

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 13, 2022**

MEMBERS PRESENT: Richard Hill, Carol Hagler, Tim Green, Eric Hernandez, Nancy Davis
Building Official Planning/Zoning Admin./ Matt Place
Attorney David Lattie
Recording Secretary Jami Vert

MEMBERS ABSENT: None

OTHERS PRESENT: Ken Bullis, Brittney Beavers, Mark Perkoski, Steve Shimmons,
Robert Burley, Roy Banister

CALL TO ORDER

The regular meeting of the Davison Township Zoning Board of Appeals was called to order at 7:00 P.M. at the Davison Township Municipal Center, 1280 N. Irish Road, Davison, MI 48423.

ADOPT THE AGENDA

MOTION BY DAVIS, SECOND BY HAGLER to adopt the September 13, 2022 agenda as presented. Motion carried unanimously.

PREVIOUS MINUTES

MOTION BY HAGLER, SECOND BY GREEN to approve the June 14, 2022, regular board meeting minutes as presented. Motion carried unanimously.

UNFINISHED BUSINESS

None

NEW BUSINESS

**CASE #16-V-2022-6 – WINDSOR PLACE APARTMENTS – IRISH/COURT – A VARIANCE
REQUEST OF SECTION 1738.7.a. – A 50-FOOT REDUCTION OF THE REQUIRED 75-FOOT
SETBACK FROM A WETLAND.**

Ken Bullis – from Edward Rose and Sons representing Windsor Place; request a reduction from the buffer requirement from 75-foot to 25-foot; reason for request is so that we can reduce the fill required of the wetlands; we had EGLE come out and verify with us; typical setback from EGLE is 25-foot; State of Michigan does not have a buffer; we respect the 25-foot; we are in the process of going for an application from EGLE; if we have to go with the 75-foot we will impact more of the wetland than what we would like to do; in your packet you should have an email EGLE.

Brittney Beavers – you should have an email in there explaining what we found.

Mark Perkoski – from Edward Rose and Sons; we understand the setbacks required by the township; however, we want to preserve more of the wetlands; if we were to apply the ordinance, we would have an unbuildable site; or we would have to fill more wetlands than what needs to be done.

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 13, 2022**

PUBLIC COMMENT PERIOD

Public Comment Period opened up at 7:15 p.m.

Roy Banister – 8261 E. Court St., Davison, MI – I was told by Randy back in 1998 when I was in the process of purchasing this property that in order for them to build more apartments, they would have to buy more land; I am not happy with this at all; I did not realize it was because all of the wetlands; my house is relatively close; no privacy in my back yard.

Robert Burley – I own property in the township; they are doing the same thing this time as they did last time; they are creating a hardship; think about that for a minute; what if I came to you and wanted to build a 20-story high-rise knowing that the ordinance would not allow that; you have to live with that law; I would say no.

Public Comment Period closed at 7:25 p.m.

Place – administrative review; variance request; Windsor Place Apartments; Edward Rose and Sons; Irish/Court; Case #16-V-2022-6; Parcel ID #25-05-08-551-050; they are requesting a variance of Section 1738.7.a for a reduction of 50-feet of the required 75-feet to the natural features setback of the wetlands; there are four areas shown on Sheet C200 presented by the applicant; area 1 contains 1,987 sq. ft.; area 2 contains 925 sq. ft.; area 3 contains 9,525.2 sq. ft; area 4 contains 3,191.1 sq. ft.; with a total affected wetland area of .25 acres; the Township Zoning Ordinance per section 17387.7.a requires a 75-foot setback to all natural features; however, Michigan Department of Environmental, Great Lakes and Energy states in their report that they will accept a 25-foot wide buffer to the wetlands on this site; the wetlands affected are in a low pedestrian traffic area; due to the sporadic locations of the wetland areas a practical difficulty does exist within this site; the Planning/Building Department would support a recommendation for approval based on the following reasons:

1. Due to the recommendation by the State of Michigan allowing a 25-foot buffer.
2. Due to the minimal encroachment to the wetlands and the size of the wetlands.

