



# BASS RIVER TOWNSHIP

## (Burlington County)

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### *Bass River Township Planning Board Meeting* *December 21, 2022*

The regular meeting of the Bass River Township Planning board was held on December 16, 2022 with four members present in-person and one by speaker phone. It was called to order at 7:02 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: Mrs. Cope, Mr. Capriglione, Mr. Neuweiler, Mrs. Ruffo (by call-in) and Ms. Delois.

Mr. Christopher Norman attended as legal representative. Mr. Joe Gray and Mr. John Hess attended as engineering representatives.

The minutes of the regular meeting of October 19, 2022 were available for the board and the public.

Mr. Neuweiler made a motion to approve the minutes from October 19, 2022 and Ms. Delois seconded the motion. The members were in favor and none opposed, and the motion was passed.

Correspondence List was available to members of the Planning Board and public.

#### **New Business:**

AKRF, Environmental, Planning, and Engineering Consultants is seeking Major Site Plan Approval for proposed creation of a wetlands mitigation bank at the project site located at 74 Old New York Road at the corner of Bogans Lane, Block 2 Lots 16, 18 & 23, which is in a Coastal Wetlands Zone. The project will consist of removing approximately 2,035 linear feet of existing confined disposal facility (CDF) berm and excavating approximately 66,700 cubic yards of material in order to introduce tidal flow and lower the elevation of the site to promote the growth of native marsh vegetation species. This section is on the right where Route 9 curves going south toward the Parkway on-ramp. They mailed out Certified 200' notices and ordered newspaper postings to run in The Press of Atlantic City.

Mr. Rob Rech, Vice-President at AKRF was present as the consulting engineer for Evergreen Environmental. Mr. Rech has worked for over 25 years as an engineer and has extensive experience with the permitting process.

Mr. Mark Renna, co-owner of the property, was also present. He worked for 30 years in environmental engineering permits, and 20 years as a co-owner of the private Mitigation Bank company Evergreen Environmental, LLC.

Both gentlemen were sworn in by Mr. Norman, and Mr. Rech began his presentation including several maps of the property, which includes 108 acres, of which approximately 48 acres will be impacted by the proposed site plan. He stated that they have already received permits from the Army Corps of Engineers, New Jersey Department of Environmental Protection, the Pinelands Commission, Tidelands, Soil Conservation, and several other governmental and local permits. Tonight is their request for Bass River Township to approve their site plan for the wetlands mitigation bank.

Mr. Norman asked for explanation of what a wetlands mitigation bank is. Mr. Renna responded that it is a state and federally directed program for when developers want to build a project that will impact a wetlands area, they must agree to mitigate the wetlands impact. Evergreen owns fourteen mitigation banks, which are highly regulated and require extensive monitoring and ongoing maintenance of the properties. It is a private company which has been purchasing wetlands properties for the past ten years from Barnegat Bay to Cape May with the intention to restore them to their natural state and then sell them as mitigation bank credits for those other projects. These three lots in Bass River Township were acquired from a tax sale that resulted in a Quit Claim Deed to Evergreen. After the mitigation credits are sold, the parcels are required to be donated to a land conservatory on a perpetually deed restricted basis, and those parcels must remain undeveloped.

Out of the 108 acres on three lots, 26 mitigation credits will eventually become available for purchase. Past construction activities used the land as a containment site for dredge materials. Construction will include removal of approximately 2,000 feet of the existing containment dike and remove between 12" to 18" of material from the restoration, or approximately 66,000 cubic yards of soil. The inflow of salt water along with targeted application of herbicides will kill the invasive, non-native phragmites, which will be replaced by hand planted native grasses. Current areas of native grasses will be preserved as much as possible, and no forested areas surrounding the excavation site will be changed. The goal is to have the site excavations completed by spring of 2023 in order for planting season to jump start the restoration.

Mr. Gray presented his previously emailed questions to Mr. Renna and Mr. Rech for their responses at the public hearing.

JG: The property is adjacent to Old New York Road and Bogans Lane. Can you provide a survey?

MR: Yes, we will provide a survey.

JG: There was an old house on the Bogans Lane access that was demolished. Did you get permission for demolition of an older than 50 years historic building?

MR: Yes, in January 2017 we received a Certificate of Filing with the Pinelands Commission and other cultural agencies. The house was in very bad shape and was deemed to not be of historic value. Demolition was approved by Pinelands Commission and NJDEP. A construction permit was approved and issued by the Little Egg Harbor Township Construction office in May 2017. Demolition was done in June 2017.

