

Bass River Township Planning Board

February 16, 2012

The regular meeting of the Bass River Township Planning board was held on February 16, 2012 in the Municipal Building and was called to order at 7:04 PM. The meeting was opened with the flag salute. In accordance with the Sunshine Law, notice of the meeting was posted in The Beacon and the Atlantic City Press.

Planning Board members present were: Mr. Shuff, Mr. Bien, Mr. Brower, Mr. Neuweiler, Mrs. Dillon, and Mr. Hazard. Due to absent members, Mr. Hazard was made a voting member.

The minutes of the regular meeting of January 19, 2012 were available for the board and the public. A motion to approve said minutes was made by Mr. Shuff and was seconded by Mr. Neuweiler. All were in favor and said minutes were approved. Mr. Bien abstained.

Correspondence: Correspondence was gone over. Several pieces of correspondence were reviewed and discussed by the Board.

Old Business:

1. N/A

New Business:

1. **Assur Remand Hearing:** Charles Gemmel (attorney) introduced himself and explained the nature of the hearing for Mr. and Mrs. Assur. He explained that the Certificate of Filing with the Pinelands required 2 things. One was to determine if the use of the building (storage and manufacturing) had been abandoned and the second was to determine if the area on the Northwest section of the property had been developed prior to 1979 (that is when Pinelands and the CMP went into effect). It was determined that the use had not been abandoned- in the original hearing. An appeal was filed with the Superior Court. A transcript was ordered, and there seems to have been portions that were missing and a significant portion that was hard to understand. The court needed a complete transcript. June 30, 2011- the matter was remanded to the Bass River Township Planning/Zoning Board to enable further testimony and exhibits to be presented as to be able to have a complete and comprehensive record on the issues that are the subject of this litigation. They are here tonight to create that record that was not successfully captured at the original hearing. What they want to determine tonight is if the Northwest portion of the property was developed prior to 1979. That is the

issue that the court sent them back to the Planning Board for. Mr. Norman stated that it is not just enough to supplement the record. It needs to be re-heard and re-voted on. Mr. Norman also mentioned the trailers. Mr. Gemmel said the Zoning Enforcement should be handling the trailer issue. Mr. Norman stated that would be fine. Mr. Norman also mentioned the possible disqualification of Board member Barbara Dillon. This was mentioned at the previous meeting. Mr. Gemmel stated that they still believe Mrs. Dillon should recuse herself. It is her decision. At this time Mr. and Mrs. Assur were sworn in. The letters from Richard Jones and Natalie Martinez were discussed. These letters were sent in regarding Mrs. Dillon. Mrs. Martinez was also sworn in. Mr. Norman questioned her about her letter. She is Mr. Assur's sister.

Exhibits:

- AA.1- Mr. Gemmel's letter dated 11/29/2011
- AA.2- Transcript – Dillon's Rant dated 10/3/2010 (ordered by Leo Assur)
(from the Environmental Commission meeting 10/6/2010)
- AA.3- Letter from Richard Jones dated 10 /17/2011
- AA.4- Letter from Natalie Martinez dated 10/15/2011

Mr. Norman asked Mr. Assur if he had an application before the Environmental commission on 10/6/2010. Mr. Assur did not. Mr. Norman asked if the Environmental Commission meeting was before the complaint was filed. Mr. Assur and Mr. Gemmel were not sure of the dates at this time.

7:38 At this time, Mrs. Dillon was given the opportunity to explain if she intended to recuse herself or not. Mrs. Dillon stated that she can listen and vote fairly at this remand hearing and chose to not recuse herself.

Mrs. Martinez asked to speak and questioned why Mrs. Dillon was given so much time to speak. Mr. Norman explained that it was because of the issue that was raised about her being objective. Mrs. Martinez stated that her letter was based on notes she had taken and observations she had made at meetings, the letter was not based on the fact that she is Mr. Assur's sister.

The Board had a discussion and was in agreement that Mrs. Dillon would be able to be objective and fair during this remand hearing.

