing and anything that exceeds the decibel levels would violate and restrict the hours of operation.

I just wanted to point out down below where it's a little blurry is from the 2002 noise study that shows with plants operation is between 65.1 and 67 in R2. That was at Warehouse Lane, right across from the site R1 is at the site's -- where the property line, which is where the police would measure and it's at 73.1 to 76 decibel levels.

And, again, I just want to point out that it is in 2002. We have requested the applicant to provide an updated noise study.

Recommended condition two; the applicant should not block, interfere or otherwise obstruct the access to 100 South Warehouse Lane.

We are not doing that just for Paws Crossed. It's to ensure the safety of pedestrians and vehicles using the access way that no materials be stored within ten feet of the access way or the village -- the Village of Elmsford also has property that's uses that access road.

As you can see in the picture, you have a bicyclist that is going alongside the site. So it's not just Paws Crossed. We're looking to protect anybody that is using that access way.

Another thing I just want to point out; the vehicles that are parked there, I'm not sure, they're not -- if they're commonly used by the employees of Thalle to park along the access way, which is -- would further choke down

any -- and move people closer towards the site.

There's another image from March showing the stock piles that are just being supported by a Jersey barrier. Again, a piece of equipment that is operating very close proximity to the access way.

These are after the improvements in a picture that took in December 31st, showing how close the piles are to the access way. Again, the machinery. The stock piles.

And this is a video that I thought would be helpful to the Board, just assessing the safety of the site and what can potentially happen.

This is a video which I found very informative.

(Whereupon, a video recording is played.)

MS. GERRITY: So that video was very, at least, informative and I think it illustrates some of the concerns that the Town staff has with. One of which is, obviously, the safety of pile coming down and, you know, being, obviously, killing someone.

The second is that the piles that are being abutted the access way are being supported by a jersey barrier.

General stock pile safety, at least accordingly to this video, you're supposed to be able to access that stock pile from 360 degree around and not just pull from one side, which is the case here, making the other side unstable. So, you know, it can collapse.

So we're not trying to mitigate the applicant's use of their site. We're trying to prevent any type of catastrophe that we can see that's preventable by a simple condition, which the applicant has pulled a lot of materials already away, at least ten feet from the access way. We're just asking them to continue that down.

Recommended condition three is something that the applicant proposed and the Town has no comment on this at all.

Recommending condition four, I have Lieutenant Matthews, who is here. He is from the Greenburgh Police Department. He is the head of the special operations unit and technical rescue.

He's going to speak about the 30-foot pile heights that we are requesting be imposed and continued on and carried through from the 2001 special permit, along with with the angles of repose, the types of materials.

And in the event that there is a catastrophe, either during operations or after hours, the pile, how the department would respond back to that.

Here's a memo that Lieutenant Matthews wrote to the Zoning Board regarding this. And the stability of the piles. If you want to speak.

MR. BLAND: Do you swear to tell the whole truth and nothing but the truth so help you God.

LIEUTENANT MATTHEWS: I do. Lieutenant Matthews, Town of Greenburgh Police. M-A-T-T-H-E-W-S.

So I was asked to speak about the safety concerns from the first responder point of view. Our unit specifically handles confined space operations, technical rescues within the Town of Greenburgh and the villages.

And as you spoke about before, we already lost two employees to the Town in regards to a confined space operation. So we all know they're very dangerous.

Readings from the document here, Along the no limits on piles of debris and quantity materials stored in the site could include what OSHA classifies as type-C soils.

Type-C soils include granular soils, which is gravel, sand, lume sand, submerged soils, soil from which water is truly seeping. And submerged rock which is not stable.

A non-stable platform would be extremely dangerous, if not down right impossible to rescue someone who's trapped underneath or first responders to gain access to their way up to even attempt a rescue of a trapped civilian or worker at the site.

Other safety concerns brought to my attention from the building department: Specific safety concerns for the storage of diesel fuel, multiple trailers, equipment which is not currently authorized by the Town of Greenburgh.



So these are the major concerns that we have. It's not a question of when an accident happens at major sites, if, it's a matter of when.

And what we want to do is make sure the site is safe enough for the workers, as well as the first responders who are coming to provide first aid and rescue care.

Proper signage: Something as simple as proper signage, marking sections in the lot, so we would know where to go. Someone can stand there and call 911 all day. If we can't find you where you are in the yard, we can't come and help you.

Unfortunately, with some of the conditions that we've seen on some of the videos provided by the Town, we'd be working more with what we call a recovery of a body, rather than a rescue of a live human being.

The Town of Greenburgh Police Department wishes some of these safety concerns are addressed and addressed immediately so we can help provide any first responder care to, again, passersby, citizens using the bike path, or any of the employers of the Thalle Corporation. Thank you

MS. GERRITY: This is the blue marking that Jeff had pointed out, that and -- that demarks Thalle's 30-foot mark. The problem is is that 30-foot mark is taken from the grade that has been brought up by Thalle.

So at some point the grade was raised from the

access way over the years. Fill was brought in, which the applicant is consenting to consider as part of their stock pile materials.

So when height and angle of repose are being measured, it should be measured from the access way and not the raised grade. If it is going to be measured from the raised grade, they're going to have to obtain a fill permit from the engineering department for the materials that were brought in.

So I'll let Jason speak to the angle repose and the type of materials.

MR. COPPOLA: So angles of repose, as you saw in the video, are the natural, you know, gravity limiting, you know, angle of the pile.

These pictures were taken. They basically show that the steeper than the recommended angles. And those groups in the slope are caused from erosion, basically.

The water that runs down causes these rillings in the slope. And then all the material that was in those grooves end up on the road, or, you know, in the Saw Mill River, or nearby properties, basically.

Again, this is the -- it's more of the same. Angle of repose is determined by the material, and, you know, you pick a height. You have your angle and you do a volume for the cone and that's the volume of the pile.

MR. DANKO: Can you go back one slide?

MS. GERRITY: Sure.

MR. DANKO: So Jason, the pile on the left-hand side versus the pile on the right-hand-side?

MR. COPPOLA: Okay. So when you have a smaller angle, a shallower angle, there's less of a chance that the soil will become erosive. And then the chances of it ending up, other than in that pile, are much, much reduced.

MR. DANKO: Thank you.

MR. COPPOLA: So what we're asking, and as you can see from this picture, a lot of the materials have been moved away from the access way, which we are very pleased to see.

There is some storage of construction equipment. And towards the, where the telephone pole is on the left-hand-side of the screen, the material then starts to come back towards the access way.

These are just some photos, not from Thalle, of what happens when, you know, equipment is stored near paths of travel. This is exactly what, obviously, we do not want to see.

Recommending condition five is the processing of uncontaminated rock material from road excavations. And the reason why, you know, we have put in road excavations, is because we have received, not only seeing the vac truck

coming in, depositing liquid materials, but we have, through the DEC's annual report, seen other tank removal, gasoline tank removal companies that are clients of Thalle and not only purchase materials, but they deposit materials there.

So in this slide, there's two companies that are oil tank removal companies. They excavate, remove oil from the site and they are ranked as ten and 17 under Thalle's customers, ConEd being seven.

This is what Mr. Steinmetz had referenced. This is a fill. I'll let Jason speak to that.

MR. COPPOLA: So every now and then we'll get a fill permit that comes in and part of the fill permit process we ask for where the soil is coming from and a testing report on that soil to make sure that the soil meets the residential standards. If it's a residential or a commercial standards, if it's a commercial property.

This was a residential property. They sent this test results and they were shown to be exceeding in levels of DDT based on the DER 10 standards.

MS. GERRITY: So the asphalt, we heard a lot about asphalt. We have quite a few concerns about asphalt, but not so much as the applicant this evening has put forth.

There are materials, not pure asphalt, but materials that are used to seal asphalt that are carcinogenic.

Reclaimed asphalt pavement or asphalt millings are also under safety data sheets, carcinogenic.

We have other reports that show when RAP, the recycled asphalt product is stored in piles, it can go into the ground water. There are materials that are on the site that move towards ground water.

Again, this is the leaching analysis. This was done by an engineering company, just showing that, basically, the different items, like nickel, other items can go into the ground water.

Here is the picture of our liquid waste that cannot be visually or smell tested until it is dumped already on the site. And, again, these are liquids.

They do not carry heavy materials, such as soils, gravels, rocks, et cetera, which is why we're requesting that they not be permitted to be allowed to deposit materials on the site.

We're not restricting the applicant from bringing in asphalt as part of mixed loads. We're just asking that they keep them in a contained site when preparing to move to their either Fishkill or other facility.

These are some of the monitors' photos that we're taking while they were on the site, which has, obviously, on the photo on the left, has a bunch of different materials.

Again, this is during the monitors, when delivery

of asphalt was said not to be occurring. On the right-hand-side you can see, that's asphalt on the left-hand-side, looks like a mixed load of dirt and rock.

Recommended condition six is contaminated materials. We're including liquid waste, mixed liquid loads, septic, sewage, hazardous materials. Which the applicant has no issue with.

They, you know, unfortunately, what we have to look at is, even if they are visually and odor testing, what if something gets past the goalie? What if there is contaminated material that's put on that site.

MR. COPPOLA: Not all contaminants smell.

MS. GERRITY: So there's, you know, there is a concern there, especially when the monitor reported back to us that the back truck deposited materials, the machine quickly scoops it up and mixes it into the pile of dirt.

And there was nobody there smell-testing or visually inspecting what was being dumped.

All the vehicles leaving the site should not have a maximum load rating. The applicant is not responsible, certainly for the truckers carrying the proper loads. That's up to the trucker, however, the trucks entering the site and leaving the site have to cross a bridge.

The maximum load rating of that bridge is 61 tons. It has been red-flagged by the state. The owners of the

bridge, it's privately owned, are working towards repair. So we do have a concern with overweight vehicles.

And just to go back to the previous slide, to point it out: In 2002, there was about ten to 15 trucks per day, according to the testimony. According to our monitor, there's an average of 208 trucks a day now. From September 15th until November 21st, 3,523 trucks went over that bridge and over that roadway and over the bike path.

So there is concern about pedestrian vehicles, infrastructure and potential catastrophe with a bridge collapsing. It is noted that the building department issued the owners of the bridge a violation notice directing them to remediate and repair the bridge.

Condition eight; the reason for this is the county bike path and private roadways need to stay clear from mud, dirt, debris, anything that's attributable to the site.

The applicant has made efforts, using the sweepers, washing down the trucks, that's been a recent addition, putting in the padding that's been on the site, but these are some of the images of things that we do not want to see.

As you can see, the mud is just coming in and out of the site, going up Warehouse Lane on your right-hand-side. This is a picture of just dust getting kicked up.

Again, the bike trail, on your right-hand-side, you

can see they cross right over where people walking the dogs, walking, you know, for enjoyment, using the bike path.

