

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
PSE&G/Homestead Substation Upgrade & Variance
FILE #15-114**

I. INTRODUCTION

An application for one bulk variance has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Raymond A. Tripodi, P.E., P.P., P.M.P. of PSE&G, for the premises identified as Block 442, Lot 1.01, in the Township of North Bergen, Hudson County, New Jersey. The subject premises are located within a utility right-of-way, and thus are deemed to be within the Hackensack Meadowlands District's (District) Intermodal A zone pursuant to N.J.A.C. 19:4-3.6(a). The bulk variance is sought in connection with the applicant's proposal to install electrical equipment to upgrade service at the existing PSE&G Homestead Station on the subject property.

Specifically, the applicant is requesting relief as follows:

1. N.J.A.C. 19:4-5.91(a)3ii, which requires a minimum side yard setback of 25 feet. The applicant is proposing a concrete structure with a minimum setback of 20.3 feet from the westerly side lot line.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Jersey Journal. No written objections were received. A public hearing was held in the Office of the NJSEA on Tuesday, May 19, 2015. All information submitted to the Division of Land Use Management relative to this application is made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question, Block 442, Lot 1.01, contains approximately 2.076 acres. The property is designated as Right-of-Way (ROW) on the Official Zoning Map for the Hackensack Meadowlands District. Pursuant to N.J.A.C. 19:4-3.6(a), the property is deemed to be within the District's Intermodal A zone.

The subject property is rectangular in shape and contains frontage along West Side Avenue to the north. The site is bordered to the south by another property within the PSE&G ROW, to the west by an NJ Transit bus garage and park and ride facility with a commuter parking area, and to the east by an NJ Transit bus storage lot. The surrounding properties are principally developed with industrial uses. West Side Avenue is a heavily-travelled roadway with significant trucking activity.

The proposed project involves utility improvements required by PJM Interconnection LLC (PJM), the regional transmission authority for the northeastern United States that evaluates systems to ensure that the power demands and power capacity within the transmission system are sufficient. The proposed substation upgrade project is part of an overall transmission corridor upgrade between the PSE&G Bergen Switching Station in Ridgefield and the PSE&G Linden Switching Station in Linden. The existing substation was built in 1966 and currently serves approximately 32,000 customers. The upgrades are required to be in service by June 2016. The agencies that govern electric transmission requirements, including the Federal Energy Regulatory Commission (FERC) and PJM, may issue violations if the upgrades are not completed.

The subject property is currently developed with a one-story masonry building, electric substation, transmission wires and associated site improvements. The site is accessed from the Park & Ride Access Roadway by a road access easement. This application proposes to upgrade the existing

substation with the construction of a new control house, installation of electrical equipment, and associated site improvements. The new building and equipment will be raised a minimum of one foot above the base flood elevation, as indicated on the FEMA Flood Insurance Rate Maps, to make it more resilient to flooding conditions. The substation is not manned in its existing or proposed condition. The transformers have both containment walls and basins to capture any potential leakage of oil. The applicant requires a variance from the minimum side yard setback requirement of 25 feet, as a concrete structure to be used as a containment measure is proposed at a minimum setback of 20.3 feet from the westerly side lot line.

B. Response to the Public Notice

No written comments were submitted to this Office prior to the public hearing.

III. PUBLIC HEARING (May 19, 2015)

A public hearing was held on Tuesday, May 19, 2015. NJMC staff in attendance were Sara J. Sundell, P.E., P.P., Director of Land Use Management and Chief Engineer; Sharon Mascaró, P.E., Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, P.P., AICP, Senior Planner; Ronald Seelogy, P.E., P.P., Senior Engineer; and Brandon Alviano, Senior Planner.

A. Exhibits

The following is a list of the exhibits submitted by the applicant at the public hearing and marked for identification as follows:

<u>Number</u>	<u>Description</u>
A-1	"Site Plan," prepared by Bradley M. Johnson, P.E., of Black & Veatch, and Shehzad C. Khan, P.L.S., of PSEG Services Corporation, dated March 2, 2015, revised May 6, 2015.
A-2	"Homestead Substation Plan and Profile," Drawing Number 97561A-15P, prepared by Black & Veatch, dated August 8, 1966, revised through February 18, 2015.

