



Commission Meeting of June 16, 2010
Brookhaven Town Hall, Farmingville, NY
Present: Mr. Scully (for New York State), Ms. Gallagher (for Suffolk County),
Supervisor Walter (for Riverhead Town), Supervisor Throne-Holst (for Southampton
Town), Ms. Prusinowski (for Brookhaven)

Final Resolution on Joseph Zachary Gazza

SCTM#: 900-307-2-28

**Located on the west side of Summit Boulevard.
Westhampton Beach, Town of Southampton**

Whereas, Joseph Zachary Gazza owns a parcel of land located at 129 Summit Boulevard in Westhampton Beach in the Core Preservation Area of the Town of Southampton and designated as Suffolk County Tax Map Number 900-307-2-28 ("Lot 28").

Whereas, Mr. Gazza acquired Lot 28 pursuant to a deed dated March 3, 2010 recorded in the records of the Suffolk County Clerk on March 4, 2010.

Whereas, Lot 28 is in the Town's CR-200 Residence zoning district (Country Residence 200,000 square feet zoning district, 1 residence per 5 acres) and contains 1.7 acres of area for which Mr. Gazza submitted a Letter of Interpretation application on March 4, 2010.

Whereas, on March 12, 2010, the Clearinghouse issued a Letter of Interpretation for Lot 28 that allocated in total 0.34 Pine Barrens Credits.

Whereas, on April 12, 2010, Mr. Gazza submitted a letter to the Commission appealing the Clearinghouse's allocation for Lot 28 based on Section 6.7.6.6. of the Commission's Comprehensive Land Use Plan that states "*[t]he Pine Barrens Credit Clearinghouse may elect to allocate one (1) full Pine Barrens credit for a parcel of land consisting of at least 4,000 square feet with frontage on an existing improved road.*"

Whereas, Mr. Gazza stated in his appeal letter that: "*[b]ased on your Commission's allocation of 1.0 PBCs to SCTM Nos. 900-331-3-28 (106 Summit Boulevard.) and 900-331-3-32 (94 Summit Boulevard.)... and the Commission's denial of appeal for the allocation of 1.0 PBC on SCTM No. 900-280-2-82 (No # Summit Boulevard)..., it is apparent that your Commission considers the southerly portion of Summit Boulevard to be an existing improved road (as per §6.7.6.6), but not the northerly portion.*"

Whereas, on April 16, 2010, two Commission staff members performed a field inspection of Lot 28 and Summit Boulevard during which inspection they noted that Summit Boulevard is predominately gravel from its southern end which is just north of the intersection of the Long Island Railroad track and Old Country

Road until a large sandy dirt area to the north of Lot 28.

Whereas, during the field inspection, Commission staff noted a single family residence and a horse corral in the Compatible Growth Area to the south of Lot 28 and that there is no further residential development north of this residence or in the area of the subject parcel and continuing north on Summit Boulevard.

Whereas, the Commission held a hearing on the Gazza appeal on May 19, 2010 at which Commission Staff marked 12 exhibits into the record.

Whereas, during the hearing, a Commission Staff member testified to the condition of the road and the road's width she observed during the April 16th field inspections. She testified that while travelling north on Summit Boulevard, the gravel road significantly narrowed just past the single family residence and horse corral south of the Lot 28, to a single car width. Prior to that point, Summit Boulevard was at least two car widths wide. She also testified that the width of Summit Boulevard did not change as she headed north on the road past Lot 28 to the large sandy dirt area. She further stated that north of the large sandy dirt area Summit Boulevard is a very narrow, sandy, dirt path.

Whereas, Commission staff introduced as an exhibit photographs (Exhibit L) taken during the April 16th field inspection that showed Summit Boulevard directly in front of the parcel and showed the condition of Lot 28.

Whereas, Commission staff introduced two aerials (Exhibits B and C, respectively) that showed the location of Lot 28, the parcels south of Lot 28 that received an increase in Pine Barren Credit allocation based on being "on an existing improved road".

Whereas, a parcel north of Lot 28 with the Suffolk County Tax Map Number 900-280-2-82 was denied an increase in credit allocation by the Commission on April 19, 2006 since the Commission did not determine this parcel to be "on an existing improved road."

