

AN ORDINANCE AMENDING, REVISING AND SUPPLEMENTING THE LAND USE AND DEVELOPMENT ORDINANCES OF THE TOWNSHIP OF WOODBIDGE REGARDING TREE REMOVAL

WHEREAS, the Township finds that in order to further preserve the quality of life for the citizens of the Township of Woodbridge, it is necessary to have a procedure in place for the replacement of trees that are removed due to construction; and

WHEREAS, the Township further finds that requiring the replacement of trees will benefit the health, safety and general welfare of the citizens of the Township of Woodbridge;

WHEREAS, the Township proposes to protect mature trees within the Township;

NOW, THEREFORE, BE IT ORDAINED, BY THE MUNICIPAL COUNCIL OF THE TOWNSHIP OF WOODBRIDGE, County of Middlesex, State of New Jersey, as follows:

SECTION 1: The Land Use and Development Ordinance of the Township of Woodbridge is hereby amended, revised and supplemented so as to add a new section 150-20.2 entitled "Replacement of Trees" which shall read as follows:

- A. ~~The~~ developer and/or property owner responsible for the construction on any site other than an owner occupied single-family residential lot, shall conduct an inventory of all trees on such site prior to clearing same. The inventory shall be included as part of any application for development and shall be produced by the licensed professional preparing the application documents.
- B. The developer responsible for submitting the inventory referenced in Section A shall be responsible for replacing on site all trees that are 4"

caliper or greater to be removed due to construction or pay a Tree Waiver Fee of \$250.00 per tree to the Department of Planning and Development, which fee shall be placed in escrow for use by the Township to plant trees in other areas of the Township, including along and in municipal right-of-ways. Replacement trees shall be a minimum caliper of 2 1/2" and 10' - 12' in height deciduous or 6' in height evergreen at planting and of a variety suitable for the site.

- C. Any person who shall violate any provision of this ordinance shall be subject to the maximum penalties set forth in Section 1-5.1 of the Revised General Ordinances.

SECTION 2: All ordinances or parts of ordinances which are inconsistent herewith are hereby repealed as to the extent of such inconsistencies only.

SECTION 3: This ordinance shall take effect immediately upon adoption and publication according to law.

ADOPTED: SEP 19 2000

I hereby certify that the above is a true and exact copy of the Ordinance adopted by the Municipal Council of the Township of Woodbridge at their Regular Meeting held on SEP 19 2000



JOHN M. MITCH, RMC, CMR
MUNICIPAL CLERK

Sponsored by Council President Patricia Osborne

RECEIVED BY

SEP 21 2000

Department of
Planning & Development

RESOLUTION

WHEREAS, EVERGREEN FOREST, LLC., hereinafter referred to as the applicant, has made application to the Planning Board of the Township of Woodbridge for Preliminary and Final Major Site Plan & Bulk and Design Variance approval in order to construct a 100-unit residential housing complex on the subject site consisting of five (5) individual buildings proposed around a central "L" shaped parking lot with each building containing twenty (20) one-bedroom plus one den units. Two separate two-way driveways are proposed along Essex Avenue and will be the only points of street access for this development. Drainage swales and basins are proposed in the project area along with 16 foot wide concrete walkway, labeled a "waterfront promenade". A 30 foot wide "conservation restriction" is also proposed. Both the promenade and conservation restriction are located within the 50 foot wetlands buffer area. The residential buildings will be approximately 39 feet in height, 3 ½ story buildings and contain carports on the ground level which will only be visible and accessible from the interior of the complex. Two hundred (200) parking spaces are proposed. The property is known and designated as Block 974, Lot 1, Block 977, Lots 1 – 4, 9 & 10, Essex Avenue East, Avenel, New Jersey, M-1/MF (Planned Unit Development Option); and

