

## **JONESFIELD TOWNSHIP ZONING BOARD OF APPEALS**

**Applicant:** DTE Electric Company, One Energy Plaza, Detroit, MI 48226

### **Requests for Variances:**

Applicant requests 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. The setback variances the Applicant requests are as follows:

- 1) **WTG Tower 62** – Two variance requests: 499 feet from the south property line of parcel 17-12-1-04-2001-000 and 499 feet from the north property line of parcel 17-12-1-04-2002-000. Two variance requests.
- 2) **WTG Tower 63** – Four variance requests: 499 feet from the east property line and 149 feet from the south property line of parcel 17-12-1-04-2002-000 and 499 feet from the west property line and 149 from the south property line of parcel 17-12-1-04-1001-001.
- 3) **WTG Tower 65** – Two variance requests: 499 feet from the east property line of parcel 17-12-1-04-1003-001 and 499 feet from the west property line of parcel 17-12-1-04-1001-001.
- 4) **WTG Tower 66** – Two variance requests: 499 feet from the south property line of parcel 17-12-1-09-1002-000 and 499 feet from the north property line of parcel 17-12-1-09-1003-002.
- 5) **WTG Tower 67** – Two variance requests: 499 feet from the south property line of parcel 17-12-1-09-4002-000 and 499 feet from the north property line of parcel 17-12-1-09-4001-000.
- 6) **WTG Tower 68** – One variance request: 423 feet from the south property line of parcel 17-12-1-16-2002-000.
- 7) **WTG Tower 69** – One variance request: 431 feet from the south property line of parcel 17-12-1-16-1001-002.
- 8) **WTG Tower 71** – Two variance requests: 427 feet from the south property line and 206 feet from the west property line of parcel 17-12-1-03-2001-000.
- 9) **WTG Tower 72** – Four variance requests: 499 feet from the west property line and 425 feet from the south property line of parcel 17-12-1-03-1002-000 and 499 feet from the east property line and 425 feet from the south property line of parcel 17-12-1-03-1001-000.

- 10) **WTG Tower 73** – Two variance requests: 499 feet from the north property line of parcel 17-12-1-03-4001-000 and 499 feet from the south property line of parcel 17-12-1-03-1004-000.
- 11) **WTG Tower 74** – One variance request: 430 feet from the north property line of parcel 17-12-1-03-4001-000.
- 12) **WTG Tower 75** – Two variance requests: 499 feet from the north property line of parcel 17-12-1-10-3003-002 and 499 feet from the south property line of parcel 17-12-1-10-3001-003.
- 13) **WTG Tower 76** – One variance request: 391 feet from the east property line of parcel 17-12-1-10-2001-000.
- 14) **WTG Tower 77** – Four variance requests: 492 feet from the west property line and 23 feet from the south property line of parcel 17-12-1-22-2001-000 and 492 feet from the east property line and 23 feet from the south property line of parcel 17-12-1-22-2001-000.
- 15) **WTG Tower 78** – Three variance requests: 365 feet from the east property line and 63 feet from the north property line and 44 feet from the northeast corner of parcel 17-12-1-22-3002-002.
- 16) **WTG Tower 79** – Three variance requests: 424 feet from the south property line and 252 feet from the west property line and 242 feet from the southwest corner of parcel 17-12-1-02-1004-000.
- 17) **WTG Tower 80** – Two variance requests: 91 feet from the east property line and 17 feet from the southwest corner of parcel 17-12-1-02-1002-001.
- 18) **WTG Tower 81** – Four variance requests: 492 feet from the south property line and 147 feet from the east property line of parcel 17-12-1-11-3001-002 and 492 feet from the south property line and 147 feet from the east property line of parcel 17-12-1-11-3002-000.
- 19) **WTG Tower 82** – One variance request: 79 feet from the west property line of parcel 17-12-1-14-2001-000.
- 20) **WTG Tower 83** – Two variance requests: 499 feet from the east property line of parcel 17-12-1-01-2001-000 and 499 feet from the west property line of parcel 17-12-1-01-1001-000.
- 21) **WTG Tower 84** – Four variance requests: 499 feet from the south property line and 328 feet from the east property line of parcel 17-12-1-01-2001-000 and 499 feet from the north property line and 328 feet from the east property line of parcel 17-12-1-01-2004-000.

22) **WTG Tower 86** – Four variance requests: 492 feet from the south property line and 165 feet from the east property line of parcel 17-12-1-13-1002-000 and 492 feet from the north property line and 165 feet from the east property line of parcel 17-12-1-13-4001-001.

23) **WTG Tower 87** – One variance request: 333 feet from the south property line of parcel 17-12-1-242001-001.

24) **WTG Tower 88** – One variance request: 20 feet from the north property line of parcel 17-12-1-24-3002-000.

