

RECOMMENDATION ON THE VARIANCE APPLICATION OF
Transco/PSE&G Gas M & R Station - New Buildings/Variances
FILE # 21-289

I. INTRODUCTION

An application for two bulk variances has been filed with the NJSEA by Public Service Electric and Gas Company for the premises located along Paterson Plank Road and identified as Block 107.03, Lot 10, in the Borough of East Rutherford, New Jersey. The subject premises is located within the Hackensack Meadowlands District's Waterfront Recreation zone. The two bulk variances are sought in connection with the applicant's proposal to reconstruct portions of the East Rutherford Gas Metering and Regulating Station on the subject premises.

Specifically, the applicant is requesting bulk variance relief from the following:

1. N.J.A.C. 19:4-5.23(a)3i, which requires a minimum front yard setback of 25 feet; whereas, the applicant is proposing to construct an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road.
2. N.J.A.C. 19:4-5.23(a)3ii, which requires a minimum side yard setback of 25 feet; whereas, the applicant is proposing to construct a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line.

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 submitted to the Division of Land Use Management. An electronic public hearing was held virtually using Zoom video conferencing on Tuesday, March 8, 2022. All information submitted to the Division of Land Use Management relative to this application was made part of the record of this recommendation.

II. GENERAL INFORMATION

A. Existing and Proposed Use

The property in question consists of approximately 0.803 acres. It contains frontage on Paterson Plank Road to the east. The property is bordered to the north, west and south by undeveloped wetlands. There are no easements on the subject property.

The site is currently developed with gas metering and regulating station equipment, which takes high pressure natural gas from Transco, the supplier, then measures the flow, and lowers the pressure for distribution to local gas mains. An existing one-story block building, concrete pad and equipment cabinet, and a one-story metal building located on the northerly portion of the site will be demolished. A one-story metal building and a Transco metering and regulating building located on the southerly portion of the site will remain. Direct access from Paterson Plank Road to the subject premises is provided by two existing paved gated driveways located on the easterly portion of the site.

As part of PSE&G's Energy Strong II (ESII) flood mitigation program, the applicant is proposing to upgrade the facility by constructing a 3,745-square-foot regulator building and a 396-square-foot electrical control building with gas metering and regulating station upgrades and associated site improvements. The project intent is to elevate critical natural gas metering and regulation equipment at least one-foot above FEMA base flood elevations to improve reliability and increase capacity of the system. The proposed building will be unmanned, except for instances when crews are on site to perform maintenance and repairs. No on-site parking spaces are proposed.

B. Response to the Public Notice

No written comments or objections were received prior to the hearing.

III. PUBLIC HEARING (March 8, 2022)

A public hearing was held on Tuesday, March 8, 2022. NJSEA staff in attendance were Sara Sundell, Director of Land Use Management and Chief Engineer; Sharon A. Mascaró, Deputy Director of Land Use Management and Deputy Chief Engineer; Mia Petrou, Supervising Planner; and, Ronald Seelogy, Principal 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 PSEG Services Corporation on July 8, 2021, last revised on January 20, 2022.
A-2	"Existing Conditions Plan," prepared by PSEG Services Corporation on July 8, 2021, last revised on January 20, 2022.
A-3	"Energy Strong II East Rutherford M&R Station Overview and Grading Plan," Dwg. No. M-01, prepared by EN Engineering on July 29, 2021, last revised on January 20, 2022.
A-4	"Energy Strong II East Rutherford M&R Station Piping Sections," Dwg. No. M-02, prepared by EN Engineering on July 29, 2021, last revised on November 9, 2021.
A-5	"Energy Strong II East Rutherford M&R Station Piping Sections," Dwg. No. M-03, prepared by EN Engineering on July 29, 2021, last revised on November 9, 2021.
A-6	"Energy Strong II East Rutherford M&R Station Existing Conditions Plan," Dwg. No. M-04, prepared by EN Engineering on July 29, 2021, last revised on November 9, 2021.

- A-7 "Energy Strong II East Rutherford M&R Station Sediment & Erosion Control Plan," Dwg. No. C-0005, prepared by EN Engineering on November 23, 2021.
- A-8 "Energy Strong II East Rutherford M&R Station Sediment & Erosion Control Details 1," Dwg. No. C-0006, prepared by EN Engineering on November 23, 2021.
- A-9 "Energy Strong II East Rutherford M&R Station Sediment & Erosion Control Details 2," Dwg. No. C-0007, prepared by EN Engineering on November 23, 2021.
- A-10 "Energy Strong II East Rutherford Foundation Plan," Dwg. No. RUTH-S-0001, prepared by EN Engineering on November 23, 2021.
- A-11 "Energy Strong II East Rutherford Regulator Building," Dwg. No. RUTH-S-0002, prepared by EN Engineering on November 23, 2021.
- A-12 "Energy Strong II East Rutherford Regulator Building Elevations," Dwg. No. RUTH-S-0003, prepared by EN Engineering on November 23, 2021.
- A-13 "Energy Strong II East Rutherford Electrical Control Building and Details," Dwg. No. RUTH-S-0004, prepared by EN Engineering on November 23, 2021.
- A-14 "Energy Strong II East Rutherford Electrical Control Building Elevations," Dwg. No. RUTH-S-0005, prepared by EN Engineering on January 3, 2022, last revised on January 26, 2022.
- A-15 "Energy Strong II East Rutherford M&R Station Electrical Site Lighting & Photometric Plan," Dwg. No. E-01, prepared by EN Engineering on July 29, 2021, last revised on November 9, 2021.