WHEREAS, said development project is more specifically shown on Preliminary/Final Major Site Plan, Forest View III, prepared by Chester, Ploussas, Lisowsky Partnership, LLP signed and sealed by Michael Pucci, P.E., P.P., dated May 14, 2008 and revised through December 8, 2008, consisting of fourteen (14) sheets; Pre & Post Development Drainage Map, prepared by Chester, Ploussas, Lisowsky Partnership, LLP signed and sealed by Michael Pucci, P.E., P.P., dated February 23, 2009; Tree Inventory Plan, prepared by Chester, Ploussas, Lisowsky Partnership, LLP signed and sealed by Michael Pucci, P.E., P.P., dated February 23, 2009; Wetlands Map dated February 26, 2009, Geotechnical Investigation Statement prepared by Frank J. Sullivan, P.E., dated February 18, 2009, Soil Log Location Plan prepared by Frank H. Lehr Associates dated October 29, 2008; and

WHEREAS, the Planning Board of the Township of Woodbridge has received a report from Bignell Planning Consultants, Inc., dated August 19, 2009 (attached hereto and made a part hereof as Exhibit A); Remington & Vernick, consulting engineers dated August 18, 2009 (attached hereto and made a part hereof as Exhibit B); Port Reading Fire Prevention Bureau report dated April 6, 2009 (attached hereto and made a part hereof as Exhibit C), Woodbridge Police Department report dated March 6, 2009 and Traffic Enforcement report attached dated March 3, 2009, (attached hereto and made a part hereof as Exhibit D); TRC memo dated August 19, 2009 (attached hereto and made a part hereof as Exhibit E); and

WHEREAS, a public hearing was held on said development application before the Planning Board of the Township of Woodbridge on August 26, 2009 in accordance with local ordinance and the laws of the State of New Jersey; and

WHEREAS, the Planning Board of the Township of Woodbridge, after hearing the evidence presented on behalf of the applicant, after reviewing the reports of those agencies who reviewed the applicant's development project, and after hearing and considering the comments of the public, does make the following findings of fact and conclusions of law:

1. The plans conform to the requirements of the Land Use and Development Ordinance relative to site plans.

2. Notice as required under the Municipal Land Use Law has been given and the Planning Board has jurisdiction to hear and decide the application.

3. Stephen Barcan, Esq., of Wilentz, Goldman & Spitzer, Esqs., registered his appearance before the Planning Board as attorney for the applicant. Mr. Barcan stipulated the township professional and staff reports referred to herein into the record and in evidence. Mr. Barcan represented that the plan that is before the Board includes Forest View II and III and that this area is contained within the Planned Development provision of the Zoning Ordinance that was recently changed to reflect that. This project will be included in the Township's affordable housing plan.

4. The applicant proposes to construct a 100-unit residential housing complex on the subject site consisting of five (5) individual buildings proposed around a central "L" shaped parking lot with each building containing twenty (20) one-bedroom plus one den units. Two separate two-way driveways are proposed along Essex Avenue and will be the only points of street access for this development. Drainage swales and basins are proposed in the project area along with 16 foot wide concrete walkway, labeled a "waterfront promenade". A 30 foot wide "conservation restriction" is also proposed. Both the promenade and conservation restriction are located within the 50 foot wetlands buffer area. The residential buildings will be approximately 39 feet in height, 3 ½ story buildings and contain carports on the ground level which will only be visible and accessible from the interior of the complex. Two hundred (200) parking spaces are proposed. The property is known and designated as Block 974, Lot 1, Block 977, Lots 1 – 4, 9 & 10, Essex Avenue East, Avenel, New Jersey, M-1/MF (Planned Unit Development Option

5. Michael Pucci, P.E., P.P., was qualified to testify as a licensed professional planner and engineer. Testimony of applicant's witness, Michael Pucci indicated as follows, which the Board finds as fact:

a. The vicinity of the project was depicted on the composite map showing the entire tract of Evergreen Forest. Forest View II fronts Homestead Avenue consisting of 159 units. There is a four (4) plus acre area along Essex Avenue East of this 43 acre property is where the Forest View III project is proposed. The project is bisected by a tributary of the Woodbridge River which flows in a southerly direction through the site. There are wetlands associated with that tributary and the applicant has pending applications before the DEP.

b. There will be 5 buildings containing 20 units each. The buildings will be configured in an "L" shaped manner with central parking with two driveways from Essex Avenue east in a loop system.

c. The project has been designed in conformance with applicable municipal, county and state rules governing flood plain construction. Wetlands permits were granted over in 1990. They have submitted the necessary waterfront development and wetlands permits. The DEP has waterfront regulations requiring public access to the waterfront. The tree ordinance requires 101 trees be replaced and they will comply with whatever the township planner requires.

