



# TOWN OF AMENIA

4988 Route 22, AMENIA, NY 12501  
(845) 373-8860 x122-124  
Fax (845) 373-9147

## ZONING BOARD OF APPEALS MEETING MONDAY, February 8, 2021

PRESENT: Acting Chairman – David Menegat – VIA ZOOM  
Member - Paula Pelosi – VIA ZOOM  
Member - Jim Wright – VIA ZOOM  
Member – Tracy Salladay – VIA ZOOM  
Member – Chairman – Terry Metcalfe

ABSENT: James Walsh – Alternate Member  
Brad Rebillard – Alternate Member

ALSO PRESENT: Rob Stout – Attorney VIA ZOOM  
Judy Westfall – ZBA substitute secretary &  
ZOOM ADMINISTRATOR-Town Hall  
Mary Steblein – NYSEG VIA ZOOM  
Tammy Kelley – NYSEG VIA ZOOM  
Scott Reinhart – NYSEG VIA ZOOM

Acting Chairman, David Menegat, asked for a motion to open the regular meeting. Motion was made and approved. The Pledge of Allegiance was recited and the meeting began at 7:05pm VIA ZOOM. Rob Stout asks for Mary Steblein from NYSEG to speak about the project. Mary Steblein is from LaBella Associates representing NYSEG and the Amenia Substation Expansion Project. Also on the ZOOM call are Tammy Kelley, project and unit manager for substations (familiar with this project) and Scott Reinhart with public outreach. NYSEG has been working with the Planning Board since late 2018 on this application which was set aside as some design items were reviewed. With recommendation by the Planning Board, certain variances were needed before a final decision is made. The goal for the existing substation is to update the substation so that there will be more available capacity in the area. The present equipment at the substation needs to stay in place during the new construction so not to interrupt current electric supply. That impacts some of the variance requests. Also, there are safety considerations that need to be accounted for. For example, the request for the higher fence height. Substations are subjected to the National Electrical Safety Code. This will allow

for what goes on inside the substation as well as keep people out of it. There are six(6) variance requests at this time.

1. Building Setback – Currently is non-conforming. The Front setback of the Control Building on the site is 140 ft. The Minimum setback in this area is 40ft. with a Maximum of 50 ft. which falls within the NYSDOT ROW Limit making it impossible to meet that. (Therefore a variance is needed) Requesting a variance of 285 ft. because the proposed setback of the New Control House is 335 ft. which is tucked in the back of the site behind the existing northern fence line. Rob clarifies by saying that this setback is based on the maximum not the minimum setback. (which Paula points out, is already exceeded the 50ft maximum)
2. Fence Height – The existing fence would be replaced in its entirety. It will generally follow the current fence line with the exception of this yard expansion to the north, which will be a brand new fence line. Requesting a variance of 5ft. The standard that is required of NYSEG is 8ft tall chain-link fence plus a 1ft. outrigger. That bringing it to 9ft tall. Town Zoning code allows for a 4ft fence in the front yard.
3. Maximum Impervious Surface – the existing condition is non-conforming of 32%. 30% is permitted and the proposal is for 38%. A variance of 8% is requested. Substation yard surface is designed as stone/gravel surface which helps with reducing step potential within the yard which is a safety concern.
4. Maximum Footprint for Non-Residential Structure – the current Control House is quite small. The proposed Control House would be 1,248 Sq.ft. Town Zoning permits 1,000 Sq.ft. A variance request of 248 Sq. ft. is needed. The Control House will contain new equipment that needs to be housed inside of a building. This will be different than the current substation layout whereas some panels that were currently outside will need to be inside. Therefore this building cannot be reduced in size.
5. Work Light Mounting Height – Several types of lighting are proposed for the site. Perimeter Security Lights; on from dusk until dawn every day, also supplemental work lights; used only when work needs to occur at the substation which are proposed to be mounted at 25ft. where the height allowance per code is 20ft. A 5ft.variance is requested.
6. Lightning Masts Height – Associated with the equipment at the site. These are 60 ft. tall. A maximum allowable height for a structure is 40ft. A variance of 20ft is requested. The masts must be this height for it to function as a lightning mast. It should also be noted that some of the work lights are mounted on the lightning masts making them on an already taller structure.

