

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

WEST AMWELL TOWNSHIP

ZONING BOARD OF ADJUSTMENT

HELD AT: WEST AMWELL TOWNSHIP MUNICIPAL BUILDING

150 Rocktown-Lambertville Road

Lambertville, New Jersey 08530

Date: Tuesday, September 27, 2016

Commencing at 7:30 P.m.

TRANSCRIBED BY: DONNA BRUNCK, CCR

GUY J. RENZI & ASSOCIATES, INC.

CERTIFIED COURT REPORTERS & VIDEOGRAPHERS

GOLDEN CREST CORPORATE CENTER

2277 STATE HIGHWAY #33, SUITE 410

TRENTON, NEW JERSEY 08690

TEL: (609) 989-9199 TOLL FREE: (800) 368-7652

www.renziassociates.com

COPY

2

1 B E F O R E:

2 ROBERT FULPER, Chairman

3 JOHN CRONCE, Vice Chairman

4 BRIAN FITTING

5 JOSEPH ROMANO

6 JOHN ASHTON

7 KEVIN KOVELOSKI

8 RUTH HALL, Secretary

9 STUART PALILONIS, Township Attorney

10 FRANK SABATINO

11 GEORGE FISHER

12 THOMAS DECKER, Engineer

13 JAMES KYLE, Planner

14

15

16

17

18 WELLS & SINGER LAW OFFICE, LLC

19 BY: JONAS SINGER, ESQ.

20 105 Farnsworth Avenue, P.O. Box 226

21 Bordentown, New Jersey 08505

22 Tel: (609) 298-1350

23 Email: jsinger@jerseylawyer.net

24 Attorneys for Vernor/Lubchansky

25

4

1 MR. FULPER: I'm going to call the

2 meeting back to order. Our next item, application

3 is completeness determination of Vernor/Lubchansky

4 (A-Z Venue Management, LLC), Block 11, Lot 28, 16

5 Mill Road. Is the applicant here?

6 MR. SINGER: Yes. Good evening, Mr.

7 Chairman, members of the board. Jonas Singer

8 appearing on behalf --

9 MR. FULPER: You are going to need to

10 speak up. We have a room full of people, and a lot

11 of people are saying they can't hear what's being

12 said. If you can't speak loud enough, you may have

13 to turn your table. Everybody needs to hear what

14 you are saying.

15 MR. SINGER: Good evening, Mr.

16 Chairman, member of the board. My name is Jonas

17 Singer. I appear on behalf of the applicant, Zach

18 Lubchansky. To my right is Arnold Lakind,

19 co-counsel from Szaferman Lakind. To my left is

20 Zach Lubchansky.

21 This evening I have three witnesses,

22 Mr. Lubchansky and James Miller, my planner, and an

23 individual regarding sound equipment that has been

24 installed at the site.

25 MR. FULPER: So, first of all, let's

3

1 I N D E X

2

3 WITNESS	PAGE
4	
5 ZACHARY LUBCHANSKY	
6 EXAMINATION BY MR. SINGER	11
7 EXAMINATION BY MR. LANZA	85
8	
9	
10	
11 E X H I B I T S	
12	
13 ID DESCRIPTION PAGE	
14 B-1 Packet of exhibits.....	17
15 B-2 Photographs of decibel readings.....	59
16	
17 (EXHIBITS NOT ANNEXED HERETO)	
18	
19	
20 R E Q U E S T S	
21	
22 DESCRIPTION PAGE-LINE	
23 REQUEST -	
24	
25	

5

1 get some stuff in order.

2 VOICE: We can't hear in the back.

3 MR. DECKER: I received from

4 Mr. Singer a letter dated September 14th which

5 provided clarification on the septic certification

6 that it is a 2000-gallon-per-day system, and also in

7 his letter he references that there are with regards

8 to the off-site parking, that there are 82 parking

9 spaces available. This is at the Hunterdon County

10 Educational Services Commission building on Route

11 179. I don't have any mapping that shows the

12 parking or anything. It's purely in the letter

13 stipulating that. And the letter also states that

14 the property is primarily for wedding venues.

15 My letter of April -- I'm sorry,

16 August 15th completeness review identified two items

17 and they are items, they start on page 2, Item 3-H

18 and Item 9. Item 3-H deals with the location of

19 features pertinent to the application and that a use

20 variance is requested for assembly use on the

21 property and that proofs are to be provided

22 demonstrating that the site is particularly well

23 suited or particularly suited for the proposed use.

24 Again, I don't have anything that

25 shows parking on-site or off-site. We do have the

6

1 agreement from the Education Service Commission
2 stating that they are providing off-site parking and
3 the letter from Mr. Singer saying that they have the
4 82 parking spaces available.
5 Item No. 9 was with the -- with
6 regards to the septic. They have demonstrated that
7 the system itself is designed for 2,000 gallons.
8 The question that I had in addition to that is what
9 is the expected capacity. How many people are
10 anticipated for events at the site and so forth. I
11 do not have that information. What the board can do
12 is they can grant completeness based on the
13 understanding that this information would be
14 provided through testimony or through any additional
15 information that the board may require of the
16 applicant during the course of the public hearing,
17 if that's the board's pleasure to move this
18 application along and get it to a public hearing.
19 That's for the board to determine.
20 MR. FULPER: Board, you heard the
21 engineer's recommendation.
22 MR. FITTING: That's for parking and
23 waste water.
24 MR. FULPER: Two issues outstanding
25 and pertinent I think you also said layout of the

7

1 property.
2 MR. DECKER: Layout of the property,
3 One of the things when Jim and I do review letters
4 for the board, typically knowing what the
5 anticipated site capacity is as far as people and so
6 forth, help us to present a review to the board. We
7 don't have that. Again, if the board wishes, they
8 could allow that to be provided through testimony
9 and we can address it at that time.
10 This is a use variance application.
11 It's not a site plan, although I believe a site plan
12 would be required should a variance be granted, so
13 the level of proofs are, you know, we are not
14 getting into the nuts and bolts of the actual site
15 design. However, they do need to demonstrate that
16 the site is suitable for the proposed use.
17 MR. FULPER: So what's the board's
18 pleasure? You want to deem it complete and move
19 into the public hearing?
20 MR. SINGER: If I may, one issue
21 dealing with gallonage, we did submit, there is a
22 septic system on-site, 2,000 gallons. Testimony
23 will be from the applicant that the system itself is
24 not used during the banquets. That system merely
25 deals with the two residential homes that are on the

8

1 site, so that's -- I offer that as part of the
2 testimony in your deliberation.
3 MR. FULPER: What the engineer said
4 is that during testimony we'll hear this kind of
5 stuff to disseminate whether or not that is
6 information we need and how much if we do need.
7 MR. DECKER: If you don't get enough
8 information from testimony, you are still within
9 your rights to request that information by plan or
10 report or other --
11 MR. FITTING: We still have to waive
12 it now -- not waive it, but, you know.
13 MR. KYLE: You are waiving it for
14 completeness.
15 MR. DECKER: You are waiving these
16 two items for completeness purposes only with the
17 understanding that the applicant would need to
18 provide that information.
19 MR. FITTING: If they provide some
20 other source, then we say we don't need it.
21 MR. FULPER: Do I hear a motion to
22 that effect, Brian?
23 MR. FITTING: I mean, we need to get
24 this thing going.
25 MR. FULPER: Right.

9

1 MR. FITTING: I think that's
2 acceptable to waive those for completeness purposes
3 and pending testimony whether or not we need this
4 waste water, I would say yes.
5 MR. FULPER: So your motion is to
6 deem it complete and waiving what two items?
7 MR. FITTING: Item 9, whatever the
8 parking one was and site plan eventually, I guess.
9 MR. FULPER: Speak --
10 MR. FITTING: For completeness.
11 MR. FULPER: We have to speak loud.
12 A lot of the residents --
13 MR. FITTING: We are not waiving them
14 having to do it. We are waiving it so --
15 MR. DECKER: For completeness
16 purposes only.
17 MR. FULPER: I have a motion? Do I
18 have a second?
19 MR. ROMANO: I'll second.
20 MR. FULPER: Joe seconds it. Roll
21 call on the motion.
22 MS. HALL: Cronic?
23 MR. CRONCE: Aye.
24 MS. HALL: Fitting?
25 MR. FITTING: Aye.

10

1 MS. HALL: Romano?
 2 MR. ROMANO: Aye.
 3 MS. HALL: Hall?
 4 MS. HALL: Aye.
 5 MS. HALL: Ashton?
 6 MR. ASHTON: Aye.
 7 MS. HALL: Koveloski?
 8 MR. KOVELOSKI: Aye.
 9 MS. HALL: Fulper?
 10 MR. FULPER: Aye.
 11 The notices are all in order?
 12 MS. HALL: You had the notices from
 13 the first meeting. You took them to review them.
 14 MR. PALILONIS: Yes, they were in
 15 order.
 16 MR. FULPER: They are in order?
 17 MR. PALILONIS: They were in order.
 18 MR. FULPER: So we've deemed you
 19 complete. Your notices are in order. So the
 20 applicant can start. You need to speak loud. I
 21 have a hard time hearing you. Your back is to the
 22 group, and they have a hard time hearing you.
 23 That's not amplification. That's
 24 strictly for recording purposes.
 25 MR. SINGER: Is there any

12

1 for a place to get married.
 2 Q. And when was that?
 3 A. That was in the fall of 2014. It's
 4 when we first found it.
 5 Q. And how did you find it?
 6 A. A local wedding planner pointed us in
 7 the direction of Brookmill Farm. She told us that
 8 they had been doing events there, and she thought we
 9 might enjoy the property.
 10 Q. Did you visit the property?
 11 A. We did.
 12 Q. And did you meet with the owner?
 13 A. We did.
 14 Q. Who was the owner?
 15 A. Jim and Jean Vernor.
 16 Q. And did you have your wedding at
 17 Brookmill Farm?
 18 A. We did.
 19 Q. When was that?
 20 A. October 11th of 2015.
 21 Q. When did you begin discussing with
 22 Mr. Vernor the possible purchase of the farm --
 23 A. Shortly --
 24 Q. -- of the facility?
 25 A. Shortly after visiting we talk about

11

1 amplification in the room?
 2 MR. FULPER: There is no
 3 amplification in the room.
 4 MR. SINGER: First, I took the
 5 liberty of putting together a package of exhibits
 6 that I intend to introduce. I thought it would be
 7 quicker and more efficient. I've given you a table
 8 of contents, so we'll be referring to these exhibits
 9 during the evening.
 10 ----
 11 ZACHARY LUBCHANSKY, 10 Mill Road, Lambertville, New
 12 Jersey, having been first duly sworn, testified as
 13 follows:
 14 ----
 15 EXAMINATION BY MR. SINGER:
 16 MR. PALILONIS: State your name and
 17 address for the record.
 18 THE WITNESS: Zachary Lubchansky, 16
 19 Mill Road, Lambertville, New Jersey.
 20 Q. Mr. Lubchansky, how are you
 21 affiliated with Brookmill Farm?
 22 A. I'm currently in contract to purchase
 23 it.
 24 Q. And how did you find Brookmill Farm?
 25 A. My wife and I were actually looking

