



## A P P E A R A N C E S:

STEWART PALILONIS, ESQ.  
148 North Union Street  
Lambertville, New Jersey 08530  
Attorney for the Board

WALTER N. WILSON, ESQ.  
67 Beaver Avenue (Corbit Building)  
Annandale, New Jersey 08801  
Attorney for the Applicant

## A L S O P R E S E N T:

THOMAS DECKER, Engineer

## INDEX TO WITNESSES

WITNESS	DIRECT	CROSS	REDIRECT	RECROSS	PAGE
JAMES CHMIELAK					
BY: MR. WILSON					6
TIMOTHY FERGUSON					36

INDEX TO EXHIBITS

NO.		PAGE
GS-2	Photographs dated 4/23/13	20
O-1	Thirty sheets of photos	82

1                   (During the approval of minutes the  
2 following takes place:

3                   MR. WILSON: If I may interject, while  
4 you are doing the minutes, I leave this to the  
5 Chairman's discretion, but I spoke with the  
6 Board's administrative secretary a few minutes  
7 ago, and I do have a transcript from the last  
8 proceeding if you wish to table your minutes  
9 until the next meeting so she can look at the  
10 transcript to confirm, that is perfectly okay  
11 from our standpoint.

12                  MS. HALL: That would be fine, thank  
13 you.

14                  THE CHAIRMAN: Does the Board have any  
15 other questions?

16                  The public hearing on Garden Solar,  
17 LLC. If you want to come up, please?

18                  I have a little announcement for  
19 anybody that is going to speak, speak in the  
20 mike. The mike is not to project your voice,  
21 but to record the minutes, record the meeting.  
22 The secretary is saying that when we pick that  
23 mike up and move it around to give it to  
24 people, it makes a lot of noise and it is hard  
25 to follow, so we will try to keep the mike in

1 the general area and try to speak into the  
2 microphone, so when the professionals are  
3 speaking or someone else is speaking, we can  
4 pick that up.

5 We are ready whenever you are.

6 MR. WILSON: Thank you. Good evening,  
7 Walter Wilson, Annandale, New Jersey, on behalf  
8 of the applicant, Garden Solar, LLC.

9 Just for clarification, perhaps, of  
10 those comments regarding completion of the  
11 jurisdictional requirements, last month we had  
12 left open the delivery of the affidavit of  
13 publication, which I finally received after the  
14 meeting in March, and I did mail that down to  
15 the Board secretary so that you do have that in  
16 the file at this point.

17 There were just a few other items, I  
18 think that we pretty much concluded our  
19 testimony at the last meeting. There were a  
20 few issues that were raised with respect to  
21 some additional concerns, and then, just a few  
22 other comments that we wanted to make. It is  
23 probably not through testimony, more towards  
24 closing, but obviously, if there are additional  
25 questions, we are happy to take those.

1                   We did have discussions with Mason  
2                   Supply, the owner of the property, and I am  
3                   going to ask Mr. Chmielak to go to the board.

4

5                   J A M E S    C H M I E L A K, having previously been  
6                   sworn, resumes the witness stand and testifies further  
7                   as follows:

8

9                   THE CHAIRMAN: Try not to move the  
10                  microphone. By moving it around, it creates a  
11                  lot of static. If he stands up there and  
12                  projects his voice towards us, I think we can  
13                  pick it up.

14                 MR. WILSON: And we do have the Court  
15                 Reporter, and we will get you a transcript.

16                 MR. PALILONIS: You are still under  
17                 oath.

18                 MR. WILSON: I do have a few brief  
19                 questions. You understand and recognize that  
20                 you were sworn at the last meeting, Jim, and  
21                 remain to be sworn at this meeting?

22                 THE WITNESS: Yes.

23

24                 DIRECT EXAMINATION BY MR. WILSON:

25                 Q            There was some question or discussion

1 regarding motorists or people who may be traveling in  
2 a generally westbound direction on the county road out  
3 in front of Mason Supply; do you recall that?

4 A Yes, I do.

5 Q And as they approach the property, they  
6 can see that, and we did agree to, I believe, put in  
7 an additional row of arborvitaes, if I am not  
8 mistaken, along the easterly side of the array,  
9 correct?

10 A Yes, where it abuts the Mason Supply portion.

11 Q And that was intended to screen the  
12 array from the motoring public, if you will, correct?

13 A That is correct.

14 Q And in discussions with the owner of  
15 Mason Supply, there is an additional measure that we  
16 have agreed to depict or describe tonight, and we will  
17 depict on the plans as a requirement, can you point  
18 out where and what that proposal would be?

19 A Yes. Basically, approaching -- and I will just  
20 indicate since the mike is here, approaching the site  
21 from the east, traveling west on 518, in order to  
22 provide some additional screening of the frontage  
23 portion of West Amwell Mason Supply for the front yard  
24 in front of the main building, the applicant would be  
25 willing to install a board-on-board fence along that

1 side property line if the Board felt as though that  
2 additional screening measure would be an advantage in  
3 approaching the site from an easterly direction. I  
4 can highlight on Exhibit G-7 that area -- I believe it  
5 is GS-7, this portion here (indicating), on the  
6 eastern boundary.

7 Q That would go from the approximate  
8 right of way line, or certainly outside of any site  
9 easement or site requirement that would be needed to  
10 exit the property, and that would proceed how far  
11 back?

12 A Approximately a hundred feet back from the  
13 right of way line into this vicinity here along the  
14 side of the existing building (indicating). The  
15 existing main building is here (indicating), which  
16 would provide some additional screening from that  
17 portion of the frontage.

18 Q And the intent of that would be to  
19 provide screening of the front yard of the Mason  
20 Supply building that is displaced in that area?

21 A That is correct. The front yard area, as well  
22 as the parking area, to provide some additional visual  
23 screening from vehicles that are traveling along the  
24 frontage from that vantage point.

25 MR. DALE: How tall will the fence be?

1                   MR. WILSON: Whatever you decide, six,  
2                   eight feet, whatever is required, but the Board  
3                   could certainly grant this variance, if you  
4                   want it to go as high as eight feet.

5                   THE WITNESS: I believe six feet is the  
6                   maximum, based on the ordinance.

7                   MR. DECKER: I believe six feet is the  
8                   maximum, too.

9                   MR. PALILONIS: Actually, what would  
10                  you consider appropriate?

11                  MR. DECKER: Six feet is probably fine.  
12                  I don't think they have any material in storage  
13                  higher than the six feet.

14                  MR. CRONCE: To go back to the original  
15                  agreement on the arborvitaes, where the yellow  
16                  line is there, we also agreed to change the  
17                  fence, too, from chain link to the landscape  
18                  fence.

19                  MR. WILSON: I believe in that area,  
20                  yes.

21                  MR. CRONCE: In that yellow area there.

22                  MR. WILSON: Yes.

23                  MR. CRONCE: You didn't mention that,  
24                  you just said arborvitaes.

25                  MR. WILSON: We haven't changed

1 anything else that we suggested.

2 MR. CRONCE: I want to make sure that  
3 we are all listening.

4 MR. WILSON: Just, and not by way of  
5 testimony, and I am just looking for the  
6 original planner's letter, the report and one  
7 of the issues that we have been heading towards  
8 or addressing at this time, which was not  
9 reached in the first considerations set forth  
10 in Mr. Mercantante's letter of June 24, 2011,  
11 item number 2, he had raised the issue, reading  
12 from it, additional variances are needed due to  
13 the continuation of -- we all know he was  
14 referring to the two principal uses on the  
15 subject property. At that time, I don't mean  
16 to put Mr. Decker on the spot tonight, but I  
17 have actually not been able to find where two  
18 principal uses in a non-residential zone are  
19 prohibited in the ordinance. If Tom knows  
20 that, great; if he doesn't, I certainly -- I  
21 don't mean to put him on the spot. I believe  
22 Section 109-71 provides for only one principal  
23 residential use on a property, and I scanned  
24 the entire ordinance and have not been able to  
25 find that provision.

1 MR. DECKER: It is actually under  
2 definitions for principal use.

3 MR. WILSON: All right.

4 MR. DECKER: Definition of principal  
5 use is, "Predominant or primary use for which a  
6 lot is used, unless specifically permitted by  
7 this chapter, no lot shall have more than one  
8 principal use."

9 MR. WILSON: It is in the definitions,  
10 okay, thank you.

11 MR. CRONCE: Are we still talking about  
12 the fence?

13 THE CHAIRMAN: You can ask about the  
14 fence again.

15 MR. CRONCE: So what are we going to do  
16 about the fence? Do you have any ideas?

17 MR. WILSON: I am sorry, if I may,  
18 there was one other item that we neglected to  
19 mention, and that is that the owner has also  
20 agreed, and it was noted during the report  
21 stages from the Board professional advisors,  
22 that there was actually some outdoor display of  
23 materials within the right of way. It is a  
24 County right of way, and the owner agreed to  
25 pull all display areas from within the right of

1 way, so that would move it back in a northerly  
2 direction away from the road. At least it  
3 would be out of the right of way.

4 THE CHAIRMAN: That is just material  
5 for sale sitting in a stockpile, or what kind  
6 of material?

7 MR. WILSON: Whether it is stored or  
8 displayed.

9 MR. DECKER: It is the outdoor storage  
10 that is out there.

11 MR. WILSON: It is probably --

12 MR. DECKER: Stone.

13 MR. WILSON: On the magnitude of three  
14 to five feet, to be out of your right of way,  
15 so it is not a huge movement, but it is a  
16 movement out of the right of way.

17 MR. CRONCE: But also I would say --  
18 let's just take care of the fence issue.

19 THE CHAIRMAN: You are talking about  
20 the fence, the board on board fence that was  
21 suggested?

22 MR. CRONCE: Yes. Do you want  
23 something like that there? Will it help us  
24 any? Will it hinder us or anything?

25 THE CHAIRMAN: Whatever we try to

1 shield with that fence, we are shielding the  
2 view of the Mason Supply, and we are also  
3 shielding the view of looking into the solars.

4 MR. WILSON: Jim can answer that  
5 question.

6 THE WITNESS: You would mostly shield  
7 the side yard of Mason Supply on that easterly  
8 side where the gravel drive continues to the  
9 back, as well as the parking area in the front.  
10 And then the display area. There are some  
11 displays in the front yard there, it would  
12 address the area in the front yard, in front of  
13 the main building, as well as the gravel  
14 driveway that continues to the rear of the  
15 site, to provide screening of that in and about  
16 that building, and the other structure that is  
17 further to the east in that gap.

18 THE CHAIRMAN: That fence can't -- how  
19 close can it be on the roadway? Where will  
20 that fence start?

21 THE WITNESS: It can start in the  
22 general proximity of the roadway line.  
23 Certainly, we are going to have to make sure  
24 that there is the sight distance at that  
25 driveway entrance in that vicinity, or where we

1           end it, but we will provide some screening of  
2           the gravel drive as it traverses down that  
3           driveway, which we see as a benefit. It is up  
4           to the Board, if you feel it will be an asset,  
5           but we feel it would limit the view of that  
6           driveway.

7                    THE CHAIRMAN: You can't obviously  
8           shield that much of a front yard from the road.  
9           Once you get fairly close with the setback, you  
10          will see that.

11                   MR. CRONCE: Does the fence have to be  
12          set back off of the property line, or built  
13          right on the property line?

14                   THE WITNESS: We anticipate holding it  
15          pretty close to the property line, just about a  
16          foot off, so there is no encumbrance, but a  
17          travel line in that vicinity is somewhat  
18          limited in terms of space. Therefore, it  
19          wouldn't make sense to really have as much off  
20          of the property line. Really, following the  
21          line would be the best location for it.

22                   MR. PALILONIS: The ordinance says six  
23          inches.

24                   MR. CRONCE: There you go.

25                   THE CHAIRMAN: Does that satisfy you?

1 MR. CRONCE: Yes. The next question --

2 THE CHAIRMAN: Are there any other  
3 comments? Where they talk about the proposed  
4 fence, do we have any other questions?

5 MR. ASHTON: I guess the next question  
6 is, is the idea here -- you mentioned a case  
7 about how to mitigate the non-conformity of the  
8 previous use. Would it be a benefit --

9 THE WITNESS: This would be an  
10 additional element that you mentioned at the  
11 last meeting, the proposed landscape buffer for  
12 the solar array. Does it serve that purpose of  
13 minimizing the non-conformity and some  
14 elements, this would be another element moving  
15 the storage certainly to the north, as well as  
16 was mentioned at the last meeting, that there  
17 is a view of Mason Supply from the east on  
18 Route 518. We figured that could go to help  
19 the existing situation.

20 MR. ASHTON: What I was thinking is  
21 that I see the technical merit of it on that  
22 legal basis, but what seemed more of a concern,  
23 really, is the view of the solar field, and  
24 whether that is going to be deflected by the  
25 things you see or not. Just me, personally,

1           when I think about what it looks like driving  
2           down there every day, I am not sure the fence  
3           would be an improvement or not. I would hate  
4           for the Board to impose something on them that  
5           we don't think is causing any problem for  
6           technical purposes. I mean, that is my take on  
7           it.

8                       MR. WILSON: We can even say that if we  
9           agree, if the Board feels it is worthy of  
10          consideration, we will put it that way. It  
11          could be something that -- I hate to draw  
12          analyses, and I hate post-approval reviews, but  
13          much like you do, a night light test to adjust  
14          shields and things of that sort after  
15          construction or even during construction, if  
16          the Board engineer took a look at things and  
17          said you know what, we need a little bit more  
18          of a screen, a fence would be a good idea, it  
19          is there. It is on the table for him to  
20          impose. If you want go to about it in that  
21          way, I don't know if Tom wants to make that  
22          decision, but perhaps a subcommittee of the  
23          Board could make that review during  
24          construction and determine whether a fence  
25          should go in or not.

1 THE CHAIRMAN: Does the Board have any  
2 questions about that?

3 What are your feelings?

4 MR. DECKER: I don't have a problem  
5 with going out and taking a look to see if a  
6 fence would help, but I would not want to make  
7 that decision without some information from the  
8 Board.

9 THE CHAIRMAN: All right. Is there any  
10 other testimony that you want to give here?

11 MR. WILSON: We have no other  
12 testimony.

13 THE CHAIRMAN: I guess as far as the  
14 public goes, now the public can ask some  
15 questions basically that relate to this fence  
16 or go back to the right of way, just what was  
17 testified to right here right now.

18 Are there any questions that you have?  
19 Do you have questions about that right now?  
20 Now is the time. After that, you will have an  
21 opportunity to make your comments, but right  
22 now you can ask questions about what was just  
23 discussed about the fence.

