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PLANNING COMMISSION

Joseph E. Simmons, Chairman
Alex W. Bresko, Jr, Vice-Chairman
R. Steven Brockwell
Floyd M. Brown, Sr.
James A. Easter
Imogene S. Elder
V. Clarence Joyner, Jr.

**PLANNING COMMISSION
REGULAR MEETING**

**Thursday, March 28, 2019
6:30 p.m. in Board Room**

- I. Call to Order
- II. Roll Call
- III. Invocation
- IV. Pledge of Allegiance to the U.S. Flag
- V. Approval of Meeting Minutes – February 28, 2019
- VI. Citizen Comments Period
- VII. New Business – Public Hearing

ORDINANCE AMENDMENT OA-19-01 An Ordinance to amend and update "The Code of the County of Prince George, Virginia," by amending § 90-985 "Powers and duties generally," of the Board of Zoning Appeals to comply with current state law.

- VIII. Planning Manager's Communications to the Commission
 - a. Actions of the Board of Zoning Appeals
 - b. Actions of the Board of Supervisors
 - c. General Comments to the Commission
- IX. Adjournment

The next regularly scheduled meeting will be **Thursday, April 25, 2019**



Planning Commission

County of Prince George, Virginia

Regular Meeting
February 28, 2019

I. CALL TO ORDER

Chairman Simmons called to order the February 28, 2019 Planning Commission meeting at 6:30 p.m. in the Board Room of the County Administration Building, 6602 Courts Drive, Prince George, VA 23875.

II. ATTENDANCE

The following members responded to Roll Call:

Chairman Joseph E. Simmons - Present
Mr. James A. Easter - Present
Mrs. Imogene S. Elder - Present
Mr. R. Stephen Brockwell - Present
Mr. V. Clarence Joyner, Jr. - Present
Vice-Chairman Alex W. Bresko, Jr. - Present
Mr. Floyd M. Brown - Present

Also present were: Douglas Miles, Planning Manager and Missy Greaves-Smith, Administrative Support Specialist II.

III. INVOCATION

Mr. Joyner provided the Planning Commission's Invocation.

IV. PLEDGE OF ALLEGIANCE TO THE U. S. FLAG

Mr. Brown led in the Pledge of Allegiance to the United States flag.

V. APPROVAL OF MINUTES: January 24, 2019

Chairman Simmons asked for the Approval of the minutes for the January 24, 2019 Planning Commission's Organizational meeting. A motion was made by Vice Chairman Bresko and it was seconded by Mr. Brockwell and the minutes were adopted, as written.

Roll call vote on the motion:

In Favor: (7) Elder, Bresko, Brown, Easter, Joyner, Brockwell, Simmons
Opposed: (0) Absent: (0) Abstain: (0)

VI. CITIZENS COMMENTS PERIOD

At 6:31 p.m. Chairman Simmons opened the Citizen Comments Period to anyone who wished to speak on any subject not on the agenda. He asked that persons limit their remarks to three (3) minutes. With no one coming forward Chairman Simmons closed the Citizen Comments Period at 6:32 p.m.

VII. OLD BUSINESS

OA-18-01 Adoption of an Ordinance to amend "The Code of the County of Prince George, Virginia," by deleting §§ 90-12, and 90-1036, and by amending §§ 90-1, 90-52, 90-53, 90-56, 90-102, 90-103, 90-202, 90-242, 90-292, 90-295, 90-342, 90-392, 90-395, 90-442, 90-446, 90-492, 90-496, 90-546, and 90-1039, and to consolidate the requirements for signs by adding Article XIII, "Signs" to Chapter 90, "Zoning," §§ 90-591 through 90-601 so as to revise local sign requirements to be consistent with current law and to create a clear and a consistent set of regulations pertaining to signs.

Mr. Miles provided a Powerpoint Slide presentation on the proposed County Sign Ordinance that illustrated the type of signs that could be addressed under the new requirements such as refacing existing freestanding signs, reducing the setbacks for freestanding signs along developed business corridors and maintaining sign setbacks in new development areas. Additional slides were used to illustrate the types of quality signage that could be utilized at new commercial developments.

