

**MINUTES OF THE  
NASH COUNTY BOARD OF ADJUSTMENT  
REGULAR MEETING  
HELD MONDAY, MAY 23, 2022 AT 6:00 P.M.  
FREDERICK B. COOPER COMMISSIONERS ROOM  
CLAUDE MAYO, JR. ADMINISTRATION BUILDING – THIRD FLOOR  
120 WEST WASHINGTON STREET  
NASHVILLE, NC 27856**

**BOARD MEMBERS PRESENT**

Dennis Cobb, Regular Member, Vice-Chairman  
Brandon Moore, Regular Member  
Oscar Bruce, Alternate Member #1

**BOARD MEMBERS ABSENT**

Rodney Hough, Regular Member  
Kenneth Mullen, Regular Member  
William Parker, Regular Member  
Emanuel Shell, Alternate Member #2

**ATTORNEY TO THE BOARD**

Dylan Castellino

**STAFF MEMBERS PRESENT**

Adam Tyson, Planning Director  
Windy Braswell, Planning Technician  
Jonathan Edwards, Communications Director

**OTHERS PRESENT**

Michael Berkowitz  
Deborah Edwards  
Avery Fann  
Victoria Farmer (Remote Participant via Zoom)  
Thomas H. Johnson, Jr.  
Susan Rabold (Remote Participant via Zoom)

**1. Call to Order.**

Vice-Chairman Cobb called the meeting to order at 6:11 p.m.

**2. Determination of a Quorum.**

Vice-Chairman Cobb recognized the presence of a quorum.

**3. Review of Board Membership Changes.**

Mr. Tyson reviewed the following changes in the Board's membership:

Former Board Chairman Tommy Bass's term expired on April 30, 2022 and he was not eligible for reappointment due to the applicable term limit.

Former Alternate Board Member Terry Williams resigned effective April 25, 2022 due to moving outside of the County.

Subsequently, Alternate Member Rodney Hough was promoted to a Regular Board Member.

The Board of Commissioners appointed Oscar Bruce as the new Alternate Board Member #1 and Emanuel Shell as the new Alternate Board Member #2.

Mr. Tyson noted that the Alternate Board Member #3 position remained vacant at that time.

**4. Recognition of the Voting Board Members for the Meeting.**

Mr. Tyson recognized the voting Board members for the meeting to be Vice-Chairman Cobb, Mr. Moore, and Mr. Bruce.

**5. Election of Board Officers (Chairman & Vice-Chairman) for 2022-2023 Year.**

**BOARD ACTION:** Mr. Moore offered a motion, which was duly seconded by Mr. Bruce, to table the election of Board officers until the next regular meeting due to the limited number of Board members present.

The motion was unanimously carried.

**6. Approval of the Minutes of the January 24, 2022 Regular Meeting.**

The minutes of the January 24, 2022 regular meeting were sent to each Board member for review. Vice-Chairman Cobb asked for any revisions or corrections. None were offered.

**BOARD ACTION:** Mr. Moore offered a motion, which was duly seconded by Mr. Bruce, to approve the minutes of the January 24, 2022 regular meeting as submitted.

The motion was unanimously carried.

**7. Quasi-Judicial Evidentiary Hearing on Special Use Permit Request S-220501 made by Faulk & Foster on behalf of Verizon Wireless to authorize the construction and operation of a proposed 195-foot monopole wireless telecommunications tower and related equipment compound to be located on the west side of S NC Highway 231, Middlesex, NC 27557 on the southeast corner of the 47.57-acre tract of land owned by Florence Mildred Phillips in the R-40 Single-Family Residential Zoning District.**

**BOARD ACTION: Mr. Moore offered a motion, which was duly seconded by Mr. Bruce, to open the public hearing on Special Use Permit Request S-220501.**

**The motion was unanimously carried.**

Mr. Tyson offered the full contents of the project case file, including the staff report, as evidence for the record of the public hearing.

Vice-Chairman Cobb acknowledged acceptance of the evidence on behalf of the Board.

Mr. Tyson presented the staff report and supplemental materials related to Special Use Permit Request S-220501 as submitted to the Board in the May 23, 2022 Nash County Board of Adjustment agenda packet including a review of the general requirements for the consideration of a special use permit, a description of the subject property, a description of the specific special use permit request, recommended conclusions with supporting findings of fact, and recommended permit conditions.

