

TOWNSHIP OF LOWER MAKEFIELD  
ZONING HEARING BOARD  
MINUTES – OCTOBER 30, 2008

A special meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on October 30, 2008. Chairman Malinowski called the meeting to order at 7:15 p.m. The attorneys had no objection to proceeding with the matter with the Zoning Hearing Board Members present.

Those present:

Zoning Hearing Board:       David Malinowski, Chairman  
                                      Paul Bamburak, Vice Chairman  
                                      Jerry Gruen, Member

Others:                         Nancy Frick, Director Zoning, Inspection, & Planning  
                                      Robert Habgood, Code Enforcement Officer  
                                      David Truelove, Township Solicitor  
                                      James Majewski, Township Engineer  
                                      Matt Maloney, Supervisor Liaison

Absent:                         Gregory J. Smith, Zoning Hearing Board Secretary  
                                      Keith DosSantos, Zoning Hearing Board Alternate  
                                      Anthony Zamparelli, Zoning Hearing Board Member

APPEAL #08-1480 – COMCAST OF LEVITTOWN, INC.

Mr. Truelove stated at the previous Hearing Ms. Frick was testifying about her communications with Mr. Jeter and other Comcast personnel, and he asked that she continue where they left off at the last Hearing. Ms. Frick stated on 9/14/07 she received an e-mail from Mr. Jeter in response to an e-mail she sent that day which indicated, "Pursuant to our conversation, I wanted to take this opportunity to provide a brief status report on the Comcast Permits. While we are working toward the deadline which you stated in your e-mail below, it is likely we will not meet the deadline since we are conducting a complete survey of the existing pedestals in the Township. As you know the existing pedestals are likely those facilities that were previously permitted years ago. In addition, we are verifying the new pedestal locations in order to apply for the applicable Permits as needed. It is our intention to provide a complete list of existing and new pedestal locations. That said, I will provide another update later today or Monday morning regarding when we anticipate having the survey completed. I anticipate Tuesday or Wednesday of next week."

Ms. Frick stated she wrote back to Mr. Jeter shortly thereafter thanking him for the update and indicating she was looking forward to hearing from him later that day or first thing Monday morning.

Ms. Frick stated the next communication was an e-mail from Mr. Jeter on Monday, September 17 as follows: “Nancy as a follow-up to my message this morning, we are finishing the field survey today and compiling the information so I can provide a full report by the end of business tomorrow. Once you have that information, we can determine the appropriate next step...” Ms. Frick stated a voice mail message was also received on 9/17 at 10:45 from Mr. Jeter advising that he was out of the office in the field and that he will e-mail Nancy Frick later this afternoon but will have a detailed e-mail or information to her by the end of business tomorrow. If Nancy needs to reach him, the best way is by e-mail or try Janice who will be in most of the day.”

Ms. Frick stated on 9/19 at 8:45 a.m. her assistant called Brian Jeter at the office number and left a message for him to call as soon as possible. She also called his cell phone at 8:50 a.m. with the same message. Ms. Frick stated she then sent an e-mail to Mr. Jeter at 9:58 a.m. as follows: “Brian, now that it is Wednesday morning and I have still not heard from you would you please give me a call. I am awaiting your report as you referenced in your earlier e-mails and I am still waiting for your Permit Application submittal to the Township. I have left voice mails message on both your cell and office phone minutes ago. Please call me as soon as possible.”

She stated she received an e-mail from Mr. Truelove that was sent to Mr. Jeter with a copy to Bill Beckman as follows: “Brian, the Township has been more than patient up to this point. You leave us no choice but to consider taking more drastic actions perhaps in the form of Cease and Desist Applications seeking injunctive relief. You get the picture. I will seek authorization from the Board at tonight’s meeting that if the complete Applications are not received by 12 Noon tomorrow in the Township Building, that we are directed to take all appropriate steps to protect the rights and interests of the Township and its effected residents.” Mr. Truelove asked who is Bill Beckman, and Ms. Frick stated he is an executive with Comcast and had attended some of the meetings prior to this with herself and Mr. Jeter.

Mr. Truelove asked if Mr. Jeter responded to this e-mail, and Ms. Frick stated she did receive a copy of an e-mail sent at approximately 11:30 a.m. by Mr. Jeter to Mr. Truelove, a copy of which she received which reads as follows: “Dave, we truly appreciate the Township’s patience and understanding on this issue. Obviously, we would respectfully request that the Township not take the actions that you described below. We have made every effort to work in good faith and supply the Township with the total number of pedestals and Permits. We also did not want to overburden the Zoning Department with a larger number of Applications than originally anticipated. That said, we completed the site surveys and determined that Comcast requires 82

pedestals in the Township's right-of-way – yes, a larger number than reported last week at our meeting. As we speak, we are preparing the applicable Permits and securing the additional materials for the Permits as required. As you can imagine, this is a larger administrative task than originally planned. We are working diligently in order to comply with the Permit requirements despite the slight delay in providing them to the Township. I will have an update later today and would like to schedule a meeting on Thursday, late afternoon or Friday a.m. to review the entire packet of Permit Applications. Finally, I will provide all of you with a Fact Sheet in a question and answer format should any of you receive questions from residents or Township Supervisors this evening..."

Mr. Truelove stated he responded to Mr. Jeter on behalf of the Township with a copy to Ms. Frick as follows: "Brian, thanks for the response. Not to speak for Nancy and her staff, but they won't be overburdened, just busy as they understand that the number of Applications that are required given the number of pedestal replacements, etc. I encourage you to work with her and her staff especially for timelines regarding submissions specifically of Applications, etc. It will be easier for everyone including Comcast if you do so."

Mr. Truelove stated in the e-mail, Mr. Jeter mentioned 82 pedestals and he asked Ms. Frick if at any time thereafter did she receive Applications for 82 pedestals; and Ms. Frick stated she did. Mr. Truelove stated they will get to this during the testimony. Mr. Truelove stated Mr. Jeter also indicated a Facts sheet would be sent, and he asked if the next communication from Mr. Jeter which was received approximately four hours later referenced the Fact sheet; and Ms. Frick stated it did as follows: "Attached please find the Comcast Facts sheet that details information about the improvement project and pedestal installation. Please feel free to share this document with the residents, Supervisors, and others staff for tonight's Supervisors' meeting. In the event that a resident needs to contact Comcast about the improvement project, please have them contact Bill Beckman, Project Manager, directly (and it listed the phone number). I hope this information is helpful..." Mr. Truelove asked Ms. Frick if prior to this had she ever received any type of Fact sheet or any type of document that described in specific terms the proposed improvement project; and Ms. Frick stated she had not.

