

BEFORE THE BOARD OF ZONING APPEALS
FOR ALLEGANY COUNTY, MARYLAND

In the Matter of: :
 :
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 :
 :
 Application of :
 : BZA CASE NO. 942
 DAN'S MOUNTAIN WIND FORCE, LLC : BZA CASE NO. 943
 :
 for a :
 :
 :
 SPECIAL EXCEPTION AND VARIANCE :
 :

VOLUME III

PUBLIC HEARING

Thursday, October 29, 2015

Whereupon, a Public Hearing was held before the Allegany County Board of Zoning Appeals on Thursday, October 29, 2015, commencing at 9:06 a.m., at the Allegany County Fairgrounds, Multi-Purpose Building, 11400 Moss Avenue, Cumberland, Maryland 21502, reported by Sheryl L. Gasparik, RPR.

A P P E A R A N C E S

BOARD MEMBERS PRESENT:

JULIA WILLIAMS, Chairperson

WILLIAM POWELL, Member

RODGER UPHOLD, Member

JOHN BRANT, Alternate Member

WES MCKEE, Board Counsel

JAMES A. SQUIRES, JR., Secretary,
Division Chief, Land Development Services

ON BEHALF OF THE APPLICANTS:

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Cumberland, Maryland 21502

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CUMBERLAND, MARYLAND

THURSDAY, OCTOBER 29, 2015

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P R O C E E D I N G S

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CHAIRPERSON WILLIAMS: We now call to order the Board of Zoning Appeals hearing for Case No. 942, Dan's Mountain Wind Force, Special Exception, and 943, Dan's Mountain Wind Force, Variance.

The same rules apply as yesterday. The same people are here as yesterday: Rodger Uphold; Bill Powell; myself, Julia Williams; our attorney, Wes McKee; our alternate, John Brant; Jim Squires, Division Chief. There are many other people here that are playing an important role, but I won't go through that.

Exits are on either side of this building. Restrooms are through the door and to your right. No smoking in this building. Please silence all pagers and cell phones.

We will -- today's session will be starting here, it already has started, and will run until about four, but our attorney may want to delineate or speak about more protocol or more

1 scheduling if we don't finish today.

2 MR. McKEE: Yeah, that's something that
3 we're going to have to address at some point to --
4 before the end of the day. We did -- yeah, it's
5 my understanding we're doing -- Mr. Miller, I
6 believe, is the last witness, and we're going to
7 be proceeding into some of the public comment for
8 the proponents and then get into the opponents'
9 case.

10 There was concerns about whether or not
11 we would be able to go forward, get this case
12 in by the end of today or whether we would have
13 to go forward. We have done some investigation.
14 Unfortunately, we are not going to be able to be
15 here tomorrow. They're going to have to -- they
16 have to have this building at 8:30 in the morning,
17 and the County at this point is not able to
18 accommodate us moving to the County to continue
19 this tomorrow either.

20 So if we don't get all of the case in
21 by the end of the day, we're going to have to
22 reschedule and come up with some additional hearing
23 dates. If we do so, we will be in contact with
24 all the counsel and parties and we will get that
25 worked out, but we will plug forward today and see

1 how much, how close we can get. I would say if
2 we get close, we're going to try to stay and get
3 this done today. All right? So we'll move forward
4 as a guideline, but if we're close, we're going
5 to try to get all the testimony in today. All
6 right?

7 Having said that, Mr. Miller, you are
8 still under oath. You understand that?

9 MR. MILLER: Yes, I do.

10 MR. McKEE: All right. And where I left
11 off, I believe, was questions from the community
12 at large. So does anybody have any questions for
13 Mr. Miller?

14 (There was no response.)

15 MR. McKEE: All right. Let the record
16 show nobody has raised their hand or stepped
17 forward.

18 Do any of the board members have any
19 questions for Mr. Miller?

20 - - -

21 EXAMINATION OF ROBERT MILLER

22 BY MR. POWELL:

23 Q. Mr. Miller, I do.

24 Back, I guess it was under Mr. Brewer's
25 testimony, I think I asked, one of the questions

1 I -- yeah, I asked if there were -- would be any
2 TV or radio interference generated from these
3 towers or from the transmission lines; and then
4 listening to your very descriptive analysis of all
5 the radio frequencies and everything, I kind of
6 got the sense that maybe there is a possibility of
7 some interference or something to the landowners
8 that live within this array of towers or whatever.
9 Is there a possibility of some interference, TV or
10 radio-wise?

11 A. Our experience has shown that if a home
12 is inside of the wind park, so you've got homes
13 and turbines located together, there can be
14 instances where digital television, over-the-air
15 digital television, can have problems on certain
16 days. With that said, I would submit that most
17 homes, if not all in this area, are either cabled
18 or satellite, have satellite television. So that's
19 certainly working for us.

20 Our models show that if there were to be
21 interference, it's mostly in unpopulated areas,
22 woods, mountainsides. There are -- were a total
23 of, in our very conservative, high conservative
24 estimate, we showed a potential for 14 homes,
25 11 of which were -- or most of which were in

1 West Virginia.

2 So we are prepared on the side of caution
3 here with the probes and with our readings, with
4 our preparations; and, certainly, this applicant
5 is ready to address, if there is a problem, there
6 are mitigation techniques that are spelled out in
7 the EIA.

8 Q. So, really, the satellite and radio
9 stations aren't really a risk of that; it's the
10 guy that's using the TV with the antenna that
11 stands to --

12 A. My opinion is that is your -- if there
13 is going to be a risk, that would be the risk.

14 Q. Yeah. So -- and there would be no risk
15 to an individual that uses cable?

16 A. That is correct. As a part of this study,
17 we spoke with Atlantic Broadband and Comcast here
18 and spoke with their engineers and determined that
19 there are no over-the-air antennas, television
20 antennas, anywhere near the proposed wind farm.

21 Q. And if for some reason, there is an effect
22 or something, they are ready to mediate that in
23 some fashion or check it out and see what they can
24 do about it and try to overcome that?

25 A. "They" being the applicants?

1 Q. Yes.

2 A. That is correct.

3 Q. The only other thing that I would ask is,
4 once these wind towers are placed and in operation,
5 is there anything in there that precludes a future
6 tower being erected in this area? Is there a
7 possibility that maybe down the road, maybe defense
8 or, you know, medical, medical people or something
9 need to have a new tower established or whatever
10 it is, is there anything in there that's really
11 going to interfere with that or can that be placed?

12 A. Well, we may be getting beyond my depth
13 on the land use, this being more of perhaps a
14 land use piece, because the proposed wind turbines
15 would be obviously taking up real estate that's
16 now under lease, and you would also have -- you
17 have a crowded area where the cluster of towers
18 is now, but I think that's all I can really say
19 about anything to preclude someone from placing
20 a tower.

21 Q. So to kind of clarify that a little bit
22 for me, there is a possibility of it would be more
23 difficult or there would be some difficulty maybe
24 in installing another tower?

25 A. Well, again, to the extent that there

1 is real estate now under lease but -- proposed
2 to be under lease by the applicant, that space is
3 no longer available for a tower to be constructed.
4 So now that land is being used and it precludes --
5 that would in itself would preclude another use --

6 Q. Right.

7 A. -- but as for placement of other broadcast
8 towers or communication towers on Dan's Mountain,
9 I would have to leave that to the experts who
10 would evaluate the land use and would work with
11 the communication company to determine what they're
12 trying to do, where they're trying to send, are
13 they trying to send the microwave from one place
14 to another, are they trying to broadcast something,
15 who is their audiences in Frostburg, is it West
16 Virginia, is it Cumberland. Those are all things
17 I don't know and would -- it would really be
18 specific to each case.

19 Q. In other words, they couldn't just go
20 out and erect a tower?

21 A. Right.

22 Q. They would have to do some study --

23 A. Exactly.

24 Q. -- or whatever have you; there may be
25 a place for it --

1 A. There may be, but they would have to do
2 that anyway.

3 Q. Yeah.

4 A. You know, wind park or no wind park, they
5 would need to do that anyway, make the evaluations
6 as to where the best place is, what the purpose is,
7 and then who the audience is, you know, who the
8 client is, etc. So it's a very, very broad scope
9 question that you're asking. I can't give a --
10 I've done the best that I can with the information
11 that I have.

12 Q. Yeah, and what I am getting at is, I
13 guess, what -- it would tend -- they need to do
14 all the necessary prep work and everything to
15 come up with placing another tower or whatever,
16 but because of the array of the wind turbines,
17 that still would add a little bit more to their
18 necessary study and everything to make sure that
19 they had their paths and all that jazz; but it's
20 not saying that it couldn't be done, it's just
21 saying that it may require a little bit more study
22 before placement or whatever have you?

23 A. I would agree with that, Mr. Powell.

24 Q. Thank you.

25

- - -

1 EXAMINATION OF ROBERT MILLER

2 BY MS. WILLIAMS:

3 Q. My questions, I guess ... he's got me
4 thinking. There is quite an array of beams on
5 your display, not only the land use portion, but
6 if somebody needed to erect a new tower or even
7 the proposed tower that you spoke about yesterday,
8 what if the proposed tower actually came in and
9 wasn't exactly the coordinates you had, or the
10 emergency team needs another tower, would they
11 have to do an EIA?

12 A. Would a town -- a communications tower
13 builder on Dan's Mountain need to do an EIA?

14 Q. Yes.

15 A. I don't know what the code calls for,
16 for communications towers on Dan's Mountain.

17 Q. Would you agree that there are so many
18 beams going there that would be --

19 A. They will -- before they build anything
20 anywhere, any communications tower will have a beam
21 path study done.

22 Q. Uh-huh.

23 A. Tall buildings will have beam path studies
24 done as well. Any structures that could get into
25 the way of beam paths are -- they must, as part of

1 their process, to protect themselves, because they
2 don't want to be, you know, in court later, they
3 want to check first, then build.

4 Q. Right. So it would be at the owner's or
5 the proposed owner's expense to have all these
6 studies done?

7 A. It is. It is always, yes.

8 MS. WILLIAMS: That's it for me.

9 MR. McKEE: Is there any other questions
10 from the members of the board?

11 (There was no response.)

12 MR. McKEE: Any redirect?

13 MR. GETTY: Just a few questions, just
14 to follow up on Mr. Powell and Ms. Williams,
15 Ms. Williams' question, so that I can understand
16 it, if I can break it down.

17 - - -

18 REDIRECT EXAMINATION OF ROBERT MILLER

19 BY MR. GETTY:

20 Q. Using the NEEMS tower, the 348-foot tower
21 that NEEMS has, first of all, that's something
22 that has been accommodated in this existing EIA;
23 correct?

24 A. Yes, it has.

25 Q. Okay. And to do that, you asked them

1 for a precise location, and from that, you are
2 then able to extrapolate and make sure that the
3 tower or, as some people say, make sure the tower
4 placements did not conflict with that --

5 A. Correct.

6 Q. -- their operation; correct?

7 A. That's correct.

8 Q. If this project is completely built out
9 and we still then have 18, 19, or 20, however many
10 communication towers there are, and based on the
11 board's questions, if we add one more, at that
12 time, am I correct, just as you talked about with
13 tall buildings, that communication tower is then
14 going to have to, if they are going to be licensed
15 through the FCC certainly, do kind of the reverse
16 engineering that we're doing here. They're going
17 to have to find out what's there and where they
18 can safely send their signal, correct?

19 A. That is correct.

20 Q. And based on the ordinance, as you
21 understand it, and based on the EIA, if for any
22 reason, the EIA is wrong or one of the towers as
23 constructed, even though it's microsited, somehow
24 creates a conflict, the ordinance itself has a
25 fault mechanism that requires units to be shut

1 down and those things to be addressed, so as not
2 to affect the communications community; correct?

3 A. That is correct, as well, in addition,
4 there is a bond that's posted by the applicant to
5 address any unforeseen issues.

6 Q. Now, with respect to the TV, the digital
7 off-air TV component, you mentioned there were 14,
8 you extrapolated there were approximately 14 homes
9 that would be affected and 11 of those were in
10 West Virginia and you talked about mitigation,
11 the mitigation you talk about is fairly easy to
12 do, isn't it, in terms of affording these people
13 the uninterrupted signal?

14 A. Yes, it is.

15 Q. Okay. It's technologically available,
16 it's something you can do without significant --
17 a significant disturbance to those people?

18 A. That is correct.

19 MR. GETTY: I have no other questions.

20 MR. McKEE: Thank you. Thank you, sir.

21 You may step down.

22 MR. MILLER: Thank you.

23 (Witness, Robert Miller, excused.)

24 MR. McKEE: Mr. Getty, am I understanding,
25 do you have any other witnesses?

1 MR. GETTY: No, that would be -- well, if
2 I stand up, you can't hear me.

3 MR. McKEE: I understand.

4 MR. GETTY: I like to stand up but I
5 can't. That would be the applicant's case and,
6 at this point, we would rest.

7 MR. McKEE: All right. At this time, the
8 applicants have put in the evidentiary portion of
9 their case.

10 As I had outlined, I guess, Tuesday, when
11 we came in, at this point, I am going to allow --
12 those people who want to speak on behalf of the
13 project, the special exception and variance, I
14 am going to allow them to come forward. They can
15 approach the microphone here, and we're going to
16 be limiting these to about three minutes.

17 If you can't say what you need to say
18 in three minutes, you can submit it in writing
19 afterwards, but we do want to let anybody who --
20 those who want to come up and speak on behalf of
21 the project, on behalf of the special exception
22 and variance, to come forward at this time, be
23 recognized to come forward.

24 Yes, sir, come on up.

25 MR. GETTY: Mr. McKee --

1 MR. McKEE: Yes.

2 MR. GETTY: -- you had also, at the
3 outset, talked about those people -- and I don't
4 know, but if any of these people who wish to
5 testify and be put under oath...

6 MR. McKEE: Certainly they can, if they
7 wish to testify.

8 MR. GETTY: They're not my witnesses,
9 but that was, I thought, part of the nature of
10 this as well.

11 MR. McKEE: It is, it is, and I will
12 clarify that. If you want to come up and take
13 the stand, subject to cross-examination, and
14 testify, you can do that. If you just want to
15 make public comment, then this is the deposition.

16 Do any of the people that have stepped
17 forward actually wish to testify here this morning?

18 (There was no response.)

19 MR. McKEE: All right. I believe it's
20 safe to say that they just want to make public
21 comment.

22 MR. GETTY: Okay.

23 MR. McKEE: So...

24 MR. SQUIRES: And everybody speaking, we
25 need your full name and mailing address for the

1 record. If you have already signed in, you're good
2 to go.

3 MR. WOLFE: Good morning, Madame Chair,
4 Members of this Committee, and Mr. McKee. My name
5 is Lawrence Wolfe. I am the president for the
6 Western Maryland Building & Construction Trades
7 Council. Our address is 401 Decatur Street,
8 Cumberland, Maryland 21502. I am also a resident
9 on National Highway in LaVale, Maryland.

10 I am here today to support Dan's Mountain
11 Wind Force and their co-applicants in their
12 application for this special exception and petition
13 for a variance, Cases No. 942 and 943.

14 I've got to tell you, I will try to be
15 brief. My interest was first peaked by wind
16 turbines in the mid-90s in a trip to Palm Springs,
17 California, where there is about 2700 turbines
18 in a wind farm there, the oldest in the country;
19 but I will try to keep my comments limited to the
20 building trades and our position.

21 We represent approximately 2500 men and
22 women that work in the building and construction
23 trades industry, and we cover the jurisdictions
24 of Washington, Allegany, and Garrett County in
25 Maryland; and those 2500 members belong to one of

1 14 affiliated craft unions, and we spend a career
2 working one temporary job after another.

3 I want to make that clear. I know there
4 has been some talk in the public about these being
5 temporary construction jobs, but that's what we
6 do. We go from one project to another. We offer
7 a highly trained and skilled craft workforce, and
8 our affiliates have state-of-the-art training
9 facilities. Our motto is "value on display every
10 day."

11 To give you an idea what the building
12 trades do in a community, we contribute to and
13 we're also members of a number of organizations.
14 A few of those organizations we have membership
15 in are the Greater Cumberland Committee, the
16 Allegany County Chamber of Commerce, the Building
17 Trades Education Foundation, and the Energy &
18 Property Rights Coalition.

19 The Western Maryland Building Trades
20 supports sensible economic development in this
21 region, and as well, we support a broad-based
22 energy policy and responsible development of such
23 energy. Some of those include wind, coal, solar,
24 natural gas, nuclear, hydro, and thermal.

25 The Western Maryland Building Trades

1 membership is highly trained and highly qualified
2 in a number of areas and as well as specifically
3 to the building of wind turbine projects. Our
4 membership has performed work on numerous projects
5 in the tri-state area and around the country.

6 There was some talk, I believe, on day
7 one about some of the Maryland projects, and
8 certainly the Western Maryland Building Trades
9 and our members worked on a number of these
10 projects, including the Criterion Project in
11 Oakland which was 28 turbines, the Roth Rock
12 Project which was 20 turbines, the Fourmile
13 Wind Project in Finzel which was 16, and there
14 is one down -- the Fair Winds Project, south
15 of Oakland, which is a dozen. There have been
16 about 15 projects in a five-county region that
17 are contiguous to Allegany and Garrett County
18 that we've had members work on these projects.
19 There has been an ennumerous amount of projects
20 in Pennsylvania and probably close to 10 in
21 Somerset County.

22 MR. McKEE: I'm going to have to ask
23 you to --

24 MR. WOLFE: I will wrap it up, sir.

25 MR. McKEE: Thank you, sir.

1 MR. WOLFE: I would like to clarify
2 "local work." The majority of the construction
3 on these Garrett County projects have been local
4 members, local residents, Allegany/Garrett County;
5 and by our explanation, about 90 percent of
6 those individuals lived in one of the contiguous
7 counties, specifically Bedford/Somerset in
8 Pennsylvania and Mineral in West Virginia, and
9 I ask you to consider, where we sit right now,
10 we're less than a quarter a mile from Seymour
11 Bottom in Wiley Ford, West Virginia, and less
12 than 10 miles from both Somerset and Bedford
13 Counties. We look at these as local residents.
14 So 90 percent, I mind you, local people work on
15 these projects.

16 MR. McKEE: All right, sir. You're well
17 over now.

18 MR. WOLFE: Just one final comment?

19 MR. McKEE: No. You're four minutes plus
20 going, and I have got to hold to that --

21 MR. WOLFE: I appreciate that, Mr. McKee.

22 MR. McKEE: No problem.

23 MR. WOLFE: Thank you.

24 MR. McKEE: Thank you, sir. Next speaker,
25 please.

1 MR. BELT: Good morning, Madame Chairman
2 and Board Members. Carl Belt, Jr. I live at 13119
3 Quarry Ridge Road, Cumberland. It's just off of
4 Winchester Road. I live on a ridge facing Dan's
5 Mountain, and I see the visual view from my house.

6 I think the -- I am in support of the
7 granting a permit to build this wind farm on Dan's
8 Mountain. I think the view will be approved.
9 The cell towers I see up there today aren't very
10 attractive, and I think this will be improvement.

11 This is also a wonderful economic
12 development project for our community. We have
13 very few projects like this, and it will provide
14 quite a bit of employment for construction workers.

15 Basically, I'm very supportive of this
16 project and would hope that you would grant
17 approval to move ahead with it. Thank you.

18 MR. McKEE: Thank you, sir.

19 MR. ROBERTSON: Good morning. My name
20 is James J. Robertson. I live at 14813 Viewcrest
21 Road, Cumberland, Maryland 21502. I am the
22 Educational Director for the Building Trades.

23 I will not repeat what has been stated,
24 other than my main concern is since the year of
25 2000, we have incorporated apprenticeships at the

1 Center for Career & Technical Education. A lot
2 of the new technology that is coming forth in the
3 state of Maryland, our students are up on it, as
4 well as our journey and wiremen. It is our dual
5 purpose to make sure that the buildings, windmills,
6 solar, whatever it may be, that we have the people
7 that can do that. We do not stand by and think
8 that contractors can come and build something that
9 we're not prepared for.

10 I hope that this is granted to these
11 people. It is a necessitation that we have in
12 careers and to save those careers here in our
13 county. Believe it or not, that this career
14 center here was the first in the state of Maryland
15 and one of the first in the United States ever
16 to have apprenticeships in public school systems.
17 It is dear to my heart, and I hope that you grant
18 this. Thank you very much for your time.

19 MR. McKEE: Thank you, sir.

20 MR. LASHBAUGH: Good morning.

21 MR. McKEE: Good morning.

22 MR. LASHBAUGH: My name is John R.
23 Lashbaugh. I live at 14201 Viewpoint Lane in
24 Frostburg, Maryland, and I am sure no one knows
25 where that is. To clarify that, it's in just

1 about the epicenter or the middle of that project.
2 If I want to be any more precise, I would say it's
3 probably 1155 feet, give or take a few inches,
4 from the Turbine No. 11, if this thing is to come
5 to fruition.

6 The reason I am here today is to try to
7 give you a landowner, someone that lives in that
8 area, a perspective of why we are involved in this
9 project.

10 Around 2001, a man came to our door and
11 they knocked and they said, "We're thinking about
12 putting a road -- or a wind project on your
13 mountain. What do you think about it?" And we
14 started talking about the wind projects and what
15 they do and what they don't do, and it came to
16 a point in time when we understood that if this
17 project were to come up this mountain, we would
18 get a road out of this.

19 What would a road do for us? Because
20 the road we have now, it runs off of an opie road
21 called Burning Mines Road that the County refuses
22 to maintain on our end of it. We have two miles to
23 take care of. What it would do in the wintertime,
24 it would allow us to have a road that is maintained
25 by the wind farm that the snow would be removed on,

1 any problems on that road would be taken care of,
2 and it would allow us to have egress and ingress
3 to this property when the snow is on the road and
4 we don't have the equipment to take it off.

5 We all have plows up there and we do a
6 good job on that road, but we just can't deal with
7 some of it. This puts us into a position where we
8 cannot have fire, police, and ambulance services.
9 The County, there is no way they could get to us.
10 You can't fly a helicopter in on top of Dan's
11 Mountain in a snowstorm because of the winds that
12 are up there.

13 At any rate, that first project was denied
14 by the County. The second project coming today
15 started about in 2009 when the talks began again;
16 and once again, we sat down, I sat down -- and I
17 am not meaning to speak for the other residents --
18 but I sat down and we began to talk about doing
19 this project again, if we were still interested
20 in doing that, and everybody was quite interested
21 because of what it would bring to us.

22 It would bring that maintained road back
23 in there, and at this time, we found that it also,
24 we would have the possibility of leasing our
25 property, much the same as if anybody had a house

1 that they wanted to lease. You could lease that
2 house there for "X" number of dollars and get a
3 return on your property.

4 We sat down as a collective group up there
5 and decided that this would be a good idea, and
6 what did this do to us, it really didn't do a whole
7 lot to us as landowners up there, but it provided
8 the wind company the opportunity to have unfettered
9 access to our properties to do a development
10 progress up there -- process up there.

11 By doing this, we joined with this wind
12 company in saying we, as residents up there, are
13 willing to accept whether there is noise, whether
14 there is flicker, whether there is any kind of
15 problems up here. We will live in this area in
16 exchange for that road.

17 Now, that decision wasn't lightly made.
18 We did a lot of research. We did a lot of looking
19 into backgrounds of wind farms. I particularly --

20 MR. McKEE: I am going to need you to wrap
21 it up.

22 MR. LASHBAUGH: Okay. In summation
23 on this, we need this road, we need this road
24 desperately; and the County needs the money, the
25 25 million dollars that you stand to lose over

1 the life of this project if this thing does not
2 come to fruition. I ask you to vote favorably
3 for this, and I thank you for your time.

4 MR. McKEE: Thank you, sir.

5 MR. LOAR: Good morning. My name is Fred
6 Loar. I live at 16604 Loartown Road, Frostburg.

7 I have my property under lease to Dan's
8 Mountain Wind Force, and several years ago, the
9 EPA got the straw against us farmers that I had
10 to downsize and I have been losing income on
11 account of it, and I need this to support my
12 income for the farm; and I am for this, and that's
13 what I wanted to say.

14 MR. McKEE: Thank you, sir.

15 MR. RICE: Good morning. My name is
16 Rodney Rice, 401 Decatur Street, Cumberland,
17 Maryland. I am the business manager of Local 307.

18 The last two wind farms that were built
19 in the area created 41,069 man-hours for the
20 electrical workers in the union since June of
21 2014, which equals dollars in wages, benefits,
22 healthcare, and taxes to the state and local
23 community.

24 IBW Local 307 does support the Dan's
25 Mountain Wind Farm and would ask for consideration

1 of the variances requested in granting so that
2 Dan's Mountain Wind Farm can proceed. Thank you.

3 MR. McKEE: Thank you, sir.

4 MR. BROWN: Good morning. My name is
5 Ronald Brown. I am here to support the Wind Force,
6 the wind farm. I am here also to speak for myself
7 and my wife.

8 I don't know I can say a whole lot
9 more than Mr. Lashbaugh because I live at 13601
10 Viewpoint Lane, several hundred yards from
11 Mr. Lashbaugh, on the very top of Dan's Mountain.
12 I also will be able to see the construction of
13 the wind farm. I will be able to see the turbines
14 whenever they're finished. I will be able to be
15 within any sound, flicker or whatever, that area.

16 Like Mr. Lashbaugh, we sat and had a very
17 prolonged discussion over this matter. We delved
18 into it. We looked into it. I understand the
19 opposition. I have lived in, hunted on Dan's
20 Mountain all my life. They oppose their view.

21 My point is this, I can sit in my house
22 now and look out my -- from my porch across the
23 mountain, and I see wind turbines in Pennsylvania.
24 As I leave my house, I drive down the mountain and
25 look up on Savage Mountain, I see wind turbines.

1 They don't bother me at all.

2 As I drive down the mountain to the bottom
3 of the mountain, I see a huge hole in the ground
4 where a strip mine is, and it causes dirt. It
5 causes filth there. I don't see anyone causing
6 any ruckus over that huge hole, but they're going
7 to oppose a wind farm. I don't quite understand
8 that.

9 I'm here to support the wind farm.
10 I've had many discussions with the people who
11 are involved in the wind farm. I don't know what
12 else I could possibly say other than that. If my
13 wife were here, she would say the same thing. In
14 fact, I probably wouldn't be able to speak. She
15 would do all the speaking. So thank you.

16 (Laughter)

17 MR. McKEE: Thank you, sir.

18 MR. WENDRICKS: Good morning. My name
19 is Cliff Wendricks. My address is 119 South Centre
20 Street, Cumberland, Maryland.

21 I want to make a couple points, from a
22 couple of views that I feel like, you know, I have
23 an interest in. One being, you know, I represent
24 construction workers in the iron worker trade. We
25 have the fortune to be able to erect these things

1 from the ground up until the day that they're
2 commissioned. It's a fantastic work. It's clean
3 work. You know, our guys love working local. For
4 the most part, they have to travel an hour down the
5 road to go to work.

6 Unfortunately, this area is recessed in
7 the sense that, you know, we don't -- we don't
8 always get those opportunities. So here is an
9 opportunity that certainly is going to bring needed
10 revenue into the area for the taxpayers, to help
11 the roads and whatever else it may see fit from the
12 county commissioners' sense.

13 Just a couple of points I want to make.
14 We have seen -- and this is just in five years
15 that I pulled from our records. We have seen over
16 420,000 man-hours from wind farms alone in the
17 area. That's not specific to Maryland, but that
18 is in the tri-state area, some of the farms that
19 was just eluded to. That's been roughly 18.4 --
20 \$18,450,000 worth of both benefits and wages that
21 the construction workers that I represent have
22 pocketed.

23 That pays into Social Security, that pays
24 into apprenticeship programs, and it pays into the
25 training that we believe in so much that we train

1 for our members that they can do a solid job in
2 erecting these and making sure they're being put
3 up safe and, you know, as to make sure that the
4 warranty is there. So I just want to make that
5 point.

6 And also, I am a land owner in another
7 wind farm, so I want to give that perspective as
8 well. You know, I have talked to quite a few
9 landowners in the wind farm that I have part of;
10 and, you know, just like Mr. Loar and Mr. Lashbaugh
11 eluded to, you know, the hardship here is the
12 revenue that these people receive for the use of
13 their land. You know, this is -- this is important
14 to some of these people. This is land that they've
15 either purchased or it's been in their family for
16 decades. You know, this is much needed revenue
17 to keep the tax -- to be able to pay their taxes,
18 their insurance and everything. It's incorporated
19 with that land to be able to keep it in their
20 family, so definitely something to consider.

21 You know, and I would also just bring
22 up the point of, you know, we have talked about
23 hardships here in the last couple days, and I
24 would certainly think the hardship to the County
25 of not receiving that million dollars per year tax

1 base would certainly be detrimental to the area
2 and to the individuals who live in this county.

3 So with that being said, obviously, I
4 am in support of it, and I respect everybody's
5 position in this room, don't always agree; but,
6 you know, that's why we have these meetings, and
7 I appreciate your guy's -- your all's time and
8 would certainly hope that you would consider
9 everything that's been brought before you.

10 I think they went above and beyond to
11 meet all the conditions of the County as to what's
12 been asked of them and would certainly hope that
13 you guys would approve this project for the
14 economic development of our area. Thank you.

15 MR. McKEE: Thank you, sir.

16 MR. ISGAN: Good morning. My name is
17 Sean Isgan. I am from 165 East Union Street in
18 Somerset, Pennsylvania. I am a partner in the
19 firm of CME Engineering, and I also, my partner
20 and I, own an office building at 29 East Main
21 Street in Frostburg, right across the alley from
22 the Palace Theater where we did have an engineering
23 office that employed about 17 people there.

24 I have been familiar with this project
25 since its inception and have worked on this

1 project, prior to the 2008 zoning change. At
2 that time, I testified that -- our firm is heavily
3 involved in energy, wind, coal, power, gas, and
4 at that time, we were very active in this project.
5 I testified at that time that our firm was in
6 danger of potentially closing our office as a
7 result of the delays with this project. This
8 project was keyed up and ready to go. Well, my
9 words proved to be prophetic because we are not
10 here anymore. We moved our office to Wheeling,
11 West Virginia.

