



TOWN OF AMENIA

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TOWN OF AMENIA ZONING BOARD OF APPEALS

Resolution # 1 for 2023

Resolution Memorializing Determination to Grant Six (6) Area Variances Related to Proposed Modifications to the Existing Amenia Substation

February 21, 2023

WHEREAS, by Application dated February 4, 2021, New York State Electric & Gas Corporation (the "Applicant") applied for six (6) area variances related to the proposed modifications to its existing electrical substation (the "Amenia Substation") located at 4723 NYS Route 22, Tax Parcel ID: 132000-7067-20-935134-0000 (the "Property"); and

WHEREAS, the proposed modifications to the Amenia Substation includes the construction of a new control house, transformer, and fencing with substation yard expansion (the "Project"); and

WHEREAS, the Property is located in the Town's Hamlet Residential ("HR") Zoning District; and

WHEREAS, the requested area variances sought by the Applicant in furtherance of the Project include: (1) a two hundred eighty five (285) foot variance to allow a setback of three hundred thirty five (335) feet where the maximum front yard setback in the HR District is fifty (50) feet and the current setback is one hundred forty (140) feet; (2) a twenty-four (24) foot variance to allow a setback of seventy-four (74) feet for a replacement fence, where the maximum front yard setback in the HR District is fifty (50) feet and the current fence setback is seventy-four and ½ feet (74.5) feet; (3) a variance to allow 38% impervious surface coverage where the maximum impervious surface coverage in the HR District is 30% and the current impervious surface coverage is 32%; (4) a two hundred forty eight (248) foot variance to allow a one thousand two hundred forty eight (1,248) square foot footprint where the maximum footprint for nonresidential structures in the HR District is one thousand (1,000) square feet; (5) a five (5) foot variance to allow a twenty-five (25) foot work light mounting height where the maximum allowable exterior lighting fixture height is twenty (20) feet; and (6) a twenty (20) foot variance to allow a sixty (60) foot lightning mast height where the maximum allowable height in the HR District is forty (40) feet; and

WHEREAS, the Town of Amenia Zoning Board of Appeals (the "ZBA") granted the six (6) area variances by Resolution 2 of 2021 on March 15, 2021; and

WHEREAS, the approvals lapsed after twelve (12) months in accordance with the Town

of Amenia Zoning Code (the “Zoning Code”) sections 121-59 B (3) and 121-59 K which require the applicant to “obtain a zoning permit or commence the use”, or “obtain any necessary building permit within twelve (12) months” of the variance approval; and

WHEREAS, the Applicant reapplied for the same variance relief on December 22, 2022; and

WHEREAS, the Dutchess County Department of Planning and Development in accordance with General Municipal Law 239-m requirements, deemed the application a matter of local concern on February 14, 2023; and

WHEREAS, a public hearing was held on the Application on February 21, 2023, and the public was invited to comment on the Application at the hearing or submit comments prior to the hearing for consideration by the Board; and

WHEREAS, the Town of Amenia Planning Board (“Planning Board”) granted a six (6) month extension of the site plan approval for the Amenia Substation Project at its regularly scheduled December 14, 2022 meeting; and

WHEREAS, the Planning Board, previously indicated in a memorandum to this Board, that it has met with the Applicant regarding the Project at two Planning Board meetings and recommended that this Board issue the requested area variances, as the requested variances have been discussed by the Planning Board and no major issues were identified; and

WHEREAS, the Planning Board has determined this to be a Type II action pursuant to the New York State Environmental Quality Review Act (“SEQRA”) because it involves the construction or expansion of a primary nonresidential structure involving less than 4,000 square feet of gross floor area and not involving a change in zoning or a use variance and is consistent with local land use controls pursuant to 6 NYCRR Part 617.5(c)(9); and

WHEREAS, at its February 21, 2023 meeting, the Zoning Board of Appeals readopted the findings below, which are being memorialized by this Resolution, consistent with Resolution 2 of 2021 dated March 15, 2021; and

