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FRANKLIN COUNTY PLANNING AND ZONING
BOARD OF ZONING ADJUSTMENT
FRANKLIN COUNTY GOVERNMENT CENTER
SECOND FLOOR COMMISSION CHAMBERS
400 EAST LOCUST STREET
UNION, MISSOURI 63084

TRANSCRIPT OF PROCEEDINGS
BOARD OF ZONING ADJUSTMENT
PUBLIC HEARINGS
FEBRUARY 27, 2024
(COMMENCING AT 7:00 P.M.)

REPORTED BY:
PATSY A. MAYBERRY, C. R.
COMPLETE REPORTING SERVICES

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19 BROOKMOORE DRIVE
UNION, MISSOURI 63084
(636)221-0418

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A P P E A R A N C E

BOARD OF ZONING ADJUSTMENT COMMISSION:

JUSTIN HEAD, CHAIRMAN

FRED THATCHER, COMMISSIONER

KENT VEDDER, COMMISSIONER

STEVE HOFF, COMMISSIONER

TIM TOBBEN, COMMISSIONER

PLANNING AND ZONING STAFF:

SCOTTIE EAGAN, DIRECTOR PLANNING AND ZONING

CRYSTAL HOLDMEIER, PLANNING ASSISTANT

COMPLETE REPORTING SERVICES:

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P R O C E E D I N G S
(FEBRUARY 27, 2024)

CHAIRMAN HEAD: All right.
I'd like to call the Franklin County Board of Zoning
and Adjustment meeting to order tonight, which is a
different date on my agenda, but February 27, 2024
to order.

Can we have a roll call, please.

MS. EAGAN: Justin Head?

CHAIRMAN HEAD: Here.

MS. EAGAN: Steve Hoff?

COMMISSIONER HOFF: Here.

MS. EAGAN: Fred Thatcher?

COMMISSIONER THATCHER:

Present, here.

MS. EAGAN: Tim Tobben?

COMMISSIONER TOBBEN: Here.

MS. EAGAN: And, Kent Vedder?

COMMISSIONER VEDDER: Here.

CHAIRMAN HEAD: Is there a
motion to approve tonight's agenda?

COMMISSIONER TOBBEN: I'll
make the motion.

CHAIRMAN HEAD: Is there a
second?

1 COMMISSIONER THATCHER: I'll
2 second it.

3 CHAIRMAN HEAD: Second. Any
4 discussion?

5 (NONE)

6 All those in favor please say aye.

7 COMMISSIONER THATCHER: Aye.

8 CHAIRMAN HEAD: Aye.

9 COMMISSIONER VEDDER: Aye.

10 COMMISSIONER HOFF: Aye.

11 COMMISSIONER TOBBEN: Aye.

12 CHAIRMAN HEAD: Opposed?

13 (NONE)

14 The ayes have it.

15 Scottie, when you get situated, would
16 you mind to read our hearing procedures into the
17 record, please.

18 MS. EAGAN: Tonight's Board
19 of Zoning Adjustment hearing is governed by the
20 Franklin County Unified Land Use Regulations.

21 At this time, I would like to place
22 into the record these Regulations as Exhibit A, the
23 official Zoning Map as Exhibit B, the official
24 Master Plan as Exhibit C, and the case file for each
25 case as Exhibit D for all the cases to be heard at

1 this hearing.

2 (THEREUPON, EVIDENCE WAS
3 MARKED FOR IDENTIFICATION AS
4 BOARD EXHIBITS A, B, C, AND D.)

5 The Board of Zoning Adjustment will
6 address each case as they are listed on the agenda.
7 As each case is opened for hearing, a staff report
8 will first be read to the Board, followed by any
9 questions for the staff.

10 Then if anyone in the audience would
11 like to speak or comment during this public hearing,
12 they must first print their name on the sign-in
13 sheet provided, and then be sworn in by the court
14 reporter.

15 When it is your turn to speak, you will
16 come to the front of the room to address the Board
17 and only the Board, not anyone in the audience, with
18 any questions or comments.

19 At the conclusion of all questions,
20 comments and discussion concerning each case, the
21 public hearing for that case will conclude and the
22 Board of Zoning Adjustment will proceed with a
23 decision.

24 Any decision by the Board may be
25 appealed. If anyone desires to appeal a decision

1 made by the Board of Zoning Adjustment, they need to
2 submit it to Circuit Court.

3 CHAIRMAN HEAD: Thanks,
4 Scottie.

5 Board Members, we all receive our
6 packets ahead of time. I assume you all must have
7 read through those. Is there anything that you
8 discovered in the packets regarding the situations
9 of the parties which present to you to be a conflict
10 of interest in any way?

11 COMMISSIONER VEDDER: No.

12 COMMISSIONER HOFF: No.

13 (NONE)

14 CHAIRMAN HEAD: So we'll move
15 then to approval of the minutes for the November 28,
16 2023 meeting. Do we have a motion for approval of
17 the minutes?

18 COMMISSIONER VEDDER: I make
19 a motion to approve those minutes.

20 CHAIRMAN HEAD: Is there a
21 second?

22 COMMISSIONER TOBBEN: I'll
23 second.

24 CHAIRMAN HEAD: A motion and
25 a second. Are there any additions, deletions or

1 corrections to the November 28, 2023 minutes?

2 (NONE)

3 Hearing none, all those in favor of
4 approval please say aye.

5 COMMISSIONER THATCHER: Aye.

6 CHAIRMAN HEAD: Aye.

7 COMMISSIONER VEDDER: Aye.

8 COMMISSIONER HOFF: Aye.

9 COMMISSIONER TOBBEN: Aye.

10 CHAIRMAN HEAD: All those
11 opposed?

12 (NONE)

13 The ayes have it.

14 It looks like we have no Old Business
15 on the agenda tonight. So we go straight to the two
16 files that are on for hearing.

17 As Scottie said, we'll call them in
18 order that they're listed on our agenda. So the
19 first file we'll hear is marked File Number 240005.
20 It's stilled VB BTS II, L. L. C./Vertical
21 Bridge/Collective Solutions.

22 And just to piggyback on what Scottie
23 said earlier in terms of our procedures, we're
24 informal. We want to make sure if anybody has
25 something to say, that you're able to do that.

1 Essentially whoever filed the
2 application we'll take testimony and evidence, if
3 any, on behalf of the application first.

4 Once everybody has had the opportunity
5 to speak on behalf of the application, anybody who
6 is hear opposed to the application can go. And once
7 everybody in opposition has had the opportunity to
8 talk, we can do rebuttal and surrebuttal if
9 necessary.

10 So let's go ahead and call this file
11 for hearing. Scottie, if you would, please read the
12 staff report.

13 MS. EAGAN: This is File
14 240005 for VB BTS II, L. L. C, d/b/a Vertical Bridge
15 co/o Collective Solutions.

16 The applicant is seeking a variance
17 from Article 19, Wireless Support Structures,
18 Section 340.C.3.

19 The property is located approximately
20 870 feet west of the intersection of Highway YY and
21 Highway C in Lyon Township.

22 THE FACTS: The property is
23 approximately five acres in size. The applicant
24 seeking a variance from Article 19,
25 Telecommunication Towers, Section 38.C.3, which

1 states:

2 "Wireless support
3 structures shall be set
4 back from all public or
5 private rights-of-way a
6 distance equal to the
7 height of the wireless
8 structure."

9 The applicant received a variance to
10 build a 295-foot wireless support structure.

11 According to the application, this site
12 is at the height elevation within the prescribed
13 search area, and the height of 295 feet achieves the
14 objective of providing an increase in service for
15 the community, but the building location is only 100
16 feet from the right-of-way.

17 According to the applicant, because of
18 the topographical hardship, if the owner must set
19 back 295 feet, the applicant will need to increase
20 the height of the tower, which they already received
21 a variance for.

