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THE STATE OF NEW YORK: COUNTY OF SUFFOLK
CENTRAL PINE BARRENS COMMISSION

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In the Matter of the Credit Appeal of,

RICHARD WENDELKEN
SUFFOLK COUNTY TAX MAP #200-382-3-16
200-382-3-15

-----X

Town Hall
Riverhead, New York

September 24, 2003
3:00 P.M.



Taken by: Donna L. Spratt,
Court Reporter

ORIGINAL

1 A P P E A R A N C E S:

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ROBERT J. GAFFNEY, Chairman

4

Suffolk County Executive

5

BY: George Proios, Acting Chairman

6

PETER SCULLY, Member

7

DEC Regional Director

8

Representing GEORGE PATAKI

9

JOHN J. LA VALLE, Member

10

Supervisor, Town of Brookhaven

11

BY: BRENDA A. PRUSINOWSKI

12

JEAN COMPITELLO

13

PATRICK HEANEY, Member

14

Supervisor, Town of Southampton

15

BY: JEFFERSON MURPHREE

16

ROBERT KOZAKIEWICZ, Member

17

Supervisor Town of Riverhead

18

BY: RICH HANLEY

19

20

MC MILLAN, RATHER, BENNETT & RIGANO

21

Attorneys for Commission

22

BY: JOHN MILAZZO, Esq.

23

24

25

1 MR. PROIOS: I would like to call
2 this public hearing to order. This is a
3 hearing on a credit appeal. My name is
4 George Proios. I'm Acting Chairman of
5 the Commission, acting on behalf of
6 Robert J. Gaffney, Suffolk County
7 Executive, who is Chairman of the
8 Commission, and I will ask the other
9 members of the Commission to identify
10 themselves and who they represent.

11 MS. COMPITELLO: Jean Compitello,
12 representing John J. LaValle, Town of
13 Brookhaven.

14 MS. PRUSINOWSKI: Brenda
15 Prusinowski, representing Brookhaven
16 Town Supervisor John J. LaValle.

17 MR. SCULLY: Peter Scully,
18 representing Governor Pataki.

19 MR. MURPHREE: Jeff Murphree,
20 representing Southampton Town
21 Supervisor, Patrick Heaney.

22 MR. MILAZZO: John Milazzo, staff
23 attorney.

24 MR. HANLEY: Rick Hanley,
25 representing Riverhead Town Supervisor,

1 Robert Kozakiewicz.

2 MR. MILAZZO: John Milazzo,
3 Commission attorney.

4 MS. LONGO: Janet Longo, staff.

5 MR. PROIOS: I will read the
6 Notice of Appeal from the Clearing House
7 decision. The owner applicant is
8 Richard Wendelken, 100 Sally Lane,
9 Ridge, New York, care of Dominic J.
10 Nicolazzi, for a project located on
11 Suffolk County tax map number
12 200-382-3-16 and 200-382-3-15. It is
13 located south of Route 25, Middle
14 Country Road, west of Sally Lane in
15 Ridge in the Town of Brookhaven.

16 The applicant is requesting an
17 increase from the one Pine Barrens
18 credit that was allocated by the
19 Clearing House to two Pine Barrens
20 credits. Ms. Longo would like to
21 present us with information regarding
22 this.

23 MS. LONGO: These are on the map
24 that I handed out. There are two lots,
25 adjacent lots in A-1 residential zoning,

1 Town of Brookhaven. The one lot is lot
2 number 15, 1.5 acre. The other lot is
3 2.5 acres. Both lots are developed with
4 a single family home, residential.

5 The lots are cleared to the back
6 lot line. They are being used as
7 agriculture. He's got a Christmas tree
8 farm and greenhouse. The LOI on the
9 first lot, the large lot, two-and-a-half
10 acres, we gave them one Pine Barrens
11 credit. On the smaller lot,
12 the one-and-one-half acre, the Pine
13 Barrens Clearing House has established a
14 policy because we were getting so many
15 applications in basically for people's
16 back yards for oversized developed lots
17 that we established a policy.