Ms. Frick stated on Thursday, September 20 with a time on the e-mail of 4:50 a.m. an e-mail was received from Mr. Jeter as follow: "Nancy, can we meet Friday after 1 p.m.? Please let me know." She stated she responded at 9:45 a.m. as follows: "I guess I am a little confused. I am available to meet with you on Friday after 1 as requested; however, what are we meeting about? I was under the impression that you would be in the Township today by Noon to drop off the Permit Applications. You were going to get back to me yesterday and advise me as to what time you would be here to drop them off so I would be available when you came in. I am still waiting for that call. We need the Permit Applications in here as soon as possible so we can start the review process."

Ms. Frick stated Mr. Jeter wrote back the same day as follows: “As I explained via e-mail yesterday, administratively, and due to the increased number of pedestals, we would not have the Permits completed as you requested by today at Noon. We also attempted to get some additional Permit jackets yesterday in order to complete all the Permits; however the Township only provided fifteen, and we required more. And we needed to print the additional maps – you required two maps for each Permit – which takes a full day to complete. That’s why I suggested or requested tomorrow, Friday afternoon, to meet and review the Permit Applications. Our Permit Applications will be available for review tomorrow. Please let me know what time tomorrow afternoon fits your schedule.”

Ms. Frick stated she did respond as follows: “Brian, please be advised that I spoke with Judy from our Building Department and she advised that a male came into the Township yesterday afternoon and requested 15 Permit Applications. That is the reason why he left with 15 Permit Applications. Our Permit Applications are available on the public side of our counter. One can take as many as they like. We do not limit the number of Permit Applications that one can take. I am available at 1 as you so requested.”

Mr. Malinowski asked Ms. Frick if they applied for 82 Permits, and Ms. Frick stated the exact amount has never been determined. She stated they never gave full addresses, lot numbers, and their locations on their maps never added up so the Township could never get an exact amount of pedestals that they were installing. She stated they did it by development so they did not have 82 Permit Applications. They were letting them do it by development as they felt that would be easier. She stated that way they could give the Township one map for each development as they did previously when working with Comcast. Mr. Malinowski asked if they applied for a Permit for all the pedestals that were erected, and Ms. Frick stated they do not know as this has not been determined because they still have not received a complete answer on what was erected and where. She feels this will come out in e-mails yet to be read into the record.

Ms. Frick stated the next correspondence in her file is an e-mail she received the same day from Mr. Truelove that was also sent to Mr. Jeter as follows: “Brian assuming your meeting with Nancy is to review the compliance and accuracy of your Permit Applications, my presence is not necessary, only if legal matters are implicated by some deficiencies in the Applications or other matters arise after the Permit Applications are submitted, consequently I will not be attending the meeting.

Ms. Frick stated she had not heard back from Mr. Jeter about confirming the meeting on Friday at 1:00 p.m. so she sent an e-mail to him asking for confirmation and asked that he confirm.

Mr. Truelove asked if a meeting took place on September 21, and Ms. Frick stated it did. She stated the meeting lasted about one and a half hours and they briefly went through the Permit submissions as far as exactly what maps they were submitting. She stated they were reviewing it for completeness at that time. She stated present at the meeting was herself, Mr. Habgood, Mr. Jeter, and she believes Janet Steiner who works for Comcast. Ms. Frick stated at the meeting they were trying to ascertain exactly where the pedestals were erected or were going to be erected including an exact number and locations. She stated once the Township had a chance to review the Permit Applications, they were going to get back to Comcast to determine exactly what was in the submission and whether or not they met the requirements of the Township.

Ms. Frick stated on Monday, September 24 at 12:26 p.m. she e-mailed Mr. Jeter as follows: “At our meeting on Monday, September 10, you advised that there were a total of 28 new above-ground pedestal boxes. I believe that before the meeting adjourned we were up to 30 including one on Dickinson and one on Thistlewood.”

Mr. Truelove asked why Ms. Frick knew there was one on Thistlewood, and Ms. Frick stated a Township employee lives on Thistlewood and she had advised that her lawn had been disturbed and that there was a new box installed. Mr. Truelove asked Ms. Frick if prior to being advised of this, had she been given any Applications or information that there were installations anticipated on Thistlewood or that area, and Ms. Frick stated she had not.

Ms. Frick read the rest of the e-mail as follows: “When I spoke with you on Thursday, September 20, you advised that the number had changed from 28 to 82 and I recalled joking about what appeared to be a transposing of the numbers. The Township briefly went through the Permit Applications that you delivered on Friday afternoon, September 21. You submitted a total of 38 Permit Applications to the Township. After briefly reviewing the number and locations of the boxes noted on your Permit Applications, it appears that the Applications only included new, above-ground boxes for 76 locations and not 82 and yet I recall asking you if these Applications included everything, and your replay was ‘yes.’ My questions are as follows:

- 1) Did the number of new above-ground boxes change and now the total is 76 or are you missing the Applications for six of the new above-ground boxes. Please advise.
- 2) Also during our meeting on the 10<sup>th</sup> I made mention to you about the new above-ground boxes that were installed on Thistlewood and yet it appears that none of the Permit Applications that you submitted were for the new boxes installed on Thistlewood. How can that be? They are in fact there and they are new. It also appears that there is no Permit Application submission for the new above-ground box that was apparently installed on Dickinson Drive. How can that be? It is in fact there and it is new. It also appears that there is no Permit Application submission for the new above-ground box that

was apparently installed on Temple Drive. How can that be. It is in fact there and it is in fact new. Please advise as to the above as soon as possible.”

Mr. Truelove asked if Ms. Frick also received photographs that day of two of the locations referenced in the e-mail; and Ms. Frick stated she did have Mr. Habgood go out to those two properties and take pictures. Those addresses are 1186 Temple Drive, and at the corner of Dickinson and Drexel. One is in Sandy Run and the other is in Yardley Hunt.

Ms. Frick stated she received an e-mail on Tuesday from Mr. Jeter indicating that following: “... I was out of the office yesterday. I will review with Bill today and respond as soon as possible. Thanks for bringing this information to our attention.” Ms. Frick stated Mr. Jeter did advise that he had a personal issue and would respond when he returned to the office Thursday.