22 This property is a part of a four-lot
23 subdivision that was platted in 2006.

24 STAFF COMMENTS: According to Section
25 103.A:

1 "A variance may be
2 granted by the Board of
3 Zoning Adjustment if the
4 applicant provides sufficient
5 evidence that the hardship
6 relates solely to the
7 applicant's land and where,
8 by reason of exceptional
9 narrowness, shallowness,
10 shape, or topography or
11 other extraordinary or
12 exception situation,
13 or condition of a
14 specific piece of property,
15 the strict application of
16 any regulations would
17 result in peculiar and
18 exceptional difficulties
19 to, or exceptional and
20 demonstrable undue hardship
21 upon the owner of the
22 property as an unreasonable
23 deprivation of use as
24 distinguished from the
25 mere grant of a privilege,

1 to authorize upon an appeal
2 relating to a property, a
3 variance from the strict
4 application so as to
5 relieve the demonstrable
6 difficulties or hardships,
7 provided the relief can
8 be granted without substantial
9 detriment to the public
10 good and without
11 substantially impairing
12 the intent, purpose and
13 integrity of the Zone Plan
14 as embodied in the zoning
15 regulations and map."

16 CHAIRMAN HEAD: Thanks,
17 Scottie.

18 Who would like to speak first on behalf
19 of this application? Please come on up and be
20 sworn.

21 (THEREUPON, THE WITNESS WAS
22 SWORN.)

23 MR. JACKSON GNAEDINGER: My
24 name is Jackson Gnaedinger with Celective Solutions.
25 Address 340 Marshall Road, Valley Park, Missouri

1 63088.

2 CHAIRMAN HEAD: Go ahead,
3 Jackson. The floor is yours.

4 MR. GNAEDINGER: Yeah, thank
5 you.

6 So as Ms. Scottie Eagan described
7 earlier, you know, I was before you guys on November
8 28th. We had a received a variance for the height of
9 that tower at that time. We did think that the
10 engineer's letter that was submitted regarding the
11 fall zone would encompass that setback, and I've
12 since found out that that's not the case. So we're
13 back before you again.

14 Now I'll keep this real brief. You
15 know, all of the proposal is all the same as the
16 last time I was here, just again seeking the
17 secondary variance for that setback.

18 So I'll open it up to questions.

19 CHAIRMAN HEAD: Any questions
20 from the members of the Board?

21 COMMISSIONER HUFF: Yeah. I
22 got one. Exactly we questioned this the last time
23 about the height and everything toward the property
24 lines.

25 What's actually changing here versus

1 other than you're asking for the same variance?

2 MR. GNAEDINGER: Nothing is
3 changing. Our proposal is we're in the same
4 location, same height. This is just a -- I guess to
5 give some back story or to give some background, we
6 were initially under the impression, and I think
7 this was kind of the -- and, Ms. Eagan, correct me
8 if I'm wrong. I thought -- it might have been the
9 previous county attorney --

10 MS. EAGAN: Correct.

11 MR. GNAEDINGER: -- that had
12 interpreted the code in one way. Whereas, you know,
13 the engineer -- I don't know if you want to...

14 MS. EAGAN: So last time it
15 was brought up about we have a fall zone setback
16 section of our code. The fall zone can be varied
17 administratively if we get that letter from an
18 engineer, which we had. Previous county counsel also
19 took setbacks into that. It was questioned at the
20 last meeting. So we said we would talk to the
21 current county counsel about what his thoughts were
22 on the fall zone and setback, if they were the same
23 or different.

24 His opinion was they were different.
25 So the engineer's letter was good for the fall zone

1 requirement that they don't need on the property,
2 but not for the setback. Which is why he's here
3 just for the setback from the public right-of-way.

4 COMMISSIONER HUFF: How far
5 does our counsel considering the setback should be
6 versus what we already approved?

7 MS. EAGAN: Well, you only
8 approved the variance for the height. So the height
9 of the tower is 295 feet. So that's what he should
10 be set back, in theory. As this property lays, the
11 further back he goes, the higher the tower is going
12 need to be. So we're in this conundrum well, he's
13 never going to get it if you keep raising the height
14 of the tower.

15 CHAIRMAN HEAD: Any other
16 questions from Board members?

17 COMMISSIONER TOBEN: I guess
18 at other municipalities that you work in like, have
19 you had this same issue?

20 MR. GNAEDINGER: Yeah, and we
21 come across this a lot, you know, especially -- so
22 this particular tower is not being built for, you
23 know, what we would call infill where there's
24 existing coverage and the capacity just isn't there.

25 This is a brand new coverage tower for

1 T-Mobile. And so the height that we're needing is
2 greater than for a more, I guess, a more developed
3 market where, you know, you could shift it around
4 by, you know, a couple hundred feet and maybe raise
5 or lower that required height and still meet that
6 coverage objective.

7 Whereas, here as this is brand new
8 coverage, that height is -- you know, that height is
9 what is required by the RF engineers to meet their
10 prescribed objective.

11 And so, you know, as far as the
12 setbacks, you know, we do come across that from time
13 to time. This particular property, as you go north
14 off of the highway, it really does drop down. I
15 mean, even where that mouse cursor is sitting right
16 now is lower in elevation than where we are
17 proposing the tower.

18 And so, you know, it's one of those for
19 every foot, let's say, further north away from that
20 right-of-way, we're going to have to go up X-number
21 of feet in height to be able to maintain that
22 coverage objective.

23 Which then, you know, kind of
24 self-fulfilling prophecy of you then have to go up
25 higher in height, pushes you further back in the

1 property, and so that -- you know, that's where we
2 landed where we did with it being the tallest point
3 on this property where, you know, the goal really is
4 to minimize the actual height that's required on
5 that tower.

6 COMMISSIONER TOBBEN: I think
7 my biggest concern is just safety to cars passing on
8 Highway C.

9 I know you talked at the November
10 meeting about the way the towers are designed if it
11 were to collapse, and I guess if it were to collapse
12 as it's designed, how far -- just would it reach
13 Highway C under the way it's designed?

14 MR. GNAEDINGER: It would
15 not.

16 So the way that it is designed, and
17 this is from a letter that is stamped by an engineer
18 that's licensed with the State of Missouri, dated
19 August 24, 2023. It states that the tower would
20 fall within a radius of 75 feet.

21 And so it would fall within the -- you
22 know, it would not hit that right-of-way property
23 line.

24 COMMISSIONER VEDDER: I guess
25 I do have another question.

1 Does your tower have to be on this
2 piece of property? I mean, you said your search
3 range, I think in the last meeting, was somewhere
4 around a half mile.

5 I mean, did you look at any of the
6 other properties or go to any of these other
7 property owners and -- or did you just picked this
8 spot because it worked?

9 MR. GNAEDINGER: Yeah, we
10 contacted several other property owners. You know,
11 we -- you know, we always do our due diligence. We
12 contacted, I want to say, upwards of probably close
13 to a dozen property owners.

14 And you know, it's kind of one of those
15 situations when you find someone that's willing and
16 the property works and, you know, it meets all the
17 coverage objectives, then you move forward.

18 COMMISSIONER VEDDER: So
19 there was no one else willing for a tower in the
20 area? I guess that's my concern.

21 I mean, I'm looking at the property
22 just to the west of this. I kind of went on the
23 USGS map, and over there by that homeowner, I mean,
24 it looks like you're at the same elevation, and you
25 could meet the fall zone requirements so you

1 wouldn't be asking for a variance as far as the fall
2 zones on that piece of property.

3 So I'm just trying to get an idea the
4 hardship to you just stuck to this property.

5 MR. GNAEDINGER: Sure. So
6 this property is actually on the outer edges of our
7 search area. I can tell you that the property to
8 the west there would not have met our coverage
9 objective.

10 COMMISSIONER VEDDER: So
11 moving it 400 feet over wouldn't have met your
12 coverage, so you wanted to go to the east?

13 MR. GNAEDINGER: Yeah. I
14 mean, I guess we didn't want to move to the east.
15 We just couldn't move further to the west, if that
16 makes sense.

17 And I will tell you I'm not an RF
18 engineer. You know, my role in that part of things
19 is that I find a property owner that's willing to
20 work with us, submit basic information, latitude,
21 longitude, ground elevation, and propose tower
22 height.

23 And then once that kind of checks all
24 their boxes, we proceed with that.

25 CHAIRMAN HEAD: Any other

1 questions?

2 COMMISSIONER THATCHER: I
3 don't have a question. I have more of a comment.

4 Our mandate is to look at variances
5 that are not self-imposed, and I get the opinion
6 here that this is pretty much a self-imposed
7 variance request because of the RF engineer has said
8 that we've got to have a certain height at a
9 location. It just -- to me, it's not quite in our
10 mandate to look at situations where someone else
11 says we have to have something in lieu of the
12 Franklin County Regulations.