6. Robert Larsen was qualified to testify as a licensed professional architect. Testimony of applicant's witness, Robert Larsen indicated as follows, which the Board finds as fact:

a. Mr. Larsen prepared the architectural design for the project. There five (5) identical buildings, each with 20 units for a total of 100 units. One side of the building has carports and the other side has dwelling units on the first floor. The buildings are 39 feet in height and will have a brick veneer or stone on the lower portion and vinyl siding accents on the upper façade. There are 60 duplex units and 40 flat units. The one bedroom plus den units will be restricted, by deed, to be rented only as one bedroom plus den units.

7. John Rea was qualified to testify as a licensed professional engineer in the field of traffic. Testimony of applicant's witness, John Rea indicated as follows, which the Board finds as fact:

a. They conducted peak hour traffic counts at the intersection of Homestead Avenue and Essex Avenue last September on school days when weather was not a factor. The levels of service for the intersection range from A to F with F being the lowest. The level of services relates to the delay that motorists encounter as they go through the intersection. The level of service for the a.m. and p.m. peak hours is "B" which is very acceptable. They also looked into the level of service three years out into the future and found that to be level "B" as well. The site plan meets accepted traffic engineering parameters with two means of ingress and egress. Parking meets RSIS standards.

b. Mr. Rea concluded that the Board can approve this project and that it will operate compatibly and safely with existing and future traffic flows in the area and that the off-site traffic circulation will work safely and efficiently.

WHEREAS THE BOARD FURTHER FINDS,

8. In this case there are no bulk variances requested and as such the applicant would be entitled to approval subject to reasonable conditions imposed by the Board. The Tree Replacement Plan shall comply with the requirements of the Township insofar as size, type and location on the site. The Board accepted the testimony of the applicant's witnesses relative to the proof required under the Municipal Land Use Law and that design variances requested can be granted without substantial detriment to the Zone Plan or Master Plan.

9. Preliminary and Final Major Site plan and bulk and variance(s) or design waiver approval is hereby granted subject to the applicant submitting reproducibles, cost estimates, testing and inspection fee deposits, and providing performance and maintenance guarantees in

accordance with the requirements of the Land Use and Development Ordinance of the Township of Woodbridge.

10. The applicant met the burden of proof under the Municipal Land Use Law as well as the Township Master Plan and Zoning regulations.

NOW, THEREFORE, LET IT BE RESOLVED, that the Planning Board of the Township of Woodbridge does hereby grant Minor Site Plan & Bulk and Design Variance approval to **EVERGREEN FOREST, LLC**., in order to construct a 100-unit residential housing complex on the subject site consisting of five (5) individual buildings proposed around a central "L" shaped parking lot with each building containing twenty (20) one-bedroom plus one den units. Two separate two-way driveways are proposed along Essex Avenue and will be the only points of street access for this development. Drainage swales and basins are proposed in the project area along with 16 foot wide concrete walkway, labeled a "waterfront promenade". A 30 foot wide "conservation restriction" is also proposed. Both the promenade and conservation restriction are located within the 50 foot wetlands buffer area. The residential buildings will be approximately 39 feet in height, 3 ½ story buildings and contain carports on the ground level which will only be visible and accessible from the interior of the complex. Two hundred (200) parking spaces are proposed. The property is known and designated as Block 974, Lot 1, Block 977, Lots 1 – 4, 9 & 10, Essex Avenue East, Avenel, New Jersey, M-1/MF (Planned Unit Development Option), subject to the following conditions:

1). The applicant shall comply with the terms and conditions set forth in the report from Bignell Planning Consultants, Inc., made a part of this resolution, dated August 19, 2009. The Tree Replacement Plan must comply with the Tree Replacement Ordinance and is subject to review and approval by the Township. The applicant shall return to the Technical Review Committee with this plan for their review and approval. If the issue of tree replacement can not be resolved at the TRC level, the applicant shall return to the Board for further review of the tree replacement issue.

