

BEDMINSTER TOWNSHIP

LAND USE BOARD

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IN THE MATTER OF:

CASE LUB# 12-015 (BOA)  
KDC SOLAR SA55 LLC  
Solar Project  
Country Club Road  
Block 71.02, Lot 1  
Block 62, Lot 10  
Block 69, Lot 4

TRANSCRIPT

OF

PROCEEDINGS

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Thursday, March 13, 2014  
Bedminster, New Jersey  
Commencing at 7:04 p.m.

BOARD MEMBERS PRESENT:

LANCE BOXER, Chairman  
GEORGE RODELIUS  
CAROL GUTTSCHALL  
KENNETH OLSEN  
DORN STEWART  
LOUIS DiGIOVINE

NICK STRAKHOV

ALSO PRESENT:

TRINA LINDSEY, Board Secretary  
FRANK BANISCH, Board Planner  
PAUL W. FERRIERO, Board Engineer

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1 APPEARANCES:  
 2  
 3 VOGEL, CHAIT, COLLINS and SCHNEIDER, P.C.  
 4 BY: DAVID SOLOWAY, ESQ.  
 Attorneys for the Board  
 5  
 6 McCARTER & ENGLISH, LLP  
 7 BY: GARY T. HALL, ESQ.  
 Attorneys for the Applicant  
 8  
 9 MICHELE R. DONATO, ESQ.  
 Attorneys for Objector Stop Somerset Hills  
 Power Plant  
 10  
 11 RICHARD M. SASSO, ESQ.  
 Attorneys for Objectors Steve and Sabina  
 Forbes  
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1  
 2 (Hearing resumed from January 9, 2014)  
 3 CHAIRMAN BOXER: Okay. So as I  
 4 promised, we're very efficient. We really have  
 5 kept these meetings clear of any other  
 6 applications except for KDC Solar.  
 7 So we're going to have Mr. Kennedy  
 8 come back up, Mr. Hall. And I think Mr. Sasso,  
 9 as I recall from last month, you were about  
 10 ready to cross-examine Mr. Kennedy, and I assume  
 11 that's still the plan?  
 12 MR. SASSO: Absolutely.  
 13 MR. FERRIERO: Mr. Chairman.  
 14 MR. SASSO: I wouldn't miss the  
 15 opportunity.  
 16 CHAIRMAN BOXER: Oh, that's right.  
 17 Mr. Ferriero. Actually, before we get started,  
 18 Mr. Ferriero has a couple of comments to make  
 19 that we think is important, at least to try to  
 20 get some of these administrative items out of  
 21 the way.  
 22 Mr. Ferriero, why don't you go ahead.  
 23 MR. FERRIERO: Thank you,  
 24 Mr. Chairman. I'd just like to bring something  
 25 up for the members of the general public. Many

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1 of you have probably seen this before. They  
 2 were posted, hundreds of them, around town in  
 3 December. The Zoning Officer identified it.  
 4 And it's a violation of the township ordinance  
 5 to post these things all over utility poles, all  
 6 over buildings, like was done.  
 7 He sent an e-mail to Preserve  
 8 Bedminster. The response was, okay, we didn't  
 9 know it was a violation. We'll take them down.  
 10 It will never happen again. It happened again.  
 11 This is unacceptable. This is a  
 12 violation of the township ordinance. Please,  
 13 don't do it anymore.  
 14 I don't think I need to say anything  
 15 more than that.  
 16 CHAIRMAN BOXER: Thank you. Okay.  
 17 You know, look, these things, you get emotional,  
 18 but we have to try and find ways to manage  
 19 through this. It's going to be a complete  
 20 hearing and it's going to go as long as it  
 21 takes. There will be plenty of opportunity for  
 22 people to come on the record and to have  
 23 questions and answers and bring experts forward.  
 24 Mr. Ferriero, I think, was frustrated  
 25 that we've been spending a lot of time and money

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1 trying to pull down these ads and these pieces  
 2 of paper that all of a sudden become litter in  
 3 the town. So that's really what the reasoning  
 4 was.  
 5 Okay. Back on to the hearing. So let  
 6 me have Mr. Sasso come forward.  
 7 Mr. Hall, are you okay with the  
 8 current chain of events? I guess Mr. Sasso is  
 9 up.  
 10 MR. HALL: Yes, that's correct. It  
 11 was his turn and Mr. Kennedy is back again. And  
 12 for the record, Gary Hall from McCarter &  
 13 English. Thank you.  
 14 CHAIRMAN BOXER: Nice to have you guys  
 15 back.  
 16 All right. Well, Mr. Sasso, we're  
 17 going to leave the questioning to you tonight of  
 18 Mr. Kennedy.  
 19 MR. SASSO: Thank you.  
 20 RONALD KENNEDY, having  
 21 been previously duly sworn, remained under oath  
 22 and testified as follows:  
 23 CROSS-EXAMINATION  
 24 BY MR. SASSO:  
 25 Q. Mr. Kennedy, in terms of-- you've been

Page 7

1 around since 1983, you said? You were licensed  
 2 from N.J.I.T.?  
 3 **A. I have been.**  
 4 Q. Okay. And over the years that all of  
 5 us have known you, you've done a lot of land use  
 6 work in these Somerset Hills, correct?  
 7 **A. I have.**  
 8 Q. You're familiar, basically, with most  
 9 of what's going on here in Bedminster Township  
 10 in the way of applications. Would you agree?  
 11 **A. I am.**  
 12 Q. At any time prior to this application,  
 13 have you ever seen an application in Bedminster  
 14 that was for a commercial use of this scale in  
 15 an agricultural-residential setting?  
 16 **A. I guess that's a relative question.**  
 17 **We've had large applications that had more land**  
 18 **disturbance, more soil disturbance, more soil**  
 19 **movement, than this application that's being**  
 20 **proposed in Bedminster.**  
 21 Q. Okay. How about my question in terms  
 22 of a commercial use in a  
 23 residential-agricultural zone?  
 24 **A. I think, again, definition. The**  
 25 **commercial uses of these golf courses, which are**

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1 **clearly not residential, of Hamilton Farm and**  
 2 **the Trump application that started as Lamington**  
 3 **Farm, had more intensity of land disturbance, of**  
 4 **impervious coverage of buildings that were**  
 5 **constructed. Obviously there's not buildings in**  
 6 **this application.**  
 7 Q. That's fair. So let's exclude  
 8 beautiful golf courses like Mr. Trump's facility  
 9 and Hamilton Farm. Same question.  
 10 **A. Besides those two, I guess the only**  
 11 **other one would be Fiddler's Golf Course, same**  
 12 **thing, that we're working on now.**  
 13 Q. No, excluding golf courses.  
 14 **A. There's not one that has as much**  
 15 **impervious coverage as this.**  
 16 Q. Okay. And in terms of the impervious  
 17 coverage, you're seeking what percent?  
 18 **A. Excuse me, I've got to clarify that.**  
 19 **Lot coverage.**  
 20 Q. Correct. Because here --  
 21 **A. The definition is different in**  
 22 **Bedminster versus other places.**  
 23 Q. Right. And I have the other  
 24 ordinances for the other towns around us. In  
 25 many towns there are two provisions, correct:

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1 One is for what we just mistakenly referred to  
 2 as impervious coverage, and then ordinances also  
 3 in some cases have simply a lot coverage  
 4 ordinance. Is that accurate?  
 5 **A. That's correct.**  
 6 Q. All right. And in part of your  
 7 training as a professional engineer here in New  
 8 Jersey, would you agree with me that some aspect  
 9 of your training deals with planning?  
 10 **A. It does.**  
 11 Q. Okay. In fact, engineers in the State  
 12 of New Jersey are designated as P.P.'s?  
 13 **A. They're not designated, no. There**  
 14 **used to be a way to earn a license as a P.P.,**  
 15 **but that's been closed for about 10 or 15 years**  
 16 **now.**  
 17 Q. Well, it just shows my age. But the  
 18 bottom line in the -- previously you would have  
 19 some engineers who would testify as both a  
 20 planner and a civil engineer, correct?  
 21 **A. Yes, that was the case.**  
 22 Q. And there are many engineers that are  
 23 still out there today that still use the P.P.  
 24 designation, would you agree?  
 25 **A. I do.**

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1 Q. All right. In this particular case,  
 2 in terms of the planning of the project for KDC,  
 3 the coverage ordinance here in town provides for  
 4 how many-- what's your max percentage?  
 5 **A. In the zone? In the R-10 zone?**  
 6 Q. In this zone because we're talking  
 7 about this project.  
 8 **A. Okay. It's a -- it's a 5 percent**  
 9 **coverage.**  
 10 Q. Okay. So we have 5 percent that's  
 11 allowed and you are proposing how many percent?  
 12 **A. Well, based on the interpretation of**  
 13 **Mr. Ferriero as far as counting the solar panels**  
 14 **as lot coverage, we're at 17.15 percent.**  
 15 Q. Well, tell us, though, about these  
 16 panels. Does precipitation or rain go through  
 17 these panels or are they made out of a hard  
 18 material?  
 19 **A. If I laid them flat on the ground,**  
 20 **each panel itself, you couldn't have penetration**  
 21 **through the panel--**  
 22 Q. Right.  
 23 **A. -- of rain.**  
 24 Q. But --  
 25 **A. It's exempt under certain statutes for**

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1 **counting as impervious coverage.**  
 2 Q. But that's not our statute. That's  
 3 not our ordinance here.  
 4 **A. Correct.**  
 5 Q. I want to make that distinction for  
 6 everyone, because, quite frankly, I get it mixed  
 7 up once in a while. There's impervious coverage  
 8 on one hand and there's lot coverage on the  
 9 other, correct?  
 10 **A. That's correct.**  
 11 Q. All right. So here we're dealing with  
 12 coverage, not impervious coverage.  
 13 **A. We're dealing with what Bedminster**  
 14 **defines as lot coverage.**  
 15 Q. Exactly. And in this case the town's  
 16 engineer has determined that based on  
 17 Bedminster's definitions, you're at a little bit  
 18 over 17 percent?  
 19 **A. 17.15 percent.**  
 20 Q. Okay. So a little over 17 percent.  
 21 Now, with regard to applications that  
 22 you've been privy to here in Bedminster, can you  
 23 think of an application in an  
 24 agricultural-residential setting that was  
 25 approved by this Board that carried with it a

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1 17-percent-plus coverage that you've been  
 2 involved in  
 3 **A. Yes.**  
 4 Q. Go ahead.  
 5 **A. Go ahead? Which example?**  
 6 Q. What application?  
 7 **A. Oh, it was the Lamington Church.**  
 8 **Smaller square footage, but on a small lot,**  
 9 **historic use of the property.**  
 10 Q. Right.  
 11 **A. A relatively small lot. There was an**  
 12 **expansion involved of both parking and the**  
 13 **building and it was in excess of that number.**  
 14 Q. All right. And in a smaller lot. I  
 15 mean, that's all they had to work with.  
 16 **A. Correct.**  
 17 Q. Can you give us any other example to  
 18 your knowledge after all the years you've been  
 19 here?  
 20 **A. No, not to that amount. No.**  
 21 Q. Okay. All right. Fair enough.  
 22 When addressing the coverage issue, is  
 23 there anything in this application that would --  
 24 even if the use were allowed. Let's just assume  
 25 for a moment that the Board said, okay, we're

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1 going to allow the use in this area. Is there  
 2 anything from an engineer standpoint that would  
 3 preclude the applicant -- besides wanting more  
 4 panels and more energy and more money -- that  
 5 would prevent them from complying with the  
 6 township ordinance at 5 percent?  
 7 **A. Rich, I don't understand the context**  
 8 **of the question.**  
 9 Q. Sure. Very simple. This project that  
 10 you've designed, is there anything that would  
 11 prevent you from reducing the solar panels and  
 12 the coverage down to what is the 5 percent  
 13 allowed by the township?  
 14 MR. HALL: I'm going to object. I  
 15 think it's beyond the scope and I think our  
 16 other witnesses said the amount is designed to  
 17 try to meet the net load of the Sanofi facility.  
 18 Obviously you could make it smaller.  
 19 CHAIRMAN BOXER: So that would be the  
 20 answer right there.  
 21 MR. SASSO: That should be the answer,  
 22 correct.  
 23 MR. HALL: I think that was provided.  
 24 MR. SASSO: I'm a little surprised at  
 25 the objection because, look, it is what it is.

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1 BY MR. SASSO:  
 2 Q. The question is: Can this project be  
 3 designed by you as an engineer to comply with  
 4 the 5 percent regardless of their needs for  
 5 money or wattage or whatever else?  
 6 **A. Yes. You could put less panels.**  
 7 Q. And you could comply with the 5  
 8 percent?  
 9 **A. Yes.**  
 10 Q. All right. Let's speak to the issue  
 11 of your company's experience with other solar  
 12 projects. And I'm not including solar projects  
 13 that are small with solar panels on a parking  
 14 deck, for instance. I'm talking about a project  
 15 where there are posts put into the ground and  
 16 panels placed on top of it similar to the  
 17 application here.  
 18 Have you been involved in those type  
 19 of projects before?  
 20 **A. We have.**  
 21 Q. Okay. Where are they located?  
 22 **A. Throughout the state that we've worked**  
 23 **on projects.**  
 24 Q. Okay. And in understanding solar and  
 25 where New Jersey wants the solar companies to be

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1 located, are you familiar with the 2011 New  
 2 Jersey Energy Master Plan?  
 3 MR. HALL: I'll object. That has  
 4 nothing to do with engineering testimony.  
 5 MR. SASSO: He's already said part of  
 6 his job is planning.  
 7 MR. HALL: He specifically at the  
 8 first day said he's not testifying as a planner.  
 9 I think he said he was licensed as one. He  
 10 specifically said he's testifying only as an  
 11 engineer, and that's how he was offered.  
 12 I don't know what that has to do with  
 13 his engineering testimony. Other people have  
 14 been asked that.  
 15 MR. SASSO: I think that's up to the  
 16 Board, isn't it? Mr. Chairman, this is  
 17 cross-examination. You know, throughout this  
 18 project we've had attempts to basically withhold  
 19 information from us. I don't plan on being too  
 20 long with Mr. Kennedy this evening, but I also  
 21 would then appreciate, you know, that I be  
 22 allowed to ask some questions.  
 23 CHAIRMAN BOXER: Mr. Kennedy, do you  
 24 have any issues with answering that question or  
 25 do you want to defer that as the civil engineer

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1 versus the planner?  
 2 THE WITNESS: Well, I didn't do  
 3 anything in prepping for any planning in this  
 4 application. We're the civil site engineer  
 5 company. So I don't know where the question's  
 6 going, but that's not something that we've been  
 7 involved in in this particular project.  
 8 CHAIRMAN BOXER: Well, then that's the  
 9 answer then.  
 10 MR. SASSO: Exactly. And that's --  
 11 members of the Board, that's as far as I'm  
 12 going.  
 13 BY MR. SASSO:  
 14 Q. In other words, in terms of the master  
 15 plan that has already been discussed in other  
 16 questions here in this application where the  
 17 State indicates they don't want these solar  
 18 facilities to be put on and result in the loss  
 19 of productive farmland, you, as the engineer on  
 20 the project, weren't part and parcel of that  
 21 decision --  
 22 MR. HALL: I'll object. He's making  
 23 legal argument.  
 24 MR. SASSO: Can you -- can you please  
 25 let me finish my question?

