

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. 3

December 17, 1996

(This case was deferred from the
10/22/96, 11/19/96, and 12/17/96
Meetings)

SECRETARY'S REPORT

CASE NUMBER: BZA 24-96

OWNER/APPLICANT: USD 259

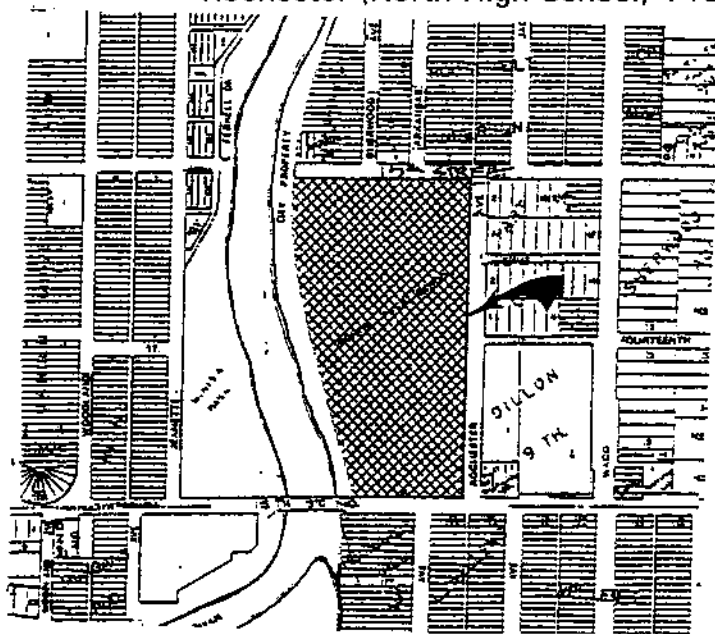
AGENT: Roger Savage

REQUEST: Variance to increase the height of a microwave communications tower from 55 feet to 150 feet.

CURRENT ZONING: "B" Multi-Family and "LC" Limited Commercial

SITE SIZE: 26.35 acres

LOCATION: Northwest corner of 13th Street North and Rochester (North High School, 1437 Rochester)



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 North High School site is located within mostly the "B" Multi-Family zoning district with the 13th Street frontage being zoned "LC" Limited Commercial. The requested location of the 150-foot tower is approximately 100 feet east of the west property line and 100 feet south of 15th Street if extended from the east, as measured to the center of the tower. The base of the tower will be approximately 15 feet square thus placing the tower about 40 feet beyond the minimum 50-foot setback required for locating a 55-foot structure. Therefore, a 68-foot tower could be installed at that location without requesting a variance, but a 68-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 150 feet .

Since North High School is listed on the Register of Historic Places in Wichita, the applicant was required to request from the Wichita Historic Preservation Board a Certificate of Appropriateness to allow for the location of a communication tower on the school site. The Certificate of Appropriateness to locate a tower at North High School was approved by the Wichita Historic Preservation Board on September 9, 1996 (minutes attached).

ADJACENT ZONING AND LAND USE:

NORTH	"B"	Multi-Family
SOUTH	"LC"	Limited Commercial
EAST	"B", "MF-29" and "LC"	Multi-Family and Limited Commercial
WEST	"TF-3"	Two-Family

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 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 January 28, 1997, 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.

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

February 26, 1997

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

RE: BZA 24-96 - Variance to increase the height of a microwave communications tower from 35 feet up to 150 feet generally located north of 13th Street North on both sides of Rochester (North High School, 1437 Rochester)

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,

A handwritten signature in black ink, appearing to read 'Lawrence P. Mitchell', is written over a horizontal line.

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)

RIVER

1362' R=1,828.92'

101.52'

244.5'

226.29'

VERIFY CRITICAL
LOCATION DIMENSIONS

SHERWOOD ST.

CENTER OF
150'-0" TOWER

ARKANSAS AVE.

TENNIS CT.

NORTH HIGH

437 N. ROCHESTER

SITE PLAN
TOWER LOCATION

COMMUNICATIONS TOWERS
VARIOUS SCHOOLS

MARCH 1997
JOB #9625

COMMUNICATIONS TOWERS
1300-28

Sedgwick County, Kansas;

and

Odd Lots 57-103, inclusive, on Sherwood and one-half vacated Sherwood adjacent on the west and on-half vacated 14th Street adjacent to said Lot 57 on the north, Sherwood's Sub-division of Lots 16, 18, 20, 22, 24, and 26 of Reserve D in Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

Even Lots 56-102, inclusive, on Rochester and one-half vacated 14th Street adjacent to said Lot 56 on the north, Sherwood's Sub-division of Lots 16, 18, 20, 22, 24 and 26 of Reserve D, in Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

The north 20 feet of Lot 4 and all of Lots 6, 8, 10 and 12; the north 75 feet of Lots 1, 3, 5 and 7 and the north 75 feet of Reserve A; and the north 45 feet of the south 75 feet of Lots 1, 3, 5, 7 and Reserve A, except that part of Lot 7 condemned by the City of Wichita, Wood's Subdivision of Lots 30, 32, 34, 36 and 38, of Sherwood's Second Addition to Wichita, Sedgwick County, Kansas;

and

Lots 1, 3, and 5, on 13th Street, Sherwood's Addition to Wichita, Sedgwick County, Kansas;