18 We're going to issue zero credits
19 on those lots because they're back
20 yards, and we don't have any way to
21 monitor or enforce our conservation
22 easements on back yards.

23 MS. COMPITELLO: What is this over
24 there?

25 MS. LONGO: An old pool, a round

1 pond in the back surrounded by County
2 property. That is a freshwater pond
3 back there, and there is DEC wetland map
4 at the rear lot line of this property.

5 MR. SCULLY: Could you restate the
6 Clearing House policy for me?

7 MS. LONGO: On oversized developed
8 parcels we're issuing zero credits on
9 them, and people can appeal them if they
10 want, but what had happened was it was
11 never part of the original plan that
12 people should get credits for their back
13 yards, and all of a sudden because
14 credits in Brookhaven are so much money,
15 we've been inundated with applications
16 for people's back yards. So we just
17 decided that that wasn't what the plan
18 was about so we stopped doing it.

19 Now I do have to take you back in
20 1998. Before the Clearing House decided
21 this, he did have an application and the
22 LOI was for one credit for lot 16 and
23 0.20 for lot 15 back in 1998.

24 MR. SCULLY: The LOI means?

25 MS. LONGO: Letter of

1 Interpretation.

2 MS. COMPITELLO: Two credits?

3 MS. LONGO: One for lot 15 and

4 0.20, two-tenths on lot 15.

5 MR. HANLEY: He's appealing an
6 older determination?

7 MS. LONGO: No. He wants two full
8 Pine Barrens credits.

9 MS. PRUSINOWSKI: Presently he is
10 at what number?

11 MS. LONGO: One.

12 MR. MILAZZO: What is the date of
13 LOI?

14 MS. LONGO: The new LOI was, like,
15 March of 2003.

16 MR. HANLEY: We issued Pine
17 Barrens credits for improved lots?

18 MS. LONGO: There are some lots in
19 here in this neighborhood, actually we
20 just did one recently, last week, where
21 the person has five acres with one house
22 tucked in the corner so she got three
23 Pine Barrens credits.

24 MR. HANLEY: Because she can
25 divide.

1 MS. LONGO: It's heavily wooded.
2 There's no improvement except for the
3 house.

4 MS. PRUSINOWSKI: Do we require
5 that they do a division?

6 MR. HANLEY: What about the
7 instant case? Both are improved. Why
8 is he entitled to any credit?

9 MS. LONGO: On the two-and-a-half
10 acres, that's subdividable in A-1
11 zoning.

12 MR. HANLEY: Rather than making an
13 individual go through subdivision, we
14 make an assumption.

15 MS. LONGO: They get one full Pine
16 Barrens credit subtracted for the house.

17 MR. SCULLY: The difference
18 between the lots, lot 16 is subdividable
19 and could be developed as a separate lot
20 and that's not true with regard to lot
21 15?

22 MS. LONGO: Right. It is 1.5
23 acres in one acre zoning.

24 MR. SCULLY: Unless they went to
25 the ZBA, they would not have the ability

1 to subdivide.

2 MR. PROIOS: Is there anything
3 else you want to add?

4 MS. LONGO: No, I think that's
5 it. That is the story.

6 MR. PROIOS: Thank you.

7 MR. NICOLAZZI: Good afternoon,
8 Mr. Chairman, Commissioners. It is nice
9 to see Mr. Scully on the Commission.
10 This is actually the strongest appeal
11 I've brought to you.

12 D O M I N I C N I C O L A Z Z I , having first
13 been duly sworn by a Notary Public of the State of
14 New York, testified as follows:

15 MR. NICOLAZZI: I am here before
16 you to appeal the allocation credit
17 given to Mr. Richard Wendelken. I am
18 making this appeal based on the fact
19 that the subject parcel fronts on a
20 paved public road and also an a paper
21 street. There is a strong potential for
22 development including economic
23 feasibility to secure town and County
24 approvals and hardship. The proposed
25 lots also conform to town and County

1 zoning requirements as they are all at
2 least 40,000 square feet.