Ms. Frick stated she sent Mr. Jeter an e-mail on Thursday, September 27 as follows: “... I know you advised that you would be out of the office on Wednesday; however, I am patiently awaiting your response to my e-mail of Monday at Noon before I complete my comprehensive review of the material that was submitted. Please advise as soon as possible with respect to same.”

Mr. Truelove asked about the time being spent by the Township staff during this time; and Ms. Frick stated she and Mr. Habgood spent an exorbitant amount of time reviewing the maps, the locations they submitted and trying to match them up. She stated these maps were printed maps on which they had hand drawn the locations; and there were many which were not located in the areas they had stated they were. She stated she had gone out into the field to look at several of them to make this determination.

Mr. Truelove stated during this time he assumes, she was also doing her other normal duties; and Ms. Frick agreed.

Ms. Frick stated she tried to send Mr. Jeter an e-mail on Thursday afternoon and it came back saying: “I am out of the office very limited access to e-mail. I will return on Thursday.” She then sent an e-mail to Janet Steiner at 3:37 p.m. that same date as follows: “I just received an automatic replay from Brian Jeter’s e-mail stating he will be returning on Thursday, and it is Thursday. Is he not in today? I have been trying to get some answers from him since Monday with respect to your Permit Applications submitted. Perhaps you can help.” Ms. Frick stated Mr. Steiner send back an e-mail as follows: “Brian has been in meetings and is on conference calls all day. He will respond to you shortly.”

Ms. Frick stated she did receive an e-mail later that day from Mr. Jeter responding to her questions of the 24<sup>th</sup>. Ms. Frick stated her question was "...did the number of new above ground pedestal boxes change and now the total number is 76 or are you missing the Applications for six of the new above-ground boxes;" and his response was: "After additional review including this e-mail, we believe the total number is 77 – 76 plus the additional for Dickinson Drive. I am told that we are not missing 6 additional Applications. I initially indicated 82; however, we reduced the number to 77."

Ms. Frick stated her second question was: "At the meeting on the 10<sup>th</sup> I made mention about the new above-ground boxes on Thistlewood and yet it appears that none of the Permit Applications you submitted were for the new boxes installed on Thistlewood..." Mr. Jeter responded, "Yes, you identified one new pedestal on Thistlewood, a Township employee. That was not originally permitted. Once you brought this to our attention, we contacted the owner and made every effort to find a reasonable solution. From what I understand, that resolution resulted in us removing the above-ground new pedestal and equipment to an existing, already permitted above-ground pedestal at another location in the development. I believe a tap was installed below ground with the homeowners' approval to insure increased system reliability."

Ms. Frick stated she also advised that there was no Permit Application submission for the new above-ground box that was apparently installed at Dickinson. Mr. Jeter response was: "Unfortunately we missed the pedestal on Dickinson Drive. We will add this location to the 76 already submitted to Zoning. We can submit that permit possibly tomorrow or Monday end of business at the latest."

Ms. Frick stated her next question was that it appeared that there was no Permit Application for the new above-ground box that was installed on Temple Drive; and Mr. Jeter responded as follows: "I am told through Bill that a new above-ground pedestal does not exist on Temple. If you have an exact address that you can share, we would be glad to review it again."

Ms. Frick stated on Friday, September 28, she wrote to Mr. Jeter as follows: "... I guess I am a little confused with respect to your responses to my e-mail on Monday, September 24. It doesn't seem correct that the Township should be giving you the addresses of the properties where Comcast has installed these new boxes. I have been patiently waiting since we first met on July 19 for a complete list of properties of where these new boxes have been erected; and yet it appears that I am still not in receipt of same. Nevertheless, here are my responses to your answers to my questions as follows: Question No. 1 – we will await your Permit Application for the Dickinson Drive property. That would bring your total to 77. Question No. 2 – Boxes installed on Thistlewood – If you recall I was the one that advised you that Comcast changed that box to an underground box. When I advised you of same, and when the owner of that

property spoke to you over the phone from my office, you advised that you were not aware that Comcast changed it to an underground box; but that you would check on it and get back to me. I never heard back. With respect to additional new boxes on Thistlewood, it appears that at least three that I have been made aware of are new boxes – 1624, 1636 and 1600 Thistlewood. Please be advised that the Township was informed that these new boxes were recently installed. We investigated same and it appears that in fact they are new above-ground boxes. Question No. 3 – Box installed on Temple – again the Township was advised that a new box was recently installed at 1186 Temple Drive. We investigated same and it appears in fact that a new above-ground box was installed. We have pictures in our files documenting the above locations. Please advise if the additional four above noted locations are, in fact, like the Dickinson Drive property, and Comcast left them out of their Permit submission or if the Township was incorrectly advised with respect to same and also our site investigations were also incorrect and in fact they are not new boxes.”

Mr. Truelove stated if they take the boxes she has identified, these five plus 77 would in fact equal 82; and Ms. Frick agreed. Mr. Truelove asked if she ever received Applications for 82 during the course of the Application process, and Ms. Frick stated she did not.

Ms. Frick stated she sent Mr. Jeter another e-mail on October 1 as follow: “...I assume you received my e-mail Friday morning and that you will be getting back to me regarding same. Please advise.” Shortly thereafter she received an e-mail from Mr. Jeter as follows: “Nancy, please see our response below, I am out of the office until 4:00 today. Let me know your thoughts.” And his responses were: “Can we add this location to an existing Application for that development or would you prefer that we submit a new Application for Dickinson Drive.” With regard to the Thistlewood property, he advised: “Last week we also investigated the Thistlewood locations as you mentioned above. It is our understanding the above-ground pedestals existed, previously permitted at the Thistlewood locations mentioned above prior to any recent Comcast construction activity. To our knowledge all of the Comcast pedestals in Thistlewood were sitting next to existing utility transformers and likely permitted before. Is it possible that we changed equipment inside the existing pedestal at those locations? And as you know we accommodated the customer at 1624, I believe, relocating the pedestal back to its original location next to the transformer which was previously permitted. The customer was comfortable with that resolution.” With regard to Temple Drive: “Last week we also reviewed the Temple Drive location. Like Thistlewood, it is our knowledge that we already had an existing pedestal – actually a power supply – previously permitted unit which included a smaller pedestal. We increased the size of the pedestal at that location to handle the equipment needed for better service.”

Mr. Truelove stated Mr. Jeter references “previously permitted” as if there were prior Permits issued for certain boxes in different locations, and Ms. Frick agreed.

