

RULS - AD - 1981 - 230

6/30/1981

Letter from Alfred Ferguson to Wintermute re: motion
on short notice

Pgs - 8

McCARTER & ENGLISH
ATTORNEYS AT LAW
550 BROAD STREET
NEWARK, N. J.
07102

RECEIVED

JUN 30 1981

AREA CODE 201
622-4444

SOMERSET COUNTY
ASSIGNMENT CLERK

June 29, 1981

Re: Dobbs v. Township of Bedminster, et al
Docket No. L-12502-80

William J. Wintermute, Sr.
Assignment Clerk
Somerset County Court House
Somerville, New Jersey 08876

Dear Mr. Wintermute:

As we discussed by phone on June 27, 1981, we are
submitting the enclosed motion on short notice, returnable
July 10, 1981. R.E.G.

By copy of this letter we are informing all parties
that they should send response papers to your office and should
contact your office before the hearing date to learn which
judge will hear the motion.

Thank you for your assistance in scheduling this
matter.

Very truly yours,


Alfred L. Ferguson

ALF/bjg
enclosure

cc: Joseph L. Basralian, Esq. (w/enc.)
Herbert A. Vogel, Esq. (w/enc.)
Henry Hill, Esq. (w/enc.)

RUIS - AD - 1981 - 230

The original of the within Notice of Motion has been filed with the Clerk of the Superior Court in Trenton, New Jersey.

McCarter & English
McCARTER & ENGLISH

WE CERTIFY THAT ON 6-29-81
A COPY THE WITHIN motion
WAS SERVED ON THE PARTIES AND IN
THE MANNER REQUIRED BY R.1:5, by
 U.S. Mail
 U.S. Mail R.R.R.
 Hand Delivery

McCARTER & ENGLISH

McCARTER & ENGLISH
550 Broad Street
Newark, New Jersey 07102
(201) 622-4444
Attorneys for Defendant,
Township of Bedminster

LEONARD DOBBS,

Plaintiff,

-vs-

TOWNSHIP OF BEDMINSTER,

Defendant,

Defendant-Intervenors

ROBERT R. HENDERSON
DIANE M. HENDERSON
HENRY E. ENGELBRECHT

Applicant for Intervention

ATTILIO PILLON

: SUPERIOR COURT OF NEW JERSEY
: LAW DIVISION - SOMERSET COUNTY
: DOCKET NO. L-12502-80

Civil Action

NOTICE OF MOTION FOR
DISMISSAL WITHOUT
PREJUDICE

SOMERSET COUNTY
CLERK
JUL 1 2 10 PM 1981

FILED

TO: Joseph L. Basralian, Esq.
Winne, Banta, Rizzi & Harrington
25 East Salem Street
Hackensack, New Jersey 07602

Herbert A. Vogel, Esq.
Vogel, Chait & Roettger
Maple Avenue at Miller Road
Morristown, N.J. 07960

Henry Hill, Esq.
Brenner, Wallack, Rosner & Hill
15 Chambers Street
Princeton, New Jersey 08540

SIRS:

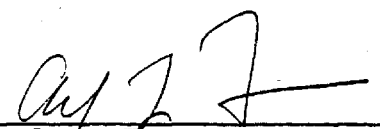
PLEASE TAKE NOTICE that on Friday, July 10, 1981 at
9:00 a.m. or as soon thereafter as counsel may be heard, the under-

7/10/1981 Attilio Pillon

signed, attorneys for defendant, Bedminster Township, shall apply before the Superior Court, Law Division, Somerset County, for an Order dismissing the Complaint, without prejudice, pursuant to R. 4:37; and

PLEASE TAKE FURTHER NOTICE that this application is made on short notice for the reasons set forth in the attached Affidavit of Alfred L. Ferguson.

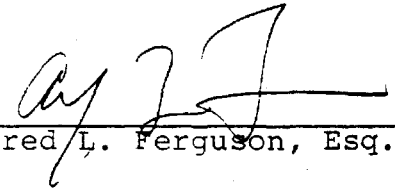
McCarter & English, Esqs.
Attorneys for Defendant,
Township of Bedminster

By 
Alfred L. Ferguson, Esq.
A Member of the Firm

DATED: JUNE 29, 1981

CERTIFICATION

I hereby certify that on June 29, 1981, I served a copy of the within Notice of Motion, with supporting Affidavit upon Joseph L. Basralian, Esq., Herbert A. Vogel, Esq. and Henry Hill, Esq. by regular mail.


Alfred L. Ferguson, Esq.

