

**NELSON COUNTY PLANNING COMMISSION  
MEETING MINUTES  
May 23, 2012**

**Present: Chair Philippa Proulx, Commissioners Linda Russell, Michael Tapager, Emily Hunt, Michael Harman and Supervisor Connie Brennan.**

**Staff Present: Fred Boger, Tim Padalino, Melissa Thompson**

**Call to Order:** Chair Proulx called the meeting to order at 7:32 P. M. in the Board of Supervisors meeting room, County Courthouse, Lovingson.

**Approval of Minutes – March 28, 2012:** Commissioner Tapager made the motion to accept the minutes. The motion passed 4-0 with Chair Proulx and Commissioner Harman abstaining.

**1. Class II Communication Tower Permit #2012-002, Verizon Wireless**

As advertized in the Nelson County Times on 5/10/12:

**LEGAL NOTICE  
NOTICE OF PUBLIC HEARING**

In accordance with Volume 3A, Title 15.2, Counties, Cities and Towns, of the Code of Virginia, 1950, as amended, and pursuant to Section 15.2-2204, Section 15.2-2285, Section 15.2-2310, and Section 15.2-4307, the Nelson County Planning Commission hereby gives notice that a Public Hearing will start at **7:30 p.m., Wednesday, May 23, 2012** in the **Board of Supervisors meeting room** on the fourth floor of the Nelson County Courthouse located at 84 Courthouse Square, Lovingson, Virginia., for the following:

**Public Hearing**

**1. Class II Communications Tower, Application #2012-002, Verizon Wireless**

Consideration of an application by Verizon Wireless to allow for the extension of an existing 85' tall wooden monopole tower with a maximum 8' tall cluster mounting pipe for the attachment of three flush-mounted antennas and a 2' lightning rod for a total height of 95. The tower will be located on property owned by Church of the Blue Ridge, 9357 Critzer Shop Road, Afton, VA., Tax Map #4-A-62. Verizon Wireless is requesting the following special exceptions: (1) §20-7-2a (Fall-zone)-There are no permanent structures within the 125% radius setback. (2) §20-7-2e (Scenic By-Way)- No Communication Tower site shall be located within the view shed of a designated Scenic By-Way. Waiver: (1) § 20-7-4c (Chain Link Fence)-A Class II Communication Tower Site shall be enclosed by a chain link fence with a minimum height of eight (8) feet unless waived by the Board of Supervisors. Verizon proposes revising the plans to show that extended enclosed compound will be landscaped with Leyland cypress, not white pine, around the extension of the 7' fence.

Following the hearing, the Planning Commission may vote on a resolution or ordinance to adopt, modify, or reject an item. The items requiring Board of Supervisors' review and approval will be forwarded for action by the Board, which may adopt a resolution or ordinance to approve, modify, or reject an item.

The Nelson County Board of Supervisors will hold a public hearing on **June 12, 2012 at 7:00 o'clock P.M.** on those items referred to it by the Planning Commission. The meeting will be held at the location listed above. The following item is scheduled to be considered:

1. **Class II Communications Tower, Application #2012-002, Verizon Wireless**  
Consideration of communication tower, as described above in item 1.

**Copies of the above files are available for review in the Planning and Zoning Office, 80 Front Street, Lovingson, Virginia, Monday through Friday, 9:00 a.m. to 5:00 p.m. Telephone inquiries may also be directed to the Planning and Zoning Office, 434 263-7090, or toll free at 888-662-9400, selections 4 and 1 Nelson County does not discriminate on the basis of handicapped status in admission or access to its programs and activities. Accommodation will be made for handicapped persons upon advance request.**

Mr. Boger presented the staff report stating that on September 4, 2004, a Class I Tower Permit was approved permitting Alltel to place an 80' wooden tower at the Church of the Blue Ridge location. Recently it was determined that the tower was actually built at 85'; hence it is currently non-conforming. Because of corporate deadlines, Stephen Waller, representing Verizon Wireless obtained a building permit prior to tonight's meeting to reduce the existing height by 5' and to relocate the existing antennas. Therefore Verizon is actually asking to extend the existing 80' wood tower to 95' to allow for an additional array of antennas supporting 4G LTE nationwide service. Mr. Boger further stated that the original application request for a 10' extension of an existing 85' pole was amended by letter dated April 27, 2012 from Lori Schweller, attorney for Verizon Wireless although we do not have a new application. Furthermore Mr. Boger felt a better approach would be for Verizon to request approval of the replacement of the existing tower with an 80' metal pole. Recent FCC determinations allow the applicant to receive a onetime height extension of up to 20' BY RIGHT. Therefore the resulting structure could be 100' which more than meets Verizon's request.

