

DRAFT MINUTES

DELAWARE COUNTY BOARD OF ADJUSTMENT

1:00 p.m.

Tuesday, May 16, 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, Marv Heims, and Randy Rattenborg.

Board Members Excused: None.

Board Members Absent: None.

Staff Member Present: Zoning Administrator Alex Linderwell and ECIA Senior Planner Laura Carstens.

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chairperson Eibey at 1:00 p.m. and roll call taken. A sign-in sheet was distributed to members of the public in attendance (copy attached).

MINUTES: Motion by Heims, seconded by Davidson, to approve the minutes of the April 18, 2023 Board of Adjustment meeting as submitted. Motion carried by the following vote: Aye – Davidson, Heims, Beswick, Rattenborg, and Eibey; Nay – None.

RECONSIDERATION DOCKET # 1-23: Special Exception – 1329 140th St Dundee, IA in Richland Township, 22-90-6, PIN 100220001500. Applicant: Albert Aguire, GSS Inc. **Owner:** Merle and Marva Cook. **Proposal:** Construct 190’ self-supported cellphone tower.

Chairperson Eibey explained the Board is reconsidering Docket #1-23, and that all interested persons may attend the public meeting, but that oral and written questions and comments will not be considered by the Board since the public hearing was closed on March 21, 2023.

Board Member Rattenborg indicated he would abstain from discussion of this item due to a potential professional conflict of interest as a land surveyor.

Board members received the letter of the applicant’s concerns, and the motion for reconsideration packet filed by Attorney Jeremy Hahn, Roberts & Eddy, P.C. representing various landowners. Board discussion followed on these topics:

- Different information about lights and beacons, and the different heights given for the tower of 190 feet and 195 feet, between the application and the NEPA documents.
- The federal NEPA review process, and how it is separate from and not a requirement of the County’s application process for Special Exceptions.
- The opposition and concerns filed by surrounding landowners.
- Who completes the checklist of standards for approval, which is both the applicant through the application process, and the Zoning Administrator in the staff report.
- What the Board can consider under the Zoning Ordinance.
- What the Board cannot consider under the Iowa statute for cell siting.
- The letter listing the applicant’s concerns.

- The motion for reconsideration packet.

As the Board prepared to vote on the application, ECIA Senior Planner Laura Carstens asked the Board to review and reference the four Standards for Approval for Special Exceptions found in the Zoning Ordinance: Compatibility, Transition, Traffic and Environmental Protection.

Motion by Beswick, seconded by Heims, to vote on the special exception as presented based on the findings on the four Standards for Approval of Compatibility, Transition, Traffic and Environmental Protection with vote of Aye for approval or a vote of Nay to deny. Motion carried by the following vote of approval by three Board members: Aye – Davidson, Beswick, and Eibey; Nay – Heims, Abstain: Rattenborg.

Attorney Jeremy Hahn asked for clarification as to who is the legal counsel for the Board of Adjustment. Zoning Administrator Alex Linderwell said it is County Attorney John Bernau.

ITEMS FROM PUBLIC: none.

ITEMS FROM BOARD: Other Business – none.

ITEMS FROM STAFF: Next Meeting: June 20, 2023

ADJOURNMENT: Motion by Beswick, seconded by Heims, to adjourn the May 16, 2023 Board of Adjustment meeting. Motion carried by the following vote: Aye – Davidson, Heims, Beswick, Rattenborg, and Eibey; Nay – None. The meeting adjourned at 1:42 p.m.

Respectfully submitted,

Alex Linderwell, Zoning Administrator

Adopted: _____

Attachment: 5-16-23 BOA Sign in Sheet