Discussion : J. Wright asks about attaching the lights to the lightning masts. Paula asks why the lightning masts have to be 60ft tall. Tammy Kelley(NYSEG) replies by saying they are Lightning masts which provide protection to the equipment from lightning strikes. Tracy asks if that is what's on the site now with the cross bracing. Are those lightning masts? Tammy replies by saying that lightning masts typically do not have cross bracing. Lightning masts are a straight metal pole. They usually have only a light mounted on them. She doesn't think there are any lightning masts on the site currently. She believes there are small masts mounted on a structure that no longer will be adequate once the size of the substation is increased. Tracy states that she had a difficult time reading the lighting plan. She couldn't find how many light poles are currently on site and also couldn't find the lightning masts located on the plans. She questions the numbers. Tammy says 4 Lightning masts. Mary says that Tracy is correct-it is not clearly shown on the plans. Tracy wonders how the height for these is set. Tammy stated that the height is set by electrical calculations to provide proper protection for the equipment. It is an actual electrical study that is done. The lightning masts create an umbrella of protection to the substation in its entirety. Paula reads (from google)" they are usually not mounted to the object they protect...they are designed to protect well above the projected area, and are placed near but not touching the protected object." So, they have to be high. Tracy says that the variance considers these masts "structures" and that 40 ft. is allowed. Planning board discussions noted it is a structure because it is steel and 60ft high and set into a concrete foundation. Tracy asks why the work lights need to be 25 ft. high. That will provide the adequate lighting in the emergency work situation. If something were to fail within the substation within the night hours, the 25ft height will illuminate the work area properly for safety of the workers as well as for them to adequately see to perform the work. Tracy asks is more lights at a lesser height would be just as adequate. Tammy says that the lower height lights (based on the calculations) would not properly light the equipment and perform the same safety features as the higher work lights. Terry asks where would those lights be positioned. The work lights will be aimed to the interior of the substation and only on during emergency situations. The majority of the light will be within the fence line. Tracy says our code requires that outside of the property line that there can be no higher than 5ft lights. Will that be the effect when these are installed? Tammy will need to check the calculations. The Planning Board discussion with the calculations said that it was almost nonexistent outside of the fence line. The calculations are based on the substation fence line not the property line. Tracy questions the maximum footprint for a non-residential structure. Aren't we dealing with a 50% expansion of an existing use? Because this is not a permitted use in this zone? Another issue that already was addressed at the Planning Board level. They could approve a special permit for a non-residential

structure expansion of up to 50% of its existing structure and this is BELOW the 50%. The Planning Board intends to approve this after the variances have been issued by the ZBA. As provided in a memo from the Planning Board, it has been recommended to approve all 6 variances at this time. The Planning Board has reviewed the application and is waiting for the approval and issuance from the ZBA. See referral letter from the Planning Board Chairman. Rob makes reference to John Andrews' memo comments and the specific lighting issues that were of concern. The Planning Board supported those issues and comments. As required in conversation with the Planning Board attorney, the approval of the 6 variances is necessary before moving ahead at the Planning Board level. Paula questions the difference between a minor and a major project. Any non-residential structure covering 3000 sq.ft. becomes a major project. Mary Steblein provides the written response that was provided by John Andrews. "The project appears to exceed one of the thresholds for a minor project in that it involves alteration and active use of 10,000 sq.ft. of land, thereby making it a major project. The actual alteration of the new area encompassing the new building and related structures is well under that amount, involving approximately 5000 sq.ft. The argument can be made that the balance of the project is not changing, merely removing and replacing equipment, the balance of the components of the action project fall within the minor project thresholds. The case could also be made that this is a minor project." This was deferred to the Planning Board for their determination. It was determined a minor project. Terry questions because it is a minor project, does the ZBA need to hold a Public Hearing. Rob says yes, the ZBA Needs to hold a Public Hearing and the Planning Board will not. A Public Hearing is required for any and all Area Variances. That will need to be scheduled for next month. Tracy mentions the code about minor and major project again for a threshold of 1,000 sq.ft. for any structure being added. And, there is more than 1,000 sq.ft. being added. Wouldn't that be a major project? Tammy Kelley responded by saying that the existing 1,000 sq.ft. building is also being removed. Once the new 1,200 sq ft. building is built, the other 1,000 sq.ft. building will be removed. Jim says it is clear to him that the new building has to be larger because of regulations about certain items that have to be sheltered. Tammy Kelley says there will be less exterior equipment. More of the equipment will be kept on the interior and not seen. Tracy wants to know where that is shown on the plans; are the buildings identified by dots that are being removed? Tammy Kelley says that almost the entire existing substation equipment is being removed. Very little will remain. The new structures that are being created are all going to stay. Tammy questions Mary to see if that is shown on the plans. Mary says Plan C-102 – Demolition Plan will show a cross hatch of all areas to be removed. Tracy says it was hard to tell because the drawings are so complicated and are not really drawn to convey zoning issues, they are drawn to build from.

