



# BOARD OF ADJUSTMENT COMMUNICATION

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**DATE:** April 11, 2024

**FROM:** Thad Chambers, Town Administrator

**AGENDA ITEM:** Public hearing to consider a variance to the following regulations: Bartonville Zoning Ordinance Sections 22.3.D., L., and R., relating to telecommunications facility setback requirements. The property subject to the variance request is located on land situated in the DCFWSD #7 Retail Center Addition, Block A, Lot 1, in the Town of Bartonville, Denton County, Texas. The applicant is Ralph Wyngarden of Faulk & Foster. [Town File No. VAR-2024-005.]

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**Applicant:** Ralph Wyngarden of Faulk & Foster

**Zoning:** General Commercial/PD (GC)

**Requested Variance:** To remove the rear yard setback requirement for the subject property as it pertains to the location of a 130-foot-tall monopole telecommunications tower within a 627 square-foot fenced area.

**Summary:** In February 2024 the applicant received a staff recommendation for denial of a Conditional Use Permit and Site Plan for a proposed 130-foot-tall monopole telecommunications tower within a 627 square-foot fenced area to be located behind (south of) the Kroger Marketplace within the Lantana Town Center development. One of the reasons for the denial recommendation was that the proposed tower location was within the 10-foot rear-yard setback established by the Planned Development Ordinance (Ord 411-06) for the Lantana Town Center. Telecommunications towers are subject to building setback standards for the zone within which they are located, per Bartonville Zoning Ordinance (BZO) Sections 22.3.D., L., and R.

The applicant requests a variance to remove the applicability of this rear yard setback to the placement of the telecommunications tower and enclosure. In their variance application, the requestor states that Kroger and the Lantana Commercial Owners Association will not allow any structures in front of the buildings. Exhibit 1 contains a detailed justification letter that examines the conditions on the site and provides the applicant's justification for the variance request. In general, the applicant states that the presence of utilities, fire lane, and storm water detention pond create constraints for this site warranting consideration of the rear yard setback variance. The applicant also states that the Lantana Commercial Owners Association has approved the location and design of the telecommunications tower as shown in Exhibit 1.

**Criteria for Approval:** In deciding the variance petition, the Board of Adjustments shall apply the following criteria:

- A. There are special circumstances or conditions arising from the physical surroundings, shape, topography or other feature affecting the land subject to the variance petition, such that the strict application of the provisions of this Zoning Ordinance to the development application would create an unnecessary hardship or inequity upon or for the petitioner, as distinguished from a mere inconvenience, in developing the land or deprive the petitioner of the reasonable and beneficial use of the land;

- B. The circumstances causing the hardship do not similarly affect all or most properties in the vicinity of the petitioner's land;
- C. The variance is necessary for the preservation and enjoyment of a substantial property right of the petitioner;
- D. Granting the variance petition will not be detrimental to the public health, safety or welfare, or injurious to other property within the area;
- E. Granting the variance petition will not have the effect of preventing the orderly use and enjoyment of other land within the area in accordance with the provisions of this Ordinance, or adversely affect the rights of owners or residents of surrounding property;
- F. Granting the variance petition is consistent with any special criteria applicable to varying particular standards;
- G. The hardship or inequity suffered by petitioner is not self-induced;
- H. The request for a variance is not based exclusively upon a desire from the petitioner for increased financial gain from the property, or to reduce an existing financial hardship; and
- I. The degree of variance requested is the minimum amount necessary to meet the needs of petitioner and to satisfy the standards in this section.

**If Approved:** Approval of the variance request would render the proposed telecommunications tower and enclosure exempt from the 10-foot rear yard setback requirement. This would not result in any automatic approvals for the Conditional Use Permit or Site Plan. Rather, it would remove the rear yard setback conflict from consideration in the application review.

**If Denied:** Denial of the variance request would mean that the rear yard setback for the subject property would continue to restrict the available location for the proposed telecommunications tower and enclosure. The tower would not be allowed to be located as shown in the application materials, included in Exhibit 1.

**Exhibits:**

- 1. Variance Application VAR-2024-005
- 2. Location Map
- 3. Notification Letter and Addresses
- 4. Publication Affidavit