

TOWNSHIP OF TEWKSBURY  
LAND USE BOARD  
WEDNESDAY, JUNE 1, 2011  
COMMENCING AT 7:58 A.M.

.....  
IN THE MATTER OF: :  
JOHNSON : TRANSCRIPT OF  
APPLICATION NO. 09-05 : PROCEEDING  
Block 23, Lot 23 :  
.....

B E F O R E:

TOWNSHIP OF TEWKSBURY LAND USE BOARD  
THERE BEING PRESENT:

- BLAKE JOHNSTONE, CHAIRMAN
- EDWARD KERWIN, MEMBER
- MARY ELIZABETH, MEMBER
- BRUCE MACKIE, MEMBER
- ARNOLD SHAPACK, MEMBER
- MIKE MORIARTY, MEMBER
- ED D'ARMIENTO, MEMBER
- LIBBY DELVIN, MEMBER

-----

TAYLOR & FRIEDBERG  
Certified Court Reporters  
60 Washington Street  
Morristown, New Jersey 07960  
(973)285-0411  
E-mail: Csr@taylorfriedberg.com

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

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

BERNSTEIN & HOFFMAN, PA  
BY: DANIEL S. BERNSTEIN, ESQ.  
2253 South Avenue  
Scotch Plains, New Jersey 07076  
Counsel to the Board.

MILES S. WINDER, III, ESQ.  
BY: MILES S. WINDER, III, ESQ.  
12 Quimby Lane  
Bernardsville, New Jersey 07924-0775  
Counsel for Applicant.

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

WILLIAM BURR, ENGINEER  
SHANA L. GOODCHILD, RECORDING SECRETARY  
CHARLES McGROARTY, CITY PLANNER

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I N D E X

JOHN McNAMARA

Examination by Mr. Winder

16

E X H I B I T S

No.  
A-6

Curriculum Vitae

Page  
17

1                   CHAIRMAN JOHNSTONE: Okay, next up,  
2 public hearing Johnson application 09-05, Block 23,  
3 Lot 23 preliminarily and final site plan and use  
4 variance. Action deadline June 15, 2011.

5                   MALE BOARD MEMBER: Mr. Chairman,  
6 several of us are leaving because we have to be  
7 recused.

8                   CHAIRMAN JOHNSTONE: Those of you who  
9 want to leave because of the heat, please do so now.

10                  MR. BERNSTEIN: Mr. Chairman, I would  
11 like to read a letter into the record that I sent to  
12 Mr. Winder, the applicant's attorney today.

13                  CHAIRMAN JOHNSTONE: Is that the one  
14 dated June 1, 2011 sent via e-mail?

15                  MR. BERNSTEIN: Yes, sir. For members  
16 of the public, "Dear Mr. Winder: At the last  
17 Tewksbury Township Land Use Board Meeting regarding  
18 the above titled matter, Chairman Johnstone advised  
19 you that all expert reports, with the exception of  
20 planners, who do not prepare written reports must be  
21 submitted ten days prior to the experts appearing  
22 before the board. We have been advised that  
23 Attorney John McNamara will be testifying tonight.  
24 The outline which you sent does not suffice for an  
25 expert report. It indicates that Mr. McNamara will

1 be discussing flight patterns, the NJD application,  
2 lights and meteorological conditions which would  
3 involve expert testimony. It is my suggestion to  
4 the board that it permit Mr. McNamara to testify on  
5 direct examination, but withhold cross examination  
6 until receipt of a transcript of his testimony,  
7 which will suffice in lieu of an expert report and  
8 entertain cross examination at a meeting ten days  
9 after receipt of the transcript."

10           The other point that may not have been  
11 clear that I think both the board and the public  
12 should defer cross examination, as it would be very  
13 helpful if we had the expert report ahead of time to  
14 review, but we don't and that is my suggestion as to  
15 how we proceed tonight.

16           CHAIRMAN JOHNSTONE: I agree with  
17 that. I don't have an objection to that. So, the  
18 record is clear, in fact, the last time we met,  
19 which I believe was March 26th or thereabouts, I  
20 didn't get at that time, very clearly, I think, on  
21 the record, if there was going to be any experts  
22 involved in this case that they were to submit  
23 expert reports at least ten days prior to the  
24 meeting at which they plan to testify so that all  
25 professionals and the board members can have a

1 chance to review that testimony or proposed  
2 testimony and the opinions given therein so they can  
3 prepare intelligently for any questions that they  
4 want to ask. I can tell you that up to this point  
5 in time, we have not received any reports; is that  
6 correct, sir?

7 MR. WINDER: Yes.

8 CHAIRMAN JOHNSTONE: I got an  
9 agreement from the attorney. The bottom line is  
10 this, as a result I would like to go along with the  
11 recommendation of our attorney, Mr. Bernstein, that  
12 we hold off on any questions of this witness, but  
13 that we listen to this testimony, take notes and  
14 clearly wait for the transcript to come back so that  
15 we have a better idea exactly what we are dealing  
16 with. Does anybody have any objection to that on  
17 the board? Yes, Mr. Moriarty?

18 MR. MORIARTY: Does that assume that  
19 we are going to accept his testimony as an expert in  
20 the areas of flight planning, New Jersey Department  
21 of Transportation application, lights and  
22 meteorological conditions?

23 MR. BERNSTEIN: I think that we will  
24 hear Mr. Winder qualify Mr. McNamara. Certainly we  
25 have an opportunity to voir dire him, but based on

1 the resume, the curriculum vitae, which we received,  
2 I believe that he has more expertise than the  
3 average person in this field, but the board will  
4 make an independent determination, no problem, on  
5 that. If we find that he is a lay witness, of  
6 course, if he testifies to anything because we  
7 didn't say lay witnesses had to have written  
8 reports, but yes, he will be voir dired. To the  
9 public voir dire means you question someone about  
10 his expertise.

11 CHAIRMAN JOHNSTONE: Any other  
12 questions? All right, seeing none.

13 MR. HEALD: Can you explain what that  
14 means in English for the rest of us?

15 CHAIRMAN JOHNSTONE: Normally what  
16 happens, at least up here, when we have people come  
17 in on rather sophisticated applications where they  
18 are planning on having experts come in to testify,  
19 whether they be engineers, land planners, whatever  
20 you want to have, whoever the expert is, we ask in  
21 advance that they supply us with a written report  
22 outlining their opinions, so that we have an idea  
23 where they are coming from. The purpose of that is  
24 so that if we want to have an expert look in the  
25 same area as that report, we are better prepared to

1 ask questions. Also it gives the board members an  
2 opportunity to hear the information ahead of time in  
3 a compact form and get an idea of exactly what kind  
4 of testimony they are going to get, what the basis  
5 is of that opinion, in many respects and, therefore,  
6 be more prepared to then ask cross examination  
7 questions or inquiring questions, but what a lot  
8 places have is they let you have what I call trial  
9 by ambush where an expert comes in, you have no idea  
10 what he is going to testify to, he testifies and all  
11 of a sudden you have to cross examine him based upon  
12 what he has heard. I'm a firm believer in that  
13 everybody gets a fair shake, whether it be the  
14 members up here, the application itself, the people  
15 who may be opposing the application and that we all  
16 understand exactly what somebody is going to testify  
17 to ahead of time so that we are better prepared then  
18 to ask him intelligent questions and that will,  
19 hopefully, come out on cross examination. What they  
20 have not done up to this point in time, as the  
21 lawyer for the Johnsons have indicated, the  
22 applicant, they have not submitted any expert  
23 reports at this point in time, but in all fairness  
24 to Mr. McNamara, since he is here tonight, we have  
25 indicated in advance that we will allow him to give

1 direct testimony, thereafter we will then get a copy  
2 of that transcript, which is being taken down by the  
3 young lady that is sitting over here. It will be  
4 made available to the public and all members of the  
5 board will also get copies of it, then we will have  
6 Mr. McNamara come back at a later, if we so chose,  
7 to answer questions that we may have based upon the  
8 information that we have now gleaned from his direct  
9 testimony, okay.

10 MR. HEALD: Thank you very much.

11 CHAIRMAN JOHNSTONE: Anyone else any  
12 questions?

13 MS. HELD: I understand the desire to  
14 not cross-examine tonight, but can there be  
15 questions as to clarification to understand what is  
16 being said?

17 CHAIRMAN JOHNSTONE: I will tell you  
18 what I will do, I won't say yes and I won't say no.  
19 Let's see how the testimony rolls, see what kind of  
20 time we have, and if it's questions of  
21 clarification, you don't understand something that  
22 he has said, as long as it's along those lines, I  
23 will probably allow it. But I don't want, in all  
24 fairness to him, I don't want him sitting here  
25 getting cross examined tonight and then he has to

1 come back a second time to be cross examined on the  
2 same material. That is in fairness to him. Yes,  
3 sir?

4 MR. BERNSTEIN: Could we have the  
5 names because Shana has to make the minutes and this  
6 young lady has to put your name down.

7 MR. HEALD: Floyd Wheats.

8 MS. HELD: Nancy Held, H-E-L-D.

9 MR. COHEN: David Cohen, Old Spring  
10 Road. Will you allow those objectors to the  
11 application to, as well, voir dire the witness?

12 CHAIRMAN JOHNSTONE: I don't have a  
13 problem if people want to ask voir dire questions,  
14 yes, I have no problem with that. Anyone else? I  
15 see no one else.

16 MR. BERNSTEIN: Mr. Chairman, I have  
17 another comment. I have been told by Mrs. Goodchild  
18 that we are getting letters vis-a-vis the  
19 application expressing an opinion and that these  
20 letters have not been forwarded to the board, they  
21 should not be forwarded to the board. There is a  
22 case Smith versus Fairhaven Zoning Board at 335 New  
23 Jersey Super 111 Appellate Division 2000 and that  
24 matter discussed on-site visits by a board on the  
25 premises, but the point was made, and I am going to

1 quote from the case at Page 120. "Interested  
2 parties should confine their arguments to the  
3 hearing conducted by the board. Such arguments  
4 should not be advanced ex parte in the guise of  
5 assisting board members in their inspection of the  
6 site. A board's decision should be made on the  
7 basis of the evidence presented at its board's  
8 hearings. This ensures due process. It is also  
9 essential for proper appellate review." Please  
10 don't send letters.

11 CHAIRMAN JOHNSTONE: What he is  
12 basically saying is really very simple. You can  
13 send us letters, but we are not going to be reading  
14 them because that is not fair to the applicant where  
15 you are coming in and protesting something or even  
16 in support of it. If you want to do that you have  
17 to come in and appear before us so that we can hear  
18 you directly and then allow it, if the applicant or if  
19 the opposition wants to question you to do so, but  
20 sending us letters is not going to do you any good.  
21 We are not going to take a tally of how many are for  
22 or how many are against, that is not what is going  
23 to happen. So, if you have an objection or you are  
24 all in favor of this, there will be a time and place  
25 for that. We have a large crowd tonight and those

1 of you who have not signed in, please there is a pad  
2 over here by the door. Please sign in before you  
3 leave tonight so we know how many people are here,  
4 number one, so that we can get more chairs next time  
5 if we need them.

