

MINUTES OF NOVEMBER 18, 2013

The regular meeting of the Sussex County Board of Adjustment was held on Monday, November 18, 2013, at 7:00 p.m. in the County Council Chambers, County Administrative Office Building, Georgetown, Delaware.

The meeting was called to order at 7:00 p.m. with Chairman Callaway presiding. The Board members present were: Mr. Dale Callaway, Mr. John Mills, Mr. Brent Workman, Mr. Jeff Hudson, and Mr. Norman Rickard, with Mr. James Sharp – Assistant County Attorney, and staff members, Mr. Lawrence Lank – Director of Planning and Zoning, and Mrs. Jennifer Norwood – Recording Secretary.

Motion by Mr. Mills, seconded by Mr. Rickard, and carried unanimously to approve the Revised Agenda as circulated. Motion carried 5 – 0.

Mr. Sharp read a statement explaining how the Board of Adjustment meeting is conducted and the procedures for hearing the cases.

OLD BUSINESS

Case No. 11291 – Lisa Driscoll & James Truett, Jr. – south of Road 277 (Angola Road) being southwest of Poplar Drive 380 feet northwest of Woodland Circle and also being Lot 43 Angola-By-The-Bay. (Tax Map I.D. 2-34-11.20-122.00)

An application for a variance from the front yard setback requirement.

The Board discussed the case which has been tabled since November 4, 2013.

Mr. Rickard stated that he would move that the Board recommend approval of Variance Application No. 11291 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique in shape;
2. The variance is necessary to enable reasonable use of the Property;
3. The difficulty was not created by the Applicants;
4. The variance will not alter the essential character of the neighborhood;
5. The variance sought is the minimum variance necessary to afford relief; and
6. The variance represents the least modification possible of the regulation at issue.

Motion by Mr. Rickard, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 4 – 1.

The vote by roll call; Mr. Hudson – yea, Mr. Rickard – yea, Mr. Workman – yea, Mr. Callaway – yea, and Mr. Mills – nay.

Case No. 11294 – James Paoli & Nello Paoli – northeast of Route 1 (Coastal Highway) 100 feet northwest of Cullen Street. (Tax Map I.D. 3-34-20.13-45.01)

An application for a variance from the front yard setback requirement.

Mr. Lank presented the case which had been left open since November 4, 2013 to allow the Applicants more time to prepare their case. Mr. Lank stated that the office received an email from the Applicant regarding the standards for granting a variance.

Mr. Nello Paoli, Nello Paoli, Jr. and Steven Sellers were sworn in and testified requesting a variance of 13.1 feet from the required forty (40) feet front yard setback requirement for a proposed sun porch.

Nello Paoli, Jr., testified that the dwelling is located on Route 1; that the lot is unique since it is part of a condo association where the allocated space for the building does not allow for construction in the rear yard or the side yard; that the only place to put the porch is in the front yard; that the porch will improve the livability of the home; that the Homeowners Association supports the Application; that the Property cannot otherwise be developed; that the dwelling was built on the front yard setback line thereby limiting an addition to the front of the dwelling; that the variance will not alter the character of the neighborhood; that the porch will provide extra living space and privacy; that the sun porch will not be detrimental to the public welfare; that the variance is the minimum variance necessary to afford relief and is the least modification of the regulation at issue; that the Applicants cannot make this improvement without the variance; and that the Applicants were unaware at the time of purchase a porch could not be built without a variance.

The Board found that no parties appeared in support of or in opposition to the Application.

Motion by Mr. Rickard that the variance be denied. There was no second. Motion died for the lack of a second.

Motion by Mr. Mills, seconded by Mr. Workman, and carried unanimously that the case be taken under advisement. Motion carried 5 – 0.

At the conclusion of the public hearing, the Chairman referred back to this case. Mr. Hudson stated that he would move that the Board recommend approval of Variance Application No. 11294 for the requested variance based on the record made at the public hearing and for the following reasons:

1. The Property is unique;

2. The Property cannot otherwise be developed in strict conformity with the Sussex County Zoning Code;
3. The variance will not alter the essential character of the neighborhood; and
4. The variance is the minimum variance necessary to afford relief.

Motion by Mr. Hudson, seconded by Mr. Workman, and carried unanimously that the variance be **granted for the reasons stated**. Motion carried 4 – 1.

