



**Town of Grafton  
Zoning Board of Appeals  
30 Providence Road  
Grafton, MA. 01519**

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**508-839-5335 x 1157 - Fax: 508-839-4602  
E-mail: [koshivosk@graffton-ma.gov](mailto:koshivosk@graffton-ma.gov)  
Website: <http://graffton-ma.gov>**

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**Zoning Board of Appeals**

**Legal Notice**

The Grafton Board of Appeals has received a petition from **NEW ENGLAND POWER COMPANY DBA:  
NATIONAL GRID**  
for **62 WATERVILLE** requesting that the Zoning Board of Appeals grant a

**Variance**

to allow: **INSTALLATION OF AN 8' PRIVACY FENCE WITHIN THE REQUIRED 15 FT. REAR YARD  
SETBACK, LOCATED AT 62/64/64R WATERVILLE STREET. SEE ATTACHED STATEMENT IN  
SUPPORT. BOOK: 2770, 2761, 59209 PAGE: 298, 132, 127**

Map: 19 Lot: 84.0 Block: 000

The Board will conduct a Public Hearing Thursday, October 17, 2019 at 7:00 PM in Conference Room A, at the Municipal Center, 30 Providence Road, Grafton, MA 01519 to consider this request and/or to take whatever action is necessary, including the granting of a finding, special permit, variance, or other necessary relief allowed under the Zoning By-Law.

Any person wishing to be heard in conjunction with this request should appear at the time and place designated or by letter to this Board in time to be read at the hearing.

\*Please note: Individuals requiring special accommodations should contact the Zoning Board of Appeals at (508) 839-5335, ext. 1154 at least seven (7) days prior to the hearing date in order to facilitate your request.

**ZONING BOARD OF APPEALS**

William McCusker, Chairman  
William Yeomans, Vice Chairman  
Kay Reed, Clerk  
Karl Chapin  
Marianne Desrosiers, Alternate  
Brian Waller, Alternate

Case Number # 861 / 2019 THE GRAFTON NEWS  
Thursday, October 3, 2019 and Thursday, October 10, 2019

**Statement in Support of New England Power Company d/b/a National Grid  
Application to Town of Grafton Zoning Board of Appeals for Grant of  
Variance under Section 6.5.4 of the Grafton Zoning By-Law for Privacy Fence at  
Existing Electric Substation at 64 Waterville Street, Grafton, Massachusetts**

New England Power Company d/b/a National Grid (“NEP”) is seeking approval from the Grafton Zoning Board of Appeals (the “Board”) for grant of a dimensional variance under Section 6.5.4 of the Grafton Zoning By-Law in connection with the installation of a privacy fence at an existing electric substation known as North Grafton Substation #328 (the “Substation”) located at 64 Waterville Street, Grafton, Massachusetts.

**I. Background, Proposed Use and Project Scope.**

The Substation and related facilities are currently located entirely on three parcels of land known and numbered as 62 and 64 Waterville Street and 64 Rear Waterville Street, which are all owned by NEP<sup>1</sup> and identified in the Assessor’s property records as 110/019.0-0000-0084.0, 110/011.0-0000-0080.0 and 110/011.0-0000-0080.A (collectively, the “Property”). The Property is located entirely within the Medium Density Residential (R-20) zoning district. The majority of the Property is also located within the Water Supply Protection Overlay (WSPO) District. The Substation was originally constructed in approximately 1939, and the substation use and facilities at the Property constitute pre-existing nonconforming uses and structures.

On October 4, 2018, the Board unanimously voted to approve the granting of certain front, rear and side yard setback variances for certain chain link security fencing and a retaining wall and a special permit in connection with the upgrading and rebuilding of the Substation as described therein. Copies of the 2018 decisions have been submitted with this Application. NEP now proposes to install an 8-foot tall, approximately 155.5’ long, wooden privacy fence (the “Privacy Fence”) to serve as additional screening between the Property and the neighboring property to the north at 66 Waterville Street.

**II. Requirement for Variance under Section 6.5.4.**

The Privacy Fence constitutes a structure based on its height, and, therefore, is subject to minimum yard setback requirements. The Privacy Fence will be installed on the northerly side lot line of the Property, i.e., will have a 0-foot setback, and, therefore, will not comply with the minimum 15-foot side yard setback requirement.

Section 3.3.1 of the Zoning By-Law provides that “[b]uildings or structures shall be erected or used and premises shall be used only as set forth in the ‘Intensity of Use Schedule’ in Section 3.2.3.2, unless otherwise exempted by statute.” Section 6.5.4 of the Zoning By-Law sets forth requirements for the issuance of variances. Based on the foregoing, the Privacy Fence requires a variance of 15 feet from the minimum 15-foot side yard setback requirement.

