

Minutes
DELAWARE COUNTY BOARD OF ADJUSTMENT
1:00 p.m.
Tuesday, March 21, 2023
Conference Room (basement), Delaware County Courthouse
301 E Main Street, Manchester, Iowa

Board Members Present: Chairperson Tammy Eibey, Vice Chairperson Therese Beswick, Board Members Lamont Davidson, and Marv Heims.
Board Members Excused: Randy Rattenborg.
Board Members Absent: None.
Staff Member Present: Zoning Administrator Alex Linderwell, County Attorney John Bernau, and ECIA Senior Planner Laura Carstens.

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chairperson Eibey at 1:03 p.m. and roll call taken. A sign-in sheet was distributed. Those members of the public in attendance are attached.

MINUTES: Motion by Beswick, seconded by Heims, to approve the minutes of the January 17, 2023 Board of Adjustment meeting as submitted. Motion carried by the following vote: Aye – Davidson, Heims, Beswick, and Eibey; Nay – None.

MINUTES: Motion by Davidson, seconded by Beswick, to approve the minutes of the February 21, 2023 Board of Adjustment meeting as submitted. Motion carried by the following vote: Aye – Davidson, Heims, Beswick, and Eibey; Nay – None.

DOCKET: 1-23 **Special Exception – 1329 140th St Dundee, IA in Richland Township, 22-90-6, PIN 100220001500**

Chairperson Eibey opened the public hearing and asked for a presentation by the applicant.

The applicant, Albert Aguirre, GSS Inc, spoke in favor of the request. Mr. Aguirre explained that GSS Inc on behalf of US Cellular is proposing to build a 190-foot self-support cellphone tower. The project will also include a 525' long access drive that is 10' wide. The tower will be housed inside of a 60'x60' chain link compound. Fence height will be 6' with an additional foot in height added by 3 string barbed wire. There is going to be a 20' turn-around area located outside of the compound that will act as parking for anyone working on the site.

Mr. Aguirre addressed the concerns raised in opposition. He noted the federal and state government regulations do not allow RF (radio frequency) as a factor of opposition. He noted the project has met the FAA, FCC, and Delaware County regulations. He said he reached out to several of the people on the opposition list. He requested time for rebuttal after public input. He noted the number of dropped calls indicates a need for additional coverage from this tower. He noted that his company had worked with County staff for many months to comply with County regulations in 2022, prior to zoning being in effect.

Chairperson Eibey asked for a presentation by the Zoning Administrator.

Zoning Administrator Linderwell reviewed the staff report. He stated that the project meets the applicable Zoning Regulations. It will not be closer to a dwelling or place of public assembly than a distance equal to one-half (1/2) their height; that the height and location shall not interfere with the

operation of any airport or landing strip; and that one (1) parking space per employee and one (1) space for each vehicle used by the facility will be provided. He noted the applicant provided documentation from the County Sheriff, the Delaware County E911 Coordinator, and the County Engineer to verify that the tower will not interfere with communication transmissions of the County.

Mr. Linderwell then reviewed the Special Exception Findings of Fact listed in the staff report, noting the proposal is in conformance with the standards for approval regarding compatibility, transition, traffic, and environmental protection. He noted the proposal is further than 85' (1/2 height of tower) from a dwelling or place of public assembly. It was not required to file a FAA/FCC study as the height is less than the maximum allowable height for not filing with the FAA/FCC. The nearest airport is 6.7 miles away (in Manchester) and is not in proximity of any other runway. He did not recommend any conditions for approval or project timeline.

Discussion followed between the applicant and the Board members regarding technical and environmental aspects of the project.

Chairperson Eibey asked for public comments.

Merle Cook, Jr, representing his parents, the property owners, objected based on how contract negotiations were proceeding. He suggested a separation of 1000 feet.

Jeremy Hahn, Roberts & Eddy, P.C. said he represents many others, and submitted a brief binder addressing Delaware County codes and plans and other materials. He presented a color picture and 20 letters of opposition. He stated that it is the applicant's responsibility to provide information as to why the cell tower is necessary, primarily a significant lack of cell phone coverage. He said the application does not contain any hard data as to need, or to the applicant's outreach to the surrounding property owners. He noted there are letters from real estate professionals stating the negative impact of cell towers on property values. He asked the Board to review this information, and then deny the request.

