

**RECOMMENDATION ON THE VARIANCE APPLICATION OF
PSE&G/Carlstadt Substation - Security Wall & Variance
FILE # 16-395**

I. INTRODUCTION

An application for two bulk variances has been filed with the New Jersey Sports & Exposition Authority (NJSEA) by Public Service Electric and Gas Company (PSE&G), for the premises located at 360 Washington Avenue, identified as Block 124, Lot 27, in the Borough of Carlstadt, New Jersey. The subject premises is located within the Hackensack Meadowlands District's (District) Light Industrial B (LI-B) zone. The variances are sought in connection with the applicant's proposal to construct a retaining wall and security screening wall, relocate an existing gate, and install a security fence on the subject property to facilitate Bergen County's widening of Washington Avenue and installation of sidewalk.

Specifically, the applicant is requesting relief from the following:

1. N.J.A.C. 19:4-8.10(a)1, which prohibits fences or screening walls in excess of 24 inches in required front yards. A security screening wall and a security fence are proposed within the required front yard facing Washington Avenue.
2. N.J.A.C. 19:4-8.10(a)1, which prohibits fences or screening walls in excess of 24 inches in required front yards. A 13-foot-high security screening wall and a 10-foot-high security fence are proposed within the required front yard facing Washington Avenue, exceeding the maximum permitted height.

Notice was given to the public and all interested parties as required by law. The public notice was published in The Record newspaper. No written

objections were received. A public hearing was held in the NJSEA Offices on Tuesday, December 6, 2016. 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 along 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 ongoing 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 and a two-story, 4,172-square-foot GIS and control house building. 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 bulk variances are sought in connection with the applicant's proposal to construct a retaining wall and security screening wall, relocate an existing gate, and install a security fence on the subject property to facilitate Bergen County's widening of Washington Avenue and to allow Bergen County to install a sidewalk along PSE&G's property.

B. Response to the Public Notice

No written objections were received prior to the public hearing.

III. PUBLIC HEARING (December 6, 2016)

A public hearing was held on Tuesday, December 6, 2016. NJSEA 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 Ronald Seelogy, P.E., P.P., 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	"Security Wall Site Plan," prepared by PSEG Service Corporation on May 6, 2013, last revised November 10, 2016.
A-2	"Security Wall Plan & Elevation," Drawing No. 399150, prepared by the Concord Engineering Group on August 15, 2016.
A-3	"Security Wall Sections at Transformer 1TRK & 4 TRK," Drawing No. 399049, prepared by the Concord Engineering Group on August 15, 2016.
A-4	Untitled and undated photo of existing fence line looking due south along Washington Avenue.
A-5	"Photo Documentation Log," Figures 1 and 2, dated August 19, 2016.

B. Testimony

David Richter, Esq., of Public Service Enterprise Group, represented the applicant at the hearing. The following witnesses testified in support of the application:

1. Peter Maguire, Public Service Electric and Gas Company;

2. Albert P. Popoli, P.E., Concord Engineering Group; and
3. William F. Masters, P.P.

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(S)

- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.10(a)1, which prohibits fences or screening walls in excess of 24 inches in required front yards. A security screening wall and a security fence are proposed within the required front yard facing Washington Avenue.

The Hackensack Meadowlands 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 requested variance to permit a security screening wall and a security fence within the required 35-foot front yard setback facing Washington Avenue arises from conditions that are unique to the site. The subject property, which is located in the LI-B zone,

consists of approximately 1.15 acres fronting Washington Avenue to the east. The site is currently improved with an existing electrical substation, including a GIS building and electrical equipment. The existing substation facility's fence along Washington Avenue is located within the required front yard at a setback of approximately nine feet from the Washington Avenue right of way. The proposed security screening wall and security fence will be located approximately 7.9 feet from the Washington Avenue right of way to facilitate Bergen County's widening of the paved travel way of Washington Avenue and to allow Bergen County to install a sidewalk along PSE&G's property.