13 I get the sense that I'm fudging a
14 little bit because -- and I don't -- I'm a little
15 uncomfortable with the regulations. We don't seem
16 to stick to them, and when someone comes up before
17 us with a variance, that variance, in my opinion,
18 should not be self-imposed.

19 Where in this case here, I think it's
20 definitely self-imposed. This is only a comment. I
21 know the necessity we have. The health, safety and
22 welfare is our main objective here, and I think we
23 are achieving that.

24 But when we had the last meeting, we
25 changed the variance on the tower height, and that

1 was due to the RF engineers saying we needed that
2 and not the County's regulations. And tower heights
3 if they're 300 feet or 250 feet, I don't think most
4 people really care about it. What we care about is
5 where it's going to fall and we care about what it
6 looks like.

7 So those are just kind of some of my
8 thoughts on this. Not to confuse this Board, but I
9 just don't know. I'm not a hundred percent.

10 MR. GNAEDINGER: Well, I
11 mean, if I could address that.

12 COMMISSIONER THATCHER:
13 Please.

14 MR. GNAEDINGER: So if I can
15 break that down into kind of two parts where it's
16 going to fall. That part and, you know, in my
17 house, we call it the F word. These things don't
18 fall. You know, they are engineered to not fall.

19 COMMISSIONER THATCHER: The
20 Titanic wasn't going to sink.

21 MR. GNAEDINGER: Well, that
22 is correct.

23 COMMISSIONER THATCHER:
24 Sorry.

25 MR. GNAEDINGER: Well, if I

1 ever get one of the best selling movies out of this
2 thing, I'll give you half of it.

3 But you know, honestly they're just not
4 engineered to fall, and you know, the engineering
5 letter that we've got says that if it does in the
6 very unlikely event, it would be within 75 feet.

7 COMMISSIONER THATCHER: Yeah.

8 MR. GNAEDINGER: And so the
9 request for the variance from 295 feet down to 100
10 foot, you know, that -- I would like to maybe take
11 that into consideration that as far as where it's
12 going to fall.

13 As far as the looks, you know, that's
14 one of those things. I mean, I'm not going to stand
15 up here and tell you that they're great, but they're
16 a necessity of life these days. I mean, just,
17 shoot, what was it? Last week AT&T had a nationwide
18 outage. There were cities all over the country that
19 depended on that wireless service, you know, for
20 their 911 service. And it was just all down.

21 And so, you know, that goes to show the
22 need for kind of activity, and I can tell you
23 personally I'm a subscriber. I'm a customer of
24 T-Mobile. T-Mobile is the anchor tenant here that's
25 kind of, you know, the driving force for this

1 particular location.

2 And when I visited this property, I had
3 nothing. And so, you know, if I had blown a tire
4 and I'm sitting off the side of Highway C and, you
5 know, half on the road, half off, I had no way to
6 call.

7 And so that's -- you know, I think that
8 plays a lot into the need for it, and that height,
9 you know, let's say we come in at a hundred feet.
10 We're a hundred foot away, hundred foot tower. Now
11 that means that we're going to have to put in --
12 have to get our RF engineer. I'm kind of
13 spit-balling here.

14 That would mean we'd have to put in
15 four other 100-foot towers around that, and then
16 more on the outskirts of that to get the same
17 coverage. And so that, you know, the 295 foot again
18 is prescribed by the RF engineers, and that's what
19 we're needing.

20 COMMISSIONER THATCHER: The
21 RF engineer's fall zone of 75 feet or tower collapse
22 of 75 feet, is that based upon Mother Nature? What
23 if an airplane hit it, a small plane, big plane,
24 whatever? What if something hit it?

25 MR. GNAEDINGER: So just to

1 clarify, the RF engineers are the ones that are
2 working on the propagation of the signal. We've got
3 a structural engineer that has stamped this letter
4 saying that it would fall within a certain radius.

5 And so this letter actually does go
6 into that a bit. Give me one second. Let's see.
7 This does say that the structure would be designed
8 such that if failure were to occur due to a
9 significant storm or other event, is how they put
10 it.

11 So you know, normal, everyday, and
12 hopefully not every day, but you know, your standard
13 sort of event, if there's an earthquake and the
14 earth opens up underneath the tower, then certainly
15 this wouldn't be covered.

16 If there's a terrorist attack, if they,
17 you know, target this tower, obviously, that might
18 not fall within 75 feet.

19 If a small aircraft hits it, then you
20 know, that's a different scenario.

21 COMMISSIONER THATCHER: Are
22 you aware of any aircraft that have hit towers, I
23 mean, T-Mobile towers or anybody's towers for that
24 matter?

25 MR. GNAEDINGER: I'm not.

1 I'm not.

2 COMMISSIONER THATCHER: No.

3 MR. GNAEDINGER: So as far as
4 the FAA is concerned, you know, there is -- there's
5 federal regulations for lighting these things, which
6 we will follow. We actually have FAA approval for
7 this tower at this location at this height, and they
8 have a lighting regimen that will be followed.

9 Blinking white during the day, strobing
10 red at night, all that. So all of those safety
11 concerns would be addressed through the federal.

12 COMMISSIONER THATCHER: Thank
13 you very much.

14 MR. GNAEDINGER: Uh-huh.

15 COMMISSIONER HOFF: I got a
16 question for Scottie. So we previous, back in
17 November, it was presented. My question is: What's
18 the County Counsel saying that it needs to be set
19 back at?

20 I mean, I'm confused in that.

21 MS. EAGAN: He doesn't give
22 an opinion of what it needs to be set back. He just
23 said the way the regulations are written, the tower
24 should be set back from all public rights-of-way
25 equal to the height of the tower. If not, then they

1 need to come to you guys for a variance.

2 COMMISSIONER HOFF: That's
3 what I wanted to hear.

4 So basically right now we're looking at
5 a hundred feet setback on the state highway?

6 MS. EAGAN: That's what he's
7 proposing.

8 COMMISSIONER THATCHER: Let
9 me ask a question here. Does the State have to be
10 notified if we change that?

11 MS. EAGAN: I mean, we do
12 notify the State. They don't have any comments
13 about it. They're usually just care about the
14 entrance.

15 COMMISSIONER THATCHER: Very
16 good.

17 MR. GNAEDINGER: If I could
18 add.

19 COMMISSIONER THATCHER:
20 Please.

21 MR. GNAEDINGER: We do have
22 Missouri DOT approval for the improvement of --
23 there's an existing entrance there off of the
24 highway. We've got approval from those folks. Sp
25 you know, as far as the State's concerned, and I

1 might be misinterpreting your question, but we've
2 got, I think, the approvals that we're looking for
3 from the State.

4 COMMISSIONER THATCHER: I
5 have not physically looked at the site. Is the
6 roadbed higher than the building pad?

7 MR. GNAEDINGER: Yeah.

8 COMMISSIONER THATCHER: How
9 much higher is the building pad? Does anybody know?

10 COMMISSIONER VEDDER: It all
11 falls off the road there. I'd say your -- I think
12 you got a total in there, don't you?

13 I mean, I think the tower is probably
14 about ten foot lower than the road there, isn't it,
15 at the base.

16 COMMISSIONER THATCHER: Okay.
17 So it's not 30 feet or --

18 COMMISSIONER VEDDER: No, no.

19 MR. GNAEDINGER: I can pull
20 up that survey.

21 COMMISSIONER VEDDER: Let's
22 see. Well, they got the road at 845, and I think
23 you got the tower about 845 if I'm not mistaken,
24 don't you?

25 MR. GNAEDINGER: Yeah, I

1 mean, it's fairly high there.