**Standards for Granting a Variance:**

1. Applicant must show a practical difficulty. Section 903(1). In determining a practical difficulty, the Applicant's requests are viewed in light of the following factors:
  - a. Strict compliance with the standard would unreasonably prevent the landowner from using the property for a permitted use or would render conformity unnecessarily burdensome.
  - b. The particular request, or a lesser relaxation of the ordinance standard, would provide substantial justice to the landowner and neighbors.
  - c. The plight is due to unique circumstances of property.
2. The practical difficulty must not be based on acts of the applicant or property owner. Section 903(5)(I).
3. The decision must observe the spirit of the zoning ordinance, secure the public safety, and do substantial justice. MCL 125.3604(7); Section 903(5)(B).
4. Try to avoid causing a substantial adverse effect on property values in the vicinity of the subject property. Section 903(5)(D).
5. If the Applicant does not own the property, evidence must be provided that the owner concurs with the request for a variance. Section 903(5)(E).
6. The variance cannot be granted only to prevent economic loss. Section 903(5)(F).

**October 28, 2020 Public Hearing:** The Jonesfield Township Zoning Board of Appeals ("ZBA") opened a public hearing at 6:45 p.m. for Applicant's request to grant the above identified variances. The ZBA heard a presentation by the Applicant and comments from members of the public. The hearing closed at 7:16 p.m. after public input.

**General Findings of Fact:** The ZBA makes the following findings based upon the Ordinance, as well as information and comments received in the submitted materials and at the public hearing:



1. The subject premises are in the A-1 General Agriculture and A-2 Agricultural & Rural Residential Districts.
2. Wind Turbine Generators are allowed as a special land use in the A-1 and A-2 Districts
3. Applicant submitted a Special Use Permit and accompanying site plans to construct and operate Wind Turbine Generators at proposed sites in the A-1 and A-2 Districts. Both requests remain pending before the Jonesfield Township Planning Commission.
4. Applicant submitted a request for interpretation of the Jonesfield Township Zoning Ordinance requesting an interpretation of the phrase “property line” as used in Section 612(l) as the application of such term impacted Applicant’s WTG Towers proposed locations contained within the submitted site plan maps.
5. The ZBA interpreted “property line” to mean the boundaries of individual pieces of real estate. This interpretation means that each WTG Tower has to be a minimum of 500 feet from any property line—not only nonparticipating property lines without a variance from the applicant dimensional standard.
6. Applicant has requested the above variances from the setback requirements in Section 612(l) because proposed WTG Tower sites are located on property lines or closer to property lines than the height of the tower, including the top of the blade in its vertical position.
7. Applicant submitted detailed site plan maps, explanations for each variance requested, and ninety-three (93) drain tile map files for parcels related to the variance requests.
8. Applicant represents that all owners of property on which the Applicant requests variances have signed utility easement agreements relating to the project. The agreements state, in part, that the landowners “shall cooperate with [the Applicant] in obtaining any permits, approvals, consents and easements from any governmental agencies or other third parties having jurisdiction over and/or rights with respect to the Easement Area, the design, construction, location or operation of any equipment related to the project or any activities associated therewith. Landowner shall promptly execute permit and crossing agreement documentation requested by [the Applicant].” Applicant attests to the same agreements in their application materials for a special land use permit and site plan approval, including that all property owners subject to these variance requests have signed such agreements.
9. All proposed WTG Tower sites are set back at least one-thousand (1,000) feet from road rights-of-way and one-thousand three-hundred and twenty (1,320) feet from residential dwellings on properties outside of the project site.
10. Applicant and the Jonesfield Township Master Plan (Chapter 2(C)) both indicate that the soil composition throughout Jonesfield Township requires drain tile in order to be economically viable for agricultural use.

11. Individual agricultural parcels in Jonesfield Township are serviced by interconnected drain systems—both public and private.
12. Strictly requiring WTG Towers to be sited in the middle of cultivated fields crisscrossed by underground engineered drainage systems is problematic for the landowners and farmers who are putting their land to use in a manner that furthers the Township's land use goals. The agricultural uses of land should not be burdened by drainage impacts unless strictly necessary to serve some other legitimate zoning purpose.
13. The October 26, 2020 DTE Ordinance and Applied Setbacks map indicates that the variances requests are not seeking dimensional changes to property lines to add turbines that otherwise would not be permissible under the Zoning Ordinance. Instead, the turbines are adjustment to shared property lines or interior parcels to lessen any impacts to non-participating property owners.
14. When possible, constructing a WTG Tower on engineered agricultural drainage systems should be avoided in order to avoid degradation of drainage systems and negative impacts to agricultural uses of land.
15. The placement of WTG Towers on or near property lines is requested by landowners for efficient drain function and agricultural use. The following variance requests relate to shared property lines or adjacent parcels with common ownership:
  - WTG Towers 62 and 63
  - WTG Tower 65
  - WTG Towers 66 and 67
  - WTG Tower 72
  - WTG Tower 73
  - WTG Tower 75
  - WTG Tower 77
  - WTG Tower 81
  - WTG Tower 83
  - WTG Tower 84
  - WTG Tower 86
16. Granting variances to permit WTG Towers to be sited on or near property lines makes it possible for the same number of WTG Towers to be sited at greater distances from properties and dwellings of non-participants and road rights-of-way.
17. Applicant has indicated that there is a microwave transmission corridor through Jonesfield Township in which certain WTG Towers cannot be constructed without interfering with the signal. This requires adjustment of those towers.
18. Applicant has indicated that considerations of the impacts on residents from shadow flicker, sound production, and other operational factors of WTG Towers have been



considered in excess of the minimum requirements under the Zoning Ordinance in the WTG Towers' sites.

