

**DRAFT MINUTES**

**DELAWARE COUNTY BOARD OF ADJUSTMENT**

1:00 p.m.

Tuesday, January 16, 2024

Conference Room (basement), Delaware County Courthouse

301 E Main Street, Manchester, Iowa

**Board Members Present:** Chair Tammy Eibey, Vice Chair Therese Beswick (via Teams), Board Members Randy Rattenborg, Marv Heims, and Lamont Davidson (via Teams).

**Board Members Excused:** none.

**Board Members Absent:** none.

**Staff Members Present:** Zoning Administrator Alex Linderwell, and ECIA Senior Planner Laura Carstens (via Teams).

**CALL TO ORDER AND ROLL CALL:** The meeting was called to order by Chair Tammy Eibey at 1:00 p.m. and roll call taken. There were no members of the public in attendance. Justin Fike, Greenbacker Capital was in attendance via Teams at the request of Vice Chair Therese Beswick.

**MINUTES:** Motion by Rattenborg, seconded by Davidson, to approve the minutes of the November 21, 2023 Board of Adjustment meeting with an amendment to read “to remove all tower facilities above and below ground” on page . Motion carried by the following vote: Aye – Heims, Davidson, Beswick, Rattenborg, and Eibey; Nay – None.

**ITEMS FROM PUBLIC:** None.

**ITEMS FROM BOARD:** Other Business: Potential Zoning Ordinance amendments

**Cell Tower Decommissioning:** Zoning Administrator Linderwell noted that a draft Zoning Ordinance amendment was attached. Discussion followed. Consensus was to remove references to salvage value in subsections f. and h., and reword subsection e. to read: “remove all tower facilities above and below ground.”

Discussion followed with Justin Fike of Greenbacker Capital on several related topics: bonding process, designation of loss payee, financial assurance, default on the permit, notice of discontinuance, change of ownership, bankruptcy, and that Delaware County is responsible to “police” the permit and the bonding company. Mr. Fike suggested that Delaware County may want to consider using a team to “police” the project that includes the County Engineer, County Attorney, and County Board of Supervisors.

Board of Adjustment consensus was to involve these County offices in the review of a draft amendment. After further discussion, Board of Adjustment consensus was to add a subsection i. to incorporate the following provisions:

- Provision establishing for any transfer of ownership, all agreements and obligations made by the prior owner to Delaware County will be assumed by any subsequent owner/operator.
- Provision that all companies, whether or not they are under bankruptcy protection, must comply with Delaware County’s and the FCC’s discontinuance rules. Delaware County and the FCC may impose penalties on companies for failing to comply with the rules.

Staff will draft a revised amendment for review by the Board at a future meeting.

**ITEMS FROM STAFF:** Next Meeting: Zoning Administrator Linderwell said the next meeting is February 20, 2024 and will include a public hearing on a special exception request for a cell tower. He also provided an update on the cell tower appeal case, noting a court date is be scheduled by the end of January. He noted the applicant has not begun work on the cell tower, pending the outcome of the appeal.

**ADJOURNMENT:** Motion by Davidson, seconded by Beswick, to adjourn the Board of Adjustment meeting. Motion carried by the following vote: Aye – Davidson, Beswick, Heims, Rattenborg, and Eibey; Nay – None. The meeting adjourned at 2:22 p.m.

Respectfully submitted,

Alex Linderwell, Zoning Administrator

Adopted: \_\_\_\_\_