

TOWNSHIP OF LOWER MAKEFIELD
ZONING HEARING BOARD
MINUTES – JANUARY 13, 2010

A special meeting of the Zoning Hearing Board of the Township of Lower Makefield was held in the Municipal Building on January 13, 2010. Chairman Malinowski called the meeting order at 7:10 p.m.

Those present:

Zoning Hearing Board: David Malinowski, Chairman
 Paul Bamburak, Vice Chairman
 Gregory J. Smith, Secretary
 Jerry Gruen, Member
 Anthony Zamparelli, Member

Others: Robert Habgood, Code Enforcement Officer
 John Donaghy, Township Solicitor
 James Majewski, Township Engineer
 Allen Toadvine, Zoning Hearing Board Solicitor
 Matt Maloney, Supervisor Liaison (joined meeting in
 progress)

APPEAL #09-1520 – LIBERTY TOWERS, LLC

Mr. Richard Lemanowicz, attorney, was present on behalf of the Applicant. Mr. Toadvine stated the matter was last heard November 2. Mr. Lemanowicz stated there was an issue regarding the photo simulation and photographs of the balloon taken during the balloon test, and there was a request that they produce the individual who took the photographs and conducted the balloon test for the photo simulations which were marked as Exhibit A-10, and that individual, Eric Ritter, is present this evening.

Mr. Eric Ritter was sworn in and stated he is employed by CMX. He stated he is a project manager for CMX, handles T-Mobile, and he does photo sims, balloon tests, site walks, and building inspections. He is familiar with wireless communication facilities and taking photographs of balloons to assess the location of a proposed communications tower. He did this for the Application that Liberty Towers is presenting.

Mr. Lemanowicz showed Exhibit A-10 which consists of five sheets. Mr. Ritter stated this is the photo simulation that was done of the balloon test on 10/1. He stated he flew the balloon at approximately 10:30 a.m. and drove around and took photos of the balloon. He stated he prepared Exhibit A-10 and personally went to the site at 499 Stony Hill

Road which is the subject of this Application. He stated he flew the balloon to an elevation of 150' and was present during the entire duration that the balloon was flown. He stated he took the photographs of the balloon.

Mr. Lemanowicz showed a series of photographs which were marked as Exhibit A-16 which are the 47 photographs which Mr. Ritter took.

Mr. Nathan Edelstein stated it was previously reported that these photographs would be presented to them ten days before the meeting, and this did not take place. Mr. Lemanowicz provided a copy to him this evening.

Mr. Ritter stated he took the 47 photographs with a Nikon D60 SLR Digital camera. Mr. Lemanowicz asked if there are versions of these photographs also shown in Exhibit A-10, and Mr. Ritter there are.

Mr. Lemanowicz asked what he did with the photographs marked in Exhibit A-16 after he took them, and Mr. Ritter stated he used Photoshop to copy the image over and used the photo sim library to put a monopole into the image at the site of the balloon. He stated the photos were not altered in any way from their original state other than adding a monopole to the four photographs depicted in Exhibit A-10. Mr. Lemanowicz asked if the photographs in Exhibit A-10 are an accurate representation of what a monopole would look like on the subject property from the locations from which he took the photographs, and Mr. Ritter agreed.

Mr. Lemanowicz asked Mr. Ritter if he is confident that the photographs he took of the balloon in the air are an accurate representation of what the balloon looked like during the test, and Mr. Ritter agreed.

Mr. Gruen asked about the lens on the camera, and Mr. Ritter stated it was an 18-55 millimeter lens. Mr. Gruen asked if it was a zoom lens, and Mr. Ritter agreed. Mr. Gruen asked if he used the same focal length at all times, and Mr. Ritter stated he did. Mr. Gruen stated it seems like some of the shots from the same location are wider than others. Mr. Ritter stated he may have zoomed in a little on some so that you could see the balloon since there were times when you could barely see it. Mr. Ritter stated for the photo simulations, they used the best shot of the balloon of what you could see from a normal view.

Mr. Edelstein asked if these are being offered as evidence. Mr. Lemanowicz stated he is offering Exhibit A-10 and A-16 for the purpose of identification and for purposes of evidence in the case. Mr. Edelstein stated he has an objection since they have not seen these prior to this evening. He stated when Exhibit A-10 was at issue at the last Hearing, it was represented by Mr. Lemanowicz and the Chairman confirmed that the only purpose of the photographs was to the fact that the balloon test was done and not to represent

what the tower would look like from any of the residences. He noted this is shown in the Minutes of that meeting on Page 21. Mr. Edelstein stated Mr. Gruen indicated that depending on the lens, they can make this look however they want to. Mr. Edelstein stated if they are being offered to show that they did a balloon test it is unnecessary since they stipulated that they did a balloon test; but if they are being offered to show what it will look like from the areas taken, he would object to this. He stated they were told at the last Hearing that they were not being offered for that purpose.

Mr. Lemanowicz agreed that Exhibits A-10 and A-16 were offered to show that the balloon test was conducted and that the balloon was flown to the height testified to.

Mr. Bassem Iskander, the radio frequency engineer was sworn in. Mr. Iskander stated he is an independent contractor for T-Mobile Northeast. He stated he is currently their lead design engineer for the Philadelphia, South New Jersey, and Central Pennsylvania markets. He stated he monitors the network's performance, troubleshoots, and helps maintain the network from a radio frequency perspective. He stated he monitors T-Mobile's coverage or lack thereof and provides solutions in fixing the communications network.

Mr. Iskander stated he has been accepted as an expert witness by the Lower Makefield Township Zoning Hearing Board at previous Hearings. He reviewed his educational background and stated he has over ten years experience in the wireless industry. He stated he has testified in 200 to 250 Zoning proceedings on the topic of radio frequency engineering and the design and operation of wireless communication networks.

There was no objection to Mr. Iskander being accepted as an expert on the topic of radio frequency engineering and the design and operation of wireless communication networks.

Mr. Iskander stated T-Mobile is licensed by the Federal Communications Commission to provide wireless communication service, and this License covers Lower Makefield Township. He stated T-Mobile currently operates on two separate bands – the AWS Band which they use for the 3G services, and they operate the 2G/GSM services on the PCS block.

