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

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In the Matter of

JOHN ANDERSON.

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Town Hall
Medford, New York

June 18, 2003
3:50 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

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7

JOHN J. LA VALLE, Member

8

Supervisor, Town of Brookhaven

9

BY: BRENDA A. PRUSINOWSKI

10

JEAN COMPITELLO

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12

PATRICK HEANEY, Member

13

Supervisor, Town of Southampton

14

BY: MARTIN SHEA

15

16

ROBERT KOZAKIEWICZ, Member

17

Supervisor Town of Riverhead

18

BY: RICK HANLEY

19

20

Ed Randolph, Staff to Commission

21

22

MC MILLAN, RATHER, BENNETT & RIGANO

23

Attorneys for Commission

24

BY: JAMES P. Rigano, Esq.

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. SHEA: Martin Shea,
18 representing Southampton Town
19 Supervisor, Patrick Heaney.

20 MR. MILAZZO: John Milazzo, staff
21 attorney.

22 MR. RIGANO: James Rigano, Counsel
23 to the Commission.

24 MR. HANEY: Rick Haney,
25 representing Riverhead Town Supervisor,

1 Robert Kozakiewicz

2 MR. PROIOS: We're here to have a
3 public hearing on a credit appeal from
4 the clearing house. The applicant's
5 name is John Anderson. Parcel 15 which
6 is an unimproved paper road on Manor
7 Street, just west of County Road 111.
8 It is tax map number 200-511-1-15. The
9 request is for one Pine Barrens credit
10 for the parcel currently zoned A-5
11 residential and is vacant.

12 Would staff care to make a
13 presentation to the Commission?

14 MR. RANDOLPH: I've handed you a
15 copy of the staff report, as well as a
16 copy of a few pages that were extracted
17 from the last public hearing from March
18 29th of 2000 regarding this parcel, as
19 well as the one adjacent to it; lot 16.

20 As you go through that, you'll see
21 that there are certain parts
22 highlighted, and the Commission
23 determined at the last hearing that this
24 applicant was not eligible for one whole
25 credit for that parcel because it did

1 not sit on the road front. The
2 applicant has asked, the property owner
3 asked his designated representative, Mr.
4 Nicolazzi, to come and submit new
5 evidence as to why he should receive one
6 whole credit for that parcel that sits
7 behind a road front parcel, so I'll let
8 Mr. Nicolazzi make his presentation.

9 MR. NICOLAZZI: Dominick
10 Nicolazzi. Good afternoon, Mr.
11 Chairman, members, ladies and
12 gentlemen. I am before you this
13 afternoon to appeal the one-tenth credit
14 allocation given to lot 200-511-1-15.
15 We are seeking one credit for this
16 parcel. Our request is based on the
17 following:

18 Briefly stated, the subject parcel
19 is in the close proximity to a paved and
20 public road, within 100 feet. There is
21 a strong potential of more development,
22 including economic feasibility, your
23 town and county approvals and hardship.

24 The applicant also owns the lot
25 buffering a paved road to the subject

1 parcel. There is a willingness to place
2 a conservation easement on the subject
3 parcel and road front parcel number
4 200-511-1-16 which is also owned by the
5 applicant and not pursue a hardship
6 exemption on either.

7 We have the ability to cite prior
8 appeals substantially similar to the
9 subject appeal in which appeals were
10 granted. We have additional data
11 supporting the approval of the appeal.
12 I would now like to describe the key
13 features that are unique to this appeal.

14 Number one, the subject parcel is
15 exempt from current density rules at the
16 Suffolk County Board of Health. It is
17 an old filed map, and it is the map of
18 Hampton Pines, so approval of the
19 Suffolk County Board of Health would be
20 nothing more than a formality.

21 Number two, this lot conforms to
22 existing development in process directly
23 across the street. Now, I'm not denying
24 that that lot is not single and
25 separate. However, the fact that I can

1 build a case at the Brookhaven Town ZBA
2 possibly showing conformity is very
3 strong.