Mr. Truelove asked if she or her staff had an opportunity to determine if there were Permits actually issued for those areas; and Ms. Frick stated it was determined that there were Permits previously permitted for the Sandy Run Development, but none that she recalls for that specific address. Mr. Truelove stated there was a Permit process before that was pursued, and Ms. Frick agreed.

Mr. Malinowski asked if those boxes were in the right-of-way, and Ms. Frick agreed they were. Mr. Malinowski stated it appears that Permits were issued for boxes within the right-of-way; and Ms. Frick stated they were in accordance with the Township Zoning Hearing Board and the Stipulation that was agreed to. She stated there was a prior Agreement from the Appeal in the 1990s. Mr. Truelove stated those would have predated this Ordinance that brings us here this evening, and Ms. Frick agreed.

Mr. Malinowski stated this is the Ordinance that allows them to still put them in the right-of-way; and Ms. Truelove stated “perhaps, under certain circumstances.” Ms. Frick stated they need to find out where they are first. Mr. Malinowski stated there were 76 Applications for Permits, and asked if any of them were issued, and Ms. Frick stated they were not. Mr. Malinowski asked if this was because the Permits were defective, and Ms. Frick stated in accordance with her letters, they were sent back to them because they were deficient in some cases, and because they were located within the right-of-way, and the Ordinance precludes that without a Variance. She stated it states, “no above-ground structures to be located in the right-of-way” in accordance with the Zoning Ordinance.

Mr. Garton stated he feels they may be wasting some time because he feels that Ms. Frick would testify if he asked her that even if Comcast had submitted a sufficient number of Permit Applications, correctly identifying the number of pedestals and identifying the addresses and location, the Township would still not have issued the Permits because of the restriction in the Zoning Ordinance. Mr. Truelove stated he feels this is a fair statement, and the reason they are going through this was because they felt for the Cease and Desist purpose, they were required to. He stated if this is part of a Stipulation, he would agree to it.

Mr. Toadvine stated there are two issues addressed in the Cease and Desist of 2/12 – one that no structure can be installed in the right-of-way, and the other is a Building Permit shall be required for erection. He stated he does not feel all the background information they are going through now is necessary; and if they could focus on the issue of when Permits were applied for, if they were applied for, how many, and which ones were not applied for this would get them to the same point. Ms. Frick stated she feels she has testified as to when the Permit Applications were submitted. Mr. Toadvine stated they are up to 2/12 in the Cease and Desist and asked if anything happened between October and February in terms of additional Applications being made. He asked if it is the summary of Ms. Frick’s testimony that only 76 Building Permit Applications were

submitted. Ms. Frick stated it was not 76 Applications. It was 76 locations, and there were far less Permit Applications. She stated they were more locations on the maps than they had on their list so she cannot give a full account of how many there were.

Mr. Toadvine stated he understands that they did apply for 76 locations at some point prior to 2/12; and Ms. Frick agreed. Mr. Toadvine stated this bundling of Permits was done on a Subdivision-wide basis; and Ms. Frick agreed this was done at her suggestion as it had worked well for both parties during their last Permit submission. She noted the 10/2 letter which verifies when she sent the Permit Applications back to them and the issues with them. Mr. Truelove stated this is Exhibit T-2 which is part of the record.

Mr. Malinowski stated he feels this is an administrative problem and not a Zoning Hearing Board problem. Mr. Truelove stated the difficulty is in order to enforce it, it appeared that they would have to go through this process as opposed to District Court. Mr. Toadvine stated the Township is required, pursuant to the Municipalities Planning Code, when a Cease and Desist is issued, to bear the legal burden of proceeding; and it is their obligation to show that whatever is contained in the Cease and Desist, is a fact. The two areas of the Zoning Ordinances were cited as being in violation so the Township has to place testimony on the record which would substantiate the issuance of the Cease and Desist as it applies to those two Sections of the Zoning Ordinance. Mr. Truelove stated because it is limited to the interpretation of the Zoning Ordinance, this is why the Zoning Hearing Board has the jurisdiction. He stated if it was some other part of the Code that the Township had the obligation to issue a Cease and Desist for, it might seek another venue; but since this is a Zoning matter, the Zoning Hearing Board would hear this Zoning issue even though it is in a Cease and Desist format. Mr. Malinowski stated while he understands this, it seems that there is another Ordinance that grants Comcast the right to construct these within the right-of-way; and since that is not a Zoning Ordinance, administratively, the issue may belong somewhere else. Mr. Truelove stated he has submitted a Memoranda of Law and he knows Mr. Garton has as well of his client's position.

Mr. Toadvine asked if they could stipulate to the fact that the pedestals were all going to be erected within the right-of-way; and Mr. Garton stated they can stipulate to this because if they are not in the right-of-way, the provisions of the Zoning Ordinance that are relevant would not apply, and Mr. Truelove agreed. Mr. Toadvine stated this leaves them with the issue of "a Building Permit shall be required prior to erection;" and all agreed. Mr. Garton stated he feels they could stipulate that even if Permits had been complete in accordance with the Township's administrative requirements, they would not have been issued because of the provision of the Zoning Ordinance. Mr. Toadvine stated while this may be true, he feels it is necessary for this Appeal that they establish whether or not the Permits were applied for, and Mr. Truelove stated this is what they are doing and they are up to the 10/2 letter. Mr. Toadvine stated they have established that there were 37 Permits that included 76 locations. Ms. Frick stated this is the testimony.

Ms. Frick stated the October letter states that “on Friday afternoon, Comcast submitted 37 Permit Applications for a total of 76 new above-ground boxes located in various developments throughout the Township. Mr. Truelove stated this is Exhibit T-2.

Mr. Truelove stated the problem is that they were applied for after many if not all were erected. Mr. Gruen stated he feels the testimony was that approximately 50 pedestals were erected before Permits, and Mr. Truelove stated he feels there were 50 to 52 erected before contact was made with the Zoning Officer and then there were another 24 to 26 that were erected at a subsequent time between the first discussions and where they were on 10/2/07.

Mr. Toadvine asked if there is any additional testimony from Ms. Frick for the time between 10/2 and the issuance of the Cease and Desist which would assist the Board in ruling. He asked if additional Permits were applied for. He stated they could also stipulate to the fact that no Permits were ever issued, and Mr. Garton stated they can stipulate with respect to what is before the Board, the Township never issued any Permits. Mr. Truelove stated he believes that the only subsequent communication after 10/2 would have been the actual violation letter of 11/5 which is Exhibit T-3 followed thereafter by Exhibit T-1 which is the 2/12/08 letter which was attached to the Appeal.

