

Minutes of a SPECIAL meeting of the Board of Adjustment of the City of Clifton, New Jersey, held at the Council Chambers, City Hall, Clifton, New Jersey, on Wednesday, May 22, 2019. Chrmn Mark Zecchino led the entire assembly in the Pledge of Allegiance to the Flag of the United States of America. Pursuant to the "Open Public Meeting Law" all notice requirements were satisfied. Chrmn Zecchino announced the time, place, and form of notice as well as advising all applicants that formal action may be taken on the matters set forth on the Agenda. Said opening statement is incorporated herein by reference and made a part hereof.

PRESENT: COMRS SCOTT SOCHON, MICHAEL MOLNER, LOUIS DE STEFANO, GEORGE FOUKAS, ROY NOONBURG, AND CHRNM MARK ZECCHINO.

ABSENT: COMRS ZALMAN GURKOV, DANIEL TRENK, AND VICE-CHRMN GERARD SCORZIELLO.

Chrmn Zecchino advised all applicants that the testimony given before the Board was being tape recorded. The applicants were further advised of the right of appeal and the procedure to obtain a stenographic record of the Board.

NEW HEARING

1. **PUBLIC SERVICE ELECTRIC AND GAS COMPANY ("PSE&G")**

Use 121 St. Andrews Boulevard, Block 41.08, Lot 2 and
Variance; Block 47.12, Lot 3 – RA2 -- Preliminary/Final Site Plan/
Variances Variance/Conditional Use Variance approval. Portions of the Property are currently occupied by PSE&G's Clifton Substation, portions of the Athenia Switching Station and electrical transmission towers and/or monopoles. Pursuant to N.J.S.A. 40:55D-46, N.J.S.A. 40:55D-50 and N.J.S.A. 40:55D-67, the Applicant requests preliminary and final site plan approval to add to its existing facilities on the Property, along with a conditional use variance to permit the use of the Property for public utility facilities, and certain bulk variances to exceed the R-2A Zone's structure and fence height limits.

The Applicant proposes to install new electric process equipment to improve system reliability and capacity ("Project"). Specifically, the Applicant proposes to construct a new 69kV gas insulated switchgear ("GIS") building and a new 230kV GIS building on the Property located directly adjacent to the Clifton Substation. The 230kV source station will include the replacement of two (2) transmission towers with monopoles and the installation of a perimeter wall with fence segments.

The Applicant will also seek to consolidate the Property, which is owned by the Applicant and currently used for public utility facilities, into one (1) lot.

According to the City's Schedule of District Use Regulations, public utility facilities are considered a conditional use in all zones.

The Project is situated in the R-2A Zone and within 500 feet of a school, and therefore requires a variance under N.J.S.A. 40:55D-70(d)(3) to expand an existing non-conforming conditional use. The bulk requirements for the R-2A Zone have certain maximum height and construction details for structures and fencing that the Project will exceed. Accordingly, the Applicant requests variances pursuant to N.J.S.A. 40:55D-70(d)(6) to exceed the structure height limitation and pursuant to N.J.S.A. 40:55D-70(c)(2) to exceed the fence height limitation.

The Applicant shall also apply for such variance relief, exceptions, waivers or other approvals or licenses that are deemed necessary or appropriate by the Applicant or the Board and which may arise during the course of the hearing process. The Applicant may also revise the plans pursuant to comments made upon a review of the plans, testimony and other materials at the public hearing without further notice.

Kevin J. Coakley, Esq., of Connell Foley LLP with offices at 56 Livingston Avenue, Roseland, New Jersey, appeared on behalf of the applicant. Present and sworn were the following: Joe Liberatori of 40 Cragwood Road, South Plainfield, New Jersey; Kyle G. King of 64 Sherwood Drive, Lenox, Massachusetts; and David Karlebach, P.P. of 96 Linwood Plaza #433, Fort Lee, New Jersey. There were no objectors.

Mr. Coakley stated that the applicant has submitted a preliminary and final site plan, variance, conditional use application to expand its existing facilities at premises located at 121 St. Andrew's Boulevard, Block 47.12, Lot 3, and Block 41.08, Lot 2; that the project includes the construction of a new 69kV gas insulated switchgear (GIS) building and a 23kV GIS building adjacent to the existing Clifton Substation.