4 Number three, based on the Pine
5 Barrens Plan, your plan, I could
6 feasibly develop this parcel by crossing
7 over the applicant's other parcel and
8 still receive one full credit for the
9 road front parcel, confine all
10 development to the subject parcel, have
11 a pervious driveway and no deduction
12 would be required on just the driveway
13 across this lot. The Town of Brookhaven
14 may consider this one lot because
15 they've merged. Possibly we're looking
16 at another alternative to pursuing going
17 for a ZBA appeal for two separate lots,
18 and you would still consider this two
19 separate tax lots in your plan.

20 In either scenario, there exists a
21 100 foot buffer between busy County Road
22 111 and the road front parcel also owned
23 by the applicant. As you can see, the
24 way they developed County Road 111,
25 there is a very nice buffer that would

1 afford a very reasonable buffer against
2 the busy road, have the development way
3 back off of the road and have a nice
4 cozy winding driveway to the back of the
5 property. In either case, the subject
6 parcel not only fronts on a paper street
7 which is very close and contiguous to a
8 paved road -- in essence you could argue
9 that it is also contiguous to the paved
10 road because the applicant owns the
11 other lot as well.

12 Also in this case, I believe the
13 Town of Brookhaven would encourage
14 common driveways or flag lots as they
15 would prefer to have as few curb cuts on
16 busy County Road 111 as possible.
17 Therefore, they may, if other applicants
18 chose to develop, may have this flag
19 including the two lots to the south as
20 well, access to the lots and abandoned
21 paper street. Access to the lots to the
22 east could and would be feasible through
23 this other road further south.

24 MS. PRUSINOWSKI: Say that again.
25 I don't think what you're saying is

1 correct.

2 MR. NICOLAZZI: My point is that
3 the Town of Brookhaven would encourage a
4 flag lot or common driveway in instances
5 like this rather than having curb cuts
6 for this lot and this lot and this lot.
7 They would probably encourage a flag lot
8 or a common driveway so there would be
9 only one curb cut on County Road 111.

10 MS. PRUSINOWSKI: You're talking
11 about abandonments though.

12 MR. NICOLAZZI: I was leading into
13 my next point, but if they did that,
14 they could abandon this section of road
15 because access to the lots would be off
16 of the flag.

17 MS. PRUSINOWSKI: Who owns the
18 parcels to the north of this and were
19 the parcels in question a part of the
20 same map as all of those parcels shown
21 to the north?

22 MR. NICOLAZZI: This is the same
23 map.

24 MS. PRUSINOWSKI: That throws the
25 abandonment argument out the window.

1 MR. NICOLAZZI: You would have to
2 have the approvals of the other lot
3 owners, but the abandonment of the
4 street is not germane to my point. My
5 point is you would want to limit the
6 number of curb cuts on County Road 111.
7 The point that I am going to make now
8 regarding abandonment of streets is that
9 technically the applicant owns to the
10 center line of the paper street, and
11 that was not taken into account when the
12 original one-tenth allocation was made.

13 MS. PRUSINOWSKI: That's not
14 necessarily correct, depending on how
15 this map was filed, depending on
16 whether these lots were on a filed map
17 or whether these are paper streets owned
18 by the town. There are two different
19 ways that can go.

20 MR. NICOLAZZI: That's true, and I
21 don't know the answer to that.

22 MS. PRUSINOWSKI: Okay.

23 MR. NICOLAZZI: Finally, the
24 entire east side of County Road 111
25 where this parcel exists is completely

1 undeveloped. It is pristine with
2 untouched trees, wildlife and native
3 vegetation in this entire section.

4 I would now like to cite a few
5 successful appeals that I have presented
6 to this Commission that share similar
7 characteristics to the current appeal.
8 This is the application of Sipala and
9 Alberto which is also on County Road
10 111, a little further south. This is
11 similar to the subject appeal.

12 MR. SHEA: Which lot are we
13 looking at, because it is not
14 highlighted.

15 MR. NICOLAZZI: I just assumed you
16 were as familiar with it as I am. It is
17 this triangle. All the lots in this
18 triangle here (indicating).

