



**STORY COUNTY  
PLANNING AND DEVELOPMENT  
STORY COUNTY ADMINISTRATION  
900 6<sup>TH</sup> STREET  
NEVADA, IOWA 50201-2087**

*"Commitment, Vision, Balance"*

**515-382-7245**

**MINUTES  
STORY COUNTY  
BOARD OF ADJUSTMENT**

**AN AUDIO RECORDING OF THE FULL MEETING MAY BE FOUND IN THE PLANNING AND DEVELOPMENT DEPARTMENT, OR BY VISITING [WWW.STORYCOUNTYIOWA.GOV](http://WWW.STORYCOUNTYIOWA.GOV)**

<b>DATE:</b> March 18, 2020	Steve McGill, Chair	2022
	Randy Brekke, Vice Chair (Phone)	2020
	Kelly Winfrey	2024
<b>CALL TO ORDER:</b> 4:00 PM	Matthew Neubauer	2021
<b>PLACE:</b> Public Meeting Room	* Wendie Schneider	2023
Administration Building	*Absent	

**PUBLIC PRESENT BY CONFERENCE CALL:** Jennifer Jack, Justin Adamson, Chris Burnett, Andy Swanson

**STAFF PRESENT:** Jerry Moore, Planning and Development Director; Marcus Amman, Planner; Stephanie Jones, Recording Secretary

**ROLL CALL:** McGill, Brekke, Neubauer, Winfrey (Brekke was present via conference call in response to COVID-19.)

**ABSENT:** Schneider

**APPROVAL OF AGENDA (MCU)**

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**APPROVAL OF MINUTES**

**Motion by Neubauer, Second by Winfrey to approve the February 19, 2020 minutes. (MCU)**

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**APPROVAL OF FINDINGS OF FACT From February 19, 2020 Meeting Motion by Neubauer, Second by Winfrey (MCU)**

Written Findings of Fact CUP02-16.1 Saints Peter Paul Catholic Church

**PUBLIC COMMENTS:** None

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**HEARINGS:**

**CUP11-19 CUP01-20 Windstream Broadband Communications Tower**

Marcus Amman presented the staff report and stated Windstream is proposing to erect a 105 foot communications tower utility pole to provide broadband access to rural customers. The

communications tower will be constructed using a galvanized steel finish utility pole. The pole will be 100 feet, with a 5-foot lightning rod for the total height of 105 feet.

Neubauer asked for clarification about the setback being 50% of the tower. Amman stated the 50% of the tower height setback requirement only applies to the neighboring properties that do not have residential uses on them.

At the Planning and Zoning Commission meeting on March 4<sup>th</sup>, 2020 Mens asked if the grain bins at Landus will interrupt the signal due to the height of bins. Amman stated that based on what Windstream has provided the tower is for the locations to the North and East of the proposed tower and the applicant would be able to provide additional information. Jennifer Jacks stated that Windstream is aware of the silos in the area and it was taken into consideration when the location was picked. Jacks stated that the targeted households to serve are being met in the proposed location. End of discussion from the March 4<sup>th</sup>, 2020 Planning and Zoning Commission meeting.

**Add some of the info/discussion from PZC meeting – concern about Landis grain elevators obstructing the signal.**

1. **MOTION: The Story County Board of Adjustment recommends approval of the Conditional Use Permit for the Windstream Broadband Communications Tower as put forth in case CUP01-20, with the following conditions:**
  1. The written access and utility easement will be recorded with the Story County Recorder prior to the issuance of a zoning permit for the Communications Tower.
  2. Preliminary Zoning permit for the Communications Tower will not be issued until Story County Land Development Regulations Chapter 88.08 (4) Parking and Circulation Standards are met for well-defined circulation routes and clearly marked parking spaces acceptable to Planning and Development Staff.

**Motion: Neubauer**

**Second: Winfrey**

**Ayes: Neubauer, Winfrey, Brekke, McGill**

**Nays: None**

**Not Voting: None**

**Absent: Schneider**

**Vote: (4-0)**

#### **SWANSON APPEAL OF DIRECTOR'S DECISION**

Jerry Moore presented the Staff Report and stated that on March 6, 2020, Andrew Swanson, 64905 190th Street, Nevada, IA submitted a request to appeal the Director's Decision to the Story County Board of Adjustment that a zoning permit cannot be issued or an agricultural exemption cannot be approved to place a railroad caboos on his property located at 19269 650th Avenue, in Richland Township. Moore provided the background information outlining the steps of the timeline of the review process.