24 Do you want to come up and state your  
25 name for the record again?

1                   MR. ARNONE: My name is Dave Arnone,  
2                   and I live at 631, directly across the street  
3                   from the Supply. Putting that fence there will  
4                   block Stellitano's access to the road. I sat  
5                   up yesterday morning and watched all of the  
6                   activity that goes on in the morning, and you  
7                   have trucks coming out of my access, trucks  
8                   coming out of Stellitano, you have trucks  
9                   backed up to the point where their tails are on  
10                  518 because there is absolutely no room to  
11                  maneuver, and now you are talking about putting  
12                  a fence that will block Stellitano from turning  
13                  west.

14                 THE CHAIRMAN: Just ask him.

15                 MR. ARNONE: Have you imposed that  
16                 fence or took any measurements of what that  
17                 might be if the fence goes all the way to the  
18                 right?

19                 THE WITNESS: No, we didn't.

20                 THE CHAIRMAN: So again, the Board will  
21                 talk about -- this sounds like -- what we will  
22                 probably do anyway is before we make a decision  
23                 on the fence, we would want to take a look at  
24                 where we will put it and how it will impact the  
25                 site, and look at that before making a

1 decision.

2 MR. ARNONE: Also, I would say that you  
3 can ask the owner, but that right of passage  
4 there on the east side of the building is used  
5 all the time. He was talking about on both  
6 sides, so you know, the fence, I think it is a  
7 barrier to this wall. People coming down that  
8 road, and that speed down that road, because  
9 they are from Pennsylvania, and they fly past  
10 cars right in front of my house, and you have  
11 trucks with the tails hanging out on the  
12 highway. If you propose a fence, you should  
13 measure it and take a look.

14 THE CHAIRMAN: Thank you. Anybody else  
15 have any comments related to the fence or the  
16 testimony here?

17 Okay. Mr. Wilson, are you prepared to  
18 talk about anything else that you may want to  
19 talk about West Amwell Mason Supply at this  
20 time, as far as any changes to that existing  
21 non-conforming use?

22 MR. WILSON: We have suggested the  
23 changes, there were other changes, and we have  
24 already spoken about them as far as some of the  
25 parking delineating the handicapped parking

1 spaces, and I don't recall -- I think this is  
2 dressing up the driveway portion, but I don't  
3 think there were any other main improvements  
4 that we were proposing.

5 We do have, not directly to Mason  
6 Supply, but more towards the solar site, we  
7 have a little bit of additional testimony,  
8 about three or four minutes by Mr. Chmielak,  
9 regarding some issues or concerns raised about  
10 the array and its viability, and also the storm  
11 water issues. We do have an exhibit, and we  
12 have several copies that we can pass around.  
13 It is in Exhibit -- at the last meeting we  
14 marked G-1, so this would be G-2.

15 (Exhibit GS-2, consisting of four  
16 photographs dated 4/23/13, marked for identifi-  
17 cation.)

18 MR. WILSON: At the first proceeding we  
19 were using GS numbers and then we went to G  
20 numbers last month.

21 MR. PALILONIS: If the Stenographer has  
22 no problem, let's call them GS numbers for  
23 tonight, and also from last month. This was  
24 Tom Decker's letter, from last time, so GS-2  
25 will be this document.

1 DIRECT EXAMINATION (CONTINUED) BY MR. WILSON:

2 Q Would you describe this for everybody  
3 so we know and so the Stenographer knows how to mark  
4 it?

5 A Yes, Exhibit G-2 is dated 4/23/13, and includes  
6 four photographs on two sheets. We obtained these  
7 photographs in order to provide some additional  
8 testimony to some of the concerns that were raised at  
9 the last meeting as to the viability of the proposed  
10 grass, vegetation underneath the panels and in and  
11 around the panel aisles that will be encompassed on  
12 the site.

13 Some of the concerns -- you know, you are  
14 proposing this meadow grass as a ground cover in order  
15 to provide a BMP, basically, for storm water  
16 management, which is typical of similar array sites,  
17 but there was some question as to whether that  
18 vegetation would really be viable. The question was,  
19 will it work, will there be significant erosion, and  
20 can it actually be viable on the site.

21 We took these photos --

22 Q Do you know when they were taken?

23 A They were taken within the last couple of days.  
24 This site is one of the Kingwood sites, right in the  
25 immediate intersection of Route 12 and Slacktown Road.

1 This is another Garden Solar project that was  
2 developed a couple of years ago. The surface cover  
3 underneath the panels has existed for approximately a  
4 year and a half to two years, and it has been through  
5 two winters at this point, and continues to be viable.  
6 Underneath the panels you can see, especially on the  
7 second page of the exhibit, the vegetation is still  
8 robust and viable underneath the panels, as well as in  
9 the aisles. Additionally, there was some concern  
10 about a concentration of water at the lower drift  
11 line, the lower edge of the arrays. The photos do  
12 indicate an absence of any erosion at that location.

13           Number one, it is important to realize, too,  
14 that the panels have greater -- on this panel  
15 arrangement at least halfway down the array the water  
16 that hits the top half of the panels falls midway down  
17 the panel array to the ground surface below, and the  
18 second half of the panel, in this portion  
19 (indicating), actually drifts to the bottom edge, so  
20 that gap, which is pretty standard in all arrays  
21 enables drainage through the array, so it is not a  
22 hundred percent concentrated at the bottom edge. That  
23 was number one. Also, importantly, I think, the  
24 comment may have been raised at the last meeting, what  
25 if you have a combination of the ground contours

1 flowing in that direction in concurrence with that  
2 bottom drainage of the panel. We did choose this site  
3 because this site does possess that condition where  
4 you have drainage basically parallel with the solar  
5 arrays and parallel with the potential drip edge. You  
6 still see the vegetation viable and robust, and it is  
7 in growing season right now, and they are recent  
8 photos. You can see no negative impacts. We are  
9 going through a couple of seasons. And lastly, there  
10 is the maintenance plan, which is part of this  
11 project, which has different plans for that area -- in  
12 that area after a large storm or whatever, but that is  
13 basically the summary of this exhibit, and it is  
14 presented to the Board as a further exhibit to clarify  
15 these concerns.

16 THE CHAIRMAN: The first note, is that  
17 a field that is covered, or a field not  
18 covered?

19 THE WITNESS: That is the field  
20 immediately across the street, it is a rye  
21 field that is just on the other side of the  
22 field from this site, just to give you an idea  
23 of what the open land looks like or would be.  
24 But the predominance of the intent of this  
25 exhibit would be the last three photos, to show

1 the performance of that meadow grass.

2 THE CHAIRMAN: You guys, if you have  
3 seen the pictures pretty well, and you can  
4 share them, maybe you could pass them out so  
5 people can see what is going on here.

6 Anybody on the Board have any questions  
7 about this exhibit?

8 MR. ROMANO: Okay. This is good. Are  
9 the soil conditions at this site the same as  
10 what you are proposing out here (indicating)?

11 THE WITNESS: They are similar, yes.

12 MR. ROMANO: Was this area cultivated  
13 as a former farm or area that was cultivated  
14 where the soil was used at this site versus  
15 this Kingwood site?

16 THE WITNESS: Yes, this was a farm  
17 area.

18 MR. ROMANO: It was a farm area?

19 THE WITNESS: Yes.

20 THE CHAIRMAN: Any other questions?

21 MR. DALE: Has this field been mowed at  
22 some point?

23 THE WITNESS: Yes, it has.

24 MR. DALE: What do you generally do on  
25 mowing? How often?

1 THE WITNESS: Generally, it is several  
2 times a year, it depends on the actual  
3 precipitation and the weather pattern, but the  
4 seed mix specified is largely a native mix, and  
5 also goes towards shade tolerance and lower  
6 growth rates in order to minimize the amount of  
7 activity. So on the order of, possibly, you  
8 know, six mowings a year or something like  
9 that, depending on the ultimate height. But  
10 certainly, increased height overall.

11 MR. DALE: What height do you try to  
12 maintain?

13 THE WITNESS: Approximately a foot.

14 THE CHAIRMAN: Anybody else on the  
15 Board have any questions?

16 Tom, any questions?

17 MR. DECKER: No.

18 THE CHAIRMAN: Anybody in the audience  
19 now that they have had a chance to look at the  
20 pictures, do you have any questions in  
21 reference to this exhibit?

22 Whoever comes up first.

23 MR. ARNONE: David Arnone again. When  
24 were these pictures taken?

25 THE WITNESS: Within the past two days.

1                   MR. ARNONE:  Have you shown any ruts  
2                   formed from any trucks that will treat the  
3                   panels, the service trucks?  The trucks with  
4                   water?

5                   THE WITNESS:  In between the panels we  
6                   do show the travelway in between the arrays,  
7                   and there is no evidence here of any rutting in  
8                   between, you are right.  So the access drive  
9                   that services the site, it is the driveway.

10                  MS. BLAND:  Pamela Bland, I live in the  
11                  lot behind this proposed site.  It is Lot 12,  
12                  the field behind the site.

13                  This gentleman asked a question, and I  
14                  don't know your name, but you were asked about  
15                  the condition of the field before this grass  
16                  was put in on that particular site, and I am  
17                  wondering about -- well, the property has very  
18                  poor percolation and has failed a couple of  
19                  times over the years.  I have been there, and I  
20                  am wondering if the percolation is similar to  
21                  what you were getting to?  I don't know.

22                  THE WITNESS:  It is similar.

23                  MS. BLAND:  Because the percolation was  
24                  very poor there, that is why I asked that.

25                  THE WITNESS:  It is similar soil

1 conditions.

2 MS. BLAND: What is the size of that?

3 THE WITNESS: Two megawatts.

4 MR. ARNONE: Kingwood has three --

5 MR. WILSON: It is three in Kingwood.

6 MR. ARNONE: Which land is that?

7 THE WITNESS: The overall lot is

8 approximately 20 acres.

9 MR. ARNONE: You have a two megawatt  
10 facility on 20 acres. What are you proposing  
11 here?

12 THE WITNESS: This is a two megawatt  
13 site.

14 MR. ARNONE: On how much land?

15 THE WITNESS: Approximately 20 acres.

16 MR. ARNONE: You are only doing it on  
17 ten acres, though, nine point something.

18 THE WITNESS: Nine point eight.

19 MR. ARNONE: You are talking about  
20 intensifying the panels and enclosing it, your  
21 building is the same size on 20 acres and on  
22 half of the land over here.

23 THE WITNESS: This particular site had  
24 a large appendage that was part of the access  
25 to Route 12, so it was a different

1 configuration, and it is also open areas  
2 between --

3 MR. ARNONE: I think that you are --

4 THE COURT REPORTER: Wait. One at a  
5 time.

6 MR. ARNONE: You don't have to be so  
7 rude.

8 THE CHAIRMAN: She has to keep a  
9 record, and you have to work with her.

10 MR. ARNONE: Understood. Are you  
11 building the same type of facility on half of  
12 the land? That is a yes or no question.

13 THE WITNESS: On the overall lot area,  
14 the answer is yes.

15 MR. WILSON: Is the array itself the  
16 same size on both sides?

17 THE WITNESS: The Kingwood site I would  
18 expect to be a slightly larger area on the  
19 site, but again, there are different appendage  
20 areas on the solar array.

21 MR. SABIDUSSI: My name is Tony  
22 Sabidussi, 122 Rock Road West behind this  
23 array. The question that Dave raised about and  
24 actually Pam raised about the soil being  
25 similar, I am not sure about that. I don't

1 know what the soils are in Kingwood.

2 THE CHAIRMAN: Then ask him.

3 MR. SABIDUSSI: Do you know what the  
4 soils are?

5 THE WITNESS: Yes.

6 MR. SABIDUSSI: What are they?x

7 THE WITNESS: I believe the Kingwood  
8 site was again another type soil, similar to  
9 this, very much in keeping with it. I know  
10 there were some challenges relative to separate  
11 performance on that, as well.

12 MR. SABIDUSSI: Do you know the geology  
13 on that site?

14 MR. WILSON: Of the Kingwood site?

15 THE WITNESS: I know there is rock at  
16 very shallow depths, it is a shale geology.

17 MR. SABIDUSSI: The same as this, the  
18 same as this site in West Amwell.

19 THE WITNESS: This is very shallow, so  
20 I can't say.

21 MR. SABIDUSSI: I am talking about the  
22 type of soil, the geology of the area, and you  
23 don't know?

24 THE WITNESS: I'm sorry, I am not aware  
25 of that.

1                   MR. SABIDUSSI: I would ask the Board  
2                   to have that checked, please, because the  
3                   geology, as everyone knows around here, there  
4                   is rocks sticking out of the ground all over.

5                   THE CHAIRMAN: All right. You will  
6                   have a chance to make comments at the end, just  
7                   ask him a couple of questions that you have for  
8                   him.

9                   MR. SABIDUSSI: It doesn't sound like  
10                  he knows what the geology of the soils are.

11                  THE CHAIRMAN: Anybody else from the  
12                  public have any questions?

13                  MS. BLAND: About the soils, or the  
14                  grass?

15                  THE CHAIRMAN: Just about this exhibit,  
16                  okay?

17                  Mr. Wilson, anything else you want to  
18                  present?

19                  MR. WILSON: We have nothing else.

20                  THE CHAIRMAN: How about the Board,  
21                  anything that the Board wants to discuss? Are  
22                  there any other concerns about this  
23                  application, before we do the closing comments  
24                  and have the public make their closing  
25                  statements?

1                   MR. ROMANO: The only thing I would  
2 suggest is in light of the questions that are  
3 going on regarding this, there is some solar  
4 array fields that have rutting or rivulets or  
5 whatever you want to call it, and this one  
6 doesn't, this is what was presented to the  
7 Board. I think it would be in our interest  
8 that we get a better understanding from the  
9 applicant as to what the conditions are at this  
10 site and how it compares to the other sites.

11                   THE CHAIRMAN: Do you have anything to  
12 say more vital on that issue?

13                   MR. WILSON: I don't know what you want  
14 to know.

15                   MR. ROMANO: Certainly the soil  
16 conditions are similar, but not the same. The  
17 geology might be similar but not be the same,  
18 also, and your professional doesn't have the  
19 answers with regard to that.

20                   MR. WILSON: Off the top of his head,  
21 the three ring binder in evidence that contains  
22 various studies and reports contains test  
23 boring results and the geology description of  
24 the soils.

25                   MR. ROMANO: We just want to make sure

1           that you are presenting it as what we should  
2           expect to have here, or is it just another  
3           thing where if they happen to luck out and not  
4           have any erosion problems -- this is just not  
5           clear. Perhaps that should be on the record.