19 MS. PRUSINOWSKI: There are a lot
20 of triangles here.

21 MR. NICOLAZZI: Sipala and Alberto
22 was originally allocated full credits
23 for the parcels that were along the road
24 and fractional credits for the other
25 interior parcels. We showed that

1 development was very feasible, that they
2 were in close proximity to paved roads,
3 and increased allocations were made on
4 the interior lots as well.

5 MR. MILAZZO: To what?

6 MR. NICOLAZZI: I believe it was
7 from six-tenths of a credit to 3.7
8 credits.

9 MS. PRUSINOWSKI: Is that based on
10 the single and separate nature of some
11 of those lots?

12 MR. NICOLAZZI: Some were single
13 and separate, others were not.

14 MR. SHEA: The two lots that
15 you're presenting today, are those lots
16 merged or are we looking at two separate
17 lots, and if so, one of them is
18 potentially a road fronting lot but not
19 the other.

20 MR. NICOLAZZI: They have two
21 separate tax bills. The Town of
22 Brookhaven is still issuing two separate
23 tax bills. From the Town's point,
24 they're merged but from the Commission's
25 standpoint, they are looked at

1 individually.

2 At the Commission level, you need
3 two different Suffolk County tax map
4 numbers.

5 MR. MILAZZO: He has two tax
6 lots. Tax lot number 16 isn't the
7 subject to this application.

8 MR. NICOLAZZI: Correct.

9 MR. RIGANO: Numbers 15, is that
10 two old filed lots on one tax bill or is
11 it one old filed lot?

12 MR. NICOLAZZI: Two old filed lots
13 on two tax bills.

14 MR. RIGANO: What are the two tax
15 bills?

16 MR. NICOLAZZI: One for 15 and one
17 for 16.

18 MR. SHEA: We're only looking at
19 15?

20 MR. NICOLAZZI: Correct, we're
21 only looking at 15. I think I'm
22 addressing 16 at various times because I
23 think it strengthens the appeal.

24 MR. RIGANO: Are 15 and 16
25 merged?

1 MR. NICOLAZZI: No.

2 MS. PRUSINOWSKI: To Town code
3 they have been.

4 MR. NICOLAZZI: Brookhaven Town,
5 by virtue of the fact they're not single
6 and separate, they will consider these
7 lots merged.

8 MR. RIGANO: When this goes for
9 development before the Town.

10 MR. NICOLAZZI: That's correct.
11 It would require me to go to the ZBA if
12 I wanted to develop both lots. My point
13 before you is that I'm not here to say I
14 would like to develop both lots. There
15 has been one credit allocated to the
16 road front parcel and a tenth of a
17 credit allocated to the other lot. We
18 are seeking one full credit for the
19 other lot.

20 MR. SHEA: For the interior lot?

21 MR. NICOLAZZI: For the interior
22 lot.

23 MS. PRUSINOWSKI: On the premise
24 of your tax bill?

25 MR. NICOLAZZI: No, not on the

1 premise of the tax bill. On the premise
2 for the reasons I've stated; it is very
3 close to a paved road, it is close to a
4 paved road by the fact that it is on a
5 paper street that's very close to a
6 paved road and development is feasible.
7 It is close to a paved road because the
8 applicant owns the other lot, as well as
9 and I could cross over that lot, have my
10 development confined to the interior lot
11 and still receive one full credit.

12 I could be before this Commission
13 for a hardship to develop this lot, take
14 my one full credit for the road front
15 lot and have a buildable lot worth
16 \$200,000 and one full credit. I don't
17 really discuss economics but if credits
18 were worth \$100,000, for the total of
19 \$100,000 for the road front parcel and
20 \$10,000.

21 In the other scenario, it would
22 be a \$200,000 buildable lot for the
23 interior lot, \$100,000 credit, that's
24 \$300,000. We are happy to say if we had
25 two credits, we would be not made whole

1 compared to the value of lots in this
2 area, but we would be happy to preserve
3 both and put a conservation easement on
4 both lots.

5 I have some others, quickly. Bob
6 Walkhan. For the sake of time, I would
7 combine the next three. Bob Walkhan,
8 Pope and Doris Fichter were three
9 appeals that I made before this
10 Commission.