3 There is a willingness to place a
4 conservation easement on the subject
5 parcels and not pursue a hardship and
6 also on the adjacent parcel, lot 16. I
7 have the ability to site prior approvals
8 substantially similar to the subject
9 request in which appeals were granted
10 and have additional data supporting this
11 approval.

12 We are asking that our allocation
13 be brought from -- an increase of 0.8,
14 technically from one credit to two
15 credits. I will explain why.

16 As Janet touched on, if you look
17 on page two, that's our current LOI for
18 lot 16 which is one full credit.
19 Recently the Clearing House did set a
20 guideline for the staff that lots -- the
21 way I understand it -- less in size than
22 one full zoning unit in their back yard,
23 so to speak, were not readily eligible
24 for credits.

25 For example, in one acre zoning, a

1 lot would have to be at least two acres
2 so that you would subtract out one
3 credit for the home and then an
4 allocation would be given for the
5 remaining land. That is the case in lot
6 16. In lot 15, however, we are now
7 caught in this new policy.

8 In 1998 you'll see on page three,
9 we received one full credit for lot 16
10 and two-tenths of a credit for lot 15.
11 At the time, Mr. Wendelken was having
12 some financial problems and there were
13 some tax liens on the property and we
14 could not participate in the program at
15 that time, which since have been
16 satisfied.

17 Page five is a survey of the
18 one-and-a-half acre parcel which did not
19 receive a credit allocation this
20 go-around. The LOI is June 5th of
21 2003. Page six is a survey showing lot
22 16 where we did receive one full
23 credit,, and then there is a drawing
24 combining the two lots creating four
25 lots, all of which are minimum 40,000

1 square feet; two fronting on existing
2 paved Sally Lane and then two lots
3 fronting on a paper street, Timber Drive
4 with approximately 47,000 square feet.

5 These are very decent sized lots.

6 MR. PROIOS: They're 147 by 320
7 and the other is at least 40,000 square
8 feet.

9 MR. SCULLY: They would require
10 lot frontage variances.

11 MR. NICOLAZZI: That is correct,
12 which this Commission has always had the
13 wisdom to make assumptions, again, as
14 we've done in the past, and we'll talk
15 about variances and different things a
16 little later on, but it answers Mr.
17 Hanley's question about why are we
18 before you.

19 At first glance, it looks like
20 quite a stretch. When you combine these
21 two lots, it is a very strong
22 application with Sally Lane, a paved
23 road, and Timber Drive, a paper street,
24 flanking it.

25 MR. HANLEY: Could your client

1 actually merge these lots?

2 MR. NICOLAZZI: He owns both lots.

3 MR. SCULLY: You would need ZBA
4 approval.

5 MR. NICOLAZZI: Correct. If we
6 can go to page eight, this is Doris
7 Fichter, which I have quoted in the past
8 which is four lots; three of which were
9 on a paper street, undeveloped Crystal
10 Brook Road. These lots were well
11 undersized but they were single and
12 separate, and it is actually a little
13 bit more involved to develop Fichter and
14 less to develop Mr. Wendelken's land,
15 but it was originally given an
16 allocation of a fractional credit for
17 each lot and, ultimately the
18 Commission's wisdom allocated one full
19 credit for each of the three lots on the
20 paper street.

21 MR. SCULLY: When did that happen,
22 do you know?

23 MR. MILAZZO: 1998.

24 MR. NICOLAZZI: Somewhere in there
25 is the Suffolk County tax map,

1 200-382-17, 18 and 19.

2 If I may speak a little bit about
3 lots receiving partial credits, that new
4 policy was implemented within the last
5 few months. As Janet said, in this area
6 we have received partial credit on many,
7 many lots, fractional credit for back
8 yards.

