



October 12, 2020

VIA EMAIL CLERK@JONESFIELD.COM
Jonesfield Township Zoning Board of Appeals
217 Eddy Street, P.O. Box 117
Merrill, Michigan 48637
Attention: Ruth Coppens, Chair

Re: DTE Electric Company Requests for Setback Variances for WTG Towers

Members of the Zoning Board of Appeals:

DTE Electric Company (DTE) is in the process of seeking approvals and permits to construct a 225 MW wind park – known as Meridian Wind Park – in portions of Jonesfield Township, and portions of Porter and Mt. Haley Townships in Midland County. The project consists of 77 wind turbine sites and related infrastructure.

DTE submitted an application to the Jonesfield Township Planning Commission for a special land use permit and site plan approval for a Wind Turbine Generators project on August 12, 2020. The Jonesfield Township portion of the project consists of 26 primary WTG tower sites and 1 alternate WTG tower site, access roads, underground collection lines, and a collection substation.

Per Section 903(5)(E) of the Jonesfield Township Zoning Ordinance, please accept this letter as an application for setback relief for each of the 37 individual parcels identified in the Schedule of Variances By Single Parcel at Tab 1. DTE holds rights to use and develop each of these parcels under a Standard Utility Easement for Wind Energy Development (SUEWED) granted by each landowner. Evidence of DTE's land rights is on file with the Township Clerk. See Appendix A to DTE's Application for Special Land Use Permit and Site Plan Approval dated August 12, 2020, as amended August 26, 2020. Per SUEWED Section 5, DTE is authorized to seek approvals and permits from governmental agencies having jurisdiction over its proposed project, and each landowner has agreed to cooperate in that effort.

DTE seeks relief from the setback requirement of Zoning Ordinance Section 612(I). Section 612(I) requires WTG towers to be: "set back from all adjacent property lines and road right-of-way lines a minimum distance equal to the height of the tower, including the top of the blade in its vertical position."¹ The tip height of the WTG towers proposed for Jonesfield Township is either 492 feet (Vestas model) or 499 feet (GE model). Thus, depending on the turbine model, Section 612(I) requires WTG towers to be setback either 492 feet or 499 feet from all road rights-of-way and adjacent property lines.

¹ This description of tower height is commonly referred to as "tip height."

The practical effect of this setback requirement is to push WTG towers into the middle of parcels irrespective of whether adjacent parcels are under common ownership and/or subject to an easement allowing the property to be used by DTE for wind energy development. While it is common for townships to require WTG towers to be setback a minimum distance from road rights-of-way and project site boundaries (adjacent non-participating property lines), requiring WTG towers to be located away from adjacent property lines within the project site is unusual. WTG towers are typically co-located on a land that is being farmed, with co-location being viewed as an agricultural land preservation technique because wind energy generation allows for additional productive use of the land without significant displacement of agriculture. The power of co-location as an agricultural land preservation tool, however, is undercut if setback requirements force WTG towers into fields where they impede farming operations and impact farmland.

DTE's request for minimum set back relief is limited to property lines within the project site (property lines shared by participating landowners), and is intend to allow WTG towers to be located on or near a shared property line, where they have the least amount of impact on the land. The specific variances requested by DTE are shown on the Schedule of Variances by Single Parcel at Tab 1. The proposed locations for WTG towers are shown on the maps included at Tab 2.²

Zoning Ordinance Section 903(1) authorizes the Zoning Board of Appeals to grant dimensional variances upon a showing of practical difficulty, provided the "spirit of the Ordinance is observed, public safety is secured, and substantial justice is done." Section 903(5)(I) requires the ZBA to evaluate variances based on a showing of practical difficulty "in terms of the applicant's ability to physically locate a permitted use on a particular parcel of land," and a showing that the practical difficulty is not the result of an act of the applicant or property owner.

Maintaining Jonesfield Township as a rural residential community characterized by productive farmlands and attractive open spaces is a long-standing goal of the Township Master Plan. Encouraging the preservation of agricultural lands and existing farming operations is one means the Township Planning Commission has identified as achieving its agricultural land development goal. Another is encouraging the preservation of natural features and open space.

The soils in Jonesfield Township, however, present a challenge to its farmers. As documented in the Township Master Plan, the township soils fall principally in the Parkhill-

² The site plans submitted with DTE's application for a special land use permit include greater than minimum required setbacks from road rights-of-way and property lines separating the project site from adjacent non-participating parcels. DTE's design parameters require a WTG tower to be set back at least 1.5 times tip-height from any road right-of-way or project site boundary. All of the WTG towers proposed for Jonesfield Township will be located at least 1,000 feet from road rights-of-way and project property boundaries. Additionally, all WTG towers have been sited to maintain a distance of at least 1,320 feet from residential dwellings on properties outside the project site.

Capac and Parkhill-Wixom soil associations. Both soil associations are described as poorly drained. For this soil to be useable as cropland, it must be drained.

The drain tile necessary to support farming in Jonesfield Township presents a practical difficulty to siting WTG towers in the middle of farm fields. This infrastructure is essential as the soil itself to existing farms and agricultural land uses, and should be avoided to the extent practicable. Siting WTG towers in the middle of farm fields also presents other practical difficulties to farming operations. It impedes standardized techniques used for tilling, planting and harvesting, and precludes the installation and operation of standard irrigation systems.

These practical difficulties are not the result of actions taken by DTE. The purpose of this request is to avoid impacting existing land-based constraints (drain tiles) that exist throughout the township and make the land in the township farmable. The practical difficulty is also not the result of actions taken by landowners. Landowners did not install drain tile to make wind energy development more likely or feasible. It was done to make the land farmable. And because poorly drained soils and drain tile systems are pervasive in the township, the practical difficulty cannot be overcome by considering alternate sites.

Finally, granting the variances requested by DTE is in keeping with the spirit of the Zoning Ordinance. The variances will protect existing agricultural uses from unnecessary impacts that might otherwise interfere with farming operations or the viability of farming. Moreover, public safety is maintained and secured by the fact DTE's design parameters will still cause WTG towers to be pushed toward the middle of township sections (yet not to the middle of individual farm fields), away from road rights-of-way, existing residences, and locations where future residential development is more likely. And, with the setback relief requested, substantial justice is done because no property owner that is not participating in the project is affected by the relief. Accordingly, DTE respectfully requests that the Zoning Board of Appeals grant the setback relief identified in Tab 1, and such other relief it deems appropriate.

Sincerely,

A handwritten signature in black ink, appearing to read 'Matthew Wagner', with a long horizontal line extending to the right.

Matthew Wagner
Manager Renewable Energy Development

Copy: Larry Tibbits, Township Supervisor
Marcia Stanley, Township Clerk
Chris Patterson, Township Attorney
Alan Bean, Spicer Group, Planning Consultant

Attachments:

Tab 1 – Schedule of Setback Variances By Property
Tab 2 – Proposed WTG Tower Location Maps