

**TOWN OF STONY POINT  
ZONING BOARD OF APPEALS  
Minutes of October 20, 2022**

**PRESENT:**

Mr. Keegan  
Mr. Anginoli  
Mr. Lynch  
Mr. Strieter  
Mr. Gazzola  
Ms. Davis  
Chairman Wright

**ALSO PRESENT:**

Dave MacCartney, Attorney

**Chairman Wright:** Good evening. Welcome to the Stony Point Zoning Board of Appeals. I call this meeting of October 20, 2022, to order. Please rise for the Pledge of Allegiance.

The Pledge of Allegiance was recited, and roll call taken.

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Decision for the request of Nataliya Zvarych – 24 Dogwood Lane – App. #22-14 (Area Variance)

Residential Alteration - Addition of front porch

Town Zoning Code chapter 215-A Bulk Table, attachment 16 part II

Use group h.1, column 4, Front Yard set-back:

Minimum front set-back required = 35'

Existing front set-back = 26'

Proposed front set-back = 18.0'

Variance required = 17.0'

Section: 20.10

Block: 2

Lot: 73

Zone: R1

**\*The following resolution was read:**

On October 20, 2022, the following resolution was offered by Mr. Anginoli, seconded by Mr. Lynch and carried, based upon the evidence in the record:

BOARD OF APPEALS

TOWN OF STONY POINT, COUNTY OF ROCKLAND

In the Matter of Application #22-14 of Nataliya Zvarych for an area variance from the requirements of Town Code Article 215-A, Bulk Table, attachment 16 part II, Use group h.1, column 4: Front Yard set-back required 35', existing 26', proposed 15.5' in connection with the construction of a front porch addition to premises located at 24 Dogwood Lane, Stony Point, New York, designated on the Tax Map as Section 20.10, Block 2, Lot 73 in the R1 Zoning District.

WHEREAS members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about October 1, 2022; and

WHEREAS this is a Type II Action pursuant to the New York State Environmental Quality Review Act; and

WHEREAS a public hearing was held on October 6, 2022; and

WHEREAS all the evidence and testimony were carefully considered, and the Zoning Board of Appeals has made the following findings of fact and conclusions:

The applicant owns the subject parcel, which is presently improved with a one and a half story residential dwelling located at 24 Dogwood Lane. The house is appropriately located toward the front center of the lot, providing 26 feet from the front of the house to the front property line. This is a pre-existing, nonconforming condition. The applicant proposes to construct a new exterior front porch. The front porch would be covered, but

not enclosed. Additionally, the applicant proposes to construct rounded stairs as shown on the plans submitted in connection with the application. The porch itself is 8 feet deep, so provides 18 feet to the front property line along nearly its entire length. The rounded stairs protrude two and a half feet from the porch at their farthest point, providing 15.5 feet from the edge of the farthest point of the rounded stairs to the front property line. The current Code requires a minimum of 35 feet for the front yard setback, so the applicant seeks a variance in that regard to permit the new porch and stairs.

There were no objections to the relief requested.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicants' request for variances, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that on the conditions stated herein, the benefit to the applicant if the variance is granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

- (1) There was no evidence presented that the proposed variance would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties. The front porch will be covered, but not enclosed. The vast majority of the new porch comes to within 18 feet of the front property line; it is only the farthest part of the rounded stairs that comes to 15.5 feet of the front property line. There are other homes in the neighborhood with similar style structures, there is no sight line issue created by the proposed improvement, and there were no other negative impacts identified in the record.
- (2) There was no evidence presented of any other feasible means to achieve the benefit sought without the variance requested.
- (3) The variance sought could be considered substantial in terms of percentages, but on balance the Board in its discretion does not find this factor to be determinative here.
- (4) There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district.
- (5) The alleged difficulty was self-created, but the Board does not find that factor to be determinative here.

NOW, THEREFORE, BE IT RESOLVED, that the application for area variances is hereby approved on the conditions set forth below:

CONDITIONS:

1. The applicant shall comply substantially with the plans and dimensions as set forth in the plans submitted to and representations made before this Board.
2. The front porch may be covered but shall remain unenclosed.
3. The applicants shall comply with all other applicable laws, rules, codes, and regulations.

The matter is remanded to the Building Inspector for further consideration in compliance with the terms and conditions hereof.