9 MR. PROIOS: And Janet gave you an
10 answer.

11 MR. NICOLAZZI: I'm saying in the
12 past we received fractional credits for
13 people's back yards.

14 MR. HANLEY: Is this the first
15 appeal we're hearing subsequent to this
16 change by the Clearing House?

17 MR. MILAZZO: Yes.

18 MR. HANLEY: This is the maiden
19 voyage.

20 MR. PROIOS: I don't think it is
21 correct that we have given fractional
22 credit where they have existing homes.
23 We analyzed the generic impact statement
24 that was in the original plan that
25 looked at the total yield that might

1 come due with existing vacant land. We
2 never analyzed in that report potential
3 credit that this might be created
4 looking at existing homes that had more
5 than minimum lots in terms of property
6 size.

7 That was the whole issue that we
8 crystallized and said if we were to now
9 to have to go out and give additional
10 credit to existing homes that have
11 oversized lots, it would throw out the
12 entire formula in terms of how many
13 credits might be generated from the core
14 area.

15 We had never anticipated that was
16 being done, and I don't recall that we
17 evaluated doing it to an existing home.
18 Maybe vacant properties because they
19 have not been calculated as being some
20 credit. It was not finalized in terms
21 of actual amount.

22 MR. NICOLAZZI: I agree that was
23 the catalyst for the new policy, but if
24 I might refresh your memory, you have
25 given credit, and I think John will

1 remember, Chris Begonis (phonetic) was
2 one that he had an acre-and-a-half and
3 received two-tenths of a credit. I
4 could probably cite four or five of them
5 and all are in this area where they were
6 just over an acre-and-a-half or an
7 acre-and-a-quarter and in people's back
8 yards and you did give fractional.

9 MR. PROIOS: And minimum was one
10 acre.

11 MR. NICOLAZZI: Yes, because the
12 logic was if three neighbors all have an
13 extra half acre in their back yard and
14 decide to create a partnership and go in
15 front of the town and say we'll put in a
16 common driveway or create a flag lot,
17 they could have an acre, an
18 acre-and-a-half, which was the case and
19 that is when you decided well, it is
20 worth it for us. It is in the core.
21 Let's preserve that and let's make sure
22 that does not happen.

23 MS. COMPITELLO: But were those
24 other instances a situation where they
25 were wooded pieces of property at least,

1 not totally cleared?

2 MR. NICOLAZZI: The issue of
3 cleared --

4 MR. MILAZZO: They've done both.

5 MR. NICOLAZZI: The issue of
6 cleared or uncleared, and I must say
7 with all due respect, this is a term
8 actually that this Commission has never
9 recognized in the past. I've been
10 before you many, many times. I've done
11 some 100 of those in total, and we have
12 never discussed clearing.

13 We've discussed is it in the core
14 or is it not in the core, is it a total
15 credit or does it receive a fraction?
16 Is there a home, should we subtract one
17 credit? If it is in the core, it was
18 worth preserving because you wanted to
19 avoid 300 gallons of wastewater a day
20 going into the core.

21 We, meaning the Commission, seems
22 to have added new layers of restrictions
23 and that's fine. I think it is great,
24 and I think this Commission has
25 functioned incredibly well, but these

1 terms are new in my experience.

2 I have gotten a full credit on a
3 parking lot; literally, a paved lot. It
4 was in the core and it was allocated one
5 full credit onto the plan. It had road
6 frontage and was an undersized sized lot
7 in the core. The terms of back yards,
8 cleared, uncleared, trees, pools, swing
9 sets; that never was a concern. The
10 concern was let's deter development in
11 the core, and now we're talking about
12 trees.

13 MS. LONGO: The parking lot and
14 stuff, that was a mistake. That was
15 obviously a mistake. I think if the
16 Commission had realized they were
17 putting Pine Barrens credit on a paved
18 parking lot, it probably wouldn't have
19 happened.