Lattie – I usually don't comment on the cases; Michigan regulates the wetlands; Issue we have is if the State of Michigan accepts the 25-foot buffer; we don't want to destroy the wetlands by filling it in; that carries heavy on my end; I will let you guys' figure that out, just wanted to give you, my opinion.

Hagler – if Michigan accepts 25-foot buffer; I don't see why we would fill in any.

Davis – you plan on filling some of the wetlands; across the drive?

Ken Bullis – we believe that those were carved out for ditches to get one body of water to the other spot; I don't have any historic information; we have owned the land back when we purchased in the early 70's; the body of water would build up; if we can reduce the impact we will; we still want to be able to run a mower through there.

Davis – if we did approve this or not approve can the state come in and override us?

Place – that is the process for the applicant to take it to the court and they could overturn this.

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 13, 2022**

Hill – I just learned something if we voted to turn it down, they could take it to circuit court.

Lattie – they have the option; they may find their way around it; they can go to circuit court and overturn it.

Davis – main concern EGLE could still disapprove it.

Green – how many units are they proposing to do?

Davis – 72 units.

Green – I am not in favor; they had all the opportunity back when they purchased it to do something with it.

Hernandez – I walked back there the other day; not pumped about extra apartments; some of these spots looks like the put irrigation systems in there to get water from one side of the other side; I am an environmentalist; I like to preserve for sure; it looks like dried ditches created by someone at some time; they have to have the apartments spaced out that far? State of Michigan does not require a setback for wetlands?

Brittney Beavers – they don't have setback requirements.

Hernandez – you would have to apply for a permit to fill in the wetland; does Michigan trump what we say in our township?

Lattie – State of Michigan has authority over the wetlands; they decide what the proper buffer should be; we haven't tailored our ordinance to deal with wetlands; that is the spot we find ourselves in; they do have the right to apply to EGLE to override our ordinance.

Hernandez – I feel okay if EGLE comes in and says this is okay.

Davis – even if we approve this, they still have to get approval from EGLE?

Lattie – correct.

Green – didn't they come in front of the planning commission?; didn't they come in front of us with building longer buildings.

Place – yes.

Green – can they still build without doing any of this?

Place – not with the 300-foot building; if the variance is denied they can get a permit to fill that.

Green – can they build without doing any of this what we asked them what we said last time?

Place – yes.

Green – that is why I am against this.

Lattie – is there a way to use this property for multi-use and not need this variance?

Ken Bullis – I think the answer is yes; but coming to the zoning board we are asking for a smaller set back.

Lattie – in all respects they are meeting the requirements.

Steve Shimmons – if you grant this variance, we are filling in less wetland; or if you deny it, we will fill in more wetland which is what we don't want to do.

**DAVISON TOWNSHIP
ZONING BOARD OF APPEALS
SEPTEMBER 13, 2022**

Green – we gave them a solution before; so now they come back to have a variance of a setback; I know Davison Township is for nature and our trails.

Hill – do we have any other questions?

Hernandez – these are actually smaller buildings then they put up before.

Green – they are coming at us at a different angle.

Davis – they did come back with the specs of the buildings; they are built to our ordinance; location of the wetlands.

Green – correct; but they do not have a hardship.

Ken Bullis – we are not coming at you from a different angle; we like Davison Township; we are trying to talk to the neighbors.

Green – do they still have to come in front of the planning commission.

Place – yes.

Lattie – you normally are a seven member board and in order to get the approval you need at least four votes.

MOTION BY DAVIS, SECOND BY HAGLER to approve Case #16-V-2022-6 – Windsor Place Apartments – a variance request of section 17387.7.a. – a 50-foot reduction of the required 75-foot setback from a wetland. Motion carried. Aye – 4; Nay - 1

PUBLIC COMMENT PERIOD

Public comment period opened at 7:15 p.m./ Public comment period closed at 7:25 p.m.

INFORMATIONAL ITEMS

None

ADJOURNMENT

MOTION BY HAGLER, SECOND BY DAVIS to adjourn at 7:40 p.m. Motion carried unanimously.

Eric Hernandez, Secretary