6                       MR. WILSON: I will remind you that the  
7           binder also includes a maintenance plan, and  
8           the maintenance requirements which are life  
9           long, and not just a performance period and two  
10          year maintenance plan, but life long for the  
11          system. It requires annual inspections if  
12          there are bare spots, washouts, gullying,  
13          anything of that sort, that must be repaired  
14          and restored back to a proper condition. That  
15          is an ongoing obligation that would cover that.  
16          We certainly would welcome anybody at any one  
17          of the sites, you can't always get in because  
18          they are fenced, obviously.

19                      MR. ROMANO: I understand.

20                      MR. WILSON: All of the sites that are  
21          constructed are consistent in their general  
22          appearance and everything.

23                      MR. ROMANO: But this is an exhibit  
24          that you put before us.

25                      MR. WILSON: Correct.

1 MR. ROMANO: It is in our interest to  
2 know a little bit more about the site, since  
3 you are using that as an example to clarify the  
4 testimony that was presented last month.

5 MR. WILSON: We indicated both the  
6 soils and geology are similar in both  
7 locations.

8 MR. ROMANO: Similar doesn't mean it  
9 will be the same.

10 MR. WILSON: Well, perhaps if you wish  
11 to ask him that, about what he anticipates by  
12 way of performance, we welcome it.

13 MR. ROMANO: Will it remain the same?

14 THE WITNESS: I expect, based on my  
15 professional opinion, based on the fact they  
16 are both silt line soils and both share silt  
17 stone and shale geology, that they will perform  
18 in a similar manner relative to the proposed  
19 vegetation. That is the intent. Why we  
20 brought this exhibit is because there is shale  
21 and shallow depths, number one, and the soils  
22 on the site are somewhat similar. So we would  
23 expect a reasonable concurrence with the  
24 performance of that on the site.

25 MR. ROMANO: Is the soil of the same

1 density and affect as what is out there? Is it  
2 a looser soil? Is it much easier, do you know?  
3 Would it be the same soil? I want to make sure  
4 it is the same conditions that we would expect  
5 out here, and this is good, you don't see any  
6 erosion, this is a good example. I am not sure  
7 what you construct out there, and would it  
8 behave similar?

9 THE WITNESS: That is my opinion, that  
10 was in the intent of presenting this. It is a  
11 similar site.

12 MR. ROMANO: Is the soil -- it could be  
13 the same type of soil, but if it is more dense,  
14 more compacted at this site than the other  
15 site, then you could get less erosion here than  
16 you would at the proposed site. I want to make  
17 sure.

18 THE WITNESS: Yes.

19 MR. ROMANO: We have got the same  
20 conditions?

21 THE WITNESS: Well, alternatively, a  
22 very loose loamy soil that has been disrupted  
23 does have the chance of more erosion, because  
24 it isn't compacted and doesn't form a more  
25 compact base because of corrosiveness on the

1 surface. On this particular site, it was  
2 cultivated, and that was one of the things that  
3 we looked at, and ultimately, at the end of the  
4 day, it performed very well. Then on the site  
5 that is subject to this application, we have  
6 less cultivation than the Kingwood site. So  
7 from that standpoint, I would have less of a  
8 concern of erosion.

9 MR. ROMANO: What is the annual, since  
10 you brought it up, since you brought up  
11 maintenance, what is the annual maintenance  
12 budget?

13 THE WITNESS: I don't have that  
14 information as to the budget or what that would  
15 cost, but I believe it is on the -- we have  
16 included a maintenance plan, and we haven't  
17 included any costs. I am not sure if we have  
18 any information on that.

19 MR. WILSON: I don't recall whether Mr.  
20 Ferguson was sworn, I don't believe he was  
21 sworn last month. If you wish to re-swear him,  
22 if you would like to take him out of turn?

23 MR. ROMANO: Sure.

24

25 T I M O T H Y F E R G U S O N, residing at 4 Eagle

1 Drive, Ringoes, New Jersey 08551, is sworn.

2

3 DIRECT EXAMINATION BY MR. WILSON:

4 MR. WILSON: Tim, you are one of the  
5 principals of Garden Solar, LLC?

6 MR. FERGUSON: Yes, I am.

7 MR. WILSON: And you participated in  
8 the cost analysis and budgeting for the various  
9 sites?

10 MR. FERGUSON: I did.

11 MR. WILSON: For a similar sized site  
12 of two megawatts, approximately two megawatts  
13 in the Hunterdon County area, do you have a  
14 recollection as to what the budget amounts were  
15 for annual maintenance?

16 MR. FERGUSON: For annual maintenance,  
17 I can't say exactly, but at the prior sites  
18 they budgeted 15 to \$25,000 a year for the  
19 first five years of similar size, and expect a  
20 certain amount of trees to die, and they will  
21 be replaced and then the budget gets dwindled,  
22 it is progressive, it is on an owner by owner  
23 basis. Garden Solar doesn't operate these, it  
24 is sold to general utilities or large funds  
25 that operate generally large power facilities

1           like the ones making energy tonight. So that  
2           is approximately.

3                   MR. ROMANO: So anywhere between three  
4           and \$5,000 a year?

5                   MR. FERGUSON: No, I said between 15 to  
6           \$25,000 for the first five years, and then  
7           after that --

8                   MR. ROMANO: Yes, and after that?

9                   MR. FERGUSON: It is a budget, and as  
10          Jim has shown in these pictures, I don't think  
11          they would use that budget, but I think in that  
12          particular case it is three to five trees that  
13          have died. I am not quite sure. But the  
14          budget, I think, they mowed it several times  
15          last year, maybe three, but I don't know,  
16          because I don't own it. I live nearby, and I  
17          can't imagine that that cost them at a minimum  
18          of seven to \$8,000, but then I believe the 12  
19          acre fenced area -- to clarify from before, Mr.  
20          Chmielak answered the question about the array  
21          size, he was asked what the lot size was, and  
22          the lot size up at this facility is 22 acres,  
23          or 21.7 acres, and the fence is 12 1/2. The  
24          fenced area where the array is contained, it is  
25          comparable to the facility that we will be

1 installing here --

2 MR. ROMANO: And the budget account for  
3 restoring erosion due to the drip edge?

4 THE FERGUSON: It does. As Mr. Wilson  
5 mentioned, we are guaranteeing to restore for  
6 the life of the facility. As the pictures  
7 show, there hasn't been any; however, to the  
8 question from the member of the public before,  
9 the picture I took, I took pictures this  
10 morning at about 10:00 a.m., and to the right  
11 of the lower right hand side of the first page  
12 there are ruts. As Mr. Chmielak answered, the  
13 accessway that was proposed, the vehicles enter  
14 into that. It is maintained that way. I  
15 believe Mr. Chmielak will testify that it was  
16 expressly designed to be an off road turf  
17 structure, which I believe is maintained on a  
18 pretty regular basis.

19 MR. ROMANO: This is for Mr. Chmielak.  
20 Doesn't the district plan state that you have a  
21 stable condition out there for the soil?

22 MR. CHMIELAK: Yes, the Soil  
23 Conservation District, yes. So this problem  
24 will have a certification from the Soil  
25 Conservation District similar to every other

1 Garden Solar project, where the Soil Conserva-  
2 tion District will oversee construction,  
3 providing a certain amount of occupancy from a  
4 soil conservation standpoint prior to the  
5 construction, and then maintaining jurisdiction  
6 as well with an additional layer of oversight  
7 of an agency into the future, if there were any  
8 other erosion issues on the property. But  
9 compliance with the Soil Conservation District  
10 requirements, standards, et cetera, is included  
11 in the proposed improvement plan.

12 MR. WILSON: Jim, maybe it was  
13 testified to at the initial hearing, but the  
14 seed mix that is used, the turf mix that was  
15 developed and reviewed in concert with the  
16 NRCS, the National Resource Conservation  
17 Service --

18 MR. CHMIELAK: Yes, we developed a  
19 standard seed mix for solar arrays, we used it  
20 on a multitude of projects with the input of  
21 the Soil Conservation District and NRCS.

22 MR. ROMANO: That just is regarding the  
23 whole point I made about the stated condition,  
24 does the maintenance plan address erosion, and  
25 wouldn't that be counter to the whole premise

1 of having a stable condition out there? You  
2 shouldn't have to maintain further provisions.

3 MR. CHMIELAK: It is a precautionary  
4 measure that we implemented, noting the fact  
5 that from the other projects and other  
6 approvals that there was a sensitivity, too.  
7 Okay, you are telling me you are going to  
8 install this now, Mr. Applicant, but perhaps in  
9 five years, when there is a big storm and you  
10 have erosion, then what happens? So in order  
11 to address that on all of the projects, we have  
12 included the maintenance plan, which would  
13 include an annual inspection and remediation of  
14 any storm damage or anything like that, so that  
15 there is that additional layer of correction.  
16 So that is the intent, not to undermine the  
17 initial viability of the design, but to provide  
18 some good housekeeping practices and say that  
19 Garden Solar, and any approval, since it is  
20 included on the approval plans, will include  
21 that maintenance provision and inspections for  
22 the life of the system.

23 MR. ROMANO: In all of the projects you  
24 have been involved in, have you ever had a  
25 situation where you have had a maintenance

1           problem with it?

2                       MR. CHMIELAK: Not while they are in  
3           service. Certainly during the construction  
4           process when there are trucks entering and  
5           exiting several sites, there was some  
6           housekeeping erosion issues, typical of every  
7           construction site that the Conservation  
8           District was involved in. There are periodic  
9           inspections of that. But to my knowledge,  
10          there are not any substantial erosion issues.  
11          I have no knowledge of any major impacts or  
12          issues, and again, that is one of the reasons  
13          why we figured there is a concern there. Let's  
14          go to some of the sites similar to this, and  
15          provide some photographs after two years in  
16          operation; and specifically, on the drip edge,  
17          and how it is performing, with similar slopes.

18                     MR. ROMANO: How many projects were you  
19          involved in?

20                     MR. CHMIELAK: At least ten different  
21          projects of similar scope and size.

22                     THE CHAIRMAN: Anybody else have any  
23          questions or comments relative to this  
24          application in general?

25                     MR. CRONCE: Yes, I do. I guess it is

1           Mr. Ferguson, right? Any issues would come to  
2           your company, right? If there were any  
3           problems out there on that site, they would  
4           call your company, I assume?

5                       MR. FERGUSON: Yes.

6                       MR. CRONCE: And you stated that you  
7           sometimes take these and sell them to other  
8           companies. What is the maximum amount in  
9           determining who owns this, if you decide to  
10          flip it or sell it to another entity?

11                      MR. FERGUSON: First, I would say it is  
12          not a practice of flipping facilities, they are  
13          extraordinary transactions with regulated  
14          utilities and subsidiaries. The planning  
15          process Garden Solar goes through is why our  
16          company has five facilities built in New  
17          Jersey, and the only other company with more is  
18          PSE&G. The process, and why we use Mr. Wilson  
19          and Mr. Chmielak, is that we offer all of the  
20          things Mr. Chmielak just mentioned, like the  
21          seed and maintenance package in advance. The  
22          eventual owner takes responsibility for the  
23          plan as part of the operation of the  
24          maintenance. Once you buy a car, you have to  
25          change the oil, just like the prior owner. So

1           they certainly take on all of the  
2           responsibilities.

3                       Part of the reason that a company like  
4           Garden Solar cannot own these is they cost  
5           fifteen million dollars per.

6                       MR. CRONCE:  So you start the project  
7           and then you -- I thought maybe I misunder-  
8           stood, I thought you said you sell these  
9           afterwards?

10                      MR. FERGUSON:  We sometimes sell them  
11           before they run.

12                      MR. CRONCE:  So before this gets  
13           online, it could be sold?

14                      MR. FERGUSON:  Like Mr. Decker was  
15           involved with two of the four Garden Solar  
16           developments which are now owned and operated  
17           by Con Edison.

18                      MR. CRONCE:  And the mechanism is that  
19           somehow the Township gets word it is sold?

20                      MR. FERGUSON:  I'm sorry to interrupt  
21           you, but we have to post it, so it is on the  
22           fence gate, and there is new construction  
23           escrow posted by the builder and the owner, and  
24           then all of the owner contact, emergency  
25           contact, JCP&L contacts, OEM contacts are on

1 the gate at a minimum.

2 MR. BORDEN: So we have to rely on the  
3 buyer to fulfill the promises that you are  
4 making?

5 MR. FERGUSON: As with every commercial  
6 transaction, that is right. Just like a home,  
7 everyone here is a resident, you have a house  
8 and somebody buys the house and you still have  
9 to adhere to the existing zoning and other  
10 regulations of the town.

11 MR. DECKER: Let me explain how things  
12 happen: For a little bit of background, I am  
13 the Kingwood Township engineer, and I reviewed  
14 the two applications that Garden Solar put in  
15 there, including the one that the photos were  
16 taken of. Garden Solar checked it through the  
17 approval process, Con Edison did all of the  
18 site construction, okay. I believe the  
19 property was sold to Con Ed along with the  
20 tools and so forth, in that case in Kingwood.  
21 Con Ed then came in and did all of the  
22 installation and so forth. The State  
23 Development and Redevelopment Plan, and I spoke  
24 with them today to get an update if they had  
25 anything new on this, and they haven't issued

1           any new letters since I think 2011, because I  
2           believe the applicant has been waiting to get  
3           through this process before they continue with  
4           some of the other agencies.

5                         In speaking with Mark Symancek from the  
6           District, I asked him what his experience has  
7           been in Hunterdon County with the solar  
8           facilities, and according to Mark, right now  
9           they really haven't had any issues with erosion  
10          problems that they haven't been able to resolve  
11          during construction. They have kind of learned  
12          about this on the fly, but this is new  
13          construction for everybody.

14                        So now what the District is requiring  
15          is during the construction, the soil gets  
16          compacted with the vehicular traffic and  
17          construction equipment and so forth, so now  
18          they are requiring scarification of the soil  
19          and so forth. They are also requiring that  
20          they basically get a last look at the grass and  
21          vegetation establishment before they can get a  
22          CO.

23                        So the Soil Conservation has been  
24          stepping things up as far as solar facilities,  
25          but I can tell you that we haven't had any

1           corrosion issues with the two Kingwood sites.  
2           And whether or not the soils are comparable to  
3           this site, the only question I would have is,  
4           has this site been cultivated as a farm field  
5           in the past.

6                     MR. FERGUSON:  It is currently a hay  
7           crop, and has been for quite a few years.

8                     MR. DECKER:  While it was being  
9           cultivated, are you aware of any instances  
10          where they hit any shallow bedrock or rock out?