2) The applicant shall comply with the terms and conditions set forth in the report from Remington & Vernick, Engineers, made a part of this resolution, dated August 18, 2009 and submit revised plans as required.

3) Approval is based upon the facts and evidence presented to the Board at the time of the hearing. In the event that it is determined that the applicant presented facts or evidence that may have been erroneous or incorrect, the Board reserves the right to rescind this approval under the provisions of the Municipal Land Use Law and cases interpreting same and/or require the applicant to return to the Board for further hearing.

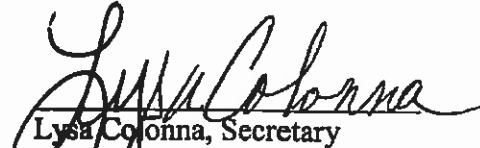
4) The general terms and conditions, whether conditional or otherwise, upon which minor site plan approval is granted, shall not be changed for a period of two (2) years after the date of approval.

5) The applicant shall publish a brief notice of this determination in an official newspaper of the municipality within twenty (20) days of the date of mailing of a copy of this Resolution to the applicant.

Preliminary and Final Major Site Plan and bulk/design variances are hereby granted on August 26, 2009, pursuant to motion adopted by the Planning Board of the Township of Woodbridge.

I hereby certify that the foregoing is an exact and true copy of the Resolution adopted by the Planning Board of the Township of Woodbridge at a public meeting held on October 7, 2009.

ADOPTED: October 7, 2009


Lysa Colonna, Secretary
Planning Board
Township of Woodbridge

Roll Call: For Approval

Chairman Raymond Miller	Yes
Vice Chairman John Burke	Yes (2)
Patricia Osborne	Yes
Lorraine Luban	Yes
Philip Bujalski	Yes (1)
Frank St. Marie	Yes
Patrick Trombetta	Yes
Terence Sharkey	Yes

RESOLUTION

WHEREAS, Paul & Janelle Fletcher, hereinafter referred to as the applicant, has made application to the Zoning Board of Adjustment of the Township of Woodbridge for Amended Preliminary/Final Major Subdivision approval and use and bulk variances from the requirements of the Land Use and Development Ordinance of the Township of Woodbridge relative to property located at 112 Liberty Street, Fords, NJ, being also known as Block 13, Lots 1A, 1B, 1C, 1D, 5, 6B – 11B; Block 13.B Lots 20, 20R, 1B2 and 3B; and Block 13.C, Lots 5, 6, 20A and 1A1 on the Woodbridge Township Tax Map; and

WHEREAS, the subject site is located in the R-6 Single Family Residential Zone and the B-2 Business Zone; and

WHEREAS, Bignell Planning Consultants submitted a report to the Board dated February 13, 2008 a copy of which is attached hereto and made a part hereof as Exhibit A; and

WHEREAS, T & M Associates submitted a report to the Board dated February 14, 2008, a copy of which is attached hereto and made a part hereof as Exhibit B; and

WHEREAS, the Board conducted a public hearing on said application on February 21, 2008, after the applicant served notice of same on all interested parties as required by the Municipal Land Use Law, with the applicant being represented by Chris A. Nelson, Esq., and the following persons testifying on behalf of the application: Paul J. Fletcher, P.E., P.P. and not one appearing in opposition thereto:

WHEREAS, the Board received into evidence the following:

- A – 1 Photographs of fallen trees in applicant's backyardO-1
- A – 2 Four sheets consisting of eleven (11) photographs of various trees and backyards.