JG: Do you have any drawing of the property that shows the individual lot lines?

RR: Yes, we have maps here with us in the presentation that show the lot lines. [He proceeded to show a map on his presentation board that shows lot lines].

JG: In your application, you said the site is being remediated from potentially contaminated containment areas. Has the soil been tested for any contaminants? And will there be monitoring of the soil as it is being removed?

MR: Yes and yes. DDT was used as a pesticide in the past, and soil tests show 2 parts per million of DDT in the containment site soil. Deeper soil samples show progressively less DDT, so removing the soil will remove most of the DDT. We will be taking samples at regulated intervals of soil removal. The soil will be transported to a licensed disposal facility in Morrisville, PA.

JG: Will you be remediating any additional wetlands on this property than the ones on this application?

MR: No.

JG: What will the impact be on other wetlands and neighboring property buffers?

MR: The majority of the site is wetlands with buffers already existing, as per NJDEP regulations. The impact on buffer extensions is subsumed in the analysis of permit approval on the NJDEP permit that was issued to us.

JG: Did you set up the required 150' buffer to protect any endangered species, such as eagles and ospreys?

MR: We found two endangered plants, red goosefoot and whorled marsh pennywort, and ospreys on the property. We set a 200' buffer on T&E. We lost land from our initial plan, but we pulled back to protect the plants.

JG: In the documents you provide, your GP24 permit expired 2 days ago.

MR: We filed a one page 5 year extension in October, and the permit has been renewed to 2027. Our Army Corps of Engineers permit is for 5 years, Tidelands is for 5 years, Soil Conservation is for 3 ½ years. All our permits are up to date and will not expire during the planned timeframe.

JG: One of your lots, Lot 23, is landlocked. Do you have any plans to consolidate lots?

MR: No, we will not consolidate any of the lots.

JG: I guess since the land must be donated to a conservancy, it won't need an access.

A member of the public had seen an aerial photograph and asked if aerial pesticides will be sprayed.

MR: We used a drone to take an aerial photograph of the site to aid in production of our maps, but we never have nor will we ever spray aurally. We will do spot spray on the ground level, on a DEP approved permit, with a surfactant that will be applied to the plant, not on the ground. We will most likely use glyphosate, an herbicide approved by the DEP for wetlands invasive species. It is possible that the reference to aerial application of herbicide you saw may be a historical document that was taken by the Forsythe National Wildlife Reserve when they were researching DDT use on local wetlands.

JG: The roadways to access the site are Old New York Road and Bogans Lane. There will be a lot of trips with heavy, tri-axle trucks. What will be done to repair damage to those roads?

RR: We will take photographs of the current road conditions before we begin the project, and we will repair them to existing or better condition after we are done.

JG: Can we make repair of the asphalt a condition of approval?

MR: Yes.

JG: What do you estimate will be the number of trips to remove the soil?

MR: We'll be removing 67,000 cubic yards of soil at 16 yards per truck, which is 4,100 truck trips, from February to early May 2023. That will be from 30 to 60 trucks per day, 3 to 5 days per week, Monday to Friday, no weekends. Hours will be 7:00am-3:00pm. Bogans Lane will not be used. The route they take will be a right onto Old New York Road, to Route 9, left onto East Greenbush to Garden State Parkway, traveling northwest to the soil treatment facility.

JG: Except for Old New York Road, the other roads are county and state roads.

A member of the public asked about conflicts with Viking Yacht traffic. Since Viking lets out at 4:00, the end of day should be clear of soil transporting trucks. There may be some delays with morning shift, when trucks may be part of the usual traffic flow, but they will not be passing the Viking entrance.

JG: What is your projected schedule and the duration of the project?

MR: We want to start on January 20<sup>th</sup> and have all the earth removing work done by early May. We are going to have the replacement grasses in a greenhouse by the end of January or early February, and we need to have everything done so these plants can be hand planted from early May to the 4<sup>th</sup> of July. It is critical for them to be planted at this time for them to take root and flourish. So all the truck traffic must be done by early May.

JG: What signage will be placed on the property?

MR: We will have 24" x 18" metal signs stating that this is a protected wetland, no ATV's or motor bikes, no mowing or dumping or removal of any plants. We have a graphic of the sign to show you [drawing of sign presented by Mr. Rech].

