RESOLUTION OF THE PLANNING BOARD

TOWNSHIP OF SOUTH ORANGE VILLAGE

Decided: May 2, 2016
Memorialized: June 6, 2016

ELANA AND YANIV LIVNEH
APPROVAL OF MAJOR SOIL DISTURBANCE PERMIT
385-391 CHARLTON AVENUE
BLOCK507, LOTs 29 & 21
PB APPLICATION # S-16

WHEREAS Elana and Yaniv Livneh having an address at 385-391 Charlton Road, South Orange, NJ 07079 (the "Applicant") having made application to the Planning Board for a Soil Disturbance Permit regarding premises at 385-391 Charlton Avenue South Orange, NJ 07079, and known as Block 507, Lots 20 & 21on the tax map of the Village of South Orange; and

WHEREAS the Board having accepted jurisdiction based upon proof of publication and notices provided in accordance with the Municipal Land Use Law; and

WHEREAS the Board having conducted a public hearing on May 2, 2016 after notice; and

WHEREAS the Applicant Yaniv Livneh having appeared and given testimony and having heard testimony of the Applicants' witness Gary Szelc, PE, and offered testimony and the Board and considered the exhibits and expert reports submitted by Applicant and considered the comments from the Board's professionals and considered the comments of all members of the public desiring to be heard and deliberated on the merits of the application;

NOW, BE IT RESOLVED AS FOLLOWS:

EVIDENCE SUBMITTED

In summary, the following evidence was submitted in connection with the application and considered by the Board:

1. The Board received the application and the documents submitted therewith, including the following:

(i) Major Soil Disturbance Permit Application,
(ii) 200 ft list,
(iii) Drainage, Grading and Erosion Control Plan prepared by Casey & Keller, Inc., dated March 14, 2016 (1 Sheet).

2. The Board accepted into evidence the following Exhibits:

NONE

3. Yaniv Livneh introduced the application saying they intended to demolish the existing home on the premises and replace it with a new dwelling.

4. Gary Szelc, PE was sworn and qualified as an expert in civil engineering. Mr. Szelc stated that the application would to remove more than 500 cubic yards of soil from the premises which necessitated the application for a Major Soil Disturbance Permit. He stated that the Applicant would be demolishing the existing home and replacing it with a new one, and converting the existing garage to a pool house. He testified that the only grade change on the property would be on the South side which would be regraded otherwise it might affect drainage. He testified that the soil to be removed would be taken to a disposal facility either in Kearny, NJ or Mount Arlington, NJ and that in either event the soil would be trucked via Route 280. Mr. Szelc testified that Applicant would install silt vents to protect topsoil per their approval from the Hudson/Essex/Passaic Soil Conservation District. He noted that the soil to be removed came mainly from the excavation of the basement and pool.

5. In responding to Board questions, he noted that the truck route for the removal of the soil would be along Scotland Road to Rte. 280. With respect to lot coverage Board Engineer Sal Renda indicated that 30 percent would be permitted on this lot and that any new structure constructed by Applicant would need to meet that maximum or seek a variance. With respect to the removal of a tree on the site, Mr. Renda noted that the plans included Applicant obtaining a Tree Removal Permit and Replacement Permit.

6. Andre Braugher who resides next door at 393 Charlton Avenue asked how long the soil disturbance would take to which Mr. Szelc replied approximately 1 week.

7. Amy Brabson of 393 Charlton Avenue inquired whether Applicant would need a Certificate of Appropriateness from the Historic Preservation Commission and was advised that if one was need the Applicant would need to obtain same.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

8. Chapter 135 of South Orange Ordinances regulates soil disturbance. A permit for Major Soil Disturbance which defined as three things: 1) extensive regrading of the property that may result in adverse effects to the Village's drainage system or

neighboring properties as determined by the Village Engineer; 2) construction of retaining walls equal to or greater than 4 feet; or 3) construction of a new single or two family house.

9. Among the items Applicant is required to submit are the number of cubic yards of soil to be moved and routes used in transporting the soil.