The vote by roll call; Mr. Mills – yea, Mr. Hudson – yea, Mr. Workman – yea, Mr. Callaway – yea, and Mr. Rickard – nay.

PUBLIC HEARINGS

Case No. 11296 – AT&T – east of Route 1 (Coastal Highway) 100 feet north of Jefferson Bridge Road (Road 361-A). (Tax Map I.D. 1-34-17.07-191.00)

An application for a special use exception for a telecommunications tower.

Mr. Lank presented the case and stated that the Office of Planning & Zoning received eight (8) letters and emails in support of the Application and sixty-eight (68) letters and emails in opposition to the Application. Mr. Lank read a letter from the Sussex Conservation District and an email from Angela Horning that seemed to have a neutral opinion about the Application.

Richard Forsten, Esquire, was present on behalf of the Applicants and stated that the Applicants are requesting a special use exception for a proposed one-hundred (100) foot tall telecommunications tower on commercially zoned property located within five-hundred (500) feet of residentially zoned property; that this Application is slightly different than the previous application since the proposed tower will now be more than one-hundred (100) feet from the property line; that the proposed tower previously applied for was located seventy-one (71) feet from the property line; that a proposed tower on the Property was approved by the Board in 2009 and that decision was reversed by the Superior Court; that the Board denied the same application in 2011 and that decision was reversed by the Superior Court; that there is a temporary tower on the site; that the Applicant has been working at obtaining a tower in this area since 2004 to cover a gap in coverage; that the Applicant contacted numerous property owners in the area to place antennas or a tower; that the proposed site is the only property owner in the area that agreed to enter a contract for the tower; that if the Applicant was able to find another location, they would; that the Town of Bethany Beach has refused to allow the Applicant to collocate on the Town's water tower; that the Federal Communications Commission ("FCC") has reported that seventy percent (70%) of all 911 calls are made on cell phones; that the demand for service in this area has increased by 30,000% over the past six (6) years; that the Applicant anticipates that data traffic demand will continue and increase thirteen (13) fold by 2017; that the Applicant is a licensed provider under the FCC; that the temporary tower has helped with coverage, but not at

full capacity; that the proposed tower and site comply with all code regulations; that the Property is zoned C-1 Commercial and is 1.35 acres in size; that there are no other locations within two (2) miles of the Property which are available for collocation and would solve the Applicant's gap in coverage; that the proposed monopole will also host two (2) other carriers; that the one-hundred (100) foot tower is only required to be thirty-three (33) feet from the property lines; that the proposed tower will be two-hundred fifty (250) feet from Route One and sixty (60) feet from the nearby wetlands; that the base of the tower and the required shelter will be enclosed with a six (6) foot high fence; that the tower will have the required lighting and the lights will not flash; that the maximum allowable height for a tower is one-hundred fifty (150) feet and the proposed tower will only be one-hundred (100) feet tall; that the use will not substantially adversely affect the uses of adjacent properties; that two (2) real estate appraisers will demonstrate that the tower will not adversely affect the surrounding property values; that, out of the top ten (10) sales in the surrounding area, six (6) were in the neighboring Sea Pines Village ("Sea Pines"); that the Property also houses an Arby's restaurant and a BP gas station; that a hotel and furniture store are located nearby; that Route 1 is adjacent to the Property; and that the commercial area and high power lines already existing in the area will allow the cell tower to blend in as part of the landscape. Mr. Forsten submitted a binder of exhibits to the Board.

Brock Riffel of was sworn in to testify about the Application. Mr. Riffel testified that he is a partner of RF Services, Inc., that RF Services provides radio frequency design and assistance to wireless carriers; that he has evaluated and designed approximately 2,000 tower site & facilities throughout Delaware, Pennsylvania, New Jersey, and Maryland; that the Applicant has experienced a 30,000% increase in demand in data traffic over the last six (6) years; that he expects the area to increase thirteen (13) fold between 2012 and 2017; that without this proposed facility, the Applicant would have a significant gap in their reliable coverage in the area; that the ATOL tool can predict where AT&T will and will not have service; that the tool is used to determine site for towers by reading the "clutter" in the area such as trees, terrain and structures; that the ATOL tool is very accurate because it takes a marker every twenty five (25) meters; that exhibits were shown and submitted to show the coverage with the tower and without the tower; that an area of roughly two (2) miles long and extending along Route 1 and towards Ocean View is an area of unreliable service for AT&T customers; that usage statistics for the temporary tower during the year of 2013 showed over 4,000 calls per day; that during peak times of the year such as holiday weekends the tower directed 10,000 calls per day; that the tower handled or tried to handle over 25,000 calls on July 4th; that the demand for the services exists and that he assumes other carriers would have similar problems; that the temporary tower has fielded 1.4 million calls since 2013; that 193 emergency calls to 911 have been handled during the 2013 summer months; that 9.6 million megabytes of data has been fielded through the temporary tower; that, without the temporary tower, only approximately twenty percent (20%) of the calls in the area would connect and that the remaining calls would either be of poor quality, fail to connect, or be dropped during the call; that the percentage of calls that would fail to connect would significantly increase during peak times such as holiday weekends; that the tower is needed in this location; that the South Bethany water tower will not provide reliable coverage and other