Upon roll call, a vote to pass the foregoing resolution was as follows:

	Aye	Nay	Abstain	Absent
Thomas Wright	<input checked="" type="checkbox"/>	___	___	___
Joseph Anginoli	<input checked="" type="checkbox"/>	___	___	___
Edward Keegan	<input checked="" type="checkbox"/>	___	___	___
John Lynch	<input checked="" type="checkbox"/>	___	___	___
Todd Strieter	<input checked="" type="checkbox"/>	___	___	___
John Gazzola	<input checked="" type="checkbox"/>	___	___	___
Lou Ann Davis	<input checked="" type="checkbox"/>	___	___	___

There being 7 votes in favor of the motion, 0 votes against the motion, and 0 abstentions thereto, the Chairman declared the motion carried and the resolution adopted.

**\*\*\*MOTION: Mr. Anginoli made a motion to approve the variance; seconded by Mr. Lynch. All in favor; the motion was carried.**

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Decision for the request of Lovett Substation- 45 Elm Ave – App. #22-11 (Area Variance)

Chapter 215 Article VI Section 215-22, attachment 15 Table of Bulk Requirements part 1A – use group ‘a’ requires maximum 15’ building height.

Proposed height = 36’

VARIANCE necessary = 21’

Chapter 215 Article VI Section 215-24(C) requires maximum height of fence 4’ in front yard, 6’ along any part of a lot line behind the required front yard.

Proposed fence height = 10’ 1’ barbwire, total 11’

VARIANCE necessary = 7’

Chapter 215 Article VI Section 215-24(C) requires fence setback equal to 2/3 the fence height where fence height exceeds 6’.

Proposed fence = 11’ high (requires 7’-4” setback), 0’ setback provided

VARIANCE necessary = 7’-4”

\*\* Chapter 215 Article VI Section 215-22, attachment 15 Table of Bulk Requirements part 1A – use group ‘a’ requires maximum 5% development coverage. Proposed coverage = 53%, VARIANCE necessary=48% \*\*

Section: 10.04

Block: 2

Lot: 15

Zone: RR

**\*The following resolution was read:**

On October 20, 2022, the following resolution was offered by Chairman Wright, seconded by Mr. Keegan, and carried, based upon the evidence in the record:

BOARD OF APPEALS

TOWN OF STONY POINT, COUNTY OF ROCKLAND

In the Matter of Application #22-11 of Orange & Rockland Utilities, Inc. (“O&R” or “Applicant”), as amended, for the following area variances:

1. Building Height: Chapter 215, Article VI, Section 215-22, attachment 15 Table of Bulk Requirements part 1A; Maximum permitted building height 15’, provided 33’ 5-2/5”;
2. Fence Height: Chapter 215, Article VI, Section 215-24(C); Maximum permitted fence height 4’ in front yard, 6’ along any part of a lot line behind the required front yard, proposed fence height of 10’ plus 1’ of barbed wire;
3. Fence Setback: Chapter 215, Article VI, Section 215-24(C); Fence required to be set back 7’-4”, set back provided is 3’;
4. Lot Coverage: Chapter 215, Article VI, Section 215-22, attachment 15 Table of Bulk Requirements part 1A; Maximum permissible lot development coverage is 5%, provided is 53%;
5. Front Setback: Chapter 215, Article VI, Section 215-22, attachment 15 Table of Bulk Requirements part 1A; minimum required front setback is 30’, provided 28’;
6. Side Setback: Chapter 215, Article VI, Section 215-22, attachment 15 Table of Bulk Requirements part 1A; minimum required side setback is 30’, provided 26’ in connection with the construction of a new Gas Insulated Substation (GIS) and related improvements on premises located at the corner of Elm Avenue and Spring Street, Stony Point, New York, designated on the Tax Map as Section 10.04, Block 2, Lot 15 in the RR Zoning District.

WHEREAS members of the Zoning Board of Appeals personally visited the applicant's property and viewed it and the neighboring properties on or about \_\_\_\_\_, 2022; and

WHEREAS, this is an Unlisted Action pursuant to the New York State Environmental Quality Review Act (SEQRA), and the Town of Stony Point Planning Board was declared the lead agency and issued a negative declaration under SEQRA on or about September 22, 2022; and

WHEREAS, a public hearing was duly noticed and conducted on September 1, September 15, and October 6, 2022; and

WHEREAS, all the evidence and testimony was carefully considered and the Zoning Board of Appeals has made the following findings of fact and conclusions:

The Applicant is the owner of the subject parcel which, notwithstanding its location in the RR zoning district, was historically one of several adjacent and combined parcels which had been improved and used as part of a now decommissioned coal fired power plant system (the former Mirant Lovett Generating Station), and which are now used in connection with Applicant's existing 138kV electric transmission system. The Applicant has been directed by the New York State Independent System Operators (NYISO) to add new capacity to the existing electric system in the North Rockland area. NYISO has determined that O&R's existing transmission system may become overloaded during periods of peak demand, resulting in electric service interruptions and possible system damage. Consequently, O&R is required to add a new source of capacity and intends to comply by building the subject new GIS on the subject parcel.