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1 MR. HALL: Well, I think you're--  
 2 MR. SASSO: Excuse me, sir. -- as a  
 3 common courtesy? As a professional, I beg you  
 4 to let me finish my --  
 5 MR. HALL: I will.  
 6 MR. SASSO: You can't seem to help  
 7 yourself. Let me finish my question and then  
 8 let the Chairman and the Board rule on it.  
 9 MR. HALL: My problem is you're  
 10 presenting legal argument which should be shut  
 11 off immediately and we shouldn't have to sit  
 12 through it.  
 13 CHAIRMAN BOXER: Do you have an issue  
 14 with this?  
 15 MR. SOLOWAY: Well, I assume he was  
 16 going to get to a question eventually, but there  
 17 was, shall we say, an assumption of fact as a  
 18 predicate to the question. I mean, I don't have  
 19 a big problem if he asks it because I think  
 20 everybody, especially in light of the objection,  
 21 Mr. Hall's point has been made as well.  
 22 CHAIRMAN BOXER: So what would you  
 23 like to do in this case?  
 24 MR. SOLOWAY: Let him finish the  
 25 question.

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1 CHAIRMAN BOXER: Okay.  
 2 BY MR. SASSO:  
 3 Q. Were you part and parcel of the  
 4 decision to place this solar facility on the  
 5 Kirby farm? Simple question.  
 6 **A. We were involved in the discussions of  
 7 how to put solar panels on the project.**  
 8 CHAIRMAN BOXER: But you were not the  
 9 original engineer, Mr. Kennedy, is that correct?  
 10 THE WITNESS: No.  
 11 MR. SASSO: No, it's Birdsall. We  
 12 understand that. That's all I'm saying.  
 13 Q. You didn't pick the lot.  
 14 **A. No.**  
 15 Q. Knowing this area.  
 16 **A. I did not.**  
 17 Q. That's all.  
 18 By the way, Mr. Kennedy, when the  
 19 church was approved, wasn't there a dedication  
 20 of property across the street to reduce -- that  
 21 resulted in a reduction in the coverage, but  
 22 wound up benefiting the township?  
 23 **A. There was -- on that lot itself it was  
 24 overcoverage. There was an open space-- or not  
 25 open space. There was a deed restriction on an**

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1 **adjacent lot for coverage.**  
 2 Q. And it actually enhanced or increased  
 3 the amount of the coverage variance?  
 4 **A. I'm not sure if it actually increased  
 5 the amount or reduced the amount of impervious  
 6 coverage, but the lot itself had more impervious  
 7 coverage.**  
 8 Q. Okay. Now, you've been involved in  
 9 applications with all your experience? And  
 10 obviously I have been, also, with either  
 11 quarries or mother-daughter situations where  
 12 there's a concern by the township at the end of  
 13 the application -- or the use, rather, that  
 14 results from the application that there's a  
 15 concern as to what the condition of the  
 16 property's going to be -- i.e., reclamation in a  
 17 quarry situation, a bond in a situation where  
 18 you have a mother-daughter -- so that the second  
 19 home is removed in a residential area?  
 20 **A. I haven't done a quarry application,  
 21 but I'm aware of those types of conditions.**  
 22 Q. All right. And here, based on your  
 23 knowledge as the engineer, what is going to be  
 24 in place so that this Board knows at the tenth  
 25 year, the eleventh year if the use is

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1 discontinued that the 40,000-some solar panels  
 2 and the 3,000-some-odd posts are going to be  
 3 removed from the property that you're aware of,  
 4 if there's anything proposed?  
 5 **A. I believe that during some of the  
 6 discussions that we've had here already is that  
 7 there will have to be some type of plan that  
 8 will have a -- I'll call it a decommission plan,  
 9 removal plan, that would restore the property  
 10 into a preexisting condition.**  
 11 Q. All right. Well, we actually-- I  
 12 mean, in terms of our news generally speaking in  
 13 the country, we have perfect examples of solar  
 14 companies that have gone bankrupt. You're  
 15 familiar with the companies in the news that  
 16 have been funded by our president and the  
 17 federal government that have gone bankrupt since  
 18 receiving those stimulus monies?  
 19 MR. HALL: I'll object. To my  
 20 knowledge, those companies were making panels,  
 21 not installing them.  
 22 MR. SASSO: Regardless. It's a solar  
 23 company. Multiple solar companies.  
 24 MR. HALL: Any company can go  
 25 bankrupt.

Page 21

1 CHAIRMAN BOXER: And is the question  
 2 really, Mr. Sasso -- I mean, what you're really  
 3 questioning Mr. Kennedy about is to ensure that  
 4 there's a decommissioning plan or knowledge of a  
 5 decommissioning plan within the application?  
 6 MR. SASSO: Correct.  
 7 CHAIRMAN BOXER: Is that your focus?  
 8 BOARD MEMBER OLSEN: Because we've  
 9 already touched on the issue of toxicity of  
 10 panels. We've already touched on the issue of  
 11 the life of the panels. We know that they are  
 12 limited. And we've already had testimony about,  
 13 geez, what happens with the panels later on? In  
 14 fact, there's still an issue in this case as to  
 15 who's making the panels and what are in those  
 16 panels.  
 17 And my recollection so far is that the  
 18 applicant won't give us that information because  
 19 under the-- has taken the position, look, we  
 20 haven't chosen yet.  
 21 So I think it's important for the  
 22 members of the Board to understand what we're  
 23 dealing with because this isn't a normal  
 24 business. This is a solar business and, in  
 25 particular, on prime farmland in a residential

Page 22

1 district.

2 BY MR. SASSO:

3 Q. So I guess my question, Mr. Kennedy,

4 is in terms of the viability of the company,

5 KDC, for instance, and whether they make it or

6 don't make it or three years from now they file

7 from bankruptcy, I mean, what is there that will

8 take care of all of these improvements that

9 you've described for us?

10 MR. HALL: I object. It calls for a

11 legal conclusion. And I believe our witness

12 testified under the lease with the property

13 owner that if the use ends, you're required to

14 remove it.

15 MR. SASSO: Exactly. And what does

16 the bankrupt party do, like all of President

17 Obama's companies that go belly up and then they

18 go into bankruptcy court and demand the trustee

19 do the cleanup for \$3.7 million. What do we do

20 here in Bedminster if KDC does not make it, if

21 it doesn't remain a viable economic situation?

22 MR. HALL: You can ask that for any

23 application. I mean, there's no guarantees in

24 life.

25 MR. SASSO: I'm not--

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1 MR. HALL: But I suggest--

2 MR. SASSO: -- the other applications

3 are a solar power plant in a residential

4 district.

5 CHAIRMAN BOXER: Look, I think the

6 question is -- look, it's an interesting issue

7 that we have to determine. As this application

8 proceeds, we'll have to ensure that there are

9 decommissioning plans. I don't think there's

10 any assurance that any company can make this

11 through--

12 MR. HALL: And I don't have a problem

13 with that. I'm just concerned that it doesn't

14 have anything to do with engineering testimony.

15 CHAIRMAN BOXER: I would agree,

16 Mr. Sasso. I think Mr. Kennedy, asking him what

17 is going to happen if KDC goes out of business,

18 I think all he can basically say is that the

19 application will require a decommissioning plan.

20 I think we're going to have to determine the

21 extent of that decommissioning plan and whether

22 or not it's viable.

23 MR. SASSO: Sure. I just know that

24 during our first-- the cross-examination of the

25 first witness, a lot of the information

Page 24

1 unfortunately was deferred off to Ron Kennedy,

2 which is a wonderful thing. But now that he's

3 here, I just don't want too much deferred to

4 whomever and then, at the end of it, we never

5 got an answer to our questions.

6 BY MR. SASSO:

7 Q. Ron, let's talk about the project

8 itself and the solar panels. There's a maximum

9 height that you testified to from the ground up

10 on the panels on top of the posts, just to be

11 clear?

12 A. Yes.

13 Q. And what's that?

14 A. **The maximum height of the panels would**

15 **be 8 feet.**

16 Q. Okay. All right.

17 MR. SASSO: Mr. Chairman, could I have

18 these two boards marked, please?

19 CHAIRMAN BOXER: We need exhibit

20 numbers for these, right?

21 MR. SOLOWAY: I'm sorry?

22 CHAIRMAN BOXER: We need exhibit

23 numbers for these?

24 MR. SOLOWAY: Yes.

25 MR. SASSO: Can we do F-1 and 2?

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1 Would that be satisfactory? Whatever you want.

2 MR. SOLOWAY: Yes, for identification.

3 I don't know who is going to actually testify as

4 to what they are--

5 MR. SASSO: Well, I'm going to ask Ron

6 Kennedy to testify about it.

7 MR. SOLOWAY: -- to have them

8 admitted. We'll see if Mr. Kennedy can do that.

9 MR. SASSO: Sure.

10 MR. SOLOWAY: Let's mark them F-1 and

11 F-2 now.

12 MR. SASSO: Okay, good.

13 (Whereupon, exhibits are received and

14 marked F-1 and F-2 for identification)

15 BY MR. SASSO:

16 Q. All right. I have F-1 and 2. Ron,

17 can I borrow one of your easels here?

18 A. **Sure. Do you want to put it there or**

19 **do you want to--**

20 Q. I don't know where. Well, I want

21 everyone to be able to see.

22 CHAIRMAN BOXER: Why don't we just

23 keep them there for now and let's just -- that's

24 okay. Just leave the easels there and we'll see

25 how far our eyes can wander.

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1 Q. All right. Now, Mr. Kennedy, were you  
 2 down at the Middlesex facility that the  
 3 applicant built, KDC?  
 4 **A. I've been at a portion of the**  
 5 **facility, not the whole complex.**  
 6 Q. All right. Well, this is Route 130.  
 7 The complex that they built in conjunction with  
 8 the Middlesex County.  
 9 **A. Correct.**  
 10 Q. And then these top three pictures and  
 11 this picture on the bottom right are to be--  
 12 they're different than these three, and I'll get  
 13 into those in a minute. But with regard to  
 14 these pictures, do these comport with your  
 15 recollection of the KDC installation down for  
 16 Middlesex County? I think they call it the  
 17 Apple or--  
 18 **A. Yes.**  
 19 Q. Okay.  
 20 **A. Yes, they look familiar.**  
 21 Q. Okay. Could you just -- Ron, could I  
 22 bother you to come closer? I read the testimony  
 23 again about the installation at this facility  
 24 and the posts go into the ground a certain  
 25 number of feet. That's what you're proposing?

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1 **A. Correct. I'm not sure of the depth of**  
 2 **these posts, but we're saying between 6 and 8**  
 3 **feet.**  
 4 Q. Eight feet down. And that's done by a  
 5 machine, you said, that was like a track machine  
 6 that you could walk behind?  
 7 **A. That's correct.**  
 8 Q. Okay. And then we have panels on top  
 9 of the KDC installation in Middlesex.  
 10 Can you tell us if that size is pretty  
 11 much the size that you described for us earlier?  
 12 **A. What do you mean, the size?**  
 13 Q. The size of the solar panel. You told  
 14 us it would be as wide as, what, 72 inches and  
 15 then there was a certain width of the proposed  
 16 panels? If you want, I can get the transcript.  
 17 **A. The panels themselves look similar to**  
 18 **the --**  
 19 Q. -- ones being proposed?  
 20 **A. Proposed. The size of the individual**  
 21 **panel looks similar on this exhibit than to what**  
 22 **we're proposing. The configuration may be**  
 23 **different.**  
 24 Q. Okay. And by that we're talking the  
 25 number of posts, where they're located or --

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1 **A. The number of posts, the fact that**  
 2 **these panels appear to be in portrait--**  
 3 Q. Right.  
 4 **A. -- and two high as opposed to**  
 5 **landscaping and four high. There's different**  
 6 **configurations that you can have of the panels.**  
 7 Q. Okay. You've been on KDC's website,  
 8 seen the pictures of their other installations?  
 9 **A. I can't say that I've looked at every**  
 10 **photo that's on their website.**  
 11 Q. All right. But let's say, without  
 12 looking at every photo, let's take, first, the  
 13 picture on the upper left, which seems to be a  
 14 commercial facility with panels --  
 15 MR. HALL: You mean the lower left?  
 16 I'm sorry.  
 17 MR. SASSO: In the middle of the left  
 18 panel.  
 19 MR. HALL: Okay. I'm sorry.  
 20 Q. So on the left-hand side, the picture  
 21 in the middle, which appears to be a commercial  
 22 building and then with panels around the rear  
 23 and the side.  
 24 In terms of what this proposed project  
 25 would look like from the air, if we were over

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1 the Kirby Farm, would it be similar to that?  
 2 Talking about the panels only.  
 3 **A. I'd say they're similar. I just-- I'm**  
 4 **not sure if they're rotating panels, ones that**  
 5 **move or ones that are static. The other exhibit**  
 6 **on this, the three-- the two on the top and the**  
 7 **one on the right, are fixed panels.**  
 8 Q. Which is what we're talking about here  
 9 in this application.  
 10 **A. Correct. I just can't see the details**  
 11 **on this of what type of panels they are.**  
 12 Q. How about the bottom left and the  
 13 middle photograph also off the KDC site? Are  
 14 they similar to what we're going to see here if  
 15 this project is approved? By that I mean the  
 16 panels.  
 17 **A. Yeah, the bottom left photo appears**  
 18 **that it's a rotating one. It just looks quite**  
 19 **flat in the landscape--**  
 20 Q. Okay.  
 21 **A. -- as opposed to the angle that's on**  
 22 **the other three photos on the right.**  
 23 Q. Okay. And you told us the number of  
 24 acres that are going to be taken up by the  
 25 panels. How many acres?

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1       **A. I've said a lot of numbers.**  
 2       Q. No, no, I know.  
 3       **A. Let's be clear what we're talking**  
 4       **about.**  
 5       Q. No, no problem.  
 6       **A. The best way I could describe it,**  
 7       **Rich, is inside the fenced area --**  
 8       Q. -- is 38 acres, correct?  
 9       **A. 38.43 acres.**  
 10       Q. Right. That's what I had down, also,  
 11       but I just wasn't clear in reading it whether  
 12       that was all panels or just the fenced-in area.  
 13       **A. Let me show the exhibit just to be**  
 14       **clear that outlines that.**  
 15       Q. Sure.  
 16       **A. I'll refer to Exhibit A-6. And**  
 17       **there's two areas that are on the property with**  
 18       **panels on it. The east side-- and I'm going to**  
 19       **have my finger pointed on the east side.**  
 20       **There's a fence line that's shown on the inside**  
 21       **of the berm and around the exterior of the**  
 22       **panels. That area is 16 -- just over 16 acres.**  
 23       Q. Okay.  
 24       **A. Okay? On the west side, that area**  
 25       **around the panels, the service road, there's**

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1       **these green areas that are transition areas,**  
 2       **that are a total of 22.3 acres. So 22.3 acres**  
 3       **on the west side and then 16-- just over 16**  
 4       **acres on the east side.**  
 5       Q. Okay. And that's how we got to that  
 6       38 response?  
 7       **A. Correct.**  
 8       Q. 38 acres, right.  
 9       **A. But it includes the aisles, it**  
 10       **includes the drives, it includes the grass,**  
 11       **the --**  
 12       Q. It looks like there's some distance on  
 13       the one on the right, between the panels? It  
 14       kind of juts out a little bit?  
 15       **A. The one on the right here, you're**  
 16       **talking about?**  
 17       Q. The left one.  
 18       **A. Oh, the left one here?**  
 19       Q. Yes.  
 20       **A. Okay.**  
 21       Q. Now, I want to show you a second set  
 22       of photographs marked F-2.  
 23       MR. SOLOWAY: For identification only  
 24       at this point.  
 25       Q. In terms of what we have now, in other

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1       words if we drove out there-- if we had driven  
 2       out there this afternoon, drive out there  
 3       tomorrow morning, on F-2 you see the six  
 4       photographs?  
 5       **A. I do.**  
 6       Q. All right. The one on the bottom  
 7       right, does that look familiar? Does that piece  
 8       of equipment look familiar? It was relevant  
 9       last time and I already had it drawn on the  
 10       board so I wasn't going to rip it off.  
 11       **A. I don't know. It's an excavator on a**  
 12       **site.**  
 13       Q. All right. And before our meeting  
 14       last time, like the day before or something, you  
 15       were digging on the site?  
 16       **A. Yes, we were.**  
 17       Q. Okay.  
 18       **A. And that's when it was?**  
 19       Q. Yes. So I'm really dealing with the  
 20       five pictures.  
 21       So the picture on the upper left, what  
 22       vantage point is that?  
 23       **A. I'm not sure where the mailbox is.**  
 24       **I'm not sure if we're on Country Club Road or**  
 25       **Meadow Road.**

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1       Q. Okay. Do you know where the house is  
 2       located and the mailbox where the house is  
 3       located on Kirby Farm?  
 4       **A. No.**  
 5       Q. Okay.  
 6       **A. I don't know where the mailbox is.**  
 7       Q. All right. How about the picture in  
 8       the middle, upper middle?  
 9       **A. That looks near the intersection of**  
 10       **Country Club Road and Meadow Road looking**  
 11       **generally north.**  
 12       Q. And how about the next picture to the  
 13       right?  
 14       **A. That's just farther back on Country**  
 15       **Club Road looking at the intersection of Meadow**  
 16       **Road.**  
 17       Q. Okay. Let's-- let's freeze frame with  
 18       that view. In terms of what is being seen now  
 19       by someone going down these roads and looking at  
 20       the scenic vista, would you agree with me, not  
 21       only do they see the grass and the first 200  
 22       feet of the property, but they also see the rest  
 23       of the field all the way back towards these  
 24       trees that are in the northeast corner. Is that  
 25       true?

