

RECOMMENDATION ON THE VARIANCE APPLICATION OF
PSE&G/North Bergen Substation Upgrades
FILE # 14-596

I. INTRODUCTION

An application for three bulk variances has been filed with the New Jersey Meadowlands Commission (NJMC) by Raymond A. Tripodi, P.E., P.P., P.M.P. of PSE&G, for the premises identified as 4001 Paterson Plank Road, Block 442, Lot 8, in the Township of North Bergen, Hudson County, New Jersey. Said premises, although located within a utility right-of-way, are deemed to be within the Commission's Light Industrial A zone, pursuant to N.J.A.C. 19:4-3.6(a). The bulk variances are sought in connection with the applicant's proposal to construct a 1,120-square-foot control house, install electrical equipment, and construct associated site improvements on the subject premises.

Specifically, the applicant is requesting relief as follows:

1. N.J.A.C. 19:4-5.77(a)3i, which requires a minimum front yard setback of 50 feet. The applicant is proposing a concrete structure to be set back 22 feet from the front property line.
2. N.J.A.C. 19:4-5.77(a)3iii, which requires a minimum rear yard setback of 75 feet. The applicant is proposing a footing for an electric transmission structure to be set back 22.8 feet from the rear property line.
3. N.J.A.C. 19:4-8.10(a)1, which does not permit fences in the required front yard. The applicant is proposing two fences within the front yard along West Side Avenue.

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 Commission on Tuesday, January 6, 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 8, contains approximately 7.996 acres, of which a 1.898-acre portion of the lot parallel to West Side Avenue is subject to the instant application. 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 Commission's Light Industrial A zone.

The portion of the property that is subject to the variance request is rectangular in shape with 551.51 linear feet of frontage along West Side Avenue. The property is bordered to the north and south by PSE&G ROW property. The property is bordered to the west by a warehouse/distribution facility and to the east by West Side Avenue. The surrounding properties are principally developed with industrial uses. West Side Avenue is a heavily travelled roadway with significant trucking movements.

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 Ridgfield and the PSE&G Linden Switching Station in Linden. This substation currently serves

17,951 customers, which includes approximately 15,000 residential customers and 2,500 commercial customers. The existing substation was built in 1984, and is approaching its estimated 40-year lifespan. The major portion of 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 1-story masonry building, electric substation, transmission wires and associated site improvements. The site is accessed by driveways from West Side Avenue. 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 application includes the installation of a perimeter fence around the property for security. The 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.

B. Response to the Public Notice

One comment regarding the application was submitted to this Office in a letter dated 1/6/15, from Kenneth B. Rotter, Director, Property Management, NJ Transit, One Penn Plaza East, Newark, which was received after the conclusion of the public hearing.

III. PUBLIC HEARING (January 6, 2015)

A public hearing was held on Tuesday, January 6, 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 and Elizabeth Kenyon, P.E., Senior Engineer.

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 David C. Coleman, P.L.S., of PSEG Services Corporation, dated 10/15/14, last revised 12/16/14.
A-2	"Site Photographs" including "View Looking North from 71 st Street", "View of Southern Part of Site from West Side Avenue", "View of Northern Part of Site from West Side Avenue" and "View of Southwest Corner."
A-3	Aerial Photograph titled "North Bergen Substation Circa 2012."
A-4	"Landscape Plan," prepared by Roy Dunn & Associates Inc., dated September 2014.

B. Testimony

James Rhatican, Esq., of the firm Wolff Samson, represented PSE&G, at the hearing. The following witness testified in support of the application:

1. Thomas Coates, Senior Project Manager, PSE&G
2. Bradley Johnson, P.E., Black and Veatch
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. 19:4-5.77(a)3i, which requires a minimum front yard setback of 50 feet. The applicant is proposing a concrete structure to be set back 22 feet from the front 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.