12 We have energy in this area. That's one
13 thing we have and we should use it. This is clean
14 energy. The federal government is in support of
15 this, this type of energy. We should use these
16 resources. That's what we have here.

17 These projects do create jobs. As I said,
18 we did -- we did the Pinnacle Project. That was
19 one of ours. I had people employed for years from
20 the design through the environmental assessment,
21 through all the surveying and the construction.
22 So they do create jobs, good-paying jobs.

23 I heard a lot of questions regarding wind
24 farms and their impact on safety and the neighbors.
25 I own a small farm adjacent to a wind farm in

1 Somerset County. That farm does not affect me one
2 bit.

3 With regard to safety, if you're familiar
4 at the intersection of Route 160 and Route 30 in
5 Somerset County, it's several dozen wind farms.
6 That's the wind farm I am adjacent too. It's also
7 the home of the Mountain Ridge ATV Park. Thousands
8 and thousands of ATV enthusiasts use that park
9 annually, in and amongst the wind turbines with
10 no problems. So there was questions about hunting.
11 I hunt on that property, no problems. People come
12 from all over the area to ride the ATVs, in amongst
13 those wind turbines with no problems.

14 In the end, we have heard many people
15 talk about jobs. It does create jobs. I've got
16 a building in Frostburg. I have hundreds of
17 thousands invested in that building. We would
18 still be here likely had this project gone in
19 December. I'm hoping I can recoup maybe half
20 of the investment I have in that building.

21 This area needs jobs, this project will
22 bring jobs, and we should embrace the investment
23 that Dan's Mountain Wind Force is going to bring
24 to this area. Thank you.

25 MR. McKEE: Thank you, sir.

1 MR. CZAPSKI: Madame Chairman, Members
2 of the Board, I am Stu Czapski, Executive Director
3 of the Allegany County Chamber of Commerce.

4 The Allegany County Chamber of Commerce
5 supports safe and responsible energy production
6 in Maryland. A balance can be reached, ensuring
7 Western Maryland receives the economic benefit
8 of energy production while minimally impacting
9 the environment and preserving quality of life.

10 Furthermore, if a legally operating
11 business or organization complies with all local,
12 state, and federal guidelines, regulations, codes
13 and ordinances, that entity should be granted the
14 right to do business.

15 In 2009, after over a year of public
16 input and deliberation, the Allegany County
17 Government adopted the strict regulations we
18 have now to protect its citizens. By all accounts,
19 it appears the applicants have complied with those
20 regulations, including consent from those very
21 citizens the regulations were intended to protect.
22 It's time to let this company do business.

23 The Allegany County Chamber of Commerce
24 respectfully urges the Board of Zoning Appeals
25 to give full consideration to Laurel Renewable

1 Partners, LLC's request for permitted use by
2 special exception for development of the Dan's
3 Mountain Wind Farm.

4 The Chamber appreciates the continued
5 efforts of both the Board of Zoning Appeals and
6 the Planning & Zoning Commission and offers our
7 assistance to you as you work through this or
8 any other project under review in Allegany County.
9 Thank you for your consideration.

10 MR. McKEE: Thank you, sir.

11 MR. REDSHAW: Good morning. My name is
12 John Redshaw. The address is 327 North Centre
13 Street, Cumberland, Maryland. I am also a council
14 representative for the Keystone Mountain Lakes
15 Regional Council of Carpenters & Millwrights.

16 I am here in support of this project, not
17 only for the jobs, the tax revenues and whatever
18 else good that this brings, but the need of energy.

19 I also emphasize with the people opposed
20 to the project. Change can be difficult. I,
21 myself, had my home taken 17 years ago under
22 eminent domain to widen the road for traffic
23 easement. It's never easy to lose your home
24 like that or to have your home changed, but we
25 do need to do it for the betterment of the good

1 of the whole community, whether it's widening a
2 road, improving energy, whatever; and with energy,
3 especially wind, we don't -- we have limited
4 choices, like the previous speaker said, with
5 nuclear, coal, wind, solar. There is no perfect
6 solution yet, but wind is one of the better ones.

7 And yesterday, I, myself, and Dave McPhail
8 drove up to the wind farm in Garrett because of the
9 noise. I never actually stood next to one or got
10 close. I was about 50 yards away. I'm sorry, but
11 I had to get out of my car and turn the engine off
12 before I could actually hear it, and it was very
13 soft. So I'm not quite sure what the noise problem
14 is.

15 As far as sight, I have driven across this
16 country many times and, actually, I think they're
17 innovatively good-looking, a lot better-looking
18 than a coal plant. So that's all I have to go on,
19 but I would like to -- hopefully, you can support
20 this project. Thank you.

21 MR. McKEE: Thank you, sir.

22 MR. McPHAIL: Good morning.

23 MR. McKEE: Good morning.

24 MR. McPHAIL: My name is David McPhail. I
25 live at 262 West Main Street, Kitzmiller, Maryland.

1 I am also with the carpenters, and the
2 guys have pretty well covered just about everything
3 that -- you know, to be said about it, but living
4 in Garrett County, the building of the windmills
5 really helped our economy. Every road that the
6 windmill has used was repaved, so we came out with
7 better roads.

8 They have even put up a college fund. If
9 the kids have a 3.0 or better when they graduate,
10 their first two years at Garrett College are paid
11 for through the windmills. So I think it's been a
12 positive thing.

13 I've been up to them, just like Jay, and
14 the noise is very minimal. I mean, you can -- you
15 had to turn off the engine of the car to hear it.
16 So -- but I am for it and, hopefully, you guys will
17 approve it. Thank you.

18 MR. McKEE: Thank you, sir.

19 MR. HUTTER: Good morning, ladies and
20 gentlemen. My name is Jeff Hutter. I am president
21 of TWR Communications, 549 North Centre Street,
22 Cumberland, Maryland.

23 We own three plots of ground on Dan's
24 Rock. We have numerous antennas up there and
25 towers. We also are the one party that is impacted

1 by this, owning an additional site which is on the
2 other side of the wind farm, and we have reached a
3 good compromise and accommodation with these folks
4 as to how we are going to correct our issues.

5 In the course of that study, which I was
6 involved in from the very beginning, we've also
7 looked at how we can handle this in the future,
8 and I think we've got a good plan. I have been
9 operating communication systems for close to 50
10 years. My own experience is, we have towers at
11 other places near wind farms and have had no
12 issues.

13 Some of the communication services we
14 provide, by the way, are both commercial, private.
15 We also provide services to most of the medical
16 community with paging. We've also done a lot of
17 other mission critical things. We've never had
18 an issue with any radio interference issues. We
19 don't see any here. Again, we have looked the
20 study over very close. I feel confident we're
21 fine. I also feel that if we do have an issue,
22 we can work things out and get past it.

23 The other thing to keep in mind is that
24 there is plenty of ground on Dan's Rock and the
25 surrounding area for additional towers, if, in the

1 future, we do need them. There is also tower space
2 on existing towers like ours, if we would need to
3 add stuff.

4 The other thing to keep in mind is the
5 interference study mainly addresses issues with
6 fixed microwave beams which are the major problem,
7 and as you've heard, there is going to be fiber put
8 in there. Over a period of time, this is probably
9 going to mean a lot of the microwave paths will
10 go away, they will be non-issues, and the reason
11 why fiber is becoming the preferred method which
12 is what the State of Maryland is doing for their
13 proposed 300-foot-plus tower.

14 The other thing is, we, as a company,
15 benefit, along with the unions and others, because
16 we are supplying all the radio equipment for
17 virtually every wind farm up and down the whole
18 Appalachian chain. It's been a good source of
19 business. It keeps money here in Allegany County.
20 It keeps my employees busy. After the fact, we
21 now supply maintenance services and radio products
22 to all the folks that keep these things running.
23 It's been a good relationship.

24 The other thing to keep in mind is, this
25 is reclaimed land. This is not like many of the

1 wind farms you have seen in the past where they
2 went in and this was, if you will, pristine forest
3 area. This is far from that. I have personally
4 walked most of it over the years with my scouts,
5 and it is not like it used to be, and I think this
6 fits perfectly here. I don't believe it's going to
7 disturb anything. So I ask that you approve this
8 variance and we move forward with this project.
9 Thank you.

10 MR. McKEE: Thank you, sir.

11 MR. RICE: Good morning, folks. My name
12 is Jerry Rice at 13414 McKenzie Tower Road. I
13 represent two organizations here today.

14 I represent -- I am the president of the
15 Cresaptown Sportsman Association. We lease or
16 own approximately 2600 acres on the face of Dan's
17 Mountain. These gentlemen came into the battle
18 zone, into our meeting one day to throw their
19 project at us; and, of course, they looked at
20 both sides of it. They had opposition and they
21 had people that were for it. At the end of the
22 meeting, we, as an organization, voted in favor
23 of the Wind Force and the gentlemen that are here
24 representing the Wind Force.

25 Potomac Valley Athletic Association, I

1 am the president of the Potomac Valley Athletic
2 Association in Cresaptown. They did not have to
3 do it, but they put me on to a grant that we can
4 put in for our kids every year to keep our kids at
5 a good facility that we can apply for every year.

6 So once again, they're trying to do their
7 part. So it would be greatly appreciated if you
8 would grant this to these people. Thank you.

9 MR. McKEE: Thank you, sir.

10 I would indicate at this time, there does
11 not appear to be anybody else for it that wanted to
12 speak in favor of the project.

13 I will ask, is there anyone else here who
14 has not stepped forward that wishes to speak in
15 favor of this project for the variance and special
16 exceptions requested?

17 (There was no response.)

18 MR. McKEE: All right. Let the record
19 reflect nobody else has come forward. So at this
20 time, we are going to go ahead and we are going
21 to open this up to the opposition's case.

22 I guess I will ask, how do -- do you
23 intend to testify or how do you want to proceed
24 at this point?

25 MS. STARK: I did have something prepared

1 to talk to, and then I think we were going to go
2 through ... we had a list of witnesses and had an
3 order and they were going to testify and signed in
4 to testify.

5 MR. McKEE: And that's fine. That's fine.

6 MS. STARK: Okay.

7 MR. McKEE: Did you intend to go first or
8 do you want --

9 MS. STARK: Yeah. I think that was in the
10 plan.

11 MR. McKEE: Okay.

12 MS. STARK: Is it okay if I do it from
13 here or do you want me up there or --

14 MR. McKEE: As long as you're under oath,
15 I don't -- I think you are fine where you are --

16 MS. STARK: Okay.

17 MR. McKEE: -- unless the board has an
18 objection.

19 MS. WILLIAMS: That's fine.

20 - - -

21 ERIN STARK,

22 OPPONENT WITNESS, SWORN

23 - - -

24 MR. McKEE: All right. And just again,
25 your name on the record, name and address, please.

1 MS. STARK: Okay. My name is Erin Stark.
2 I live at 16300 Sprucewood Drive, Frostburg,
3 Maryland.

4 - - -

5 STATEMENT BY MS. STARK:

6 Okay. I am here today acting as a
7 spokesperson for the Allegany Neighbors & Citizens
8 for Homeowners Rights, a group which is comprised
9 of many residents that live in the area surrounding
10 the proposed Dan's Mountain Wind Force Project.

11 We support clean energy, but what we
12 oppose in this situation is the construction of
13 wind turbine farms in areas that put residents
14 at risk. We are here to request that this board
15 deny applicant's petition for a special exception,
16 Case 942, and in the event, this special exception
17 is approved, then for the board to deny applicant's
18 request for the variances to Maryland Code 360-92,
19 Case 943.

20 We are also requesting not only the
21 variances be denied, but that the board exercise
22 their right to extend the variances from a
23 residence to 3,000 feet, and you're given that
24 right under 360-92(A)(9).

25 Section 101 of the Annotated Code of

1 Maryland, Land Use Article, Section 4.3.05 states
2 that a special exception means a grant of a
3 specific use that would not be appropriate
4 generally or without restriction and shall be
5 based on the finding that the requirements of
6 the zoning law governing the special exception
7 of the subject property are satisfied; and,
8 second --

9 MR. McKEE: Ma'am, I am going to ask
10 you to slow down a little bit.

11 MS. STARK: Slow down?

12 MR. McKEE: Yeah.

13 MS. STARK: Sorry.

14 MR. McKEE: You're rattling fast.

15 MS. STARK: Sorry, okay.

16 -- and that the use of the subject
17 property is consistent with the plan and compatible
18 with the existing neighborhood.

19 The location of the proposed wind turbines
20 is inconsistent with the Comprehensive Plan of
21 Allegany County and incompatible with the existing
22 neighborhoods which are in close proximity to the
23 proposed wind turbine sites.

24 One of the primary goals of the 2014
25 Allegany County Comprehensive Plan is stated

1 to be long-term protection of the scenic vistas
2 and unique geological features within Allegany
3 County. The plan states that any proposed future
4 development impact should be evaluated for the
5 aesthetic and intrinsic value.

6 Allegany County created our own specific
7 additions to that plan that the people of Allegany
8 County found important. What we find important
9 in Allegany County can be quite different from
10 the people living in Baltimore or other areas
11 of the state. The plan, as a whole, should be
12 considered in current analysis of compatibility.
13 The viewshed, the geological features of this
14 area are of great importance to the planners of
15 Allegany County, and as such, this was added to
16 the comprehensive plan.

17 The intent of the planners, in adding
18 this language, should be persuasive in this
19 case. Dan's Mountain is specifically called out
20 throughout the plan as one of the areas to give
21 afforded protection. The location of the proposed
22 wind turbines would be in complete conflict with
23 that portion of the comprehensive plan. While
24 applicants would argue there are a number of radio
25 towers already in that area that have already

1 restricted the view, we believe it was the intent
2 of the comprehensive plan which was revised in 2014
3 to curtail any further impact to this geological,
4 historic site.

5 In addition to the standards set forth
6 and the definitions of special exception, case
7 law supports the adverse impact to residents
8 is a justification to deny a special exception.
9 Standards dictate that if a requested special
10 exception use is properly determined to have an
11 adverse effect upon neighboring properties in the
12 general area, it must be denied. That's *Anderson*
13 *v. Sawyer*. The location in which the applicant
14 proposes to construct the turbines is unique and
15 different to such an extent that it makes approval
16 of a 17-turbine farm inappropriate for this land.

17 In addition to being in conflict with the
18 comprehensive plan, the proposed location of the
19 wind turbines is not compatible with the existing
20 neighborhoods. Opponents agree that wind turbine
21 farms can be considered an allowable use under
22 agriculture and conservation, if approved by the
23 board via a special exception.

24 We argue that the characteristics of this
25 agricultural land where Dan's Mountain Wind Force

1 proposes to construct the turbines is incompatible
2 for this use, and such use in this location was
3 not the type of agricultural land contemplated
4 by the County when they provided for the special
5 exception. If this particular site was appropriate
6 for the turbine farm of this size, then there would
7 not be a need for 26 variances to the code in order
8 to implement the turbine locations.

9 Applicant has said in *Anderson v. Sawyer*,
10 in support of their argument, that negative impacts
11 to the community are presumed; therefore, any
12 evidence of the negative impacts at a proposed
13 wind turbine should not be persuasive to the board
14 in their review; but when you read the facts in
15 *Anderson*, it becomes clear that the case facts do
16 not apply in the current situation, and thus the
17 board should disregard the presumed negative impact
18 argument of the applicant.

19 In *Anderson*, the zoning code provided
20 for funeral homes in a residential area. It
21 was presumed, since it said funeral homes are
22 allowed in residential areas, that there was some
23 negative impact of the funeral homes, they can
24 be depressing, but it had already been approved
25 for a residential area.

1 In this case, the zoning law found that
2 a residential neighborhood is not an appropriate
3 place for wind turbines. So they pointed to
4 agricultural and conservation zones, if after
5 review of the Board of Zoning Appeals, the board
6 has determined the specific agricultural location
7 being proposed poses no hazards to the health,
8 safety, and welfare of the citizens, and that
9 the proposed plan is in agreement with the
10 comprehensive plan.

11 Here, the agricultural land at issue
12 encroaches on a number of major residential areas,
13 a historically protected, natural geological area
14 unique to Allegany County, specifically protected
15 under the plan, and 911 emergency towers. It is
16 for this reason we believe the special exception
17 for the particular agricultural land should not
18 be approved.

19 The applicants again cite *Anderson* in an
20 argument that the wind turbines are specifically
21 contemplated in zoning laws for use in agricultural
22 area -- areas, so that they are presumptive in the
23 best interests of the general welfare, but this
24 applied presumption of benefit to the community is
25 specifically removed with the language provided in

1 Maryland Code 360-92(A)(9).

2 As the applicant witnesses testified, they
3 carefully walked through each and every requirement
4 of 360-92, but they left out (A)(9). (A)(9) states
5 as follows:

6 The Board of Zoning, upon finding there
7 to be concerns regarding the health, safety, and
8 welfare, if it warrants additional separation, the
9 board may, at its discretion, increase prescribed
10 separation distances by up to 50 percent.

11 That removed any implied statement that
12 it was allowable and good for the general welfare.
13 It gave you the right to look back and determine
14 if there were any additional concerns. That's
15 a pretty low requirement. Concerns of the board
16 can allow you to go 50 percent over. In this
17 situation, that would be residential homes that
18 are 2,000 feet, you could increase it to 3,000,
19 if you find that 2,000 feet is not appropriate
20 to protect the health, safety, and welfare.

21 This allows the board to independently
22 remove this issue -- independently review this
23 issue, if in the board's opinion, the placement
24 of wind turbines could increase the concerns of
25 health, safety, and welfare of the residents.

1 In fact, if the board does provide relief to
2 the applicant in the form of the special exception
3 approval but then finds certain turbine's
4 placements to pose a negative health impact to
5 the residents, then the board has the right and
6 duty to increase the variance from homes and other
7 protected locations by 50 percent.

8 With this in mind, we will provide witness
9 testimony from a number of nearby residents
10 currently living near active wind turbine farms,
11 and there will be a number of exhibits and articles
12 presented into evidence with a plethora of negative
13 health, safety, and welfare impacts caused by
14 the wind turbine farms being located too close
15 to residential areas.

16 In addition to the health impacts of
17 residents living close to the towers, through
18 significant risk to the welfare of the Allegany
19 County residents due to the risk of interference
20 with current emergency communication towers
21 and the plan for the upgrade of the emergency
22 management tower.

23 It's important to know that for the same
24 reason Dan's Mountain Wind Force finds Dan's
25 Mountain ridgeline so desirable for the wind

1 turbines -- it's looking at the highest ridgeline
2 and peak in Allegany County -- the emergency
3 management departments have also chosen this
4 location as the most effective location for maximum
5 communication ability. While applicants have
6 stated that it is unlikely for its negative impact
7 on 911 communications, this opinion is based on
8 studies, and the real impact of the turbines
9 cannot be fully determined until they would be
10 in operation.

11 In fact, it was this very concern
12 expressed by the Maryland First Director of
13 Operations in their response to the applicant's
14 EIA study. Specifically, he noted that different
15 operating situations may impact the communications
16 in different ways in which such impact could not
17 fully be resolved under the study. How many lost
18 emergency -- 911 emergency calls caused by the
19 wind turbines is too many.

20 The location of the current towers
21 requested and analysis proposed for the new tower
22 is limited to that one location. Any change to
23 that location could compromise the ability to
24 place a tower on the ridge and not interfere with
25 tower placement. On February 20th, the Director

1 of Operations from Maryland First provided comments
2 in the study and stated in a response, they stated
3 they had not received all the technical data
4 related to the plan installation by the State of
5 Maryland-owned radio frequency.

6 Maryland First stated their concern
7 regarding the potential of interference to public
8 safety microwave paths as the nature of the
9 technology. Many variables exist that can affect
10 the public safety path standards, and a standard
11 requirement is a 99.99 percent reliability, and
12 there are things involved in having the turbines
13 up there that put that reliability percentage at
14 risk.

15 Microwave paths are subject to multiple
16 interference features that cannot be proactively
17 tested, and that was the weather and the wind,
18 and this is Applicant's Exhibit T which applicant
19 previously exhibited or submitted into evidence.
20 In an effort to mitigate this risk to the public
21 safety, the State suggested that applicant install
22 the fiber optics from the State's highway to the
23 emergency tower.

24 The question here is whether the applicant
25 has agreed to provide the funding and mitigate

1 the risks to the public associated with the
2 proposed location of the turbines. During
3 cross-examination, applicants denied knowledge
4 of any request to fund the installation of this
5 fiber optic line which you will see the request
6 in Exhibit T. Without the funding provided to
7 the community and by the applicant and the risk
8 to the community is increased, then the special
9 exception should be denied.

10 In the event the board finds for the
11 applicant under request for approval of the
12 special exception, then opponents request that
13 not only -- the request for a variance to Maryland
14 Code 360-92 be denied. We also request that
15 the board impose the 50 percent increase under
16 360-92(A)(9).

17 So variances, in layman's terms, are
18 merely requests by landowners to be exempt from
19 certain zoning laws. The Board of Zoning Appeals
20 has been given the right and the power to grant,
21 grant this right in a very deliberate and careful
22 manner. The general rule that the authority to
23 grant variances should be exercised sparingly and
24 under exceptional circumstances was set forth in
25 *Cromwell v. Ward*.

1 The average variance requests to
2 landowners, you may submit one, a single variance
3 request on a piece of property in order to assist
4 the landowner in using his property that might
5 just be outside the normal parameters of use
6 in the area. Applicants here are requesting
7 26 variances, so they can build the biggest wind
8 turbine project as possible on the land that they
9 have leased.

10 Approval of this request would be outside
11 the purpose and the intent of the law. The purpose
12 and intent of the law is not to allow a project
13 which is clearly too large a project for the land
14 via the variance process. Variances are not meant
15 to completely change the zoning regulations. They
16 are a measure available to assist landowners when
17 the use is merely slightly outside the law but
18 still in line with the purpose and intent of the
19 land.

20 Pursuant to the Allegany Code Section
21 360-63, modification of the zoning regulations
22 is permissible for a special exception of the
23 physical conditions of the lot and parcel,
24 and it's not the result of the actions of the
25 applicant that would make strict enforcement

1 of the regulations unreasonable. Applicant has
2 failed to provide evidence or testimony regarding
3 the physical conditions of the co-applicant's
4 latter parcel to make the strict enforcement
5 of the regulations unreasonable. In fact,
6 co-applicants' lots do not appear to have any
7 specific topographical challenges at all, and
8 it's only the actions of the applicants that create
9 the need for the variance.

10 Another test for variance application is
11 that a landowner must show a unique and substantial
12 hardship in order to be granted a variance which
13 hardship must apply to him personally and not be
14 common in the neighborhood. Applicants failed to
15 provide a hardship associated with co-applicants'
16 variance request, and as such, all 24 variances
17 of co-applicants should be denied. Dan's Mountain
18 Wind Force hardships are not the hardships of the
19 co-applicants, and as such, cannot be applied to
20 the request.

21 The Dan's Mountain Wind Force applicant
22 claims they should be granted two variances related
23 to the placement of wind turbines in a team, but
24 the need for the variance is in the applicant's own
25 doing and cannot need be -- sorry -- the need for

1 the variance is the applicant's own doing and could
2 be resolved without the variance if the applicant
3 reduced the height of the turbine to the shorter
4 turbine height, such as Turbines 1, 5, and 6.
5 Hopefully, I got that right. Since the need for
6 the variance is the applicant's own doing, such
7 variance should be denied.

8 In this case, it's not the topographical
9 issues with the land that motivates the applicant
10 to submit the variance requests. Rather, it's the
11 financial motivation to allow the highest number
12 of turbines on this property for maximum electrical
13 output. Denial of the applicant's variance
14 requests would not stop the applicant from using
15 its land to erect wind turbines. It will only
16 impede the number and the height of the wind
17 turbines.

18 Turbines 1 through 4 do not require any
19 variances and would comply with the requirements
20 of 360-92, if a special exception is granted.
21 The real issue for applicant is solely a financial
22 impact and the ability to make the project
23 profitable enough so they can find an interested
24 buyer. Such financial motivation is not -- is
25 not applicant being denied the use of his land.

1 Rather, the code is protecting the nearby
2 residents from wind turbine farms that are too
3 large being placed on a parcel of land that is
4 not appropriate for such use. Simply being unable
5 to do what one wants to do with one's property is
6 not a hardship related to the underlying unique
7 characteristics of the property or its topography.
8 This was stated in *Maryland Reclamation Associates*
9 *v. Harford County*.

10 Variances are not automatically granted
11 and should not be used -- and should only be used
12 in rare exceptions. A variance is basically a
13 property owner's way of requesting a specific use
14 that's outside what is generally allowed by law.
15 I apologize. I probably already read that through.
16 We have 26 variance requests. I had it down here
17 as far as going through each one and what each one
18 is, but I think Mr. Powell has already done that
19 for the board, so I will save -- save that and move
20 on.

21 The signature by co-applicants requesting
22 a variance to their land while Dan's Mountain Wind
23 Force applicants suggest this should make the
24 review of the variance requests by the Board of
25 Zoning a mere formality. In the application --

1 in the applicant's Memorandum A, they go as far as
2 to say that the applicant is entitled to a variance
3 under Section 360-92. I do not believe that should
4 be so. Nowhere can I find a case before this board
5 or any other Board of Zoning in Maryland where the
6 granting of a variance is an absolute right.

7 The applicants provided testimony
8 regarding the funds already expended by applicant
9 in anticipation of receiving the special exception
10 and various approvals from this board. Testimony
11 related to the costs expended by the project should
12 not be considered persuasive to the board's review.
13 The amount of money applicant may have spent in
14 preparation of the project and variance is not
15 persuasive. While the board finds homeowners --
16 would the board find a homeowner's payment of home
17 plans prior to the receipt of the variance rational
18 for allowing such a variance? No. This part
19 should not be part of the deliberation, no matter
20 if they spent one dollar or one million dollars in
21 the pursuit.

22 Applicant argues that without the proposed
23 variances being approved, then they will not be
24 able to use their land in a manner they wish, and
25 thus denial of the variance requests will cause

1 undue hardship. The true hardship of the applicant
2 is that it would lose their ability to use the
3 land -- isn't that they would lose their ability
4 to use the land. It's just the number of turbines.

5 This issue could be compared to a
6 homeowner who wanted to build a 10,000-square-foot
7 home on an 11,000-square-foot lot. Therefore,
8 they request the board to allow variances to the
9 setback requirement. Could the homeowner claim
10 practical difficulty in the need to have a
11 10,000-foot home because they have a buyer for
12 a 10,000-foot home but they don't have a buyer
13 for a 7,000-foot home? Just as the board would
14 clearly deny such a request or require the
15 homeowner to merely reduce the size of their
16 proposed home, the board should also deny
17 applicant's variance requests or require them
18 to build with fewer towers that would comply
19 with the current zoning requirements.

20 Many of the practical difficulties
21 claimed by the applicant are as a result of the
22 very law they are seeking relief. In *Maryland*
23 *Reclamation Associates*, the Maryland Court of
24 Appeals held that the requirement that one conforms
25 their use to the requirements of the code is not

1 a practical difficulty sufficient to justify the
2 granting of a variance. The requirement that one
3 person can form -- sorry, repeat.

4 The difficulty with the property resides
5 with the applicant's proposed use, not the
6 uniqueness of the property itself. The difficulty
7 arises from the law, not the topography of the
8 land. Applicants already received relief on one
9 of the issues of topography when DNR provided a
10 300-foot variance instead of a thousand-foot buffer
11 zone that was originally contemplated in the law.

12 The other topography issues are not
13 different from other agricultural areas that
14 they could be building turbines. It would
15 not be unusual for agricultural areas to have
16 wetlands, habitats and endangered or rare species,
17 underground mining, rocky areas, and other normal
18 agricultural topography issues that might restrict
19 some of the placement of turbines.

20 In determining whether a variance should
21 be granted, the following rules from *Cromwell*
22 should apply:

23 This first step requires a finding that
24 the property wherein the structure is to be placed
25 is, in and of itself, unique and unusual in a

1 manner different from the nature of surrounding
2 properties, such that the uniqueness and
3 peculiarity of the subject property causes a
4 zoning provision to impact disproportionately
5 upon that property. Unless there is a finding
6 that that property is unique, unusual, or
7 different, the process stops here and the
8 variance is denied without any consideration
9 of practical difficulty or unreasonable hardship.

10 If that first step results in supportable
11 findings of uniqueness or unusualness, then the
12 second step is taken into the process; whereas,
13 a determination of what practical difficulty
14 or unreasonable hardship resulting from the
15 disproportionate impact to the ordinance caused
16 by the property's uniqueness.

17 Uniqueness of a property for zoning
18 purposes requires that property to have an inherent
19 characteristic not shared by other properties in
20 the area; the shape, topography, subsurface
21 conditions. Again, we submit that agricultural
22 areas all have these type of conditions.

23 Applicants failed to provide the evidence
24 of uniqueness of each of the co-applicants'
25 properties. They have also failed to provide

1 the uniqueness of their own. In fact, in their
2 testimony, Mr. Brewer stated the group of eight
3 property owners are similar and subject to the
4 same land constraints as the others, thus removing
5 any uniqueness of the properties at issue.

6 The spirit and intent of the variance
7 approval is not to allow a landowner or a
8 leaseholder in this situation to use the property
9 in any manner they would like, regardless of the
10 current law, if such denial would negatively impact
11 them. The spirit and the intent of the variance
12 approval is to remove small minor issues because
13 of that, because of the uniqueness of the land
14 restricts the landowner from using the land in
15 an approved manner.

16 In the current case, no variances are
17 needed for the applicant to use the land in the
18 manner allowed by the law. The 26 variances are
19 only needed because of the number and size of the
20 turbines proposed. Both elements are within the
21 control of the applicant to reduce, and thus the
22 applicant would have no need for a variance on the
23 property.

24 Even if the applicant can show practical
25 difficulty resulting in some unique feature of the

1 property or its topography, the approval of these
2 variances would have an adverse impact which would
3 be detrimental to the neighbors and the property,
4 and as such, the variance should be denied. It's
5 widely known that wind turbines near residential
6 structures or wind turbines should not be placed
7 near residential structures due to the severe
8 impacts in the health, welfare, and safety of the
9 residents. Co-applicants are asking the board to
10 disregard this element and allow variances that
11 would put current residents, along with guests and
12 any future renters, in harm's way.

