

**RESOLUTION OF THE PLANNING BOARD**

**TOWNSHIP OF SOUTH ORANGE VILLAGE**

Decided: November 6, 2017

Memorialized: December 4, 2017

**WHITNEY AND JAMES GRIFFITHS  
APPROVAL OF MAJOR SOIL DISTURBANCE PERMIT  
69 GLENVIEW ROAD  
BLOCK 1601, LOT 23  
PB APPLICATION # S-17**

WHEREAS Whitney and James Griffiths having an address at 69 Glenview Road, South Orange, NJ 07079 (the "Applicant") having made application to the Planning Board for a Major Soil Disturbance Permit regarding premises at 69 Glenview Road, South Orange, NJ 07079, and known as Block 1601, Lots 23 on 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 November 6, 2017 after notice; and

WHEREAS the Applicant Whitney Griffiths having appeared and given testimony and the Board having 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) Drawings prepared by Michael J. Knapp, LA dated August 7, 2017 revised through September 13, 2017 (2 sheets), and
- (iii) Topographic Survey prepared by Morgan Engineering & Surveying dated June 8, 2017.

2. The Board accepted into evidence the following Exhibits: NONE

3. Whitney Griffiths was sworn and testified that she was seeking a permit for renovations at the back of their existing single family residence which included moving a retaining wall and relocating it further away from the house and erecting a fence to make the yard safer for their toddler due to the change in grade.

4. Sal Renda, PE the Board Engineer reported that the application included catch basins and a drainage system in order to protect against soil erosion.

5. Ms. Griffiths stated that no trees were planned to be removed in connection with the proposed improvements.

#### **FINDINGS OF FACT AND CONCLUSIONS OF LAW**

6. Chapter §135 of South Orange Ordinances regulates soil disturbance. A permit for Major Soil Disturbance is needed if there is: 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.

8. 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.

9. The application indicates that 442 cubic yards of soil will be removed from the Applicant's property. The route will be from Glenview Road to South Orange Avenue west, to JFK Parkway south, to Rte. 24 east, to I-78 west, to Bernards Township. The final destination is Whitenack Road, Bernards Township. No soil is proposed to be imported to the site by this application.

10. The Board notes that the Essex County South Mountain Reservation is directly behind Applicant's property.

11. Chapter §135 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; or
  - f. Will defeat or prevent the occurrence in the Village of the carrying out of the aims and purposes of this Chapter.
12. The Board finds that the Permit can be issued without triggering any of the reasons for denial set forth in the Ordinance.
13. After due deliberation and consultation with the Board Engineer the Board determines that no bond is needed.
14. The Board finds that sufficient evidence has been introduced to warrant granting the application.

### **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 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.

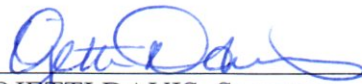
7. The top layer of arable soil up to a depth of 6 inches shall be set aside on the site and re-spread after the other soil has been removed in accordance with the contour line previously approved this Board. Applicant shall ensure that such topsoil shall not be buried with any other soil of inferior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

8. Any Major Soil Disturbance Permit issued by the Construction Official pursuant to this Resolution shall expire six months after the date hereof.

9. All excavation, removal, filling or grading shall be performed in accordance with the terms, standards and criteria set forth in Chapter §135 of the South Orange Ordinance.

10. Applicant shall execute a Hold Harmless agreement pursuant to Ch. §135-7.

IN WITNESS WHEREOF, the Board has caused this Resolution to be executed by its Secretary on the 4<sup>th</sup> day of December, 2017.

  
OJETTI DAVIS, Secretary

Vote on Action Taken by the Board

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
BUSCH-VOGEL			X			
COLTON-MAX (Ch.)			X			
HARRIS (1st Alt.)						X
LERMAN			X			
LOEHNER						X
MILLER (V. Ch.)	X		X			
ROSNER			X			
WILSON		X	X			

Vote on Memorializing Resolution

Board Member	Motion	Second	Aye	Nay	Abstain	Absent
BUSCH-VOGEL		X	X			
COLTON-MAX (Ch.)			X			
HARRIS (1st Alt.)						
LERMAN						
LOEHNER						
MILLER (V. Ch.)	X		X			
ROSNER			X			
WILSON						