2 COMMISSIONER VEDDER: It
3 dropped off.

4 MR. GNAEDINGER: Yeah, it
5 drops off further back.

6 COMMISSIONER VEDDER: We're
7 back here. It drops off there from 845 all the way
8 to the road.

9 COMMISSIONER THATCHER: All
10 the way to the road. Okay.

11 COMMISSIONER VEDDER: It just
12 glide off the road and then drops right across their
13 tower bed.

14 COMMISSIONER THATCHER:
15 Correct me if I'm wrong. At a measure of a hundred
16 feet would be, if it's sloping, that's not so much
17 up the hill. It's --

18 COMMISSIONER VEDDER: It's
19 pretty well level.

20 COMMISSIONER THATCHER: Yes.

21 COMMISSIONER VEDDER: I
22 thought it dropped off.

23 COMMISSIONER THATCHER: Okay.
24 I'm good. Thank you very much.

25 CHAIRMAN HEAD: All right.

1 Thank you.

2 MR. GNAEDINGER: Thank you.

3 CHAIRMAN HEAD: Is there
4 anybody else here to testify on behalf of the
5 applicant in File 240005?

6 (NONE)

7 Is there anybody here to testify or
8 provide evidence in opposition to that application?

9 Would you please come up and be sworn
10 in.

11 (THEREUPON, THE WITNESS WAS
12 SWORN.)

13 MR. ARNOLD SHUTE: I'm Arnold
14 Shute, and me and my wife, Nancy, own the property
15 right next door. And we also own the piece of
16 property just north of there that's off the map.

17 And this gentleman has never contacted
18 us about a cell tower or anybody, so I don't know if
19 we've been contacted. But if you look in front of
20 our barn there, that rectangle, that was a solar
21 array. And we put that in about ten years ago, and
22 the reason we put it in is that it was sold to us
23 that you pay for your electricity ahead of time, and
24 you know, it's a good investment because, you know,
25 your electricity is paid for by the solar.

1 And it's been a good investment because
2 the past ten years our electricity rate has more
3 than doubled. So I just want to try to keep my
4 solar array operating, and you might say well,
5 because of that tower it's not going to really
6 affect it that much because it's not going to shade
7 the whole array.

8 But I gave you some information about
9 how solar array works, and the way it was explained
10 to me it's like a camel train. It only moves as
11 fast as the slowest camel or the slowest panel.

12 So as you go out one panel the solar
13 array, it's like blocking the whole array because it
14 actually acts as a resistance to the current.

15 So it just seems to me like that
16 Franklin County is an awful big county, and there
17 should be some other place that we can put the cell
18 tower in.

19 CHAIRMAN HEAD: Questions for
20 Mr. Shute?

21 (NONE)

22 Thank you.

23 MR. SHUTE: You're welcome.

24 CHAIRMAN HEAD: Is anybody
25 else here to testify in opposition to that

1 application?

2 (NONE)

3 Jackson, do you have anything to add in
4 rebuttal specifically concerning the solar array?

5 MS. EAGAN: Justin, can you
6 make sure they both signed in. I don't know if they
7 signed in.

8 CHAIRMAN HEAD: Did they both
9 sign in?

10 MS. REPORTER: I didn't see
11 this last gentleman.

12 CHAIRMAN HEAD: Please just
13 concerning the solar.

14 MR. GNAEDINGER: Sure, yeah.
15 So we did contract with an environmental firm that
16 did a shadow analysis study of this tower and how it
17 might effect that solar panel array.

18 I've got some copies of that if I could
19 hand those out.

20 MS. EAGAN: I'll need to get
21 that marked.

22 MR. GNAEDINGER: Sure.

23 (THEREUPON, EVIDENCE WAS
24 MARKED FOR IDENTIFICATION AND
25 ENTERED INTO THE RECORD AS

1 APPLICANT EXHIBIT 1.)

2 CHAIRMAN HEAD: For the
3 record, it looks like we're calling these
4 Applicant's Exhibit Number 1.

5 MR. GNAEDINGER: Sure. So
6 you know, this is -- it's a pretty extensive study
7 here that goes through day-by-day over the next, I
8 believe, over the calendar year of 2024 and looks
9 day by day in ten-minute intervals what shadow would
10 be cast from this tower onto that array potentially.

11 And so what they found is that just
12 about 50 percent of days there would be no shadow
13 cast. Now the other 50 percent, that does not mean
14 that there would be 100 percent blockage, 100
15 percent shadow, anything like that. You know, that
16 50 percent is just that within any ten-minute
17 interval on that day, there will be some sort of
18 shadow.

19 So if you look one, two, three, four,
20 about five -- five paragraphs down on that cover
21 letter it's saying the worst case scenario -- this
22 is one day where the calculations show the most
23 impact there would be 8.8 percent of those total
24 daylight hours would be affected.

25 That's not 8.8 percent of sunlight.

1 It's 8.8 percent of the total hours. You know, it
2 is less than 1 percent of blockage, and that would
3 still cause that ten-minute interval to be included
4 in their calculation.

5 And so this -- you know, this is
6 something that we have looked into, and it's
7 something again worse case scenario would be 8 point
8 -- 8 percent shadow impact on worst case scenario.

9 COMMISSIONER THATCHER:
10 Jackson, I take there are no mitigation? There's
11 nothing to mitigate other than moving the tower,
12 right? There's no way to improve his solar -- I
13 don't know what you called it.

14 MR. GNAEDINGER: Correct. And
15 if I could, and I'm not trying to just keep entering
16 stuff into evidence. Can I just show an image?

17 (THEREUPON, EVIDENCE WAS
18 MARKED FOR IDENTIFICATION AND
19 ADMITTED INTO THE RECORD AS
20 APPLICANT EXHIBIT 2.)

21 CHAIRMAN HEAD: So we'll call
22 this Applicant's Exhibit 2.

23 MR. GNAEDINGER: So this
24 image is just showing -- and again this is standard
25 typical shadow that would be cast by this sort of

1 tower. You know, it's not a solid block of a
2 shadow. It's a lattice type tower, and so obviously
3 the sun will be coming through.

4 COMMISSIONER THATCHER: Yeah,
5 I think that solar rights are something that this
6 Board is never going to digest in any way, shape or
7 form. It's maybe more prevalent in California or
8 Colorado. Missouri, I don't know, I haven't read
9 any newspapers about any solar rights. We have
10 buildings in St. Louis that shade one another, and
11 you can shade, I think, some of the RF signals as
12 well.

13 MR. GNAEDINGER: Uh-huh.

14 COMMISSIONER THATCHER: So
15 it's a whole nother hurdle, a big hurdle.

16 CHAIRMAN HEAD: Any
17 questions?

18 (NONE)

19 All right. Thank you.

20 MR. GNAEDINGER: Thank you.

21 CHAIRMAN HEAD: Mr. Shute, do
22 you have any surrebuttal based off of what we just
23 heard off of regarding the cell tower?

24 And if you would, sign in, and you're
25 also welcome to review Exhibits 1 and 2 if you want

1 to.

2 MR. SHUTE: Well, no, I'm not
3 an engineer or anything, but I know that the sun
4 comes up over here on this side. It comes across,
5 and some time it's going to shade my solar array,
6 and like you said, it's not going to shade the whole
7 thing at any one time, but it's going to cut down
8 the efficiency so much that you might as well --
9 it's going to make it so inefficient that it's not
10 going to be working to its potential.

11 Originally I was going to put it on the
12 roof of my house, which is basically facing the same
13 way, but there's a few trees there. And that's what
14 I'm worried about, you know, shading, you know, how
15 shading works on solar panels.

16 And so I was advised instead of putting
17 it on my house to put it on this array over there.
18 If you notice, it's a clear path of the sun all day
19 long every day, and I mean, like I said, I don't
20 have any engineering or anything. I'm just telling
21 you that I would like my solar array not to be
22 blocked.

23 CHAIRMAN HEAD: Thank you.

24 Any questions from members of the
25 Board?

1 (NONE) {FLUSH}

2 Mr. Shute, did you sign in?

3 MR. SHUTE: Oh, no.

4 CHAIRMAN HEAD: Would you do
5 that just for our records.

6 All right. So that will conclude all
7 evidence and testimony on this file. So leave it up
8 to the Board to discuss, or if somebody is ready for
9 a motion now.

10 COMMISSIONER HOFF: Looking at
11 this layout is fine.

12 Why couldn't that tower be moved to the
13 east? I mean, it's all looks pretty level there
14 along that roadway.

15 The pictures that they presented us
16 looks, the field looks pretty level. There's not
17 much difference in slope. Why does it have to be in
18 that corner right next to his property line?

