

**AGENDA**

**The Rolla Board of Adjustment**  
**Rolla City Hall, 3<sup>rd</sup> Floor Conference Room, 901 North Elm Street**  
**Thursday, September 15, 2022 @ 5:30 PM**

**Board Members: Matt Crowell (Chairperson), Judy Jepsen (Vice-Chairperson), Laura Stoll, Jacob Rohter, John Meusch, Jonathan Hines (Alternate)**

**I. APPROVE MINUTES:**

Review of the Minutes from the Board of Adjustment meeting held on July 7, 2022.

**II. OLD BUSINESS:**

- 1. ZV2021-04:** Variance to Section 42-244.4 (h) to allow a reduction in the front yard setback for a sign in the C-1, Neighborhood Commercial district.
- 2. ZV2022-05:** Variance to Section 42.399 (h) to allow reduced setbacks for a telecommunications tower.

**III. PUBLIC HEARING:**

**NONE**

**IV. OTHER BUSINESS/REPORTS FROM THE CHAIRPERSON,  
COMMITTEE, OR STAFF:**

**NONE**

**NEXT MEETING DATE: October 6, 2022 (To be postponed to October 13 if there is any business)**

## BOARD OF ADJUSTMENT MINUTES

July 7, 2022

Rolla City Hall

<b><u>Presiding:</u></b>	Chairperson Matt Crowell
<b><u>Members Present:</u></b>	Judy Jepsen, Jacob Rohter, John Meusch
<b><u>Alternates Present:</u></b>	Jonathan Hines
<b><u>Members Not Present:</u></b>	Laura Stoll
<b><u>City Officials in Attendance:</u></b>	Tom Coots, City Planner, and Sarah West, Administrative Assistant
<b><u>Others in Attendance:</u></b>	Russell Been and Sasha Riedisser, Applicants

Chairperson **Matt Crowell** called the meeting to order at 5:30 P.M. He recognized the members who were present. **Crowell** swore in all present who intended to speak.

### I. APPROVE MINUTES:

**Crowell** approved the minutes from the May 12, 2022 Board of Adjustment meeting as printed and distributed.

### II. OLD BUSINESS:

1. **ZV2021-04:** Variance to Section 42-244.4 (h) to allow a reduction in the front yard setback for a sign in the C-1, Neighborhood Commercial district.

The applicant is requesting the case be postponed to the next scheduled meeting on August 4, 2022 at 5:30.

**A motion was made by Jonathan Hines, seconded by Judy Jepsen, to grant the applicant's request to postpone the case to the next scheduled meeting on August 4, 2022. A voice vote shows all in favor.**

### III. PUBLIC HEARING:

1. **ZV2022-05:** Variance to Section 42.399 (h) to allow reduced setbacks for a telecommunications tower.

**Tom Coots** presents the staff report. **Crowell** asks why the City Council did not approve the setbacks with the Conditional Use Permit. **Coots** states City Council did not approve the setbacks because they felt the applicant did not prove the minimum criteria for that to be approved.

**Judy Jepsen** asks if there were any concerns from citizens. **Coots** states some concerns were brought up at the initial Conditional Use Permit request in regards to location and potential health concerns, but no concerns were brought up with this variance request. **Crowell** asks if

evidence was presented to validate health concerns. **Coots** confirms evidence was submitted, however, the applicant may clarify some of that evidence.

**Jacob Rohter** asks for the reasoning behind the distance of the setback on the cell tower. **Coots** states since the distance is equal to the height of the tower, if the tower fell, it would prevent impacting offsite locations.

**Sasha Riedisser**, the Collective Solutions attorney, is located at 211 North Broadway in St. Louis, Missouri. She mentions that the federal law states if a cell tower is needed in an area to improve services for a carrier, and no better location is available, denial of the proposed tower is a violation of federal law.

**Russell Been**, the owner of Collective Solutions, is located at 340 Marshall Road Valley Park, Missouri. He states Rolla needs more coverage in the area, especially 5G and FirstNet for first responders. This technology cannot be upgraded onto the current flag pole tower. The proposed tower has to meet AT&T's coverage demands, be 95 feet in height, and be within the search area.

**Been** claims if the proposed tower has to meet the setback requirements from the road and adjacent properties, the tower would end up very close to the existing business on the lot. He states that no other property within their search area would meet the setback requirements. He believes the City Ordinances are prohibiting them from getting coverage within this area.

**John Meusch** is now present.

**Been** presents pictures to the Board of existing cell towers surviving EF3 and EF4 tornadoes. He also presents an article from the American Cancer Society showing no known risks associated with exposure to RF waves from a cell tower.

**Crowell** asks if there was a location further away from the existing cell tower that met the setback requirements. **Riedisser** states the proposed tower has to be in close proximity to the current tower to keep the same coverage area. **Been** states that if the tower is moved too far away from the existing tower, there will be a gap in coverage.

**Been** states that no existing tower meets the current setback standard. He presents a document from Sabre Industries that states the proposed tower is designed that if it did fail, the fall radius would be less than 35 feet. **Crowell** asks how this is possible. **Been** states the towers are designed to release after so much pressure.

**Crowell** asks if the coverage radius of the proposed tower is greater than the current tower. **Been** states that increased capacity is needed, and this 5G technology can be put on the proposed tower. While the radius of coverage will not change, it will increase the number of customers they can service.

**Crowell** asks if a flag pole tower can be placed where the monopole is proposed to go, and the monopole tower be placed in a location where setbacks are met. **Been** states that AT&T cannot financially build two towers.

**Riedisser** mentions that federal law states that local authorities cannot dictate the way a carrier decides to structure its network. **Been** states that Missouri statutes override local statutes.

**Riedisser** states the application meets the requirements for a variance as there is no danger of the tower falling, so there is no need for a setback. She mentions that no towers in the area meet the current setback requirements, and that putting the tower will improve service and meet the goals of the ordinance.

**Jepsen** asks if the proposed tower could be built in other towns without Rolla's setback requirements. **Been** mentions that other towns in St. Louis County have zero setbacks between industrial districts. **Jepsen** asks if the applicant thought the Rolla Ordinances were excessive. **Been** confirms this, and states he believes these requirements prevent the best use of the property. He states that the ordinance was passed without looking for an overriding state statute, and that other areas are removing setbacks to meet state requirements.

**Been** states this issue is not a matter of health and safety, and there are no other locations available in their search area. There is a hardship because the ordinances are hindering Collective Solutions from placing a tower.

**Crowell** asks if the applicant could build the tower differently, but it is not financially viable. **Been** states he is trying to better coverage in area not increase the value of this property.

**Crowell** asks if the coverage could be increased in other ways, it would just be more expensive. **Been** states this is a question that cannot be considered under state statute. **Riedisser** states the back of the parcel is not economically viable other than by building a tower, since the owner is not using this land.

**Crowell** opens the public hearing.

**Zach Buchheit**, representing SBA Communications, located at 7700 Forsyth Boulevard Suite 1100 in St. Louis. He states this application is about saving money and meeting AT&T's



coverage objectives. There is no problem with coverage in Rolla, and Rolla denizens already have 5G and FirstNet. He states AT&T knew about the setback requirements before the application was submitted, because it is in the ordinance. He states there is nothing in the state legislature that says local authorities cannot consider setbacks. It is common to have setback requirements, and he claims no new information has been presented with this application regarding setbacks.

**Buchheit** states there is no difference in coverage between the current and proposed cell towers. He believes there is no reason to sacrifice safety if the coverage is not increasing. He mentions there is no economic hardship from denying this variance and that the application does not meet multiple criteria in order to be approved. He states this is a self-induced problem, as the applicant has limited themselves to a tiny search area. He implores the Board to deny the request, due to safety concerns and lack of information.

**Been** states he would gladly provide any more information that was needed. **Reidisser** mentions that the current tower does not meet requirements today, and neither the current nor proposed tower will be a detriment to public safety.

**Jepsen** asks if other locations met the criteria. **Been** mentions that other properties were available, but none met the setback requirements. **Reidisser** mentions the state statutes allow for local authorities to have setbacks, but state and federal laws step in if the local ordinances prevent a carrier from improving service.

**Crowell** asks what additional information would be needed to be able to provide staff recommendations. **Coots** states a more detailed site plan that shows the distances from the proposed cell tower to other locations is needed at a minimum.

**Crowell** asks to what degree the Board considers state and federal statutes. **Coots** states if the Board wants legal direction, an arrangement can be made.

**Hines** asks what other information is needed. **Coots** a better site plan that shows what variances are needed.

**A motion was made by Judy Jepsen, seconded by John Meusch, to table the case to the next scheduled meeting on August 4, 2022 at 5:30. A roll call vote on the motion shows the following: Ayes: Crowell, Jepsen, Rohter, and Meusch. Nays: Hines. The motion passes.**

Having no further business, the meeting was adjourned at 7:15 P.M.

Minutes prepared by **Sarah West**

**NEXT MEETING:**

**Thursday, August 4, 2022**



Report to:

**Board of Adjustment**

Case No.: ZV2021-04

**Meeting Date:** September 15, 2022

**Subject:** Variance to Section 42-244.4 (h) to allow a reduction in the front yard setback for a sign in the C-1, Neighborhood Commercial district.

**Applicant and Notice:**

Applicant/Owner- Charles Arthur and Stephen Moorkamp of Pine Tree Investments, LLC  
Public Notice - Letters mailed to property owners within 300 feet; Legal ad in the Phelps County Focus; signage posted on the property; <https://www.rollacity.org/agenda.shtml>

**Background:** The applicants recently completed construction of a dental office on the subject property. The applicants are seeking to erect a monument sign to identify the property. The proposed sign would be located 3 feet from the front property line. The minimum front yard setback is 10 feet.

The Board of Adjustment did conduct a public hearing at the December 9, 2021 meeting. After closing the public hearing and deliberations, the Board voted to table/continue the deliberations to the next meeting to allow for a 5<sup>th</sup> Board member to be appointed by the City Council. The applicant has been waiting since that date for the Board to consist of 5 members, although the applicant did request a postponement in July 2022 due to a schedule conflict.

**Property Details:**

Current Zoning - C-1, Neighborhood Commercial  
Current Use - Dental office

**Code Reference:**

**Sec. 42-244.4. General Sign Provisions.**

h. Setbacks. Unless exempt by Subsection 42-244.4(f), all signs, including temporary signs and exempt signs, shall conform to the side and rear setback requirements of the zoning district they are located in. However, the front of the lot shall be defined as any lot line that fronts a street. Such signs shall have a minimum rear yard setback of ten feet and a minimum side yard setback of five feet.

