6. 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.

7. The tower shall be located substantially in compliance with the site plan approved by the Board of Zoning Appeals on October 22, 1996, unless a revised site plan is submitted to, and reviewed and approved by, the Board.

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

9. 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. 11
October 22, 1996

SECRETARY'S REPORT

CASE NUMBER: BZA 20-96

OWNER/APPLICANT: USD 259

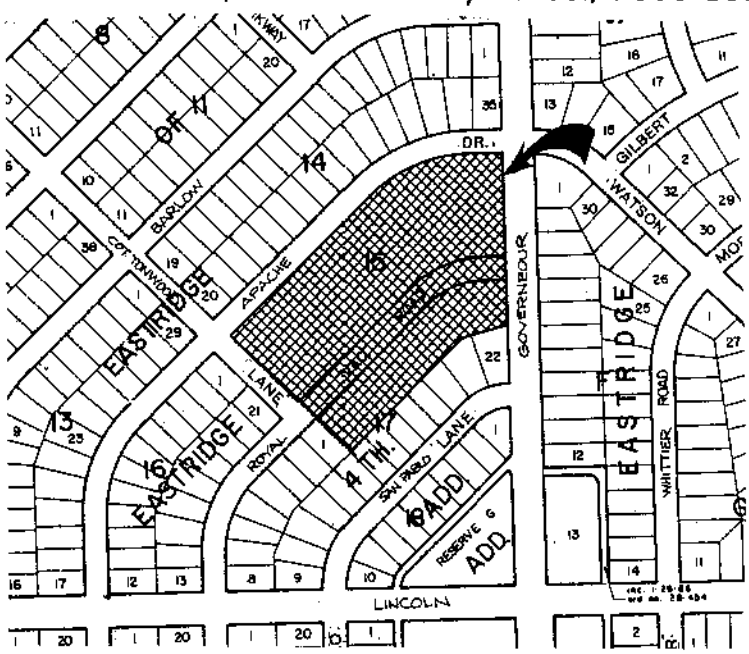
AGENT: Roger Savage

REQUEST: Variance to increase the height of a microwave communications tower from 35 feet to 100 feet.

CURRENT ZONING: "SF-6" Single-Family

SITE SIZE: 6.07 acres

LOCATION: Southeast corner of Cottonwood Lane and Apache (Clark Elementary School, 7000 Cottonwood)



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 Clark Elementary School site is located within the SF-6 zoning district. The requested location of their 100-foot tower is approximately 220 feet west of Governeour and 190 feet east of Apache, as measured to the center of the tower. The base of the tower will be approximately 15 feet square thus placing the tower about 130 feet beyond the minimum 50-foot setback required for locating a 35-foot structure. Therefore, a 78-foot tower could be located at that location without requesting a variance, but a 78-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. The applicant has stated that areas further east and northeast on the site are used for playfields or are encumbered with overhead or underground utilities and therefore are unsuitable for the tower location.

The Airport Hazard Zoning Code (see Chapter 28.08 of the City Code) identifies this entire section of land as requiring airport hazard zoning permits for all structures with a height of more than 25 feet. These permits are issued by the Office of Central Inspection at the time a building permit is requested. In reviewing the Airport Hazard Zoning Maps, overall elevations on the school site cannot exceed 1528 feet. The ground elevation of McConnell is 1371 feet, therefore a 100-foot tower would bring the overall elevation to 1471 feet which would be under the maximum height allowed on this site.

There were two neighbors that attended the USD 259 meeting at Clark Elementary School on October 10, 1996. They attended the meeting to receive additional information, but did not have any specific questions related to the microwave communication tower.

ADJACENT ZONING AND LAND USE:

NORTH	"SF-6"	Single Family Homes
SOUTH	"SF-6"	Single Family Homes
EAST	"TF-3" and "MF-29"	Four-Plexes
WEST	"SF-6"	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 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 applicant will be required to obtain an Airport Hazard Zoning Permit from the Office of Central Inspection before the tower may be constructed.

5. 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.

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

October 23, 1996

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

RE: BZA 20-96 - Variance to increase to height of an accessory use microwave communication tower from 35 feet to 100 feet and generally located on the southwest corner of Governeour Road and Apache (Clark Elementary School, 7000 Cottonwood)

Dear Mr. Savage:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on October 22, 1996. This resolution reflects the official action of the Board to grant your requests 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
Assistant 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

9. 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 22nd day of October, 1996.

Keith A. Alter, President

ATTEST:

Louise Olivarez, Secretary

BZA RESOLUTION NO. 20-96

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 "SF-6" Single Family Residential District and legally described as follows:

> Block 15, in Replat of Part of Eastridge Addition to Wichita, Sedgwick County, Kansas and part of Block 17, in Replat of Part of Eastridge Addition to Wichita, Sedgwick County, Kansas described as follows: Beginning at the northeast corner of said Block 17; thence south 122 feet; thence with an angle of 77 degrees and 40 feet to the right for a distance of 118.7 feet; thence southwesterly 410.3 feet more or less to a point on the northerly line of Cottonwood Lane extended, said point being 123 feet southeast of the southerly line of Royal Road; thence northwest 123 feet to Royal Road; thence northeasterly and east to place of beginning; and vacated Royal Road from the northeasterly line of Cottonwood Lane to the east line of Governeour, as platted in the Replat of Part of Eastride Addition to the City of Wichita, Sedgwick County, Kansas. Generally located on the southwest corner of Governeour Road and Apache (Clark Elementary School, 7000 Cottonwood)

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 October 22, 1996, 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.