#### **Lori Schweller, Attorney for Verizon Wireless**

Ms. Schweller stated that Verizon Wireless was proposing the replacement of the current 80' wooden tower with a Class II tower rather than an extension to the existing wooden one. Once it was determined that the existing 85' tower was nonconforming, a deferral was requested and a permit was subsequently obtained to reduce the tower to 80'. The application was amended in a letter dated April 27, 2012. Ms. Schweller also stated that new drawings were not submitted with the letter. She stated the 80' tower with LTF antennas does not provide an optimum service. Ms. Schweller explained that the computer modeling of the terrain does not show the shadowing that interferes with the signal from things such as a steeple, trees and buildings. She stated that

the tower height request is 95'. She also stated that the application will be amended before the BOS meeting June 12, 2012.

Commissioner Russell stated that the letter dated April 27, 2012 does not include the request for a 95' metal pole. Commission Tapager stated that the language was not clear but that he understood the current request. Ms. Schweller again stated that the application would be amended before the BOS meeting June 12, 2012 and that she was requesting a 95' metal pole today. Mr. Boger stated that by right the tower could be extended. Commissioner Russell asked if there was a possibility that the tower could go 20 more feet if the county approved the 95' today. Ms. Schweller stated that was true. She also stated that Verizon would come back to the county to ask for any further extension. Chair Proulx stated that by right Verizon could extend the tower to 95'. Ms. Schweller read from, and commented on her interpretation of the federal law concerning communication tower extension. Ms. Schweller stated that Verizon feels that there would be no reason not to come back to the county for approval. Commissioner Harman asked if there was information on final tower height and stated that there would be physical limitations to tower height due to diameter of the structure. She then asked if Mr. Marshall Pearsall, implementation manager for Verizon Wireless could address the Board. Mr. Marshall asked if he could talk privately with Ms. Schweller. After a brief break Ms. Schweller made it clear that the current request was for a 95' metal pole to replace the 80' wooden one. Verizon does not anticipate a future need for a taller tower.

**Stephen Waller, AICP**

Mr. Waller stated that it has always been Verizon Wireless' intention to follow county rules and regulations. He also explained the Verizon propagation map showing radio frequency of the service area.

There was discussion by Commissioners concerning a letter from adjoining property owners; Patricia Bailey, Shirley Wilson and Kathryn Skinner. Their property is located at 9285 Critzer Shop Road, Tax Map # 4-A-16A. The letter had questions concerning the final tower height allowed as well as allowed decibels of the proposed LTE equipment cabinet. Mr. Boger pointed out that the residence was built after this tower was installed in 2004 and that the proposed replacement tower should not have any negative impact on the adjoining property owners.

The public hearing was opened, there were no comments, and the public hearing was closed.

**The following motion was made by Commissioner Russell:**

**WHEREAS**, Verizon Wireless has submitted a written application dated 3/9/12 amended orally at Planning Commission meeting on May 23, 2012 for an 80' metal Class II Communication

Tower Permit with a 15' extension pursuant to Article 20, Subsection 20-7 of the Nelson County Zoning Ordinance to allow the replacement of an existing 80' communications tower; and

**WHEREAS**, the proposed communications tower site is located on property owned by the Church of the Blue Ridge, 9357 Critzer Shop Road, Afton, VA, Tax Map # 4-A-62; and

**WHEREAS**, the application is requesting the following waiver: (1) Section 20-7-4c, fencing height and the following exceptions: (1) Section 20-7-2a, fall zone of 125% of tower height, and (2) Section 20-7-2e, location within the view shed of the Blue Ridge Parkway and of a Scenic-By-Way; and

**WHEREAS**, a notice of the required Public Hearing by the Nelson County Planning Commission was published in the Nelson County Times on May 3 and 10, 2012; and

**WHEREAS**, a notice to adjacent property owners was mailed on May 1, 2012; and

**WHEREAS**, on May 23, 2012, the Nelson County Planning Commission held the required public hearing on said application; and

**WHEREAS**, the Commission has considered the Planning Director's report and comments from the applicant and citizens including representation by the applicant that tower will not be taller than 95'; and