**C-1, Neighborhood Commercial DISTRICT**

**Sec. 42-186.3 Area Requirements.**

Minimum setback dimensions:

- **Front yard: 10 feet from the front lot line.**
- *Each side yard: 5 feet measured from side lot line.*
- Rear yard: 10 feet from the rear property line.

**Variance Approval Criteria:**

A variance must be reviewed to ensure that the following criteria are met:

1. The applicant must demonstrate that special circumstances or conditions applying to the land or buildings for which the variance is sought; which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the same zone or neighborhood; and that said circumstances or conditions are such that the strict application of the provisions of the regulation creates an unnecessary economic hardship by depriving the applicant of the reasonable use of such land or building.
2. The alleged hardship has not been created by any person currently having interest in the property.
3. The purpose of the variance is not based exclusively on the desire to enhance the value of the property, or increase the return or income from the property.
4. The granting of such variance will not be detrimental to the public welfare or substantially or permanently injurious to the property or improvements in such zoning or neighborhood areas in which the property is located.
5. The granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that would accomplish this purpose, and will not alter the essential character of the neighborhood.
6. The literal enforcement and strict application of the provisions of the Rolla Planning and Zoning Code will result in an unnecessary hardship inconsistent with the general provisions and intent of the regulations and that in granting such variance the spirit of the regulations will be preserved and substantial justice done.
7. (Use Variances Only) The use is consistent with the intent of the Comprehensive Plan.

**Discussion:** The applicant states that the property location on Pine Tree Rd is impacted by reduction in visibility from existing trees along the street. The property is also near a slight curve in the roadway. The trees and the curve does reduce visibility of the sign for drivers in either direction. Removal of enough trees to provide the visibility is not preferred by the applicant. The location of the proposed sign does not appear to impact the visibility for vehicles exiting the driveway.

**Staff Recommendation:**

Staff recommends that the Board further review all criteria to ensure the criteria are met. Staff concedes that some or all of the criteria may be met for this request based on maintaining proper visibility for the sign.

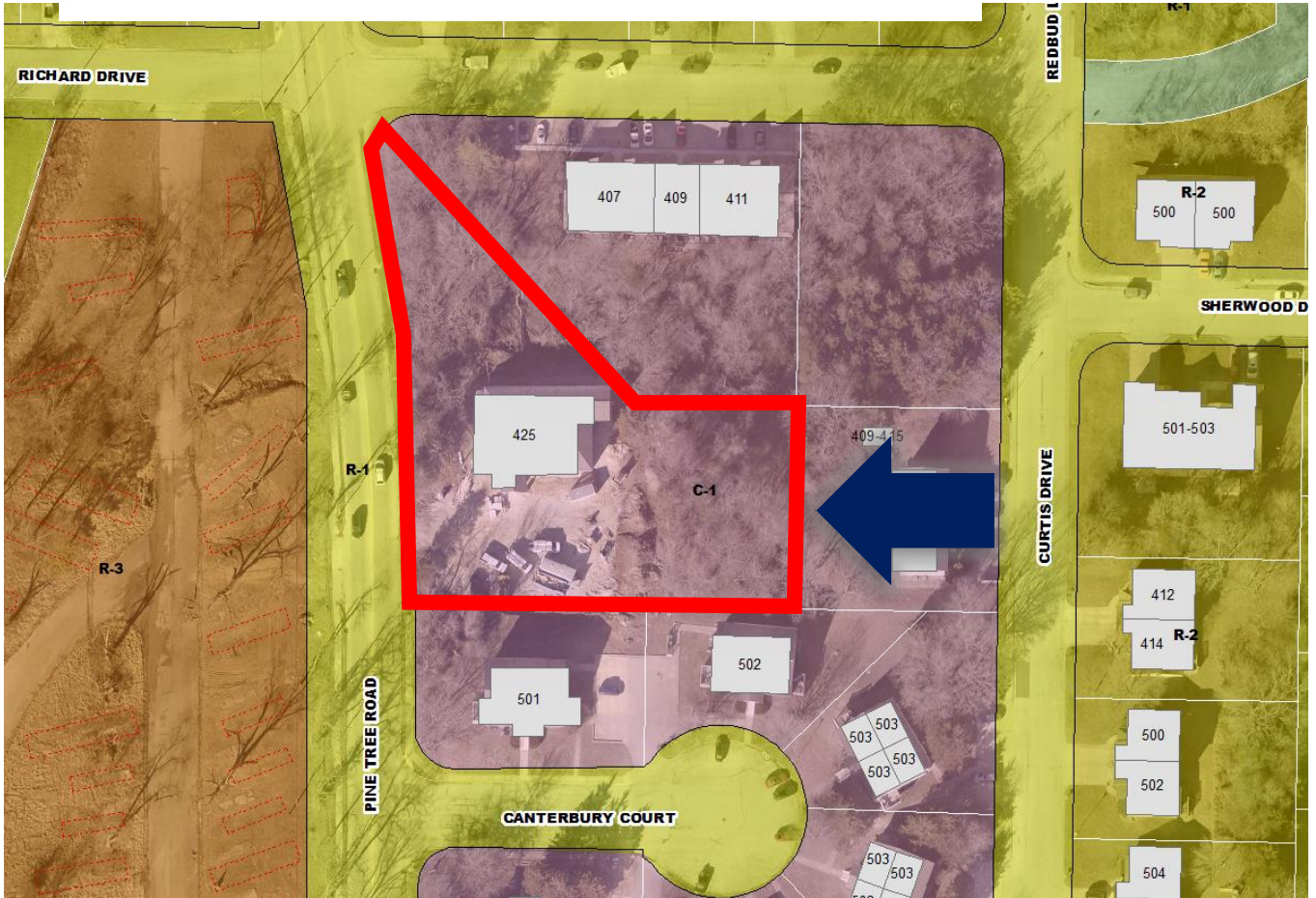
**Alternatives:**

The Board of Adjustment has the following alternatives of action:

1. Find that each of the criteria for approval of the variance(s) are met and explain how each criteria is met for the record.
2. Find that the criteria for approval of the variance could be met through the imposition of conditions or limitations to ensure that the criteria are met. The Board will explain how each criteria is met and grant partial, conditional, or modified approval of the variance(s).
3. Find that one or more of the criteria for approval of the request is not met and deny the request.
4. Table the discussion to a certain date to allow for additional information to be presented.

**Prepared by:** Tom Coots, City Planner

**Attachments:** Public Notice Letter, Application, Letter of Request, Sign Plan, Minutes from December 9, 2021 Board of Adjustment meeting



### Project Information:

Case No: ZV21-04  
 Location: 425 Pine Tree Rd  
 Applicant: Moorkamp and Arthur Family Dentistry  
 Request:  
 Variance to allow a sign setback in the C-1, Neighborhood Commercial district



### Public Hearing:

Board of Adjustment  
**December 2, 2021**  
**5:30 PM**  
 City Hall: 1<sup>st</sup> Floor



### For More Information Contact:

Tom Coots, City Planner  
[tcoots@rollacity.org](mailto:tcoots@rollacity.org)

(573) 426-6974  
 901 North Elm Street  
 City Hall: 2<sup>nd</sup> Floor  
 8:00 – 5:00 P.M.  
 Monday - Friday



**Who and What is the Board of Adjustment?**

The Board of Adjustment (BOA) is an appointed group of citizens from Rolla who are charged with hearing and deciding Variances, Appeals, and Special Exceptions.

**What is a Variance?**

A Variance is a request for relief from a particular provision in the zoning code. A Variance should only be granted if certain criteria are met. Variances are frequently sought to allow things such as reduced setback, lot size or increased height.

**What is an Appeal or Special Exception?**

An Appeal is a request for an interpretation of the meaning of the zoning code from the Board of Adjustment. A Special Exception is a request to allow certain uses.

**How Will This Impact My Property?**

Each case is different. Adjacent properties are more likely to be impacted. Please contact the Community Development Office at (573) 364-5333 if you have any questions.

**What if I Have Concerns About the Proposal?**

If you have any concerns or comments, please try to attend the meeting. You may learn details about the project at the meeting. You will be given an opportunity to ask questions or make comments.

**What if I Cannot Attend the Meeting?**

Please try to attend the meeting if you have any questions or concerns. However, if you are unable to attend the meeting, you may provide written comments by letter or email. These comments will be presented to the Board.

**What if I Have More Questions?**

Please contact the Community Development Office if you have any additional questions.

**LEGAL DESCRIPTION**

Lot 15, Scottsdale Subdivision, Resubdivision of Lots 12 and 15-19, City of Rolla, Phelps County, Missouri





212406



COMMUNITY DEVELOPMENT DEPARTMENT  
901 North Elm St  
Rolla, MO 65401  
P.O. Box 979

573-364-5333 + www.rollacity.org/comdev

BOARD OF ADJUSTMENT APPLICATION

Contact Information:

Property Owner:

Charles Arthur, Stephen Moorkamp

Name(s)

425 Pine Tree Rd.

Mailing Address

Rolla, MO 65401

City, State, Zip

(573) 578-7833, (573) 578-6623

Phone

charlieoarthur@gmail.com, stephenmoorkamp@gmail.com

Email

Agent/Applicant (If Different Than Property Owner):

N/A

Name

Mailing Address

City, State, Zip

Phone

Email

Property/Request Information:

Request:

- [x] Variance
[ ] Special Exception
[ ] Appeal

42-186.3 Area Requirements

Code Section (Variance/Appeal Only)

425 Pine Tree Rd.

Property Address/Location

C-1

Property Zoning

Monument Sign / Ground Sign

Proposed Development/Project

APPLICATION CHECKLIST:

Applicant Checks Boxes

- [x]
[ ]
[ ]
[ ]
[ ]
[ ]
[ ]

Completed Application Form

Agent Letter (If Applicable)

Filing Fee - \$350

Legal Description (Unplatted and Irregular Lots Only)

Site Plan/Survey (If Applicable)

Letter of Request:

Please include description of project, request, how criteria for approval are met, and any other pertinent information.