Recommended condition nine is the stormwater pollution prevention plan submissions. We do have concerns about the stormwater pollution that is coming off. These are after the applicant made their improvements to the site. There is still mud runnings over into the private roadways and it's not being contained on the access way and going into --

MR. COPPOLA: That's Warehouse Lane.

MS. GERRITY: -- Warehouse Land.

MR. DANKO: Is that the -- and can you go back one?

MS. GERRITY: Yes.

MR. DANKO: Is that the entrance of the site?

MR. COPPOLA: That's the entrance to the bike path on the right-hand side.

MS. GERRITY: So the bike path, where you can see the raised visual aides or access to the bike path, this is actually the private road, Warehouse Lane.

This is just pictures that the monitor took of -- after a flood, after a good rain that the mud is going into the applicant's area.

MR. DANKO: And I suggest that, since the monitors are here, they should be sworn in and attest to all these photos as well, at some point, but just want --



MS. GERRITY: Yeah. Maybe we can do that now. Joe or Guy, would you like to un-mute yourselves?

MR. MEZZANCELLO: I'm un-muted. Hello.

MS. GERRITY: Okay. Guy, they're just going to swear you in.

MR. BLAND: They you are.

MR. MEZZANCELLO: I'll put my video on. Hold on.

MR. BLAND: If you would raise your right hand, gentlemen. Do you swear to tell the whole truth and nothing but the truth so help you God.

MR. MEZZANCELLO: I do.

MR. CERMELE: I do.

MR. BLAND: Thank you.

MS. DANKO: And can you just confirm that all the photos shown so far that Liz has attributed to your monitoring was taken by you either at the site or near the site of Thalle?

MR. MEZZANCELLO:: That's correct. These are all my pictures. Correct.

MS. GERRITY: Okay. So, Guy, if you could just -- this picture was taken after the improvements were made.

Do you remember the storm conditions that -- when this specific photo that's on the screen now was taken was?

MR. MEZZANCELLO:: Yeah. That day was when we had a flash flood where, like in what, three hours, we had like,

I don't know, four inches of rain, whatever, and I was at the site. And these are the pictures I took once the water -- you know, during the runoff.

MS. GERRITY: Okay. So here's another photo. That's the sweeper truck that I referred to earlier. The water, you can see where Thalle's trailer is, is flowing across from that point into their area on the right-hand side, which is part of their stormwater control plan.

This is a picture on the left-hand-side from Thalle as they were installing their stormwater control. Again, the right-hand-side is another picture that the monitor, Guy, had taken, just showing that it's --

MR. COPPOLA: And I would just like to note that they have done a lot of work towards this in the last couple of months.

MS. GERRITY: So at this point, and Jason, maybe you can speak to this a little better, at the far corner, where you see the --

MR. COPPOLA: That is the area where their outlet point is.

MS. GERRITY: Okay. And the outlet goes to where?

MR. COPPOLA: The Saw Mill River.

MS. GERRITY: So the outlet point where all this water goes to, just to reiterate, is goes into the Saw Mill River.

So any runoff that is coming from that site is going across the roadway, into the drain and out into the Saw Mill. So that is a concern that the Town staff has.

Condition seven is dust control measures that we're asking that they install some type of truck washing to keep the site from bringing mud off the site onto the roadway or anywhere outside of the site itself.

Condition 11, we're just asking for the annual report concerning compliance. Exactly the same as we've been doing since 2001.

Condition 12, we're asking to submit the letter on or before October 31st. We've already discussed these conditions with the applicant, which we don't have an issue.

In the event the applicant wishes to expand the type of intake materials and/or increase or modify the site's inventory or relocatable buildings, we're asking that they obtain an amendment to the special use permit, should the Board grant it.

And they may be required to obtain Town site plan approval, because the property under Town law exceeds five acres. By law, they have to seek any type of modifications to the site from the Town Board.

Condition 14; the applicant shall provide access to the site for Town staff.

Condition 15, this is something that after hours is

a concern for emergency response. Not so much when the applicant is on site and operating. What they do to secure the site is put this type of machinery blocking the entrance.

If there's an after-hour response that's needed, they are not able to get into the site, except by going over the jersey barriers and over the piles that are along the side of the property. This is a full picture of this condition. And this takes -- this was taken on December 31st.

So another concern that the Town has, there's an adoption center next door. There's a lot of kids that go next door. You know, as a child, I would like to go and play on stock piles.

You know, somebody can get in there and it's a dangerous condition. So we want to make sure there's access, or at least emergency response can get in there should something happen after hours and nobody is there to let them in.

So we're just asking that a gate with an approved lock box from the police department and fire department be put in.

Condition 16, if the applicant voluntarily, and I'd like to point out voluntarily, discontinues for more than 120 days, they will be removing all of the materials from

the site and restoring it back to its original condition to the grade of the adjoining access way.

Condition 17; the applicant has already met. They've pulled back the materials 25 feet from the deeded property line from 100 Warehouse Lane.

Condition 18; is basically to legalize all of the relocatable buildings that the building inspector issued a notice of violation for. The applicant, again, has been working towards remediating that.

And, as with any applicant that has been working with the Town after a notice of violation has been issued, we continue to work with them. We're not going to further enforcement if an applicant is making a good-faith effort to continue working the Town, which this applicant has.

These are some of the pictures of the relocatable building. The diesel tank hazardous materials; electrical, plumbing, and lighting that was installed, all without the benefit of permits.

So they have a temporary shelter. They have plumbing that has been installed. They have several relocatable buildings. These are the diesel storage tanks that are on the far end of the property that emergency responders would have to get to the back of the property to access.

These are 480-volt transformers that both go

underground, under the site, have never been inspected. The electric is both underground and above ground. The plumbing is both above ground and underground. So there's going to be areas that are going to have to be exposed.

Currently, none of these, and if this is accessed, this will kill you, if it's touched. There is no vehicle impact protection around any of these. That's going to have to be installed.

This is a ConEd transformer. Again, rarely see them raised up like that. This is the screening machine that is located at the back of the property. Again, I just point this out, waste oil, the diesel.

So access to any of this is, you know, as we do our inspections, the site will have to be cleaned up before state code compliance. Again, this is the screener that's in the back. I just wanted to point out the water that is under it. That's a light that's in the back too is condition 19. That has to be legalized and lowered to 14 feet, be directed away from the adjoining properties and street.

And then, conclusion, you know, we've worked together, Town staff, Greenburgh Police, Conservation Advisory Council. And we recommend that ZBA grant a special use permit for the limited use of processing and storing uncontaminated rock, aggregate, mixed loads from road

excavations conditions with that I just detailed.

CHAIRPERSON BUNTING-SMITH: Thank you. Could we just take a comfort break at this point, or do you have more?

MS. GERRITY: I'm done. We're done.

CHAIRPERSON BUNTING-SMITH: You can pick up where you left off.

(Whereupon, a recess is taken.)

(Recording in progress.)

CHAIRPERSON BUNTING-SMITH: All right. We are reassembled. So let's have the questions of the Town at this point.

MS. UEERLE: If I can start off. So, thank you. So where did you guys come up with 30 feet, the height, for the piles?

MS. GERRITY: Sure. So -- and, Jason, can also assist, but the 30 feet was originally from Mike McGarvey, the Town engineer, based on the site configuration that was put in on 2001.

So we felt that that was a safe height. It was safe for all the years. That's why we stuck with the 30 feet, consistent with the 2001 special permit.

MS. UEERLE: Okay. But you could change the height and then you would just have to change, obviously, the other factors, the angles of things.

MS. GERRITY: So it would be the base of the, as it's been testified to, the geometry of the site. So you're restricted to the size of the site, the access around the piles, and the amount that you can go up is going to have to go out. Depending on the material.

MS. UEBERLE: Okay.

MR. COPPOLA: If they have a different plan and they have a different configuration that they can show us works, we would consider that as well.

MS. UEBERLE: Okay. Okay. Thank you.

CHAIRPERSON BUNTING-SMITH: On the issue of the heights, and the fact that the video you had showed how piles can be higher and be dense and be, I guess, you know, more safe than if they're in a different moisture setting. So all of this rain and what we've been having now for some time, and this seems to be building overtime, how does that affect the materials that are there if they're getting them higher and higher, because it's denser now with water, but then suddenly we get into the part of the year that -- then it's not there.

MR. COPPOLA: Okay. So when you add a lot of water to a pile like this, it becomes more stable and it's safer, but then, if you get into a dryer part of the year, and the outside starts drying out, and the inside is wetter, the outside will slope off.



And the same thing with the ice. You know, it freezes during, you know, January. You have a shell that the outside freezes and dig at that, the outside shell will stay and the inside will slump out and then, if there's nothing supporting that shell, it'll fall.

CHAIRPERSON BUNTING-SMITH: So can you say, I'm saying, I guess that the height that you are proposing would be safe under whatever conditions that may come about?

MR. COPPOLA: I mean, nothing is a hundred percent safe, but would you try to maximize the safety to minimize the risk.

MS. GERRITY: So, to that point, setting the -- any piles back away from the access way, that would be not near somebody that wasn't in the machine.

So on the site they're operating inside the machine, they're not walking around. On the access way, there's people that are walking on it, driving on it, that if something did come down and it was close to the access way, they could be severely harmed. They don't have the protection that an operator would.

CHAIRPERSON BUNTING-SMITH: Okay. So in part, it has to do with the location of the piles too?

MS. GERRITY: Yes. So that's part of the conditions, the location of the piles, the pile heights, the operation of equipment on top of the piles. The pile that's

against the larger pile, that's against the rock base, you know, we have, you know, we're not addressing that.

That's something that, you know, with the 30-foot pile height, we're fine with that. It's also a safety issue, as Lieutenant pointed out, the higher the piles, you know, could be an issue with an excavator coming over.

You're dealing with a death at that point.

CHAIRPERSON BUNTING-SMITH: Okay. Other questions?

MS. KNECHT: I just have one. Do you think restricting the pile height at 30 feet just it just appears to me it's constantly fluctuating, the heights of the piles, depending on the material.

I mean, even that video that you showed, it basically illustrated that, that sort of depending on what's being dumped there, the piles could fluctuate anywhere from ten, 20, feet, you know.

MR. COPPOLA: Well, that's why we would set maximum height. They could go lower.

MS. KNECHT: But isn't it difficult to regulate that? I mean --

MR. COPPOLA: I mean, it's not difficult. So you can measure it pretty easily by taking a level, it gives you an angle, and you can do a small trigonometry equation to find out what the height is based on the length of that pile.

MS. KNECHT: So to get to a certain height and if they're going to exceed that height, what is the option then? They're just going to be dumping into a different pile or?