11 Doris Fichter had three lots that
12 were not on a paved road but were on a
13 paper street. They were near Old
14 Orchard Road, the furthest being 330
15 feet away. They were originally
16 allocated fractional credits for each
17 based on the standard equation that Mr.
18 Randolph was talking about earlier, and
19 eventually received one full credit for
20 each parcel based on the same types of
21 reasons; ability to develop these lots,
22 feasibility, development scheme,
23 utilities in the road. They're in this
24 road.

25 MR. PROIOS: Were they single and

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separate?

MR. NICOLAZZI: These were yes, sir. Pope was single and separate as well. He was some 554 feet from the paved road, Medford Road. He was on a paper street, Big Pine Road, and his allocation was rounded up as well.

And then finally Bob Walkhan was 101 feet -- excuse me, 98 feet from the paved Yaphank Middle Island Road on a paper street. He originally received a tenth of a credit and ultimately received one full credit after the appeal. Again, it was a single and separate lot.

MR. SHEA: So the first example that you brought forward, in addition to those lots being single and separate, what was the size of those lots as compared to zoning, existing zoning?

MR. NICOLAZZI: In the first case, some were as little as eight-tenths of an acre in five acre zoning. In Bob Walkhan's case, it was 40 by 100, 40 front in A-5 zoning. The others, Pope

1 and Fichter, were a little bit more
2 reasonable. Pope was 280 front by 371.
3 Fichter had three, roughly 15,000,
4 16,000 square foot lots.

5 Lastly, Migliore. They had three
6 five acre lots that fronted on East
7 Bartlett Road. He was originally
8 allocated credits using the standard
9 formula.

10 MR. SHEA: Excuse me. Point out
11 which lots we're looking at.

12 MR. NICOLAZZI: Sorry. It's lots
13 number two, one and six; the long narrow
14 lots starting from the right. These
15 three lots. I apologize for this.

16 Again, what we did was we showed
17 that development was feasible, that the
18 utilities were in the road, that lots
19 were within a reasonable distance from
20 the paved road. We drew a subdivision
21 map showing 14 lots. We didn't have
22 approvals. These were not single and
23 separate lots.

24 These were not lots before any of
25 the municipal agencies but we showed a

1 general scheme that was reasonable, that
2 was fair, that was feasible, and the
3 Commission thought that it was fair as
4 well and increased Mr. Migliore's
5 allocation from a fractional value using
6 the standard equation to some, I
7 believe, twelve plus credits.

8 In closing, I would like to say
9 this appeal should not and does not
10 hinge on whether the lots are single and
11 separate. I have presented development
12 scenarios that overcome the issue of a
13 non-single and separate lot. This issue
14 does not preclude development. It only
15 necessitates additional steps; for
16 example, a trip to the ZBA or possibly
17 another look at my example of crossing
18 over the other lot.

19 All previous successful appeals
20 have required additional approvals as
21 well. This Commission has always had
22 the foresight to make assumptions that
23 those additional steps would or could be
24 granted.

25 Thank you very much.

1 MR. PROIOS: If I understand the
2 chronology correctly, they were two
3 separate lots. At some point when the
4 Town upzoned the land to five acre
5 zoning, because each lot was in the same
6 individual's name, they merged; that had
7 they been in his wife's name or some
8 other name in the family, they would
9 have remained as two separate lots.

10 MR. NICOLAZZI: Yes, sir, and we
11 would still be here in front of you with
12 an appeal for one credit. We would
13 still be allocated one credit for the
14 road front parcel and one-tenth. None
15 of that would change.

16 MS. COMPITELLO: Is there any
17 change in circumstances that you could
18 point to since when this appeal was on
19 before this Commission in March of 2000
20 and today?

21 MR. NICOLAZZI: Yes, of course.
22 If you read the entire transcript
23 minutes.

24 MS. COMPITELLO: Aside from the
25 fact that he might not have been

1 adequately represented.

2 MR. NICOLAZZI: If you read the
3 minutes, Mr. Anderson basically stood up
4 and said I don't think it is fair, I
5 don't understand the process. I didn't
6 know about checker boarding. He didn't
7 try to overcome the problems of the lots
8 not being single and separate. He
9 didn't cite any other appeals that were
10 approved that were similar to this. He
11 did not discuss the feasibility of
12 development.