20 I wasn't here at the time when it
21 did happen, but just because a mistake
22 was made in the past doesn't mean it
23 should continue. At this point, because
24 of the number of houses and homes that
25 people have with oversized developed

1 lots that have been applying for those
2 credits, and like I said, it wasn't part
3 of the original calculations of Pine
4 Barrens credit and density that's going
5 to be transferred someplace else.

6 Nobody considered those developed
7 parcels as part of that density. Those
8 credits that are going to land somewhere
9 else to increase density somewhere were
10 never part of the original
11 calculations. Now all of a sudden
12 because there's so little land left,
13 this is what we're getting now, and
14 that's why the Clearing House made the
15 decision that they did.

16 MR. PROIOS: Let's let him
17 finish. Our question is whether they
18 are, in fact, from the town's
19 perspective, legal subdividable lots.

20 MR. NICOLAZZI: Can I respond one
21 second? I agreed with her completely.
22 I'm not here to argue that undersized
23 lots, developed lots, back yards under
24 the specified one acre should receive
25 credits. However, I do feel that

1 preserving and avoiding 300 gallons of
2 wastewater a day, even in that parking
3 lot which was a single and separate lot
4 that could have had a home built on it
5 -- it had a foundation on it at one
6 time. It burned down -- I think you did
7 make a mistake.

8 I think it was a good decision to
9 put an easement on that property.
10 However, this is a completely different
11 situation. What we have before us are
12 two lots that when combined are now
13 caught up in the Clearing House's new
14 policy of not giving back yards, because
15 when you clearly look at Mr. Wendelken,
16 he has the ability to merge these
17 parcels flanked with streets on both
18 sides.

19 This is really two additional one
20 acre lots that we're talking about, and
21 when you subtract out a credit each for
22 the home, I feel clearly that there are
23 two credits that should be allocated to
24 this parcel.

25 We talked about Doris Fichter.

1 MS. PRUSINOWSKI: Where is
2 Fichter?

3 MR. NICOLAZZI: Right here
4 (indicating).

5 MR. SCULLY: On the same tax map.
6 If you took a look, you could see it.
7 As Mr. Proios said earlier about looking
8 at it overall, what we did on
9 200-480-31, 32 and 454-1,8, the Migliore
10 parcel, was we created basically just a
11 yield map. We didn't look at frontages
12 and exact lot dimensions, but we said
13 okay, here's a yield map. We can get 15
14 40,000 square foot lots.

15 MR. SCULLY: Isn't the zoning five
16 acre in this area?

17 MR. NICOLAZZI: Not on this
18 parcel. This is one acre, which always
19 amazed me, but --

20 MR. SCULLY: I don't know how we
21 missed it.

22 MR. NICOLAZZI: Right, and this
23 was granted by this Commission basically
24 just about a credit for each lot as Mr.
25 Proios said, and it was looked at as an

1 overall.

2 MR. MILAZZO: You didn't get a
3 credit per acre?

4 MR. NICOLAZZI: Not a credit.
5 When you multiply, it was 0.8, but on
6 Fichter you did. Then finally this
7 application is not like and is
8 dissimilar to Mr. Anderson, our last
9 appeal, where Mr. Anderson's lots were
10 not single and separate, under 40,000
11 square feet in the zoning and
12 requirements of Board of Health.

13 That concludes my presentation.

14 MR. MILAZZO: Any covenants and
15 restrictions on the parcel?

16 MR. NICOLAZZI: Not that I'm aware
17 of.

18 MR. MILAZZO: Did you check?

19 MR. NICOLAZZI: There was a title
20 report done and it didn't show up.

21 MR. MILAZZO: When was the report
22 done? Have you seen it?

23 MR. NICOLAZZI: Yes.

24 MR. MILAZZO: Was that a title
25 report or informational search?

1 MS. LONGO: Informational search.

2 MR. NICOLAZZI: I think there was
3 a title report done also because maybe
4 it was back in 1998.

5 MS. LONGO: Back in 1998 it was a
6 title search. This time it was an info
7 search.

8 MR. FRELENG: Andy Freleng,
9 Suffolk County Planning, Vice-chair of
10 the Credit Clearing House. I want to
11 say for the record, I want to clarify if
12 the applicant is basing his appeal on
13 the premise that he could get four lots,
14 I want to clarify that. That's not an
15 as of right subdivision. It would
16 require a variance.