Whereas, the Town of Southampton Commission's representative stated that the Town neither owns nor maintains Summit Boulevard north of Old Country Road.

Whereas, the Southampton representative noted that the Town has a designated a portion of the area to the south of the subject parcel as an old file map development area, however, the subject parcel is not within the old file map development area, and any road improvements related to the old file map development would not extend northerly to the subject parcel and thus

the portion of Summit Boulevard directly adjacent to the subject parcel was not to be improved under such development plan.

Whereas, the Southampton representative further noted that the Town when making a determination as to whether or not the road is improved does not just look at road width, but also whether or not the surface provides satisfactory vehicular access, the road has safe visibility and

a stable surface, which the portion of Summit Boulevard directly adjacent to the subject parcel does not have.

Whereas, Mr. Gazza provided information on five parcels which previously received an allocation of 1.0 Pine Barrens Credit per parcel claiming that the subject parcel was substantially similar to the five parcels.

Whereas, two of the parcels (#200-269-1-3 and 600-141.01-3-5) received one full Pine Barrens Credit after Commission staff determined that the parcels had frontage on an existing improved road.

Whereas, parcel #200-529-3-35 received an allocation of one full Pine Barrens Credit after an appeal upon a finding by the Commission of, among other things, that the Suffolk County Department of Health's Board of Review had approved the construction of a single family house on the parcel and that the Town of Brookhaven approved the issuance of a building permit authorizing the construction of a single family house on the parcel upon the satisfaction of two ministerial conditions and due to its location next to an improved parcel and being approximately 100 feet from an improved road, and

Whereas, the Commission, after a hearing, allocated one full Pine Barrens Credit to parcel #200-270-2-12 based on its unique feature as an island.

Whereas, parcel #200-562-3-11 was allocated one full Pine Barrens Credit in 1996 due to its proximity, within 50 feet, of an existing improved road.

Whereas, a transcript of the Hearing containing the Commission's exhibits was made available to the Commission members and their designated representatives.

Whereas, the subject action is an unlisted action pursuant to the NYS Environmental Quality Review Act.

Whereas, Commission staff prepared a short Environmental Assessment Form for unlisted actions and performed an uncoordinated SEQRA review, pursuant to NYCRR Part 617, now therefore be it

Resolved, that the Commission finds that Summit Boulevard directly adjacent to Lot 28, is significantly narrower than the portion of Summit Boulevard extending southerly from the single family residence and horse corral and be it further,

Resolved, that the Commission finds that Summit Boulevard directly adjacent to Lot 28, specifically, the portion on which Lot 28 fronts, has not been improved to the Town of Southampton's specifications, and be it further

Resolved, that the Commission finds that the Town of Southampton neither owns nor maintains Summit Boulevard directly adjacent to Lot 28, specifically, the portion on which Lot 28 fronts, and be it further

Resolved, that the Commission finds that Summit Boulevard directly adjacent to Lot 28, specifically, the portion on which Lot 28 fronts, is not an existing improved road for purposes of Section 6.7.6.6, and be it further,

Resolved, that the Commission finds that Lot 28 is not entitled to receive an increase in allocation to one (1) full Pine Barrens Credit based on the assertion that the parcel fronts on an existing improved road pursuant to Section 6.7.6.6, and be it further

Resolved, that the Commission finds that the subject parcel is not substantially similar to any of the parcels cited by Mr. Gazza because it does not front on an existing improved road, is not in close proximity (less than 50 feet) from an existing improved road, is not an island, and neither the Suffolk County Department of Health's Board of Review nor the Town of Southampton have approved the construction of a single family house on the parcel, and be it further,

Resolved, that Mr. Gazza has not identified any other unique features of the parcels which warrant the revision of its Pine Barrens Credit allocation contained in the parcel's March 4, 2010 Letter of Interpretation, and be it further,

Resolved, the Commission finds that this determination will not result in any significant adverse environmental impact because it will not change the existing condition in any manner and that the preparation of Environmental Impact Statement is not required for the action.

Motion by: Supervisor Throne-Holst
Seconded: Ms. Prusinowski

Vote:
Yes: 5
No: 0