Mr. Lemanowicz asked Mr. Iskander the basic components of the communication services network; and Mr. Iskander stated the basic components of any two-way wireless network are sites and the fiber optic networks that connect the sites together, a switch which connects all the fiber optics and the sites together, and the end users which have the hand-held devices or phones. Mr. Iskander stated each site consists of four major components – antennas usually at the top of a structure such as a tower or water tank, the tower or support structure itself, BTS or radio equipment at the bottom of the structure, and cables that link the antennas to the radio equipment. Mr. Lemanowicz asked if the

site is connected to the National land-based telephone network, and Mr. Iskander stated all of the sites are connected through lines to the main switch which in the Philadelphia area is in Norristown and that switch is connected to the land-line network as well as every other wireless carriers' network. This network allows people to make and receive mobile telephone calls and various other services including sending and receiving e-mails, connections to the Internet, etc.

Mr. Lemanowicz asked if they need a certain level of radio frequency propagation to be able to provide reliable wireless service to the users, and Mr. Iskander stated they do. Mr. Lemanowicz asked if they have reliable service in the subject area of Lower Makefield Township on Stony Hill Road, and Mr. Iskander stated they do not.

Mr. Edelstein objected stating there is no definition as to what “reliable” means. Mr. Malinowski allowed the question.

Mr. Lemanowicz asked Mr. Iskander how he determined that they did not have reliable service, and Mr. Iskander stated part of his job is to monitor where T-Mobile does and does not have reliable wireless coverage. He stated they have a sophisticated software program which is a propagation tool which gives a picture of what the network conditions are and where they do and do not have reliable coverage. The tool takes into account layers of different data which models the network for them. He stated the tool output is verified and tested using mathematical models and drive test data. He stated they have teams of technicians that drive in the network collecting and measuring the network signal strength in corresponding locations to signal strength measurements. He stated they are basically recording what their signal strengths are throughout the network; and using that data which is a live image of what the network looks like, they can fine tune the software program to make it look just like the live image. This software propagation tool is one which is relied upon within the wireless communication industry and is used to design, build, and troubleshoot the network. Mr. Iskander stated the data includes everything that would effect their signal including the terrain and different types of clutter which is anything that would obstruct a signal such as a house, commercial building, and even foliage on trees. He stated it also takes into account the existing network configuration including all the site locations, the height of existing sites, types of antennas, power levels, and all of this helps to determine where the signals are. He stated all the data is “crunched” together to give a picture of the network.

Mr. Lemanowicz asked Mr. Iskander if he feels this propagation software creates an accurate depiction of T-Mobile’s existing communication network, and Mr. Iskander stated he does. Mr. Lemanowicz noted Exhibits A-11 and A-12 which were prepared by Mr. Iskander. Mr. Iskander stated he prepared Exhibit A-11 using the propagation software. He noted a map on the easel this evening which is a larger version of Exhibit A-11 which depicts T-Mobile’s existing coverage in Lower Makefield in the area which they are trying to cover with the proposed site. He stated it is a part of Lower Makefield

Township which is within a two mile radius of the proposed site. Mr. Iskander showed some of the existing features on the map including I-95, the railroad tracks, and Stony Hill Road. He stated the red dot in the center of Exhibit A-11 labeled 1BU8173A is the location of the proposed site, and the blue dot surrounding the site are T-Mobile's existing sites in the network that are active, integrated, and taking calls.

Mr. Iskander noted the colors on the map. He stated the green shade represents T-Mobile's reliable in-building coverage, and the yellow that extends beyond the green is T-Mobile's in-vehicle coverage. He stated these are the results of the existing network in the area. He stated 1BU1409A, the site to the northwest of the proposed site is approximately 1.7 miles away and is the American Tower monopole off of I-95, 6 Stony Hill Road, Morrisville, PA. He stated T-Mobile is co-located on that monopole along with several other carriers. He stated their antennas are at 102'. He stated the site 1BU5281B is the tower behind the Lower Makefield Township Municipal Building where they are co-located at 170'. This site is 1.35 miles away from the proposed site. He stated there is a site not shown on the map although the coverage is shown and is located at 135 Oxford Valley Road in Lower Makefield where T-Mobile is co-located at 100'. Mr. Iskander stated T-Mobile has one additional site in Lower Makefield approximately 2.7 miles northwest of the proposed site on Woodside and Taylorsville Road. He stated this is a lattice tower where they are at 190'.

Mr. Lemanowicz asked about the white area on Exhibit A-11, and Mr. Iskander stated anything shown in white on the map depicts unreliable coverage although you may occasionally be able to make a call particularly in the winter when there is no foliage on the trees. He stated in the yellow area you would probably be able to make a call driving down the road, but if you were in a building, you would probably not get reliable service. Mr. Iskander stated in the green area you would be able to make calls reliably. He stated the gap on the map is approximately 2.1 square miles of in-building coverage which is the area basically surrounding the site that is not in green. He stated they have approximately 1 1/8 square miles of in-vehicle gap which is just the white area not including green or yellow.

Mr. Lemanowicz asked Mr. Iskander if it is generally T-Mobile's preference to utilize an existing structure to fill their gaps in coverage, and Mr. Iskander agreed; and added if there were an existing structure available that T-Mobile could utilize for their antennas to fill the gap in coverage, they would do so. He stated T-Mobile is not in the business of building or owning towers. He stated they are in the business of providing wireless service. Mr. Lemanowicz asked Mr. Iskander if they would consider it a last resort for T-Mobile to consider building a new tower, and Mr. Iskander stated it is always a last resort to put in a new tower. He stated their first preference is to co-locate on an existing tower, next they would try to go on existing tall structures such as roof tops, water tanks, etc. – anything that would get the antennas high enough so that they would serve their purpose and fill the gap in coverage. He stated if nothing can be found they try to look

for a good solution for the area proposing a tower that can fill the gap in coverage and try to work with the Township so they can resolve the gap and do so in a way that is best for the Township.

Mr. Malinowski stated T-Mobile has an Application pending that would locate a tower approximately in the area of the Middle Schools, and are in negotiations with the Pennsbury School District. He asked how this would impact the coverage if that tower were to go up. Mr. Iskander stated they will need both locations because the one noted by Mr. Malinowski is approximately 2.1 miles east of the proposed site. He stated they also have an Application with Middletown to fill the gap to the west of the site; and hopefully with those three, they will not need anything more in this area.

Mr. Smith asked how he would characterize the white area on the map in terms of coverage, and Mr. Iskander stated it would be unreliable coverage. He stated it would depend on where you are standing; and if you are outdoors you might have somewhat fair coverage. Mr. Smith stated he went on T-Mobile's Website and pulled up their coverage map and on the Website, it shows good coverage through most of Lower Makefield Township with only a very few spots they characterize as fair coverage which seems inconsistent with Mr. Iskander's testimony and he questions whether they were lying on the Website or was Mr. Iskander lying today.