The County of Bergen requires that the proposed sidewalk be constructed on flat, level ground with a minimum clearance of five feet from existing obstructions to remain such as utility poles, where the width of the proposed sidewalk would be increased to as much as eight feet. The existing grade of the Washington Avenue right of way is approximately 4.5 feet higher than the grade/ground elevation of the substation facility site, and the transition between these two grades occurs within a relatively small distance, resulting in a steep slope. In order to accommodate the construction of the proposed sidewalk, retaining walls are required to be installed to address the change in elevation.

District zoning regulations restrict the placement of fences and screening walls within required front yards. Relocating the proposed security screening wall and security fence outside of the required front yard setback would result in a conflict with existing electrical equipment and require the placement of additional fill.

Industry standards and codes dictate certain minimum clearances be maintained between the equipment and structures for safety and security purposes and to allow for routine maintenance. Placement of the proposed security screening wall and security fence within the required front yard abutting the proposed sidewalk will provide security for the substation, while not jeopardizing the safety of employees working within the substation or pedestrians walking along Washington Avenue.

This combination of conditions impacts the subject property 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 granting of the requested variance to permit a security screening wall and security fence within the required front yard setback along the Washington Avenue right of way will not adversely affect the rights of neighboring property owners or residents. The site is located within a fully developed industrial area, and no residences are located nearby.

The proposed security screening wall and security fence will not create any negative visual impacts to the neighboring properties or impede their ability to function as intended. The security screening wall and security fence are proposed to be set back approximately 7.9 feet from the property line, and thus provide an adequate line of

sight for vehicular traffic exiting the both the subject site and the neighboring site. No vegetation will be removed, and no significant amount of new impervious surface will result from the proposal. 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 regulations will result in peculiar and exceptional practical difficulties to, and exceptional and undue hardship upon, the property owner. The easterly portion of the site in the vicinity of Washington Avenue was recently improved by PSE&G to accommodate the installation of additional equipment within the existing substation footprint. The approved site layout, which was designed to utilize the premises in a safe and efficient manner, included the installation of equipment foundations at or near the minimum required front yard setback line.

The strict application of the required 35-foot front yard setback would result in placing the security screening wall and security fence in a location that would conflict with the location of the equipment and areas used for site operations, thus rendering the substation essentially unsecured. To ensure public safety, appropriate clearances must also be provided to the electrical equipment. Two transformers located within close proximity of the Washington Avenue right of way are surrounded on three sides by a fire wall. The proposed security wall will screen both

transformers from the public thereby deterring vandalism of the equipment. Also, the proposed security screening wall would provide additional protection to the public in case of a transformer fire. The proposed location of the security screening wall and security fence will provide a level of safety for PSE&G while allowing the site to continue to function as intended, while maintaining the aesthetics of the neighborhood.

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 effects to the public health, safety, morals, order, convenience, prosperity, or general welfare by the granting of the requested variance. No adverse impacts to public health will result from this 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, as equipment will be continue to be able to be accessed from within the site and access to the subject premises from Washington Avenue will be maintained via an existing curb cut at the northerly end of the site.

The surrounding neighborhood properties principally consist of industrial uses. The applicant is proposing to construct a security screening wall and security fence within the required 35-foot front yard setback along Washington Avenue. The security screening wall and security fence are proposed to be set back approximately 7.9 feet from the front property line, along the edge of the proposed

sidewalk, minimizing any potential line of sight issues for vehicular traffic exiting the site or the neighboring property. The proposed security screening wall will be clad in decorative panels, while the type of material of the proposed security fence will match the existing security fence at the substation.

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

The granting of the requested variance to permit a security screening wall and security fence within the required front yard setback will not have any adverse environmental impacts. The location of the proposed security screening wall and security fence within the required front yard along Washington Avenue will not violate the District's performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare, or water quality. In addition, no environmentally sensitive areas will be disturbed by the placement of the security screening wall and security fence.

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

The requested variance represents the minimum deviation from the regulations that will afford relief. Potential locations to provide a security screening wall and security fence without altering the safe operation and layout of the substation are limited due to the site's existing configuration and improvements and particular topographic conditions. The security screening wall and security fence are proposed to be set back approximately 7.9 feet from the

property line, along the proposed sidewalk, providing adequate line of sight for vehicular traffic exiting the both the subject site and neighboring site.