6           Number two, the way that this is going  
7 to run, as I have indicated before, you will hear  
8 the applicant's entire case, which means every  
9 witness will come up here, they will testify. There  
10 will be an opportunity by the board to cross examine  
11 those witnesses as necessary. Thereafter, I will  
12 open it up to the public to allow the public to ask  
13 questions. That is all you can do at that point in  
14 time for that witness, whether it is cross  
15 examination questions or whatever it is, easy  
16 pitches to him so he can make a point, again I don't  
17 care, but that is the point in time where you ask  
18 questions.

19           At some point in time when the  
20 applicant has completed his case, if there is an  
21 opposition that has got witnesses, we will hear  
22 those witnesses as well. Once those witnesses have  
23 been completed and all the testimony has been taken,  
24 I promise you I will then open it up for public  
25 comment. The reason why I hold off on public

1 comment until that point in time is very simple, you  
2 may have an opinion, but until we have all the  
3 evidence in that we have to base our opinion on, it  
4 is not fair for you to give your comment until we  
5 have heard all the evidence before you give your  
6 comments pro or con. Does anybody have any  
7 questions about that? Ladies first.

8 MS. HELD: Nancy Held. I guess, a  
9 question about the comment asking people not to send  
10 letters in.

11 CHAIRMAN JOHNSTONE: Right.

12 MS. HELD: I noticed there were  
13 correspondence that there was a letter from  
14 Mr. James Johnson. It was a letter to the editor of  
15 the paper, which was part of the official  
16 correspondence. I just wanted to clarify that  
17 letters from the applicant can go in the file and be  
18 seen, but not letters from the public?

19 MR. BERNSTEIN: It depends if it's an  
20 informative letter saying; it's a hypothetical, I am  
21 changing the application by doing thus and so, that  
22 is informative. If it's a letter that says approve  
23 my application because of blah, blah, blah that is  
24 not appropriate.

25 MS. HELD: So, did you look at the

1 letter today?

2 MR. BERNSTEIN: I personally did not  
3 look at the letter.

4 CHAIRMAN JOHNSTONE: None of us did,  
5 so don't worry about it. The fact that we got it,  
6 we got it. We are not looking at it and quite  
7 frankly to be honest with you, a letter from  
8 Mr. Johnson is not going to sway us one way or  
9 another. We are going to decide this application  
10 based upon the information that we hear in public  
11 session. Anyone else have any questions? I see no  
12 one else.

13 Are you ready to start? And again, if  
14 you want to take off your jacket, feel free. You  
15 don't have to wear it.

16 MR. WINDER: What judge has said to  
17 you you can take your jacket off?

18 CHAIRMAN JOHNSTONE: I don't care what  
19 the judges do. I have been where you are standing.  
20 If you want to take off your jacket, you will feel  
21 much better.

22 MR. WINDER: Thank you, I appreciate  
23 the opportunity.

24 CHAIRMAN JOHNSTONE: Why don't you  
25 come over to the microphone so we can all hear you.

1 MR. WINDER: I am wondering how you  
2 want to do this technically. I have Mr. McNamara --

3 CHAIRMAN JOHNSTONE: For the record,  
4 can you give us your name, sir.

5 MR. WINDER: Miles Winder. I  
6 represent the applicant.

7 CHAIRMAN JOHNSTONE: Well, I think it  
8 is very clear. I will leave it to Mr. Bernstein.

9 MR. BERNSTEIN: Okay, since --

10 THE WITNESS: We have one microphone.

11 CHAIRMAN JOHNSTONE: He is referring  
12 to the fact he only has one --

13 MR. BERNSTEIN: That's okay. Since  
14 Mr. McNamara is going to be discussing items that an  
15 ordinary layman would not be discussing, I would  
16 suggest that you qualify him in the field of  
17 aviation, otherwise he couldn't be testifying, I  
18 don't believe, as to routes and to meteorologic  
19 conditions and the type of helicopter and all sorts  
20 of things that the outline indicated that he would  
21 be testifying to.

22 MR. WINDER: Thank you, that was not  
23 what my question was. Do you want to do it with  
24 Mr. McNamara and me sitting next to each other over  
25 the same microphone?

1                   MR. BERNSTEIN: That is your option as  
2 to how you do it.

3                   MR. WINDER: I will get very close to  
4 Mr. McNamara.

5 J O H N           M c N A M A R A,  
6 Box 809, Far Hills, New Jersey, 07931, first having  
7 been duly sworn by the Notary, testifies as follows:

8           A           Mr. Chairman, my name is John  
9 McNamara. I have already given --

10                   MR. BERNSTEIN: You can sit down.

11           Q           Mr. McNamara, would you please tell  
12 the board what your educational background is?

13           A           Mr. Chairman, if you will, I'll read  
14 these qualifications.

15                   CHAIRMAN JOHNSTONE: So everybody in the  
16 audience understands, we have in front of us a  
17 written CV, a curriculum vitae, which is an outline  
18 of this man's experience and you may listen to it.  
19 If anybody would like to see a copy of it, you can  
20 come up here, we will give you one.

21                   MR. WINDER: Mr. Chairman, can we mark  
22 this as A-1 since I believe that is part of the  
23 record as qualifications.

24                   MR. BERNSTEIN: That is fine.

25                   MRS. GOODCHILD: A-6.

1 (Curriculum Vitae was received and  
2 marked A-6.)

3 CHAIRMAN JOHNSTONE: Mr. McNamara,  
4 when you speak, would you please hold the microphone  
5 close to the mouth because certain people can't hear  
6 you down at that end.

7 THE WITNESS: Yes. Mr. Chairman, I'll  
8 just read this curriculum vitae in response to an  
9 assumed question of Mr. Winder that he asked me to.  
10 I'm a life long resident of New Jersey, in  
11 fact from this community. And after graduating from  
12 Delbarton School, I received my degree, Bachelor of  
13 Science in Foreign Service from the School of  
14 Foreign Service, Georgetown University. I received  
15 a Doctorate of Law from Fordham University School of  
16 Law. I studied Quantitative Analysis in the Stern  
17 Graduate School of Business, New York University and  
18 studied Airway Science at the Odegard Center for  
19 Aerospace Science at the University of North  
20 Dakota.

21 I have been recognized as the first  
22 pilot/flight instructor ever to be certified by the  
23 Federal Aviation administration without limitation  
24 at the highest level in every category in class of  
25 aircraft. I have flown over a hundred models of

1 aircraft including seaplanes, gliders, balloons,  
2 helicopters, blimps and several heavy aircraft like  
3 the Boeing 737, 757, 767, 777, Airbus 320 and Airbus  
4 340. All the heaviest simulation, class D  
5 simulation. I have flown aircrafts at approximately  
6 50 foreign countries as well as having flown for a  
7 lifetime in the United States.

8           For the past 35 years I have dedicated  
9 my legal practice to the field of aviation law. I  
10 have served as the President of the Lawyer Pilots  
11 Bar Association, was a founding member of the  
12 National Transportation Safety Board Bar  
13 Association, served as a founding trustee and  
14 President of the Aviation Accreditation Board  
15 International, which accredits all the allegiant and  
16 university programs in airway science in the world.  
17 I served as chairman of the New Jersey State Airport  
18 System Plan Oversight Subcommittee, and I have  
19 served as a Director of the New Jersey Aviation  
20 Association. I'm a member of the legal panel of the  
21 Aircraft Owners and Pilots Association. I was  
22 nominated by Governor Whitman to be the -- to fill  
23 the slot of "expert in aviation" on the New Jersey  
24 Aviation Study Commission in accord with the  
25 requirements of the enabling legislation Public Law

1 336-1993, and I served as the chairman of that  
2 commission. I am an inductee in the New Jersey  
3 Aviation Hall of Fame. I have served on the board  
4 of many corporations and I'm a member of the  
5 National Professional Foreign Service Fraternity, as  
6 well as over 20 aviation organizations. I operate a  
7 130 acre farm in Far Hills, Somerset County,  
8 New Jersey, served as chairman of the planning board  
9 of Far Hills and I served as a member of the  
10 Somerset County Republican Committee, thank you.

11 Q Mr. McNamara, have you ever testified  
12 before?

13 A Yes, I have. I have testified before  
14 planning boards and court in the State of New  
15 Jersey. I have made addresses or given counsel to  
16 the -- a couple of the governors of New Jersey to  
17 the Aviation Subcommittee of the House  
18 Transportation Committee and to the Clinton  
19 White House with respect to the regulation of aviation  
20 when the program was to reinvent government subplan,  
21 to reinvent the FAA. I was against it.

22 Q Have you been recognized as an expert  
23 in any of these tasks?

24 A I was recognized as an expert witness  
25 in any testimony given before the court or before

1 the planning board.

2 CHAIRMAN JOHNSTONE: Excuse me, what  
3 were you qualified as an expert in?

4 THE WITNESS: Aviation matters.

5 MR. WINDER: Mr. Chairman, I will  
6 submit for voir dire.

7 CHAIRMAN JOHNSTONE: All right, let's  
8 start with the board members. Starting down at this  
9 end, does anybody have any questions?

10 MR. MORARTY: Mr. Chairman, I just  
11 didn't hear anything about meteorological  
12 conditions, any specific background or experience or  
13 education?

14 THE WITNESS: Again, a pilot since  
15 1959 and in all of the ratings, all of the more than  
16 25 ratings that I have acquired as a pilot over  
17 that, since that time, there were elements of every  
18 exam that had to do with meteorological conditions.  
19 I have not -- I am not a student. I am not a -- I  
20 don't have a higher degree in meteorology, which has  
21 not become available, but for most of my time that  
22 was not a degree that was available.

23 MR. MORARTY: Thank you.

24 CHAIRMAN JOHNSTONE: Any other  
25 questions?

1                   MR. MACKIE: Actually I have a  
2 procedural question for our board attorney first and  
3 that is we are hearing testimony about this expert's  
4 qualifications, not knowing exactly what he is going  
5 to testify to or talk about. How would we  
6 differentiate between an expert opinion or knowledge  
7 versus his opinion about what the applicant may or  
8 may not be doing in regard to this application?

9                   MR. BERNSTEIN: This witness will be  
10 testifying about, as I understand it, expert matters  
11 such as aviation and lay matters such as what the  
12 Johnson family intends to do with the proposed  
13 helicopter. We can accept or reject the testimony  
14 based on the witness' credibility. The question as  
15 to voir dire is whether or not he has expertise  
16 above the average person in the field of aviation  
17 matters and can testify as an expert and give  
18 opinions. That doesn't mean we accept or reject his  
19 opinions, but that he can offer them, which a  
20 layperson doesn't have the credibility in certain  
21 areas, but the fact that he is acknowledged as an  
22 expert doesn't mean that what he testifies to is  
23 gospel. Does that answer the question?

24                   MR. MACKIE: Yes, thank you. So, I  
25 have one question that is in regard to what I

1 believe you intend to discuss regarding lights,  
2 could you explain what your expert qualifications  
3 are with regard to lighting as it relates to this  
4 application?