Mr. Lemanowicz stated he objects since he has not seen what Mr. Smith is looking at. He stated he objects to the reference to the Website. Mr. Smith stated since it is something that has been published, he feels the Board can take judicial notice of it. Mr. Lemanowicz stated he will not take judicial notice of it.

Mr. Iskander stated the Website is consistent with the map he is showing. Mr. Smith stated the Website shows good coverage in the area that is white on the map which Mr. Iskander indicated was not even "fair." Mr. Iskander stated the same tool that gives the images on the Website is the tool that they used for the map. He stated the only difference is the Website does not characterize the coverage as "in-building" or "in-vehicle;" and they have a big legal disclaimer at the bottom of everything that indicates that when it says, "good coverage," it does not really mean that you will be able to make calls in buildings or in vehicles; but from an engineering perspective it is the same software program that he created the maps with that created the Website. He stated what would be considered "best coverage" on the Website would be the edge of the yellow on the map, and they should correspondent exactly because it is the same tool.

Mr. Smith stated he feels that this means T-Mobile is being untruthful in their marketing. Mr. Iskander stated every carrier has the same Website, and every carrier shows the same coverage.

Mr. Lemanowicz asked Mr. Iskander if he is aware of any existing tower or tall structure that T-Mobile could use to close the gap in coverage, and Mr. Iskander stated he is not. Mr. Malinowski stated there is another system that could be used to close the gap in coverage as they could use a distributed antenna system (DAS) and have no need for the monopole. Mr. Iskander stated they could use a DAS system, but it will not fit this area because the topographics of the area as well as the tree height are above the capacity of DAS to fix. He stated they use DAS systems for in-building solutions such as campuses and stadiums. He stated DAS systems can be used in some residential areas that have no clutter or very low clutter; but surrounding this site, the trees are higher than anything DAS can cover. He stated they need to get the signal above the trees which is why they need a monopole. He stated DAS systems are typically done on electric or telephone pole heights which are normally 30' to 40' and this is why it will not be effective in this situation. Mr. Gruen stated it would not be effective for long distances, but it would be effective in the immediate area, because the tower they are proposing is also being blocked down below by the trees. Mr. Iskander stated the DAS system would be blocked by trees almost immediately and probably cover only 20' to 30' around the road. He stated it would cover the roads because the roads would act as a wave guide which would tunnel the system along the road; but as soon as the signals try to get out of the roadways and into the houses, they will hit the trees and stop. He stated they would probably need at least fifty or sixty, but he is not sure they could do it at all in this area. Mr. Smith asked if they could do it if they had 100; and Mr. Iskander stated he does not know if they could with 100.

Mr. Lemanowicz noted Exhibit A-12 with an enlarged version on the easel. He noted Exhibit A-12 depicts the same geographic area as Exhibit A-11. Mr. Iskander stated on Exhibit A-12 they have added onto Exhibit A-11 what the site would produce in terms of coverage. He stated this was prepared using the same tool that was used to prepare the existing coverage map and shows what the coverage would look like if they were to place the tower at the proposed site. The antenna was shown operating at 145', and this is the lowest height they could use to fill the gap in coverage. He stated if they go lower, the coverage will start to shrink. He stated even at the proposed height, while there is seamless in-vehicle coverage throughout the area, there is not seamless in-building coverage. He stated there are other solutions intended for the areas that are white to the east and to the west of the site, one of which is the proposed location at the Schools to the east; and they also have a PECO line to the west in Middletown they are working on so that with all three, the area should have reliable coverage. Mr. Gruen stated they are showing some yellow and asked if they will come back again to put in additional antennas; and Mr. Iskander stated he does not feel they will be coming back for this.

Mr. Gruen stated he indicated that if they were to put the nodes on the telephone poles, the waves would not go sideways or forward and the only way he could get the radio waves is coming down; and Mr. Iskander stated they actually go horizontally. Mr. Gruen asked why it is not then blocked from the antenna that is above the trees, and Mr. Iskander stated for DAS systems, they do not use the same type of cabinets because

they cannot get ground space on DAS systems. He stated if you are using a DAS system with a 100 sites, you would need 100 leases which would be very difficult with all the landlords in the area. Mr. Smith stated it would not be difficult if they used the existing rights-of-way with utility poles, etc. Mr. Iskander stated most DAS systems that he is aware of use nodes cabinets, and their transmitting power is much less. Mr. Gruen stated it is a different radio wave signal and is much safer. Mr. Iskander stated he feels it would be 325% of what a macro cell would give. Mr. Gruen stated the regular x-ray signal sent from the antenna is 10 million times higher than the radio waves sent from the nodes according to an article he has. He stated it is a different RF signal. Mr. Iskander stated he is not sure Mr. Gruen is comparing a micro cell DAS system with a full-blown site as shown. Mr. Gruen stated the article he has indicates that from a regular antenna you get x-ray signals. Mr. Bamburak stated he feels this is incorrect, and suggested Mr. Gruen review the article again.

Mr. Iskander stated they get RF signals in the bands they are licensed to operate on. He stated x-rays are much higher than this. He stated when they operate a DAS system, it operates on the same frequency but with much less power because they cannot get the big cabinet on every node; and the sites are not high enough anyway. He stated DAS systems do work in areas that are open and encompassed. Mr. Zamparelli stated he is indicating that if the DAS system were installed, it would result in good signals on the streets throughout the area; but if there were high trees, it would not penetrate above the trees since the DAS is more of a horizontal signal so they would have to put more antennas up along the streets all over the neighborhoods to get the same kind of coverage, and Mr. Iskander agreed. Mr. Zamparelli asked if this would be as cost effective a solution or is a tower always the least expensive option, and Mr. Iskander stated he does not feel it has anything to do with the price. He stated he feels T-Mobile looks at what is the best option, and he feels it would be better for the community to see one tower as opposed to more than fifty. Mr. Iskander stated from a technical perspective, it would not be as effective.

Mr. Lemanowicz asked if the use of the proposed tower at the proposed elevation results in reliable wireless communication service, and Mr. Iskander stated he feels it would as shown on Exhibit A-12 as it will cover approximately 2/3 of a mile of in-building coverage, and surrounding the site it will cover approximately 1 ¼ miles of in-vehicle coverage, and he does not feel they will have to come back to this area for another site. Mr. Lemanowicz asked if a DAS system is a viable solution to fill the coverage gap in this area, and Mr. Iskander stated it is not.

