

**RESOLUTION OF MEMORIALIZATION OF THE LITTLE EGG HARBOR  
TOWNSHIP BOARD OF ADJUSTMENT**

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**RESOLUTION NO. 2022-09  
VARIANCE APPLICATION NO. 2202-02**

RE: ATLANTIC CITY ELECTRIC COMPANY  
Block 326.100, Lot 2  
290 Great Bay Boulevard  
Application for a Use Variance

**WHEREAS**, ATLANTIC CITY ELECTRIC COMPANY, whose mailing address is 5100 Harding Highway, Mays Landing, New Jersey 08830, has applied for relief pursuant to N.J.S.A. 40:55D-70(d), affecting premises located at Block 326.100, Lot 2 on the Tax Map of the Township of Little Egg Harbor and otherwise known as 290 Great Bay Boulevard Little Egg Harbor, New Jersey; and

**WHEREAS**, such proof of service as may be required by the New Jersey Statutory Law and Township Ordinance requirements upon appropriate property owners and governmental bodies has been duly furnished; and

**WHEREAS**, a public hearing was held on said application on March 9, 2022, in the Municipal Building of the Township of Little Egg Harbor and testimony and exhibits were presented on behalf of the applicant and all interested parties having been heard; and

**WHEREAS**, said Board having considered said application, testimony and exhibits submitted and inspection of the site, if any, makes the following findings:

1. The property in question is known as the Motts Farm Substation and is located along the western side of Great Bay Boulevard, between Daddy Tucker Drive and North Boom Way. The property is located within the R-100 Residential Zone. The preliminary/final site plan

application seeks variance relief to allow the expansion/upgrade of the existing substation, which is an existing non-conforming use within the R-100 Zone.

2. The Applicant seeks to upgrade the existing equipment with new electrical equipment. The project includes the removal of the existing breaker building, utility poles, foundations, and duct banks. The project also includes the construction/installation of a new switchgear enclosure, with utility poles, foundations and underground conduit.

3. The Applicant is seeking a "d-2" use variance to allow the expansion of a non-conforming use, where an electric substation is not a permitted use per ordinance (§15-4.10). The use, however, is inherently beneficial and thus presumptively satisfies the positive criteria for a (d) variance.

4. Applicant requests the following variances:

a. **Minimum Accessory Building Front Yard Setback – Proposed Utility Poles ( §15.4-10).**

An accessory use cannot be located within the front yard area, whereas there are proposed utility poles located within the front yard.

b. **Minimum Accessory Building Front Yard Setback – Proposed Bollard ( §15.4-10).** An accessory use cannot be located within the front yard area, whereas there is a proposed bollard located within the front yard area.

c. **Maximum Accessory Building Height, Steel Transmission Poles ( §15.7.14B).** The maximum height of an accessory use is 15 feet, whereas the proposed steel transmission pole are 80 feet+/- in height.

d. **Maximum Accessory Building Height, Replacement Wood Utility Poles ( §15.7.14B).**

The maximum height of an accessory use is 15 feet, whereas the proposed replacement utility poles are 39.5 feet in height.

5. Applicant requests the following waivers:

a. Per §15-12.16A(20) the amount of required parking for an electrical substation is not defined in the ordinance. The substation is unstaffed and does not have any existing delineated parking areas.

b. Per 15-12.16B(1) the loading requirements for an electrical substation is not defined in the ordinance. The substation is unstaffed and does not have any existing delineated loading areas.

6. Applicant seeks no other variances or waivers.

7. The Applicant through its planning expert, Stuart Wiser, P.P., and its civil engineer, Carolyn Feigin, P.E., provided testimony that there would be no detriment to the surrounding community by the granting of this variance relief which would, in applicant's opinion, constitute a benefit to the neighborhood without being inconsistent with the zone plan and zoning ordinances. Applicant further testified that the use of the property as an existing electric substation is an extraordinary and exceptional situation uniquely affecting the property and the structures thereon. The improvements to the existing substation will eliminate the need for the Applicant to seek additional land for a new substation.

8. The Applicant was represented by Nicholas F. Talvacchia, Esquire appearing on behalf of the Applicant.

9. William Reed testified with regard to his concerns with how it would affect traffic

patterns.

10. Based upon the foregoing evidence, the Board make the following findings:

A. The applicant has demonstrated that the requested “d-2” use variance and variance relief may be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the zone plan or Zoning Ordinances of the Township of Little Egg Harbor.

**NOW, THEREFORE, BE IT RESOLVED**, by the said Board that on this 13<sup>th</sup> day of April, 2022, based upon the findings herein above stated, the application is hereby granted subject to the following conditions, together with all stipulations of the applicant:

1. The applicant shall strictly adhere to the representations, plans and exhibits submitted with regard to the proposed development of the subject property and should further comply in all respects with the technical review letter as prepared by the Little Egg Harbor Township Zoning Board of Adjustment Engineer dated February 22, 2022, a copy of which is annexed hereto and made a part hereof.

2. Applicant is granted the following use variance:

a. The Applicant is granted a “d-2” use variance to allow the expansion of a non-conforming use, where an electric substation is not a permitted use per ordinance (§15-4.10).

3. Applicant is granted the following variances:

a. **Minimum Accessory Building Front Yard Setback – Proposed Utility Poles( §15.4-10).** An accessory use cannot be located within the front yard area, whereas there are proposed utility poles located within the front yard.

b. **Minimum Accessory Building Front Yard Setback – Proposed Bollard ( §15.4-10)**. An accessory use cannot be located within the front yard area, whereas there is a proposed bollard located within the front yard area.

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d. **Maximum Accessory Building Height, Replacement Wood Utility Poles ( §15.7.14B)**. The maximum height of an accessory use is 15 feet, whereas the proposed replacement utility poles are 39.5 feet in height.

4. Applicant was granted the following waivers:

a. Per §15-12.16A(20) the amount of required parking for an electrical substation is not defined in the ordinance. The substation is unstaffed and does not have any existing delineated parking areas.

b. Per 15-12.16B(1) the loading requirements for an electrical substation is not defined in the ordinance. The substation is unstaffed and does not have any existing delineated loading areas.

5. Applicant shall comply with all landscaping requirements contained in the letter from Taylor Design Group dated March 7, 2022.

6. Applicant shall direct all grading to the south.

7. Applicant shall obtain a fire letter from the Little Egg Harbor Fire Company.

8. The applicant shall further reimburse the Little Egg Harbor Township Zoning Board of

Adjustment for all professional fees expended with regard to this application within thirty (30) days from the date of memorialization of this Resolution or any approvals granted herein shall automatically become null and void.

9. This variance is subject to §15-3.11 of the Little Egg Harbor Township Land Use Development Ordinance. Construction or alteration shall commence on each and every structure permitted by the variances within one (1) year from the date of entry of this Resolution.

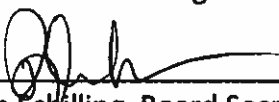
10. The applicant shall further secure any and all other necessary applications, permits or approvals and post any surety bonds that may be required by any other governmental agency.

11. The applicant shall resubmit this entire proposal should there be any substantial deviation from this Resolution or the submitted plans, documents, or oral representations made by this applicant.

  
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EUGENE SULLIVAN, Chairman  
Little Egg Harbor Zoning Board of Adjustment

**CERTIFICATION**

The foregoing is a true copy of a memorializing resolution by said Board at its meetings of March 9, 2022, as copied from the minutes of said meetings.

  
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Robin Schilling, Board Secretary  
Little Egg Harbor Zoning Board of Adjustment