Mr. Toadvine asked if there were any further Applications made, and Ms. Frick stated there were not. She stated there was one submission which was sent back by Certified letter of October 2. Mr. Toadvine asked if it would be a fair summary that between 10/2 and the February Cease and Desist that the discussions which took place between the Township and Comcast involved accurately depicting the locations of the pedestals, identifying them, completing whatever information was not contained in the Applications; and Ms. Frick stated this is incorrect. She stated she did not have any communication with them after 10/2. She stated she sent them back to them Certified and she did not personally have any subsequent meetings with them. Ms. Frick stated the pedestals were still there and she was still receiving calls about them.

Mr. Garton stated Ms. Frick heard him summarize what he felt the Township’s position was; and in fact if Comcast would have completed and provided her with the necessary information for each of these Permits, the Township would still not have issued the Permits because of the Zoning Ordinance restriction; and Ms. Frick stated basically she feels this is correct, however, if any of these locations were ones that were permitted before with Permits that Comcast received some fifteen years ago, then that would be an exception. Mr. Garton stated any new locations would not have been approved, and Ms. Frick agreed.

Mr. Gruen stated it was testified that at one location in order to accommodate the homeowner, the pedestal was changed from an above-ground to an underground; and during previous testimony they heard that Comcast had no technology to put in any underground boxes, and he asked for an explanation. Mr. Garton stated that while he is not an engineer, he recalls testimony from previous Hearings was provided that if it is a drop which is a means of providing access to an individual home, they do remain in vaults, but amplifiers and other similar electronic material that generate heat are not in vaults – so it could have been simply a drop as opposed to an amplifier. Mr. Gruen stated it is possible that some of the pedestals could be changed to underground. Mr. Garton stated he cannot answer this question because he is not familiar with the specifics. Mr. Gruen stated this is why they would need Building Permits.

Mr. Truelove stated procedurally he feels it would be appropriate to enter a copy of Ms. Frick's file into evidence; and Mr. Toadvine stated they have marked the Exhibits and he does not feel it is necessary to enter the file. Mr. Truelove stated they will retain a copy; and if it appears, that it is necessary, they will submit it. He stated at this point they rest on the Cease and Desist issue.

Mr. Garton stated for the Cease and Desist component, he will call Mr. Jerry Scheliga, Account Director for Motorola, Inc. who was previously called and was interrupted. Mr. Garton stated there are elements of his testimony which give rise to issues associated with the Cease and Desist.

The Board recessed at this time. The meeting was reconvened at 8:25 p.m.

Mr. Jerry Scheliga was reminded that he was previously sworn in. Mr. Scheliga stated he is employed by Motorola, Inc. He stated he has a B.S. in Electrical Engineering from Temple University and has taken many courses subsequent to receiving his degree which were relevant to cable television. He has also been an instructor in these types of courses. Mr. Scheliga stated since his graduation from Temple, he worked for Infonetics as a design engineer. He then worked for Vishay Intertechnology, and they make high-reliability components used traditionally in military applications and for the space shuttle. In 1983 he started working for General Instrument/Jerrold which was ultimately purchased by Motorola. Currently he is a product specialist and he supports the sales crew with respect to outside cable plant issues such as amplifiers, fiber-optic technology, etc. He has been employed in the cable industry for twenty-five years.

Mr. Garton asked about the business relationship between Comcast and Motorola, and Mr. Scheliga stated Comcast is a relatively large customer of his Division of Motorola. Mr. Garton asked if Motorola provides cable television equipment to other entities besides Comcast, and Mr. Scheliga stated they do and most cable operators in the world use their products including Verizon. Mr. Garton asked if he is familiar with the Comcast cable system in Lower Makefield Township, and Mr. Scheliga stated he is as

Comcast came to Motorola with an interest in upgrading their offering to their customers, and asked Motorola since they used their amplifiers in their network, how they would need to change their cable system to be able to accommodate the additional channels they wanted to offer.

Mr. Garton asked how signals are transmitted to the homeowners through the Comcast system, and Mr. Scheliga stated all the signals are aggregated at one point, and generally in the cable domain, the term is a headend; and those signals, relative to this network, are delivered by fiber optic cable to a fiber optic node somewhere out in the field at which point the light signals are re-generated as electrical signals. Those electrical signals travel down a piece of co-axial cable and are amplified as needed to accommodate the number of customers that are being fed off of that particular location. Mr. Garton asked why part of the system is fiber optic and some not fiber optic, and Mr. Scheliga stated fiber optics have the ability to deliver signals cleaner. He stated cable systems used to be built where they would have long strings of amplifiers called cascades in a row. In the 1980's it would not be unusual to see twenty amplifiers in a row. Every cable operator has tried to cut those numbers down to improve picture quality that is delivered to customers to where those numbers are five or six. In order to do this, they had to be able to get their headend signals further out, delivered into their system, before they started hitting amplifiers, and fiber optics allowed them to be able to get further down the path with their signals to be able to accommodate amplifier cascades of five to six or less.

Mr. Garton asked if Mr. Scheliga is familiar with the various elements of what Comcast provides to its customers as far as cable TV, voice service, and Internet service; and Mr. Scheliga stated he is. Mr. Garton asked how you measure the capacity of co-axial cable or a fiber optic cable with respect to delivery of those variety of services. Mr. Scheliga stated this is usually done through bandwidth which is usually listed in frequencies. He stated in the case of the cable system usually the low end is approximately 50 megahertz and the top end can be 750, 860, or 1000. These are the most common today. Mr. Garton asked how they determine the capacity of a cable line, and Mr. Scheliga stated it is usually the number of services provided and different services require different amounts of bandwidth to functionally operate. Mr. Garton stated he assumes the cable has a certain limit as to the bandwidth it is capable of accommodating, and Mr. Scheliga agreed. Mr. Garton asked with respect to the Lowe Makefield cable system, how the usage is allocated within the cable system as far as bandwidth between cable TV, Internet, and voice service relative to percentages; and Mr. Scheliga stated usually video is 98% to 99% of what is carried over the total bandwidth.