MCCARTER & ENGLISH
550 Broad Street
Newark, New Jersey 07102
(201) 622-4444
Attorneys for Defendant,
Township of Bedminster

LEONARD DOBBS, : SUPERIOR COURT OF NEW JERSEY
Plaintiff, : LAW DIVISION - SOMERSET COUNTY
: DOCKET NO. L-12502-80

-vs- :

TOWNSHIP OF BEDMINSTER, :
Defendant, : Civil Action

Defendant-Intervenors :

ROBERT R. HENDERSON : AFFIDAVIT OF
DIANE M. HENDERSON : ALFRED L. FERGUSON
HENRY E. ENGELBRECHT :

Applicant for Intervention :

ATTILIO PILLON :

STATE OF NEW JERSEY)
 ss
COUNTY OF ESSEX)

ALFRED L. FERGUSON, of full age, being duly sworn upon
his oath according to law, deposes and says:

1. I am an attorney at law of the State of New Jersey,
and I am defending this case on behalf of Bedminster Township.

2. This suit involves a request by Leonard Dobbs to
change the zoning of some 200 acres in Bedminster zoned residential
to a commercial zone to accommodate a regional shopping mall.

3. Plaintiff, Leonard Dobbs, and defendant, Bedminster
Township have negotiated a resolution of this lawsuit with the
following conditions:

a. Dobbs will present his proposals for a shopping mall to the Bedminster Planning Board in a series of three special public meetings;

b. The proceedings will be in the nature of a request for a zone change and will be transcribed by a Court reporter;

c. The meetings will be structured to allow maximum participation and questioning by all members of the public and by local, county and other officials;

d. The three public meetings are scheduled for July 14, July 21, and July 23, 1981.

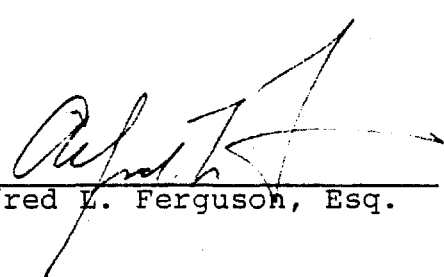
4. As a condition precedent for holding these special meetings, Bedminster required that Dobbs dismiss his suit against the Township. The Township could not fairly review Dobb's proposal while a lawsuit was pending. Dobbs agreed and submitted a stipulation of dismissal without prejudice to all parties.

5. Defendant-Intervenors, Robert R. Henderson, Diane M. Henderson and Henry E. Engelbrecht have refused to stipulate to the dismissal without prejudice. See letter dated June 23, 1981 from their counsel, Herbert A. Vogel, Esq. to Joseph L. Basralian, Esq., attached.

6. Bedminster believes that the public interest, including the interests of defendant-intervenors, will be best served by Dobbs' public presentation of his proposed shopping mall and by the public scrutiny of the proposal before the Planning Board. The municipality involved should at the very least have


an opportunity to see what Mr. Dobbs proposes before being forced to defend against it in court. However, the hearings will not occur unless the lawsuit is dismissed.

7. For these reasons, we ask the Court to dismiss the Complaint without prejudice so that the public hearings can take place as scheduled.



Alfred L. Ferguson, Esq.

Sworn and subscribed before me
this 29th day of June, 1981



Bonnie Jean George
BONNIE JEAN GEORGE
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires Oct. 31, 1982

JUN 23 1961

VOGEL AND CHAIT
A PROFESSIONAL CORPORATION
Attorneys at Law

ALF.

MAPLE AVENUE AT MILLER ROAD
MORRISTOWN, NEW JERSEY 07960
TELEPHONE 334-3400
AREA CODE 201

HERBERT A. VOGEL
ARNOLD H. CHAIT
ENID A. SCOTT
ARON M. SCHWARTZ
THOMAS F. COLLINS, JR.

HAROLD GUREVITZ
OF COUNSEL

COBY

June 23, 1961

Joseph L. Basralian, Esq.
Winne, Banta & Rizzi
P. O. Box 647
Hackensack, New Jersey 07602

Re: DOBBS V. BEDMINSTER TP.,
HENDERSON & ENGELBRECHT, Defendant-Intervenors
ATTILIO PILLON, Applicant for Intervention
DOCKET NO. AM-883-80-T-1

Dear Mr. Basralian:

This is to advise you that as attorneys for the intervenor-defendants, Robert and Diane Henderson and Henry E. Engelbrecht, (as well as our client, Attilio Pillon) we object to any dismissal of this law suit unless the same is with prejudice. In addition, the Stipulation of Dismissal would have to contain the following conditions:

1. Our clients shall receive notice of all meetings, formal and informal, between the plaintiff Dobbs or any of its representatives and officials or bodies of the Township (e.g. Township Committee, Planning Board, Board of Adjustment) with respect to requests for rezoning or variances upon the subject property or any portion thereof.
2. Our clients must have a full opportunity for cross-examination of all persons presenting information to the Township for a rezoning of the subject property as well as a full opportunity to comment upon any such presentation by your clients and to present our own witnesses, reports and statements with respect to the proposals submitted or suggested by your clients or any of its representatives or successors in interest.
3. Our clients will receive copies of all applications, reports, maps, plans and other printed or written data at the same time that your client submits these items to Bedminster Township or any of its representatives or Boards.

Joseph L. Basralian, Esq.
Winne, Banta & Rizzi

-1-

June 23,

4. In the event that your client reinstates this law suit or institutes another law suit challenging the zoning of the subject property or any portion thereof, then our clients (Henderson, Engelbrecht, and Pillon) will be made parties to that law suit with full rights to participate in the same, defend their position and present such evidence as is permissible under the rules of court. The right of our clients to participate in these proceedings would include any appeals, remands or further reinstatement of the zoning challenge to the subject property.

5. The presently pending challenge by plaintiff of the intervention by Henderson and Engelbrecht will be withdrawn with prejudice and the plaintiff will not object to the application of Attilio Pillon to intervene as a party in this action.

Should you wish to pursue the concept of dismissing the action at this time under the above conditions, please advise me so that I may discuss this matter further with our clients.

Very truly yours,


HERBERT A. VOGEL

HAV:hjb

CC Alfred L. Ferguson, Esq.
Mr. and Mrs. Robert R. Henderson
Mr. Henry E. Engelbrecht
Mr. Attilio Pillon

P.S. This letter was dictated prior to our phone conversation of this date in which I indicated the above to you.

WOODRUFF J. ENGLISH
FRANCIS E. P. MCCARTER
ARTHUR C. HENSLEY, JR.
EUGENE M. HARING
JULIUS B. POPPINGA
GEORGE C. WITTE, JR.
STEVEN B. HOSKINS
RODNEY N. HOUGHTON
THOMAS F. DALY
ALFRED L. FERGUSON
CHARLES R. MERRILL
ANDREW T. BERRY
JOSEPH E. IRENAS
JOHN L. MCGOLDRICK
RICHARD C. COOPER
PETER C. ASLANIDES
WILLIAM H. HORTON
FREDERICK B. LEHLBACH
MARY L. PARELL
RICHARD M. EITREIM
JOHN E. FLAHERTY
STEVEN G. SIEGEL

NICHOLAS CONOVER ENGLISH
JAMES R. E. OZIAS
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WILLIAM T. REILLY
HAYDEN SMITH, JR.
GEORGE W. C. MCCARTER
STUART E. RICKERSON
JOHN B. BRESCHER, JR.
TODD M. POLAND
DEAN J. PARANICAS
JANE S. POLLACK
ROSLYN S. HARRISON
ROBERT S. SCAVONE
GITA F. ROTHSCHILD
RONALD J. HEDGES
DAVID R. KOTT
JOHN J. LAMB
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MICHAEL A. GUARIGLIA
ROSS J. HOLDEN
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JOHN W. MCGOWAN, III
JACQUELINE J. WONG
GERALD C. HARVEY
DEBORAH L. GREEN
DAVID A. LUDGIN
SARA B. CHRISMAN
JOHN F. BRENNER
DAVID H. E. BURSİK
JOSEPH FALGIANI
FRANCIS C. BAGBEY
JAMES H. GORMAN
PETER V. KOENIG
JEFFREY W. MORYAN
DANIEL L. RABINOWITZ

July 3, 1981

Re: Dobbs v. Township of Bedminster, et al.
Docket No. L-12502-80

RECEIVED

JUL 6 1981

William J. Wintermute, Sr.
Assignment Clerk
Somerset County Court House
Somerville, New Jersey 08876

SOMERSET COUNTY
ASSIGNMENT CLERK

Dear Mr. Wintermute:

We previously scheduled a Motion on behalf of the Township of Bedminster returnable July 18, 1981, to dismiss this action without prejudice.

Please be advised that the Township of Bedminster is withdrawing its Motion to Dismiss. Please withdraw it from the calendar.

Very truly yours,


Alfred L. Ferguson

ALF:vs

cc: Joseph L. Basralian, Esq.
cc: Herbert A. Vogel, Esq.
cc: Henry Hill, Esq.

*held for
special call
motion call 7/6
ALF*