As part of the project to install the new GIS, two existing 345 kV transmission lines will be modified. One will bypass the new substation and one will connect to the new substation. The new GIS will be constructed between two existing transmission poles and adjacent to the existing 138 kV Lovett substation. A new transformer will provide an additional supply of electric power to the existing 138 kV Lovett substation.

The new GIS is proposed to be located on a parcel that was the location of a former fuel tank farm. The Applicant proposes to remove the concrete retaining walls that still surround the former tank farm as part of this project, and the existing double circuit transmission line will be modified and restrung. Additionally, a permanent access road will be constructed around the new GIS, and the applicant proposes to install a fence around the entire perimeter of the parcel, surrounding and securing the new GIS, for the purposes of both safety and security.

The applicant has applied to the Town of Stony Point Planning Board for site plan approval for the new GIS, and that Board is conducting a full and complete review of the project under all applicable standards under the Town Code and NYS law. The Planning Board referred the application to this Board for a number of variances required to safely and properly construct the GIS in accordance with applicable laws and regulation.

Accordingly, Applicant submitted this application for variances. Originally, the Planning Board referred the Applicant to this Board for variances relating to the building height, the fence height, the fence setback, and the lot development coverage. During the course of the continued dual track review by the Planning Board and this Board, it was determined that two additional variances were required, one for the side setback and one for the front setback, and that the proper method for computing the height of the building under Town Code resulted in a measurement of a lowered height at 33' 5-2/5" instead of the originally measured 36'. The Applicant amended its application to include the two additional requested variances and the public hearing was properly re-noticed, continued, then closed after substantial testimony and proof was placed into the Record.

Accordingly, as set forth in the latest amended plans submitted to this Board, the following variances are requested:

In regard to building height, the smallest building which can properly and safely house the GIS measures 33' 5-2/5" high, but the Code permits a maximum height of 15'. Accordingly, the applicant seeks a variance in that regard.

Regarding the perimeter fence, two variances are required. First, the Code allows a maximum height of 4' in the front yard and 6' along any part of a lot line behind the required front yard. Here, the Applicant proposes a fence height of 10' plus 1' of barbed wire. The requested height of the perimeter fencing is the minimum required to provide security and safety and to comply with all applicable rules and regulations related to the sensitive and dangerous equipment housed therein. Additionally, in order to provide sufficient space for the configuration of the property, the Applicant proposes to install the fence with a setback from the property line of 3 feet, but, given the height of the fence, the applicable Code provisions would require a setback of 7' 4". Accordingly, the Applicant seeks a variance for the fence setback as well.

In regard to the lot coverage, all of the improvements required to safely and properly construct the GIS on the subject property bring the lot coverage to 53%, but the Code permits a maximum of just 5%. There is no way to construct the GIS on this parcel without all of the improvements set forth in the plans, and it should be noted that the parcel was previously improved with a fuel oil tank farm and related improvements for over a half century. It should also be noted that the Applicant is going to remove the concrete wall previously surrounding the tank farm, and install substantial landscaping, in accordance with the plans submitted, and as it is anticipated, will be required as a condition to Planning Board approval, should such approval be forthcoming.

In regard to the front yard setback variance, the applicant proposes to provide 28' whereas 30' is the required minimum, and in regard to the side yard, the applicant proposes to provide 26' whereas 30' is likewise the required minimum. These two variances are required because of the required location of the building given site conditions. Among other things, there are wetlands in the back of the property that require the building to be shifted in the manner proposed, and in any event the building is located in the approximate location of the former fuel tanks.

There were no objections to the relief requested.