Mr. Lemanowicz asked Mr. Iskander if he is familiar with the FCC guidelines for human exposure to electro-magnetic fields, and Mr. Iskander stated he is. Exhibit A-5 was noted, and Mr. Iskander stated he is familiar with this and has read this report and feels this site, when operating, will comply with these standards established by the FCC.

Mr. Edelstein stated Mr. Iskander is a radio frequency engineer, and he wants to understand the nature of this question and asked if he is being asked about the human impact, he would ask his credentials.

Mr. Lemanowicz stated he is asking him whether it complies with a set of codified standards established by the Federal Communications Commission with which the site is required to operate within.

Mr. Edelstein stated if this goes to radio frequency testimony, he has no objection; but if it goes to health impact, he does object.

Mr. Toadvine stated he is not testifying as to health impact and is testifying as to whether the proposal is within the guidelines issued by the FCC with regard to radio frequency.

Mr. Iskander stated the site will comply by a very large margin with the FCC guidelines. He stated the numbers they are showing are based off of what equipment T-Mobile uses at maximum power levels which no carriers use. He stated Dr. Foster takes the maximum power levels with safety factors and everything into account, and he comes up with what the power levels coming out which are the maximum power levels that the site can propagate and compares them with the FCC regulations. Mr. Iskander stated in this case it is .1% of the guidelines at ground level which is 1/1000 times below the FCC levels. He stated even if they had 1000 sites at this height at the maximum power levels, which he added they do not ever reach, they will be at the FCC levels.

Mr. Bamburak stated if they would take the existing sites and increase the power ten times, they are still at only 1% of the guidelines. He asked why they could not just increase the other towers ten times since they would still only be at 1% of the guidelines.

Mr. Iskander stated they are on a balanced network and not a broadcast network. He stated this is a two-way network, and the phones need to be able to talk back to the network and the power in the phones cannot be increased. He stated the power that is transmitted from the antennas to the phones has to equal the power that the phones transmit back to the tower. He stated they also put boosters on the receiving end at the tower to amplify the signal coming to them from the phone so that they can detect as small a signal as possible to increase their footprint. He stated they are bound by the transmission power of the phone. He stated many years ago there were larger phones with bigger external antennas and bigger batteries, and they were able to cover more but this is no longer the case.

Mr. Toadvine stated it is his understanding that the issue of the health hazards/safety with regard to the towers has been preempted by Federal law, and Mr. Lemanowicz agreed.

Mr. Toadvine stated this is therefore not an issue before the Zoning Hearing Board, and Mr. Lemanowicz agreed.

Mr. Edelstein noted Exhibit A-11 which he reads in the legend as green being reliable in-building coverage and yellow is reliable in-vehicle coverage. He stated he understands that if someone was standing outside they would have reliable coverage, and Mr. Iskander stated he is not showing outdoor coverage on the Exhibit. Mr. Edelstein stated he feels this means that there is reliable outside coverage, and Mr. Iskander stated he would not state that this is true throughout the map. Mr. Edelstein stated there is no legend that corresponds with outdoor coverage, and Mr. Iskander agreed. Mr. Edelstein asked if someone were standing on Twig Lane would they have reliable T-Mobile coverage, and Mr. Iskander stated they do not design their network for outdoor coverage and neither does any other carrier in the market.

Mr. Edelstein stated Exhibits A-11 and A-12 pertain only to T-Mobile coverage, and Mr. Iskander agreed. Mr. Edelstein stated there are four other carriers in the Township, and these maps do not indicate anything about those carriers' coverage, and Mr. Iskander agreed and added he does not know what their coverage is.

Mr. Edelstein stated Mr. Iskander indicated his software predicts that based on the T-Mobile signal strength, the area shown in white does not have reliable in-vehicle coverage; and Mr. Iskander agreed. Mr. Edelstein asked if he made 100 calls from a vehicle in the white area and every one connected would Mr. Iskander consider that to be reliable coverage; and Mr. Iskander stated he would if he made them at different times of the year and different times of the day, but if he made them in one season, he would probably not. Mr. Iskander stated if there is no tree coverage in the area so that there is no difference in season, and 100 calls were made over a course of a month, he would consider this reliable. He added they do not only look at one time of day or monitor 100 calls, and they monitor tens of thousands of calls. Mr. Edelstein stated they monitor signal strength, and Mr. Iskander agreed. Mr. Edelstein stated he has made no calls to test his theory, and Mr. Toadvine stated Mr. Iskander testified earlier that they have people out in the field making calls. Mr. Edelstein stated he feels what he said is they have people testing signal strength. Mr. Iskander stated their technicians in the field do a number of different things. He stated they have receivers that are connected to antennas that just receive signal strength. He stated they have phones on all of the different systems on different frequencies and different bands within the frequency band that are making long calls to test hand-over between sites, and phones that are making short calls making a call for one minute, hang up, and make another call, etc. He stated all of this data is collected. He stated they also monitor quality as well. He stated this is this is done on two different bands. Mr. Edelstein stated this is all done for T-Mobile only and not any of the other carriers, and Mr. Iskander stated they only monitor their signal.

Mr. Edelstein stated the Overlay Districts in Lower Makefield permit cell towers, and Mr. Iskander stated he is aware of this, and they do have towers in the Overlay Zones in the Township as well as at the Township Building which is not technically an Overlay Zone. Mr. Edelstein asked Mr. Iskander if he is aware of how close the nearest Overlay District is to the white area, and Mr. Iskander stated he does not know.

Mr. Edelstein asked if the type of structures make a difference in terms of reliability and asked if a concrete and steel structure would be different than a home, and Mr. Iskander agreed. He agreed that signal strength going into concrete and steel structures would be different than going into homes.

Mr. Edelstein asked Mr. Iskander when he discussed “reliability” had he quantified how often any call will not be received or connected on an outgoing basis; and he asked how often that will happen; and Mr. Iskander stated he does not know. Mr. Edelstein asked Mr. Iskander if he knows when a delay will occur in receiving a call or being able to make a call in this area; and Mr. Iskander stated it is not usually a delay, it is usually lack of signal. Mr. Edelstein asked if he knows when this lack of signal will occur in this area, and Mr. Iskander stated it is not time stamped. He stated in the summer their network coverage shrinks because of the leaves on the trees. He stated there are different indicators monitoring minutes of use, minutes of use per dropped call, monitoring drops, blocks, hand-over failures and every different type of performance indicator that indicates how the sites are performing. He stated all the drops and blocks go up in the summer simply because of the leaves; and in the winter, the network performs much better because there are no leaves. He stated the coverage is expanding and shrinking. He stated the Exhibit shown is a static picture of a dynamic network. He stated while the edge of the green or the edge of the yellow on the Exhibit is a boundary, in real life it is shifting somewhat up and down.