Mr. Miles explained he has been working with Steve Micas, County Attorney on the new County Sign Ordinance and that most questions were answered during the Work Session but that he would be able to address any further questions now. He indicated that this Public Hearing had been closed on November 15, 2018.

Chairman Simmons asked the Commission if there were any further questions. He then asked for a motion to forward the County Sign Ordinance to the Board.

Mr. Easter made a motion to Recommend Approval of the Ordinance Amendment OA-18-01 the Adoption of an Ordinance to amend "The Code of the County of Prince George, Virginia," by deleting §§ 90-12, and 90-1036, and by amending §§ 90-1, 90-52, 90-53, 90-56, 90-102, 90-103, 90-202, 90-242, 90-292, 90-295, 90-342, 90-392, 90-395, 90-442, 90-446, 90-492, 90-496, 90-546, and 90-1039, and to consolidate the requirements for signs by adding Article XIII, "Signs" to Chapter 90, "Zoning," §§ 90-591 through 90-601 so as to revise local sign requirements to be consistent with current law and to create a clear and a consistent set of regulations pertaining to signs.

The motion was seconded by Mr. Joyner. There was no further discussion.

Roll call vote on the motion:

In Favor: (7) Elder, Bresko, Brown, Easter, Joyner, Brockwell, Simmons

Opposed: (0) Absent: (0) Abstain: (0)

OA-18-02 Adoption of an Ordinance to amend "The Code of the County of Prince George, Virginia," by adding § 70-732 (c) Coordination of **Streets** with existing streets and § 70-746 (b) and (c) Street construction, to allow for coordination with VDOT subdivision street acceptance for maintenance purposes through the Subdivision Ordinance.

Mr. Miles stated that Planning Staff recommended withdrawing this Ordinance Amendment relative to Street Acceptance by VDOT following street construction.

Vice Chairman Bresko provided a motion for Withdrawal of Ordinance Amendment OA-18-02 and this motion was seconded by Mr. Brockwell.

Roll call vote on the motion:

In Favor: (7) Elder, Bresko, Brown, Easter, Joyner, Brockwell, Simmons

Opposed: (0) Absent: (0) Abstain: (0)

VII. NEW BUSINESS:

SPECIAL EXCEPTION SE-19-01 Request of Petersburg Cellular Partnership (d/b/a Verizon Wireless) to construct a 199 foot monopole communication tower pursuant to 90-53 (15) within the A-1, General Agricultural Zoning District. The request property is located east of Anderson Lumber at 15610 James River Drive on the north line of Route 10 and is identified as Tax Map 270(0A)00-036-C. The Comprehensive Plan calls for agricultural uses.

Mr. Miles provided a Powerpoint presentation on the proposed land use request. He stated that applicant, Verizon Wireless is proposing to construct a 199-foot communications tower facility that would provide additional wireless coverage.

The monopole tower use would be on a new five (5) acre parcel on the north line of State Route 10 just east of the existing Anderson Lumber Company facility. He stated that Planning and VDOT Staff have reviewed this request and Recommend Approval of this request along with the conditions found within the Staff Report.

Chairman Simmons asked Mr. Miles to explain further that the property owner has created a separate, five (5) acre parcel for the proposed land use request. Mr. Miles indicated that typically towers are erected on land that is leased to the tower company and in this case the property owner did not want a tower on the existing Anderson Lumber business parcel. Mr. Miles explained further that the five (5) acre parcel that has been created is solely for the communications tower facility.

Vice Chairman Bresko asked Mr. Miles if the Andersons were present for the Public Hearing. Mr. Miles stated that Mr. Steve Romine, attorney for Verizon Wireless was present on behalf of the applicant via Power of Attorney from the Andersons, as the subject property owners.

Mr. Steve Romine, an attorney with Williams Mullen in Norfolk approached to speak on behalf of his client and introduced himself to the Planning Commission.

He started off by thanking Mr. Miles for his excellent presentation of the tower request and he would like to just elaborate even further on the proposed land use.