- [x]
N/A
[x]
N/A
N/A
[x]

City Staff Verifies

OFFICE USE ONLY:

Case No: 2021-04

DRC Meeting Date: 10.5.21

Advertise By: 10.23.21

Submission Date: 9.17.21

BOA Hearing Date: 11.4.21

## I N F O R M A T I O N :

**Variations are required to meet the following criteria:**

1. The applicant must demonstrate that special circumstances or conditions applying to the land or buildings for which the variance is sought; which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the same zone or neighborhood; and that said circumstances or conditions are such that the strict application of the provisions of the regulation creates an unnecessary economic hardship by depriving the applicant of the reasonable use of such land or building.
2. The alleged hardship was not created by any person currently having an interest in the property.
3. The purpose of the variance is not based exclusively on the desire to enhance the value of the property, or increase the return or income from the property.
4. The granting of such variance will not be detrimental to the public welfare or substantially or permanently injurious to the property or improvements in such zoning or neighborhood areas in which the property is located.
5. The granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that would accomplish this purpose, and will not alter the essential character of the neighborhood.
6. The literal enforcement and strict application of the provisions of the Rolla Planning and Zoning Code will result in an unnecessary hardship inconsistent with the general provisions and intent of the regulations and that in granting such variance the spirit of the regulations will be preserved and substantial justice done.
7. (Use Variations Only) The use is consistent with the intent of the Comprehensive Plan.

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**Appeals are required to meet the following criteria:**

1. The Appeal was filed within 15 days or after the administrative officer has rendered a decision.
2. The interpretation of the code as made by the administrative officer was incorrect or unclear.

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**Special Exceptions are required to meet the following criteria:**

1. The request is consistent with the general spirit and intent of the regulations.
2. The request is consistent with the general and specific rules for the Special Exception.
3. The request serves the general welfare and preserves the community interest.

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### **Acknowledgement and Authorization:**

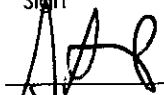
The owner(s) understand and agree that the application will be placed on hold until a complete application and all required items on the checklist are received. The owner(s) understand and agree to permitting employees of the City of Rolla to enter the subject property for purposes of posting a yard sign(s), retrieving the yard sign(s), taking photographs of the property/building(s), and investigating the property for pertinent information related to the request. Should ownership of the property change after the application is submitted, authorization is required from the new owner to continue with the review of the request, or the request will be withdrawn from consideration. The undersigned understands that refunds may be provided if the request is withdrawn prior to the Board of Adjustment hearing, less any costs already incurred.

Property Owner(s):

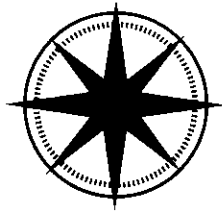
Applicant/Agent (If Different From Owner)

 \_\_\_\_\_  
Charles Arthur  
Sign Print

\_\_\_\_\_  
Sign Print

 \_\_\_\_\_  
Stephen Markcup  
Sign Print

\_\_\_\_\_  
Sign Print



# Moorkamp & Arthur

## FAMILY DENTISTRY

Stephen V. Moorkamp, D.D.S.  
Charles O. Arthur, D.D.S.  
William B. Moorkamp, D.D.S.

Board of Adjustments,

We are requesting a variance for a ground/monument sign for our dental office at 425 Pine Tree Rd. We are requesting to place our sign closer than regulated to our property line on the north side of our entrance from Pine Tree Rd. Due to the unique layout of our lot, it would be necessary to remove the majority of the trees that line Pine Tree Rd to allow visibility of our sign for convenient viewing from passing vehicles approaching from the north and prevent sudden stops to enter our parking lot. Removing so many trees along the roadside would also significantly alter the character of Pine Tree Road and provide less barrier for our surrounding residential neighbors to the south as well. Please see attached layout plans and feel free to reach out to us at any time for any questions or concerns. We appreciate your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Charles Arthur".

Charles Arthur, DDS

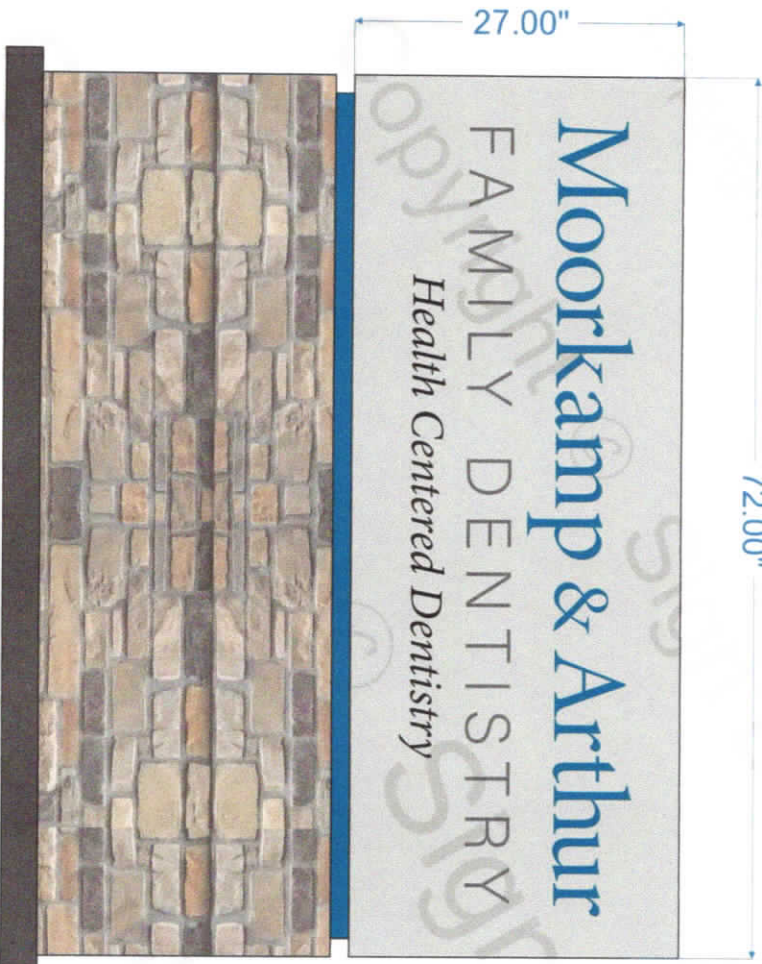
A handwritten signature in black ink, appearing to read "Stephen Moorkamp".

Stephen Moorkamp, DDS

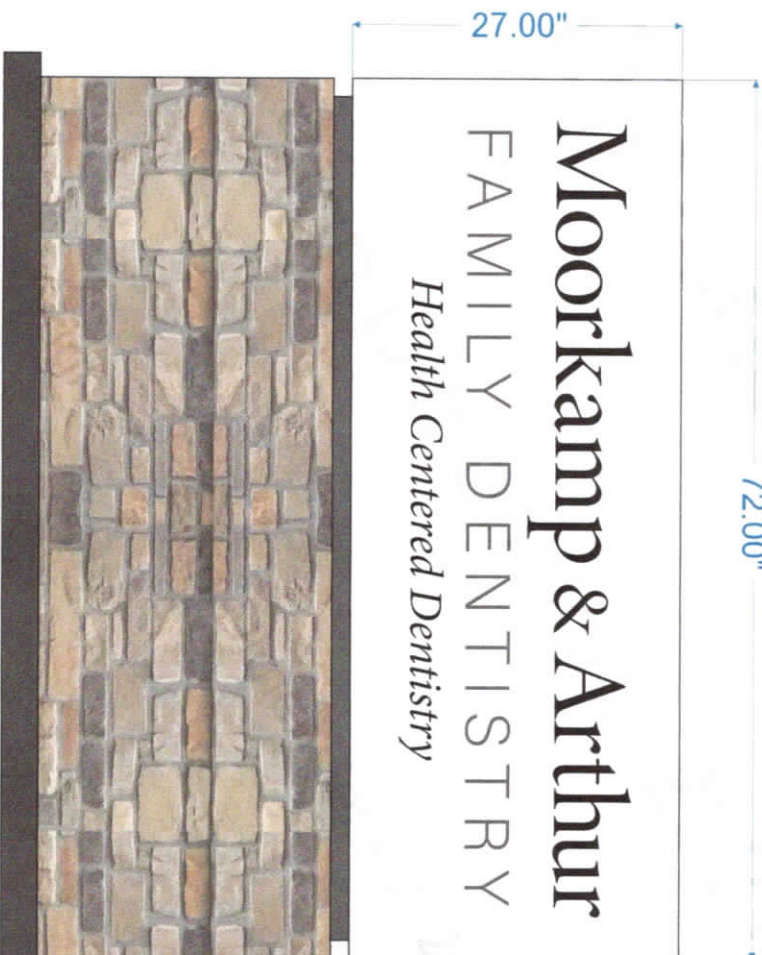


Option 1: 27" X 6' Double Sided LED Lit Aluminum Sign With Push Through Acrylic Letters  
 2" Reveal, Stone Base By Others  
 Option 2: 27" X 6' Double Sided Non Lit Aluminum Sign 2" Reveal, Stone Base By Others

Design Option 1



Design Option 2



**CLIENT APPROVAL:** Please review art proofs carefully! Check for correct spelling and information. Colors viewed on monitors may vary slightly from actual colors in final production. If color critical, please provide accurate color samples (ie: Pantone, Paint Swatches, CMYK, RGB etc.) Your signature indicates review and acceptance of the proof as is. Once this proof is signed and returned with approval, Sign Dimensions LLC is not responsible for any discrepancies regarding color, spelling or materials used in production. Production will not begin until approval and 1/2 down payment is received. This original design is the exclusive property of Sign Dimensions LLC and is copyright protected.

