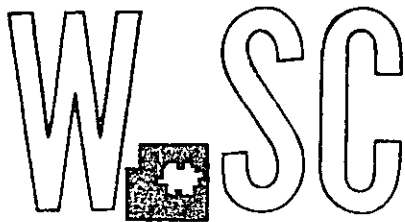


WICHITA — SEDGWICK COUNTY

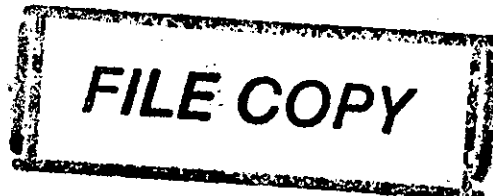


METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

Randy Wilson
Rhonda Botts
3801 S. Greenwich
Wichita, KS 67210

November 2, 1999



RE: CoBZA 4-99 – Variance to increase the height of a structure from 45 feet to 62 feet. Generally located north of 39th Street South and west of Greenwich Road (3801 S. Greenwich)

Dear Randy Wilson and Rhonda Botts:

Enclosed is a signed copy of the above-referenced CoBZA 4-99 Resolutions adopted by the County Board of Zoning Appeals on November 1, 1999. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files now that the necessary signatures have been obtained.

If you have any questions concerning this matter, please contact our office at 268-4421.

Sincerely,

Lisa Verts, Assistant Secretary
County Board of Zoning Appeals

LV/rs

Enclosure

cc: Elemental Resources, %Christopher J. Dow, P. O. box 21, Haysville, KS 67060
George Bloesing, County Code Enforcement
Glen Wiltse, County Code Enforcement
Michelle Daise, County Law



CoBZA RESOLUTION NO. 4-99

WHEREAS, Randy Wilson and Rhonda Botts, pursuant to Section V-G, Wichita-Sedgwick County Unified Zoning Code, requests a variance to increase the height of a structure from 45 feet to 62 feet on property zoned "SF-20" Single-Family Residential and legally described as follows:

Lot 13, Block A, Greenwich Farms, an Addition to Sedgwick County, Kansas.
Generally located north of 39th Street South and west of Greenwich Road.
(3901 S. Greenwich).

WHEREAS, proper notice as required by ordinance and by the rules of the Sedgwick County Board of Zoning Appeals has been given; and

WHEREAS, the Sedgwick County Board of Zoning Appeals did, at the meeting of November 1, 1999, consider said application; and

WHEREAS, the Sedgwick County Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section V-G, Wichita- Sedgwick County Unified Zoning Code;

WHEREAS, the Sedgwick County Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owners or the applicant. It is the opinion of staff that this property is unique, inasmuch as under the previous County Zoning Regulations (1992) this variance request would have been allowed with an Administrative Adjustment on this property. The omission of the exception that would allow the energy generating structure was inadvertent and should not be used against this request.

WHEREAS, the Sedgwick County Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents. It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as the wind generator is not located within 200 feet of any existing residential structure on any adjacent property.

WHEREAS, the Sedgwick County Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of staff that the strict application of the provisions of the zoning regulation may constitute an unnecessary hardship upon the applicant, inasmuch as sufficient energy efficiency from the power generator could not be attained at this location through the strict enforcement of the 45-foot height limitation.

WHEREAS, the Sedgwick County Board of Zoning Appeals has found that the variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the use of a sustainable power source reduces the need of public utilities for this household.

WHEREAS, the Sedgwick County Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance. It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulation, inasmuch as the intention of the code was not to limit sustainable self-sufficient energy sources. This variance would have been an allowable exception, handled through an Administrative Adjustment, under the previous County Code.

WHEREAS, each of the five conditions required by Section V-G, Wichita-Sedgwick County Unified Zoning Code, to be present before a variance can be granted has been found to exist.

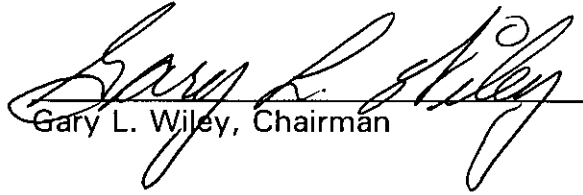
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of Sedgwick County that this request be **APPROVED** for a variance to increase the height of a structure from 45 feet to 62 feet on property zoned "SF-20" Single-Family Residential and legally described as follows:

Lot 13, Block A, Greenwich Farms, an Addition to Sedgwick County, Kansas.
Generally located north of 39th Street South and west of Greenwich Road.
(3901 S. Greenwich).

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance to allow a power generator height of 62 feet be **GRANTED**, subject to the following conditions:

1. The increase in height to 62 feet shall apply only to the aforementioned power generator.
2. The applicant shall obtain all applicable permits including, but not limited to, a building permit.
3. Placement of the power generator shall conform to the submitted site plan.
4. The power generator shall be installed within one year or the resolution granting this variance shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 1st day of November 1999.



