

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
PSE&G/New Building & Site Work/Variance
File #13-288**

I. INTRODUCTION

An application for one bulk variance has been filed with the New Jersey Meadowlands Commission (NJMC) by Public Service Electric and Gas Company (PSE&G) for the premises located at 360 Washington Avenue, Block 124, Lot 27, in the Borough of Carlstadt, Bergen County, New Jersey. Said premises are located in the Commission's Light Industrial B (LI-B) zone. The variance is sought in connection with the applicant's proposal to construct a two-story, 4,172-square-foot Gas Insulated Switchgear (GIS) and Control House building with electric substation upgrades and associated site improvements on the subject property.

Specifically, the applicant is requesting relief as follows:

1. N.J.A.C. 19:4-5.84(a)3iii, which requires a minimum rear yard setback of 30 feet. The applicant is proposing to construct a GIS and Control House building that will provide a rear yard setback of 18.3 feet along the westerly property line.

Notice was given to the public and all interested parties as required by law. Public notice of this application was published in The Jersey Journal newspaper. No written comments regarding this application were received by the Division of Land Use Management during the public comment period. 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 consists of approximately 1.15 acres. It contains frontage on Washington Avenue to the east. The property is bordered to the west and south by warehouse/distribution facilities, and to the north by two vacant buildings that are located on a lot that is currently the subject of an on-going site remediation project. Other properties in the vicinity are generally industrial and commercial in character. There are no easements on the subject property.

The site is currently improved with electrical substation equipment. An existing concrete block control house building approximately 300 square feet in area will be demolished. Direct access from Washington Avenue to the subject premises is provided by an existing gravel driveway located on the northerly portion of the site.

The applicant is proposing to demolish the existing control house and construct a two-story, 4,172-square-foot GIS and Control House building with electric substation upgrades and associated site improvements. The first floor of the new building will house the gas insulated switchgear, with the control house located on the second floor. The proposed building will be unmanned, except for instances when crews are on site to perform equipment maintenance and repairs. No on-site parking spaces are proposed.

B. Response to the Public Notice

No written comments or objections were received during the public comment period.

III. PUBLIC HEARING (July 2, 2013)

A public hearing was held on Tuesday, July 2, 2013. NJMC staff in attendance were Sara 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; and Ronald Seelogy, P.E., P.P., Senior Engineer.

A. Exhibits

The following is a list of the exhibits submitted by the applicant to the NJMC regarding the variance request:

<u>Number</u>	<u>Description</u>
A-1	"Phase 3 - Site Plan," prepared by PSEG Services Corporation, dated May 6, 2013, revised June 10, 2013.

B. Testimony

The applicant was represented at the hearing by James Rhatican, Esq. The following four witnesses testified in support of the application:

1. Sal Bordanaro, P.M.P., PSE&G;
2. Brian Lanson, P.E., C.M.E., URS Corporation;
3. Robert Jordan, P.E., URS Corporation; and
4. William F. Masters, Jr., P.P.

Staff findings and recommendations are based on the entire record. A transcript of the public hearing was prepared and transcribed by Darlene Kulesa, Certified Court Reporter.

IV. RECOMMENDATION

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.84(a)3iii, which requires a minimum rear yard setback of 30 feet. The applicant is proposing to construct a GIS and Control House building that will provide a rear yard setback of 18.3 feet along the westerly property line.

The NJMC Zoning Regulations at N.J.A.C. Section 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.*

Development on the property in question is affected by the pre-existing lot dimensions and the configuration of existing electric substation equipment on site. Within the LI-B zone, a minimum lot depth of 150 feet is required, whereas the subject property has a minimum lot depth of 136.58 feet along the southerly side yard. The northerly side lot line has a length of 208.70 feet, which results in a rear property line angle that skews toward the southeast. The skewed westerly lot line affects the ability to comply with the zone's rear yard setback requirement.

The applicant proposes to construct a two-story, 4,172-square-foot GIS and Control House building in the westerly rear yard to increase electrical output of the substation from 26 kilovolts to 69

kilovolts. The configuration of the existing electric substation equipment on the subject property leaves the westerly portion of the site as the most appropriate location for a new building. None of the existing electric substation equipment can be taken off-line and moved during construction of new facilities and equipment, as the substation must be on-line at all times. Also, industry standards and codes dictate certain minimum clearances be maintained between equipment and structures for safety purposes, and to allow for routine maintenance.

This combination of conditions, relating to the size of the property and the siting of the existing electric substation equipment, impact the site in a unique manner. These conditions are not ordinarily found in the LI-B zone and were not created by any action of the property owner.

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

The neighborhood in which the subject property is located is primarily industrial and commercial in nature; no residences are located nearby. A warehouse and distribution facility is located south of the site. The westerly lot line adjoins the parking area for a warehouse and distribution facility on that site. Two vacant buildings are located north of the subject premises.