11                    MR. FERGUSON:  No, I am not aware of  
12          that.

13                    MR. DECKER:  So to the point of the  
14          question that was raised from the public with  
15          regard to rock out problems, if this was  
16          cultivated -- typically, when you have rock out  
17          properties, you don't have cultivated land, you  
18          have a significant vegetation growing around  
19          that out cropping, and if for no other reason,  
20          some farmers are aware of where it is.  So I  
21          think the concerns about runoff and the  
22          establishing of vegetation are valid concerns,  
23          but working with the Soil Conservation District  
24          and the process that they are now putting the  
25          applicant through, they will make sure that



1 MR. DALE: Thank you.

2 THE CHAIRMAN: Tom, did you want to  
3 make any other comments?

4 MR. DECKER: No. We have identified  
5 the items in conformance with my letter, and  
6 they have proposed measures to mediate that as  
7 far as additional plantings and board-on-board  
8 fences. It is up to the Board as to whether  
9 you are satisfied with that.

10 THE CHAIRMAN: All right. At this  
11 point we will open it up to the public, and  
12 this is your opportunity now to come up, and  
13 you can make comments after we give the Court  
14 Reporter a short break.

15 (Whereupon, a short recess was taken.)

16 THE CHAIRMAN: We will call the meeting  
17 back to order. Before we go out to the public,  
18 is there any more discussion on the Board? I  
19 want to make sure everything is on the table  
20 before the public has an opportunity to talk.  
21 So if anything comes up, they will have an  
22 opportunity to react to it.

23 Anything more that the Board members  
24 want to discuss in reference to this  
25 application?

1 Thank you.

2 MR. CRONCE: I would like to go through  
3 the Van Cleef letter, there were a couple of  
4 items in that.

5 THE CHAIRMAN: Which part did you want  
6 to review?

7 MR. CRONCE: It is actually the  
8 planner's letter.

9 THE CHAIRMAN: You meant the planner?

10 MR. WILSON: The letter of June 24th?

11 MR. CRONCE: Yes.

12 MR. DECKER: I have the same items in  
13 my letter.

14 THE CHAIRMAN: Tom's letter is updated,  
15 where he put in some clarifications. Where did  
16 you start, Tom?

17 MR. DECKER: On the bottom of page 8.

18 MR. CRONCE: Let's go to page 8 in Van  
19 Cleef's letter, last revised March 25, 2003.  
20 You were talking about item 8 at the bottom of  
21 page 9.

22 THE CHAIRMAN: What you wanted to  
23 review is some of the non-conforming issues on  
24 the existing use, John?

25 MR. CRONCE: Yes.

1 THE CHAIRMAN: Do you want to start?  
2 Tom, do you want to identify those to the Board  
3 so the Board understands what is there now?

4 MR. DECKER: Sure. Actually, it was  
5 discussed early in the letter, but I can go  
6 through that.

7 Basically, some of the non-conformities  
8 as the freestanding sign out in front --

9 MR. CRONCE: Will you go through them  
10 item by item?

11 MR. PALILONIS: Why are we doing this?

12 THE CHAIRMAN: There was some  
13 discussion about identifying some pre-existing  
14 non-conforming uses on existing properties.

15 MR. PALILONIS: But for what purpose?

16 THE CHAIRMAN: So they can be  
17 delineated and identified as part of the record  
18 in the event there is a resolution.

19 MR. PALILONIS: On the Mason Supply?

20 THE CHAIRMAN: Yes.

21 MR. PALILONIS: For what purpose?

22 THE CHAIRMAN: To identify what is  
23 existing at the time.

24 MR. PALILONIS: I mean, I don't think  
25 it would be proper to characterize them as

1 anything -- as conditions that you are  
2 concerned about. As to this application, it  
3 would certainly be appropriate.

4 To characterize them as non-conforming  
5 or illegal, I don't think that would be  
6 appropriate, as part of these proceedings, I  
7 don't think so.

8 THE CHAIRMAN: We just wanted to  
9 identify what is there.

10 MR. DECKER: Are you talking more about  
11 what Anthony had in the transcript, saying  
12 there is non-conformance out there, and we can  
13 identify and recognize that they are there,  
14 basically.

15 MR. CRONCE: That is the benchmark,  
16 they will be identified so that they will  
17 expand it.

18 MR. PALILONIS: That is what I have a  
19 problem with.

20 MR. CRONCE: Just let me finish. If  
21 this dissolves, they can't come back to a  
22 lumber yard or something, and you can give  
23 examples like this, but you can't come back in  
24 here again. In other words, if they close  
25 down --

1                   MR. PALILONIS: You mean West Amwell  
2                   Mason Supply --

3                   MR. CRONCE: They can't do anything on  
4                   the place like that without coming back before  
5                   this Board here.

6                   MR. PALILONIS: That may or may not be  
7                   true, but what is the relevance to this  
8                   proceeding?

9                   MR. WILSON: May I interject briefly?  
10                  Hopefully in the right direction. I think what  
11                  you are thinking, and I am sure you can correct  
12                  me or will correct me if I am wrong, but what  
13                  was behind Mr. Decker's request or requirement  
14                  that we submit an existing conditions plan to  
15                  identify just those items, and there was a  
16                  separate plan submitted, as required. I am not  
17                  sure if it had an exhibit number in the first  
18                  proceeding, or was just part of the submission,  
19                  but it was entitled "existing conditions plan",  
20                  and dated May 9, 2011. That depicted what is  
21                  there now so that you could memorialize that.

22                  THE CHAIRMAN: Yes, that is right.

23                  MR. DECKER: What might be helpful, the  
24                  Board might want to consider that prior to  
25                  construction, basically a photo record be taken

1 of the existing field where the facilities are  
2 going, and any concerns you have with adjacent  
3 areas, with reference to runoff and erosion and  
4 so forth, so there is a record in the  
5 Township's file for the existing conditions  
6 before construction.

7 THE CHAIRMAN: Tom, is that pre-  
8 existing sheet in the record? Do you have  
9 that?

10 MR. DECKER: Yes.

11 THE CHAIRMAN: Okay.

12 MR. DECKER: They did that and  
13 submitted a survey, and those are the items in  
14 my letter where I identified them. That is the  
15 existing futures plan. But the photo record  
16 might be something worth having just in the  
17 file for future reference in case any of these  
18 conditions come up.

19 THE CHAIRMAN: Any other question from  
20 the Board if we have it documented that way?

21 MR. ASHTON: I think that is a very  
22 good idea.

23 MR. CRONCE: The operation is there  
24 now, and then it gets approved prior to  
25 construction, right?

1 MR. ASHTON: That is correct.

2 MR. PALILONIS: While we are talking  
3 about that, just for the record, we have found  
4 there is some history, of all of the history we  
5 know of with Mason Supply, which is totally  
6 unenlightening, what the Statute says, but it  
7 is available if anybody wants to look at it.

8 THE CHAIRMAN: It was found to be filed  
9 in the incorrect file, and our secretary found  
10 them and they will be filed correctly now.

11 MR. ROMANO: And what I brought up last  
12 month was that there is a correlation between  
13 Mason Supply and the proposed solar field in  
14 that there is non-conformities which would be  
15 much more difficult to condition into  
16 conformance once the solar field is in. So I  
17 ask that we review and discuss if there is  
18 anything that should or could be brought into  
19 conformance, because once that solar field is  
20 in there, you can't do anything.

21 There is a list that the planner put  
22 together, and perhaps we should discuss that.

23 THE CHAIRMAN: Is there anything in  
24 that particular list that you want to discuss?

25 MR. ROMANO: I am just bringing it up,

1           whether it is the signage or whether it is the  
2           parking, whether it is -- I am not sure what  
3           can or can't be, but there are a number of  
4           things in there that certainly storage is a  
5           tough one, and I am not necessarily looking for  
6           that.

7                         THE CHAIRMAN: We need some guidance.  
8           Are there any specific items or anything in  
9           particular that could be dealt with now or  
10          should be dealt with now?

11                        MR. DECKER: One thing they have agreed  
12          to do is take care of the ADA requirements for  
13          accessible parking and so forth, so that is  
14          something they have to do anyway. As far as  
15          designated parking spaces, there is no problem  
16          with the way it is operating now. They can  
17          just identify it as they provide the parking  
18          that the ordinance requires, if it has been an  
19          issue. You may not see it as an issue.

20                        MR. CRONCE: How about the non-  
21          conforming signage?

22                        MR. DECKER: The non-conforming  
23          signage, they have a freestanding sign out  
24          front, and I couldn't tell you how many years  
25          it has been there, if Anthony pointed that out

1 in one of the transcripts, but if the sign gets  
2 blown down or knocked down for whatever reason,  
3 because it was non-conforming, they would have  
4 to come in and get relief to put the sign back  
5 up where it was.

6 MR. PALILONIS: They may or may not be  
7 issues for the zoning officer. The Board does  
8 not reflect whether they have site plan review,  
9 for example.

10 MR. CRONCE: But here it says non-  
11 conforming site, so you are saying it is the  
12 time, that is the time to address it, not now,  
13 but to address it?

14 MR. DECKER: Basically, my obligation  
15 is to bring up any non-conformances, and the  
16 Board identifies what they are today, and if  
17 they are there, acknowledge them. You don't  
18 grant any variances or anything for them, you  
19 just acknowledge that they are there. But in  
20 the future, if the sign has to be replaced,  
21 they have to go through the process.

22 MR. CRONCE: And they should know this?

23 THE CHAIRMAN: The Board's actions will  
24 not approve this non-conformance, but just as  
25 Tom says, any of the non-conformances that get

1 removed at any point in time can never be  
2 replaced without a variance.

3 MR. WILSON: The owner has acknowledged  
4 that. That is a fair way to handle it.

5 MR. PALILONIS: If there is a problem.

6 MR. CRONCE: We have always had a  
7 strong sign ordinance in this town, and the  
8 Planning Board is always strong on signs. I  
9 sat on the Planning Board, and over and over  
10 and over that was discussed. So I want to make  
11 sure there is a mechanism in there if something  
12 does happen, so it can be corrected in the  
13 future, if that is what the Board wants to do.  
14 If the Board wants to change it now, they have  
15 that power to do it. You do have the power to  
16 do that.

17 MR. ASHTON: I think Joe's point struck  
18 me that are there things there that having the  
19 other use would make it more difficult to bring  
20 in compliance, and having gone through it, I am  
21 not sure about that, but it was a healthy  
22 exercise to at least say these things are here.  
23 If we were to approve it, are there things that  
24 we could not fix? The sign, I look at it and  
25 it is a sign issue, but it is independent of

1 the dual use.

2 MR. ROMANO: Do you see any non-  
3 conformities that if you were to get the  
4 solar --

5 MR. DECKER: The first is outdoor  
6 storage, it is not permitted in the zone, but  
7 it is there. I went to the section of the  
8 ordinance that addressed outdoor storage to see  
9 what would be needed, and there are setbacks  
10 from property lines and street right of ways.  
11 They already said they will put the material  
12 out of the road right of way. It is supposed  
13 to be, for example, outdoor storage of  
14 material, and the ordinance -- it is to be  
15 located 25 feet from the street right of way  
16 and ten feet from the property line.

17 If you are looking -- if you want them  
18 to comply with those requirements of moving  
19 storage, not just out of the right of way, but  
20 25 feet away from the right of way and ten feet  
21 away from the property line, then I think they  
22 would have a difficult time doing that with the  
23 constraints of the fence for the solar  
24 facility.

25 MR. ROMANO: Hypothetically, if they

1           weren't there, they could require them.

2                   MR. DECKER: Or reduce the amount of  
3           outdoor storage.

4                   MR. ASHTON: But wasn't the outdoor  
5           storage an issue, just having the outdoor  
6           storage?

7                   MR. DECKER: Yes. Just having outdoor  
8           storage is one of the non-conformities.

9                   MR. CRONCE: I always believed that  
10          there was give and take with things, and that  
11          is what I would say, solar panels, they have to  
12          make it more conforming, but it seems like that  
13          doesn't happen. I think we should hold off  
14          before we do anything about issues like that.  
15          I don't know if the public will bring anything  
16          up about Mason Supply, I don't know. Should we  
17          wait before we do anything on that part of it?

18                   THE CHAIRMAN: I don't think the Board  
19          can decide now. Unless I hear any expert  
20          testimony to the contrary, that is the way it  
21          is. I don't have any problem delineating and  
22          moving on myself, but --

23                   MR. CRONCE: Should we delineate them  
24          until we hear what the public has to say?

25                   MR. DALE: I would like to hear that.

1                   MR. CRONCE: It is fair to let the  
2                   public speak before that.

3                   THE CHAIRMAN: I wanted to make sure  
4                   our discussion was complete so that the public  
5                   has an opportunity to respond to it. We will  
6                   open it up to the public.

7                   MS. BLAND: Mr. Ferguson spoke about a  
8                   couple things and so did the planner, and we  
9                   didn't have a chance to ask some questions  
10                  about the further testimony. Is that okay?

11                  THE CHAIRMAN: You have had an  
12                  opportunity to ask after each of those things.

13                  MR. WILSON: We are here, we are happy  
14                  to answer any questions about the testimony.

15                  THE CHAIRMAN: This is an opportunity  
16                  to ask final questions and make final comments  
17                  about the application.

18                  MS. BLAND: Pamela Bland, Lot 12. I  
19                  have some questions about the maintenance plan  
20                  and clarifications. Either I missed it or I  
21                  didn't understand it. As part of the  
22                  maintenance plan, who is responsible for  
23                  maintaining and enforcing the maintenance? I  
24                  understand Garden Solar does this to a point,  
25                  but I forget, two years is it?

1                   MR. CHMIELAK: No, for the life of the  
2                   system.

3                   MS. BLAND: I thought there was a point  
4                   where Garden Solar is stepping back and the  
5                   owner is responsible?

6                   MR. CHMIELAK: These requirements that  
7                   we talked about will run with the land,  
8                   irrespective of who the owner is, those  
9                   requirements will still be in effect. The  
10                  maintenance plan will be making sure the  
11                  buffer plantings are alive and viable; whoever  
12                  owns the property or owns the asset or the  
13                  facility will comply with this.

14                  MS. BLAND: So in the future, after  
15                  some period of time, or in the future this  
16                  might be the property owner?

17                  MR. CHMIELAK: It would be the owner of  
18                  the asset. Another non-entity.

19                  MR. WILSON: The owner of the solar  
20                  array, not the owner of Mason Supply. The  
21                  owner of the solar array.

22                  MS. BLAND: Who enforces the  
23                  maintenance? Is it the responsibility of the  
24                  Township to do that?