towers in the area are too close to AT&T owned towers and would only provide redundant coverage; that the proposed one-hundred (100) feet tall tower is the minimum height necessary to provide coverage; that the competitors use a lot of the same facilities as AT&T; that the Bethany Beach water tower would solve the problem, however, the Town will not permit AT&T to use that location; that the temporary tower is eighty (80) feet tall; that the temporary tower provides good coverage but that AT&T designs for reliable service for their customers so that 95-99% of calls go through; that AT&T still receives complaints about the downtown Bethany area because the temporary tower is shorter than it was designed for; and that the South Bethany site will not allow any equipment on the ground so the Applicant cannot collocate on this site.

Mr. Forsten stated that the Applicant fully expects to have competitors use the proposed site; and that the Applicant has factored in the equipment of competitors in its design of the site.

Mr. Riffel testified that the proposed site is the least intrusive site available and that it is the best design available.

Tom Zolna was sworn in to testify about the Application. Mr. Zolna testified that he is an agent for AT&T and acquires sites for the Applicant; that the radio frequency engineer provides a search ring; that the search begins by looking for other structures in the area to collocate; that he reached out to thirty-three (33) property owners in the area for possible location of the proposed tower; that the Town of Bethany Beach told him the water tower was not available several times; that the South Bethany water tower site was a candidate, however, there was no space on the ground for equipment; that the power lines are not tall enough to use; that the Applicant has been looking for a possible tower location since 2004; that Sea Colony also rejected their request; and that Sea Colony did not want to disturb the look of their roof and it did not have any space available on the ground for equipment.

Dr. Ken Foster was sworn in to testify about the Application. Dr. Foster testified that he is a professor of bioengineering for the University of Pennsylvania; that he was retained by AT&T to review the site; that he concluded that the maximum level of radio frequency from the proposed tower is a tiny fraction of the allowable FCC limits; that medical devices are now designed to be exposed to radio frequency; and that there is a much higher risk to exposure when using a phone than from a tower.

Mario Calabretta was sworn in to testify about the Application. Mr. Calabretta testified that he is a registered engineer and design consultant for Velocitel; that the Property fronts on Coastal Highway and currently a commercial business is located thereon; that AT&T proposes to construct a compound which will be nineteen (19) feet by thirty seven (37) feet; that the compound will house a shelter measuring twelve (12) feet by twenty eight (28) feet where antenna equipment will be located; the proposed one-hundred (100) feet tall monopole structure will be within a fenced in compound; that the monopole is a tubular construction; that the proposed tower will be 63 feet from the north side property line, 107 feet from the south side

property line, 109 feet from the east side property line and 250 feet from the west side property line; that the site and tower will comply with all federal, state, and local regulations and all permits will be obtained; that a six (6) foot tall fence will surround the base of the tower and the equipment shelter; that the tower will have the required lighting at fifty (50) feet and one-hundred (100) feet; that the lights will be a steady red and will not flash; that the generator for the site will be used during an emergency only and will be housed within its own room inside the shelter; that the tower is designed to withstand one-hundred twenty (120) mile per hour winds; that the tower will be grounded to sustain lightning strikes and dissipate the energy therefrom; that the shelter will have a muffler system and is made out of precast concrete with very thick walls; that he has been in the industry for fourteen (14) years and has never seen a system fail, such as fall over or have a fire; that the towers are designed not to fail; that he has worked on approximately 2,500 cell tower sites in his career; that the foundation will be designed to site specific requirements, such as flood and wind zone requirements; that the foundation will be raised slightly above grade to keep it above the floodplain; that the proposed tower will be placed on the edge of the storm water management pond on piers which will be driven into the ground; that the shelter will meet all noise regulations; that a technician will only visit the site on an eight (8) to ten (10) week cycle for maintenance once the tower is erected; that the traffic impact is very low; and that the tower is designed not to fall.