13

1 coming up with a purchase agreement together.
 2 Q. And did you eventually enter into a
 3 purchase agreement?
 4 A. We did.
 5 Q. For what price?
 6 A. \$1.5 million.
 7 Q. And have you paid Mr. Vernor monies
 8 toward that purchase?
 9 A. I have.
 10 Q. And how much have you paid to date?
 11 A. In excess of \$300,000.
 12 Q. And have you secured a bank
 13 commitment allowing you to purchase the property?
 14 A. I have.
 15 Q. And are they prepared to close
 16 subject to these proceedings?
 17 A. They are.
 18 Q. Now, prior to entering into the
 19 purchase agreement, what sort of due diligence did
 20 you do in order to confirm that the site allowed
 21 banquet facilities to occur?
 22 A. We contacted, I contacted the zoning
 23 secretary who directed me to the zoning officer, and
 24 I had a few conversations on the phone and then
 25 confirmed our conversations with a letter to the

14

1 zoning officer, Mr. Chris Rose.
2 Q. And I show you what is identified as
3 Exhibit 3 and ask you if that is the letter that you
4 submitted to Mr. Rose?
5 A. That is.
6 Q. It's dated March 31, 2015?
7 A. That's correct.
8 Q. And in it did you specifically
9 indicate that you intended to use the site for
10 banquets?
11 A. I did.
12 Q. Were you aware that banquets had
13 taken place at the site prior to your conversation
14 with Mr. Rose?
15 A. I was.
16 Q. And you knew that from whom?
17 A. From the owner and the wedding
18 planner.
19 Q. And during 2015, did you manage the
20 site and conduct banquets at the site?
21 A. We did.
22 Q. And how many did you -- how many
23 banquets did you perform or rent?
24 A. We had six banquets, including my
25 own.

15

1 Q. During the year 2015?
2 A. Correct.
3 Q. Did you receive any notice from
4 Mr. Rose during 2015 that the site was not -- that
5 the use wasn't permitted?
6 A. I did not.
7 Q. Okay. Now, in 2016, did you also --
8 did you receive a letter from Mr. Rose which I've
9 identified as Exhibit 4?
10 A. I did.
11 Q. And what was the purpose of that
12 letter?
13 A. The purpose of that letter was a few
14 extra safety measures that he wanted us to take in
15 lieu of having had a recent fire during a
16 non-banquet stay.
17 Q. And did you comply with the requests
18 that he outlined in his letter of April 12th?
19 A. I did.
20 Q. And did you continue to book banquets
21 at the site during the year 2016?
22 A. I did.
23 Q. And how many banquets did you book
24 for 2016?
25 A. 22 banquets for 2016.

16

1 MR. FULPER: How many?
2 THE WITNESS: 22, sir.
3 Q. And did there come a time that you
4 received a letter from Mr. Rose indicating that the
5 property never received a conditional use and you
6 needed to come before this board to make application
7 for a conditional use?
8 A. I did.
9 Q. Is that letter dated April 26
10 attached as Exhibit 5?
11 A. It is.
12 Q. And specifically he's requesting that
13 you apply for a conditional use as an assembly,
14 correct?
15 A. That's correct.
16 MR. PALILONIS: Before we proceed any
17 further, we should mark this as a package of
18 exhibits or not?
19 MR. SINGER: Well, I think I would do
20 that at the end, but I've taken the liberty of
21 labeling each exhibit. It's my intent to, you know,
22 have it placed, you know, as part of the record.
23 MR. PALILONIS: As 19 separate
24 exhibits?
25 MR. SINGER: Correct.

17

1 MR. PALILONIS: Okay.
2 MR. SINGER: I thought it would be
3 easier than trying to mark them.
4 MR. PALILONIS: You've been referring
5 to exhibits that are not even marked.
6 MR. SINGER: Well, I think -- my
7 intent is that this Exhibit 5 be marked as Exhibit
8 5.
9 MR. PALILONIS: Right.
10 MR. SINGER: We could do the entire
11 package as one exhibit if that's -- and we'll
12 just --
13 MR. PALILONIS: Exactly. That's what
14 I was kind of getting at. And we'll just call it as
15 whatever, B-1.
16 (Exhibit B-1, Packet of exhibits, is
17 received and marked for identification.)
18 Q. Mr. Lubchansky, referring to Exhibit
19 5 of B-1, as a result of receiving this letter, did
20 you make application?
21 A. I did.
22 Q. Is that the application that's being
23 heard this evening?
24 A. It is.
25 Q. As far as you know, did Mr. Vernor

18

1 conduct banquets at the site prior to you becoming
2 manager of Brookmill Farm?
3 A. He stated that he had, yes.
4 Q. And do you know how long he had
5 conducted banquets prior to your arrival?
6 A. I believe for three years prior to my
7 arrival.
8 Q. And so you continue presently to
9 lease the property for banquets, correct?
10 A. That's correct.
11 Q. Now --
12 MR. PALILONIS: Excuse me, who leases
13 the property?
14 MR. SINGER: Okay, I'll clarify that.
15 I've identified this exhibit as the
16 variance and plot plan, Exhibit 1. It's actually
17 the variance and plot plan that Mr. Vernor submitted
18 in 2014 when he was required to come in for some
19 variances dealing with after Superstorm Sandy and he
20 rebuilt the pool house and some other issues dealing
21 with the stream. So this is the same exhibit.
22 MR. FULPER: What exhibit is this?
23 MR. SINGER: This is Exhibit 2 -- I'm
24 sorry, Exhibit 1, variance and plot plan, but it's a
25 separate exhibit that was part of your package. It

19

1 was submitted as part of your application. Do
2 members of the board have it? Yeah, I believe I see
3 it on your table.
4 Q. Zach, would you describe the property
5 going from north to south?
6 A. So the northernmost part starts with
7 a tier garden behind the main estate house.
8 MR. FULPER: Make sure you speak loud
9 and remember that, you know, the mic doesn't see
10 what you are talking about, so try to describe it
11 with some sort of placement, you know, north on the
12 property or wherever it's located so that for the
13 record it's easy to understand.
14 THE WITNESS: Yes, sir.
15 MR. FULPER: Thank you.
16 A. So the northernmost structure on the
17 property is a tiered garden which is directly behind
18 the main estate house, directly north of the main
19 estate house. Just east of the main estate house is
20 a cottage house, and southeast of that is a
21 three-car garage, and east of that is a storage
22 building. Other structures moving south --
23 Q. Excuse me, is the storage building or
24 barn?
25 A. This is a storage building.

20

1 MR. FISHER: Is it labeled house?
2 THE WITNESS: It is labeled house,
3 yes.
4 A. From there, from the structure
5 labeled house, which is a storage building, south of
6 the creek is a barn and then coming back up west
7 there's a structure, I believe it's called a stone
8 building, I think it's labeled. I refer to it as
9 the mill house. And then from the mill house
10 there's a pool and then a pump house, which I'll
11 refer to as pool house, just where the pool filter
12 and heater is kept. And then south of that is a
13 tennis court. Other than that, the property is
14 largely treed and sloped and has many different sort
15 of fielded areas and natural, you know, left for
16 wilderness space as well.
17 Q. What's the total size of the tract?
18 A. The property is just shy of 14 acres.
19 Q. And the -- where do you conduct the
20 banquets?
21 A. The reception area for banquets we
22 actually use the tennis court as a pad site.
23 Q. And you have a tent above the pad
24 site?
25 A. Correct, there's a tent placed on the

21

1 pad site. On the tennis court.
2 Q. Thank you.
3 THE WITNESS: Mr. Chairman, was that
4 clear enough for you?
5 MR. FULPER: Yes, thank you.
6 Q. Access to the property is how?
7 A. Access to the property is made
8 through the main driveway.
9 Q. Is that driveway -- what's the
10 material of that driveway?
11 A. It's paved.
12 Q. And the width of that driveway is
13 shown on the plan, correct?
14 A. It is.
15 Q. And most of it is 24, 24-1/2 feet
16 wide?
17 A. That's correct.
18 Q. Is the driveway sufficient in width
19 to accommodate emergency vehicles?
20 A. It certainly is.
21 Q. How do you know that?
22 A. We had a small fire this past April,
23 and emergency vehicles responded quickly and kept it
24 to just the porch.
25 Q. And do you recall how many fire

1 trucks were on the site?
 2 A. I believe there were three fire
 3 trucks in the driveway and then more out stationed
 4 on Mill Road.
 5 Q. Now you state that you conduct
 6 banquets at the site, correct?
 7 A. That's correct.
 8 Q. Do you lease out the property to
 9 individuals to conduct their own banquets?
 10 A. We do.
 11 Q. Do you provide any of the catering
 12 for those events?
 13 A. I do not.
 14 Q. Who does?
 15 A. We have a preferred list of caterers
 16 at the property.
 17 Q. Besides banquets, I assume most of
 18 your banquets are weddings?
 19 A. That's accurate.
 20 Q. What other uses does the property
 21 enjoy?
 22 A. We've had family vacations, family
 23 reunions. We've had video shoots. We've had yoga
 24 retreats and corporate retreats, seminars.
 25 Q. Now there are two homes on the site?

1 A. There are.
 2 Q. And would you describe each of them
 3 for the board?
 4 A. Sure. The main estate house has four
 5 bedrooms, all of which have an ensuite bathroom as
 6 well as a powder room, a full kitchen, a dining area
 7 and a living room area. The master bedroom is quite
 8 spacious and has a sun room just off of it
 9 overlooking the tiered gardens in the back, making
 10 it especially suitable for a bridal suite.
 11 The cottage house has three bedrooms
 12 and a private den. That has two shared bathrooms, a
 13 kitchen and sort of an extended eat-in kitchen, and
 14 then a screened room off of the kitchen.
 15 Q. And do -- are both homes connected to
 16 the same septic system?
 17 A. They are.
 18 Q. That's the 2,000-gallon system that
 19 is on-site, correct?
 20 A. That's correct.
 21 Q. Are the homes themselves used in the
 22 preparation of food for the banquets?
 23 A. No. Definitely not.
 24 Q. When you rent the home itself, do you
 25 rent out individual rooms or do you rent out the

1 entire facility?
 2 A. No, we rent out the property in the
 3 sense that one might rent out a beach house or
 4 mountain house, so you can rent all of it or none of
 5 it.
 6 Q. Okay, but you don't -- so it's one
 7 family, one gathering renting the two homes at one
 8 time?
 9 A. That's correct.
 10 Q. Now, how do you decide which vendors
 11 are permitted on-site?
 12 A. We put our caterers through a pretty
 13 vigorous vetting process. Sometimes they contact us
 14 first. Sometimes we've sought them out, but usually
 15 we begin by, you know, checking them out digitally
 16 from their past reviews as well as their own
 17 personal website. I personally have experience in
 18 the catering industry, so some of them I've heard of
 19 from being in the industry. We then require them to
 20 come to the property and have a walk-through so they
 21 have a full understanding of the responsibilities
 22 during the events and then often make sure that I
 23 have not only a private tasting but check them out
 24 live in action at another venue.
 25 We also ensure that all of our

1 caterers are full-service caterers that do off-site
 2 outdoor events.
 3 Q. Do they provide you with insurance?
 4 A. They do.
 5 MR. PALILONIS: Excuse me. Who is
 6 engaging the caterer?
 7 THE WITNESS: I am.
 8 Q. You engage the caterer or does the
 9 party who is having the event engage the caterer?
 10 A. Forgive me. I thought you meant in
 11 terms of the vetting process. Do you mean in terms
 12 of who's choosing the caterer for the banquet?
 13 MR. PALILONIS: Who signs the
 14 contract?
 15 THE WITNESS: Oh, the guest hires the
 16 caterer.
 17 Q. So you just rent the property for the
 18 event?
 19 A. That's correct.
 20 Q. And you have a list of preferred
 21 caterers and vendors?
 22 A. That's correct.
 23 Q. And besides the actual catering, who
 24 brings in the tables, the chairs, the dishware, you
 25 know?