13 MS. COMPITELLO: But that --
14 basically what you're saying is he
15 wasn't adequately represented, but there
16 is no new change in circumstances. The
17 Commission, even though an applicant may
18 not be able to present his case
19 adequately, this Commission still knows
20 that the criteria.

21 Has anything changed?

22 MR. NICOLAZZI: I think there have
23 been successful appeals since Mr.
24 Anderson made his that would cite
25 precedent to approve this one. That

1 might be a major thing. There is
2 development, current development as you
3 can see in this picture. They're
4 clearing the lot across the street.
5 That's basically it.

6 MS. COMPITELLO: He hasn't taken
7 any steps to seek approval from the
8 ZBA?

9 MR. NICOLAZZI: No, we have not
10 done that and have never done that in
11 the past. We would present it to the
12 Commission and with your wisdom, you
13 would say well, that's not so
14 farfetched. I presented two different
15 scenarios; one going in front of the ZBA
16 and asking to develop. If I did that, I
17 would have to develop both parcels, not
18 just one.

19 But the other scenario would not
20 require a trip to the zoning board. I
21 can go in front of the Town. This lot
22 is larger than the other lots. It is
23 basically as of right, and merge them.
24 I have no problem with merging the
25 lots. I'll confine my development to

1 the interior lot. I'll ask the
2 Commission for a pervious driveway
3 across this one and ask for a full
4 credit and go for a hardship in the
5 back. Brookhaven Town has no problem.
6 The ZBA has no problem.

7 Mr. Anderson did not discuss the
8 fact that it is an old filed map, did
9 not discuss flag lots, common
10 driveways. I think it's a different,
11 totally different application. This is
12 a beautiful section of the Pine
13 Barrens. It is pristine, heavily
14 wooded, native vegetation. Nothing is
15 disturbed, the entire east side. Almost
16 from just past the commercial section is
17 completely undeveloped.

18 We're happy to put conservation
19 easements on both properties. You're
20 not going to expect us to be in front of
21 you next month for a hardship
22 application on the front lot. We're
23 happy to put conservation easements on
24 both lots.

25 MR. RIGANO: There is no easement

1 on the road front. He has a credit.

2 MR. NICOLAZZI: He has an LOI for
3 at least one credit.

4 MR. RIGANO: So there is no
5 easement on the road front parcel.

6 MR. NICOLAZZI: That's correct. I
7 think development in this area is more
8 feasible than what is going on across
9 the street.

10 MR. MILAZZO: That is in the
11 compatible growth area across the
12 street.

13 MR. NICOLAZZI: I'm not saying
14 that. He has got this 100 foot wooded
15 buffer before he gets to his lot. He
16 could have a beautiful little estate
17 there on over an acre.

18 MR. MILAZZO: In the Walkhan case,
19 was there not an approval? Didn't Mr.
20 Walkhan have an approval?

21 MR. NICOLAZZI: I don't think he
22 had. What kind of approval?

23 MR. MILAZZO: To build on that
24 lot. He had an approval from the town,
25 didn't he? My recollection is that he

1 did.

2 MR. NICOLAZZI: It is a 40 by.

3 MR. RIGANO: We have to decide
4 whether there is a hearing deadline
5 today.

6 MR. RANDOLPH: The decision
7 deadline is today.

8 MR. RIGANO: On the first, Alberto
9 Sipala, did they get a full credit on
10 the interior parcels?

11 MR. NICOLAZZI: On some of them,
12 they did. I don't know exactly.

13 MR. RIGANO: They had allocations
14 for one full credit for interior parcels
15 or did the Commission grant for the
16 entire site a certain number of
17 credits?

18 MR. NICOLAZZI: I would say the
19 latter.

20 MR. RIGANO: The interior parcels
21 didn't get a full credit.

22 MR. NICOLAZZI: Some may have. I
23 don't know how the Commission arrived at
24 the allocation after the appeal was
25 presented, but the allocation went from

1 a fractional credit to three point
2 something. It was increased by over
3 three credits.