Samantha Fangman, 1353 140th St Dundee, IA, spoke in opposition, discussing serious health issues of her daughter and the potential risk to her daughter if this cell tower is erected. She explained that RF is not regulated due to federal and state laws, but this does not mean that RF does not cause health problems.

Andy Fangman, 1353 140th St Dundee, IA, spoke in opposition due to the negative impacts on wildlife, and the documented impacts of sound pollution from cell towers. He stated he is aware of three other owners who would be open to having the cell tower locate on their properties.

Tanya Nurre, 980 East St Dundee, IA, spoke in opposition due to visual pollution, visual character of home, visibility from home, noise from generator and service vehicles, disruption of normal daily activities, stress, detracting from character of area and nearby state park, impacts on wildlife, and potential health impacts.

There were no other public comments.

Chairperson Eibey asked for the applicant's rebuttal.

Mr. Aguirre responded to Mr. Cook that a contract had been provided to his parents and his brother,

and the contractor did a walk through with his parents and brother to explain what would take place. He noted that impacts on property values can vary depending on the characteristics of the site and the property. He reiterated the dropped calls mean the need for service is valid. He explained that the company deliberately slowed down their project in 2022 to comply with the 2023 zoning regulations.

Chairperson Eibey closed the public hearing. Board members reviewed the findings of facts, and discussion followed. Board members discussed the health concerns of cell towers versus people holding cell phones next to their ears. Board members discounted the extent of the impact on property values, noting that Lake Delhi has a cell tower near high value property that has not impacted the value. Board members discussed the wildlife impacts seem minimal, noting that turkey vultures often rest on cell towers in the area. Board members discussed how a cell tower provides improved public safety through better communication, and the dropped calls can impede emergency response.

Board members discussed how to review all the information that was provided at the meeting. Zoning Administrator Linderwell explained that the applicant provided all the information required by the zoning ordinance. Board members discussed there is information about cell towers on the FCC website.

County Attorney John Bernau recommended that the Board consider tabling the case to allow time to review the information in the submitted binder.

Board members asked Mr. Aguirre to review the prep work he must do for a cell tower. Mr. Aguirre provided a brief description and offered to provide more information for the Board to consider. The Board and applicant discussed the height of the tower, potential for additional height, and additional carriers on the tower. Mr. Aguirre indicated he had sent out information to neighbors, but did not have a record with him of who had responded back. He was agreeable to tabling the application.

Motion by Davidson, seconded by Beswick, to table the special exception request to the next meeting. Motion carried by the following vote: Aye – Davidson, Heims, Beswick, and Eibey; Nay – None.

ITEMS FROM PUBLIC: None.

ITEMS FROM BOARD: Other Business - None.

ITEMS FROM STAFF: Next Meeting – April 18, 2023. Consensus was to notify the applicant, the property owners, and the attorney representing surrounding property owners of the date, time, and place of the next meeting, and informing them that no additional information or input would be taken.

ADJOURNMENT: Motion by Davidson, seconded by Heims, to adjourn the Board of Adjustment meeting. Motion carried by the following vote: Aye – Davidson, Heims, Beswick, and Eibey; Nay – None. The meeting adjourned at 2:20 p.m.

Respectfully submitted,

Alex Linderwell, Zoning Administrator

Adopted: April 18, 2023

BOARD OF ADJUSTMENT SIGN IN SHEET

Meeting Date: 3-21-2023

Place/Room: Conference Room, 301 E Main St, Manchester, IA 52057

Name	Name
Mark W. Cook, Jr.	Deane Ogden
Albert Aguirre GSS	Teri Allan
John Hahn	Caitlyn Scherbring
Merrin Kemp	Chris Robinson
Norma Schmitt	MS J Allan
Sam Fangman	Zeg Hildebrand
ANDY FANGMAN	Jeff Mubler
Janyne Narve	Mike Corkeery
Coral Narve	
Log Lynn	
Tonella Fangman	
With a planner	
Leah PANNIV	
Brad Herring	
Kaci Robbins	
King Kuyh	
Coke	
Karen Narbaugh	
Amy Blumer	