5 THE WITNESS: My expertise with  
6 respect to the lights would be simply as a pilot  
7 flying to lighted helipads and as a member of the  
8 Air One Committee for the Atlantic Ambulance  
9 Corporation, which operates the Air One Helicopter.  
10 We were involved in installing lights at the  
11 heliport in Netcong.

12 MR. MACKIE: That is it. Thank you,  
13 no more questions.

14 CHAIRMAN JOHNSTONE: Mr. McNamara,  
15 regarding on here you're going to address the flight  
16 path which employs the operation of the family  
17 helicopter. What experience do you have regarding  
18 the designation of flight path?

19 THE WITNESS: Every time I have landed  
20 an aircraft, I had to select a flight path for which  
21 to do it.

22 CHAIRMAN JOHNSTONE: I understand  
23 that, sir. I'm a pilot myself. I have done a  
24 little bit of flying. That is not what I am asking  
25 you. What is it that you are going to give to us in

1 terms of what flight pattern is better than any  
2 other flight pattern? What is your experience in  
3 designating where a flight path is? Have you ever  
4 done any work in terms of designating for the  
5 New Jersey Department of Transportation or the FAA  
6 recommendations for flight paths?

7 THE WITNESS: I have done a  
8 considerable amount of airport work especially with  
9 NJDOT. In every case we would specify a flight  
10 pattern for aircrafts to fly into the various  
11 runways at the airport. Oftentimes these flight  
12 patterns, of course, they are determined by the  
13 runway experience with a helicopter you don't really  
14 have that problem. With a helicopter you can land a  
15 helicopter, you can use a flight path to approach  
16 the helicopter and still land into the wind by  
17 adjusting your flight path when you're very close  
18 into the helicopter. Normally the selection of a  
19 flight path for a helicopter would be well done if  
20 it were done with a purpose of reducing the noise  
21 impact on the surrounding community and the proposed  
22 flight path, which we have already presented to you  
23 was select and developed for that purpose.

24 CHAIRMAN JOHNSTONE: Were you involved  
25 in the selection of this flight path?

1 THE WITNESS: I was.

2 CHAIRMAN JOHNSTONE: Who did you speak  
3 to in terms of the flight path that is being  
4 recommended to us? Did you speak to the FAA? Did  
5 you discuss it with the FAA? Did you have anything  
6 to do with that?

7 THE WITNESS: No. FAA would not  
8 become involved in that aspect of this. The FAA  
9 would be concerned about the air space above it and  
10 whether we would interfere with that.

11 CHAIRMAN JOHNSTONE: How about NJDOT?

12 THE WITNESS: NJDOT was up here and I  
13 will give testimony to that.

14 CHAIRMAN JOHNSTONE: All right, hold  
15 on, before you get done, is there anybody in the  
16 public that would like to ask Mr. McNamara any  
17 questions regarding his expertise? Just raise your  
18 hand so I can see how many people I have. I see  
19 one, two, three people in the front row, that is it,  
20 that is all I see.

21 Okay, we will start right here. First  
22 give us your name again. As a matter of fact, any  
23 time that you speak tonight, ladies and gentlemen,  
24 give us your name first so the court reporter can  
25 take it down and also the address please.

1                   MR. HEALD: Floyd Heats, 20 Keats  
2 Road, Pottersville. Little background on the  
3 question is that I think a lot of this as about risk  
4 analysis, so my specific question is what is your  
5 specific experience and expertise in quantifying the  
6 risks associated with adding new airports? In  
7 particular, can you tell us with regard to the  
8 methods that you have used and the most up-to-date  
9 types of meteorologic risk analysis?

10                   MR. WINDER: Mr. Chairman, I am going  
11 to object. We are not offering him as a risk  
12 analyst.

13                   CHAIRMAN JOHNSTONE: Okay, that is not  
14 the expertise he is being offered for. Dan?

15                   MR. BERNSTEIN: Yeah, I would suggest  
16 that the question not be allowed to -- the question  
17 is whether the gentleman can testify. You will have  
18 an opportunity, hopefully at the next meeting, to  
19 cross examine him about risk analysis. The question  
20 is whether he can testify as an expert on aviation.

21                   MR. HEALD: So, I will be back because  
22 I think this is at the heart of the matter.

23                   CHAIRMAN JOHNSTONE: Anyone else like  
24 to ask a question? Yes, ma'am?

25                   MS. HELD: Nancy Held, Woodedge Road.

1 I have three questions. One regarding your aviation  
2 experience. Could you attempt to give a percentage  
3 as to how much of your experience is with airplanes  
4 versus -- airplanes and other aircraft  
5 versus helicopters?

6 THE WITNESS: Most of it is with  
7 airplanes. My experience with helicopters would be,  
8 as I wouldn't be able to put a percentage on it, but  
9 then after that it would be, with all other  
10 aircraft.

11 MS. HELD: Without putting an exact  
12 percentage on it, would you say that more than half  
13 or three, you know, can you use qualitative terms?

14 THE WITNESS: Yes, I would say  
15 probably less than ten or 15 percent.

16 MS. HELD: You also mentioned that you  
17 have given testimony in many circumstances. Can you  
18 tell me if any of that testimony that you gave  
19 related to helicopters?

20 THE WITNESS: Yes, in one instance it  
21 did, in one instance in which I was qualified as an  
22 expert.

23 MS. HELD: Can you tell me what that  
24 instance was?

25 THE WITNESS: The application for a

1 helicopter pad on top of the Overlook Hospital in  
2 Summit.

3 MS. HELD: Thank, you. My last  
4 question is to ask you whether or not you're going  
5 to be testifying about noise?

6 MR. WINDER: Mr. Chairman, I am going  
7 to object to the question.

8 MR. BERNSTEIN: It's a yes or no  
9 question. Go ahead answer the question.

10 THE WITNESS: Anything that I say  
11 about noise would probably be the lay level. It  
12 won't be at the expert level tonight.

13 MR. COHEN: David Cohen, 40 Old Spring  
14 Road. Mr. McNamara, is it fair to say that in  
15 addition to proposed expertise in aviation, you're  
16 an advocate for the aviation industry?

17 THE WITNESS: Yes, that is fair to  
18 say.

19 MR. COHEN: In your roll as advocate,  
20 can you tell us some of the things that you have  
21 done to advocate aviation, the aviation industry and  
22 services in New Jersey?

23 THE WITNESS: Well, I mentioned a lot  
24 of them already. And they -- I have been -- I  
25 almost served continuously for the last 30 years on

1 some board or panel either advising the  
2 Commissioners of Transportation or serving as a  
3 member of the Committee Landing Aviation Collation,  
4 member of the AOPA, improving legal proceedings that  
5 ensure reasons in safety and aviation, improving  
6 allocation of the airways to reduce noise around New  
7 Jersey, seeking to improve airports to make them  
8 safer and I have been doing that -- well, in  
9 addition I have served as legal counsel for airports  
10 in the State of New Jersey for almost my entire  
11 practice. I have been active in representing some  
12 airports in the State of New Jersey and other than  
13 that, I have represented numerous aviation entities  
14 in the State of New Jersey and across the country  
15 and around the world.

16 MR. COHEN: Is it fair to say you  
17 think there should be more airports in New Jersey?

18 THE WITNESS: Yes. I think there  
19 should be more airports in New Jersey.

20 MR. COHEN: That is right, thank you.

21 CHAIRMAN JOHNSTONE: Mr. McNamara, a  
22 couple questions. You indicated that you have ten  
23 to 15 percent of your experience with helicopters,  
24 if I understand your testimony; is that correct?

25 THE WITNESS: Yes.

1                   CHAIRMAN JOHNSTONE:  Are you qualified  
2  to fly a helicopter?

3                   THE WITNESS:  I am.

4                   CHAIRMAN JOHNSTONE:  When was the last  
5  time when you flew a helicopter solo?

6                   THE WITNESS:  The last time -- well,  
7  solo?

8                   CHAIRMAN JOHNSTONE:  Solo.  When you  
9  took it up all by yourself?

10                  THE WITNESS:  It's been years since I  
11  have flown a helicopter solo, but that doesn't mean  
12  I didn't fly the helicopter as the pilot in command  
13  within the past 90 days.

14                  CHAIRMAN JOHNSTONE:  What were you  
15  flying?

16                  THE WITNESS:  EC135.

17                  CHAIRMAN JOHNSTONE:  Have you had your  
18  biannual flight review with a helicopter?

19                  THE WITNESS:  Not in several years.  
20  You know you take that review in any aircraft.

21                  CHAIRMAN JOHNSTONE:  I know you take  
22  it in any aircraft.  I am wondering if you have ever  
23  done it in a helicopter?

24                  THE WITNESS:  I did it twice in a  
25  helicopter.

1                   CHAIRMAN JOHNSTONE:  When was the last  
2 time you did it?

3                   THE WITNESS:  Several years ago.  I  
4 would say perhaps 15 or more years ago.

5                   CHAIRMAN JOHNSTONE:  Have you ever  
6 testified in court against any application regarding  
7 a flight application?

8                   THE WITNESS:  In court, no.  We did at  
9 one point represent some townships in Northern  
10 New Jersey.

11                   CHAIRMAN JOHNSTONE:  Let me ask it  
12 this way.  Representing a client is one thing, but as  
13 an expert what I am asking you --

14                   THE WITNESS:  As an expert, no, sir.

15                   CHAIRMAN JOHNSTONE:  As that is what I  
16 am getting at.  As an expert you have never  
17 testified against an applicant for any type of  
18 flight service whether it be by plane or helicopter;  
19 is that correct?

20                   THE WITNESS:  Yes, that would be  
21 correct.

22                   CHAIRMAN JOHNSTONE:  All right, thank  
23 you.  Anybody else have any other questions?  Seeing  
24 none anybody else from the public?  No?  There is  
25 somebody.  Yes, ma'am?  You're going to have to come

1 up and get the microphone.

2 MS. COLBECK: Cheryl Colbeck, 21  
3 McCandless Road. Can I ask if he can give a  
4 definition?

5 CHAIRMAN JOHNSTONE: A definition?  
6 No, we are not at that level. That is something  
7 that you can ask under cross examination when we get  
8 to that.

9 MS. COLBECK: It doesn't speak to  
10 qualifications?

11 CHAIRMAN JOHNSTONE: Give us the  
12 question and we will decide.

13 MS. COLBECK: I hear the word heliport  
14 and helipad banging about. I want to be clear on  
15 the definition of that.

16 MR. BERNSTEIN: The only problem  
17 ma'am, that's a very good question. Right now we  
18 are at the stage is Mr. McNamara an expert and  
19 questions are directed towards his expertise, his  
20 potential basis that is really his knowledge and  
21 while he could answer it, we are trying to restrict  
22 it to voir dire, is he an expert. I don't think  
23 this is the point, Mr. Chairman.

24 CHAIRMAN JOHNSTONE: The answer is he  
25 probably knows the answer between the two and you

1 will get that answer before the night is out; is  
2 that correct, Mr. McNamara?