Mr. Edelstein stated Mr. Iskander has predicted that signal strengths will result in unreliability, but he has not quantified how frequently that will happen; and Mr. Iskander stated the boundary corresponds to a signal level that when you go beyond it, the signal drops below a certain threshold that is deemed by industry standards unreliable for use either in-building or in-vehicle. He stated the frequency is up to the user as to how many times a user wants to make a phone call in a certain “dead spot.” Mr. Edelstein stated this is an industry standard, and there is no legal or regulatory standard; and Mr. Iskander stated he does not know about legal standards.

Mr. Edelstein presented Exhibit E-2 which is a T-Mobile Personal Coverage Voice document dated 1/12/10, and Mr. Edelstein stated this shows all of Lower Makefield.

Mr. Edelstein presented Exhibit E-3 which is the T-Mobile Personal Coverage Website focusing on the same area as Exhibit A-11.

Mr. Lemanowicz was asked if he had an objection, and he stated he would Object based on the fact that there are components of the Website that explain what this depicts. He stated there is a legal disclaimer on the Website.

Mr. Malinowski stated the Objection is noted and added that they have a copy of the disclaimer as well.

Mr. Edelstein stated Exhibit E-2 represents the published information from the T-Mobile Website on the coverage, and he asked if Mr. Iskander agrees that the area shown is Lower Makefield, and Mr. Iskander agreed. Mr. Toadvine asked Mr. Lemanowicz if they could stipulate that Exhibit E-2 and Exhibit E-3 show the coverage as depicted on the T-Mobile Website for advertising purposes, and Mr. Lemanowicz stated they could stipulate to that with the caveat that he has noted. Mr. Edelstein stated E-2 is all of Lower Makefield and E-3 corresponds to the area shown in Exhibit A-11 and A-12, and Mr. Iskander agreed. Mr. Edelstein asked Mr. Iskander if he is aware that T-Mobile publishes on its Website coverage maps, and Mr. Iskander stated he is.

Mr. Malinowski stated they have gone through this already when Mr. Smith referred to this, and Mr. Edelstein stated he just wanted to make sure that the documents are in the record.

Mr. Iskander stated these come from the same tool as he noted earlier. Mr. Edelstein asked Mr. Iskander if he has an understanding of the meaning of the information that T-Mobile publishes on its Website relating to its coverage in Lower Makefield Township. Mr. Toadvine stated he testified earlier that the reason the Website is different than his maps is because they do not differentiate between in-vehicle and in-building. Mr. Edelstein stated he feels it is appropriate to ask questions about this. Mr. Iskander stated the Website does not go into detail whether the darkest green is reliable in-vehicle or reliable in-building; and his depiction goes one step further giving the technical information. Mr. Iskander stated the Website has to be very smooth to be on the Internet for people to access. He stated the map he is showing is prepared on a 25 meter print size and is very high resolution data and each one of the squares is 25 meters by 25 meters; and the map on the Website, because they have the whole United States on it and they want it fast for the Internet, they are much larger and they have smoothed it out. He stated the map on the Website is for simplicity and speed. Mr. Gruen stated this is why they have a disclaimer at the bottom of the map on the Website.

Mr. Edelstein asked Mr. Iskander if it is his understanding that the nomenclature “good and fair” is not intended by T-Mobile to represent that it is reliable service. Mr. Iskander stated he is not sure what the disclaimer says, but if you read it he feels it will indicate that “good” means that you may be able to make calls in vehicles and in buildings; and they do not have the notion of reliability in there.

Mr. Toadvine stated cross-examination is about the testimony the Witness presented. He stated the Board has allowed Mr. Edelstein to introduce an Exhibit not produced by this Witness that he is now questioning him about, and this is outside the scope of cross examination. He advised Mr. Edelstein that he must stay with Mr. Iskander’s testimony and cannot introduce evidence and then question him on it on cross examination.

Mr. Edelstein stated the Witness has testified about reliability, and he believes that his questions, if he is allowed to ask them, go to the issue of reliability and test what he means by that. Mr. Toadvine stated this would be acceptable cross examination.

Mr. Edelstein stated he has not been allowed to ask the questions yet, and he simply wants to ask a few questions to test Mr. Iskander’s understanding of reliability; and he feels this is proper cross examination and feels he can show in the Exhibits to focus his questions about reliability. Mr. Toadvine advised Mr. Edelstein that he cannot ask him how the Exhibits were prepared. Mr. Edelstein stated he did not do this, and Mr. Toadvine stated he did since he asked him about what is their version of “good,” “fair,” and “best” on an Exhibit that he did not prepare and never testified to.

Mr. Edelstein stated Mr. Iskander is present as a representative of T-Mobile.

Mr. Toadvine advised Mr. Edelstein that he must focus on Mr. Iskander’s testimony.

Mr. Edelstein stated while he will abide by Mr. Toadvine’s direction, he wants to indicate for the record that he feels he has the right to ask him during cross-examination about reliability; and Mr. Toadvine stated he can. Mr. Edelstein stated he feels he can show Mr. Iskander his Exhibit and use it as a basis for questions. Mr. Toadvine stated while he can, he cannot ask Mr. Iskander how they prepared the Exhibit and what they meant by it when he did not testify to that. Mr. Edelstein stated he is precluded from asking Mr. Iskander if T-Mobile publishes a document that shows service coverage in this area to be good, and he is not allowed to ask him about that and how it compares to his testimony about reliability. Mr. Toadvine advised Mr. Edelstein that he can ask Mr. Iskander what his version of reliability is and how that compares to the Exhibits he has introduced and this would be acceptable, but he cannot ask him how the Exhibit was prepared when he did not offer it in his testimony.