13 Applicants would argue that they have
14 received and paid for the approval from these
15 people directly impacted by the variance requests.
16 So it's only a matter of form that they must even
17 request this board's approval. It's not the
18 applicant -- it's not that the applicant's right
19 be -- it is not the applicant's right to be given
20 a variance.

21 The effect of granting a variance request
22 will allow for larger wind turbine farms being
23 constructed that would otherwise be allowable by
24 law if you followed without the variances. The
25 health impacts of the wind turbines are increased

1 as the quantity of turbines increase. While
2 granting of these variances would not set a legal
3 precedence, per se, it would be very difficult for
4 this board not to approve the same variance request
5 with the next wind farm being proposed in Allegany
6 County.

7 In support of increasing the variances by
8 50 percent, as approved by 360-92(A)(9), we will
9 present research on this issue and show that expert
10 recommendations which provide separation from
11 industrial wind turbines should meet a minimum of
12 two miles from a residential structure when the
13 turbines are located in a mountainous region to
14 lessen the severity of health impacts on residents,
15 and this is provided by "Wind Turbine Syndrome,"
16 Nina Pierpont, Ph.D.

17 With the increase of wind turbine
18 manufacturing, installation brought on by political
19 agendas and funding, the impacts on residents have
20 been studied, and new information is available
21 concerning the negative health impacts caused
22 by allowing the turbines to be built close to
23 residential structures. With the plethora of
24 lawsuits that have arisen in the last five years
25 brought on by residents forced out of their homes,

1 unable to live due to the impact on their mental
2 and physical health, there can be no question that
3 the additional health and safety regulations should
4 be implemented to avoid communities and residents
5 from being forced out of their homes and giving the
6 burden of fighting for restitution from the wind
7 turbine companies.

8 Manufacturers of wind turbine equipment
9 propose that nothing should be located within 1300
10 feet of a wind turbine due to the risk of injury.
11 This is a minimum setback system for safety. In
12 this situation, approving a variance based on a
13 resident being willing to subject themselves to
14 dangers in exchange for monetary payment should
15 not be allowed, especially if children or guests
16 are going to be on their property.

17 I will present evidence, a sample "Wind
18 Turbine Installation Manual" where it sets forth
19 clearly that 1300 feet is the minimum safety
20 separation distance. I admit this is not the
21 same model as currently proposed by the applicant,
22 but the general laws of physics, I think, apply
23 to most turbines. In this manual, the manufacturer
24 is showing a need for a setback distance for
25 general safety measures. Take note when reviewing

1 the variance requests that many of them are closer
2 than 1300 feet.

3 Related to the health, there are many
4 studies showing the negative and severe health
5 impacts created by the wind turbine farms being
6 located close to residential communities. There
7 are noise complaints. It has been known since
8 the early 1980s that noise from large turbines
9 can adversely affect human health. While the
10 applicant will show limited increase in noise
11 level to be equal to an air-conditioner, it's
12 also the infrasound, the sound below the threshold
13 of hearing, and the low frequency noise resonating
14 within the building structures and homes, as well
15 as within the people's bodies, to create the
16 feelings of pressure, uneasiness, and vibrations.
17 This came from the "Health Effects of Noise
18 from Large Wind Turbines," commissioned for and
19 published in "Wind Energy: A Reference Handbook."

20 Studies will show that 33 decibels,
21 widespread noise complaint -- you will experience
22 widespread noise complaints from a large percent
23 of the population living near wind turbines, and
24 that came from a "Wind Turbine Noise Complaint
25 Predictions," by Stephen Ambrose, board certified

1 specialist on acoustics, environmental sound,
2 industrial noise control.

3 The World Health Organization found that
4 noise below 30 decibels had no observed negative
5 impact. Wind turbines produce strong low frequency
6 energy that may reduce the cautionary levels by
7 five (5) decibels; therefore, the sound should be
8 no greater than 33 decibel recommendations. At 35,
9 research shows that 6 percent of the population was
10 highly annoyed, and it increased to 25 percent of
11 the population when the level rose to 40. We will
12 be presenting people speaking about the different
13 noise impact of wind turbines later, so you can
14 adjust for what I just explained.

15 A study on wind turbines at Falmouth,
16 Massachusetts, showed that when wind turbines were
17 on, they fluctuated from 35 to 46 decibels, and
18 when turned off, they decreased to 27. When using
19 the USEPA Community Noise Assessment methodology,
20 the predicted public reaction to wind turbine noise
21 indicates widespread complaints and threat of legal
22 action when the noise was between 37 and 46.

23 Sleep interruption and disturbance
24 indicates real potential for causing significant
25 public harm from nearby wind turbines, found that

1 a setback should be 4,921 feet to the nearest
2 1.5-megawatt wind turbine, and that came from
3 "Noise & Health," September/October 2012.

4 If a special exception use is properly
5 determined to have an adverse effect on the
6 neighboring properties in the general area, then
7 it must be denied. That is *Schultz v. Pritts*.
8 It's hard to believe that the applicants have
9 stated, as the applicants have stated, that the
10 proposed wind farm turbine locations would not
11 negatively impact the health, safety, and general
12 welfare of the community located around the wind
13 turbine farm.

14 The evidence is overwhelming that negative
15 health impacts exist, and it's within the rights
16 of the board to protect the community members from
17 such harm; and it's for all the reasons stated
18 above that the Allegany County Neighbors & Citizens
19 for Homeowners Rights request this board deny
20 applicant's request for approval of the special
21 exception, or in the alternative, if such exception
22 is granted, deny applicant's request for variances
23 to the current Maryland Code 360-92.

24 In addition to the request of denial on
25 the variance, we request that the Board of Zoning

1 Appeals increase the separation distance to 3,000
2 feet from the nearest residential structure, and
3 that concludes my statement.

4 CHAIRPERSON WILLIAMS: Thank you.

5 MR. McKEE: Very well. Cross-examination?
6 Oh, I'm sorry, I have been -- there has been a
7 request to take a break from the board. So we're
8 going to go ahead and take a ten-minute break.

9 CHAIRPERSON WILLIAMS: I just wanted to
10 ask, did you intend to submit that statement into
11 an exhibit?

12 MS. STARK: I will. I made a number
13 of notes, so I'm going to have to -- it will be
14 submitted within --

15 CHAIRPERSON WILLIAMS: Cleaned up.

16 MS. STARK: -- that 10-day rule
17 definitely --

18 CHAIRPERSON WILLIAMS: Thank you.

19 MS. STARK: -- because I scratched all
20 over this copy, and then I do have a couple of
21 exhibits that I can -- the operating manual that
22 stated that 1300-foot setback.

23 CHAIRPERSON WILLIAMS: Okay.

24 MS. STARK: So I will walk over and do
25 that.

1 CHAIRPERSON WILLIAMS: Okay. Ten minutes.

2 MR. GETTY: So that we're clear, before we
3 leave, to the extent that the witness is indicating
4 she is submitting professional documents as a part
5 of it, we are objecting to those.

6 MR. McKEE: I understand, understood,
7 and to a certain extent, I agree. I don't know
8 that there is a necessity that -- you're not a
9 professional in this position --

10 MS. STARK: Right.

11 MR. McKEE: -- and you're trying to submit
12 documents, but there is nobody here to testify
13 as to who drafted it, the reliability of the
14 documents. So I am going to -- I am going to
15 agree with them. I am not going to allow you
16 to submit those documents but let the -- as the
17 chairman asked, what you had read from --

18 MS. STARK: Uh-huh.

19 MR. McKEE: -- I believe she is asking
20 you submit that as your statement --

21 MS. STARK: Right.

22 MR. McKEE: -- but we're not going to
23 accept any of the professional documents at
24 this point because there is always the issue
25 of reliability on the document.

1 MS. STARK: So if it's a published
2 document, are we allowed to submit published
3 documents?

4 CHAIRPERSON WILLIAMS: So if it's
5 available to the public, if I wanted to look
6 through it --

7 MS. STARK: Say it's a research study
8 that's on the Internet, why would that not be
9 allowed to be submitted?

10 MR. GETTY: That's simply not the
11 standard. The standard is a legal standard as
12 to the authenticity and the fact that based --
13 we are denied the opportunity to cross-examine
14 the authors of the studies. We have no ability
15 to vet nor does the board have the ability to vet
16 the reliability of the information that's being
17 presented, and that's critical.

18 MR. GONTRUM: Or the pertinence of that
19 study information on what is currently being
20 proposed.

21 MR. GETTY: Correct.

22 MR. GONTRUM: In other words, you can't
23 compare apples to oranges. Are the turbines in
24 the situation that you're looking at in the study
25 similar to what is being proposed for the Dan's

1 Mountain facility that is being proposed? There
2 is no opportunity for us to examine any of that or
3 to look at the basis of the study.

4 Consequently, whatever conclusions are
5 there, I don't see how they can be made applicable
6 to this without some sort of foundation being laid.
7 I mean, it's like putting in a "Time" magazine.
8 You know, yeah, it's available to the public, but
9 what is the relevance of that to the issue that we
10 have and how can we establish that?

11 MS. STARK: It would be similar to
12 establishing it since it's an administrative
13 hearing. We're not in a courtroom.

14 MR. GONTRUM: But even though --

15 MS. STARK: You've got professionals
16 who have documented and published articles, and
17 we're saying that that is not sufficient for an
18 administrative hearing?

19 MR. McKEE: At this point, I am going to
20 sustain the objection. I am not going to allow
21 that to come in at this point.

22 Clearly, if you feel that that's somehow
23 prejudice to you, you have a right to take that
24 as an appeal issue, but I am going to agree at
25 this point. I don't think that those come in at

1 this point. All right?

2 MS. STARK: Okay.

3 MR. McKEE: Thank you.

4 CHAIRPERSON WILLIAMS: Ten minutes.

5 (At 10:25 a.m., break taken until
6 10:48 a.m.)

7 CHAIRPERSON WILLIAMS: All right. We're
8 back on the record.

9 MR. McKEE: I believe I had just turned
10 it over to Mr. Getty for cross-examination.

11 - - -

12 CROSS-EXAMINATION OF ERIN STARK

13 BY MR. GETTY:

14 Q. Ms. Stark, with respect to what you just
15 provided to the board, do I understand that to be
16 a form of an opening statement? I mean, it's under
17 oath. You understand that it comes in as your
18 testimony?

19 A. Yes.

20 Q. So with respect to your testimony, you
21 have -- you appear to have expressed opinions with
22 respect to compliance with the comprehensive plan,
23 expressed opinions with respect to compatibility
24 with existing neighborhoods. You appear to have
25 spoken with respect to plan and land use issues,

1 noise, the general communications industry.

2 So that we have a context for this, they
3 are, in fact, personal opinions that you hold; is
4 that correct?

5 A. Based off of articles that I read, written
6 by professionals, or based off statements of your
7 evidence, say, Exhibit T. I was merely repeating
8 some of the evidence and pointing out certain
9 aspects of that document that you submitted.

10 Q. But to be clear, you are not and do not
11 possess training or experience with --

12 A. I am not an expert witness on any of
13 those. I will save you the line of questioning.

14 Q. Okay. So you are not an expert witness
15 in respect to sound, correct?

16 A. Correct.

17 Q. You are not an expert witness in respect
18 to the planning --

19 A. Correct.

20 Q. -- correct?

21 A. Yes.

22 Q. You are not an expert witness with respect
23 to health or welfare or safety issues, correct?

24 A. Do you -- would this be easier if I just
25 concede that I am not an expert witness in any of

1 the things that I testified to? Would that make it
2 easier for you?

3 Q. That -- well, it certainly does. I just
4 want to make sure that we've got it covered as
5 well, and I accept your representation.

6 I also need to understand the role that
7 you have here. You are an attorney, correct?

8 A. Yes, I am.

9 Q. Okay. In presenting the evidence, you
10 have talked about evidence being put forward. Are
11 you doing that in the context of your role as an
12 attorney?

13 A. No, I am not. I merely -- I was trying
14 to -- I am a spokesperson for the neighborhood
15 group that I work with. They asked for somebody
16 to be the one to speak, and I was invited up here.
17 Knowing that I am not a licensed attorney in the
18 State of Maryland, I am not representing anyone
19 in that capacity. I am merely the spokesperson
20 to kind of group and actually requested by the
21 board that someone take the lead so that it wasn't
22 a chaotic mess.

23 Q. Okay. And when you say you are a
24 spokesperson for that "group," what is the group?

25 A. The group is the one I spoke about at the

1 beginning when I said that I am here today acting
2 as a spokesperson for the Allegany Neighbors &
3 Citizens for Homeowners Rights.

4 Q. Okay. And with respect to that, have they
5 granted you some type of -- is there some type of
6 an authorization --

7 A. No.

8 Q. -- a written authorization for input?

9 A. No.

10 Q. Okay.

11 MR. GETTY: That would be all the
12 questions I have.

13 MR. McKEE: Very well. Does anyone else
14 have any questions for this witness?

15 (There was no response.)

16 MR. McKEE: Does any of the members of the
17 board have any questions for this witness?

18 MS. WILLIAMS: No.

19 MR. McKEE: Thank you for your testimony,
20 ma'am.

21 (Witness, Erin Stark, excused.)

22 MR. McKEE: Who would like to be the next
23 witness? Ms. Park, do you want to come up, please,
24 and be sworn in.

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DARLENE PARK,

OPPONENT WITNESS, SWORN

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STATEMENT BY MS. PARK:

The first thing I am going to talk with today -- I am K. Darlene Park. I live at 16245 Harwood Drive, Southwest, Frostburg, Maryland.

The first thing I want to speak with you to is the zoning appeal for ... it would be the smaller folder here.

On October 27, 2015, Dan's Mountain Wind Force outlined all the ordinances to the wind energy conversion system, Code 360-92; however, they did not mention two ordinances that I thought were very important and needed to be included in this hearing today for the record. The two ordinances referred to is (A)(9) and (B)(5) that deals with variances and setbacks.

(A)(9) says if the Board of Zoning Appeals finds concerns regarding health, safety, and welfare that warrants additional separation, the board may, at its discretion, increase the prescribed separation distance up to 50 percent.

If the board -- (B)(5) says if the Board of Zoning Appeals finds that comments regarding

1 health, safety, and welfare warrants additional
2 setbacks, the board may, at its discretion,
3 increase prescribed setback distances up to 50
4 percent.

5 On July 2, 2015, Dan's Mountain Wind Force
6 petitioned the Board of Zoning Appeal, requesting
7 a special exception hearing for a wind turbine farm
8 placement and for numerous reductions in variances.

9 I quote from the Allegany County Code
10 Home Rule 2-09. "The purpose of this bill was
11 to protect the safety and well-being of Allegany
12 County, as amended in Chapter 14, to provide for
13 additional protection for the public and adjoining
14 landowners from the development of the wind
15 turbine, wind energy device."

16 Mr. David Friend of Dan's Mountain Wind
17 Force, LLC, submitted a signed affidavit to the
18 Board of Zoning Appeals for various -- for variance
19 requests at Code 360-92(A) and (B)(3). In the
20 lower right text box, Mr. Friend signed as an
21 applicant.

22 He signed saying, "I hereby agree to
23 comply with all regulations and codes which are
24 applicable hereto. I further agree that any
25 misstatements or misrepresentation of facts

1 presented as part of the application or change
2 to propose without approval of the agencies
3 concerned shall constitute sufficient ground for
4 a disapproval or revocation of the subject permit.
5 I hereby affirm that I own the property in which
6 is the subject of this application or that I am
7 the duly designated representative of the property
8 owned and that I possess the legal authority to
9 make this affidavit on behalf of myself or the
10 owners for whom I am acting. I do solemnly declare
11 and affirm, under penalties of perjury, that the
12 contents of this application are true and correct
13 to the best of my knowledge, information, and
14 belief."

15 Mr. Friend also submitted a list of
16 59 adjoining property owners, names and addresses.
17 The list was in accordance to Code 360-92(B)(4)(a);
18 however, Dan's Mountain Wind Force did not comply
19 with all the portions of the code as it was
20 written. The code reads, "Pursuant to the
21 provision of 360-63(C) and 360-108, and with
22 written authorization of all affected property
23 owners, applicants may seek a variance of up
24 to 50 percent of the required minimum setbacks
25 prescribed therein." (A) on this part is affected

1 property owners shall be defined as owners of the
2 land adjoining parcels whose boundaries are the
3 subject of the variance application.

4 Dan's Mountain Wind Force's list gave the
5 appearance of complying with this section but, in
6 reality, failed to obtain any written authorization
7 from these owners. The ordinance clearly states
8 that all adjacent property owners must favor the
9 variance, not the minority. If Dan's Mountain Wind
10 Force did not agree to portions of Code 360-92,
11 they could have addressed the issue in the court
12 system at any time in the last six years or the
13 project could have been abandoned.

14 I submit to you signed letters from 16
15 adjacent property owners who opposed the granting
16 of this hearing today because Dan's Mountain
17 Wind Force did not obtain their signatures as
18 required by law. With the request of this special
19 exception, the numerous variances, the purpose
20 intent of Code 360-92 is not being followed
21 as the purpose intent it was written, to provide
22 for additional protection to the public and
23 adjoining landowners from the development of
24 wind energy devices.

25 I question if you should continue these

1 proceedings, especially when the applicant did
2 not comply with the requirements stipulated
3 in the ordinance to obtain the hearing; but,
4 obviously, this is an issue that needs further
5 internal review, and the letters of the signed --
6 what the petitioner has signed is all in the back
7 of 6-7-320 of the books.

8 MR. McKEE: Do you have any additional
9 testimony?

10 MS. PARK: Yes, I do.

11 MR. McKEE: All right.

12 MS. PARK: I am going to speak about
13 the demographics of this project. In accordance
14 to the 2010 census in the Allegany County
15 Comprehensive Plan, Allegany has a population
16 of 75,090. Over 52 percent of the residents
17 live west of Cumberland and including the City
18 of Frostburg on the northern foothills of Dan's
19 Mountain to the Town of Westernport on the southern
20 foothills of Dan's Mountain range.

21 Allegany County has zoning regulations
22 that are created and implemented through Code Home
23 Rule government. This form of government enables
24 Allegany County to address issues without going
25 through the Annapolis process and allows us to

1 tighten express powers that meet our needs and
2 situations that would not elsewhere -- that does
3 not apply elsewhere in the state. This express
4 powers is why we were able to enact Code Home Rule
5 2-09 on June 4, 2009.

6 In December of 2007, Annapolis enacted a
7 fast-track legislation that reduced environmental
8 review and other regulations for only land-built
9 turbines under 70 megawatts. Unknown to the
10 residents of Allegany County, there just happened
11 to be a wind turbine project or two on the table,
12 all ready to start; however, once -- however, one
13 location was in between an amply-growing part of
14 the county with a large proportion of homeowners.
15 The proposed location for the Dan's Mountain Wind
16 Force is not appropriate because the turbines will
17 impact the greatest number of residents in Allegany
18 County with constant noise, pollution, infrasound,
19 vibration and flicker.

20 The project starts directly behind the
21 communication towers that run two-and-a-half miles
22 to the north of Dan's Mountain Road. What Dan's
23 Mountain Wind Force is really asking for is to
24 squeeze 17 industrial wind turbines among five
25 growth residential communities of Bel Air, Midland,

1 LaVale Summit, Harwood, and Cresaptown. Several
2 hundred homeowners live within a one-mile radius
3 of this project.

4 Dan's Mountain Wind Force wants the Board
5 of Zoning Appeals to ignore Code 360-92, so it
6 can build these wind turbines at this site on
7 small, narrow strips of land. This company is
8 not considering the noise, infrasound, vibration,
9 flicker impact on the residents. This is not
10 improving the vitality, economic health, or
11 enhancing the ability for any family that the
12 Allegany County Comprehensive Plan has envisioned.

13 The most affected communities will be the
14 Bel Air. It has a population of 1,258. Midland
15 has a population of 438. LaVale Summit has a
16 population of 152, and Harwood Subdivision has
17 approximately 160 residents, for a grand total
18 of 2,008 residents.

19 To the Allegany County government, the
20 performance standards that were needed to meet this
21 at that time was signed by Code Home Rule 2-09 to
22 protect the residents from 28 turbines that were
23 394 feet tall. Now the Dan's Mountain wind turbine
24 project consists of 17 turbines at the height of
25 492 feet and more powerful generators. It wants to

1 turn the narrow strips of land into an industrial
2 power plant where the land was zoned agricultural
3 and conservation for wildlife habitat. This
4 project now will affect more people at a greater
5 distance from the project and therefore needs
6 to be denied their request for the special
7 exception and all 25 variances -- 26 variances
8 being requested.

9 The western part of the county has the
10 highest mountain range for the county, Dan's
11 Mountain with Dan's Rock being the tallest location
12 of 2,898 feet above sea level. This locates -- to
13 locate turbines in this area will have the greatest
14 impact on the quality of life for more than 40,000
15 of the Allegany County residents from Map 31, dash
16 -- on page 32. This map here shows you the eight
17 regions that the county has set up for our county.

18 Also, it shows on here, the growth
19 counties. The growth county is -- the growth map
20 county -- the growth regions is Greater Cumberland,
21 Greater Frostburg, and the Middle Potomac. In the
22 Greater Frostburg, LaVale Summit is -- and Harwood
23 Subdivision are in the growth. In the Middle
24 Potomac, we have the growth there for Bel Air.

25 With this growth population, Frostburg

1 has 14,327; George's Creek, 5,662; Upper Potomac,
2 3,457 residents; Middle Potomac has 7,463, which
3 also includes Cresaptown, all of Cresaptown; and
4 then LaVale has 800 -- 8,291. That gives a total
5 count of residency in this section of the county
6 for 39,200 which equates to 52 percent of the
7 population of Cumberland.

8 Chapter 3, Demographics, page 3-3, focused
9 to ensure that existing communities continue to
10 provide a high quality of life for their residents,
11 preserve open space, farmland, natural beauty and
12 sites -- environmental -- environmental areas and
13 create housing opportunities and choices. The key
14 things centers upon improving vitality, economic
15 health, and enhancing even the building.

16 Map 3-1 showed the regions with the
17 positive population growth. The -- oh, I repeated
18 that. The Dan's Mountain wind turbine project on
19 the next map, the last map here, this map shows
20 you the range of one mile that's on -- that's going
21 to be affected.

22 Now this is a tax map. It does not show
23 homes, but it's very important to realize how many
24 people are going to be involved here. If the
25 wind turbines are going to be bigger and stronger,

1 they're going to generate more power along the
2 distance to be as much as a mile, a quarter of
3 a mile-and-a-half; therefore, increasing the
4 possibility of the population being more harmed
5 by this.

6 What is really unique is that 75 percent
7 of Allegany County residents can see Dan's Mountain
8 ridgeline from their home. As a person drives
9 westbound on Interstate 68, you can see Dan's Rock
10 from several locations from the overhead bridge, a
11 nice welcoming for visitors.

12 Please take into consideration the impact
13 and -- that these turbines will have on the
14 communications. Regardless of what Dan's Mountain
15 Wind Force states, Allegany will not have growth
16 in technology in the future. I would like to refer
17 to the maps so you can see what I'm talking about.
18 You have a smaller map --

19 MR. McKEE: I am going to ask you --
20 you're going to have to have a mike.

21 MS. PARK: Oh, okay.

22 MS. STARK: We'll just bring you one.

23 MR. GONTRUM: Why don't you just detach
24 that one and use it.

25 MS. PARK: I can do that.

1 MR. GONTRUM: Just detach the --

2 MS. PARK: Oh, I see.

3 MR. SQUIRES: He's got one ... it's
4 working, so we might as well not...

5 MS. PARK: Yeah.

6 (Microphone handed to speaker.)

7 MS. PARK: Thank you very much.

8 As you can see here, this was a tax map
9 I got from the County, and what's deceiving when
10 you get a tax map, it doesn't have homes, so it
11 looks like it's barren land; and I was not familiar
12 with a lot of the homes that was over in here,
13 but I was able to look at a map and we did some
14 traveling around, my husband and I did, to get
15 an idea of the demographics of the county and the
16 areas that was impacted here.

17 Unfortunately, this map does not show how
18 much detriment is to Bel Air. Bel Air goes right
19 up to the one-inch mile. It has a lot of people
20 and their growth is great.

21 Cresaptown, you can see over the years,
22 the last 10 years, it has migrated up, further up
23 Dan's Mountain, so it makes it very popular. A
24 lot of the homes that's in this region in here that
25 are built up farther on the Dan Mountain, they're

1 usually what you call low density residences
2 because they have at least an acre or more of
3 property. They're not high -- high density
4 population, but with Bel Air, as it goes down
5 towards 220, the population is very dense.

6 Bel Air has a uniqueness of offering
7 different types of housing and different ranges
8 of price for the people that live in that area.
9 Bel Air has 535 or 540 homes that's going to be
10 involved here.

11 When you look at the Harwood Subdivision,
12 when we moved there in 2000 -- no, in 1991, my
13 husband and I were the eighth house on that
14 development. This development now has 67 homes.
15 Also too, you can see some of these lots haven't
16 been sold. So there is people that -- a gentleman
17 that owns all the land here, he is trying to sell
18 his property. These developers here are trying
19 to sell these properties.

20 So you're looking at a massive amount.
21 If this is one mile here, and the bigger turbines,
22 the higher turbines are going to go up a
23 mile-and-a-quarter to a mile-and-a-half, they
24 will totally engulf this development. Bel Air
25 will have been engulfed by half of it.

1 When you look at LaVale Summit right now
2 on here, they're practically all involved as it
3 is now at the one mile. I mean, the one mile goes
4 way past Route 55, Vale Summit Road. These people
5 are all affected. Then you go up here and these
6 are just on the outskirts of the one-mile limit.

7 Then over in Midland, there is a lot of
8 homes up in here and all up here, and I was really
9 surprised when we went up early in the summertime,
10 for no reason at all, with our grandchildren, up
11 to Dan's Rock, and I couldn't believe all the
12 homes. I mean, I hadn't been up there for about
13 maybe 15 years, and it had really, really grown.

14 So this, these turbines at this location,
15 notice how they're a little strip of land here,
16 a little strip of land here, a little bit of
17 strip of land here. Well, they say they have
18 150 acres. Grant you, when wind farms I have
19 seen in other locations, you know, they fill in
20 all the spots, but when you're looking at just
21 strips, how powerful is this? Their megawatts,
22 I think, is 46 megawatts they are producing off
23 of this project, and before, they were going to
24 do 68 megawatts. To me, maybe shorter turbines,
25 not as powerful, is more option because you're

1 going to produce more.

2 The three smaller turbines, the 1, 5 and
3 6, they have 1.7 megawatts for their generators,
4 but all these others have 2.3 and those turbines
5 are 492 feet tall; and to put it in perspective,
6 how tall is 492 feet? The Statue of Liberty
7 is 305 feet. So that is a tremendous piece of
8 equipment there.

9 There is a lot of people, the petitions
10 I gave you are the petitions of the people that
11 live on this out -- just on the outskirts of
12 this property. This one here is the coal company.
13 They signed. They said this is awful. You know,
14 they felt that this is intrusive to a neighborhood
15 that's totally residential. That completes my
16 testimony.

17 MR. McKEE: Thank you. Mr. Getty, any
18 cross-examination?

19 MR. GETTY: May it please the board.

20

- - -

21 CROSS-EXAMINATION OF DARLENE PARK

22 BY MR. GETTY:

23 Q. Ma'am, preliminarily, I believe you heard
24 me ask a series of questions of Ms. Stark with
25 respect to her expertise. Do you recall that?

1 A. Yes, I do.

2 Q. And will you agree with me that you are
3 not an expert in issues relating to land planning
4 and land use, correct?

5 A. No, I am not an expert, but I can read
6 and I am intelligent and I can articulate what
7 I read.

8 Q. And you are not an expert in
9 communications or an electrical engineer, correct?

10 A. I am not, but I know what I am enduring
11 right now at my home when the Garrett County's
12 wind turbines just went online. We no longer get
13 AM radio to listen to. My favorite station, it
14 doesn't work.

15 Q. I don't -- do not in any way mean to be
16 rude to you, but if you would answer the questions
17 that I ask. Certainly, others can ask you to
18 expound on them.

19 You are not an expert in areas of health,
20 welfare, or safety; correct?

21 A. No, I am not an expert.

22 Q. You are not an expert in anything; you are
23 not presenting yourself as an expert in anything?

24 A. I am not presenting myself as an expert.
25 I am presenting myself as a concerned citizen that

1 lives in the Harwood Subdivision, and I am going to
2 be impacted.

3 MR. GETTY: I don't have anything further.
4 Mr. McKee and Madame Chairman, we would move to
5 strike those portions of her testimony related
6 to the expression of opinions as not being
7 supported and not admissible in the form of
8 opinion testimony. We understand the rules, but
9 we believe we need to make that --

10 MR. MCKEE: I am not -- I am not going
11 to go there, Counsel. It's like she has a right
12 to speak her opinion. The weight that will
13 be given to it by the board will be that as a
14 non-expert.

15 BY MR. GETTY:

16 Q. Now, ma'am, you came to the witness stand
17 today and brought with you Exhibit No. 106. Do you
18 have that?

19 A. Um...

20 Q. It's this.

21 A. Yes, sir.

22 Q. Okay. And this represents your belief
23 that the applicant, Dan's Mountain Wind Force, is
24 not in compliance with the provisions of 360-92;
25 correct?

1 A. Yes, I am.

2 Q. And like the other expertise that you
3 have indicated you don't possess, you are not an
4 attorney; correct?

5 A. I am not an attorney, but I can read, and
6 I understand what I am reading, sir.

7 Q. I understand that; and, again, I am not
8 trying to be offensive, and I am not trying to be
9 short with you. My purpose is to do those things
10 that I need to do to represent my client, and if
11 you will allow me to do that, I would appreciate
12 it.

13 So with respect to Exhibit 106, which
14 is the submission in respect to your challenge
15 to the provisions of 360-92 -- do you have that
16 one? --

17 A. Yes, sir.

18 Q. -- and it is your proposition for this
19 board that the applicant as -- the application
20 as submitted, in order to make application for
21 a variance, requires the consent of every property
22 adjoining the outside of the sum of 2,900 acres
23 that comprise this project; correct?