B. Testimony

Glenn C. Kienz, Esq. of the Weiner Law Group LLP, represented PSE&G at the hearing. The following three (3) witnesses testified in support of the application:

1. Jeremiah Laurizio, PSE&G;
2. Steven Nolan, P.E., EN Engineering; and
3. 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 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. 19:4-5.23(a)3i, which requires a minimum front yard setback of 25 feet; whereas, the applicant is proposing to construct an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road.

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.*

Development on the property in question is affected by the pre-existing lot dimensions and the configuration of the existing gas metering and regulating station buildings and equipment to remain on site, including a pre-existing nonconforming setback of approximately seven feet along the easterly front yard to a metal enclosure maintained by Transco. Within the Waterfront Recreation zone, a minimum lot area of one acre is required, whereas the subject property has a lot area of 0.803 acres. The subject property's substandard lot area affects the ability to comply with the zone's front yard setback requirement.

The reconstruction project is required as part of a regional resiliency initiative to upgrade existing energy infrastructure. As part of the reconstruction project, the applicant proposes to construct an electrical control building on a platform elevated a minimum of one-foot above the FEMA base flood elevation at a minimum setback of 7.9 feet as measured from the easterly property line. The placement and configuration of the proposed electrical control building on the site is dictated by the location of existing equipment and the regulatory requirements of the National Electric Safety Code (NESC) 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 electrical control building will be located 7.9 feet from the easterly front property line. The proposed location is more distant from the easterly property line than the existing

nonconforming metal enclosure on the easterly portion of the site. No adverse visual impacts are anticipated by placing the proposed electrical control building within the required front yard facing Paterson Plank Road due to the 12-foot height of the structure and its distance from the paved traveled way of Paterson Plank Road. The configuration of the Paterson Plank Road right-of-way in the area of the subject site includes a gore area, which increases the right-of-way width to over 120 feet along the subject site's frontage, while the traveled way is located furthest from the frontage, within its eastern-most 30 feet. The properties surrounding the gas metering and regulating station are undeveloped, with no residences in the general vicinity. An existing billboard structure, which is located on Lot 11 to the north, will not be affected. No vegetation will be removed as the proposed electrical control building will be located within the existing fenced compound. PSE&G's existing site and maintenance operations will be maintained at their present levels. The site is an unmanned facility 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, according to testimony provided by PSE&G's project manager, will benefit 175,000 area energy customers. 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 25 feet on the subject property will result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the property owner. If the variance were not granted to permit the installation of the electrical control building as proposed with a front yard setback of 7.9 feet, PSE&G would not be able to upgrade the gas metering and regulating station to improve regional reliability and resiliency of the natural gas distribution system against severe storm events. The strict application of the 25-foot front yard setback would prevent the placement of the new electrical control building with the appropriate safety clearances while allowing for the necessary ease of movement of personnel and vehicles throughout the site.

Alternative locations to construct the proposed electrical control building are limited due to the configuration of existing gas metering and regulating station buildings and equipment, as well as NESC regulatory requirements to maintain clearances between equipment structures. The site is an active gas metering and regulating station, and this equipment cannot be taken off-line without jeopardizing the supply of natural gas to the area. Therefore, the existing site conditions present exceptional practical difficulties in the ability to comply with the front yard setback requirements. Without the ability to construct the new electrical control building within the designated front 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 the construction of the electrical control building with a 7.9-foot front yard setback, whereas a minimum front 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. PSE&G is a regulated public utility and is considered to be an inherently beneficial use. The proposed gas metering and regulating station reconstruction, which will increase the station's lifespan and bring it into compliance with regulatory requirements to maintain certain clearances between equipment structures, will promote the general welfare through the improvement of gas distribution reliability to the public customers of PSE&G that are served by this facility. No adverse impacts to public health will result from this proposal as adequate light and air will continue to be provided.