The subject premises is a parcel owned by PSE&G, consisting of a 1.898-acre portion of Block 442, Lot 8. The property is deemed to be within the Commission's Light Industrial A zone, pursuant to N.J.A.C. 19:4-3.6(a). The subject property is uniquely configured, having a 150-foot-wide lot depth and 551.51-foot-long frontage along West Side Avenue to the east. The subject property is currently improved with an existing electric substation with a control house, transmission towers, and electrical equipment, and

contains access driveways from West Side Avenue. The location and configuration of these improvements on the existing lot include a pre-existing nonconforming front yard setback of 22.5 feet along West Side Avenue, whereas a minimum setback of 50 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 around a proposed transformer, which provides for a minimum 22-foot front yard setback, and a new control house with a proposed minimum 29.7-foot setback along West Side Avenue. The 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 of the transformer and control house is dictated by the location of 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, 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 preexisting nonconforming front yard setback of 22.5 feet to the existing transformer is proposed to be decreased by half a foot to 22 feet as a result of the installation of a concrete containment wall around the perimeter of the equipment on the site. The existing control house is proposed to be demolished and a larger

control house is proposed to be constructed on the northern portion of the lot at a setback of 29.7 feet. The proposed setbacks do not greatly exceed existing conditions and screening will be provided. Existing site and maintenance operations will be maintained at their present levels. The site is an unmanned substation that requires approximately two maintenance visits per week by one person.

The proposed variances will not impact the ability of neighboring industrial and commercial properties to function as intended. Rather, the proposed improvements will promote energy resiliency, which will benefit area energy customers. In addition, no residential uses are located within the vicinity of the subject property. 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 front yard setback requirement of 50 feet on the subject property would result in particular and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. The subject property has a lot depth of 150 feet with an existing nonconforming front yard setback of 22.5 feet, which is proposed to be reduced to 22 feet as a result of the installation of a concrete containment structure. When applying the required front yard setback of 50 feet

and the required rear yard setback of 75 feet, the resulting building envelope is only 25 feet wide. The required concrete containment structure around the new transformer and control house cannot be constructed within the 25-foot wide building envelope, which represents exceptional practical difficulties in the ability to comply with the front yard setback requirements. The placement of the proposed structures and equipment on the site is also limited by national regulatory codes that require specific clearance distances between equipment. The proposed setback is necessary to accommodate the required upgrades to the existing substation on the site, while maintaining adequate area to accommodate required clearances between equipment and structures.

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 minimum 22-foot front yard setback, whereas a minimum front yard setback of 50 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 and energy resiliency to the public customers of PSE&G that are served by this substation.

The upgrade project proposes a concrete containment structure around the transformer, which results in a 22-foot front yard setback. This proposed structure is a secondary containment

measure to capture any potential oil leakage from the transformer, which will prevent contamination on the site and, in turn, will promote the public health and safety, particularly in a floodplain. The positioning of the transformer is based on required regulatory clearances between equipment and structures on the site. Reduction in the front yard setback from the existing 22.5 feet to 22 feet as proposed will not have a negative impact on the public good. The existing substation is unmanned and traffic is minimal, and the proposed conditions will not substantially differ from the existing operations of the site.

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

The granting of the variance to permit a front yard setback of 22 feet, whereas a minimum of 50 feet is required, will not have a substantial adverse environmental impact. The existing non-conforming front yard setback is 22.5 feet and is being decreased by 0.5 feet by the proposed upgrades. The installation of a concrete containment structure, although within the required setback, will serve to contain any potential adverse environmental impacts from potential oil leakage, which is particularly important on a property within the floodplain. Minimum lot coverage and open space requirements are met, and existing drainage patterns will be maintained. The NJMC's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials or water quality will not be exceeded.

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

The proposed project involves an upgrade to an existing substation involving the replacement and reconstruction of existing transmission equipment as part of a regional energy infrastructure initiative. The particular characteristics of the property, including the narrow width of the parcel and the location of existing improvements, constrain the ability of the proposed improvements to comply with the front yard setback requirements. These conditions represent exceptional practical difficulties in the accommodation of the required upgrades to the substation. The placement of the proposed structures and equipment on the site is also limited by national regulatory codes that require specific clearance distances between equipment. The proposed upgrades extend only a half foot beyond the existing front yard setback, and occupy only a small portion of the property's frontage along West Side Avenue. 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 22-foot front yard setback, whereas a minimum front yard setback of 50 feet is required, will not substantially impair the intent and purpose of these regulations. Due to the existing configuration of property and the improvements on the site, including the narrow width of

the parcel, the layout of the proposed equipment required for the upgrades, and the existing nonconforming setback, the site is constrained in its ability to meet the required front yard setback. As the NJMC regulations are intended to provide for infrastructure and utility improvements and to promote the efficient use of the land, the requested variance will not substantially impair these purposes.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.77(a)3iii, which requires a minimum rear yard setback of 75.0 feet. The applicant is proposing a footing for an electric transmission structure to be set back 22.8 feet from the rear 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.*