24 A. Correct.

25 Q. Okay. And you understand that we

1 are here, in terms of a hearing, because the
2 application that was submitted by Dan's Mountain
3 Wind Force to the planning, the professional
4 planning staff of the county, resulted in that
5 professional planning staff finding that the
6 application was complete and was in accordance
7 with the requirements; correct?

8 A. Well, I had questioned why they let --
9 no, let me ask you a question.

10 Q. You don't get to ask me questions.

11 A. Oh, okay. Well, I won't do that.

12 Q. If I do all of this wrong, okay, you'll
13 get a chance to say whatever you want. If I do
14 it right, you get to answer yes or no. Okay?

15 MR. McKEE: Mr. Getty, may I interject
16 here. I think I can put this to rest.

17 MR. GETTY: Okay.

18 MR. McKEE: When the County originally
19 put these regulations into effect, there has since
20 been case law which seems to have indicated that
21 requiring affected property owners outside that
22 region would be considered unconstitutional and
23 not a requirement.

24 The County at that point, after reviewing
25 those cases, made a determination they were not

1 going to require the affected property owners
2 outside. In spite of the fact it says that in
3 the code, it would have been stricken. We believe
4 it would have been stricken, and they would have
5 been allowed to do it anyway. So we --

6 MS. PARK: Well, couldn't they have taken
7 that to -- for the court to have that clarified?

8 MR. McKEE: They certainly could have done
9 that, but the County reviewed that. The legal
10 departments of the County reviewed that, and we
11 all agreed that would have been stricken, and by
12 doing so would have simply caused everybody to
13 incur a lot of expense to know what we already
14 knew. So we did not require that to make this
15 application submission. So that's not something
16 the board is going to consider.

17 I understand your argument, and from your
18 perspective, it's a very valid argument, but that
19 particular clause requiring the affected landowners
20 would have been stricken down is our belief, and
21 that's why --

22 MS. PARK: I see.

23 MR. McKEE: -- they were not required to
24 do that. Okay?

25 MS. PARK: Okay. I understand that.

1 MR. McKEE: All right.

2 MS. PARK: Thank you.

3 MR. McKEE: And that's your understanding
4 as well, Mr. Getty?

5 MR. GETTY: It is, Mr. McKee, and just
6 for purposes of the record, I have had marked as
7 Case Exhibit No. 114 the May 8, 2013 ... it came
8 from the Attorney General, interpreting the issue
9 of variance -- permission for variances as a part
10 of actually their county, state-wide legislation,
11 but it is reflective of the general belief that
12 the County is indicating, so I would ask that be
13 admitted.

14 BY MR. GETTY:

15 Q. Ma'am, with respect to the demographic
16 analysis that you provided which was --

17 A. Yes.

18 Q. -- in my case is in a green -- a green
19 folder, I had asked you a question about expertise.
20 You are also not an expertise on noise pollution;
21 is that correct?

22 A. I am not.

23 Q. Not an expert on infrasound, correct?

24 A. I am not.

25 Q. Not an expert on vibration or flicker,

1 correct?

2 A. I am not.

3 Q. Now, with respect to the analysis that
4 is comprised as your demographic analysis, you do
5 not have any specialized training with respect to
6 the determination of viewsheds; is that correct?

7 A. I do not have.

8 Q. And you have not employed any type of
9 computer modeling to determine whether or not
10 from the locations that you indicate in the various
11 communities the extent to which the development of
12 a wind farm would be visible, correct?

13 A. Correct.

14 MR. GETTY: That's all I have. Thank you.

15 MR. McKEE: Very well. Does anybody else
16 have any questions from the audience for this
17 witness?

18 (There was no response.)

19 MR. McKEE: All right. Any members, any
20 questions from the board?

21 MS. WILLIAMS: I have none.

22 MR. McKEE: Thank you.

23 THE WITNESS: Thank you.

24 (Witness, Darlene Park, excused.)

25 MR. McKEE: Please call our next witness.

1 Ma'am, will you raise your right hand.

2 - - -

3 DANA HITES,

4 OPPONENT WITNESS, SWORN

5 - - -

6 MR. McKEE: Very well. Can I have your
7 name and address for the record.

8 MS. HITES: Dana Hites, 12309 Henry Drive,
9 Southwest, LaVale, Maryland. I live in Allegany
10 County.

11 MR. McKEE: I think I am going to preempt
12 some of the questioning by simply asking you at
13 this time, do you intend to present any expert
14 testimony here this morning?

15 MS. HITES: Well, it depends, sir, if
16 you will let me give a brief summary of my
17 qualifications for what I have done.

18 MR. McKEE: Very well.

19 - - -

20 STATEMENT BY MS. HITES:

21 Okay. I have worked as a configuration
22 management consultant in my career. In the course
23 of that, I collect data.

24 MR. GETTY: I'm sorry. I didn't hear.

25 MR. McKEE: Yeah.

1 CHAIRPERSON WILLIAMS: You're soft-spoken.

2 MS. HITES: Okay. I will try. All right.
3 Let's see if I can get this straight. Can you hear
4 me now?

5 MR. GETTY: I can.

6 MS. HITES: All right. I feel like I'm
7 on a phone commercial. Okay.

8 As a configuration management consultant,
9 I was called in by a different corporation --

10 MR. McKEE: I still don't -- we don't --
11 we can't hear you.

12 MS. HITES: All right.

13 MR. McKEE: I don't know what you're
14 saying. What kind of consultant are you?

15 MS. HITES: Configuration. Well --

16 MR. McKEE: Configuration?

17 MS. HITES: -- I was talking about what
18 I had done in relation to what I have done here,
19 and what I -- what I have done is, I have collected
20 data basically.

21 I collected data from sources that
22 were available to me. I am not a multi-national
23 corporation. I do not have unlimited funds.
24 I do not have the ability to finance multi-year
25 studies on the effects of this, that, and the

1 other thing. From that standpoint, no, I am not
2 an expert on individual disciplines.

3 What I am is a computer expert. It's what
4 I did in my career. I did it for multi-national
5 companies, the DOD, NSA, testified in front of
6 State Department. I have done a lot of things in
7 my time in the computer industry.

8 I took what was available to me to create
9 a data handout. It's a book that I created and I
10 wrote a report. In here, there are three sections.
11 The first is the report I wrote, based on data
12 sources, and those sources are all listed in there
13 with appropriate links.

14 I also did a commentary on the plan, the
15 comprehensive plan, because I reviewed it. I had
16 questions in commentary. That's in the second
17 section.

18 The third section is a copy of a letter
19 to the Board of Zoning which I had already sent
20 to you people. It was just my way of compiling
21 everything into one location so that it was all
22 there.

23 I have a brief presentation which is more
24 of a summary of what my findings from the data
25 sources that were available to me as a citizen,

1 as a citizen who does not have millions of dollars
2 at my disposal.

3 The wind industry --

4 MR. GETTY: Mr. McKee, if I can --

5 MR. McKEE: Certainly.

6 MR. GETTY: -- just with respect to the
7 exhibit, it too suffers from the objection I had
8 as to the others. It is not -- it is a document
9 which appears to be a compilation of reports
10 and information, as the witness has indicated,
11 available on the Internet, addressing health
12 issues, other issues, which are beyond the pail
13 of these proceedings, but also being presented
14 in a manner which we cannot cross-examination --
15 cross-examine or address; and, certainly, we
16 suggest a majority of this is not relevant in any
17 way to these proceedings.

18 MR. McKEE: Well, I am going to overrule
19 the objection, and the basis of that overrule is,
20 the difference I see is that she actually prepared
21 it. I agree this is -- I would not consider this
22 an expert report in any way, shape, or form,
23 because even though she compiled it as a computer
24 expert, clearly, it's not based on expert opinion
25 with regard to the issues at hand; however, since

1 she did, in fact, prepare the report herself,
2 she is subject to cross-examination on the report.
3 I am going to allow it just to proceed.

4 MS. HITES: Thank you.

5 MR. McKEE: All right.

6 MS. HITES: Wind farms have created a
7 1.8 trillion dollar local industry. Government
8 subsidies and tax credits help finance this
9 industry. While they flow, the profits grow.
10 This has led to the unfortunate occurrence of
11 predatory limited liability companies and that's
12 an unintended result.

13 Collateral damage is another unintended
14 result. The reality is wind doesn't always blow.
15 The U.S. is currently experiencing the weakest
16 winds in 40 years. That came from a "Financial
17 Times" article in September of this year. With
18 no means to store the energy, wind can't supply
19 the constant demand. There is no incentive to
20 innovate or improve services if they are not
21 subject to the industry itself having to supply
22 energy without subsidy.

23 The U.S. Wind Resource Map, I looked
24 at that. I apologize that it's not in color.
25 It would make better sense if it was in color.

1 I do not have a color printer at my disposal.
2 It is available online, and it is a government
3 website which I am assuming is someplace that
4 you could actually go and look at as a source.

5 It states on that very website, only
6 areas in a 6.5 range are viable for development.
7 According to this particular map, based on the
8 color coding, Allegany County is a "4" on the
9 scale. In Maryland, the map in Maryland of the
10 average annual wind speeds that the U.S. map --
11 the majority of Maryland did not show as a good
12 place to develop wind farms, with the exception
13 of the Maryland coastlines and some areas further
14 west of the mountains.

15 Then I have a map of the best -- the
16 average wind speeds across the U.S. annually,
17 and the -- as I said, I apologize, it's not in
18 color -- the best place to build wind farms seemed
19 to be through the Midwest, to the middle America,
20 and also some of the coastlines in Alaska. That's
21 based on the colors on those color charts, and
22 those are available online.

23 The collateral damage I briefly mentioned
24 regarding health issues, have companies ever let
25 billions in profits endangers people's health?

1 We were told tobacco was safe until it wasn't.
2 We were told asbestos was safe until it wasn't.
3 We were told taking medications during pregnancy
4 was safe until babies were born with birth defects.
5 We were told living under high tension power lines
6 was safe until children got brain tumors from the
7 electromagnetic fields. Here we stand decades
8 later but not a bit smarter.

9 "In the future, I believe that the adverse
10 health effects of wind turbines will eclipse
11 the asbestos problem in the annals of history,"
12 Dr. Bruce Rapley, scientist who specializes in
13 acoustics and human health.

14 Money means nothing without your health.
15 Wind turbines generate noise, heard noise, which
16 is higher frequency noise, measured in decibels.
17 Unheard noise or felt noise, which is low
18 frequency, usually under 20 hertz. The felt
19 noise is also called "infrasound." That's
20 simplifying, but that is a simplification, but
21 it's the best way of describing it without going
22 into the weeds.

23 It affects people differently, and not
24 everybody is affected by it. Some people are
25 sensitive to it, some are not. It's an indirect

1 causal link instead of a direct causal link for
2 these health issues. Many call it by an imprecise
3 term, "annoyance." Dr. Nina Pierpont appointed
4 the term "wind turbine syndrome" in 2009. A lot
5 of people use that term to identify the general
6 effects.

7 A short list of worldwide reported
8 symptoms includes the following: Sleep
9 disturbance, loss of sleep, headache, including
10 migraines, tinnitus or ear pressure reported
11 as painful, balance problems and/or vertigo,
12 visual blurring, nausea, irritability and/or
13 panic episodes and/or nervousness, problems with
14 concentration and memory, a feeling of unease.
15 There are more symptoms detailed in the handout
16 in one of the references found online and actually
17 a complete report of them.

18 Identifying this problem, the current
19 industry recommends setback distances, and I
20 am talking about the wind industry. It allows
21 turbines to be built too close to residential
22 areas. Even our own codes and so forth can allow
23 setbacks that are not recommended by scientists,
24 doctors, associations, and so forth. The closer
25 you are to wind turbines, the more you feel it.

1 Sorry. I am having dry mouth issues.

2 A gentleman mentioned they went up,
3 turned off their car, got out, could hardly hear
4 it. That's fine. Infrasound is not heard. So
5 the closer you are, the more you will feel the
6 infrasound. When you leave the wind turbine area,
7 if you are symptomatic, do symptoms clear up within
8 a couple days --

9 (Water handed to witness.)

10 MS. HITES: Oh, thank you. He's the magic
11 man, bringing water. Thank you so much.

12 When you leave the wind turbine area, do
13 the symptoms clear up within a couple days and not
14 reoccur, as long as you do not reenter the turbine
15 area, that indicates the possibility that you are,
16 in fact, suffering from something associated with
17 the wind turbines.

18 Correcting or mitigating the health
19 issues. We have zoning ordinances and
20 restrictions, or as you said earlier this week,
21 for the safety and health and welfare of the
22 public. The recommendation of experts, numbers
23 that I found varied. They suggested keeping the
24 wind turbines 1.5 to 2.4 kilometers away from
25 any residence.

1 I want to make a note here. This
2 recommendation -- I have another recommendation
3 of a U.S. property appraisal expert who recommended
4 two miles distance from wind turbines to protect
5 property values. Dr. Christopher Hanning, his
6 recommendation was, in a study that he did, which
7 is also listed in my report, the maximum external
8 turbine noise level of 35 decibels or a setback of
9 at least 1.5 kilometers which is 4,921 feet.

10 The next item in the presentation you have
11 in front of you, this is a picture of construction
12 of a wind turbine. This particular wind turbine is
13 1139 feet from his property line. You can see the
14 house and his vehicle in the lower portion of the
15 picture. I am doing this for comparison, so that
16 you can actually see the size that we are dealing
17 with here.

18 The following turbine picture, this lady's
19 house is actually -- the picture looks weird, but
20 it's actually a half mile from her house, but that
21 particular picture, her house is down in the lower
22 area of the picture to the left, and her statement
23 was that "she feels like it's right on top of her."

24 "Wind Turbine Noise, Sleep, and Health,"
25 by Dr. Christopher Hanning, he has Table II with

1 recommended setback distances from different
2 experts in the field from the year 2007 all the
3 way up until 2010. Code 360-92, the residential
4 setback is 40.65 percent less than Hanning's
5 recommendation and 74.60 percent less than
6 Horonjeff's which his recommendation was 7,874
7 feet. So the Code 360-92 is actually 74.60 percent
8 less than his recommendation.

9 The next collateral damage I want to
10 briefly touch on is bird, bat, and endangered
11 species deaths. In collecting my data, I want
12 to explain a "preponderance of data." That's the
13 term I use for it. Preponderance of data is, to
14 me, when the volume of information on a thing lends
15 weight to the importance of a thing.

16 I will give an example, based on the
17 2014 Allegany Comprehensive Plan. Just for fun,
18 I did references to the word "mountain" within
19 the plan. There were 55 references using the
20 word "mountain." Let me make a note here. I
21 excluded the Mountainview Landfill from that
22 calculation. There were three references to it,
23 but it was not "mountain." It was actually naming
24 a specific installation instead, so I did not use
25 those three. So 55 references to "mountain" in

1 our comprehensive plan.

2 Of those, 21 of them, or 40 percent
3 approximately, specifically referenced Dan's
4 Mountain, showing the importance of Dan's Mountain
5 to Allegany County, based on the properance of
6 mentions within the plan. This illustrated that
7 the plan needs to be reviewed in its entirety in
8 context, and no single section is basically more
9 important or shows the entire picture.

10 Research articles show unintended bird
11 and bat death by wind turbines. Single articles
12 are unfortunate incidents. Thousands of unique
13 articles show a preponderance of data. The
14 difficulty is with getting exact numbers, and
15 there is an article that is mentioned in the
16 handout entitled "Wind Energy Company Sues to
17 Block Release of Bird Death Data to Media."
18 That's Item 12 in Section 4.0.

19 U.S. Fish & Wildlife also offer "take
20 permits" to wind companies allowing killing of
21 endangered species without fine or imprisonment.
22 They understand that the large spinning turbines
23 are going to result in death if a bird flies into
24 it or a bat.

25 Industry talks of mitigation plans and

1 avoidance factors. They were called in some
2 articles "ways to manipulate numbers." The
3 estimated number of deaths in bats, one example,
4 the numerous bats killed in Germany by wind
5 turbines, migratory bats at risk, the calculation
6 they used was 10 to 12 migrating bats per year
7 killed at each turbine in Germany. It doesn't
8 sound like much, but there are over 24,000 wind
9 turbines in Germany. The estimated number then
10 is around 250,000 bats being killed per year just
11 there.

12 "Professor Ian Plimer Slams the Great
13 Wind Power Fraud" is another article. In the U.S.,
14 turbines kill some 2.8 million bats, according to
15 him. That was Item 18 in Section 4.0.

16 The estimated number of birds,
17 "Conservation Magazine," indicated 328,000 birds
18 killed each year in collisions with monopole wind
19 turbines. Bird deaths by wind farms may have been
20 underestimated by 30 percent in another article.

21 Endangered species. "Rescued Golden Eagle
22 Dies After Being Hit By a Wind Turbine," that
23 was an article from 2015. It happens. Raptors
24 and endangered eagles seek out high ridges and
25 updrafts. Those are usually the same places wind

1 turbines are located.

2 There is a study from our university
3 here, "Stable hydrogen isotopes identify leapfrog
4 migration, degree of connectivity, and summer
5 distribution of Golden Eagles in eastern North
6 America," and that's a mouthful for a title.
7 That actually indicates that Golden Eagles, this
8 is actually an area, Dan's Mountain is actually
9 an area where they migrate around.

10 Another collateral damage, property
11 values, falling property values. I believe others
12 will speak on property values; however, there are
13 article links referenced in my report. Home value
14 loss can range from 20 percent to 60 percent,
15 depending upon how close your home is to turbines.

16 I have a list of just -- a summary list
17 of other items in my report dealing with different
18 articles of a variety of topics on wind turbines,
19 some where wind turbine/wind energy companies are
20 not following the rules. The turbines are supposed
21 to last 20 years. Approximately 30,000 euros was
22 estimated to dismantle each turbine which works
23 out to \$32,775 per turbine, and that particular
24 article also indicated that blowing them up will
25 put harmful substances into the soil because of

1 what they're made of.

2 There are people questioning wind energy,
3 some of them such as Bill Gates. Those are also
4 articles that are in there. Why build more wind
5 farms? The subsidy in tax credits make it
6 profitable. And right now, there are articles
7 that state that there are over 14,000 wind turbines
8 left abandoned across our own nation. The body
9 of articles I have found could not be covered in
10 their entirety in this presentation.

11 Early on in the presentations that we
12 have heard this week, mention was made of five
13 million dollars that Dan's Mountain Wind Force
14 has contributed to this project so far. I wanted
15 to make a point that Dan's Mountain Wind Force,
16 LLC, if they invested ten million but are able to
17 sell the project to Exelon or another buyer for a
18 hundred million, then Dan's Mountain Wind Force
19 made a 90 percent profit on their investment of
20 10 percent. It's an excellent rate of return.
21 I do not have any idea of what their deals are.
22 I am just giving you an example in round numbers
23 to indicate percentages. When you are dealing in
24 numbers --

25 MR. McKEE: Ma'am, I've got to tell you,

1 at this point, that's not relevant at all to what
2 we're doing here.

3 MS. HITES: That's fine.

4 MR. McKEE: I mean, you're just --

5 MS. HITES: Well, it was made a deal
6 though because one of the board members --

7 MR. McKEE: I understand, but we are here
8 on --

9 MS. HITES: Okay.

10 MR. McKEE: -- variances and special
11 exceptions --

12 MS. HITES: Okay. All right.

13 MR. McKEE: -- not how much money --

14 MS. HITES: All I was talking about was
15 corporate's profit and loss. Okay.

16 So as far as what happens here with
17 Allegany Code 360-92, their business decision,
18 if it goes against, will probably go to Allegany
19 County Circuit Court. Upholding Allegany County
20 Code 360-92 does not endanger the entire wind
21 industry. It protects the citizens of Allegany
22 County as it was intended so to do.

23 I believe Allegany County should have
24 time to implement the Comprehensive 2014 County
25 Plan, and I also believe it's never wrong to do

1 the right thing, and that's speaking as a citizen,
2 and I thank you for your time.

3 MR. McKEE: Thank you. Mr. Getty, do you
4 have any questions?

5 MR. GETTY: I do.

6 - - -

7 CROSS-EXAMINATION OF DANA HITES

8 BY MR. GETTY:

9 Q. Ma'am, and, again, I know in response
10 to Mr. McKee's question, you indicated you are
11 not an expert. Is that fair?

12 A. (No response, drinking water)

13 Q. Albeit in computers...

14 A. (Witness laughed.)

15 Q. Let's do it that way.

16 A. Thank you. I appreciate the
17 qualification.

18 Q. And I am not slighting your -- I have no
19 expertise in computers, so I pay honor to you for
20 that, but you have presented in Exhibit 115 what
21 appears to be a compilation, if I understand
22 correctly, a compilation by you of information
23 that you were able to obtain or glean from the
24 Internet; correct?

25 A. Yes, sir. That was what is available to

1 me as I do not have the money to hire experts.

2 Q. And as we look down the Table of Contents,
3 you have it set up numerically, beginning with
4 Section 1.0, which appears to be an open letter to
5 G20, meeting of energy administrators, and that's
6 an article having to do with whether wind energy
7 is a good idea. Is that a fair -- fair assessment?

8 A. That particular article or that particular
9 item was from the "Save the Eagles" website, and
10 that was just included in there because he talks
11 about the industry itself and concerns that he has,
12 in general, with the wind energy.

13 Q. The concerns that he has are concerns
14 that you appear to agree with. Is that --

15 A. Actually, to be honest with you, I
16 actually am a proponent of wind energy, oddly
17 enough, but I also am of the opinion that the
18 technology is not where it should be in order
19 for mass production.

20 Q. And that is your personal opinion,
21 correct?

22 A. Yes, sir.

23 Q. Okay. So if we look between 1.0 and
24 7.0 of your Table of Contents, you also draw
25 conclusions at 2.1 --

1 A. I make sure to indicate that I -- yes,
2 I am a citizen, I have opinions; and, yes, in
3 doing my research, I tried to create my report,
4 and I look at it this way, if I have -- I have
5 these sources available to me. I wanted to make
6 sure that I did not misquote them in my summary
7 efforts, and that is why I included all the
8 references that I did. Now --

9 Q. Ma'am --

10 A. -- I assumed --

11 Q. -- I understand what your testimony was,
12 but my question would be, you have -- and I just
13 want it to be clear, if I understand correctly,
14 in this report, you are making conclusions about
15 health issues at 2.1; correct?

16 A. Based on the articles, yes.

17 Q. Okay. And only based on the articles;
18 you have no training or experience in that area;
19 correct?

20 A. No, sir. I collected and collated data
21 and made my conclusions based on the data that I
22 was reading through from experts, yes.

23 Q. And at 3.1, you reached conclusions about
24 setbacks for wind turbines; and, again, they are
25 your personal conclusions; correct?

1 A. From the articles and the studies of
2 different experts that were available to me, yes.

3 Q. Okay. And 4.1 is your conclusion on
4 endangered species, and you have no training or
5 experience in the area of endangered species, birds
6 or bats; correct?

7 A. Training, no. As I --

8 Q. Training, education, or experience to be
9 an expert in those areas?

10 A. Oh, I see what you're talking about. No.
11 I was a conservationist though, and from that
12 standpoint, no, this is all based on the articles
13 and websites available to me as a person who does
14 not have unlimited funds to fund my own studies.

15 Q. And when we get down in all of the
16 conclusions, the final thoughts and final
17 conclusions given, they are your opinions and
18 your conclusions; correct?

19 A. I hope so. I wrote it.

20 Q. And none of the people whose articles
21 are represented by your compilation are here to
22 testify, correct?

23 A. Well, sir, no, they are not. As I said,
24 I do not have the money to fly them in. As far
25 as the articles, whenever a person is researching

1 articles and data, they --

2 Q. Those people aren't here, right?

3 A. No, they're not here, but what I am saying
4 is when you have a scientific study that was paid
5 for and done, then when you look at it, you draw
6 your own conclusions based on what you're looking
7 at. It is not up to me to tell the board what they
8 should think. All I did was provide references
9 that if they chose to ignore them, they can. If
10 they choose to go look at them, they're available.

11 Everything that I have said here, just
12 like everything that you say or they say or anybody
13 else, can be thrown out on a dime, but providing
14 the information is never wrong. Data is important,
15 and the data available to an average citizen is
16 not the same data available to a multi-national
17 or multi-million-dollar company. It's very limited
18 for what's available to me. I worked with what I
19 had.

20 MR. GETTY: That's it. Thank you.

21 MR. McKEE: Does anyone have any questions
22 for this witness?

23 (There was no response.)

24 MR. McKEE: All right. Thank you, ma'am.

25 MS. HITES: Thank you.

1 (Witness, Dana Hites, excused.)

2 MR. McKEE: The next witness, please.

3 MR. GETTY: Mr. McKee, while the next
4 witness is coming, I would move to strike Exhibit
5 108. It is something that was handed to me. It
6 appears to have come earlier, but it was not
7 supported by any testimony or evidence. I am not
8 sure what it refers to.

9 MR. McKEE: Yeah, I am not sure where it
10 came from either actually. Who presented 108?

11 MR. SQUIRES: All right. Hold on a second
12 here. Ms. Ridenour. It's -- this is when I got
13 hit with a flurry. I think she is going to --

14 MR. McKEE: She's -- so we're not --

15 MR. SQUIRES: We're not going to enter it.

16 MR. McKEE: -- entering it because she has
17 not actually spoken on it --

18 MR. SQUIRES: Right.

19 MR. McKEE: -- at this point?

20 MR. GETTY: Okay. I just didn't know
21 where it came from.

22 MR. McKEE: And I understand, and maybe
23 for clarification, Mr. Squires --

24 MR. SQUIRES: Yes.

25 MR. McKEE: -- why don't we hold off

1 distributing them until the actual witnesses are
2 coming forward, so they know exactly how we...
3 All right?

4 MR. SQUIRES: Sure.

5 MR. McKEE: Thank you, sir.

6 All right, sir. If you will raise your
7 right hand for me.

8 - - -

9 TONY BEQUETTE,
10 OPPONENT WITNESS, SWORN

11 - - -

12 MR. McKEE: Very well. If I could just
13 have your name and address for the record.

14 MR. BEQUETTE: My name is Tony Bequette.
15 I live at 2923 Frostburg Road, Frostburg, Maryland,
16 Garrett County.

17 - - -

18 STATEMENT BY MR. BEQUETTE:

19 So I don't have any statistics or numbers
20 like the last two witnesses who spoke. I am here
21 because I live 705 yards from a wind turbine and
22 866 yards from the next wind turbine and 1,066 to
23 the next wind turbine. Those are the three closest
24 ones to my house.

25 I moved up here 20 years ago, almost 20

1 years ago. I bought a piece of property that I
2 thought that I would be able to enjoy and live the
3 rest of my life on peaceably after I retired. I
4 made us a lot of sacrifices in doing that, making
5 that decision, when it came to promotion and things
6 like that with my former employer, being such an
7 isolated area.

8 With that said, everybody here is probably
9 familiar with the Fourmile Ridge Wind Project.
10 That's the one that is camped out in front of my
11 house.

12 I am not an expert on, say, noise, but I
13 have been told that two people got up here and
14 testified that they pulled up in front of the wind
15 turbines with their cars and they couldn't hear
16 them. I would have to throw up a flag on that one.

17 I can tell you right now that the noise
18 is deafening at times and it changes. It's not
19 a constant noise. It does change. There are
20 times when they are not running that there is
21 no noise, and then there are times where the
22 noise penetrates the walls of my house. This
23 is fact, fact. This is not a survey. This is
24 not any kind of statistical. This is fact. I
25 know this 100 percent to be true.

1 My family is affected in ways that
2 might seem minuscule to a lot of people, but my
3 children -- I have four children, two of which are
4 in college, one who will be living with me for the
5 rest of my life, she's handicapped, and then I have
6 a nine-year-old. Well, she says nine-and-a-half.
7 They cannot sleep without music being played in
8 their room. So we play classical music in their
9 room to try and get them to sleep. This is fact.
10 This is not anything else but fact.

11 I have recently swapped out a window in
12 my house which I will be continuing to do. I have
13 a friend of mine, who is a -- who sells hundreds
14 of millions of dollars worth of windows a year.
15 I told him what was going on and he said that he
16 could help me out with getting a tempered glass
17 window, you know, extra thick spacing to try and
18 help the sound from coming through the windows,
19 because the sound comes right through the windows,
20 no if, ands, or buts.

21 To give you an idea of the construction
22 of my house, to also kind of give you an idea how
23 it's going to affect the citizens of Allegany
24 County, my house, my walls are six-inches thick.
25 I got one-inch solid wood on the outside with a

1 half-inch of foam insulation and then siding, vinyl
2 siding. On the inside is another one-inch-thick
3 board with blown foam in it, blown insulation in
4 between. So it's not like it's a 2x4 wall. We're
5 talking about a wall that it was balloon-framed.
6 It was built in 1880. Okay? So it's a true
7 four-inch space with a one-inch board on each side,
8 blown with insulation. It comes right through the
9 walls, right through the walls.

10 My children suffer from headaches that
11 they never had before. I am an expert on that.
12 I am an expert on my family's health, I am an
13 expert on my health, and I can tell you right now
14 that this is a true statement that they suffer from
15 headaches. I never had to buy a bottle of Tylenol
16 before, but I am buying them now.

17 Aesthetics, you know, to me, the aesthetic
18 part of it, when they first started putting them
19 in, didn't bother me that much, to be honest with
20 you. Okay? And it still just doesn't bother me
21 that much now because I just don't look up at them,
22 but I will tell you, the sound changes, the sounds
23 and the vibrations will change with the weather
24 conditions.

25 Let me give you an example. So the other

1 day, it was cloudy up on the mountain, which is
2 not uncommon, and as a result of the humidity being
3 high, the sound that comes off these turbines is
4 deafening when the humidity is high, and they --
5 they change them too. They changed the position
6 of the whole turbine head. I was told they do that
7 to save the bearing or, you know, keep the bearing
8 life which is, you know, it's not neither here --
9 neither here or there.

10 It's just when they change them, they
11 change the sounds. The sounds get worse.
12 Sometimes the sounds aren't as bad, but they
13 constantly change with the humidity level. Well,
14 you know, being that they're up on high places,
15 especially up on the highest parts of Allegany
16 County and Garrett County, which they are, you
17 know, it's often in the clouds and you might
18 not see them, but I'll tell you right now, you're
19 going to hear them, no if, ands, or buts.

