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**Activist Files Lawsuit To Protect Church's Forest From Development,
Alleges Wayne Township Officials Sabotage Environmental-Protection Laws**

Wayne, N.J., April 17, 2020 -- An environmental-legal-activist from Long Island and Pompton Lakes who was in the news last month trying to save a 3-acre church-owned forest in Wayne quietly filed a 'blockbuster' lawsuit on March 20th in Superior Court, Paterson, seeking not only to overturn the subdivision approvals for the forest, but also to bar the Mayor and Zoning Board chairman from having anything more to do with open-space protection in the Township because they operated in “bad faith” (Complaint, ¶ 2).

See Legal Papers -- particularly “Verified Complaint” -- from Plaintiff and the Township, Zoning Board of Adjustment and Church (folder: “Opposition”), here:

<https://drive.google.com/open?id=1zcYa9K9rJPnfAXAQ0fEMs3kfEMYfQqSz>

The case, now before the Hon. Thomas F. Brogan, Presiding Judge of the Civil Division in Paterson, is scheduled for a hearing by teleconference next Thursday, April 23rd at 3 PM on the request for a preliminary injunction to protect the forest from harm during the course of the lawsuit. (Public and media access may be available upon demand from the Court, (973) 653-2910, x 24451)

Requests for a temporary restraining order were deferred by the Hon. Judge Brogan when Church attorney A. Michael Rubin reportedly told the Court no work would be done during the health emergency. The activist, Richard Brummel, kept the lawsuit quiet until April 1st in hopes of having a restraining order in place prior to serving papers on the defendants, but the Court refused.

Mr. Brummel, 59, is a non-attorney Yale-graduate from Long Island who pioneered what he called the role of “citizen-litigator” to fight for the environment starting in about 2012.

Biographical information, including a handful of improper arrests while documenting tree-removals in and around his hometown of East Hills, N.Y. is available at the top of his website, Planet-in-Peril.org.

See also: richardbrummel.com ; <http://planet-in-peril.org/personal-bio/media-coverage.html> ; <http://planet-in-peril.org/personal-bio/arrests.html> .

The roughly three- (3-) acre forest approved for a subdivision of five (5) new homes is located off Preakness Ave., Gow Rd., Weinmann's Blvd., Carlisle Rd. and Jansen Rd., about a half-mile from Valley Rd. According to the lawsuit, it appears to be home to a family of deer, a family of foxes, a pair of hawks, and other wildlife (Complain, ¶ 20).

Mr. Brummel's intervention in a long-running struggle over the small 'neighborhood-forest' off Preakness Ave., Gow Rd. apparently prompted the Pastor of Grace United Presbyterian Church to send an email to the Mayor stating that preservation was “ethically preferable”, and to offer the land to the Township at a 25% discount, for \$600,000 (Complaint, ¶¶ 23 ff.).

The Mayor secretly rejected the sales offer, but his action was illegal, according to the lawsuit, because that authority was lodged in the Open Space Committee, established by Township ordinance to make the “initial determination” on open-space acquisition, as a public body (Complain, ¶ 27).

The Complaint also alleges that the Township illegally failed to properly constitute the Open Space Committee, which appears to be not even functioning, according to the Township website (Complaint, ¶ 83).

Furthermore, the Complaint alleges (Complain, ¶¶ 30 ff.) the Zoning Board of Adjustment, in approving the subdivision in February, followed a pro-development “property rights” ideology espoused by its Chairman, William Van Gieson, and by Mayor Christopher P. Vergano, instead of its proper legal duties as set out in the Township Code -- to aggressively *protect* woodlands such as the Church forest -- as follows :

“...to the greatest extent possible in the review and approval of any application governed by this article... A. Alterations to existing topography, hydrology, and geology shall be minimized. B. **Destruction of mature woodlands shall be minimized.**”

(Wayne Township Ordinances, Chapter 134, section 134-90.1, *emphasis added*. See: <https://www.ecode360.com/35293162>)

(That language clearly applies to the challenged actions of the Zoning Board : “This regulation is applicable to subdivisions and site plans. This regulation is also applicable to any building permit or grading permit where the improvement footprint is 500 square feet or greater....”

(Wayne Township Ordinances, Chapter, section 134-91(C), “Applicability”) (Complaint, ¶61)

Said Mr. Brummel:

“The lawsuit documents a number of serious, legally-significant failings: (1) When the Mayor on March 2nd secretly vetoed the Church's 'last-ditch' offer to sell the forest -- by the Pastor's email calling preservation “ethically preferable” -- he illegally bypassed the Open Space Committee, which was supposed to make such decisions by vote, in public (Complaint, ¶ 27); (2) For some strange reason, the Open Space Committee illegally does appear to exist or function, despite its important role set by law (Complaint, ¶ 83); (3) that when the Zoning Board approved the subdivision, it did so after the Chairman gave a long introduction distorting the Board's proper, legal mandate, which was to minimize destruction of such a 'mature woodlands', 'to the greatest extent possible' (Complaint ¶¶ 30 ff.); and (4) that the Township Council simply ignored the misconduct in front of it, resulting in environmental devastation of the Township -- including potentially the Preakness Ave. forest -- in spite of laws clearly designed to prevent it (Complaint, ¶ 166),” Brummel said.

In addition to stopping the destruction of the forest (see, Complaint, p. 42) and barring the Mayor and Zoning Chairman from any role in open-space policy (p. 46), the lawsuit demands the appointment of a special master to straighten out environmental-protection in Wayne and put it in compliance with the Township's own local ordinances (p. 35), and vacating the subdivision approval (p. 51).

There may be a silver lining Brummel says in the lawsuit, because, he says, the numerous deliberate failings in environmental-protection in Wayne “converge” in the issue of preserving the Church's forest, and by fixing the problems the lawsuit documented the Township will reap “untold benefit(s)” as it faces new development threats from the conversion of places like the 500-acre Toys-R-Us campus now in the hands of developers (see, Complaint, paragraphs 9-10).

The lawsuit also identifies failures in the accounting for the Open Space, Recreation, and Farmland and Historic Preservation Trust Fund, where various reporting entries meant to create transparency and accountability are routinely left blank, and some funds accounting appears inconsistent (Complaint, ¶¶ 91 ff.). Brummel wrote that he sent an email to the budget officer, Heather McNamara asking for clarification at her invitation, and that he never heard back (Complaint, ¶ 101).

Mr. Brummel said that resident Barbara Wichot, 86 Gow Rd., had been effectively organizing residents and environmental supporters from near and far to attend meetings and fight the re-zoning for years before he got involved. She and her husband had earlier sued the Church and won to change a property line between their home and the forest.

Even though Mr. Brummel is not a nearby resident of the forest, the New Jersey Environmental Rights Act gives anyone the right to defend the environment from illegal damage (Complaint, ¶ 14).

Furthermore,, Mr. Brummel said the issue of “environmental-standing” as a 'threshold issue' is typically used as a dishonest 'legal trap' -- analogous to 'cash-bail' -- that in places like New York, where it remains in force, is rampantly abused by judges trying to avoid making politically-controversial decisions on environmental issues.

“In one case in New York I led, the judge found that neighbors and users of a public park lacked standing to protect it, directly contrary to principles the Court of Appeals had established. But good luck getting that enforced. It was a complete charade, up and down the judiciary,” Mr. Brummel said of the case “Brummel et al. v. Town of North Hempstead et al.”, (see <https://law.justia.com/cases/new-york/appellate-division-second-department/2016/2014-10641.html>).

That case was appealed unsuccessfully all the way to the U.S. Supreme Court.

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