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 "SF-6" Single Family Residential District and legally described as follows:

> Block 15, in Replat of Part of Eastridge Addition to Wichita, Sedgwick County, Kansas and part of Block 17, in Replat of Part of Eastridge Addition to Wichita, Sedgwick County, Kansas described as follows: Beginning at the northeast corner of said Block 17; thence south 122 feet; thence with an angle of 77 degrees and 40 feet to the right for a distance of 118.7 feet; thence southwesterly 410.3 feet more or less to a point on the northerly line of Cottonwood Lane extended, said point being 123 feet southeast of the southerly line of Royal Road; thence northwest 123 feet to Royal Road; thence northeasterly and east to place of beginning; and vacated Royal Road from the northeasterly line of Cottonwood Lane to the east line of Governeour, as platted in the Replat of Part of Eastride Addition to the City of Wichita, Sedgwick County, Kansas.

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.

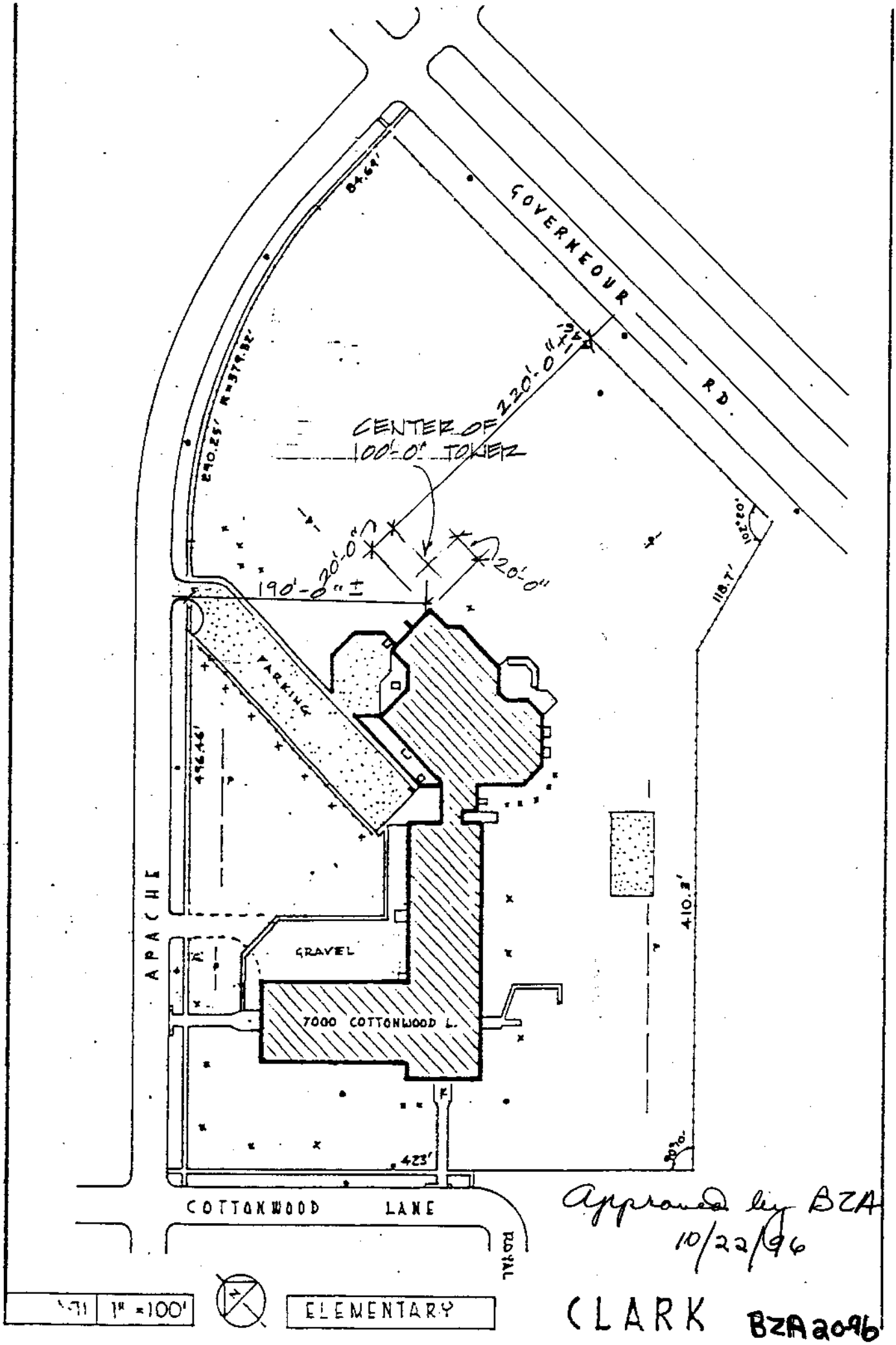
4. The applicant will be required to obtain an Airport Hazard Zoning Permit from the Office of Central Inspection before the tower may be constructed.

5. 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.

6. 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.

7. The tower shall be located substantially in compliance with the site plan approved by the Board of Zoning Appeals on October 22, 1996, unless a revised site plan is submitted to, and reviewed and approved by, the Board.

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



Approved by BZA
10/22/96

CLARK BZA 2096