1       **A. Well, yes, you see the field in the**  
 2 **foreground; you see trees in the background.**  
 3       Q. Okay. But you actually see the field  
 4 itself that's in between an area, let's say, 200  
 5 feet in, all the way back. You see the field.  
 6       **A. Knowing the site, you'll lose the**  
 7 **field after the first couple hundred feet**  
 8 **because there's, I'll say, a crown from that**  
 9 **perspective that it drops back down slightly**  
 10 **about the same distance as the houses away from**  
 11 **this photo here.**  
 12       Q. Okay. And also in the picture to the  
 13 right, same thing. In other words, if you're  
 14 there at Meadow and you're on Country Club and  
 15 you look at, let's say, a 45-degree angle to the  
 16 left, you actually see the field until it drops  
 17 off as you just described.  
 18       **A. It doesn't go all the way back to the**  
 19 **tree line, but it goes a couple hundred feet**  
 20 **before it starts dropping off.**  
 21       Q. All right. Now, based on what you are  
 22 proposing in this application, is it fair to say  
 23 that you will not see the area of field past the  
 24 200-foot point because that's where your berm is  
 25 going to be located?

1       **A. You will not see the field. You'll**  
 2 **see the tree line.**  
 3       Q. Okay. And the tree line-- do we have  
 4 that exhibit where you pointed out the tree  
 5 line? Would that be on this one? I know you  
 6 pointed to us and you said that was a feature  
 7 that you were trying to use; in other words, the  
 8 trees in the background that you would see above  
 9 the berm. Is that fair to say?  
 10       **A. That's correct.**  
 11       Q. Okay. But what is the distance?  
 12 That's what I was wondering. What is the  
 13 distance if you're a person at Country Club and  
 14 Meadow and looking in that direction, what is  
 15 the distance between the person and the trees  
 16 that we're talking about?  
 17       **A. Well, let's get the same vantage point**  
 18 **so we can agree on where we're standing.**  
 19       Q. Sure.  
 20       **A. If it's this-- what's this exhibit**  
 21 **number? F-2?**  
 22       Q. Yes.  
 23       **A. On F-2, the upper center photo, if**  
 24 **that's the point we're standing at, I'm going to**  
 25 **assume that point on Exhibit A-6 is where my**

1       **finger is now, which is, I'd say, 100 foot north**  
 2 **on Country Club Road from Meadow.**  
 3       Q. Okay.  
 4       **A. Okay? And we're looking generally in**  
 5 **a northwest direction. We see the house--**  
 6       Q. Yes.  
 7       **A. -- in this location. You'll see**  
 8 **existing trees around the house that you can see**  
 9 **in the photo. And the tree line behind it is**  
 10 **actually on-- bordering on lot 5, block 62.**  
 11       Q. Well, see, that's my point. In other  
 12 words, what you're trying to use as a backdrop  
 13 are actually trees that are-- is this on a  
 14 separate lot, the trees?  
 15       **A. Those trees are, correct.**  
 16       Q. Yeah. So what lot are they on?  
 17       **A. They're on lot 5, block 62.**  
 18       Q. All right. So getting back to what my  
 19 point was, in other words, if you're-- if you're  
 20 at the intersection -- let's pick a particular  
 21 point at Country Club and Meadow, right? And  
 22 that would be similar to the other picture that  
 23 we had. What is the distance between where I  
 24 would be standing and the location of the trees  
 25 on that different lot?

1       **A. Twelve hundred feet.**  
 2       Q. Twelve hundred feet.  
 3       And if the berm is built in accordance  
 4 with what's being proposed, what are we going to  
 5 be able to see of these trees that are 1200 feet  
 6 away?  
 7       **A. My testimony is we'll still see the**  
 8 **canopies of those trees.**  
 9       Q. Okay. And that would be the upper--  
 10 could you estimate for us? The upper half of  
 11 the trees? The last third of the trees? What  
 12 are we going to see?  
 13       **A. You'll see, at best, the upper third**  
 14 **of the trees.**  
 15       Q. Okay. And the rest is going to be  
 16 hidden by the berm, correct?  
 17       **A. It will.**  
 18       Q. All right. Now, in the testimony you  
 19 were mentioning that the berm doesn't go all the  
 20 way around the project, right? That there are,  
 21 I think you called them breaks in the berm?  
 22       **A. They're-- yes.**  
 23       Q. Okay. Just so we have a better idea  
 24 of where the breaks are -- and I know there was  
 25 a lot of testimony of where you were and what

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1 vantage point, et cetera -- where is the berm  
 2 going to be? Where is it going to stop? I know  
 3 you mentioned the driveway, for instance. Could  
 4 you just describe for the Board and point out  
 5 where the berm is going to be constructed?  
 6 **A. Certainly. The berm-- and I'm going**  
 7 **to start at the Meadow Road side of the project.**  
 8 **The berm would start where the tree line meets**  
 9 **this -- I'll call that the southeast field, and**  
 10 **it would travel in an easterly direction towards**  
 11 **the intersection of Country Club and Meadow. It**  
 12 **would then turn and be parallel to Country Club**  
 13 **Road. The first break would be where the**  
 14 **driveway is, going into the existing house. The**  
 15 **same driveway that's there now. It would**  
 16 **reconstitute itself just after that, the berm.**  
 17 **And where it turns away from Country**  
 18 **Club Road and heads in a due north direction,**  
 19 **the berm changes. It's now a narrower berm and**  
 20 **that goes up to the northern property line,**  
 21 **makes a 90-degree turn and comes down to the end**  
 22 **of that, where the driveway meets the property**  
 23 **line.**  
 24 Q. Okay. And the houses that you  
 25 discussed last time are the houses that are

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1 depicted to the north of that?  
 2 **A. Correct, along Preston Terrace and**  
 3 **Somerset Terrace.**  
 4 Q. All right. And then you described the  
 5 height of the berm in that location at 8 feet  
 6 and then a fence would go on top of that?  
 7 **A. In that area along those residences.**  
 8 Q. Right. That's the area we're talking  
 9 about.  
 10 **A. Correct.**  
 11 Q. Okay.  
 12 **A. The fence would not be along the**  
 13 **frontage along Country Club and --**  
 14 Q. No, no, no. You said back there.  
 15 **A. Yes.**  
 16 Q. Okay. And you did certain-- you  
 17 prepared certain exhibits for the Board to give  
 18 them an idea of what a person would see if they  
 19 were at certain vantage points along either  
 20 Country Club or Meadow. You had A-- let's see.  
 21 A-9, A-10, are those around?  
 22 **A. Yes.**  
 23 Q. Could we take a look at those?  
 24 All right. What do we have here, A-9?  
 25 **A. We have A-11.**

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1 Q. A-11. Okay. And what vantage point  
 2 are we looking at here?  
 3 **A. I need to refer back to Exhibit A-9.**  
 4 Q. Okay.  
 5 **A. That shows the cross-sections--**  
 6 Q. All right.  
 7 **A. -- on the plan.**  
 8 Q. So that's the overall, right?  
 9 **A. Yeah. So this exhibit, A-11, shows**  
 10 **Profile C and Profile D. Profile C is cut**  
 11 **generally north-south from a lot on Somerset**  
 12 **Terrace to Meadow.**  
 13 Q. Okay.  
 14 **A. Okay. And D is one at the**  
 15 **intersection of Meadow and Country Club that**  
 16 **generally goes in a northeast direction into the**  
 17 **woodline.**  
 18 Q. Okay. And that is shown on A-11?  
 19 **A. It is.**  
 20 Q. All right. And I thought you showed  
 21 us what a person would see. You had a person  
 22 drawn in there.  
 23 **A. I do. On A-11 I have a person**  
 24 **standing in Meadow Road next to a vehicle.**  
 25 Q. Okay. And that's based on a person

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1 with an eye height of 5 feet, correct?  
 2 **A. Correct.**  
 3 Q. All right. So if we use a tape, if  
 4 you can come however here, if I was to say let's  
 5 put the information down and show the Board what  
 6 the height of the person's eye would be, I have  
 7 a tape measure here, would you agree with me  
 8 that's 5 feet?  
 9 **A. That's 5 feet.**  
 10 Q. All right. Just put a Post-It pad on  
 11 the location on my body where the 5 feet would  
 12 be.  
 13 **A. I feel like I'm "My Cousin Vinnie"**  
 14 **here.**  
 15 Q. But my wife dressed me up a little  
 16 better; otherwise, I would have worn the used  
 17 tuxedo.  
 18 All right. So this is what we're  
 19 talking about in terms of -- just so we  
 20 understand what the exhibits are showing, that's  
 21 the 5 foot.  
 22 **A. Correct.**  
 23 Q. Now, if someone's in a bus, if it's a  
 24 kid in a bus, they're going to be up a lot  
 25 higher than 5 feet, correct?

1 **A. They will be.**  
 2 Q. A person on a horse here in Somerset  
 3 Hills, riding their horse down that Meadow Road  
 4 and they were looking over, they're going to be  
 5 a lot higher than 5 feet, would you agree?  
 6 **A. They would.**  
 7 Q. All of the exhibits that you have,  
 8 that you showed us last time, and you have a  
 9 little person there, as I read the transcript,  
 10 it was all based on eye height at 5 feet,  
 11 correct?  
 12 **A. Correct.**  
 13 Q. All right. Let me ask you something.  
 14 In terms of the area by Preston, let's go to  
 15 the-- what is that, the north side? Your berm  
 16 on the north side that we were just talking  
 17 about before.  
 18 **A. That's along the neighborhood that is**  
 19 **Somerset Terrace and Preston Terrace.**  
 20 Q. That's correct. And that's what I'd  
 21 like to speak to at this point. That berm is  
 22 going to be different than the berms that you  
 23 described that are going to be proposed for the  
 24 other areas of the project.  
 25 **A. Well, there's two different types of**

1 **berms: One along the neighborhood of Preston**  
 2 **and Somerset Terrace, and then the other one**  
 3 **that was along the roads, Country Club Road and**  
 4 **Meadow Road.**  
 5 Q. All right. And the berm along  
 6 Preston, if we go back to the larger site on the  
 7 first exhibit, can you again draw the length of  
 8 that berm along Preston and Somerset? Just show  
 9 us how long that berm is going to be.  
 10 **A. Along the northern property line, it**  
 11 **would be approximately 600 feet long.**  
 12 Q. Okay. And, I'm sorry, because I can  
 13 see the houses and the roads are on there. Ron,  
 14 can you just go with your finger, just  
 15 approximate where the berm is going to be?  
 16 **A. Where the berm is?**  
 17 Q. The berm is.  
 18 **A. Along the north side?**  
 19 Q. Correct.  
 20 **A. I'll start where my finger is now.**  
 21 Q. Yes.  
 22 **A. Just west of Somerset Terrace.**  
 23 Q. Right.  
 24 **A. And we continue down almost to Preston**  
 25 **Terrace.**

1 Q. All right.  
 2 **A. And then turn--**  
 3 Q. So Preston -- I'm sorry.  
 4 **A. -- into the site. The berm continues**  
 5 **into the site. It just doesn't end there. It**  
 6 **turns 90 degrees and comes into the site.**  
 7 Q. All right. Now, if I'm in the middle  
 8 of that area, let's say-- pick a point. Any  
 9 point. Just to the other side of the berm, and  
 10 I'm looking towards the project, I'm going to  
 11 have 8 feet of berm and then, on top of that,  
 12 based on the testimony, a 7-foot fence plus  
 13 trees and other vegetation, correct?  
 14 **A. On top of the berm, 8-foot berm, and**  
 15 **it would have trees on top of that with a fence**  
 16 **in between the trees.**  
 17 Q. All right. So in terms of height  
 18 then -- and I can't go up with it because we  
 19 don't have enough space. If I could ask you to  
 20 grab the other end, just to give the Board an  
 21 idea of if we stood it on end what we're talking  
 22 about in the way of a berm, my thumb is on 15  
 23 feet. Would that be accurate? In other words,  
 24 if we stood this up, that's what we would see in  
 25 the way of a berm and a fence from that vantage

1 point?  
 2 **A. That's correct.**  
 3 Q. Okay. I know you did a landscaping  
 4 plan, also. And just generally speaking,  
 5 without getting real specific, what type of  
 6 plants are we talking about on top of that berm?  
 7 **A. A combination of deciduous trees, some**  
 8 **evergreen trees and some shrubs.**  
 9 Q. Okay. And you said I think the fence  
 10 would diffuse what you would see because you'd  
 11 have some plants and then you'd have the fence  
 12 and then you have all that stuck on top of the  
 13 berm itself?  
 14 **A. Yes.**  
 15 Q. Okay. All right. If we had to  
 16 compare what a person would see-- let's say I  
 17 lived on that street and I was at that same  
 18 vantage point. Can you compare for me what I  
 19 would see tomorrow morning versus what I would  
 20 see if the project was approved?  
 21 **A. Yes. Exhibit A-4 has the existing**  
 22 **conditions. So if you're down near Preston**  
 23 **Terrace, you would have some shrub mass that's**  
 24 **mostly cedars. If you're in the backyard of**  
 25 **this lot on Preston Terrace or the backyard of**

1 **Somerset Terrace, very thin treeline, then you**  
 2 **look into the view, into the meadow.**  
 3 Q. Okay. And that is the existing  
 4 condition. What would they see the day after  
 5 this gets built out?  
 6 **A. They'd see -- from that same elevation**  
 7 **that they're standing in their backyard, they'd**  
 8 **see the berm and the fence and the trees on the**  
 9 **berm.**  
 10 Q. Now, this area, you'd agree with me,  
 11 is a scenic vista, correct?  
 12 **A. Yes, I'd say so. Yes.**  
 13 Q. All right. There was some testimony,  
 14 Ron-- let's move off that area-- and I think it  
 15 was about Meadow Road, if I recollection was  
 16 right. And there was some talk about there's  
 17 some existing trees down Meadow Road that would  
 18 assist in blocking these 40-some-thousand solar  
 19 panels.  
 20 Could you show us where those trees  
 21 are located along Meadow?  
 22 **A. Along Meadow on the property, you just**  
 23 **have the tree row that's right along Meadow**  
 24 **itself.**  
 25 Q. And you're going to have that remain

