

# Newark

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January 24, 2014

Michael J. Oliveira  
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494 Broad Street  
Newark, New Jersey 07102

**RE: BOARD OF ADJUSTMENT APPLICATION – 12-13-A  
13-45 LITTLETON AVENUE & 29-53 ELEVENTH AVENUE  
NEWARK, NEW JERSEY**

Dear Mr. Oliveira:

The Newark Zoning Board of Adjustment, at its special public hearing held on December 3, 2013, voted to **Deny Approval** to the above referenced application, and the decision was memorialized on January 24, 2014.

Pursuant to the Municipal Land Use Law, C40:55D, 10i, the applicant must publish the decision of the Board pertaining to the application in a newspaper of general circulation within ten (10) days of the decision. A copy of this publication must be sent to the Zoning Board of Adjustment and made part of the permanent file.

Attached, please find the Resolution attesting to the Board's decision.

If you have any further questions, feel free to contact me at (973) 733-6334 or [costleyn@ci.newark.nj.us](mailto:costleyn@ci.newark.nj.us).

Sincerely,



N'dela Costley  
Acting Board Secretary

**BOARD OF ADJUSTMENT OF THE  
CITY OF NEWARK, NJ**

**APPEAL NO.:** 12-13-A  
**PREMISES:** 13-45 Littleton Avenue & 29-53 Eleventh Avenue  
**APPLICANT:** Public Service Electric & Gas Company  
**TO PERMIT:** In the Fairmount Renewal Redevelopment Plan Area, proposed public utility electrical switching station with a 30' high way to surround the entire site. The switching station will provide capacity directly to the City of Newark and the local area in the vicinity of the proposed site.

This appeal coming on to be heard before the Board of Adjustment on statutory notice, and after inspection of the premises and locality and, WHEREAS, the Board after carefully considering the evidence presented by the appellant has made the following factual findings:

1. The premises are generally bounded by West Market Street and S. 7<sup>th</sup> Street. The lot area is approximately 215,750 square feet in size. The surrounding land uses consist of residential, commercial and institutional uses.
2. There were as many as 125 objectors to the application. There were also numerous proponents.
3. The Board heard testimony from both lay objectors and proponents of the application during the many hearings conducted.
4. The property which is the subject matter of this application measures approximately 4.95 Acres. There is currently a vacant former industrial building measuring one to five stories in height at the property. The applicant has secured demolition permits from the City and is currently in the process of demolishing the existing structure.
5. PJM, a regional transmission organization that coordinates the movement of wholesale electricity in New Jersey and 13 other states has mandated the building of a new substation somewhere in the greater Newark Metropolitan Area.
6. The purpose of the new station will be to address capacity and load issues in the Newark area and provide backup capacity in emergency situations.
7. A substation is needed to meet PJM reliability criteria and will improve electrical transmission services in the greater Newark Metropolitan Area.
8. The Fairmount Urban Renewal Plan dates to the 1960s and was not updated or amended since 1988.
9. Public utilities or electrical switching stations are not permitted in the current district or the designation proposed for the area by the Master Plan and therefore a use variance is required.
10. There are environmental conditions at the site that require remediation. The responsible party Cooper Wiss is making remediation efforts but PSE&G has voluntarily accepted the responsibility for a major portion of the cleanup costs.
11. Credible testimony and evidence submitted by the objectors discloses the following:
  - a. The land use adjacent to the site is a mixed but primarily residential.
  - b. While the site is located in a Second Industrial District, the 2012 Newark Master Plan Future Land Use Plan designates the property as regional commercial. Planning testimony and reports establish that the intent of such designation is to accommodate regionally oriented retail and redevelopment of large parcels for shopping centers to meet the needs of Newark residents.



- c. The Newark Master Plan Future Land Use Plan for the area fails to incorporate the Fairmount Urban Renewal Plan and instead was influenced by the Fairmont Neighborhood Strategic Plan (and makes reference thereto) which was produced by the Urban League in partnership with Fairmount residents and neighboring businesses included the site which is the subject matter of this application
  - d. A site for a substation to meet the PJM mandate does not need to be five acres but rather could be built on approximately 2 to 2.5 acres based on the equipment proposed in the application.
  - e. High voltage switch gear which is to be placed at the site by PSE&G has characteristics which do not make it compatible with residential areas including a tendency to attract lightening and require significant grounding infrastructure when exposed to the elements. It is also oil filled and can be subject to explosion and fire.
  - f. Electrical substations can be designed to fit into an urban environment.
  - g. The site design and footprint proposed by applicant would likely result in an inability to develop the remainder of the tract for uses contemplated by the latest Master Plan thereby harming economic growth.
12. While PSE&G presented testimony concerning its search for alternate sites, the testimony does not demonstrate credible serious determined efforts to locate a site for the substation at properties more suited to the use because of their industrial surroundings.
  13. The environmental remediation of the site could be accomplished either by the current responsible party or PSE&G even if substation does not encompass the entire acreage of the site.
  14. Testimony establishes that while the Fairmont Neighborhood Strategic Plan was the result of extensive involvement and participation by the community as favored by the Master Plan, PSE&G's plans for the site were formed without significant community involvement.
  15. There is a public interest in providing adequate load and backup capacity of electrical power to Newark and the surrounding area. The proposed use therefore qualifies as inherently beneficial but must still meet the negative criteria.
  16. The potential harmful impacts of the proposed use constitutes a credible threat to the safety of the surrounding residential neighborhood and residents and the potential to disrupt the future viability of both as to economics and quality of life.

And, WHEREAS, the Board has determined that the relief requested by the appellant **CANNOT** be granted without substantial detriment to the public good and without substantially impairing the intent and purpose of the Zone Plan and the Zoning Ordinance of the City of Newark for the following reasons:

1. The public interest in providing adequate load, capacity and backup capacity qualify the use as inherently beneficial.
2. Applicant has failed to meet the negative criteria specifically as to the proposed siting of the use with the design and size proposed.
3. The benefits of the proposed use could be realized by either locating the substation at another site or designing the station on a smaller scale thereby allowing the remainder of the site to be utilized in a manner that would better integrate the station with the surrounding neighborhood.
4. The late addition of a streetscape façade by applicant, is not enough of a design change to allow the board to fashion conditions to lessen the harmful impacts to the surrounding area.
5. Because the beneficial impact of the station could be realized at either a different site or with a different design at the present site, the negative impacts both as to safety and from the zoning perspective substantially outweigh the positives of allowing the use at the size and as designed at the site proposed.

**Now, therefore, be it resolved by the Board of Adjustment of the City of Newark, New**

Jersey, that the variance sought by the applicant herein be DENIED

RECLUSED  
COMMISSIONER AUFFANT

NOT VOTING ON RESOLUTION  
COMMISSIONER BAINE

YES  
COMMISSIONER MONTFORD

YES  
COMMISSIONER GERONIMO

YES  
COMMISSIONER LENDOR

NOT VOTING ON RESOLUTION  
COMMISSIONER RUIVO

ALTERNATE-NV  
COMMISSIONER MASSIEU

NOT VOTING ON RESOLUTION  
COMMISSIONER ARBUBAKRR

YES  
COMMISSIONER EL

The foregoing is true copy of a resolution adopted by the Board of Adjustment of the City of Newark, after hearing on , and memorialization on January 23, 2014

N'Dela Costley  
N'Dela Costley, Acting Secretary  
Board of Adjustment