

Approved Minutes
DELAWARE COUNTY BOARD OF ADJUSTMENT

1:00 p.m.

Tuesday, September 16th, 2025

Small Courtroom (third floor), 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 Member Present: Zoning Administrator Alex Linderwell and ECIA Senior Planner Laura Carstens (via Zoom).

CALL TO ORDER AND ROLL CALL: The meeting was called to order by Chair Beswick at 1:05 p.m. and roll call taken. There were no members of the public in attendance via Zoom or in person.

MINUTES: Board of Adjustment (BOA) members discussed the draft minutes of the July 3, 2025 meeting. Zoning Administrator Linderwell reviewed section on page 2 where the audio record was unclear. Vice Chair Eibey reviewed her notes for this portion of the meeting. Consensus was to incorporate a summary of her notes into the minutes. Page 2 was amended to include the paragraph: Discussion followed with Chantell Goebel and Ben Schroeder regarding notification of property owners in both Dubuque County and Delaware County, and concerns about dust control and air quality issues. Motion by Heims, seconded by Davidson to approve the minutes of the July 3, 2025 BOA meeting as discussed and amended. Motion carried by the following vote: Aye – Davidson, Heims, Rattenborg, Eibey, and Beswick; Nay – None.

ITEMS FROM PUBLIC: None.

ITEMS FROM BOARD: Other Business: Potential Zoning Ordinance Amendments

Commercial Cell Towers: The BOA discussed the latest revised draft amendment for decommissioning commercial cell towers dated 07-14-24. Zoning Administrator Linderwell reviewed the process for the proposed amendment to be reviewed by the Zoning Commission at a public hearing, and then their recommendation would go to the Board of Supervisors for another public hearing and final approval.

BOA member Davidson asked if this proposal should include wind energy towers. Chair Beswick noted there already a County Ordinance for wind energy conversion services (WECS). BOA member Davidson asked who provides oversight on the bonds being renewed, going in default, and change of ownership. Chair Beswick noted these issues were addressed in the draft. The pertinent subsections were reviewed.

Discussion followed who at the County level would be keeping track of bonding, decommissioning, change of ownership, etc. Suggestions were the Board of Supervisors, County Auditor, Zoning Administrator, or Zoning Commission. The BOA discussed having a spreadsheet that tracks the required annual and 5-year reviews for all cell towers, and also tracking wind towers. It was not clear if wind towers were being monitored by the County Engineer, who accepts these applications. BOA members thought having the Zoning Administrator monitor the cell towers would be beneficial.

BOA members discussed what happens if a cell tower permit or a WECS permit are in default. It was unclear what the process is if one of the facilities is in default. ECIA staff member Laura Carstens said

that based on her experience, the Board of Supervisors, elected officials, should be the entity to file a claim, file a suit, or notify the bonding company it is in default. BOA members discussed adding a subsection k. for what happens if the cell tower is in default.

Discussion followed on the permitting process. Zoning Administrator Linderwell reviewed the process was similar to that followed for the BARD sand excavation pit, and the Board of Adjustment could add conditions to a cell tower proposal.

The BOA discussed adding a subsection k. broadly worded as: "If a Special Exception Permit is found to be in default in any form, the Zoning Administrator shall notify the Board of Supervisors for action, and inform the Board of Adjustment." Discussion followed on what could be included in a Special Exception Permit, such as referencing the specific code requirements for cell towers as well as conditions set by the BOA.

BOA members agreed that the proposed amendment should reflect it is for regulating commercial cell towers, not just decommissioning cell towers, and the bond should be broadly worded to include construction, performance, decommissioning, etc. The BOA also discussed changing decommissioning "bond" to decommissioning "plan." BOA consensus was to recommend rewording to use the term "permit bond" described as follows:

A Permit Bond is a general bond required as a condition of receiving a Special Exception Permit for the cell tower. It ensures compliance with permit terms, zoning conditions, and any applicable regulations. This bond is payable to the Delaware County Board of Supervisors as obligee, for the benefit of the public and to ensure compliance with all applicable permit conditions, ordinances, and land uses approvals.

In surety bonds, the obligee (the party protected by the bond) is functionally the loss payee. The loss payee is the party entitled to claim the bond if there is a default or breach. The bond protects the County (not the private parties). If a tower company defaults – by failing to build the tower, violating permit conditions, or abandoning the site—the County is the one damaged and thus entitled to the bond funds.

The County can use the proceeds to:

- Finish construction (if a Performance Bond),
- Remove the tower and restore the land (if a Decommissioning Bond),
- Repair roads or infrastructure (if a Right-of-Way Bond),
- Cover other costs imposed by the tower company's noncompliance.

BOA members recommended that the Zoning Administrator shall request information 45 days prior to the expiration of 5 years from permit date.

BOA consensus was to review and comment on the revised draft and approve by consensus via email, without holding another work session or meeting. BOA members will need to have a final recommendation by the end of September, to meet deadlines for the October 15 Zoning Commission meeting. The results will be reflected in the minutes as action taken after the meeting via email.

ITEMS FROM STAFF: Next Meeting: Oct 21, 2025.

IPIB Training. Zoning Administrator Linderwell said there is a new law for all appointed or elected boards to have a certificate of attendance for a class on open meetings. He signed everyone up for 12:00-1:30 pm on October 6, 2025. He will follow up to be sure everyone can access the training.

Residency Requirement. BOA member Davidson noted that he will be moving to a new home in Delhi. Zoning Administrator Linderwell said the residency requirement for Delaware County's BOA and Zoning Commission is residency outside any city limits, in the unincorporated area of the county. He will send the information to BOA member Davidson on the timing of service after the move.

ADJOURNMENT: Motion by Davidson, seconded by Rattenborg, 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 2:58 p.m.

Respectfully submitted,

Alex Linderwell, Zoning Administrator

Adopted:12-16-25