requested would not be opposed to the general spirit and intent of the zoning regulations inasmuch as the zoning ordinance permits the location of public schools within almost all zoning districts and the use of the property for educational purposes and needed accessory equipment.

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 be granted, subject to the following conditions:

1. The color of the tower shall be silver or gray or a similar unobtrusive color.

2. There shall be no lighting of or on the tower.

3. No commercial advertising signs shall be allowed on the tower or on its perimeter security fence. No school related signs shall be allowed on the tower.

4. The tower base shall be enclosed with a 1-1/4" x 1-1/4" - 9 gauge mesh security fence ten feet in height with 45 degree extension arms angled to the outside.

5. If the communication tower remains unused for a period of 12 consecutive months it shall be considered abandoned and shall be removed by the owner no later than 90 days following the end of the 12-month period.

6. The tower shall be located substantially in compliance with the site plan approved by the Board of Zoning Appeals on November 19, 1996, unless a revised site plan is submitted to, and reviewed and approved by, the Board.

7. The tower shall be installed within two years or the resolution granting this variance shall become null and void.

8. The variance authorizing a higher tower may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions of approval.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 12
December 17, 1996

SECRETARY'S REPORT

CASE NUMBER:	BZA 33-96
OWNER/APPLICANT:	USD 259
AGENT:	Roger Savage
REQUEST:	Variance to increase the height of a microwave communications tower from 35 feet to 100 feet.
CURRENT ZONING:	"MF-29" Multi-Family Residential
SITE SIZE:	6.38 acres
LOCATION:	West of Martinson in an area south of Merton (Stanley Elementary, 1749 S. Martinson)



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

GENERAL BACKGROUND: See separate sheet titled "General Background Information for all USD 259 Microwave Communication Tower Height Variance Requests."

SPECIFIC BACKGROUND: The Stanley Elementary School site is located within the "MF-29" Multi-Family Residential zoning district. The requested location of the 100-foot tower is approximately 65 feet west of the closest adjacent property line, as measured to the center of the tower. The base of the tower will be approximately 15 feet square thus placing the tower about 8 feet beyond the minimum 50-foot setback required for locating a 45-foot structure. Therefore, a 47-foot tower could be installed at that location without requesting a variance, but a 47-foot tower would not meet the needs of the applicant so they have filed this variance to increase the permitted height of a noncommercial microwave communication tower to 100 feet .

ADJACENT ZONING AND LAND USE:

NORTH	"MF-29"	Church and Single-Family Homes
SOUTH	"MF-29"	Community Center and Public Park
EAST	"MF-29"	Single Family Homes
WEST	"MF-29"	Single Family Homes

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the site serves as the location of a public institutional use which serves the needs of the community and is recognized by the community as a permitted use within almost all zoning categories. The microwave communication tower is an accessory use which supports the public educational use of the site.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the color of the tower will be unobtrusive and the tower will not be permitted to be illuminated, therefore, these two conditions will lessen the impact of the structure being viewed from adjacent properties.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations may constitute an unnecessary hardship upon the applicant inasmuch as the school district would not be able to utilize new technology in the most economical manner to meet the educational needs of the citizens they serve.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the proposed tower will not encroach any existing utility easement or street right-of-way and will be an unobtrusive color and unlighted.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance

WICHITA -- SEDGWICK COUNTY

W-SC

METROPOLITAN AREA PLANNING DEPARTMENT

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

February 26, 1997

USD 259
Roger Savage
3850 N. Hydraulic
Wichita, Kansas 67219

RE: BZA 33-96 - Variance to increase the height of a microwave communications tower from 35 feet up to 100 feet generally located west of Martinson in an area south of Merton (Stanley Elementary School, 1749 S. Martinson)

Dear Mr. Savage:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on February 25, 1997. 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.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please call our office.

