

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

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**RESOLUTION NO. 2022-17  
VARIANCE APPLICATION NO. 2022-02A**

RE: ATLANTIC CITY ELECTRIC COMPANY  
Block 326.100, Lot 2  
290 Great Bay Boulevard  
Application for further expansion of non-conforming use variance Phase 2

**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 September 14, 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

which is an existing non-conforming use within the R-100 Zone.

2. The Applicant seeks to amend Resolution 2022-09 as it relates to a change to upgrade the existing equipment with new electrical equipment, which also 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, utility poles, foundations and underground conduit. The Applicant is currently seeking amended preliminary and final site plan approval with bulk variance relief for the following:

A. Installation of new, 72.5' high transmission pole (#T1237) and a new 77' high transmission pole (#T1238) in the Rear Yard of the Substation.

B. Relocation of approved transmission pole #T1239 to a location within the Rear Yard Setback at a height of 70.5'.

C. Relocation of approved transmission pole #T1240 to a location in the Side Yard of the substation at a height of 77'.

D. Installation of 3 temporary, 45.5'-high transmission poles within the fenceline at the southwest corner of the Substation.

E. Installation of 1 Permanent and 1 Temporary 48'-high (unnumbered) distribution poles within the fenceline at the rear and northern side of the Substation.

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 is seeking "c" variance relief as follows:

A. Per §15-4.10 the minimum rear yard setback for an accessory use is 10 feet, whereas the proposed pole is 9.6 feet from the rear lot line.

B. Per §15-7.14B the maximum height of an accessory use is 15 feet, whereas the proposed pole (#T1238) is 77 feet in height.

C. Per §15-7.14B the maximum height of an accessory use is 15 feet, whereas the proposed pole is 72.5 feet in height.

D. Per §15-7.14B the maximum height of an accessory use is 15 feet, whereas the proposed three poles are 45.5 feet in height.

E. Per §15-7.14B the maximum height of an accessory use is 15 feet, whereas the proposed temporary pole is 48 feet in height.

F. Per §15-7.14B the maximum height of an accessory use is 15 feet, whereas the proposed pole is 48 feet in height.

5. Applicant seeks no other variances or waivers.

6. The Applicant through Carolyn Feigin, P.E., provided testimony explaining locations and reasons for requested variances. Stuart Wisner, PP provided additional testimony regarding expansion of a nonconforming use.

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

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

A. The applicant has demonstrated that the requested "d-2" use variance and

other “c” 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 12<sup>th</sup> day of October, 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, May 13, 2022 and August 19, 2022, copies 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 “c” variances:

A. Per §15-4.10 the minimum rear yard setback for an accessory use is 10 feet, whereas the proposed pole is 9.6 feet from the rear lot line.

B. Per §15-7.14B the maximum height of an accessory use is 15 feet, whereas the proposed pole (T1238) is 77 feet in height.

C. Per §15-7.14B the maximum height of an accessory use is 15 feet, whereas the proposed pole is 72.5 feet in height.

D. Per §15-7.14B the maximum height of an accessory use is 15 feet, whereas the proposed three poles are 45.5 feet in height.

E. Per §15-7.14B the maximum height of an accessory use is 15 feet, whereas the proposed temporary pole is 48 feet in height.

F. Per §15-7.14B the maximum height of an accessory use is 15 feet, whereas the proposed pole is 48 feet in height.

4. Applicant shall comply with any landscaping requirements contained in the letters from Taylor Design Group dated March 7, 2022, June 7, 2022 and June 17, 2022.

5. Applicant shall comply with all conditions under Resolution No. 2022-09, except where same conflict with this Resolution.

6. Applicant may commence construction prior to memorialization of this written Resolution


7. 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.

8. 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.

9. 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.

10. 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 meeting of September 14, 2022, as copied from the minutes of said meetings.



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