1 as part of your plan to shield the project off  
 2 from anyone going down Meadow Road, correct?  
 3 **A. Well, I mean, we're keeping the trees**  
 4 **there. We're not proposing to remove those.**  
 5 **But then beyond that there is the berm that**  
 6 **we're putting in along that same frontage as**  
 7 **well.**  
 8 Q. Okay.  
 9 **A. So the proposal is to put the berm**  
 10 **there in addition to that existing tree line.**  
 11 Q. All right. But you remember Mr. Olsen  
 12 asking you about the trees, whether they were  
 13 primarily hard woods? And, secondly, the  
 14 question asked was whether those trees would  
 15 lose their leaves, you know, seasonally and,  
 16 therefore, you would then be able to see through  
 17 but for the --  
 18 **A. And I'm not sure if it was in that**  
 19 **area. It could have been. But that tree line**  
 20 **around here, it's a mix. It's a mix of some**  
 21 **cedars and it's a mix of some deciduous trees.**  
 22 Q. All right. But the deciduous trees  
 23 would lose their leaves?  
 24 **A. Sure.**  
 25 Q. Okay. And are you proposing any

1 plantings along with the berm down Meadow?  
 2 **A. No. No, we're not. Again, we were**  
 3 **trying to make that the vista so we could see**  
 4 **the trees in the background and make that**  
 5 **agricultural-looking in the foreground.**  
 6 Q. Well, let's -- let's talk about that.  
 7 I know that you said that these efforts that you  
 8 were making, you told us several times that it  
 9 was attempting to shield the project from anyone  
 10 who was going by.  
 11 So my question is, in terms of all the  
 12 studies that you've done-- by that I mean sight  
 13 line studies -- is it fair to say that you have  
 14 not done a complete 360 around the project from  
 15 an engineering standpoint?  
 16 **A. The sight lines that we've done have**  
 17 **been from the neighborhood that is just to the**  
 18 **northeast of the track on Victory, Somerset and**  
 19 **Preston Terrace, along Country Club Road and**  
 20 **along Meadow Road. I'll call it the west side**  
 21 **of the property we have not done any sight lines**  
 22 **there. We left larger buffers of existing**  
 23 **vegetation there, but we have not done sight**  
 24 **line studies there.**  
 25 Q. All right. And you said -- I mean,

1 honestly, in the transcript you said, we're  
 2 trying, we're going to try, we're going to  
 3 attempt to protect the viewsheds. And you  
 4 mentioned something about, well, we're going to  
 5 have it so that it's similar to what you would  
 6 see if you were driving along Burnt Mills Road.  
 7 But let me ask you about Burnt Mills  
 8 Road. If I drive along Burnt Mills Road, I  
 9 don't see any properties with berms that block  
 10 my view of any fields, are there?  
 11 **A. Burnt Mills, there's no grade change.**  
 12 **On Lamington Road and other roads, there's some**  
 13 **significant grade changes that occur along that**  
 14 **road.**  
 15 Q. All right. We're not talking about  
 16 grade changes here because the berm is not going  
 17 to be a grade change along the top of the berm,  
 18 correct? It's a solid line at a certain height?  
 19 **A. It changes with the grade of the road.**  
 20 **So the berm at one location is not the same**  
 21 **elevation of the berm 300 foot down.**  
 22 Q. Right, but basically in a certain  
 23 location, when I'm looking at the berm, it's the  
 24 same height. It's not going to --  
 25 **A. Correct. It's not-- you know, again,**

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1 **we're not taking it and sculpting it up and**  
 2 **down.**  
 3 Q. Right.  
 4 **A. That's not -- that's not what we're**  
 5 **proposing.**  
 6 Q. All right. And what I looked at, in  
 7 terms of the testimony, and you talked about  
 8 fills and cuts, and I'm not an engineer, but  
 9 what I did get out of it was, in essence, you're  
 10 making kind of like a hollow and that's where  
 11 the panels would be located, is that right?  
 12 **A. Well, let's -- I'll describe it on**  
 13 **A-11, is that we create the berm. There's a**  
 14 **sloping grade down to, in this case, on Exhibit**  
 15 **A-11, down to Meadow Road. We come down on the**  
 16 **back of that berm, inside where the panels are**  
 17 **to be located, on a steep grade down. It's a**  
 18 **typical berm that would be on a 3-to-1 slope and**  
 19 **then we have the panels behind that.**  
 20 **So at some height-- again, we measured**  
 21 **it at 5 feet. If it was higher -- 6 feet, 8**  
 22 **feet -- the panels, again, are behind the berm.**  
 23 Q. Okay. But would you agree with me  
 24 that what we're really talking about, then, is  
 25 the existing sight line and scenic vista. You

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1 would be able to see the fields all the way back  
 2 to the trees, do you agree?  
 3 **A. You would.**  
 4 Q. And, in essence, based on what you're  
 5 doing, what a person is going to be able to see  
 6 is going to be blocked off right at this  
 7 juncture, the top of the berm.  
 8 **A. Yes. Again, we agree. The foreground**  
 9 **will be blocked off of that landscape that's in**  
 10 **front of it.**  
 11 Q. Okay.  
 12 **A. And we're replacing that with the**  
 13 **berm. We'll have height to it. It's the only**  
 14 **way we can get elevation to get panels behind**  
 15 **it. But instead of taking a very steep approach**  
 16 **to it, we're taking a more gradual approach. We**  
 17 **can sculpt it, make it look more like it belongs**  
 18 **along a Lamington Road. Maybe not Burnt Mills**  
 19 **Road. That's quite flat there along the stream.**  
 20 Q. You go along Burnt Mills, right, you  
 21 see the hay, you see the fields, you see towards  
 22 the rear of the property.  
 23 **A. Burnt Mills is quite flat.**  
 24 Q. Let's go to F-2 again and let's talk  
 25 about that same vantage point that we discussed,

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1 which would be Meadow and Country Club? Looking  
 2 at the furthest picture to the right on F-2,  
 3 would you agree, that's what you would see right  
 4 now?  
 5 **A. Well, that's a photo of Meadow and**  
 6 **Country Club.**  
 7 Q. Well, that's what -- does it  
 8 accurately show what you would see if you went  
 9 out there tomorrow morning?  
 10 **A. Yes.**  
 11 Q. Now, this is a historic property, is  
 12 it not?  
 13 **A. I mean, it has a house that is an old**  
 14 **farmhouse that's listed in Bedminster's registry**  
 15 **of, say, older structures. I can't say it's**  
 16 **historical.**  
 17 Q. You testified, and it's in the  
 18 transcript, that this house was built in the  
 19 1800s.  
 20 **A. Correct.**  
 21 Q. It has historical value.  
 22 **A. But I can't say -- the whole property**  
 23 **is not historic. It's an old farmhouse.**  
 24 Q. Well, this is the house. This is the  
 25 only structure on the lot that we're talking

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1 about, correct?  
 2 **A. It is.**  
 3 Q. Okay. So let's go to the day after  
 4 you construct the berm and all the other  
 5 improvements and I'm standing right here at  
 6 Meadow and Country Club. Can I even see the  
 7 historic farmhouse?  
 8 **A. You will be able to, yes.**  
 9 Q. What am I -- what part am I going to  
 10 see?  
 11 **A. I'd say the second story and the**  
 12 **roofline.**  
 13 Q. So it's going to be blocked off by  
 14 this berm that we're talking about, correct?  
 15 **A. Just the first story.**  
 16 Q. All right. Which will be a completely  
 17 different view than what exists today?  
 18 **A. Correct.**  
 19 Q. Ron, as you stand here now, under oath  
 20 before the Board, can you say as a matter of  
 21 fact that no person walking around this project  
 22 after it's constructed will see a single solar  
 23 panel? Can you say that without equivocation?  
 24 **A. It has to be site specific, Rich. You**  
 25 **can still have windows that will be around the**

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1 **sides of the property with vegetation that you**  
2 **could see.**  
3 Q. Right.  
4 **A. Along the berms, no.**  
5 Q. But, see, that's what I'm talking  
6 about here. I mean, in other words, in  
7 reviewing all of the testimony so far -- the  
8 pictures, the exhibits and everything else -- we  
9 still can't say that you're not going to see the  
10 panels. Some -- how many panels? Forty-- how  
11 many thousand?  
12 **A. I think it's forty thousand and**  
13 **change. 40,484.**  
14 MR. SASSO: That's all I have.  
15 CHAIRMAN BOXER: Thank you, Mr. Sasso.  
16 Ms. Donato, do you have any follow-ups  
17 before I open it up to the public?  
18 MS. DONATO: No, I do not. Mr. Sasso  
19 and I divided up the topics for the advantage of  
20 efficiency.  
21 CHAIRMAN BOXER: Thank you.  
22 MS. DONATO: Thank you.  
23 CHAIRMAN BOXER: Why don't we maybe  
24 just take a five-, ten-minute break just to let  
25 the stenographer take a little bit of a rest and

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1 we'll have the public prepare. If there's any  
2 of you that would like to question the witness,  
3 what we'd ask you to do is you'll have the  
4 opportunity to do so. We'll ask you to come up,  
5 you'll be sworn in, you'll have to give us your  
6 name, your address. And we would ask you to be  
7 constructive, think about the questions that  
8 have been asked. We would ask you not to be too  
9 repetitive. If you have some follow-ups or some  
10 clarification questions are very appropriate,  
11 it's not an issue, but I think in fairness to  
12 the witness, we want to try to be efficient, but  
13 we want to give you the opportunity to ask  
14 whatever questions you think are important.  
15 So With that we'll take, let's say,  
16 ten minutes, and we'll come back at 8:10. Thank  
17 you very much.  
18 (Recess)  
19 CHAIRMAN BOXER: Well, we completed  
20 the questioning by Mr. Sasso and Ms. Donato of  
21 Mr. Kennedy. This is an opportunity for the  
22 public to come up and question witnesses.  
23 They'll have this opportunity throughout this  
24 hearing.  
25 Would anybody like to come up and

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1 question Mr. Kennedy? Okay. Just one so far?  
2 You too, sir? So how about we do this? We'll  
3 let this gentleman come up first, you second.  
4 So what we would like you to do is  
5 come up, name, address. You'll have to get  
6 sworn in. And I just want to, again, talk about  
7 the best way to handle this. You know, it's  
8 important that we respect the professionals and  
9 we're going to try not to be too repetitive in  
10 questioning. So if I find that the  
11 repetitiveness becomes a burden on the witness,  
12 I may ask you to change your line of questioning  
13 or I may even ask you to not question him in  
14 that line. But if you could work with us, we'll  
15 make sure that you get every opportunity to get  
16 whatever questions you have answered. Okay.  
17 JEFF YINGLING, is duly  
18 sworn.  
19 MR. SOLOWAY: State your full name for  
20 the record, please, and spell your last name.  
21 MR. YINGLING: Jeff Yingling,  
22 Y-I-N-G-L-I-N-G.  
23 MR. SOLOWAY: Just one point for you  
24 and other people. We're kind of swearing you in  
25 to be on the safe side.

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1 MR. YINGLING: That's fine.  
2 MR. SOLOWAY: But you're not supposed  
3 to testify at this point in the proceeding.  
4 You're really limited now to asking questions of  
5 this witness. You'll get an opportunity for  
6 actual testimony at some future point.  
7 MR. YINGLING: That's fine.  
8 CHAIRMAN BOXER: Sir, how long have  
9 you lived in Bedminster, if I could ask?  
10 MR. YINGLING: I'm a newbie. I've  
11 been here for about a year and a half.  
12 CHAIRMAN BOXER: Okay. Thank you.  
13 MR. YINGLING: Sure.  
14 A question for you: Regarding the --  
15 I believe two meetings ago you testified about  
16 the roadway that's going through the properties.  
17 THE WITNESS: The driveway.  
18 MR. YINGLING: The driveway. What  
19 will that be made out of?  
20 THE WITNESS: It will be made out of  
21 stone. It's 12 foot wide.  
22 MR. YINGLING: Is that road-bearing or  
23 three-quarter inch--  
24 THE WITNESS: It will be a DGI,  
25 three-quarter-inch clean stone.

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1 MR. YINGLING: Okay. But not  
2 quarter-inch--  
3 THE WITNESS: No, it's not proposed to  
4 be so.  
5 MR. YINGLING: Okay. My next question  
6 is with regards to the berm. The construction  
7 details that you went over with Mr. Sasso  
8 dictated that there was going to be an 8-foot  
9 berm with a 7-foot fence.  
10 What's the width of that berm?  
11 THE WITNESS: It is at the top of the  
12 berm-- and, again, let me be specific. This is  
13 the berm along the north side of the property  
14 and then it turns and goes along -- I'll call it  
15 the Country Club Road side of the property.  
16 That's that narrower berm. It's 6 foot on the  
17 top and then it grades off on a 3-to-1 slope on  
18 each side.  
19 So depending on the grading around  
20 there, it's going to be 30 foot wide, 35 foot  
21 wide at the base and then it will have a 6-foot  
22 flat section on the top and go down to a 3-to-1  
23 slope.  
24 MR. YINGLING: Okay. And the -- one  
25 statement, I guess. The wooded lot that's been

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1 testified as a vacant lot, that's actually my  
2 house. That's not so vacant.  
3 THE WITNESS: This lot 5?  
4 MR. YINGLING: Yes. I live there.  
5 THE WITNESS: Okay.  
6 MR. YINGLING: So it's not completely  
7 vacant. Will the berm be extended along that  
8 area as well?  
9 THE WITNESS: It is not proposed to be  
10 down in along that area. That area has  
11 regulated wetlands that are on it. Where the  
12 driveway is located in an area where the path is  
13 now, we're in to the DEP to get permits for  
14 that. But we're not proposing to extend the  
15 berm down along that property.  
16 MR. YINGLING: With regards to the  
17 berm in the area of Victory Court and Preston  
18 Terrace, is it possible to change the  
19 construction of that berm so that rather than  
20 having such a large mountain of space being the  
21 new view of the residents that live there, can  
22 that be changed so that there's more vegetation  
23 as opposed to earth?  
24 THE WITNESS: It can. I mean, there's  
25 flexibility on that. We talked, I believe in

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1 one of the testimonies, or maybe it was  
2 off-line, we even discussed that the berm does  
3 not need to be right up against the property  
4 line. We can pull that away from the property  
5 line. I mean, the panels themselves are more  
6 than 200 foot from the property line. So that  
7 has opportunities to move that berm.  
8 MR. YINGLING: Okay. Other question  
9 is regarding the main berm across the front of  
10 the property. In his opening statements,  
11 Mr. Lynch testified that the farming use of the  
12 property now versus what's being proposed after  
13 the panels are installed will be increased.  
14 What acreage of farmland will be under  
15 farmland management after construction?  
16 THE WITNESS: The area that are  
17 proposed for farm maintenance or farm management  
18 would be all along this frontage. It would be  
19 these areas that are in the grassed areas around  
20 the perimeter between the berm and the panels  
21 themselves. We're proposing to have an  
22 agricultural use.  
23 MR. YINGLING: And how many acres is  
24 that area versus what's currently being farmed?  
25 THE WITNESS: I don't have that. Let

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1 me get you that number.  
2 MR. YINGLING: Okay.  
3 THE WITNESS: I know we did a  
4 calculation, but that's something that we'll  
5 make sure that we get.  
6 MR. YINGLING: Okay. As was indicated  
7 in the previous testimony posed to you by  
8 Mr. Sasso and Ms. Donato regarding the front  
9 berm, is it possible to change the height again  
10 in relation to the sight line to rather than  
11 having such a huge upswing that's going to  
12 eliminate the vista view to, rather than having  
13 open farmland and field area, continue the  
14 treeline that's currently in the upper portion,  
15 in this area here, extend it down?  
16 THE WITNESS: So, in other words,  
17 plant that with cedar?  
18 MR. YINGLING: Cedars and a mix of  
19 hard woods to replicate the existing area that's  
20 there now rather than just having an area of  
21 tillable lawn or maintained lawn or hay that's  
22 going to require maintenance. Since we're  
23 losing the view of the vista anyway, why not  
24 just plant it?  
25 THE WITNESS: Again, that's an option.