Joe Liberatori testified as the Project Manager and stated that the applicant proposes to expand its existing facility in Clifton which will be known as the Harvey Switching Station, is located adjacent to the existing substation in Clifton and will improve the existing electrical network; that the project will improve reliability and resilience while accommodating future growth demands at the applicant's network in the City of Clifton; that the site is ideally suited for this project due to the existing Clifton Substation; that the proposed Harvey Substation will satisfy the Pennsylvania, New Jersey, and Maryland intersection and the applicant's electrical reliability requirements.

Offered into evidence were the following exhibits:

"A-1" which is a site location map;

"A-2" Aerial photographs of the site in question;

"A-3" two photographs showing the existing and the proposed improvement with a view from the northeast looking southwest;

"A-4" two photographs showing a second view of the Harvey Switching Station existing and proposed view from the north looking south;

"A-5" two photographs showing a third view of the Harvey Switching Station existing and proposed with a view from the south looking northeast;

"A-6" is a fourth view of the Harvey Switching Station existing and proposed from the southeast looking northwest;

"A-7" is a public utility map.

Kyle King testified as a Professional Engineer and gave testimony concerning the purpose and scope of the Harvey Switching Station; the extent of the site alterations, topography, geology, soil erosion and sedimentation, and the benefits to the City of Clifton and the regional benefits of the nearby municipalities; that the applicant seeks to consolidate the 3.7 acre property identified as Block 47.12, Lot 3 with the property owned adjacent to it and utilized for public utility facilities at the

existing Clifton Substation containing 16.208 acres identified as Block 41.08, Lot 2 into one lot.

David Karlebach testified as a Professional Planner and stated that the site in question is approximately 19.5 acres; that the applicant is seeking approval for (D) and (C) variances, preliminary and final site plan approval for the expansion of the existing facility; that a (D)3 conditional use variance is required since the utility station is within 500 feet of a residential district or school; that a D(6) variance is required since the height is 10 feet or 10 percent greater than what is permitted in the zone; and a (C) variance for the fence height; that the applicant is an inherently beneficial use and, therefore, meets the positive criteria for the grant of a conditional use variance; that the site is suitable for the proposed expansion; that the permissible height of a building is 30 feet, and the applicant is proposing 43 feet; that the fence height permitted along the side lot line is 5 feet and the applicant is requesting 10 feet; that there will be two new monopoles and a perimeter wall; that the proposal presents no detriment to the neighborhood; that the proposal will not substantially impair the intent and purpose of the zone plan and zone ordinance; that the proposal supports several of the goals set forth in the Master Plan; that with respect to the bulk variances requested, the proposal supports the purposes of zoning, and the benefits derived by the variances would outweigh the detriments, if any; that it will take approximately three years to complete the project; that there will be no dust, smoke, smog, observable gas, fumes, or odors, heat, noise, or vibrations beyond the existing fenced area of the site; that the completion of the project will enhance reliability and enhance the ability to handle the electrical load growth; that the proposed upgrades address the adding equipment and material conditions of aging assets; that in his opinion, the variances requested may be granted without substantial detriment to the public good and will not substantially impair the intent and purpose of the master plan and the zone ordinance.

The Board had the benefit of a report from its Planning Consultant, Gregory Associates, dated May 22, 2019, and its Engineering Consultant, Neglia Engineering Associates, dated May 9, 2019.

After a review of the testimony, Comr Roy Noonburg moved to grant the application, citing the benefit to the City of Clifton, and instructed the Counsel Secretary to prepare the proper Resolution for approval of the application subject to compliance by the applicants of all recommendations set forth in the Neglia Engineering Associates report dated May 9, 2019 and that the applicant discuss with the Board's Consulting Engineer the issue of high pressure sodium lighting. The motion was seconded by Comr George Foukas. Voting in the affirmative were Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino.

There being no further business before the Board, Comr Louis DeStefano moved to adjourn. The motion was seconded by Comr George Foukas with the unanimous approval of the entire Board.