Placing the proposed structure towards the rear of the subject property will not create any negative visual impacts to neighboring properties, or impede their ability to function as intended. The

impervious footprint of the existing electric substation will not be significantly expanded. The new GIS and Control House building will be constructed within the existing fence line. No vegetation will be removed, and no significant amount of new impervious surface, with the exception of a slightly expanded gravel driveway, will result from the proposal. Therefore, granting of the requested variance to provide a reduced rear yard 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 regulations requiring a minimum rear yard setback of 30 feet along the westerly property line, whereas 18.3 feet is proposed, will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. The subject property contains a skewed westerly property line that results in the proposed structure having a minimum rear yard setback of 18.3 feet in the westerly rear yard.

Alternative locations to construct the proposed GIS and Control House building are limited due to the configuration of existing electrical equipment on the site. The proposed GIS and Control House building has been designed within the smallest footprint possible, according to testimony provided at the hearing. Pushing the rear building line to the east to comply with the required 30-foot rear yard setback would conflict with the location of existing equipment foundations, utility poles and overhead wires. The site

is an active electric substation, and this equipment cannot be taken off-line without jeopardizing supply of electricity to the area. Appropriate clearances must also be provided to proposed electrical equipment. Having the proposed building located toward the rear of the subject property is the preferable planning alternative.

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.

There will be no substantial detriment to the public good and no adverse impacts to the public health, safety, morals, order, convenience, prosperity or general welfare by the granting of the requested variance. PSE&G is a regulated public utility and is considered to be an inherently beneficial use. No adverse impacts to public health will result from the proposal, as adequate light, air, and open space will continue to be provided.

There will be no changes to the current on-site vehicle circulation pattern, and no loading doors will be provided. Access to the site from Washington Avenue will be maintained at the existing gravel driveway. In addition, excess noise, odor, vibration, or glare will not be generated as a result of the proposed GIS and Control House building. The proposed building will be unmanned, except for instances when crews are on site to perform equipment maintenance and repairs. Therefore, it is not anticipated that the proposed GIS and Control House building will cause significant changes to current traffic levels. The area of encroachment within

the westerly rear yard will occur within the existing fenced compound, therefore the footprint of the existing electric substation will not be expanded.

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

The granting of the requested variance will not have any adverse environmental impacts. The location of the proposed GIS and Control House building in relation to the rear yard will not cause the NJMC's performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare or water quality to be exceeded. The improved site will maintain 33.7 percent open space, in compliance with the minimum open space requirements of the LI-B zone, and adequate drainage will be provided.

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

The granting of the requested variance to construct a two-story, 4,172-square-foot GIS and Control House building addition with a minimum rear yard setback of 18.3 feet represents the minimum deviation from the NJMC regulations that will afford relief. Due to the particular characteristics of the property, the proposed building could not be constructed in a feasible manner if the required 30-foot rear yard setback was applied.

Due to the skew of the westerly property line, the provided setback ranges from 18.3 feet at the proposed southerly building line, to approximately 55 feet at the northerly building line. Compliance

with the rear yard setback requirement is not provided for approximately 40 feet, or about one-third, of the overall length of the rear building line. Alternative, compliant locations are not available on the site, due to the configuration of existing equipment and required clearances to be maintained between structures. The proposed location of the building does not comply for only a portion of the rear yard setback, representing approximately 240 square feet, or, less than six percent, of the GIS and Control House building area. The proposal represents a reasonable deviation from the requirements, given the particular site conditions and other regulations that require certain distances be maintained for utility structures.

Additionally, the total lot coverage and open space requirements are met by this application, which signifies that the property is not being overdeveloped by the proposed GIS and Control House building.

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

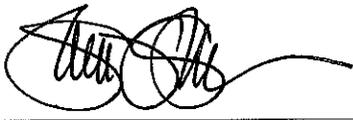
Specific purposes of the NJMC regulations include providing sufficient space in appropriate locations for a variety of uses, and ensuring that such uses are suitably sited and placed in order to relate buildings and uses to each other and to the environment so that aesthetic and use values are maximized. The placement of the GIS and Control House building efficiently balances the zoning requirements for the LI-B zone with the specific characteristics of the site, as detailed above. Adequate light, air, and open space will

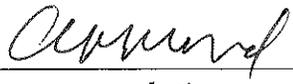
continue to be provided despite the requested variance. Therefore, the proposed variance does not substantially impair the intent and purpose of the NJMC zoning regulations. Further, the granting of the requested variance will contribute to and promote this intent by allowing the site to be developed and utilized in a safe, orderly, and efficient manner.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.84(a)3iii, which requires a minimum rear yard setback of 30 feet. The applicant is proposing to construct a GIS and Control House building that will provide a rear yard setback of 18.3 feet along the westerly property line.

Based on the record in this matter, the bulk variance application to construct a two-story, 4,172-square-foot GIS and Control House building with a proposed rear yard setback of 18.3 feet along the westerly property line, whereas a minimum rear yard setback of 30 feet is required, is hereby recommended for approval.

<u>APPROVAL</u>	<u>8-21-13</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

	<u>8/21/13</u>	
Recommendation on Variance Request	Date	Marcia A. Karrow Executive Director