3 THE WITNESS: It is in my testimony.

4 CHAIRMAN JOHNSTONE: That's what I  
5 thought. Anyone else? Seeing no one, does anyone  
6 on the board want to make any comment about his  
7 ability to testify?

8 I find that Mr. McNamara is qualified  
9 to testify as an expert for a variety of reasons.  
10 Number one, you have been a pilot for many, many  
11 years. He has indicated that he has, in fact, flown  
12 a helicopter. He has indicated he has been  
13 recognized in the Superior Court of New Jersey as an  
14 expert in aviation and I believe that alone  
15 recognizes him as an expert in the State of New  
16 Jersey on this issue. I have no objection to his  
17 testifying on the areas in question. Obviously, in  
18 terms of, as clearly indicated by Mr. Bernstein, we  
19 can deal with his knowledge in other areas as we see  
20 fit. We can take what he has to say. We don't have  
21 to take what he has to say, but we will certainly  
22 listen to what he has to say and deal with it at the  
23 appropriate time. Therefore, I will find him as an  
24 expert in the area of aviation for purposes of this  
25 hearing tonight.

1 MR. WINDER: Thank you, Mr. Chairman.

2 Q Mr. McNamara, do you want to step up  
3 to the podium.

4 CHAIRMAN JOHNSTONE: Folks in the  
5 back, if you cannot hear the testimony, please raise  
6 your hand and wave frantically. That will indicate  
7 to me that you cannot hear the testimony. It is  
8 clearly very important for everybody to hear what  
9 this gentleman has to say and I want to make sure  
10 that everyone has the opportunity to hear what he  
11 has to say.

12 Q Mr. McNamara, would you tell the board  
13 please, what your connection is with the Johnson  
14 family?

15 A Mr. Winder, would it be with your  
16 approval if I simply presented this testimony, and  
17 Mr. Johnstone if it meets with your approval, I  
18 would just simply like to read a report.

19 CHAIRMAN JOHNSTONE: First of all,  
20 people in the back can't hear you.

21 THE WITNESS: Okay, if it meets with  
22 your approval, I simply would like to commence by  
23 reading a report, which would expedite putting this  
24 testimony in.

25 CHAIRMAN JOHNSTONE: Do you have a

1 report?

2 THE WITNESS: I do. It is not one  
3 that I could even submit at this moment, but it is  
4 one that --

5 CHAIRMAN JOHNSTONE: I'm a little  
6 bit --

7 MR. BERNSTEIN: Mr. Chairman, do you  
8 have a copy for the court reporter since she has to  
9 take down everything that you are reading pretty  
10 quickly?

11 THE WITNESS: No.

12 CHAIRMAN JOHNSTONE: I have a question  
13 for you. We have been asking for reports from the  
14 experts for two months. We have given latitude  
15 tonight to allow direct examination. Since we don't  
16 have the report, counsel, can you please explain to  
17 me why this gentleman has a report in his hand and  
18 he now wants to read a report, why wasn't that  
19 report submitted to us in advance as previously  
20 requested over two months ago?

21 MR. WINDER: Because we didn't believe  
22 he was an expert witness. We only this week talked  
23 with Mr. Bernstein and determined to qualify him as  
24 an expert witness, Mr. Chairman.

25 CHAIRMAN JOHNSTONE: What did you

1 think he was?

2 MR. WINDER: Fact witness.

3 CHAIRMAN JOHNSTONE: You think this  
4 gentleman is a fact witness?

5 MR. WINDER: He's a combination of a  
6 fact witness and an expert witness.

7 CHAIRMAN JOHNSTONE: Okay, if he is  
8 partially an expert witness, then why didn't we get  
9 the report ahead of time.

10 MR. WINDER: He didn't have a report.

11 CHAIRMAN JOHNSTONE: So, this report  
12 has just been made up in the past week, is that what  
13 you are telling me?

14 THE WITNESS: I can answer that  
15 question, sir. I have been working on this matter,  
16 of course, for quite a time, but this report was not  
17 prepared until today. In fact, you will note that  
18 there is a number of editing marks on it and that is  
19 because even at this moment it is not in final form.

20 CHAIRMAN JOHNSTONE: So, basically if  
21 I understand -- first of all, the fact that you have  
22 admitted that he was an expert at some capacity, in  
23 my opinion, leads me to believe that that report,  
24 whatever he was going to testify to, should have  
25 been give to us in advance as to what areas you

1 thought he was an expert in. I don't like the idea  
2 of the fact that we don't have the reports here  
3 tonight when more than two months has passed since  
4 our last meeting. Don't let it happen again. Next  
5 time it happens they won't testify until we get the  
6 report. There is no reason why that has to happen.  
7 It is clear just when I got this document as to the  
8 areas he was going to testify in, as a lay person I  
9 could tell he was an expert. There is no excuse why  
10 this report wasn't sent into us ahead of time. I am  
11 really irritated because the fact that our land  
12 administrator has been trying to get a hold of you  
13 to get the reports and we were being bothered around  
14 here hemming and hawing about whether there are any  
15 reports and whatnot. It is clear from the e-mail  
16 that was sent to us that this man is an expert. Now  
17 he shows up today with a report that could have  
18 been, quite frankly, it was done today. He could have  
19 faxed it to us or e-mailed it to us all today, so at  
20 least we would have had something ahead of time in  
21 our hands. Don't let it happen again with anymore  
22 of your experts or semi experts or quasi experts.  
23 Have the reports in. When in doubt, submit the  
24 reports. Do you understand me, sir?

25 MR. WINDER: Thank you, Mr. Chairman.

1                   CHAIRMAN JOHNSTONE: Do you understand  
2 me?

3                   MR. WINDER: I do, thank you, Mr.  
4 Chairman.

5                   CHAIRMAN JOHNSTONE: Thank you. Sir,  
6 if you would like to read it, feel free to read it.

7                   THE WITNESS: Thank you, Mr. Chairman.  
8 I am Jack McNamara, who many of you know I have  
9 lived in this community all my life. I am here this  
10 evening because I have the honor to serve as legal  
11 counsel in aviation matters to the Johnson family.  
12 Abiding by my counsel, they purchase aircrafts in  
13 the names of corporations. These corporations are  
14 closely held with no shareholders other than the  
15 members of the Johnson family. Members of the  
16 family then rent the aircrafts from those  
17 corporations. I serve as secretary of those  
18 corporations and in some cases as their chief  
19 operating officer.

20                   The Johnson family has owned and  
21 operated a farm in Tewksbury Township for more than  
22 70 years. Today this farm constitutes approximately  
23 2,000 continuous acres divided between Mr. Johnson  
24 and his sister Mrs. Duke. This is some of the most  
25 beautiful land in Tewksbury Township, and since my

1 boyhood, they have always allowed the Essex Fox  
2 Hounds, the Tewksbury Foot Baskets, the Somerset  
3 Hills Pony Club, the Jockey Hollow Fish and Game  
4 Protective Association to ride and hunt over their  
5 land freely. In this manner and in others they have  
6 always allowed their neighbors to enjoy the open  
7 space and the beauty of this land, in a sense sharing  
8 their good fortune with everyone.

9                   Albeit the tax laws have forced  
10 Mr. Johnson to change his residence away from his  
11 beloved home in New Jersey. He still maintains this  
12 land and operates a farm there. You have heard  
13 testimony about the nature of that farm at our last  
14 hearing, the most memorable fact being the 175,000  
15 gallons of milk produced there by the dairy  
16 operation annually. Apparently, and not  
17 surprisingly, the dairy operation is conducted with  
18 primary breeding stock. In a modern day farming  
19 industry through the use of artificial insemination  
20 and these seed stock heifers, the heifers can be  
21 impregnated nine to ten times per year. This  
22 produces embryos which are removed from these cows,  
23 are frozen, then sold to farm operations anywhere  
24 which desire to improve their dairy herd.

25                   These embryo sales can represent

1 significant income for a farmer. They sell for  
2 approximately \$2,500 each. Customers for them  
3 include people with very limited time, some of them  
4 coming from foreign countries who schedule visits to  
5 several farms each day and travel between them by  
6 helicopter. One such customer declined to come to  
7 the Johnson farm because there was no heliport there  
8 for his helicopter. It should be noted that these  
9 sales could become the most significant source of  
10 income for this farm.

11 I know that the Somerset Airport is  
12 located nine and a half miles away by road and 5.8  
13 miles by air. I have driven this route a number of  
14 times over the last several years. Depending on  
15 traffic conditions and one's luck with traffic  
16 lights, the travel time is normally 20 to 25  
17 minutes. In preparation for this hearing, I drove  
18 it several times utilizing several routes in very  
19 low traffic conditions of the last Memorial Day  
20 weekend. Driving exactly at the legal speed limit  
21 without any traffic or red stop lights, the best  
22 time was 19 minutes and one second. If you're  
23 curious about a route across the farm to the Reed  
24 Town Road, Black River Road, et cetera this can  
25 reduce the distance, but increase the time to 23

1 minutes and 37 seconds. I know that 20 minutes may  
2 not seem like a long time, but to somebody who shops  
3 by helicopter, the 40 minute round trip to Somerset  
4 Airport is too much time. They will bypass  
5 Tewksbury and go on to Pennsylvania or New York. If  
6 there were a heliport located near the dairy  
7 operation, one could reasonably anticipate buyers  
8 arriving by helicopter three to four times a year.  
9 This would be greatly beneficial because we believe  
10 a buyer who arrives by helicopter would be willing  
11 to purchase a lot of the embryos.

12 In addition to having farm customers  
13 who would use the proposed heliport, one of the  
14 family corporations I mentioned owns a helicopter.  
15 This aircraft is used almost exclusively in Florida  
16 were it is committed from October through May of  
17 each year. It is then moved to Montana for the  
18 summer months. Its times of utilization in  
19 New Jersey is projected to be very limited, not more  
20 than a few weeks a year. When it is here, the  
21 family would use it for their own convenience. It  
22 is impossible to quantify their usage except to say  
23 that over the course of the year, it would be a rare  
24 and random event. To estimate its frequency of  
25 usage by the family I note that when we took the

1 liberty of this helicopter in February of 2007 it  
2 had 1,450 hours on its odometer. Now, four years  
3 later it has 1,812 hours. Thus it has been flown 90.5  
4 hours per year. The average trip, which is  
5 calculated by dividing global hours by engine starts  
6 is .62 hours or approximately 37 minutes. This  
7 equals 146 trips per year or 2.8 trips per week. If  
8 the helicopter were here for two weeks, it might  
9 operate six times. Then it would be gone for  
10 several months to return again for a short visit and  
11 possibly operate another six times, then it would be  
12 gone for up to seven months, and I know of no other  
13 way than this to estimate the usage of the  
14 helicopter at the farm by the family.

15 Finally, it is still addressing usage  
16 of the heliport, there could be some flights for the  
17 hospital emergency medical service mission and this  
18 also would be a very rare and random event,  
19 impossible to estimate. In total I believe if anyone  
20 ever sees a helicopter at this heliport you may see  
21 it two or three times during the course of a  
22 fortnight and then not see it again for several  
23 months.

