

**RESOLUTION NO. 2021-026
PILESGROVE TOWNSHIP PLANNING BOARD
RESOLUTION MEMORIALIZING THE DENIAL
OF A BULK VARIANCE TO APPLICATION
NO. 2021-011
EVERGREEN ENVIRONMENTAL, LLC
(BLOCK 14, LOT 9)**

**Denied: July 21, 2021
Memorialized: August 18, 2021**

WHEREAS, an Application was filed by EVERGREEN ENVIRONMENTAL, LLC (Applicant), whose mailing address is 425 Darby Paoli Road, Wayne, Pennsylvania 19087, through their attorney Frank J Hoerst, Esquire, with a mailing address of The Opera House, 13 West Avenue, Woodstown, New Jersey, 08098, for a bulk variance for the installation of an 8-foot fence located on property known as Block 14, Lot 9 on the Pilesgrove Township Tax Map and located at the north west corner of Whig Lane Road and Stewart Road. The Property being located in an SR (CL) Single Family Residential/Cluster Option Zoning District. The fence being depicted on a certain plan entitled “Evergreen-Oldman’s Creek Mitigation Bank Site”, dated October 23rd, 2020, and a fence plan Alternative 1 and Alternative 2, dated May 25th, 2021, consisting of (3) sheets; and

WHEREAS, Randall Scheule, PP/AICP, the Pilesgrove Township Planning Board Planner, having reviewed the Application and rendered a review letter thereon dated July 16, 2021 (Planner’s Letter); and,

WHEREAS, the Application was deemed complete at the regularly scheduled Pilesgrove Township Planning Board meeting convened on July 21st, 2021 , with waivers requested by the Board; and

WHEREAS, notice to the public was required in accordance with the Township Ordinance and Municipal Land Use Law (MLUL); and

WHEREAS, notice was provided in accordance with the Township Ordinances and the MLUL; and,

WHEREAS, the Board determined that it has jurisdiction to hear the Application and proceed with a public hearing on the Application on the regular meeting of the Pilesgrove Township Planning Board convened on July 21st, 2020; and,

WHEREAS, there were multiple members of the Public who appeared in opposition to the application; and

WHEREAS, the Board heard testimony from the Applicant James R Ingram, the Applicant's Senior Biologist Linda Salvati, and representations made by the Applicant's attorney, Frank J Hoerst III , Esquire; and

WHEREAS, from the above testimony, representations, and public comment, the Board made the following findings of fact:

1. The Property is located in an SR (CL) Single Family Residential/Cluster Option Zoning District.
2. The Property is located on the Northwest Corner of Whig Lane Road and Stewart Road. The property is currently vacant and used for agricultural purposes. The Applicant is proposing a wetland and riparian mitigation bank at the property.
3. The project includes the installation of native trees and shrub species and a native seed mix throughout the property
4. The Applicant is proposing an 8-foot fence to prevent deer from entering the property and damaging the newly planted trees and shrubs.
5. The proposed 8-foot fence requires a bulk variance as only 6-feet is permitted.
6. The Applicant testified that the 8-foot fence is a deer exclusion fence and is necessary for the project to succeed.
7. The Applicant testified that it is required that a certain number of the tree and shrub species survive so as to ensure the New Jersey Department of Environmental Protection would qualify the project for a wetland and riparian mitigation bank.
8. Multiple members of the Public testified in opposition to the Applicant's proposed fence.
9. In essence the general statements of the public were that the granting of the variance would be a detriment to the public good and surrounding area.

10. The Applicant testified that they would agree to the following conditions for the Planning Board to consider:
 1. The removal of the fence within 10-years of its installation or when the New Jersey Department of Environmental Protection declares the project to be complete, whichever shall come first.
 2. The mowing of the property outside of the fence four times a year
 3. The spraying of weeds at the bottom of the outside of the fence two times a year.
11. The Applicant testified to the positive and negative criteria for a bulk variance, considering the above-mentioned conditions:

Positive: The purpose of the MLUL would be advance by this deviation from the zoning ordinance and the benefits from this deviation outweigh any detriment to the public good.

Negative: The proposed fence would not be a detriment to the Public good and would not substantially impair the intent of the zoning ordinance.
12. The Board next reviewed the Planner's letter. The Applicant agreed to comply with all comments and requirements in the Planner's letter subject to the Planner's approval.
13. Notwithstanding the benefits demonstrated by the Applicant, should a variance be granted for the proposed fence, the Board determined that the detriment to the public good would outweigh any benefit and therefore would inherently be a detriment to the public good, as well as substantially impairing the intent of the zoning ordinance.

BE IT THEREFORE RESOLVED on this ____ day of _____, 2021 by the Pilesgrove Township Planning Board, the bulk variance for the erection of an 8-foot fence as further depicted on the plans submitted is denied.

The undersigned chairman of the Pilesgrove Township Planning Board hereby certifies that the above is a true copy of a resolution adopted by the Board on August 18th, 2021, to memorialize action taken by the Board on July 21st, 2021.

PILESGROVE TOWNSHIP PLANNING BOARD

BY: _____
JEFFREY STRING, Chairperson

ATTEST:

RITA SHADE, Secretary

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