WHEREAS, the Board finds:

- (1) The reports of the Board's consultants were entered into the record with the applicant's reserving their right to comment on and differ with same.
- (2) Mr. Nelson advised the applicants received approval for this project by Resolution Z03-143 adopted on March 18, 2004. He noted a use variance was granted in that approval as a portion of the property along New Brunswick Avenue is within the B-2 Zone and will be used for residential purposes.

Counsel further represented the project is substantially underway with a number of the homes having been constructed and sold, while several are still under construction. Mr. Nelson added one (1) however is completed and can close title anytime but the only impediment and reason for this application is the need for an amended tree plan replacement plan.

(3) Paul Fletcher testified he was frankly naïve to believe he could save as many trees as he proposed in the original application and during the construction of the project a number of factors came into plan that resulted in the loss of some trees he believe could be saved.

The applicant testified the property was formerly owned by Liberty Trucking and over the years that owner filled the property; made piles of dirt and berms and trees were actually growing on these berms and mounds. Mr. Fletcher stated there was actually a filled in part with a 14" tree growing out of it.

He then explained to the Board that in order to properly grade the site and construct the roads with an elevation providing positive drainage; they were required to lower the grades. The applicant explained this was necessary to ensure the required driveways were not too steep and the homeowners would have useable back yards. Mr. Fletcher explained this all had a significant impact on the trees that could be saved which he directly attributed to irregular topography of the property.

Additionally, the witness testified the irregular topography and the new grading also raised a safety issue creating the potential for trees to fall. In support of his testimony, the applicant introduced exhibit A – 1 which depicts a tree that fell into his own backyard. He then introduced A – 2 a series of photographs depicting trees growing on berms and mounds at the site testifying it is not possible to maintain all the trees he originally believed could be saved and complete the development of the site properly.

(4) Mr. Fletcher then testified he has submitted a revised tree plan which was agreed to by the Technical Review Committee and moreover at the request of the TRC has increased the size of evergreens from 6 ft. to 8 ft. and 10 foot for arbor vitae and the street trees will be increased from 2 ½" caliper to 3 ½" caliper and while some meet the criteria, he will upgrade existing plantings where necessary.

(5) Mr. Fletcher also testified with respect to Mr. Bignell's report, specifically the "Plan Review" comments Section 9, that he agrees to comply with that section in its entirety and indeed, the submitted plans reflect that agreement with one exception. The witness explained the plans do not reflect the detail for the foundation landscaping but will submit it on revised plans although it has been his habit to it on the homes already built.

(6) The applicant requested, if the application is approved, certain conditions of approval. Specifically he requested that all of the plantings be in place prior to the issuance of the last C of O for the project and that although some plantings have to be replaced that he be given 60 – 90 days to do so because of the time of the year and the weather.

Mr. Fletcher stated they have C of O's on three (3) houses and are looking for a fourth (4th) which is the one Mr. Nelson referred to in his opening remarks. He then requested, if approved, that the Board notify Ms. Lefsky, it had no objection to the issuance of the Certificate of Occupancy for the house on lot 6 prior to the memorialization of the Board's action.

Mr. D'Arcio asked for a clarification of the reasons the trees to be retained were not retained.

Mr. Fletcher testified again the reasons were the result of the irregular topography created by the former owner; inability to level the site properly in order to ensure all the properties which backed up to Liberty Street that any runoff would go by gravity to the storm system and for safety reasons as shown in A – 1 and A – 2.

Mr. Della Pietro advised the Board he lives in the area and is very familiar with the property and he confirmed Mr. Fletcher's testimony with respect to the dumping by the former owner. He also stated at Christmas time, the Fire Company had to pump Mr. Fletcher's basement during a heavy downpour. He expressed his opinion that Mr. Fletcher has made a major improvement to the site and the area.

(7) Mr. Turant expressed his concern over the impact, if any, on the buffered area.

Mr. Fletcher responded there are two (2) areas where there's buffering. The most crucial of which is along New Brunswick Avenue and that twenty – five (25') foot strip is to be significantly planted and he's not referring to that. He explained his intent stating for example on lot 12, there's evergreens by the road which the homeowner may prefer in the backyard and sometimes certain species are not available in the nurseries and requests some flexibility. However, he assured the Board the buffers will not be changed from the approval plans.