20 They built them on my road, and there was
21 a lot of people opposed to them, but, you know, I
22 think there is like 28 families that live on my
23 road, 28. Okay? We live in a rural area. What
24 you're talking about, you got a lot more than 28
25 families that are going to be affected by them.

1 I can guarantee you, you're going to
2 see litigation. This is a -- whether or not there
3 will be any litigation where I live, I don't think
4 there is enough people to do anything, but there
5 are enough people in Allegany County that are going
6 to be affected by them. It's going to -- you
7 will be in court all the time, I bet, if they go
8 through.

9 I don't know all the positions of them,
10 and so I am just telling you the things that I have
11 experienced. I was asked to come down here as a
12 friend to a -- I didn't even know these were going
13 in. I didn't even know I was coming down here
14 until two days ago. Okay?

15 Let's talk about flicker. Okay? Where
16 they are positioned at my house, I get flicker in
17 the winter when the sun comes up, late fall, like
18 right now, and it's like being in a strobe light,
19 except it's multiple strobe lights at one time.
20 Okay? When there is snow on the ground, it's
21 worse, because then you have big black shadows
22 coming across white fields. It's a -- you can't
23 look at them very long or else you kind of start
24 to feel sick, at least I do, and I have never had
25 any problem with motion sickness in my life.

1 And I -- I didn't have time to prepare
2 photos or anything because I didn't really -- like
3 I said, I didn't even know I was going to be --
4 I didn't even know I was going to be testifying
5 today, you know, but I do have some pictures on
6 my phone. I could show you how close, what it
7 looks like having the wind turbines at 705 yards,
8 but I can't give everybody a picture. I can print
9 them off and bring them to you later, I guess.

10 I don't know how -- this is an unusual
11 setting for me. I am used to a court of law,
12 not necessarily a board with -- I don't know what
13 the do's and don'ts are, and so if you would like
14 pictures, I can get them for you.

15 MR. McKEE: Sir, you are going to be
16 given a time at the end of the -- at the end of
17 the hearing, there will be a 10-day window. If
18 you want to submit anything in writing and send
19 any pictures, you're more than welcome to do so.

20 MR. BEQUETTE: Okay. Well, in conclusion,
21 I would say to you, as a board, taking all this
22 information into consideration, I'm sure that the
23 wind people will come back and say it doesn't bring
24 property values down.

25 Have you ever -- I don't know how they

1 come up with the statistics on that, to be honest
2 with you, I don't know, but I can tell you this.
3 I mean, I've been out west. I've driven numerous
4 times out to Montana and Wyoming, and you will see
5 huge wind turbine farms in the middle of nowhere
6 in Wyoming and stuff. I mean, they are huge. I
7 mean, I don't know how many turbines there are.
8 You can't count them as fast as you're driving,
9 they're so big.

10 Then I would say that if you had a turbine
11 farm in the middle of nowhere, yeah, it's not
12 really going to bring the property value down,
13 but I would be -- I would say this. I don't even
14 think I could sell my property right now. I don't
15 even -- I don't even think I could sell it. I have
16 a 140-acre farm that I thought was going to be a
17 place that I could stay for the rest of my life,
18 and I don't foresee that happening now.

19 In conclusion, I will say to you, please
20 understand that I have nothing to gain or to lose
21 by this wind farm going in, in Allegany County.
22 My -- my future is already set. Okay? But you
23 will be doing the citizens of Allegany County a
24 huge disservice if you let these go in, and I
25 mean that wholeheartedly, and I will be more than

1 happy to answer any questions from the wind farm
2 people.

3 MR. GETTY: I don't have any questions.

4 MR. BEQUETTE: You don't have any
5 questions?

6 (Laughter)

7 MR. McKEE: Excuse me, sir. Does anybody
8 else have any questions of this witness?

9 (There was no response.)

10 MR. McKEE: Does the board have any
11 questions?

12 - - -

13 EXAMINATION OF TONY BEQUETTE

14 BY MR. POWELL:

15 Q. Give me the distance to -- what is the
16 distance from your residence to your closest
17 turbine?

18 A. The distance from the front porch of
19 my house to the turbine itself, not the biggest,
20 because I didn't -- I can't get to the biggest
21 because of the trees, but to the turbine itself,
22 which is -- so the base would actually be closer,
23 the closest one is 705 yards.

24 Q. 705 yards, so you're talking somewhere at
25 2100 feet?

1 A. Yes, and I shot that with three different
2 laser range finders, so with a variance of one
3 yard.

4 Q. So that's the closest?

5 A. That's the closest one --

6 Q. But then your --

7 A. -- and then the next one is 866 yards.

8 Q. Okay. And how many in the array that you
9 think that's affecting your property?

10 A. I would say probably four.

11 Q. Four?

12 A. (Witness nodded head.)

13 Q. And they increase in distance from the
14 closest one at 705 --

15 A. Yes.

16 Q. -- then they --

17 A. Yeah. The range finder that I used, which
18 was a Swarovski range finder -- it's a pretty high
19 dollar unit -- I was able to get a distance as of
20 this morning of 1,066 to the third windmill.

21 The first windmill is pretty much directly
22 in front of my house, and then the second one is
23 866 yards. The next one is 1,066 and then they
24 continue on down.

25 Q. Thank you.

1 (Witness, Tony Bequette, excused.)

2 MR. McKEE: All right. At this time, it's
3 twelve noon. We're going to go ahead and break for
4 lunch right now and we'll reconvene at one o'clock.

5 (Applause)

6 (At 12:01 p.m., lunch break taken until
7 1:07 p.m.)

8 CHAIRPERSON WILLIAMS: Let's now come to
9 order, please.

10 MR. McKEE: All right. We'll call the
11 next witness. Ma'am, if you want to come forward,
12 please.

13 (Discussion held off the record during
14 setup of video.)

15 - - -

16 TAMMY McKENZIE,

17 OPPONENT WITNESS, SWORN

18 - - -

19 MR. McKEE: Ma'am, can I have your name
20 and address for the record.

21 MS. PARK: Tammy, he'd like you to spell
22 your name and address for the record.

23 MS. McKENZIE: Okay. One second.

24 My name is Tammy McKenzie. I live at 3864
25 Glencoe Road, Glencoe, PA, in Somerset County.

1 MR. McKEE: It's your testimony. Are you
2 testifying?

3 MS. McKENZIE: I will, after the video
4 plays.

5 MR. McKEE: Okay. Well, before we start
6 the video, what is the video?

7 MS. McKENZIE: The video tells of our
8 experience of living underneath a wind turbine.

9 MR. McKEE: Okay. So you live under --

10 MS. McKENZIE: We live 1640 feet
11 approximately from the closest turbine. We see
12 six turbines out our back window of our house.

13 MR. McKEE: Okay. And this is a video
14 you prepared?

15 MS. McKENZIE: Yes.

16 MR. McKEE: All right. I understand.
17 Do you guys want to come up?

18 MR. GONTRUM: Yeah.

19 MR. McKEE: Yeah, we're going to let
20 counsel come up here to be able to...

21 (Counsel approached video monitor.)

22 MR. McKEE: And, I guess, Mr. Squires, for
23 the record, did you mark this exhibit, mark this
24 video as an exhibit?

25 MR. SQUIRES: Yes. The video or DVD is

1 a presentation by Tammy McKenzie known is Exhibit
2 111, one hundred and eleven.

3 (Video played.)

4 - - -

5 STATEMENT BY TAMMY MCKENZIE (on DVD video):

6 We are Tammy and Joe McKenzie from
7 Glencoe, PA. We live between Somerset and
8 Cumberland, Maryland. You can find our home
9 off of 68 (inaudible), and ever since the startup
10 of the turbines, our life has been in turmoil,
11 due to the noise and the shadow flicker that is
12 created from the wind turbines, and we wanted to
13 make a video so that people would not have to be
14 disturbed in the manner that we have been disturbed
15 due to the issues and the problems that the wind
16 turbines cause for us.

17 Oftentimes, communities are approached by
18 wind -- the wind industry to house the wind turbine
19 on their property, and with that, they are given
20 money in return for their leave, and with that,
21 although people are -- they have a gag order placed
22 on them so that they can't talk about the issues
23 that are associated with the wind turbines.

24 For us, we believe that our story needs
25 to be put out there so that people know exactly

1 what's going to happen, because had we known of
2 the ramifications of the wind turbines in such
3 close proximity to our home, we would have had a
4 choice to maybe voice our opinion in not wanting
5 them to be placed so close to our home, but we did
6 not feel as though we were going to have an issue
7 with the wind turbines. There have been so many
8 farms placed in our county that not too many people
9 complained.

10 We have heard of people complaining about
11 wind turbine problems, but we, not being close to
12 them, have said, "Oh, what should be the problem,
13 there shouldn't be a problem with them," but now
14 with them being so close, we do realize that there
15 are problems.

16 We are unable to enjoy our home in the
17 morning hours. We usually have, at peak, an
18 hour-and-a-half of shadow flicker in our home.
19 Joe usually --

20 MR. MCKENZIE: I go to the basement.

21 MS. MCKENZIE: -- goes to the basement
22 so that he does not have to look at it. It can be
23 on a nice, sunny day and the sun coming up, it can
24 be pretty intrusive.

25 (Whirring noise)

1 We were finding that we were having
2 problems sleeping at night and staying asleep,
3 and we did our own research and we consulted our
4 own expert to do testing in our home for what is
5 called "infrasound," and with that testing, it
6 was found that our home, it has very high levels
7 of infrasound, and that can also have health
8 implications on people because it's noise that
9 you do not hear but it can cause vibrations within
10 the body.

11 So many nights, neither one of us sleep,
12 and the first question that we ask each other every
13 morning is:

14 MR. MCKENZIE: "How did you sleep?"

15 MS. MCKENZIE: "How much sleep did you
16 get? Did you sleep last night?" And there are
17 nights when we do sleep that when you wake up
18 in the morning, you feel as though --

19 MR. MCKENZIE: -- you didn't get any
20 sleep.

21 MS. MCKENZIE: -- you didn't get any sleep
22 because I guess your body is just being attacked so
23 much from the vibrations.

24 The World Health Organization recommends
25 a minimum of indoor noise at 24 decibels and a

1 maximum of 40 decibels. I also talked to a
2 acoustical engineer. I've talked to several over
3 the past couple years, and he commented on our
4 noise ordinance at 50 decibels was on the border
5 of criminal.

6 My ENT doctor that I recently visited
7 told me that I was chronically fatigued when I
8 walked into the office, and that he is treating
9 two other people who live under wind turbines with
10 the same problems associated with ears that I have
11 been suffering.

12 We have spent our life savings and a
13 fortune building our home. We purchased our
14 property in 2004. We have built our home with
15 our own two hands to save money, so that we would
16 be able to actually build the home of our dreams,
17 and now with the problems associated with the
18 wind turbines, we are contemplating selling our
19 property. We did have a 'For Sale' sign on our
20 property, but we don't feel that we can give it
21 up because of all the hard work that we have put
22 into building our home.

23 The other reason we did purchase or build
24 our home on our own was that we wanted to be able
25 to have a home that was well-constructed that would

1 last the rest of our lifetime. My husband and I
2 took the time to be very meticulous on how we built
3 our home. We used 2x6 walls. We have --

4 MR. McKENZIE: It is six inches of
5 insulation, an inch of cone housewrap, plus two
6 inches wood for siding, which the walls are
7 probably about eight inches thick, and the noise
8 still comes through; and the winds are -- they
9 offered to put new windows in our home and blinds
10 in our windows to keep the shadow from coming in,
11 but our windows are top -- top to bottom. I mean,
12 nothing can be done.

13 MS. McKENZIE: At our own expense, we
14 obtained an acoustical engineer to do some testing
15 in our home, due to the problems that we were
16 having with sleep deprivation. We just didn't
17 know what was happening to our bodies since the
18 inception of the wind turbines.

19 So his conclusion to the testing for
20 infrasound that was performed in our home states
21 that the infrasound from the wind turbines near
22 your home is sufficient to exceed the 60-decibel
23 threshold at which people will consider the home
24 to be unlivable and vacate or sell it on a regular
25 basis. At other times, the tones can be in the

1 50-to-60-decibel range which is also associated
2 with symptoms but at a level where coping seems
3 possible.

4 In his opinion, the infrasound from the
5 wind energy project turbines is strong enough
6 inside the home to result in adverse health effects
7 and potentially a decision to vacate the home
8 because of these adverse effects. They do not
9 have any idea how we feel when we get up in the
10 morning after being sleep deprived ... (inaudible)
11 and they don't know how hard we worked to have what
12 we have. We were two very young people starting
13 with \$500 when we got married, and we have worked
14 very hard to have what we have, to allow industry
15 to come in and devastate our lives.

16 If we were to sell our home, we would
17 be putting another person in harm's way, because
18 if we are having health issues because of the
19 ramifications from the wind turbines, then we
20 would be putting somebody else in harm's way.

21 MR. MCKENZIE: But they did offer to buy
22 us out and we showed them our appraisal, and their
23 words were, "That's too much for this area." So
24 our hard work, more or less, wasn't worth what they
25 thought.

1 MS. McKENZIE: Our bottom line is --

2 MR. McKENZIE: -- leave the ordinance --

3 MS. McKENZIE: -- and turbines need to
4 be further away from residential communities. Our
5 home is probably 1640 feet and that is way too
6 close to be near a home.

7 MR. McKENZIE: (Inaudible) 8, 2014, no
8 windmills running. That's about the only time I
9 come outside anymore.

10 (Video stopped.)

11 CHAIRPERSON WILLIAMS: Now can we move
12 this down because I can't see the witness, please.

13 MR. SQUIRES: No problem.

14 MR. McKEE: Jim, just to clarify, the
15 video is 112-1 and this is 112.2? Is that --

16 MR. SQUIRES: No, this is 1 -- I think 1
17 or 11. I am going to go back and check.

18 MR. McKEE: Well, 111 is what you said.

19 MR. SQUIRES: Yeah, 111 is the DVD
20 presentation, and then the one --

21 (To witness) You were going to still
22 present the entire package?

23 MS. McKENZIE: Yes.

24 MR. SQUIRES: Okay. She has a package
25 that has multiple documents in it that I have

1 went through and brief descriptions, I think I
2 got them accurate earlier -- I'll just go back
3 through -- but for right now in this package,
4 she has -- collectively, the presentation is 112.

5 There is a cover document in there I think
6 she is going to read from, 112.1. She had made
7 copies in the interim which is known as 112.2 which
8 I have given to counsel here. I believe the board
9 already has that. It is the findings on infrasound
10 noise study ... there.

11 MR. McKEE: Yes, we got them.

12 MR. SQUIRES: You got it? Okay.

13 And then there is other exhibits in her
14 package from 112.3 through 112.8. She may describe
15 them, but she only has one copy of that stuff and
16 she is going to submit the whole package as an
17 exhibit at the end.

18 MR. McKEE: Okay.

19 MR. GETTY: Preliminarily, with respect
20 to 111, which is the video, and then 112.2, which
21 is referenced in the video itself, we would move
22 to strike. We understand these are different rules
23 than they are in a courtroom, but at the same time,
24 Ms. McKenzie lives on Glencoe Road in Glencoe, PA.
25 She is not a part of this project. Her experience

1 in Glencoe with a separate project, which I believe
2 is an EverPower project, is not relevant to these
3 proceedings.

4 I understand what she has presented and
5 why. Certainly, with respect to opinion testimony
6 as to those circumstances which may or may not
7 exist at the McKenzie home in Glencoe, PA, through
8 E-Coustic Solutions is not relevant to any issue,
9 either the special exception or the variances
10 before the board.

11 MR. McKEE: With regard to your objection,
12 with regard to Exhibit 111, I am going to
13 overrule the objection to 111. I believe 111
14 is her testimony. It's clearly subject to any
15 cross-examination. Hearsay clearly is admissible
16 in these types of hearings. So you will have
17 an opportunity to cross her on anything you wish
18 with regard to 111.

19 I am going to agree with you and sustain
20 the objection as to 112. Obviously, this is a
21 study that was completed by E-Coustic Solutions
22 and a Richard James. Obviously, Mr. James isn't
23 available for any cross-examination on this; and,
24 frankly, I think you should have the right to at
25 least question him with regard to this, and in

1 relation to any testimony regarded by experts you
2 provided.

3 So I am going to go ahead and strike 112.2
4 and allow 111 in the record.

5 MS. McKENZIE: Could you please explain
6 to me what that means because I have never been
7 in a court hearing before.

8 MR. McKEE: It simply means that for
9 the purposes of deliberation, 111 is considered
10 evidence, but I am not going to allow 112.2 to
11 be considered evidence.

12 MS. McKENZIE: Am I allowed to talk about
13 that?

14 MR. McKEE: If you want to talk about
15 112.2, that's -- from your perspective, you can
16 tell us anything you want to tell us, but as far
17 as this document, which is a report that was
18 drafted by somebody who is not present here today
19 to be able to be subject to cross, I am not going
20 to allow it.

21 - - -

22 STATEMENT BY TAMMY McKENZIE:

23 Okay. First of all, I would like to say
24 that my husband was to be here and he was unable
25 to be here, so my talk is in plural, so I apologize

1 for that.

2 We would like to thank you for allowing
3 us to speak of our experiences with industrial
4 wind turbines. As the crow flies or the eagle
5 soars, we live only about seven miles from the
6 people on Dan's Mountain. Having so many wind
7 farms in our county, we never really thought that
8 we would be affected in the way that -- in the
9 manner that we were affected. Since then, we have
10 found that it is very common for people to assume
11 they won't have any trouble from wind turbines
12 until after they have been turned on.

13 At the very start-up, people contacted
14 local authorities about the loud noise and shadow
15 flickering. The noise described as swoosh, thump,
16 thrust, and jet airplanes over our home was very
17 intrusive, to say the least. The developer asked
18 that we be patient because there was a break-in
19 time and there was a manufacturer's guarantee that
20 the turbines sound no louder than a refrigerator.

21 They recommended more insulation in
22 affected homes and also gave us a construction
23 proposal. Because our house was built so recently
24 with extra insulation in the walls and roof and
25 the highest rating in doors and windows, there was

1 no potential for improvement of doing more.

2 At our own cost, we had professionals do
3 on-site studies for infrasound; and, again, I am
4 not going to read it. The conclusion was in my
5 video. A copy of our infrasound testing was sent
6 to officials in Harrisburg at the Department of
7 Health, and in a follow-up call, they stated that
8 the testing was very good data, and the sound
9 levels of 50-to-60-decibel range were high and
10 not good for personal health. They also said they
11 did not have regulatory authority over regulating
12 wind turbines, so they could not help us.

13 Legal counsel indicated that our fees
14 would cost up to \$250,000. The only thing that
15 we would recover, if anything, was the value of
16 our home. We feel that we are at a lose-lose
17 situation. Personally, we cannot sell our home.
18 We continue to look for answers and have found
19 that we are not alone.

20 Just last year, the Brown County Board
21 of Health in Wisconsin declared the Shirley Wind
22 Project to be a human health hazard. A Google
23 search has stories like ours all over the world,
24 even in Iran, but especially Canada, Australia,
25 Spain, Germany, and England.

1 We continue to suffer from sleep
2 depravation and ongoing health problems. I
3 have been treated with two different courses
4 of steroids and over-the-counter meds without
5 relief. I visited an ENT doctor who stated that
6 I looked chronically fatigued and that he could
7 put tubes in my ears but did not feel that it
8 would help.

9 In our quest for looking for answers or
10 even helping people, in Pennsylvania, there have
11 been several townships that have changed the rule
12 of how wind turbines are placed in the counties
13 or the townships. The largest setback has been
14 placed in Huntingdon County, and it's not from
15 an occupied structure like our township has, or
16 I should say our county. I'm sorry. Our county
17 has a setback limit five times the height from an
18 occupied structure, but in Huntingdon County, they
19 have changed it to 3500 feet from a property line.
20 The latest was Menno Township in Mifflin County,
21 3,000 feet from a property line, and also Haines
22 Township and Center Township, 2500 feet from a
23 property line, not an occupied structure.

24 One thing I would like to mention about,
25 and this is in my packet, but you may not take

1 this, but we had a noise study done at the wind
2 farm by the developer due to all the complaints
3 of the noise of the local people who live in the
4 area. Their conclusion of that noise study was
5 that the turbines were within the township decibel
6 limit of 50 decibels in an -- a weighted study.

7 First, I would like to add, when the
8 township agreed to the 50-decibel limit, they
9 thought that it was overall noise. They were
10 uneducated on how the study was to be performed,
11 if there were complaints that arose. At a meeting
12 that we all went to, it was then explained how
13 the study would be performed. It was explained
14 that they would take the overall noise, remove
15 the background noise, leaving the turbines solely.
16 So the turbine sound was -- if it was under 50
17 decibels, they were compliant, but they did not
18 take into consideration the other noise that's
19 in the air in the surrounding area.

20 So if you have a turbine that is making
21 45 decibels and you have an outside noise at night
22 that's anywhere from 25 to 35, that gets added
23 on to it. So you're going to have anywhere from
24 a 70-to-an-80-decibel limit that is going to be
25 intrusive to the community.

1 Mr. Hessler, which is a acoustical
2 engineering firm in Virginia, their conclusion
3 was a practical solution to our problem may
4 be to use a white-noise generator inside the
5 McKenzie house, such as the Marpac Dohm DS Sound
6 Conditioner, which because any noise from the
7 project must be quite low in magnitude may be
8 able to provide some effective masking. They
9 also stated that our home was already well-suited
10 for noise intrusion, and they did not feel that
11 the construction proposal would have any effect
12 on what we were hearing inside our home.

13 It was recommended to us that we keep
14 sort of a diary of the problems that we had. Just
15 to read a few of these -- I have several pages.
16 They are not typed out. It's just things that
17 I jot down from time to time.

18 MR. GETTY: Mr. McKee, with respect,
19 I would object to diary -- the reading of
20 diary entries, with respect to Ms. McKenzie.
21 I understand her circumstances, but I don't
22 understand its relevance to any of the issues
23 relating to a special exception or the variances
24 that are before the board.

25 MR. McKEE: What I am assuming she is --

1 that what they are trying to get at is that the
2 problems caused by the turbines would show a
3 site-specific adverse impact based upon the
4 location of the turbines. I am going to go
5 ahead and allow this at this point, but I note
6 your objection.

7 MS. MCKENZIE: Thank you.

8 "On 10/05/14, feeling terrible today,
9 unable to sleep. Chest feels pressure and feeling
10 very tired, pushing myself to do my studies for
11 my college class.

12 5/23/14, turbines loud all day. By
13 evening, louder in the house, unable to have
14 windows open due to loudness inside of home.
15 Windows open until Joe, my husband, came home,
16 could not stand to hear the thrust-swish-hum
17 and loudness heard. Once windows closed, could
18 still hear them running inside of the house.

19 3/17/14, fell asleep after 10 p.m., awake
20 at 10:26, awake until 2:15, got up to sleep on sofa
21 but had a hard time falling asleep, woke again at
22 2:31, awake for a while, got up for work at 4:15."

23 These are -- this is what we deal with
24 pretty much on an everyday basis, and in the
25 winter, it is much worse.

1 The other thing that I would like
2 to address, because people like us that are
3 uneducated, we have no idea what we're going
4 to be impacted with. In the wintertime, the
5 turbines build with ice. We were told that there
6 are sensors on the turbines. Once they build with
7 so much ice, they shut down.

8 With the noise that is created from the
9 turbines, you either can't stand it in your house
10 or you get awakened through the night. We have
11 had to call several times, and at a meeting, I was
12 told ice is variable. It's either built ice or
13 it's called "rime frost"; and, of course, when it
14 builds on the blades, it changes the aerodynamic
15 of the blade and, of course, it will cause more
16 noise. That is what we deal with.

17 We were told -- and I don't know that
18 this is true -- but we were told that despite
19 not having a noise regulation in Allegany County,
20 you do have protection to keep the turbines away
21 from people's homes. We hope that this is true.
22 If you choose to give a variance for the wind
23 turbines, please tell these people how you will
24 be able to help them if they too have harassment
25 and health-associated problems after the turbines

1 are turned on. There is no help for us. So I
2 conclude with that.

3 MR. McKEE: Cross-examination?

4 - - -

5 CROSS-EXAMINATION OF TAMMY MCKENZIE

6 BY MR. GETTY:

7 Q. Ma'am, you indicated that you were aware
8 that there was no noise regulation in Allegany
9 County. Are you aware that noise in the state
10 of Maryland is regulated by the State of Maryland?

11 A. No, I am not.

12 Q. With respect to your testimony, you don't
13 have any physicians here today who have treated
14 you, your treating physicians, who are here to
15 testify; is that correct?

16 A. No, and I find that the medical community
17 does not want to get involved with this.

18 Q. And do I also understand that you do not
19 have anyone from E-Coustic Solutions or any other
20 sound measurement or noise control consultants
21 here to testify; is that correct?

22 A. No. That's why we hired a specialist
23 because we are not trained.

24 Q. And the project that is closest to your
25 house on Glencoe Road in Glencoe, Pennsylvania,

1 that is a project that is operated by EverPower;
2 is that correct?

3 A. Correct.

4 Q. That is not the developer of this project,
5 correct?

6 A. Correct.

7 Q. And this project will be approximately
8 seven miles from your property in Glencoe,
9 Pennsylvania?

10 A. I don't have those exact figures.

11 Q. I think that's what you indicated in --

12 A. I said by a -- the way of the crow.

13 Q. Okay. You do not know, in terms of your
14 testimony here today, what, if any, properties
15 will be impacted by flicker associated with the
16 Dan's Mountain Wind Force Project, do you?

17 A. No, sir, I don't, but I also did not
18 believe that we would be impacted but we are.

19 Q. Okay. But you don't know anything about
20 the specific properties --

21 A. No, I don't.

22 Q. And you do not know what the sound levels
23 will be in respect to this particular project as to
24 particular properties associated with the project,
25 do you?

1 curious. Thank you.

2 MR. McKEE: Are there any other questions
3 from the audience?

4 (There was no response.)

5 MR. McKEE: Any questions from members
6 of the board? Mr. Powell.

7 - - -

8 EXAMINATION OF TAMMY McKENZIE

9 BY MR. POWELL:

10 Q. Mrs. McKenzie, at the onset of this
11 project in your area, were you part of that
12 project? I mean, were you in a lease agreement
13 with them to place that turbine or whatever have
14 you?

15 A. No.

16 Q. So you were not -- you were outside the
17 project, you were not inside the project, but
18 that tower got placed within 1640 feet of your
19 residence?

20 A. Yes.

21 Q. Okay. And you were not part of the
22 project, so you didn't have to sign off on anything
23 or whatever have you; right?

24 A. No, we -- we really truly didn't know
25 anything about turbines. There is 18 turbines that

1 were erected in front of our house in 2006. We see
2 them. We have no problem with them. We did not
3 feel we would be affected. It wasn't until after
4 they were started running, we called; we complained
5 of the noise. We complained of the flicker.

6 I even went as far as to ask them for a
7 work excuse because I was so sleep deprived and I
8 was not able to be productive at work, and I still
9 fight with that today because of not being able to
10 sleep.

11 Q. Do you happen to know what the setback
12 regulation was for those towers in your area?

13 A. It's five times the height of the tower.
14 Our home sits just right outside the setback
15 radius; and, in fact, they had to place a shorter
16 turbine behind our home because the neighbor would
17 not sign a good-neighbor agreement to accept a
18 non-participating -- it's not really a lease.
19 It's just money that they accept to be -- allow
20 their home to sit in the setback radius.

21 Q. In other words, inside the variance?

22 A. Yes. They -- if they choose to not
23 have -- if they choose to not accept the money,
24 they are not allowed to set the turbine -- having
25 the home inside that radius.

1 Q. Okay. So your restriction there was
2 five -- did you say five times the height of the
3 tower?

4 A. Yes.

5 Q. Which the 1640 feet put it there --

6 A. Yes.

7 Q. -- but pretty close to your residence?

8 A. It's just right outside, according to the
9 maps that was provided to us by EverPower.

10 Q. Thank you very much.

11 MR. McKEE: Are there any other questions?

12 (There was no response.)

13 MR. McKEE: Any redirect or, I'm sorry --

14 MR. GETTY: No, but if I might see the
15 exhibits because I --

16 MR. McKEE: Certainly, absolutely. We've
17 only -- I think we've only ruled on 111 and 112.2.

18 MR. SQUIRES: On Exhibit 112.7, I cannot
19 read the signature of the name. It is a A-J --

20 MS. McKENZIE: "Jair-es," J-A-R --

21 MR. SQUIRES: You want to spell that for
22 me.

23 MS. McKENZIE: It's J-A-R-S-Z, I believe.

24 MR. SQUIRES: And you still are prepared
25 to surrender this to the board?

1 MS. McKENZIE: Yes.

2 MR. GETTY: I believe that the 112.1 --
3 is 112.1 your testimony?

4 MS. McKENZIE: Yes.

5 MR. GETTY: 112.2, an objection has been
6 sustained. I don't -- you don't have these, but
7 let me just go through them very quickly.

8 112.3 appears to be a noise abatement
9 analysis by Hessler Associates, Inc. Exhibit
10 No. 4 is S.E. Ambrose & Associates, "Acoustics,
11 Environmental Sound & Industrial Noise," which
12 again appears to be an assessment. We would
13 object to both of those in a manner consistent
14 with that which we objected to the E-Coustics
15 Solutions, 112.2. They represent professional
16 opinions, and those experts are not present to
17 be subject to cross-examination. We would also
18 submit they are not relevant to the issues in
19 this case.

20 I am not certain I know what 112.5 is,
21 so if I might approach the witness.

22 MS. McKENZIE: I made reference to having
23 contact with a acoustical engineer that says that
24 50 decibels around-the-clock industrial noise
25 ordinance in a rural area borders on criminal.

1 MR. GETTY: And we would move to strike
2 that as well, for the same reasons advanced, it
3 is neither relevant nor is the author available
4 for cross-examination.

5 112.6 appears to be a printout of a
6 publication from the World Health Organization
7 in Europe entitled "Night Noise Guidelines for
8 Europe." We would object to that. We don't
9 believe it's relevant and certainly not something
10 that can be considered in the context of a special
11 exception or a variance use.