Mr. Garton asked Mr. Scheliga if he is familiar with the current offerings of Comcast in Lower Makefield as to cable television component, and Mr. Scheliga stated he is. Mr. Garton marked Exhibit C-6, and Mr. Scheliga stated this is the channel line up provided for Levittown which includes Lower Makefield. Mr. Garton asked if he was

familiar with the cable line-up that was in existence in Lower Makefield in the mid-90's; and Mr. Scheliga stated he is. Mr. Garton asked how the cable line-up has changed from the mid-90's to Exhibit C-6; and Mr. Scheliga stated there has been a huge increase in the number of channels offered and the type of channels offered also went from a standard definition to high definition. He stated a channel that is currently a standard channel is approximately 25% of the size of a high definition channel. He stated you would need three channels at least to equal one of a standard def channel. Mr. Garton stated when you offer high definition television service, it utilizes more space in the bandwidth, and Mr. Scheliga agreed. Mr. Scheliga stated if there was a standard channel that was offered in the 1990's, the amount of bandwidth used is 6 megahertz worth of channels and if your cable system is 50 to 750 megahertz, you have 700 megahertz of signals available. He stated now they have digital compression and Comcast can run approximately ten channels in the same space so instead of 6 megahertz for one channel it is 6 megahertz for ten channels. He stated before high definition came out there was an opportunity to add more channels. He stated when high definition was introduced they could only do two or three channels of high definition in that same six megahertz worth of space. He stated this created a demand for more megahertz to be able to deliver an adequate number of channels to the households to be competitive with other services such as Direct TV, Verizon, and others.

Mr. Garton asked if he is aware that Comcast undertook an improvement project beginning in 2006, and Mr. Scheliga stated he is aware of this and they needed to do this because they did not have the capacity to add all the video channels needed to be competitive and they needed to get more bandwidth. Mr. Garton asked how you achieve more bandwidth, and Mr. Scheliga stated usually it is by replacing amplifiers. He stated the ones that were in place had restricted bandwidth and they needed to get more capacity. Mr. Garton asked how amplifiers increase bandwidth, and Mr. Scheliga stated the chip set inside is the limiting factor so when you replace the amplifier, you are really trying to replace the chip set that does the actual amplification as well as the supporting circuitry around it. Mr. Garton stated if they offer this additional component of television station and HD and you did not do an upgrade, what would be the impact on the ultimate consumer as far as quality of service, and Mr. Scheliga stated if they did not do the upgrade, they could not offer the channels.

Mr. Garton asked if the improvement project was necessary to provide Internet and voice service, and Mr. Scheliga stated it was not. He stated Internet/Voice Service are the same; and typically they are only one forward channel so they are 6 megahertz themselves so 6 of the 750 megahertz is not really significant.

Mr. Garton asked what improvements were made as part of the improvement project, and Mr. Scheliga stated the cascades were cut down to smaller groupings so more fiber optics were placed into the network, and the amplifiers themselves were changed to accommodate the additional channel band paths. Mr. Garton asked if there was a need to

add amplifiers, and Mr. Scheliga stated there was. Mr. Garton asked what these improvements were intended to accomplish, and Mr. Scheliga stated it was to add more channels. Mr. Garton asked if he is aware that there are certain elements currently in the Comcast cable system in Lower Makefield aside from lines that are installed in vaults at below grade; and Mr. Scheliga stated he is aware of this and these include active electronics, amplifiers, and also taps and passes. Mr. Garton asked if the vast majority of the facilities in vaults are drops or taps for customers, and Mr. Scheliga stated in a traditional cable plant there are a lot more taps than there are amplifiers.

Mr. Truelove stated he objects as it sounded like he was speculating.

Mr. Toadvine asked how this is related to the Cease and Desist. Mr. Garton stated he had to demonstrate that it was cable related and not Internet service and voice service because there was an issue raised by prior testimony that this was related to telephone and Internet service.

Mr. Truelove stated Mr. Scheliga was asked about his familiarity with the system and his answer seemed to indicate that he did not have personal knowledge, but was speculating about the system. Mr. Malinowski sustained the objection.

Mr. Garton asked Mr. Scheliga if he has a hard count on the number of underground and above ground, and Mr. Scheliga stated he does not and would use design maps to determine this.

Mr. Garton asked if he had an approximation of the allocation, and Mr. Scheliga stated traditionally there are 30 taps per cable mile and 6 amplifiers per cable mile.

Mr. Garton asked, as a representative of the manufacturer of the equipment, if Mr. Scheliga has an opinion as to where those electronics should be located to serve the Comcast cable system of Lower Makefield Township, and Mr. Scheliga stated he assumes he is discussing underground versus above ground, and Mr. Garton agreed. Mr. Scheliga stated they never recommend putting any electronics underground because of water ingress. He stated the devices are water resistant and not water proof.

Mr. Garton asked about the heat generation and whether this causes an issue if they are in a vault, and Mr. Scheliga stated all of the active electronics referred to as amplifiers or fiber optic nodes, their housings have fins on them and are designed for convection with free air flowing to allow them to dissipate any heat generated on the electronic chip sets inside. Mr. Garton asked what happens if there is no way for the heat to dissipate, and Mr. Scheliga stated they burn themselves up.

Mr. Garton stated the products that Comcast utilizes in its system are products that are available in the marketplace, and Mr. Scheliga agreed. Mr. Garton stated Comcast does not manufacturer their own equipment in order to provide cable television, and Mr. Scheliga stated they do not.

Mr. Garton offered Exhibit C-6, and Mr. Truelove had no objection.

Mr. Truelove stated Mr. Scheliga indicated he also does work for Verizon and mentioned their fiber optic system, and Mr. Scheliga agreed. Mr. Truelove stated he testified that in reducing the number of cascades, there were more fiber optics introduced into the Comcast system, and Mr. Scheliga agreed. Mr. Truelove asked if it is correct that Comcast does use fiber optics technology in its cable system, and Mr. Scheliga stated this is correct, and they have been using it since the early 1990's.

Mr. Truelove asked Mr. Scheliga if he is familiar with how many channels Comcast offers now as it appears it is 963, and Mr. Scheliga stated he would agree with respect to video streams. Mr. Truelove asked how many video streams Verizon has in a comparable area, and Mr. Scheliga stated currently their stream offering is similar to Comcast and he does not feel there is a substitutive difference.

Mr. Truelove asked Mr. Scheliga if he helps design cable products or just determines how they are used, and Mr. Scheliga stated he works on programs to develop products, but the specific circuit board design is done by someone else.