JG: We are a Tier A Municipality with a mandate to provide education and public awareness of storm water discharge. These signs won't qualify as part of this mandate. Would you be willing to include our educational requirement into your signage?

MR: We would absolutely place signage that would be mutually beneficial.

JG: We would like copies of your Certificate of Filing with the Pinelands Commission, and copies of all your updated permits from Burlington County Soil District, Pinelands, NJDEP Tidelands, Army Corps of Engineers and any others, and for you to maintain these permits for the duration of the project.

MR: Yes, we will get you copies of all permits, and they will be good for the duration.

**8:01 PM** A motion to open the meeting to the public for questions on the Mitigation Bank was made by Mr. Neuweiler and was seconded by Mrs. Buzby-Cope. All were in favor and the motion was passed.

Leonid Assur, of 106 North Maple Avenue, asked how much is the land worth as the 26 credits?

MR: Each credit is \$700,000. Bear in mind that we have 13 banks, and 3 have never sold a mitigation credit to date. We are at Year 0, and we only have the potential of incremental sales. We have received no grants, this is a private business. We purchased these 108 acres, and after several years and many reports, an interagency review team valued this property at 26.02 credits for the mitigation bank use.

Mr. Assur: Can anyone with 1 acre of wetlands elsewhere purchase 1 acre from you?

MR: Yes. Most of our banks are expected to be highway contracts, but if a Mom & Pop needs .2 acres to build a driveway to their house across wetlands, they can purchase .2 acres from us.

Ben Adams, 5239 Route 9, said that when he was younger, they used to burn phragmites, but then the government said, "Don't touch them." Why was I told not to touch them, but now you're taking them out?

MR: You have to get a permit.

RR: It's to protect the wetlands, not the phragmites. We're allowed to remove the phragmites because we went through the permit process.

MR: We submitted a design that has been approved by the DEP, which means it has passed their standards for wetlands management.

Mr. Adams: What about disturbing deer in the area? We all know the Garden State Parkway dredged soil there to build the exit and entry ramps, and it left the pond on Amasa Landing Road.

MR: We will not be disturbing any of the forested areas.

Douglas Cranmer of 2076 River Road, Lower Bank: Will it flood the minks and affect the eagles?

MR: We have seen the minks there. In some areas, we won't be cutting the salt hay. We have studied the area so the floods will follow their normal paths and the existing natural buffers will remain intact on the majority of the property.

Raymond Ridsen of 81 West Road: What is the land classified as now? Will you be taking uplands with the small islands and making them wetlands?

MR: The state surveyed the area and studied maps from 1970. They designated it Coastal Wetlands. We are not touching coastal uplands or islands.

Mr. Ridsen: Does the town need a bond to cover us in case you leave the project unfinished or if it causes damage to other properties?

MR: We have already posted performance bonds with the State of New Jersey as part of the permits that we have already received.

JG: The State can collect on the bond, but by statute, the town cannot ask for a bond due to the site being private property.

Mr. Ridsen: Will removal of the berm affect flooding?

MR: The berm from 1950 is not intact. There are saddles and broken concrete. If a storm surge comes, the flood will come. There are highly forested areas that act as a natural berm for storm surges. We will also create a storm surge storage area by removing the soil and increasing flood storage capacity on site.

Mr. Adams: I have been here for 67 years and never seen water laying on that property. The dike is there for a reason.

**8:29 PM** A motion to close the meeting to the public was made by Mr. Capriglione and was seconded by Mrs. Buzby-Cope. All were in favor and the motion was passed.

Mr. Norman: We can do a conditional site plan approval for road restoration on the quarter mile of Old New York Road that will be used.

JG: It would be to repair it to its current condition.

Mr. Neuweiler: It's pretty beat right now.

Mr. Capriglione: It's a bad road. The township is not prepared to repair it and did not plan to fix it.

Mr. Hess: We can make the condition for the applicant to maintain the road, subject to inspection by the Municipal Engineer.

Mr. Capriglione: It can't possibly get better with the truck loads. We can say, "repair to at least current condition."

JG: We can create an escrow account to cover in the event that additional damage is done.

MR: I am one of three owners. We will need to know an estimate of the costs before we can agree to an escrow amount.

Mr. Assur wanted to ask a question. Mr. Norman told him the meeting had been closed to the public, but he would allow one question.