4 MR. RIGANO: The entirety. The
5 group went from some fraction, so there
6 was no individual allocation to a full
7 credit in the back.

8 MR. NICOLAZZI: No. I didn't
9 receive that, but if I just may add, the
10 two credits is more in line with what is
11 more reasonable in terms of making Mr.
12 Anderson whole in terms of values.

13 Lots in this area are worth
14 \$200,000. At best, if credits are
15 \$100,000, it is \$110,000. I'm not sure
16 whether they're selling for that,
17 whether two credits would be a more
18 reasonable alternative.

19 MS. PRUSINOWSKI: That is not a
20 criteria we have to use in this
21 evaluation.

22 MR. NICOLAZZI: However, it just
23 seems so --

24 MR. RIGANO: With regard to the
25 earlier appeal and Letter of

1 Interpretation, so that appeal was in
2 2000, so I take it this is a question
3 for you, Ed.

4 Did the prior Letter of
5 Interpretation expire and a new one
6 issued?

7 MR. RANDOLPH: Issued to Mr.
8 Nicolazzi, yes.

9 MR. RIGANO: So a question for the
10 Commission to consider is the plan
11 allows for an appeal within a certain
12 number of days after issuance of a
13 Letter of Interpretation, and while
14 there was a Letter of Interpretation
15 issued two or three years ago and there
16 was an appeal, that Letter of
17 Interpretation subsequently expired and
18 a new Letter of Interpretation was
19 issued, probably within the past six
20 months.

21 MR. RANDOLPH: The last three or
22 four months, and Mr. Nicolazzi asked if
23 you could re-appeal an appeal. That's
24 why it has dragged out a few more months
25 because the question was before the

1 Commission as to whether an appeal can
2 be reheard.

3 MR. RIGANO: The Commission
4 considered that at a meeting.

5 MR. RANDOLPH: If a new LOI is
6 issued, it is basically a new issue. He
7 is within that time frame to appeal.

8 MR. NICOLAZZI: I feel that the
9 scenario I described where you can pass
10 over this lot and still receive a credit
11 and still satisfy Brookhaven Town's code
12 really overcomes the problem of the two
13 lots not being single and separate.

14 MS. PRUSINOWSKI: It satisfies
15 code in what way?

16 MR. NICOLAZZI: These lots not
17 being single and separate, I would not
18 be able to build two homes without going
19 to ZBA but I could build one home.
20 You're not penalized in the town that
21 you have two single and separate so now
22 you can't build anything. They say you
23 have one building lot. You couldn't
24 build two homes but one. That's fine.

25 They would want me to be a little

1 far away from busy County Road 111. I
2 can confine the development on this lot
3 and the Commission, according to your
4 plan, you don't discriminate against --
5 you take into account what the Town says
6 about lots merging. You look at Suffolk
7 County tax map numbers.

8 That's why I received 1.1 credits,
9 not one. You would not subtract from my
10 driveways across this lot. When I
11 approach the Town, they say you have one
12 lot. In front of you today, I have two
13 lots.

14 MR. MILAZZO: For one lot, you
15 would have gotten one credit. Should we
16 treat it as one lot? I don't think so,
17 no.

18 When you talked about Migliore,
19 were there utilities in the street?

20 MR. NICOLAZZI: There are some
21 utilities in the street.

22 MR. MILAZZO: Are there utilities
23 fronting on the parcel that's being
24 appealed?

25 MR. NICOLAZZI: Some utilities.

1 MR. MILAZZO: Which?

2 MR. NICOLAZZI: Electric.

3 MS. PRUSINOWSKI: On a paper
4 street?

5 MR. MILAZZO: You're appealing the
6 back parcel. Are there utilities that
7 front on the parcel from which you are
8 appealing?

9 MR. NICOLAZZI: On the paper
10 street, no, but I'm presenting scenarios
11 where I'm not developing not from the
12 paper street but from County Road. My
13 access would be County Road 111. The
14 utilities would be from County Road
15 111.