Mr. Edelstein agreed to move on. Mr. Edelstein asked Mr. Iskander about the data that he has from the drive-through calls noting none of it has been presented. Mr. Iskander stated he does not have that with him this evening. Mr. Iskander stated the map he presented is the output. Mr. Edelstein asked if calls were made to test the prediction, and Mr. Iskander stated the drive test was used to create the models that are used to depict the information. Mr. Edelstein asked if there were calls made from any cell phones into or out of the area to test Mr. Iskander’s theory and asked if anyone actually determined if

the users are having a problem sending or receiving calls from this area, and Mr. Iskander stated they did make and receive calls. Mr. Edelstein asked if he has that data this evening, and Mr. Iskander stated it does not. Mr. Iskander stated this is one piece of the data. Mr. Edelstein stated the Third Circuit has dealt with this issue. Mr. Toadvine stated Mr. Iskander testified that the process involved calls, monitoring frequencies, and many other issues and not just calls. Mr. Edelstein asked Mr. Iskander if anyone used a cell phone or any similar device to make calls from this area out or to receive calls into this area. Mr. Malinowski advised Mr. Edelstein that he has already asked this question a number of times, and Mr. Iskander has answered it. Mr. Edelstein stated the data is not here this evening, and Mr. Iskander agreed.

Mr. Edelstein asked Mr. Iskander if he knows how many residences are effected in the white area by what he has characterized as “unreliable service,” and Mr. Iskander stated he does not.

Mr. Edelstein asked Mr. Iskander if he is testifying tonight on behalf of T-Mobile as to what efforts, if any, T-Mobile has made to locate this cell at any other site, and Mr. Iskander stated he is not.

Mr. Gruen asked Mr. Iskander when they do the test, do they continually drive or do they stop at various locations and do the test and asked at what intervals they do the tests. Mr. Iskander stated depending on different T-Mobile internal factors, usually they do at least one or two benchmark tests of the entire network so they drive almost every street. He stated if they have made changes to a significant number of sites in the area, they will do a specific test for that area. He stated he does not feel they stop unless there is a traffic light or a stop sign. He stated the faster they go the less GPS points they will collect, so when they do tests, they do not want points that are farther away from each other so he feels they cannot go more than 65 miles per hour.

Mr. Maloney joined the meeting at this time.

A short recess was taken. The meeting was reconvened at 8:55 p.m.

Mr. Donaghy stated Mr. Iskander indicated he was not involved in making a determination as to what would be the appropriate location for the proposed tower; and Mr. Iskander stated the proposed locations are brought to him as candidates, and he either approves or rejects them. He added he does not go out and look for the locations unless they have exhausted everything and cannot find anything.

Mr. Donaghy asked Mr. Iskander if he made any determination that there may be a more appropriate location for a tower, and Mr. Iskander stated from what he knows, there was not.

Mr. Donaghy stated Mr. Iskander indicated that he was not able to quantify what percentage of calls would constitute reliable or unreliable service, and Mr. Iskander stated the yellow shade shown is in-vehicle service, and the edge of that corresponds to a signal level that is an industry standard level and below that level, once the signals in the air drop below that level, the industry textbook and real life say that the phones will not be able to detect that signal and will not be able to make a reliable call. He stated you may be able to make one every once in a while. He stated they do this using mathematical models and real life data. He stated they start with the sensitivity of the phone and determine the minimal signal that the phone can and does pick up in an outdoor condition, and then they work their way backwards; and they know what they transmit and what the average losses are for different clutter type. He stated the tool “crunches” all the numbers and calculates different signals from the antennas, all the reflections, refractions, and defractions that a signal goes through to get to the phone. He stated the tool says at this minimum signal sensitivity level, working your way backwards, you would have reliable in-vehicle service at this level which corresponds to the yellow shade and reliable in-building service at a level which corresponds to the green shade.

Mr. Iskander stated with regard to the number of calls he feels they are around 95%. He stated the ultimate goal is to become as reliable as a landline which is 99.999%; but they cannot achieve this at this point. He stated he has worked for a number of carriers, equipment providers, and satellite communication companies; and they all use the same industry threshold for in-vehicle and in-building service levels.

Mr. Donaghy stated in the areas that he has denoted as being unreliable, is it correct that this does not indicate that one cannot receive or send signals on a T-Mobile phone in that area, and Mr. Iskander agreed. Mr. Iskander stated sometimes a person will be driving into the area and will drop the call; but more often someone will try to make a call from an unreliable area, and because there are no bars on the phone, the network will not register it. He stated most people when they cannot get through and do not know the area well will try to make the call again. Mr. Donaghy asked if it would be fair to state that as opposed to being unreliable, it is less reliable in this area; and Mr. Iskander stated less reliable would be the edges of the yellow and the edges of the green. He stated they have to draw a line somewhere and the line for reliable/unreliable is the edge. Mr. Donaghy stated he indicated that unreliable does not mean there are no signals, and Mr. Iskander agreed and stated the unreliability will increase the further you go into the white area. He stated the further away you are from a cell tower or the edge of the reliable coverage, the less reliable service will be.

Mr. Donaghy stated although Mr. Iskander has indicated he has worked for other companies, the information he has provided today is strictly with regard to T-Mobile; and Mr. Iskander agreed. Mr. Iskander stated he is currently only working for T-Mobile.

Mr. Toadvine stated with regard to Exhibit A-11, Mr. Iskander has indicated that the area in white is unreliable, and Mr. Iskander agreed. Mr. Toadvine stated if he were to tell Mr. Iskander that on January 8, 2010 he was in his car driving in the white area and had T-Mobile as his cellular provider; and during the course of driving in the white area, he made 100 calls and every time he made a call, it connected and was not dropped during the call; in addition he also received fifty calls and again was connected and not dropped, would this change Mr. Iskander's opinion that the white area is unreliable. Mr. Iskander stated if he were in the middle of the white area, standing still in a low spot in the terrain in a building, he would change his opinion; but if he were outdoors, he would not. Mr. Toadvine stated so even though calls can be made and received and calls are not dropped in the white area, it would not change his position as to it being unreliable unless he was in the lowest, secluded point of the white area. Mr. Iskander stated he would have to investigate; but technically speaking just from a pure RF sense the white area is over one and a half miles away from the surrounding site and that free space loss without clutter is enough to decrease the reliability under the in-building threshold; and most of the time, depending on clutter, under the in-vehicle threshold. He stated there are two square miles of in-building gap and one and a eighth square mile of in-vehicle gap which is a big gap. Mr. Toadvine stated the white area is not a dead area where there is never a successful call, and Mr. Iskander agreed. Mr. Toadvine stated this would depend according to Mr. Iskander's testimony on the time of year, time of day, how fast the car was traveling, the activity on the cell, etc.; and Mr. Iskander agreed. Mr. Toadvine asked if it also depends on the type of phone, and Mr. Iskander agreed. He stated it also depends on where the phone is when the call is made since if the phone is on the dashboard it will probably pick up the signals better. He stated even the angle the phone is held at can make a difference. He stated signals are polarized. Mr. Toadvine asked if the weather also has an impact, and Mr. Iskander agreed. Mr. Iskander stated he does not feel the temperature has much effect but rain or snow would impact it. Mr. Toadvine stated the demarcation line between the yellow and the white, the reliability area, is really basically a signal strength issue; and Mr. Iskander agreed.