19 CHAIRMAN HEAD: I don't know,
20 but I know it's --

21 COMMISSIONER HOFF: That's
22 just a question.

23 CHAIRMAN HEAD: I know.

24 COMMISSIONER HOFF: That I
25 can't answer.

1 CHAIRMAN HEAD: Right.

2 Does anybody feel strongly one way or
3 the other to make a motion to approve or disapprove?

4 COMMISSIONER TOBBEN: Can he
5 come back up and answer that question?

6 CHAIRMAN HEAD: That's fine
7 if you guys want to ask him that question, but I
8 don't think -- I don't know if it matters.

9 MS. EAGAN: You're looking at
10 the variance of the setback not a variance to a
11 property line. Does it matter? That's up to you,
12 but I thought you closed it. I could be wrong.

13 CHAIRMAN HEAD: We can't
14 change the application here?

15 MS. EAGAN: Right. Yeah,
16 you're just looking at from the road. The property
17 lines, that's not an issue.

18 COMMISSIONER THATCHER: I
19 think we need to hang on hat on the edge here, fall
20 75 feet, fall 75 feet. It's a hundred feet, so...

21 I'll repeat what I just said. I think
22 the fall zone being 75 feet for 295-foot tower is
23 pretty incredible. And if the engineer has signed
24 off on that and if somebody gets hurt, it's his
25 problem, isn't it.

1 So I don't have a problem with the
2 variance based upon that information.

3 CHAIRMAN HEAD: Is that a
4 motion to approve?

5 COMMISSIONER THATCHER: In
6 that case, I would make a motion to approve.

7 CHAIRMAN HEAD: We have a
8 motion to approve from Member Thatcher.

9 Is there a second?

10 COMMISSIONER TOBEN: I'll
11 make the second.

12 CHAIRMAN HEAD: We got a
13 second from Tim.

14 Any further discussion before we vote?

15 COMMISSIONER VEDDER: Yes. I
16 guess I don't see a whole hardship here if they
17 looked at all their options and this had to be the
18 property. Nobody brought me that information saying
19 hey, I can find a spot that meets our code
20 requirement.

21 That's why I have a hard time giving a
22 variance on the setbacks when this tower can move
23 within a quarter mile, half mile radius.

24 I guess that's my whole thought on the
25 situation. I mean, if this was the highest spot,

1 the only place you could put it, then I might have
2 other feelings. But nobody has proved to me that
3 there was no other areas that this could go.

4 COMMISSIONER TOBBEN: I guess
5 the property owner's willingness to allow it to be
6 there too is, you know, the other issue. There may
7 be better locations, but you have to have
8 willingness from the property owner.

9 COMMISSIONER THATCHER: Arm's
10 length transaction.

11 CHAIRMAN HEAD: Further
12 discussion?

13 COMMISSIONER THATCHER: I
14 think it weighs on the State and whether or not they
15 have a problem it. They are not here. I think if
16 they were aware of it, made aware of it, if they're
17 not here, you know, that's really the biggest charge
18 that we have is to hear people that are opposed and
19 why they're opposed.

20 So the setback to me is just another
21 item that's next to the highway.

22 COMMISSIONER VEDDER: Yeah, I
23 guess I'm just more if you can meet the code, that's
24 what we should do.

25 COMMISSIONER THATCHER: Well,

1 the next question have we had a variance on a tower
2 next to a highway before. I don't recall.

3 MS. EAGAN: In the past,
4 we've had lots of variances for towers. Since we've
5 changed our code, we don't get them as much.

6 COMMISSIONER THATCHER:
7 Right.

8 MS. EAGAN: But back in the
9 day, we did variances and appeals and conditional
10 use permits all the time.

11 COMMISSIONER THATCHER: So
12 I'm going back to safety, if it's a hundred feet --
13 if the edge of the tower is a hundred feet off the
14 highway, somebody is going 60 miles an hour on
15 Highway C -- is it 65? Well, if they're coming into
16 the corner.

17 COMMISSIONER HOFF: My
18 biggest thing is as I approached it at the last
19 meeting when we discussed this was the fall zone.
20 Let's say it falls straight on over. Basically the
21 code say now the height of the tower is the setback.

22 I struggled with that the last time
23 when we voted, and I'm still struggling with that
24 because you've got houses within that fall zone, two
25 of them, by the setback. And that's one of my

1 biggest issues.

2 COMMISSIONER THATCHER: So if
3 an engineer has signed off on it stating that it
4 won't fall even if it's hit?

5 MS. EAGAN: Well --

6 COMMISSIONER THATCHER: I get
7 it, logic.

8 COMMISSIONER HOFF: I know,
9 logic. You know, and the whole idea with this is
10 every tower -- I've seen built one of the things is
11 they always was concerned as how it's going to
12 relate to the neighboring property.

13 The last tower that we approved set off
14 the road a ways, and it didn't bother any house or
15 any other property other than it sits out in the
16 middle of a field, well, really set down in a ditch.

17 But it's set back, and that's a tower
18 of the same height.

19 So my question is are we -- and we'll
20 never know because only one person is here to say
21 anything against it, but houses it's affecting and
22 what does all the other property owners feel like.

23 But they're not here, so...

24 MS. EAGAN: I mean, you also
25 have to look at part of the reason why we amended

1 the code the way we did is as counties and Franklin
2 County develops, your larger properties that are
3 able to contain these towers completely on
4 themselves are getting fewer and fewer.

5 We are building more and properties are
6 getting smaller as people divide. So you do have to
7 think about if the fall zone can't go on it -- all
8 on the property, you do have to rely on that
9 engineer to say this is how it's designed and this
10 is how it's going to fall.

11 I've talked to lots and lots of cell
12 tower companies when we went and did these
13 regulations, and I don't think we're too far off
14 from many places around us in terms of what we do
15 with our fall zones with a certified letter from an
16 engineer.

17 COMMISSIONER THATCHER: That
18 varies tower to tower?

19 MS. EAGAN: Uh-huh.

20 COMMISSIONER THATCHER:
21 That's specifically conversations you've had with
22 specific to a three post tower?

23 COMMISSIONER VEDDER: Yes.

24 COMMISSIONER THATCHER: For
25 that type of tower?

1 MS. EAGAN: Yes. Yes. I'm
2 not talking about with monopoles or anything like
3 that. It's your typical tower is what we've had
4 conversations on.

5 COMMISSIONER HOFF: When you
6 get an engineer's stamp, do we get a copy of his
7 insurance?

8 MS. EAGAN: I don't know if
9 we get insurance, but we --

10 COMMISSIONER HOFF: If it
11 falls back on him if this thing does fall outside
12 that.

13 MS. EAGAN: We get all their
14 numbers and registrations.

15 CHAIRMAN HEAD: Any other
16 discussion?

17 (NONE)

18 We have a motion and a second to
19 approve the application for File 240005. Roll call,
20 please.

21 MS. EAGAN: Justin Head?

22 CHAIRMAN HEAD: Yes.

23 MS. EAGAN: Steve Hoff?

24 COMMISSIONER HOFF: Yes.

25 MS. EAGAN: Fred Thatcher?

1 COMMISSIONER THATCHER: Yes.

2 MS. EAGAN: Tim Tobben?

3 COMMISSIONER TOBBEN: Yes.

4 MS. EAGAN: Kent Vedder?

5 COMMISSIONER VEDDER:

6 Opposed.

7 MS. EAGAN: With four in

8 favor of the variance, the variance has been

9 approved.

10 CHAIRMAN HEAD: Moving on to

11 File Number 230298 styled Girl Scouts of Eastern

12 Missouri.

13 Scottie, would you please read the
14 staff report into evidence.

15 MS. EAGAN: This is 230298,
16 the Girl Schouts of Eastern Missouri.

17 The applicant is seeking a variance
18 from Article 11, Floodplain Management, Section
19 243(A)(3), Stream Buffer Setback Requirements.

20 The property is located at 589 Daisy
21 Lane in Boles Township.

22 THE FACTS: The property is
23 approximately 80 acres in size.

24 The applicant is seeking a variance
25 from Article 11, Floodplain Management, Section

1 243(A)(3)(b), which states:

2 "A stream buffer
3 for an intermittent stream
4 shall be the area within
5 50 feet of the top of the
6 stream bank. For purposes
7 of this section, a regular
8 stream shall be defined by
9 those streams that are
10 identified as intermittent
11 streams on the Missouri
12 Interactive Maps listed on
13 the Center for Applied
14 Research Environmental
15 Systems' website through
16 the University of Missouri."