1 A. We have an exclusive contract with a
2 rental company that is also familiar with the
3 property.
4 Q. And they bring in all of the chairs,
5 tables that are necessary?
6 A. Yeah, yes, they do. They bring in
7 whatever the guest orders or the caterer orders. We
8 merely restrict the choice.
9 Q. And how is the cleanup handled? How
10 is, you know, the trash, the cleanup of the dishes
11 after, you know, at the end of the event, how does
12 that occur?
13 A. Vendors are responsible for taking
14 their trash with them, so the caterer would take any
15 trash from the event, and the rental company would
16 come and pick up any of their rented materials.
17 Q. Do they do any cleaning of dishes or
18 silverware on-site after the event?
19 A. No.
20 Q. What do they do?
21 A. At best, plates are scraped into
22 trash cans and then re-stacked in the delivery
23 containers and then they are picked up by the rental
24 company usually the morning after an event.
25 MR. PALILONIS: Excuse me, again, who

1 signs the contract with the rental company?
2 THE WITNESS: The caterer or the
3 guest does.
4 Q. Are there public bathrooms on-site?
5 A. There are.
6 Q. And how -- what sort of bathrooms do
7 you use?
8 A. We use portable restroom trailers.
9 Q. I show you what's been marked as
10 exhibit -- part of Exhibit 6. Are these the
11 restrooms that are brought on-site?
12 A. Yes.
13 Q. And who cleans the restrooms after an
14 event?
15 A. Often I do.
16 Q. And are they pumped on a regular
17 basis?
18 A. They are.
19 Q. So they are a portable trailer for
20 the guests to use?
21 A. That's correct.
22 Q. Are they handicapped accessible?
23 A. This model in particular is not.
24 Q. Do you have the availability of
25 handicapped accessible bathrooms?

1 A. Absolutely.
2 Q. And do you bring them on-site when
3 necessary?
4 A. When requested, we can get them, yes.
5 Q. Does -- do the people who, the guests
6 who rent the property advise you in advance whether
7 they need handicapped accessible bathrooms?
8 A. In theory they would. We have not
9 yet been requested to get them.
10 Q. Are the homes, either of the homes
11 use -- are their bathroom facilities used by the
12 guests during events?
13 A. No. The homes are strictly for the
14 guests staying in them. The bathrooms are not to be
15 used during banquets.
16 Q. And so when you say the homes, like
17 the wedding party stays within the home usually
18 during the events?
19 A. That's correct.
20 Q. Now, question as to parking for the
21 banquets. Where do you presently maintain parking?
22 A. Currently off-site parking is at 1422
23 Route 179, Lambertville, New Jersey. It's the site
24 of the HESC building.
25 Q. And how far is that site from your

1 property?
2 A. It's approximately one mile.
3 Q. And do you have a parking agreement
4 with the Hunterdon County Educational Service
5 Commission?
6 A. We do.
7 Q. Is that what is marked as Exhibit 7
8 of B-1?
9 A. It is.
10 Q. And in this parking agreement allows
11 you to use that site on weekends, correct?
12 A. That's correct.
13 Q. And you pay obviously for that use?
14 A. We do.
15 Q. Now, in anticipation of this meeting,
16 did you request a letter from the Educational
17 Service Commission indicating that the use was
18 continuing? I show you what is marked Exhibit 8, a
19 letter dated June 3, 2016?
20 A. I did.
21 Q. And does this letter indicate that
22 they've had a good relationship with you during the
23 events leading up to June of 2016?
24 A. It does.
25 Q. And the last sentence reading, "We

30

1 have been pleased with the relationship and the
2 additional funds are beneficial to helping balance
3 our budget"?

4 A. Correct.

5 Q. "We look forward to a continued
6 positive relationship," correct?

7 A. Correct.

8 Q. Now have you received notice from the
9 school that your contract is being terminated?

10 A. I have.

11 Q. And is it the letter of termination
12 marked as Exhibit 10 to B-1?

13 A. It is.

14 Q. And that allows you to remain on-site
15 and park through November 20th of 2016, correct?

16 A. That's correct.

17 Q. Now, are you aware of why your
18 parking agreement was terminated?

19 A. I am.

20 Q. What happened?

21 A. Corrine Steinmetz, who is the
22 business administrator who I've been dealing with
23 throughout this process, contacted me and let me
24 know that she was contacted by the township and
25 informed that they were not to be permitted to be

31

1 renting the parking lot to me anymore.

2 Q. Did she also indicate to you that the
3 issue was presented, will be presented to the board
4 of the school and invited you to attend that board
5 meeting?

6 A. She did.

7 Q. Did you attend that board meeting?

8 A. I did.

9 Q. Did I attend it with you?

10 A. You did.

11 Q. And at that board meeting, did they
12 indicate to you why they were terminating the
13 agreement?

14 A. They did not.

15 Q. What did they do?

16 A. They asked me a couple questions
17 pertaining to receiving noise complaints at the
18 property and adjourned for a private session, called
19 us back in and unanimously voted to cancel the
20 contract.

21 Q. How do you know that the township
22 contacted the school board to cancel the contract?

23 A. I received an invoice from the ESC's
24 legal department and paid it.

25 Q. Is that what's marked as Exhibit 9?

32

1 A. It is.

2 Q. And that invoice is dated July 29,
3 2016, correct?

4 A. Correct.

5 Q. And it's from the attorneys for the
6 school board, correct?

7 A. Correct.

8 Q. And that invoice shows on July 7th
9 the attorney for the school board, Michael Silvachi,
10 communicated with Ms. Steinmetz regarding a land use
11 dispute, correct?

12 A. Correct.

13 Q. Then on July 8, 2016, another
14 communication between him and Mr. Faherty, the
15 township attorney, correct?

16 A. Correct.

17 Q. And it references use of school's
18 parking lot?

19 A. Correct.

20 Q. And immediately after this, these
21 conversations, you were notified that the board was
22 considering canceling the contract and eventually
23 did cancel your contract, correct?

24 A. Correct.

25 Q. Now is it your request of this board

33

1 that the approval that you seek will be conditioned
2 upon you obtaining replacement parking for the site?

3 A. It is.

4 Q. The site itself can't accommodate the
5 parking, can it?

6 A. No, it cannot, not safely.

7 Q. So but for the contact between the
8 Township of West Amwell and the school board, your
9 contract would continue, wouldn't it?

10 A. It would.

11 Q. In fact, they indicated immediately
12 prior to that contact that they had a good
13 relationship with you, correct?

14 A. Correct.

15 Q. Now, getting back to the operation
16 itself, do you receive deliveries from outside
17 vendors during the week?

18 A. Sometimes we do.

19 Q. Are you present during the week to
20 receive those deliveries?

21 A. Most often I am.

22 Q. And what sort of deliveries do you
23 receive?

24 A. Usually it's just the rental items,
25 so dishes, silverware, glassware, tables, chairs.

34

1 things like that.

2 Q. And during events, during banquets,

3 are there employees or people who are point people

4 besides yourself on-site during the events?

5 A. Absolutely.

6 Q. And is someone, either yourself or

7 other members, present during the entire event?

8 A. Yes.

9 Q. Is the site cleaned up after the

10 banquets?

11 A. It is.

12 Q. Is it cleaned up that evening or when

13 is it --

14 A. The site is cleaned up that evening

15 and throughout that evening, and then the day after

16 we go to touch up anything that might have been

17 missed.

18 Q. Now, the planner, township planner,

19 has indicated that there are certain buildings --

20 let me step back.

21 We are applying for conditional use,

22 correct?

23 A. Correct.

24 Q. We believe that the use of the

25 banquet facility falls within the assembly use as a

35

1 conditional use within the zone, correct?

2 A. Correct.

3 Q. You are in the RR-5 zone?

4 A. Correct.

5 Q. And that zone has certain conditions

6 that must be met to allow it to be permitted,

7 correct?

8 A. Correct.

9 Q. Now, the first is that the minimum

10 lot size be five acres. Your tract is almost 14

11 acres?

12 A. That's correct.

13 Q. Four of which shall be buildable,

14 correct?

15 A. Correct.

16 Q. Now, have you obtained a letter from

17 Hopewell Valley Engineering indicating that the site

18 has more than four acres of buildable land?

19 A. I have.

20 Q. And is that marked as Exhibit 19 to

21 B-1?

22 A. It is.

23 Q. And in fact, you have 5.6 acres of

24 buildable area on the site, correct?

25 A. Correct.

36

1 Q. Also, besides the letter that we've

2 received, I have plans that we obtained from

3 Hopewell Valley that I marked on B-1 as Exhibit 19

4 -- I'm sorry, the letter's Exhibit 18, and these

5 plans are Exhibit 19.

6 MR. PALILONIS: Mr. Singer, at what

7 point are we going to engage the issue of whether or

8 not what you are doing could be construed as an

9 assembly?

10 MR. SINGER: I thought I'd first

11 present the factual background and then allow my

12 planner to testify with respect to the use of how

13 the facility, how the banquet facilities can be

14 assembly use.

15 MR. PALILONIS: Okay.

16 MR. SINGER: Is there another way in

17 which you --

18 MR. PALILONIS: No. I mean, I just

19 want to make sure that we, you know, know what road

20 we are going down, that's all.

21 Q. So the minimum lot size, five acres,

22 four of which are buildable, correct?

23 A. Correct.

24 Q. Minimum lot size five acres, four of

25 which shall be buildable. It says principal or

37

1 access by buildings should be located no less than

2 75 feet from any front, side or rear property line

3 within, or within the building setbacks, whichever

4 is greater, correct?

5 A. Correct.

6 Q. And the planner points out that there

7 are three structures that don't meet the 75-foot

8 setback. One is the barn. Do you use the barn for

9 any of the banquets that are conducted on the site?

10 A. No.

11 Q. What's the barn used for?

12 A. The barn is used for a chicken coup

13 and storage.

14 Q. Do you have chickens on-site?

15 A. We do.

16 Q. Did you once have animals on-site?

17 A. We did.

18 Q. What did you do with them?

19 A. We found them different homes.

20 Q. Okay. So the barn itself is not used

21 for any venue events?