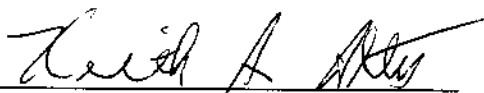
and

Lot 1, Dillon 9th Addition, Wichita, Sedgwick County, Kansas and vacated Rochester Street from 50 feet north of the center line of 13th Street North to the center line of 14th Street (North High School, 1437 Rochester).

subject to the following conditions:

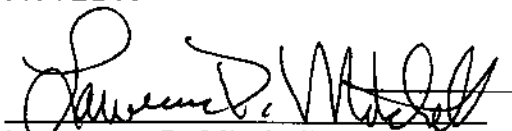
1. The color of the tower shall be silver or gray or a similar unobtrusive color.
2. There shall be no lighting of or on the tower.
3. No commercial advertising signs shall be allowed on the tower or on its perimeter security fence. No school related signs shall be allowed on the tower.
4. The tower 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. 24-96

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 55 feet up to 150 feet on property zoned "B" Multi-Family and "LC" Limited Commercial and legally described as follows:

Even lots 2-54, inclusive, on Sherwood, except that part deeded to the City of Wichita and on-half vacated Sherwood adjacent on the East, Sherwood's Sub-division of Lots 2, 4, 6, 8, 10, 12 and 14, in Reserve D, Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

Lots 22, 24, 26 and 28, except that part deeded to the City of Wichita, Sherwood's Second Addition to Wichita, Sedgwick County, Kansas;

and

Lot 35, except the East 15 feet thereof, Sherwood's Second Addition to Wichita, Sedgwick County, Kansas;

and

Odd Lots 3-49, inclusive, on Sherwood, and one-half vacated Sherwood adjacent on the west and one-half vacated 14th Street adjacent to said Lot 49 on the south, Sherwood's Sub-division of Lots 2, 4, 6, 8, 10, 12 and 14, in Reserve D, Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

Even Lots 2-48, inclusive, on Rochester, and one-half vacated 14th Street adjacent to said Lot 48, on the south, Sherwood's Sub-division of Lots 2, 4, 6, 8, 10, 12 and 14 in Reserve D, Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

Even Lots 56-102, inclusive, on Sherwood, except that part deeded to the City of Wichita, and one-half vacated Sherwood adjacent on the east, Sherwood's Sub-division of Lots 16, 18, 20, 22, 24 and 26 of Reserve D, in Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

Odd Lots 57-103, inclusive, on Sherwood and one-half vacated Sherwood adjacent on the west and on-half vacated 14th Street adjacent to said Lot 57 on the north, Sherwood's Sub-division of Lots 16, 18, 20, 22, 24, and 26 of Reserve D in Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

Even Lots 56-102, inclusive, on Rochester and one-half vacated 14th Street adjacent to said Lot 56 on the north, Sherwood's Sub-division of Lots 16, 18, 20, 22, 24 and 26 of Reserve D, in Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

The north 20 feet of Lot 4 and all of Lots 6, 8, 10 and 12; the north 75 feet of Lots 1, 3, 5 and 7 and the north 75 feet of Reserve A; and the north 45 feet of the south 75 feet of Lots 1, 3, 5, 7 and Reserve A, except that part of Lot 7 condemned by the City of Wichita, Wood's Subdivision of Lots 30, 32, 34, 36 and 38, of Sherwood's Second Addition to Wichita, Sedgwick County, Kansas;

and

Lots 1, 3, and 5, on 13th Street, Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

Lot 1, Dillon 9th Addition, Wichita, Sedgwick County, Kansas and vacated Rochester Street from 50 feet north of the center line of 13th Street North to the center line of 14th Street (North High School, 1437 Rochester).

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 meetings 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 proposed tower will not encroach any existing utility easement or street right-of-way and will be an unobtrusive color and unlighted; 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 55 feet up to 150 feet on property zoned "B" Multi-Family and "LC" Limited Commercial and legally described as follows:

Even lots 2-54, inclusive, on Sherwood, except that part deeded to the City of Wichita and on-half vacated Sherwood adjacent on the East, Sherwood's Sub-division of Lots 2, 4, 6, 8, 10, 12 and 14, in Reserve D, Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

Lots 22, 24, 26 and 28, except that part deeded to the City of Wichita, Sherwood's Second Addition to Wichita, Sedgwick County, Kansas;

and

Lot 35, except the East 15 feet thereof, Sherwood's Second Addition to Wichita, Sedgwick County, Kansas;

and

Odd Lots 3-49, inclusive, on Sherwood, and one-half vacated Sherwood adjacent on the west and one-half vacated 14th Street adjacent to said Lot 49 on the south, Sherwood's Sub-division of Lots 2, 4, 6, 8, 10, 12 and 14, in Reserve D, Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

Even Lots 2-48, inclusive, on Rochester, and one-half vacated 14th Street adjacent to said Lot 48, on the south, Sherwood's Sub-division of Lots 2, 4, 6, 8, 10, 12 and 14 in Reserve D, Sherwood's Addition to Wichita, Sedgwick County, Kansas;

and

Even Lots 56-102, inclusive, on Sherwood, except that part deeded to the City of Wichita, and one-half vacated Sherwood adjacent on the east, Sherwood's Sub-division of Lots 16, 18, 20, 22, 24 and 26 of Reserve D, in Sherwood's Addition to Wichita,