Gary L. Wiley, Chairman

ATTEST:



Lisa Verts, Assistant Secretary

AGENDA ITEM NO.
November 1, 1999

2

CASE NUMBER: CoBZA 4-99

OWNER/APPLICANT: Randy Wilson and Rhonda Botts

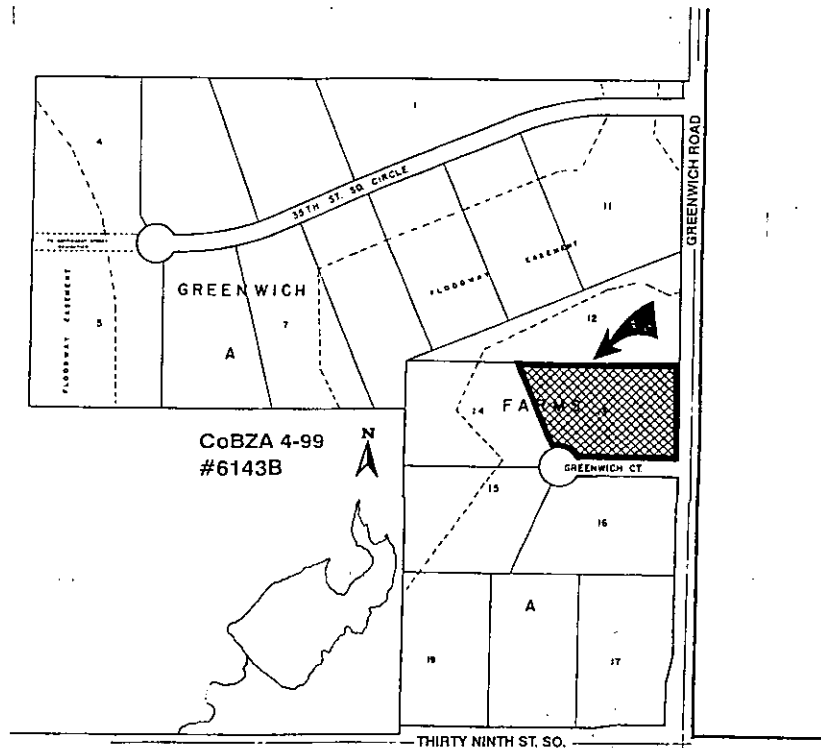
AGENT: Elemental Resources, c/o Christopher Dow

REQUEST: Variance to increase the height of a structure from 45 feet to 62 feet.

CURRENT ZONING: "SF-20" – Single-Family Residential

SITE SIZE: 5 Acres

LOCATION: North of 39th Street South and west of Greenwich Road (3801 S. Greenwich)



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 16.A.2 of the Sedgwick County Zoning Regulations. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicants are requesting a height variance for an energy generator on their 5 acres of platted property. The power generator tower selected for this site is 62 feet tall and has a monopole design with three carbon/fiberglass blades totaling 7 feet in diameter. According to the manufacturer, this unit is designed to provide energy for remote power, home and farm lighting, and water pumping. The applicant anticipates using the power generated by this unit to provide the family with lighting and food storage requirements in times of emergency.

As stated in the Unified Zoning Code, the height limit for energy generating structures is 45 feet, "provided that such structure shall not be located in any required setback nor be located closer to any adjacent property than the height of the energy generating structure." The 1992 Zoning Regulations for the Unincorporated Area of Sedgwick County, Kansas made exception to this condition:

The Zoning Administrator may grant exceptions to the height limitations, provided all of the following conditions are found to exist:

- (1) The energy generating structure shall not be located closer to an adjacent property line than twice the height of the structure.
- (2) The energy generating unit shall not be located within 200 feet of any existing residential structure on an adjacent property.
- (3) The energy generating unit shall not exceed a height of one hundred (100) feet to the tip of the motor blades.

(Page 14.2)

In combining the City and County Zoning Codes in 1996 this exception was omitted from the Unified Zoning Code, primarily for lack of use of the height exception. If it had been included, this request would have been an Administrative Adjustment and would not have come before the Board of Zoning Appeals. The proposed location of the power generator complies with the aforementioned exception.

The 45-foot height limit is not an adequate height to allow this power generator to operate efficiently. According to the applicant, the additional 17 feet of tower height increases the average wind speed effecting the generator from 14 mph to 16 mph, which will provide a 20-25 percent increase in power output.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-20" – Agricultural Uses
SOUTH	"SF-20" – Single-Family Home
EAST	"SF-20" – Agricultural Uses
WEST	"SF-20" – Agricultural Uses

UNIQUENESS: It is the opinion of staff that this property is unique, inasmuch as under the previous County Zoning Regulations (1992) this variance request would have been allowed with an Administrative Adjustment on this property. The omission of the exception that would allow the energy generating structure was inadvertent and should not be used against this request.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested would not adversely affect the rights of adjacent property owners, inasmuch as the wind generator is not located within 200 feet of any existing residential structure on any adjacent property.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulation may constitute an unnecessary hardship upon the applicant, inasmuch as sufficient energy efficiency from the power generator could not be attained at this location through the strict enforcement of the 45-foot height limitation.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest, inasmuch as the use of a sustainable power source reduces the need of public utilities for this household.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the zoning regulation, inasmuch as the intention of the code was not to limit sustainable self-sufficient energy sources. This variance would have been an allowable exception, handled through an Administrative Adjustment, under the previous County Code.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of the variance can be found to exist, then it is the recommendation of the Secretary that the variance to allow a power generator height of 62 feet be GRANTED, subject to the following conditions:

1. The increase in height to 62 feet shall apply only to the aforementioned power generator.
2. The applicant shall obtain all applicable permits including, but not limited to, a building permit.

3. Placement of the power generator shall conform to the submitted site plan.
4. The power generator shall be installed within one year or the resolution granting this variance shall become null and void.