Mr. Tyson recognized Project Manager Susan Rabold with CityScape Consultants, Inc. – who participated in the public hearing remotely via a real-time Zoom video communications connection – to summarize the report on Special Use Permit Request S-220501 prepared and submitted by CityScape and to specifically address the color of the proposed tower and type of proposed mount to be used to attach antennas to the tower.

Ms. Rabold was sworn in by Vice-Chairman Cobb to provide testimony under oath during the public hearing.

Ms. Rabold addressed the Board regarding the proposed galvanized gray color of the tower and the related possibility of glare as well as the potential use of a “T”-arm antenna mount as opposed to a platform mount.

The representatives for the applicant – Attorney Thomas H. Johnson, Jr. with Williams Mullen, Project Engineer Avery Fann with Kimley-Horn, and Real Estate Appraiser Michael Berkowitz – were sworn in by Vice-Chairman Cobb to provide testimony under oath during the public hearing.

Mr. Johnson addressed the Board to advocate for a galvanized gray tower color due to the lower maintenance requirements and for the use of a platform antenna mount, as it would better serve to keep the tower-mounted radios cool and to allow for equipment maintenance. He also requested the omission of the proposed condition requiring the removal of an upper section of the tower if the antenna arrays were lowered in the future because, in his opinion, it would limit the utility of the tower for future colocations.

Mr. Johnson further discussed that a wireless telecommunications facility is entitled to a presumption that it is in harmony with the area in which it is to be located because it is a land use allowed by special use permit in this R-40 Zoning District. He also noted the finding of the submitted impact study report prepared by Michael P. Berkowitz that the proposed wireless communication facility would not substantially injure the value of adjoining or abutting property.

Mr. Moore asked for clarification between the proposed platform antenna mount versus the “T”-arm antenna mount.

Mr. Fann addressed the Board to describe the details of the Kenwood antenna mount proposed for use on the tower.

Ms. Rabold addressed the Board to state that CityScape would support the use of the Kenwood antenna mount as proposed and explained that the recommended condition related to the potential removal of an upper tower section in the future was related to the continuing consolidation and merger of wireless service providers over time.

Mr. Tyson, Ms. Rabold, Mr. Johnson, and Mr. Castellino discussed the revised wording of the recommended conditions based on the preceding discussion.

There were no further comments or questions from any members of the public.

Mr. Moore noted that: 1) a galvanized gray tower color would likely dull over time, reducing glare concerns, 2) the proposed platform antenna mount appeared to be the best option, and 3) the recommended condition to require removal of an upper section of the tower in the future would likely be unnecessary.

Mr. Bruce agreed.

**BOARD ACTION: Mr. Moore offered a motion, which was duly seconded by Mr. Bruce, to close the public hearing on Special Use Permit Request S-220501.**

**The motion was unanimously carried.**

**BOARD ACTION: Mr. Moore offered a motion, which was duly seconded by Mr. Bruce, to adopt the following conclusions with supporting findings of fact in relation to Special Use Permit Request S-220501.**

**Conclusions with Supporting Findings of Fact:**

**(1) The proposed development will satisfy the specific standards required by UDO Section 11-5 for wireless communication facilities because:**

- (a) A freestanding, non-concealed tower that does not exceed a maximum allowable height of 199 feet (including its lightning rod) is permitted for development in this R-40 Zoning District with the issuance of a special use permit.
- (b) The review report prepared by CityScape Consultants, Inc. and dated May 4, 2022 concluded that:
  - (i) The need for the proposed facility in this location is justified due to technological reasons, it is essential in order for the applicant to provide wireless communication services, and it follows Federal guidelines for wireless facility deployment.
  - (ii) The signal coverage and propagation maps submitted by the applicant clearly demonstrate a lack of existing wireless coverage in the subject area that justifies the proposed height of the tower, which is necessary in order to improve in-building and in-vehicle service between other existing tower sites and to alleviate wireless capacity issues along S NC Highway 231.
  - (iii) There are no already existing wireless communication facilities, other elevated structures, or publicly-owned properties located in the vicinity of the subject site that could provide equivalent wireless signal coverage to that of the proposed new tower.