He stated that Verizon Wireless was requesting a Special Exception request for a 199-foot monopole tower use. The site is designed to have a fifty (50) foot fall zone, the tower would not be lit and there will be a seventy (70) foot by seventy (70) foot compound around the base of the tower. Mr. Romine continued with the following facts and he stated that 52% of all households are now wireless, 70% of E-911 phone calls are made by wireless devices and that 90% of all households use wireless services and there is a defined need in this area along State Route 10.

Mr. Brown asked Mr. Miles about this tower site location going to the Board of Zoning Appeals for a height Variance request. Mr. Miles explained to public and to the Commission that if they recommend approval the Special Exception case would go to the March 26, 2019 Board of Supervisors for approval. The BZA would then review a Variance request for the height of the proposed tower use.

PUBLIC HEARING:

Chairman Simmons opened the Public Hearing at 7:16 p.m. to anyone for or against the proposed tower request. With no one coming forward, the Public Hearing was closed at 7:17 p.m.

Mr. Joyner made a motion to Recommend Approval with the Staff conditions for SPECIAL EXCEPTION SE-19-01 a Request of Petersburg Cellular Partnership (d/b/a Verizon Wireless) to construct a 199-foot monopole communication tower and pursuant to 90-53 (15) within the A-1, General Agricultural Zoning District located east of Anderson Lumber at 15610 James River Drive on the north line of Route 10 and identified as Tax Map 270(0A)00-036-C.

The motion was seconded by Vice Chairman Bresko with no further discussion.

Roll call vote on the motion:

In Favor: (7) Elder, Bresko, Brown, Easter, Joyner, Brockwell, Simmons

Opposed: (0) Absent: (0) Abstain: (0)

VIII. COMMUNICATIONS:

Chairman Simmons established the 2020 Comprehensive Plan sub-committees:

Land Use: Mr. Bresko and Mr. Brown; Housing: Mrs. Elder and Mr. Joyner and Transportation: Mr. Easter and Mr. Simmons

Mr. Brockwell was designated as the Alternate subcommittee member to fill in, if needed, as only two Planning Commissioners could serve on each subcommittee.

Mr. Miles provided the following communications to the Planning Commission:

Actions of the Board of Zoning Appeals:

The March 18th Board of Zoning Appeals Regular Meeting is cancelled

Actions of the Board of Supervisors:

The County Administrator presented the County Budget to the Board of Supervisor members and to the Public with no new fees or tax increases.

General Comments to the Planning Commission:

The Commissioners were requested to provide to Chairman Simmons or Mr. Miles any County residents or business owners they were aware of that may be interested in serving on the established sub-committees. These meetings will meet on Monday prior to the Regular Meeting following the regular Work Session in the Planning Conference Room between 6:30 p.m. and 8:00 p.m.

IX. ADJOURNMENT

A Motion was made by Mr. Joyner, seconded by Vice Chairman Bresko to adjourn the meeting at 7:32 p.m. until Thursday, March 28, 2019 at 6:30 p.m. Roll was called on the motion.

Roll Call vote on the Motion:

In Favor: (7) Joyner, Bresko, Brown, Brockwell, Elder, Easter, Simmons
Opposed: (0) Absent: (0) Abstain: (0)

PUBLIC NOTICE
PRINCE GEORGE COUNTY PLANNING COMMISSION

The Prince George County Planning Commission will hold a public hearing on Thursday, March 28, 2019 beginning at 6:30 pm on:

ORDINANCE AMENDMENT OA-19-01: An Ordinance to amend and update "The Code of the County of Prince George, Virginia," by amending § 90-985 "Powers and duties generally," of the Board of Zoning Appeals to comply with current state law.

The meeting will be held in the Board Room, third floor, County Administration Building. A copy of the Ordinance may be examined or obtained by contacting Planning and Zoning, first floor, County Administration Building from 8:30 am to 5:00 pm, Monday – Friday, 804.722.8678.

All interested persons are invited to attend and participate in the public hearing. Anyone requiring assistance to participate in the public hearing is asked to contact Planning and Zoning in advance so that the appropriate arrangements can be made.

Douglas Miles, AICP
Planning Manager

Sec. 90-985. - Powers and duties generally.