**FURTHER REVISIONS REQUIRED**

**I VERIFY THAT THIS IS EXACTLY HOW I WOULD LIKE IT TO BE PRODUCED**

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_ / \_\_\_ / \_\_\_

**REVISION #** \_\_\_\_\_

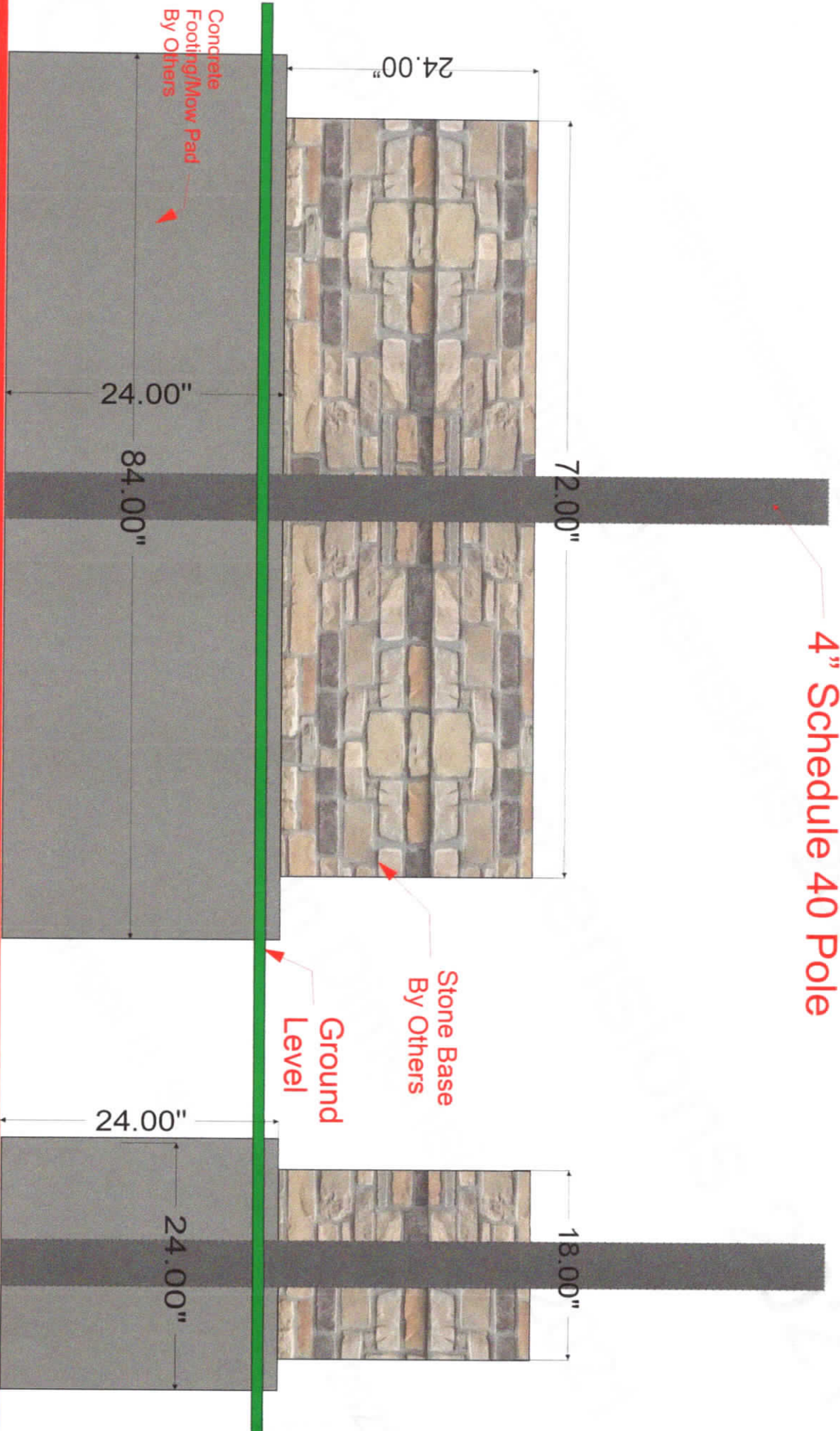
**Quote #** 014463

**SIGN DIMENSIONS**  
 www.signdimensions.net  
 11820 CR 3080  
 Rolla, MO

(P) 573-368-3600  
 (F) 573-368-3800



# 4" Schedule 40 Pole



**CLIENT APPROVAL:** Please review art proofs carefully! Check for correct spelling and information. Colors viewed on monitors may vary slightly from actual colors in final production. If color critical, please provide accurate color samples (ie: Pantone, Paint Swatches, CMYK, RGB etc.) Your signature indicates review and acceptance of the proof as is. Once this proof is signed and returned with approval, Sign Dimensions LLC is not responsible for any discrepancies regarding color, spelling or materials used in production. Production will not begin until approval and 1/2 down payment is received. This original design is the exclusive property of Sign Dimensions LLC and is copyright protected.

FURTHER REVISIONS REQUIRED

I VERIFY THAT THIS IS EXACTLY HOW I WOULD LIKE IT TO BE PRODUCED

**SIGNATURE:** \_\_\_\_\_

**DATE:** \_\_\_ / \_\_\_ / \_\_\_

**REVISION #** \_\_\_\_\_  
**QUOTE #** 014463

**SIGN DIMENSIONS**  
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**BOARD OF ADJUSTMENT MINUTES**  
**December 9<sup>th</sup>, 2021**  
**Rolla City Hall**

<b><u>Presiding:</u></b>	Chairperson Thomas Sutton
<b><u>Members Present:</u></b>	Laura Stoll, Judy Jepsen, Matt Crowell
<b><u>Alternates Present:</u></b>	None
<b><u>Members Not Present:</u></b>	None
<b><u>City Officials in Attendance:</u></b>	Tom Coots, City Planner, Steve Flowers, Community Development Director, and Sarah West, Administrative Assistant
<b><u>Others in Attendance:</u></b>	Charles Arthur, Applicant, Stephen Moorkamp, Applicant, Jason Smith, Applicant, Jennifer Smith, Applicant

Note: The meeting location was changed to the 4<sup>th</sup> Floor Conference Room to allow for Thomas Sutton to attend via Zoom. The meeting started late due to technical difficulties.

Chairperson **Thomas Sutton** called the meeting to order at 5:45 P.M. He recognized the members who were present. **Sutton** swore in all present who intended to speak.

**I. OTHER BUSINESS/REPORTS FROM THE CHAIRPERSON, COMMITTEE, OR STAFF:**

Introduction of new Board member, Matt Crowell.

**II. APPROVE MINUTES:**

**Sutton** approved the minutes from the August 5<sup>th</sup>, 2021 Board of Adjustment meeting as printed and distributed.

**III. OLD BUSINESS: NONE**

**IV. PUBLIC HEARING:**

- 1. Request: ZV2021-04:** Variance to Section 42-244.4 (h) to allow a reduction in the front yard setback for a sign in the C-1, Neighborhood Commercial district.

**Tom Coots** introduced the variance request ZV2021-04 for a property located at 425 Pine Tree Road and presented the information in the staff report.

**Judy Jepsen** commented on the sight line issue, as people would be looking for the sign if they had previously made a dentist appointment. **Matt Crowell** asked if the applicants were to place the sign where it would currently be allowed, what would tree removal entail. **Coots** states this would be something the applicant should be able to answer.

**Sutton** opens the public hearing.

**Charles Arthur**, located at 1328 Chelsea Lane, and **Stephen Moorkamp** are the applicants. They confirmed they were sworn in.

**Arthur** gives the dimensions of the proposed sign, as well as the proposed area. He mentions if the variance is granted, the sign would be 7 feet from the sidewalk, and 15 ½ feet from the road. He stated that customers have voiced concerns over the sudden stopping from both directions due to lack of visibility of the current sign.

**Moorkamp** states they want to keep the natural beauty of the area, and while it is possible to cut down trees on the southbound side, they would prefer not to. They cannot cut down trees on the northbound side.

**Stoll** commented that she could not see their building or their sign. **Jepsen** thought the building was very visible.

**Jepsen** asked if the sign would be lit. **Arthur** stated there would be subtle ground lighting, but no internal lighting. He states the base of the sign is only about 2 foot tall. **Moorkamp** states their sign would be similar to City park signs.

**Sutton** closes the public hearing and moves into Board deliberation.

**Jepsen** asks if the proposed sign was the only commercial sign on Pine Tree Road. **Arthur** states there are other signs along the roadway that are closer to the street than the proposed sign.

**Stoll** comments the sign would blend with the area. **Crowell** asks to what extent the board considers aesthetics as a factor. **Coots** states it likely could be in some of the criteria.

**Coots** asks the board to go over the criteria for approval.

1<sup>st</sup> Criterion: **Crowell** expresses concern that the trees hindering visibility is not a unique circumstance to this lot. **Jepsen** asks if the applicant wishes to be one foot closer than the standard. **Coots** seven feet closer. **Sutton** commented the he thought the first criterion was met. **Crowell** stated if the safety problem was only due to trees on the northbound side hindering visibility, then this was not a unique issue. If the safety issue was caused due to the trees on the southbound side, which the applicant couldn't remove, then there would be an issue that would be unique to the property. **Coots** states that due to the trees, the visibility on the south side begins at 130 feet from the driveway. **Crowell** asks if it is possible to move the sign to the north to gain visibility. **Coots** states it is possible to move the sign, but moving farther from the driveway would work against providing added visibility to allow people to see the sign and turn to the driveway. **Crowell** is 130 feet not safe? **Coots** says it would be ideal for a 200-300 foot range at this speed of traffic.

All Board members agreed the 1<sup>st</sup> criterion was met.

2<sup>nd</sup> Criterion: **Sutton and Stoll** expressed that they thought the hardship was not created by the applicant. **Jepsen** objected, stating the applicant bought the site and planned the building there. **Crowell** asks if it would have been reasonable to place the driveway somewhere else? **Coots** says the building could not have shifted further north; the applicant will have to say if the building could have been placed elsewhere on the lot. The building was built at that location on this lot due to the beauty of the area. **Crowell** in reality the building could have been placed somewhere else, and the driveway could have been redirected. **Coots** states no zoning issues would have stopped that. **Arthur** states that the building was best placed in the current position due to the size of the building and uniqueness of the lot. In operatory rooms, north facing windows are best to keep the sun out of everyone's eyes. **Crowell** there is land to the east, is there a reason nothing was built there? **Moorkamp** there was a sewage issue. **Crowell** you couldn't have built in that area due to the current existing utilities? **Jepsen** there was an issue with the sewer connection? **Moorkamp** yes. **Crowell** when picking the site, was there consultation with the City or did you submit plans without consultation? **Arthur** yes, with Archer-Elgin, the City, and the architect. If any sign was moved north, you would lose visibility due to the slope of the roadway. **Steve Flowers** commented there were elevation problems with moving the building as they did not have the proper slope to get to the sewer.

**Stoll, Crowell and Sutton** agreed the 2<sup>nd</sup> criterion was met. **Jepsen** voted no.

All Board members agreed the 3<sup>rd</sup> criterion was met.

4<sup>th</sup> Criterion: **Sutton** have we heard from any neighbors? **Coots** no issues.

All Board members agreed the 4<sup>th</sup> criterion was met.

5<sup>th</sup> Criterion: **Coots** stated the applicant placed the sign as far from the sidewalk as they could. There could be alternatives to the applicant's sign placement and size. **Crowell** what would be the impact of moving the sign further from the road? Is this the minimum for safety purposes? **Arthur** stated they wanted their sign to fit in with the neighborhood. **Moorkamp** stated patients have complained about not being able to see their sign.

**Stoll, Crowell and Sutton** agreed the 5<sup>th</sup> criterion was met. **Jepsen** voted no.

All Board members agreed the 6<sup>th</sup> criterion was met.