NOW THEREFORE, BE IT RESOLVED, the Board finds that the granting of the requested area variances will not result in a detriment to the health, safety, or welfare of the neighborhood or community. In so finding, the Board notes that granting of the variances will not create an undesirable change in the character of the neighborhood, nor will there be a detriment to nearby properties; that the requested variances will permit the Amenia Substation to be set back further from the roadway; that the variances are necessary for the Applicant to expand the Amenia Substation to respond to increased need from the community; that the variances are substantial, but that the size of the variances alone in this instance should not be determinative given the character of the property; that the proposed variances will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood; that the proposed modifications will conform to the existing style of the Amenia Substation and other neighboring public utility uses; that the difficulty is self-created, by virtue of the Applicant’s desire to expand the existing


substation, as opposed to constructing a new substation; but that expanding the existing Amenia substation is preferable to and will likely result in less environmental impacts than constructing a new substation on an undeveloped lot. The Board finds that on balance, the Applicant's request for six (6) area variances shall be granted; and

BE IT FURTHER RESOLVED, that a copy of this Resolution shall be filed in the office of the Town of Amenia Town Clerk within five (5) days of the date of this Resolution and shall be mailed to the Applicant within the same five (5) day period.

The foregoing resolution was voted upon with all members of the Zoning Board of Appeals voting and signing as follows:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
Terry Metcalfe, Chairman	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
David Menegat	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Paula Pelosi	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Jim Wright	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Tracy Salladay	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Dated: February 21, 2023
Amenia, New York



Judy Westfall, Secretary
Town of Amenia Zoning Board of Appeals

FINDINGS IN SUPPORT OF VARIANCE APPROVAL

As to Variance #1

A two hundred eighty five (285) foot variance to allow a setback of three hundred thirty five (335) feet where the maximum front yard setback in the HR District is fifty (50) feet and the current setback is one hundred forty (140) feet.

Pursuant to Section 121-59(D)(2) of the Town of Amenia Zoning Code, the Board considered the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. For the following reasons the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community:

(a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

No undesirable change or detriment will be produced in the character of the neighborhood or to nearby neighbors from the grant of the area variance. This variance will permit the proposed control house and equipment to be set back farther from the roadway. The requested setback will be consistent with the existing structure and is being sought in order to modify the existing substation to respond to increased load.

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

There is no other feasible alternative method to expand the Amenia Substation other than by the proposed modifications. In addition, the Applicant notes that the requested variances are needed in order to ensure that the existing substation remains energized during construction.

(c) Whether the requested area variance is substantial;

The area variance is substantial. It is a 285-foot increase in the front yard setback requirement. It is a 195-foot increase in the current nonconforming front yard setback of the substation.

(d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

The proposed area variance will not have an adverse effect on the surrounding neighborhood or district. The proposed additions are consistent with the existing use and are necessary in order to meet NYSEG standards and the safety requirements of the National Electrical Safety Code ("NESC"). In addition, the requested setback will not affect the physical or environmental conditions of the Property.

(e) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.

The difficulty is self-created, by virtue of the Applicant's desire to expand the existing substation to respond to current need. However, expanding the existing Amenia Substation is preferable to and will likely result in less environmental impacts than constructing a new substation on an undeveloped lot in the Town. In addition, the difficulty does not detrimentally affect the health, safety, and welfare of the neighborhood or community and therefore shall not preclude the granting of this area variance.

FINDINGS IN SUPPORT OF VARIANCE APPROVAL

As to Variance #2

A twenty-four (24) foot variance to allow a setback of seventy-four (74) feet for a replacement fence, where the maximum front yard setback in the HR District is fifty (50) feet and the current fence setback is seventy-four and ½ feet (74.5) feet.

Pursuant to Section 121-59(D)(2) of the Town of Amenia Zoning Code, the Board considered the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. For the following reasons the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community:

(a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

No undesirable change or detriment will be produced in the character of the neighborhood or to nearby neighbors from the grant of the area variance. The current fence setback is 74.5 feet, and the Applicant seeks to construct a replacement fence with a 74-foot setback. The difference will be a 0.5-foot decrease in setback from the current nonconforming fence.