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1 I said intent, but our plan is showing that we  
 2 were proposing a farm-hayfield-agricultural use.  
 3 But clearly the opportunity would be to create a  
 4 mixed-wood situation, similar along Country Club  
 5 Road here. That could be created, with time,  
 6 along Meadow and Country Club Road.  
 7 MR. YINGLING: Okay. In your  
 8 testimony you also indicated that 42 hard woods  
 9 would be removed and 210 trees would be  
 10 replaced.  
 11 How many cedars are being removed?  
 12 THE WITNESS: We didn't count them.  
 13 That's not a number that we went and did a  
 14 survey on. Bedminster's tree ordinance doesn't  
 15 require the cedar count to be done, so we didn't  
 16 spend much time. I can give you a physical  
 17 area, but I don't have a tree count of that  
 18 number that's in there.  
 19 MR. YINGLING: Okay. I think that's  
 20 all. So if you can check on that acreage  
 21 ratio--  
 22 THE WITNESS: We'll get that.  
 23 MR. YINGLING: -- I'd appreciate it.  
 24 Thank you.  
 25 MR. HALL: Could I ask a question of

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1 Mr. Yingling, just where his house is?  
 2 CHAIRMAN BOXER: Yes.  
 3 MR. YINGLING: It's on the wooded lot.  
 4 MR. HALL: No, is it in the area shown  
 5 on that photo.  
 6 THE WITNESS: Is it just off the view,  
 7 or is this an old photo?  
 8 MR. YINGLING: No, it's a current  
 9 photo. It's right at the tip. Just apparent--  
 10 THE WITNESS: Along Burnt Mills Road?  
 11 MR. YINGLING: Right here. In the  
 12 white -- white zone.  
 13 THE WITNESS: Okay.  
 14 MR. HALL: So it's off the photo?  
 15 MR. YINGLING: Off the photo, correct.  
 16 MR. HALL: Okay. That's fine.  
 17 MR. YINGLING: But I just wanted it  
 18 indicated that it is an occupied lot. It's not  
 19 a vacant area or space that's not --  
 20 THE WITNESS: And just to clarify,  
 21 because I want to make sure, A-3, that shows  
 22 that house site right here, correct?  
 23 MR. YINGLING: That's correct.  
 24 THE WITNESS: The frontage is actually  
 25 along Country Club Road.

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1 MR. HALL: Okay. Thank you.  
 2 CHAIRMAN BOXER: Thank you,  
 3 Mr. Yingling. We appreciate it. We appreciate  
 4 your questions.  
 5 Sir, why don't you come up and we'll  
 6 get you sworn in here.  
 7 MR. HOYNES: Sure.  
 8 RICHARD HOYNES, is duly  
 9 sworn.  
 10 MR. SOLOWAY: State your full name for  
 11 the record, please, and spell your last name.  
 12 THE WITNESS: My name is Richard  
 13 Hoynes, H-o-y-n-e-s.  
 14 CHAIRMAN BOXER: Mr. Hoynes, how long  
 15 have you lived in Bedminster, if I could ask?  
 16 MR. HOYNES: I've had four properties  
 17 in Bedminster since about 2001.  
 18 CHAIRMAN BOXER: And where do you --  
 19 you live now where again? I'm sorry.  
 20 MR. HOYNES: 1500 Burnt Mills Road,  
 21 adjacent to this property. I have a 58-acre  
 22 plot on the upper left of that prior picture.  
 23 CHAIRMAN BOXER: Got it. Okay.  
 24 Thanks. Appreciate it.  
 25 MR. HOYNES: My question is, I saw you

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1 did the berm along Country Club and, I guess, to  
 2 protect the view or improve the view from the  
 3 houses on the front upper right side there. And  
 4 the prior gentleman lives on the lot next to me  
 5 right there. I own from that corner over and  
 6 then behind the property and then up to the  
 7 Forbes' property on the left-hand side.  
 8 My question is, I met with KDC and  
 9 talked with them about this. They said they  
 10 were going to put trees along the solar panels  
 11 and my lot so as not to obstruct the view.  
 12 I'm wondering, was there a reason you  
 13 didn't extend that berm or -- is the first  
 14 question. The second question is, what kinds of  
 15 trees are you going to put there? Because the  
 16 deer eat everything. So in the wintertime, you  
 17 know, I'm going to see that. I have a nice view  
 18 now. And on the right-hand side I plan to put  
 19 greenhouses. So even though it's vacant today,  
 20 we will have a view from the right side of my  
 21 property.  
 22 THE WITNESS: What we show right now  
 23 on the plan is the area along -- let's just call  
 24 it the field area of your lot itself.  
 25 MR. HOYNES: Right.

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1 THE WITNESS: We're showing infill of  
 2 some new plantings that would be along there.  
 3 Primarily cedars and some evergreen trees that  
 4 would be along there. And primarily from your  
 5 house site and your barn site looking towards  
 6 the panels themselves.  
 7 And we put it along an area right now  
 8 that has some, I'll say, open space to it right  
 9 now. There's a path that's along there, maybe  
 10 20 foot wide, 30 foot wide. That's the areas  
 11 that we're proposing to put plants in there.  
 12 As far as a berm that would be as  
 13 extensive as this berm, in order to accomplish  
 14 that -- we can do it, but in order to accomplish  
 15 that, you have to remove more vegetation to put  
 16 that back. In this case there's not vegetation  
 17 over here, so it's a little easier to propose  
 18 without removing. But, again, the opportunity  
 19 to put a berm there could be done. We just have  
 20 to remove existing vegetation to go build a berm  
 21 to put some stuff back in there  
 22 MR. HOYNES: It's mostly due to trees.  
 23 What's the recourse if, when they put the trees  
 24 in, I'm still looking at solar panels from my  
 25 property? Are they bound to make that so it's

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1 not ugly?  
 2 THE WITNESS: Well, I think the Board  
 3 can put conditions on it that it has to meet  
 4 certain tests and certain standards.  
 5 MR. HOYNES: Okay.  
 6 THE WITNESS: Either at the time of  
 7 planting or at a time after a certain time down  
 8 the road. The Board has done that in the past,  
 9 has put conditions on it. Something that you  
 10 could go out and inspect to a standard and the  
 11 Board's professionals can go out to put inspect  
 12 to a standard so it meets the objective that was  
 13 being met.  
 14 MR. HOYNES: Thank you.  
 15 THE WITNESS: Or being proposed, not  
 16 being met. But meets that so if you said I  
 17 don't want to see this, there's some standard in  
 18 there before the applicant says they did  
 19 everything they could do that you're satisfied  
 20 with and the Board's satisfied with.  
 21 MR. HOYNES: All right. Thank you.  
 22 Thank you.  
 23 CHAIRMAN BOXER: Thank you very much,  
 24 sir.  
 25 anybody else like to question Mr. Kennedy?

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1 Hi. Good evening.  
 2 R O B E R T G R A V E N, is duly  
 3 sworn.  
 4 MR. SOLOWAY: State your full name,  
 5 spell your last name, please.  
 6 MR. GRAVEN: Robert Graven,  
 7 G-R-A-V-E-N. I sent a letter to the Board, but  
 8 now I've been told that I can't provide this as  
 9 testimony. It has to be in the form of  
 10 questions. Well, it's not in the form of  
 11 questions, it's in the form of testimony. So  
 12 I'll do this later?  
 13 MR. SOLOWAY: Yes. You can't-- you'll  
 14 get a chance to do testimony, but this isn't the  
 15 night.  
 16 MR. GRAVEN: Okay. Then in regards to  
 17 the property?  
 18 CHAIRMAN BOXER: Sure. You can ask  
 19 Mr. Kennedy any question you want, in any form  
 20 you want, but not -- we can't let you testify to  
 21 this letter.  
 22 MR. GRAVEN: Okay. Mr. Collins had  
 23 said, you know, I need to read the letter into  
 24 the record.  
 25 CHAIRMAN BOXER: I'm not sure how that

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1 applies tonight.  
 2 MR. SOLOWAY: Well, I think the  
 3 gentleman sent the letter hoping it would be  
 4 made part of the record. I assume Mr. Collins  
 5 told him that letters sent to the Board aren't  
 6 evidentiary and that if he wanted it to be part  
 7 of the record -- I don't know if he said you  
 8 read it, but you testify as to it.  
 9 But, again, the order of the  
 10 proceedings here is that the applicant's  
 11 witnesses testify, everyone else gets an  
 12 opportunity to question them. When the  
 13 applicant completes its case, then you will have  
 14 an opportunity to testify. So for tonight it's  
 15 questions only.  
 16 CHAIRMAN BOXER: And you can certainly  
 17 find a way to question-- if there are items  
 18 within your letter, sir, that you'd like  
 19 clarification on or there's a way you can  
 20 construct a question that might relate to your  
 21 letter, I guess we could allow you to do that.  
 22 But to read the letter directly--  
 23 MR. GRAVEN: I'll come back to it  
 24 later. If I can read it later, I'll read it  
 25 later.

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1 CHAIRMAN BOXER: Yes, definitely.  
 2 There will be plenty of time during this process  
 3 for people to get up and testify and certainly,  
 4 you know, make statements, et cetera.  
 5 MR. GRAVEN: Okay.  
 6 CHAIRMAN BOXER: Thank you, sir.  
 7 Anybody else would like to come up?  
 8 Come on.  
 9 J O S E P H C I R O N A, is duly  
 10 sworn.  
 11 MR. CIRONA: My name is Joseph Cirona,  
 12 525 Country Club Road.  
 13 MR. SOLOWAY: Spell Cirona for the  
 14 record, please.  
 15 MR. CIRONA: C-i-r-o-n-a. Did I miss  
 16 anything? That's it?  
 17 The question I have -- it may not be  
 18 pertaining to right now, but I have a question  
 19 for Mr. Kennedy. And if not, you can tell me to  
 20 sit down.  
 21 CHAIRMAN BOXER: Okay.  
 22 MR. CIRONA: In regard to the berm,  
 23 which I follow it, you know, down Meadow, along  
 24 Country Club, and the only opening is the  
 25 driveway except for probably a security gate.

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1 THE WITNESS: Just the driveway.  
 2 MR. CIRONA: Just the driveway. And  
 3 then the berm continues on and over and down.  
 4 Now, to me, doesn't that create like a basin for  
 5 water? Because -- I'm saying that because we've  
 6 had a water problem there the last few storms  
 7 that we had, that the water flowing out of  
 8 there, the town had to go down and degrade it.  
 9 THE WITNESS: We'll be talking about  
 10 stormwater in detail.  
 11 MR. CIRONA: Okay.  
 12 THE WITNESS: That, Mr. Moschello is  
 13 going to talk about.  
 14 MR. CIRONA: Okay.  
 15 THE WITNESS: Again, the simple answer  
 16 is, is berms create dams by default.  
 17 MR. CIRONA: Right.  
 18 THE WITNESS: They got to get water  
 19 from one spot to another--  
 20 MR. CIRONA: Right. And the only  
 21 opening is the driveway.  
 22 THE WITNESS: Well, there'll be  
 23 drainage that will go through this. And we'll  
 24 talk in detail about drainage and how that  
 25 works.

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1 CHAIRMAN BOXER: And you'll get a  
 2 chance, as you know, to question.  
 3 MR. CIRONA: Right. Well, that's why  
 4 I didn't think maybe right now it wasn't. It's  
 5 just that we've had a couple of situations  
 6 already --  
 7 CHAIRMAN BOXER: It's a fair question  
 8 to Mr. Kennedy and his partner, his associate, I  
 9 believe, will be testifying.  
 10 MR. CIRONA: Okay. That was it.  
 11 CHAIRMAN BOXER: Okay. Great.  
 12 Thanks.  
 13 Anybody else? Sir, come on up.  
 14 S T E V E F R A N T Z, is duly  
 15 sworn.  
 16 MR. FRANTZ: Steve Frantz, 90 Preston  
 17 Terrace.  
 18 CHAIRMAN BOXER: And how long have you  
 19 lived in Bedminster, Mr. Frantz?  
 20 MR. FRANTZ: 16 years.  
 21 CHAIRMAN BOXER: Okay. Good.  
 22 MR. SOLOWAY: Spell your last name for  
 23 the reporter, please.  
 24 MR. FRANTZ: F-r-a-n-t-z.  
 25 I just had a question. I live in that

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1 second plot on Preston.  
 2 THE WITNESS: On this side of the  
 3 road?  
 4 MR. FRANTZ: Yeah. And just before I  
 5 moved into that house in 2004, I lived in the  
 6 Hills part of the city. Maybe 15 years makes  
 7 sense. We had had the septic system replaced  
 8 and the property had to have a mound system  
 9 installed. So I have, like, a mound in my front  
 10 yard that gives me a higher view of, like,  
 11 things that are going on, pretty good, of the  
 12 farm.  
 13 CHAIRMAN BOXER: When you say "a  
 14 higher view," what do you mean by that?  
 15 MR. FRANTZ: So there's an 8-foot  
 16 mound in my front yard because of the septic  
 17 system.  
 18 CHAIRMAN BOXER: Right.  
 19 MR. FRANTZ: So I'm not like -- when  
 20 I'm out at the road, I'm at a different level  
 21 than when I'm standing in the front of my  
 22 property.  
 23 CHAIRMAN BOXER: I see.  
 24 MR. FRANTZ: So it's a higher  
 25 elevation than the rest of my property.

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1 I also know that my neighbor has a  
 2 mound system all the way in the back of her yard  
 3 that gives -- it's another 8 foot on top of what  
 4 the original grade was, which is going to also  
 5 give, you know, a different view of the  
 6 property. And then anybody else who has to  
 7 actually get a septic system replaced in our  
 8 neighborhood is going to have to have mound  
 9 systems installed as well.

10 If somebody else, say like the  
 11 Burlashes (ph) or the other property across the  
 12 street from them, have a septic system installed  
 13 and they have an 8-foot elevation and a hill in  
 14 the backyard, are the solar panels going to be  
 15 visible from the new higher elevation that's  
 16 going to be required by the town because of the  
 17 water?

18 THE WITNESS: If you stood on top of  
 19 those-- let me just get some clarity about that  
 20 so I can finish that question.

21 CHAIRMAN BOXER: I think the man  
 22 suggests it's possible. Ron, you could run--  
 23 he's going to be 8 feet up already.

24 THE WITNESS: The difference is in  
 25 that area that we're talking about, going

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1 towards Preston, that drops down in the  
 2 landscape that's there.

3 MR. FRANTZ: Right.

4 CHAIRMAN BOXER: Right.

5 THE WITNESS: So if we look at this  
 6 exhibit, Profile A, with the height of the fence  
 7 on top of that, even if I had the first floor  
 8 height, even if we were a story above on the  
 9 second floor -- and this house there does not  
 10 have a second floor, but if we were and I drew a  
 11 line across there with the fence that's there,  
 12 you still wouldn't see any of these panels that  
 13 are located right here from that perspective.

14 MR. FRANTZ: All right. And then--

15 THE WITNESS: So I'm trying to answer  
 16 it. In that area if you were 8 foot higher in  
 17 this condition, no, wouldn't see that.