MR. COPPOLA: They can just, you know, take the machine and knock it down, spread it out a little bit.

MS. KNECHT: So you're saying they could -- they could --

MR. COPPOLA: Or split the piles.

MS. KNECHT: Dump it up to, I don't know, 40 feet or something, but then you want them to cut the pile down to 30 and put that material somewhere else.

MR. COPPOLA: Yeah.

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

I'm a little confused, because I believe that you had stated that you weren't opposed to them having asphalt, but you wanted it not in this location; is that correct?

MS. GERRITY: So we're not opposed to them storing the asphalt. We just want it to be contained and then removed. We just do not want the processing to be on the site.

So as part of their, you know, Thalle has presented on multiple times, ConEd is one of their biggest and, you know, continue contingent to their viability, according to

their testimony.

So ConEd brings in asphalt as part of their mixed loads from the road excavations. That's going to be on the site. Once they separate it out, it's going to be put in the container and shipped off. It can be stored temporarily. We have no issue with that. We just do not want it to be processed or stored without a containment on the site.

MS. KNECHT: I just have one more question on the mixed load issue. You -- you -- your conditions state you want mixed loads only from road excavations, as opposed to just mixed loads from anything else.

Can you just explain why that's so important?

MS. GERRITY: Sure. Because one of the slides, as you saw, one of the, you know, some of their biggest customers are oil tank removal companies.

Brining in mixed loads from an oil tank removal company that had a remediation done, that could have potential contaminants in it, which may not be picked up by the applicant using a visual or a smell test.

So we're just concerned that, based on their customer list, that there are some red flags that were raised to us. So, you know, we kind of came to a middle ground, because ConEd is their -- basically, from what they said, their bread and butter with mixed loads and they

needed to keep those coming in. We wanted to allow that to continue to happen, but to keep it in a confined area.

So we -- and the other issue is as the, you know, the DEC person testified, they're not requiring testing of the soil before it comes in. So we're not sure if there are other contaminants in it. And that is of concern.

Coming from a roadway, the odds of other contaminants being underneath the surface of that is a lot less than something that's being removed from a gas station or another site that is not being tested and just being visually inspected.

Anything else to add?

MS. UEBERLE: It seems though that, just to followup on that, that that then eliminates like, private driveways and things like that that aren't part of a gas station. Is there a way that you could consider like, not such a broad limitation?

MS. GERRITY: So as also the person that was discussing the asphalt said that a lot of the materials that driveways are sealed with are contaminants. They contain carcinogens, known carcinogens.

So having that material also brought to the site is a concern for us.

MS. DENKENSOHN: Everybody has referred to a smell test and a visual test. Is there a training program that

people have to go through?

MS. GERRITY: That you would have to ask the applicant. I've never heard of a smell test or visual test. Obviously, a visual test, if you see something that has petroleum dripping off of it would be obvious.

I'm not sure what you would look at if there is a molecular level of contaminant. How you would visualize that.

MR. COPPOLA: I would note that many contaminants don't have a smell. Many contaminants don't have a smell to them.

MS. DENKENSOHN: Right.

MS. UEBERLE: I have one more question: This might not be -- you might not have the answer to this, but it might be that the applicant answers it.

So we did all agree in September that they would have monitors. I don't think anybody expected that they would reach the cost, but I heard you guys say that they actually asked the monitors to leave the site when they were in the roadway.

Do you know why they were asked to leave the site?

MS. GERRITY: I can let -- yeah. I would let the applicant answer that.

MS. UEBERLE: Okay. That's fine.

MR. BLAND: Just one other thing if we could just

resolve, if we have, because we have the two sheets of comparison here. I don't know if you got a chance to see Thalle's conditions that they're willing to comply with. Number four, how do we reconcile their four, and I'm assuming with Town's 4 and 5?

Because it kind of seems that they're in agreement to make, which is pretty much the crux of the matter, is what materials is going to be on site, versus the video that was shown, which was more, sedimentary, looser grit, piles versus -- they're saying no soil, no dirt, shall be permitted.

Is this in keeping with where the Town wants them to go? I just want to make sure that we're actually, when we sit down and compare we're looking at apples to oranges -- I mean, apples to apples and not an apple and orange.

Because their number four I think is saying exactly what was being asked for, unless, I'm reading it improperly.

MS. GERRITY: Our number four we're asking it --

MR. BLAND: Well, I'm kind of combining the Town's four and five, because I think that it's a little bit more detailed.

Their four maybe a little bit more simple. The site shall be permitted to receive and process rock aggregate, concrete and mixed loads from excavations.

No soil, dirt, shall be permitted, which, again,

it's one of the things I thought that we found was more problematic.

Does this kind of meet the test of where we're trying to go or does not?

MS. GERRITY: So they're saying, no soil, dirt as just standalone soil and dirt, I'm assuming. I don't have their list in front of me.

MR. BLAND: Oh, you don't? I'm sorry.

MS. GERRITY: No. That's okay. But I would have to compare the two of them to see where we're --

MR. BLAND: Crossing.

MS. GERRITY: -- crossing.

MR. BLAND: And I think that's what's going to be helpful for us to really make a true determinant. I mean, the pictures were very graphic and clear, but, you know, again, the safety and security, as I said, in terms of individuals walking by the site, I think is very important.

The workers that are on site, you know, we don't want our first responders to be jeopardized, but I just want to make sure, as we're comparing and, obviously, you know, everyone can sit down to compare their notes together before it was presented to us, but we're at this point now just trying to knit this together and find -- I have more check marks of agreement than not,.

And it might have been more helpful for us to see



where the areas were that we don't agree on because, again, it's in various parts here and the numbers, as both you stated and the applicant stated, are pretty contiguous, as I went through and tried to take my notes here.

I just think it would have been helpful for us to be able to say, okay, yay, nay, up or down, one way or the other.

MR. COPPOLA: I would just note that a lot of -- the reason why a lot of those match is because we've been working with them for the last couple of months closely.

MR. BLAND: All right. Thank you.

CHAIRPERSON BUNTING-SMITH: Anything else?

MR. DANKO: Thank you.

CHAIRPERSON BUNTING-SMITH: All right.

MS. GERRITY: Thank you.

CHAIRPERSON BUNTING-SMITH: Thank you.

MR. STEINMETZ: How do you want us to proceed, Madam Chair?

CHAIRPERSON BUNTING-SMITH: What time is it now? Five to 10. We're going to have to -- I think our --

MR. STEINMETZ: Madam Chair, may I make a suggestion to try to help get us out of room?

CHAIRPERSON BUNTING-SMITH: Sure.

MR. STEINMETZ: In light of the Town staffs presentation, there are, obviously, things we want to react

to, but I don't want to leave tonight with any of you thinking, well, we agree with everything they've said. We don't.

However, for the benefit of the record, and to maybe make us all feel a little better, following something that Mr. Bland said, using the Town's numbering, because they added a condition, as you kind of alluded to with four and five, conditions three, nine, 11, 15, 16, 17, 18, and 19. I think we're all, word for word, good.

Condition one, I think we're almost there, as long as the phrase, hours of operation, is dropped from the condition. Our condition that we offered, in condition number one, was we will comply with the noise ordinance. We know it, we had to before this proceeding started, and we will now.

So it sounds like we have -- it's taken a while, but convinced Town staff that they can't regulate our business operation, they can't regulate, therefore, the hours, but the noise ties into hours, we'll comply.

So if the phrase, hours of operation, which appears twice with one comes out, then you can add another one that we're in agreement on.

I think everything else, I can spend as much time as you want, but I don't think you want it, and I don't even think my client wants it. I would like the opportunity,

Madam chair, to go back and regroup on those areas of disconnect.

As I suggested to my client group, I think of the seven, eight disconnects, probably three of them are easy disconnects with a couple of word changes. They're probably five real disconnects.

Allow us to try to continue, Joe and I, we'll continue to speak and pull our groups together and then we will provide something to you in writing as to why there maybe a disconnect, even after the video and the presentation.

And I now have the opportunity to turn to two experts on our side, and we'll put that in writing to you, and we'll come back next month and maybe at that point, be done.

I want to make one -- I want to hit one topic very quickly so that you can think about it over the next 30 days: I disagree with the Town staff in recommending a condition negative declaration. Why?

I'm not taking the position that there's no way that the Town could do a CND on this matter, but I am taking the position, if I can find it, that a CND would be inappropriate here, and the reason it's significant, is a CND requires time and delay.

It's a very unusual creature. I've been doing land

use and zoning and environmental practice in this county for over 30 years on a multitude of projects. I have never, done a CND.

Mr. Chafizadeh, who I guess, timed out, has never done a CND. I spoke to some of my colleagues, some of whom are particularly expert in SEQRA. We don't deal with CNDs why? Because the SEQRA handbook says, and this is the last thing, and I do want to go home, because I didn't really eat dinner. I didn't think I would be here this late.

If an agency applies conditions to an approval that are within its authority to impose, must, must the agency use a CND process. And I'm reading from what's called, The SEQRA handbook.

Those of us SEQRA practitioners, we have the regs and the DEC puts out like a 200-page handbook that allows all of us to read and get some reasoning from the DEC.

They tell us the following; must that be used: Answer, no. A lead agency, need not rely on the CND to attach conditions that are explicitly articulated standards within that agency's underlying jurisdiction or conditions that an applicant is otherwise legally obligated to meet in order to obtain a permit or approval.

Under these circumstances, the legal agency could issue a negative declaration, not a CND, if the effects of the action will not be significant when the conditions are

imposed.

In English, you guys, we all, are spending a ton of time on conditions that are within your authority and jurisdiction. Those conditions will be baked into your special permit. That's what we're spending months doing.

As a result of that, I recommend, and I suggest to staff, and counsel, you do not need to add 90 days or 60 days to this process and circulate and publish. We don't do that. It's not done. It's not necessary.

I'm not telling you it would be unlawful, but, boy, it would be impractical. So if we come back in February, I want you to know, when I stand up in February and say, I think tonight, because Joe and I hit it out of the park, we resolved everything, everybody signed off on it.

You can adopt the neg dec. that night if you adopt those conditions and we can go home. You can think about it.

Talk to Ed, you can talk to Garrett. This is the first Garrett's hearing that I disagree, although, I might have to said to him briefly over once conversation, jeez, the CND caught me, that was surprising, after five months you guys are throwing a CND out there.

So, Madam Chair, we'd like to go home. We don't want to come back too many more times. We have some --

CHAIRPERSON BUNTING-SMITH: Don't use the word,

more.

MS. DENKENSOHN: I felt like we had this conversation a month ago.

MR. STEINMETZ: Never heard a CND. We did not, but, I'm sorry, Shauna.

MS. DENKENSOHN: That we were going to come back tonight and there was going to be a meeting of the minds.

MR. STEINMETZ: Agreed.