12 112.7 --

13 MS. McKENZIE: Can I explain that?

14 MR. GETTY: Yes, ma'am, because you're
15 going to have to because I'm not sure I know what
16 it is.

17 MS. McKENZIE: Okay. I recently spoke
18 to the media, it's been a year ago, and I was
19 presented with letters from local community
20 members as to how they were impacted with the
21 wind turbines, and I put that in my packet.

22 MR. GETTY: We would certainly object
23 to that in the sense that that is not documentation
24 or evidence that has been specifically directed to
25 this board in respect to this project. It is not

1 relevant.

2 112.8, which I believe is the last of
3 the numbered exhibits to this witness, is entitled
4 "The Cooperative Measurement Survey and Analysis
5 of Local Frequency and Infrasounds at the Shirley
6 Wind Farm in Brown County, Wisconsin" which
7 represents professional opinions apparently
8 about that facility in Brown County, Wisconsin,
9 and we believe that they too would be objectionable
10 and should not be admitted as part of the evidence.

11 MR. McKEE: To that, Mr. Getty, I am
12 going to go ahead and sustain the objection.
13 I have tried to be very consistent with what I
14 have thought was appropriate and inappropriate
15 at this hearing. I've given everybody the
16 opportunities on both sides to produce experts
17 to cross-examine. Everybody who has wanted an
18 opportunity to cross-examine in this hearing
19 has had an opportunity to cross-examine, but to
20 continue, to put in a bunch of reports from people
21 that are not present and subject to that, I think
22 would not be fair and --

23 MS. McKENZIE: I understand. I am,
24 again, not familiar with court proceedings.

25 MR. McKEE: No, and that's fine, ma'am.

1 I don't expect you to. I am just explaining
2 for your purposes, for the record, for everyone
3 present, why I am taking -- why I am not going
4 to allow those in because I do think it's
5 just -- everybody has had an opportunity for
6 cross-examination with reports and experts, and
7 at this point, none of these people are subject.
8 So with that, I am going to go ahead and sustain
9 the objection.

10 Do you have anything further, ma'am?

11 MS. McKENZIE: No.

12 MR. McKEE: All right. Did I give
13 everybody...

14 MS. WILLIAMS: Yeah, I have no questions.

15 MR. McKEE: Okay. Thank you, ma'am. You
16 may step down.

17 (Witness, Tammy McKenzie, excused.)

18 MR. SQUIRES: I want to ask a question.
19 Counsel, to save the integrity of the record and
20 completeness of the record, when she originally
21 presented this to me in aggregate under 112, I
22 had 112.1 through 112.8. Mr. Getty, I believe,
23 had 112.2 through 112.8 struck from the record,
24 and the -- her testimony which would be
25 essentially her cover letter of 112.1 will

1 remain, I believe.

2 MR. McKEE: That's right. The 111, which
3 was her video, comes in because that was her
4 testimony.

5 MR. SQUIRES: That's good. We've got
6 that one.

7 MR. McKEE: And the 112.1 which was
8 basically her -- a written version of what she
9 was testifying to, her cover letter, per se, that
10 she created is coming in.

11 The rest of the documents, I believe,
12 are not coming in. They are the ones that have
13 been objected to and sustained because they were
14 professional reports.

15 MR. SQUIRES: So for the matter of record,
16 I will say that these were struck, there will be
17 no descriptions of them for the record, and I can
18 return to her the originals because we do not need
19 them, or do I keep them...

20 MR. McKEE: I think that if she submitted
21 them to you, they have to be kept as part of the
22 record, but for the purposes of deliberation,
23 they're not going to be considered.

24 MR. SQUIRES: Okay. That's fine. I want
25 to get --

1 MR. McKEE: For appeal purposes, they may
2 be -- they have to be part of the record.

3 MR. SQUIRES: Well, he laid them up there
4 for you. I will take them and put them back --

5 MR. McKEE: Certainly.

6 MR. SQUIRES: -- in the record and hold
7 on to them.

8 MR. GETTY: There to your -- on the
9 left corner, Mr. McKee, is the accumulative --
10 accumulated exhibits.

11 MR. McKEE: These were the ones that he
12 gave us as well, so I'll just leave them back
13 there.

14 MR. GETTY: Okay, great.

15 MR. McKEE: All right. Are you the next
16 witness, sir?

17 MR. SPIGGLE: Yes.

18 MR. McKEE: If you want to approach here,
19 please, and stand to be sworn.

20 - - -

21 WAYNE C. SPIGGLE,
22 OPPONENT WITNESS, SWORN

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24 MR. McKEE: Very well. You may be seated,
25 sir.

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STATEMENT BY MR. SPIGGLE:

Madame Chair, Members of the Board, my name is Wayne C. Spiggle, S-P-I-G-G-L-E, 83987 Knobley Road, K-N-O-B-L-E-Y, Keyser. I am here as a member of Allegany Neighbors & Citizens for Homeowners Rights, and I am honored to speak as a part of your presentation to you.

For members who do not know me, I am a recently retired physician, and I am a member of many organizations, including the Greater Cumberland Committee. There has been a lot of talk about what is and who is an expert during this afternoon's discussion, and so let me put that in perspective as far as I am concerned.

I do a lot of reading. I read the literature on management and diagnosis of chronic obstruction pulmonary disease, on adverse cardiovascular disease, on mental health, and many other issues in primary care medicine, and because I read that literature, I do represent myself as an expert.

I read just as carefully over the last five years about the various ramifications having to do with wind turbine development, particularly

1 in what is emerging as a major issue having to
2 do with health effects because of inappropriate
3 placement of wind turbines. Basically, they're
4 too close together, and as such, I do represent
5 myself as an expert.

6 I have been studying these issues,
7 and what I intend to do is to share with you
8 information that does impact on your decision
9 about the requested variance and exceptions to
10 the Allegany County wind ordinance. My task is
11 to summarize and expand on points made in the
12 testimony you've just heard, just before we took
13 a break and since then about the -- what could
14 be expected about health and the -- a wind facility
15 on Dan's Mountain and to connect those impacts
16 with reasons why you should deny the applicant's
17 request.

18 Weakening current protections, such as
19 they are, will cause harm to people on Dan's
20 Mountain, including the persons who make the
21 request for the variance. I agree with you,
22 Member William Powell, that this case will set
23 a precedent and will come into play in future
24 deliberations in Allegany County and in the State
25 of Maryland.

1 One such precedent you will make is what
2 a Board of Zoning Appeals should do when challenged
3 to modify an ordinance in a way that reasonable
4 people would agree would cause harm to the persons
5 who are requesting the change, particularly when
6 there is a high probability that those persons
7 are unaware of the personal dangers in what they
8 request.

9 Let me explain. A couple of years ago,
10 it was difficult to find scholarly articles that
11 made the connection of wind turbines and its
12 negative effect on human health and safety. Wind
13 companies were saying that there is no proof that
14 human health is affected by wind turbines. This
15 is the same claim the tobacco industry used for
16 20 years to avoid the truth. It isn't taking that
17 long in the case of grid-scale wind.

18 Today, an hour with the Internet,
19 searching for scientific papers and trying to
20 get through the papers that were obviously hired
21 by the wind companies, the search for bonified
22 evidence of disease and exposure to wind turbines
23 is relatively easy and very revealing. There is
24 sound scientific evidence that living close to a
25 wind turbine can be harmful to human health. You

1 have just heard evidence from people locally who
2 now are experiencing that phenomena.

3 This new knowledge is reflected in new
4 standards that are evolving about how far should a
5 residential property be from an industrial turbine.
6 Now this should grab at your attention. A review
7 of studies that I have done, literature studies,
8 reveals that setbacks should be from 5,280 feet
9 to 12,560 feet, one to two miles, depending on the
10 circumstances. Ontario is one of the few countries
11 with country-wide regulations, 1500 meters, 4,920
12 feet, twice that of Allegany County or any other
13 county in this particular region.

14 Since human impact is a function of local
15 topography and height of a turbine, the Irish
16 legislature is considering a setback of ten times
17 the height of the turbine. Actually, they passed
18 a law to this effect but it's on hold. This
19 subject is receiving a lot of review because it
20 is evident that current standards are inadequate
21 to protect people.

22 If the variance is granted, many turbines
23 will be placed closer to homes than is currently
24 called for by the Allegany County ordinance. No
25 evidence has been shown, to my satisfaction, that

1 the eight people involved know the consequences
2 of what they have been persuaded to ask for.

3 I had mentioned that for years I have
4 been studying this installation of wind turbines,
5 particularly the social dynamics involved; and as
6 you have heard from our local witnesses, people
7 really don't think that they will be involved
8 in any negative effect that has to do with the
9 development of wind turbines.

10 When I was a county commissioner over in
11 Mineral County, I frequently had the opportunity
12 to ask constituents if they weren't concerned
13 about a string of turbines being installed on
14 the Pinnacle Mountain Ridge. Well, the reply
15 was that they were not concerned because the
16 wind representatives assured them they would
17 not be affected. No sooner than the turbines
18 were activated, these same people were calling
19 me and others about the complaints, them not
20 being able to sleep at night, not being able
21 to concentrate during the day, the stories that
22 you have just heard.

23 Eventually, the Pinnacle folks sued the
24 company, which is the same company that is trying
25 to develop Dan's Mountain, and I don't know the

1 outcome. They must have gotten some money because
2 they did get the gag order and now they don't
3 talk about it, but it's hard to keep a secret
4 in Appalachian country because families talk,
5 and I can assure you that my friends over there
6 are still having a hard time with the same kind
7 of quality-of-life issues and health issues that
8 they were complaining about over again.

9 The complaints that have affected people
10 center on noise and sleep loss. Sleep interruption
11 alarms the public health profession, alarms us,
12 because chronic sleep loss is a driver for many
13 clinical syndromes, including hypertension,
14 heart disease, and the S&S of acute myocardial
15 infarction.

16 Not only does it result in disease, it
17 causes daytime fatigue, attention deficit, and
18 depression, a general feeling of unease in your
19 own home situation. The supporting documents
20 that I have for you establish that children are
21 more susceptible to these effects. My good
22 friends, our children do not deserve to be part
23 of an experiment like this.

24 The World Health Organization is an
25 important organization that sets some standards,

1 when necessary, for good health, and you've
2 already heard that a maximum of 40 decibels
3 outside at night is required to avoid health
4 consequences. That's very difficult to do
5 unless you have setbacks like I just described.
6 Certainly, it's impossible if you reduce certain
7 of those setbacks as is requested by this variance.

8 A wind turbine does not need to make
9 noise, does not need to be audible to be heard
10 by our ears and acoustic system. I even found a
11 report, that needs to be corroborated, that people
12 who work in the wind turbine installation industry
13 are susceptible to the harmful side effects of
14 noise exposure. That's one paper. There will
15 be more.

16 Winter weather in Dan's Mountain is
17 often perfect for the accumulation of ice on
18 turbine blades. You asked the question yesterday
19 on how far can ice be thrown from a turbine, and
20 an answer comes in a paper that I found from
21 Rutgers University. There are many papers like
22 that. Let me quote the answer from that study.

23 Quote, the bottom line --

24 MR. GETTY: I object. I need to object
25 to the quotation from a study. It's the same

1 basis. The exhibit that is Exhibit 117 --

2 MR. SPIGGLE: Well, I am not worried
3 about that. I just -- the answer is 1600 feet.
4 The figures and other studies may be around 1800
5 feet. That gives you a bird's-eye view of what
6 is involved if you live at the base of a turbine
7 and it starts icing up.

8 Should you impose a risk on people if
9 they do not know what is at stake? The answer
10 will be a precedent.

11 Finally, you have testimony that the
12 requested variances will impact only the eight
13 individuals involved. That simply can't be true.
14 It only takes a little common sense to know that
15 concentrating a number of turbines closer together
16 changes wind dynamics, and people up to a mile or
17 a mile-and-a-half will receive part of the impact.
18 We won't know that unless these turbines go up,
19 but I predict that that is going to be experienced.

20 Happily, the charge of Board of Zoning
21 Appeals is to advocate for the people, not to
22 promote an industry intent on imposing itself on
23 the people. I want to thank the members of the
24 board for your important service to the community.
25 It is hard work, and you certainly don't it for

1 the recognition or for the pay.

2 On the second day of this hearing, Member
3 William Powell mentioned a word that had up to that
4 point been entirely ignored by the petitioners.
5 That word is "people." Other members chimed in
6 and mentioned that people must be your focus for
7 your deliberations, and we hope that our focus on
8 the people, their safety and their health, and
9 while -- why granting the ordinance modifications
10 will hurt the people, we hope that that focus is
11 helpful to you. Thank you.

12 MR. McKEE: Cross-examination?

13 - - -

14 CROSS-EXAMINATION OF WAYNE C. SPIGGLE

15 BY MR. GETTY:

16 Q. Doctor, I know you have been waiting
17 patiently for three days to get the chance to
18 talk today, so I don't want to disappoint you.

19 You are a -- you are now retired as a
20 physician, correct?

21 A. Yes, primarily because I am going blind.

22 Q. I understand that, Doctor.

23 Now, you have indicated in the context
24 of your expertise as a physician that, in your
25 opinion, this project will cause harm to people

1 on Dan's Mountain, including people who have
2 consented to the variance. Do you recall that
3 testimony?

4 A. Yeah, that's my testimony.

5 Q. I understand that.

6 With respect to the people who have
7 consented to the variance, am I also correct that
8 none of those people are patients of yours?

9 A. No, you're right, but I was speaking from
10 the standpoint of, number one, what is known in
11 the realm of public health; and, number two, what
12 I know of the business practices of your kind.

13 Q. And with respect to those individuals who
14 have given consent, you have not examined any of
15 those people with respect to their current health
16 conditions; correct?

17 A. No. I was hoping we would -- they would
18 have the opportunity to do that during this
19 hearing, but that somehow or other didn't show up.

20 Q. Did you file any type of a request with
21 me or anyone else for the opportunity to examine,
22 conduct a medical examination, of any of those
23 individuals?

24 A. Put that -- let's put that -- of course,
25 the answer is no. You know the answer.

1 Q. I wouldn't have asked --

2 A. Put it in --

3 Q. -- it if I did know --

4 A. Put it in perspective. I don't do this
5 for a living.

6 Q. I understand.

7 You had -- you have in the course of your
8 professional life also been a county commissioner
9 in Mineral County, correct?

10 A. It's in the testimony.

11 Q. And in the testimony and in your role as
12 a county commissioner in Mineral County, is it fair
13 to say that you were opposed to the development of
14 the wind project that's referred to as the Pinnacle
15 project?

16 A. I was pretty far in, in my learning curve,
17 and the more you know about -- you're not asking
18 me a relative question. What --

19 Q. Were --

20 A. What is relative to your -- to your
21 request is that question?

22 Q. Well, really, the neat thing about this
23 process, Doctor, is I get to ask the questions.

24 So my question is, would you agree with
25 me, you were opposed to the Pinnacle project, as

1 far as your role as a county commissioner?

2 A. I was very skeptical.

3 Q. And as a part of -- since that role, you
4 have continued to be active in opposition to the
5 development of wind energy projects; correct?

6 A. I've been very active in trying to educate
7 the public, and I've done that in conjunction with
8 other organizations in the same -- along the same
9 time.

10 Q. And those organizations involve the
11 Allegheny Highlands Alliance, correct?

12 A. Yes.

13 Q. And the organization that you indicated
14 you were here on behalf today, Allegany Neighbors
15 & Citizens for Homeowners Rights; correct?

16 A. Yes.

17 MR. GETTY: I have no other questions.

18 MR. McKEE: Very well. Any other
19 questions for this witness from any members of
20 the audience?

21 (There was no response.)

22 MR. McKEE: All right. Do I have any
23 questions from members of the board?

24 (There was no response.)

25 MR. McKEE: Having heard none, sir, thank

1 you. I don't believe there is --

2 (Witness, Wayne Spiggle, excused.)

3 MR. GETTY: Mr. McKee --

4 MR. McKEE: I'm sorry.

5 MR. GETTY: -- one thing certainly while
6 the witness is still there, Exhibit 117 didn't
7 really come in through his testimony, but I do
8 need to move to strike. It is a document entitled
9 "Conclusions of Scholarly Papers and News Reports
10 on Grid-Scale Wind Turbines and Human Health,"
11 submitted to the Board of County Commissioners by
12 the Allegany Neighbors & Citizens for Homeowners
13 Rights.

14 It appears to be, again, the assemblage
15 of references to scholarly papers and apparently
16 appended to it is a document from Allegheny
17 Highlands Alliance, "If We Were Fishes," that
18 again makes reference to similar studies,
19 and we were denied the opportunity to examine
20 any of the folks who are associated with any
21 of those.

22 MR. McKEE: I will sustain the objection.

23 MR. GETTY: Thank you.

24 MR. McKEE: Sir, could you raise your
25 right hand, please.

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JEFF CONNER,

OPPONENT WITNESS, SWORN

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MR. McKEE: Very well. You may be seated.

MR. CONNER: My name is Jeff Conner. I live on 2719 Pea Ridge Road. It's a Lonaconing, Maryland address, but I live in Garrett County.

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STATEMENT BY JEFF CONNER:

I am two miles, as the crow flies, from the 16 wind turbines on the Fourmile Ridge, which was Synergics, now Exelon; and just to beat Mr. Getty to the punch, I have opposed pretty much any wind turbine construction in the Appalachian.

I am a CPA, so that's the only expertise I have. If I talk about taxes, I would consider myself an expert in that area.

First, I first oppose wind turbines pretty much just for the viewshed. It's like, you know, how many wind turbines does it take -- you start looking at the wind turbine industry as a whole and, you know, why are we sitting here looking at wind turbines, and it's all because of renewable energy sources; and, really, we would not be here

1 if it wasn't for all the tax subsidies from the
2 federal government to get an upfront subsidy once
3 the project is complete, and then they get the
4 production tax credits thereafter.

5 And I have been at about every Public
6 Service Commission hearing that there has been on
7 wind turbines, including the very first one for
8 here up at Frostburg State University, and I see
9 lots of familiar faces, and so I have experiences
10 in this area, and this is what I notice every time
11 I go to these. We have everybody who is being
12 paid. You are all being paid. Everybody is being
13 paid, whether they're -- the people that are, you
14 know, for the wind turbines are going to be all
15 your local unions. It's going to be the attorneys
16 that are paid and everybody else that is getting
17 their pockets filled up; and then we have the
18 citizenry, like myself and everybody else who
19 is speaking, we're not -- we can't afford all
20 the expertise, you know, hiring our lawyers and
21 witnesses, and we're just ordinary citizens that
22 are concerned about wind turbine construction.

23 And, you know, we're all here about clean
24 energy; and, really, the State of Maryland has
25 RPS, Renewable Portfolio Standards, and that's the

1 reason, the other reason these projects are getting
2 pushed along is the State of Maryland is going to
3 say by "X" amount of date, a certain percentage
4 of our portfolio has to come from renewable sources
5 or the electric companies are going to be fined
6 because their percentage of the portfolio is not
7 coming up with the renewable sources, and that,
8 in turn, is going to affect our electric bills.

9 And I just get upset when I hear people
10 talking about windmills and wind farms. It's
11 not milling anything. It's not farming anything.
12 These are wind turbines and they are industrial
13 sites.

14 MR. McKEE: Sir, I am going to interrupt
15 you here. We're getting further and further --

16 MR. CONNER: Away from where --

17 MR. McKEE: -- away from where we're
18 supposed to be. This is a hearing on variances
19 and special exceptions.

20 MR. CONNER: Okay. I'm also --

21 MR. McKEE: I need you to show me some --

22 MR. CONNER: I will get then straight to
23 the point and give me --

24 MR. McKEE: Thank you.

25 MR. CONNER: -- two minutes and I will be

1 out of your hair.

2 I am also a member of the Garrett County
3 Planning & Zoning Commission, something very
4 similar to what you guys do, except we don't have
5 county-wide zoning. I have people come to our
6 commission for variances. When we talk about
7 variances, usually, it's, you know, you're building
8 from a property line, this or that. We're talking
9 about feet, but you guys are talking about, you
10 know, hundreds of yards on the variances.

11 And when I am sitting on my commission,
12 if somebody wants a variance, the very first thing
13 I start asking is, the people outside, if we're
14 going to give a variance, what about the neighbors?
15 You know, I always consider what the neighbors,
16 you know, feel; and if there is as much opposition
17 as I see here, as far as the neighbors, I am going
18 to take that into consideration. I'm probably
19 not going to, you know, award -- you know, give
20 a waiver for that variance.

21 And also, I agree with Dr. Spiggle, you
22 know, these people that signed up for it, you know,
23 they got their pockets filled up with these people.
24 I just really feel sorry, and when I looked at Tony
25 Bequette, I thought he had the -- I pass, I drive

1 past his farm every day, and he is talking about
2 flicker and the noise, and it is true about the
3 noise. That's really what you have to consider,
4 you know.

5 Where I was coming from at first before,
6 it was just -- you know, I just didn't like the
7 aesthetics of it, but when you talk about the
8 noise, the noise really varies, depending on the
9 weather, the way the wind turbine faces. I am
10 now -- have wind turbines, you know, that I see
11 every day and, really, it does depend on which
12 way the wind blows. So if I'm looking at the
13 wind turbine and the wind is blowing me in the
14 face, I'm going to -- that's when I am going to
15 hear the noise; but if it's blowing the other
16 way, I'm not going to hear the noise that day.
17 I've been on the wind turbine -- some days, like
18 some people say, you don't hear anything. That's
19 true. You will just hear a humming noise, which
20 is kind of like these mikes, I hear a humming
21 noise.

22 Then other days, like this past Tuesday,
23 I was bear hunting, and I was within probably 2,000
24 feet of the wind turbines and there was a fog --
25 and I think that's what Tony was talking about this

1 week -- it was extremely, extremely noisy to the
2 point I told my daughter, I said, "We're going to
3 have to go somewhere else to hunt because there is
4 no way a bear is going to get that close to that
5 much extreme noise." The noise really just varies
6 on a day-to-day basis, and it is real. I can see
7 how it would be really disturbing.

8 I have a cousin who lives on Old Frostburg
9 Road, has been trying to sell his house. He
10 started to sign a contract to sell his house,
11 and as soon as they found out the wind turbines
12 were coming in, that fell through on it. He
13 cannot sell his house.

14 And as far as lawsuits are concerned,
15 there are some neighbors getting together and
16 they are going to hire an attorney from upstate
17 New York who is going to look into their situation
18 due to the noise.

19 What you also don't know is everybody --
20 Exelon went around to everybody that was within
21 1500 feet of the wind turbines to, you know, try
22 to give them hush money, \$5,000 for like a good
23 neighbor agreement, and they sign this so they
24 don't complain about the --

25 MR. GETTY: I object --

1 MR. McKEE: I will sustain the objection.

2 MR. GETTY: (Inaudible)

3 MR. CONNER: Okay.

4 MR. McKEE: We need to get -- we need to
5 get back --

6 MR. CONNER: So the point is the noise.
7 If you're on a committee -- I will -- I will end
8 with this.

9 I am a member of the Planning Commission
10 and I have to consider the concerns of the
11 neighboring properties, if I am going to waiver
12 a variance, and that's your job.

13 MR. McKEE: Thank you, sir. Is there any
14 questions?

15 MR. GETTY: No.

16 MR. McKEE: Any questions from any members
17 of the audience?

18 (There was no response.)

19 MR. McKEE: From the board?

20 (There was no response.)

21 MR. McKEE: Thank you, sir.

22 (Witness, Jeff Conner, excused.)

23 MR. McKEE: Are there any other witnesses
24 for the opposition who want to come up, take the
25 stand and be sworn in? Very well.

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ANDREA BAKER,
OPPONENT WITNESS, SWORN
- - -

MR. McKEE: Very well. You may be seated.
Give us your name and address for the record.

MS. BAKER: My name is Andrea Baker.
My address is 12409 Summit Circle in Frostburg,
Maryland 21532.

- - -
STATEMENT BY ANDREA BAKER:

I had a presentation prepared, but as I
listened to the testimony over the past three days,
I want to put a face on -- I will be -- my family
and I will be the residence closest to the wind
turbine farm that's not asking for a variance.
I am the house that is 2100 feet.

Dr. Spiggle, when he touched on that
children are especially susceptible to health
problems, it really touched my heart, and I don't
want to be emotional about this, but I have four
children. They are 13, 11, 7, and 5.

I homeschool my children, and I try to
make my home a sanctuary for my children. I
believe that's every mother's duty to do that.

1 I have even quit my job as a registered nurse to
2 further that goal, to provide for my family in
3 that capacity. I guess what I want to say is,
4 it's just a very emotional experience when your
5 family's lifestyle and their way of life can be
6 impacted so greatly by an industrial wind turbine
7 farm.

8 Can I quote? Can I make a quote? It's
9 just from a president. Is that okay?

10 MR. McKEE: Yes.

11 MS. BAKER: Abraham Lincoln stated,
12 "Upon the subject of education, not presuming to
13 dictate -- dictate any plan or system respecting
14 it, I can only say that I will view it as the most
15 important subject which we, as a people, can be
16 engaged in. That every man may receive at least
17 a moderate education and thereby being able to
18 read the histories of his own and other countries,
19 by which he may duly appreciate the value of our
20 free institutions, appears to be an object of
21 vital importance, even on this account alone,
22 to say nothing of the advantages and satisfaction
23 to be derived from all being able to read the
24 scriptures and other works, both of a religious
25 and moral nature, for themselves."

1 I will continue to try and make quick,
2 concise points as not to waste your time. I pray
3 that the Lord give you discernment and wisdom over
4 this matter.

5 I have homeschooled my children for the
6 past four years. I believe it is a commandment
7 from God to teach my own children, and just so
8 there is no confusion, I believe in the one true
9 God, Jesus Christ, that died on the cross and was
10 buried and rose for our sins.

11 Proverbs 6:2 says to train up a child in
12 the way that he should go.

13 Deuteronomy 6:5-8 states, "And thou shalt
14 love the Lord thy God with all thine heart and with
15 all thy soul and with all thy might. And these
16 words, which I command thee this day, shall be in
17 thine heart. And thou shalt teach them diligently
18 unto thy children, and shalt talk of them when thou
19 sittest in thine house, and when thou walkest by
20 the way and when thou liest down and when thou
21 risest up. And thou shalt bind them for a sign
22 upon thine hand, and they shall be as frontlets
23 between thine eyes."

24 Deuteronomy 11:18 and 19 restate these
25 commandments and instructions followed by warnings

1 to parents.

2 Code Home Rule Bill No. 2-09, Section
3 141-106, Wind Energy Conversion System Regulations,
4 (A) Minimum separation distances, No. 3 states that
5 5,000 feet from all schools.

6 Education Article Section 7-301, Annotated
7 Code of Maryland, states that each child who
8 resides in Maryland and is five years old or older
9 and under sixteen shall attend a public school
10 regularly during the entire school year, unless
11 the child is otherwise receiving regular thorough
12 schooling during the school year in the studies
13 usually taught in the public school to children
14 of the same age. Maryland recognizes non-public
15 schools to homeschooling as options to public
16 school enrollment for students to receive regular
17 thorough instruction. The Code Home Rule 2-09
18 states "all schools."

19 The fact is that there was and is a
20 concern that an industrial wind farm will cause
21 interference and safety issues pertaining to
22 a school that is closer than 5,000 feet. My
23 homeschool will be just over 2,000 feet from
24 two industrial turbines, one to the west and one
25 to the east. Also, three other turbines would be

1 within the 5,000-foot minimum setback requirement
2 of schools.

3 My question is: Will the County deem
4 that my children's education is less valuable
5 than others because we homeschool due to religious
6 beliefs? I believe my homeschool should be
7 considered a "school" as set forth under the code.
8 The location of Turbines 1 through 5, I believe,
9 are in violation of these requirements, and these
10 turbines need to be relocated to concur, to be
11 concurrent with the law.

12 May I also add, it is an unfortunate day
13 when the wetlands, endangered species, and plants
14 are given more consideration by Dan's Mountain
15 Wind Force proposed industrial wind farm than human
16 beings living beside them.

17 I am an egregious adjacent property owner
18 because, best to my knowledge, my residence is
19 the closest residence at 2100 feet. Might I also
20 add, at no time has Dan's Mountain Wind Force made
21 any contact with me to relieve my concerns of an
22 industrial wind turbine farm located in close
23 proximity to my permanent residence. Thank you.

24 MR. McKEE: Thank you. Any cross?

25 MR. GETTY: No.

1 1850 by John Matthews. A stone with the builder's
2 name and the date that the building was constructed
3 is located on the east side of the building. A
4 one-story outbuilding identified as a springhouse
5 is located southeast of the house. The building
6 rests on a high-random stone foundation.

7 According to the Maryland Historical Trust
8 Determination of Eligibility Form, my home has
9 retained much of the original fabric and it appears
10 as a substantial 19th-century farm. On January 5,
11 2009, my home was recommended as eligible on the
12 Inventory No. ALVI-B-060 and is listed on the
13 National Register of Historic Places.

14 I have included some of the documentation
15 and photos from Matthews Brick Farmhouse from the
16 Historical Trust Society. You can view the entire
17 28 pages on the website that's provided.

18 At the present time, I have been working
19 with Peter Kurtze, Administrator of Evaluation and
20 Registration of the Maryland Historical Trust, to
21 complete the formal listing. I did not realize
22 that part of Code 360-92 consisted of maintaining
23 a 5,000-foot separation from any site listed on
24 the National Register of Historic Places until I
25 saw it on the handout from Anchor (phonetic).

1 I request that all work stop on the
2 adjacent property, cutting down trees, putting
3 in ditches, within a range of 5,000 feet from my
4 home and do not resume until the determination is
5 completed. Better yet, deny special exemptions
6 [sic] and all variations [sic] that Dan's Mountain
7 Wind Force wants. That's it. Thank you.

8 MR. McKEE: Sir, I am just trying to
9 clarify your testimony. You're not actually on
10 the list, the Historical Trust List, but you are
11 in the -- you were in the process as far back
12 as 2008 of attempting to get on the National or
13 Historic Registry?

14 MR. ALLEN: We are in the process of
15 getting on the list. We are on the eligibility
16 list.

17 MR. McKEE: Okay.

18 MR. ALLEN: My farm is eligible to be on
19 the Historic, and I have initiated the process.

20 MR. McKEE: But if somebody was out
21 looking at that list to make a determination as
22 who was in -- who would be on the list, your name
23 would not appear on that list as it appears today;
24 is that right?