17 The applicant is proposing to build two
18 buildings within the stream buffer.

19 The applicant is requesting a variance
20 of 47 feet on the souther foundation. The building
21 will be three feet from the top of the stream bank.
22 And a variance of 27 feet on the norther foundation,
23 the building will be 23 feet from the stream bank.

24 The applicant is proposing two
25 buildings that will be a STEM, Science Technology

1 and Engineering and Math, Center where they provide
2 activities for girls in grades K through 12.

3 The applicant states the location of
4 the buildings of the stream is important for the
5 type of STEM activities that will be taught.

6 STAFF COMMENTS: According to Section
7 103(A), a variance may be granted by the Board of
8 Zoning Adjustment if the applicant provides
9 sufficient evidence that the hardship relates solely
10 to the applicant's plan, and whereby reason of
11 exceptional narrowness, shallowness, shape or
12 topography or other extraordinary or exception
13 situation or conditions of a specific piece of
14 property, the strict application of any regulations
15 would result in peculiar and exceptional
16 difficulties to or exceptional and demonstrable
17 undue hardship upon the owner of the property as an
18 unreasonable deprivation of use as distinguished
19 from the mere grant of a privilege to authorize upon
20 the field relating to a property a variance from the
21 strict application so as to relieve the demonstrable
22 difficulties or hardships, provided the relief can
23 be granted without substantial detriment to the
24 public good and without substantially impairing the
25 intent, purpose and integrity of the zone plan

1 that's embodied in the zoning regulations and map.

2 CHAIRMAN HEAD: Thank you.

3 Is there anybody here to testify on
4 behalf of the application?

5 Please be sworn and sign in.

6 (THEREUPON, THE WITNESS WAS
7 SWORN.)

8 MS. REPORTER: State your
9 name, please.

10 MS. KATHY DABROWSKI: Kathy
11 Dabrowski.

12 CHAIRMAN HEAD: Go ahead,
13 Kathy.

14 MS. DABROWSKI: Okay, thank
15 you.

16 Good evening and thank you for giving
17 us this opportunity to present to you this evening
18 regarding our request for the variance at our STEM
19 center.

20 I'd like to start though, first of all,
21 we have some people here I just want to introduce
22 them as part of our organization this evening.

23 Morgan Perry with Oculus working as
24 our project architect.

25 Grant Windmeyer. Grant is with Legacy

1 Construction, and he's our project general
2 contractor.

3 We have Jim Piper. Jim is with Civil
4 and Environmental Consultants, and is project
5 engineer.

6 And we have several staff members here
7 tonight. Mike Warren is our senior manager of Camby
8 (ph.) Properties and Facilities.

9 Melissa Neiderman, who's our director
10 of camping services and this program will fall under
11 the program area that she manages.

12 We also have with us Byron Thurman,
13 who's our community engagement manager for the
14 Franklin and Crawford Counties. So he works in this
15 region to make sure that Girl Scouting exists by
16 recruiting girls and recruiting adults to make sure
17 the program happens.

18 So thank you. I just wanted to make
19 you aware of those individuals who are with us
20 tonight.

21 I'd like to start too in telling you a
22 little bit about myself because we're going to give
23 you some information about why we believe this
24 program is so important to our organization.

25 I've been a lifelong Girl Scout, and

1 I've worked for Girl Scouts of Eastern Missions for
2 48 years.

3 I've held a variety of positions and
4 also at this time providing programs for girls and
5 supporting volunteers to help us achieve our
6 mission, which is to build girls of courage,
7 confidence and character to make the world a better
8 place.

9 In my most recent role, currently I'm
10 director of capital projects, and in that role I
11 have oversight for the building projects that Girl
12 Scouts of Eastern Missouri camps are building,
13 ranging from restoration of trails, which we did
14 build a new trail at Camp Three Creeks in the past
15 couple of years, and development of program sites.

16 These projects are made possible
17 through a comprehensive fundraising campaign that
18 the Girl Scouts did and conducted over the past few
19 years, and they're part of our master plan for Camp
20 just as you have a master plan here in Franklin
21 County. And they were -- that plan was developed
22 after two years of planning with members of the
23 state board.

24 One of the projects that came out of
25 our master plan and funded by the campaign is the

1 Berges Family Creation and Imagination Station.
2 That's the name of the center. It's a STEM center,
3 and it's for science technology, engineering and
4 mathematics.

5 This is the project we want to speak
6 with you about tonight.

7 We thank you for this opportunity to
8 present this evening regarding our variance request
9 that we submitted to you for approval for this
10 project.

11 And to begin with, I'd like to tell you
12 that I happy to report this evening that we have
13 received permission and approval from the United
14 States Army Corps of Engineers. They completed
15 their review of this project, and they have issued a
16 building permit.

17 And that took about 18 plus months for
18 the Corps to come on-site several times. They
19 conducted studies of the site, its waterways, the
20 wildlife that lived there to determine -- and also
21 they looked at the archeological to determine if
22 there are any archeological sites that could be
23 disturbed by the construction of the center in this
24 location.

25 And again, I'm happy to report that we

1 recently received approval from USACE. A copy of
2 the permit was mailed to you, I believe, with the
3 attachments to the -- with the accompanied
4 recommendation from them.

5 CHAIRMAN HEAD: We've
6 received that.

7 MS. DABROWSKI: Okay. You
8 received that, okay. Good.

9 So as you know, the reason we're here
10 tonight is to talk about the proposed location and
11 then the fact that it conflicts with your building
12 code in Franklin County that the stream buffer must
13 be contained and to move forward with this project.

14 This is our last step before we can
15 begin building. We will need a building permit and
16 approval from you to get that building permit so
17 that we can build our STEM Center.

18 We placed this center in this location
19 to give us access to the lake and shoreline so that
20 we can offer emersive educational opportunities for
21 girls in grades K through 12.

22 At the center, we plan to operate a
23 variety of robotics programs. Emersive robotics is
24 a very important topic, and it plays a lot in how
25 our future of our future looks.

1 One of the programs that we will be
2 offering is an aquatics robotic program called Sea
3 Perch, and this will give girls an opportunity to
4 plan and design and build what we call remotely
5 operated vehicles as well as participating by
6 competing with those vehicles.

7 This teaches the girls aquatic STEM and
8 engineering skills.

9 The lake is an integral part of the Sea
10 Perch program as water is needed to conduct these
11 activities. So exposing our girls to this type of
12 cutting edge technology will give them hands-on
13 experience and exposure for what lies ahead for
14 them.

15 With each programatic (sic) experience
16 at the new Berges center, Girl Scouts will develop a
17 deeper understanding of the lake and streams, which
18 we plan to make a part of our program, the plant,
19 the wildlife and the ecosystems, and girls will be
20 inspired to promote the environment through good
21 environmental stewardship, skills they will carry
22 for a lifetime and use to respect and improve our
23 world in the future.

24 In just a minute, I will turn the
25 presentation over to Jim Piper, who is the project

1 engineer for the Berges Family Creation and
2 Imagination Station. And Jim will provide an
3 overview of the site and information about the
4 importance of the variance to this program.

5 But just for a minute, I would like to
6 tell you a little bit about our organization, about
7 Girls Scouts of Eastern Missouri.

8 We are the 8th largest of 110 Girl
9 Scout Counsels in the United States. We served
10 girls from kindergarten through 12th grade in the
11 city of St. Louis and 28 counties in eastern
12 Missouri.

13 There are over 13,000 girls and adults
14 in our jurisdiction, and our headquarters, which is
15 in Maryland Heights, Missouri, St. Louis County.

16 Girl Scouts also operates and owns
17 three camp properties, one of which is Fiddle Creek
18 in Labadie, where the center will be built.

19 Camp Fiddle Creek has been operated by
20 our counsel since 1956 when we purchased it from the
21 Benedictine Monks who have a farm there, and we
22 purchased the land from them.

23 Girl Scouting gives girls the
24 opportunity to discover the beauty and wonders of
25 the natural world, and this site helps us do that

1 for them.