Mr. Brian Seidel was sworn in and stated he is a certified land use planner and a licensed landscape architect in the States of Pennsylvania, New Jersey, and Delaware. He is accredited as a professional planner in the State of New Jersey. He is President of Seidel Planning & Design. He stated he has testified in support of applications for developments such as wireless communication facilities in over one hundred Municipalities in Pennsylvania and New Jersey and has offered testimony regarding compatibility of the use with surrounding uses in compliance with Zoning Ordinances. Mr. Seidel stated he has testified on this topic in Lower Makefield and has been qualified as an expert previously as well as in surrounding Municipalities.

There was no objection to Mr. Seidel being accepted as an expert in land planning.

Mr. Seidel stated he is familiar with the Application and the property that is the subject of the Application. He has been to the property. He is familiar with Lower Makefield Township and driven the area as well as reviewed the Ordinances and the Zoning map. He is also familiar with the uses that surround the Brookside Swim Club. Mr. Seidel stated he is aware that this is an Application for a Use Variance.

Mr. Lemanowicz asked Mr. Seidel if it is his opinion that the proposed use of a wireless communications tower is compatible with the existing use of the subject property which is the Brookside Swim Club, and Mr. Seidel stated it is compatible in terms of the fact that the underlying property is not a residential property, and therefore combining the use would be considered a compatible use.

Mr. Lemanowicz asked Mr. Seidel if he is familiar with the existing features of the subject property, and Mr. Seidel stated he is. He stated the installation of the tower on the property would not impair the use of the subject property, and it could still continue to function as a recreation facility as it does today.

Mr. Lemanowicz asked Mr. Seidel if he feels the installation of the communication tower will impair the use of the surrounding properties, and Mr. Seidel stated he does not feel it would impact the use of the surrounding properties. Mr. Lemanowicz asked Mr. Seidel if he would consider the surrounding area a densely populated area, and Mr. Seidel stated the area surrounding the site is residential and there are residential developments around the site; however, he would not consider it as densely developed as other portions of Lower Makefield Township.

Mr. Lemanowicz asked Mr. Seidel if he is aware of any existing tall structures in the white area shown on Exhibit A-11 that could be identified and used as a tall structure for communication antennas, and Mr. Seidel stated based on review of the site and driving the area, the tallest structures were utility poles and the utility lines associated with the railroad line in the area. He stated although the structures are tall, in discussions with the project team and the radio frequency engineer, it was indicated that they were not tall enough to co-locate an antenna to fulfill the needs of T-Mobile.

Mr. Lemanowicz asked Mr. Seidel if he is aware of the location of the Overlay Districts where communication towers are permitted as a Conditional Use, and Mr. Seidel stated he is. Mr. Lemanowicz asked if there is any area in the white area on Exhibit A-11 where there is an Overlay District, and Mr. Seidel stated there is not. He stated the existing Overlay Districts are currently where T-Mobile has antennas and/or towers mounted.

Mr. Lemanowicz asked Mr. Seidel if they moved this tower to an area which was more densely populated in the white area would it have a more adverse effect on the surrounding uses, and Mr. Seidel stated there are more residential properties with more dwellings per acre in the area and more people would be impacted. He stated the proposed site is on the site of a non-residential use and is adjacent to a transit line and open space associated with part of a residential development. He stated what is proposed is a very passive use.

Mr. Lemanowicz asked again about the uses of the properties surrounding the subject site, and Mr. Seidel stated they are adjacent to a rail line to the north of the property. He stated the property is located south of Stony Hill Road. He stated there is a Manor Care assisted living facility located to the southeast. He stated there is an open space/ woodland area to the west of the property. He stated the tower is proposed to be located to the rear of the subject property away from Stony Hill Road.

Mr. Lemanowicz asked Mr. Seidel if in his experience he is familiar with wireless communication facilities adjacent to rail lines, and Mr. Seidel stated he has seen these adjacent to railroad tracks, recreational facilities, parks, open space, etc.

Mr. Lemanowicz asked Mr. Seidel the uses permitted in the R-3M Zoning District; and Mr. Seidel stated they are residential, recreational facilities, timber harvesting, nursing home, schools, churches, utilities, and emergency services. Mr. Lemanowicz asked Mr. Seidel if he would consider wireless communication facilities similar in nature to any of the permitted uses allowed in the R-3M Zoning District, and Mr. Seidel stated he feels it would fall under the category of utilities in that it is a service; and while it is not an emergency service per se, the characteristics of emergency services are similar and some emergency services such as a fire house will often times have communication towers. Mr. Lemanowicz noted some of the other permitted uses such as public recreation facilities, timber harvesting, churches and schools, and asked Mr. Seidel if he feels those uses would have a greater impact on surrounding uses with regard to traffic, etc.; and Mr. Seidel agreed they would. He noted schools would involve more traffic and added there is no requirement for public sewer or water at the proposed facility. He stated there will be no need for trash service and no pollutants in terms of dust, dirt, odors, etc.

Mr. Lemanowicz asked Mr. Seidel if the most common issue associated with communication towers is the height issue; and Mr. Seidel agreed it would be the height and the visibility. Mr. Lemanowicz asked Mr. Seidel if the tower proposed for this location were designed to look like an artificial tree, would it help to minimize the visual impact of the tower, and Mr. Seidel agreed there are measures that can be taken and they could use a stealth pole.

Mr. Lemanowicz asked Mr. Seidel if it is his opinion based on the uses that surround the proposed property and the current use of the property, that it would be appropriate for a communications tower; and Mr. Seidel stated he does feel it is an appropriate location. He stated there is not a communication Overlay District in the general area of the site and the closest point of the nearest Overlay District is 8/10ths of a mile away from the site. He stated it is a non-residential use adjacent to rail lines and open space areas and the existing use of the property is not a heavily used site other than in the summer time.

Mr. Lemanowicz asked if it is Mr. Seidel's opinion that based on the absence of any existing tall structures in the area where there is a gap in coverage, would this be the least intrusive alternative available to fill the gap in coverage, and Mr. Seidel agreed and stated he feels the use of a stealth tree would also be the least intrusive alternative.