18 MR. FRANTZ: Okay. And then what  
 19 about from my deck off the back of the second  
 20 story of my house?

21 THE WITNESS: I'd say the same thing,  
 22 is that if you're on the deck on the second  
 23 floor, you're going to be looking at the  
 24 perspective instead of this steep line that's  
 25 here, it would be a less steep line, but it

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1 would still be over the top of these panels here  
 2 because of the berm and the fence on top of the  
 3 berm.

4 MR. FRANTZ: Okay. Thank you.

5 CHAIRMAN BOXER: Thank you, sir.  
 6 Anybody else like to question  
 7 Mr. Kennedy?

8 Okay. Seeing none, Mr. Hall, we'll  
 9 ask you to call your next witness.

10 MR. HALL: Thank you. I call Robert  
 11 Moschello.

12 CHAIRMAN BOXER: Thank you.  
 13 And Mr. Moschello is going to be  
 14 testifying to what portion of this?

15 MR. HALL: Stormwater. Stormwater  
 16 management.

17 CHAIRMAN BOXER: Stormwater.  
 18 ROBERT MOSCHELLO, is  
 19 duly sworn.

20 MR. SOLOWAY: State your full name for  
 21 the record, please, and spell your last name.

22 THE WITNESS: It's Robert Moschello,  
 23 M-O-S-C-H-E-L-L-O.

24 MR. SOLOWAY: I know the Board has  
 25 accepted Mr. Moschello's qualifications on many

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1 occasions. Whether you want him to recite them  
 2 because you have a lot of people here --

3 CHAIRMAN BOXER: I think it's probably  
 4 a good idea.

5 MR. SOLOWAY: -- it might be a good  
 6 idea.

7 CHAIRMAN BOXER: It's probably a good  
 8 idea.

9 MR. HALL: Why don't do you that.

10 THE WITNESS: I will. I have a  
 11 Bachelor of Science in civil engineering from  
 12 the New Jersey Institute of Technology. I  
 13 received that in 1998. I've been working in the  
 14 field of land development and land use for the  
 15 last 15 years. I received my professional  
 16 engineer's license from the State of New Jersey  
 17 in 2004, and I've appeared before numerous  
 18 boards throughout the state on land development  
 19 topics such as this.

20 CHAIRMAN BOXER: Thank you.

21 MR. HALL: And have those appearances  
 22 also involved stormwater management plans?

23 THE WITNESS: Yes, they have.

24 MR. HALL: Okay. Thank you.  
 25 So he's accepted as a professional

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1 engineer?  
2 CHAIRMAN BOXER: Absolutely. Thank  
3 you.  
4 THE WITNESS: Thank you.  
5 DIRECT-EXAMINATION  
6 BY MR. HALL:  
7 Q. All right. Mr. Moschello, why don't  
8 you-- well, let me ask you, first, you prepared  
9 and submitted a stormwater management plan, is  
10 that correct?  
11 A. Yes, I did.  
12 Q. Why don't you just tell the Board what  
13 it is and then walk us through the plan.  
14 A. Great. I'm going to refer back to  
15 Exhibit A-6, which is the overall rendering of  
16 the property. And I'm going to talk about the  
17 stormwater management on the project. And I  
18 want to start, first, by just going over a  
19 little bit of the existing conditions on the  
20 property. Mr. Kennedy talked about it a couple  
21 meetings ago, but I just wanted to refresh that  
22 discussion for tonight.  
23 The property is basically split into  
24 three drainage basins. I want to refer to that  
25 as the western property line being Point of

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1 Analysis A; the southern property line along  
2 Meadow Road, which is the -- which has the  
3 middle of the wetlands in it as Point of  
4 Analysis B; and then I'm going to refer to the  
5 property line, the eastern property line along  
6 Country Club Road, as Point of Analysis C.  
7 So essentially the property is split  
8 into three drainage areas. Approximately the  
9 back third of the property drains towards the  
10 western property line. The middle portion of  
11 the property, which is about two-thirds of the  
12 site-- I'm sorry, another third of the site,  
13 drains towards the middle wetland complex that  
14 we've shown on the plans towards the point of  
15 analysis on the south portion of the property.  
16 And then the last third portion of the site  
17 drains towards Country Club Road, and there's a  
18 series of inlets on Country Club Road as well as  
19 culverts that pass that water under the road and  
20 then eventually into Chambers Brook. Okay?  
21 In developing this site, we have to  
22 look at managing the runoff as it leads the  
23 property at the different points of analysis.  
24 And since the project's considered major  
25 development, you have to meet the state

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1 standards for recharge, attenuation, and water  
2 quality. And the reason why it's a major  
3 development is, again, it's more than an acre of  
4 disturbance and it's more than a quarter acre of  
5 new impervious surfaces. So that triggers the  
6 stormwater standards that you have to comply  
7 with.  
8 So I'm going to start the western side  
9 of the property and work my way across and  
10 explain the different stormwater management  
11 features that are on the property. We have  
12 essentially three detention basins on the site.  
13 And I'm going to refer to detention basin number  
14 one, which is on the western portion of the  
15 property. That basin is designed to collect  
16 runoff from a portion of the solar panels or the  
17 field that's on the western portion of the site.  
18 Collect it, attenuate it, recharge a portion of  
19 it, and discharge it towards the western  
20 property line, reducing the rate of runoff to  
21 rates that were less than the existing  
22 conditions that run off the property today  
23 towards that area.  
24 Basin number two, which is located in  
25 the southern portion of the property, is also an

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1 infiltration detention basin. It's designed to  
2 do the same thing: Attenuate a certain amount  
3 of runoff that reaches that basin by means of  
4 either overland flow or a swale that we're  
5 proposing. At this point that basin will either  
6 attenuate the runoff, recharge a very small  
7 portion of it, and discharge the rest towards  
8 the existing wetland complex that's on the  
9 southern portion of the property.  
10 Those two basins will provide, again,  
11 attenuation and recharge for the western portion  
12 of the project site. Moving along to the  
13 eastern portion side of the property, we have a  
14 third detention basin I'll refer to as basin  
15 number three. It's located just to the east of  
16 the berming that Mr. Kennedy was speaking about  
17 adjacent to Country Club Road. This basin will  
18 pick up runoff from the upper solar panel field  
19 just to the south of the Preston  
20 Terrace/Somerset Terrace neighborhood.  
21 The runoff from that area will be  
22 directed to that basin through this series of a  
23 swale that's going to be installed on the  
24 western side of the berm. It will be piped  
25 through the berm into that basin where it will

1 be attenuated and then ultimately discharged  
2 into the field area that drains towards Country  
3 Club Road and the wetland complex that is on  
4 that side of the property. This is a standard  
5 detention basin. There's no infiltration taking  
6 place in that basin.

7 So those three basins in concert are  
8 designed to provide attenuation to reduce the  
9 peak rates of runoff that are leaving the  
10 property to rates that are equal to or less than  
11 the existing rates that are leaving the property  
12 today through the developed portion of the site.

13 That takes care of the attenuation  
14 portion of it. There's still two other items  
15 that you have to deal with. Another one is  
16 water quality, and the third one is recharge.

17 In terms of water quality, we're  
18 essentially dealing with the impervious areas on  
19 the site that are going to -- that are going to  
20 receive a little bit of traffic. And those are  
21 the access roads, the gravel access road that  
22 Mr. Kennedy alluded to in his testimony that  
23 comes in off of Country Club and then circles  
24 around, that goes through the development, along  
25 the northern portion of the property line, and

1 then back around to the western side of the  
2 property.

3 That gravel access road needs to have  
4 water quality features designed for it, as well  
5 as the inverted pads that are on the site also.  
6 We don't need to provide water quality for the  
7 grass areas or the meadow areas, or the panels  
8 themselves for that matter.

9 CHAIRMAN BOXER: And, Mr. Moschello,  
10 could I ask you a question? Is there a  
11 distinction between surface runoff and  
12 subterranean runoff?

13 THE WITNESS: Yes, there is. Surface  
14 runoff is what you would see flowing on the  
15 surface of the site, or in the streams for that  
16 matter. Subterranean runoff could be considered  
17 the groundwater or water below the--

18 CHAIRMAN BOXER: Exactly. And will  
19 you be testifying, will you be providing  
20 information on subterranean runoff distinctions  
21 as we think about three or -- you know, the  
22 three-thousand-plus poles that are going to be  
23 pulled into the ground, how that's going to  
24 affect potentially the runoff below grade?

25 THE WITNESS: I can speak to generally

1 what we found when we did the soil testing --  
2 CHAIRMAN BOXER: Fair enough.  
3 THE WITNESS: -- as to what was in the  
4 ground.

5 CHAIRMAN BOXER: Okay. Good. Thank  
6 you.

7 A. Back to the water quality aspects of  
8 the project. So the state standard says that we  
9 have to provide 80 percent TSS removal rates,  
10 which is total suspended solid removal rates,  
11 that are from the runoff that's leaving the  
12 property for anything that is on a paved surface  
13 that may see vehicle traffic. Again, we're not  
14 going to be doing any water quality for the  
15 areas of the panels themselves. That's all  
16 grass or meadow.

17 So we have essentially designed the  
18 basin, basin number two, which is going to  
19 collect runoff from that gravel road that's on  
20 the western side of the property. That gravel  
21 road is going to drain via overland flow into a  
22 swale that will eventually reach that basin.  
23 That basin has been designed with a sand filter  
24 to provide water quality to filter the runoff  
25 that goes into that basin for the amount of

1 water quality runoff that comes through the  
2 gravel road.

3 On the eastern side of the property,  
4 we also have a portion of the gravel road that  
5 also needs to have water quality associated with  
6 it. And in that instance, since we can't get  
7 that water into one of the three basins, we  
8 provided what I'll refer to as three small  
9 bioretention basins designed along the side of  
10 that gravel road to collect the runoff and  
11 provide infiltration and treat that runoff  
12 before it leaves the site.

13 Those are designed specifically for  
14 water quality. They're small, about 50 feet  
15 deep. They don't really have -- they don't  
16 store water from the largest storm events.

17 The basin all the way to the east is  
18 just a detention basin. It has no water quality  
19 associated with it because it's only collecting  
20 runoff from the grass areas.

21 Lastly on the site, we have to provide  
22 recharge. For this particular site we looked at  
23 it in regards to the state requirements for the  
24 average annual recharge on the property. We  
25 provided calculations in the stormwater report

1 which shows, based upon the development on the  
2 property, the amount of recharge that's being  
3 lost to -- whether it be the gravel roads, the  
4 inverter pads or actually the removal of the  
5 cedars themselves and converting that to lawn  
6 area.

7 And we took that calculation and we  
8 used those-- and we used that to size up the  
9 infiltration basins for the basin one and basin  
10 two on the western side of the property and the  
11 three bioretention basins along the gravel drive  
12 to meet that recharge requirement based upon  
13 what the state says, that this property  
14 recharges over the course of a given year.

15 BOARD MEMBER OLSEN: Could you  
16 elaborate on recharge, what that means?

17 THE WITNESS: Recharge essentially is  
18 what the regulations say over the course of a  
19 given year a certain amount of runoff will land  
20 on the property from rainwater. I think it's 42  
21 or 44 inches a year that the state says for this  
22 area. Based upon that amount of runoff that  
23 falls on the ground, a certain amount of it will  
24 be absorbed into the ground and that will make  
25 its way into the -- whether it's the groundwater

1 or how it moves through the soil, and it may  
2 actually find its way out into the streams or  
3 continue in the subsurface.

4 The other runoff which falls on the  
5 surface doesn't get absorbed by the soil and  
6 that becomes a sheet flow that comes off the  
7 property in surface runoff.

8 So what the state says, the  
9 calculations say essentially a certain amount of  
10 that water will always make it into the ground  
11 over the course of a year, an average amount of  
12 water. But if you put an impervious surface on  
13 top of that, whether you talk about a paved  
14 road, a gravel drive, that water can no longer  
15 get through that portion of the ground;  
16 therefore, you're blocking it. So they want you  
17 to put that water back as close to the source as  
18 you can or in a location that meets that  
19 recharge requirement.

20 That's what the calculations allow us  
21 to do.

22 CHAIRMAN BOXER: And, Mr. Moschello,  
23 with the solar panel there's also going to be a  
24 solid surface. And once you install those, I  
25 assume the water is going to be moving quite a

1 distance from where it should originally land.

2 THE WITNESS: Well, to a certain  
3 extent, correct, the panel is an impervious  
4 surface. Mr. Kennedy alluded to that  
5 previously. He said that if you lay it down on  
6 the ground, no water is going to get through it.  
7 However, these panels are being located a  
8 certain distance above the ground, as much as 8  
9 feet on the back side, 2 feet on the front side.  
10 Each one of them is approximately 3 by 5 foot in  
11 size and they're in a landscape orientation.

12 There's actually gaps around those  
13 panels. They're not flush right up against one  
14 another. So you don't have a solid seam between  
15 panels. So as that water lands on the panel,  
16 which is sloped, it's going to sheet across that  
17 3- to 4-foot, 5-foot panel and it's going to  
18 drip off onto the ground. So the panels are not  
19 actually inhibiting the flow of runoff into the  
20 ground. It's just going to have a small, little  
21 area where it's going to drip down. So water  
22 will still get underneath the panels and will  
23 make its way into the ground.

24 CHAIRMAN BOXER: Thank you.

25 THE WITNESS: Essentially that's the

1 stormwater system that's on the project site.

2 CHAIRMAN BOXER: Okay. Questions?  
3 No?

4 MR. FERRIERO: Mr. Chairman, if I  
5 could, I'd just like to state it now. In my  
6 report that I wrote for this project, I had  
7 quite a few comments relative to the stormwater.  
8 I think there were about 36 of them. Some of  
9 them, in my opinion, may make fairly significant  
10 changes to the size of the detention basins that  
11 are going to be provided out there.

12 Additionally, it's my opinion that  
13 there's additional soil testing that's necessary  
14 to demonstrate that the systems would work as  
15 designed. So I just want to be clear that there  
16 are a number of open questions that I have in my  
17 letter that are out there that have not yet been  
18 addressed.

19 CHAIRMAN BOXER: And how do you  
20 propose the applicant addresses this now,  
21 Mr. Ferriero, or do you feel that through the  
22 hearing process we'll have the chance to dictate  
23 some next steps?