24 To accommodate helicopter utilization  
25 at the farm, we are now making an application to

1 this board and to the New Jersey Commissioner of  
2 Transportation Office of Aeronautics for approval  
3 and certification of a restricted use helistop. The  
4 question was asked what is the difference between a  
5 helistop and a heliport. The difference is that a  
6 heliport is used exclusively and solely for the  
7 purpose of helicopter traffic. A helistop is not  
8 limited in the purpose for helicopter utilization.  
9 In our case its alternate utilization would be to  
10 graze cattle. You have seen helistops yourself on  
11 many occasions in parking lots, on wharfs,  
12 warehouses and so on.

13 Another question was asked about  
14 restricted use. Essentially this means that this  
15 helistop is not open for public use. No helicopter  
16 will land there without the specific invitation of  
17 the family in each instance. The only exception  
18 would be by New Jersey State Police or the Atlantic  
19 Ambulance Service on an emergency medical mission.  
20 Hopefully, that use would be rare.

21 The helistop we intend will be the  
22 safest possible installation. Prior to its  
23 certification by the Office of Aviation, it will be  
24 inspected and it will have to comply with the  
25 requirements of New Jersey Administrative Code

1 section 16:54-3.1 and 4.3. Essentially these  
2 provide that a restricted use helistop shall meet  
3 the design requirements of FAA advisory circular  
4 150/5390-2, the New Jersey Office of Aeronautics and  
5 the Federal Aviation Administration and given years  
6 of study and thought to the design of safe  
7 heliports. Being ourselves first of all concerned  
8 about safety, we are pleased to build our heliport  
9 exactly in accord with their requirements. Mr. Ron  
10 Harbist from the New Jersey Office of Aeronautics  
11 came with me to inspect the proposed site. He  
12 visited and walked the site for more than an hour.  
13 He considered the proposed helipad from every  
14 possible angle. In the end he concluded --

15 CHAIRMAN JOHNSTONE: You're not giving  
16 hearsay testimony for this gentleman. Is this  
17 gentleman coming in to testify, counsel?

18 MR. WINDER: No.

19 CHAIRMAN JOHNSTONE: Mr. Bernstein?

20 MR. BERNSTEIN: He can give, I guess,  
21 a conclusion -- was there official action taken by  
22 this gentleman?

23 THE WITNESS: Yes. He wrote a letter  
24 granting a preliminary approval for which  
25 essentially means at this point, which is prior to

1 its construction, what little construction there  
2 will be, that it satisfies the requirements of NJDOT  
3 and FAA. Of course there can be no final approval  
4 until this board approves it.

5 MR. WINDER: Mr. Chairman, I believe  
6 you have a copy of that letter in the board's  
7 package.

8 MS. GOODCHILD: It was entered as an  
9 exhibit at the last hearing.

10 THE WITNESS: In our last hearing you  
11 heard testimony describing the physical installation  
12 for the helipad. Essentially this is flat area of  
13 ground on top of a hill located at the side of the  
14 dairy farm, which is a square of 100 foot per side,  
15 which is a square, 100 foot side. This square will  
16 be the touch down and lift off area for a  
17 helicopter. It is placed inside a larger area of  
18 approximately one acre. It is clear of all  
19 obstacles. A second such square will be located on  
20 the edge of the larger area nearer to the dairy  
21 farm. The aircraft will park in the second area,  
22 which is slightly down the hill from the touch down  
23 and lift off area and less visible to neighbors.

24 The touch down and lift off area will  
25 be identified at night by the location of in ground

1 lights which are approved for heliport use.  
2 Typically there would be one light in each corner  
3 and three lights along each side. Albeit these  
4 lights can be seen on a clear night for some  
5 distance three to four miles by the pilot. They are  
6 almost invisible to neighbors on the ground. They  
7 become visible only as one walks toward them at  
8 about 100 to 150 yards. They do not shine into the  
9 air and present a beam of light like a flag pole  
10 light. They just present a luminescent glow to the  
11 pilot. In a congested area they are hard to spot,  
12 but in the country they are really visible or  
13 readily visible and give good navigation guidance  
14 for an operation used after dark. The flight path  
15 selected for their use of their proposed helipad  
16 approaches from the southeast, from here. I will  
17 make reference to applicant's exhibit four, I think.  
18 Is it A-4? This is a map of the farm and this is  
19 north up here.

20 CHAIRMAN JOHNSTONE: Up here in the  
21 right-hand corner he is referring to, for the  
22 record.

23 MR. BERNSTEIN: The top?

24 CHAIRMAN JOHNSTONE: Top right-hand  
25 corner. Go ahead. I was just identifying, you are

1 saying here, for the record I am letting the record  
2 know it is in the upper right-hand corner.

3 THE WITNESS: Pointing to the base of  
4 the wide end of the black arrow on the map, this is  
5 where the flight path crosses the river and enters  
6 onto the property owned by the Johnson family.

7 CHAIRMAN JOHNSTONE: For the record  
8 what river are you referring to?

9 THE WITNESS: I believe it is the  
10 Black River.

11 CHAIRMAN JOHNSTONE: Thank you.

12 THE WITNESS: Although, I have had it  
13 referred to as other rivers. The flight path stays  
14 over Johnson land all the way to the helipad, the  
15 proposed helipad. The helicopter, at the time it  
16 crosses the river would be at an altitude of  
17 approximately 1,000 feet. It would then commence a  
18 gradual decent until it approaches the building  
19 complex, which includes the dairy barn and the  
20 stable. At that point it would check the wind stock  
21 and flight either left or right in a circle so it  
22 could land into the wind. It would depart from the  
23 same spot using the same path and in all of this it  
24 would never fly over any neighbor's house or house  
25 of any person in Tewksbury Township.

1                   The river is approximately one and a  
2 half miles from the touch down and lift off area.  
3 It is probably worth noting that in accord with part  
4 91 of the Federal Aviation Regulations, the minimum  
5 safe altitude provisions of 91.119 provides  
6 generally that an aircraft must be operated at an  
7 altitude of 1,000 feet above the highest obstacle  
8 within a horizontal radius of 2000 feet in a  
9 congested area and otherwise at 500 feet above the  
10 surface. Got that right?

11                   CHAIRMAN JOHNSTONE: Yes, you did.

12                   THE WITNESS: Most helicopters  
13 operating in Northern New Jersey fly between 500 and  
14 1,000 feet. Those are the helicopters which pass  
15 over the houses in Tewksbury on a daily basis. In  
16 this non-congested area they normally would be at  
17 500 feet. Their operation is perfectly legal.  
18 Federal law controls the air space and the FAR's are  
19 the federal Law and there is nothing that can be  
20 done about it, at least not easily.

21                   To continue at this point, I would  
22 note that the proposed helistop to the following  
23 points constitute the following distances.  
24 Homestead Road 1,500 feet, three times the legal  
25 limit. The home of Mr. and Mrs. Ross, 2,900 feet,

1 almost six times the 500 foot limit. The nearest  
2 other neighbor, 2,000 feet, four times the limit. I  
3 cannot solve the problem that you may have with the  
4 helicopters that are already airborne. I can tell  
5 you that the rule of aviation is that if you double  
6 the distance you cut the noise in half. Thus at the  
7 nearest point of any operation into and out of this  
8 heliport, the noise will be less than half of that,  
9 which you are already living with. Moreover it  
10 will occur only with the most random occasional  
11 intervals.

12 Further, we promise you that we will  
13 never fly over your home or your farm at that  
14 altitude. Visitors coming to the helipad will be  
15 given specific instructions respecting how to  
16 approach it. A typical instruction might be to  
17 start over Trump National Clubhouse and proceed on  
18 the heading of 315 degrees for three and a half  
19 miles, circle right or left around the buildings and  
20 land into the wind. That would bring those  
21 helicopters which, of course, can't be expected to  
22 be familiar with the landmarks, appear very close or  
23 very close to coming in exactly on that flight path,  
24 but once again, it is anticipated those flights  
25 would be three or four embryo buyers and perhaps an

1 occasional medical flight.

2           The helicopter which is used by the  
3 family is a Bell 407. It's a four blade, single  
4 engine civil utility helicopter derivative of the  
5 Bell 206 Long Ranger, if you are familiar with that  
6 ubiquitous old aircraft. It is manufactured by Bell  
7 Helicopter Textron, which has built over 1,000 of  
8 them. The blades and the hub use composite  
9 construction that are without life limits. It has a  
10 Rolls Royce Alison 250-C47 gas turbine engine,  
11 turning the turbo shaft generating 700 to 800 shaft  
12 horsepower depending on the realm of operations. It  
13 has a rotor diameter of 35 feet and an overall  
14 length of 42 feet and stands at a height of 11 feet  
15 8 inches. Its maximum take off weight is  
16 6,000 pounds, that normally is flown at 5,200 pounds  
17 for our purposes. Its typical seating configuration  
18 is for one pilot or two pilots with five passengers  
19 in the main cabin. It cruises at approximately 133  
20 knots or at approximately 150 miles an hour, is  
21 equipped with a full authority digital engine  
22 control, which means that a computer controls the  
23 power. It is a helicopter that serves many police  
24 departments and emergency medical services in  
25 addition to it's worldwide service to the private

1 industry. It is in full compliance with the federal  
2 law respecting its design manufacture and  
3 maintenance status and its noise generation.

4           As you may know, all aircraft that are  
5 manufactured today are manufactured in accordance  
6 with several federal laws requiring the FAA and the  
7 Environmental Protection Agency to cooperate in  
8 establishing noise standards then limiting noise of  
9 aircraft and in the last 40 years, 35 years they  
10 have added part 36 to the Federal Aviation  
11 Regulations which has to do with actually totally  
12 impeding the development of civil aircraft that do  
13 not meet their reduced noise standards. This  
14 particular helicopter was certified and in tests  
15 during that certification by the Federal Aviation  
16 Administration, it was determined that it generated  
17 a noise of 85 decibels flying overhead at a  
18 flight -- at a height of 500 feet, which is actually  
19 490 feet. It is the standard height for all those  
20 part 36 helicopter tests.

21           We have already intimated the proposed  
22 heliport would be made available for emergency  
23 rescue operations conducted by the New Jersey State  
24 Police and the Atlantic Ambulance Corporation. I  
25 would like to take just a moment to say that I, as

1 an avider to the Atlantic Ambulance Corporation, and  
2 one who was instrumental in adding the helicopter  
3 service to their ambulance rescue mission, well I  
4 was that, this was done five years ago, it was most  
5 gratifying to know that hundreds of lives have been  
6 saved because of the helicopter ambulance. One  
7 doctor on the Air One Committee said to me "time is  
8 life." That sentiment is echoed in the helicopter  
9 emergency medical service community with the adage  
10 about the golden hour. The import of this is that  
11 if one doctor, I guess most doctors agree, although  
12 some disagree, if one can get a critically ill  
13 patient to the hospital within 60 minutes, the  
14 chance of survival is dramatically increased. This  
15 is especially true for victims of heart disease and  
16 stroke. In fact if a stroke patient can be treated  
17 quickly enough, the patient can continue its life,  
18 by that, any suggestion of the stroke rather than  
19 someone who is permanently impaired by it.

