

ORDINANCE 2013-05

AN ORDINANCE AMENDING THE ZONING ORDINANCE OF THE TOWNSHIP OF BASS RIVER

BE IT ORDAINED by the Board of Commissioners of the Township of Bass River, County of Burlington, State of New Jersey, as follows:

I. PURPOSE: The purpose of this Ordinance is to amend Title 17, Zoning of the Township of Bass River in response to amendments to the Pinelands Comprehensive Management Plan related to cluster development and wetlands management, effective April 6, 2009 and December 1, 2009, respectively.

II. Section 17.04.030.B, Definitions, is hereby amended by replacing or adding the following definitions:

“Forestry”—means the planting, cultivating and harvesting of trees for the production of wood products, including firewood or for forest health. It includes such practices as reforestation, site preparation and other silvicultural practices, including but not limited to artificial regeneration, bedding, broadcast scarification, clearcutting, coppicing, disking, drum chopping, group selection, individual selection, natural regeneration, root raking, seed tree cut, shelterwood cut and thinning. For purposes of this chapter, the following activities shall not be defined as forestry:

1. Removal of trees located on a parcel of land one acre or less on which a dwelling has been constructed;
2. Horticultural activities involving the planting, cultivating or harvesting of nursery stock or Christmas trees;
3. Removal of trees necessitated by the development of the parcel as otherwise authorized by this chapter;
4. Removal of trees necessary for the maintenance of utility or public rights-of-way;
5. Removal or planting of trees for the personal use of the parcel owner; and
6. Removal of trees for public safety.

“Impermeable Surface” means any surface which does not permit fluids to pass through or penetrate its pores or spaces, typically having a maximum permeability for water of 10^{-7} cm/second at the maximum anticipated hydrostatic pressure. The term “impermeable” is equivalent in meaning.

“Impervious Surface” means any surface that has been compacted or covered with a layer of material so that it prevents, impedes or slows infiltration or absorption of fluid, including stormwater directly into the ground, and results in either reduced groundwater recharge or increased stormwater runoff sufficient to be classified as impervious in Urban Areas by the United States Department of Agriculture, Natural Resources Conservation Service Title 210 - Engineering, 210-3-1 - Small Watershed Hydrology (WINTR-55) Version 1.0. Such surfaces may have varying degrees of permeability.

“Resource Management System Plan” means a plan, prepared in accordance with the United States Department of Agriculture, Natural Resources Conservation Service New Jersey Field Office Technical Guide, dated June 2005. Such plans shall prescribe needed land treatment and related conservation and natural resources management measures, including forest management practices, for the conservation, protection and development of natural resources, the maintenance and enhancement of agricultural or horticultural productivity, and the control and prevention of non-point source pollution; and establish criteria for resource sustainability of soil, water, air, plants and animals.

“Wetlands Management”– means the establishment of a characteristic wetland or the removal of exotic species or Phragmites from a wetland in accordance with the standards of N.J.A.C. 7:50-6.10. For purposes of this definition, exotic species are those that are not indigenous to North America.

III. Section 17.08.060, Recordation of Deed Restriction, is hereby amended by replacing Sections A and B with the following:

- A. In the Pinelands Preservation and Coastal Wetlands Districts: Berry agriculture; horticulture of native Pinelands plants; forestry; beekeeping; fish and wildlife management; wetlands management; agricultural employee housing as an accessory use; and low-intensity recreational uses in which the use of motorized vehicles is not permitted except for necessary transportation, access to water bodies is limited to no more than fifteen feet of frontage per one thousand feet of frontage on the water body, clearing of vegetation does not exceed five percent of the parcel and no more than one percent of the parcel will be covered with impervious surfaces.
- B. In the Special Agricultural Production District: Berry agriculture, horticulture of native Pinelands plants; forestry; beekeeping; fish and wildlife management; wetlands management; and agricultural employee housing as an accessory use.

IV. Section 17.12.130, Schedule of District Regulations, is hereby amended as follows:

- In the list of Permissible Uses for the PP Pinelands Preservation District, add “wetlands management”
- In the Special Requirements column, replace the second entry under Single Family

Dwellings in the F District with the following:

“Cluster development at a maximum density of one unit per 15 acres shall be required in accordance with Section 17.20.260 whenever two or more units are proposed as part of a residential development. For any parcel between 3.2 and 15 acres, one unit will be permitted. Applies in F Zone only.”