B. Testimony

James Rhatican, Esq., of the firm, Chiesa Shahinian & Giantomasi, P.C., represented PSE&G, at the hearing. The following witness testified in support of the application:

1. Michael Percarpio, Senior Project Manager, PSE&G;
2. Bradley Johnson, P.E., Black and Veatch; and
3. Raymond Tripodi, P.E., P.P., P.M.P., PSE&G.

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Beth Calderone, Certified Shorthand Reporter.

C. Public Comment

No members of the public were present at the public hearing.

IV. RECOMMENDATION

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.91(a)3ii, which requires a minimum side yard setback of 25 feet. The applicant is proposing a concrete structure with a minimum setback of 20.3 feet from the westerly side lot line.

The District Zoning Regulations at N.J.A.C. 19:4-4.14(e) state in part that, *a variance shall not be granted unless specific written findings of fact directly based upon the particular evidence presented are made that support conclusions that...*

1. *Concerning bulk variances:*

- i. *The variance requested arises from such condition that is unique to the property in question, is not ordinarily found in the same zone, and is not created by any action of the property owner or the applicant.*

The subject property is within a ROW owned by PSE&G, and consists of approximately 2.076 acres. Pursuant to N.J.A.C. 19:4-3.6(a), the property is deemed to be within the District's Intermodal A zone. The site is uniquely configured, having a lot depth of 589 feet, approximately 4 times longer than its lot width of 150 feet. The subject property is currently improved with an existing electric substation, including a control house and electrical equipment. The site is accessed via the Park & Ride Access Roadway by a 25-foot-wide access road easement from NJ Transit to PSE&G. The location and configuration of these existing improvements on the lot include a pre-existing nonconforming setback of 19.2 feet along the westerly side yard to an existing masonry structure, whereas a minimum side yard setback of 25 feet is required.

The upgrade project is required as part of a regional resiliency initiative to upgrade existing energy infrastructure. As part of the

upgrade, the applicant proposes a concrete containment structure at a minimum setback of 20.3 feet measured from the westerly side property line. The concrete containment structure is a secondary containment measure for oil that may leak from the transformer and will prevent contamination on the site, which is located within a floodplain. The placement and configuration of the proposed equipment and control house on the site is dictated by the location of the existing equipment and regulatory requirements to maintain certain clearances between equipment structures. Therefore, the variance requested arises from conditions that are unique to the property in question and are not ordinarily found in the same zone.

- ii. *The granting of the variance will not adversely affect the rights of neighboring property owners or residents.*

The concrete containment structure is proposed to be located 20.3 feet from the westerly side property line. The proposed location is more distant from the westerly side property line than the existing nonconforming masonry structure on the northerly portion of the site. No adverse visual impacts are anticipated for the portion of the adjoining property to the west immediately adjacent to the substation, which is a paved vehicular use area utilized as an NJ Transit parking lot. Existing site and maintenance operations will be maintained at their present levels. The site is an unmanned electric substation that requires only occasional visits by PSE&G personnel.

The proposed variance will not impact the ability of neighboring properties to function as intended. Rather, the proposed

improvements will promote energy resiliency, which will benefit area energy customers. In addition, there are no residences in the general vicinity of the site. Therefore, the granting of the requested variance will not adversely affect the rights of neighboring property owners or residents.

iii. The strict application of the regulations will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner.

The strict application of the minimum side yard setback requirement of 25 feet on the subject property will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. The shape of the property is exceptionally long and narrow, and the location of new equipment on the site is constrained by the presence of existing improvements whose function must be maintained as they are upgraded.

The subject property has a width of 150 feet with an existing nonconforming setback of 19.2 feet provided to an existing structure within the westerly side yard. The installation of the concrete containment structure at a setback of 20.3 feet from the westerly side property line will not increase the current degree of nonconformity. The placement of the equipment and concrete containment structure is dictated by the location and configuration of the existing equipment on the site and regulatory requirements to maintain certain clearances between equipment structures, which represent exceptional practical difficulties in the ability to comply with the side yard setback requirements. The proposed

setback is required to accommodate the proposed concrete containment structure, the footprint of which is based upon the size of the transformer it serves. Therefore, the existing site conditions present exceptional practical difficulties in the ability to comply with the side yard setback requirements. Without the ability to install the new equipment within the designated westerly side yard setback, PSE&G would be hindered in its effort to provide safe, adequate, and reliable energy from this site to the region it serves.

iv. The variance will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare.

