

1 CENTRAL PINE BARRENS JOINT PLANNING
2 AND POLICY COMMISSION

3 -----X

4 In the Matter of,

5

6 LETTER OF INTERPRETATION APPEAL

7

8 RE: FRANK FABRIZIO

9

10 -----X

11 Southaven Park

12 Yaphank, New York

13

14 April 21, 2004

15 3:10 P.M.

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18 ORIGINAL

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22 Taken by: Donna L. Spratt

23 Court Reporter

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

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STEVEN LEVY, Member

4

Suffolk County Executive

5

BY: Michael Deering

6

PETER SCULLY, Member

7

Representing GEORGE PATAKI

8

JOHN J. LA VALLE, Member

9

Supervisor, Town of Brookhaven

10

BY: GEORGE HOFFMAN

11

PATRICK HEANEY, Member

12

Supervisor, Town of Southampton

13

BY: JEFFERSON MURPHREE

14

PHIL CARDINALE, Member

15

Supervisor Town of Riverhead

16

BY: JILL LEWIS

17

JOHN MILAZZO, ESQ.,

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Commission Counsel

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Ed Randolph, Staff to Commission

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1 MR. SCULLY: Matter of Fabrizio,
2 Calverton. I have a notice of public
3 hearing. The applicant owner, Rudolph
4 Fabrizio, Ten Beach Manor Court, West
5 Islip, New York is seeking an increase
6 in credit allocation from .40 to 2.5
7 credits, approximately.

8 Can I have the members of the
9 Commission present identify themselves
10 for the record?

11 MS. LEWIS: Jill Lewis,
12 representing Supervisor Phil Cardinale,
13 Town of Riverhead.

14 MS. COMPITELLO: Jean Compitello,
15 representing Supervisor John J. Lavallo,
16 Town of Brookhaven.

17 MS. PRUSINOWSKI: Brenda
18 Prusinowski, representing Supervisor
19 John J. Lavallo.

20 MR. MURPHREE: Jeff Murphree,
21 representing Patrick Heaney Town of
22 Southampton.

23 MR. DEERING: Mike Deering,
24 representing County Executive Steve
25 Levy.

1 MR. SCULLY: Peter Scully,
2 representing Governor Pataki.

3 MR. RANDOLPH: Ed Randolph, staff
4 to Commission.

5 The appeal in front of you today
6 involves four parcels in the Manorville
7 area just south of the Long Island
8 Expressway, and Mr. Fabrizio is here
9 today because he first submitted an LOI
10 application in 1999 and was issued a
11 tenth of a credit for each of the four
12 parcels, and he's come in through the
13 years and has asked us why he only got
14 that for the four parcels.

15 We said basically you have to
16 officially come before the Commission to
17 appeal their decision. He is here
18 today, and what I did was I reissued him
19 a new LOI because they expire after a
20 year's time, and I did my due diligence
21 and we found that we had a similar
22 situation for parcels adjacent to his
23 back in 2001, and you'll see that within
24 your package.

25 There was a Mr. Harmer that came

1 before the Commission, and the applicant
2 was asked to go ahead and state his case
3 and as you'll see in the aerial
4 photograph, his parcels abut Mr.
5 Fabrizio's.

6 At that time, the Commission went
7 ahead and denied his appeal because of
8 the fact that's no uniqueness involved
9 with the parcels, so Mr. Fabrizio here
10 -- you'll see the letter submitted by
11 him -- states that he has owned the
12 property for quite a bit of time here,
13 approximately twenty or thirty years,
14 and he feels that he should get
15 somewhere in the range of 2.5 credits
16 for the parcels.

17 And just as a side note, the
18 Credit Clearing House, yesterday they
19 requested that their opinion be put on
20 the record that they believe that this
21 appeal should be denied because of
22 consistency with the 2001 Harmer
23 decision.