2 As a girl explores and hikes, swims and
3 camps, she's building outdoor skills and the
4 confidence to challenge herself in all aspects of
5 life.

6 The water robotics program is not the
7 only program for girls that we operate. At Fiddle
8 Creek, we also have programs day camp programs,
9 specialized overnight camps, weekend camping and
10 challenge programs.

11 In 2015 in response to requests from
12 our members for more challenging opportunities, we
13 built a climbing wall and zip line for girls to use
14 when they're on-site at the camp.

15 Over 5,000 girls are served annually
16 through programming at this camp. In this region,
17 which includes Franklin County, and that's the area
18 Byron works with, we have over a thousand volunteers
19 and girls participating in Girl Scouts.

20 We are excited about the opportunities
21 for state of the art Berges Family Creation and
22 Imagination Station will provide for girls in
23 Franklin County and throughout our counsel.

24 It will serve as a gathering place for
25 member, volunteers and community partners to come

1 together and learn and develop new skills and
2 information.

3 In addition to the focus on aquatic
4 programs, the center itself will also include a
5 science lab, a digital bakers space, a kitchen,
6 outdoor classrooms, a deck and a pod case broadcast
7 room.

8 To help you all become familiar with
9 the proposed site location, we provided in your
10 packet a sketch plan of the site as well as photos.

11 And at this time, I will turn this
12 presentation over to Jim Piper, who will lead you
13 through a discussion about why this is the best
14 possible location for this center at Camp Fiddle
15 Creek.

16 (THEREUPON, THE WITNESS WAS
17 SWORN.)

18 CHAIRMAN HEAD: Hi, what is
19 it, Jim?

20 MR. JAMES PIPER: Yeah, Jim
21 -- James.

22 Thank you for the opportunity to
23 discuss here tonight. I'm going to get into the
24 meat-and-potatoes here in the variance.

25 So we're requesting a variance to the

1 50-foot stream buffer. We do have a stream going
2 through the property, and actually it's coming
3 through here and going into the lake.

4 Then the weir to the lake. Then when
5 the lake fills up, it releases, goes that way and
6 heads off this way.

7 So our proposed project is the west
8 side of the pond. So we will -- for the foreseeable
9 future, we will always have pond between us and any
10 kind of outlet for stormwater for this property.

11 But the variance, the 50-foot variance
12 that we're requesting, in your packet there is --
13 you should have this. This gray shaded area would
14 represent the buffer. So in order to not request
15 this variance, this development would have to be
16 outside of that area.

17 The primary focus of this development
18 is largely centered around the water. So that is
19 just one factor, but topography and other
20 environmental factors, if we were to try to push
21 this outside of that buffer, the topography to the
22 south is just a three-to-one slope which would --
23 and it is fully wooded. So all those trees would
24 get cut down, lots and lots of grading, moving
25 earth, very disruptive.

1 That would be unfeasible, and it
2 wouldn't really -- it wouldn't be good for access
3 either for the people to actually use. So it would
4 kind of just not -- we wouldn't pursue that.

5 The other side we have -- we already
6 have utilities running down the road. We have --
7 there's a prairie to the north of that that was just
8 freshly planted. So this is the location for this
9 exact building, fully intent is for that.

10 Let's see here. So we are asking --
11 we're basically building the building over the
12 intermittent stream, and one side is very close.
13 The other side I believe we're 23 feet away with a
14 deck extending over.

15 The Corps of Engineers has reviewed
16 this and approved it, giving us permitting.

17 Along with that, they -- this project
18 also includes stream bank mitigation. So within our
19 disturbed area of our project, we also have
20 permission to rebuild and reinforce the stream
21 within that bounds, as well as they're going to be
22 dredging the lake because after the lake, I believe,
23 was built in '96 and it has, as all man-made lakes,
24 they will start to fill in, and you have to empty
25 them and dredge them after, I guess, at about 30

1 years.

2 So during the construction of this, we
3 will have a sediment basin. If there is any freak
4 accident, large storm, tree falls over and one of
5 our stormwater VMPs does fail, there's already a
6 safety factor downstream of the pond because the
7 water will -- it will take months to fill that pond
8 up.

9 So in a large rain event, if any
10 sediment brushes off during the construction with
11 the sequencing, it will just simply settle into the
12 bottom of the lake until the storm's over.

13 So I have gone over a lot of it. So
14 CEC has been working on this for like a year and a
15 half. We first, in October of '22, met with the
16 Corps of Engineers on-site to go over it. They gave
17 us their advice, and then we did a delineation for
18 wetlands and streams, and we identified -- we did
19 identify some wetlands, but they were not in this
20 project location, and identified this as an
21 intermittent stream. Then we began requesting
22 permits, which we explained we just received the
23 final ones.

24 Cultural resources was also done in --
25 because there was a Osage tribe locally. So we did

1 not find any cultural artifacts that would prevent
2 us from digging, but that is our request, is to
3 reprieve from the 50 feet in the ordinance.

4 We believe the spirit of the ordinance
5 is meant to protect the environment, the ecology and
6 your neighbors, and we believe that we will be -- we
7 have approval from the Corps of Engineers, and we
8 will be improving the environment and the ecology
9 within our area, and just because we have a half
10 mile of stream and a pond beneath us and the
11 property line.

12 Not only are we going to be doing all
13 the regular stormwater precautions, but there's
14 extra, extra factors of safety to prevent any kind
15 of erosion traveling down the stream.

16 CHAIRMAN HEAD: Thank you.

17 Any questions for Mr. Piper?

18 COMMISSIONER THATCHER: Sure.
19 This is just of interest only, but do you know what
20 the watershed is there? I'm trying to get an idea
21 how big this thing is.

22 MR. PIPER: I believe it was
23 100, 150 acres. I have it in miles on my plan, .2
24 square miles.

25 COMMISSIONER THATCHER: It's

1 a pretty small creek?

2 MR. PIPER: Yes, it is --

3 COMMISSIONER THATCHER: It's
4 really small.

5 MR. PIPER: Where our build
6 is, I've been out there three times, and I've never
7 actually seen flowing water in it. But during a
8 rain event, I'm sure there is.

9 COMMISSIONER THATCHER:
10 Right. Right.

11 MR. PIPER: I also have some
12 photos if you want to go over them.

13 COMMISSIONER VEDDER: I did
14 go out there myself there too, and there is a lot of
15 sediment on the outside.

16 MR. PIPER: It's a discolored
17 lake. It needs to be --

18 COMMISSIONER VEDDER: Well, I
19 mean, well, yeah. I mean, there's a lot of sediment
20 buildup, you know, right at that ditch line going
21 into the lake already.

22 MR. PIPER: Yes.

23 COMMISSIONER VEDDER: So I
24 understand you're correcting for that, yes.

25 MR. PIPER: One more thing.

1 The buildings that we're proposing them are
2 approximately five feet above, the finished floor of
3 the building, five feet above the top of the bank.

4 COMMISSIONER VEDDER: What is
5 the finished floors on your --

6 MR. PIPER: Forty-nine.

7 COMMISSIONER VEDDER:
8 Forty-nine? Correct, okay.

9 MR. PIPER: The top of the
10 bank of the creek was at about 644. The weir of the
11 pond where water begins to release, 640, 2 1/2. The
12 entire berm of the pond where, say, you know, the
13 million-year storm, you can't even calculate it,
14 comes by and it just spills over. That's at 645.
15 So we are still four feet above the entire berm the
16 whole way.

17 We feel that the building has quite a
18 bit of protection, elevation-wise, from any kind of
19 flooding.

20 COMMISSIONER VEDDER: Did you
21 do any type of drainage study on the creek itself
22 for the 100-year flood flow rate? I mean, since
23 we're putting these buildings in here.

24 MR. PIPER: Not officially.
25 So the official way to do it would be to --

1 COMMISSIONER VEDDER: I mean,
2 I understand the downstream, but coming into it.

3 MR. PIPER: Yep, the official
4 way would be to do a hack grass study --

5 COMMISSIONER VEDDER: Right.

6 MR. PIPER: -- where you
7 evaluate the whole stream and the whole creek, and
8 it is -- it gets pretty costly. That's 10 to 20
9 thousand dollars.