Neubauer asked if the caboos was inside of a building if it would then be permitted. Moore stated that he didn't think that was what Mr. Swanson's intent for the caboos and that the railroad caboos would still be located on the property. McGill asked if a CUP could be applied for. Moore stated that there is nothing in chapter 90 that addresses a situation as proposed to place a caboos on provide property, even a possible museum type use, so a text amendment would likely be the best option. Brekke stated that it appears Swanson feels it would be legit with the provided code sections and asked how Moore responded to Swanson's response of feeling it was legit. Moore stated that he responded in the letters that it does not fit the definition of an accessory structure, building or a structure, nor under the definition of agricultural exemption. Brekke asked if the neighbors have concerns. Moore stated the County's ordinance does not require notices to be sent to land owners, so it is not known if neighbors

have concerns. Moore stated that since 2016 there has been over 90 requests for agricultural exemptions and 96% of those were approved. Moore stated that he feels the intent for the language in the ordinance adapted for agricultural purposes does not include a railroad caboos. Winfrey asked if since there is not an agricultural purpose to the railroad caboos is the reason it wouldn't be an agricultural use. Moore stated that Mr. Swanson did indicate that the railroad caboos could be used to store plants, however, Moore read the code sections relating to agricultural exemption and the definitions for building and structure and stated that railroad caboos is not covered and its also not the intent of these sections to include a railroad caboos.

Andy Swanson spoke and stated that if he is going to acquire the caboos he wants to be able to use it. Swanson stated that he feels the caboos is a building, the caboos has not been used on the railroad for a long time, and the caboos has been adapted to another use. Swanson stated he does not plan to use it as a caboos, but only to set it on a track so that the steel wheels did not sink into the ground. Swanson stated that he feels if he stored seed or supplies in the caboos that it should be considered an agriculture exemption for use as an accessory structure since his farm is established. Swanson strongly believes that the caboos should not be considered as a railroad use because it is no longer usable as what it was initially intended for and because the caboos had been adapted to another use.

Neubauer asked about precedent being set for manufactured items and wondered if anyone had ever been denied or allowed such items as busses or RV's. Moore stated that he cannot recall a time that a request like this has been allowed. Moore stated that if the railroad caboos is considered a building, could a cable car, airplane, or ship be considered a building? Moore stated that the way the ordinance is set out it addresses certain things that are principal permitted uses. If a principal permitted use is established on a property, then an accessory use may be permitted. Moore stated that occasionally amendments are requested to allow for a use being proposed. This is how zoning works, if a proposed use is not identified in the ordinance, then the applicant may request a text amendment to ordinance to include and/or identify the use. McGill stated that it seems it would not fall under the original intent of the code and he does not feel an agricultural exemption would allow the caboos either. Swanson stated that he had planned different types of wild flowers and native grasses, and he does not want the area plowed up in the future. He feels that preserving the land would be beneficial to the area where he would like to locate the caboos. Swanson feels that the county should consider changing the definition of a building and also questioned if there would be a difference between a shipping container that was originally designed to be used on a ship being used as a shed, and his proposal with the caboos. Moore asked Mr. Swanson if his intention was to keep the railroad caboos intact. Swanson stated that yes, he would like to keep the caboos intact.

McGill asked for direction from Moore to clarify what steps could be done next. Moore stated that he would like the board to support his decision that a zoning permit could not be approved or an agricultural exemption could not be supported and that Mr. Swanson could still pursue submitting a text amendment that addresses placement of the railroad caboos on his property. Moore further stated that prior to Mr. Swanson submitting a text amendment, he would be happy to meet with him to discuss his plans further and conduct research to share with Mr. Swanson on how other cities and counties in the area and midwest address placement of railroad cabooses. McGill stated that the way the law is written that he feels he would need to support the staff decision even though he believes the caboos is a good idea. Neubauer stated that he understands the argument but does not see the rail car falling within the definition. Winfrey stated that she worries about a precedent being set by allowing this exception or broadening the definition could create an issue.

**MOTION: The Story County Board of Adjustment supports the director's decision to not issue a zoning permit or approve an agricultural exemption to Mr. Swanson to place the railroad caboos on the property located at 19269 650th Avenue.**

**Motion:** Winfrey  
**Second:** Neubauer  
**Ayes:** Winfrey, Neubauer, Brekke, McGill  
**Nays:** None  
**Not Voting:** None  
**Absent:** Schneider  
**Vote:** (4-0)

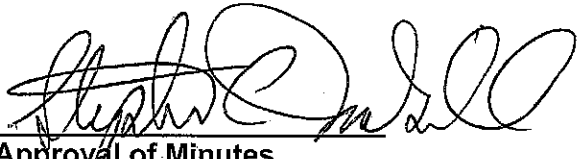
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**BOARD/STAFF COMMENTS:**

**Staff:** Moore provided an update of the County Buildings that are closed due to the Coronavirus concerns. Moore stated that information is still being collected in regard to future public meetings, but that it is very likely that the next meeting may be in a different format and information will be provided to everyone once the decision is made. Brekke asked about meetings with Google Hangout. Amman stated that there are several options being considered such as Skype and Google Hangout. Brekke stated that not seeing the slides makes it difficult to follow along.

**Board:** None

**ADJOURNMENT:** 5:08 PM



Approval of Minutes

Chairman 4-15-2020

Title and Date