Mr. Truelove asked Mr. Scheliga if he is familiar with the design guidelines that were developed as part of the Levittown improvement project, and Mr. Scheliga stated he is. Mr. Truelove asked if he participated in the drafting of the guidelines, and Mr. Scheliga stated the guidelines are controlled by Comcast's corporate office; and he has worked with their corporate office in downtown Philadelphia to develop specifications in order to provide the level of service Comcast wanted to give. Mr. Truelove asked if he is familiar with Motorola products as part of this design specification process, and Mr. Scheliga stated he is. Mr. Truelove noted their competitor Scientific Atlanta, and Mr. Scheliga stated they are now Cisco as they were purchased and they are a competitor of Motorola in this industry. Mr. Truelove asked if he would agree that Cisco makes quality materials for the same applications, and Mr. Scheliga agreed.

Exhibit T-4 was marked which is the Levittown, Pennsylvania Design Guidelines Comcast Eastern Division. Mr. Scheliga stated he had seen a version of this when they started doing their work. Mr. Truelove stated the opening paragraph states:

“The scope of work described below is for a 750 megahertz re-design of the Levittown, PA system. The primary objective is to get to a minimum of 18/10 out of each tap port at 750/54 megahertz in order to offer video, high-speed data, and Comcast-digital voice,”

and asked if this correct; and Mr. Scheliga agreed. Mr. Truelove stated below that is a list of the design criteria, and Mr. Scheliga agreed and stated this describes all the different attributes you need to know about to properly design the system. Mr. Truelove stated the first bullet point states, “Re-design will follow existing design as close as possible,” and Mr. Scheliga agreed. Mr. Truelove stated he assumes that if the existing system is underground, the goal would be to follow it as close as possible, and Mr. Scheliga agreed. Mr. Truelove stated it further states: “All existing equipment locations and types should be re-used if possible,” and Mr. Scheliga agreed. Mr. Truelove stated it does state, “Avoid adding underground power supplies whenever possible,” and Mr. Scheliga agreed. Mr. Truelove stated the upgrades they are discussing about with the pedestals are not power supplies, and Mr. Scheliga stated every amplifier has a power supply in it. He stated he feels when they talk about underground power supply, he feels they are talking about the sources of power that feed all of the amplifiers throughout the system. Mr. Truelove stated this would be the electric source to feed all the different amplifiers in the area, and Mr. Scheliga agreed. Mr. Truelove stated they did see photos entered into evidence of boxes which he feels were identified as power supplies.

Mr. Truelove stated it also indicates “node, amp, and power supply naming will follow the existing naming scheme,” and Mr. Scheliga agreed. Mr. Truelove stated it also states, “Any new or moved amps will be Motorola MB87, BT87, or BLE87,” and Mr. Scheliga agreed. Mr. Truelove stated he assumes these different Motorola numbers are model numbers for amplifiers, and Mr. Scheliga agreed. Mr. Truelove asked if he is familiar with these models, and Mr. Scheliga agreed he is. Mr. Truelove stated an MB87 is an 870 megahertz amplifier, and Mr. Scheliga agreed. Mr. Truelove marked as exhibit T-5 a brochure for the MB87 amplifier which is referenced in the Levittown PA Design Guidelines. Mr. Truelove stated the first paragraph of the first page states, “The Motorola Star Line Series Amplifier Model MB87 leads the industry in features and performance and is designed to meet the needs of today’s expanding broadband communication network.” Mr. Truelove stated he assumes broadband communication would include what is being discussed for this matter such as upgrading, etc., and Mr. Scheliga agreed. Mr. Truelove stated there is a photograph of the amplifier, and Mr. Scheliga agreed. Mr. Truelove stated this appears to be an underground facility, and Mr. Scheliga stated it is not, and this device can be used in a pedestal or on aerial plant attached to strand. This is never recommended to be used below ground. Mr. Scheliga stated it is water resistant as it will sit out in the rain or snow. Mr. Truelove asked if it was ever attempted to use it underground, and Mr. Scheliga stated they know that people use them that way but it is not designed for that. Mr. Truelove asked if it would have to be designed with a different case to withstand the water infiltration, and Mr. Scheliga stated he is not sure how you would accomplish that to meet requirements of the FCC as you need to periodically open this device, make changes, and do tests. He stated you also need to insert probes into the electronics, and he is not sure that you would be able to do this easily or economically and be underground.

Mr. Truelove noted Exhibit T-4, the bullet point two from the bottom states: “When designing for new nodes use the Scientific Atlanta Gainmaker HGBT node,” and Mr. Truelove asked Mr. Scheliga what is a node. Mr. Scheliga stated this is the device that takes the fiber optic cable signals that come in over the fiber and convert them to RF energy that would go out over co-axial cable and go down the road to hit an amplifier. Mr. Truelove stated a node is used in combination with co-axial and fiber optic, and Mr. Scheliga agreed that it is a conversion device which takes light and makes it into RF energy. Mr. Truelove asked if it is used for amplification purposes, and Mr. Scheliga stated it has an amplifier function built into it because once the signal is converted, you need to bring it up appropriate levels to travel down the regular co-axial cable.

Mr. Truelove stated the Cisco Company makes this Gainmaker node, and Mr. Scheliga agreed. Mr. Truelove stated this is an underground device, and Mr. Scheliga stated it is not and stated it is designed for pedestal and strand mounting. Mr. Truelove asked if it is ever used below ground, and Mr. Scheliga stated he does not set the specifications for Cisco or Scientific Atlanta but he has never seen anyone specify that they would prefer that you use this underground.

Mr. Malinowski asked the relevance to the Cease and Desist, and Mr. Truelove stated he was getting into some areas Mr. Garton had asked about, and he is not sure that it is necessarily relevant except if they are discussing structures.

Mr. Truelove stated Mr. Scheliga mentioned designed maps and asked what these are. Mr. Scheliga stated it is the overall map that tells you as you go down the street what goes where, what type of cable gets used including type and size, where the amplifier goes, and some of them identify the different pedestals and how things are mounted, and where the power supplies are located. Mr. Truelove asked if he has seen design maps, and Mr. Scheliga stated he has and usually they are done as part of an electronic program similar to Visio and are created on a computer and printed out as a picture. Mr. Truelove asked if they have reference points as to streets and neighborhoods, and Mr. Scheliga stated they do. Mr. Truelove asked if they would be marked where the anticipated locations for amplifiers, etc. would be located, and Mr. Scheliga stated they would. Mr. Truelove asked if they are color coded such that different types of applications receive different types of colors, and Mr. Scheliga stated this would depend on the program used. Mr. Truelove asked if these are done by Comcast, and Mr. Scheliga stated they are sometimes done by Comcast, sub-contractors, and sometimes by Motorola depending on the scope of the project. Mr. Truelove asked if he saw the design map for the Levittown PA Improvement Project that is at issue, and Mr. Scheliga stated he did not, but he could read it if available.