**Crowell** asked the applicant their timeframe, and if it was a hardship to delay this issue. **Arthur** just more delay. **Crowell** due to disagreement, it would be beneficial to table the issue, possibly gaining another member's insight, as it does not appear that you will have enough votes for approval of the request.

(Note: A variance requires at least 4 votes for approval to approve the request. Since only 4 members are present, all 4 must vote to approve to be able to approve the request. A 5<sup>th</sup> Board member may be appointed prior to the next meeting)

**Arthur** commented that an alternative pole sign would not be beneficial as all their neighbors are two-story residential duplexes, so the sign would be in direct line of sight.

**A motion was made by Laura Stoll, seconded by Matt Crowell, to table the issue to the next meeting scheduled for January 6<sup>th</sup>, 2022. A vote on the motion showed the following: Ayes: Crowell, Stoll, Jepsen, and Sutton. Nays: None. The motion passes unanimously.**

2. **Request: ZV2021-05:** Variance to Section 42-177.2 to allow a reduction in the side yard setback in the R-3, Multi-family district.

**Tom Coots** introduced the variance request ZV2021-05 for a property located at 1206 Bardsley Road and presented the information in the staff report.

**Sutton** opens the public hearing.

**Jason Smith**, located at 18500 Deep Woods Trail, is the applicant. He confirmed he was sworn in. He is proposing that the building would be built five feet from the property line with a five foot wooden deck up against the property line.

**Sutton** asked how long the applicant owned the property. **Smith** stated the property was purchased in 2019.

**Jepsen** asked if the property was surveyed prior to being purchased. **Smith** stated he paid for a survey after purchase. The purchase was through tax sale, which takes one year to gain ownership of the property.

**Crowell** asked if there was a way to shift the building south and west to avoid the issue. **Smith** not if we are going to meet the City Code for parking. In order to create the needed parking spots, the building can't be moved south. **Jepsen** commented about the requirement for green space as well.

**Sutton** asked if the apartment complex as a whole could be smaller. **Smith** stated a smaller complex could be built.

**Mike Dees**, located at 110 South Elm Street, owns the property adjacent to the subject property. He expressed concern with the property lines backing up against 405 East 12<sup>th</sup> street, and whether he would have access to his property. **Smith** confirms his property line goes across an alleyway, and he states he intends to improve and asphalt the alleyway and not restrict access.

**Jennifer Smith**, who partners in ownership of the subject building, states that the property lines do not impact Dees from getting to his property.

**Jepsen** is that a widely used alleyway? **Smith** yes, it is used for parking.

**Susan Harmon**, who owns 407 East 12<sup>th</sup> Street, also expressed concern about the alleyway access.

**Sutton** closes the public hearing and moves into Board deliberation.

**Coots** asks the board to go over the criteria for approval.

All Board members agreed the 1<sup>st</sup> criterion was met.

All Board members agreed the 2<sup>nd</sup> criterion was met.

3<sup>rd</sup> Criterion: **Crowell** the applicant could build a smaller unit. **Stoll** states safety being an issue as a corner of the building will be very close to the roadway. She also asks for confirmation about the deck on the back of the house being covered under the Code. **Coots** states the code allows for uncovered decks to encroach into a front yard, but does not for a side or rear yard. **Flowers** stated the Code allows concrete to be poured right up to the property line.

All Board members agreed the 3<sup>rd</sup> criterion was met.

4<sup>th</sup> Criterion: **Crowell** commented about the setbacks being right up against the neighbors to the east. **Smith** commented that the neighbors on the eastern side have not said anything opposing the variance. He also stated it would not be beneficial to the citizens of Rolla to have a building five feet closer to a major thoroughfare. He pointed out the building itself would not be up against the property line, instead it would be the edge of the porch. **Stoll** asked if shortening the porch would be plausible. **Smith** stated it might not be useable. **Jepsen** stated that a small porch would be a safety issue.

**Stoll, Jepsen, and Sutton** agreed the 4<sup>th</sup> criterion was met. **Crowell** voted no.

5<sup>th</sup> Criterion: **Crowell** comments that he believes there are other reasonable uses of this land. **Jepsen** is that ours to determine? **Crowell** states the Board is there to determine if this variance is necessary. The applicant can build without the variance, and can also provide alternatives that does not violate the setback. He states that safety is not the only factor to consider. **Smith** comments that this is a special circumstance, and he believes his request to be reasonable. He states that he applied for the variance at the recommendation of Tom Coots.

**Stoll, Jepsen, and Sutton** agreed the 5<sup>th</sup> criterion was met. **Crowell** voted no.

6<sup>th</sup> Criterion: **Crowell** states this is not simply a safety issue; there are setbacks for a reason.

**Stoll, Jepsen, and Sutton** agreed the 6<sup>th</sup> criterion was met. **Crowell** voted no.

**Stoll** asked the applicant about the timeframe, and would delaying create a hardship. **Smith** stated yes, as waiting would result in losing contractors.

**Crowell** stated he was not opposed to a compromise. He expressed concern over no buffers between future owners of the properties.

**Smith** asks what the current Code says about how close each structure can be. **Flowers** states it depends on the zoning and what fire separation is required. Some lots allow for zero lot lines. In this case, there is a 5 foot setback required between both property lines, thus buildings can be no closer than 10 feet. **Smith** states there is currently at least a 15 foot separation between buildings.

**Crowell** how high off the ground is the planned deck? **Smith** about four feet. **Crowell** asked if a condition could be made for a fence. **Sutton** asks if there was room for a fence. **Flowers** a fence can be built right up against the property line, or attached to the deck if they wish. **Stoll** asks if the applicant can build a privacy fence on the deck instead of railing. **Flowers** confirms this to be true.

**Crowell** states there are competing interests. **Stoll** asks if the applicant would be willing to compromise. **Smith** yes. Would one foot off the property line be a reasonable compromise? **Crowell** states he would prefer two feet instead. He asks if adverse possession plays a role in decision making. **Coots** states that if the public is using the property, the public can maintain that use. **Crowell** states the setbacks would stay with the original property lines. **Jepsen** asks if the City replaced the sidewalk, could they move it back off the property line. **Coots** states they could replace it in the same spot.

**Crowell** proposes a two foot setback from the neighboring property. **Flowers** asked if a two foot area could be maintained. **Crowell** withdraws his objection and motion, and supports the application.

**A motion was made by Matt Crowell, seconded by Laura Stoll, to approve the application as submitted. A roll call vote on the motion showed the following: Ayes: Crowell, Stoll, Jepsen, and Sutton. Nays: None. The motion passes unanimously.**

Having no further business, the meeting was adjourned at 7:57 P.M.

Minutes prepared by **Sarah West**

**NEXT MEETING:**

**Thursday, January 6, 2022**





Report to:

**Board of Adjustment**

Case No.: ZV2022-05

**Meeting Date:** September 15, 2022

**Subject:** Variance to Section 42-399 to allow reductions in the setbacks for a telecommunications tower.

**Applicant and Notice:**

Applicant- Russell Been of Celective Solutions, LLC  
Owner- B Dunnigan Tours, LLC  
Public Notice - Letters mailed to property owners within 300 feet; Legal ad in the Phelps County Focus; signage posted on the property; <https://www.rollacity.org/agenda.shtml>

**Background:** The applicant seeks to construct a telecommunications tower on the subject property. A Conditional Use Permit was reviewed in 2021 to allow a telecommunications tower on the property. The CUP was denied by the City Council. The CUP was reconsidered and approved by City Council in April 2022. One of the approved conditions was that the applicant seek variances from the setbacks in the wireless communications facilities regulations. The property was also rezoned to the M-1, Light Manufacturing district in June 2022.

The applicant seeks variances from the setback requirements from the right-of-way of Old Saint James Rd; from the sidewalk on Old Saint James Rd; from parking areas; from other buildings; and from adjacent properties.

The Board held the public hearing at the July 2022 meeting and tabled the discussion to allow for the applicant to present additional information.

**Property Details:**

Current Zoning - M-1, Light Manufacturing  
Current Use - Vacant

**Code Reference:**

**SUBDIVISION IIa. WIRELESS COMMUNICATIONS FACILITIES CODE**

**Sec. 42-399. General Requirements.**

8. Design.

7. Setbacks. All Support Structures, including any portions of any Wireless Communications Facilities thereon and associated structures, fences, and walls (except for parking associated with the Wireless Communications Facility) shall be separated from any rights-of-way, sidewalk or street, alley, parking area, playground, or other building, and from the property line of any adjacent property at least a horizontal distance equal to the height of the Support Structure, including any portions of any Wireless Communications Facilities thereon.

**Variance Approval Criteria:**

A variance must be reviewed to ensure that the following criteria are met:

1. The applicant must demonstrate that special circumstances or conditions applying to the land or buildings for which the variance is sought; which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the same zone or neighborhood; and that said circumstances or conditions are such that the strict application of the provisions of the regulation creates an unnecessary economic hardship by depriving the applicant of the reasonable use of such land or building.
2. The alleged hardship has not been created by any person currently having interest in the property.
3. The purpose of the variance is not based exclusively on the desire to enhance the value of the property, or increase the return or income from the property.
4. The granting of such variance will not be detrimental to the public welfare or substantially or permanently injurious to the property or improvements in such zoning or neighborhood areas in which the property is located.
5. The granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that would accomplish this purpose, and will not alter the essential character of the neighborhood.
6. The literal enforcement and strict application of the provisions of the Rolla Planning and Zoning Code will result in an unnecessary hardship inconsistent with the general provisions and intent of the regulations and that in granting such variance the spirit of the regulations will be preserved and substantial justice done.

**Discussion:** The applicant seeks several variances. The proposed tower is 95 feet tall, plus does have a 5 foot tall lightning rod mounted on top. The setback should be measured from the tower enclosure.

The Board should review each type of variance separately, but could consider the various instances of variances of each type at the same time.

1. Variance for setback to right-of-way of Old Saint James Rd: Tower is located 78 feet from the street right-of-way.
2. Variance for setback to the sidewalk along Old Saint James Rd: Tower is located 70 feet from the sidewalk along the street.
3. Variance for the adjacent buildings: Tower is located approximately 75.5 feet from 1850 Old Saint James Rd; and 38 feet/85 feet from 801 E 18<sup>th</sup> Street; and 81 feet from 1900 Old Saint James Rd (subject property).
4. Variance for the property lines of adjacent property: Tower is located approximately 25 feet from 1850 Old Saint James Rd; 0 feet from 801 E 18<sup>th</sup> Street; and 71 feet from 809 E 18<sup>th</sup> Street.