25 MR. ALLEN: It would as a homeowner, yes.

1 A. Again, I -- if that's what it takes, then
2 that's what I'll do.

3 MR. GONTRUM: Okay. I have no further
4 questions.

5 MR. McKEE: Any questions from any members
6 of the audience? Yes, ma'am.

7 MS. HITES: Dana Hites.

8 - - -

9 EXAMINATION OF DALE ALLEN

10 BY MS. HITES:

11 Q. Sir, I heard something that disturbed me
12 and I wanted to clarify. Did you say that Dan's
13 Mountain Wind Force is currently cutting down trees
14 and putting in trenches before the zoning board
15 gives, I guess you get the permits?

16 A. Yes.

17 Q. Wow.

18 A. I would elaborate on that, if I can.
19 Three weeks ago, the bulldozers were -- I heard
20 running from my property and chainsaws. My dog
21 and I walked up to look what was going on. A
22 tractor machine had pushed a road in above my
23 property, parallel to my property, pushed trees
24 down and had construction being in the process
25 with no permit. I called the County and the

1 county compliance officer shut it, shut them down.

2 Q. Wow.

3 MS. HITES: Am I permitted to ask, just
4 because I don't know about zoning boards, is that
5 normal?

6 MR. McKEE: Well, there has been no
7 testimony that -- I have heard nothing that
8 actually says that whoever was up there with
9 this plow was actually part of Dan's Mountain
10 Wind Force.

11 MR. ALLEN: May I address that?

12 MR. McKEE: I mean, if you can show me,
13 I mean --

14 MR. ALLEN: I --

15 MR. McKEE: -- it's not -- I don't
16 think -- I will put it this way. If somebody is
17 up there cutting land that they are not entitled
18 to be cutting, that is a whole -- that is a whole
19 other issue other than what's before this board
20 today.

21 Would I find it highly irregular? Yes.
22 But if they are on -- if they want to -- if they
23 are on their property which they've leased, and
24 they want to start putting roads in, I think that
25 that -- my suggestion would be that would be

1 appropriate, if they want to do that, because we
2 are here to deal with issues of constructing a
3 wind turbine, not putting a road in.

4 MS. HITES: I thought it was all together
5 because of the whole planning thing that we went
6 through for two whole days where they showed the
7 roads that they're putting in as all part of the
8 same project? I didn't understand that they build
9 roads.

10 MR. McKEE: I don't --

11 MS. HITES: I thought it was all tied
12 together.

13 MR. McKEE: I don't know --

14 MS. HITES: Okay.

15 MR. McKEE: -- what's going on up there
16 at this point. This is news --

17 MS. HITES: That's frightening.

18 MR. McKEE: -- to me today.

19 MS. HITES: That's frightening.

20 MR. McKEE: I mean, but, no, it's not --
21 it wouldn't be our responsibility to know what's
22 going on up there today --

23 MS. HITES: Okay.

24 MR. McKEE: -- other than if somebody
25 has leased property up there and wants to bring

1 a bulldozer up on their property and knock trees
2 down, that's, from my perspective, more power to
3 them --

4 MS. HITES: Okay.

5 MR. McKEE: -- but they better not start
6 constructing wind turbines until they get some
7 ruling on it.

8 MS. HITES: Thank you.

9 MR. McKEE: Okay?

10 And, sir, like I said, if you have a
11 problem with somebody up there, that's something
12 you can take up, but it's not -- it's not dealing
13 with a variance or a site-specific impact which
14 is the purpose of today's hearing.

15 MR. ALLEN: If that's the way you look at
16 it.

17 MR. McKEE: All right.

18 MR. ALLEN: That's really not the way I
19 look at it. I look at it as --

20 MR. McKEE: Well, this board doesn't have
21 any authority to do anything about that, sir, at
22 this point.

23 MR. ALLEN: Oh, okay.

24 MR. POWELL: I have --

25 MR. McKEE: Certainly.

1 MR. POWELL: I have a question.

2 - - -

3 EXAMINATION OF DALE ALLEN

4 BY MR. POWELL:

5 Q. Do you know, in fact, are any of the wind
6 turbines going to be constructed or placed within
7 5,000 feet of your property?

8 A. Yes, five or six, some as close as 545
9 feet from my property line, some as close as 900
10 feet, some as close as 1200 feet, some as close
11 as 2,000 feet, some as --

12 Q. From your -- excuse me.

13 A. From my property line.

14 Q. From your property line?

15 A. Property line.

16 Q. But how about from your residence, from
17 this --

18 A. It has been manipulated, the height, to
19 put them in places where they exactly -- exactly
20 at 2,001 feet, exactly 2,003 feet. You know what
21 I mean? They stay back just far enough, but with
22 the added protection from the Historic, that goes
23 back to 5,000 feet. It does.

24 Q. I understand.

25 A. And I would like to -- the sun comes up

1 on the east side of Dan's. I will be looking at
2 12 windmills from my farmhouse, with flickering of
3 12 windmills, with 12 jet engines operating, from
4 my historic property. I have lived there 41 years.

5 Q. I appreciate that and -- but this
6 clarification for me, none of the towers that you
7 know of are being placed -- at this point in time,
8 from what you see with all the presentations and
9 everything, none of those towers are being placed
10 within less than 2,000 feet of your residence;
11 is that correct?

12 A. That's correct because I would not take
13 the money.

14 Q. Okay. Thank you.

15 MR. McKEE: Any other questions from any
16 members of the board?

17 (There was no response.)

18 MR. McKEE: Any other questions?

19 (There was no response.)

20 MR. McKEE: Thank you, sir.

21 MR. ALLEN: Thank you.

22 (Witness, Dale Allen, excused.)

23 MR. McKEE: Any other witnesses?

24 (There was no response.)

25 MR. McKEE: All right. I am going to let

1 the record reflect that nobody else has stepped
2 forward.

3 MS. STARK: No, there is more. They are
4 just figuring out what the order is.

5 MR. GETTY: Well, can we take a brief
6 break?

7 MR. McKEE: Certainly. Yeah, at this
8 time -- at this time, we're going to take a
9 10-minute break and then we'll be back.

10 (At 2:38 p.m., break taken until
11 2:51 p.m.)

12 CHAIRPERSON WILLIAMS: We are now in order
13 again.

14 MR. McKEE: Sir, if you want to raise your
15 right hand for me.

16 - - -

17 RICHARD ELBEE,
18 OPPONENT WITNESS, SWORN

19 - - -

20 MR. McKEE: Very well. You may be seated.

21 - - -

22 STATEMENT BY RICHARD ELBEE:

23 Gentlemen and Gentle Lady and Madame
24 Recorder, I hope to be clear.

25 CHAIRPERSON WILLIAMS: His name?

1 MR. ELBEE: My name is Richard Elbee.
2 My wife's name is Edith Eckhart. Our residence
3 is on -- up in Harwood on the mountain, has been
4 there for 30 years. I have three minutes and I
5 wish to make three points.

6 My first point is this. Dan's Mountain
7 is not our mountain. It belongs to Allegany
8 County. It's Allegany's mountain. We live on
9 that mountain by the laws and the jurisdictions
10 of Allegany County. That's why we're in this room.
11 That's why we're before its zoning board.

12 Now, everything, everything which Allegany
13 County presents about its way of life, its life
14 to the rest of the country, not just to the eastern
15 cities, but to the whole country, the real-lived
16 way of life imaged by mountain Maryland --
17 mountain landscapes, mountain residences, mountain
18 dreams, mountain memories, mountain relationships,
19 mountain communities -- is undermined, compromised,
20 destroyed, would be by the machines of this Wind
21 Force.

22 Our beautiful photographs of life in
23 mountain Maryland and the real life that is lived
24 here, if they are allowed to build, will become
25 a sham if the integrity of living on this mountain

1 is not sustained. Who would want to come here
2 from anywhere to build a house? Who would want
3 to live here?

4 Everybody around us is doing it,
5 Pennsylvania. Garrett County is doing it. The
6 people of Garrett County have joined with Exelon
7 to build four wind farms. Now Garrett County is
8 part of my valued way of life here for decades.
9 I have driven the roads of Garrett County through
10 all seasons, and I have admired their fields and
11 forests and waters. I have seen their rock
12 formations. I have experienced their purple
13 mountain range behind range, and I go up there
14 now. It's part of the life that I value in this
15 part of the world; but now in the last year or
16 two, when I go up there, and I was up there last
17 week, all I can see are the machines.

18 Try it. Go up there. You don't see the
19 mountains anymore. People of Garrett, what have
20 you done to your mountains? You have made your
21 mountains into machinery gills. For what? For
22 money? Why would Allegany County do that to her
23 mountains? What for?

24 Now, second -- that was a long minute.
25 My second one will be shorter.

1 MR. McKEE: Actually, sir, you're at three
2 minutes already.

3 MR. ELBEE: That was a long minute. This
4 will be a short minute.

5 Tell me about the money. My second minute
6 is about the money. Who gets the money really?
7 Where does it come from? Where does it go? And
8 how does the bottom line of profits stretch out
9 over the next decade? There are a lot of sharp
10 pencils in this room or, if you wish, computer
11 apps, walks on both sides of this contest who know
12 how to do the bottom line.

13 Tell me about the bottom line for the
14 next decade. For the almost infinite infusion
15 of natural gas from sources around the world,
16 not least from the United States, the bottom
17 line, profits on this project cannot possibly
18 come out, and many of you know it.

19 I know that's not my problem. It's
20 probably not Exelon's problem because they are
21 diversified, but my problem is the third point.
22 That was my short point. My third minute perhaps
23 a long minute.

24 Look, people, I have property rights in
25 this county, and I am asking my neighbors on this

1 board to protect my rights, rights actually, when
2 I think of it, granted to me by the constitution
3 of the United States and certainly by the laws
4 of this county, my rights to life, liberty, and
5 property.

6 Now, I understand that the eight property
7 owners located just above me on the mountain have
8 property rights, but what about the property rights
9 of the rest of us, the hundreds of us? What about
10 the rights of all the citizens of Allegany County?

11 I am not a lawyer, but I cannot believe
12 that these eight people, owners of land like my
13 own up there, that they can lease their land to
14 birds of passage who will build 500 flicker,
15 light-scattering, jet engine, looming towers
16 that will destroy my well-being, my health, my
17 way of life. "Depend on it, Richard," Dr. Spiggle
18 said to me last week. "If you live even a mile
19 away, your well-being, your health, and your way
20 of life will be irremediably diminished."

21 Now, we are not birds of passage, my
22 wife and myself, but these corporations will fly
23 through, take the money and go. I believe that
24 the constitution of the United States protects me
25 from something like that. I believe that the laws

1 of this county protect me from something like that.

2 Now, I understand, these eight people
3 don't need to care about my rights. They should
4 take care of themselves and their families; and for
5 certain, Wind Force and Exelon don't care about my
6 rights. Why should they? They have their bottom
7 line to worry about.

8 I don't know how to fix it, but the people
9 that I need to turn to are you people for my
10 rights, my neighbors on the zoning board. They
11 live in my county. They understand something about
12 my metaphors. They enforce the county laws in my
13 behalf. That's why we are here today, people. You
14 have the laws that give us our property rights, so
15 many of us, I can't even begin to count, and we
16 need those laws to be upheld. Now that would be
17 justice. Thank you.

18 MR. McKEE: Any questions?

19 (There was no response.)

20 MR. McKEE: Any questions from any of the
21 audience? Yes, ma'am.

22 - - -

23 EXAMINATION OF RICHARD ELBEE

24 BY MS. HITES:

25 Q. I just had a question. You made a comment

1 about companies that fly in, get their money and
2 fly out. Were you referencing the Comprehensive
3 Plan, Section 10, about a quality company and
4 quality job section where they're talking about
5 the requirements for companies and so forth that
6 should be working here?

7 A. No, I was not. I was using a metaphor --

8 Q. Oh, okay.

9 A. -- about birds of passage --

10 Q. Okay.

11 A. -- and describing my family and ourselves,
12 and I think many of us in this county, we are not
13 birds of passage and we have property rights.

14 Q. Thank you.

15 MR. McKEE: Any other questions?

16 (There was no response.)

17 MR. McKEE: Any members of the board?

18 (There was no response.)

19 MR. McKEE: Thank you, sir.

20 (Witness, Richard Elbee, excused.)

21 MR. McKEE: Now, I guess this is as good
22 a time as any, I want to make sure we're getting
23 this straight. The testimony you are -- if you are
24 going to be a witness and you're going to provide
25 witness testimony, I would like to limit that

1 testimony to something to do with the variances
2 or the special exceptions.

3 If you just want to make a statement
4 that's for or against -- at this point, I'm sure
5 it's against this project -- then I am going to
6 ask you to take this podium over here. So --

7 MR. MERRILL: You're disqualifying me as
8 an expert already?

9 (Laughter)

10 MR. McKEE: I don't know what kind of
11 testimony you want to present, but, clearly, the
12 last gentleman really didn't provide any testimony
13 with regard to the project itself. He was just
14 simply making --

15 MR. MERRILL: (Inaudible)

16 MR. McKEE: -- he was making a statement
17 regarding his position, and I want to make sure,
18 before we get to statements, that all those who
19 want to testify, put in evidence with regard to the
20 specific project, gets their chance first. Okay?

21 MR. MERRILL: We have whittled it down to
22 me. I am the last.

23 MR. McKEE: And you are going to -- you
24 want to provide testimony?

25 MR. MERRILL: It will be -- you whittled

1 it, everybody has whittled me down to one page.

2 MR. McKEE: Very well. Sir, if you will
3 stand to be sworn in, please.

4 MR. MERRILL: Give me a break.

5 MR. GETTY: We actually want Mr. Merrill
6 under oath.

7 (Laughter)

8 MR. MERRILL: Thank you, Counselor.

9 - - -

10 WALTER MERRILL,

11 OPPONENT WITNESS, SWORN

12 - - -

13 MR. McKEE: Very well. Thank you, sir.

14 - - -

15 STATEMENT BY WALTER MERRILL:

16 Good afternoon, Madame Chairman-person,
17 Board Members, Mr. McKee, our attorney, for the
18 county it is, and the counselors at the table,
19 Mr. Getty, Mr. Walsh, and I have -- it slipped --

20 MR. GONTRUM: (Inaudible)

21 MR. MERRILL: -- Counsel will be fine.

22 I will concede in --

23 MR. GONTRUM: We need your name and
24 address for the record.

25 MR. MERRILL: Sure. I apologize for that.

1 MR. GONTRUM: I didn't mean to interrupt
2 you --

3 MR. MERRILL: I am Walter Merrill.

4 MR. GONTRUM: -- Mr. Merrill, but I just
5 thought for the record.

6 MR. MERRILL: Walter Merrill, almost
7 retired, local corporation. I live at 15715
8 Merrill Lane in Rawlings, Maryland 21557.

9 I will concede in advance that I am not
10 an expert, if that helps. I want to move this
11 along quickly. That's the reason I -- you have
12 cut the legs off of me.

13 I will start, before I pass this package,
14 I want to do just a line. You may review and
15 reject. The local economy is finally beginning
16 to show a little growth, and the construction of
17 the wind turbines at Dan's Mountain turbine project
18 will risk affecting any existing future growth.

19 I would like to make a couple statements
20 as a concerned citizen who lives at the base of
21 Dan's Mountain Rock. I own a minor subdivision.
22 I intend to build houses there, at least ten,
23 with a friend of mine, Woody Kramer, who owns
24 Peters Construction -- Concrete Technology
25 (phonetic) in Accident, Maryland. He owns, I

1 think... (Inaudible) I'm not sure of that.

2 I believe I have a pulse of the
3 surrounding community as a builder. There is,
4 starting at the top, I live there right at the
5 turn. There is an engineer. I poured a concrete
6 driveway. I go down further, steps, long steps
7 for the -- I put the 4800 sites in for the
8 telephone company that changes one line for the
9 27 people to talk on. Those steps are there.

10 I go down to Harwood. Harwood, I built
11 there. I go to -- in Frostburg, my first home
12 for a nun, in '68. In '61, I helped build, as an
13 11th-grader in high school, a house for the local
14 heir of the Goodyear will -- Goodyear fortune on
15 Braddock Road; but right now, I build and inspect.

16 I just finished a cottage that faces the
17 mountain and have advertised it for just that, as
18 a scenic-wide place, and in 50 -- 54 years, no one
19 has ever asked me to build a house at or under,
20 near the project, the type, type of a project.
21 I haven't had any of those requests yet.

22 When I inspect structures for major
23 structural repairs, I always get a conflict, same
24 as your substitute today. Everybody is pulling at
25 you, wanting to hear this and that, but I say --

1 usually announce I'm here, at least the house or
2 the building structure is my subject today, I don't
3 want to hear anything else; and I would ask the
4 board -- I trust the board to do the same with
5 this request in a true and pure form because of
6 the parameters that I -- I come out late at Bel Air
7 just recently, and everybody else. I slowed it
8 away and truly expected to die, but I had to come
9 away because of this hearing because it does affect
10 me. Um ... we're moving really good here.

11 My second house was for Dr. Poland in
12 '68, '69, and I built on Brant Road. Cresaptown,
13 I built the building this size for the gymnasium
14 and the school which I sent my children to.

15 MR. McKEE: Sir, can you -- I don't know
16 the relevance of this.

17 MR. MERRILL: I am trying to -- I set
18 a thumb on the community as a conflict. I know
19 everyone -- Mr. Lashbaugh, I know him. He come
20 to my shop. A thief was stealing a thousand
21 dollars of gasoline, and one night after ten
22 days, I approached him and he was going to kill
23 me, and I dumped a bucket of paint over his head,
24 and Mr. Lashbaugh came and saved me from death.

25 Later on, I didn't know it, but I went to

1 Mr. Lashbaugh's house. He claimed, and was right,
2 that his house was negatively affected by lateral
3 forces of wind. He was right. The wind had pushed
4 the house, and as a result, yesterday he told me,
5 five years later, that as a result of my no-charge
6 report, he was able to collect and they come and
7 straightened his house up.

8 So I am here just as somebody with a
9 thumb that tells you there is not anybody in here
10 I haven't done work for, built a house, put a
11 porch on. That's all. I'll cut it off any time
12 you want, sir.

13 MR. McKEE: No, I mean, what I am trying
14 to bring out of it is you're saying you have your
15 pulse on the thumb of the -- your thumb on the
16 pulse of the community --

17 MR. MERRILL: Exactly.

18 MR. McKEE: -- and the community, in your
19 opinion, is against the project. Is that --

20 MR. MERRILL: Say it again.

21 MR. McKEE: Is against this project. Is
22 that what you're telling me?

23 MR. MERRILL: I believe. I just -- I'll
24 give you one example. Like I say, mine is very
25 quick. I have lived in three minutes. I was going

1 to stand there, and I thought just a little bit
2 over, a little bit over. Have I been going more
3 than five minutes?

4 MR. McKEE: No. You're fine, sir. I just
5 want to -- I just want to get us on point.

6 MR. MERRILL: I understand the jest, the
7 limits, the capacity of the board. I understand
8 that's the reason he has -- I have a wheelbarrow
9 load out there I could have brought in and suffered
10 you through. I am down to four pages.

11 I am impressed that they shoe-horned 70
12 stations into that slight and took 500 times to
13 do it, trials or hypotheticals. I was interested
14 to know that they compared the existing towers in
15 height but they forgot girth which I understand
16 plainly. My wife says now that I am as wide as
17 I am tall. The behemoths that they're putting up
18 there are 500 foot tall and wide.

19 I go to three which is almost the last.
20 The companies here, union companies have worked for
21 me. They have set steel for me. I was a union
22 carpenter or a contractor until I have used -- I
23 don't want to be against the trades, nothing of
24 that, but I would ask in -- in conclusion, that
25 I thank you for your time. You did a great job

1 here today letting everybody be heard and putting
2 some of us to sleep, and it got so sad, you know,
3 I thought someone was going to shoot themselves
4 and I thought I would lighten it up a little.

5 (Laughter)

6 MR. McKEE: Does anybody have any
7 questions?

8 MR. GONTRUM: Sort of.

9 - - -

10 CROSS-EXAMINATION OF WALTER MERRILL

11 BY MR. GONTRUM:

12 Q. Mr. Merrill, if I may, I think it is
13 fairly clear, you have been doing home inspections
14 for many years, and you would be qualified as an
15 expert in home inspection, wouldn't you say that,
16 in quality construction, whether homes meet the
17 zoning code or, excuse me, the building code --

18 A. Home improvement; district, circuit, and
19 federal.

20 Q. Yeah, okay. And that's really your field
21 of expertise, if you will --

22 A. Construction.

23 Q. -- is construction?

24 A. Yeah.

25 Q. So you're not an expert in, let's say, GIS

1 surveying or GIS mapping?

2 A. I was going to announce, and you can see
3 it's written here, that I have trouble with my
4 hearing, and I do, and I come up here with new
5 knees --

6 Q. But you --

7 A. -- but it says, Counselor, I concede that
8 I am not an expert in this here. I've already
9 conceded that.

10 Q. Okay.

11 A. I am here as a typical homeowner.

12 Q. Okay. I was just trying to -- I was just
13 trying to establish that there were things you
14 were -- you felt that you were more than competent
15 at than other things maybe, just one of us, and
16 it's on that account that I would --

17 MR. GONTRUM: Mr. Merrill has offered
18 an exhibit, I think it's 119, and based on that,
19 I would specifically -- I don't have a problem,
20 to be honest with you, with the first part of
21 this exhibit going -- where he is quoting from
22 the Allegany County Comprehensive Plan. I mean,
23 I think anybody is entitled to sort of look at
24 the plan and throw their own shake on it as an
25 individual; and he's got a letter in here of

1 October 17th, I don't have a problem; but after
2 that, when we get to the material from the Anchor
3 and get to this data from the Highlands Alliance
4 and, lastly, when we get to these photographs with
5 superimposed images of turbines on them that are
6 there, I would ask that all of that be stricken.

7 MR. McKEE: I will sustain that objection.
8 I would just indicate for the record that the
9 exhibit up through until we get to the "too
10 close" --

11 MR. GONTRUM: Correct, that's -- that's
12 what I had in mind.

13 MR. McKEE: -- this will be admissible.
14 From that point on, it will not.

15 MR. GONTRUM: Thank you very much.

16 MR. McKEE: All right.

17 MR. GONTRUM: I have no further questions.

18 MR. MERRILL: And my notes said, don't
19 saw -- don't resaw sawdust. That's the reason I
20 put it back in there.

21 I do have an article, it was interesting,
22 Mr. Sawyer, our local newspaper hero, (inaudible)
23 Mountain, shot -- or did not shoot a bear. He was
24 like one in 5,000 that got a chance to shoot it.

25 The other article is from "Political Times

1 News," and I am going to read it slowly so you can
2 stop me because I'm going to step on somebody's
3 toes here.

4 I believe in free trade and enterprise --

5 MR. GONTRUM: Mr. Merrill.

6 MR. McKEE: Does this have anything to do
7 with windmills?

8 MR. MERRILL: Yeah, this has to do with
9 windmills.

10 MR. McKEE: Okay.

11 MR. MERRILL: Give me a chance here.
12 I will do it slow so you can stop me.

13 The ten homeowners have received -- it
14 takes 30,000 to pay them monthly, divided by ten,
15 equals 3,000 apiece times 12. They get 36,000
16 apiece a year, I think rental. This is a newspaper
17 now. And we only have an average income here of
18 37, 38. So I just wanted to throw that in there,
19 and then thank you for your time and let them beat
20 me up a little bit here.

21 MR. GETTY: Nope, we're all done.

22 MR. GONTRUM: We're all done.

23 MR. MERRILL: Thank you.

24 MR. McKEE: Thank you, sir, for your
25 testimony and whatever else.

1 (Witness, Walter Merrill, excused.)

2 MR. McKEE: Are there any other people
3 who wish to be heard? All right. Do you want to
4 present -- do you have a statement you wish to make
5 or do you want to provide testimony?

6 AUDIENCE MEMBER: Provide testimony in
7 response to a previous comment.

8 MR. McKEE: Very well. Do you want to
9 come forward and be sworn in.

10 AUDIENCE MEMBER: Do I have to kick Walter
11 out of the chair or...

12 MR. McKEE: All right. Sir, if you will
13 raise your right hand, please.

14 - - -

15 AL FELDSTEIN,

16 OPPONENT WITNESS, SWORN

17 - - -

18 MR. McKEE: Very well. Name and address
19 for the record.

20 MR. FELDSTEIN: My name is Al Feldstein.
21 I live at 21 Richard Way, LaVale, Maryland 21502.

22 - - -

23 STATEMENT BY AL FELDSTEIN:

24 My comments are going to be somewhat
25 extemporaneous. I wasn't planning on speaking,

1 but I just wanted to respond to one small thing.

2 First of all, I am a very sensitive guy,
3 and I do want to note, the attorneys, two of the
4 attorneys here are very old friends going way back,
5 so I do not mean any personal criticism of them.

6 There was, when Mr. Allen was testifying,
7 one of the attorneys made the comment, I believe,
8 if I heard it correctly, that any property over
9 50 years of age is eligible for the National
10 Register, and I just want to -- my feeling is
11 that is unintentionally disingenuous.

12 In order to be eligible and put on the
13 National Register, there are a lot of factors that
14 have to be taken into consideration, not just the
15 age of the building, but the historical integrity
16 of the building, the originality of the materials
17 that have been used, and also how unique or how
18 good of an example of architecture that is within
19 the region.

20 I actually read -- I can't cite it chapter
21 and verse, but I read the writeup on Mr. Allen's
22 property -- I believe that is the name -- and
23 at the very end -- this was done by a private
24 consultant -- it was recommended for eligibility
25 for the National Register based on all these

1 factors and more.

2 So I just want to make sure that I do
3 point out the character of this specific property,
4 not just that it's over 50 years old, but it's
5 actually on -- deemed eligible and recommended for
6 the National Register. That's -- I think that's
7 all I really wanted to say on that.

8 MR. McKEE: Thank you, sir. Any questions
9 as a result of his testimony?

10 MR. GETTY: I have known Mr. Feldstein way
11 too long to try that.

12 (Laughter)

13 MR. McKEE: Any other questions from the
14 audience?

15 (There was no response.)

16 MR. McKEE: Any members of the board?

17 (There was no response.)

18 MR. FELDSTEIN: It was either come here or
19 watch Judge Judy and Rachael Ray, so I am retired
20 now ... so thank you.

21 MR. McKEE: Thank you, sir.

22 (Witness, Al Feldstein, excused.)

23 MR. McKEE: Anyone else wish to come
24 forward and speak?

25 (There was no response.)

1 MR. McKEE: If you want to make a
2 statement, please come over here to the podium.
3 You will be subject to the three-minute time limit.

4 MR. MARSH: Thank you.

5 MR. McKEE: Thank you.

6 MR. MARSH: My name is Gary Marsh. I
7 know -- or I live on Dan's Mountain. I have a
8 farm, a 180-acre farm, and we're roughly -- we have
9 a son with a home. I have a daughter with a home,
10 and my daughter has a five-and-a-half-year-old,
11 my granddaughter who has special needs. She --
12 they just called and said they arrived in Florida
13 safely. Make-A-Wish took her down to Disney
14 World for five days. She's had 13 surgeries,
15 five-and-a-half years old, and Dr. Spiggle's
16 comments, you know, raised a level of concern
17 that I hadn't thought of in the past.

18 I had talked with Wind Farm when they
19 first started to come around to look for places
20 to put the mills, and it was a good conversation.
21 I was very ready to sign, and I'm not going to
22 tell her this, but my wife wasn't. So we -- you
23 know, we bickered around a while; and, normally,
24 I get my way, but before we went any further, she
25 wanted me to get more information.

1 So, I mean, the normal information, you
2 know, I think the numbers was like 5,000 per
3 windmill, and there was two, possibly three,
4 sites that we would use, and in my head right
5 away, that's 15,000 a year and no risk. I didn't
6 think of any risks. I didn't think of the risk
7 of me owning it and having to take them down at
8 the end, when I -- so she wanted me to talk to
9 other people.

10 So I had a friend that had two on the
11 Allegheny Front, two or three -- I can't
12 remember -- but I called him and his wife said --
13 I told her what I was thinking of doing, and
14 she said, "You need to talk to my husband," and
15 we're friends. He called when he come in. He
16 said, "It's the worst thing I ever did. I was
17 supposed to get 12,000. The best I've ever did
18 was \$4,024."

19 And I called her -- now that was three
20 or four years ago. I called the other day and she
21 said, "Everything is about the same, except now the
22 checks are coming one or two months late, and we're
23 really not a bit happy, one of the worst things we
24 ever did."

25 So on our first conversation, as soon as

1 I talked to my wife about that, she could tell that
2 I changed, and I thought, you know, I would get
3 money from those three on my place, but I found
4 out that -- you know, I get to sit now and look
5 right over at the ones on Savage, and most of the
6 time you look, maybe two is not running, one is
7 not running. Every now and then, all of them are
8 running, but you get money from the whole take.
9 You don't get money from your three, and I didn't
10 know that, and I didn't know I was responsible for
11 the dismantling at 150,000 a piece.

12 So anyway, we changed our mind and --

13 MR. McKEE: I am going to ask you to pick
14 it up, sir.

15 MR. MARSH: Pardon me?

16 MR. McKEE: We're over three minutes.

17 MR. MARSH: Okay. I decided not to do it,
18 and I regret it at times, but the more I listen and
19 the more I get into it ... I saw that Boone Pickens
20 couldn't do it, and he tried his best to make money
21 at it and he said, he told me, "I couldn't do it,
22 I had all the property in Texas and Oklahoma, and
23 right away for the electric, you can't make no
24 money on it."

25 So that made me feel better about

1 my decision, and I am concerned about my
2 granddaughter, and our farm is worth about a
3 million bucks and we have 50 head of cattle,
4 and the back of my farm will be -- it will be
5 looking right at the whole string of them, and
6 the closest one is about 4500 to the house, not
7 the farm. It's probably 3,000 to the edge of the
8 farm, and I just feel very uncomfortable, after
9 hearing Dr. Spiggle today, with our granddaughter,
10 and their home is the closest.