The Board recessed for ten (10) minutes.

Leland Trice was sworn in to testify about the Application. Mr. Trice testified that he owns the Trice Group and is a licensed appraiser in Delaware, Maryland and Virginia, since 1985; that he does a considerable amount of business in Sussex County; that the proposed site will be located in a high density mixed use area; that there is a convenient store, fast food and a furniture store in the immediate area; that there is a hotel and residential homes in the area; that he prepared a report in 2011 for the Applicant but the tower had not been on the Property that long; that he performed a matched pair analysis which showed no discernible difference in property values; that his updated report had enough data within Sea Pines to do a control set and compare how Sea Pines compared to a broader market; that the broader market he analyzed consists of properties east of the canal from Fenwick Island through Bethany Beach; that Sea Pines did not act differently than the broader market; that Sea Pines showed consistent behavior in sales and actually outperformed the broader market; that, in his professional opinion, the tower has no substantial effect on surrounding properties or property values; that the power lines and the convenience store are an accepted part of the landscape; that a recent study he reviewed shows no statistical difference in property values due to a tower; that towers are considered a "typical utility"; and that he reviewed a study of the effect on cell towers in North Carolina and the study showed that there are no statistical data to support a conclusion that there was a difference in prices.

William McCain was sworn in to testify about the Application. Mr. McCain testified that he owns W.R. McCain & Associates and has been a licensed appraiser in Delaware, Maryland

and Virginia for twenty-seven (27) years; that fifty-five percent (55%) of his business volume is in Delaware, mostly in eastern Sussex County; that he has conducted thousands of appraisals in Delaware; that resort areas are unique due to the mixed use and high density; that his original report in 2011 concluded that there was no to minimal impact to property values due to a cell towers; that, in the rare cases where there is a drop in sales prices, the drop is attributable to the negative publicity of a cell tower but the sales prices bounced back over time when the negative publicity subsided; that he looked at sales data from Lewes to Ocean City on properties within close proximity to cell towers; that there was no discernable difference between the sales of properties in close proximity to cell towers to ones that were not in close proximity to the cell towers; that the rental rates within Sea Pines were comparable to similar units in the Bethany Beach area; that since the temporary tower has been in place there have been thirty six (36) sales in the vicinity; that six (6) of the top ten (10) sales were in Sea Pines Village; that in his professional opinion the tower has no substantial adverse effect to the adjacent and surrounding properties; and that Sea Pines sales mirror or are better than other sales in the market.

In summary, Richard Forsten, Esquire, discussed the exhibits submitted by the witnesses; that the data shows cell towers blend into the background; that the Applicant has not been able to find another location for the proposed tower; that there is no evidence to support that there will be a substantial adverse effect to the surrounding properties; that there is a huge demand for a tower to provide reliable coverage; that unreliable service is service resulting in ten percent (10%) failure; that the appraisers show no adverse effect to the market; and that the proposed tower will not substantially adversely affect the surrounding or adjacent properties.

Bryan Pepper was sworn in and testified in support of the Application. Mr. Pepper testified that he is the General Manager of Pepper, Inc., that his business involves that transportation of hazardous material trucks in Sussex County; that the tower will provide service for their companies GPS systems and cell phones needed daily to run his business; and that he supports the Application.

Dave Gerk was sworn in and testified in opposition to the Application. Mr. Gerk submitted a packet of exhibits to the Board. Mr. Gerk testified that he owns Unit 14 in Sea Pines; that he is mechanical engineer with a law degree; that the tower will "kill the community"; that the Board previously denied the Application; that the Applicant has the burden of proof; that the Applicant must demonstrate that existing structures within a two (2) mile radius of the site are not available for collocation and that there is a need for the tower in the area; that Sea Pines is a large rental community; that he believes the Applicant can collocate and not have the tower; that he disputes that AT&T is not fulfilling licensing regulations; that most licenses are two (2) years in length; that Bethany Beach has a population of 1,000 people; that the gap in coverage can easily be filled; that AT&T has a location 0.38 miles (670 yards) away from this site; that there are ways to deal with interference; that there are multiple locations available for collocation; that there are three (3) lattice towers and a water tower available for collocation; that federal law mandates that utility poles be made available for collocation; that there is a large