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

The requested variance to permit a security screening wall and security fence within the required front yard setback along Washington Avenue will not substantially impair the intent and purpose of the regulations. One intent of prohibiting fences and screening walls in required front yards is to minimize the visual impacts to neighboring properties. The property in question is located in the LI-B zone, which is comprised of various industrial and commercial uses. Although the proposed security screening wall and security fence will be located in the required front yard setback, the security screening wall and security fence have been designed to minimize the visual impact to the surrounding area. Further, the security screening wall and security fence at the proposed location will provide a level of safety for PSE&G while maintaining overall logistical functionality of the site.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.10(a)1, which prohibits fences or screening walls in excess of 24 inches in required front yards. A 13-foot-high security screening wall and a 10-foot-high security fence are proposed within the required front yard facing Washington Avenue, exceeding the maximum permitted height.

The Hackensack Meadowlands 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 requested variance to permit a 13-foot-high security screening wall and a 10-foot-high security fence within the required 35-foot front yard setback facing Washington Avenue arises from conditions that are unique to the site. The subject property, which is located in the LI-B zone, consists of approximately 1.15 acres fronting Washington Avenue to the east. The site is currently improved with an existing electrical substation, including a GIS building and electrical equipment. The existing substation fence along Washington Avenue is located within the required front yard at a setback of approximately nine feet. The proposed security screening wall and security fence will be located approximately 7.9 feet from the Washington Avenue right of way to facilitate the widening of the paved travel way of Washington Avenue and allow for the installation of sidewalk by the County of Bergen.

Due to the location of the proposed security wall and fence adjacent to the proposed relocated sidewalk, there is no additional buffer available between the security wall/fence and pedestrians walking along Washington Avenue. The height of the security wall/fence is required due to the location of the existing public utility improvements on the site and the unique public safety and security concerns to which they are subject.

These conditions impact the subject property in a unique manner.

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

The granting of the requested variance to permit a 13-foot-high security screening wall and a 10-foot-high security fence within the required front yard setback along the Washington Avenue right of way will not adversely affect the rights of neighboring property owners or residents. The site is located within a fully developed industrial area; no residences are located nearby.

The proposed height of the security screening wall and security fence will not create any negative visual impacts to the neighboring properties or impede their ability to function as intended. The proposed heights will not result in any potential line of sight issues for vehicular traffic exiting the neighboring properties. No vegetation will be removed, and no significant amount of new impervious surface will result from the proposal. 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 regulations will result in peculiar and exceptional practical difficulties to, and exceptional and undue hardship upon, the property owner. The easterly portion of the site in the vicinity of Washington Avenue was recently improved by PSE&G to accommodate the installation of additional equipment within the existing substation footprint. The approved site layout, which was designed to utilize the premises in a safe and efficient manner, included the installation of equipment foundations at or near the minimum required front yard setback line. The strict application of the required eight-foot maximum permitted height applicable to fences and walls would not adequately secure the site. The additional height will prevent unauthorized access to the site by thwarting potential climbers, and will also prevent items from being thrown over the fence by pedestrians and motorists along Washington Avenue. The proposed heights of the security screening wall and security fence will allow the site to continue to function as intended, while maintaining the aesthetics of the neighborhood.

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 effects to the public health, safety, morals, order, convenience, prosperity, or general welfare by the granting of the requested variance. No adverse impacts to public health will result from this proposal, as adequate light, air, and open space will continue to be provided.

The surrounding neighborhood properties principally consist of industrial uses. The applicant is proposing to construct a 13-foot-high security screening wall and a 10-foot-high security fence within the required 35-foot front yard setback along Washington Avenue. The security screening wall and security fence are proposed to be set back approximately 7.9 feet from the front property line, along the edge of the proposed sidewalk, and the proposed heights will not result in any potential line of sight issues for vehicular traffic exiting the site or the neighboring property. The proposed security screening wall will be clad in decorative panels, while the type of material of the proposed security fence will match the existing substation security fence.