Tracy wants the applicant to talk about the fence and why it's proposed to be 9 feet and in the drawings it shows razor wire on top and in your description it is called outrigger. What does outrigger mean? Answer: Razor wire. The outrigger is actually the piece of the fence that is angled. Tracy: So then, the razor wire goes above the outrigger? Tammy replies, the outrigger holds the razor wire. Is this fence see thru? Yes, it is a chain linked fence. Tracy believes that if a fence is see thru it is allowed to be taller. Maybe a variance is not needed? Is the height mandated by some code? Rob Stout says yes and is in the comment letter from John Andrews. Tracy means does the electrical code say that when substations are built, then the fence has to be 9 foot high? Tammy Kelley says she believes the height is based on the amount of voltage within the substation and safety standards. She says she doesn't know the specific code. She could find it out. Tracy says this is in a residential neighborhood and the view from the street is going to be visible from nearby houses and by people driving into town. Is there some kind of alternate security that could be done at the top on the side that faces the main road? Tammy Kelley says unfortunately, no. But NYSEG has agreed to do some landscaping as much as possible because they are already at the ROW for NYSDOT. They will be adding landscaping on the exterior of the fence to do their best to shield the vision of all new equipment and buildings. The landscaping, however, will not be high enough to cover the wire at the top. They have also agreed to use a Vinyl coated Black or green color for the fence. As far as changing the security measures on the fence from what they have, there is no other way to do this. Tracy asks if there couldn't just be an alarm system at the top. Tammy said that that would not be allowed. A requirement based on new regulations due to Homeland Security updates requires the fences as they have been proposed. Tracy say the idea of planting may sound like a solution but the guidelines for hamlet design that a high hedge is an equally unfriendly barrier to a chain link fence. So it's not really a solution that falls within the hamlet design guidelines. Tammy says it definitely wouldn't be a high hedge, it would not be above 4 ft. and would be individual plantings not a complete hedgerow. This was requested by the Planning Board. Tracy asks if the mature pine trees will be left in place. They do a lot to hide the existing equipment as such. Tammy doesn't recall any trees to be removed in front of the existing fence. Mary confirms that plans do not show any removal of vegetation between the existing fence and he roadway. Paula asks if the building is manned at all. The answer is no. There is no plumbing or convenience items at site and is an unmanned workspace. Any security system will be answered offsite anyway. Scott Reinhart from NYSEG speaks about the security and the fence. He says if one is to breach this fence or the facility, they would only have the opportunity to make one mistake. That mistake will not only affect just that

individual or family. We service in excess of 1,200 people through this substation currently. They all would be affected in a security breach.

Rob has comments from a procedural prospective. The Board, if it so chooses at this time could schedule a Public Hearing as discussed earlier for the approval of the Area Variances listed. Rob asks about a referral to the Dutchess County Planning & Development. Yes it was returned as “Local matter of concern” they had no issues. Rob says that the paperwork for variances should also be filed for from the ZBA. (another referral). The Ag Data Statement only referenced the Site Plan and not the area variances being requested. The 2 subjects will need to be sent to the recipients. An Amended AG Data Statement will be necessary for this from the applicant. Tracy questions one other thing in the drawings. The drawings show things like manholes and concrete boxes labeled sewer as well as something about oil containment. What is that about? Is that something already existing? Mary explains that there is existing oil containment for the transformer that is on the site. As part of the proposed work there will be a new transformer installed on the site that has an oil containment foundation system that is part of the spill prevention control and counter measures required by NYS to prevent the release of oil into the environment. This would be in place in case of catastrophic event occurred. There is also an internal drainage network throughout the site and underneath the conduit and cable trenches within the substation yard there is drainage piping and that water is collected and some of these holes labeled manholes etc., water is brought by drain to the northwest corner of the site. Transformer is the only thing with oil, it’s contained within. The drainage system is for if something happens. Rob speaks of Planning Board referring to the Project as a SEQRA TYPE II Action because of construction or expansion of a structure by less than 4000 sq.ft. so it would be appropriate for this board to make a similar conclusion. Deputy Chairman Menegat asks for final questions about the variances. D.Menegat asks for a motion to schedule the Public Hearing for the March 15, 2021 date. Motion was seconded and carried to hold the Public Hearing. A motion was also made, seconded and carried to declare the action a SEQRA Type II Action, as well as a motions to direct J. Westfall to make referral to Dutchess County Planning of the variances requested. Rob asked for the revised Ag Data Statement to be circulated from the applicant.

The next meeting, a Public Hearing for the NYSEG Substation Expansion – Variance requests will be held on Monday, March 15, 2021 VIA ZOOM.

Scott from NYSEG wants to be notified as to where the notification will be posted. J. Westfall said it will be in the Legal Ads of The Millerton News published 10 days in advance. Published Once a week on Wednesdays. And it will be on the Town of Amenia Website. Ameniany.gov. D. Menegat asks applicant if

they have any other questions of the board. Mary says she is sure that their path is clear from here.

The Minutes of the January 11, 2021 meeting VIA ZOOM were approved as presented by motion made and seconded.

The Meeting was adjourned by motion made and seconded at 7:48pm. The next meeting is scheduled for March 15, 2021 at 7pm.

Respectfully Submitted,

Judith Westfall  
Zoning Board of Appeals Substitute Secretary

The foregoing minutes are taken from a meeting of the Zoning Board of Appeals held on January 11, 2021 and are not to be construed as the official minutes until approved.

\_\_\_\_\_Approved as read

\_\_\_\_\_Approved with: additions, corrections and deletions