16 MS. COMPITELLO: That is not the
17 question. He is comparing it to the
18 parcel you compared it to, and they're
19 not the same. That is a distinguishing
20 factor. Migliore had utilities.

21 MR. NICOLAZZI: The utilities are
22 on East Bartlett, and those lots are
23 4,000 feet long so I would bring the
24 utilities 4,000 feet. Here I'm talking
25 about a few hundred feet.

1 MR. MILAZZO: Does Migliore's
2 parcels front on a street with
3 utilities?

4 MR. NICOLAZZI: I would say that
5 Migliore's development scenario is far
6 more costly and strenuous and a bigger
7 leap than what I'm presenting here.

8 MR. MILAZZO: The answer is yes,
9 they front on it and no, those don't.

10 MR. PROIOS: Right.

11 MR. MILAZZO: Are there other
12 appeals you could cite where the person
13 with a second lot -- is it fair to
14 characterize this as an interior
15 non-fronting parcel?

16 MR. SHEA: A non-road fronting
17 parcel.

18 MR. MILAZZO: Has the Commission
19 addressed appeals like that in the past
20 and what have they done, beyond the
21 large, more than five or ten acre
22 parcel?

23 MR. NICOLAZZI: I showed you Pope
24 and Fichter.

25 MS. PRUSINOWSKI: Depending on the

1 situation, on the type of map and what
2 the individual property owner's interest
3 was in those paper streets, based on how
4 the map was filed, the Commission did
5 increase some allocations in the Town of
6 Southampton.

7 MR. PROIOS: Does the fact that
8 the same owner that owns the road front
9 parcels would very likely grant the
10 access to the interior parcels have a
11 bearing?

12 MS. PRUSINOWSKI: It depends on
13 how the owner -- what interest the owner
14 has in those paper roads and whether
15 they are plotted streets or streets on
16 an old filed map. It goes back to there
17 needs to be some research done in that
18 regard, if that is the argument he wants
19 to make.

20 MR. RIGANO: Isn't the point Mr.
21 Nicolazzi is making that that doesn't
22 matter because he could have access over
23 the parcel that fronts on the road?

24 MR. NICOLAZZI: I'm contradicting,
25 because your rules in the plan

1 contradict Brookhaven Town rules. When
2 I stand here in front of this
3 Commission, I have two lots. When I go
4 to the Town, I have one lot. I want to
5 build a house.

6 MS. PRUSINOWSKI: Mr. Milazzo just
7 elicited from you that it is not road
8 front.

9 MR. NICOLAZZI: But you're
10 switching me back. When I'm in front of
11 the Town, I have the road front lot.

12 MS. PRUSINOWSKI: I'm referring to
13 the lot that is the subject of this
14 hearing. You specified it is 16 which
15 is not on County Road 111.

16 MR. NICOLAZZI: But if you
17 preclude me from discussing the
18 specifics of this appeal which is the
19 fact that the applicant also owns this
20 lot, then you're --

21 MS. COMPITELLO: If the fact that
22 the lot is merged before the Town works
23 against him, it has to work for him
24 before the Town of Brookhaven. That's
25 what he's saying.

1 MR. NICOLAZZI: Exactly. If I
2 were here before you and I had to make a
3 case that I'm going to the town to build
4 two houses, I would be much weaker but
5 to go in front of the Town to say I want
6 to build one house, I could say it is
7 as of right. It would be one house. I
8 would have to get through the Board of
9 Health, the Pine Barrens Commission,
10 DEC; whatever agencies are involved.

11 MR. RIGANO: Because of the road
12 front lot, plus lot 15?

13 MR. NICOLAZZI: Correct. To stand
14 on what you're saying, you would have to
15 change the rules. You look at Suffolk
16 County tax map numbers, not the Town,
17 and when Mr. Randolph does his credit
18 allocation, he doesn't check with the
19 town and say do you consider this one or
20 two lots. He looks up Suffolk County
21 tax map lots.

22 MS. COMPITELLO: When you go to
23 the town and you get your permit to
24 build on that merged lot, you're going
25 to wind up with one tax lot after that.