22 A. No.

23 Q. The second building is the gazebo.

24 The gazebo is where?

25 A. It's in the -- it's just northwest of

1 the main estate house.
 2 Q. So it's in the corner, the northwest
 3 corner of the property?
 4 A. Yes.
 5 Q. And is that structure used during any
 6 of the banquet events?
 7 A. No.
 8 Q. And the third is what I believe you
 9 referred to prior as the mill house?
 10 A. Correct.
 11 Q. Where is the mill house?
 12 A. The mill house is located south,
 13 almost directly south of the main estate house, in
 14 between the mini estate house and the pool.
 15 Q. What do you use the mill house for?
 16 A. We don't use the mill house during
 17 banquets. It's pretty. Often people have a
 18 cocktail hour outside of the mill house in that area
 19 towards the pretty backdrop.
 20 Q. The building itself isn't used during
 21 any banquets?
 22 A. No.
 23 Q. Do you have an idea of how old the
 24 mill house is?
 25 A. I would guess that that house is well

1 over a hundred years old, that structure.
 2 Q. What is it made of?
 3 A. It's predominantly stone.
 4 Q. So the three nonconformities that
 5 you've identified are not used during any banquet
 6 facility?
 7 A. Correct.
 8 MR. PALILONIS: Excuse me, what is
 9 the point of this testimony?
 10 MR. SINGER: As a D-3 variance, we
 11 believe that the nonconformities do not affect the
 12 suitability of the site for the use.
 13 MR. PALILONIS: For assembly use?
 14 MR. SINGER: For assembly use.
 15 MR. PALILONIS: So so far you've said
 16 you are not assembling anywhere.
 17 MR. SINGER: No, the assembly use
 18 allows banquets on-site. And so far, we've
 19 testified that we have banquets on-site.
 20 MR. FITTING: It's a permanent
 21 facility?
 22 MR. SINGER: No.
 23 MR. FITTING: All the permanent
 24 facilities you are saying aren't being used?
 25 MR. SINGER: No. The facilities that

1 are being used are.
 2 MR. FITTING: Is the property.
 3 MR. SINGER: Is the property.
 4 MR. PALILONIS: Why don't we just
 5 read the definition, try to short circuit this.
 6 MR. SINGER: "A use which is a
 7 permanent facility, building, structure, or
 8 installation which is provided for civic,
 9 educational, political, religious or social
 10 assemblage purposes. This term shall include
 11 non-profit or for-profit facilities and shall
 12 include but not be limited to houses of worship,
 13 banquet facilities, lodges, fraternal organizations,
 14 civic organizations and funeral homes."
 15 We submit that we fall squarely
 16 within the definition as a banquet facility, and
 17 that it is a permanent facility or installation.
 18 Doesn't have to be a building.
 19 MR. FITTING: You are testifying to
 20 temporary bathrooms that you bring on-site.
 21 MR. SINGER: No, we are testifying
 22 that we bring in trailer, a trailer during the
 23 banquet facility -- during the banquets.
 24 MR. FITTING: So you bring in a
 25 temporary structure to satisfy the definition of the

1 banquet?
 2 MR. SINGER: No, the use itself is a
 3 permanent use.
 4 MR. FITTING: If you did not bring
 5 outside equipment onto the property, you would not
 6 have a proper facility.
 7 MR. SINGER: I don't think that is
 8 the -- I don't think that's the issue within the
 9 definition. You know, you can have a VFW hall that
 10 rents tables and they bring tables into their
 11 facility to conduct banquets. They may have a
 12 building, but it's no different than what we do. We
 13 bring in outside equipment to our permanent
 14 facility. It's no different than any other.
 15 MR. ASHTON: That's a bit different.
 16 It's difficult to have an assembly, more difficult
 17 without bathroom facilities than it is --
 18 MR. SINGER: That's why we bring in
 19 bathroom facilities that are self-contained.
 20 MR. FITTING: They can legally eat
 21 with a plate in their hand. You cannot legally go
 22 to the bathroom outside.
 23 MR. SINGER: That's why we have
 24 bathroom facilities on-site.
 25 MR. FITTING: That you bring from

42

1 off-site.
2 MR. ASHTON: He's addressing the
3 permanent nature of it.
4 MR. LAKIND: May I respond to that.
5 Mr, Chairman?
6 MR. FULPER: Speak loud.
7 MR. LAKIND: I'm Arnold Lakind with
8 the law firm of Szaferman Lakind. We paid a lot of
9 attention to this ordinance which you mentioned,
10 which has the word permanent facility. In our view
11 permanent only modifies the word that follows it
12 before the comma. The ordinance doesn't read
13 permanent facility, permanent building, permanent
14 structure. In fact, the definition of structure
15 appears in your ordinance, and it's the following:
16 "Anything constructed or erected which requires
17 permanent or temporary attachment to something which
18 is erected on the ground and designed, intended or
19 arranged for housing, shelter, enclosure and/or
20 structural support for persons, animals, et cetera."
21 So the use of the word structure in
22 your ordinance has to be given some meaning, because
23 every word in an ordinance or statute has to be
24 given a meaning. And when you go to the definition
25 in your ordinance of the word structure, it says

43

1 permanent or temporary, so even where the board to
2 reject the interpretation proposed by my colleague.
3 the word structure brings in temporary structures or
4 temporary constructions.
5 MR. ASHTON: So what are you
6 proposing the facility is that's the permanent item?
7 Just the existence of a lot? What's the facility?
8 MR. SINGER: The property.
9 MR. ASHTON: Just the property?
10 MR. LAKIND: The buildings are
11 permanent.
12 MR. FITTING: The intent of the
13 ordinance is anybody with five acres can bring in a
14 temporary structure and be considered a banquet
15 facility?
16 MR. LAKIND: That's the way the
17 ordinance reads, because no one's going to have a
18 banquet that's going to run 24 hours, at least no
19 one I know. So --
20 MR. PALILONIS: Just for clarity,
21 structure is not what you said it is. Anything
22 constructed or erected which requires permanent or
23 temporary attachment to something which is erected
24 on the ground and designed intended or arranged for
25 the housing, blah, blah, blah, so a temporary

44

1 structure, if it's not attached to something that's
2 permanent. It's not, you know, it doesn't comply
3 with the definition of the structure.
4 MR. SINGER: Well, the tent is
5 attached to the tennis court, which is a
6 permanent --
7 MR. PALILONIS: What is it attached
8 to?
9 MR. SINGER: Tennis court is the base
10 of the tent.
11 MR. PALILONIS: That's one thing.
12 What about the bathrooms, whatever other facilities
13 are brought onto the site?
14 MR. SINGER: Well --
15 MR. LAKIND: They need not be
16 permanently attached. I read the ordinance,
17 counsel, precisely the way you did. Anything
18 constructed or erected which requires permanent or
19 temporary attachment, so temporary attachment means
20 not full-time attachment.
21 MR. FITTING: Permanent or temporary
22 attachment to a permanent structure.
23 MR. ASHTON: Something is bolted to a
24 foundation.
25 MR. CRONCE: You interpret it that

45

1 way. It has to be attached to a structure. We are
2 going around in circles here. So you bring in the
3 bathroom. It's not attached to what? You are going
4 to say it's attached to the ground? This is just
5 getting ridiculous here. We are just going around
6 and around.
7 MR. PALILONIS: Well, right. I mean,
8 we need to join the issue. That's what I was
9 getting at before of whether or not the proposed use
10 meets the definition of assembly use. I mean,
11 that's -- until we, you know, I mean, this leads up
12 to that decision, but I don't know whether we are,
13 you know, joining the issue in the proper manner.
14 You are getting bogged down in minutia here.
15 MR. SINGER: No, I think the board
16 needs to understand what the, you know, how the
17 property is managed, what banquets occur and the
18 frequency, and we have a planner here that will
19 discuss the use itself as falling within the
20 conditional use language of your zone.
21 MR. PALILONIS: I mean, if your
22 argument is that permanent only applies to facility,
23 that's a tough one.
24 MR. CRONCE: Let's move on.
25 MR. PALILONIS: That's up to the

1 board to decide whether the permanent applies to
 2 facility, building, structure, installation. But
 3 you know, I mean I think that's what we need to
 4 dispose of before we go any further.
 5 MR. FULPER: Tom, I think, you want
 6 to say something?
 7 MR. DECKER: I'm looking at the
 8 definition of structure also and to carry it forward
 9 which "Attached to something which is erected on the
 10 ground and designed, intended or arranged for the
 11 housing, shelter, enclosure or other structural
 12 support of persons animals or property of any kind
 13 excluding unroofed patios at ground level, parking
 14 lots, driveways and fences." so a tennis court is
 15 essentially a ground structure that would be akin to
 16 a patio, driveway, or parking lot, and those are
 17 excluded from, if I read the definition correctly,
 18 as that something to which a structure can be
 19 attached.
 20 MR. FITTING: That would include land
 21 also?
 22 MR. DECKER: I'll ask Jim if he's --
 23 MR. KYLE: Yeah.
 24 MR. DECKER: Jim has reviewed it
 25 also.

1 MR. FULPER: What would be something,
 2 that would be something we could visually be --
 3 MR. DECKER: In other words, it was
 4 testified before that the tent is fastened to the
 5 tennis court. And based on the definition of
 6 structure, the attach -- what the structure's
 7 attached to excludes unroofed patios at ground
 8 level, parking lots or driveways, which in my mind a
 9 tennis court would be akin to that, because it's a
 10 surface.
 11 MR. FULPER: What did they envision
 12 something like that being attached to?
 13 MR. DECKER: A shelter that's created
 14 for housing shelter an enclosure of persons, animals
 15 or property of any kind. So it's basically a
 16 structure that provides an enclosure, a permanent
 17 enclosure for people, animals or storage. So if the
 18 tent were temporarily fastened to a building that
 19 satisfied those, then that would meet the definition
 20 of a structure, but that's, in my opinion, that's
 21 not what's being done.
 22 MR. FULPER: Okay. You want to
 23 proceed with your testimony or you want to address
 24 this issue now?
 25 MR. SINGER: I think I need to

1 proceed with my testimony.
 2 MR. FULPER: Just for housekeeping
 3 purposes, we'll go to 10:15 this evening, because we
 4 have some stuff we have to take care of and the
 5 building has to be shut down before 11:00, so we
 6 have until 10:15.
 7 MR. SINGER: I'm not sure if I will
 8 finish. I will not finish before 10:15.
 9 MR. FULPER: I realize that.
 10 VOICE: Will there be time allowed
 11 for the public to speak this evening?
 12 MR. FULPER: Typically what happens
 13 is they are going to testify with a witness. When
 14 they are done with that particular testimony, at
 15 that point in time the public gets to ask questions
 16 of that particular testimony, so that's the process.
 17 VOICE: There won't be any time
 18 allocated for that this evening?
 19 MR. FULPER: Depends on when they
 20 finish their testimony how much time is left this
 21 evening. You'll have the opportunity to talk all
 22 you want to. Whether it happens tonight or at the
 23 next meeting --
 24 VOICE: The next meeting is when?
 25 MR. FULPER: October 25th.