25                  MR. CHMIELAK: Yes.

1 MS. BLAND: So if the trees die and the  
2 owner of the asset doesn't take care of it,  
3 then it is up to the Township to get after the  
4 owner of these assets and see that this is  
5 done?

6 MR. CHMIELAK: It would be a violation  
7 issued by the zoning officer, who would cite  
8 them for not complying, that would be an  
9 enforceable action by the township on the owner  
10 of the facility to address the situation.

11 MS. BLAND: So the zoning officer has  
12 to keep on top of this, so if the trees fall  
13 down or the deer eat the arborvitae, and the  
14 grass doesn't grow, then the zoning officer is  
15 the one who will check on the maintenance; is  
16 that correct?

17 MR. DECKER: I think what will probably  
18 happen is, as it happens in towns with other  
19 enforcement issues, the zoning officer is the  
20 enforcement officer, and if he sees something,  
21 he will issue a summons. Or if someone, a  
22 resident sees that there is something, a tree  
23 that has died, they can call the zoning officer  
24 and report it, and the zoning officer would  
25 then contact the owner.

1 MS. BLAND: So it is really not the  
2 Township itself, but the zoning officer who is  
3 acting for the Township, I guess, to follow  
4 through.

5 MR. DECKER: He is your enforcing  
6 officer for not only the zoning, but when  
7 applicants come in here and get approval and  
8 there are conditions in that approval, the  
9 zoning officer is the one who follows up.

10 MS. BLAND: Is that the same person who  
11 was supposed to be following up on these non-  
12 compliance issues?

13 THE CHAIRMAN: Those are non-conforming  
14 issues that pre-existed the zone.

15 MS. BLAND: But in the past, the zoning  
16 officer was the one who was supposed to have  
17 followed up on the non-compliance issues.

18 THE CHAIRMAN: Yes, non-compliance, the  
19 zoning officer is in charge.

20 MS. BLAND: And we don't have a good  
21 record here from what I am hearing with some  
22 issues that have gone on.

23 MR. CRONCE: You are going way back.  
24 We have changed zoning officers.

25 MS. BLAND: But the history is there.

1 MR. PALILONIS: Let me say that we  
2 don't know that, it is inappropriate.

3 MS. BLAND: I just wanted to make that  
4 point.

5 Now, is this maintenance agreement a  
6 perpetual agreement that goes on forever and  
7 ever? Is it a legal perpetual agreement?

8 MR. CHMIELAK: They are maintenance  
9 procedures to be implemented for the life of  
10 the system as it exists on the property.

11 MS. BLAND: And that includes  
12 decommissioning, if that would be the case?

13 MR. CHMIELAK: Yes.

14 MS. BLAND: Forever and ever?

15 MR. WILSON: There is a separate decom-  
16 missioning plan.

17 MS. BLAND: But that is part of it.

18 MR. CHMIELAK: That is part of the  
19 plan.

20 MS. BLAND: What about concrete  
21 footings? I know sometimes they use concrete  
22 footings. I don't remember anybody saying  
23 anything about that. Would there be any use of  
24 concrete footings in this field?

25 MR. CHMIELAK: The intention is to

1           install them with driven piers which would not  
2           include concrete footings. If for some reason,  
3           on several occasions, based upon the rock  
4           conditions, several concrete footings will be  
5           required structurally, then they would be  
6           implemented at the discretion of the township  
7           engineer in certain locations. That caveat  
8           aside, the intention is to install the driven  
9           piers or helical screws.

10                   MS. BLAND: Possibly there are some  
11           places when you would need to use concrete  
12           footings.

13                   MR. CHMIELAK: There are instances, but  
14           the intent will be to use driven piers.

15                   MS. BLAND: I don't remember hearing  
16           anything about herbicides being used on the  
17           trees or the grass in this area. Was that  
18           addressed in the application?

19                   MR. CHMIELAK: There is no intention of  
20           utilizing any herbicides.

21                   MS. BLAND: No spraying of the trees?

22                   MR. CHMIELAK: As far as normal  
23           maintenance of the trees, that may be  
24           implemented, but in terms of applying  
25           herbicides to the ground cover, the

1 maintenance, grasses to be mowed, no. There  
2 isn't any need for any additional herbicides.  
3 It would just be a one time exercise.

4 MS. BLAND: I can be assured, living  
5 behind there, that when the wind is blowing  
6 towards my property, no herbicide will be  
7 sprayed on the trees towards my property? I  
8 can be assured of that?

9 MR. CHMIELAK: I can't give you that  
10 assurance. Certainly, if there are trees that  
11 need to be sprayed, I can't give you that  
12 information.

13 MS. BLAND: I am concerned about  
14 herbicides being sprayed onto my property.

15 Going on, this issue about storm water  
16 drainage, I brought this up the last time, and  
17 since we know that -- I know and my neighbors  
18 know that when there is a bad storm, I have a  
19 river flowing currently down through the back  
20 of my yard and into this field, and I have  
21 French drains on my land already and two sump  
22 pumps, and it is a spongy area. And I am  
23 telling you, I remember your study says there  
24 isn't an issue, that there is an issue of water  
25 runoff on that field, particularly the wetland

1 area. In that little corner there, that is  
2 where the water -- can I show you -- the water  
3 runs off this area down the back of my property  
4 (indicating), and that is when we have bad  
5 storms. So I feel that that really hasn't been  
6 addressed adequately, and I think that there is  
7 a potential for just having this field  
8 disturbed. And of course, during the  
9 construction it will be a total mess, but even  
10 after that there is a potential for that, and  
11 there could be at least as bad or a worsening  
12 of the water runoff.

13 I think the way you addressed that the  
14 last time was that that would be addressed in  
15 the future. If that was an issue, it would be  
16 addressed in the future. But how are you going  
17 to address it in the future when the whole  
18 field is full of solar panels? How can you get  
19 in there then with construction equipment and  
20 make a ditch or make a berm? It seems to me  
21 that should be addressed before the solar  
22 panels are put in, not waiting to see if it is  
23 an issue afterwards when physically, how will  
24 you get in there to correct it? There is no  
25 space. You would have to take down the solar

1 panels to get your equipment in there to build  
2 a drainage ditch or build berms.

3 MR. CHMIELAK: Just to respond, I don't  
4 believe it was my testimony that we would wait  
5 for some future date to install any mitigating  
6 storm water management measure. I did not say  
7 that at the last meeting, number one. Number  
8 two, from a storm water standpoint, there are  
9 existing conditions. Your home down in that  
10 location, it is in a low lying area. The way  
11 the house is constructed, it is a low lying  
12 area and the farm field exists. Upgrading of  
13 that the way it is today without the solar  
14 project, the standards by which the regulations  
15 that we need apply is an analysis of the runoff  
16 of the existing conditions, and determining  
17 that there would be no change or increase in  
18 the runoff. We have done that analysis. I  
19 don't say it is a problem, but we have complied  
20 and have multiple jurisdiction from the NJDEP,  
21 the Hunterdon County Planning Board, the Soil  
22 Conservation District, and there are checks and  
23 balances for that.

24 MS. BLAND: There is an existing water  
25 issue here. I have a picture taken from 518 to

1 my house. You can see that, that isn't my  
2 property. We know there are water drainage  
3 problems.

4 MR. PALILONIS: Do you want that marked  
5 in evidence? Let's do that.

6 MR. WILSON: I have no objection.

7 MR. PALILONIS: We will mark it O-1 for  
8 Objector 1.

9 MS. BLAND: Even though you plant  
10 trees, the deer will eat them, and who will  
11 replace the trees?

12 As far as the arborvitae, I just  
13 question -- again, it is a maintenance issue,  
14 that is one of the reasons I brought that up,  
15 and also it is an issue about screening and  
16 another reason for bringing it up, but the  
17 nature of where we live, these are the  
18 realities of the situation. I live there, so I  
19 can share this with you. Those are the  
20 questions that I had for the planner, and I  
21 also had some comments that I would like to  
22 make or a question for the Board. It is my  
23 understanding that your responsibility is to  
24 make decisions for the township.

25 THE CHAIRMAN: That is what we are

1 required by law to do, yes.

2 MS. BLAND: In making decisions about  
3 this application, I trust that you are not only  
4 thinking about the current piece of land, which  
5 is concerning, but also the precedence of this  
6 decision for future decisions about ten acre  
7 pieces of land and solar fields in the future.  
8 So I trust you are keeping that in mind.

9 THE CHAIRMAN: Every applicant is here  
10 on its own merits.

11 MS. BLAND: In theory, this is, but he  
12 has that, and I have a ten acre piece of land  
13 and I can do that on mine, too. In theory, I  
14 hear you, but in reality, I don't know. I have  
15 a question of a nature related to transparency  
16 here which is in here. Can I ask it? Since I  
17 don't know, I only know one person on the  
18 Board, I don't know you, and I don't know where  
19 you live and so forth, can I ask if there any  
20 members of the Board who has solar panels on  
21 their own personal property?

22 THE CHAIRMAN: I have some on my farm.

23 MS. BLAND: Nobody else has solar  
24 panels?

25 MR. ASHTON: I don't think that is a

1 fair question.

2 MS. BLAND: The reason I am asking this  
3 is that I am trusting this will be an unbiased  
4 decision.

5 MR. ASHTON: That is not a fair  
6 question to ask this Board, I'm sorry, I refuse  
7 to answer that.

8 MS. BLAND: Okay, but I thought in the  
9 essence of trying to be fair, my point about  
10 making an unbiased decision, that is why I  
11 raised it. I have some other comments, but I  
12 will save them.

13 THE CHAIRMAN: No, this is your chance.

14 MS. BLAND: I don't get another chance?

15 THE CHAIRMAN: No, this is your chance  
16 to make all of your comments and ask all of  
17 your questions.

18 MS. BLAND: I don't get another chance  
19 after this?

20 MR. PALILONIS: One chance per  
21 customer, if everybody comes up more than once,  
22 we will run out of time.

23 MS. BLAND: Then I will take some more  
24 time.

25 The central question here is should

1           this solar field be constructed on this  
2           particular field, on this particular piece of  
3           property, that is the essential question as I  
4           see it. This application has been presented in  
5           terms of meeting the requirements. I am not  
6           sure if that is true, or how you define that,  
7           but the basic question is that even though you  
8           changed the ordinance, which is another  
9           question why the ordinance was changed, but the  
10          ordinance was changed, and so acreagewise the  
11          application fits the new ordinance. But the  
12          basic question is, regardless of that, this  
13          field is too small. The point was made for the  
14          size of the property. The solar panels are  
15          squeezed on this piece of property to fulfill  
16          the whole piece of property, and there are  
17          residences around this property. This property  
18          is encroaching on the vistas of the residents,  
19          and also on their property values. So the  
20          point goes back to is this field too small?  
21          Something else you will hear about this  
22          Kingwood property is the size. Is it too close  
23          to residences? There are residences across and  
24          behind and beside this field, or very close to  
25          it.

1                   There are issues about water drainage,  
2                   which we already have. We don't know whether  
3                   this will make it worse or not, and there are  
4                   two uses on the property. So there are lots of  
5                   reasons to question this, even though it is  
6                   meeting requirements, and one of them being the  
7                   size of the acreage in the appropriate place  
8                   for solar panels, and the neighboring residents  
9                   and township as a whole. And that is what I  
10                  hope you are keeping in mind when you make your  
11                  decision about this.

12                  There is still some unknowns here, and  
13                  it seems to me that this decision, or this  
14                  application, is treading on some uncharted  
15                  waters that haven't been approached in this  
16                  township before. I guess the one up by Music  
17                  Mountain, but that was a different set of  
18                  circumstances when that was approved.

19                  So you know, I am not sure there is  
20                  enough information to make a decision, and if  
21                  there isn't enough information, I suggest that  
22                  we explore some of the issues that have been  
23                  raised a little further before you make a vote.

24                  I also suggest, because this is a  
25                  bigger issue than only approving the

1 applications in the future, that perhaps this  
2 needs to be put before the voters in the  
3 township, not just the Board. It seems to me  
4 it is bigger than just this application for  
5 this one field, there are other implications  
6 for the future for the Township, and the way  
7 you want the township to be. I am recommending  
8 that perhaps all of the voters in the township  
9 should have an opportunity to vote on whether  
10 this is the way we want to have ten acre  
11 parcels of land used in this township. Think  
12 about that. It seems to me the big question  
13 again is, is this an appropriate use for this  
14 piece of land, and if you approve this  
15 application, it seems to me that you are  
16 approving a change in the real characteristics  
17 of the township. And I don't want this in my  
18 backyard, but I am more concerned and really  
19 concerned about the bigger picture and how this  
20 looks for our township, and how it changes our  
21 township.

22 It is by a public road on 518. People  
23 drive through it from New Hope, Pennsylvania,  
24 Lambertville to Princeton, and to Route 1 all  
25 the time, every day. There is a lot of

1 traffic, and they would go by this field every  
2 day. It is not a pretty sight, and the comment  
3 this is an improvement of that piece of  
4 property, come on, that is not pretty, it is an  
5 ugly site. People drive by there all the time.  
6 You say it will take 10 to 15 years for these  
7 trees to grow; in the meantime, we are going by  
8 solar panels, and this doesn't represent the  
9 current expectation for the way I thought our  
10 township was supposed to look. That is why I  
11 moved here. I thought this was a real  
12 township, and we would continue to see fields,  
13 and the Sourland Mountains in the background.  
14 The solar field will completely block that from  
15 my view, and the view of other neighbors.

16 So I think you have to look at the big  
17 picture, that is what I am asking you to do is  
18 look at the big picture for the future, and is  
19 this the way we want our township to look. I  
20 am asking for your support to deny this  
21 application on those grounds, please.

22 MR. ARNONE: My name is Dave Arnone,  
23 631 Brunswick Pike. What was your name again?

24 MR. CHMIELAK: Jim Chmielak.

25 MR. ARNONE: Based on your response to

1 Pam's first question, which is the owner of the  
2 asset who will most likely maintain the  
3 property? Is it most likely, or will they?

4 MR. CHMIELAK: They will maintain it  
5 and they will be required based on the  
6 requirements in the approval.

7 MR. ARNONE: Since we brought up the  
8 lifetime of the facility, what is the lifetime  
9 of the facility?

10 MR. CHMIELAK: The lifetime of the  
11 facility is 20 to 30 years, and it could be  
12 longer.

13 MR. ARNONE: Is there an option for a  
14 five year extension on that?

15 MR. CHMIELAK: I am not familiar with  
16 the contract myself.

17 MR. ARNONE: What is the cost of this  
18 site?

19 MR. DALE: What is your last question?

20 MR. ARNONE: For extending the lease?

21 MR. DALE: For the land itself?

22 MR. ARNONE: One of the Kingwood sites  
23 has the ability for two five year extensions on  
24 the facility.

25 MR. DALE: Now I understand your

1 question.