Mr. Gruen asked if they could build a place of worship on the subject property, and Mr. Seidel stated a church is permitted. Mr. Gruen asked if a residential use could be put on the property or if anything besides a cell tower could be put on the property as it exists. Mr. Seidel stated there are other things that could be constructed on the site other than a cell tower.

Mr. Gruen stated he has a question for the Zoning Hearing Board Solicitor since they are asking for a Use Variance. A short recess was taken at this time. The meeting was reconvened at 9:25 p.m.

Mr. Donaghy stated Mr. Seidel indicated that he was familiar with the site where the tower is proposed, and Mr. Seidel agreed. Mr. Donaghy asked if he is also familiar with the Lower Makefield Township Zoning Ordinance, and Mr. Seidel stated he is. Mr. Donaghy asked Mr. Seidel if he feels it would be possible to continue to use the property as zoned if the Variance were not granted; and Mr. Seidel agreed they could continue to have the current use. Mr. Donaghy asked if the property can be used as Zoned, and Mr. Seidel agreed it could.

Mr. Donaghy asked Mr. Seidel if he was involved in determining the appropriate site to locate the tower on behalf of Liberty Towers, and Mr. Seidel stated he was asked to evaluate the site and the general area surrounding the site to determine if this would be a viable site to pursue. Mr. Donaghy asked if the site was identified to him prior to his review, and Mr. Seidel stated it was brought to him and he was asked for his opinion.

Mr. Donaghy asked Mr. Seidel if he reviewed if there were any other appropriate locations that might or might not have been less intrusive, if a tower were erected; and Mr. Seidel stated everything in the area is zoned Residential. He stated they looked at the area, the general location of the proposed site, the surrounding the site, the type of development surrounding the site; and they determined that it is obviously residential development, but they are adjacent to the rail line, and it is a recreational facility;

and based on other sites within the Municipality that have existing telecommunication towers or structures, that this was a use similar to other existing facilities in the Township. Mr. Seidel stated for that reason, he feels it would be considered to be a compatible use.

Mr. Donaghy asked if he investigated any sites in the area that were within the Overlay District that would permit a tower; and Mr. Seidel stated they did look at those areas, but stated as he noted previously the closest point to the Overlay District was approximately 8/10ths of a mile and this was turned down from a radio frequency perspective. He stated looking at the radio frequency coverage map, Exhibit A-11, the existing coverage is shown within the upper edge of the Overlay facility and there is an existing tower within that Overlay District at the southern portion of that District.

Mr. Edelstein stated Mr. Seidel indicated he had driven through the R-3M Zone, and he asked how many homes will have visibility of the tower, and Mr. Seidel stated he does not have an exact number. Mr. Edelstein asked if he would agree that it would be hundreds, and Mr. Seidel stated he did not feel it would be hundreds. Mr. Edelstein asked if he would agree that it would be dozens, and Mr. Seidel agreed that it would be dozens.

Mr. Edelstein stated the proposed cell tower would be at least 100' taller than any other structure in the Zone, and Mr. Seidel agreed this would be correct. Mr. Edelstein stated all or most of this 90' or 100' would be visible by dozens of homes, and Mr. Seidel stated the structure would be visible.

Mr. Edelstein asked Mr. Seidel if he knows whether T-Mobile has made any offers to any other property owners to purchase or lease property on which a cell tower could be built to service the area in white on Exhibit A-11, and Mr. Seidel stated he does not have any knowledge of this.

Mr. Edelstein noted comments made by Mr. Seidel about the "least intrusive site," and Mr. Seidel stated looking in the general area, it is his opinion that this site is the least intrusive in that it is not a residential use and is similar to other existing telecommunication facilities located in the Township.

Mr. Edelstein asked if it is Mr. Seidel's opinion as a land use planner that this tower, visible from dozens of homes, will not have an adverse impact on those adjoining.

Mr. Lemanowicz objected adding he does not feel Mr. Seidel stated this.

Mr. Edelstein asked if he feels this tower visible from dozens of homes will not have an adverse impact on residences surrounding it; and Mr. Seidel stated he does not feel it would impact the use or enjoyment of those homes. He stated it will not present any noise or odors and it is a utility type structure. He stated there is a rail line that has utility lines that has tall structures running up and down that rail line, and there are utility lines along the adjacent roadways and these are all utility structures that are all generally visible whether you are driving or depending on where you are located in residential properties.

Mr. Edelstein asked Mr. Seidel if it is true that adverse visual impact is part of land use planning, and Mr. Seidel stated this is correct. Mr. Edelstein asked Mr. Seidel if he has driven through the neighborhood that will have visibility of the proposed cell tower to determine if they have visibility of other utilities he has described, and Mr. Seidel stated while he did, he is not able to state which specific properties are impacted; but as he was driving through the area, he noted utility lines and rail lines. Mr. Edelstein stated his question was which homes.

Mr. Lemanowicz stated he objects to the question.

Mr. Edelstein asked Mr. Seidel if he knows which homes will have visibility of the tower, and Mr. Seidel stated there is a residential development located to the northwest of the property on the opposite side of the rail line, and there were pictures presented indicating from certain locations in that development certain homes would have visibility of the tower. Mr. Edelstein asked Mr. Seidel if he would agree that a number of those homes do not have visibility of the other utilities that he described, and Mr. Seidel agreed and noted that the tower is proposed to be taller than other existing structures. Mr. Edelstein asked Mr. Seidel if he would agree that homes that are completely unaffected by existing structures will be able to see this proposed tower, and Mr. Seidel agreed.

Mr. Lemanowicz stated he has no other Witnesses, but he would like to reserve the right to make a closing argument.

Mr. Edelstein stated there is a case that the Objectors would like to put on the record.

Mr. Malinowski stated he does not feel they would have time this evening to present this case and then permit everyone else to speak so he would suggest that they set another date for another Hearing. Mr. Toadvine asked if it is agreed that Mr. Lemanowicz does not have to bring any of the Witnesses back, and this was agreed. Mr. Toadvine stated they could continue the matter to the next meeting of the Zoning Hearing Board which is January 19; however, Mr. Edelstein stated he is unable to attend a meeting that evening. Mr. Lemanowicz agreed to continue the Hearing and waive the time limits.

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Mr. Smith moved, Mr. Bamburak seconded and it was unanimously carried to continue the matter to February 18, 2010.

There being no further business, Mr. Smith moved, Mr. Zamparelli seconded and it was unanimously carried to adjourn the meeting at 9:45 p.m.

Respectfully Submitted,

Gregory J. Smith, Secretary