IN THE COURT OF APPEALS OF IOWA

No. 1-314 / 90-1732

FILED
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CLERK SUPREME COURT

633

**UNITED STATES CELLULAR CORPORATION,**

Appellee,

vs.

**BOARD OF ADJUSTMENT OF WARREN COUNTY, IOWA,**

Appellant.

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Appeal from the Iowa District Court for Warren County, Jerrold W. Jordan, Judge.

Board of Ajustment appeals from the district court's order sustaining a writ of certiorari and directing the issuance of a special use permit to U.S. Cellular. **AFFIRMED.**

Kevin Parker, County Attorney, for appellant.

John R. Mackaman of Dickinson, Throckmorton, Parker, Mannheimer & Raife, Des Moines, for appellee..

Considered by Donielson, P.J., and Sackett and Habhab, JJ.

**DONIELSON, P.J.**

United States Cellular Corporation, which provides cellular phone service, applied to the Warren County Board of Adjustment for a special use permit to construct a cellular signal tower in Warren County. At a public hearing on June 13, 1990, the Board denied the application. U.S. Cellular subsequently filed an application for writ of certiorari alleging the Board acted contrary to its authority in denying the special use permit. U.S. Cellular pointed to the Board's recent grant to U.S. West of a special use permit for a similar tower in Warren County.

On October 19, 1990, the district court ruled that the Board should have granted the special use permit because the Board had granted a special use permit to U.S. West under similar conditions. The district court held the Board had made no showing that U.S. Cellular had not met the conditions provided for by ordinance or statute. The Board has appealed.

The Board offers three arguments on appeal. First, the Board contends the district court erred in failing to take additional testimony in order to make a proper disposition of the matter. Second, the Board asserts the district court erred in finding the Board made no findings of fact. Finally, the Board argues the district court erred in comparing the Board's decision in the U.S. West case with the Board's decision in the U.S. Cellular case.

635

**I. Failure to Comply with the Appellate Rules.** The Board has failed to comply with the Iowa Rules of Appellate Procedure. In all three arguments presented to this court, the Board has failed to discuss the scope or standard of appellate review or how the issue was preserved for review. Iowa R. App. P. 14(a)(5). Furthermore, the Board's brief contains no statement of issues presented for review and, consequently, it contains no list of authorities cited for each issue. Iowa R. App. P. 14(a)(3).

Additionally, the Board has failed to cite authority in support of its position on the first and third issues presented. Neither did the Board remedy any of these deficiencies by filing a reply brief once the Board had been alerted to these problems by the appellee's brief. "Failure in the brief to state, to argue or to cite authority in support of an issue may be deemed waiver of that issue." Id. We consider the Board's first and third arguments to be waived.

**II. Adequacy of the Board of Adjustment's Findings.** The Board's second argument challenges the trial court's factual findings. The Board asserts the trial court erred in finding that the Board had failed to make sufficiently specific findings.

Our review of this matter is for the correction of errors of law. Iowa R. App. P. 4. Findings of fact in a law action are binding upon the appellate court if

supported by substantial evidence. Iowa R. App. P. 14(f)(1).

In support of its argument, the Board cites, without page references, Citizens v. Board of Adjustment, 277 N.W.2d 921 (Iowa 1979). In Citizens, the supreme court announced the rule that

> boards of adjustment shall make written findings of fact on all issues presented in any adjudicatory proceeding. Such findings must be sufficient to enable a reviewing court to determine with reasonable certainty the factual basis and legal principles upon which the board acted.

277 N.W.2d at 925. This case can hardly be read to support the Board's argument. Rather, the Board argues that, because the members of the Board are volunteers and ordinary lay citizens, their findings should be given the benefit of the doubt as to sufficiency.

We uphold the trial court's findings and affirm the trial court's judgment.

For all the reasons stated, the judgment of the district court is affirmed.

**AFFIRMED.**