10 We did do some preliminary calculations
11 of the creek on the upstream and downstream end of
12 the building. And those were showing with the
13 100-year water, those are on the civil plan of C400,
14 and they're showing the water ponding to about 45
15 1/2. And that is just at the creek. Once it gets
16 into the creek -- or sorry. Once it gets into the
17 pond, it will immediately lower because it has more
18 area.

19 But yeah, we just did preliminary
20 numbers to allow us to set the building with some
21 confidence without having to go through the expense
22 of \$20,000 plus study and survey a mile upstream.

23 COMMISSIONER THATCHER: I
24 would like you to expound upon what the activities
25 will be there. You said remote control...

1 MS. DABROWSKI: I will be
2 happy to talk about that. The robotics program that
3 we operate, it's a water-based robotics program, and
4 girls actually design and build these remotely
5 operated vehicles, like little submarines, that they
6 can put in the water.

7 And then they use those to compete and
8 to conduct their program activities.

9 Normally they can be done in a swimming
10 pool, they can be done in a river, but this is an
11 opportunity for us, and we wanted to take advantage
12 of that, the fact that we will be building right on
13 that lake and be able to do that program there.

14 That's just one program, but that's an
15 example of why we feel it's so important for us to
16 have the site.

17 COMMISSIONER THATCHER: Just
18 it's very interesting. I've never heard of this
19 before. Very interesting.

20 MS. DABROWSKI: Well, our
21 organization is very active in the local robotics
22 organization. We have robotics programming starting
23 for girls as young as second grade and going all the
24 way through high school. Various levels of the
25 competition that they, so we really -- we believe

1 that that's important for developing STEM skills and
2 to give some exposure to that.

3 And so this is just another -- this is
4 a water-based one, and you think of what submarines
5 do and other things like that, this is kind of the
6 beginning of how a girl could learn -- a young woman
7 could learn about what that's about and how to
8 develop materials and equipment that they could use.
9 So to see if that's an interest of theirs.

10 COMMISSIONER THATCHER: A
11 launch facility, would that be fair?

12 MS. DABROWSKI: A launch
13 facility, sure. Yeah. Absolutely.

14 COMMISSIONER THATCHER: Just
15 very interesting.

16 MS. DABROWSKI: Good. Thank
17 you.

18 CHAIRMAN HEAD: Any other
19 questions?

20 (NONE)

21 Thank you.

22 MR. PIPER: If you'd like to,
23 go through some of the photos just to give you a
24 better image?

25 CHAIRMAN HEAD: It's up to

1 you.

2 MR. PIPER: This is entering
3 the -- that is the building site. We are north of
4 the lake looking west towards the building site
5 where the water enters the pond.

6 This is a rendering of what we are
7 proposing for our two -- one building/two building
8 kind of semantics. However you want to do it, but
9 there's two foundations on each side of the creek,
10 and a, I believe, 25-foot long deck between the two
11 of them.

12 COMMISSIONER HOFF: Is that
13 creek coming right through the two buildings?

14 MR. PIPER: Correct.

15 COMMISSIONER HOFF: Okay.

16 MR. PIPER: Correct, and we
17 will be armoring the creek in the vicinity of our
18 buildings with retaining wall blocks just on the
19 sides for only two feet of -- two, maybe three, feet
20 in some areas just for extra reinforcement from any
21 kind of erosion.

22 This is the northwest side of the creek
23 and looking towards the east towards the outlet to
24 where the weir is where water escapes.

25 And this is right where our building,

1 we're north of the building site, looking straight
2 south where we would like to propose this building,
3 and on each side of the creek. As you can see, the
4 south side of the creek in the back of the photo,
5 the hillside rises up and it is heavily wooded.

6 So along with the Corps of Engineers,
7 they've looked at all of these plans, and this
8 vegetation that we're proposing to remove. So if
9 any other location that would drastically increase
10 this is what vegetation we'd be cutting down.

11 Same, another photo a little closer to
12 the area. And turning and panning to -- this is
13 where the building, where you'd be say sitting in
14 the building looking at the pond. You could walk
15 out and have access.

16 I believe they still have canoes and
17 all the other water activities and be able to access
18 the lake from there.

19 And here we are right where we want to
20 put the deck. That is the north side of the creek
21 as it enters the pond and facing south to the
22 hillside that rises up.

23 And I believe that is the extent of our
24 propose construction on the north side before you
25 start entering. The hillside really climbs after

1 that, and it is all vegetated. So we didn't want to
2 disturb that.

3 I think more of the same. Here is a
4 little further west. We are on the south side of
5 the creek. We are further west. I believe this is
6 going to be the staging area for Grant in order to
7 not destroy all this vegetation just building it.

8 So we've already got planned locations
9 for him to -- for his equipment, materials, tools,
10 in order to preserve those trees that are in the
11 creek and only rip out the ones that we need for the
12 final development.

13 And I believe that's it.

14 MS. DABROWSKI: Yep, that's
15 it.

16 MR. PIPER: I guess finally
17 I'd like to say my own 11-year-old daughter attended
18 this creek or this camp a year and a half ago, and
19 she loved it. Anything we can do to add more
20 activities to these camps, all of them, I believe
21 are a benefit to all of us locally.

22 CHAIRMAN HEAD: Questions
23 from the members?

24 (NONE)

25 Thank you.

1 MR. PIPER: Thanks.

2 CHAIRMAN HEAD: Anybody else
3 to testify on behalf of the applicant?

4 (NONE)

5 No one? Does anybody want to speak in
6 opposition of the application?

7 (NONE)

8 All right. We'll close evidence on
9 this file as well, and go to the Board for
10 discussion.

11 COMMISSIONER THATCHER: Has
12 anybody here ever tried to get a permit?

13 COMMISSIONER VEDDER: Ut-uh.

14 CHAIRMAN HEAD: Unless
15 someone wants to make a motion.

16 COMMISSIONER THATCHER: It's
17 just a win/win all the way around. No problem.

18 CHAIRMAN HEAD: Motion to
19 approve?

20 COMMISSIONER THATCHER:
21 Motion to approve.

22 CHAIRMAN HEAD: A second?

23 COMMISSIONER HOFF: I'll
24 second.

25 CHAIRMAN HEAD: We have a

1 second. Any discussion on that motion?

2 (NONE)

3 All right. So there's a motion and a
4 second to approve variance File 230298. Roll call,
5 please.

6 MS. EAGAN: Steve Hoff?

7 COMMISSIONER HOFF: Yes.

8 MS. EAGAN: Fred Thatcher?

9 COMMISSIONER THATCHER: Yes.

10 MS. EAGAN: Tim Tobben?

11 COMMISSIONER TOBBEN: Yes.

12 MS. EAGAN: Kent Vedder?

13 COMMISSIONER VEDDER: Yes.

14 MS. EAGAN: Justin Head?

15 CHAIRMAN HEAD: Yes.

16 MS. EAGAN: Okay. With five
17 in favor, the variance has been approved.

18 CHAIRMAN HEAD: Does anybody
19 have a motion to adjourn?

20 COMMISSIONER TOBBEN: I'll
21 make a motion.

22 CHAIRMAN HEAD: Is there a
23 second?

24 COMMISSIONER THATCHER: I'll
25 second.

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CHAIRMAN HEAD: All those in
favor, please stand.

(ALL STAND.

THEREUPON, THE PROCEEDINGS
CONCLUDED AT 8:26 P.M.)

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CERTIFICATE OF REPORTER

STATE OF MISSOURI)
) SS
COUNTY OF FRANKLIN)

I, PATSY A. MAYBERRY, Professional Court Reporter and Notary Public within and for the State of Missouri, before whom the foregoing proceeding was taken, do hereby swear that: the aforementioned was held at the time and in the place previously described; the witness whose testimony appears in the foregoing transcript was duly sworn by me; the proceedings were taken down in stenographic notes by me and transcribed by me, or under my supervision, to the best of my ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this testimony was taken; further that I am not a relative or employee of any attorney or counsel employed by the parties thereto, nor financially or otherwise interested in the outcome of the action; and that the aforementioned represents a true and accurate transcript of said proceedings.

IN WITNESS WHEREOF, I have hereunto set my hand.

Patsy A. Mayberry, Court Reporter
Notary Public, State of Missouri
My Commission Expires: September 14, 2026