

Bethany Beach Landowners Association  
PO Box 403  
Bethany Beach Delaware, 19930

November 15, 2013

Re: AT&T Application, Case No. 11296

To: The Members of the Board of Adjustment of Sussex County

These comments are submitted on behalf of the Bethany Beach Landowners Association (BBLA), a voluntary association of individuals and families who own homes in the town of Bethany Beach. Currently BBLA has over 900 member households, both full time residents domiciled in Bethany Beach and others who are part time residents of the community. BBLA's membership includes many of the owners of the approximately 16 Bethany Beach homes within 500 feet of the property on which AT&T is seeking to erect a new 100 foot tall monopole.

BBLA opposes the application and urges the Board to deny it, just as it previously denied the virtually identical AT&T application. We believe there is near universal opposition to AT&T's proposal, not only among our members but throughout the entire area in and surrounding Bethany Beach.

We begin by noting that Section 115-194.2 A. forbids the erection of new communications tower or monopole within 500 feet of even one residentially zoned lot, whether that lot is improved or merely one that could be improved with a residential dwelling unit, unless a special use exception is granted by this Board. This restriction recognizes, we believe, the widely if not universally held perception that such towers are highly inappropriate and objectionable when placed near homes. No one affirmatively wants to live in a home within the shadow of one of these ugly structures, and as a result, the erection of a new one when no similar structure is present is virtually certain to depress property values by reducing the attractiveness of the home site.

In this case, AT&T is proposing to erect a 100 foot pole not merely within 500 feet of single residentially zone lot, but rather within a predominately residential area of homes no taller than 30 or 35 feet. By our count no less than 62 existing homes are within 500 feet of AT&T's proposed site, including approximately 16 inside the corporate limits of Bethany Beach and another 46 homes in the Sea Pines Village complex which is in unincorporated Sussex County. Many of these 62 homes are less than 200 feet from AT&T's site, and a few are even closer. We do not believe there is any other communications tower or monopole in all of Sussex County that is located in so predominately a residential area as this one, and we urge the Board not permit such a major new intrusion on residential areas.

To be sure, many of the owners of these 62 homes rent them to vacationers during part of the summer months. But this fact compounds rather than lessens the injury to property owners which the proposed tower would produce. When looking for a rental home for a

brief vacation at the beach, a house near a tall pole is certainly going to be a major negative for most people. Would any member of this Board affirmatively want to spend a week or two at the beach sitting literally within the shadow of a 100 foot monopole? For many property owners the loss or reduction in rental income would be a serious matter because they depend on rental income to offset a major portion of the cost of acquiring and maintaining a vacation home. Thus expected rental income is a major factor in determining the fair market value of homes in a vacation area such as Bethany Beach. A decline in expected rental income will be promptly translated into a decline in fair market value.

The injury to homeowners would not be confined to those whose properties are within 500 feet of the proposed tower. Bethany beach prides itself as being one of the “quiet resorts.” People come to this area to get away from urban intrusions, not to have increased exposure to such structures as monopoles. Except for retail businesses serving the needs of residents and visitors, the area is devoid of commercial and industrial activity, and that is one of the area’s most appealing qualities. To preserve the open ambiance of the area Bethany Beach rightly imposes strict limits the height of buildings and other structures in order to preserve the sense of openness. In this environment a new 100 foot monopole would stand out like the proverbial sore thumb, visible throughout most of the town.

In denying AT&T’s previous application this Board found that the proposed monopole would “adversely affect” neighboring property values. The applicable legal standard is whether there would be a “substantially adversely affect” on property values. Did the Board conclude back then that the adverse effect would only be insubstantial, or was the omission of word “substantially” merely a drafting oversight? The Delaware Supreme Court felt it could not decide for itself the answer to this question, and concluded that it could not remand the case in order to permit this Board to clarify its decision. Accordingly, the Supreme Court reversed. Now that the matter is once again before this Board, it can provide the answer. We believe that the record in the prior case and the present record as well shows that the 100 foot monopole would most certainly “substantially adversely affect” the value of nearby residential properties, and we urge the Board to make that clear now.

BBLA recognizes that acceptable cellular telephone service is regarded as desirable if not essential to most people, even many of those who are vacationing in a resort area such as Bethany Beach. But we also note that cell phones currently are, and have for quite some time been, very widely seen in use in Bethany Beach without any apparent serious problems. Yet none of the several other companies providing excellent cellular service in the Bethany Beach area has found necessary to erect a 100 foot monopole in close in residential areas. Surely AT&T can find other ways of improving its service, if improvement is truly necessary, without erecting a new, very tall structure in such a highly residential area.

Respectfully submitted,

John Himmelberg, President

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