**Staff Recommendation:**

Staff recommends that the Board review each type of variance request separately. Evidence that the tower should not impact Criteria 4 seems to have been presented for each request. Criteria 5 appears to be met based on the evidence and specific location. Staff recommends that the Board further review Criteria 1, 2, 3, and 6 to ensure that the variance(s) may be approved.

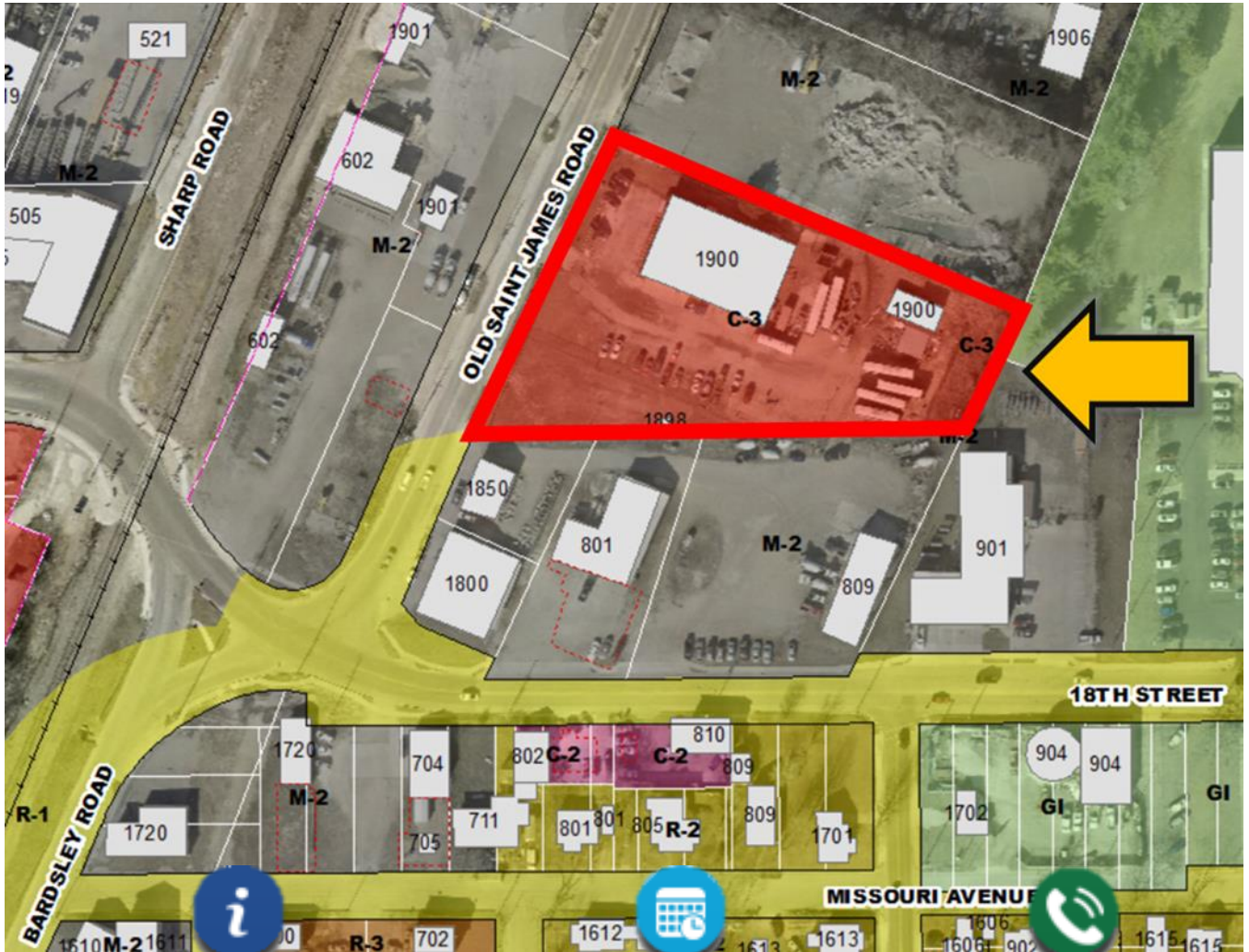
**Alternatives:**

The Board of Adjustment has the following alternatives of action:

1. Find that each of the criteria for approval of the variance(s) are met and explain how each criteria is met for the record.
2. Find that the criteria for approval of the variance could be met through the imposition of conditions or limitations to ensure that the criteria are met. The Board will explain how each criteria is met and grant partial, conditional, or modified approval of the variance(s).
3. Find that one or more of the criteria for approval of the request is not met and deny the request.
4. Table the discussion to a certain date to allow for additional information to be presented.

**Prepared by:** Tom Coots, City Planner

**Attachments:** Public Notice Letter, Application, Letter of Request (revised), Site Plan/Elevation (revised)



### Project Information:

Case No: ZV22-05  
 Location: 1898/1900 Old Saint James Rd  
 Applicant: Collective Solutions  
 Request:  
 Variance from Section 42-399 (h) to allow reduced setbacks for a telecommunications tower

### Public Hearing:

Board of Adjustment  
**June 2, 2022**  
**5:30 PM**  
 City Hall: 1<sup>st</sup> Floor

### For More Information Contact:

Tom Coots, City Planner  
[tcoots@rollacity.org](mailto:tcoots@rollacity.org)

(573) 426-6974  
 901 North Elm Street  
 City Hall: 2<sup>nd</sup> Floor  
 8:00 – 5:00 P.M.  
 Monday - Friday



## Who and What is the Board of Adjustment?

The Board of Adjustment (BOA) is an appointed group of citizens from Rolla who are charged with hearing and deciding Variances, Appeals, and Special Exceptions.

## What is a Variance?

A Variance is a request for relief from a particular provision in the zoning code. A Variance should only be granted if certain criteria are met. Variances are frequently sought to allow things such as reduced setback, lot size or increased height.

## What is an Appeal or Special Exception?

An Appeal is a request for an interpretation of the meaning of the zoning code from the Board of Adjustment. A Special Exception is a request to allow certain uses.

## How Will This Impact My Property?

Each case is different. Adjacent properties are more likely to be impacted. Please contact the Community Development Office at (573) 364-5333 if you have any questions.

## What If I Have Concerns About the Proposal?

If you have any concerns or comments, please try to attend the meeting. You may learn details about the project at the meeting. You will be given an opportunity to ask questions or make comments.

## What If I Cannot Attend the Meeting?

Please try to attend the meeting if you have any questions or concerns. However, if you are unable to attend the meeting, you may provide written comments by letter or email. These comments will be presented to the Board.

## What If I Have More Questions?

Please contact the Community Development Office if you have any additional questions.

## LEGAL DESCRIPTION

A LEASED PREMISES BEING PART OF SECTION 1 IN TOWNSHIP 37 NORTH, RANGE 8 WEST IN PHELPS COUNTY, MISSOURI AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 8 WEST; THENCE SOUTH 78 DEGREES 54 MINUTES 10 SECONDS EAST, 902.63 FEET TO A POINT IN THE EAST RIGHT OF WAY LINE OF OLD ST. JAMES ROAD, SAID POINT BEING THE NORTHWEST CORNER OF SURVEY RECORD BOOK 12 PAGE 130; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 23 DEGREES 00 MINUTES 40 SECONDS EAST, 63.76 FEET TO THE SOUTHWEST CORNER OF THE PARENT PARCEL DESCRIBED IN DOC#2018-5993 12/31/2018; THENCE LEAVING SAID RIGHT OF WAY LINE, ALONG THE SOUTH LINE OF SAID PARENT PARCEL; NORTH 89 DEGREES 47 MINUTES 30 SECONDS EAST, 21.76 FEET TO THE POINT OF BEGINNING OF SAID LEASE PREMISES; THENCE NORTH 23 DEGREES 00 MINUTES 40 SECONDS EAST, 100.00 FEET TO A POINT; THENCE SOUTH 62 DEGREES 51 MINUTES 12 SECONDS EAST, 200.00 FEET TO THE SAID SOUTH LINE; THENCE SOUTH 89 DEGREES 47 MINUTES 30 SECONDS WEST, 217.06 FEET TO THE POINT OF BEGINNING. CONTAINING 9974 SQUARE FEET OR 0.23 ACRES, MORE OR LESS.

AND A PROPERTY COMMENCING AT THE NORTHWEST CORNER OF THE NORTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 1, TOWNSHIP 37 NORTH, RANGE 8 WEST; THENCE SOUTH 78 DEGREES 54 MINUTES 10 SECONDS EAST, 902.63 FEET TO A POINT IN THE EAST RIGHT OF WAY LINE OF OLD ST. JAMES ROAD, SAID POINT BEING THE NORTHWEST CORNER OF SURVEY RECORD BOOK 12 PAGE 130; THENCE ALONG SAID RIGHT OF WAY LINE, NORTH 23 DEGREES 00 MINUTES 40 SECONDS EAST, 127.85 FEET TO THE POINT OF BEGINNING OF UTILITY/ACCESS EASEMENT; THENCE CONTINUING NORTH 23 DEGREES 00 MINUTES 40 SECONDS EAST, 45.94 FEET TO A POINT; THENCE SOUTH 62 DEGREES 51 MINUTES 12 SECONDS EAST, 20.05 FEET TO THE NORTHWEST CORNER OF A LEASED PREMISES; THENCE ALONG THE WEST LINE OF SAID LEASED PREMISES, SOUTH 23 DEGREES 00 MINUTES 40 SECONDS WEST, 44.49 FEET TO A POINT; THENCE LEAVING SAID LEASED PREMISES, NORTH 66 DEGREES 59 MINUTES 20 SECONDS WEST, 20.00 FEET TO THE POINT OF BEGINNING. CONTAINING 904 SQUARE FEET OR 0.02 ACRES, MORE OR LESS.







pd ec

## BOARD OF ADJUSTMENT APPLICATION

**Contact Information:**

**Property Owner:**  
B. Dunnigan Tours, LLC

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Name(s)  
1900 Old St. James Road

---

Mailing Address  
Rolla, MO 65401

---

City, State, Zip  
(573) 202-3949

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Phone

---

Email

---

**Agent/Applicant (If Different Than Property Owner):**

Russell Been, Collective Solutions, LLC

---

Name  
340 Marshall Road

---

Mailing Address  
Valley Park, MO 63088

---

City, State, Zip  
(314) 989-9810

---

Phone  
russ@collectivesolutions.com

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Email

**Property/Request Information:**

**Request:**                      X   Variance  
          Special Exception  
          Appeal

---

Sec. 42-399, subsec: 8, subsubsec: 7

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Code Section (Variance/Appeal Only)