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

There is no other feasible alternative method to expand the Amenia Substation and respond to increased load other than the plan submitted by the Applicant. The fencing is a National Electrical Safety Code requirement to protect both the electrical equipment and the public from accessing the equipment.

(c) Whether the requested area variance is substantial;

The area variance is substantial. It is a 24-foot increase in the fence setback requirement. However, the requested variance will result in a 0.5-foot decrease from the current nonconforming fence setback on the Property.

(d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

The proposed area variance will not have an adverse effect on the surrounding neighborhood or district. The requested setback will be minimal compared to what currently exists. The fence is consistent with the current use and design of the Property.

(e) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.

The difficulty is self-created, by virtue of the Applicant's desire to expand the existing substation to respond to current need. However, expanding the existing Amenia Substation is preferable to and will likely result in less environmental impacts than constructing a new substation on an undeveloped lot. In addition, the difficulty does not detrimentally affect the health, safety, and welfare of the neighborhood or community and therefore shall not preclude the granting of this area variance.

FINDINGS IN SUPPORT OF VARIANCE APPROVAL

As to Variance #3

A variance to allow 38% impervious surface coverage where the maximum impervious surface coverage in the HR District is 30% and the current impervious surface coverage is 32%.

Pursuant to Section 121-59(D)(2) of the Town of Amenia Zoning Code, the Board considered the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. For the following reasons the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community:

(a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

No undesirable change or detriment will be produced in the character of the neighborhood or to nearby neighbors from the grant of the area variance. The Amenia Substation is an existing use, and the requested expansion will be consistent with the existing structure. In addition, the Property is adjacent to other public utility uses.

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

There is no other feasible alternative method to expand the Amenia Substation and respond to increased load other than the plan submitted by the Applicant.

(c) Whether the requested area variance is substantial;

The area variance is substantial. It is an 8% increase in the impervious surface coverage requirement. However, it is a 6% increase to the current nonconforming impervious surface coverage on the Property.

(d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

The proposed area variance will not have an adverse effect on the surrounding neighborhood or district. The Applicant is expanding the existing Amenia Substation to respond to an increase in community electrical use. The expansion will not impact the physical or environmental conditions of the Property and is preferable to constructing a new substation on an undeveloped lot.

(e) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.

The difficulty is self-created, by virtue of the Applicant's desire to expand the existing substation to respond to current need. However, the difficulty does not detrimentally affect the health, safety, and welfare of the neighborhood or community and therefore shall not preclude the granting of this area variance.

FINDINGS IN SUPPORT OF VARIANCE APPROVAL

As to Variance #4

A two hundred forty-eight (248) foot variance to allow a one thousand two hundred forty eight (1,248) square foot footprint where the maximum footprint for nonresidential structures in the HR District is one thousand (1,000) square feet.

Pursuant to Section 121-59(D)(2) of the Town of Amenia Zoning Code, the Board considered the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. For the following reasons the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community:

(a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

No undesirable change or detriment will be produced in the character of the neighborhood or to nearby neighbors from the grant of the area variance. The Amenia Substation is an existing use, and the requested expansion will be harmonious with the existing structure. In addition, the expanded structure will not likely be visible to nearby residential properties and is adjacent to other public utility uses.

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

There is no other feasible alternative method to expand the Amenia Substation and respond to increased load other than the plan submitted by the Applicant.

(c) Whether the requested area variance is substantial;

The area variance is substantial. It is a 248-foot increase in the maximum building footprint requirement for nonresidential structures in the HR district.

(d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

The proposed area variance will not have an adverse effect on the surrounding neighborhood or district. The Amenia Substation is an existing use that is being expanded out of necessity to respond to increased use. In addition, the physical and environmental conditions of the Property will not be impacted by the Project.

(e) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.