The proposed heights and design of the security wall and fence will prevent unauthorized access to the site by thwarting potential climbers, and will prevent items from being thrown over the fence by pedestrians and motorists along Washington Avenue.

Therefore, the proposed variance will promote the public safety and welfare in the vicinity of a public utility site.

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

The granting of the requested variance to permit a 13-foot-high security screening wall and a 10-foot-high security fence within the required front yard setback will not have any adverse environmental impacts. The proposed heights of the security screening wall and security fence will not violate the District's performance standards regarding noise, vibrations, airborne emissions, hazardous materials, glare, or water quality. In addition, no environmentally sensitive areas will be disturbed by the proposed security screening wall and security fence at the requested heights.

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

The requested variance represents the minimum deviation from the regulations that will afford relief. Potential locations to provide a security screening wall and security fence without altering the safe operation and layout of the substation are limited. The proposed heights of the security screening wall and security fence will provide adequate line of sight for vehicular traffic exiting the site. In addition, the proposed heights are the minimum heights necessary to secure the safety and security of the public utility use on the site.

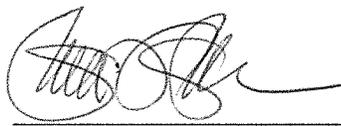
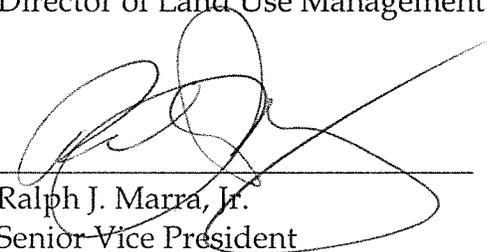
vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

The requested variance to permit a 13-foot-high security screening wall and a 10-foot-high security fence within the required front yard setback along Washington Avenue will not substantially impair the intent and purpose of the regulations. The maximum height requirement for fences and walls is intended to minimize the visual impacts to neighboring properties while providing adequate security for District properties. The property in question is located in the LI-B zone, which allows various industrial and commercial uses. The proposed fence and wall heights are required to secure a public utility use, which generally involves greater security needs than other uses in the zone. Although the proposed heights of the security screening wall and security fence exceed the maximum permitted height by five and two feet, respectively, the proposed wall and fence have been designed to minimize any negative visual impact to the surrounding area. Furthermore, the security screening wall and security fence at the proposed heights are required to maintain both the public safety and the security of the PSE&G improvements on the site.

V. SUMMARY OF CONCLUSIONS

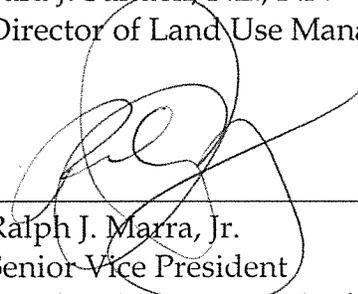
- A. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.10(a)1, which prohibits fences or screening walls in excess of 24 inches in required front yards. A security screening wall and a security fence are proposed within the required front yard facing Washington Avenue.

Based on the record in this matter, the bulk variance application to construct a security screening wall and a security fence within the required front yard facing Washington Avenue, whereas fences or screening walls in excess of 24 inches are prohibited in required front yards, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>2/1/17</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management
<u>approval</u>	<u>2/2/17</u>	
Recommendation on Variance Request	Date	Ralph J. Marra, Jr. Senior Vice President Legal & Governmental Affairs

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-8.10(a)1, which prohibits fences or screening walls in excess of 24 inches in required front yards. A 13-foot-high security screening wall and a 10-foot-high security fence are proposed within the required front yard facing Washington Avenue, exceeding the maximum permitted height.

Based on the record in this matter, the bulk variance application to construct a security wall with a maximum height of 13 feet and a security fence with a maximum height of 10 feet within the required front yard facing Washington Avenue, whereas fences or screening walls in excess of 24 inches are prohibited in required front yards, is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>2/1/17</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management
<u>approval</u>	<u>2/2/17</u>	
Recommendation on Variance Request	Date	Ralph J. Marra, Jr. Senior Vice President Legal & Governmental Affairs