Mr. Assur: What benefit is this project to the town?

MR: We got it on Tax Sale, and we paid more than \$90,000 of back taxes to the township. We will continue to pay taxes during our project and set up of the mitigation bank. Regardless of use, it is part of the Clean Water Act, it adds value to the wildlife in the area by increasing the wetlands functional value.

Mr. Norman: Are there any land use variances?

JG: Lot 23 is landlocked, but since it will be donated to a nature conservancy, with deed restriction to perpetuity, access will not be a problem.

MR: The deed will stay with the land and cannot be changed.

JG: Conservancy will end its tax payments to the township.

MR: The land will be a benefit to the water and wildlife of the township.

Mr. Norman: They are entitled to approval with fairness of four conditions.

JG: CME will prepare a cost estimate on the road condition and negotiate with Evergreen.

Mr. Norman: The Planning Board can approve with conditions by voting on this application tonight and on a Resolution during January's meeting.

**8:35 PM A motion to do a roll call vote** to grant approval for Wetlands Mitigation Bank Application was made by Ms. Ruffo and seconded by Mr. Neuweiler.

Mrs. Buzby-Cope, Mr. Capriglione, Mrs. Ruffo, Mr. Neuweiler and Ms. DeLois voted in favor. None opposed. The major site plan application was passed. Planning Board will do a written Resolution memorializing this decision at the next meeting on January 18, 2023.

**Informal Business:** None.

**Old Business:**

Board and public discussion in preparation for Final Submission of the Master Plan Reexamination Report (MPRR).

Mr. Hess stated that Municipal Land Use Law requires a periodic reexamination of the township Master Plan. This review must identify the previous Master Plan's issues and whether or not those issues have been reduced or improved. There were five requirements addressed in this MRR.

Bass River Township considered applying to have the MRPP requirement removed for New Gretna. The Pinelands Commission replied that it will take a change at the State level, and that the Pinelands Commission does not have authorization to grant that request.

New IR and IC Zones were created and some new uses were added. The allowable uses can be found on pages 30-31 of the report. The Pinelands Commission has indicated it will not allow cannabis use in any of the Pinelands zones, but Pinelands Natural Reserve will allow it.

A recommendation to adopt a boundary of Pinelands Natural Reserve, which are areas where the Pinelands Commission can provide guidelines and recommendations, but it cannot limit use.

Zoning maps will include blocks and lots once the map is approved.

Mrs. Buzby-Cope said that the properties zoned Highway Commercial that residents had requested be removed have been removed and will remain Forest Zone. Some Highway Commercial that were not showing on Zoning Maps as HC will now show as HC. One property that requested to remain HC but was removed in the report can be added back on by adoption by the Commissioners after the report is approved. We did not change it at this point because the report is ready to go ahead for approval, it has been posted in the neighboring municipalities and for review by the Burlington County Planning Board. To make a change at this time would make us go through that process again. It will be a simple process to adopt it after the MPRR is approved.

Mr. Hess said that the Pinelands Commission is satisfied with the report and has indicated that it will adopt it if it is approved at the Planning Board meeting tonight.

**8:46 PM** A motion to open the meeting to the public was made by Mr. Neuweiler, and it was seconded by Mrs. Buzby-Cope. All were in favor and the motion was passed.

Mr. Ridsen asked about changing Village Commercial buildable lot sizes from 3.2 acres to 1 acre. He is concerned about owners subdividing their properties and more houses being built will create more electrical load on the system in the years ahead.

Mrs. Buzby-Cope said that our population has decreased by around 200, and it is not expected that many new people will move here solely because we are changing the zoning ordinance to 1 acre.

Mr. Hess said that from 2010 to 2020, there was a reduction of 42 housing units.

Mr. Norman said that having to purchase Pinelands credits in order to build on some of those properties proved to be a financial hardship on families.

Mrs. Buzby-Cope clarified that the reduction from 3.2 acres to 1 acre will be buildable only if the owner installs an innovated septic system that minimizes septic waste.

Current ordinance for buildable lot size in Village Commercial is 3.2 acres for a standard septic system, and 2 acres with innovated septic systems only. We will still be requiring the innovated septic systems for the 1 acre sites.

Mr. Ridsen said that he had installed an Anthrodome system at his own property, and that while it was expensive, it has been working well with its aeration and backwash systems for ten years.