1 VOICE: Next week?
 2 MR. FULPER: October 25th.
 3 VOICE: All they have to do is burn
 4 another 20 minutes.
 5 MR. FULPER: If they can't finish
 6 their testimony, they have to continue to the next
 7 regular meeting, so we'll stop the interruptions for
 8 right now. Let me let them testify for a while, and
 9 I'll try to answer questions at the end of the
 10 evening, if there's some questions.
 11 So you can continue with the
 12 testimony.
 13 CONTINUED EXAMINATION BY MR. SINGER:
 14 Q. Mr. Lubchansky, are you aware that
 15 there have been noise complaints filed with the
 16 local police?
 17 A. I am.
 18 Q. And what efforts have you taken to
 19 minimize those complaints?
 20 A. We've changed the location of the
 21 entertainment, and we've purchased a sound system
 22 that allows us to govern the maximum volume. We've
 23 also added fabric liner inside the tent to help
 24 absorb some of the sound, and we've received an
 25 estimate for putting up tree buffers along the

50

1 property edges.
2 Q. And what's been attached as Exhibit
3 11 is the sound system that you purchased?
4 A. That's correct.
5 Q. And you state that that system allows
6 you to lock down the sound that comes from the
7 speakers?
8 A. Yes.
9 Q. Is Exhibit 12 a summary of that
10 system?
11 A. It is.
12 Q. And are you requiring the band or DJ
13 that appears on-site to utilize your system?
14 A. We are.
15 Q. And once it's locked and the volume
16 is controlled, can anyone override it?
17 A. No.
18 Q. Are you able to adjust that volume
19 yourself remotely if you have to?
20 A. I am.
21 Q. How do you do that?
22 A. There's an application on the phone
23 that I can use.
24 Q. Is there also a pad that is on-site
25 that you use to lock down the system?

51

1 A. Correct.
2 VOICE: Doesn't work.
3 VOICE: Clearly.
4 Q. You previously testified that the
5 tennis court is the site of where the banquets are
6 held, correct?
7 A. Correct.
8 Q. And how far is that to the closest
9 property line of the Hills of Hunterdon subdivision?
10 A. Over 400 feet.
11 Q. How do you know that?
12 A. We've measured it.
13 Q. And if you scaled off the plan that's
14 been submitted as Exhibit 1 of B-1, it's in excess
15 of 400 feet, correct?
16 A. Correct.
17 Q. What is the vegetation that presently
18 exists on your site?
19 A. It's heavily treed.
20 Q. And what are the contours?
21 A. They are steep, there are steep
22 slopes up from where the tennis court is.
23 Q. So the plan itself shows that there's
24 as much as 30 foot of steep slopes on the plan?
25 A. Correct.

52

1 Q. Now, do you require your guests who
2 do lease the property to abide by rules and
3 regulations that you've imposed?
4 A. We do.
5 Q. And is that -- those rules and
6 regulations attached as Exhibit 13?
7 A. They are.
8 Q. And they are pretty extensive. They
9 dictate how your guests are to use the site,
10 correct?
11 A. Correct.
12 Q. Exhibit 14 shows -- what does Exhibit
13 14 depict?
14 A. It's a floor plan for the tent.
15 Q. And how many seats are within that
16 floor plan?
17 A. Approximately two hundred.
18 Q. What's your average attendance?
19 A. 150.
20 Q. Have you had more than --
21 MR. FULPER: Please.
22 VOICE: Are we allowed to comment
23 from our seats? Can we?
24 MR. SINGER: No.
25 MR. FULPER: Listen, listen, when you

53

1 guys are up here to talk, you will -- I'll make sure
2 they don't interrupt you. You just have to let them
3 testify. Just be courteous.
4 Q. Mr. Lubchansky, how many have you
5 had, what's the most attendance that you've had at
6 the site?
7 A. 276.
8 Q. And were there any issues when you
9 had that many guests on-site?
10 A. There were not.
11 Q. And what do you average attendance
12 on-site?
13 A. 150.
14 Q. And as far as bringing guests to the
15 site from the parking area on 179, how do your
16 guests arrive?
17 A. They arrive by shuttle service.
18 Q. What sort of vehicles bring the
19 guests to the site?
20 A. 13-passenger vans.
21 Q. And how many advance are utilized?
22 A. Two.
23 Q. Is that -- do you hire an outside
24 company to do that for you?
25 A. We do.

54

1 Q. And they provide insurance?
2 A. Correct.
3 Q. Have there ever been any issues with
4 transportation to and from the site for, during any
5 of the banquets?
6 A. There have not.
7 Q. Has there been sufficient parking at
8 the school allowing your guests to park off-site and
9 be transported to the venue?
10 A. Yes.
11 Q. In closing, Mr. Rose, when he wrote
12 your -- his letter to you April 26, 2016, which is
13 referred to as Exhibit 5, referred to this
14 application as a conditional use application; is
15 that correct?
16 A. That's correct.
17 MR. SINGER: I have no further
18 questions. I'd like to call James --
19 VOICE: I have some questions.
20 MR. FULPER: You have to wait. We
21 have to have -- they have to have their testimony
22 in, and you can ask questions in reference to the
23 testimony. At the end of the hearing you can talk
24 about whatever you'd like to.
25 VOICE: We have some questions about

55

1 your testimony.
2 MR. FULPER: You'll have the
3 opportunity after he finishes. Let me have the
4 board ask questions first.
5 You've heard the testimony from this
6 point forward. Are there any questions of the
7 applicant?
8 MR. ROMANO: When was the first time,
9 I see on the invoice that the new sound system was
10 purchased on -- at the end of June. When was it
11 first installed, and have there been any noise
12 issues since it's been installed or used?
13 THE WITNESS: I don't recall the
14 exact date of installation, I'm sorry.
15 MR. ROMANO: End of June, so July.
16 THE WITNESS: It would have been very
17 close to the invoice date.
18 MR. ROMANO: Have there been any
19 issues of noise issues since that date?
20 THE WITNESS: Well, we get noise
21 complaints at 3:00 in the afternoon, so...
22 MR. ROMANO: Okay.
23 MR. FULPER: Other board members have
24 questions.
25 MR. KOVELOSKI: Do you have live

56

1 bands on-site?
2 THE WITNESS: Sometimes, yes.
3 MR. KOVELOSKI: And you said how far
4 to the nearest property line?
5 THE WITNESS: It's approximately a
6 little north of 400 feet.
7 MR. ROMANO: Has an impact study been
8 performed?
9 THE WITNESS: I didn't hear you.
10 MR. ROMANO: Has an impact study been
11 performed to understand like the noise impacts?
12 MR. SINGER: Well, Zach, explain to
13 the board what you recently did with respect to the
14 noise.
15 THE WITNESS: Well, besides the sound
16 system, we did purchase a decibel meter, so we do
17 take readings throughout the event to make sure that
18 we are staying at reasonable levels. To the honest
19 with you, at night the levels tend to be higher
20 because the crickets and tree frogs are louder than
21 the sound.
22 MR. FITTING: Do you leave your
23 property with that decibel meter?
24 THE WITNESS: No, I do not.
25 MR. KOVELOSKI: Sound travels. I

57

1 live 1.3 miles from the high school, and I can hear
2 the band on Friday nights.
3 THE WITNESS: We don't have events on
4 Friday nights.
5 MR. KOVELOSKI: I'm saying --
6 VOICE: 276 people are not silent.
7 MR. KOVELOSKI: I don't understand
8 how a band could play there and not affect the
9 surrounding area with only 400 feet.
10 MR. SINGER: Well, you know, there
11 are guidelines that the DEP establishes with respect
12 to noise. And 10:00 p.m. is when the guidelines
13 start, so, Zach, have you taken your decibel meter
14 on-site during events?
15 THE WITNESS: I have.
16 MR. SINGER: What was the most recent
17 time that you did?
18 THE WITNESS: We did it at the event
19 this past weekend.
20 MR. SINGER: What readings did you
21 receive, did you note?
22 THE WITNESS: We were getting
23 readings around 50 to 56 decibels at our property
24 lines.
25 MR. SINGER: What time of day was it?

58

1 THE WITNESS: It was approximately
2 7:00 p.m. we took that one, but that was when the DJ
3 was on and playing.
4 Q. Did he set the volume to the maximum
5 that you allowed on-site?
6 A. I believe so.
7 Q. And what were the readings?
8 A. They were between 50 and 60 decibels.
9 Q. Did you take photographs of those
10 readings?
11 A. I did.
12 Q. Are these photographs of the readings
13 that you took?
14 A. They are.
15 Q. The highest one being 60 decibels?
16 A. That's correct.
17 MR. SINGER: I would like to have
18 these marked. I don't think these were part of the
19 exhibit.
20 MR. ROMANO: We've got a lot of
21 property lines all over the place. Which property
22 line and what location were you when you took these
23 readings?
24 THE WITNESS: Sometimes we take them
25 at the property line by where the driveway is and

59

1 often we check the property line which is --
2 MR. PALILONIS: B-2.
3 (Exhibit B-2, Photographs of decibel
4 readings. is received and marked for
5 identification.)
6 THE WITNESS: The eastern property
7 line before the property juts out by where the barn
8 is.
9 MR. FULPER: Board members?
10 MR. PALILONIS: Mr. Lubchansky, are
11 you a sound engineer?
12 THE WITNESS: No, I am not.
13 MR. PALILONIS: Why should we believe
14 that this device was properly operating?
15 MR. SINGER: How do you use the
16 device?
17 THE WITNESS: It comes with a set of
18 instructions, and you basically power it on. It
19 calibrates itself and it takes the measurements for
20 you.
21 MR. PALILONIS: Well, I just remind
22 the board this is not expert testimony. You take it
23 for whatever value.
24 MR. SINGER: It's factual. It's not
25 expert testimony. I'm not offering Mr. Lubchansky

60

1 as a sound expert.
2 MR. PALILONIS: I'm just reminding
3 the board.
4 MR. ROMANO: So this was taken at the
5 barn or at the road?
6 THE WITNESS: So sometimes you can
7 see the background of the picture. I know they are a
8 little bit difficult to read, but you can sort of
9 see, so like if there's a tree background, that
10 would be the property line that's eastern along the
11 slope, so the contouring part of the property.
12 Basically we try to take a reading and keep it at a
13 reasonable level from where we believe we are
14 getting the noise complaints from, and then the
15 other location where we take a reading from is the
16 driveway, which is substantially closer.
17 MR. FULPER: Any board members have
18 any questions?
19 MR. ROMANO: I do have a few more.
20 I've got your 2014 site plan as well as your 2016
21 site plan. I notice a number of differences. Can
22 you just explain what changed on your site plan
23 between 2014 and 2016?
24 MR. SINGER: Could you be a little
25 more specific?

61

1 MR. ROMANO: I see a gravel driveway
2 on the 2016 site plan, but I didn't see it on the
3 2014 site plan. I see a tennis court that is fenced
4 in on the 2014 and now I see a vague concrete patio
5 in its footprint. There are a number of changes it
6 looks like you've made. Perhaps others, I've only
7 studied it for the past 20 minutes.
8 MR. SINGER: Are you referring to the
9 building plan when you say site plan, 2016?
10 MR. ROMANO: Topographic survey
11 performed by Hopewell Valley Engineering.
12 MR. SINGER: 2016?
13 MR. ROMANO: I'm looking at '16 which
14 you submitted recently. I'm comparing it.
15 MR. SINGER: I'm trying to identify
16 the second plan. The buildable area plan that you
17 are referring to now?
18 MR. ROMANO: It is the topographic
19 survey.
20 MR. SINGER: The survey.
21 MR. PALILONIS: Referring to B-1 and
22 you are referring to Exhibit 1 and Exhibit 19? Is
23 that what you are comparing?
24 MR. FULPER: Yes.
25 MR. SINGER: So it's the -- it's this

1 plan, the variance and plot plan?

