

Board of Adjustment STAFF REPORT



SUBJECT: Case No.: SE2024-003
Applicant Chris Brooks with Erath County Emergency Management, representing Erath County Annex II Tax Office, is requesting a special exception from Section 154.74.E.4, related to radio tower setback requirements for property located at 320 W College, being Parcel R29285, S2600 CITY ADDITION,; BLOCK 24,; LOTS 1, 3, 4, TAX OFFICE of the City of Stephenville, Erath County, Texas.

MEETING: Board of Adjustment – July 11, 2024

DEPARTMENT: Development Services

STAFF CONTACT: Steve Killen

BACKGROUND:

The applicant is requesting a special exception to the referenced regulation.

APPLICABLE LAND USE REGULATION:

Sec. 154.74. Wireless communication facilities.

E. *Nonresidential districts ((B-1), (B-2), (B-3), (B-4), (B-5), (I)).* Radio, television, microwave broadcast relay, receiving towers, transmission and re-transmission facilities, satellite receiving only earth stations (home dish antenna), and any electronic emission equipment of a commercial nature shall be allowed in the nonresidential zoning districts if it complies with the following regulations:

4. *Setbacks:* With the exception of stealth facilities, antennas and antenna facilities shall not be permitted in front or side yards;

SPECIAL EXCEPTION:

G. *Special exception relief from regulations.* A special exception must be obtained from the board of adjustments for any antenna, tower, and/or satellite receive-only antenna which does not comply with the regulations specified in this section. In considering whether to grant a special exception from the regulations specified above, the board of adjustment shall consider the following factors:

1. The effect on the value of the surrounding property;
2. The potential for interference with the enjoyment of surrounding properties;
3. Aesthetics;
4. The necessity of the special exception for the public health, safety, and welfare of the citizens or for governmental purposes;
5. The zoning district and the adjoining zoning districts of the property for which the special exception is sought;
6. The provisions of 47 C.F.R. § 25.104 which preempt local zoning or other regulations that differentiate between satellite receive-only antennas and other types of antenna facilities unless such regulations:
 - (a) Have a clearly defined health, safety or aesthetic objective; and

- (b) Further the stated health, safety, or aesthetic objectives without unnecessarily burdening the federal interest in ensuring access to satellite services and in promoting fair and effective competition among competing communications service providers;
7. To properly evaluate all applications to locate commercial antennas or towers which do not comply with the regulations specified above, the following information must be provided by the applicant:
- (a) Describe the nature of the antenna site. Indicate whether the proposed structure is a monopole or mounted to a self-supporting structure. Indicate the proposed height;
 - (b) Provide photos or drawings of all equipment, structures and antenna;
 - (c) Describe why the antenna or tower is necessary;
 - (d) Address whether or not the applicant has made an effort to co-locate the facilities proposed for this antenna or tower on existing towers or facilities in the same general area and, if so, identify the location of these existing sites. If yes, describe in detail these efforts and explain in detail why these existing sites were not feasible. Attach all studies or tests performed which demonstrate why the existing sites will not provide sufficient signal coverage. Provide written documentation from existing sites' owners and/or operators, which confirm the statements provided. Indicate whether or not the existing sites allow or promote co-location and, if not, describe why not;
 - (e) If the requested location is in a residential district the applicant shall address whether or not the applicant has made an effort to locate the facility in a commercial or industrial district and identify the location of these commercial and or industrial district sites. Describe in detail these efforts and explain in detail why these commercial or industrial district sites were not feasible. Attach all studies or tests performed which demonstrate why the commercial or industrial sites will not provide sufficient signal coverage. Provide written documentation from commercial or industrial district sites' owners and/or operators which confirm the statements provided;
 - (f) Indicate the proposed provider's current coverage area for the city. Attach maps showing the areas the proposed provider's existing antennas currently cover, the areas the applicant's existing sites and other existing sites would cover, and the areas the applicant's existing sites and the requested site would cover;
 - (g) Describe the applicant's master antenna and tower plan for the city. Attach maps and other related documentation. Provide information indicating each phase of the plan;
 - (h) Describe the applicant's plan to minimize the number of telecommunications antenna and towers needed to cover the city;
- H. *Written report upon denial of request.* The administrative official and/or the board of adjustment shall document any denial of a request to place, construct, or modify an antenna facility in writing. Such documentation shall be supported by substantial evidence within the written record.

(Ord. 2018-O-03 , 1-2-2018; Am. Ord. 2018-O-27, 8-7-2018)

ALTERNATIVES:

1. Approve the Special Exception Request
2. Deny the Special Exception Request