The subject premises is a parcel owned by PSE&G, consisting of a 1.898-acre portion of Block 442, Lot 8. The property is deemed to be within the Commission's Light Industrial A zone, pursuant to N.J.A.C. 19:4-3.6(a). The subject property is uniquely configured, having a 150-foot-wide lot depth and 551.51-foot-long frontage along West Side Avenue to the east. The subject property is currently improved with an existing electric substation with a control house, transmission towers, and electrical equipment, and

contains access driveways from West Side Avenue. The location and configuration of these existing improvements on the lot include a pre-existing nonconforming rear yard setback of 24.1 feet, whereas a minimum setback of 75 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 foundation structure at a minimum setback of 22.8 feet, a concrete containment structure at 23.5 feet, and a new control house at 30.3 feet, as measured from the rear 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 of the equipment improvements and control house is dictated by the location of 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 proposed improvements result in a slight decrease of the existing nonconforming rear yard setback of 24.1 feet to a minimum of 22.8 feet due to the installation of an electrical transmission structure. The proposed difference of 1.3 feet between existing and proposed conditions will not result in a significant impact to neighboring properties. The containment structure and control

house are proposed to be located 23.5 feet and 30.3 feet, respectively, from the rear property line, which is further from the rear property line than the closest existing nonconforming structure. The adjoining property to the west contains an approximately 80-foot-wide open area between its vehicular use area and the subject property's rear lot line, allowing for sufficient separation between uses. Existing site and maintenance operations will be maintained at their present levels. The site is an unmanned substation which requires approximately two maintenance visits per week by one person.

The proposed variances will not impact the ability of neighboring industrial and commercial 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 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 rear yard setback requirement of 75 feet on the subject property will result in particular and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. The subject property has a depth of 150 feet with an existing nonconforming rear yard setback of 24.1 feet, proposed to be reduced to 22.8 feet as

a result of the installation of the electrical transmission structure. When applying both the required front yard setback of 50 feet and the required rear yard setback of 75 feet, the resulting building envelope is only 25 feet wide. The proposed equipment and structures cannot be constructed within the 25-foot wide building envelope, which represents exceptional practical difficulties in the ability to comply with the rear yard setback requirements. The placement of the proposed structures and equipment on the site is also limited by national regulatory codes that require specific clearance distances between equipment. The proposed setback is required to accommodate the required upgrades to the existing substation on the site, while maintaining adequate area to accommodate required clearances between equipment and structures. Therefore, the existing site conditions present exceptional practical difficulties in the ability to comply with the rear yard setback requirements.

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 22.8-foot rear yard setback, whereas a minimum rear yard setback of 75 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 intent of a 75-foot rear yard setback in the Light Industrial A zone includes the provision of sufficient area for truck maneuvering and loading areas in the rear of industrial properties. As the subject use does

not involve loading operations, a reduced setback at the subject property will not adversely affect the public health, safety, or general welfare.

Rather, 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 proposed project includes the installation of a concrete containment structure around the transformer, which provides for a 23.5-foot rear yard setback. This proposed structure is a secondary containment measure to capture any potential leakage from the transformer, which will prevent contamination on the site, and, in turn, will promote the public health and safety, particularly in a floodplain.

The existing and proposed substation is unmanned and only requires maintenance about twice a week by one person. Therefore, traffic is minimal and will not differ from the existing operations at the site. Due to transmission line design requirements, the narrow width of the parcel and the location of the existing equipment, it is not possible to maintain a 75-foot rear yard setback. Reduction in the rear yard setback from 24.1 feet to 22.8 feet will not have a negative impact on any of the surrounding properties.