Respectfully submitted,

JOHN D. POGORELEC
COUNSEL SECRETARY

MEETING OF MAY 22, 2019.

RESOLVED by the ZONING BOARD OF ADJUSTMENT, CLIFTON, N.J., that the application of: **PUBLIC SERVICE ELECTRIC & GAS COMPANY**
for premises known as: **121 ST. ANDREW'S BOULEVARD, BLOCK 41.08,
LOT 2 AND BLOCK 47.12, LOT 3**

be and the same is hereby: GRANTED preliminary and final site plan approval, height variance and conditional use variance to install new electrical process equipment to improve system reliability and capacity including a new 69kV gas insulated switchgear (GIS) building and a 23kV GIS building; replacement of two transmission towers with monopoles; and the installation of a perimeter wall with fence segments and merger of Block 41.08, Lot 2 and Block 47.12, Lot 3.

Testimony concerning the aforesaid application was taken by the Board at its special meeting on May 22, 2019. Said testimony including the application and the plans and exhibits on file are incorporated herein by reference and made a part hereof.

After a review of the testimony, Comr Roy Noonburg moved to grant the application on the basis of the following Resolution:

WHEREAS, the applicant proposes to expand its existing facility at the Clifton Substation at premises located at 121 St. Andrew's Boulevard, Block 41.08, Lot 2 and Block 47.12, Lot 3, which premises are located in an RA2 zone; and

WHEREAS, the new expansion will be known as the Harvey Switching Station and will consist of the construction of a new 69kV gas insulated switchgear (GIS) building and a 23kV GIS building; and

WHEREAS, the Harvey project includes installation of a second floor control room, all associated transformers, relaying and supporting structures, disconnects, bus work, two transmission monopoles, and a perimeter wall with fencing; and

WHEREAS, the applicant did present three witnesses, a Project Manager, a Professional Engineer, and a Professional Planner who gave testimony in support of the application; and

WHEREAS, the Board had the benefit of reports from its Planning Consultant, Gregory Associates, dated May 22, 2019, and its Engineering Consultant, Neglia Engineering Associates, dated May 9, 2019; and

WHEREAS, the Board, after hearing and considering all the aforesaid submissions by the applicant, has made the following factual findings:

a. The applicant has submitted an application for preliminary and final site plan approval, (D)3 conditional use approval, (D)6 height variance, and a C variance for fence height, and merger of two lots;

b. The applicant is an inherently beneficial use;

c. The site in question is suitable since it is adjacent to and will expand the existing facility; therefore, the merger of the two tax lots is appropriate since the proposed structures will overlap existing lot lines;

d. The proposal will have a local benefit to the City of Clifton as well as a regional benefit to nearby municipalities and will increase electrical service capacity, provide operational flexibility, and maintain electric service reliability to the City of Clifton residents;

e. Based upon the testimony of applicant's Professional Planner, the applicant has satisfied the positive criteria since the proposal will inherently serve the public good and promote the general welfare;

f. The applicant has satisfied the negative criteria based upon the testimony of its Planning Consultant since the proposal will not have an adverse effect on the adjacent properties or do damage to the character of the neighborhood;

g. The proposal satisfies several of the zoning purposes listed in N.J.S.A.

40:55D-2;

h. The proposal satisfies several goals of the Master Plan to promote the conservation of historic sites and district, open space, energy resources, and valuable natural resources and to prevent urban sprawl and degradation of the environment through improper use of land;

i. The project is intended to provide enhanced electrical service for the project area to the benefits of the residents of the City of Clifton as well as adjacent municipalities;

j. The benefits of the application outweigh the detriments, if any; and

WHEREAS, the Board finds from the testimony presented that the proposal will be in accord with the intent and purpose of the master plan and the zone ordinance as set forth above; and

WHEREAS, the Board further finds that there has been no testimony presented to show that the proposal will be detriment to the health, safety, and general welfare of the neighborhood, to the contrary, the proposal will provide inherent electrical service for the residents of the City of Clifton;