MS. DENKENSOHN: I'm trying to understand what will be different a month from now that is different from what was a month ago.

MR. STEINMETZ: There may not be. I think -- so I'll do the best I can to answer.

MS. DENKENSOHN: But you're the one talking about not wanting to waste time.

MR. STEINMETZ: You're right. Look, I'll stick around. I'm here. I brought my experts, I got my whole team. I'll say, Shauna.

MS. DENKENSOHN: No. No. I'm not saying that. I'm just saying, you know, there's been a lot of negotiating time with the, you know, the Town has other things to do, you have other things to do. We have other people who are sitting here incredibly patiently.

MR. STEINMETZ: I apologized to one gentleman out in the hallway.

MS. DENKENSOHN: I'm trying to understand what do we get by saying another month of meetings.

MR. STEINMETZ: All right. So here's the simplest answer I can give you. I submitted my conditions on the 13th of December. It took until the 27th of December for the Town to put out a response, and, again, I said this earlier, but, boy, you better hear this again, on the 27th they said one thing, 11 days later they said --

MS. DENKENSOHN: We're not going to renegotiate. We're not going to do he said, she said. That's not what we're here for.

MR. STEINMETZ: Oh, no. It's not he said, she said.

MS. DENKENSOHN: I'm asking you a simple question.

MR. STEINMETZ: That's not a he said, she said. That is what the record shows. That's what the record showed. They said one thing and then they changed it.

So I got that on the 8th. I had ten days to react to that and to bring experts in, so maybe with 30 days, maybe we'll have a little bit more time. Maybe if we can actually meet.

Today's the 18th. Maybe next week we're actually going to sit down together and not have to wait 14 days. Maybe we'll make more progress, but if you ask me, I will predict, we will be back here in February and you will have

to rule on; heights of piles, whether there's any basis to regulate angle of repose.

I have a feeling you're going to have to rule on that. I think you're going to have to rule on whether road excavation mixed loads is somehow different from non-road excavation mixed loads.

I think you may have to rule on asphalt containment. I think you may have it rule on whether or not you have to the authority to impose an escrow --

MS. DENKENSOHN: That's conjecture. Again --

MR. STEINMETZ: I'm trying to answer --

MS. DENKENSOHN: So you're saying that we're going to have similar issues next week on what -- next month. So I'm just trying to understand what we're gaining.

MR. STEINMETZ: You're gaining throwing us out of the room. And, yeah --

MR. LIEBERMAN: Which is not an inconsiderable thing.

MR. STEINMETZ: Yeah. Exactly. There you go. Shauna, you know what you're gaining? Maybe this is the best answer. You now really -- maybe you walk in here tonight you knew exactly what the disconnect was.

For those of you who did not know exactly what the disconnect was, now you do. You have 30 days to figure it out. I'll do what I can, and I'm sure the Town will, to try



to eliminate some of those disconnects.

I'm telling you as professional standing in front you, I don't think I'm going to be able to eliminate all of the disconnect. I don't, but I'll try. I don't think they've told you that we haven't tried.

So, in good faith, we will try. We now have some guidance from the DEC and from the safety expert. Maybe that will help close the gap a little bit too.

MR. DANKO: Can I respond as well?

CHAIRPERSON BUNTING-SMITH: Sure.

MR. BLAND: Yes.

MR. DANKO: I just want to be frank and honest, and have this on the record here tonight that, yes, I'd be willing to speak to David further about this, but we have gone over this many, many times before.

And I don't want to speak for the entire staff, but for myself, I don't believe I heard anything tonight that changes my view on the conditions we set forth.

I'll be willing to sit down and discuss with them, but you're right, we may be in the same position a month from now, with the same four or five conditions still open and will still need to be decided by your Board.

And we appreciate the time and effort you're putting into this, because I know it's been an extremely long process tonight and the past few months.

MS. UEBERLE: So I just want to say thank you to you guys for working together. I missed the December meeting. And maybe you guys don't see a big improvement or together like, in 30 days, but I actually see a lot more work that's taken place in the 60 days.

And we have a lot more information from you guys. And I know things move, because as you get more data; right, obviously, opinions change, hopefully you guys can share data, but I actually see movement in 60 days.

And really appreciate. It shows that you guys have been working together.

MR. DANKO: And we appreciate you pointing that out.

MS. UEBERLE: Yeah.

MR. DANKO: Thank you.

CHAIRPERSON BUNTING-SMITH: Thank you.

MR. DUQUESNE: All right. Next application?

CHAIRPERSON BUNTING-SMITH: Well, the next application is we have to vote to the --

MR. DUQUESNE: Oh, it will be deliberation.

CHAIRPERSON BUNTING-SMITH: No. We have to -- no, we have to vote on whether or not we're going to extend our meeting, because we are --

MR. DUQUESNE: Oh, I see.

CHAIRPERSON BUNTING-SMITH: -- the witching hour.

So is there anyone who has any objection to?

MR. STEINMETZ: Are you going to deliberate on that matter tonight, or are you not?

CHAIRPERSON BUNTING-SMITH: Probably not. We still have --

MR. STEINMETZ: I know you have other matters.

CHAIRPERSON BUNTING-SMITH: -- other individuals. Yes.

MR. STEINMETZ: If there's no deliberation, we will gladly leave, but I don't want to prejudice my client.

If you're going to deliberate, then we're going to stay. If you're not going to deliberate, then we will leave.

There's nothing to deliberate, because we haven't adjudicated anything yet.

MR. DUQUESNE: I think what we know is we need to hear these other three applications and we'll make that determination on whether we're going to deliberate.

CHAIRPERSON BUNTING-SMITH: Right. We don't want to sleep here tonight.

All right. Do I have a -- I move that we continue with our session this evening since we do have the other matters that we need to address. Having gotten through none of the new cases that are on our agenda this evening.

MS. KNECHT: Second.

123450 second.

MR. BLAND: Aye.

MS. UEBERLE: Aye.

MS. DENKENSOHN: Aye.

CHAIRPERSON BUNTING-SMITH: I hear two -- three  
eyes.

MR. BLAND: I said, aye.

CHAIRPERSON BUNTING-SMITH: Oh, I'm sorry. I think  
we didn't hear you. All right then. Thank you. Next case.

\* \* \* \* \*

Case No. ZBA 23-32: Justin & Elizabeth Lee, 2 Blueberry Hill Road (P.O. Irvington, NY 10533) - Area Variances.

The Applicant is requesting area variances from Section 285-10B(4)(a) of the Zoning Ordinance to reduce the minimum setback from the principal building to the front lot line from 40 ft (required) to 21.33 ft (proposed); from Section 285-10B(4)(b) to reduce the minimum setback from the principal building to the side lot line from 25 ft (required) to 3.16 ft (proposed); from Section 285-10B(5)(b) to reduce the minimum setback from the driveway to a side lot line from 20 ft (required) to 0 ft (proposed); from Section 285-40C(2) to reduce the minimum setback from an outside stairway to the side property line from 5 ft (required) to 3.16 ft (proposed); and from Section 285-40C(2) to reduce the minimum setback from a deck to a side property line from 5 ft (required) to 3.16 ft (proposed) to construct a garage, second story addition, deck and new driveway on the subject property. The property is located in the R-40 One Family Residence District and is designated on the Town Tax Map as parcel ID: 7.440-252-13

CHAIRPERSON BUNTING-SMITH: The next case is 23-32, Justin and Elizabeth Lee.

MR. SORRELL: Good evening, Madam Chair, ladies and gentleman of the Board. Matt Sorrell, I'm the engineer for

the project. We have a few other design professionals that will be speaking tonight. Don't get scared, don't get scared. We'll be very brief. We'll get through this quickly.

I believe the homeowners are also present in the room as well and they will also speak for a few minutes. I would like to share my screen if that's allowed?

CHAIRPERSON BUNTING-SMITH: Yes.

MR. SORRELL: Here is the -- share the screen. Okay. It looks like it's up on the screen now.

MR. DUQUESNE: We see the cover page.

MR. SORRELL: Okay. Yep. Very good. Okay. It's up there. I can see it now. Okay.

Again, good evening, ladies and gentlemen. Again, my name is Matt Sorrell, Sorrell Engineering, here representing Justin and Elizabeth Lee for their addition to their residence at 2 Blueberry Hill Road.

A few things to go over tonight: We're going to have a project overview, we're going to talk about what we're proposing that's mainly for the benefit of maybe people who weren't at the December meeting.

And also probably some of the -- even those of you who were probably have to be refreshed a little bit on the issues.

We're going to go over our architectural plans and

how the project will look. If you recall, we were here on December 14th. At that meeting and following that deliberation, we received two comments from the Town.

One of them was to submit architectural plans to show how the project will look. And we had submitted those plans and our project architect will go through those in detail with you.

Following that, we're going to turn it over to the project landscape architect, who will talk about why we're doing some of these things that we're doing.

Again, the comments from the Board that we received following the December 14th meeting was asking for some justification, further explanation in terms as to why we wanted to go through this project.

So that's kind of the agenda that we're set through for our presentation. Coming up right now will be very quick on this slide, just give a quick project overview. This is the site plan that was submitted to the Town Greenburgh over the summer.

We received, I believe, a neutral decision from the Town Planning Board when this was presented to them. So the matter has been referred to zoning. And we still have the issue of a wetland permit that we're working through with the engineering department on.

But other than that, the Planning Board has given

us a neutral determination and, basically, deferred the decision over to the Zoning Board on some of the matters.

I think this is the much better diagram to look at. This is a three-dimensional rendering. This gives a better overview of the site.

The site is a corner lot with Mountain Road abutting it to the south and Blueberry Hill Road on the west side.

The major feature of this lot is the large pond that is in the backyard. And, as you can see, the topography of the site slopes down from Old Mountain Road and Blueberry Hill Road to the pond that's in the backyard.

The Lee's current house is right here, shown in the gray, the gray shade portion of the house is the existing building. And what this project proposes to do is to add a garage structure at the bottom of the existing driveway.

There will be a deck on top of that garage. You can kind of see in the back here. There will be an addition, second-story addition to the house that will be over, kind of call it carport area, that will facilitate loading and unloading.

Ask then also what we believe is a key feature to this project is a breezeway that separates this new garage structure from the existing house. And we'll discuss that feature a little bit more later on.



Why we're here before the Board tonight; is we need to see five variances for the project. And I'm just setting these up for you right here: The variances required are minimum setback from the principal building to the front yard:

There is an existing conformance, but we're asking for a little bit more. We also need a minimum setback from the principal building to the side yard.

Again, there's just -- I think the back we currently meet -- we currently meet requirements, but we are asking for a variance to -- because we are going to go in that setback yard on the side.

We'll need minimum setback from the driveway to the side yard. The existing driveway is nonconforming. So we're looking to legalize that.