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

The granting of the variance to permit a minimum rear yard setback of 22.8 feet, whereas a minimum of 75 feet is required, will

not have a substantial adverse environmental impact. The existing rear yard setback is 24.1 feet and is being decreased by 1.3 feet by the proposed upgrades. All minimum lot coverage and open space requirements are met, and existing drainage patterns will be maintained. The proposed substation upgrade project includes the installation of a concrete containment structure which will serve to contain any potential adverse environmental impacts from an oil leak. The NJMC's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials or water quality will not be exceeded.

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

The proposed project involves an upgrade to an existing substation involving the replacement and reconstruction of existing transmission equipment as part of a regional energy infrastructure initiative. The particular characteristics of the property, including the narrow width of the parcel and the location of existing improvements, constrain the ability of the proposed improvements to comply with the rear yard setback requirements of the Light Industrial A zone. These conditions represent exceptional practical difficulties in the accommodation of the required upgrades to the substation. The proposed improvements extend approximately 1.3 feet beyond the site's existing nonconforming rear yard setback of 24.1 feet, and occupy only a small portion of the property's rear 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 22.8-foot rear yard setback, whereas a minimum rear yard setback of 75 feet is required, will not substantially impair the intent and purpose of these regulations. Due to the existing configuration of property and the improvements on the site, including the narrow width of the parcel the layout of the proposed equipment for the upgrades, and the existing nonconforming setback, the site is constrained in its ability to meet the required rear yard setback. As the NJMC regulations are intended to provide for infrastructure and utility improvements and to promote the efficient use of the land, the requested variance will not substantially impair these purposes.

C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.10(a)1, which does not permit fences in the required front yard. The applicant is proposing two fences within the front yard along West Side Avenue.

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.*

The subject property is currently developed with an existing electric substation with a control house, transmission towers, electrical equipment, and access driveways from West Side Avenue. New security fencing is proposed along the northerly and southerly property limits of the subject parcel, with a portion of each fence extending into the required front yard along West Side Avenue. NJMC zoning regulations restrict the placement of fences within required front yards. The property is configured and improved in such a way that potential locations for a fence are limited without negatively affecting site improvements and jeopardizing site security. The applicant testified that security fencing surrounding the substation is required by the National Electric Safety Code (NESC). Thus, security requirements for critical infrastructure such as electric substations are heightened in comparison to other permitted uses in the Light Industrial A zone. Therefore, the variance requested arises from the conditions that are unique to the property in question, are not ordinarily found in the same zone, and were not created by any action of the property owner or applicant.

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

The installation of the proposed security fences within the front yard, as proposed, will not adversely affect the rights of neighboring property owners and residents. The subject property contains an existing chain link fence located approximately 1.4 foot off of the property line along West Side Avenue, and the proposed fencing in the northerly and southerly side yards must extend to

meet the existing fence in order to provide for adequate security on the site. The proposed fence will not obstruct access to neighboring properties. In addition, there are no residential uses located within the vicinity of the subject site.

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.

Portions of the new security fences proposed along the northerly and southerly limits of the electric substation extend into the required front yard along West Side Avenue, whereas fences are not permitted within the required front yard. An existing chain link fence is located approximately 1.4 foot off of the property line along West Side Avenue. The proposed fencing in the northerly and southerly side yards must extend to meet the existing fence in order to provide for adequate security on the site. If the fences were not permitted to extend into the front yard and connect with the existing fence, the security of the electric substation would be compromised by the resulting gaps in the fencing.

If the regulations were strictly applied, the applicant would be unable to provide for a continuous security fence around the site perimeter and, therefore, would be unable to secure the site in accordance with industry requirements. Thus, security requirements for critical infrastructure such as electric substations are heightened in comparison to other permitted uses in the Light Industrial A zone. The proposed location of the fence will allow the site to continue to function as intended.

Therefore, the strict application of the regulations governing fence location will result in particular and exceptional practical difficulties to, and exceptional and undue hardship upon, the property owner.