Approval of the requested variance to permit a 20.3-foot side yard setback, whereas a minimum side yard setback of 25 feet is required, will not result in substantial detriment to the public good and will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare. The proposed substation upgrades will promote the general welfare through the improvement of power capacity to the public customers of PSE&G that are served by this substation. The installation of the concrete containment structure around the new transformer will act as a secondary measure to capture any potential leakage, which will prevent contamination on the site and, in turn, will promote the public health, safety, and general welfare, particularly since the site is located in a floodplain.

The electric substation is an unmanned facility and requires only periodic maintenance by PSE&G personnel. Therefore, it is

anticipated that traffic levels will not differ from the existing operations at the site. Due to the transmission line design requirements, the shape of the parcel and the location of the existing equipment, it is not possible to maintain a 25-foot side yard setback.

v. The variance will not have a substantial adverse environmental impact.

The granting of the requested variance to permit a minimum side yard setback of 20.3 feet, whereas a minimum setback of 25 feet is required, will not have a substantial adverse environmental impact. The property contains a preexisting nonconforming side yard setback of 19.2 feet along the westerly property line. Minimum open space requirements will be maintained. The installation of the concrete containment structure will serve to contain any adverse environmental impacts from a potential oil leak. The NJSEA's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials and water quality will not be exceeded.

vi. The variance represents the minimum deviation from the regulations that will afford relief.

The proposed project involves the replacement and reconstruction of existing electric transmission equipment as part of a regional energy infrastructure initiative. The particular characteristics of the subject property, including the shape of the parcel and the location of existing improvements, constrain the ability of the proposed equipment upgrades to comply with the side yard setback

requirements of the Intermodal A zone. These conditions represent exceptional practical difficulties in the accommodation of the required upgrades to the substation. The proposed concrete containment structure, which extends approximately four feet into the required westerly side yard for a distance of approximately 35 feet, occupies only a small portion of the property's westerly side yard. Adequate light, air and open space will continue to be provided. Therefore, the requested variance represents the minimum deviation from the regulations that will afford relief.

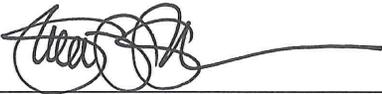
vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

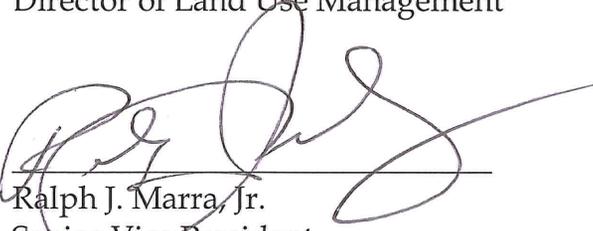
The granting of the requested variance to permit a 20.3-foot side yard setback, whereas a minimum side yard setback of 25 feet is required, will not substantially impair the intent and purpose of these regulations. The District Zoning Regulations are intended to provide for infrastructure and utility improvements and to promote the efficient use of the land, and the requested variance will not substantially impair these purposes. The proposed equipment upgrades are required to be located within the side yard setback as proposed due to the existing configuration of the property and the location of the existing improvements on site. The equipment upgrades will increase the reliability in the supply of electricity in the area, thus promoting the orderly development of the District.

IV. SUMMARY OF CONCLUSIONS

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.91(a)3ii, which requires a minimum side yard setback of 25 feet. The applicant is proposing a concrete structure with a minimum setback of 20.3 feet from the westerly side lot line.

Based on the record in this matter, the bulk variance application to construct a concrete containment structure within the required westerly side yard at a minimum setback of 20.3 feet, whereas a minimum side yard setback of 25 feet is required, is hereby recommended for APPROVAL.

APPROVAL 6/23/15 
Recommendation on Date Sara J. Sundell, P.E., P.P.
Variance Request Director of Land Use Management

APPROVAL 6/23/15 
Recommendation on Date Ralph J. Marra, Jr.
Variance Request Senior Vice President
Legal & Regulatory Affairs