(8) Based upon the testimony of Mr. Fletcher and the evidence submitted i.e. A – 1 and A – 2, the Board finds approval of the application will have no substantial detriment on the master plan and zoning ordinances of the Township of Woodbridge.

The Board finds the existing conditions at this site, created by the property's former owner and not the applicant's have created the irregular topography of the land and as a consequence hereof has created a safety issue which the applicant's seek to correct with this application.

The board further finds the requested relief will permit the applicants to properly complete the project in a manner consistent with good planning and sound engineering principles which benefit not only the applicants but the owners and future owners of these homes but the community at large. It finds the subject project has been a benefit to the Township of Woodbridge and its residents as it has taken a site which was formerly an eyesore and has rejuvenated it with new single family homes. Therefore the Board finds approval of the application will have no negative impact on the surrounding properties nor on the health, safety or welfare of the residents of the Township of Woodbridge.

It also finds the request of the applicants with respect to the plantings of new trees and other landscaping within 90 days is reasonable given the time of the year and the applicants obligation to insure these plantings are planted and survive. Therefore the Board approves the application conditioned upon all plantings should be accomplished no later than 90 days from the date hereof.

Moreover, the Board finds the applicants' request for the issuance of a certificate of occupancy for lot 6 currently under contract and scheduled to close title to be reasonable.

However, the Board further recommends that all plantings required under this approval be in place prior to the issuance of the certificate of occupancy for the final lot in the project.

Therefore, the Board finds the application can be and is hereby approved.

NOW, THEREFORE, LET IT BE RESOLVED, that the Zoning Board of Adjustment of the Township of Woodbridge does hereby grant Amended P/F Major Subdivision approval and use and bulk variances from the requirements of the Land Use and Development Ordinance of the Township of Woodbridge relative to property located at 12 Liberty Street, Fords, NJ, being

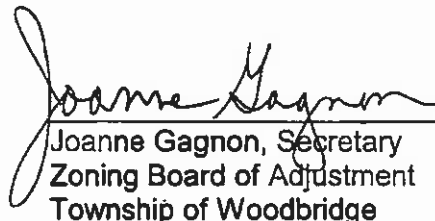
also known as Block 13, Lots 1A, 1B, 1C, 1D, 5, 6B – 11B; Block 13.B, Lots 20, 20B, 21, 1B2 and 3B; and Block 13.C Lots 5, 6, 20A and 1A1 on the Woodbridge Township Tax Map; subject to the following stipulations:

1. Applicant shall submit revised plans detailing foundation planting.
2. Applicant shall comply with all items in Mr. Bignell's Plan Review Comments.
3. Applicant shall install all plantings within 90 days of the date hereof.
4. Except as modified and amended herein, all other conditions of applicant's prior approval remain in full force and effect.
5. Any alteration or modification to the approved plan will require returning to the Board for further approval prior to the issuance of a Certificate of Occupancy.
6. The applicant shall publish a brief notice of this determination in an official newspaper of the municipality within twenty (20) days of the date of mailing of a copy of this resolution to the applicant.

Amended Preliminary/Final Major Subdivision approval, use and bulk variances are hereby granted **February 21, 2008**, pursuant to a motion adopted by the Zoning Board of Adjustment of the Township of Woodbridge.

I hereby certify that the foregoing is an exact and true copy of the resolution adopted by the Zoning Board of Adjustment of the Township of Woodbridge at their regular public meeting held on **March 6, 2008**.

ADOPTED: MARCH 6, 2008


Joanne Gagnon, Secretary
Zoning Board of Adjustment
Township of Woodbridge

<u>Roll Call:</u>	
Frank D'Arcio	Yes
Frank Della Pietro	Yes
William Kazawic, Jr.	Yes
Joseph Turant	Yes
Cory Spillar	Yes
David Ortmann	Yes
Bernard McLaughlin	Yes