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<sup>1</sup> Title to Parcel 110/011.0-0000-0080.0 was conveyed from Massachusetts Electric Company d/b/a National Grid to NEP by virtue of a deed dated July 31, 2018 and recorded in the Worcester District Registry of Deeds in Book 59209, Page 127.

III. Reasons for Approval of Variance under Section 6.5.4.

The requested variance under Section 6.5.4 should be approved by the Board for the reasons stated herein.

1. Owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the Zoning By-Law would involve substantial hardship, financial or otherwise, to the petitioner and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-Law.

Unlike other properties and uses in the zoning district, the Project must comply with electrical safety and clearance requirements (among equipment, facilities and fencing), standards and codes, including, but not limited to, the National Electric Safety Code. There is very limited space available to properly and safely arrange all of the required equipment, structures (including the chain link security fencing that was previously approved) and facilities at the Property, which results in the proposed Privacy Fence line being within minimum yard setback area. Also unique to the Property and substation use, the approved chain link security fencing must be at the proposed height of 8' plus 1' of barbed wire in order to comply with safety and security standards and to adequately deter trespassers, which results in the need for the proposed Privacy Fence to also be taller. Having a taller Privacy Fence will also enhance the screening of the Substation, which contain various equipment and facilities that can be viewed from the neighboring property despite landscape buffers and the chain link security fencing. But for these safety and security standards and the , the proposed Privacy Fence could be at a lower height, in which case it would not be subject to minimum yard setback requirements. The topography of the land especially affects the Property and not surrounding properties in that the Property contains part of a transmission line corridor which contains typical changes in grades and steep slopes, thereby leaving little room to accommodate the Substation facilities, including the Privacy Fence. Therefore, for safety, security, screening, topographic and operational reasons, the Privacy Fence must be located as shown on the submitted plans.

NEP would suffer substantial hardship if literal enforcement of the side yard setback provision of the Zoning By-Law was to be enforced as there would not be sufficient area to accommodate the Privacy Fence at this location. The Substation facilities cannot be safely redesigned or reconfigured in a manner that will comply with minimum yard setback requirements. Therefore, if the requested variance is not granted, NEP would have to acquire rights to abutting properties or a new site in which to construct a new substation or expand another existing substation site. There are no such alternative sites available in close proximity to the Property and the transmission line corridor, and, even if a reasonably alternative site became available, it would be cost prohibitive to perform due diligence on, acquire rights to and design and construct facilities at such an alternative site. Moreover, the Project is highly time-sensitive and necessary in order to improve electric reliability in the Town and surrounding communities.

The requested relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of the Zoning By-Law. The Privacy Fence proposes only a minor modification of a portion of the fence line, and the proposed placement serves to protect the abutting property by providing enhanced screening and increases safety by providing additional separation between 66 Waterville Street and the Substation providing a barrier from certain rip rap along the property line. Although the new Substation facilities will be screened from neighboring properties by existing dense woodlands, new plantings and vegetative buffers, the Privacy Fence will provide even greater screening.

The nature and purpose of the substation use under the Substation project is for the public good and benefit. The proposed upgrades and improvements to the Substation will promote the health, welfare, safety, economic vitality and growth of the Town and surrounding communities by improving the capacity and reliability of electric service in the area.

The requested relief may be granted without nullifying or substantially derogating from the intent or purpose of the Zoning By-Law. Installation of the Privacy Fence is consistent with the general purpose and intent of the Zoning By-Law, and will not interfere with or negatively impact the resources protected thereby. The electric substation use is the most appropriate use of the Property, which has been used as an electric substation for decades and contains existing transmission lines infrastructure and related structures, fixtures and equipment that are outdated and dilapidated, including, the existing fencing and retaining walls. The visual screening of the land will be substantially improved as a result of the installation of the Privacy Fence.

2. The variance issuance will not result in significantly increased flood heights, additional threats to public safety, extraordinary, public expense, nuisances, fraud on or victimization of the public, or conflicts with existing local laws or ordinances.

The Property is not located in a floodplain district, and will not result in any increased flood heights. The installation of the Privacy Fence will not create concerns pertaining to public safety or general welfare. On the contrary, allowing the reduced setback distance for the Privacy Fence will provide safe and necessary separation from high voltage substation equipment and facilities.

Allowing the requested relief will not result in any public expense, nuisances, fraud or victimization of the public, but, rather, will result in increased tax revenues, promote the highest and best use of the Property and will have no greater impact on or adversely affect the neighborhood. The Privacy Fence will serve as additional screening and buffering between the Substation and neighboring properties that is not currently present at the Property. Except for the relief requested herein, the Building Inspector has confirmed that the installation of the Privacy Fence does not require any other zoning-related permits or approvals. NEP has already obtained all other necessary non-zoning permits and approvals necessary for the Substation improvement project.