

**MORGAN COUNTY BOARD OF ADJUSTMENTS AND APPEALS**  
**JANUARY 19, 2021**  
**MINUTES**

The Morgan County Board of Adjustments met on Tuesday, January 19, 2021, at 5:32 p.m. in the Assembly Room of the Morgan County Administration Building. Answering roll call was: Charles Ruyle and Viola Johnson were present in person and Allyn Wind, Jason Enfante, and Julie Padilla were present using the Zoom platform. Also present were Pam Cherry, Planning Administrator, Madeline Hagan, Planning Clerk, and Karol Kopetzky, Morgan County IT Dept. Administrator, and Rick Bailly of Industrial Tower West LLC.

The meeting was called to order by Chairman Allyn Wind.

**MINUTES:**

Motion was made by Viola Johnson and seconded by Charles Ruyle to approve the minutes of the November 23, 2020 hearing. Motion carried 5-0.

**AGENDA:**

It was moved by Charles Ruyle and seconded by Jason Enfante to accept the amended agenda as presented.

Motion carried 5-0.

**NOMINATIONS:**

Nominations for Chair and Vice Chair were discussed.

Viola Johnson made a motion to nominate Allyn Wind as Chair. Charles Ruyle seconded the motion. Motion carried 5-0.

Charles Ruyle made a motion to nominate Viola Johnson as Vice Chair. Viola Johnson seconded the motion. Motion carried 5-0.

Allyn Wind read the procedural rules for this hearing.

**NEW BUSINESS:**

The following resolutions were discussed:

Western Sugar Coop – 2021 BOA 01  
Wagon Wheel Homes LLC – 2021 BOA 02

Pam Cherry commented that there were some minor changes which needed to be made on both resolutions, per advice of Kathryn Sellars, County Attorney. It was recommended by Kathryn Sellars that the Board of Adjustments either vote to disapprove the resolutions presented as is or vote to accept the resolutions with the minor changes.

Allyn Wind commented that he would rather see the corrections and changes to the resolutions prior to voting on them. Charles Ruyle, Viola Johnson, and Julie Padilla echoed similar sentiments.

Charles Ruyle made a motion to table resolution 2021 BOA 01 until the February meeting. Viola seconded the motion. Motion carried 5-0.

Charles Ruyle made a motion to table resolution 2021 BOA 02 until the February meeting. Viola seconded the motion. Motion carried 5-0.

**OWNER: RUTH POGORELZ**  
**APPLICANT: RICK BAILEY – INDUSTRIAL TOWER WEST**

Rick Bailey, representing Industrial Tower West LLC was in attendance to present this Variance Application.

Pam Cherry read her file summary as follows:

Rick Bailey, representing Industrial Tower West, LLC, on behalf of Robert Pogorelz as Power of Attorney for Ruth Pogorelz has submitted this application for a variance to Section 3-650 Table 1 of Appendix B, Zone District Bulk Requirements of the Morgan County Zoning Regulations regarding maximum height in the Agriculture Production District which is 100 feet. The variance request is to increase the height of this free standing communications tower to 120 feet. The property is located nmth of Morgan Heights subdivision, northwest of County Road U and Reid Road with parcel number 1041-240-00-006 in Section 24, Township 4 North, Range 58 West of the 6<sup>th</sup> P.M., Morgan County, Colorado.

This new tower is required to maintain wireless services in this quadrant of Morgan County and to also provide space for future equipment expansions. Viaero currently utilizes the Morgan Heights Water Tower to attach antennas and supporting equipment which provides a vital part of the wireless infrastructure for this area in Morgan County. The current site of the Viaero equipment is on the water tower that is owned by Morgan County Quality Water which is no longer used for water storage and is proposed for removal.

Nine adjacent landowners were identified and notified of this request. Section 5-200(B) of the Morgan County zoning regulations states that adjacent owners shall be notified of the request prior to the hearing. One inquiry was received as of January 8, 2021 from Kent Sager regarding county requirements for co-location. Section 4-715(F) of the Morgan County zoning regulations states that the county encourages co-location when feasible; it is not required.

Industrial Tower West contacted Riverside Irrigation and the Federal Aviation Administration for comment on the project. Riverside has no objection if the tower is located 121 feet away from the canal bank; it is approximately 134 feet from the canal bank. In addition, the FAA has issued a "DETERMINATION OF NO HAZARD TO AIR NAVIGATION" finding.

Section 4-71S(F) of the Morgan County zoning regulations states that "if, after completion of construction, the Wireless Service Facility ceases operation for any reason for twelve (12) consecutive months that the owner or operator shall remove the WSF within ninety (90) days of the end of the twelve month period." Setbacks from towers to residential zone districts are addressed in Section 4-720(A)(1)(b) "The WSF facility height if the facility is adjacent to a residentially zoned parcel or if the WSF facility is within two hundred fifty (250) feet of an existing residential structure." The tower is approximately 260 feet from the nearest residence.

In reviewing this application the Board of Adjustment is required to make a finding that the criteria for granting a variance in Section 5-220(B) of the Morgan County Zoning Regulations have been satisfied:

- (1) The strict application of the applicable regulation results in peculiar and exceptional practice difficulties or exception and undue hardship on the owner due to:

*Strict application of the regulations will result in reduced wireless service to the citizens of Morgan County creating a hardship for residents.*

- (2) Exceptional topographic conditions or other extraordinary and exceptional situation or condition of such piece of property; and

*There is an extraordinary situation throughout the county with many areas that lack sufficient wireless service. This tower will provide ongoing service to this area of the county.*

- (3) The hardship is not self-imposed;
- (4) The variance, if granted, will not adversely affect the use of adjacent property as permitted under these Regulations;
- (5) That the variance, if granted, is in keeping with the intent of the Morgan County Zoning Regulations and the Morgan County Comprehensive Plan; and

Goals of the Morgan County Comprehensive Plan:

*Chapter 8. H Goal -*

*To ensure that all developments in Morgan County have adequate infrastructure and plans to expand utilities for future growth.*

*Construction of this tower will provide the ability to expand wireless service in this area of Morgan County and infrastructure necessary to plan for future growth.*

- (6) That the variance, if granted, does not adversely affect the health, safety, and welfare of the citizens of Morgan County.

*The variance will not adversely affect the health, safety or welfare of the citizens of Morgan County.*

One condition is recommended that is in compliance with Section 4-715(F) of the Morgan County zoning regulations.

- (1) If, after completion of construction, the Wireless Service Facility ceases operation for any reason for twelve (12) consecutive months that the owner or operator shall remove the WSF within ninety (90) days of the end of the twelve month period.

This variance request meets the criteria for granting the variance.

**PUBLIC COMMENT OPEN**

No one present from the public to speak in favor or opposition of application.

**PUBLIC COMMENT CLOSED**

The chairman asked if the Board had any further questions.

Viola Johnson commented that the additional height may be able to extend the reception for more people in Morgan County. Rick Bailey answered that would be correct, and the height of the proposed tower is less than the nearby water tower as well as the other Viaero tower, and that the proposed tower is designed for a F3 tornado.

**MOTION:**

It was moved by Viola Johnson and seconded by Charles Ruyle to approve this application from Rick Bailey/Industrial Tower West for the variance as requested.

Roll call vote was taken. Motion carried 5-0.

**ADJOURN:**

It was moved by Charles Ruyle and seconded by Jason Enfante to adjourn at 6:03 p.m. Motion carried 5-0.

Respectfully submitted,

Madeline Hagan

DRAFT