

Chair
Andrew Richards
Vice-Chair
Jeff Carpenter
Secretary
Robert Reese, III
Board Members
Steven Smith, Trustee
Donald Riel
Steve Goodwin
Adam Bertram



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Community Development Director
Brett Wittenberg

Township Planner
Salam Habhab

Recording Secretary
Linda K. Parkinson

**ZONING BOARD OF APPEALS
MINUTES
WEDNESDAY, MARCH 17, 2021
7:00 P.M.**

MEETING WILL BE CONFERENCE CALL AND IN PERSON
Call-In Information
Conference Dial-In Phone # - 1-623-600-3750
Conference Code – 346832

Per the State of Michigan Department of Health and Human Services (MDHHS) Emergency Order – Gatherings and Face Mask Order dated March 2, 2021, this meeting will be held both in-person, up to a strict number of 25 persons, and virtually by phone conference. If attending in-person, mask usage is mandatory per the MDHHS order. No attendance beyond 25 persons, including Board members, will be permitted. Local law enforcement will be present to enforce, if necessary. Alternatively, per by the Open Meetings Act (OMA) 1976 PA 267, Board members and public may choose to listen and participate at the phone number above.

The call will be muted to reduce interference with proceedings. The public will be invited to make comments during the public comment sections of the meeting as well as before any vote. If you desire to comment, you will be invited to dial 5* so we can unmute your line. Please contact the Planning Department at (517) 669-6576 with any additional questions.

The regular meeting of the DeWitt Charter Township Zoning Board of Appeals was called to order at 7:00 p.m. by Vice-Chair Richards.

The Pledge of Allegiance to the Flag was said by those present.

ROLL CALL by Secretary Reese.

MEMBERS PRESENT: Richards, Reese, Carpenter, Riel (remote), Smith, Goodwin, Bertram (remote).

MEMBERS ABSENT: None.

APPROVAL OF AGENDA: Goodwin moved to approve the Agenda as presented. Supported by Carpenter.

ROLL CALL vote on motion:
AYES: 7 NAYS: 0
MOTION CARRIED.

APPROVAL OF MINUTES: Goodwin moved to approve the minutes of the October 21, 2020 meeting as printed. Supported by Carpenter.

ROLL CALL vote on motion:
AYES: 6 NAYS: 0 ABSTENTION: 1 (Bertram)

MOTION CARRIED.

CORRESPONDENCE: None.

PUBLIC COMMENTS: None.

UNFINISHED BUSINESS: None.

NEW BUSINESS:

I. PUBLIC HEARING – Emergent Biosolutions, requesting a variance of 9 feet to the maximum allowed 36 ft. for the height of a structure, to be allowed to construct a building that would be 45 ft. in height. The subject site is located southwest of the intersection of DeWitt Road and Port Lansing Road, in the southeast ¼ of Section 32 of DeWitt Charter Township (Parcel #050-032-400-010-50 and Parcel #050-032-400-011-00 to be combined for the 2022 assessment/tax role).

A. Open Public Hearing.

Chairman Richards declared the Public Hearing opened at 7:05 p.m.

B. Administrative Comments/Applicant/Public Comments.

Brett Wittenberg, Community Development Director, briefly reviewed staff's report dated March 1, 2021 pointing out the location of the site and reviewing the nature of the request.

The applicant is requesting a 9 ft. variance to the maximum allowed 36 ft. for the height of a structure, to be allowed to contract a building that would be 45 ft. in height.

The site currently has an improved parking lot, as well as a gravel parking area and various agricultural buildings. It should be noted the property was previously rezoned from A (Agricultural) to IH (Industrial, Heavy) September 2020 (RZ 20-880002).

There were thirty-three (33) notification letters sent out to the public. There were no inquiries regarding the request.

It should be noted that building height requirements are intended to provide for reasonable, dimensional placement of principal and accessory structures on lots to ensure appropriate physical separation from adjacent structures and uses, separation from the public right-of-way, and access to light, air, and view. It should be noted that the Planning Commission is reviewing an amendment to the Zoning Ordinance regarding the height limitations within the industrial zoning districts.

Wittenberg state Section 7.9 of the Zoning Ordinance provides the Zoning Board of Appeals with the power to authorize variances from the zoning requirements, provided all four of the Basic Conditions and at least one of the Special Conditions described in that section are satisfied. Staff analysis is as follows:

Basic Conditions:

Basic Condition a) – *Granting the variance will not be contrary to the public interest or to the intent and purpose of this Ordinance.*

The requested variance is not contrary to the public interest or the purpose of the Ordinance. As mentioned previously, the Planning Commission is considering an amendment to the Zoning Ordinance regarding the height of buildings in the industrial districts.

Basic Condition b) – *Granting the variance shall not permit the establishment within a district of any use which is not permitted by right, under special conditions, or by special use permit within that district.*

Production and processing facilities are permitted by right in the Heavy Industrial (IH) Zoning District.