And then the two new features that are being added; the stairway and the deck, we will be within the five-foot setback to the property line for the project. And this is going to make a lot more sense on the next slide here.

This is a satellite view of the project. Again, this is the existing house. This is Blueberry Hill Road right down here.

Everything slopes back towards the pond right here, and there currently exists a very steep driveway that goes down, as you can see, to where they currently park their

cars.

What we're proposing to do is to construct the addition into this area right here with the little carport. The breezeway would be between the new garage and deck structure, which is in the rear here and the existing residence right here.

Now, the reason we need all the variances is, as you can see, the existing driveway is currently abutting the property line.

So because the new garage is necessarily going to go at the bottom of the driveway, the new garage would be very close to the property line. And this new structure, with the deck and the stairway, would also be very close to the property line.

So that is the basis of the project and why we're here tonight. You can see the neighbors here. We will discuss this a little bit later as well. They have a very similar setup with their garage and their residence.

And also I would like to point out how this area is screened right here. There is some nice trees and vegetation in this area. And I believe our landscape architect will get a little bit more that.

So without further ado, I'm going to turn it over to the project architect, Takaa Kiki Awabata.

MR. AWABATA: Hi. My name is Takaa Kiki Awabata.

We am in charge of architectural design for the project. And we were given the problem for this project to add a two-car garage and an office above. And a new deck to take advantage of the view of the of the pond.

And viewing the site, it makes a lot of sense to put all the new structure at the existing driveway and parking area, which is right next to existing bathroom where their food and baby good are stored.

And when we visited the site we immediately realized the beauty of the view was the pond and that, speaking to the clients, there was strong desire to retain the view. That's where the concept of this view corridor came. And that by creating the breezeway.

And I've been fortunate enough to have two other client in the same road. And I believe that they spend a lot of time speaking at the view below and creating this corridor is not only for the client, but for (indiscernible.)

This view corridor also create a greet circulation around the house, otherwise, owner, they have two children, have to walk around the house to get to the pond.

It's also, this breezeway also breaks down the volume of the new and existing structure. And I believe that would avoid the appearance of large structure architecturally.

And, Matt, if you could just go to the next slide. The same slide, but I will explain the way we approached. The gray is the existing (indiscernible), and we are extending that roof to be consistent height-wise.

And garage is shifting eight feet from existing to create this view corridors. It's also shifted towards the pond so that there will be a flat area in front of the door, a garage door for additional parking for the guests and their frequently visiting parents.

So this is the design approach we took for the project. And I think I will go into this for Susan for the landscape design, I think.

MS. JAINCHILL: Hi. I am -- you see me. Hi. I'm Susan Jainchill, the landscape architect on this project.

Actually, Matt, go to the next slide, I think. So I think you guys, you've all seen this plan already. This is the overall landscape plan that was created at the beginning of this project.

And we're looking at sort of the long-term, master plan here where you can see the location of the garage in this plan. Just to show you the overall, what we want to see happen in long term.

So let's go to the next slide, because I think, what's really going to be informative is understanding what it's going to look like once it is built.

So here is the existing view. Yes, the view, you know, it is lovely seeing the pond from here, but I think the bigger view of the pond is actually from Mountain Road. And what we're going to do here is we're asking to put in a garage and the extension of the upper story.

Matt, if you go to the next slide. You can see, this is what we're asking to do to create this -- the garage and allowing a view corridor from the street, from the entry to look into the backyard, rather than having a solid facade here.

And if you look at the next slide, this would be the other option, to shift it eight feet more towards the existing building. We just found it really not the appropriate response to this design.

I think for all cases, not just for the -- for both the residents, the homeowners, as well as for anybody passing by. I think we can agree that having that break in the facade is a much better design approach.

So, Matt, can you go back one again, just to go -- to show them the two different slides. So here's the one that we're proposing to create. And I think a question was why do we need to shift it so close? Well, this is the reason. Well, one of the reasons.

The other reason is the geometry of the driveway, which I don't think Matt mentioned, but I think it is an

important thing.

You know, the driveway is a very steep slope here existing. You can't really see it from this angle, but it is a pretty steep slope and then it flattens out at the bottom.

And that curving towards -- towards inward is just a little bit more awkward. And really doesn't add anything to the design. I think on top of this, I don't know if anybody has mentioned, I think Elizabeth and Justin will mention that we do have the support of the immediate neighbors, the adjacent neighbors here.

I guess I would pass it over to the homeowners now.

MR. LEE: Yeah. Thank you, Susan. My name's Justin Lee. I'm here with my wife, Elizabeth.

MS. LEE: I'm Elizabeth Lee.

MR. LEE: We are here to just give you our perspective as the homeowners. We've been in this house for a few years now. My kind of -- one of the roles I have within our household is to kind of take care the property, the maintenance of the ground, the building.

And I will say it's been a bit of a learning curve coming from a small apartment where you had a superintendent to kind of -- could handle a lot of the stuff for you.

But I think, practically speaking, one of the design choices that we made with the breezeway really is

functional in nature, and it's to allow for, both from a maintenance, and kind of upkeep perspective, to be able to take things out of the garage, like when it's a mower, or shovel, things of that nature, and to access the rear to the yard, the pond.

Things that all kind of need some work and touching over the course of the year for the different seasons. To be able to you access equipment and bring that through the breezeway to the back.

I think in the design where the home or the garage is closer to the house without the breezeway, it would really limit -- Matt, if you could back up to the last -- yeah.

If we had this design, I think having to walk around towards the property line on the left of that garage, is really kind of against the tree line and the shrubs and it makes it a bit of a -- impractical to go that way.

And so that's functionally how I view it. And then, of course, for our children, and guests of the property who are visiting, I think it's also important for them to be able to access the rear through that breezeway.

And, again, I did want to focus on the letter, and maybe, if I could read it for all of you. This is from our immediately adjacent neighbor who we share that property line with. And they would clearly be the ones that would be

impacted by the build. And they are fully supportive of this project.

And in their own words, I will say, My wife, Tanya and I, are the owners and residents of the property located at 4 Blueberry Hill Road in Irvington. We are next-door neighbors with the Lee family and submit this letter in support of their application.

Similar to the Lee's property, we also have a steep driveway along our north property line. The previous owners of our home had a two-car garage and breezeway at the bottom of the driveway without issue.

We understand that the Lee family is proposing a similar addition of a garage at the end of their driveway. It seems that many of the homes on our street were similar in their original structure, but nearly all of homes have been expanded and were altered over the years.

The Lee property is one of the only homes in our residential loop without a garage. And we sympathize with the difficulties of utilizing a steep driveway, especially during the wintertime with young children.

We support their will plans for the proposed addition. Please feel free to reach out. And they conclude that way.

Matt, I'm not sure if you're able to pull up the video that we had included. It -- the idea for that was to



just give you a little bit more context for how steep the driveway actually is. Is that --

MR. SORRELL: That's a still of it, let me see if I -- because I flattened it here too -- I can get the video up on screen. Give me minute, please.

MR. LEE: Okay. Great.

MR. SORRELL: Sometimes it's easier to display. I think this is the video; right?

MR. LEE: Yeah. I think you can hit the play button right there.

(Whereupon, the video recording is played.)

MR. LEE: That's our daughter, our seven-year old daughter walking down the driveway. It gives you a little bit more of a feel for what the property looks like. That's the slope of the driveway currently. This was just yesterday. Thank you, Matt.

MR. SORRELL: Yeah.

MS. LEE: So, as a lot of people have mentioned prior to me, I wanted to focus a little bit more on the view of the backyard and the pond that we have.

If you look at the next slide, there's a picture of pond from our living room in the wintertime. As you can see, it's a pretty nice view.

The next slide after that shows a compilation of the view that would be very similar to the type of view you

would see from the corridor, because this is from our bedroom window over the seasons in the two years that we've lived in this house.

And this is what we're to trying to retain, honestly, at least even a sliver of it from the front of our property. We think it adds to the curb appeal.

We think that a breezeway is nice generally, but a breezeway with a view like this is even nicer. And we understand that, you know, from the Zoning Board's perspective, this is a largely technical exercise; right?

It requires your good judgment and in looking at the variances and the codes and the rules, but from a homeowners's perspective, this backyard and view is very big part of the reason why he left Manhattan and came up to the suburbs, to live in the country; right?

And we are -- this application is one step in a much larger and extended process to try to make this home a place that we want to raise our kids in, at least during the schooled-aged years.

And considering that we have a seven-year old and a one-year old, those are many years that we're talking about.

And so when you think about the overall sort of goal for us in, you know, submitting this application, and going through many, many steps, and working with an entire team to get this approved, it's really to try to have and

make a home that we're proud to live in.

And part of that has to include aesthetics from our perspective. We understand that's not necessarily technically within your jurisdiction to think about; right? We're both lawyers, we understand what that means and what your job description is.

And we understand, just like we understand what our jobs are. So I sympathize with that completely, but I just -- I guess the last point that I want to leave you with is that, you know, we -- the decision that the Board makes in our application, whether it be today, or next month, has a lasting impact on us and our families use of the house on a day-to-day basis for many years to come.

And so I know that you all know that, but I just want to give a gentle reminder, that for us it's bigger, you know, impact on our day-to-day lives than maybe you realize.

So thank you so much for your time.

CHAIRPERSON BUNTING-SMITH: Any questions?

MR. BLAND: When the application came before us last, we did deliberate. And I believe some suggestions were made. So since you both are attorneys, we'll venture out here for a moment.

There's also a factor of precedence in terms of what your five variances are asking us to do.

Coupled with that, we also have certain test

factors that we have to go, which gives us the latitude to make certain decisions.

And, frankly, right now, you're asking us to allow you to place a structure, a desired structure, directly on the property line adjacent to another property, which potentially could impact the future development of the property next to you in terms of anything they may wish to do in accordance with that same property line.

So just understand, as we make our deliberations, it's also trying to go through the test factors that we have to look at before we approve the variances.

MS. LEE: Absolutely. And we sympathize with that. We are very close with our next-door neighbors. Our kids are friends. They're also lawyers. We are in the same line of profession.

We have dinner with them all the time. Honestly, on a personal level, we're very close with them. We are -- they actually just finished a very big renovation of their house.

I think, as we mentioned before, a lot of the houses on the block started off in a very similar rectangular, basic structure.

And if you look on a satellite image of what the houses look like now, ours is definitely the smallest on the house. And there have been a lot of additions over the

years to the other houses.

We know what their plans are in terms of any sort of expansion. And, I mean, I don't want to speak on their behalf, but it's not too closer to where we are, where the proposed structure is going to be sitting.

There's also a lot of bedrock and we can go back to the video if you want to see it. It's just not the type of -- right next to our property line, where -- closer to where their house is, that area is basically an area where the kids like sled down.