reduction in property values and rentals in the area due to the tower; that the safety hazards are real threats; that placing a monopole in a retention pond next to a gas station two (2) blocks from the ocean creates a hazard to surrounding properties; that the tower creates a flooding issue to surrounding properties; that the views of the surrounding properties are important and the tower will adversely affect those views; that the tower adversely affects the uses and enjoyment of surrounding properties; that any provider is obligated to take any 911 calls being made in the area that are not picked up by the individual's carrier; that Judge Graves stated in a Superior Court case that a homeowner can testify as to their property value; that homeowners have special knowledge of their properties; that another seven (7) unit townhouse development has been approved adjacent to the site; that the tower has already caused the retention pond to rise and flood his property; that a monopole structure is less stable than other style towers; that potential renters are concerned about the safety hazards and nuisance factors associated with the tower; and that each unit that cannot be rented results in approximately a \$13,000.00 per year loss to the property owner;

Dr. Jeremy Raines was sworn in and testified in opposition to the Application. Dr. Raines testified that he has a PhD in electromagnetics; that he has been involved in the study of cell towers since the 1980s; that there are numerous sources of interference which affect cell phone coverage; that interference results from jamming caused by other electronic devices such as cable television amplifiers; that a phone signal should carry six (6) miles, but rarely does due to interference; that he disputes that the Applicant's computer models are accurate; that it is impossible to be that precise when the propagation path is ever changing; that predicting coverage is like predicting the weather; that the Applicant's prediction methods are uncertain to within a factor of the square root of ten (10); that a cell phone user can reliability within two (2) miles of a base station expect to communicate; that he believes there are six (6) other possible tower sites within the two (2) mile radius; that in his professional opinion a tower is not needed at this location; that the Applicant could use utility poles in the area; that the sphere of radio frequency around the top of the tower is a great concern; that he can envision a situation where the proposed tower would not meet FCC regulations for RF emissions; that the sphere of radio frequency would affect someone within a certain distance of the top of the tower but that there would be no danger to someone walking on the ground; that the FCC is capable of enforcing the RF emissions standards.

The Board recessed for ten (10) minutes.

Randall Handy was sworn in and testified in opposition to the Application. Mr. Handy testified that he has been a real estate licensed broker since 1971; that he has been a licensed appraiser since 1990; that he has been retained to comment on the potential impact of the proposed tower on values of nearby properties; that he updated his study about the impact on property values; that he looked at ten (10) sales in Sea Pines and looked at the final sales price versus the listed sales price; that to perform a matched pair analysis all properties would need to be appraised; that the only way to analyze the impact of the tower on property values is to look at

the relationship between the final sales price and the listed prices; that the comparable sales approach is the most reliable appraisal process; that his study pointed to a range in reduction of value from ten percent (10%) up to as much as thirty percent (30%); that common sense can determine how a tower near the units will impact the value and use of surrounding properties; that the tower is a “major” change to the area; and that the tower will absolutely substantially adversely affect the uses of neighboring and adjacent properties.

Vicki York was sworn in and testified in opposition to the Application. Ms. York testified that she is a local realtor and has served the Bethany Beach area since 1995; that the tower negatively impacts the values of surrounding properties; that potential buyers see the temporary tower as they approach houses in Sea Pines Village and refuse to look at the units for sale or rent; that dwellings near the tower are listed lower than comparable units due to the location of the tower; that sales have been twenty percent (20%) to thirty percent (30%) lower than the listed price; and that the tower does substantially adversely affect the uses of neighboring and adjacent properties.

Greg Cox was sworn in and testified in opposition to the Application. Mr. Cox testified that he has been a realtor in the Rehoboth area for eight (8) years; that he purchased Unit 4 in Sea Pines below market price; that when he showed the unit once the buyer saw the tower and was no longer interested; that the listing price and the sales price are very relevant; that there has been a forty three percent (43%) drop in property values on Lagoon Drive; that there has been a twenty nine percent (29%) drop on other units in Sea Pines; that in 2004 there was only a one percent (1%) difference in sale prices throughout the community; that the gas station and the fast food restaurant were on the Property in 2004; that the existence of the tower has created a larger gap in property values between units which are closer to the tower and units which are not as close to the tower; that, since the tower was erected, there is approximately an 18.20% drop in sales prices on Lagoon Drive compared to other streets in the community; that he currently rents Unit 4 but has had no repeat renters and he attributes that to the tower; that the tower substantially adversely affects the surrounding and neighboring properties; that the seller must disclose the tower existence; and that the tower can be seen from his bedroom window.