Basic Condition c) – *Granting the variance will not cause a substantial adverse effect upon property values in the immediate vicinity or in the district in which the property of the applicant is located.*

There is no reason to believe that granting the variance would have a significant adverse impact on surrounding property values since the requested variance would allow for the existing vacant building to be utilized at its highest use.

Basic Condition d) – *The variance is not one where the specific conditions relating to the property are so general or recurrent in nature as to make the formulation of a general regulation for such conditions reasonably practical.*

In evaluating the Ordinance requirements of the various districts, and as mentioned previously, it is staff's belief that an amendment to the Zoning Ordinance is needed.

Special Conditions:

Special Condition a) – *Where there are exceptional or extraordinary circumstances or physical conditions such as narrowness, shallowness, shape, or topography of the property involved, or to the intended use of the property, that do not generally apply to other property or uses in the same zoning district and when such circumstances or conditions shall not have resulted from any act of the applicant subsequent to the adoption of this Ordinance and when such circumstances or conditions shall not have resulted from any act of the applicant in violation of a prior zoning ordinance applicable to said property.*

As identified in the application materials, the requested variance specifically relates to the intended use of the property.

Special Condition b) – *Where such variation is necessary for the preservation of a substantial property right possessed by other properties in the same zoning district.*

The subject property is currently vacant and would not necessarily require a variance under a different use within the Heavy Industrial (IH) Zoning District.

Staff is of the opinion that the variance request for the subject property meets all four (4) Basic Conditions and Special Condition (a) listed in Section 7.9 of the Zoning Ordinance.

B. Close Public Hearing.

Reese moved to close the Public Hearing at 7:12 p.m. Supported.

AYES: 7 NAYS: 0

MOTION CARRIED.

C. Discussion and possible action by Board of Appeals.

Bertram noted it was mentioned at the Planning Commission meeting that the Township's fire equipment is equipped to handle a building of this height. It was also discussed that there would be a sufficient area around the perimeter of the building so that equipment can access the structure easily.

Goodwin questioned if the Airport Authority has been contacted about this request since the site is in close proximity.

Wittenberg advised the applicant has already received site plan approval from the Planning Commission. The Airport Authority was contacted as part of the site plan review process. They identified the 45 ft. building height during site plan approval and have no issues.

Chairman Richards invited the applicant to speak.

Jeff Adcock, representing Emergent Biosolutions, 3500 N. Martin Luther King Blvd., Lansing, MI 48906, stated for the type of facility being proposed it would be very difficult to construct the building at 36 ft. in height. They feel it is very doable at a height of 45 ft.

There were no questions or comments from the Board members.

Chairman Richards invited public comment.

There was no public comment.

Carpenter moved that the Zoning Board of Appeals approve Appeal 21-770001, a variance of 9 ft. to the 36 ft. maximum height allowed for structures to be allowed to construct a building that is 45 ft. in height. Approval is based on a finding that the request meets all four of the Basic Conditions and Special Condition(a) listed in Section 7.9 of the Zoning Ordinance.

Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0

MOTION CARRIED.

D. Possible Certification of Decision.

Carpenter moved to approve the Certification of Decision for Request 21-770001 from Emergent Biosolutions.

Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0

MOTION CARRIED.

II. Election of Officers the Year 2021.

Chairman Richards opened the floor for nominations for the office of Chairman.

Secretary Reese nominated Andrew Richards for the office of Chairman. Seconded.

Hearing no further nominations, Reese moved to close the nominations for the office of Chairman and cast a unanimous ballot for Andrew Richards for the office of Chairman. Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0

MOTION CARRIED.

Chairman Richards opened the floor for nominations for the office of Vice-Chairman.

Goodwin nominated Jeff Carpenter for the office of Vice-Chairman. Seconded.

Hearing no further nominations, Reese moved to close the nominations for the office of Vice-Chairman and cast a unanimous ballot for Jeff Carpenter for Vice-Chairman. Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0

MOTION CARRIED.

Chairman Richards opened the floor for nominations for the office of Secretary.

Goodwin nominated Robert Reese III for the office of Secretary. Seconded.

Hearing no further nominations, Goodwin moved to close the nominations for the office of Secretary and cast a unanimous ballot for Robert Reese III for Secretary. Supported.

ROLL CALL vote on motion:

AYES: 7 NAYS: 0

MOTION CARRIED.

The Zoning Board of Appeals Officers for the Year 2021 are:

Andrew Richards, Chairman

Jeff Carpenter, Vice-Chairman

Robert Reese III, Secretary

PUBLIC COMMENTS ON NON-AGENDA ITEMS: None.

TRUSTEES REPORT:

Trustee Smith gave a brief report on business conducted and action taken at the recent Board of Trustees meeting.

DISCUSSION: None.

ADJOURNMENT: **Carpenter moved to adjourn the meeting a 7:28 p.m. Supported. MOTION CARRIED.**