

Jonesfield Township Zoning Board of Appeals (ZBA) Minutes

October 29, 2020

ZBA Chair Coppens called the meeting to order at 6:00 p.m. in the Jonesfield Township Hall (217 N. Eddy St., Merrill, MI) with the pledge of allegiance.

PRESENT: Ruth Coppens, Chair; Larry Tibbits, Secretary; Richard Bluemer, Member; John Siler, Jr. Alternate; Roger Poscal, Alternate

ABSENT: None

GUESTS: Chris Patterson and Kyle O'Meara (Fahey Schultz Burzych Rhodes PLC – Township Attorneys), Janson Hannath, Matt Wagner, Paul Funk, Steve Block, Curtis Brown and Emily Palacios representing DTE, Alan Bean (Spicer Group – Township Planner), David Breasbois, Ron Perry, David Zeitler, Rochelle Siler, Lee Glazier, Mark Gath, Larry Fleming and others who did not identify themselves.

- I. The agenda was approved by the ZBA without modification (unanimous).
- II. Tibbits motioned to approve the minutes from October 6, 2020, seconded by Bluemer. Approved (unanimous).
- III. There were no public comments unrelated to the public hearing. Ample time was given later in the meeting for public comments during the public hearing.
- IV. Township Attorney Chris Patterson began by explaining why we are here. DTE has requested fifty-five (55) variances from Section 612(l) of the Jonesfield Township Zoning Ordinance for twenty-four (24) WTG Towers. Section 612(l) requires that WTG Towers must be set back from adjacent property lines a minimum distance equal to the height of the tower, including the top of the blade in its vertical position. Alan Bean of Spicer Group then went over the public notice process leading to this meeting of the ZBA and materials placed on the township website. He further described Spicer's analysis of DTE's proposal. Patterson then read aloud each ZBA member's and alternates conflicts of interest statements. He then asked Dick Bluemer, Larry Tibbits and Ruth Coppens if they believed that they could serve as part of the determining body this evening given the conflict of interest statements. Each member indicated that the statements were accurate. Bluemer and Tibbits responded in the affirmative and Chair Coppens stated that she believes she could serve without bias but since the ZBA does have alternates, she would step aside for this meeting. John Siler Jr. was then seated, and Chair Coppens retired to the audience and did not participate in any deliberations or decisions during the rest of the meeting. Tibbits then motioned that Bluemer become Chair for the evening, seconded by Siler. Motion passed (unanimous). Bluemer then motioned that the Conflict of Interest statements as read by Patterson be approved and become part of these proceedings, Siler seconded. Motion passed (unanimous). These conflict disclosure

statements are of public record and become part of these meeting minutes. Because all members of the Zoning Board of Appeals had *per se* conflicts of interest with DTE's request, the ZBA invoked the Rule of Necessity as described in the Conflict of Interest Disclosures. See attached October 29, 2020 Conflict Disclosures that now become part of these proceedings.

V. DTE Presentation: Emily Palacios, the attorney representing DTE presented the nature and justification of the request for these variances. They want the development to be the least impactful on agriculture as possible. Placement of turbines on or close to property lines avoids having to place them in the middle of fields where they would have to be farmed around and where field tile exists. Property lines typically do not have drainage systems beneath them. The spirit of the Township's Zoning Ordinance and the township's Master Plan both emphasize the preservation of agriculture. Other considerations in requesting the variances besides the Township's poorly drained soil requiring drain tile and farming inefficiencies are the avoidance of a microwave transmission lines that runs through the township and industry best practices of siting turbines 1,000 feet from ono-participating property lines, 1,320 feet from non-participating dwellings and 750 feet from road rights of way. In addition, there are wetland and wildlife avoidance considerations with the proposed turbine locations.

VI. The Public Hearing began at 6:45 p.m.

- Lee Glazier – Beside the written October 27, 2020 letter from Lees and Bev Glazier in support of granting the variances which will become part of these proceedings the ZBA received, Lee stated that he thought DTE had made a good case for granting the variance in that they would avoid drainage systems in the middle of fields and keep them out of the way of farming operations. He indicated that 12 of the variances are directly on property lines which is a best industry practice. (Lee spoke twice during the evening.)
- Secretary Tibbits read a sampling of 31 letters with 34 signatures of property owners and their spouses who have turbines proposed for their property supporting the granting of the variances and supporting the proposed locations of the turbines. These letters are addressed to DTE and were giving to the ZBA. They will become part of these proceedings.
- David Breasbois - Concurr with Lee Glazier's comments and believes that the turbines should be on property lines to minimize disruptions to agricultural operations. He has three turbines proposed for his property on the property lines.
- Ron Perry – Ron is from Mt. Haley Township and wants them placed on property lines to the greatest extent possible. This ensures giving up as little tillable land as possible. Damage to drainage systems needs to be minimized. In his case, an old farm lane will become the access drive to his turbine.
- Rochelle Siler - She represents Siler Farms. Concerning practical difficulty, she does not know why DTE wants variances. She believes that granting the

variances would lead to shadow flicker impacts. She wants 1500 feet property line setbacks from property lines and believes placing them on property lines would place them too close to non-participating properties. She provided a DTE contract and asked that it become part of these proceedings. That unsigned contract will become part of the public record of this meeting. Rochelle spoke three times.

- David Zeitler – He is getting a turbine and supports placing them on property lines to minimize the impact on farming operations and drainage.
- The public Hearing closed at 7:16.

VII. ZBA Analysis of Variance Requests and Questions to DTE. DTE was asked about the variance requests prompted by a microwave transmission line in the area that impacts WTG towers 79, 80 and 81. A map was displayed showing the microwave path and the setbacks needed to avoid interrupting this communication path. They were also asked about the wooded wildlife setback to avoid any adverse impacts. Those factors were explained by DTE's consultants participating via ZOOM and broadcast to the audience over the public address system.

VIII. Chris Patterson then went through each variance request as Alan Bean projected all the various aerials with proposed WTG tower locations asking the ZBA board members if they agreed with granting each variance before proceeding. There were several questions from the board members as the process proceeded and clarification was provided by the various participants. All variance requests were granted except for WTG towers 82 and 88 where by moving the proposed location of these towers a few feet, the variance request could be avoided and for WTG tower 80 the variance of 91 feet from the east property was granted and the variance of 17 feet from the southwest property corner was denied. The location will be shifted accordingly. The ZBA meeting was then paused so that the final analysis worksheet could be finalized, and the final ZBA decision document could be printed.

IX. Meeting Chair Bluemer then reconvened the meeting and made the following motion.

- a. The motion stated *“I move to accept the draft written variance decision that incorporates the ZBA’s findings of fact and analysis related to DTE’s October 12, 2020 Requests for Setback Variances for WTG Towers, granting some and denying some of those variances as shown in Exhibit A of the draft written variance decision with any conditions stated therein.”* Siler seconded the motion. By roll call vote; Siler - YES, Tibbits -YES, Bluemer - YES. The decision hereby passed unanimously and signed. It will be posted on the Township website along with the Exhibit A, WTG Towers Variances Findings/Analysis attached and incorporated into this decision.

X. Bluemer motioned to adjourn at 8:51PM, seconded by Tibbits (passed unanimously).

Submitted by Larry Tibbits, Secretary of the Zoning Board of Appeals.