The board of zoning appeals shall have the power and duty:

- (1) To hear and decide appeals from any order, requirement, decision or determination made by an administrative officer in the administration or enforcement of this chapter or of any ordinance adopted pursuant thereto. The decision on such appeal shall be based on the board's judgment of whether the administrative officer was correct. The determination of the administrative officer shall be presumed to be correct. At a hearing on an appeal, the administrative officer shall explain the basis for his determination after which the appellant has the burden of proof to rebut such presumption of correctness by a preponderance of the evidence. The board shall consider ~~the purpose and intent of~~ any applicable ordinances, laws and regulations in making its decision.

- (2) ~~To authorize~~ Notwithstanding any other provision of law, general or special, to grant upon appeal or original application in specific cases ~~such a~~ variance as defined in Code of Virginia, § 15.2-2201 ~~from the terms of this chapter as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary hardship, provided that the spirit of this chapter shall be observed and substantial justice done, as follows: the burden of proof shall be on the applicant for a variance to prove by a preponderance of the evidence that his application meets the standard for a variance as defined in § 15.2-2201 and the criteria set out in § 15.2-2309.~~

a). Notwithstanding any other provision of law, general or special, a variance shall be granted if:

1. The evidence shows that the strict application of the terms of the ordinance would unreasonably restrict the utilization of the property or that the granting of the variance would alleviate a hardship due to a physical condition relating to the property or improvements thereon at the time of the effective date of the ordinance, or alleviate a hardship by granting a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability;
2. when a property owner can show that his- The property interest for which the variance is being requested was acquired in good faith and where by reason of the exceptional and any hardship was not created by the applicant for the variance; narrowness, shallowness, size or shape of a specific piece of property at the time of the effective date of the ordinance from which this chapter is derived, or where by reason of exceptional topographic conditions or other extraordinary situation or condition of the piece of property or of the condition, situation, or development of property immediately adjacent thereto, the strict application of the terms of this chapter would effectively prohibit or unreasonably restrict the utilization of the property or where the board is satisfied, upon the evidence heard by it, that the granting of the variance will alleviate a clearly demonstrable hardship approaching confiscation, as distinguished from a special privilege or convenience sought by the applicant, provided that all variances shall be in harmony with the intended spirit and purpose of this chapter.
3. The granting of the variance will not be of substantial detriment to adjacent property and nearby properties in the proximity of that geographical area;
4. The condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to the ordinance;
5. The granting of the variance does not result in a use that is not otherwise permitted on such property or a change in the zoning classification of the property

6. The relief or remedy sought by the variance application is not available through an administrative variance, special exception or modification of the zoning ordinance.

a. ~~No such variance shall be authorized by the board unless it finds that:~~

- ~~1. The strict application of this chapter would produce undue hardship;~~
- ~~2. The hardship is not shared generally by other properties in the same zoning district and the same vicinity; and~~
- ~~3. The authorization of the variance will not be of substantial detriment to adjacent property and the character of the district will not be changed by the granting of the variance.~~

b. Any variance granted to provide a reasonable modification to a property or improvements thereon requested by, or on behalf of, a person with a disability may expire when the person benefited by it is no longer in need of the modification to such property or improvements provided by the variance, subject to the provisions of state and federal fair housing laws, or the Americans with Disabilities Act of 1990, as applicable, such request shall be granted by the County unless a variance from the board of zoning appeals under this chapter is required in order for such request to be granted.

No variance shall be ~~authorized~~ considered except after notice and hearing as required by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.

c. ~~No variance shall be authorized unless the board finds that the condition or situation of the property concerned is not of so general or recurring a nature as to make reasonably practicable the formulation of a general regulation to be adopted as an amendment to this chapter.~~

cd. In ~~authorizing~~ granting a variance the board may impose such conditions regarding the location, character and other features of the proposed structure or use as it may deem necessary in the public interest and may require a guarantee or bond to ensure that the conditions imposed are being and will continue to be complied with. Notwithstanding any other provision of law, general or special, the property upon which a property owner has been granted a variance shall be treated as conforming for all purposes under state law and local ordinance; however, the structure permitted by the variance may not be expanded unless the expansion is within an area of the site or part of the structure for which no variance is required under the ordinance. Where the expansion is proposed within an area of the site or part of the structure for which a variance is required, the approval of an additional variance shall be required.