- In the list of Permissible Uses for the F Forest District, replace “Fish and wildlife management” with “Fish and wildlife management and wetlands management”
- Add the following as a new Conditional Use in the F Forest District:

Non-clustered single-family dwellings in accordance with Section 17.20.270

Area in Acres: 15

Width in Feet at Street Line: 200

Front Yard: 200

Side Yard: 25

Rear Yard: 50

Maximum Height in Feet: 35

- In the Special Requirements column, replace the first entry for the RD Rural Development District with the following:

“Same as for respective permissible uses in PP and F Zone above. Cluster development shall be required in accordance with Section 17.20.260 whenever two or more units are proposed as part of a residential development.”

V. Section 17.20.120.B is hereby amended to read as follows:

B. Except as otherwise provided in subsection C below, no permit shall be issued for development other than for agricultural commercial establishments unless the applicant demonstrates that all buildings are set back at least two hundred (200) feet from the center line of the scenic corridor. This requirement shall not apply to residential cluster developments in the Rural Development and Forest Area Districts which comply with the standards of Section 17.20.260.

VI. Section 17.20.210.E is hereby amended to read as follows:

E. Fish and wildlife activities and wetlands management, in accordance with N.J.A.C. 7:50-6.10.

VII. Section 17.20.240.E is hereby amended to read as follows:

- E. All non-contiguous lands acquired pursuant to subsections A through D above are permanently protected through recordation of a deed of restriction in accordance with the following requirements:
1. The deed of restriction shall permit the parcel to be managed for:
 - a. Low intensity recreation, ecological management and forestry, provided that no more than five percent of the land may be cleared, no more than one percent of the land may be covered with impervious surfaces and any such uses or activities are approved and conducted in accordance with the requirements of this chapter;
 - b. Where agricultural use exists on a parcel proposed to be protected, the following standards shall apply:
 - i. For those agricultural uses in existence as of April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses and the expansion of the area of agricultural use by up to 50 percent;
 - ii. For those agricultural uses established after April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses, provided the agricultural use has been in existence for a period of at least five years prior to submission of an application for density transfer;
 - iii. For those agricultural uses established after April 6, 2009 which do not meet the standards of Subsection b.ii above, the deed of restriction shall permit the land to be managed only in accordance with Subsection a. above and shall not provide for continuation of any agricultural use on the parcel; and
 - iv. The deed of restriction to be recorded pursuant to Subsection b.i or ii above shall authorize agricultural uses and provide that impervious surface may not exceed that which currently exists or three percent, whichever is greater, unless a Resource Management System Plan has been prepared. Before these impervious surface limits may be exceeded, evidence of Pinelands Commission approval of the Resource Management System Plan shall be provided. If the deed of restriction is in favor of Burlington County or the State Agricultural Development Committee, evidence of their approval shall also be provided.
 2. The deed of restriction shall be in favor of the parcel to be developed and the Township or another public agency or non-profit conservation organization.

In all cases, such restriction shall be expressly enforceable by the Pinelands Commission. The deed restriction shall be in a form to be approved by the Township Solicitor and the Pinelands Commission.

VIII. Add the following as Sections 17.20.260 and 17.20.270 :

17.20.260 Residential Cluster Development in the Forest and Rural Development Districts.

In the RD Rural Development and F Forest Districts, clustering of single-family detached dwellings shall be required whenever two or more units are proposed as part of a residential development. The following standards shall apply:

- A. Permitted density:
 - 1. In the RD Rural Development District: one unit per 3.2 acres.
 - 2. In the F Forest District: one unit per 15 acres.

- B. The number of residential lots permitted within the cluster shall be calculated on the basis of the size of the parcel of land and the density permitted in Subsection A. above, with a bonus applied as follows:

Parcel Size	RD Rural Development District	F Forest District
<50 acres	0	0
50-99.99 acres	10%	20%
100-149.99 acres	15%	25%
≥150 acres	20%	30%

- C. The residential cluster shall be located on the parcel such that the development area:
 - 1. Is located proximate to existing roads;
 - 2. Is located proximate to existing developed sites on adjacent or nearby parcels;
 - 3. Is or will be appropriately buffered from adjoining or nearby non-residential land uses; and