Mr. Garton stated he assumes the map is generated as facilities are added to the system, and Mr. Scheliga stated generally one would be printed out to hand to someone who is actually doing the physical construction. Mr. Garton stated when the cable system is first installed, the initial installer would be the agency that would develop the As-Built Plan of a cable system, and Mr. Scheliga stated the As-Built would actually be done when the cable system is complete and someone would identify it out in the field as it actually worked out. Mr. Garton asked about the accuracy of the maps, and Mr. Scheliga stated As-Built are generally accurate. Mr. Garton asked about the accuracy of the maps Mr. Truelove referred to, and Mr. Scheliga stated they are generally 80% to 90% accurate as when you get to the certain places you may find out that the map indicated there was a telephone pole, but it is no longer there or was moved 100' up, etc.

Mr. Garton stated Comcast bought the system from Time Warner so that most of the data as far as what was in existence would have been from Time Warner, and Mr. Scheliga stated before the upgrade, this would be correct.

Mr. Garton rested with regard to the Cease and Desist.

Mr. Truelove stated he has a rebuttal witness who he became aware of during the recess. Ms. Andrea Harriman, 1453 Bartlett Court, Longshore Estates, Lower Makefield, was sworn in. She stated she is a Comcast customer and has lived in the neighborhood for ten years. Mr. Truelove stated she brought to his attention during the break some issues relating to a pedestal in her yard and some follow-up conversations and remedies, and he asked that she describe what she advised. Ms. Harriman stated there were three pedestals installed in her neighborhood, and they had a maintenance issue with them for the last several months which she was trying to get Comcast to address. She stated the pedestals had sunk into the ground and there were 8" to 10" divots next to the pedestals. She stated they have been calling Comcast for about seven weeks trying to get this resolved. She stated a technician came out on Monday and her husband discussed the current Hearing with him. She stated Monday afternoon she received a call from Mr. Brian Jeter requesting that she contact him, and on Tuesday all three pedestals in the neighborhood were removed and replaced with underground boxes. Photos of the area before they were replaced were shown. Mr. Truelove asked if there were concerns with respect to safety and the pedestals sinking, and Ms. Harriman stated she had general concerns and she was glad they were replaced before Halloween when children would be out in the evening.

Mr. Malinowski asked if there was anyone to speak in favor of upholding the Cease and Desist.

Mr. Zachary Rubin, 1661 Covington Road, was sworn in and stated he would like to reiterate the Township's position on reading the Franchise Agreement. He stated under 2.4 of the Franchise Agreement it states, "Nothing in this Franchise Agreement shall be construed as a Waiver of any Codes or Ordinances of general applicability

promulgated by the Franchising authority.” He stated Chapter 200 of the Zoning Code under 30 Utilities – D states, “No structure installed or associated with the use shall be permitted to be located above grade level.” He stated he feels this is clear, explicit, and enumerates what the Cable company cannot do; and according to the Zoning Ordinance it states they cannot put any of their equipment above grade, and he would like to support the Township’s position and Mr. Truelove’s position that this is what the Ordinance and Franchising authority states. Mr. Rubin stated he is on the Board of the Makefield Glen Homeowners’ Association, and a number of these pedestals were put above grade on private property on a private street, and he believes that they never got permission to do this; and although they may have a utility easement, this does not give them the right to violate the Zoning Ordinance. He feels the Zoning Hearing Board has the authority to uphold the Zoning Ordinances by Cease and Desist Orders.

There was no further public comment, and the Public Hearing portion of this Hearing with regard to the Cease and Desist was closed.

Mr. Toadvine stated Briefs were submitted by both the Appellant and the Township. Mr. Truelove stated he filed two and marked as Exhibit T-6 was the Memorandum of Law as it applies to the legal standards for issuance of Cease and Desist Orders; and Exhibit T-7 was marked which is the Memorandum of Law as it applies to the Comcast Cable Box Pedestal Box Analysis. Comcast’s Memorandum of Law was marked as Exhibit C-7.

The Board recessed to confer with Counsel. The Board reconvened at 9:15 p.m.

Mr. Bamburak moved, Mr. Gruen seconded and it was unanimously carried that the Appeal from the determination of the Zoning Officer dated 2/12/08 is sustained as it applies to the alleged violation of Section 200-68a, paragraph 30 sub-paragraph D. The Board finds that the Appellant has the right to install the above-ground pedestal boxes within the right-of-way in accordance with Ordinance #357 and the Cable Television Franchise Agreement dated 2/1/06, incorporated by said Ordinance. Furthermore, the Appeal from the violation of Section 200-89E relating to the requirement of a Building Permit is denied. The Board finds that Permits are required prior to erection, construction, re-construction, alteration, raising, or enlargement of any above-ground pedestal boxes.

Mr. Toadvine stated the Decision of the Board renders the issue of the Variance Application moot; and Mr. Garton and Mr. Truelove agreed. He stated any Parties not satisfied have the right to Appeal within thirty days.

One gentleman asked when he will have the opportunity to question the witnesses, and Mr. Toadvine stated the testimony has been concluded. He stated the issue of the Cease and Desist was between the Township and the Applicant and was a very formal, legal principle; and if they had gotten into the issuance of the Variances, questions could have been asked. The gentleman stated the witness was testifying about technical matters, and Mr. Toadvine stated the Board did not rely on that and that information was superfluous as far as the Board was concerned. He stated it was the issue of the Cease and Desist that the Board was concerned with. The gentleman asked if there will be another meeting where questions can be asked of this witness, and Mr. Toadvine stated this matter has been concluded tonight although either Party can take an Appeal.

Mr. Truelove stated it is his understanding that the Motion that was passed was a matter of law and interpretation of the Agreements, and Mr. Toadvine agreed.

Mr. Bamburak moved, Mr. Gruen seconded and it was unanimously carried to adjourn the meeting at 9:20 p.m.

Respectfully Submitted,

David Malinowski, Chairman