2 MR. ARNONE: What would be the cost of  
3 dismantling it 25 years from now?

4 MR. CHMIELAK: I don't have that  
5 information.

6 MR. ARNONE: The Board should  
7 understand what that number should be and make  
8 a decision on whether a permanent bond for the  
9 lifetime of this facility should be in order,  
10 because according to the people I talked with  
11 at Kingwood, the estimated cost was three  
12 million dollars, and if you add another --

13 MR. WILSON: I will object. There is  
14 no semblance of reality to a number like that  
15 to the decommissioning of the 100 percent  
16 recyclable facility. It is hearsay, it came  
17 from somebody else.

18 MR. ARNONE: It is hearsay, but the  
19 Board should understand what the number is.

20 MR. WILSON: But I don't think it is an  
21 accurate number.

22 MR. ARNONE: Whatever the number is,  
23 the Board should understand what the number is  
24 and decide whether a permanent bond should be  
25 required in order to cover our costs, because

1 we don't know who will own it 30 years from now  
2 or 20 years from now.

3 THE CHAIRMAN: Any other comments, or  
4 anything else?

5 MR. ARNONE: I do have this.

6 THE CHAIRMAN: This is your chance to  
7 make your comments, okay?

8 MR. ARNONE: My name is Dave Arnone,  
9 and I have lived in this area in New Jersey all  
10 my life. I have gone to school here, I have  
11 gone to college here, and I have been in this  
12 area ever since my mother moved us out of  
13 Trenton when I was 15. We moved to Pennington.  
14 This was around 1979 and I was 16 years old.  
15 And even then Pennington was country to me. I  
16 have an uncle who lives on Bear Tavern Road  
17 near the new Quick Chek where we used to go up  
18 and shoot bows and arrows and guns and blow up  
19 tomatoes with firecrackers and have a blast.

20 But as we all know, Pennington and  
21 Hopewell has been in general overdeveloped as a  
22 result of Route 31 becoming a full time truck  
23 lane which again should not be. It became what  
24 it is because of the defeat of the connection  
25 between Route 95 and 297, through what would be

1 the Stony Brook watershed.

2 Two years ago I moved to West Amwell  
3 Township. I worked for a Wall Street firm, and  
4 when I worked in New York City, Weehawken and  
5 Jersey City, I used to tell people I live where  
6 you weekend vacation. And I am very proud of  
7 my western New Jersey residence, and I want to  
8 maintain its value and continue to be proud of  
9 it.

10 We are surrounded by farms, open space  
11 and wildlife. Western New Jersey is nothing  
12 like the wastelands of Elizabeth, Rahway,  
13 Hoboken or Weehawken, which are probably more  
14 appropriate sites for solar arrays. I used to  
15 drive along Route 518 all the time when I lived  
16 in Pennington, take our dog to Raven Rock, I  
17 never thought anything about the house I live  
18 in now. I passed it every weekend, it was for  
19 sale for what seemed like forever, and we saw  
20 pictures of the inside. When we moved to West  
21 Amwell, it was like a dream come true, 2.3  
22 acres, a pool. My view out of the back was  
23 over Green Acres preserved land. Yeah, we were  
24 living across from West Amwell Mason Supply.  
25 It was not the greatest thing, you know, but we

1           were set back enough. I never thought anything  
2           about it.

3                       Everyone is entitled to a business, I  
4           thought, but now we are facing an industrial  
5           solar array installation already on a non-  
6           conforming piece of property. Directly across  
7           the street, directly impairing our vista, the  
8           applicant, Garden Solar, LLC, has a proposed  
9           barrier that is simply inadequate and isn't  
10          going to be around for ten years.

11                     Educating myself on this issue, I began  
12          to realize this small business was vastly non-  
13          conforming, and perhaps this resident has never  
14          complained about it, but I am here to complain  
15          about it now.

16                     MS. HALL: You have to pick up the  
17          microphone, either hold it or put it back on  
18          the stand, we are not picking this up on the  
19          tape.

20                     MR. ARNONE: Twice in 2011, I became  
21          aware of the storm water problems. In 2013, at  
22          the last meeting of the Zoning Board in March,  
23          we were told again that there is a storm water  
24          issue. Garden Solar admitted in their  
25          testimony at that meeting that they knew

1 nothing of any water problem, and testified  
2 that the grasses they would plant would correct  
3 the water problem.

4 I have in these stacks of pictures  
5 places where that grass has not grown.

6 MR. WILSON: Could we mark those for  
7 identification, please?

8 THE CHAIRMAN: Just so you know, Dave,  
9 one of the members has to leave at 10:00, just  
10 so you don't think he is being rude, he has  
11 another job to get to tonight. He will be  
12 walking out at 10:00.

13 Are these pictures all the same?

14 MR. ARNONE: They are the same to the  
15 best of our ability to do that.

16 MR. PALILONIS: This is a set of how  
17 many pictures?

18 MR. ARNONE: About three title slides  
19 and 33 pictures. You are going to have to  
20 share some of these.

21 MR. WILSON: I have 30 sheets in total,  
22 does that sound right?

23 MR. ARNONE: It is about right.

24 MR. WILSON: For the record, we have to  
25 make sure they are all identified, I counted

1 30. Unless you think differently --

2 MR. PALILONIS: Thirty sheets of photos  
3 will be marked as Exhibit O-2, for objectors.

4 (Exhibit O-1, consisting of 30 sheets  
5 of photos, marked for identification.)

6 MR. BORDEN: Dave, these were all taken  
7 when, recently?

8 MR. ARNONE: They were taken on April  
9 7th in terms of West Amwell Mason Supply, on  
10 April 9th I think for Frenchtown 1, in dry  
11 conditions, April 13th for Kingwood 1, in wet  
12 conditions, after a rain, and I believe April  
13 16th, the date are on the title slides, for  
14 Frenchtown 2 site, which is also down the road.

15 Before we get into the pictures, I want  
16 to read further on.

17 As residents we are deeply concerned  
18 about storm water runoff.

19 MR. WILSON: May I comment or object?  
20 Mr. Arnone's testimony is by himself, it cannot  
21 be on behalf of anybody else, just on behalf of  
22 himself.

23 MR. ARNONE: Okay, I am deeply  
24 concerned about storm water runoff. I am  
25 concerned about the health of my well, which is

1 not great. I am concerned about the aquifer it  
2 feeds from, and the reservoir that feeds  
3 Lambertville, because it is not too far away.  
4 From our township website, storm water, which  
5 is defined as rain and snow melt that runs off  
6 these surfaces such as rooftops, paved streets,  
7 highways and parking lots.

8 As water runs off these surfaces, it  
9 may pick up pollution such as oil, fertilizers,  
10 pesticides, soil, trash and animal waste. From  
11 here the water may fly directly into a local  
12 stream or lake, or into a storm drain, and  
13 continue through storm pipes until it is  
14 released untreated into a local waterway.  
15 Because of the volume of the water, and --

16 MR. WILSON: Where is that from?

17 MR. ARNONE: Our website.

18 MR. WILSON: We don't know who the  
19 author is, or had the capability of examining  
20 the website.

21 MR. ARNONE: Do you know who the author  
22 is?

23 MS. HALL: David Gill, he manages it.

24 MR. CRONCE: The environmental?

25 MS. HALL: No, information provided by

1 different committees, multiple people.

2 MR. ARNONE: Is it not relevant?

3 MR. WILSON: It represents opinions of  
4 people not here, we don't know their expertise  
5 or where it comes from. I have no problem with  
6 you identifying your photos and describing what  
7 you see in those and providing us with your  
8 testimony as to that.

9 MR. ARNONE: let's see if we can tie in  
10 a little technology here and see how well we  
11 do.

12 MR. ASHTON: Are these the same?

13 MR. ARNONE: To the best of our belief,  
14 we tried to collate that, and this is the view  
15 of West Amwell. It is across the street from  
16 the Assembly of God Church, it is a nice view.  
17 Even if you look at the stuff back here, it is  
18 a nice view.

19 MR. WILSON: Can I ask you questions as  
20 you go through these? This is taken from where  
21 the church is?

22 MR. ARNONE: Yes.

23 MR. WILSON: This view of Pamela  
24 Bland's house is from the same point where I  
25 took the picture of the church --

1 MS. BLAND: That is not my house. That  
2 is the other house.

3 MR. ARNONE: It is abutting the field.  
4 If it is in this area here, it is very  
5 close to a residence.

6 Any questions about this picture?

7 MR. WILSON: You understand there could  
8 be a 35 foot tall building constructed on this  
9 site?

10 MR. ARNONE: Yes. That is if the land  
11 could perc.

12 MR. WILSON: There could be a 35 foot  
13 tall compliant building built on this property.

14 MR. ARNONE: For the warehouse that is  
15 on the property now, how high is that, Tom?

16 MR. DECKER: I don't know that we have  
17 that.

18 MR. ARNONE: Is there a limit for the  
19 part of the ordinance that does tell that?

20 MR. DECKER: Two and a half stories is  
21 35 feet.

22 MR. ARNONE: This is a picture from Al  
23 Stellitano's house, from the house looking  
24 directly from the north side of the property,  
25 which would be right here (indicating), and you

1 can see all the way to 518.

2 MR. WILSON: The road that runs across  
3 the photo?

4 MR. ARNONE: We don't have any  
5 experience with any of this stuff, the closest  
6 area that does have experience would be  
7 Raritan, which has a facility built on the Kuhl  
8 property behind one of the auto dealerships.  
9 Again, probably where one belongs. The others  
10 that we were able to find are in Frenchtown,  
11 Kingwood Township, and they were put in -- you  
12 were the engineer for these facilities. There  
13 are two that I am aware of, there are two that  
14 are contained in the package here, one is  
15 Frenchtown 1, and it is known as Frenchtown 1,  
16 LLC, and if it is Con Ed, I don't know.

17 MR. DECKER: It is.

18 MR. ARNONE: It is a nine megawatt  
19 facility, it is Lot 12, Blocks 16 and 16.01,  
20 and these photos are from dry conditions, so  
21 here is the array. The reason there are no  
22 panels here is because it is wetlands, so the  
23 DEP was involved, and you can correct me if I  
24 am wrong, and this is a pond that is where a  
25 lot of the runoff goes. This property is

1           graded downhill in this direction from Route  
2           12, all the way down to the back, and there are  
3           natural stream beds here and along the property  
4           bed here that run everything into that  
5           property.

6                       MR. WILSON: Mr. Arnone, this is a  
7           three megawatt site, not a nine megawatt site.

8                       MR. ARNONE: Okay, three megawatt site  
9           on 33 acres. I was told it was nine.

10                      MR. DECKER: I will confirm that it was  
11           three.

12                      MR. ARNONE: If you think of a two  
13           megawatt facility on 33 acres and now you talk  
14           about a two megawatt facility on less than a  
15           third of that space, there is a big  
16           consolidation of these panels. I don't know  
17           what the fenced in area is, but I couldn't  
18           determine that.

19                      MR. WILSON: Mr. Arnone, do you  
20           recognize that configuration, and that the  
21           spacing between the rows and the panels  
22           themselves are exactly the same on this site,  
23           probably plus or minus a foot or six to nine  
24           inches as they are on this site, the West  
25           Amwell site? They are not squeezed in any

1           tighter, they are exactly the same  
2           configuration.

3                   MR. ARNONE: I am not aware of that,  
4           no.

5                   MR. WILSON: Do you know what the  
6           drainage fields are on this site?

7                   MR. ARNONE: What the drainage fields  
8           are?

9                   MR. WILSON: The direction of drainage.

10                  MR. ARNONE: From 12 directly away?

11                  MR. WILSON: Would it surprise you that  
12           basically from this line to the left of the  
13           photo it drains in a different direction and  
14           not down towards that pond?

15                  MR. ARNONE: It drains down to what I  
16           could put it to this tree line here  
17           (indicating), which again was downhill, and  
18           drained back in this direction (indicating).

19                  MR. WILSON: It was according to all of  
20           the information.

21                  MR. ARNONE: According to Kingwood,  
22           yes, the LOI was required. But what Kingwood  
23           would do as a result of the applicant's  
24           construction is they tightened this ordinance,  
25           because they knew more applicants were coming.

1           There are two sites that I am aware of. There  
2           are three approvals that have been gone through  
3           since, so there is five and they tightened  
4           their ordinance, so no secondary use is on the  
5           primary use of road for any kind of solar  
6           facilities. Their ordinance for open space is  
7           extremely comprehensive, it protected the town  
8           fairly well.

9           You talk about grass, it is hard with  
10          the lights on, but there are places without  
11          grass. The grass grows better under the panels  
12          than it does on the roadways, and the roadways  
13          in terms of this facility were required to be a  
14          certain amount. We had some service trucks  
15          going through there and when they do they leave  
16          ruts, and when they leave ruts they fill with  
17          water.

18          MR. WILSON: You haven't been inside of  
19          that fence, have you?

20          MR. ARNONE: I have not.

21          MR. WILSON: You don't know that.

22          MR. ARNONE: I have pictures around the  
23          edges that show that.

24          MR. WILSON: Around the edges, outside  
25          of the fence.

1                   MR. ARNONE: I assume if a truck goes  
2                   through that it would leave ruts.

3                   MR. WILSON: I want to say this, it is  
4                   your assumption that it leaves ruts, not that  
5                   you have seen them inside of the fence.

6                   MR. ARNONE: Not from this picture. In  
7                   that wetland area, here is an example of two  
8                   ruts, this is dry conditions, cattails don't  
9                   grow unless they are in a swamp, all right, so  
10                  these construction trucks or service trucks or  
11                  whatever have gone through there. It is hard  
12                  to drive through there without getting stuck.  
13                  I have been on that site, I was standing right  
14                  there and I took these pictures, so I know.  
15                  After a rain it is extremely worse.

16                  MR. BORDEN: I have a question as to  
17                  your point. I wonder, it is pretty well known  
18                  that mosquitos breed in very small puddles of  
19                  water. Do you have any sort of plan for  
20                  spraying the mosquitos in these fields that  
21                  have standing water for a long enough period of  
22                  time to breed mosquitos?

23                  MR. WILSON: The area of wetlands is an  
24                  area of wetlands which was not disturbed during  
25                  construction.

1                   MR. ARNONE:  If you remember the  
2                   picture of the aerial, there is a notch in one  
3                   side, and that is this one area here that is  
4                   shown (indicating).