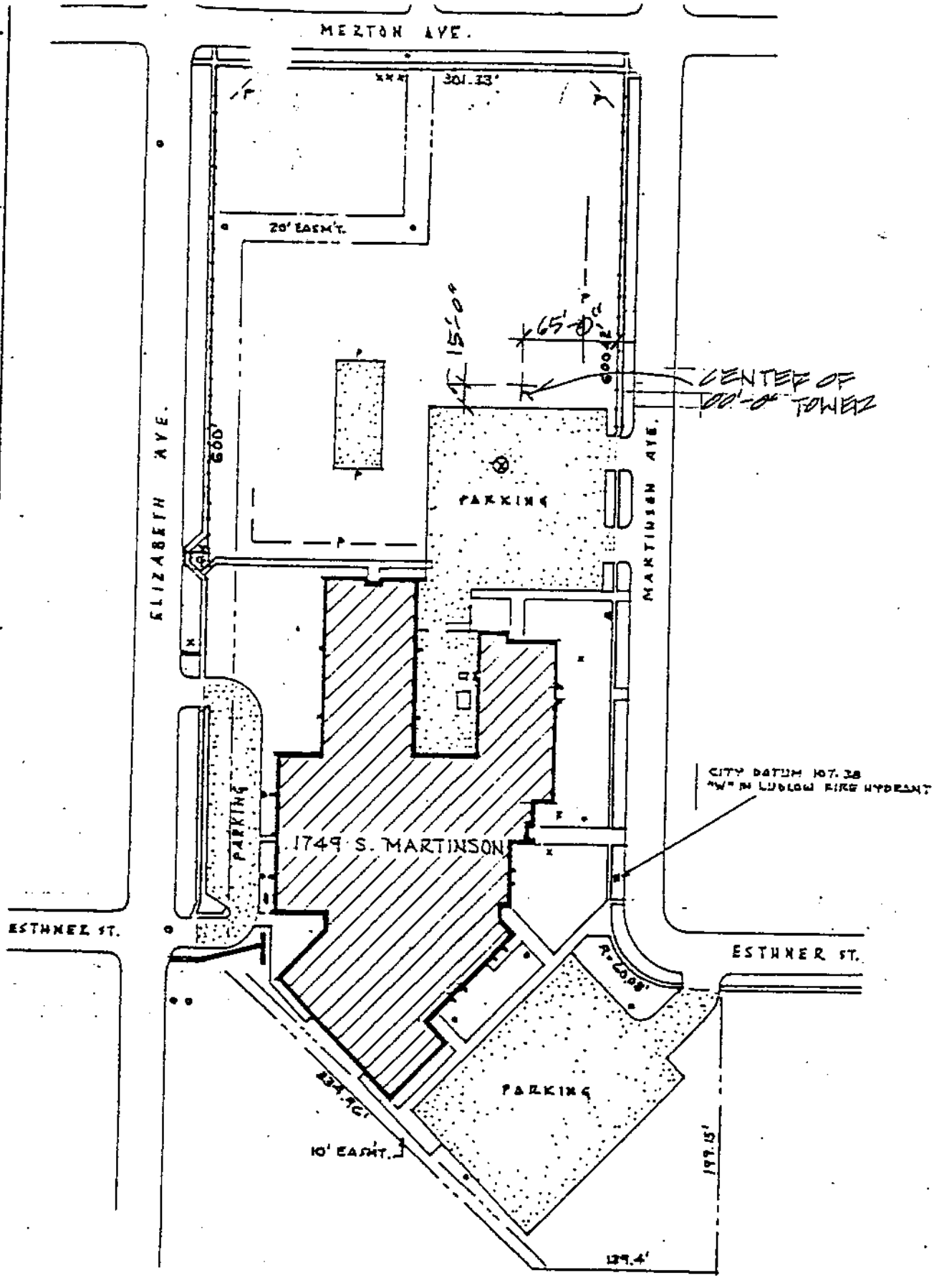
Sincerely yours,

Lawrence P. Mitchell, Secretary
Board of Zoning Appeals

Enclosure

LPM/sah

cc: Julie Hedrick, Staff Architect, USD 259, 3850 N. Hydraulic, Wichita, Ks 67219
Mike Brown, Project Architect, USD 259, 3850 N. Hydraulic, Wichita, Ks 67219
J. R. Cox, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPC (resolution only)



B2A 33-96

190 | 1" = 100'

ELEMENTARY

STANLEY

Approved 2-25-97

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to increase the height of an accessory use microwave communications tower from 35 feet to 100 feet on property zoned the "MF-29" Multi-Family Residential and legally described as follows:

Lot 1, Stanley School Addition, Wichita, Sedgwick County, Kansas. Generally located west of Martinson in an area south of Merton (Stanley Elementary, 1749 S. Martinson).

subject to the following conditions:

1. The color of the tower shall be silver or gray or a similar unobtrusive color.

2. There shall be no lighting of or on the tower.

3. No commercial advertising signs shall be allowed on the tower or on its perimeter security fence. No school related signs shall be allowed on the tower.

4. The tower base shall be enclosed with a 1-1/4" x 1-1/4" - 9 gauge mesh security fence ten feet in height with 45 degree extension arms angled to the outside.

5. If the communication tower remains unused for a period of 12 consecutive months it shall be considered abandoned and shall be removed by the owner no later than 90 days following the end of the 12-month period.

6. The tower shall be located substantially in compliance with the site plan approved by the Board of Zoning Appeals, unless a revised site plan is submitted to, and reviewed and approved by, the Board.

7. The tower shall be installed within two years or the resolution granting this variance shall become null and void.

8. The variance authorizing a higher tower may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions of approval.

ADOPTED AT WICHITA, KANSAS, this 25th day of February, 1997.

Keith A. Alter, President

ATTEST:

Lawrence P. Mitchell, Assistant Secretary

BZA RESOLUTION NO. 33-96

WHEREAS, USD 259, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to increase the height of an accessory use microwave communications tower from 35 feet to 100 feet on property zoned "MF-29" Multi-Family Residential and legally described as follows:

> Lot 1, Stanley School Addition, Wichita, Sedgwick County, Kansas. Generally located west of Martinson in an area south of Merton (Stanley Elementary, 1749 S. Martinson).

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

WHEREAS, the Board of Zoning Appeals did, at the meeting of February 25, 1997, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the 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 inasmuch as the site serves as the location of a public institutional use which serves the needs of the community and is recognized by the community as a permitted use within almost all zoning categories. The microwave communication tower is an accessory use which supports the public educational use of the site, and

WHEREAS, the 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 inasmuch as the color of the tower will be unobtrusive and the tower will not be permitted to be illuminated, therefore, these two conditions will lessen the impact of the structure being viewed from adjacent properties, and

WHEREAS, the 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 inasmuch as the school district would not be able to utilize new technology in the most economical manner to meet the educational needs of the citizens they serve, and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as the proposed tower will not encroach any existing utility easement or street right-of-way and will be an unobtrusive color and unlighted, and

WHEREAS, the 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 inasmuch as the zoning ordinance permits the location of public schools within almost all zoning districts and the use of the property for educational purposes and needed accessory equipment, and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.