Lew Killmer was sworn in and testified in opposition to the Application. Mr. Killmer testified that he is a member of the Town of Bethany Beach Council; that the Council reached out to AT&T and were told “we have our tower”; that this is a case of David versus Goliath; that the tower has a substantially adverse effect on Sea Pines and the property values, aesthetics, and safety thereof; that AT&T has not explored other sites; and that the Bethany Beach water tower is not an option for collocation.

Greg Miller was sworn in and testified in opposition to the Application. Mr. Miller testified that he has a Bachelor’s Degree in Engineering; that he purchased Unit 9 in the spring of 2013; that he saw the temporary tower and was told it had been denied and would be removed; that according to his exhibits AT&T does not need a tower as the website states it has the “best”

coverage; that AT&T wants to increase the data traffic; that he disputes the “clutter” average in the area; that AT&T could use utility poles for antennas; and that the use substantially affects his property.

Barb Gerk was sworn in and testified in opposition to the Application. Ms. Gerk submitted exhibits to the Board for review. Ms. Gerk testified that she is the President of the Homeowners Association for Sea Pines Village; that she is a resident and will not stay if the tower is permitted; that there are no dead zones in the area; that the Applicant wants the tower to generate revenue; that the temporary tower has been there since 2009; that the site is dangerous; that there are 32,000 gallons of gas on the convenience store site; that the tower is too close to the tanks on the site; that the backup batteries use hydrogen and lithium which are also hazardous materials; and that flooding issues have increased since the tower has existed on the site.

The Board took a ten (10) minute recess.

John Hefferly was sworn in and testified in opposition to the Application. Mr. Hefferly testified that he has owned a unit in Sea Pines for twenty four (24) years; that he is also an AT&T customer; that he has had no problems with his service; that he questions the accuracy of AT&T’s data; that he has searched the area with his phone for a gap in coverage and found none; and that he does not believe the tower is necessary.

Lauren Marriott was sworn in and testified in opposition to the Application. Ms. Marriott testified that she is a member of the Bethany Beach Landowners Association; that she submitted a letter to the Board and strongly suggests the Board deny the case once again; and that the use will substantially adversely affect the surrounding properties.

Alexander Smith was sworn in and testified in opposition to the Application. Mr. Smith testified that the argument that a cell tower does not affect neighboring properties and you can still live and enjoy your property near this site is ridiculous; that members of the community have paid over \$170,000.00 in legal fees to fight this Application because it is important; that the argument has been made for “NIMBY” which stands for “Not In My Back Yard”; that the Applicant wants to expand their business at the expense of local homeowners; that the property owner for the proposed site wants it for revenue; that he does not live in the area; that it is a bad location which is surrounded by residences; and that the Applicant has not removed the tower so that they could build up statistics to show the tower is necessary.

Dana Gerk was sworn in and testified in opposition to the Application. Ms. Gerk testified that she owns Unit 14; that towers can fall creating a highly dangerous situation for surrounding property owners; that the “NIMBY” argument is not effective, you cannot compare a resort destination to other rural properties; that Bethany Beach is not a classic backyard; and that the use will substantially adversely affect her property.

In rebuttal, Dr. Ken Foster, testified that the site is absolutely in compliance with the FCC regulations; that he disputes the sphere argument made by Dr. Raines; that the antennas are directional; that the sphere analogy only applies for antennas that radiate in all directions; and that these antennas are not designed that way.

The Board found that two (2) parties appeared in support of the Application.

The Board found that forty-two (42) parties appeared in opposition to the Application.

The Board discussed whether to continue the hearing due to the late hour of the evening or to reconvene on December 9, 2013.

Motion by Mr. Rickard, seconded by Mr. Mills, and carried unanimously that the case be **left open until December 9, 2013 for the purpose of rebuttal only**. Motion carried 5 – 0.

The vote by roll call; Mr. Workman – yea, Mr. Rickard – yea, Mr. Hudson – yea, Mr. Mills – yea, and Mr. Callaway – yea.

Meeting Adjourned 12:58 a.m.