It's not really an area where you're going to want to put any -- build anything out in that direction.

And so, you know, we totally understand. Like, you guys haven't been to the property. You guys haven't spoken to the neighbors. Of course you're going to have to make the assumption and take those into consideration.

But I thought that if there's anything helpful, you can see right there behind our daughter, like that's what you're talking about in terms of where they could potentially be adding, and they're not looking to do that.

And so -- and it just wouldn't be practical from any standpoint. So if that helps at all in your consideration, we're are willing to add that point.

MR. BLAND: Thank you.

CHAIRPERSON BUNTING-SMITH: Anyone else?

MS. UEBERLE: Did you look at alternatives to have it be so that you wouldn't have to ask for as large a variance? The size of the closest, I mean, some of this might have been answered in December, but did you look at alternatives?

MR. LEE: Yeah. So I think if -- Susan made a point earlier at the -- if you -- Matt, if you go to the --

MR. SORRELL: You want the --

MR. LEE: Even the satellite view helps too. Yeah. We can stay on this one.

Where the driveway, where the garage is positioned right now, the garage door is to the left of the driveway. The left-most edge of the driveway. And, functionally, that's really the most practical spot to park your cars.

If you -- Matt, if you scroll down to the satellite view and zoom in a little bit. If you placed the garage tight to the house, you have to make this kind of a turn before you turn into the garage.

And at least to make a two-car spot work in there. And I think that becomes -- functionally that becomes very hard to maneuver. It's a bit difficult to maneuver in and out of our driveway, and it is because of the slope.

And so that was part of what is driving our design choice there.

MS. UEBERLE: And there's no entrance from the

existing house to the addition? Doesn't look like there's a door.

MR. LEE: To the -- I'm sorry?

MS. UEBERLE: To the office.

MR. BLAND: There is a door.

MR. LEE: There would be a hallway upstairs.

MR. BLAND: Under the breezeway there would be a door.

MS. UEBERLE: That's outside.

MR. BLAND: Catwalk, there's a catwalk.

MS. UEBERLE: But then it makes it a separate unit because it's outside to outside. It's not --

MS. DENKENSOHN: They have a pocket door.

MS. UEBERLE: Okay. Because I didn't see a door, that's why I was like --

MR. BLAND: And then just a sidebar question: If you had to paint or do any siding, you have to actually be on your neighbor's property to do repairs to your home?

MR. LEE: That's true. Our driveway is already -- it's -- the existing driveway is zero-feet to like -- it's on the property line.

So it actually -- that's the case now. When we step out of the car, we are, I think, technically, the driver. When I get out of the car, I'm on our neighbor's property.

So it's -- it's partly because of the existing conditions.

MR. BLAND: So that's already nonconforming.

MR. SORRELL: They're doing work, because up there would be three feet. So as you are working on the side of the house, there is an alley here that you can access.

MR. BLAND: How many feet?

MR. SORRELL: Three-foot-two-inches would be the variance we're asking for. The driveway is on the property line, the existing driveway, but the structure would actually be three-foot-two.

MR. BLAND: Okay.

MS. DENKENSOHN: So because of the -- you're, essentially, building parking for four cars, a garage, and then the place underneath the office.

MR. LEE: The --

MS. DENKENSOHN: Your drawings show four cars.

MR. LEE: Oh. So the -- it's just a landing area in front of the garage.

MS. DENKENSOHN: But for your neighbors, it's a two-story building that's about 40-feet long.

MR. LEE: Sorry. Which part?

MS. DENKENSOHN: Over the proposed office is a -- over the proposed -- there's the garage that's one story with a deck, and then there's an open parking area that has



a building on top of it.

MR. BLAND: Right. So if you look at the top one where --

MS. DENKENSOHN: It's more you would need to look at it from the -- yeah.

MR. BLAND: Yeah. If you look at the three-foot-two inches, the other two cars are going to be the driveway.

MS. DENKENSOHN: I know, but they're covered -- they're in a covered structure.

MR. LEE: We'd be underneath the addition.

MS. DENKENSOHN: Yeah. Underneath.

MR. SORRELL: Underneath the addition, yes.

MS. UEBERLE: The garage is underneath the roof deck.

MS. DENKENSOHN: It might be better to show the elevation.

MR. BLAND: So the garage door is going to have two openings on the front and back?

MS. DENKENSOHN: See, if you look at --

MR. LEE: I this is a better --

MS. DENKENSOHN: It's a whole building over that.

MR. BLAND: Got it. Got it. Got it.

MR. SORRELL: So here's the addition. The addition would be over kind of a carport, this flat area right here

for, you know, it's going to loading and unloading.

Then the actual garage will be back offset a little bit to give them some flat space in which to park or unload.

MR. LEE: I think part of, again, it's part of the existing site conditions. If the garage -- if you were to move the garage up forward to be flush with where that addition is, what happens is you have a steep driveway right into the garage and it becomes a very awkward functionally to kind of pull in and out that way.

MR. SORRELL: That movement, geometrically, would be very difficult to do, particularly, in wintertime. You saw the video, the steepness of that slope. If you had to, you know, go down the slope and then turn and then you'd have to cut the wheel back to get into the garage, that would be, you know, particularly with a column there, it's not an easy movement to make.

MS. LEE: I wanted to mention that, Takaa, our architect, was also the architect for our next-door neighbor. That's actually how we found Takaa.

Even though the next-door neighbor's house is very similar to ours, we loved the way that they redid their home.

And so Takaa was recommended to our by our next-door neighbor. And they have seen these plans, these architectural plans.

Because Takaa is also their architect. And Takaaa's shown them these plans. They're fully aware of what it details. It's not any surprise to them.

I also want to mention that, as you can see in the video more clearly, our property slopes down, especially where the driveway is.

And so where the proposed garage is sitting is actually at a pretty low level of the property, especially, in comparison to where their property sits.

And so I think that makes a difference in terms of we're trying to work -- we're willing to build a garage on like the most high-point of our property; right?

And you can make the argument that there's a lot of obstruction there for our neighbors and for whatever else.

But, if you look at the cul-de-sac and where we sit in relation to others, to our -- basically all of our neighbors, we're at a very, very low point.

MR. LEE: I think the point being like the volume wouldn't appear to be this like massive structure in line with where the home is.

MS. DENKENSOHN: Well, what's interesting is the breezeway. If you were to eliminate this little window to the backyard, and as one of the drawings showed, move the garage, stay back where it is, but move it adjacent to the -- in line with the edge of the house.

The reason you've kept the breezeway, and kept being right on the property line was because it doesn't add to the design or view from the street.

MR. BLAND: And these really are the same photographs. It's just one is closed and one is not, but we'll go with it.

MS. DENKENSOHN: Yeah. This one has, I guess about eight feet from the property line.

MR. BLAND: No. It's the same photograph as the one above it.

MS. DENKENSOHN: No.

MR. BLAND: It's just enclosed,

MS. DENKENSOHN: Do you see the breezeway?

MR. BLAND: I see the breezeway, but --

MS. JAINCHILL: No. No. They are definitely two different locations. We created this to be as photo-realistic as possible at this point.

And that's definitely a lot closer to the sideline, but the second one we just added more vegetation or moved vegetation in.

MR. BLAND: Okay.

MS. JAINCHILL: Can I point out one other thing?

MR. BLAND: Yes.

MS. JAINCHILL: I think I really -- the word that hasn't been used here is the hardship of this property. It

is really difficult property. It's beautiful, but it has this pond on it.

And that's the beauty of it, but that also restricts a lot of use of the property. And there is tremendous amount of outcropping.

And, it's a corner lot, so, really, the biggest impact is the view on -- from Mountain Road and turning onto Blueberry Hill Road.

There is dense vegetation, large trees, in front of the house that are going to be staying, because they have to stay.

You really don't see this house from the street. You know, that axonometric drawing does not show the amount of vegetation that exists in front of that house.

It's set down from this street as well. I don't think is there reality an impact. While I understand that you might consider that from seeing this axonometric, you know, to see the site itself, it's really a unique site.

But it is a hard site to get a garage on. And I -- you know, I don't know how the history of the building, but I think that really has to be taken into consideration when making your decision.

CHAIRPERSON BUNTING-SMITH: All right. Thank you.

MR. LEE: Thank you.

CHAIRPERSON BUNTING-SMITH: Anyone in the audience

on this case?

MS. JONES: No one else.

CHAIRPERSON BUNTING-SMITH: Okay. No one else.

Let's move forward then.

\* \* \* \* \*

Case No. ZBA 23-33: Gregory M. Leong, 149 Princeton Drive (P.O. Hartsdale, NY 10530) - Area Variances.

The Applicant is requesting area variances from Section 285-15B(5)(b) of the Zoning Ordinance to reduce the minimum distance from a driveway to the side property line from 10 ft. (Required) to 6.16 ft (proposed); from Section 285-15B(3)(d) to increase the maximum impervious surface coverage from 40.75% (permitted) to 50.93% (proposed); and from Section 285-38B to increase the maximum driveway width from 30 ft (permitted) to 82.74 ft (proposed) in order to legalize a circular driveway added onto a non-conforming driveway on the subject property. The property is located in the R-7.5 One Family Residence District and is designated on the Town Tax Map as parcel ID: 8.210-158-5.

CHAIRPERSON BUNTING-SMITH: 23-33, Gregory Leong.

MR. LEONG: There's me. I'm just the homeowner. I don't have an entourage of people, but I do have my architect and I had three neighbors that I'm not sure if they're still awake who are going to give me support.

And that is the truth and nothing but the truth. So are any of my neighbors there? Anyone still on?

MR. DUBBIN: We're here for you, Greg.

MR. LEONG: Oh, thank you. All right. Thanks, Scott.

So my name is Gregory Leong. I own 149 Princeton

Drive. I had a circular driveway put in, mainly to give for my parents.

So since that, my mother passed away, unfortunately, last year, but now it's probably become more important, because I'm sort of the primary caretaker for my father, who's 92.

So the way that the walkway will enforce, he can't do it. So with the driveway, I was allowed to pull right in front, and you can get in and out of the car a lot more easily, so that's the motivation behind the project.

So questioned doing it. Learned a lot about the building code, and my architect, but it does look good and my neighbors can attest to that. And it hasn't caused any problems and any technical issues, my architect can hopefully address, so.

LEFT1: Good evening. I don't -- can they hear me, Greg?

MR. LEONG: Yep.

MR. BLAND: Yes.

MR. LEONG: Loud and clear.

MR. CHENG: Okay. Do you want -- I think -- I know you all have packets. Sorry, it's such a late hour, but at least the variances --

MR. BLAND: Your name, please.