2 MR. ROMANO: That's right.

3 MR. SINGER: Compared to the
4 buildable area plan?

5 MR. ROMANO: I am comparing -- we
6 have the 2016 plan that we received on 17/16,
7 topographic survey, and I just noticed that there's
8 a number of items. I'm just seeing on this plan
9 that I didn't see the last time you were before the
10 board.

11 MR. PALILONIS: For the record, he's
12 not referring to Exhibit 19. He's referring to the
13 other.

14 MR. DECKER: The topographic survey.

15 MR. PALILONIS: That was part of the
16 application.

17 MR. ROMANO: So where I'm going with
18 this is the application doesn't identify any of
19 these changes that have been made, and I'm just
20 wondering what's changed and what else are we
21 looking at?

22 THE WITNESS: I haven't made any
23 changes since the application.

24 MR. FITTING: Does the tennis court
25 still have a net on it?

1 THE WITNESS: No, I haven't made any
2 site improvements or changes since the time of my
3 application.

4 MR. FULPER: Joe. I'm trying to get
5 to the public if I can.

6 MR. ROMANO: Go.

7 MR. FULPER: The professionals, you
8 guys are okay?

9 MR. CRONCE: Will you go back to us.

10 MR. FULPER: Yeah.

11 MR. CRONCE: I want to make sure.

12 MR. FULPER: Going to try to get some
13 input from the public. The way this works and I
14 guess we are going to try to extend this to 10:30 to
15 give you guys an opportunity. The way it works is,
16 you can come up and ask questions about the specific
17 testimony that they've given to this point, okay?
18 So it's not a free-for-all at this point. It's more
19 or less and it's more questions of the applicant,
20 you know, about what he testified to. Ask those
21 questions and then each time he has a professional
22 up, you have the opportunity to do the same thing,
23 basically cross-examine the professionals, and at
24 the end of the meeting you have an opportunity to
25 give a more encompassing view of concerns.

1 THE WITNESS: No. The tennis court
2 hasn't had a net on it or the fencing on it since
3 early in 2015.

4 MR. FITTING: So it's no longer a
5 tennis court?

6 MR. ROMANO: Did the area get larger?
7 Did the impervious area get larger?

8 THE WITNESS: We just took down the
9 fencing.

10 MR. FITTING: And the net.

11 THE WITNESS: The net can always be
12 taken down. The holes are still there.

13 MR. ROMANO: And the parking near the
14 road, that's recent as well?

15 THE WITNESS: The gravel parking area
16 was always there actually. We put fresh clean stone
17 on top of it, but it was put there when they built
18 the septic system. I also know it was missed in
19 their previous plan, because it was noted during as
20 I'm sure you are all familiar with the DEP stuff on
21 the property, and so they also made that note.

22 MR. ROMANO: Okay.

23 MR. SINGER: You haven't changed
24 anything to the site? You haven't changed any of
25 the improvements to the site?

1 So at this point, anybody can come
2 up, come up to the front.

3 MR. LANZA: My name is John Lanza. I
4 represent the mayor and counsel in opposition. I
5 want to reserve my cross examination, because I know
6 we have a time limit, but I know the public wants to
7 speak, so I'll defer to them and let them ask their
8 questions, and if there's time, I can start, but --

9 MR. FULPER: Okay, thank you.

10 You are going to identify yourself
11 for the record.

12 MR. MORGAN: My name is Chris Morgan.
13 I live at 3 Milk House. I'm at the east property
14 line that he measures his decibel readings from.

15 Is it true that Mr. Rose in his
16 office issued a cease and desist order to you, your
17 company, et cetera, telling you that you are to
18 cease operating in the capacity that you've been
19 operating?

20 THE WITNESS: He sent us a cease and
21 desist order for operating as a bed and breakfast.

22 MR. MORGAN: Have you complied with
23 the cease and desist order? I don't believe that's
24 accurate, but that's fine if that's your testimony.

25 Have you complied with that order?

66

1 MR. SINGER: Do you operate a bed and
2 breakfast?
3 THE WITNESS: No, I do not operate a
4 bed and breakfast.
5 MR. MORGAN: You are the contract
6 owner -- are you the contract owner of that property
7 or is your company the contract owner of the
8 property?
9 MR. SINGER: Are you individually the
10 purchaser or is it in a corporate name?
11 THE WITNESS: No, it's in a corporate
12 name.
13 MR. MORGAN: So you are not the
14 contract owner, correct?
15 MR. SINGER: He is -- well --
16 MR. MORGAN: You as an individual are
17 not the contract owner of that property, is that
18 true?
19 THE WITNESS: I own the company.
20 MR. MORGAN: You -- is your company a
21 corporation, an LLC or some other type of entity?
22 THE WITNESS: Yes.
23 MR. MORGAN: Which?
24 THE WITNESS: It's an LLC.
25 MR. MORGAN: Thank you. So you

67

1 personally are not the contract owner of that
2 property; is that correct?
3 MR. SINGER: No. Mr. Lubchansky, are
4 you --
5 MR. MORGAN: It's fine. We'll let it
6 go. I think everybody gets the point.
7 MR. SINGER: That's fine.
8 MR. MORGAN: Prior to your purchase
9 of the property, Mr. Vernor told you event sizes
10 were approximately how big?
11 MR. SINGER: He has not purchased the
12 property yet.
13 MR. MORGAN: Sorry. Prior to you
14 entering a contractual relationship with Mr. Vernor,
15 what had he told you, that he had operated events of
16 what size?
17 THE WITNESS: He had said that he had
18 operated events up to 50 people.
19 MR. MORGAN: The maximum size of your
20 events so far?
21 THE WITNESS: The largest event that
22 we've had is 276 people.
23 MR. FULPER: What was the first
24 number you said? What did Vernor say?
25 THE WITNESS: He said that he had

68

1 done 50 people.
2 MR. FULPER: About 50 people?
3 THE WITNESS: About 50 people,
4 correct.
5 MR. MORGAN: Prior to your engaging
6 in that relationship with Mr. Vernor, business
7 relationship with Mr. Vernor, did you review the
8 minutes of Mr. Vernor's testimony here in April of
9 2014 where he had intimated to this board that he
10 hosts things no more than 20 to 25 people?
11 THE WITNESS: Could you repeat your
12 question?
13 MR. MORGAN: Prior to you purchasing,
14 entering into a contractual -- your company entering
15 into a contractual relationship with Mr. Vernor, did
16 you do any due diligence that included reviewing the
17 meeting minutes from this board's meeting in April
18 of 2014 where he stated that he held events only
19 with 20 to 25 people?
20 THE WITNESS: I have, yes.
21 MR. MORGAN: So you knew then that
22 there was some discrepancy?
23 MR. SINGER: What discrepancy is
24 that?
25 MR. MORGAN: He just testified that

69

1 Mr. Vernor told him 50 people. I'm just asking if
2 he's -- he didn't put two and two together, that's
3 all. That's fine, I'll move on.
4 Do you advertise your site, your
5 event on any sites online or anywhere online?
6 THE WITNESS: Yes, we have a website.
7 MR. MORGAN: Which ones?
8 THE WITNESS: We have a website
9 Brookmillfarmnj.com.
10 MR. MORGAN: Are you on VRBO?
11 THE WITNESS: Yes.
12 MR. MORGAN: Were you on The Knot?
13 THE WITNESS: No.
14 MR. MORGAN: Were you ever on The
15 Knot?
16 THE WITNESS: No we never paid to be
17 on The Knot.
18 MR. MORGAN: On any of those sites
19 what do you advertise as far as the number of people
20 that can participate in the venue?
21 THE WITNESS: We currently list 250
22 people as the max number.
23 MR. MORGAN: Up until all of this
24 hubbub started happening with us and you and the
25 township, what did it say? Is it not true that it

1 said you could host weddings up to 400 people?
 2 THE WITNESS: I believe that based on
 3 the square footage of the --
 4 MR. MORGAN: That's not what I asked.
 5 MR. SINGER: Let him answer his
 6 question first.
 7 MR. MORGAN: My question was, is it
 8 true that the website, your website, and those that
 9 you advertise on at one point before all of the
 10 problems happened stated that you could host events
 11 up to 400 people?
 12 THE WITNESS: Well --
 13 MR. MORGAN: Is that true?
 14 THE WITNESS: Yes, it's true. We've
 15 made changes to limit that.
 16 MR. SINGER: What changes have you
 17 made?
 18 THE WITNESS: We've restricted it to
 19 250 people.
 20 MR. FITTING: Since that 276?
 21 THE WITNESS: That's correct. That
 22 was booked prior to that, yes.
 23 MR. MORGAN: Does your driveway
 24 extend all the way to the back of your property?
 25 THE WITNESS: Do you mean does the

1 driveway go to the property line?
 2 MR. MORGAN: No. Does it go back to
 3 the property? Can emergency vehicles access from
 4 anywhere on your property across your property?
 5 Would emergency vehicle have access to across the
 6 bridge closest to my property in the event that
 7 somebody had a problem?
 8 THE WITNESS: Yeah, I've been on
 9 emergency vehicles and accessed extensive.
 10 MR. MORGAN: How wide is the bridge?
 11 THE WITNESS: How wide is what
 12 bridge?
 13 MR. MORGAN: The foot bridge across
 14 the creek in the middle of your property?
 15 THE WITNESS: Oh, I believe that
 16 bridge is about six or seven feet wide.
 17 MR. MORGAN: You are a volunteer
 18 fireman, correct?
 19 THE WITNESS: That's correct.
 20 MR. MORGAN: How wide is a typical
 21 fire truck?
 22 THE WITNESS: Fire trucks don't
 23 generally drive across people's property.
 24 MR. MORGAN: I want to understand. I
 25 don't know. I'm not a volunteer fire guy. Fine.

