

DRAFT MINUTES

DELAWARE COUNTY BOARD OF ADJUSTMENT

1:00 p.m.

Tuesday, October 17, 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 Randy Rattenborg.

Board Members Excused: Marv Heims.

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 1:12 p.m.

WORK SESSION: Discuss potential Zoning Ordinance amendments.

Draft cell tower decommissioning amendment. Zoning Administrator Linderwell reviewed a draft Zoning Ordinance Amendment for decommissioning commercial cell towers. He explained that it is staff's understanding that the Board of Adjustment wants to review a potential amendment for decommissioning of commercial cell towers, similar to what is discussed in the Delaware County Wind Energy Conversion Systems (WECS) ordinance for decommissioning commercial WECS. He noted that the draft language in red on the draft Zoning Ordinance Amendment uses the language on pages 9-10 of the attached WECS Ordinance in the section on discontinuance and decommissioning.

Discussion followed on these questions:

- Should the proposed one-year time frame without operation be a different, shorter time frame? How do we track when this time frame begins?
- Should the decommissioning plan should be submitted to the Board of Adjustment instead of the Zoning Administrator?
- Is the 180 days to remove the discontinued tower too long? How long should this timeframe be?
- Who would "verify that adequate decommissioning terms are contained in the landowner easement"? County Attorney? County Engineer?

Board members made the following suggestions:

- Do a comparison of decommission language from other County zoning ordinances.
- Need to prove have been making a good faith effort with removal.
- Commercial communications tower, station, and accessory facilities above and below ground level should be removed completely. Want to protect the people of Delaware County if there is future farming or building on a decommissioned site.
- No salvage value should be allowed in the bond. Use language from WECS bond section and additional language from a recent WECS power-up bonding.
- Review bond language and terms bond every 5 years along with decommission plan: who does this -- County Attorney? County Engineer?

The Board members requested that staff send out a revised draft for review and comments via email ahead of the next meeting. The Board also recommended that the WECS ordinance be updated to use same language for new WECS facilities in the county.

Zoning and Plat Review process. Zoning Administrator Linderwell reviewed current Zoning Ordinance regulations and current process. He noted the County Attorney has determined that there should be a zoning compliance review for all plats filed with Delaware County. He also explained that the County Attorney said this review could be done by the Zoning Administrator or another County office as part of the plat approval process. He said the Board of Supervisors would need to approve some kind of language and review/approval process.

Discussion followed. Board Member Randy Rattenborg explained how some farmhouses are platted off from the farm for better rates on financing. He felt the zoning review should be signed off and attached as part of the approval and recording process for a plat.

Board members looked at Delaware County, Jackson County, and Dubuque County plat review checklists. Board Member Rattenborg said most of the checklist's items are from Iowa Code. He felt the Zoning Administrator should be conducting these plat reviews, and offered to put together the zoning checklist for the process. Board consensus was to review a draft checklist at a future meeting.

Deadline to Submit Comments. Zoning Administrator Linderwell explained that the County Attorney had suggested that the Board of Adjustment consider written requirements have to comments turned in "x" days before a Board meeting, in reference to the large binder submitted by the attorney for the neighborhood opposition at the meeting for a cell tower application. Discussion followed. The Board agreed that they can't set a deadline, because they need to encourage people to share their comments.

Time Limits for Speakers. Zoning Administrator Linderwell talked about setting time limits for each speaker during a meeting. He noted that the Board of Supervisors limit is 5 minutes, and the Board of Review limit 15 minutes. Discussion followed. Board members noted some boards limit speakers to 3 minutes. Zoning Administrator Linderwell noted that the County Attorney said the applicant (owners, attorney, representative) can have more time to present their application and for rebuttal. Board consensus was to limit comments to 5 minutes for members of the public.

ITEMS FROM PUBLIC: None

ITEMS FROM BOARD: Other Business: Board Member Lamont Davidson noted that he will be out of state from November until February.

ITEMS FROM STAFF: Zoning Administrator Linderwell updated the Board that the cell tower case has been appealed, but no court date has been set, and applicant has not started the project. The Board's next meeting is November 21, 2023, and there will be a cell tower request to replace existing tower.

ADJOURNMENT: Motion by Davidson, seconded by Beswick, to adjourn the Board of Adjustment meeting. Motion carried by the following vote: Aye – Davidson, Heims, Beswick, Rattenborg, and Eibey; Nay – None. The meeting adjourned at 2:52 p.m.

Respectfully submitted,
Alex Linderwell, Zoning Administrator

Adopted: _____