24 MR. FERRIERO: I think he can address  
25 it however he chooses to address it. I think--

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1 I don't think it's appropriate to try to answer  
 2 every question verbally at this meeting because  
 3 there are calculations, there are numbers, there  
 4 are reports that I need to review. So I  
 5 can't -- I can't give anybody a reasonable  
 6 response to it if all of the answers aren't  
 7 given to me tonight.  
 8 CHAIRMAN BOXER: Got you.  
 9 MR. FERRIERO: I just want to make it  
 10 clear that I have not seen follow-up  
 11 documentation to address the items in my -- in  
 12 my stormwater analysis. I will tell you that  
 13 many of the items on the design plans are a  
 14 little easier to address, so to speak, but I  
 15 think some of the ones in the stormwater are  
 16 more fundamental and clearly more information is  
 17 needed.  
 18 CHAIRMAN BOXER: Go ahead, Mr. Hall.  
 19 MR. HALL: I was just going to ask  
 20 Mr. Moschello to express his view on that  
 21 subject.  
 22 CHAIRMAN BOXER: Please do.  
 23 MR. HALL: As to what makes sense to  
 24 him.  
 25 THE WITNESS: From my point of view,

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1 I'd like to at least make it through the initial  
 2 testimony and questions from everyone here, so  
 3 this way we have a better understanding of what  
 4 the issues are and then I can look to address  
 5 all of the comments at a later date.  
 6 BY MR. HALL:  
 7 Q. And you have read his letter and  
 8 considered --  
 9 **A. I have read Mr. Ferriero's letter,**  
 10 **yes.**  
 11 Q. And do you have an opinion as to  
 12 whether they present a problem in addressing--  
 13 MR. SASSO: Objection to that, Judge,  
 14 having -- Mr. Chairman. In other words, if he's  
 15 going to say, well, it may or may not be a  
 16 problem, you know, it was brought up by the  
 17 engineer. And both app -- the objectors'  
 18 attorneys have said from the beginning this  
 19 application isn't complete. We already spoke  
 20 to -- for instance, I guess one of the -- one of  
 21 the local people gave me a picture of the track  
 22 hoe on the site the day before the last hearing.  
 23 That's the problem.  
 24 This is such an important application  
 25 to the township that from the beginning when I

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1 came in and Mr. Forbes sent me down to look at  
 2 the Birdsall plans and they didn't even show how  
 3 many panels, et cetera -- I mean, thank goodness  
 4 Mr. Kennedy, you know, got involved and at least  
 5 he could read what is being proposed on his  
 6 submissions.  
 7 But from a site plan standpoint,  
 8 keeping in mind that this applicant has chosen  
 9 to ask for preliminary, final, use variance,  
 10 everything, all in one application, you know, it  
 11 goes back to what we've been saying, and I don't  
 12 think it's without a basis based on your own  
 13 engineer's comments. This thing isn't ready to  
 14 go forward.  
 15 MR. HALL: Can my witness answer the  
 16 question I got interrupted on?  
 17 CHAIRMAN BOXER: Please go ahead,  
 18 Mr. Moschello.  
 19 Thank you, Mr. Sasso.  
 20 **A. Back to that, I've read Mr. Ferriero's**  
 21 **letter--**  
 22 MR. SOLOWAY: Just for the record,  
 23 we're referring to the report dated September  
 24 24th, 2013?  
 25 THE WITNESS: That's correct.

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1 MR. FERRIERO: Yes.  
 2 MR. SOLOWAY: Okay.  
 3 **A. I've read -- I've read that report.**  
 4 **I've read through the stormwater comments in the**  
 5 **rear of the report, and there are comments in**  
 6 **there that are technical in nature that will be**  
 7 **revised on the plans. But I think that some of**  
 8 **the questioning that we would go through would**  
 9 **probably maybe answer some of the questions from**  
 10 **Mr. Ferriero as we go through the process.**  
 11 CHAIRMAN BOXER: Okay.  
 12 Q. And would that procedure be unusual in  
 13 your experience?  
 14 **A. No, not at all.**  
 15 MS. DONATO: Mr. Boxer, may I be heard  
 16 on this issue?  
 17 CHAIRMAN BOXER: Sure, Ms. Donato.  
 18 MS. DONATO: The information that's  
 19 provided through the Birdsall report, through  
 20 the few logs that were provided through July of  
 21 2013 and the most recent logs of January, all of  
 22 which contained a number of nonanswers. And  
 23 what they do is they put this Board at a  
 24 disadvantage and they put the public at a  
 25 disadvantage because we are constantly chasing

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1 for information.  
2 And we're here all of these nights and  
3 we still don't have fundamental information.  
4 When you do a site plan, you need to know where  
5 the seasonal high water is. We don't have tests  
6 performed during the right time of year. We  
7 have so many unanswered questions and it is  
8 forcing my client-- and the public has to spend  
9 more money to try to follow this information  
10 down so that they could decide whether they're  
11 going to give you what you need in order to  
12 satisfy the stormwater management regulations?  
13 I don't think that's the way the  
14 system is supposed to go. The applicant's  
15 supposed to have their case ready and not say,  
16 gee, we'll see how much more information we can  
17 give you after you ask us questions. I just  
18 don't think it's fair. It's been a burden on  
19 the public from the beginning; definitely a  
20 burden on my client. And at a certain point  
21 where we are-- we're actually at a point where  
22 we may not be able to afford to come back here  
23 anymore because we are constantly looking over  
24 piecemeal, disconnected information and I just  
25 don't think it's fair.

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1 CHAIRMAN BOXER: Thanks, Ms. Donato.  
2 Mr. Ferriero, how do you feel about  
3 the completeness? Let's take the stormwater  
4 management work that's being done. Do you -- do  
5 you require any material right now or do you  
6 feel that Ms. Donato's claim that in the absence  
7 of information it's making it difficult for us  
8 to process this application?  
9 MR. FERRIERO: I think there's a  
10 couple of things to think about. First off,  
11 when I look at completeness, I look to see if  
12 there a stormwater management report there?  
13 Yes, there is one there. Is it correct? In my  
14 opinion, no, there are a number of deficiencies  
15 that need to be addressed. But that's not a  
16 completeness issue. It's not there.  
17 On the other hand, when an application  
18 comes before the Board, there gets to be a point  
19 where there can be open issues relative to  
20 certain items and I have a level of comfort to  
21 say that, yes, generally I have a feeling that  
22 this proposal as designed is feasible and it's  
23 just a matter of working out some of the  
24 details.  
25 CHAIRMAN BOXER: Okay.

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1 MR. FERRIERO: I can tell you I'm not  
2 at that point right now. There were quite a  
3 number of comments in my letter and I think that  
4 they are fairly significant; that they can  
5 substantially change the stormwater design.  
6 CHAIRMAN BOXER: I mean, I'm sensitive  
7 to-- look, I don't have a legal basis, so I  
8 apologize to you all if I'm talking a little bit  
9 out of school. But, you know, I generally  
10 believe in completeness and I generally believe  
11 in trying to get information in a way that we  
12 can understand it. It is expensive and it's  
13 very costly for people to be in and out of here,  
14 but we also want to be fair to the applicant.  
15 So let me ask Mr. Banisch and Mr. Ferriero a  
16 couple of things.  
17 Do you feel at this point that there's  
18 any element of this application-- let's take  
19 stormwater management. Is there something  
20 fundamentally missing that you require right now  
21 for us to have better transparency into this  
22 application? Because therein lies part of my  
23 problem. I'm not sure what we're missing and  
24 what we're able to look at that is relevant,  
25 material or necessary at this particular point

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1 in the process.  
2 MR. FERRIERO: As far as the  
3 stormwater is concerned, I can't tell you that  
4 it will work as designed. It's my gut feeling  
5 that the basins will probably get larger, maybe  
6 significantly so, maybe require some  
7 modifications to the number and configurations  
8 of the panels. It's all related to the entire  
9 project.  
10 CHAIRMAN BOXER: Right.  
11 MR. FERRIERO: So unlike some  
12 applications where I can tell you, yes, it's  
13 going to be okay, we just have to have a few  
14 numbers clarified, there's some fundamental  
15 issues that need to be addressed here that I  
16 don't have the information on so I can't tell  
17 you it's feasible.  
18 CHAIRMAN BOXER: So let me keep  
19 probing a little bit because I'm not sure what  
20 the-- and, Mr. Hall, I'm going to apologize in  
21 advance because I'm not trying to derail the  
22 application. I'm just trying to understand it.  
23  
24 MR. HALL: No, I understand. And I'd  
25 like to be heard when appropriate.

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1 CHAIRMAN BOXER: Yes, definitely. And  
 2 you can help, as well. So this is really to the  
 3 attorneys as well.  
 4 Are we at a point at this stage where  
 5 we need to see a more complete application? Let  
 6 me keep going back to stormwater.  
 7 MR. SOLOWAY: Well, "completeness" is  
 8 a loaded term.  
 9 CHAIRMAN BOXER: I agree.  
 10 MR. SOLOWAY: I agree with what  
 11 Mr. Ferriero said in terms of an application  
 12 being deemed complete--  
 13 CHAIRMAN BOXER: Yes.  
 14 MR. SOLOWAY: -- for checklist  
 15 purposes and being allowed to go forward. And  
 16 it's already been deemed complete and it can't  
 17 be undone.  
 18 CHAIRMAN BOXER: Right.  
 19 MR. SOLOWAY: It seems to me, though,  
 20 that ultimately it's the applicant's burden to  
 21 demonstrate, in nonlegal terms, that it's going  
 22 to work. In this particular case, the drainage  
 23 plan works. The stormwater management complies  
 24 with applicable regulations. The word  
 25 "feasibility" has been tossed around.

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1 Mr. Ferriero, I hear him as saying  
 2 that the applicant hasn't done that yet. I  
 3 don't think it's a basis to refuse to allow the  
 4 application to go forward. However, I think  
 5 Mr. Ferriero and the Board at least have to be  
 6 satisfied on those items, whatever they are,  
 7 before a decision is rendered on this  
 8 application.  
 9 I understand what the objectors are  
 10 saying in terms of the burden on them and their  
 11 inability to fully, I'll say, cross-examine  
 12 because they don't have the entire plan yet.  
 13 I guess my suggestion, if Mr. Ferriero  
 14 is agreeable to that, is whether, on-line or  
 15 off-line, I think we have to pick out what you  
 16 need to know now as opposed to the  
 17 add-a-note-to-the-plans-type comments, which  
 18 really are substantive.  
 19 CHAIRMAN BOXER: You know, it's  
 20 interesting. And, Mr. Hall, certainly jump in.  
 21 My colleagues can certainly comment as well.  
 22 You know, for me what's becoming difficult, to  
 23 be honest, is tonight we heard I think very  
 24 interesting testimony about the berms, that we  
 25 don't like to call berms, but that's what they

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1 are. I thought the visuals that Mr. Sasso  
 2 provided were quite eye-opening. And yet we  
 3 spent hours talking about berms and heights and  
 4 views.  
 5 Tonight was an interesting night  
 6 because it provided kind of a quintessential  
 7 look at that area from a citizen -- from a  
 8 scenic gateway's perspective without all the  
 9 technicals. It was very clear what's going to  
 10 happen. It's not good or bad, it's just what  
 11 was going to happen.  
 12 MR. HALL: Yes.  
 13 CHAIRMAN BOXER: I found your  
 14 testimony tonight incredibly light, to be  
 15 honest. I think it was very casual. I don't --  
 16 for me, you know, as an engineer, I don't-- I  
 17 had a very hard time following it because  
 18 there's no basis. For me listening to you,  
 19 there was no context. I didn't know what to  
 20 believe. I didn't know whether it was right,  
 21 wrong. I didn't know what-- I didn't know how  
 22 it was addressed with the holes in, with the  
 23 plugs in, with them out. I didn't know what  
 24 seasons we were going to measure. It just felt  
 25 very light and incomplete to me.

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1 And so in some ways I agree with  
 2 Ms. Donato. It's very difficult for me -- and I  
 3 don't know how everybody else feels -- to really  
 4 understand the implication of this application,  
 5 because it has all kinds of issues associated  
 6 with it. Not just the stormwater, but the  
 7 quality of the water, the runoffs, the  
 8 subterranean issues.  
 9 We spent hours talking about the poles  
 10 and whether they contaminate the water. We  
 11 talked about the metallurgy and whether it's  
 12 going to be an issue at some point and should we  
 13 bring experts in? I'm not really sure tonight  
 14 was a good night for you because it didn't  
 15 provide a whole lot of information. It was  
 16 incredibly casual.  
 17 So to be honest, Mr. Ferriero, I have  
 18 to agree with Ms. Donato. Just a little bit,  
 19 Mr. Hall. So, now, that's my view and  
 20 hopefully -- I'm just trying to be as honest as  
 21 I can. Let me hear what you have to say.  
 22 MR. HALL: Well, first, I'd say let's  
 23 talk about being blindsided. Mr. Sasso keeps  
 24 saying that.  
 25 CHAIRMAN BOXER: Yeah.

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1 MR. HALL: Well, frankly, the last  
 2 meeting was early January.  
 3 CHAIRMAN BOXER: Right.  
 4 MR. HALL: Late January we filed some  
 5 more materials--  
 6 CHAIRMAN BOXER: Yes.  
 7 MR. HALL: -- on stormwater and we're  
 8 now six weeks later. I mean, I think if we're  
 9 going to talk fairness to everybody--  
 10 CHAIRMAN BOXER: Yes.  
 11 MR. HALL: -- a letter could have come  
 12 out saying, by the way, this is inadequate.  
 13 MR. FERRIERO: Just to be clear, the  
 14 information submitted had very little, if  
 15 anything, to do with stormwater.  
 16 MR. HALL: Okay.  
 17 MR. FERRIERO: There was an awful lot  
 18 of information on cuts and fills. There were  
 19 some soil logs that had information in it, but  
 20 it didn't address the issues in my letter.  
 21 MR. HALL: Okay.  
 22 MR. FERRIERO: And the letter has been  
 23 there since the end of September.  
 24 MR. HALL: Right, and you--  
 25 MR. FERRIERO: And I'm not the one who

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1 made up-- I'm not presenting your application.  
 2 I'm not--  
 3 MR. HALL: And that's fine.  
 4 MR. FERRIERO: -- drawing the  
 5 information out.  
 6 MR. HALL: But, secondly, for him,  
 7 Mr. Ferriero, to say, well, there's this  
 8 fundamental stuff, well, tell us and we'll deal  
 9 with it.  
 10 MR. FERRIERO: I did on September  
 11 24th.  
 12 MR. HALL: Well, my understanding is  
 13 that Mr. Ferriero has been either expressly or  
 14 implicitly instructed not to meet with our  
 15 people. Now, maybe I'm wrong. Maybe I'm wrong,  
 16 but--  
 17 CHAIRMAN BOXER: I'll tell you it's  
 18 wrong from my perspective. We've encouraged  
 19 Mr. Ferriero to be make sure he's as accessible  
 20 as possible.  
 21 MR. HALL: Okay. Well, that was my  
 22 misunderstanding.  
 23 MR. FERRIERO: Just let me clarify  
 24 that.  
 25 MR. HALL: Before we--

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1 MR. FERRIERO: There was a request  
 2 that I meet with people from the applicant's  
 3 side prior to the application being submitted.  
 4 MR. HALL: Okay.  
 5 MR. FERRIERO: And I did not do that.  
 6 I have not had a request to meet with anybody  
 7 since the application was submitted.  
 8 MR. HALL: Okay. I apologize.  
 9 CHAIRMAN BOXER: No, that's okay.  
 10 We're just trying to --  
 11 MR. HALL: My concern is that -- I  
 12 mean, it sounds like Mr. Moschello needs to meet  
 13 with Mr. Ferriero and with your blessing and  
 14 we'll narrow the issues down. I mean, there's  
 15 no intent to withhold --  
 16 CHAIRMAN BOXER: No, of course not. I  
 17 don't think anybody-- look, we're trying to be  
 18 efficient. We're trying to be transparent to  
 19 everybody in this room. I'm just trying to be  
 20 as open as I can as I listen. I thought tonight  
 21 was an interesting night because I thought that  
 22 we had some very good discussion over the  
 23 visuals and the construction and the specs  
 24 around berms, and I thought some of the citizens  
 25 had some very interesting questions.

