

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



Application No. 15205 of the Potomac Electric Power Company, pursuant to 11 DCMR 3107.2, for a variance from the height limitation (Sub-section 840.1) for the installation of two combustion turbines and ancillary facilities of the Benning Generating Station in a C-M-1 District at premises 3400 Benning Road, N.E., (Parcel 169/114).

HEARING DATES: December 13, 1989  
DECISION DATES: January 3, and April 4, 1990 and February 5, 1992

ORDER TO DISMISS

The Board duly provided timely notice in accordance with Section 3317 of its Rules and held a public hearing on the merits of the request for variance relief on December 13, 1989. At the same public hearing, a companion case, Appeal No. 15204 was heard. Appeal No. 15204 challenged the Zoning Administrator's decision that the project required a variance from the height limitation. Application No. 15205 requested a variance from the height limitation which would be required if the Zoning Administrator's decision is upheld by the Board.

At its public meeting of January 3, 1990, the Board denied Appeal No. 15204 and upheld the decision of the Zoning Administrator to the effect that the project required a variance from the height requirements. The Board deferred consideration of the subject case until its public meeting of February 7, 1990 to allow for the presence and participation in the decision of all Board members who heard the case. At its public meeting of February 7, 1990, the Board reopened the record for additional information and deferred consideration of the application until its public meeting of April 4, 1990. The Board's final order denying Appeal No. 15204 was issued on February 16, 1990.

At its public meeting of April 4, 1990, the Board granted the subject application. At the April 4, 1990 public meeting, the Board also considered a motion to reconsider its decision in Appeal No. 15204. The Board granted the request for reconsideration, granted the appeal and reversed the decision of the Zoning Administrator. The Board issued Order No. 15204 granting the reconsideration and appeal on April 30, 1990.

At the public meeting of February 5, 1992, staff advised the Board that the issues raised by the subject application were rendered moot as a result of the Board's order in Appeal No. 15204,

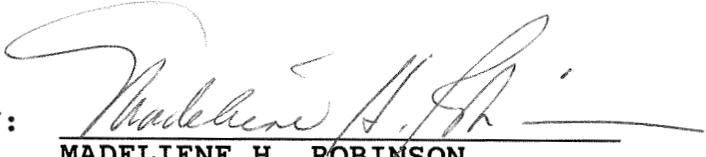
dated April 30, 1990. BZA Order No. 15204, which granted the appeal, allowed the applicant to seek a building permit for the proposed project as a matter-of-right. The need for the variance relief requested in the subject application no longer exists.

Upon consideration of the foregoing facts, the Board concludes that the granting of either case relative to the subject property was sufficient to allow the proposed project to proceed as planned. The Board further concludes that the findings of fact and conclusions of law in BZA Order No. 15204, April 30, 1990, are sufficient to address all the issues on the merits relative to the instant case. It is therefore ORDERED, by consensus of the Board, that the record of BZA Appeal No. 15204 is hereby incorporated into the record of the instant application and that Section 3331.3 of its Rules is hereby WAIVED to permit the issuance of an order which is not accompanied by individual findings of fact and conclusions of law. The Board concludes that the waiver will not prejudice the rights of any party and is not prohibited by law. It is further ORDERED that BZA Application No. 15205 is HEREBY DISMISSED.

BY CONSENSUS (Carrie L. Thornhill, Paula L. Jewell, Angel F. Clarens and Sheri M. Pruitt to dismiss).

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

ATTESTED BY:

  
MADELIENE H. ROBINSON  
Acting Director

FINAL DATE OF ORDER:

MAR 31 1992

UNDER 11 DCMR 3103.1, "NO DECISION OR ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN DAYS AFTER HAVING BECOME FINAL PURSUANT TO THE SUPPLEMENTAL RULES OF PRACTICE AND PROCEDURE BEFORE THE BOARD OF ZONING ADJUSTMENT."

GOVERNMENT OF THE DISTRICT OF COLUMBIA  
BOARD OF ZONING ADJUSTMENT



APPLICATION/APPEAL NO. 15205

As Acting Director of the Board of Zoning Adjustment, I hereby certify and attest to the fact that a copy of the Order in this application/appeal dated MAR 31 1992 has been mailed postage prepaid to each party who appeared and participated in the public hearing concerning this matter, and who is listed below:

George R. Keys, Jr. Esquire  
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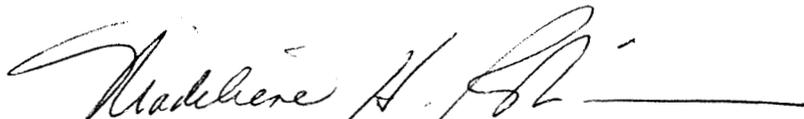
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MADELIENE H. ROBINSON  
Acting Director

DATE OF APPROVAL: MAR 31 1992