- 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 variance to permit two fences within the required front yard 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. Rather, the proposed fences will properly secure the site and thereby protect the public safety and general welfare. In addition, the protection of critical infrastructure, such as electric substations, is in the best interest of the general public. The proposed location of the fences will not result in any detriment to area traffic or cause back-ups on West Side Avenue by utility vehicles accessing the site. The existing and proposed substation is unmanned and, therefore, traffic is minimal and will not differ significantly from existing operations at the site. The proposed height of the fences will not exceed the eight-foot maximum height requirement in the Light Industrial A zone.

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

The granting of the requested variance to permit two fences within the front yard will not have a substantial adverse environmental impact. The proposed fences will secure the property and protect the public. Existing fences located extending into the front yard in the northerly and southerly portions of the site will be removed and new fences will be installed in the same general vicinity to correspond to the layout of the proposed upgrades. The proposed fences will not be located in environmentally sensitive areas, i.e. wetlands or open water, and existing drainage patterns will be maintained after the fences are installed. The NJMC's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials or water quality will not be exceeded.

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

The proposed fence plan represents a relocation and reconfiguration of existing fencing along the northerly and southerly property limits of the subject parcel. The existing fences currently extend east into the required front yard along West Side Avenue. The proposed fencing merely shifts the fencing to the north and south to correspond to the limits of the electric substation upgrade. There are no alternative compliant locations to provide a fence without altering the safe operation and layout of the substation. If the existing fence along the property's easterly front lot line along West Side Avenue (a continuing preexisting

nonconformity that is not the subject of this variance) were to be relocated to a compliant 50-foot front yard setback, the compliant fence would be placed through existing equipment on the site. This is not a practicable alternative. 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.

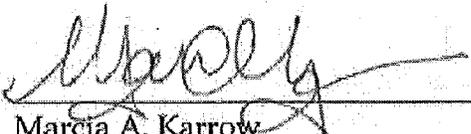
The granting of the requested variance to permit two fences within the required front yard will not substantially impair the intent and purpose of these regulations. The proposed fencing will connect to a preexisting nonconforming fence in the required front yard on the easterly lot line along West Side Avenue. Due to the particular characteristics of the property and the existing and proposed electric substation layout, the site cannot be redesigned to provide for a compliant fence location. The intent and purpose of fence regulations is to allow for site security, however, if the requested variance were not granted, that purpose would not be fulfilled. Therefore, the proposal supports the purpose of the NJMC zoning regulations to "promote development in accordance with good planning practices that relates the type, design, and layout of such development to both the particular site and surrounding environs."

IV. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.77(a)3i, which requires a minimum front yard setback of 50 feet. The applicant is proposing a concrete structure to be set back 22 feet from the front property line.

Based on the record in this matter, the bulk variance application to construct a concrete structure within the required front yard along West Side Avenue at a minimum setback of 22 feet, whereas a minimum front yard setback of 50 feet is required, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>3/4/15</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>approval</u>	<u>3/4/15</u>	
Recommendation on Variance Request	Date	Marcia A. Karrow Executive Director

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.77(a)3iii, which requires a minimum rear yard setback of 75 feet. The applicant is proposing an electric transmission structure to be set back 22.8 feet from the rear property line.

Based on the record in this matter, the bulk variance application to construct an electrical transmission structure within the required rear yard at a minimum setback of 22.8 feet, whereas a minimum rear yard setback of 75 feet is required, is hereby recommended for APPROVAL.

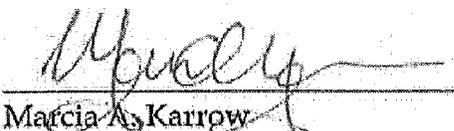
APPROVAL
Recommendation on
Variance Request

3/4/15
Date


Sara J. Sundell, P.E., P.P.
Director of Land Use Management

Approval
Recommendation on
Variance Request

3/4/15
Date


Marcia A. Karrow
Executive Director

- C. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.10(a)1, which does not permit fences in the required front yard. The applicant is proposing two fences within the required front yard along West Side Avenue.

Based on the record in this matter, the bulk variance application to install two fences extending east into the required front yard along West Side Avenue is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>3/4/15</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management

<u>Approval</u>	<u>3/4/15</u>	
Recommendation on Variance Request	Date	Marcia A. Karrow Executive Director