1 The tents that you use, do you have
 2 any permits for those?
 3 THE WITNESS: Yes.
 4 MR. MORGAN: When did you obtain
 5 those?
 6 THE WITNESS: We recently obtained
 7 fire permit for safety, but there was initially I
 8 had asked the construction office if I needed a
 9 permit, and they said that it was not required
 10 because it was a temporary structure.
 11 MR. MORGAN: Has it ever been removed
 12 since its been installed?
 13 THE WITNESS: Yes.
 14 MR. MORGAN: Is it -- when will it
 15 next be removed?
 16 THE WITNESS: The tent should be down
 17 by the end of October.
 18 VOICE: Is it a temporary or
 19 permanent structure?
 20 MR. FULPER: You'll have an
 21 opportunity.
 22 MR. MORGAN: Prior to all of this
 23 stuff happening with the township, is it not true
 24 that there was never anybody from your company
 25 on-site on the property during events until it was

1 mandated by the township?
 2 THE WITNESS: That's not true.
 3 MR. MORGAN: Is it true that more
 4 than half the time you did not have anybody, any
 5 representative from your company on-site during
 6 events?
 7 THE WITNESS: There is always a point
 8 person on-site. We work with a preferred list of
 9 caterers and at least --
 10 MR. MORGAN: Prior to the township
 11 raising it with you?
 12 THE WITNESS: Yes.
 13 MR. MORGAN: Interesting. Okay,
 14 great. Have you ever been inside my house?
 15 THE WITNESS: No, I have never been
 16 inside your house.
 17 MR. MORGAN: You've never been inside
 18 of my house during one of your events, is that true?
 19 THE WITNESS: That's correct.
 20 MR. MORGAN: Have you ever been
 21 inside any one of my neighbors' houses?
 22 THE WITNESS: Nobody has ever invited
 23 me over.
 24 MR. MORGAN: So it's safe to say that
 25 you've never heard how loud or soft it is inside my

1 house while your events are going on. is that true?
 2 THE WITNESS: That's true.
 3 MR. FITTING: Can I interrupt? You
 4 have a point person on-site at all times when
 5 there's an event?
 6 THE WITNESS: That's correct.
 7 MR. FITTING: Is there a living
 8 quarter for them? Do they stay somewhere?
 9 THE WITNESS: No, so more often than
 10 not, the person is a floating throughout the
 11 property and throughout the event.
 12 MR. FITTING: These events carry
 13 over? Is there an end time?
 14 THE WITNESS: Yes, there's an end
 15 time for events. We self curfew.
 16 MR. FITTING: And only the people
 17 that are staying in the houses are on the property
 18 at that point?
 19 THE WITNESS: That's correct.
 20 MR. MORGAN: You have security
 21 on-site in order to enforce that?
 22 THE WITNESS: No, we don't have
 23 private security.
 24 MR. MORGAN: Thank you.
 25 Have you ever had any complaints from

1 any of the folks that have leased your property for
 2 events?
 3 THE WITNESS: Yes.
 4 MR. MORGAN: What's the nature of
 5 those?
 6 THE WITNESS: I've had complaints
 7 that light bulbs were out.
 8 MR. MORGAN: Let me go further. Has
 9 anybody sued you related to events happening on the
 10 property, either for safety issues or for breach of
 11 contract, whatever it is?
 12 MR. SINGER: Mr. Chairman, I don't
 13 think it's relevant.
 14 MR. MORGAN: I think it's absolutely.
 15 We are talking about a venue where --
 16 MR. ASHTON: You have to let him
 17 speak.
 18 MR. PALILONIS: What is the relevance
 19 of the question?
 20 MR. MORGAN: My point is this: It
 21 goes to the nature of what's being operated here.
 22 All through his testimony you kept asking who's the
 23 contract with? Who's the contract with? Some of
 24 the cases like the bus service he didn't acknowledge
 25 where those contracts are. Right? But at the end

1 of the day, this is about him passing liability off
 2 to other people. It's about what type of business
 3 he's operating. Forget the fact that he's operating
 4 it illegally today, so, you know, I want to
 5 understand and I want everybody else to understand
 6 what I've come to understand over the last six
 7 months, which is that this guy is operating an
 8 illegal business in an RR-5 zone. He's passing the
 9 buck to everyone, and I want to understand if his
 10 patrons, who apparently love his venue, have the
 11 same feeling that I do, because I know how he
 12 operates and I just want an answer. I would not be
 13 at all surprised if he has more significant --
 14 MR. PALILONIS: I don't know if that
 15 would induce that type of answer in any case. I
 16 mean, you know --
 17 MR. MORGAN: Then I'll move on.
 18 Your guests have full access to your
 19 property while they are there?
 20 THE WITNESS: That's correct.
 21 MR. MORGAN: So does that include
 22 just the 20 people that can stay there or, I mean,
 23 effectively everybody has free rein. They can
 24 wander into the meadows and across the bridge and so
 25 forth during the parties?

1 THE WITNESS: During banquets, guests
 2 tend to meander about the property.
 3 MR. MORGAN: They probably like the
 4 houses and stuff. They check out the houses and
 5 those types of things as well?
 6 THE WITNESS: I think often the
 7 houses are shut. Sometimes we have people that
 8 specifically ask for keys to make sure that the
 9 houses are locked so the people aren't going into
 10 the houses. The guests who stay at the house give
 11 us security deposits, so they are often ensuring
 12 that the houses aren't going to be abused.
 13 MR. MORGAN: I'm trying to understand
 14 how you can with 270-some odd people, how you can be
 15 100 percent sure that they are not using the
 16 bathrooms in those properties, particularly when
 17 they've got to go to porta johns.
 18 THE WITNESS: You'd also, to have --
 19 it's quite a walk from the tent to go all the way
 20 back to the house. It's a much shorter walk, just
 21 makes more sense to use the bathrooms that are
 22 closest.
 23 MR. MORGAN: So you are certain that
 24 they are not?
 25 THE WITNESS: I cannot guarantee you

1 that, that they've never been used.
 2 MR. MORGAN: Thank you.
 3 You get all these contracts. Are
 4 there any contracts that you have directly with the
 5 vendors that operate on your property, rental
 6 company, shuttles, et cetera? All I heard was no.
 7 no, no.
 8 THE WITNESS: The shuttle companies,
 9 the shuttle company we pay for. The bathroom
 10 trailers we pay for. So we have those contracts
 11 with them.
 12 MR. MORGAN: You get a portion of the
 13 catering revenues?
 14 THE WITNESS: Are my finances on
 15 trial here?
 16 MR. PALILONIS: If your attorney
 17 doesn't object.
 18 MR. SINGER: I think it's irrelevant
 19 how he conducts business.
 20 MR. MORGAN: If he doesn't want to
 21 answer it, everybody knows what the answer is,
 22 that's fine.
 23 How long does it take you to clean
 24 up? And I'll be done and I'll default to you. How
 25 long does it take you to clean up typically for an

1 event?
 2 THE WITNESS: Typically event cleanup
 3 takes approximately an hour.
 4 MR. MORGAN: An hour. And it starts
 5 when?
 6 THE WITNESS: At the end of the
 7 event. That would be the catering staff's
 8 responsibility.
 9 MR. MORGAN: Okay, so you don't aid
 10 with that cleanup? It's just the catering stuff.
 11 THE WITNESS: Usually my cleanup
 12 entails the day after the event, coming and picking
 13 up any loose ends. That could take me, you know, I
 14 do it over time, so maybe I find, you know, a piece
 15 of trash on Monday, maybe I find a stirring stick on
 16 Wednesday.
 17 MR. MORGAN: Okay, I understand. The
 18 shuttles that you use, those are commercial
 19 vehicles, right? Have you ever been on-site while
 20 they are there?
 21 THE WITNESS: Yes.
 22 MR. MORGAN: So you know that those
 23 commercial vehicles, and I assume all commercial
 24 vehicles, because they have done it with trucks
 25 every time they back up, they beep. you know that?

1 THE WITNESS: Actually we
 2 specifically request vans that don't beep.
 3 MR. MORGAN: So last weekend they
 4 couldn't get them?
 5 THE WITNESS: Last weekend I was
 6 there. I didn't hear any beeping when the shuttles
 7 backed up.
 8 MR. MORGAN: I'll default for.
 9 MR. LANZA: I have much more than
 10 five minutes. Maybe someone else from the public --
 11 VOICE: I'll default my questions and
 12 let Mr. Lanza --
 13 MR. LANZA: I have more than five
 14 minutes.
 15 MR. EHRENREICH: I have one brief
 16 question, Michael Ehrenreich. I live at 1872 River
 17 Road. For an assembly. if understood this
 18 correctly, an assembly use, my understanding it
 19 requires septic facilities. You can't use, my
 20 understanding, you can't use porta potties, so if
 21 you are, in fact, claiming that you are an assembly
 22 facility, you need septic.
 23 THE WITNESS: The porta potties have
 24 built-in septic system.
 25 MR. EHRENREICH: No. You need

1 in-ground septic.
 2 MR. SINGER: First of all, I'd like
 3 you to establish what you are saying.
 4 MR. EHRENREICH: My question is
 5 whether or not if you are an assembly facility you
 6 have appropriate septic systems.
 7 MR. SINGER: Where do you find that
 8 assembly use requires septic?
 9 MR. EHRENREICH: It's in the code.
 10 MR. SINGER: Show it to me.
 11 MR. EHRENREICH: I will. I'm not the
 12 one testifying, sir. I'm asking you if you can
 13 testify.
 14 MR. SINGER: I'm asking you to show
 15 that the assembly use requires septic.
 16 MR. EHRENREICH: I'll defer to the
 17 engineers and the planner. I know a little bit
 18 about this, and I'm telling you it requires septic.
 19 MR. SINGER: If you can cite the
 20 code.
 21 MR. EHRENREICH: I think those that
 22 need to cite it will find it for me.
 23 MR. FULPER: Okay. We have a few
 24 more minutes. If you want to come up?
 25 MR. DiBENEDETTO: My name is Paul

82

1 DiBenedetto. I'm from Lambertville, New Jersey.
 2 MR. FULPER: Your address?
 3 MR. DiBENEDETTO: 21 Northfield
 4 Court.
 5 MR. FULPER: Thank you.
 6 MR. DiBENEDETTO: So my one question,
 7 I see the records of you purchasing the sound
 8 equipment back in, I guess this is dated for June or
 9 so after you bought the property, so you must have
 10 intended, here it says you bought eight two-wave
 11 woofers, speakers. You spent \$6,000 in equipment,
 12 so surely you must have known or had the intent of
 13 making lots of noise when you bought this equipment?
 14 He made it sound as though, you know, he was going
 15 to control it remotely with his cell phone, but why
 16 buy a woofer? Why buy eight of them?
 17 MR. FULPER: Ask him a question.
 18 MR. DiBENEDETTO: That's the
 19 question. Did you intend to make more noise by
 20 buying eight-inch woofers?
 21 THE WITNESS: No. The intention is
 22 to reduce the noise output.
 23 MR. DiBENEDETTO: So you buy big
 24 woofer speakers to make less noise. Is that how it
 25 works?

83

1 MR. SINGER: How does it work?
 2 What's the purpose of spending 6,000 plus for
 3 equipment?
 4 THE WITNESS: It allows us to
 5 regulate the sound system, regulate the amount of
 6 noise that's put out.
 7 MR. DiBENEDETTO: But if I were to
 8 buy -- want to make more noise, I'd buy big giant
 9 speakers, and you bought two two-way mains also
 10 which are probably putting out high frequency noise,
 11 and I just --
 12 MR. FULPER: You need to ask him a
 13 question.
 14 MR. DiBENEDETTO: I don't understand.
 15 Why didn't he put in no speaker system, save the
 16 6,000 and do it the way Mr. Vernor, who you
 17 purchased the property from, how did he not make so
 18 much noise? That's all I wanted to mention. It's a
 19 lot of money for a speaker system that's not to be
 20 quiet to spend \$6,000, so I'm just saying there's
 21 some intent there.
 22 MR. FULPER: Thank you. I see it's
 23 10:30.
 24 VOICE: Five minutes, please.
 25 VOICE: I've sent letters.