**WHEREAS**, the Commission recognizes the passage by Congress on January 2, 2012 of legislation entitled Middle Class Tax Relief Act and Job Creation Act as it relates to communication towers;

**NOW, THEREFORE, BE IT RESOLVED BY THE NELSON COUNTY PLANNING COMMISSION as follows:**

**A recommendation to the Board of Supervisors to approve the Class II Communication Tower Application #2012-002 by Verizon Wireless to replace an existing 80' wood tower with a 80' metal tower on property identified on Tax Map # 4-A-62 with the following conditions: (a) the tower and all attachments to be painted brown as approved by the Planning Director, (b) all cables, wires, etc to be placed inside the pole, and (c) landscaping to consist of additional Leland Cypress trees 7' in height as planted at 10' on center. The Planning Commission also recommends approval of the following exceptions: (a) Section 20-7-2a, fall zone and (b) location within the view shed of the Blue Ridge Parkway and a Scenic-By-Way. We request the applicant update the March 29<sup>th</sup> application that is on file before the Board of Supervisors meeting.**

**Please note that the question of the validity of the public notice in the Nelson County Times should be determined by the County Attorney before BOS action.**

The second was offered by Commissioner Tapager and the motion passed 5-0, with Supervisor Brennan abstaining.

## **Other Business**

### **Stormwater Report**

1. Tim Padalino presented a report on Department of Conservation and Recreation's (DCR) new statewide SWM (Stormwater Management) regulations which went into effect September 13, 2011. Mr. Padalino stated that Nelson County notified DCR of the intent of the county to locally administer a SWM program by the March 1, 2012 , which was the "early adopter" deadline. He further stated that those "early adopter" localities are eligible for financial incentives. Mr. Padalino stated that local government will begin to administer permits in 2014. The Board had questions concerning fees, staffing, certification and the possible increased cost of a single family dwelling. Mr. Padalino will update the Board as the DCR continues to make information available.

### **Posting Public Notices**

2. Chair Proulx asked for Staff's opinion on posting public notices. Mr. Boger suggested the Board seek support of the BOS. Commissioner Russell asked Staff who would post signs and if it would be mandatory. She also had questions concerning signs being stolen and their removal after public hearings. Chair Proulx stated that the county could not legally require the property owner to post signs. She then asked if Staff could post the public notice signs. Mr. Boger said he did not believe it would be a good use of staff time. Commissioner Russell reported that the Albemarle County ordinance says the signs are not required but their absence does not invalidate the process. Mr. Boger stated that the county attorney suggests public notice signs not be posted. Mr. Boger recommended that it should not be mandatory. Chair Proulx stated that not all county residents read the Nelson Times or goes to the county website. Commissioner Tapager stated that the Board should be sure the public knows posting signs would be a courtesy. Commissioner Russell stated that this matter should be discussed by the BOS and Chair Proulx agreed to write a letter to the BOS concerning this matter.

### **Consideration of amendments to Appendix B, code of Nelson County, 1989**

3. Staff presented the Subdivision Ordinance with corrections. Commissioner Russell stated that on page 9 Mr. Boger's title should be changed to Planning and Zoning Director. Commissioner Russell made the motion to send the Subdivision amendment with the correction to the BOS for approval. Commissioner Tapager offered the second. The vote was 5-0, with Supervisor Brennan abstaining.

## **Supervisor Liaison Report-Connie Brennan**

1. The new ribbon cutting date for the courthouse is June 19, 2012.
2. The roof is being completed on the Jefferson Building.
3. Blue Ridge Medical Center is working to complete the dental facility.
4. The Broadband project is on schedule.  
The RFP has been issued for the Martin's Store location.

Several sites are being considered in Massies Mill.

The county is seeking service providers for Broadband.

5. A contract has been signed with The Nature Conservatory at High Top.
6. There will be a budget hearing on June 7, 2012.
7. The application for the Blue Ridge Tunnel was not approved.
8. There are discussions on what to do with the Massies Mill Recreation Center.
9. There is a possibility that Norwood will become a historical district.
10. A grievance procedure for County Staff is being written.
11. VDOT is looking at the Food Lion intersection again due to several accidents in a short period of time.

**Adjournment**

Supervisor Brennan made the motion to adjourn the meeting at 9:17 P.M.

**Next Meeting:** July 25, 2012

Respectfully submitted,

Melissa M. Thompson, Secretary  
Planning & Zoning