24 I'll let Mr. Fabrizio speak.

25 MR. FABRIZIO: As I say in my

1 letter --

2 MR. SCULLY: You have to be sworn
3 first.

4 R O B E R T F A B R I Z I O, having first been
5 duly sworn by a Notary Public of the State of New
6 York, testified as follows:

7 As I say I bought this property
8 thirty years ago because I expected
9 since the property was adjacent to the
10 Long Island Expressway, and I figured
11 that in time this would develop because
12 it was on paper streets, not in the
13 middle of nowhere. I have the maps here
14 if somebody wants to look at them.

15 You'll see that the properties are
16 right adjacent to the Expressway.
17 Here's the Expressway and this is the
18 property right here, so I felt if I
19 bought the properties, in time they
20 would develop. I was a long term -- at
21 that time forty years old. I figured I
22 could take my time and not rush to do
23 it.

24 I said I'll buy the properties.
25 It says I bought them March 7th of 1972

1 which means I've been paying taxes on
2 those properties ever since 1972, thirty
3 years. Now, here is the recent tax
4 bill. It just arrived. I wrote the
5 total. It is \$844 for these four lots
6 and thirteen cents total.

7 Now, several years ago I did
8 request an appeal. I said if I can't
9 use anything for anything, how come I
10 have to pay taxes. I wrote a letter and
11 explained it.

12 I don't live in the Town of
13 Brookhaven and I don't have any
14 political connections and I said this if
15 the property was and should be condemned
16 by Eminent Domain in which case you pay
17 somebody the value of what the property
18 is; not telling them they have to
19 continue paying taxes and you could set
20 any price you want for the property.

21 Although each parcel is not the
22 same size, you gave a tenth of a credit
23 for each parcel. This is utterly
24 ridiculous. The taxes vary from \$153,
25 \$268, \$115 and \$306. Yet I'm being

1 charged the -- given the same thing
2 which is minimal. Of course, if you
3 want to rob people, this is what you
4 do.

5 MR. MILAZZO: I'm going to tell
6 you something. Go slow. Speak to her
7 so she can see what you're saying.

8 MR. FABRIZIO: The big thing is
9 this. I've been paying for thirty
10 years, \$800. I wrote a letter to the --
11 this is ridiculous. They said they
12 didn't care. You have to continue
13 paying the taxes. Fine.

14 On October 1, 1992 or 1991 I sold
15 a half acre vacant lot on a paper street
16 in Yaphank for \$60,000. I have my
17 records here so if you don't think I'm
18 speaking the truth. I have a mortgage
19 still on the property.

20 Now, to tell me that each -- the
21 other factor is the fact that there is
22 2.6 acres. Your book shows 107.95
23 credits or 133 acres. I'm on a paper
24 street which means I'm not in the middle
25 of nowhere. I'm getting less credit

1 than the 2.5 credits which average in
2 that area. This is a robbery.

3 Of course, you can't win. I don't
4 have any political friends. I don't
5 have anybody. I don't even live in the
6 Town of Brookhaven so -- if I told you
7 that you have to move out of your house
8 and we're going to let people who had
9 losses in the World Trade Center have
10 it, would you continue paying the taxes
11 and maintain the building or we'll sell
12 it and give it to the survivors.

13 It is not right. You pay a guy a
14 fair value. This is not a fair value.
15 A tenth of a credit for each piece is
16 ridiculous when I'm paying \$844.13 in
17 taxes. That's not fair. Of course, if
18 you want to take people's property, you
19 can get away with it. You can do it.

20 I can't say you can't, but to me
21 this is totally dishonest. I have other
22 pieces. I have a piece I bought the
23 same time in Kings Park. I went --
24 because a builder was interested in
25 buying it, I went down to the Town last

1 week. It's a building lot, I have two
2 half acre lots. Each lot would be
3 worth, if it was buildable, worth
4 \$250,000 a piece. But the street is not
5 in.

6 I said I know that. That's why I
7 bought it at the same time I bought this
8 lot. I've been paying taxes for thirty
9 years. To tell me that when you have
10 the average is one credit per acre and
11 you're giving me for two-and-a-half
12 acres at 0.4 credits when I'm on a paper
13 street, it is a robbery. That's all I
14 can say.

15 When I worked, I was a doctor. If
16 I did this, I'd say you got in an
17 automobile accident. If you want me to
18 take care of you I'm going to charge you
19 \$500 or else we're not going to take
20 care of you. That is the end of the
21 discussion. I never did that, of
22 course, but I treated people honestly
23 and fairly.