20                   You have received a letter from Paul  
21 Zanelli, Chief of the Tewksbury First Aid and Rescue  
22 Squad in support of the proposed helipad saying that  
23 it would aid rescue efforts in Tewksbury Township  
24 and more or less confirming these statements. I can  
25 tell you that there is a significant safety

1 improvement and a time reduction when the Air One  
2 helicopter can go into a standard certified heliport  
3 rather than having to land on an uneven field or a  
4 road bordered by wires or other unknown places.  
5 This heliport would be available for use by such  
6 services to provide emergency services to our  
7 neighbors in their time of need.

8 I believe that pretty fairly concludes  
9 my comments this evening. I should mention because  
10 there was some comments about it at the last  
11 meeting, that this is the second time I have come  
12 into Tewksbury representing the Johnsons for making  
13 an application for an aeronautical facility. The  
14 last time they applied for a 3,700 foot landing  
15 strip and that was approved and we still have the  
16 letter approving that. And I thought that mine had  
17 been the only airport that was ever approved in  
18 Tewksbury until this evening when Danny Dodd pointed  
19 out to me that I was completely wrong about that.  
20 That he had a landing strip in his farm for a number  
21 of years, so to those who think this is an unusual  
22 event, it is. But there have been some before it.

23 MR. MACKIE: Mr. McNamara, you have  
24 used the terms heliport, helistop and helipad and I  
25 am just wondering if you can explain?

1                   THE WITNESS: Yes. When I used  
2 heliport, I meant a heliport which would be a  
3 facility that was dedicated solely for the use of  
4 being a heliport and when I used helistop, I meant  
5 the other facility which has alternate uses, such as  
6 being a cow pasture. Both of them could be  
7 restricted use or public use and when I used the  
8 term helipad, I misspoke. I meant to say helistop  
9 in every case where I said helipad. They are -- the  
10 law when I -- many years ago there was a law that  
11 provided for helipads and in terms of this  
12 application or in relevant terms are heliport and  
13 helistop. Is that okay?

14                   CHAIRMAN JOHNSTONE: Thank you. Are  
15 you finished you're questions? All right, thank you  
16 Mr. McNamara, I appreciate it.

17                   THE WITNESS: Thank you.

18                   CHAIRMAN JOHNSTONE: In light of the  
19 testimony, as I have indicated, what we are going to  
20 do is defer questioning until we get a copy of the  
21 transcript and we will let people review it and then  
22 we will make a decision at that -- can't hear me, is  
23 that what you are saying? What I am indicating is  
24 we are going to defer, as I had indicated, we are  
25 going to defer any cross examination questions at

1 this time until everybody has had a chance to review  
2 the transcript and, therefore, will have an  
3 opportunity at a later date to ask questions at that  
4 point in time of this particular witness.

5 Mr. Winder, do you have any other witnesses tonight?

6 MR. WINDER: No, judge.

7 CHAIRMAN JOHNSTONE: No, I am not a  
8 judge.

9 MR. WINDER: Not yet.

10 CHAIRMAN JOHNSTONE: Don't insult me.

11 MR. BERNSTEIN: Mr. Chairman, maybe if  
12 we can establish a date so that the public would  
13 know when Mr. McNamara would be back and we can  
14 consult with our court reporter as to when the  
15 transcript would be available.

16 MR. WINDER: Mr. Chairman, there are a  
17 couple of housekeeping matters. One that I would  
18 like to talk to you about, Mr. Chairman, we are  
19 going to invite the land use board onto the Johnson  
20 property sometime during the week of the 27th of  
21 June. At that time we will have the helicopter here  
22 and it will take off and land several times.

23 CHAIRMAN JOHNSTONE: It is funny you  
24 said that because one of the things I was going to  
25 ask you about was having a site walk.

1 MR. WINDER: Well, this could be a  
2 site walk and site sound.

3 MR. BERNSTEIN: Mr. Chairman, if there  
4 were a site visit then, I guess as Mr. Winder knows,  
5 the public would be entitled to come as well to view  
6 what the board is viewing and the public will  
7 remember what I read in the beginning, the idea is  
8 not to corral board members and try to give them  
9 your ideas pro or con, but just to see the facility  
10 where it lands, to listen to the helicopter et  
11 cetera, but your client understands that we can't  
12 just have the board and the applicant without  
13 members of the public who have any interest in this.

14 MR. WINDER: If they didn't understand  
15 before, Mr. Bernstein, they now understand.

16 MR. BERNSTEIN: We want to announce it  
17 at some point what the day would be.

18 MR. WINDER: The week of --

19 MR. BERNSTEIN: No, but what day?

20 MR. WINDER: We don't know the day at  
21 this point. I am just simply identifying the week.  
22 The week of June 27th. So, it could be June, 27th,  
23 28th, 29th, 30th, 31st.

24 MR. BERNSTEIN: Our next meeting is  
25 June 15th, so we would hope to announce it on

1 June 15th and people can check --

2 MR. WINDER: We will do the best we  
3 can. We are also securing a noise expert who will  
4 have microphones at the site and surrounding  
5 property.

6 MR. BERNSTEIN: I just want to have a  
7 date so that the public is advised.

8 MR. WINDER: You want a date by the  
9 15th of June?

10 MR. BERNSTEIN: Yes, so we can  
11 announce it and the next day, would it be on the  
12 website or something? Yes, Mrs. Goodchild will put  
13 it on the website the date and time.

14 MR. WINDER: I would endeavor to do  
15 that.

16 CHAIRMAN JOHNSTONE: Hold on, we have  
17 a question.

18 MR. BERNSTEIN: That is not the date  
19 of the hearing just as to the site visit.

20 MR. WINDER: Now having said that we  
21 are securing a noise expert, that means that after  
22 the collection of data, that the data will not be  
23 crunched sufficiently until probably the first week  
24 of August. So, I am not sure what your schedule is  
25 for the next meeting.

1 MRS. GOODCHILD: I don't have an  
2 available agenda date until August 3rd.

3 MR. WINDER: We should be able to do  
4 that.

5 MR. BERNSTEIN: Are you suggesting  
6 that we hear the noise expert and also Mr. McNamara  
7 on August 3rd?

8 MR. WINDER: I am going to offer them  
9 both at that time.

10 MR. BERNSTEIN: And our court reporter  
11 would be able to do it more than ten days ahead of  
12 time so Shana can distribute it. You can do it by  
13 e-mail.

14 CHAIRMAN JOHNSTONE: Mr. Winder, would  
15 you agree with me that your noise expert is an  
16 expert?

17 MR. WINDER: No, not necessarily. I  
18 am not sure you have the power to force me to give  
19 you things in advance, but I will be happy to  
20 accommodate you.

21 CHAIRMAN JOHNSTONE: Well, I  
22 appreciate it if you would be nice enough to give us  
23 the reports in advance.

24 MS. DEVLIN: We have a problem with  
25 the August 3rd.

1                   CHAIRMAN JOHNSTONE: We do have a  
2 problem with August 3rd.

3                   MS. DEVLIN: I don't know if there is  
4 a quorum problem or anything, but I am away that  
5 week.

6                   CHAIRMAN JOHNSTONE: You're not  
7 allowed to be away. We don't allow vacations.

8                   MS. DEVLIN: But I can listen to the  
9 tapes.

10                  CHAIRMAN JOHNSTONE: Yes, you can.

11                  MR. BERNSTEIN: Or you can read the  
12 transcript, which is much faster. They are going to  
13 have transcripts prepared which is much better than  
14 hearing everybody talking.

15                  CHAIRMAN JOHNSTONE: It will put you  
16 to sleep much easier. So, if I understand correctly  
17 the next date that we are going to have testimony  
18 regarding the Johnson Application is August 3rd; is  
19 that correct, sir?

20                  MR. WINDER: That is correct and I  
21 said to Mr. Bernstein that I am going to endeavor to  
22 have Mr. McNamara here to be cross examined. If we  
23 have the transcripts and can submit it to you ten  
24 days in advance to the August 3rd date.

25                  CHAIRMAN JOHNSTONE: That's fine.

1 MR. WINDER: We also intend to have  
2 the noise expert and since he is an expert, we will  
3 submit that ten days in advance.

4 CHAIRMAN JOHNSTONE: I appreciate it.

5 MR. BERNSTEIN: If he has to,  
6 obviously, come back for cross examination.

7 MR. WINDER: If we have a transcript.  
8 If we don't have a transcript, he is not coming back  
9 on the 3rd.

10 MR. BERNSTEIN: The other thing is you  
11 would extend the time until --

12 MR. WINDER: I would extend the time  
13 until August the 18th.

14 MS. GOODCHILD: August 17th.

15 CHAIRMAN JOHNSTONE: Let me ask you  
16 this, you have got the two witnesses coming on  
17 August 3rd. Do you have any additional witness  
18 after that that you are contemplating?

19 MR. WINDER: Yes, sir.

20 CHAIRMAN JOHNSTONE: Why don't you  
21 elucidate what those witnesses are so we can get an  
22 idea how many more meetings we are going to have.

23 MR. WINDER: At least one more for  
24 Mrs. Mackenzie.

25 CHAIRMAN JOHNSTONE: Mrs. Mackenzie.

1                   MR. WINDER: That's correct, who is  
2 going to be reading the transcript of tonight's  
3 meeting.

4                   CHAIRMAN JOHNSTONE: Of course, I am  
5 sure she will.

6                   CHAIRMAN JOHNSTONE: Okay, so you are  
7 contemplating at this point, sir, you are  
8 contemplating two more meetings where you will need  
9 to put in your evidence; is that correct?

10                  MR. WINDER: Yes, sir.

11                  CHAIRMAN JOHNSTONE: Is there anybody  
12 out there that is planning on having anybody coming  
13 in to testify in response to this application. I  
14 see one hand raised.

15                  MR. COHEN: David Cohen, 40 Old  
16 Springs Road. I have fact and expert witnesses.

17                  CHAIRMAN JOHNSTONE: Are you  
18 representing anybody else but yourself, sir?

19                  MR. COHEN: I am not.

20                  CHAIRMAN JOHNSTONE: How much time  
21 will you need? How many do you think you will need?

22                  MR. COHEN: I would say I have  
23 probably five to seven fact witnesses and one expert  
24 planner, perhaps another expert, but I won't know  
25 that until we see the rest of their case.

1                   CHAIRMAN JOHNSTONE: I'm just trying  
2 to get an estimate now. I am not going to hold  
3 anybody to it. We have two additional meetings that  
4 the applicant needs. How many meetings do you think  
5 you will need one meeting, two meetings?