5                   MR. WILSON:  This was fenced to prevent  
6                   disturbance during construction, and in its  
7                   natural condition.  It had been a tilled field,  
8                   so the farmer may have filled certain portions  
9                   of it, but from the delineation of the  
10                  wetlands, this is projected for construction  
11                  and not disturbed.

12                 MR. BORDEN:  May I make an observation  
13                 of this picture?  We are looking straight down.  
14                 Can you put this one up there, because I am  
15                 looking straight down one of these aisles and  
16                 there is tracks, I guess, from a truck.  I  
17                 can't tell if there is water in the ruts, but  
18                 there are ruts there.

19                 MR. ARNONE:  It is this pathway, the  
20                 picture is taken from this.

21                 MR. CHMIELAK:  That is a main access  
22                 drive.

23                 MR. BORDEN:  The vehicles have to be  
24                 able to go through each one.

25                 MR. CHMIELAK:  Just the inverters.

1                   MR. ARNONE:  What happens when a tree  
2                   falls on it?

3                   MS. BLAND:  It breaks.  On Rock Road  
4                   West we have very tall trees, and if they fall  
5                   north, they fall right into the solar arrays.

6                   MR. ARNONE:  We have had a couple of hurricanes  
7                   here in the last two years, and now this is  
8                   along the north part, so Route 12 is parallel  
9                   to this view.  There are three rows, I think  
10                  there may be two going down this path.  This is  
11                  after a rain, so we have a dead tree or a tree  
12                  uprooted and trees around the facility.  You  
13                  can't see it here, but this is all standing  
14                  water, it is not draining at all, even though  
15                  this land is fairly pitched.  There are very  
16                  steep grades on the property.

17                  MR. WILSON:  This photo was taken  
18                  outside of the fence.

19                  MR. ARNONE:  Outside of the fence.

20                  MR. WILSON:  We don't know if it is  
21                  caused by our vehicles, or Mr. Decker's  
22                  vehicles.

23                  MR. DECKER:  Since we are talking about  
24                  the Kingwood site and there is a tree shown as  
25                  being down in the previous photo, right now Con

1 Edison has received memoranda from the township  
2 planner regarding trees that need to be  
3 replaced, and their landscaper is in the  
4 process of replanting these trees. Some of the  
5 trees came down in winter, and they had to wait  
6 until spring to replant them. So right now  
7 they are in the process of doing that, and the  
8 landscapers have been going up and down that  
9 area.

10 MR. CHMIELAK: That is their obligation  
11 to do so.

12 MR. DECKER: And also to take care of  
13 the ruts.

14 MR. ARNONE: Any questions about the  
15 last picture I showed? It is outside of the  
16 fence, but this is inside of the fence. This  
17 is a pool of water in the area where grass  
18 doesn't grow. It is a better picture of that,  
19 and even more so here.

20 Again, members of the Board, you should  
21 go and see this property, it is degraded, this  
22 is in the drainage area, and this is not much  
23 different than what we see in East Amwell or  
24 East Windsor where they actually have a pump  
25 activated to dry the water off of the field.

1                   MR. WILSON: I will object to that as  
2                   well, because that is a site that is in East  
3                   Windsor and it is a 14 megawatt net meter site  
4                   at McGraw-Hill that does not have grass  
5                   underneath it. It was approved in two hours by  
6                   the Planning Board of East Windsor with no  
7                   buffering and no consideration for it. It was,  
8                   basically, they excavated 18 inches and filled  
9                   it with gravel, and it is causing considerable  
10                  flooding issues. It is not a site that we  
11                  would build, it is not comparable in any way.  
12                  It is not designed the same or built the same.

13                 MR. ARNONE: And this is the back of  
14                 the property on the same date. This is again  
15                 outside of the fence. This is the wetlands  
16                 area, and you know, I couldn't even walk  
17                 through it. These are those ruts with the  
18                 cattails, and now they are extremely filled  
19                 with water and not draining. So if maintenance  
20                 is part of the issue here, then maintenance of  
21                 the ruts, I would think, would be included in  
22                 that.

23                 MR. WILSON: Mr. Arnone, this is the  
24                 wetlands area, it is supposed to be wet. It  
25                 was wet and continues to be wet and wasn't

1           disturbed during construction. This is the  
2           natural condition.

3                   MR. ARNONE: I don't think these ruts  
4           are natural condition, I am speculating, but  
5           they look like tire tracks.

6                   MR. WILSON: It was fenced to avoid  
7           anyone going into it during construction.

8                   MR. ARNONE: Then I will stand  
9           corrected.

10                   The next photo, I am not sure what I am  
11           trying to show here, except the amount of land.  
12           We talk about 50 feet and setbacks, but we have  
13           no idea what that means. So here is Route 12,  
14           and I am standing five feet from the fence, so  
15           that is what the setback is.

16                   MR. WILSON: Do you understand the site  
17           in West Amwell meets all of the required  
18           ordinance setbacks and buffering and height  
19           limitations?

20                   MR. ARNONE: Yes, but that's because  
21           you sued us. I do. There is a dead deer  
22           carcass probably hit off of Route 12, it reeks  
23           to the bone, again in a pool of water outside  
24           of the fence, and while I don't know what this  
25           is, but to me it looks like a well, so is this

1 a well required for this facility?

2 MR. DECKER: I can explain the well.  
3 Prior to this site being proposed as a solar  
4 facility, it was proposed for a subdivision  
5 with commercial development, and part of their  
6 evaluation was to do an aquifer test, so they  
7 had installed a few wells.

8 MR. ARNONE: So in our site in West  
9 Amwell when there is a fire, perhaps --

10 MR. DECKER: That is a question for  
11 them.

12 MR. ARNONE: What if there is a fire?

13 MR. CHMIELAK: There would be fire  
14 service from the fire department, the same as  
15 if there was a fire on any other adjacent  
16 residence or an existing facility.

17 MR. ARNONE: What happens when hail  
18 breaks a panel or a tree falls on the site?

19 MR. CHMIELAK: Actually, the panels are  
20 designed to withstand hail impact, and the  
21 system has automatic shutdowns, if for some  
22 reason there was --

23 MR. ARNONE: But who repairs the site?  
24 The facility owner? Who repairs it?

25 MR. CHMIELAK: That would be whoever we

1 sell the facility to. Whatever Garden Solar  
2 does.

3 MR. ARNONE: Now this site is called  
4 Frenchtown 2, it is a two megawatt site on 23  
5 acres, and I don't know what the area of the  
6 fenced in place is. There was no particular  
7 rain when I took these pictures.

8 THE CHAIRMAN: What does that cover  
9 sheet say that was?

10 MR. WILSON: It is not three megawatts.

11 MR. ARNONE: The other site I thought  
12 was nine, so it was about that, and this was  
13 one was two. I got this information from  
14 Kingwood, this is on Block 15, Lot 403, it is  
15 21 acres. Its address is 30 Slacktown Road and  
16 taxes on it are \$31,141 and change. So our  
17 taxes are lower. Thank you for that, too.

18 Stepping through this, this is the  
19 access road, this goes the length of the site,  
20 all the way down to the other side, and we  
21 Googled it and have different areas of this, so  
22 I can't comment on what the length of that is.  
23 the area around the fence on this particular  
24 row is on Slacktown Road, and again, I get a  
25 better sense for what the setback is. I don't

1 know what the setback for this was. Was it 50  
2 feet?

3 MR. DECKER: I believe so.

4 MR. ARNONE: What is the setback for  
5 our plan?

6 MR. CHMIELAK: The front setback is 25  
7 feet, the side is 15 and the rear is 25  
8 minimum, and we exceeded it in all cases.

9 MR. ARNONE: If there is a 50 foot  
10 setback from the road, which is here, and this  
11 is 50 feet, you are talking about a 25 foot  
12 setback from Route 518. That is not a whole  
13 lot. It is surrounding residences, there is  
14 not a whole lot there.

15 Along the north side it is three rows  
16 of pine trees, the setback here or distance  
17 here has to be greater than 50 feet.

18 MR. DECKER: I don't recall, to be  
19 honest with you.

20 MR. ARNONE: I think these are sites  
21 that are in an industrial zone.

22 MR. DECKER: No, this is in a business  
23 park zone which had an element that permitted  
24 light industrial, that was permitted. And the  
25 other zone was a commercial district which does

1 not have industrial as a permitted use.

2 MR. ARNONE: Why don't we have it in  
3 the residential zone?

4 MR. WILSON: That is not a residential  
5 district, correct?

6 MR. ARNONE: It is a light residential  
7 -- it is light commercial, isn't it?

8 (Many voices simultaneously.)

9 MR. WILSON: Neighborhood commercial  
10 zone?

11 MR. ARNONE: Neighborhood commercial?

12 MR. WILSON: It is not residential.

13 MR. ARNONE: Another view around the  
14 outside, this is inside of the fence. Again,  
15 service trucks are in here, and I don't think  
16 -- that is from the police vehicle, that is  
17 standing water.

18 MR. WILSON: Going back to your site  
19 question when you had the slide that showed the  
20 50 foot setback, are you aware that the setback  
21 to the arrays on this site from the County road  
22 were between 60 to 70 feet?

23 MR. ARNONE: You are asking about 25  
24 off of 518?

25 MR. WILSON: It is 60 or 75 feet.

1 MR. CHMIELAK: That is what the  
2 standard is.

3 MR. ARNONE: Let me ask the question  
4 then. What is the setback here?

5 MR. CHMIELAK: Approximately 65 feet.

6 MR. ARNONE: And here?

7 MR. CHMIELAK: Sixty feet.

8 MR. ARNONE: And here?

9 MR. CHMIELAK: Seventy feet. And it is  
10 170 along Rock Road.

11 MR. ARNONE: You are showing two rows  
12 of trees, maybe two rows of trees aren't  
13 adequate enough, because if this is 50, and you  
14 are proposing 70, put another row of trees in  
15 there.

16 MR. WILSON: Are you aware that the  
17 buffer that had been proposed, has been  
18 testified to and confirmed by both the engineer  
19 and the planner to conform with the requested  
20 buffer for the West Amwell ordinance?

21 MR. ARNONE: Yes, I am questioning  
22 whether that is adequate enough.

23 If I can finish reading my statement, I  
24 have also videoed the activity on West Amwell  
25 Mason Supply in the morning, I sat in my window

1           yesterday and watched. The trucks start at  
2           7:15. Is there an ordinance for noise in this  
3           township?

4                   MR. DECKER: It is basically with the  
5           noise requirements.

6                   MR. ARNONE: What is the time? It may  
7           be the Board's opinion that the non-conformity  
8           is something we can't do anything about,  
9           because of history, but we can start history  
10          now, and I think if you look at it, and we can  
11          listen and there are many -- the non-  
12          conformities on that site and the  
13          intensification of what happens when the solar  
14          array goes there plus the impact that  
15          Stellitano's still has there and the fact  
16          trucks can't park in the front because there is  
17          a waterfall, they are moving around each other,  
18          hanging out on 518 and doing K-turns. They are  
19          crossing each other in the back lot. I have  
20          videoed this, and I can play it if you want to  
21          see it, I can burn a CD and submit it as  
22          evidence.

23                   MR. WILSON: West Amwell Mason Supply  
24          was there when you bought your house, right?

25                   MR. ARNONE: Yes.

1 MR. WILSON: Operating in the same way?

2 MR. ARNONE: Yes, but now I am looking  
3 at a solar array as a secondary use and a non-  
4 conforming use. This is a bigger deal now. I  
5 know the guys --

6 I am trying to make a living and I have  
7 no issue, but if we are going to provide  
8 variances on top of already non-conformities,  
9 at what point does this end?

10 MR. WILSON: There are no variances  
11 requested relating to the configuration of the  
12 array. Do you understand that?

13 MR. ARNONE: I know that, but it is  
14 still a secondary use.

15 MR. WILSON: A secondary use, there are  
16 two uses on the property, there are two uses  
17 there now. Do you recognize that the panels  
18 that the entire array probably is on the  
19 magnitude of between seven and eight points at  
20 the highest grade? It is certainly not higher  
21 than ten feet, correct?

22 MR. ARNONE: What does your ordinance  
23 say about secondary uses?

24 MR. WILSON: Do you understand seven to  
25 eight feet is not likely more than ten feet at

1           any measured point? You have to say something  
2           on the record.

3                   MR. ARNONE: Yes.

4                   MR. WILSON: Thank you.

5                   MR. ARNONE: Would anybody care to hear  
6           this video, this is what I hear from my house,  
7           this is how I know what the time is.

8                   MR. DECKER: The noise is an enormous  
9           issue, and there are time constraints, but it  
10          is also based on decibels measured at the  
11          property line and so forth. It is something --  
12          if a complaint is filed, usually the Health  
13          Department goes out, the health officer goes  
14          out and takes a reading. He checks the noise,  
15          and if it exceeds the amount that is allowed, a  
16          summons would be issued.

17                   MR. ARNONE: It is about three minutes  
18          long.

19                   MR. PALILONIS: It is up to the  
20          applicant.

21                   THE CHAIRMAN: Mr. Wilson? Do you want  
22          to listen to his video?

23                   MR. WILSON: He indicated he filmed it,  
24          I don't question its authenticity. You didn't  
25          alter it in any way?

1                   MR. ARNONE: I just pieced it together,  
2                   that is all.

3                   MR. WILSON: I have no problem with  
4                   that.

5                   (Whereupon, the video was played.)

6                   MR. WILSON: I ask that it be submitted  
7                   in some form.

8                   MR. ARNONE: I will burn you a CD.

9                   MR. WILSON: It is just for the Board.

10                  MR. ARNONE: There is a truck coming  
11                  out here. If you look carefully, there is a  
12                  truck coming down the side. This is about  
13                  7:25, and unfortunately, my screen is not  
14                  complying.

15                  MR. WILSON: The small box truck is not  
16                  from Mason Supply.

17                  MR. ARNONE: No, it is not, it is from  
18                  my neighbor. For some reason the sound is not  
19                  playing.

20                  My window is open, it is about 8:01,  
21                  and if you could hear it, you could hear the  
22                  truck backing up and beeping. You have a truck  
23                  going in this side, a truck going in the other  
24                  side driving to the back, and the truck --  
25                  there is a big motor down here, there is not

1 room for this coming over. When the trucks  
2 pull in, they pull in in a line, and these are  
3 big construction trucks. They are not like  
4 four wheel Rangers. These are big, heavy  
5 trucks that come in and out of here, and that  
6 is the 801 bus.

7 Now, these trucks leave my house and my  
8 house vibrates and again I have no problem with  
9 that, but what I am worried about is the  
10 intensification of the site as a result of  
11 having what is considered to be an industrial  
12 secondary use, not a farm, but a secondary use.