84

1 MR. FULPER: I hear the frustration.
 2 MR. PALILONIS: Sir, speaking of your
 3 letters, the letters we've received are highly
 4 improper. It's -- we should -- the board members
 5 should not be getting --
 6 VOICE: The point is, this is an
 7 important thing to the community, right? And while
 8 I appreciate the time that you guys spend
 9 volunteering to do this, et cetera, this has been
 10 going on for months for us, months.
 11 MR. PALILONIS: You cannot send
 12 letters to members of the zoning board.
 13 VOICE: Let's --
 14 MR. PALILONIS: There's nothing to
 15 discuss.
 16 VOICE: Let's discuss it at the next
 17 meeting.
 18 MR. PALILONIS: There's nothing to
 19 discuss.
 20 VOICE: Can we take care of the
 21 community's business tonight?
 22 MR. FULPER: You've had your
 23 opportunity. How much time do you need to close the
 24 meeting down?
 25 MR. FULPER: Somebody else wants to

85

1 speak? I mean --
 2 VOICE: We would like Mr. Lanza to
 3 speak.
 4 MR. FULPER: You want to attorney to
 5 speak?
 6 VOICE: Yes.
 7 MR. FULPER: We'll give you like 10
 8 minutes, I guess.
 9 MR. LANZA: My name is John Lanza.
 10 I'm been retained by the mayor and counsel to
 11 represent them in opposition. I want to ask you a
 12 few questions. We don't have much time.
 13 EXAMINATION BY MR. LANZA:
 14 Q. Sir, you never applied for a zoning
 15 permit, correct?
 16 A. I'm in the middle of an application
 17 for zoning.
 18 Q. You never applied for the zoning
 19 permit to the zoning office?
 20 MR. SINGER: His testimony was that
 21 he approached the zoning officer and sent a
 22 confirming letter. The zoning officer never came
 23 back and said apply for a zoning permit.
 24 Q. You never applied for a zoning
 25 permit, right?

1 MR. SINGER: That's correct.

2 A. That's correct.

3 Q. And, as a matter of fact, you
4 received on May 26, 2016 a notice to cease from
5 Mr. Rose and it wasn't a bed and breakfast, was it?

6 A. I recall getting a cease and desist
7 order for a bed and breakfast.

8 Q. Isn't it a fact, sir, on May 26 you
9 received this letter and notice from Mr. Rose: "You
10 are hereby ordered to cease and desist all business
11 related activities at the above referenced address."

12 Isn't that true?

13 MR. SINGER: Mr. Lanza, as you know,
14 that notice has been appealed to the Construction
15 Board of Appeals and that -- you know that those
16 appeals are stayed pending this hearing. You
17 already know that.

18 MR. LANZA: I also know what he's
19 testified to. This isn't about a bed and breakfast.
20 It's about all business activities.

21 MR. SINGER: It's Mr. Rose waking up
22 after the fact, after telling him that he's okay and
23 once he books weddings during the year 2016, says
24 okay, now cease and desist.

25 MR. PALILONIS: Who's testifying

1 A. I think the equipment was purchased
2 in mid to late June.

3 Q. When was it installed?

4 A. I believe it was installed very soon
5 after that.

6 Q. And it hasn't worked, has it?

7 A. I believe it has worked, sir.

8 Q. The police continue to come to your
9 business during these events, correct?

10 A. I haven't seen the police in a few
11 weeks at events.

12 Q. They were there almost 30 times
13 though between May and August, correct?

14 A. As I said before, I have not kept a
15 tally.

16 Q. Now, you have a parking agreement,
17 correct?

18 A. Correct.

19 Q. And you need a parking agreement
20 because your property isn't suitable for parking.
21 correct?

22 A. Correct.

23 Q. And you made a contract with the
24 Hunterdon County Educational Services Commission for
25 that parking?

1 here, Mr. Singer?

2 MR. SINGER: I'm sorry?

3 MR. PALILONIS: Who's testifying
4 here? You are making representations.

5 MR. SINGER: Well, I am.

6 A. Did I receive one that was for a bed
7 and breakfast?

8 Q. Were you ordered on May 26, 2016 --

9 A. I understand your question, sir. The
10 one that I recall is the cease and desist order for
11 a bed and breakfast.

12 Q. I'm going to show you this letter
13 dated May 26, 2016. You received that letter,
14 didn't you?

15 A. I honestly don't remember. I
16 remember the one for a bed and breakfast.

17 Q. Isn't it a fact, sir, that just
18 between the dates of the end of May 2016 and up
19 until August there were at least 30 police visits at
20 your establishment for purposes of noise?

21 A. I know that the police have visited.
22 I have not kept a running tally.

23 Q. When did you start buying equipment
24 to stop the noise or control the noise? When did
25 you start that since it began back in May 2016?

1 A. That's correct.

2 Q. And it had a term in it didn't it,
3 one year?

4 A. Well, it was a recurring agreement.

5 Q. Yeah. It was for one year and then
6 there was an option to renew, correct?

7 A. That's correct.

8 Q. So it didn't go on forever, did it?

9 A. No.

10 Q. It's not an easement, is it?

11 A. Excuse me?

12 Q. It's not an easement. It's not
13 permanent?

14 A. Well, it's terminated.

15 Q. The parking can be gone at any time,
16 and then you have no parking for your 250 or 300
17 guests, right?

18 A. Correct.

19 Q. The gentleman that preceded me
20 referred to certain ads that you placed on the
21 internet, correct?

22 A. Correct.

23 Q. And on those ads you advertise and
24 did advertise up to 400 people at one time at this
25 venue, right?

90

1 A. We did advertise that.
 2 Q. And you reduced that to 300 people,
 3 correct?
 4 A. Correct.
 5 Q. Now it's down to 250 people, correct?
 6 A. Correct.
 7 Q. And you charge for these people to
 8 come on the premises, correct?
 9 A. Correct.
 10 Q. It's like \$15,000 for 20 people?
 11 A. It's \$15,000 to rent the space for
 12 the weekend, that's correct.
 13 Q. For 20 people. The more people, the
 14 more it costs, correct?
 15 A. Correct.
 16 Q. And you advertise it can have up to
 17 250 people, right?
 18 A. Correct.
 19 Q. This is a wedding, right?
 20 A. They are banquets, yes.
 21 Q. People have fun, right?
 22 A. Correct.
 23 Q. They dance?
 24 A. Correct.
 25 Q. They play loud music?

92

1 violations, correct?
 2 A. Correct.
 3 Q. And you've been issued also building
 4 code violations?
 5 A. No. I have not been issued building
 6 code violations, sir.
 7 Q. You've been issued violations by the
 8 zoning officer, correct?
 9 A. Correct.
 10 Q. And you are making a representation
 11 that you have an assembly use?
 12 A. Correct.
 13 Q. This would be the same type of use
 14 except for the building if I went to a big hall that
 15 rented out for weddings like, I don't know, a golf
 16 course or anyplace else with a large building,
 17 correct?
 18 A. Correct.
 19 Q. The only thing, you are in a
 20 residential area, right?
 21 A. I believe golf courses are allowed in
 22 residential areas too.
 23 Q. You are in a residential area, and
 24 what you are doing is putting what normally would be
 25 in a structure you are putting out under a tent,

91

1 A. Within reason.
 2 Q. They sing, they drink, right?
 3 A. Correct.
 4 Q. It's a wedding. They have fun. Now,
 5 isn't it a fact, sir, that all this creates a lot of
 6 noise for your neighbors, right?
 7 A. Noise is definitely created during an
 8 event, yes.
 9 Q. Isn't it a fact, sir, that this
 10 operation is totally unsuitable for this
 11 neighborhood?
 12 A. I would completely disagree with
 13 that.
 14 Q. It is suitable, huh?
 15 A. Yes.
 16 Q. All these people are here because
 17 it's suitable, right?
 18 A. I think these people are here because
 19 they think that my tax dollars that go towards the
 20 property is --
 21 VOICE: I'm here because my kids
 22 don't sleep. You are out of your minds if you think
 23 that's why I'm here.
 24 MR. FULPER: Stop, please.
 25 Q. You've also been issued fire code

93

1 right?
 2 A. That's correct.
 3 Q. With band and DJs and 250 people
 4 having a loud party, right?
 5 A. That's correct.
 6 Q. Now, you said there was a fire?
 7 MR. FULPER: You are going to try to
 8 think about trying to wrap it up here?
 9 MR. LANZA: Okay. With that
 10 understanding, I'll continue when I come back.
 11 MR. FULPER: You just have to wrap it
 12 up now. There's no way we are going to finish this
 13 application.
 14 MR. LANZA: With that, I have no
 15 further questions at this point. It will be a legal
 16 issue though regarding the assembly use that they
 17 are maintaining, and we'll submit some law on that
 18 with a copy to the applicant.
 19 MR. FULPER: Okay. Thank you.
 20 So we are going to have to continue
 21 the hearing until our next regular meeting, which is
 22 October 25th.
 23 MR. MORGAN: Is there any reason why
 24 the board cannot rule now that the application or
 25 the current use of the property does not meet the

1 criteria and therefore until such time as he does
2 have a completed application that he needs to abide
3 by the cease and desist issued by the zoning
4 officer?

5 MR. FULPER: We are not an
6 enforcement board. We basically are a jury and we
7 have to listen to all the facts, both their side and
8 anybody else's information.

9 MR. MORGAN: I understand that.

10 MR. FULPER: And make a decision on
11 that. There's no way we can pull it out of our hat.

12 MR. MORGAN: Certainly we have enough
13 information for the board to at least go on the
14 record and acknowledge that the use, the current
15 use, regardless of the application, is not in
16 conformance with what the property has been zoned
17 for and intended.

18 MR. FULPER: That's what the zoning
19 officer has done.

20 MR. MORGAN: Why would it be improper
21 for the board to go on the record and state that,
22 whether you are an enforcements board or not, that
23 you believe that the current use of the property is
24 not as Mr. Lubchansky is using it? How is that
25 improper?

1 CERTIFICATE

2
3 I, DONNA BRUNCK, a Certified Court Reporter of
4 the State of New Jersey, authorized to administer
5 oaths pursuant to R.S.41:2-2, do hereby certify that
6 the foregoing is a true and accurate transcript of
7 the meeting and testimony that was taken
8 stenographically by and before me at the time, place
9 and on the date herein before set forth.

10 I DO FURTHER CERTIFY that I am neither a
11 relative nor employee nor attorney nor counsel of
12 any of the parties or attorneys to this action, and
13 that I am not financially interested in the action.

14 I DO FURTHER CERTIFY that the within
15 transcript format complies with Rule NJ ADC
16 13:43-5.9.

17
18 

19
20 Donna Brunck, CCR
21 License No. 30XI00148700
22 Dated: October 20, 2016
23
24
25

1 MR. PALILONIS: That's already been
2 determined by the zoning officer.

3 MR. MORGAN: So who's determined that?

4 MR. LANZA: I can answer that. What
5 we've done is the mayor and township have started
6 legal proceedings to enjoin this operation
7 challenging their zoning. We have come to an
8 interim agreement because of this application where
9 their use would be greatly limited after the end of
10 October, and we are trying to put that into a court
11 order now, but because I think the main reason and
12 the big problem is that people, innocent people,
13 relied on these people that they had a valid
14 operation. They paid a lot of money for their
15 daughters' weddings.

16 VOICE: But they continue to book.
17 They are still booking, so we are going to forever
18 feel bad for the people.

19 MR. LANZA: That's all taken care of
20 in the agreement.

21 MR. FULPER: We are going to have to
22 continue the hearing. You can have discussions
23 outside if you need to.

24 (Whereupon the proceedings were
25 concluded at 10:43 p.m.)