8:10 Mr. Gemmel began his presentation. A questioning process was started with Mr. Assur. The Assur's purchased the property in 2007 from the Popoca's. It is a single story building situated on approximately one acre. There are also trailers on the property. Application to the Pinelands was made shortly after the property was purchased. The application to the Pinelands was to find out what rights he had with the building. A Certificate of Filing was issued. (Exhibit A-25). The questions raised in the COF were whether the storage/manufacturing use

of the building had been abandoned and the second was if the property was previously developed. Development meaning the land was disturbed, cleared etc. The main concern was the Northwest corner of the property. The previous Planning/Zoning meetings that were held- were to answer these questions. Mr. Assur stated he had talked to people that knew the property and got information from them. He found the building was built approx. 1950-1954. He stated there was also a house on the Northwest corner of the property and there are remnants of the foundation still there. Aerial photography from 1963 was shown (A-2) from the Department of Agriculture. The house is not shown in this aerial photo because it was in a fire. Mr. Assur provided a picture that he states is the house that was on the property. (AA-5) The photo was from 1952. A large aerial photo from 1973 was provided – blown up (AA-6). A survey (A-4) was provided. It was from Mr. Popoca 10/10/77. Mr. Assur stated the survey clearly shows the trailers, and the Northwest portion of the property being developed. Based on the information given, the applicant believes that the condition of the property from 1973 to 1979 was unchanged. Mr. Gemmel states that the only question is – Was the Northwest portion of the property developed prior to 1979? Mr. Norman questioned if the gaps in the original recording were the portions that covered the development of this area of the property. Mr. Gemmel stated so many portions of the tape were indiscernible. Mr. Norman stated that the board could possibly say that they had asked questions about the property after 1979 and that no information was provided, therefore they could not determine if the use was abandoned. The concept of maintaining the use was explained- and how things could revert back if the use is not maintained. Mr. Assur stated that he cleared dead trees, brush and vines that were a potential fire hazard. Mr. Assur stated that the Pinelands stated that if the property was not previously cleared that he needed to re-vegetate. He had a zoning permit from John Ewert to clear the area he cleared. It was asked how many loads of fill were brought in. Mr. Assur stated it was 2 loads. A load is 25 tons, 16 cubic yards.

9:00 PM

A motion to open the meeting to the public was made by Mrs. Dillon and was seconded by Mr. Neuweiler. All were in favor.

April Dolch – –Route 542 New Gretna – sworn in -questioned why there is so much disturbance regarding this issue. She is embarrassed to live in this town because Route 9 is a disgusting graveyard. She believes the Board is wasting her tax dollars. She thinks what is good for one person in this town is not good for another. She has seen nothing but decline in this town. She believes the town may have intimidated other applicants and that is why there is such a decline.

Rita Bourguignon 180 N. Maple-sworn in- has lived here since 1952. She believes there has been decline in the town also. She also stated that you cannot blame the Board- it is the State of New Jersey.

Andrew Assur- sworn in- testified that it was all poison ivy and poison sumac that was on the property and cleared.

Natalie Martinez- Still under oath. Stated that the reason the trees on the property were dead was due to Wisteria Vines...strangled and killed the trees.

Jim Falkinberg- sworn in- has talked to many people that were 92 years old and have been in this town for a long time. He gave a history of the building. He does not understand why there is a discussion about abandonment because the taxes were paid. Mr. Norman explained what abandonment means and that it does not pertain to the taxes being paid. The conversation spread out to several different parcels in the town. It was asked to please keep the comment to the application at hand. He believes that a lot of the rules in the town are out of hand.

A motion to close the public portion was made by Mrs. Dillon and was seconded by Mr. Shuff. All were in favor.

Mr. Norman had an idea for a form of a motion- to make a finding that the Northwest portion of the property was cleared as of 1977 (per photo) and that the applicant chooses not to supplement the record as to the condition of the property after 1979 and all the other findings of the prior resolution 2010-04 remain the same.

This would be a motion for three findings.

1. Area in NW Quadrant appeared to be cleared in the 1973 photo and the 1977 survey
2. Applicant elected not to supplement the record as to the condition of the property after 1979
3. All other findings in the original resolution 2010-04 remain the same.

Mr. Brower read the findings in the original resolution- pertaining to the vegetation. It stated that the applicant must submit a re-vegetation restoration plan to the Pinelands Commission for the cleared area in the Northwest portion of the property that lies within freshwater wetlands or freshwater wetland buffers.

A motion with the 3 conditions as stated was made by Mrs. Dillon and was seconded by Mr. Bien. Roll call was taken. In favor, Mr. Shuff, Mr. Bien, Mr. Neuweiler, Mrs. Dillon, Mr. Hazard, Mr. Brower.

9:38 A motion to open the meeting to the public was made by Mrs. Dillon and was seconded by Mr. Shuff. There was no public comment. A motion to close the public portion was made by Mr. Bien and was seconded by Mrs. Dillon. All were in favor and the motion was passed.

8.40 PM- Being no other business at this time, a motion to adjourn the meeting was made by Mrs. Dillon and was seconded by Mr. Shuff. All were in favor and the motion was passed.

Respectfully Submitted,

Elizabeth Godfrey
Planning Board Secretary