17 In addition, there are freshwater
18 wetlands, at least adjacent to the
19 property, that are mapped by the DEC and
20 there is a water body on site which may
21 or may not be regulated by the DEC as
22 part of that mapped wetlands, freshwater
23 wetlands.

24 MS. COMPITELLO: It is regulated.

25 MR. FRELENG: They would require a

1 subdivision, when adjacent to wetlands,
2 be approved by the DEC. There would be
3 setbacks which would impact on the
4 building envelope for at least one of
5 the lots, so just for the record, there
6 may not be four lots on this property.

7 MR. PROIOS: Thank you.

8 MR. NICOLAZZI: In the case of
9 Doris Fichter and also Migliore, they
10 both had freshwater wetlands on the
11 properties. Migliore has a pond right
12 in the middle and Fichter has a
13 tributary from the Peconic River that
14 runs right along her property.

15 MS. PRUSINOWSKI: What were the
16 dates of those appeal hearings?

17 MR. NICOLAZZI: I would say 1999.
18 I don't have it, but to the best of my
19 recollection it was 1999.

20 MR. PROIOS: Do we know it is a
21 mapped wetlands or we're not clear on
22 that?

23 MS. LONGO: I know there's a R-5
24 mapped wetland from the rear lot line as
25 far as their pond on the property goes.

1 MS. COMPITELLO: I actually had a
2 case against Wendelken when I was at
3 DEC. It was a freshwater wetlands
4 violation. I'm pretty certain, if that
5 is the same property, that it is.

6 MR. NICOLAZZI: Mr. Wendelken had
7 hired counsel to satisfy the DEC and
8 interface with them for him, and there
9 was some question back, I think, it was
10 in 1993 or 1994 and Mr. Wendelken's
11 communication from the DEC was they were
12 not interested in pursuing any
13 violations.

14 MS. COMPITELLO: I did a consent
15 order which means we did pursue a
16 violation. They basically -- a consent
17 order is a voluntary resolution of a
18 violation against somebody.

19 MR. NICOLAZZI: Because his
20 attorney states that in review, the DEC
21 failed to pursue this matter. It is,
22 therefore, our intention to close this
23 file. We have not heard from them for
24 several years.

25 MS. COMPITELLO: That may be with

1 regard to the consent order and whether
2 there were any additional items that
3 needed to be satisfied, but they did
4 sign a consent order admitting to a
5 violation.

6 I just bring it up to say that it
7 is. I know it is a DEC regulated
8 freshwater wetlands assuming it is the
9 same property. I don't recall the
10 address. If they don't own any other
11 property, this is the property.

12 MR. NICOLAZZI: Do you own any
13 other property?

14 MR. WENDELKEN: No.

15 MS. COMPITELLO: That is a DEC
16 regulated wetlands on their property.

17 MR. PROIOS: Any further
18 questions?

19 MR. NICOLAZZI: Thank you.

20 MR. PROIOS: Are there any members
21 of the public wishing to address the
22 Commission?

23 MR. AMPER: Richard Amper,
24 Executive Director of the Long Island
25 Pine Barrens Society, 547 East Main

1 Street, Riverhead.

2 I would like to make three
3 observations. One, Commissioner Proios
4 is correct. The generic environmental
5 impact statement contemplated certain
6 development issues as a result of
7 hardship exemptions and the activities
8 of the Credit Clearing House. It did
9 not contemplate, nor did the Act
10 envision, that we would be purchasing
11 people's back yards in order to protect
12 this ecosystem.