MR. CHENG: Kyra has already solved on of the



three --

MS. JONES: I'm sorry. We need --

MR. CHENG: The variance sidewalk condition. So we are talking about --

MR. LEONG: Ron, I think they just ask that you identify yourself.

MR. CHENG: Ay, yeah. So name is Ronald Cheng. I'm a registered architect in New York, my offices are in Brooklyn and we were asked to help come in and mitigate some of the questions that were associated with the objections to the application.

Can I -- should I share -- is there any point sharing the -- I know you have a packets, but should I share the submission?

CHAIRPERSON BUNTING-SMITH: Sure.

MR. CHENG: Okay. So you can see my screen?

CHAIRPERSON BUNTING-SMITH: Yes.

MR. LEONG: Yep.

MR. CHENG: So we have the three variances. The one that -- let's see. Can I annotate? I don't know. Can you also see my cursor?

MR. DUQUESNE: Yes.

MR. CHENG: Okay. So, essentially, this is one item which is the side lot condition that was -- that would be the ten feet that we were told, Kyra had provided

previous determinations that this is no longer an issue, because it's previously approved.

But the other two main issues are the overall, the whole existing pervious surface, which exceeds the 40 percent allowable as well as the total drive width, which again, in our initial submission, we took it to mean curb cut width, but then it was explained to us that's the total width of the driveway.

So right now this is a gravel on sand condition. We were told that, you know, that Mr. Leong couldn't even drive on grass if we took it out.

So we were suggesting that the other product, these kinds of grass pavers products that can -- are still considered permeable, but we were also told there's no exceptions for permeable versus impermeable surfaces.

And so one of the things that Greg -- we can elaborate that Greg had mentioned was that it's also fairly steep incline to the entrance of the home.

He was trying to get a more reasonable entrance to the front of the house and it's one of the better ways to navigate.

So I think on the -- you can see some of the images. We also have some of the supporting satellite documents and we have the abutting documents that we were provided with, but you can see, this is, essentially, an

existing condition that we were looking to possibly get mitigate with another product, but those are really the overall surface -- the impervious surface area, as well as the overall drive width.

You can see a little bit of the incline right here and that's the drop-off to the front entrance in the lower left under, view one.

MS. DENKENSOHN: So I'll ask a question: I keep hearing about a steep slope. And in the photos I don't see a slope.

Is there anything else that shows that there is -- what the house steep, because I see that there's a driveway and then there are a bunch of steps going into the house, but I don't see --

CHAIRPERSON BUNTING-SMITH: Do you V1?

MR. CHENG: No. V2 in someway shows the slope better. So previous to this gravel drive that was installed, there was a flagstone block that had, I don't remember, seven or eight steps.

MR. LEONG: Yeah. Probably seven.

MS. DENKENSOHN: The other driveway doesn't show us --

CHAIRPERSON BUNTING-SMITH: If you look at the left, you see --

MS. DENKENSOHN: But the V1 doesn't appear to be

sloped.

CHAIRPERSON BUNTING-SMITH: It does.

MS. UEBERLE: So I'm also your neighbor.

MR. LEONG: Okay.

MS. UEBERLE: I an. I'm on Andover Road. And there is a pretty steep slope there. And there used to be like, concrete walkway before they put this in that went up and it was a lot of stairs.

Now, I do have a question, though, because you said you put it in for your father?

MR. LEONG: My folks.

MS. UEBERLE: For your folks. Sorry to hear about your mom. Could he not go in the garage?

MR. LEONG: So, to go into the garage, it's -- first of all, the steps, the way the house is, because it is on a, I guess a hill, it's a longer flight.

There's like eight steps to get in from the -- from the basement up to the living area. And then to do that, it's pretty circuitous the way the house is laid out.

He would have to go in the garage, then go through the basement, which is decent size, and then up and around as opposed to just going from like kitchen to right out.

MS. UEBERLE: And then are there any other homes in the neighborhood that have these circular driveways?

MR. LEONG: Yeah, a couple. There's one on the

corner. I want -- is that --

MR. CHENG: I can show that.

MR. LEONG: -- like Rutgers or something?

MS. UEBERLE: Yeah.

MR. LEONG: There's one on Rutgers that has. And there's the one -- that other house that does have a circular one. The one on -- that is on Princeton also, like heading more towards Yale -- Harvard.

MS. UEBERLE: I think that's on Cornell.

MR. LEONG: Is that Cornell?

MS. UEBERLE: Yeah.

MR. LEONG: There's a couple, yeah.

MR. CHENG: So you can see, this is just Google satellite. You can see the drive right now. The pavement, that's the 149 Princeton.

This is right on Yale, right behind. We did locate -- there was one on Mercer, I believe, in a similar -- it also has an incline, so it's understandable. So it's right here.

So we believe there was some precedent in the -- in the area. So I think when Mr. Leong initially did it, he didn't see it was out of the norm. So I apologize.

Here we go, back to Princeton. So, yeah, I mean, this one's right behind the property, but that one's on a corner, it's on a bound, so I'm not sure how one calculates

the overall drive width of that. You have the corner lot condition, but you can see it's relative size.

MR. BLAND: So that house has that driveway plus a parking driveway?

MR. LEONG: Yeah.

MR. BLAND: That's a problem. We'll deal with that later.

MR. LEONG: Three curb cuts all the way over there.

MR. LEONG: Do you need to hear my -- I don't know who's still on. Is it okay if they go to sleep? I feel badly by keeping them up this late already.

MR. CHENG: I can stop here.

CHAIRPERSON BUNTING-SMITH: They can always send us an email.

MR. BLAND: Yes, they can.

MR. LEONG: Okay. Okay. Okay. That would be good.

MR. DUBBIN: Well, I stood up for Greg.

MR. LEONG: Thanks, Scott. He's my right next-door neighbor.

MR. DUBBIN: Hello. So, Ronald, if you want to bring up the satellite image of the home, so we can place my home on this --

MR. CHENG: Sure. I can do that.

MR. DUBBIN: Hi, everyone. My name is Scott

Dubbin. And as you look at this satellite image, my home is directly to the right of Greg's at 1-5-1 Princeton.

So I see Greg's house every day, and when I'm lucky, I get to see Greg as well.

It has not negatively influenced our view of the street. We think it's been a beautiful addition to the home, especially with his folks and now his father living with him, provided a nice accommodation for them to be able to get into the house very comfortably.

What I'll also add to that is when his packages are incorrectly delivered to my house, it makes it easier for my children to run them over as well.

So hopefully you will take into consideration me and my wife's positive sense of the project and easing the return of packages on my young children. Thank you.

MR. LEONG: Thanks, Scott.

CHAIRPERSON BUNTING-SMITH: Okay. Any other questions?

MR. BLAND: None.

MR. LEONG: The lady who kept coming on in the middle of the other presentation, she is across the street, and she, when I first did it, she actually complimented me.

MR. DUQUESNE: Ms. Capanelli?

MR. LEONG: Yes.

MR. DUQUESNE: Does she intend to speak?

MR. LEONG: Well, she kept coming on, but she might have gone to sleep. I think she'll write a letter for sure. She was on all this time and I think the other presentation did her in. She might have been the only one.

MS. UEBERLE: So one question.

MR. LEONG: Sure.

MS UEBERLE: When are you going -- if you were to be granted the variance, how are you going -- are you planning to pave it?

MR. LEONG: Yeah. I'll use the grass pavers.

MS. UEBERLE: Okay.

CHAIRPERSON BUNTING-SMITH: Okay. Anybody else in the audience? Okay.

MR. LEONG: Thank you for your time. Thanks for staying up.

CHAIRPERSON BUNTING-SMITH: Thank you.

MR. CHENG: Thank you.

MR. LEONG: Thank you.

\* \* \* \* \*



Case No. ZBA 23-34: Gary & Olivia Weiss, 49 Andrea Lane (P.O. Scarsdale, NY 10583) - Area Variances.

The Applicant is requesting area variances from Section 285-12B(4)(b) of the Zoning Ordinance to reduce the minimum distance between a principal building and side property line from 18 ft (required) to 16 ft (proposed); and from Section 285-5 to reduce the distance from an uncovered patio to the side property line from 10 ft (required) to 0 ft (proposed) in order to construct a rear addition and legalize a patio addition on the subject property. The property is located in the R-20 One Family Residence District and is designated on the Town Tax Map as parcel ID: 8.520-357-29.

CHAIRPERSON BUNTING-SMITH: Okay. 23-23, Gary and Olivia Weiss. 49 Andrea Lane.

MR. JACOBSON: Good evening. My name is Eric Jacobson. I'm the architect for Mr. and Mrs. Weiss. They're with us this evening. Three they there.

MS. WEISS: We're late, but we stuck with you.

MR. JACOBSON:: And thank you for remaining in session for this last case.

So we are asking for two variances. Number one is for a side yard continuous towards the rear. So we are extending an existing nonconformity.

Currently, the house has a 16-foot setback on the

left side and we're asking for a two-foot variance to extend that. Where it should be 18 feet, we're just going to go back four feet. It's a very small little area.

Additionally, there's a patio that's in the backyard that was built long before the Weiss' bought the house three years ago. And that extends right up to the property line. It's brick pavers set in sand directly on grade.

All right. So regarding that, I'd also like to submit two letters. One is a letter interest 47 Andrea Lane, the abutter right to the left.

The homeowner most impacted. They have expressed support for the two variances we're asking for. And a letter from number 50, which is across the street.

So briefly, I'll just start, the patio we have a document here from the building department. It's their property data card.

And back in 2020, September of 2020, it does have a description that a permanent was pulled to legalize the deck patios, basement rooms and upper bedroom. This was done prior to the purchasing of the property by the Weiss's.

So they thought that this patio, which goes right up to the property line, was -- had been taken care of.

Now, regarding the addition, I'll just briefly show you here: This little blue spot right there, that's the

addition that we're asking for a variance.

It's literally eight-square feet that extends into the setback. So if you take a look at the floor plan, again, I have shaded the area that we're asking for a variance; right there.

That's the area -- that's the four-foot by four-foot addition that we're adding, and only half of that is in the area of the setback. It's only about eight square feet.

It's towards the back of the house. It's visible the side. And, again, the neighbor on that side has expressed support.

So regarding the five conditions that you look for in order to grant a variance, we're building this addition, not only the addition setback, but also the rest of the addition. We're planning the same architectural style as the rest of the neighborhood.

We're mitigating the impervious surface, the additional impervious surface that we're going to be creating by putting drywells, underground drywells, to put that water, recharge the water back into the soil.

And the big question: Can we have designed this structure without creating the need for a variance? Well, the short answer is, yes, but it just makes so much more sense, if you look at the floor plan, to have that little --

to not have a notch in their DIFRM.

So we can have a decent square or rectangle-size dining room, without a four-foot by four-foot notch in the dining room, which we'd have to do in order to maintain our setbacks.