6                   MR. COHEN: I will say probably at  
7 least two.

8                   CHAIRMAN JOHNSTONE: So, we understand  
9 we have at least two more meetings with the  
10 applicant, and probably at least two more meetings  
11 with the opposition, for lack of a better word,  
12 okay. Everybody in the public understand what is  
13 going to happen? Again, going back to what I said  
14 initially that means we are not going to have any --  
15 we will have questioning, trust me. When the board  
16 gets done questioning Mr. McNamara, I will open it  
17 up to the audience who ever wants to ask Mr.  
18 McNamara any questions. So, if you want to see the  
19 transcript, I suspect that will be made available to  
20 you as soon as it available to us. Thereafter, you  
21 have another expert. That report will be in in  
22 advance. I assume copies will be made available to  
23 the public as well, so you will able to have that of  
24 the noise expert. You will have that expert report  
25 ahead of time and if we have the time that night to

1 finish both witnesses, we will do so. That is the  
2 way we will go for the next two meetings which will  
3 be August 2nd.

4 MS. GOODCHILD: August 3rd.

5 CHAIRMAN JOHNSTONE: I'm sorry and I  
6 guess August 16th?

7 MS. GOODCHILD: You committed to  
8 August 3rd.

9 MR. WINDER: Any other meetings  
10 offered?

11 CHAIRMAN JOHNSTONE: Let me ask you  
12 this, normally don't meet two meetings in August  
13 because it is vacation basically. Yes?

14 MR. KERWIN: Mr. Chairman, I would  
15 like to ask Mr. McNamara a question because I heard  
16 him mention that he testified in a case regarding  
17 Overlook Hospital helicopter landing facility at  
18 Overlook Hospital. I was wondering if in this case  
19 there was any real estate testimony, Mr. Chairman,  
20 regarding the affects of the helicopter on  
21 surrounding real estate, and if so, would there be  
22 some testimony regarding if there was any or not  
23 impact as a result of the helicopter landing on the  
24 subject site, would it have a negative or positive  
25 or no impact on the surrounding real estate around

1 the Johnson property?

2 MR. BERNSTEIN: I think that would be  
3 addressed to Mr. Winder because while Mr. McNamara  
4 was recognized, it is not in the field of real  
5 estate or evaluation or impact on values, but  
6 aviation, but maybe Mr. Winder can tell us if you  
7 will have a real estate expert or not or not sure?

8 MR. WINDER: I am not sure.

9 CHAIRMAN JOHNSTONE: I gather you were  
10 involved with the application of the Atlantic Health  
11 System, Summit Zoning Board of Adjustment, federal  
12 grant issue, application ZBA09-1434, is that the one  
13 that you are referring to?

14 THE WITNESS: I am not sure of the  
15 numbers, Mr. Chairman, but yes, I think it was only  
16 one.

17 CHAIRMAN JOHNSTONE: Okay, so if I  
18 understand it correctly, we are set up for  
19 August 3rd will be our next meeting. In light of  
20 the fact that we had a large interested group  
21 tonight, I anticipate we will be -- let's put it  
22 this way, this was a very hot night, we weren't  
23 anticipating that, clearly. I am going to ask Ms.  
24 Goodchild if she can look to see if we can use the  
25 other school which has air condition in it to see if

1 we can get past this because the fact that it is hot  
2 now, it is certainly going to be hot in August  
3 Shana, let's see if we can put it there.

4 MS. GOODCHILD: Dan, is it okay if we  
5 announce the location at our next meeting?

6 MR. BERNSTEIN: I think so. We would  
7 announce if there is going to be an on site, we  
8 would announce it at that meeting. The public is  
9 free to attend or to check our website where  
10 Ms. Goodchild will put it, and also we will announce  
11 at next meeting with the location of the August 3rd  
12 meeting. The public is welcome to attend or to  
13 check on our website where Ms. Goodchild will  
14 mention which facility it is at.

15 CHAIRMAN JOHNSTONE: All right and we  
16 have the extension that we need; is that correct?

17 MR. BERNSTEIN: Yes, to August 17th.

18 MR. WINDER: It is correct.

19 CHAIRMAN JOHNSTONE: We have got that.  
20 Does anybody in the audience have any questions  
21 regarding what is going to happen next? Ladies  
22 first.

23 MS. HELD: Did you say that there is  
24 also going to be a meeting on August 17th?

25 CHAIRMAN JOHNSTONE: No.

1                   MR. BERNSTEIN: They are extending the  
2 time for us to act. We like to have a margin of  
3 time and they are saying we extend the time for you  
4 to act to August 17th. Generally what happens  
5 invariably is the time gets extended because the  
6 applicant wants the case to proceed. If they refuse  
7 to extend it or act promptly, the board chairman  
8 will say, well, we will deny it without prejudice,  
9 so generally it gets extended.

10                   MR. JOHNSTONE: Yes, Sir?

11                   MR. COHEN: Mr. Chairman, I just want  
12 to add something. It seems to me that this  
13 application was originally filed in 2009. It was  
14 not resubmitted until 2010. We have been going a  
15 long time now with this and I don't really  
16 understand once we got the ball rolling and the  
17 hearings started rolling in March, I don't  
18 understand why the applicant doesn't have their  
19 noise expert lined up and ready to go and ready to  
20 testify two weeks from tonight? To now put this off  
21 to August just seems like it is really just a slow  
22 death and for instance, why can't Ms. Mackenzie come  
23 in in two weeks?

24                   MR. BERNSTEIN: You always have the  
25 planner, I have done this too long, you always have

1 the planner testify at the end as the clean up  
2 person who summarizes and synthesizes, that is what  
3 Betsy does and all the planners. I don't know why,  
4 but the applicant is entitled to present its case,  
5 as you know, as he sees fit. I think an applicant  
6 loses continuity, so rather than hurt an objector, I  
7 think it hurts an applicant when it is disjointed,  
8 but that is their choice. Maybe if you were  
9 presenting you would present it differently, but the  
10 applicant has the right to do it as they see fit and  
11 it would be inequitable for the board to say, sorry  
12 we are not going to extend the time. If it went to  
13 court, the court would say, Mr. Bernstein, Mr.  
14 Cohen, we are going to let them come back and  
15 continue their case.

16 CHAIRMAN JOHNSTONE: And also  
17 understand that this is not the only application  
18 that is in front of the land use board. We have  
19 other things that we are bottled up. You heard Ms.  
20 Goodchild, at least until -- the next opening we  
21 have is not until August 3rd anyway. So, it is not  
22 like it is their fault one way or the other and they  
23 have a right to choose when they want to come in  
24 with the witnesses and when the witnesses are  
25 available and a whole bunch of things. The bottom

1 line is the board itself is not sitting around with  
2 nothing to do. We are busy every week.

3                   Could you give the microphone to the  
4 person behind you.

5                   MS. COLBECK: Cheryl Colbeck, 21  
6 McCandless Road. So, the next meeting is  
7 August 3rd. Are we having a site visit before that?

8                   CHAIRMAN JOHNSTONE: The answer is  
9 yes, we are going have, it looks like during the  
10 week of June 27th. We are going to get a date from  
11 the applicant prior to our next meeting which is  
12 June 15th. We will announce it on June 15th what  
13 date that is going to be and the time, which I  
14 suspect would be in the early evening, but the  
15 bottom line is that is when we will announce it and  
16 it will also be put on our website.

17                   MR. BERNSTEIN: The public is invited  
18 in this case to say that the public who is  
19 interested in the application has the right to see  
20 it, but not to corner the board members and make  
21 your case, but to see what is going on and the same  
22 with the applicant.

23                   MS. COLBECK: So, the site visit, the  
24 August 3rd meeting and then there might be other  
25 events after that?

1                   CHAIRMAN JOHNSTONE:  There will  
2 definitely be more meetings after that, yes, ma'am.  
3 You want to give the other person over there --

4                   FEMALE AUDIENCE MEMBER:  We heard a  
5 lot of numbers today.  We heard that so many embryos  
6 will be shipped out and so many people are coming  
7 from different countries to use the helipad and we  
8 also heard that the helicopter will be stationed  
9 here only for six months, six months or seven months  
10 someplace else and it will be used three times in a  
11 fortnight.  Can we ask Mr. McNamara when he comes back  
12 at the next meeting to give us the numbers, how many  
13 times they are expected to use the helicopter and too  
14 -- I think I come to up half a year 46 times and then if  
15 the helicopter is being used for medical emergencies  
16 then I think the helicopter should be stationed  
17 there permanently.  Otherwise there is no use if the  
18 helicopter is in the wintertime in Florida or --

19                  CHAIRMAN JOHNSTONE:  You are mixing  
20 different uses.  First of all, you are talking about  
21 different types of helicopters.  You are talking  
22 about the family helicopter and he has given  
23 testimony as to when it will be here.  In addition,  
24 he has also, I suspect, was referring to helicopters  
25 of other people who are invited to the property for

1 various business reasons, to see the embryos and  
2 whatnot, which are another set of helicopters and  
3 then on top of all that, he is also indicating that  
4 they are going to allow the emergency services to  
5 use the helicopter pad as necessary for the purposes  
6 of allowing people --

7 FEMALE AUDIENCE MEMBER: So, we don't  
8 only have the family, we have several different  
9 helicopters?

10 CHAIRMAN JOHNSTONE: Right. You are  
11 going to have multiple different helicopters that  
12 will be used at this property. The primary  
13 helicopter, as I understand is the family  
14 helicopter, but there will be other helicopters used  
15 by people who have business interests in the  
16 property in terms of these embryos, at the very  
17 least nothing, if not something else; is that  
18 correct, sir?

19 THE WITNESS: Except I don't expect  
20 the embryo, they expect the herd to determine whether  
21 they want --

22 CHAIRMAN JOHNSTONE: Right. Anybody  
23 else? Yes, ma'am, your name?

24 MS. HELD: Nancy Held, Woodedge Road.  
25 You said we could possibly ask some questions of

1 clarification to see if it passed your test?

2 MR. BERNSTEIN: I prefer not, Mr.  
3 Chairman. The problem is we want to keep this on a  
4 fair basis. The applicant is disadvantaged, in my  
5 opinion, by having its witness come back and we on  
6 the board and you, who I assume are opposing the  
7 application, have the advantage of looking at the  
8 transcript and preparing your questions. It is  
9 almost an ideal situation. I don't think it would  
10 be fair to say, yes, we are disadvantaging the  
11 applicant, you can ask some questions now. A judge  
12 will look at this possibly, we have attorneys on  
13 both sides here, and the question is what is fair  
14 and I think we as a board want a fair hearing. I  
15 don't think it would be fair to start asking  
16 questions. You always nibble around. We got the  
17 testimony of Mr. McNamara. Our court reporter has  
18 said that she will be preparing an electronic copy.  
19 Ms. Goodchild can e-mail it to you. If you are an  
20 objector, and ask Mr. Cohen, you couldn't ask for it  
21 better than that. It is very good for cross  
22 examination. I think it would be unfair to also --

23 CHAIRMAN JOHNSTONE: Okay, we are  
24 going to take a five minute break. The court  
25 reporter has asked to take a break. I think we will

1 take a five minute break. It is now 9:35, come back  
2 here at 9:40.

3 (Whereupon a brief recess was taken.)