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1 I found the stormwater part of this to  
 2 be just incredibly light and almost-- almost--  
 3 just so casual that I'm not even sure I  
 4 understand what the major issues are at this  
 5 point. And so I actually think that we need to  
 6 take a reset with stormwater. I think that we  
 7 need to go back and provide much more  
 8 information, much more detail. We need to  
 9 understand when these runoff studies were done,  
 10 what the subterranean runoff looks like, water  
 11 quality issues. What's going to happen when  
 12 3,000, you know, poles are plugged in the  
 13 ground? How does that affect the basins?  
 14 Mr. Ferriero, you mentioned your  
 15 concern about them getting larger. How much  
 16 larger can they get? What's going to create  
 17 larger basins? How does the larger basins  
 18 affect the water to the neighbors? Do we have  
 19 any overflow or overspillages? I mean, they  
 20 seem incredibly fundamental right now.  
 21 This is an area that I think is going  
 22 to be a very high-focus area. So the question  
 23 is, how do we take this information and expand  
 24 it so that we can all understand it and the  
 25 public can understand it and that the attorneys

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1 can have a more efficient cross-examination  
2 process?  
3 Just as a thought. I'm not really  
4 sure how this works.  
5 MR. HALL: No, I mean, I appreciate  
6 that. I think maybe part of it is-- yeah, if  
7 it's a misperception that this is a highly  
8 technical issue, which hopefully the  
9 professionals will have to sort out.  
10 But having said that, Mr. Moschello,  
11 you've heard the dialogue. What do you suggest  
12 as far as moving forward to get the information?  
13 THE WITNESS: I think it's two things.  
14 Number one, I think we'd like to meet with  
15 Mr. Ferriero, sit down with him and go through  
16 the comments in his review letter. I think a  
17 lot of those comments we can discuss and they  
18 are technical in nature and we can take care of  
19 those. We can get into the heart of some of the  
20 more detailed ones, have those discussions with  
21 him, and then come back in and report back to  
22 this Board and provide a more detailed  
23 presentation to the issues and how we'll look to  
24 resolve those issues.  
25 MR. SASSO: Mr. Chairman, on that

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1 issue, the Board should be aware that Mr. Forbes  
2 has been paying for our engineer, Princeton  
3 Hydro, for every single meeting. And every time  
4 I come to Town Hall to get, for instance, the  
5 latest soil samples that they dug up, I send  
6 everything to him. If there's going to be a  
7 meeting, in terms of fairness, I think Princeton  
8 Hydro should meet with Mr. Ferriero also at the  
9 same time.  
10 CHAIRMAN BOXER: Well, I personally  
11 like the idea of getting all of the  
12 professionals in a room to try to understand how  
13 we could make this efficient and we can gather  
14 up the appropriate information.  
15 Let me ask both the attorney and  
16 Mr. Ferriero, do you feel that that's an  
17 appropriate request?  
18 MR. FERRIERO: I don't particularly  
19 have a problem with it.  
20 MR. SOLOWAY: Mr. Hall, do you have an  
21 issue with that?  
22 MR. HALL: No. I mean, I have a  
23 concern that it becomes so adversarial. Their  
24 goal is to stop the project.  
25 CHAIRMAN BOXER: I understand that.

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1 MR. HALL: Not to have the best  
2 stormwater analysis.  
3 CHAIRMAN BOXER: But that's not our  
4 goal. Our goal is to --  
5 MR. HALL: But as long as there's some  
6 understanding and an effort in good faith. I  
7 mean, if they want to make a better project,  
8 that's fine. That's not their goal. We know  
9 that.  
10 CHAIRMAN BOXER: I understand that.  
11 MR. SASSO: But Mr. Ferriero can tell  
12 us that.  
13 MR. HALL: That's fine.  
14 MR. SASSO: This isn't his first  
15 rodeo.  
16 MR. FERRIERO: Let me weigh in on  
17 that, as well, just so I can be prepared. If  
18 Princeton Hydro has a number of comments, I  
19 would certainly like to see those ahead of time  
20 so I can be prepared and I can understand those  
21 before we have this meeting.  
22 MR. SASSO: We have no problem with  
23 that.  
24 MR. FERRIERO: And maybe sharing it  
25 with Mr. Moschello would be a good idea as well.

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1 MR. SASSO: We have no problem with  
2 that.  
3 MR. HALL: That's fine. I just wanted  
4 to get --  
5 MR. SASSO: We think the facts will  
6 speak -- you know, either way.  
7 MR. SOLOWAY: I think what we have to  
8 do here, Mr. Chairman, I think it's a good idea.  
9 It's a productive way to proceed. You have --  
10 Mr. Ferriero has laid out what he perceives is  
11 the issues and concerns. I think if we can go  
12 through that kind of procedure, hopefully you  
13 come back here and it's a much shorter list.  
14 CHAIRMAN BOXER: Well, it's a much  
15 shorter list --  
16 MR. SOLOWAY: Which the Board can then  
17 wrap its hands and arms around and you can focus  
18 on what's really at issue. There may not be  
19 much.  
20 CHAIRMAN BOXER: Right, I agree.  
21 MR. FERRIERO: And where I'm coming  
22 from, I am sure that there are going to be some  
23 comments that Mr. Moschello has that I won't  
24 agree with just as there will be some comments  
25 from Princeton Hydro that I'm not going to agree

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1 with. My job is to advise the Board on how I  
2 think it complies with the regulations from the  
3 state and township. So that's where I'm coming  
4 from.

5 CHAIRMAN BOXER: You know, we're  
6 trying to-- I mean, these are complicated  
7 applications. And as all of you understand by  
8 now, we're trying to do-- we're trying to be as  
9 fair and as equitable on both sides. But the  
10 truth is this is complicated testimony and we've  
11 made it so simple that it's just not legible at  
12 this point, at least for us to process.

13 So I think from my perspective, and I  
14 don't know if my colleagues have a different  
15 point of view, I think the best and most  
16 productive use of time would be to follow  
17 Mr. Ferriero's suggestion. Let's get you and  
18 Mr. Kennedy and Princeton Hydro in a room, let's  
19 make sure we vet every critical question and we  
20 try to figure out whether or not we agree or  
21 not. It doesn't necessarily mean that everyone  
22 is going to agree. We may have to debate that.  
23 But let's try and get a complete stormwater  
24 review that we could look at and then provide it  
25 not just to the Board, but have the public see

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1 it as well.

2 Mr. Ferriero, when do you think you'd  
3 like to do something like this? Is it next  
4 week? next month? How soon?

5 MR. FERRIERO: I can do it, you know,  
6 whenever we can get a schedule. I just need--  
7 I'd like to be able to have the comments from  
8 Princeton Hydro and digest those for a day or  
9 two before we have a meeting.

10 CHAIRMAN BOXER: Mr. Hall, would you  
11 be okay with then just working with Mr.  
12 Ferriero?

13 MR. HALL: Yes, I agree. That's fine.

14 MR. FERRIERO: And I would say within  
15 the next two weeks we could meet if I get the  
16 information next week.

17 CHAIRMAN BOXER: So what I would  
18 suggest -- because I don't think this is a  
19 particularly complete testimony tonight,  
20 although it may be complete in your mind. For  
21 me it's just a little difficult to follow. I  
22 would suggest maybe -- we could keep going, but  
23 I don't think Ms. Donato and Mr. Sasso are going  
24 to be cross-examining tonight because I think  
25 there are so many-- there's voids right now, or

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1 would you guys like to cross-examine?  
2 MR. SASSO: Absolutely not. I'd like  
3 to do it one time, otherwise we're wasting  
4 everyone's time here and I don't want to do  
5 that.

6 CHAIRMAN BOXER: So my suggestion,  
7 Mr. Hall -- and I'll leave it up to you how you  
8 want to proceed -- we could recess tonight and  
9 just take this, sort of a reset and make sure  
10 Mr. Moschello and Ron Kennedy spend adequate  
11 time preparing and working with Mr. Ferriero.  
12 And then at the next meeting, hopefully we'll  
13 have -- I guess in sequence you want to bring  
14 him back at some point and the next meeting can  
15 be the time and we can just reset the stormwater  
16 review or you can call another witness.

17 MR. HALL: Yeah, that would be the  
18 goal.

19 MR. SOLOWAY: Is there anything else  
20 you were going to have him address other than  
21 the stormwater which is, we'll call it, a work  
22 in process?

23 THE WITNESS: I was going to deal with  
24 the stormwater and if there are any questions on  
25 the soil logs, but that may refer back to --

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1 CHAIRMAN BOXER: I with the soil  
2 logs -- I think all of this is so -- is part of  
3 the work in progress, because I think there's  
4 even debate on the soil logs right now and  
5 whether they were done. And were they done in  
6 the right season and how many of them were done  
7 and from what areas?

8 THE WITNESS: I think that would be  
9 part of the discussion we'd have with  
10 Mr. Ferriero to determine that.

11 MR. HALL: And as far as dates, am I  
12 right, you have a problem on the 3rd?

13 THE WITNESS: No, the next meeting is  
14 the 10th?

15 CHAIRMAN BOXER: Mr. Rodelius had a  
16 question. I'm sorry.

17 MR. HALL: Oh, I'm sorry.

18 BOARD MEMBER RODELIUS: When is the  
19 best time to test for the groundwater that you  
20 keep, you know -- that Ms. Donato and  
21 Mr. Ferriero were referring to?

22 MR. FERRIERO: Under the state-- the  
23 state sets what they call a wet season under the  
24 regulations for septic systems and that's  
25 January 1st through the end of April. That's

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1 considered the high water season.  
2 BOARD MEMBER RODELIUS: So has the  
3 applicant made any arrangements between now and  
4 the end of April to do this testing?  
5 MR. SASSO: No.  
6 CHAIRMAN BOXER: Mr. Hall?  
7 MR. SASSO: That's one of the  
8 problems.  
9 THE WITNESS: Oh, I'm sorry. No, we  
10 did testing in January.  
11 BOARD MEMBER RODELIUS: No, I know  
12 that. I'm asking if you made any arrangements  
13 between now and the end of April to do it.  
14 THE WITNESS: We have not made any  
15 arrangements to do soil testing.  
16 CHAIRMAN BOXER: It sounds like you  
17 need to. I think it's going to be very  
18 important. We cannot go forward-- you know, we  
19 have to have everything complete, particularly  
20 in this area. And I think the debate that we're  
21 going to have at prime rain season is going to  
22 be a principal area here that we're going to  
23 have to really understand.  
24 So I would recommend that you-- that  
25 we don't squander the next six or eight weeks

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1 and we get this completed.  
2 So let me ask --  
3 MS. DONATO: Mr. Boxer, I have one  
4 other issue and it has to do with the photo  
5 simulation or other potential ways to-- and I  
6 know Mr. Sasso's questioning was really superb  
7 in that regard, but a photo simulation of what  
8 this ersatz farm berm is going to look like.  
9 And I know they're done, and they can be done,  
10 and they can be done to really kind of  
11 accurately depict --  
12 CHAIRMAN BOXER: No, it's a fair  
13 question. We talked -- I don't know if we  
14 talked with Mr. Hall last time, but we did have  
15 a conversation about trying to create, to go out  
16 to the site and create a bit more of a live  
17 simulation.  
18 MR. HALL: Yes, and I-- I'm sorry.  
19 CHAIRMAN BOXER: And one of the things  
20 that maybe we can do, not just -- we talked  
21 about trying to create some type of, you know, a  
22 model with not just the accessory buildings, but  
23 a couple of solar panels, but maybe we also need  
24 to deal with the berm. Maybe take a 5- or an  
25 8-foot section and build up a berm. Whether you

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1 can pull it down right away, but actually build  
2 a berm up with some type of a mathematical  
3 consistency that people can look at so that we  
4 understand without simulation, real time, what  
5 does this berm look like with a fence and a tree  
6 on top of it? Even if it's 6 feet of berm.  
7 MR. HALL: Is that on the property,  
8 Mr. Chairman?  
9 CHAIRMAN BOXER: Yeah.  
10 MR. HALL: Okay. And I did have a  
11 conversation with Mr. Collins recently about  
12 that and we said, yes, we agree, it makes sense  
13 to go out there, but it seems premature.  
14 CHAIRMAN BOXER: It might be, but I'm  
15 saying --  
16 MR. SOLOWAY: We'll want to wait for  
17 the snow to melt.  
18 CHAIRMAN BOXER: Definitely.  
19 MR. SOLOWAY: And mud to harden,  
20 perhaps.  
21 CHAIRMAN BOXER: It might be a way for  
22 us to get our hands around this without having  
23 simulations.  
24 MR. HALL: No, we're agreeable to  
25 that, but--

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1 MR. FERRIERO: What I would suggest,  
2 Mr. Chairman, is one of the items that we can  
3 discuss when we meet is an appropriate way to  
4 try to come up with an in-the-field simulation  
5 because I think that's very important. I'm not  
6 actually sure how we'll do that, but maybe we  
7 can kick around some ideas at that meeting and  
8 talk it through and come up with something that  
9 makes sense for everybody.  
10 CHAIRMAN BOXER: I agree. No, I think  
11 that would be a very productive way for all  
12 parties to help us through this. You know, I  
13 think simulations are interesting, but these  
14 are-- this is a neighborhood that we have to be  
15 very careful not to disrupt too much and we have  
16 to do everything we can to make sure that we  
17 minimize that. So I think the best way to do it  
18 is get out there and look at it.  
19 So let me ask you, Mr. Hall -- thank  
20 you, Ms. Donato, I appreciate it. Did you have  
21 anything else?  
22 MS. DONATO: Yes, I did.  
23 CHAIRMAN BOXER: Please, go ahead.  
24 I'm sorry, I think I interrupted you.  
25 MS. DONATO: There were a number of

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1 unanswerd questions regarding the method of  
 2 installation, the panel manufacturer, and those  
 3 types of issues. And I think that those are  
 4 very, very important. They relate back to some  
 5 of your questions regarding the posts and the  
 6 number of them--  
 7 CHAIRMAN BOXER: Right.  
 8 MS. DONATO: -- and the shale, et  
 9 cetera. So I think that some inquiry into that  
 10 line, other than what we have so far, which is  
 11 essentially we don't know who the manufacturer  
 12 is, we don't know how they're installed. You  
 13 know, if they're encountering shale. So I think  
 14 that that would be really helpful to try to get  
 15 an understanding --  
 16 CHAIRMAN BOXER: Well, maybe within  
 17 the context of this meeting, Mr. Ferriero, we  
 18 can just explore that a little bit.  
 19 MR. FERRIERO: We can probably work  
 20 through a list of open items that need to be  
 21 addressed so we can get that kind of  
 22 documentation and come up with a way to deal  
 23 with it.  
 24 CHAIRMAN BOXER: Okay. Thank you.  
 25 Appreciate it.

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1 So, Mr. Hall, let me go back to you  
 2 and ask you how you would like to proceed at  
 3 this point.  
 4 MR. HALL: Well, I agree it makes  
 5 sense to adjourn tonight. I guess the next  
 6 question is the date. I mean, we'll follow up.  
 7 Mr. Moschello will follow up. I'm not going to  
 8 get involved. They can -- I think the engineers  
 9 will deal directly -- I won't be there -- and  
 10 try to work things out as we discussed.  
 11 CHAIRMAN BOXER: Okay.  
 12 MR. HALL: I would ask that we be  
 13 carried to the April meeting. And if we get  
 14 bogged down, maybe it's premature for  
 15 Mr. Moschello, then we'll either provide another  
 16 witness or we'll let everyone know in the  
 17 adequate time that we want to take another  
 18 month.  
 19 CHAIRMAN BOXER: That's fine. That  
 20 sounds like--  
 21 MR. HALL: I ask that for now we be  
 22 given the next date.  
 23 CHAIRMAN BOXER: No, that's fine.  
 24 That sounds like a productive meeting.  
 25 And we are scheduled, right, for the

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1 second--  
 2 MR. FERRIERO: I think it's scheduled  
 3 for April 10th.  
 4 MR. HALL: Okay. I thought for some  
 5 reason it was -- the 10th. Okay. So we're  
 6 carried to the 10th. We consent to an extension  
 7 to the end of April.  
 8 CHAIRMAN BOXER: Okay. Thank you. We  
 9 appreciate your cooperation. Okay. Thank you  
 10 very much.  
 11 MS. DONATO: Thank you very much.  
 12 MR. SOLOWAY: Okay. So it's carried  
 13 to April 10th, 7 p.m., no further notice.  
 14 CHAIRMAN BOXER: Okay. Thank you,  
 15 all.  
 16 (Whereupon, the hearing on this  
 17 application adjourned at 9:07 p.m. to April 10,  
 18 2014, at 7:00 p.m.)  
 19  
 20  
 21  
 22  
 23  
 24  
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