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1900 Old St. James Road, Rolla MO 65401

---

Property Address/Location

---

M-1

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Property Zoning

---

Wireless Communications Facility

---

Proposed Development/Project

### APPLICATION CHECKLIST:

<b>Applicant Checks Boxes</b>	<input type="checkbox"/>	Completed Application Form	<input type="checkbox"/>	<b>City Staff Verifies</b>
	<input type="checkbox"/>	Agent Letter (If Applicable)	<input type="checkbox"/>	
	<input type="checkbox"/>	Filing Fee - \$350	<input type="checkbox"/>	
	<input type="checkbox"/>	Legal Description (Unplatted and Irregular Lots Only)	<input type="checkbox"/>	
	<input type="checkbox"/>	Site Plan/Survey (If Applicable)	<input type="checkbox"/>	
	<input type="checkbox"/>	Letter of Request: <i>Please include description of project, request, how criteria for approval are met, and any other pertinent information.</i>	<input type="checkbox"/>	

OFFICE USE ONLY:

Case No: 2022-05	DRC Meeting Date: 5.17.22	Advertise By: 5.12.22
Submission Date: 4.27.22	BOA Hearing Date: 6.2.22	

**INFORMATION:**

**Variations** are *required* to meet the following criteria:

1. The applicant must demonstrate that special circumstances or conditions applying to the land or buildings for which the variance is sought; which circumstances or conditions are peculiar to such land or building and do not apply generally to lands or buildings in the same zone or neighborhood; and that said circumstances or conditions are such that the strict application of the provisions of the regulation creates an unnecessary economic hardship by depriving the applicant of the reasonable use of such land or building.
2. The alleged hardship was not created by any person currently having an interest in the property.
3. The purpose of the variance is not based exclusively on the desire to enhance the value of the property, or increase the return or income from the property.
4. The granting of such variance will not be detrimental to the public welfare or substantially or permanently injurious to the property or improvements in such zoning or neighborhood areas in which the property is located.
5. The granting of the variance is necessary for the reasonable use of the land or building and that the variance as granted by the Board is the minimum variance that would accomplish this purpose, and will not alter the essential character of the neighborhood.
6. The literal enforcement and strict application of the provisions of the Rolla Planning and Zoning Code will result in an unnecessary hardship inconsistent with the general provisions and intent of the regulations and that in granting such variance the spirit of the regulations will be preserved and substantial justice done.
7. (Use Variations Only) The use is consistent with the intent of the Comprehensive Plan.

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**Appeals** are *required* to meet the following criteria:

1. The Appeal was filed within 15 days or after the administrative officer has rendered a decision.
2. The interpretation of the code as made by the administrative officer was incorrect or unclear.

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**Special Exceptions** are *required* to meet the following criteria:

1. The request is consistent with the general spirit and intent of the regulations.
2. The request is consistent with the general and specific rules for the Special Exception.
3. The request serves the general welfare and preserves the community interest.

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**Acknowledgement and Authorization:**

The owner(s) understand and agree that the application will be placed on hold until a complete application and all required items on the checklist are received. The owner(s) understand and agree to permitting employees of the City of Rolla to enter the subject property for purposes of posting a yard sign(s), retrieving the yard sign(s), taking photographs of the property/building(s), and investigating the property for pertinent information related to the request. Should ownership of the property change after the application is submitted, authorization is required from the new owner to continue with the review of the request, or the request will be withdrawn from consideration. The undersigned understands that refunds may be provided if the request is withdrawn prior to the Board of Adjustment hearing, less any costs already incurred.

Property Owner(s):

Applicant/Agent (If Different From Owner)

\_\_\_\_\_  
Sign                      Print

\_\_\_\_\_  
Sign

\_\_\_\_\_  
Print

*Collective Solutions LLC agent for Parallel Infrastructure*

\_\_\_\_\_  
Sign                      Print

\_\_\_\_\_  
Sign

\_\_\_\_\_  
Print



# memo

## Collective Solutions, LLC

To: Tom Coots  
From: Russell S. Been, Collective Solutions, LLC, agent for Parallel Infrastructure  
CC: City of Rolla Missouri Planning and Zoning Commission  
Date: 9/9/2022  
Re: Request for relief of setbacks for wireless telecommunications facility located at 1900 Old St. James Road

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AT&T, in order to improve service and capacity in the Rolla, Missouri area, has contracted with Parallel Infrastructure to construct a 95' tall monopole style wireless communications facility. This facility will include a lighting rod and associated fencing and ground equipment. At the suggestion of the City of Rolla planning department, privacy slats have been added to the fencing.

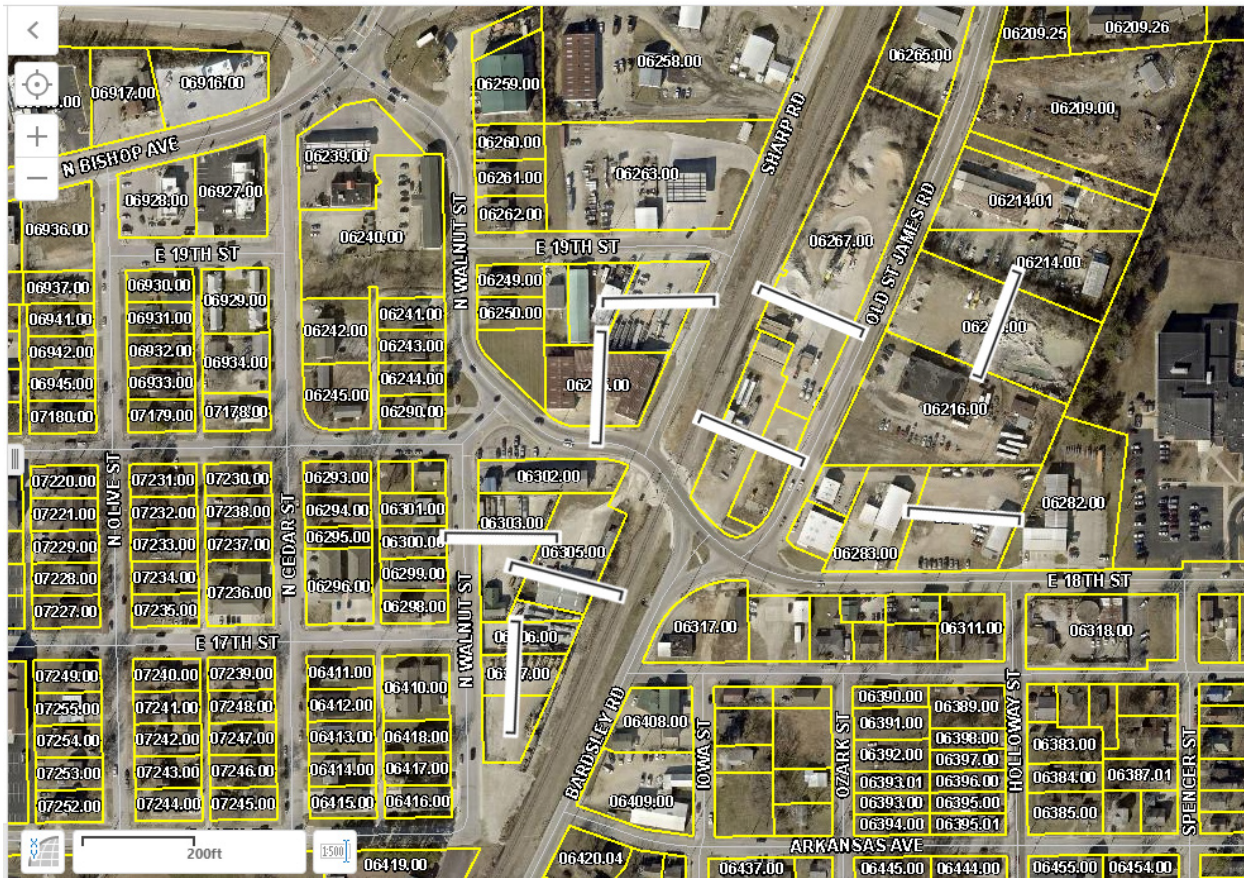
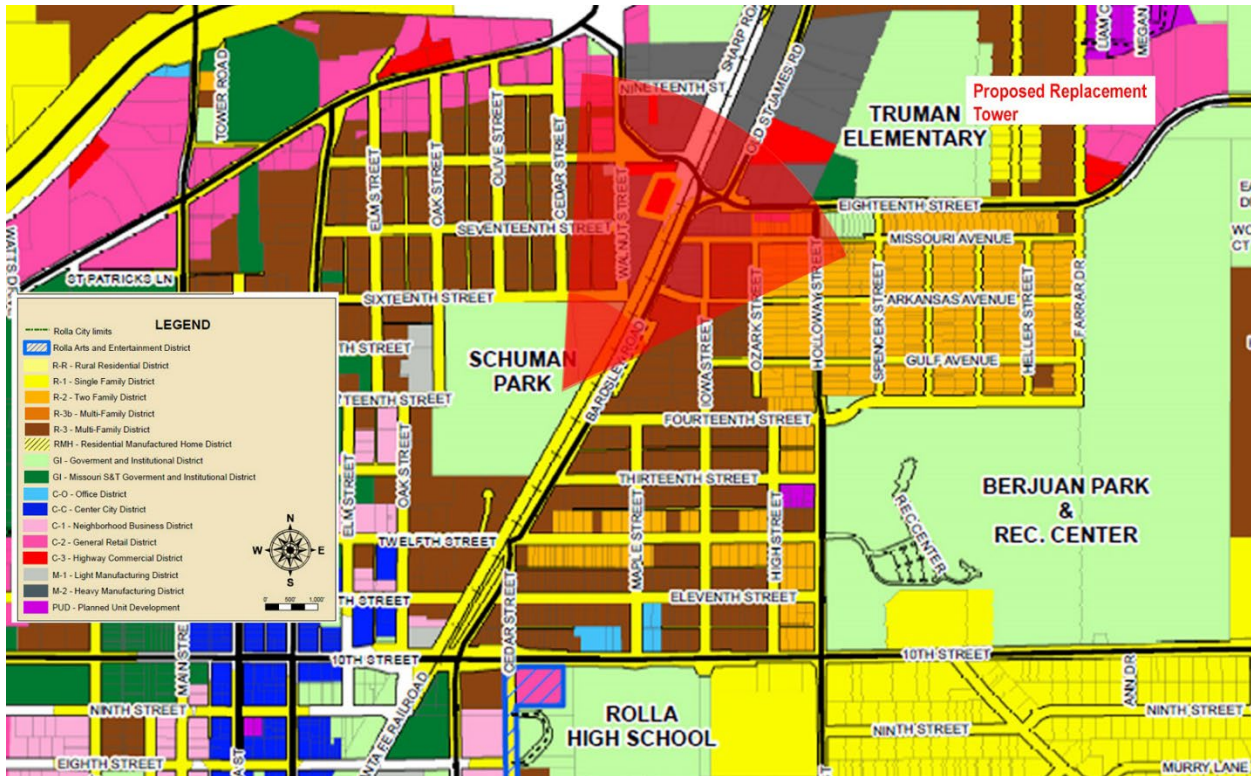
Sec. 42-399, Subsection 8, subsection 7 requires a wireless communications tower be set back from the property lines the height of the telecommunications tower. In order to locate the tower in the area recently rezoned per the request of the Rolla City Council, Collective Solutions, LLC requests on behalf of Parallel Towers, LLC, relief from the setback requirements listed in said section of the Rolla City Zoning code. We are requesting a setback of 35 feet from the southern property line and 93 feet from the western property lines. The tower will meet the required setbacks from the northern and eastern property lines.