NOW THEREFORE, BE IT RESOLVED that the application as aforesaid for a (D)3 conditional use variance, a (D)6 height variance, a (C) variance for fence height, preliminary and final site plan approval and merger of Lot 2, Block 41.08 and Lot 3, Block 47.12, at premises located at 121 St. Andrew's Boulevard, Block 41.08, Lot 2 and Block 47.12, Lot 3, be and the same is hereby approved and the (D)3 conditional use, (D)6 height variance, (C) variance for fence height, preliminary and final site plan approval and merger of Lot 2, Block 41.08 and Lot 3, Block 47.12, be and the same are hereby granted subject to such further governmental approvals as may be required by law and **subject to the following:**

A. Applicant shall comply with all recommendations set forth in the report of Neglia Engineering Associates dated May 9, 2019;

B. Applicants will review with Neglia Engineering Associates the installation of high pressure sodium lighting at the site; and the following:

1. Compliance with the terms of Neglia Engineering Associates report for the above-referenced project.
2. Submission to Neglia Engineering Associates of all necessary easements and/or cross-access agreements for review and approval by the Board Attorney and the City Engineer prior to filing of same.
3. Entering into a Developer's Agreement with the City of Clifton and payment of a site performance bond to the City of Clifton.
4. Submission of a site inspection escrow deposit for engineering inspection fees and safety and stabilization bond/guarantee in amounts to be determined by the Board Engineer.
5. Payment of all water and sewer connection fees to the Passaic Valley Water Commission and/or the Passaic Valley Sewer Commission, if necessary.
6. Issuance of a road opening permit from the County of Passaic or the Clifton City Engineer, if required.
7. Compliance with the terms of Gregory Associates, LLC report for the above project.
8. Shall maintain adequate escrow funds for all anticipated post-approval reviews.
9. Payment of any other fees due to the City of Clifton related to development or use of this project.
10. Payment of any outstanding taxes due and any outstanding fees to the City of Clifton.
11. Passaic County Planning Board approval or waiver.
12. Hudson Essex Passaic Soil Conservation District approval or waiver.
13. Submittal of approval or waiver of same from any additional agency having jurisdiction, including all applicable City, County, State, and Federal Laws, Ordinances, Regulations, and Directives, including without limitations the requirements of the City Engineering Department, City Fire Official, City Police Department, City Construction Code Official, City Board of Health, City Zoning Officer, and any other governmental authority.
14. Submission of engineering site plan to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of hearing.
15. Submission of architectural plans to comply with any changes required by the Planning or Engineering letters or plan amendments offered or required at the time of the hearing.
16. All sewerage, utilities, and other site improvements to be installed and maintained by the applicant at its sole expense.
17. All utilities to be constructed underground.
18. All temporary encroachments into the public right-of-way shall require City Council approval.
19. All construction staging shall be done on-site, unless an encroachment for same into the public right-of-way shall be approved by City Council.
20. Replacement of damaged streets, curbs, and sidewalks as per the direction of the City Engineer and/or Board Engineer.
21. All oral representations made to the Board by applicant, counsel for applicant or applicant's witnesses, not specifically contained herein, but incorporated by consent of applicant.
22. Shall, upon final determination of the building and building footprint, submit to the City Tax Assessor, floor plans, elevations and estimated construction costs of the building. These materials will be utilized to determine the applicable COAH residential or non-residential fee. Fee certification forms shall be completed by the applicant or its assignees and the Tax Assessor prior to submitting for a building permit.

23. Building permit applications shall only be submitted upon receipt of all required approvals/waivers. All building permit applications shall be accompanied by the Board Resolution of approval and with documentation that all conditions of approval have been satisfied. No permits are to issue unless and until the final sealed plans reflecting any changes or amendments have been submitted and approved. The Zoning Board shall retain jurisdiction to reconsider, revise, modify, add, and vary the terms of any conditions herein imposed upon any use variance, variances, and/or site plan granted herein.

24. This Resolution, if not acted upon (obtain building permit) within one (1) year of the date of adoption of this Resolution, shall become null and void, or as amended.

Resolution moved by: Comr ROY NOONBURG.

Seconded by: Comr GEORGE FOUKAS.

Affirmed by: Comrs Scott Sochon, Michael Molner, Louis DeStefano, George Foukas, Roy Noonburg, and Chrmn Mark Zecchino.