13 I think you have here a mandate
14 within the language of ECL 57 that says
15 that you are to take no action
16 inconsistent with the purposes of the
17 Act, and the purposes of the Act were
18 not to compensate people for existing
19 back yards. There is not an automatic
20 as of right entitlement to this
21 subdivision or to the development of
22 four lots under any circumstances so
23 that cannot be presumed.

24 I should also suggest that this
25 Commission is not governed by any action

1 that it has taken in the past, that it
2 may have taken differently now, and I
3 suggest to you that there will be
4 significant chaos with the Pine Barrens
5 Credit Clearing House program if we now
6 begin to go back and grant, ostensibly
7 for ecological reasons, compensation to
8 people who had already subdivided their
9 property to include larger than minimum
10 lot size.

11 You're going to have scores of
12 these, and having arrived at a wise
13 position consistent with the purposes of
14 the Act, I think it is perfectly
15 reasonable for you to support the
16 Clearing House's policy decision and
17 make it the Commission's own.

18 MR. OFFICER: Thank you. Is there
19 anyone else wishing to address the
20 Commission?

21 (No response.)

22 I'm going to close the public
23 portion of the hearing and leave the
24 comment period open because I want to
25 get some verification, absolutely, from

1 DEC as well as have the Town's ability
2 to comment in terms of what are the
3 requirements for the minimum lots.

4 Since this is the last meeting
5 before the decision's deadline of
6 October 3rd, we will need to have a
7 request for an extension to our next
8 meeting to gather that additional
9 information.

10 MR. NICOLAZZI: Absolutely.

11 MS. COMPITELLO: I'm wondering
12 what you anticipate getting from the
13 Town. The Town's going to say we would
14 allow them a variance to subdivide it?
15 It is one acre zoning.

16 MR. HANLEY: He wants the yard
17 requirements from that district.

18 MS. PRUSINOWSKI: I can tell you
19 that right now.

20 MR. MILAZZO: We need to review
21 prior decisions and his arguments.

22 MS. PRUSINOWSKI: That is fine.
23 As far as yard requirements in A-1, 175
24 road frontage, 50 foot front yard, 25
25 foot side yard, 60 foot rear yard.

1 MR. PROIOS: Is it clear that the
2 Town would not give an approval for
3 these four lots if an application were
4 made?

5 MS. COMPITELLO: With all due
6 respect, I don't think that is the way
7 the question should be asked; is it
8 clear the Town would not. That's not
9 how it can be presented to us.

10 I think you have to look at it and
11 say it is not obvious to the Commission
12 that this would very easily be turned
13 into two lots.

14 MS. PRUSINOWSKI: I think the
15 freshwater wetland issue is also a
16 determining factor in that.

17 MR. PROIOS: I would like to close
18 the public hearing at this point, and if
19 the Commission wants to make a decision
20 at this point --

21 MR. MILAZZO: I suggest you allow
22 staff to look at prior decisions,
23 compare things he talked about, do a
24 little research into the matter.

25 MR. PROIOS: It is not clear to

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me. We'd entertain a motion to extend
the decision date to the October 15th
meeting.

Would somebody like to make that
motion?

MR. HANLEY: So moved.

MR. MURPHREE: Seconded.

MR. PROIOS: All in favor?

(All responded in the
affirmative.)

Motion carries.

(TIME NOTED: 3:35 P.M.)

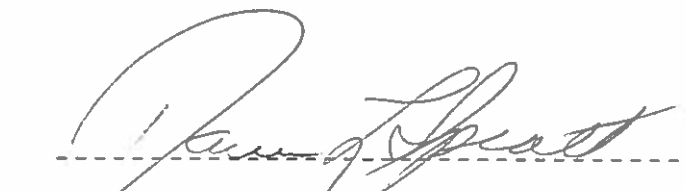
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CERTIFICATION

I, DONNA L. SPRATT, a Notary
Public in and for the State of New
York, do hereby certify:

THAT the foregoing is a true and
accurate transcript of my
stenographic notes.

IN WITNESS WHEREOF, I have
hereunto set my hand this 7th day of
October 2003



DONNA L. SPRATT