13 MR. WILSON: Mr. Arnone, you understand  
14 there will be no audible sound at the property  
15 line from the solar array at all?

16 MR. ARNONE: I have heard the solar  
17 array in Kingwood, it is really the noise from  
18 the fans, right?

19 MR. WILSON: And on this site there  
20 will be no audible difference in the sound.

21 MR. ARNONE: I understand that.

22 MR. WILSON: It is closed down  
23 completely at night.

24 MR. ARNONE: I understand that, too.  
25 No sun, no activation, right.

1                   MR. WILSON: And the trips are  
2                   certainly less than one per day of any type of  
3                   vehicle going in.

4                   MR. ARNONE: While we are talking about  
5                   the other sites, that fence is electrified,  
6                   high voltage electrification.

7                   MR. WILSON: That is for inside of the  
8                   fence, it is required by safety people, the  
9                   people who have that on there. The fence  
10                  itself is not electrified.

11                  MR. ARNONE: That is all of the video,  
12                  it is not audible from the computer, but it is  
13                  considerably loud, and that doesn't count the  
14                  trucks when the dump trucks are banging to get  
15                  everything out of the trucks.

16                  I do have a couple of questions for Mr.  
17                  Decker, because you were the engineer. What  
18                  happened when the construction began on Route  
19                  12, how many cars would you say were involved?

20                  MR. DECKER: There were -- along Route  
21                  12, there could have been anywhere from 60 to  
22                  80 vehicles parked along Route 12.

23                  MR. ARNONE: Were there any concerns of  
24                  safety of the workers?

25                  MR. DECKER: At that time, when that

1 project was approved, it was before Kingwood  
2 had a solar ordinance. Since that time, the  
3 ordinance has been revised to require off  
4 street parking and staging areas. I believe at  
5 the last meeting I had asked the applicant if  
6 they would keep all of the vehicles off street  
7 and create a staging area inside of the fenced  
8 area and not the stone mason building, and I  
9 believe, you can correct me if I am wrong, that  
10 they can comply with that because they did have  
11 issues with vehicles parking on the highway and  
12 trucks idling and so forth. So that was an  
13 issue.

14 MR. ARNONE: There were issues with mud  
15 on the highway?

16 MR. DECKER: Yes, and --

17 MR. ARNONE: How many people do we  
18 think it will take to construct this? The  
19 Kingwood site took four months.

20 MR. DECKER: The Kingwood site from  
21 start to finish took four months. They had a  
22 different contractor at that time who actually  
23 got fired three-quarters of the way through,  
24 and they brought in a different crew, and that  
25 contractor was much better to deal with.

1 MR. ARNONE: Do we know how many  
2 construction workers we are talking about?

3 MR. DECKER: I couldn't tell you.

4 MR. ARNONE: Where in West Amwell will  
5 they park?

6 MR. DECKER: They agreed they would  
7 park on site within the solar field area.

8 MR. ARNONE: How do they build the  
9 solar field where they are parked?

10 MR. DECKER: They will have to build a  
11 staging area where they construct the majority  
12 of the site with vehicles and storage and park  
13 in one area, and once they complete that  
14 section, they will have to phase themselves out  
15 of the staging area.

16 MR. ARNONE: So with this claim to fame  
17 of this great thing making everything better  
18 because grass will grow -- grass has to be  
19 planted before construction goes up, right?

20 MR. DECKER: No, actually in Kingwood  
21 they planted the grass, they have to go back in  
22 and re-seed the facility afterwards, after the  
23 panels are installed.

24 MR. ARNONE: Is there any issue that  
25 that will occur?

1                   MR. DECKER: That is one of the things  
2                   that the Soil Conservation District is looking  
3                   at is decompaction of the soils, and that is  
4                   one of the things they haven't submitted their  
5                   staging plan on yet. That is one of the things  
6                   that will be required when they remove the  
7                   staging plan, and the vehicles are required to  
8                   be scarified and brought to a condition where  
9                   vegetation could be established, and drainage,  
10                  whatever drainage is required.

11                  MR. ARNONE: Were there any issues with  
12                  vandalism in Kingwood?

13                  MR. DECKER: Not that I am aware of.  
14                  There were some issues worked out with the  
15                  contractor, as far as construction lights at  
16                  night, because they had lights they set up at  
17                  night before they had security on site. It was  
18                  during construction, and they maintained the  
19                  security presence, but before that, when they  
20                  were delivering product, the panels and so  
21                  forth, they had temporary lighting and they  
22                  were shining in the residents' windows, and we  
23                  talked to them and that was resolved. After  
24                  that, there was full time security.

25                  MR. WILSON: Was there any problem with

1 the site in Alexandria Township?

2 MR. DECKER: No.

3 MR. ARNONE: I request that the Board  
4 make it your business to visit the sites and  
5 see what the pictures may or may not relay on  
6 the computer screen, and the bright lights. I  
7 don't have deep pockets to fight this, I can't  
8 afford a fancy lawyer, and even so, it would  
9 have to be aggressive. I am coming to you  
10 personally as a resident, who is being deeply  
11 impacted by this, and the Board set precedence  
12 when they visited Music Mountain for the  
13 previous application.

14 On April 5, 2013 I wrote a letter to  
15 the West Amwell Zoning Board to come to my  
16 house and view for yourselves the non-  
17 conformity that is existing on that road and  
18 what the potential impact of the solar array  
19 would be here. I have the letters with me --

20 MR. PALILONIS: That has already been  
21 distributed to the Board and Mr. Wilson.

22 MR. WILSON: I received it via e-mail.

23 MR. ARNONE: Since it has been  
24 distributed, let my neighbors hear this.

25 MR. WILSON: To the extent it contains

1           signatures other than Mr. Arnone's, to that  
2           extent I would indicate the letter is directed  
3           towards ordinance issues, and this is a use  
4           that meets all of the conditions of the  
5           conditional use requirements of the Township.  
6           The determination of whether this is an  
7           appropriate location or not, and I don't mean  
8           it to sound the way it sounds, but when you say  
9           it is in accordance with the law, that that  
10          issue has been determined, and the ordinance  
11          has determined if these conditions are met,  
12          this is an appropriate location for this use.  
13          Not by this Board, by the Committee. I would  
14          suggest to you that issue is not on the table  
15          before this Board, but was dealt with by the  
16          Committee.

17                   MR. ARNONE: Shall I read it?

18                   THE CHAIRMAN: Read what?

19                   MR. ARNONE: The letter to the Board.

20                   THE CHAIRMAN: It was distributed.

21                   MR. ARNONE: Nobody contacted me to  
22           come to my home and see for yourselves.

23                   MR. PALILONIS: It is inappropriate to  
24           have contact with interested parties.

25                   MR. ARNONE: Why did you do so for

1 Music Mountain?

2 MR. PALILONIS: Certainly, the Board  
3 members and I would both -- meaning every Board  
4 member has viewed this site from every angle,  
5 maybe not from your unit, but from public  
6 areas, so that is all you can ask for.

7 MR. ARNONE: That is true, but are you  
8 here to represent me and the Township?

9 MR. PALILONIS: No, not per se.

10 MR. ARNONE: You are not here  
11 representing me? Is that what you are saying?

12 MR. PALILONIS: As an individual, no.

13 MR. ARNONE: As a resident of this  
14 township and as a taxpayer in this township?

15 MR. PALILONIS: We are mandated to  
16 ensure there is no substantial detriment to the  
17 public good. You are part of the public, to  
18 that extent, yes. Beyond that, it is  
19 problematic, it is abstract. What is the  
20 public good? You are part of the public good,  
21 but I mean --

22 MR. ARNONE: Yes, I like to think I am  
23 good, too. I don't want this, I really don't.  
24 This is not an adequate site for this. Looking  
25 at the other sites and how much land is around

1           them and what the buffers are and everything  
2           else, yes, we meet the requirements, and that  
3           is great, if we were sued it would be met. It  
4           is like shoving a square peg into a round hole.  
5           If we don't like it, we will sue you. Even  
6           though we have \$900,000 in the surplus budget,  
7           we could have fought this and we chose not to,  
8           and maybe every household will get \$65 back,  
9           which I can take my family to (inaudible) with.  
10          I am disappointed that nobody from the Board  
11          accepted the offer. The invitation is there,  
12          it still stands. And I don't think, in my  
13          opinion, you can make a decision on approving  
14          this without having witnessed it yourself. The  
15          current impact of West Amwell Mason Supply,  
16          which is something I live with today and will  
17          continue to live with, the perception, from my  
18          point of view, is that you are not representing  
19          me. This is my perception. It may not be  
20          fact, but that is my perception, and in my  
21          career I have been told perception is reality.

22                    It is not sufficient to only make a  
23                    record of these non-conformities, why should  
24                    they not be corrected? If we are going to  
25                    allow this industrial solar plant to go in,

1           they should be addressed and corrected before  
2           it is unfeasible to do so. We have rules and  
3           ordinances for a reason, and it is just up to  
4           anybody who says I don't agree, I will put up a  
5           warehouse without a permit. You know, I  
6           certainly wouldn't get away with that, and I  
7           don't know if any of you would, so just to go  
8           over what you saw in the video, I started at  
9           5:30 a.m., the trucks started at 7:00 a.m., and  
10          when these delivery trucks come in and out of  
11          that facility, I can feel the house vibrate, I  
12          can hear the beeping from my bed. You know,  
13          there are a lot of large pickup trucks that  
14          come and go --

15                       MR. PALILONIS: Mr. Arnone, Mr. Wilson  
16          is not objecting to this testimony because he  
17          is giving the objectors wide latitude to  
18          express themselves, and the Board appreciates  
19          that. I appreciate that. The operation of  
20          West Amwell Mason Supply is not -- it is not  
21          even secondary, maybe tertiary to the merits of  
22          this application. You already made your points  
23          on that, and we appreciate them, and I am sure  
24          the Board will take them into account  
25          accordingly. If you want to talk about -- I

1           only say this because you have had a lot of  
2           time, and the hour is late, and normally the  
3           Board would have adjourned by now. We are  
4           giving you all of the latitude that is  
5           reasonable to express your opinion here, so  
6           please limit it to the merits of this  
7           particular application and not whatever faults  
8           you see in West Amwell Township or with West  
9           Amwell Mason Supply. Could you please do that?

10                   MR. ARNONE: Are you shutting me up?

11                   MR. PALILONIS: No, I said please give  
12           relevant testimony.

13                   MR. ARNONE: You don't think the noise  
14           ordinance or the things listed in this letter  
15           are out of scope? Do you think they are out of  
16           scope, not to be dealt with? The fact there  
17           aren't 23 parking spots there? The fact there  
18           is outside storage? There is warehousing  
19           without a permit? The fact is that his  
20           expanded use is going on.

21                   MR. PALILONIS: The Board already  
22           decided wherever they see a problem, not  
23           necessarily a violation, but a problem of the  
24           interface between West Amwell Mason Supply and  
25           this proposed project, they will deal with it

1 as part of the review process. Does that  
2 answer your question?

3 MR. ARNONE: Wasn't that tabled by you?  
4 What is your name?

5 MR. CRONCE: John Cronce. Until after  
6 we hear that.

7 MR. ARNONE: He is telling me not to go  
8 forward.

9 MS. ANDREOLI: If I may before he cuts  
10 us off here --

11 THE CHAIRMAN: We are going to have to  
12 shut the meeting down and continue it at this  
13 point, and there will be a lot more discussion  
14 and people will get up and talk, so obviously  
15 we will have to go through all these comments  
16 tonight.

17 MR. ARNONE: And I appreciate that.

18 THE CHAIRMAN: We will continue to hear  
19 it. Is this a good point for you to stop?

20 MR. ARNONE: I was just about finished.

21 THE CHAIRMAN: Do you want to make a  
22 couple of points here?

23 MR. ARNONE: He is telling me it is not  
24 relevant.

25 THE CHAIRMAN: He is telling you to

1 focus on the merits of the solar application.

2 MR. ARNONE: But the solar application  
3 cannot be alone, it is associated with the  
4 property as it is. How can you look at the  
5 merits of the application without looking at  
6 the entire one lot, one owner use?

7 MR. PALILONIS: What do the trucks have  
8 to do with the solar array? If there is a  
9 connection, the Board will be happy to  
10 entertain it.

11 MR. ARNONE: It is not the fact the  
12 trucks operate, it is the time they operate.

13 MR. PALILONIS: What is the time with  
14 the solar application?

15 MR. ARNONE: It is not, it is part of  
16 the same lot. Tell me how it is not relevant?  
17 How is it not relevant?

18 MR. PALILONIS: If West Amwell Mason  
19 Supply was not there, how would that affect or  
20 make this project better or worse?

21 MR. ARNONE: We would be fighting it on  
22 different merits.

23 MR. PALILONIS: You are conceding there  
24 is no connection.

25 MR. ARNONE: But West Amwell Mason

1           Supply is there, it does operate.

2                   MR. PALILONIS: The Board will be happy  
3           to hear whatever existing conditions would be  
4           made worse by this proposed facility, that is  
5           all we are asking you.

6                   MR. ARNONE: Storm water management,  
7           that simply you have a water problem there, and  
8           even what is there is not adequate. We know  
9           that it has been acknowledged.

10                  MR. PALILONIS: I will not argue with  
11           you.

12                  MR. ARNONE: I am not trying to argue  
13           with you, either.

14                  MR. PALILONIS: I am trying to keep  
15           things relevant here.

16                  THE CHAIRMAN: We are done for tonight.  
17           We will continue it.

18                  MR. ARNONE: I don't think this site is  
19           appropriate, and I don't think they have enough  
20           land to do it; whereas, what they are trying to  
21           do, there are plenty of other industrial areas  
22           in West Amwell Township. This should go to the  
23           fact that it is a square lot, and it shouldn't  
24           matter if it is on the diagonal. I don't want  
25           to see this across the street from me, I didn't

1                   move here to see one.

2                   MR. WILSON: I object to the continued  
3                   reference to it as an industrial site, it  
4                   doesn't match any other industrial use.

5                   THE CHAIRMAN: Thank you. We are going  
6                   to continue this hearing for the next meeting  
7                   in May, which will be May 28th.

8                   MR. WILSON: No further notice is  
9                   required?

10                  MR. PALILONIS: No.

11                  (Hearing adjourned.)

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C E R T I F I C A T E

I, JACQUELINE KLAPP, a Certified  
Court Reporter and Notary Public of the  
State of New Jersey, holding License No.  
30X100034700 do hereby certify that the foregoing is a  
true and accurate transcript as taken to the best of  
my ability of a meeting held on  
April 23, 2013.

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JACQUELINE KLAPP, CCR 30X100034700