There will be no change to the current on-site vehicle circulation pattern, and no loading doors are proposed. Access to the site from Paterson Plank Road will be maintained at both existing gated paved driveways. In addition, excess noise, odor, vibration, or glare will not be generated as a result of the proposed electrical control building. The proposed electrical control 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 electrical control building will cause significant changes to current traffic levels. The area of encroachment within the easterly front yard will occur within the existing fenced

compound, therefore the footprint of the existing gas metering and regulating station will not be expanded.

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

The granting of the requested variance to permit a minimum front yard setback of 7.9 feet, whereas a minimum setback of 25 feet is required, will not have a substantial adverse environmental impact. The property contains a pre-existing nonconforming front yard setback of approximately seven feet along the easterly lot line. No wetlands will be disturbed during the construction of the proposed electrical control building. All proposed work will occur in previously disturbed areas. The District's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials and water quality, as enumerated in N.J.A.C. 19:4-7.1 et seq., will not be exceeded. Adequate drainage will be provided.

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

The proposed project involves the reconstruction of existing gas metering and regulating station equipment as part of a regional energy infrastructure initiative. The particular characteristics of the subject property, including the size of the parcel and the location of existing improvements, constrain the ability of the proposed electrical control building to comply with the front yard setback requirement of the Waterfront Recreation zone. These conditions represent exceptional practical difficulties in the accommodation of the required upgrades to the station. Adequate light and air will continue to be provided. The location of the proposed electric

control building on the site is constrained by the presence of existing improvements whose function must be maintained during reconstruction, as well as by regulatory requirements to maintain certain clearances between equipment structures and to ensure the safety of PSE&G personnel. Therefore, the variance request is the minimum deviation from the regulation 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 7.9-foot front yard setback to the proposed electrical control building, whereas a minimum front yard setback of 25 feet is required, will not substantially impair the intent and purpose of the District Zoning Regulations. Due to the substandard size of the property and the location of the existing improvements on site, including the layout of the existing structures and utility equipment to remain, the site is constrained in its ability to meet the required front yard setback. As the District Zoning 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 the purpose of the regulations.

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.23(a)3ii, which requires a minimum side yard setback of 25 feet; whereas the applicant is proposing to construct a regulator building with a minimum setback of 22.1 feet from the northerly side yard property 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.*

Development on the property in question is affected by the pre-existing lot dimensions and the configuration of the existing gas metering and regulating station buildings and equipment to remain on site. Within the Waterfront Recreation zone, a minimum lot area of one acre is required, whereas the subject property has a lot area of 0.803 acres. The subject property's substandard lot area affects the ability to comply with the zone's side yard setback requirement.

The applicant proposes to construct a 3,745-square-foot regulator building in the northerly side yard at a minimum setback of 22.1 feet. The configuration of the existing gas metering and regulating station buildings and equipment on the subject property leaves the northerly portion of the site as the most appropriate location for a new building. None of the existing gas metering and regulating station equipment can be taken off-line and moved during the construction of new facilities and equipment, as the station must be on-line at all times. Also, regulatory requirements dictate certain minimum clearances be maintained between equipment and structures for safety purposes, and to allow for routine maintenance.

This combination of conditions, related to the size of the property and to siting of existing gas metering and regulating station equipment, impact the site in a unique manner. These conditions are not ordinarily found in the Waterfront Recreation 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 proposed regulator building will be located 22.1 feet from the northerly side property line. No adverse visual impacts are anticipated as the properties surrounding the gas metering and regulating station are undeveloped. No residences are in the general vicinity. An existing billboard structure, which is located on Lot 11 to the north, will not be affected. No vegetation will be removed as the proposed regulator building will be located within the existing fenced compound. PSE&G's existing site and maintenance operations will be maintained at their present levels. The site is an unmanned facility 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, according to testimony provided by PSE&G's project manager, will benefit 175,000 area energy customers. 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. If the variance were not granted

to permit the installation of the regulator building as proposed with a side yard setback of 22.1 feet, PSE&G would not be able to upgrade the gas metering and regulating station to improve regional reliability and resiliency of the natural gas distribution system against severe storm events. The strict application of the 25-foot side yard setback would prevent the placement of the new regulator building with the appropriate safety clearances while allowing for the necessary ease of movement of personnel and vehicles throughout the site.