The difficulty is self-created, by virtue of the Applicant's desire to expand the existing substation to respond to current need. However, expanding the existing Amenia Substation is preferable to and will likely result in less environmental impacts than constructing a new substation on an undeveloped lot. In addition, the difficulty does not detrimentally affect the health, safety, and welfare of the neighborhood or community and therefore shall not preclude the granting of this area variance.

FINDINGS IN SUPPORT OF VARIANCE APPROVAL

As to Variance #5

A five (5) foot variance to allow a twenty-five (25) foot work light mounting height where the maximum allowable exterior lighting fixture height is twenty (20) feet.

Pursuant to Section 121-59(D)(2) of the Town of Amenia Zoning Code, the Board considered the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. For the following reasons the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community:

(a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

No undesirable change or detriment will be produced in the character of the neighborhood or to nearby neighbors from the grant of the area variance. The Applicant notes that the lighting will not spill beyond the substation yard and will not impact nearby property owners.

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

There is no other feasible alternative method to expand the Amenia Substation and respond to increased load other than the plan submitted by the Applicant.

(c) Whether the requested area variance is substantial;

The area variance is not substantial. It is a 5-foot increase in the maximum allowable exterior lighting fixture height requirement.

(d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

The proposed area variance will not have an adverse effect on the surrounding neighborhood or district. The Amenia Substation is an existing use that is being expanded out of necessity to respond to increased use. The lighting is necessary for the expansion. The physical and environmental conditions of the Property will not be impacted by this variance, and the lighting will not spill beyond the substation yard.

(e) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.

The difficulty is self-created, by virtue of the Applicant's desire to expand the existing substation to respond to current need. However, expanding the existing Amenia Substation is preferable to and will likely result in less environmental impacts than constructing a new substation on an undeveloped lot. In addition, the difficulty does not detrimentally affect the health, safety, and welfare of the neighborhood or community and therefore shall not preclude the granting of this area variance.

FINDINGS IN SUPPORT OF VARIANCE APPROVAL

As to Variance #6

A twenty (20) foot variance to allow a sixty (60) foot lightning mast height where the maximum allowable height in the HR District is forty (40) feet.

Pursuant to Section 121-59(D)(2) of the Town of Amenia Zoning Code, the Board considered the benefit to the Applicant if the variance is granted, as weighed against the detriment to the health, safety, and welfare of the neighborhood or community of such grant. For the following reasons the Project will not detrimentally affect the health, safety, and welfare of the neighborhood or community:

(a) Whether an undesirable change will be produced in the character of the neighborhood or a detriment to nearby properties will be created by the granting of the area variance;

No undesirable change or detriment will be produced in the character of the neighborhood or to nearby neighbors from the grant of the area variance. The lighting mast will be consistent with the current use and design of the Property and will be substantially setback from the roadway and neighboring properties.

(b) Whether the benefit sought by the applicant can be achieved by some method, feasible for the applicant to pursue, other than an area variance;

There is no other feasible alternative method to light the substation's entire structure during an emergency. The sixty (60) foot lights are for the sole purpose of emergency response to the substation. The fixtures will cast light toward the substation instead of toward neighboring properties. Finally, the lights will only operate during emergency response. It would not be possible to respond to an emergency at the substation without the sixty (60) foot lights.

(c) Whether the requested area variance is substantial;

The area variance is substantial. It is a 20-foot increase in the maximum allowable height requirement.

(d) Whether the proposed variance will have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district; and

The proposed area variance will not have an adverse effect on the surrounding neighborhood or district. The Amenia Substation is an existing use that is being expanded out of necessity to respond to increased use. In addition, the physical and environmental conditions of the Property will not be impacted by the Project.

(e) Whether the alleged difficulty was self-created, which shall be relevant to the decision of the Board but which shall not necessarily preclude the granting of the area variance.

The difficulty is self-created, by virtue of the Applicant's desire to expand the existing substation to respond to current need. However, expanding the existing Amenia Substation is preferable to and will likely result in less environmental impacts than constructing a new substation on an undeveloped lot. In addition, the difficulty does not detrimentally affect the health, safety, and welfare of the neighborhood or community and therefore shall not preclude the granting of this area variance.