Mr. Hess said that ground water quality is the main issue as to why the buildable lot sizes have been restricted. The Pinelands Commission has closely monitored the newer septic systems that have become available, and based on their findings, the Pinelands Commission has reduced its allowance to 1 acre. Our proposed change is simply to match that.



Mr. Assur asked if the boundaries of the Village Commercial Zone were increased?  
Mrs. Buzby-Cope stated that the VC boundaries remain the same.

Mr. Hess explained that the suggested change to expand the VC boundary to Maple Avenue was not passed by the Pinelands Commission, so we did not change it. The PC is the highest authority on this matter, with no higher authority for us to appeal to.

Patrick Spagnola, owner of Block 6 Lot 13.03, asked about buildable lot size going from 3.2 acres to 2 acres, but now going to 1 acre. His concern is that property owners will start subdividing and create a lot more buildings in our village.

Mr. Norman stated that just because someone wants to subdivide, that still has to come before the Planning Board for approvals, and it will continue to be subject to all applicable ordinances.

Mr. Assur stated that he thinks the Pinelands Commission approves of the change to lower acreage to be buildable because it will cluster new population in town and there will be less construction in the Pinelands. Nitrates are allowed at 10ppm for the state of New Jersey, but the Pinelands only allows 2ppm.

Howard Rothschild of 5962 Route 9 asked about building on his Highway Commercial property.

Mr. Norman said any development will need to go through Pinelands Commission.

Mr. Rothschild asked why, when he is not in a Pinelands zone?

Mrs. Buzby-Cope said technically, you are in a Pinelands Natural Reserve, which works through the Pinelands Commission.

Mr. Rothschild said he thought he was under CAFRA.

Mr. Hess said that CAFRA will seek input from the Pinelands Commission on any plans you submit to them.

Mr. Rothschild asked where cannabis businesses will be allowed.

Mr. Hess said that the Pinelands Commission has stated that they will not support any ordinances allowing cannabis in their zones.

Mr. Norman surmised that they may be waiting until Federal regulations change regarding legality of cannabis.

Bryan Nogowski of 1867 Route 542 stated that he wants a copy of the MPRR to review for himself before all these changes are made.

Mr. Hess said that none of the changes will go into effect until the township passes Ordinances. This report was developed to be a guidance document for the creation of those ordinances.

Mr. Capriglione explained that we will be voting on this document tonight, and from here it will go to the Board of Commissioners. That board will write and pass the actual ordinances.

Mr. Nogowski asked if there are any updates on what the old school building will be used for?

Mrs. Buzby-Cope said that there are no changes at this time.

Mr. Riden asked if there will be any ordinance changes to setback requirements?  
Mr. Hess said you will have to refer to your council of commissioners for changes to ordinances or any bulk requirements.

Mr. Norman said the Pinelands Commission still has to approve the MPRR before ordinances can be made on its recommendations.

Mrs. Terri Suarez of 5901 Route 9 asked what zone her property will be in?

Mrs. Buzby-Cope said her property change to Highway Commercial Zone, but it will also remain in the Pinelands Natural Reserve.

Mr. Gray clarified that their property is on the east side of Route 9, so they won't have to obtain a Certificate of Filing from the Pinelands Commission, but all development applications will still be subject to township ordinances, and the Planning Board will review them.

**9:26 PM** A motion to close the meeting to the public was made by Mr. Capriglione, and it was seconded by Mrs. Buzby-Cope. All were in favor and the motion was passed.

**9:26 PM A motion to do a roll call vote** to grant approval for the Master Plan Reexamination Report was made by Mr. Neuweiler and seconded by Ms. Delois.

Mr. Capriglione, Mrs. Ruffo, Mr. Neuweiler and Ms. DeLois voted in favor. Mrs. Buzby-Cope abstained from the IC Zone. None opposed. The approval of the Master Plan Reexamination Report was passed. Planning Board will do a written Resolution memorializing this decision at the next meeting on January 18, 2023.

**9:30 PM** Being no other business at this time, a motion was made by Mr. Neuweiler to adjourn the meeting, and it was seconded by Ms. Delois. All were in favor and the meeting was adjourned.

Respectfully Submitted,



Laura Moyer  
Planning Board Secretary

NOTE: Bass River Township's website <http://www.bassriver-nj.org> now has a link on its Home page to a digital copy of the Planning Board approved Master Plan Reexamination Report.