4. Conforms with the minimum environmental standards of N.J.A.C. 7:50-6.

D. Development within the residential cluster shall be designed as follows:

1. Residential lots shall be one acre in size but may be larger if dictated by unusual site conditions. In no case shall the average size of residential lots within a cluster exceed 1.1 acres;
2. The following minimum yard and building requirements shall apply:
 - a. Lot width: 125 feet.
 - b. Front yard: 50 feet
 - c. Side Yard: 30 feet
 - d. Rear Yard: 50 feet
 - e. Maximum height: 35 feet
3. Individual on-site septic waste water treatment systems which are not intended to reduce the level of nitrate/nitrogen in the waste that comply with the standards of Section 17.20.190.B.4_ may serve the lots within the cluster development area. However, in the event that existing agricultural uses will continue on the parcel in accordance with Subsection 5(b)[2] below, individual on-site septic waste water treatment systems shall comply with the standards of Sections 17.20.190.B.5 or 7. Community on-site waste water treatment systems serving two or more residential dwelling units which meet the standards of Sections 17.20.190.B.5 or 7 shall also be permitted;
4. The residential cluster development area shall include such land and facilities as are necessary to support the development, including wastewater facilities, stormwater management facilities and recreation amenities; and
5. Permitted recreation amenities may include playgrounds, tot lots, swimming pools, tennis courts and other such recreational facilities, which are solely for use by the residents of the cluster development. Recreational amenities shall not be limited to the foregoing so that the applicant may propose additional facilities. All such facilities shall be accessory to the residential cluster development.

No advertising or commercial enterprise shall be permitted. In no case may such amenities occupy more than one-half acre of land or the equivalent of one acre of land for every 25 residential lots, whichever is greater.

- E. The balance of the parcel located outside of the residential cluster development shall be owned and managed by a duly constituted homeowners' association, a non-profit conservation organization, Bass River Township or incorporated as part of one of the lots within the cluster development area.
1. All such land shall be permanently protected through recordation of a deed of conservation restriction. Such restriction shall be in favor of Bass River Township or another public agency or non-profit organization. In all cases, such restriction shall be expressly enforceable by the Pinelands Commission; and
 2. The deed of restriction shall permit the parcel to be managed for:
 - a. Low intensity recreation, ecological management and forestry, provided that no more than five percent of the land may be cleared, no more than one percent of the land may be covered with impervious surfaces and any such uses or activities are approved and conducted in accordance with the requirements of this chapter; and
 - b. Where agricultural use exists on a parcel proposed for cluster development, the following standards shall apply:
 - i. For those agricultural uses in existence as of April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses and the expansion of the area of agricultural use by up to 50 percent;
 - ii. For those agricultural uses established after April 6, 2009, the deed of restriction may provide for the continuation of agricultural uses, provided the agricultural use has been in existence for a period of at least five years prior to submission of an application for cluster development;
 - iii. For those agricultural uses established after April 6, 2009 which do not meet the standards of Subsection b.ii above, the deed of restriction shall permit the land to be managed only in accordance with a. above and shall not provide for continuation of any agricultural use on the parcel;

- iv. The deed of restriction to be recorded pursuant to Subsections b.i or ii above shall authorize agricultural uses and provide that impervious surface may not exceed that which currently exists or three percent, whichever is greater, unless a Resource Management System Plan has been prepared. Before these impervious surface limits may be exceeded, evidence of Pinelands Commission approval of the Resource Management System Plan shall be provided. If the deed of restriction is in favor of Burlington County or the State Agricultural Development Committee, evidence of their approval shall also be provided; and
- v. For parcels which meet the standards of Subsections b.i or ii above, a provision shall be recorded in the deed for each residential lot within the cluster development area which acknowledges agricultural use of the protected land outside the cluster development area and recognizes the legal protections afforded to that use through the deed of restriction and any applicable statutes.

17.20.270 Non-clustered residential development in the Forest and Rural Development Area Districts

Single-family detached dwellings in which are not clustered in accordance with Section 17.20.260 may be permitted as a conditional use in the RD Rural Development and F Forest Districts, provided that:

- A The Planning Board finds that:
 - 1. Clustering of the proposed dwellings would be inconsistent with the minimum environmental standards set forth at N.J.A.C. 7:50-6; or
 - 2. Clustering of the proposed dwellings would disrupt the contiguity of the forest ecosystem to a greater degree than non-clustered development.
- B. Minimum lot area requirements:
 - 1. In the RD Rural Development District: 3.2 acres.
 - 2. In the F Forest District: 15 acres.

BE IT FURTHER ORDAINED that this ordinance shall take effect upon proper passage and in accordance with the law.

ALL OF WHICH IS ADOPTED this _____ day of _____, 2013, by the Bass River Township Board of Commissioners.

Amanda Somes, RMC/CMR

Deborah Buzby-Cope, Mayor