1 When you come back to us, you'll have
2 one lot at that point.

3 MR. NICOLAZZI: That's not true. I
4 own property myself. It could happen.

5 MR. MILAZZO: Do you own this
6 parcel?

7 MR. NICOLAZZI: No.

8 MR. MILAZZO: How many parcels
9 does Mr. Anderson own?

10 MR. NICOLAZZI: I have no idea.

11 MR. MILAZZO: Could it be more
12 than five?

13 MR. NICOLAZZI: I have no idea
14 what he owns. This is all I know that
15 he owns, and contiguous to those two
16 properties he doesn't own anything, but
17 I don't know if he owns any other
18 properties in any townships.

19 MR. MILAZZO: Could it be more
20 than five in the core?

21 MR. NICOLAZZI: No. I've been
22 through the list, and I've never seen
23 his name on other than those two.

24 MR. MILAZZO: When was Fichter
25 decided?

1 MR. NICOLAZZI: Fichter was
2 granted August 19, 1998.

3 MR. MILAZZO: When was Walkhan
4 granted?

5 MR. NICOLAZZI: It was recorded
6 1998, October 21st. It would be before
7 that.

8 MR. MILAZZO: Pope?

9 MR. NICOLAZZI: Sipala Alberto was
10 February 28, 2001, and Pope was June 24,
11 1998.

12 Migliore was probably the most
13 recent. I can't tell you that but that
14 was probably around the same time as
15 Sipala.

16 MR. PROIOS: Any further
17 questions? We won't decide this during
18 the public hearing. We just ask
19 questions of the applicant and close the
20 hearing and discuss it.

21 MR. NICOLAZZI: I didn't raise a
22 point. If I may, this is a very
23 pristine area, and I think it is a very
24 important area to not have development.
25 We're willing to put easements on both

1 parcels.

2 In the Skaalrud appeal, it was an
3 island in the Peconic and an important
4 piece to preserve because of native
5 vegetation, it was pristine and very
6 wooded, and the Commission thought
7 because, partially because of its
8 importance environmentally, that the
9 easement should be put on it and an
10 increased allocation was made on that as
11 well.

12 MR. RIGANO: One last question or
13 series of questions. With regard to
14 what you talked about as a possible ZBA
15 application, you would envision that
16 application being for the road front
17 parcel plus parcel 15? In other words,
18 to have a reasonable opportunity to get
19 an authorization for one house.

20 MR. NICOLAZZI: If I went in front
21 of the ZBA, I would probably go for both
22 lots and then see how the Board felt
23 about my application. Maybe, I'm not
24 sure, I would have to go to the ZBA if I
25 combined both lots. I don't think I

1 would. I think if I go to the ZBA, it
2 is only if I wanted to build two homes.

3 MR. RIGANO: Is it your view that
4 if you went to the ZBA with an easement
5 on the front house, with an easement
6 over the front lot for a driveway to the
7 back parcel 15 for a house on parcel 15

8 --

9 MR. NICOLAZZI: I'm not sure if
10 it would hurt the application or not.

11 MR. PROIOS: Any other questions
12 on this matter? If not, is there
13 anybody from the public that wishes to
14 address us?

15 Seeing none, I would like to close
16 the public hearing.

17 (TIME NOTED: 4:40 P.M.)

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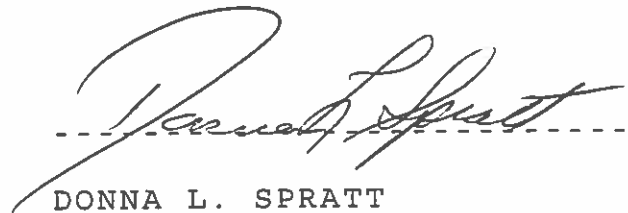
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CERTIFICATION

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 21st day of
June 2003


DONNA L. SPRATT

CORRECTION SHEET

STATE OF NEW YORK

COUNTY OF _____

} ss. :

I, _____, being duly sworn, depose and say:
I have read the transcript of my deposition and make the following insertions and/or corrections:

PAGE	LINE	CHANGE	TO

Signed: _____

Subscribed and sworn to before me
this ____ day of _____, 2001.

NOTARY PUBLIC