- (3) To hear and decide appeals from the decision of the zoning administrator after notice and hearing as provided by Code of Virginia, § 15.2-2204. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail.
- (4) To hear and decide applications for interpretation of the district map where there is any uncertainty as to the location of a district boundary. After notice to the owners of the property affected by the question, and after public hearing with notice as required by Code of Virginia, § 15.2-2204, the board may interpret the map in such way as to carry out the intent and purpose of this chapter for the particular section or district in question. However, when giving any required notice to the owners, their agents or the occupants of abutting property and property immediately across the street or road from the property affected, the board may give such notice by first class mail rather than by registered or certified mail. The board shall not have the power to change substantially the locations of district boundaries as established by ordinance.

- (5) No provision of this section shall be construed as granting the board of zoning appeals the power to rezone property or to base board decisions on the merits of the purpose and intent of local ordinances duly adopted by the board of supervisors.
- (6) The board by resolution may fix a schedule of regular meetings and may also fix the day to which any meeting shall be continued if the chairman, or vice-chairman if the chairman is unable to act, finds and declares that weather or other conditions are such that it is hazardous for members to attend the meeting. Such finding shall be communicated to the members and the press as promptly as possible. All hearings and other matters previously advertised for such meeting in accordance with Code of Virginia, § 15.2-2312 shall be conducted at the continued meeting and no further advertisement is required.
- (7) To hear and decide appeals to decrease the 100-foot-wide buffer area provided for as a portion of the RPA overlay zoning district in accordance with the provisions provided in section 90-596.
- (8) To grant special exceptions, upon conditions, to allow the keeping of more than three dogs on residentially zoned parcels, on business zoned parcels that allow residential uses, or any residentially used parcel, regardless of zoning, of an acre or less.

(Code 1988, § 17-345; Ord. No. O-12-37, § 1, 11-27-2012)

State Law reference— Powers and duties of board of zoning appeals, Code of Virginia, § 15.2-2309.

March 12 Meeting Recap

BOS Approves School Board Request for Appropriation of School Impact Aid Funds

The Board of Supervisors at its March 12 meeting held a public hearing and voted unanimously to appropriate \$1,583,633.35 to the School Operating Fund for FY2019 School Impact Aid Funds.

The School Board requested this appropriation for a list of planned projects, including wireless infrastructure, two special education buses, HVAC work at JEJ Moore Middle School, roof maintenance at Harrison Elementary School, electrical work at N.B. Clements Jr. High, the High School, and North Elementary, a security vestibule at N.B. Clements Jr. High, the High School, and Moore Middle, a facility index study, and High School parking lot repairs.

Other matters to come before the BOS at its meeting and worksession:

- Received a summary on the upcoming Nathaniel E. Dozier, Jr. rezoning request.
- Received a report on the possible use of contractive services for litter pick-up.
- Received an update from the County Engineer on utilities projects.
- Unanimously approved an appropriation in the amount of \$35,020.96 for Four for Life Grant Funds.
- Received a maintenance report from VDOT.
- Unanimously authorized a public hearing for Eastern Star Chapter and Masonic Lodge Lease at the Central Wellness Center.
- Unanimously authorized the Wellness Committee to complete and submit a grant application to Heal Cities and Towns Mid-Atlantic for the Heal Cities and Towns Campaign Grant.
- Discussed and took no action on a VA ABC License request from Proud Mamas Kitchen LLC.
- Held a public hearing and unanimously approved a lease for a portion of the Central Wellness Center to The Woman's Club of Prince George County.

- Held a public hearing and voted 3-2 to authorize the issuance of up to \$9,450,000 in general obligation bonds, with Brown and Webb dissenting.
- Held a public hearing and voted 3-2 to approve a budget amendment and appropriation in the amount of \$8,238,473 for various projects, with Brown and Webb dissenting.