11 MR. McKEE: All right, sir. I am going
12 to have to --

13 MR. MARSH: She needs no more -- no more
14 physical problems. So I really have to speak
15 in favor of, you know, not changing any of the
16 variances.

17 MR. McKEE: Thank you, sir.

18 MR. MARSH: Thank you.

19 MR. McKEE: Anybody else like to come
20 forward?

21 MS. RIDENOUR: My name is Elaine Ridenour,
22 16345 Harwood Drive. I am a resident of the
23 Harwood Subdivision, located adjacent to the
24 proposed Dan's Mountain Wind Farm and a taxpayer
25 of Allegany County.

1 I am here today to present the results of
2 a petition, Exhibit No. 108, that was established
3 to document opposition to the special exception and
4 variances being requested by Dan's Mountain Wind
5 Force. To date, over 1,000 people have signed this
6 petition, including citizens of Allegany County,
7 frequent visitors to the county, property owners
8 located adjacent to the proposed wind farm,
9 physicians, attorneys, as well as business leaders,
10 and the CEO of the largest employer in Allegany
11 County. The results of this petition provide
12 objective evidence that a significant segment
13 of the county's residents are opposed to the
14 special exception and variances being requested
15 by Dan's Mountain Wind Force.

16 The following are examples of comments
17 left by people signing the petition.

18 Signature No. 105, and I am quoting,
19 "However beneficial they may be to society and
20 our environment overall, wind turbines should
21 never displace residents or take precedence over
22 the health, safety, and overall well-being of
23 residents."

24 Signature No. 184, "The presence of these
25 wind turbines will result in my taking of annual

1 vacations elsewhere. I have no intention of
2 hiking, walking, and camping anywhere near an
3 industrial site which is what a wind farm is."

4 No. 446, "Please respect the wishes of
5 the people and abandon this plan. Please do not
6 destroy the beautiful views that Dan's Mountain has
7 to offer. It's one of the unique hidden treasures
8 of Maryland."

9 Signature No. 540, "Tourism will be ruined
10 when our viewshed is ruined."

11 Signature No. 541, "There is a serious
12 regret involving the installation of windmills
13 in neighboring counties. We should not make the
14 same mistake. Times News reports just today that
15 tourism is helping to drive our economy. What
16 would we -- why would we destroy the only thing
17 left that draws visitors? The mountains and
18 the beauty of Allegany County are our greatest
19 treasure."

20 Signature No. 552 --

21 MR. McKEE: I am going to have to ask you
22 to start wrapping up.

23 MS. RIDENOUR: Okay.

24 -- "The amount of energy created by the
25 wind turbines will be nothing compared to the

1 disruption of the Dan's Mountain habitat and to
2 the quality of life which our area provides. The
3 proposed action is unacceptable to our family."

4 On behalf of the signers of this petition,
5 I respectfully request that the Allegany County
6 Board of Zoning Appeals gives careful consideration
7 to the results of the petition that I am submitting
8 and not grant the special exception and variances
9 being requested by Dan's Mountain Wind Force. The
10 well-being of Allegany County citizens is at stake
11 and cannot be taken lightly. We are trusting that
12 you will make the right decision. Thank you.

13 MR. McKEE: Thank you, ma'am.

14 MS. KEYS: My name is Dolores Keys, and I
15 just want to make a statement.

16 MR. McKEE: Certainly, ma'am. Can I have
17 your address.

18 MS. KEYS: 12309 Henry Drive, Southwest,
19 LaVale.

20 MR. McKEE: Thank you, ma'am.

21 MS. KEYS: With all due respect, why are
22 we here? Nothing we say is accepted. I don't
23 understand why you have a public hearing if
24 citizens who object to the wind farm cannot show
25 the information we have researched from the

1 Internet to support our concerns, and the Internet
2 is full of information.

3 We're not millionaires. We're ordinary
4 citizens. So our testimony won't be considered,
5 even though our tax dollars go into the subsidies
6 and tax credits these companies get. We cannot
7 finance experts to come in here to tell the zoning
8 board, who also represents us, what is said in
9 online studies from scientists, recognized studies,
10 independent research from unpaid sources, available
11 to any ordinary citizen, and the only way we can
12 support our arguments and data.

13 To deny Erin and the citizens the right
14 to use the only data available to them is
15 prejudicial and indicates a clear bias against
16 the citizens of Allegany County who object to
17 Dan's Mountain Wind Force, a multi-million-dollar
18 company with unlimited resources who wants to
19 change the Allegany Code that we support. Thank
20 you.

21 MR. McKEE: Thank you, ma'am.

22 MS. WILSON: Patricia Wilson, 11 Forest
23 Drive, Cumberland, Maryland 21502.

24 I am Patricia Wilson, widow of Stanley
25 Wilson, and I own property adjacent to the proposed

1 Dan's Mountain Wind Turbine Project on Dan's
2 Mountain. Our property is located on Barbers Hill
3 Road and backs in towards Turbine No. 4.

4 I am already being impacted by this
5 project because my property of 29.44 acres is on
6 the market with the realtor. This proposed project
7 has caused me not to get interested buyers, thus
8 I cannot sell.

9 The location of my property has been a
10 high growth area of the Frostburg region for new
11 homes for the past 10 years. My property is
12 permitted for one building lot and has passed the
13 perc test. The rest of my property is zoned as
14 agriculture and conservation for wildlife habitat.

15 I am also concerned what these turbines
16 of 492 feet tall will do to wildlife and nesting
17 birds that migrate through this area.

18 Three turbines line my property on two
19 sides. Turbine No. 3 is 2,100 feet from my
20 property line. Turbine No. 4 is 1,300 feet,
21 and Turbine No. 5 is 2,700 feet. Then Turbine
22 No. 1 will be 3,100 feet, and Turbine No. 2 will
23 be 2,100 feet from the corner of my property.
24 No one will ever buy my property if this special
25 exemption [sic] is granted.

1 Any owner of this property will be
2 restricted on where to locate a home or other
3 outbuildings on this property because Code 360-92
4 will require me to stay certain distances from the
5 turbines. Not many people are going to purchase
6 my property with such limitations and restrictions
7 or purchase property surrounded by five turbines.
8 I am not getting activity of buyers because of
9 this project.

10 I have never read an article where
11 industrial turbines are considered compatible
12 with conservation land for wildlife habitat and
13 nesting birds, nor do they make a good neighbor
14 for a family. Zoning regulations not only decide
15 how residents may use their land, not -- I'm
16 sorry -- but protects residents from adjacent
17 property owners from inappropriate uses.

18 Code Home Rule 2-09 was enacted to protect
19 the adjacent property owners and surrounding
20 neighbors from wind turbines. I question how
21 someone can request 26 variances from this code
22 and think they were not going to impose on me and
23 all the other property owners.

24 MR. McKEE: Ma'am, you're going to have
25 to wrap up. I'm sorry.

1 MS. WILSON: Why have laws if no one has
2 to follow it, and what is left in this law to
3 follow? I strongly oppose granting Dan's Mountain
4 Wind Force a special exception or any variances.
5 It is your job to enforce every letter of this
6 code. Please protect me.

7 MR. McKEE: Thank you, ma'am. Anyone else
8 wish to come forward?

9 MR. GIUGLIANO: Good afternoon. My name
10 is Edward Giugliano, G-I-U-G-L-I-A-N-O. I live
11 at 15121 Trail Ridge Road, Southwest, Cumberland,
12 Maryland. That's in the Bel Air Subdivision.

13 I am a chemical engineer. I have an MBA.
14 I have been in business for 35 years. I currently
15 work at Orbital ATK, but I have been with AES for
16 12 years, and AES is the largest independent power
17 producer in the world. I was at the Warrior Run
18 Power Plant in Cumberland, Maryland, and I was
19 also at AES Alamitos where I was plant manager.
20 AES Alamitos is one of the largest generating
21 stations in the country, 2,467 megawatts. So
22 I am going to talk a little bit about the power
23 industry, and I think I know what I am talking
24 about.

25 I would ask the board not to feel

1 compelled to grant this special exemption [sic]
2 to Dan's Mountain Wind Force just because they
3 spent a lot of time and a lot of money trying
4 to put this project in. When I was with AES, I
5 worked a lot with the developers. I was not a
6 developer myself, but we all wore many hats at
7 AES, and I worked with developers. There is a
8 lot of dry holes in the power industry. There is
9 a lot of money spent trying to develop projects --
10 excuse me -- trying to develop projects, a lot of
11 time spent, and a lot of projects don't -- just
12 don't pan out. Some do, some don't. So don't
13 feel compel to give Dan's Mountain Wind Force a
14 special exemption, just because they spent a lot
15 of time and a lot of money.

16 Wind turbines operate, as you know,
17 at greatly reduced rates from their nameplate
18 capacity. I believe the nameplate capacity of
19 this project is 48 megawatts. If it has the same
20 capacity factor as Pinnacle, which is right down
21 the road from it, it's 37 percent. You multiply
22 37 percent times 48, you're going to get, I think,
23 about 16 megawatts. So that's what it's putting on
24 to the grid as an annual average is 16 megawatts,
25 and one of the board members asked the first day,

1 "Is this a big project or a small project?" It's
2 a small project. It's very small.

3 Not only that, the reality of the wind
4 turbine business is, it's putting power on the
5 grid when you don't need it. In the east coast
6 of the United States, you get the most wind in the
7 spring, the fall, and the winter months when power
8 is really not needed. The peak power demand is in
9 the summer, and the wind doesn't blow in the east
10 coast in the summertime.

11 So prices are low when the turbines are
12 turning. Prices are high when the turbines are not
13 turning. It puts a lot of economic pressure on the
14 project, and that's why Mr. Friend has said in his
15 testimony, and I agree with him, there will only be
16 a handful of full-time positions for this project
17 because, you know, they really can't afford to hire
18 a whole lot of people. So there won't be a lot of
19 people on the project.

20 In my experience with AES, AES had a
21 wind turbine branch. They have several thousand
22 megawatts of wind turbines on board, and they
23 really don't have a lot of full-time
24 equivalence in the winter.

25 MR. McKEE: I am going to have to ask you

1 to wrap it up.

2 MR. GIUGLIANO: Okay. It's the most
3 heavily subsidized form of energy in the company --
4 in the country. Six billion dollars went there in
5 2013, about \$35 a megawatt hour. It's even more
6 heavily subsidized in solar, and if those subsidies
7 go away, so will your tax payments; homeowners, so
8 will your lease payments.

9 So it's -- you know, I would ask that you
10 guys and gal be very stubborn in your granting of
11 variances for this project and deny this special
12 exemption. Thank you.

13 MR. McKEE: Thank you, sir.

14 MR. IMES: Gary Imes, President, Lashley
15 Construction Company, Lashley Drive, Frostburg,
16 Maryland.

17 My company has been a contractor in
18 Allegany County for almost 70 years. I have been
19 with them 35 years. In those many years, I have
20 learned that there are reasons why the code is
21 in place. One of those reasons is that certain
22 groups cannot come in and do what they want and
23 the majority be affected. The code does not say
24 if you bring in more tax revenue or create more
25 jobs, you comply with some of the code --

1 MR. McKEE: Sir, you need to slow down a
2 little bit. She can't type that fast.

3 MR. IMES: Okay.

4 -- or comply with some of the code, we can
5 change it. As a contractor and developer, I would
6 like to have special exemptions from the stormwater
7 and site work laws, but I would rather not see a
8 precedent set by an out-of-town firm and the local
9 firms coming forward asking for exemptions.

10 The code sets a level playing field. It
11 protects the taxpayer and the property owner. I
12 am sure those before us had much time, thought, and
13 input into the current code. Even the Bible says,
14 "Obey the laws of the land." I pray you enforce
15 that.

16 Do I think we should not do variances?
17 It depends. Something this difficult as the Dan's
18 Mountain project suggests the wrong property.
19 I would expect the board to be no respecters of
20 persons. If we can give a variance and exception
21 on something this difficult, how can we not give
22 a variance and exception on the stormwater laws
23 or other laws the local farms are -- firms are
24 facing with a real undue hardship?

25 My company has to deal with the code every

1 day with no exceptions. The project is going to
2 provide jobs for months. My company has employed
3 local union labor for over 40 years with no special
4 exceptions.

5 The project will put one million dollars
6 into the economy annually. My company has put
7 millions annually into the local economy with no
8 special exceptions.

9 I feel, as an expert in the construction
10 industry, that granting 26 variances on one single
11 nine-month project is going to open a big can of
12 worms. Thank you. God bless.

13 MR. McKEE: Thank you, sir.

14 MR. MILLER: Hi, my name is William
15 Miller. I live with my wife, Joey, and our two
16 children at 16014 Harwood Drive in the Harwood
17 Subdivision.

18 In 2008, we purchased two acres of land
19 in Harwood, and then we built our home in 2009
20 which is currently assessed by the County at
21 \$509,000, \$509,000.

22 I have worked at the United States Patent
23 & Trademark Office for approximately 19 years.
24 My office is located in Alexandria, Virginia.
25 The benefit of my job is I am able to work from

1 home full-time. I was born and raised in Allegany
2 County, so I chose to build our home at my
3 homeplace which is Allegany County.

4 We purchased our property in Harwood
5 because we wanted a larger lot in a wooded setting,
6 while still having the chance for our children to
7 play in the neighborhood. We enjoy the property's
8 abundant wildlife, its panoramic views, and its
9 quiet, starry nights.

10 I had Ray Rice, of SPECS Surveying,
11 measure from the closest corner of the project
12 site to the closest corner of my property. That's
13 2,660 feet. I did not choose to live, yet alone
14 build, a half-a-million-dollar home a half a mile
15 away from a wind turbine project site and less than
16 three-quarters of a mile away from the actual wind
17 turbine itself.

18 I am deeply concerned for the general
19 health and welfare of my family. We will be
20 exposed to noise, vibration, potential well water
21 supply issues, and ruined views from the rear
22 of my property. The value of my home and the
23 rest of the Harwood Subdivision, which includes
24 approximately 60 homes, along with our scenic and
25 tranquil beauty, is at stake.

1 The bottom line today is it all comes
2 down to a special exception, and the *Schultz v.*
3 *Pritts* case law establishes that when the facts
4 and circumstances presented show that the grant
5 of the requested special exception use would
6 result in an adverse effect upon adjoining and
7 surrounding -- that's important -- adjoining
8 and surrounding properties, unique and different
9 from the adverse effect that would otherwise
10 result from the development of such a special
11 exception anywhere within the zone, then the
12 special exception should be denied. The mere
13 presence and proximity of the residential zoning
14 district, including the Harwood Subdivision,
15 should be sufficient evidence of the adverse
16 effect of a wind turbine farm at this location.

17 There are other opponents also very
18 close to the project site. The applicant's
19 own experts have testified there are residents
20 which are located at 2100 feet, 2200 feet,
21 2,350 feet, respectively, from certain turbines.
22 These residences are just beyond the minimum
23 setback distance required by the zoning ordinance.
24 The board must consider the location of these
25 residences in a close proximity to a residential

1 subdivision as an adverse effect of the proposed
2 special exception. Thank you.

3 MR. McKEE: Thank you, sir. Anybody else?

4 MR. RIDENOUR: Randy Ridenour. I live
5 at 16345 Harwood Drive, Frostburg, Maryland.

6 It's hard to watch Dave Friend, Matt
7 Brewer, and others representing Dan's Mountain
8 Wind Force sit at this hearing, listening to
9 compelling experience from homeowners in Garrett
10 and Somerset Counties, without compassion or
11 regret for what they are about to impart on the
12 residents of Allegany County. Their actions truly
13 are selfish, reckless, and unconscionable. It's
14 unbelievable to think that anyone could impart
15 such significant hardships to another human being,
16 hardships in the form of health issues, stress,
17 safety, reduction of property values, and degraded
18 quality of life.

19 During this hearing, not one piece of
20 evidence has been submitted this week concerning
21 the noise levels that residents surrounding this
22 project will be exposed to. I challenge Dan's
23 Mountain Wind Force to be forthright and honest
24 concerning those noise levels.

25 This project is all about greed. Laurel

1 Renewable Partners and Dan's Mountain Wind Force
2 will be quickly gone, leaving Allegany County
3 and its residents to deal with the multitude of
4 problems caused by this project.

5 I would like to thank the Board of Zoning
6 Appeals for their consideration during this hearing
7 and ask for the subject special exception and
8 variances to be denied. Thank you.

9 MR. McKEE: Thank you, sir.

10 MR. BOYD: My name is Allen Boyd. I live
11 at 14220 North Bel Air Drive.

12 I came to this meeting this week, for the
13 last couple days, with an open mind. I haven't
14 really studied the issue until coming to this
15 meeting. I have to say that I thought it would
16 be incumbent upon Dan's Mountain Wind Force to
17 show that the installation of these turbines
18 would be a safe project. I don't think they've
19 introduced any evidence that supports that.

20 I live about a mile-and-a-half away,
21 and I don't think that they have proven to me
22 that I will continue to have good health from
23 that installation. I am surprised they didn't
24 bring a turbine expert to give testimony since
25 that is what is being installed. I can't envision

1 agricultural and forestry and mineral removal
2 causing me issues one-and-a-half miles away. I
3 can see possibly these wind turbines causing me
4 issues a mile-and-a-half away.

5 So as I said, I came in here open-minded,
6 undecided as to whether I thought that this would
7 be a good thing or a bad thing, but I would have
8 to say you will have to add me to the opposed
9 column for the special exception and the variances.
10 Thank you.

11 MR. McKEE: Thank you, sir.

12 MR. PARK: Good afternoon. My name is
13 William R. Park. I live at 16245 Harwood Drive,
14 Frostburg.

15 I am going to try to make this as simple
16 as possible and as easy. You guys are doing a
17 great job, believe me. The county staff is doing
18 a great job, and I really appreciate what you're
19 doing, but I can see after this three-day procedure
20 how brilliant Mr. Commissioner Robert Hutches on,
21 Dale Lewis, and James Stakem was to set the code,
22 because at least you got some guidelines to go by;
23 and I really think -- probably a lot of people is
24 not going to like this -- but if the three county
25 commissioners presently would have stood up and

1 held the code, you guys would not be going through
2 all this. So that's just a couple comments.

3 About you can't have -- I really feel
4 for the eight people that is, you know, with the
5 property. It's their property and everything and
6 that, but you can't have eight people affecting
7 200, over 200 people on their property values.

8 And the only other question I have is,
9 if you're undecided one way or the other, go with
10 the code and you cannot be wrong. Thank you.

11 MR. McKEE: Thank you, sir.

12 MR. O'HARA: My name is Frank O'Hara. I
13 live at 94 Orchard Street, Keyser, West Virginia.

14 I am familiar with wind projects, having
15 served on the U.S. Wind Force Community Advisory
16 Committee for the Pinnacle Wind Force Project since
17 2008, a project that was developed near Keyser.

18 The purpose of planning and zoning and
19 other land use serves to manage and reduce the
20 risks and impacts to the various land use. While
21 this ordinance offers groundwater protection for
22 up to a mile, no discussion centers on protecting
23 the adjoining properties and non-participating,
24 other than meeting the code requirements.

25 Existing homes in the area should take

1 precedence. Some families and homeowners do not
2 agree to participate in the project because it
3 represents inheritance, family reunions, and
4 deserve respectful and responsible, common-sense
5 protection. It's part of the community's culture.

6 The experts citing this project, fitting
7 a project to the constraints, ignore health,
8 safety, and welfare protection. Only one question
9 was asked regarding the turbine failure, but no
10 mention was made until today about the throwing
11 ice on adjoining property, along the roads,
12 driveways of any residents living in the area.
13 There was no discussion of safety should these
14 units catch fire.

15 Since the beginning when Dan's Mountain
16 started the project in 2001, it has moved from
17 29 projects, down to 25, and now down to 17. The
18 reduction is because the developer cannot obtain
19 adequate leases in cooperation. The developer
20 continues to move forward knowing these constraints
21 exist and desires the County to make an exception.
22 If a project cannot conform to our reasonable
23 standards, respecting the rights and existing
24 uses of non-participants, then the applicant need
25 to assess the merits of the proposed project.

1 In May of 2009, I came over and testified
2 to the Allegany County Commissioners about the
3 decommissioning and the noise study. That same
4 noise study was identical that was presented,
5 almost a copy and paste, to the project. As a
6 matter of record, Dan's Mountain submitted to the
7 Maryland Public Service Commission their noise
8 studies. They were granted a Certificate of Public
9 Convenience and Necessity to construct the wind
10 generation and given a case number. The developer
11 has continued to return for additional extensions.

12 Additionally, they obtained a certificate,
13 Dan's Mountain Force, in a letter dated March 16,
14 2009, submitted by law firm, Haynes & Boone, agreed
15 to Honorable Terry Romine, Executive Secretary
16 of the Maryland Public Service Commission, these
17 assurances with the project site, quote, to
18 determine the seriousness and the duration of
19 shadow flicker with respect to the residences
20 nearby project turbines and will adopt reasonable
21 mitigation measures to control the significant
22 shadow flicker impacts, unquote.

23 When I was asking a question concerning
24 noise and shadow flicker, I was informed this is
25 not a part of the hearing. Noise is a public

1 health hazard. Noise impacts wildlife habitat.
2 County ordinance does allow the board to address
3 noise and shadow flicker.

4 If the Board of Zoning finds the concerns
5 regarding health and safety and welfare warrant
6 additional separation, the board may, at its
7 discretion, increase prescribed separation of
8 distances up to 50 percent.

9 MR. McKEE: I need you to start to wrap
10 it up, sir.

11 MR. O'HARA: I want to put a face on this
12 thing, but I have a pile of press releases that I
13 will be sending in from the Pinnacle project, that
14 when it started that project up on November 5,
15 2011, and it continues now with the amount of noise
16 and the lawsuits that went into circuit court for
17 families just up at the Pinnacle project. I hope
18 some day that you might drive up there on your own
19 and just look at the community, what has been left
20 by Dan's. Thank you.

21 MR. McKEE: Thank you, sir.

22 MS. SNEEN: Hi, my name is Jennifer Sneen.
23 I live at 10071 Old Dans Rock Road, Southwest,
24 Frostburg, Maryland.

25 My house is three houses down from Dan's

1 Rock, not including the two farms that are over
2 on the other side. My home is located less than
3 3,000 feet from where proposed Turbine 17 will be
4 located.

5 I am also the mother of two children,
6 ages 3 and 11 months. My deepest concern about
7 the project is the noise levels and the effect
8 that it could possibly have on my developing
9 children. Sleep is necessary for the development
10 of the brain. My children are at an age where
11 their brains are constantly making synapse
12 formations and developing rapidly. If the noise
13 prevents them from sleep, it's going to be very
14 detrimental to their health.

15 We will not be able to sell our home and
16 move because no one is going to want to purchase
17 the property next to a turbine. They would have
18 the same impacts. We would be financially
19 devastated and stuck in a home next to a windmill
20 that is causing harm to our children. In light
21 of this, we ask you, please do not grant the
22 special exemption [sic]. Thank you.

23 MR. McKEE: Thank you. Anyone else?

24 MS. PARK: I am not making a statement.

25 I have a question, a proposal I would like to bring

1 before you.

2 MR. McKEE: The board is not in a position
3 to answer any questions at this point. If you want
4 to make a proposal, I am certain we will listen to
5 it, but we're not -- we're not going to --

6 MS. PARK: Well, no, I don't expect you to
7 make an answer or just have an answer.

8 MR. McKEE: Oh, okay.

9 MS. PARK: I just want you to consider a
10 thought.

11 THE REPORTER: Can I have your name,
12 please.

13 MS. PARK: My name is initial K, Darlene
14 Park, 16245 Harwood Drive, Southwest, Frostburg,
15 Maryland.

16 This has been an education for us. We
17 are middle class people. We are people that are
18 homeowners, and we're worried about our quality
19 of life in the future; but being here -- and, you
20 know, we sat for two days and we listened to all
21 these experts -- we didn't who they were going to
22 bring in as experts, what -- where they were going
23 to go with the hearing, and we wasn't aware of
24 all -- anything that we submitted was going to be
25 eliminated because it didn't meet their standards

1 of being an expert which puts us at, we feel, at
2 a disadvantage right now, a big disadvantage.

3 We would like for you to consider a
4 one-day continuance at a later date so that we
5 can line up some experts and maybe do it by Skype.
6 It's just something we want you to think about
7 and decide whenever it works for you. I don't
8 expect an answer right now, but this is how we
9 feel, and being -- being we -- we're the people.
10 We're middle class. We don't have a bank account
11 that's loaded for these experts. Thank you.

12 MR. McKEE: Thank you. Anyone else?

13 (There was no response.)

14 MR. McKEE: It's five minutes to four.
15 You do have the right to rebuttal testimony.

16 MR. GETTY: Can we have five minutes in
17 order to make a decision?

18 MR. McKEE: Certainly.

19 AUDIENCE MEMBER: For five minutes?

20 MR. McKEE: Five minutes.

21 AUDIENCE MEMBERS: Three minutes. Three
22 minutes. Three minutes. They need to wrap it up.

23 (At 3:58 p.m., break taken until
24 4:07 p.m.)

25 MR. McKEE: All right. I think we're all

1 back and ready to go at this point.

2 Mr. Getty, do you have any rebuttal
3 evidence at this time?

4 MR. GETTY: Formally, we do not have any
5 rebuttal evidence at this time --

6 MR. McKEE: Very well.

7 MR. GETTY: -- subject to the
8 conversations we have had about --

9 MR. McKEE: And I am going to outline that
10 for the record very quickly.

11 As a housekeeping matter, other than what
12 has been objected to and sustained, has all the
13 other -- have all the other exhibits been entered
14 into the record, Mr. Squires?

15 MR. SQUIRES: I'm sorry. I wasn't --

16 MR. McKEE: Other than what has been
17 objected to and was sustained, you have taken
18 custody of all the other exhibits?

19 MR. SQUIRES: That is correct. We ended
20 at 119.2 and so --

21 MR. McKEE: All right.

22 MR. SQUIRES: -- that's it.

23 MR. McKEE: Well, here is sort of how we
24 are going to handle this from this point. We are
25 going to leave the record open from now until the

1 close of business on November the 9th. Anybody
2 who wants to submit anything in writing has until
3 that -- until the close of business. That will
4 be sent to the County, Attention: Mr. Squires.
5 Anything after -- anything after, I guess, 4:30
6 on the 9th will not be accepted. All right?

7 We are going to reconvene this hearing
8 for the purposes of deliberation at 9 a.m. on
9 November the 13th. That's Friday morning, and
10 that will not be here. It will be at the County
11 Office Building in the normal County Commissioner's
12 Meeting Room. All right?

13 Because we are leaving the record open
14 for additional submissions of evidence that will
15 be considered, if any -- if there is anything that
16 is filed that is objectionable by either of the
17 parties, we are going to allow an opportunity for
18 some additional rebuttal of that evidence. All
19 right?

20 So just so nothing gets dropped and nobody
21 has an opportunity to respond to it, we're going
22 to allow it, just the items in that 10-day window
23 will be subject to review from the parties. We
24 are not going to go back and go beyond that, but
25 anything submitted in the next -- from now until

1 the close of business on the 9th, we will take a
2 look at that, and the parties will have a right
3 to object, if they choose to, to anything that's
4 been -- that they feel should not have been
5 properly considered as evidence.

6 Following that, we are going to begin
7 the deliberation process at that point; and,
8 hopefully, we will be able to get this sorted
9 through on the 13th. All right?

10 Anything further from anyone before we
11 conclude the hearing?

12 MR. SQUIRES: Yes, I do.

13 MR. McKEE: Yes, sir.

14 MR. SQUIRES: Okay. The plan at this
15 point is Friday, the 13th, the board will
16 reconvene. Did you have a specific time at
17 this point?

18 MR. McKEE: Nine a.m.

19 MR. SQUIRES: Nine a.m. Okay. Now when
20 I say that, that is the plan when we leave here.
21 I have to make sure that the scheduling of the
22 room is available.

23 UNIDENTIFIED SPEAKER: It's scheduled
24 already.

25 MR. McKEE: It's scheduled.

1 MR. SQUIRES: Okay. Well, you say that.

2 Okay.

3 (Laughter)

4 MR. SQUIRES: Information requests, the
5 exhibits are available for scrutiny between here
6 and there; but, of course, we'll have to have some
7 organization. Generally, if you need copies, you
8 go through the regular information request. You
9 call the office. We can make arrangements. If
10 anybody wants to examine anything that's been done
11 so far, that's fine, no problem.

12 I will prepare the exhibit list to put
13 order into all this, and that will be available,
14 and I will even try to have that posted on the
15 County's web page for you, so you don't even have
16 to call. You can get on there and download it,
17 take a look at it, print it off.

18 If things change, if for some reason
19 we cannot conduct the hearing on Friday the 13th
20 at nine o'clock, if it's later in the day, we
21 will get the notification out somehow, but this
22 is what we're leaving it at right here, Friday,
23 the 13th, 9 a.m., the County Office Complex,
24 701 Kelly Road --

25 MR. POWELL: It's Room 100.

1 MR. SQUIRES: -- Room 100. You can call
2 the Land Development Services office at any time,
3 and we can keep you up to date on that. It will
4 be posted on the website as well.

5 I think that's all I have for right now,
6 and we don't need to send any notifications out?

7 MR. McKEE: No, we put the notice on the
8 record. We don't -- unless there is a change. If
9 there is a change, then we're going to have to send
10 notice out.

11 MR. SQUIRES: But posting it on the web is
12 cheap. We can do that. That's no problem.

13 MR. McKEE: All right. Anything further?

14 MR. GETTY: Thank you very much.

15 MR. McKEE: All right. Thank you.

16 CHAIRPERSON WILLIAMS: We are done for
17 today.

18 (Proceeding concluded for the day at
19 4:16 p.m., to be continued.)

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CERTIFICATION OF NOTARY

I, SHERYL L. GASPARIK, RPR, the officer before whom the foregoing proceeding was taken, do hereby certify:

That the above and foregoing contains a true and correct transcription of the proceedings, all of which were reported by me.

I certify that I am neither counsel for, related to, or employed by any of the parties to this action; and I further certify that I am in no way interested, financially or otherwise, in the outcome of this matter.

SHERYL L. GASPARIK, RPR

Notary Public - State of Maryland

Commission Expires: December 13, 2016