

RESULTS OF VARIANCE APPLICATION CONSIDERATION – BOARD OF ZONING APPEALS

February 1, 2023

The following findings have been made by the Board of Zoning Appeals of the City of South Hutchinson, Kansas concerning the Variance Application of Harmoni Towers, LLC considered on February 1, 2023.

- (A) That the variance requested 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 owner or the applicant;
 - a. The site is irregularly shaped, it has a unique character with its potential use as it is not suitable for other types of profitable agricultural activities or business endeavors. As such, the variance is appropriate because it arises from these conditions that are unique to the property and not ordinarily found in the same zone or district.
- (B) that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
 - a. There was testimony that there are no other structures in the vicinity of the site that would be even close to in an extended fall radius of the tower. There was also testimony on behalf of neighboring landowners (Deidra and Steve Sawatx) that the proposed use would not adversely affect the use of their land for agricultural purposes. As such, the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
- (C) that the strict application of the provisions of the zoning regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
 - a. Because of the unique situation of the site proposed for the location of this tower, it is difficult to imagine any other economically productive use of the site for purposes other than the installation of the proposed cell tower. Furthermore, it was testified by the Applicant that the height of the proposed cell tower was important for the location of this tower in a rural area. As such, the strict application of the provisions of the zoning regulations of which variance is requested would constitute unnecessary hardship upon the property owner represented in the application.
- (D) that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
 - a. This variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare because the fall letter submitted by a licensed engineer on behalf of the applicant demonstrates that the height in relation to the required setback is not likely to result in a tower fall against neighboring properties.

(E) that granting the variance desired will not be opposed to the general spirit and intent of the zoning regulations.

- a. The lack of other available uses of the site for the proposed tower for other economically viable and appropriate uses demonstrates that the granting of the variance will not be opposed to the general spirit and intent of the zoning regulations.

Based upon the foregoing findings, it is the decision of the Board of Zoning Appeals that the Variance Application of Harmoni Towers should be approved. A motion to approve this variance was made by Mr. Robert Wiegand and was seconded by Ms. Marge Bryant. The motion was unanimously approved.

Approved by the Board of Zoning Appeals this 1st day of February, 2023.



Mr. Matt Mock, Chairman