WHEREAS, this Board has examined the written documentation and reviewed the testimony with respect to the applicants' request for variances, and, pursuant to the requirements of section 267-b.3 of the Town Law, hereby finds that on the conditions stated herein, the benefit to the Applicant if the variances are granted outweighs any detriment to the health, safety and welfare of the neighborhood or community by such a grant, and has made the following findings and conclusions in that regard:

(1) There was no evidence presented that the proposed variances would produce any undesirable change in the character of the neighborhood or a detriment to any nearby properties. Overall, this project would result in a productive redevelopment of an already highly industrial property. It is immediately adjacent to the existing Lovett Substation which has operated at the site since 1955. The new GIS is sited and proposed in such a way as to ensure safety of the public by restricting access to the high-voltage electrical substation, while providing a substantial public benefit. The fence is designed to ensure that unauthorized persons cannot easily access the substation, which benefits public safety as well as national security in relation to this public utility site. Additionally, the proposed redevelopment of this lot, which is surrounded by other lots which are owned by the Applicant and are part of the existent transmission system, is consistent with the Town Master Plan which encourages the development of industrial areas in previously disturbed portions of the Town. The parcel is shielded from view of the surrounding properties due to the site topography and the substation is also surrounded by a largely industrial area, adjacent to a railroad, a mining operation, and a landfill. The proposed development is therefore consistent with the character of the neighborhood.

(2) There was no evidence presented of any other feasible means to achieve the benefit sought without the variances requested. As stated above, there are no other feasible locations or configurations for the improvements for which variances are sought.

(3) The variance for building height is substantial compared to the numerical requirements of the Code, but it is the minimum necessary to achieve the benefit sought. Also, given the location of this site in an industrial area and that it is shielded from view from surrounding properties, the substantiality of this variance does not require a denial.

In regard to the fence, the numbers again are numerically substantial, but the fence is required for safety and security, and to comply with applicable laws, rules, and regulations. Additionally, the landscaping should mitigate any visual impact of the fence as well.

The lot coverage is very substantial, but the substantiality is mitigated by the fact that the property has been historically improved with industrial components of a fuel oil tank farm in connection with the former Mirant Lovett Generating Station. Given the public necessity and the absence of any available alternatives, the substantiality of that variance is not determinative here either.

The variances for front yard and side yard setback are not substantial.

(4) There is no evidence before this Board of any adverse effect or impact on the physical or environmental conditions in the neighborhood or district. The Planning Board has already issued a negative declaration under SEQRA.

(5) The alleged difficulty was self-created in the sense that the Applicant seeks to redevelop the property with full knowledge of the existing Code provisions. However, the variances are primarily the result provisions in the Code that were not tailored to the proposed use and the Applicant has been directed by the NYISO to increase its capacity. The Applicant proposes to do so in as minimally intrusive away as possible on a site that has been historically used for a similar purpose for well over a half century. NOW, THEREFORE, BE IT RESOLVED, that the application for area variances is hereby approved on the conditions set forth below:

CONDITIONS:

1. The Applicant shall comply substantially with the plans and dimensions as set forth in the plans submitted to this Board.
2. The approval is expressly subject to and conditioned upon the full Site Plan review and approval by the Planning Board.
3. The Applicant shall comply with the review letters provided by the Rockland County Center for environmental health dated September 19, 2022, and the near state Department of Transportation letter dated August 10, 2022.
4. The Applicant shall comply with all other applicable laws, rules, codes, and regulations.

The matter is remanded to the Building Department and the Planning Board for further consideration in compliance with the terms and conditions hereof.

Upon roll call, a vote to pass the foregoing resolution was as follows:

	Aye	Nay	Abstain	Absent
Thomas Wright	<input checked="" type="checkbox"/>	—	—	—
Joseph Anginoli	<input checked="" type="checkbox"/>	—	—	—
Edward Keegan	<input checked="" type="checkbox"/>	—	—	—
John Lynch	<input checked="" type="checkbox"/>	—	—	—
Todd Strieter	<input checked="" type="checkbox"/>	—	—	—
John Gazzola	<input checked="" type="checkbox"/>	—	—	—
Lou Ann Davis	<input checked="" type="checkbox"/>	—	—	—

There being 7 votes in favor of the motion, 0 votes against the motion, and 0 abstentions thereto, the Chairman declared the motion carried and the resolution adopted.

**\*\*\*MOTION: Chairman Wright made a motion to approve the variance; seconded by Mr. Keegan. All in favor; the motion was carried.**

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Chairman Wright called for a motion to adjourn the meeting of October 20, 2022.

**\*\*\*MOTION: Ms. Davis made a motion to adjourn the meeting of October 20, 2022; seconded by Mr. Gazzola. All in favor; the motion was carried.**

Respectfully submitted,

*Nicole Pechin*

Secretary  
Zoning Board of Appeals