Alternative locations to construct the proposed regulator building are limited due to the configuration of existing gas metering and regulating station buildings and equipment, as well as regulatory requirements to maintain clearances between equipment structures. The site is an active gas metering and regulating station, and this equipment cannot be taken off-line without jeopardizing the supply of natural gas to the area. Therefore, the existing site conditions present exceptional practical difficulties in the ability to comply with the side yard setback requirements. Without the ability to construct the new regulator building within the designated 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 the construction of the regulator building with a 22.1-foot side yard setback, whereas a minimum front 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. PSE&G is a regulated public utility and is considered to be an inherently beneficial use. The proposed gas metering and regulating station reconstruction, which will increase the station's lifespan and bring it into compliance with regulatory requirements, will promote the general welfare through the improvement of gas distribution reliability to the public customers of PSE&G that are served by this facility. 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 change to the current on-site vehicle circulation pattern. A 12-foot by 12-foot roll-up door will be provided along the building's northerly façade strictly for the purposes of moving process equipment into and out of the regulator building. Access to the site from Paterson Plank Road will be maintained at both existing gated paved driveways. In addition, excess noise, odor, vibration, or glare will not be generated as a result of the proposed regulator building. The proposed regulator 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 regulator building will cause significant changes to current traffic levels. The area of encroachment within the northerly side yard will occur within the existing fenced compound, therefore the footprint of the existing gas metering and regulating station will not be expanded.

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 22.1 feet, whereas a minimum setback of 25 feet is required, will not have a substantial adverse environmental impact. No wetlands will be disturbed during the construction of the proposed regulator building. All proposed work will occur in previously disturbed areas. The District's environmental performance standards for noise, glare, vibrations, airborne emissions, hazardous materials and water quality, as enumerated in N.J.A.C. 19:4-7.1 et seq., will not be exceeded. Adequate drainage will be provided.

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

The proposed project involves the reconstruction of existing gas metering and regulating station equipment as part of a regional energy infrastructure initiative. The particular characteristics of the subject property, including the size of the parcel and the location of existing improvements, constrain the ability of the proposed regulator building to comply with the side yard setback requirement of the Waterfront Recreation zone. These conditions represent exceptional practical difficulties in the accommodation of the required upgrades to the station. The regulator building that is proposed to extend approximately 2.9 feet into the required side yard will only occupy a small portion of the property's northerly side yard. Adequate light and air will continue to be provided. The location of the proposed regulator building on the site is constrained by the presence of existing improvements whose function must be maintained during construction, as well as by regulatory

requirements to maintain certain clearances between equipment structures and to ensure the safety of PSE&G personnel. Therefore, the variance request is the minimum deviation from the regulation that will afford relief.

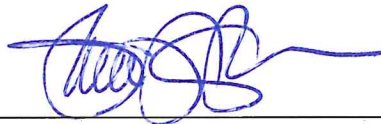
vii. Granting the variance will not substantially impair the intent and purpose of these regulations.

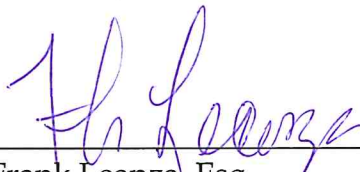
The granting of the requested variance to permit a 22.1-foot side yard setback to the proposed regulator building, whereas a minimum side yard setback of 25 feet is required, will not substantially impair the intent and purpose of the District Zoning Regulations. Due to the substandard size of the property and the location of the existing improvements on site, including the layout of the existing utility buildings and equipment to remain, the site is constrained in its ability to meet the required side yard setback. As the District Zoning 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 the purpose of the regulations.

V. SUMMARY OF CONCLUSIONS

A. Standards for the Granting of a Use Variance from the Provisions of N.J.A.C. 19:4-5.23(a)3i, which requires a minimum front yard setback of 25 feet; whereas, the applicant is proposing to construct an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road.

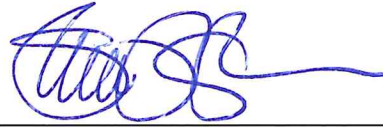
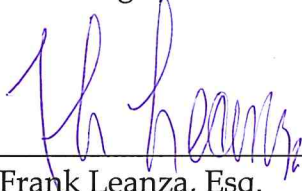
Based on the record in this matter, the bulk variance application to permit the construction of an electrical control building with a minimum setback of 7.9 feet from the easterly front yard property line along Paterson Plank Road is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>5/9/2022</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management and Chief Engineer

<u>APPROVAL</u>	<u>5/11/22</u>	
Recommendation on Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs

B. Standards for the Granting of a Bulk Variance from the Provisions of N.J.A.C. 19:4-5.23(a)3ii, which requires a minimum side yard setback of 25 feet; whereas, the applicant is proposing to construct a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line.

Based on the record in this matter, the bulk variance application to permit the construction of a regulator building with a minimum setback of 22.1 feet from the northerly side yard property line is hereby recommended for APPROVAL.

<u>APPROVAL</u>	<u>5/9/2022</u>	
Recommendation on Variance Request	Date	Sara J. Sundell, P.E., P.P. Director of Land Use Management and Chief Engineer
<u>APPROVAL</u>	<u>5/10/22</u>	
Recommendation on Variance Request	Date	Frank Leanza, Esq. Senior Vice President Chief of Legal & Regulatory Affairs