10. Chapter 135 further provides that the Planning Board shall deny the application for a permit if it should find that the proposed work:

    a. Shall endanger or damage any adjacent property including public streets, sidewalks, alleys or rights-of-way;
    b. Shall endanger or damage any tree which is entitled to protection under the provision of the Village Code;
    c. Will adversely affect the existing drainage conditions on any adjacent property including public streets, sidewalks, allies or rights-of-way;
    d. Will substantially increase the natural flow of surface or subterranean waters on any adjacent property, including public streets, sidewalks, allies or rights-of-way;
    e. Will create a condition which is inimical to public health, safety and welfare; and
    f. Will defeat or prevent the occurrence in the Village of the carrying out of the aims and purposes of this Chapter.

11. The Board finds that the Permit can be issued without triggering any of the reasons for denial set forth in the Ordinance.

12. The Planning Board has reviewed the applicant and finds that the Permit can issue without causing harm to the public health, safety or welfare.

THE DECISION AND CONDITIONS

WHEREAS, the Board, having reviewed the application for major soil disturbance permit, and having considered the impact of the proposed application on the Village and its residents and the surrounding property owners, and having considered whether the proposal complies with and furthers the goals of the master plan and zoning ordinances of the Township of South Orange Village; and upon the imposition of specific conditions to be fulfilled, hereby, concludes that good cause has been shown to approve the application of Applicant for major soil disturbance permit as enumerated herein.

NOW THEREFORE, BE IT RESOLVED by the Planning Board of the Township of South Orange Village that the application for a major soil disturbance permit as set forth in the plans, reports, representations, testimony, stipulations and Exhibits offered by the Applicant is hereby granted with the following conditions:

1. The Applicant shall comply with all applicable Township, County and State laws, ordinances, regulations and directives, including without limitation, obtaining all applicable local and state approvals and/or permits.

2. In the event that any other required regulatory approval conflicts with the terms and conditions hereof, or materially alters the same, or the terms and conditions hereof are materially altered by any change in applicable law or regulation other than those municipal regulations for which change is prohibited by the Municipal Land Use Law (MLUL), or in the event Applicant or its successors or assigns construct or attempt to construct any improvement in conflict with or in violation of the terms of this approval, the Board hereby reserves the right to withdraw, amend or supplant the instant approval.

3. The Applicant shall pay all outstanding taxes, application fees, technical review fees and inspection fees that may be required hereunder. Permits before construction and/or certificates of occupancy may be withheld unless all additional fees and/or escrow deposits are paid. The Applicant shall pay any additional fees or escrow deposits which may be due and owing within ten (10) days of notification.

4. All disturbance and development of the property shall be in conformance with the plans approved herein, all representations of the Applicant and its witnesses during the public hearing, all exhibits introduced by the Applicant, and all terms and conditions of this resolution.

5. Applicant to indemnify and hold the Village harmless against any costs or liabilities which the building may incur because of the failure of the owner to comply with the provisions of the Ordinance or the Permit granted.

6. The Board finds that a Performance Bond is not necessary in this Application.

7. The top layer of arable soil up to a depth of 6 inches shall be set aside on the site and re-spread after the other soil has been removed in accordance with the contour line previously approved this Board. Applicant shall ensure that such topsoil shall not be buried with any other soil of inferior quality pursuant to §135-10(c).

IN WITNESS WHEREOF, the Board has caused this Resolution to be executed by its Chairman and Secretary on the 6th day of June, 2016.

OJETTI DAVIS, Secretary

Vote on the Action Taken by the Board:

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
ALLEN			X			
CHAMBERS						X
COLTON-MAX Chair			X			
HARRIS (2nd Alt.)						
LERMAN (1st Alt.)			X			
LOEHNER	X		X			
MILLER Vice-Chair			X			
ROSNER			X			
COLLUM		X	X			
WILSON			X			

Vote on Memorializing Resolution

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
ALLEN			X			
CHAMBERS						X
COLTON-MAX Chair			X			
HARRIS (2nd Alt.)						
LERMAN (1st Alt.)						X
LOEHNER			X			
MILLER Vice-Chair		X	X			
ROSNER			X			
COLLUM			X			
WILSON	X		X			