

Approval of Resolution:
Parallel Infrastructure/ Charlene Holzworth
2022 BOA 01

Board of Adjustment Hearing
September 19th, 2022
5:30 P.M.



**MORGAN COUNTY
PLANNING AND BUILDING DEPARTMENT**

September 19, 2022

TO: Morgan County Board of Adjustments
DATE: Monday, September 19, 2022
TIME: 5:30 P.M.
PLACE: Assembly Room – Remote attendance via ZOOM

The county will continue to offer the option to attend meetings remotely via zoom. If you have any questions regarding attending the meeting, please contact the planning offices at 970-542-3526.

To participate remotely you may connect via Zoom Conferencing Access Information at:

<https://us02web.zoom.us/j/86923029945>

Or Telephone:

Dial:

US: +1 719 359 4580

Webinar ID: 869 2302 9945

NOTICE

Roll Call

Minutes of August 15, 2021

Approve the Agenda

AGENDA

NEW BUSINESS:

- 1. Approval of Resolution:** Parallel Infrastructure/Charlene Holzworth – 2022 BOA 01

OTHER MATTERS:

ADJOURN:



**MORGAN COUNTY
PLANNING AND BUILDING DEPARTMENT**

**MORGAN COUNTY BOARD OF ADJUSTMENT
FILE SUMMARY**

September 19, 2022

September 19, 2022 – Hearing Date

**OWNER: Charlene Holzworth
APPLICANT: Parallel Infrastructure**

On June 21, 2022, the Board of Adjustment held a public hearing on a variance application from Parallel Infrastructure, it was continued to July 18, 2022. A quorum was not present for the July 18th hearing and it was continued to August 15, 2022. On August 15, 2022, a public hearing was held for an amended application for variances from the following dimensional standards to build a telecommunications tower:

1. To increase the current height restriction of 100 feet to 135 feet plus a 3 foot lightning rod;
2. To decrease the front setback from 138 feet to 123 feet;
3. To decrease the side yard setback from 138 feet to 100 feet; and
4. To decrease the rear setback from 138 feet to 91 feet.

The subject parcel of land is located in the NE¹/₄NE¹/₄ of Section 21, Township 4 North, Range 55 West of the 6th P.M., Morgan County, Colorado, North of Interstate 76, aka 32784 Co Rd V, Brush, Colorado 80723.

Resolution 2022 BOA 01 reflects the outcome of the hearing.

Nicole Hay
Morgan County Planning Administrator

**MORGAN COUNTY, COLORADO
BOARD OF ADJUSTMENT**

RESOLUTION 2022 BOA 01

**A RESOLUTION DENYING A VARIANCE APPLICATION FOR A
COMMUNICATIONS TOWER ON PROPERTY LOCATED IN THE NE¼ NE¼ OF
SECTION 21, TOWNSHIP 4 NORTH, RANGE 55 WEST OF THE 6TH P.M., MORGAN
COUNTY, COLORADO, NORTH OF HWY 76, AKA 32784 CO RD V, BRUSH,
COLORADO 80723**

WHEREAS, Charlene Holzworth (“Owner”) owns property located the NE¼ NE¼ of Section 21, Township 4 North, Range 55 West of the 6th P.M., Morgan County, Colorado, North of Hwy 76, aka 32784 Co Rd V, Brush, Colorado 80723 (“Property”);

WHEREAS, Parallel Infrastructure (“Applicant”) submitted an application for the following variances from the dimensional standards in the Morgan County Zoning Regulations for the construction of a communications tower in the agriculture zone district:

1. to increase the 100 foot height maximum to 135 feet plus a 3 foot lightning rod;
2. to decrease the front setback from 138 feet to 123 feet;
3. to decrease the side yard setback from 138 feet to 100 feet; and
4. to decrease the rear setback from 138 feet to 91 feet.

WHEREAS, after holding a hearing on the single issue concerning whether to grant the above-referenced height variance, the Board of Adjustment continued the hearing until July 18, 2022, to provide Applicant an opportunity to apply for the above-referenced set back variances;

WHEREAS, the Applicant amended its application to include the requested height variances and the Board of Adjustment continued the public hearing scheduled for July 18, 2022, to August 15, 2022, due to the lack of a quorum; and

WHEREAS, the Board of Adjustment held a duly noticed public hearing on August 15, 2022, on the application, at which time, after reviewing the application material and hearing from the Applicant, the public, and staff, the Board of Adjustment voted to deny the application.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF ADJUSTMENT OF MORGAN COUNTY, COLORADO, that based upon the findings set forth below the variance application is denied:

Section 1. The Board of Adjustment having reviewed the criteria for a variance as set forth in Section 5-220(B) of the Morgan County Zoning Regulations finds that:

1. The strict application of the applicable height limitations and setbacks does not result in peculiar and exceptional practice difficulties or exception and undue hardship on the owner.

2. The hardship is self-imposed.
3. The variance, if granted, will adversely affect the use of adjacent property.
4. The variance, if granted, is not in keeping with the intent of these Zoning Regulations and the Morgan County's Comprehensive Plan.
5. The variance, if granted, will adversely affect the health, safety, and welfare of the citizens of Morgan County

Section 2. The Board of Adjustment specifically finds as follows:

1. The Property is in a depression, which is the reason for the requested height variance. Other property in the area is better suited to the placement of a communications tower and would not require a height variance because other property in the vicinity is not in a depression.
2. Applicant cited to difficulty and unwillingness of other property owners in the vicinity to agree to allow Applicant to locate a communications tower on their property. However, this is insufficient reason to grant the variances requested. Applicant's inability to obtain landowner permission for properties that are better suited to a communications tower is self-imposed. Applicant may need to consider better compensation to the landowners of more appropriate property.
3. Applicant provided evidence that the tower was designed to collapse at 67 feet so that in the event of high winds it would not fall onto neighboring property. However, the Board of Adjustment remains concerned with the fall hazard to neighboring properties and structures. There are other properties in the vicinity with no neighboring structures where there would be no fall hazard to neighboring properties.
4. Applicant stated that other properties did not have ready access to utilities, but evidence presented by the public indicated there were utilities in the vicinity of other properties that are better suited to a communications tower. Moreover, Applicant may need to incur the additional cost of extending utility service to property better suited to a communications tower.

Section 3. The Board of Adjustment hereby denies the variance request.

Dated this ____ day of _____, 2022.

**BOARD OF ADJUSTMENT
MORGAN COUNTY, COLORADO**

Allyn Wind, Chairman

ATTEST:
(SEAL)

Kevin Strauch, Clerk to the Board