19. The WTG Towers are approximately 16 feet wide at the base. All of Applicant's measurements for purposes of its variance requests are based on the center point of the tower.
20. Applicant has indicated that it is not aware of any peer-reviewed studies showing wind energy developments having a negative impact on property values. No other peer-reviewed studies were submitted to the ZBA establishing the contrary.
21. The Jonesfield Township Master Plan states that the future goals of the Township include:
  - Maintaining the Township as a rural residential community characterized by productive farmlands and attractive open space areas. Chapter 5.2.
  - Preserving the character of existing residential areas by encouraging compatible development in and around the neighborhoods. Chapter 5.3.
22. The Jonesfield Township Master Plan states that over 80% of the Township is used for agricultural purposes (Figure 2-2) and that the Township wants to remain an agricultural community with productive farmlands and open spaces (Chapter 6(B)).
23. The Jonesfield Township Zoning Ordinance's purposes as stated in **Section 103. Purpose** include the following:
  - Guide the use and development of the community's lands and natural resources in accordance with their character, adaptability, and suitability for particular uses.
  - Protect the character of the community and enhance the social and economic stability of the Township.

**Based on the record and on its exercise of judgment, the Zoning Board of Appeals concludes:**

- A. Determinations. The reasons provided for each variance and the standards applied are available in Exhibit A, WTG Towers Variances Findings/Analysis, attached to this opinion. The ZBA incorporates Exhibit A as its findings, analysis and determinations as to each of Applicant's variance requests.
- B. Grant of Variances. For the reasons listed in Exhibit A, WTG Towers Variances Findings/Analysis, the ZBA issues the following decisions on the variance requests upon the WTG Towers being a nominal diameter of 12 feet, subject to any conditions stated therein and below.

Parcel Number:	WTG Tower Number:	Variance Approval:
17-12-1-04-2001-000	62	Grant

17-12-1-04-2002-000	62	Grant
17-12-1-04-2002-000	63	Grant
17-12-1-04-1001-001	63	Grant
17-12-1-04-1003-001	65	Grant
17-12-1-04-1001-001	65	Grant
17-12-1-09-1002-000	66	Grant
17-12-1-09-1003-002	66	Grant
17-12-1-09-4002-000	67	Grant
17-12-1-09-4001-000	67	Grant
17-12-1-16-2002-000	68	Grant
17-12-1-16-1001-002	69	Grant
17-12-1-03-2001-000	71	Grant
17-12-1-03-1002-000	72	Grant
17-12-1-03-1001-000	72	Grant
17-12-1-03-4001-000	73	Grant
17-12-1-03-1004-000	73	Grant
17-12-1-03-4001-000	74	Grant
17-12-1-10-3003-002	75	Grant
17-12-1-10-3001-003	75	Grant
17-12-1-10-2001-000	76	Grant
17-12-1-22-2001-000	77	Grant
17-12-1-22-2002-001	77	Grant
17-12-1-22-3002-002	78	Grant
17-12-1-02-1004-000	79	Grant
17-12-1-02-1002-001	80	Grant 91 ft from east; Deny 17 feet from southwest (two requests)
17-12-1-11-3001-002	81	Grant
17-12-1-11-3002-000	81	Grant
17-12-1-14-2001-000	82	Deny
17-12-1-01-2001-000	83	Grant
17-12-1-01-1001-000	83	Grant
17-12-1-01-2001-000	84	Grant
17-12-1-01-2004-000	84	Grant

17-12-1-13-1002-000	86	Grant
17-12-1-13-4001-001	86	Grant
17-12-1-24-2001-001	87	Grant
17-12-1-24-3002-000	88	Deny

ADOPTED:

YEAS: Richard Bluemer, John Siler, Jr. Larry Tibbits

NAYS: None

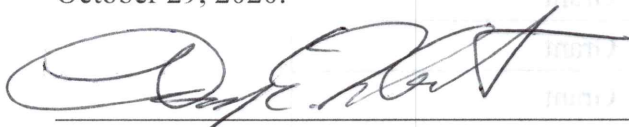
**Signature of ZBA Chair (or authorized ZBA member):** The ZBA Chair certifies that a majority of the entire ZBA membership voted to approve the above decision.

  
ZBA Chair/Authorized Member

Dated: October 29, 2020

### CERTIFICATION

I, the duly acting Secretary of the Jonesfield Township Zoning Board of Appeals, certify that on this date I witnessed the signature set forth above and attest to the accuracy of this Variance, which was approved by the Zoning Board of Appeals at a duly scheduled and conducted meeting on October 29, 2020.

  
ZBA Secretary

Dated: October 29, 2020