And if you take a look at the exterior elevations, it just makes sense to how we would create that exterior. And you can see on the left-side elevation, where those triple windows are, the casing windows, the chimney, it comes down and creates a nice little area for the triple window there.

So that's our area of variance we're asking for. So, with that, I would like to ask if you have any questions for me.

MS. DENKENSOHN: Can you show us that? Because we don't -- I can't figure out from this what that little area is. And I'm also curious as to -- it says there's a slight patio to the property line. That's not shown here either.

MR. JACOBSON: That's going on -- going to be on your survey or my plot plan. It's this area right here. I do have a picture showing that --

MS. DENKENSOHN: Do we have that?

MR. JACOBSON: -- that area. I believe it was submitted, but I certainly can give you that right now.

CHAIRPERSON BUNTING-SMITH: It's up on the screen

there.

MR. JACOBSON: That's the area.

MS. DENKENSOHN: That's the slate patio.

MS. UEBERLE: Is this a picture of it?

MR. JACOBSON: Yeah. It's not slate. It's brick pavers.

MS. DENKENSOHN: Where is that on this? Can you show us where it is on the map?

MR. JACOBSON: Sure.

MR. DUQUESNE: I have my cursor on the screen here. It goes right to the property line.

MR. JACOBSON: And you can see it right where it's highlighted in blue right there.

MS. DENKENSOHN: There is no blue.

MR. JACOBSON: Well, if you turn around. Right here.

MR. DUQUESNE: That's that little blue area.

MR. JACOBSON: Right here. That's the patio and this is the variance we're asking for structure, which is only two feet.

CHAIRPERSON BUNTING-SMITH: But you did say that it's brick and sand; correct?

MR. JACOBSON: Brick pavers sit on grade in sand, yes.

MS. UEBERLE: And is this addition already under

construction?

MR. JACOBSON: No.

MS. UEBERLE: No.

CHAIRPERSON BUNTING-SMITH: So would you consider, at least, coming back, since the brick could be removed to get off this, you know, right off the line, because that's -- I don't know what the need is to have it, considering how the rest of the design for the rear is, you know --

MR. JACOBSON: Right.

CHAIRPERSON BUNTING-SMITH: -- set up.

MR. JACOBSON: The patio has nothing to do with the addition. It's a pre-existing situation that was there when the Weiss's bought the property.

CHAIRPERSON BUNTING-SMITH: I understand that.

MR. JACOBSON: And it should be ten feet off the property line, but it comes right up to it.

MR. DUQUESNE: I think the question is: Is that something you could retrofit to make it more conforming?

MR. JACOBSON: If the Weiss' are still on, I'd like them to answer that. It certainly could be cut back.

MS. WEISS: We are here. It is something that we will do, if we have to. Based on what we have seen and what our impression was when we bought the house, there was a permit open for it, as well as the other items that Eric has

mentioned.

And based on the granting of that permit, and proving it, we believe that that is potentially already legal. It's unclear.

And I know there have been back and forth questions on it, but if it is not, and the only remedy forward is to retrofit it, we are willing to do that.

CHAIRPERSON BUNTING-SMITH: Have you seen a copy of the permit that you referred to?

MR. WEISS: Yes. It's -- the permit specifically says that this was part of it. We have -- we have two patios there. And it refers to multiple patios and it says the size.

And this has not been changed since -- for many years; right? Probably 30 years.

MR. JACOBSON: Right. So the permit was from September of 2020. And it literally says, Legalization of deck, patios, basement rooms and upper bedroom.

And the home was purchased by the Weiss's in October.

CHAIRPERSON BUNTING-SMITH: I just don't think that they would have, in 2020, that they would have approved a zero setback patio.

MS. KNECHT: Does the building department have any opinion?

MS. GERRITY: Yes. So as a point of clarification, what's being referred to is an assessment record, it's not a building department record.

What the building department has on file and what he issued a permit for was a patio legalization, but it was not close to the property line on the site plan. And we had to share that with the Board.

So at some point it was extended out, or the plans did not reflect what was actually there. So the plans that we had, and we issued a permit for, showed compliance. Which, you know -- so there was a permit issued, there was a certificate issued.

The Weiss's bought the property and it seems that the patio was extended at some point.

MS. WEISS: It was not extended under our watch.

MS. GERRITY: No. No. And I'm not saying it was. I'm sorry.

MS. WEISS: Thank you. Just as a point of clarification.

MS. GERRITY: Of course.

CHAIRPERSON BUNTING-SMITH: Any other questions?

MR. DUQUESNE: Just for the record, Ms. Capanelli, who was on for the last application, ZBA 23-32, put in the chat that she was in favor of that application.

CHAIRPERSON BUNTING-SMITH: Okay. Thank.



MR. DUQUESNE: 23-33 I meant to say.

CHAIRPERSON BUNTING-SMITH: Any other questions on this? My questions's been answered.

MR. LIEBERMAN: Anyone at home?

MR. DUQUESNE: No other speakers.

CHAIRPERSON BUNTING-SMITH: All right.

MS. WEISS: Thank you for your time.

MR. WEISS: Thank you.

MS. UEBERLE: Thank you.

CHAIRPERSON BUNTING-SMITH: Thank you. Thank you everyone tonight. All right. Here we are.

MS. DENKENSOHN: Are we going into executive session?

CHAIRPERSON BUNTING-SMITH: Yeah.

MS. DENKENSOHN: Okay. Are we going into executive session?

MR. LIEBERMAN: Is the Board seeking to go into executive session?

MS. DENKENSOHN: No. I'm sorry. I used the wrong terminology.

MR. DUQUESNE: Deliberations.

CHAIRPERSON BUNTING-SMITH: Deliberations.

MS. DENKENSOHN: Deliberations.

CHAIRPERSON BUNTING-SMITH: All right. We are off. We will be back shortly very shortly.

MR. DUQUESNE: Okay. Quick break.

CHAIRPERSON BUNTING-SMITH: Thank you.

(Recording stopped.)

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(Recording in progress.)

CHAIRPERSON BUNTING-SMITH: So all right. Let's start off with Thalle.

MR. LIEBERMAN: On the record.

CHAIRPERSON BUNTING-SMITH: Yes. Okay. Case Number 23-21, Thalle Industries, is adjourned for all purposes to February 15th.

I have a motion to declare the Zoning Board's intent to be lead agency with regard to SEQRA compliance --

MS. DENKENSOHN: Second.

CHAIRPERSON BUNTING-SMITH: -- with respect to Case 23-21.

MS. DENKENSOHN: Second.

CHAIRPERSON BUNTING-SMITH: All in favor?

MS. DENKENSOHN: Aye.

MS. UEBERLE: Aye.

MS. KNECHT: Aye.

MR. BLAND: Aye.

CHAIRPERSON BUNTING-SMITH: Chair votes aye.

CHAIRPERSON BUNTING-SMITH: And I also move to adjourn, for all purposes, to the February 15th, meeting.

MS. DENKENSOHN: Second.

CHAIRPERSON BUNTING-SMITH: Again, Case 23-21.

MR. BLAND: Was that for decision only?

MR. LIEBERMAN: No. All purposes.

MR. BLAND: All purposes. Okay.

MS. DENKENSOHN: Second.

CHAIRPERSON BUNTING-SMITH: All right. Oh, I'm  
sorry, that's right. I made the motion.

MS. DENKENSOHN: I seconded it.

CHAIRPERSON BUNTING-SMITH: You have to vote.

MR. BLAND: Aye.

MS. KNECHT: Aye.

MS. UEBERLE: Aye.

MS. DENKENSOHN: Aye.

CHAIRPERSON BUNTING-SMITH: Okay. Thank you.

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CHAIRPERSON BUNTING-SMITH: Okay. Let's get back  
to 23-32. That is adjourned for all purposes to 2/15.

Is there anything that --

\* \* \* \* \*

CHAIRPERSON BUNTING-SMITH: Case Number 23-33, is also is adjourned to 2/15, for all purposes.

MR. BLAND: For all purposes.

CHAIRPERSON BUNTING-SMITH: Yes.

\* \* \* \* \*

CHAIRPERSON BUNTING-SMITH: And Case Number 23-34, Gary and Oliva Weiss. And do I have a motion?

MR. LIEBERMAN: You have the SEQRA.

MS. KNECHT: I have a motion, but we have to do the SEQRA.

CHAIRPERSON BUNTING-SMITH: That's right. Let me do the SEQRA. Whereas the Greenburgh ZBA has reviewed the above-referenced application with regard SEQRA to compliance.

And now therefore, be it resolved that the subject application is a type-two action requiring no further SEQRA consideration.

MS. KNECHT: Second.

CHAIRPERSON BUNTING-SMITH: Do I have a second?

MS. KNECHT: Second.

CHAIRPERSON BUNTING-SMITH: All in favor?

MR. BLAND: Aye.

MS. DENKENSOHN: Aye.

MS. UEBERLE: Aye.

MS. KNECHT: Aye.

CHAIRPERSON BUNTING-SMITH: Chair votes aye. Do we have a --

MS. KNECHT: This is going to be a two parter. All right. I move that the application in Case Number 23-34, the variance for the minimum distance between the principal

building on the side property line be granted, provided that the applicant obtain all necessary approvals and file same with the building department.

Construction shall begin no later than 12 months after the granting of the last approval required for the issuance of the building permit and proceed diligently thereafter in conformity with the plans stamped received 12/15/2023. Submitted in support of this application or as such plans may be hereafter modified by another approving Board or agency or officer of the Town. Provided that such modification does not require a different or greater variance than what we are granting herein.

The variances being granted are for the improvements shown on the plans submitted in support of this application only.

Any future or additional construction that is not in conformity with the requirements of the zoning ordinance shall require variances, even if the construction conforms to the height, setback or other variances we have approved herein.

I also move that application in Case Number 23-34 the variance, the area variance requesting distance from uncovered patio to side property line be denied.

MS. DENKENSOHN: Second.

CHAIRPERSON BUNTING-SMITH: All in favor?



MR. BLAND: Aye.

MS. UEBERLE: Aye.

MS. KNECHT: Aye.

MS. DENKENSOHN: Aye.

CHAIRPERSON BUNTING-SMITH: Chair votes aye. And with that --

MR. LIEBERMAN: In view of the hour, the findings.

CHAIRPERSON BUNTING-SMITH: Yes. In view of the hour, the findings will be put into the record as well as anyone wants to find them, they can contact the secretary and she will make them available to them.

And with that, we are adjourned. And hopefully we will be back with another month of snow.(recording stopped.)

(Whereupon, the ZBA meeting for January 18th, 2024, is adjourned to the next meeting of February 15th, 2024, at 7:00 p.m.)

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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.

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Michel A. DeMasi, Jr.

Official Court Reporter