- (iv) The tower design will accommodate the antennas and associated equipment necessary for five (5) total wireless service providers in compliance with the County's minimum requirement for a tower of the proposed height.
- (v) The requirement of a concealed (or "stealth") monopole structure at this location would be inappropriate due to the necessary height of the tower and would likely result in a wider (and therefore more visible) support structure, but the visual impact of the proposed non-concealed tower would be mitigated by its gray color and the use of low-profile antennas.

**(2) The proposed development will not materially endanger the public health or safety because:**

- (a) The ground equipment compound will be surrounded by an eight-foot tall wooden climb-deterrent fence topped with barbed wire.
- (b) Documentation submitted by a licensed structural engineer verifies that in the unlikely event of a catastrophic structural failure, the proposed monopole tower would collapse within the confines of the facility's lease area in compliance with the County's requirement for the use of "breakpoint technology."
- (c) Statements provided by the applicant certify that the radio frequency emissions from the facility will comply with FCC standards regarding interference with other radio services and prior to the construction of the facility, the applicant must further certify that it will comply with the applicable FCC requirements to protect the public from excessive exposure to electromagnetic radiation.

**(3) The proposed development will not substantially injure the value of adjoining or abutting property because:**

- (a) The submitted impact study report prepared by Michael P. Berkowitz with MPB Real Estate, LLC and dated December 21, 2021 employed appraisal methodology and market data to conclude that the proposed wireless communication facility will not substantially injure the value of adjoining or abutting property.
- (b) The operation of the proposed wireless communication facility would be essentially silent, it would not generate any additional traffic beyond that necessary for routine maintenance, and it will be visually screened by both newly planted vegetation within the lease area and existing natural vegetation to remain outside the lease area.
- (c) FAA regulations do not require aviation obstruction lighting or marking for a tower of the proposed total height of 199 feet.

**(4) The proposed development will be in harmony with the area in which it is to be located because:**

- (a) The proposed wireless communication facility will provide improved wireless service and capacity to the residents of the surrounding area as well as for drivers passing through the area on S NC Highway 231.
- (b) A freestanding, non-concealed tower that does not exceed a maximum allowable height of 199 feet (including its lightning rod) is permitted for development in this R-40 Zoning District with the issuance of a special use permit.

**(5) The proposed development will be in general conformity with the recommendations of the Nash County Land Development Plan because:**

- (a) The plan does not specifically address the development of wireless communication facilities within this designated Suburban Growth Area.

**The motion was unanimously carried.**

**BOARD ACTION:** Mr. Moore offered a motion, which was duly seconded by Mr. Bruce, to approve Special Use Permit Request S-220501, subject to the following attached permit conditions:

**Permit Conditions:**

- (1) All equipment feed lines shall be routed inside the monopole and all entry ports on the monopole shall be sealed to prevent wildlife intrusion.
- (2) The applicant shall provide a structural analysis report from a North Carolina Registered Professional Engineer indicating that the tower will support the applicant's antennas and similar equipment for four (4) additional future collocations.
- (3) The applicant shall provide an RF exposure report indicating that the proposal will comply with the FCC's OET-65 human RF exposure requirements.
- (4) The applicant shall provide the Determination of No Hazard issued by the FAA for the proposed location and tower at the overall height of 199 feet above ground.
- (5) The proposed structure shall not be lighted and/or painted a highly visible color unless required by the FAA.
- (6) The monopole and all mounted equipment shall be finished with a galvanized gray color.
- (7) The applicant shall utilize the proposed Kenwood antenna mount or a substantially similar mount design to achieve as minimal a tower profile as possible.
- (8) The tower, once constructed to a 199-foot overall height above ground, shall not be increased in height to or above 200 feet under the provisions of Section 6409(a) of the Spectrum Act of 2012, unless the FAA would not require aviation obstruction lighting and/or marking.
- (9) The noise level of the installed standby generator shall not exceed 65 dB at the nearest property line.
- (10) Testing of the generator shall be limited to between 9:00 a.m. and 4:00 p.m. Monday through Friday and not for a period to exceed one hour.

The motion was unanimously carried.

**8. Adjournment.**

There being no further business, Vice-Chairman Cobb adjourned the meeting at 7:22 p.m.