Parallel request the following minimum setbacks:

- 0' from the tower fence to the southern property line
- 70' from the tower fence to the side walk on East Side of Old St. James Road
- 78' from tower fence to right of way for Old St. James Road
- 75.5' from Tower Fence to Building at 1850 Old St. James Road
- 38' from Tower fence to Large Building at 801 E. 18<sup>th</sup>
- 85' From Tower fence to Small building at 801 E. 18<sup>th</sup>
- 0' from Tower Fence to On Site parking lot
- 81' From Tower Fence to On site building
- 71' From Tower Fence to Property line at [Parcel ID: 71-09-1.0-01-003-002-010.000](#)



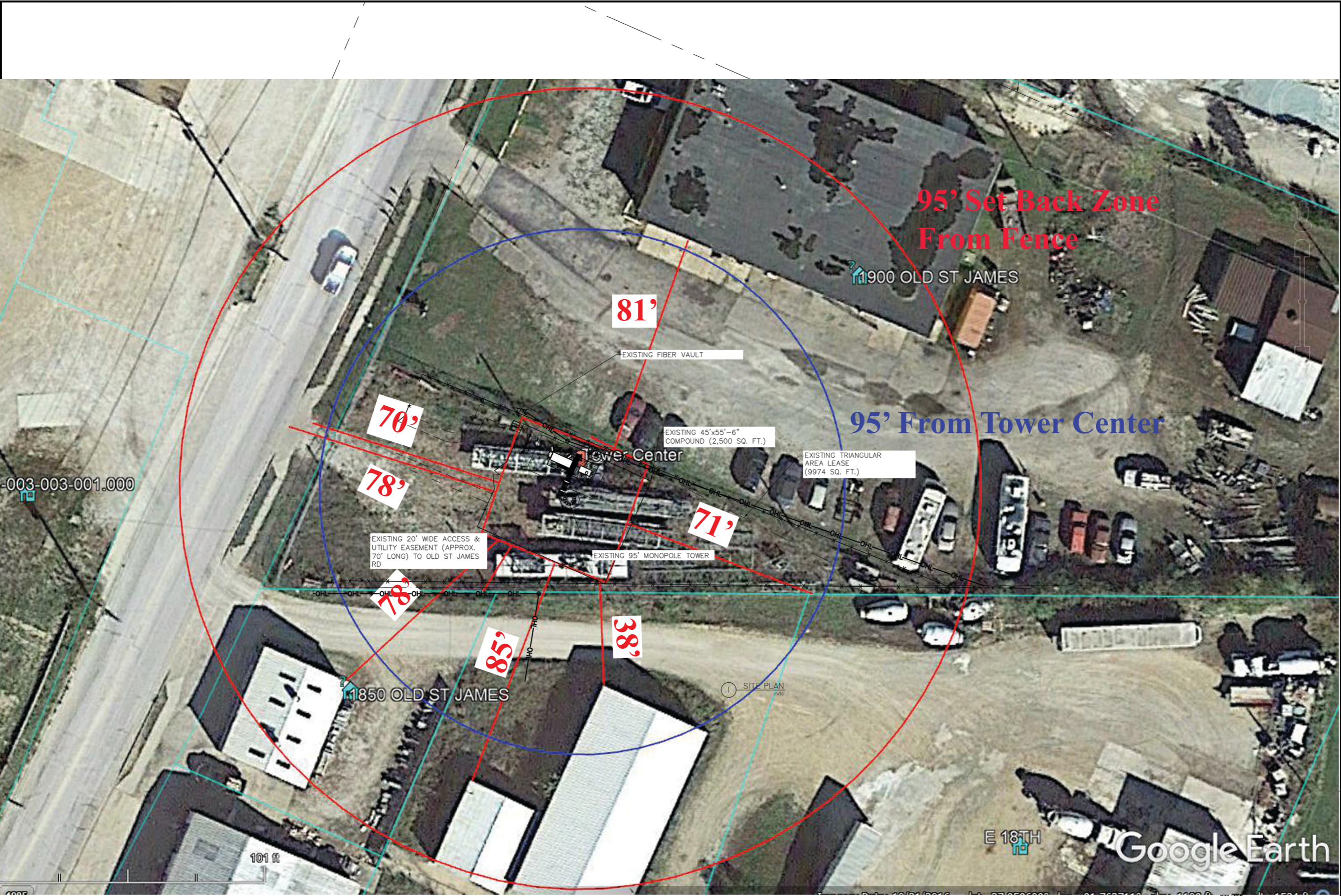
1. Federal Courts have determined that the minimum height needed for a cell tower is the height that allows the tower to meet the carrier's coverage objectives. In the case of this proposed tower, AT&T's Radio Frequency engineers have determined that in order to meet the coverage objectives for this area of Rolla and for FirstNet, their antennas would need to be 95' above ground level. In order to meet this coverage objective, the property would need to be zoned industrial. If the strict application of the ordinance were applied there would be no property in the area of the required tower that would allow a tower of a height that would be able to meet the coverage objective. In order to meet the coverage objective a tower would have to be located on a property that met three specific requirements: 1. The property would have to be located on our search area. 2. The property would need to be zoned M industrial and 3. The property would have to be more than 200' x 200' wide. Within our search area as described in the map below, there are several "M" zoned properties. There are none however, that are wide enough to meet the required setbacks as indicated in the second exhibit. Therefore the setback variance would not be specific to just the subject property. Also, should the strict setbacks be applied, the tower would be placed in the center of the driveway in front of the landowner's garage bays thereby creating an unnecessary economic hardship by depriving the owner of the reasonable use of the land and building on the property.
2. The hardship has to do with the size, shape and location of the "M" zoned section of the property and by the coverage objective needed by AT&T and FirstNet was not created by anyone having interest in the property.
3. The purpose of the variance is to allow for a wireless communications facility to be built that will allow for the latest technology to be built in the area and to enhance FirstNet coverage in the area. Not to enhance the value of the property or increase the return of the or income of the property.
4. The granting of such variance will not be detrimental to the public welfare or substantially or permanently injurious to the property or improvements in such zoning or neighborhood areas in which the property is located, but in truth just the opposite. By allowing the variance and thereby allowing the new tower, AT&T will be able to install and enhance their public safety system, FirstNet, which is in use by the Rolla police department, and will allow better coverage to first responders in times of emergency. It will also allow AT&T to install their 5G network which will bring the most up to date technology to the area. As companies and individuals become more and more reliant on technology such as 5G and IOT coverage of the most up to date technology is crucial. Companies and individuals are taking a harder look at the existing wireless infrastructure as they are moving into new cities and new houses they are considering wireless infrastructure above things such as schools. The recent pandemic has taught us that it is vital to the public welfare that wireless infrastructure be at its peak capacity and technology.
5. One of the reasons the location was picked was due to the industrial nature of the neighborhood. Should a tower of the minimum height to reach our carriers coverage objective be allowed in the industrially zoned section of this property, this is the minimum variance needed to accomplish this. The essential character of the neighborhood would remain unchanged.
6. The literal enforcement and strict application of the Rolla zoning code would result in a hardship inconsistent with the general provisions and intent of the regulations and that in granting such variance the spirit of the regulations will be preserved and substantial justice done. The strict application of the zoning code would not allow a tower with the ability to meet AT&T's coverage objectives to be built. As mentioned, to meet our coverage objectives the tower would need to be 95' tall with a 5' lighting rod in the area highlighted by our search area. The property would need to be zoned as "M" to allow a tower to be the height needed to meet our coverage objective and the property would have to be 200' x 200' and there is no property within our search area that meets all three criteria. Up to this point there is no tower within the city of Rolla that has been subject to a strict application of a 1 to 1 setback. Section 704 of the Federal Telecommunications Act of 1996 does not allow a jurisdiction to "discriminate among providers of functionally equivalent services" so by allowing this tower to meet the same criteria as those providers of equivalent services, justice shall be done.











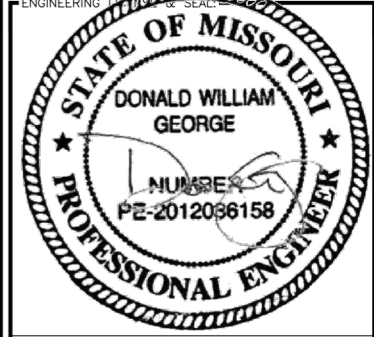
PLANS PREPARED FOR:  
**Parallel**  
 INFRASTRUCTURE  
 15105 JOHN J. DELANEY DRIVE  
 SUITE D-3  
 CHARLOTTE, NC 28277

PLANS PREPARED FOR:  
  
 208 S AKARD STREET  
 DALLAS, TX 75202

PLANS PREPARED BY:  
 FA #: 15456793  
 AT&T SITE ID: MOLO2400  
 SITE NAME : UMR  
 SCHUMAN PARK RS  
 PI TOWER ID: PIMO632  
 1900 OLD ST JAMES RD  
 ROLLA, MO 65401  
 PHELPS COUNTY

REVISIONS:

DESCRIPTION	DATE	BY	REV
FINAL CDS	8.29.22	KE	2
REVISED CDS	8.3.22	KE	1
ISSUED FOR REVIEW	9.14.21	JDD	0



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SHEET TITLE:  
 SITE PLAN

SHEET NUMBER: 01  
 REV.: 2  
 46299