4 CHAIRMAN JOHNSTONE: Okay, we are  
5 going to go back into open session, please. What is  
6 left to be decided at this point in time? What do  
7 we need, anything? Does anybody have any other  
8 questions or comments on the board at this time?

9 MR. MACKIE: I do. My recollection  
10 was at the last meeting on this application that one  
11 of the applicant's representatives said there was  
12 going to be testimony concerning air quality and  
13 noise. Section 3.7 of your environmental impact  
14 statement. Are you going to present an air quality  
15 expert or are you going to have someone else talk  
16 about that or do you know what you are going to do?

17 MR. WINDER: I have not been exposed  
18 to that yet.

19 MR. MACKIE: So, the answer is you  
20 don't know?

21 MR. WINDER: That is the answer.

22 CHAIRMAN JOHNSTONE: Any other  
23 questions from the board? Any other questions from  
24 the audience about what is going to take place?  
25 Seeing nothing -- I see one hand frantically waving.

1 Yes? Come on up here, give us your name and take  
2 the microphone, make it easier.

3 MS. DELRE: Hi, my name is Barbara  
4 Delre. I live at Forkland Farm Tewksbury. I just  
5 have a couple of comments. I don't know if this is  
6 --

7 CHAIRMAN JOHNSTONE: No, comments are  
8 not allowed yet.

9 MS. DELRE: Well, this is about you  
10 said that there was not going to be anything  
11 presented without his written proposal, but you  
12 allowed it, which broke your rule. So, therefore, I  
13 don't understand why you can't allow comments. Now  
14 we are postponing them til August when we have all  
15 sat here today listening to his side of it and  
16 you're bringing it back in August when the majority,  
17 not majority, many people are on vacation. Since we  
18 have already been delayed by their lack of  
19 presenting their written proposals and their  
20 testimony, why can't we just delay it to September  
21 when more people are around.

22 CHAIRMAN JOHNSTONE: Let me just  
23 advise you of what you just stated. Number one, is  
24 that this application will not be done in August.  
25 First of all, the applicant is not even going to be

1 finishing with his case until August. Then we have  
2 the opposition who has already indicated at least  
3 two meetings, which means that we will be going into  
4 September at that point in time, that is number one.

5           Number two is our attorney made the  
6 recommendation to us when this issue came up about  
7 the lack of expert testimony or lack of reports, the  
8 recommendation that we allow the direct examination  
9 tonight since the man was available to give and  
10 since there is no harm in hearing the direct  
11 testimony. We now will get the transcript. There  
12 is no disadvantage to either the board members or  
13 the township people who are interested in this.  
14 They will be able to get the transcript then be  
15 prepared at the next meeting when Mr. McNamara comes  
16 back to testify. So, there is no advantage to  
17 anyone one way or the other. I have already told  
18 you, I don't know whether you heard me or not, I  
19 think I was rather strong with Mr. Winder, the fact  
20 that this man did show up with the report tonight in  
21 spite of what they said, and I made it very clear to  
22 him that this will not happen again and I suspect if  
23 he intends to do it again, at this point in time I  
24 will then say we are not hearing that testimony. I  
25 gave them a break tonight because there was no harm

1 in hearing the testimony of Mr. McNamara. We will  
2 have the opportunity at our leisure to review the  
3 transcript and then be prepared to ask whatever  
4 questions we want at the next meeting, which will be  
5 August 3rd, and the reason why it is August 3rd is  
6 not because of them. It is because we are already  
7 booked up until August 3rd. That is the first  
8 available date that the board has available for this  
9 application. We are booked up with other ones. So,  
10 that is what is going to happen, and as I have  
11 indicated, they are talking about two more meetings  
12 themselves with the application which takes us past  
13 August and we will be into September when the  
14 opposition or opponents to this thing appears. So,  
15 there will be ample opportunity, some people plan on  
16 being on vacation in the month of August and  
17 September, there will be ample opportunity to be  
18 heard with your questions, and even if we had cross  
19 examination tonight, you still would not be allowed  
20 to give comments because as I have indicated very  
21 early on, we do not have comments until all the  
22 testimony and all of the evidence is in and  
23 everybody has had an opportunity to hear all the  
24 evidence and testimony. The time for comments will  
25 be when both sides close and have indicated that

1 they are finished with their presentation, then we  
2 will have a session where we will allow questions. And I  
3 may decide to have that on a totally separate night  
4 where it will be nothing but the opportunity for the  
5 public to comment on this application. So, we will  
6 see where that goes.

7 MS. HELD: Clarification on this  
8 exchange, I think what this lady was indicating is  
9 that she maybe will not be available to come to the  
10 August 3rd meeting and will then there be an  
11 opportunity for people who can't come to the August  
12 3rd meeting because they are on vacation to ask  
13 questions of Mr. McNamara at a later meeting?

14 CHAIRMAN JOHNSTONE: No. It will be  
15 one time, that is when -- again, that is the time  
16 when we have to do it because we have not heard  
17 everything at this point in time for Mr. McNamara.  
18 We still have -- the board hasn't even asked any  
19 questions. Anyone else? Yes, sir?

20 MR. ROSS: Larry Ross, 60 Homestead  
21 Road. I have a couple questions. Can others  
22 introduce a witness in conjunction with coordinating  
23 witness with the instruction of the applicant's  
24 witness so that we have rebuttal to be made at the  
25 same time?

1                   MR. BERNSTEIN: No. There is a  
2 procedure. If you go to court in a civil case or  
3 municipal court, there is a procedure, applicant  
4 goes first, presents its case. After each witness  
5 they are subject to cross examination. Your witness  
6 can be here and listen to the witnesses, but it is  
7 not their play, they have a witness, you have a  
8 witness. They get their chance. The neighbors get  
9 a chance to present the witnesses and they are  
10 subject to cross and then we will probably have  
11 statements by our engineer and our planner at the  
12 end, but you can't have your witness come after  
13 their witness, immediately after that.

14                   CHAIRMAN JOHNSTONE: One of the things  
15 that I have seen, in all fairness, is somebody has  
16 their expert witness there and either that witness  
17 asks question of the expert or he is feeding  
18 questions to the person who is opposing it or  
19 whatever. So, I mean there is a way of doing it in  
20 terms of as long as it follows the format that  
21 Mr. Bernstein has indicated.

22                   MR. ROSS: You interpreted my question  
23 very well. My concern is will we be able to make  
24 sure that we have a witness there at the same time?  
25 So, will there be a schedule for the testimony?

1 Will we know in advance which witnesses and what is  
2 the deadline then for someone else to submit a  
3 report?

4 CHAIRMAN JOHNSTONE: It is a fair  
5 question. As I understand it Mr. McNamara, we will  
6 know in advance who you're going to have at the  
7 August 3rd meeting; is that correct, sir?

8 MR. WINDER: Yes, it is.

9 CHAIRMAN JOHNSTONE: Very simply  
10 contact Ms. Goodchild and she will be able to tell  
11 you probably a week before who is expected to  
12 testify.

13 MR. ROSS: Now, do we have to have our  
14 witness submit their findings at the same time in  
15 advance?

16 MR. BERNSTEIN: Ten days.

17 CHAIRMAN JOHNSTONE: If you're  
18 planning on having a witness to come in to testify  
19 and give his opinion, if that is what you are  
20 planning then the answer is yes. I mean if I am  
21 compelling them to have their reports in within ten  
22 days, the same holds true for --

23 MR. ROSS: All ten days before?

24 CHAIRMAN JOHNSTONE: Ten days before  
25 because that way we have a chance to review it, talk

1 to whoever we feel we need to talk to to get some  
2 idea what we want to do. We may not want to do  
3 anything, but we have always set a limit of ten days  
4 ahead of time to get the reports in.

5 MR. BERNSTEIN: Can I just give a  
6 caveat. If it's a planner, like on their side Ms.  
7 Mackenzie, on Mr. Cohen's side Peter Steck, if they  
8 don't have a written report, they don't have to give  
9 a report with exception there because sometimes the  
10 planner just summarizes everything that has been  
11 said, but if it's a noise expert you are hiring or  
12 someone like that, we would require the same as the  
13 applicant.

14 MR. ROSS: Just one more question. Is  
15 the board open for the procedure for recommending  
16 how that site visit is conducted?

17 CHAIRMAN JOHNSTONE: A recommendation  
18 of how it is conducted?

19 MR. BERNSTEIN: No. Usually what the  
20 board does is it goes there, someone from the  
21 applicant will show us, it could be Mr. McNamara,  
22 that we asked to have it staked out, the two parts  
23 where the helicopters will land and take off and the  
24 parking of the helicopters and the board trumps and  
25 looks at it.

1                   MR. ROSS: How do you, for instance it  
2 was said that we are, that the Ross house is the  
3 closest house to the heliport. That is not the  
4 case. There are 500 houses that are closer, so how  
5 does the board get an opportunity to visit the site  
6 and understand the impact of the noise or other  
7 interferences that that is going to create?

8                   MR. BERNSTEIN: I am biased because  
9 they have selected me to be their attorney, but  
10 this is a very smart group of people. They live in  
11 the town. They are going to see everything  
12 generally. They are not going to miss a trick as to  
13 where the houses are, what the surrounding area is.

14                   CHAIRMAN JOHNSTONE: One of the first  
15 things we do when we go to a location such as this,  
16 at least I do and I suspect others do as well, is I  
17 look at the area around it. For instance in this  
18 particular location in light of the fact that we are  
19 going to have a helicopter in the middle of the  
20 field, I am going to ride around Homestead Road to  
21 get a feel for the houses. I have been over there  
22 on different applications the Johnsons had before,  
23 so I am pretty familiar with it and I am going to go  
24 back over there again, both before and after I see  
25 the site, so I will have a pretty good idea what

1 houses are affected, if any, for any of the issues  
2 that are in question.

3 MR. ROSS: Thank you.

4 MR. BERNSTEIN: You bring up a good  
5 point and I would ask Mr. Winder if you could have  
6 staked out the two areas that were described by  
7 Mr. McNamara so that the board can tell where they  
8 are in relation to the property and the neighbors.

9 MR. WINDER: Mr. Kennedy says yes.

10 CHAIRMAN JOHNSTONE: Anybody else? I  
11 see nothing further at this point in time.

12 (Whereupon the hearing was concluded  
13 at 9:52 in the evening.)

14

15

16

17

18

19

20

21

22

23

24

25

C E R T I F I C A T E

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

I, EILEEN THERESA CORLETT, C.C.R, a Notary Public of the State of New Jersey, Notary ID. # 2108104, Certified Court Reporter of the State of New Jersey, hereby certify that the foregoing is a verbatim record of the testimony provided under oath before any court, referee, board, commission or other body created by statute of the State of New Jersey.

I am not related to the parties involved in this action; I have no financial interest, not am I related to an agent of or employed by anyone with a financial interest in the outcome of this action.

This transcript complies with regulation 13:43-5.9 of the New Jersey Administrative Code.

---

EILEEN THERESA CORLETT, C.C.R.  
License # XIO2077, and Notary  
Public of the State of New  
Jersey #2108104, Notary  
Expiration Date  
December 24, 2013

Dated:

1