

**TOWN OF ROCKY MOUNT
BOARD OF ZONING APPEALS
MEETING MINUTES
May 7, 2014
6:00 P.M.**

The Board of Zoning Appeals (BZA) of the Town of Rocky Mount, Virginia met at the Rocky Mount Municipal Building on Thursday, May 7, 2015, at 6:00 p.m., with Chairman Charles L. Hutto, presiding.

ROLL CALL OF MEMBERS PRESENT

Board Members Present: Chairman, Charles L. Hutto, Jr.; Vice Chair, Susan Hapgood; Board of Zoning Appeals Members John Speidel and Lucas Tuning

Board Members Absent: George Gautsch

Staff Members Present: Matthew C. Hankins, Assistant Town Manager; Josh Gibson, Town Planner; Town Attorney, John Boitnott; Deanna Alexander, Deputy Clerk and Secretary to the Board of Zoning Appeals

APPROVAL OF AGENDA

Additions or Corrections: None

Motion: To approve the agenda as presented.

Motion By: Vice Chair Hapgood

Second: Board Member Speidel

Action: Approved by a unanimous vote of members present

REVIEW AND CONSIDERATION OF MINUTES

Let the record show there are no minutes to review and consider at this time.

PUBLIC HEARING

Chairman Hutto recessed the regular meeting to hold the following public hearing:

(A) CenturyLink Appeal of Planning and Zoning Administrator decision:

The applicant, Central Telephone Company of Virginia d/b/a CenturyLink, wishes to appeal an administrative ruling of the Rocky Mount Planning & Zoning Administrator. In accordance with the Town of Rocky Mount Zoning Ordinance Section 40-4, the Planning and Zoning Administrator determined the tower atop the CenturyLink local exchange building at 280 South Main Street, Tax Map & Parcel Number 2070056000, has not been in operation for over two years. CenturyLink was sent notification to remove the tower per Town Code, no later than June 6, 2015. CenturyLink is appealing that ruling.

Let the record show that a site visit was held at the property at 5:15 p.m. immediately prior to the public hearing and all members of the Board are familiar with the property in question.

Staff Report:

John Boitnott, Town Attorney, came before the board to present an order of agreement with agreed upon facts.

After considerable time and research, and as a result of that research, the town and CenturyLink have settled their differences in regards to the tower owned by CenturyLink located at 280 North Main Street. Both parties have agreed to a stipulation of agreed facts, which are as follows;

1. The tower and structure owned by CenturyLink was built sometime before 1968 and pre-exists the enactment of the Wireless Telecommunications Facilities Ordinance (Article 40 of the Zoning Ordinance). The tower and structure is not a new wireless telecommunication facility subject to the regulations of the Wireless Telecommunications Facilities Ordinance.
2. Section 40-4-2 of the Zoning Ordinance is not applicable to the tower and structure owned by CenturyLink.
3. The use of the tower and structure owned by CenturyLink is a nonconforming use as defined by Section 4-3 of the Zoning Ordinance.
4. The Zoning Administrator does not have the authority to direct the removal of the tower and structure owned by CenturyLink solely due to such nonconformity.

As a result of the stipulations and agreed facts, it is the Towns request that the Board of Zoning Appeals reverse the decision of Matthew Hankins, Zoning Administrator. Mr. Boitnott has written stipulation of facts and a standard order; which in this case will be an agreed order between CenturyLink and the Town of Rocky Mount. The request by the Town of Rocky Mount and CenturyLink is that the Board of Zoning appeals, by agreement, reverse the decision that was appealed by the applicant.

Chairman Hutto asked if there are any questions for Mr. Boitnott.

Open discussion ensued with Board Members; Matthew Hankins, Assistant Town Manager; and John Boitnott, Town Attorney. Discussion included the possible future use of the CenturyLink tower by nTelos Wireless and Franklin County emergency services. Discussion continued with a general review of the Town ordinance regarding Wireless Telecommunications Tower placement within the Town.

Matthew Hankins, Assistant Town Manager, advised the board that future use and collations cannot be consider tonight in the boards appeal decision.

Chairman Hutto asked if there are any other questions.

Open discussion ensued with Board Members; and Matthew Hankins, Assistant Town Manager, about the proper motion to make to reverse the decision. Mr. Hankins reminded the board members that the public hearing procedures need to be followed and completed before a motion can be made on the appeal.

Chairman Hutto asked if there are any other questions.

Applicant Comments:

Richard Schullman, Government Affairs Director of Virginia for CenturyLink, came before the board. Mr. Schullman advised the board members that CenturyLink has agreed to and signed the stipulation. CenturyLink would like thank Mr. John Boitnott, Town Attorney, for his hard work to reach a good conclusion.

Public Comments:

Let the record show there are no comments from the public.

Chairman Hutto called the meeting back to regular session.

Chairman Hutto hearing no other comments entertained a motion to reverse the decision of the Zoning Administrator.

Motion: To reverse the decision made by Matthew Hankins, Zoning Administrator, for the removal of the non-conforming CenturyLink tower located at 280 North Main Street with agreed upon stipulation of facts; and the agreed order between CenturyLink and the Town of Rocky Mount.

Motion By: Board Member Speidel

Second: Vice Chair Hapgood

Action: Approved by a unanimous vote of members present

NEW BUSINESS

Let the record show there is no new business at this time.

OLD BUSINESS

Let the record show there is no old business at this time.

BOARD CONCERNS AND STAFF UPDATES

Chairman Hutto: Discussion of samples of Board of Zoning Appeals guidelines and definitions of hardship; and future training.

Josh Gibson, Town Planner, responded that everything is changing July 1, 2015 with Board of Zoning Appeals in the Virginia state code. Now is not a good time to discuss current guidelines or the changing guidelines. Mr. Gibson offered to prepare an outline of the changes and provide the outline to the board for review in July. John Boitnott, Town Attorney, agreed with Mr. Gibson and asked that the board not discuss tonight.

- Vice Chair Hapgood: No Comments
- Member Gautsch: No Comments
- Member Speidel: No Comments
- Member Tuning: No Comments

Chairman Hutto hearing no other comments entertained a motion to adjourn.

ADJOURNMENT

Motion to Adjourn By: Board Member Speidel

Second: Vice Chair Hapgood

Action: Adjourned by a unanimous vote of members present

Time of Adjournment: 6:16pm

Charles Hutto, Jr, Chairman

ATTEST:

Deanna L. Alexander, Clerk/Secretary

/dla