

Approved Minutes
DELAWARE COUNTY BOARD OF ADJUSTMENT

1:00 p.m.

Tuesday, June 17, 2025

Conference Room (basement), Delaware County Courthouse
301 E Main Street, Manchester, Iowa

Board Members Present: Chair Therese Beswick, Vice Chair Tammy Eibey, Board Members Randy Rattenborg, Marv Heims, Lamont Davidson.

Board Members Excused: none.

Board Members Absent: none.

Staff Members Present: Zoning Administrator Alex Linderwell, County Engineer Rafe Koopman, County Attorney John Bernau, and ECIA Senior Planner Laura Carstens (via Zoom).

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chair Beswick at 1:01 p.m. and roll call taken. Thomas C. Engler, 3347 272nd Street, Worthington, Iowa, signed the attendance sheet.

MINUTES: Motion by Davidson, seconded by Heims, to approve the minutes of the May 20, 2025 Board of Adjustment (BOA) meeting as presented. Motion carried by the following vote: Aye -- Eibey, Rattenborg, Heims, Dawson, and Beswick; Nay -- None.

CONSIDERATION AND POSSIBLE ACTION: Request for Reconsideration of Docket #4-24 BARD Sand Pit. Chair Beswick asked for clarification of whether the BOA can allow anyone, including attorneys, to speak at this meeting. Zoning Administrator Linderwell said no one from the public or attorneys are allowed to speak before the vote.

Chair Beswick reviewed information about ex parte communication from the BOA's orientation manual. She disclosed that she had ex parte communication with a verbal contact with Al Digman, a nearby property owner, on May 19, 2025. She had email contact with Troy Peterson, who works on their NPDES permitting and manure plans, and uses a geo-referencing computer program for slope, drainage and floodplains. She also had email contact with Ken Klein, Delaware County NRCS, to ask what computer modeling he used on floodplains, and he sent her links to shorten her learning curve on the ISU geographic map server. She noted that the ex parte contact with Al Digman was inappropriate because he was directly involved in the case. She indicated for the record that the ex parte communication has not left her unable to base the decision solely on the evidence to be presented at the hearing.

Chair Beswick reviewed the BOA's adopted Bylaws for Reconsideration. Discussion followed on the determination of new evidence as to whether there was reasonable time to have the appraisal report by the first BOA meeting in November 2024. In response to a BOA question Zoning Administrator Linderwell estimated the posting date would have been 7 to 20 days prior to the first meeting.

Chair Beswick read from the letter from Samuel DeGree, attorney representing Breanna Goebel, Chantell Goebel, and Rita Goebel. Discussion followed about other appraisals or assessed values. Chair Beswick discussed the timing of posting of minutes. Zoning Administrator Linderwell said he did not post minutes until they had been approved by the BOA. Chair Beswick noted that the minutes from the January meeting had not been posted yet. She urged approved minutes be posted as soon as possible.

Chair Beswick felt there was substantial information for reconsideration, and read portions of attorney DeGree's letter in items number 1, 2, 3, and 5. Discussion followed on whether the BOA members could have attended the neighborhood meeting.

Board Member Davidson stated that attorney DeGree's letter identifies numbers 1 and 3 as new evidence, and the BOA is to consider only new evidence according to their bylaws. County Attorney Bernau reviewed the BOA's bylaws for reconsideration. He indicated that there had been discussion about impact on property values at the BOA's prior meetings. Chair Beswick felt the lack of transparency about the neighborhood meeting was discussed generally.

Chair Beswick reviewed that the application came before the BOA twice as the application changed. Board Member Heims asked if the public had an opportunity to provide input on the conditions placed on the approval as recorded on page 4 of the May 20, 2025. Discussion followed on the limitations on public input at that meeting.

County Attorney Bernau said the actions of the BOA should be limited to what occurs at the BOA's meetings, and not what is discussed at a neighborhood meeting. He said the BOA's input comes from their packets and their meetings. He reviewed the bylaws require the BOA to consider if new evidence is submitted which could not reasonably have been presented at the meeting at which the case originally was heard.

The BOA reviewed attorney DeGree's letter. Discussion followed on number 1. Board Member Davidson felt the community had time to prepare information on property values for the cell tower case. Chair Beswick the BOA set a precedent with allowing extended time for public input with the cell tower case.

Board Member Davidson suggested that number 3 was really more to the limit on the public input with not having access to letters and other information was not available to the BOA. Chair Beswick reviewed the roles of elected and appointed officials from the BOA's orientation manual. She felt it was important for people to be heard.

Board Member Davidson felt that the BOA had received substantial input from the public and there had been a rehash of issues at the second meeting; however, if BOA members felt it was not sufficient, he would support reconsideration.

Board Member Heims asked if there was anything in number 3 in attorney DeGree's letter that should be considered. Discussion followed. Board Member Davidson thought he and Board Member Rattenborg has explored options for this project.

Board Member Rattenborg said we need to go back to the bylaws as County Attorney Bernau has advised. He noted that the BOA has discussed changes on the site, but not the site itself. Discussion followed on how BOA's conditions modify how the site is laid out, and whether the BOA had conducted their due diligence.

Vice Chair Eibey reviewed her personal notes from the initial BOA meeting. Board Member Rattenborg noted the BOA discussed impacts on property values. He concurred with Board Member Davidson's comments that the second meeting was a rehash of the same concerns at the second meeting. Chair Beswick noted there were comments in opposition and other comments. Board Member Rattenborg felt

the impact on property values could go up or down. Discussion followed on how to determine these potential impacts.

Discussion followed on whether or not there was new evidence that could not have been provided at the BOA meetings. Board Member Rattenborg felt the BOA has discussed property values, flooding, environmental impacts. Board Member Davidson was willing to review this one more time if feel the public did not enough time for input.

County Attorney Bernau reviewed that the BOA is to consider if there is new evidence that could have been reasonably submitted to the BOA at its prior meetings. Discussion followed among BOA members.

Motion by Davidson, second by Heims, to reconsider. Motion carried by the following vote: Aye – Beswick, Eibey, and Davidson; Nay – Heims and Rattenborg.

Discussion followed on possible dates for the meeting. Zoning Administrator Linderwell said with publication requirements, the meeting could be held as early as July 2 or 3, 2025. Consensus was to reconsider the matter at a public hearing open to public input on July 3, 2025 and to make this date and time the BOA's regular monthly meeting.

ITEMS FROM PUBLIC: None.

ITEMS FROM BOARD: Other Business. Status of Cell Tower Amendment for Decommissioning Language. Chair Beswick reminded Zoning Administrator Linderwell to email the final version as soon as possible for BOA review at next meeting.

ITEMS FROM STAFF: Next Meeting: July 3, 2025.

ADJOURNMENT: Motion by Heims, seconded by Davidson, to adjourn the meeting. Motion carried by the following vote: Aye -- Eibey, Rattenborg, Heims, Dawson, and Beswick; Nay – None. The meeting adjourned at 2:17 p.m.

Respectfully submitted,

Alex Linderwell, Zoning Administrator

Adopted: 7-3-25