24 I went to real estate school and
25 the owner of the school needed an

1 operation. He said look, take care of
2 me. I said I can't. You go to another
3 hospital. I don't go there. He said
4 I'll fire my surgeon and you take care
5 of me. I did. I sold my own properties
6 and became his best friend. He said he
7 would sponsor me as a real estate
8 broker.

9 I gave it up, but to tell me this
10 thing is only worth a tenth of a credit
11 when I'm paying \$800 in taxes. The
12 piece I sold that I was paying \$250, I
13 got \$60,000. To say it's only worth a
14 tenth of a credit is a robbery. I'm on
15 a paper street. It's not that I'm in
16 the middle of nowhere. If I was --

17 I'm right alongside the Long
18 Island Expressway which is why I bought
19 it. I have the maps, the property maps
20 right there. That's why I bought it. I
21 said someday when they build the
22 Expressway -- I came out here in 1960
23 and I have a funny story.

24 The first property where I built
25 my first house I bought from Gazza's

1 father. It is a small world. He was an
2 honest man. He was on honest person. I
3 just think this is totally unfair, to
4 tell me I'm only getting four tenths of
5 a credit for two-and-a-half acres on a
6 paper street. I'm not in the middle of
7 nowhere. It is robbery.

8 You can get away with it because
9 I'm not a politician. I can't do
10 anything, but look at this. I sold the
11 property on the other street for \$60,000
12 and the taxes were only \$250 for that
13 lot on Grand in Yaphank. I just think
14 somebody should uplift my value of my
15 lots.

16 I've been paying taxes for thirty
17 years. In the old days I paid less
18 taxes, but the value of a dollar was
19 more than it is now. To tell me that
20 it's worth four tenths is to me totally
21 dishonest and unfair. I can't speak. I
22 may not win anything. I have no -- I
23 was not a politician but I did take care
24 of them; Pace and other people that live
25 in West Islip. I know them but the

1 point is this, and I think you people
2 should look at the amount of money
3 you're charging me for taxes.

4 Obviously I can't be -- I'm not
5 even going get my money back. That is
6 the bad part of this. It is a robbery.
7 If they would have left me alone, I
8 would have been all right. They would
9 have built something. Calverton is
10 going up. It's developing, but to give
11 me four tenths for 2.6 acres is a
12 robbery.

13 I can't do anything but speak.
14 That is the only thing that bothers me.
15 I was right alongside the Long Island
16 Expressway. I wasn't in the middle of
17 nowhere so you can't access the
18 property. When I asked them to reduce
19 my taxes because I can't use them for
20 anything and I've been paying the taxes
21 since you people took over the land, the
22 town said no. They figure if I don't
23 pay the taxes, they will get the land
24 for nothing.

25 I used to buy --

1 MR. MILAZZO: The Commission when
2 they hear appeals look for the unique
3 features of the parcel. Have you
4 identified them?

5 MR. FABRIZIO: The only thing
6 unique was that it was on a paper street
7 right alongside the Expressway. That's
8 why I bought them.

9 MR. MILAZZO: Beyond that.

10 MR. FABRIZIO: I never really
11 looked at the land because -- I was in
12 Riverhead one day and somebody told me
13 his father died and he said would you
14 like to buy the land that he had? I
15 said all right. I'm a long term
16 investor. I'm not looking to sell it
17 the next day.

18 I lost a lot of property. They
19 upzoned my land. This is only one of
20 the things. I have other properties on
21 the water where they just cleaned me
22 out.

23 MR. MILAZZO: You identified what
24 you believe the unique features are?

25 MR. FABRIZIO: The location.

1 MR. MILAZZO: Never any permits?

2 MR. FABRIZIO: No. As I say, once
3 they put a street in there, if they
4 started or somebody started to go into
5 the area -- there was a builder in Kings
6 Park who's after me because he wants to
7 put the streets in.

8 I went to town hall to find out
9 the value of the lots. They said if he
10 puts the street in on a half acre lot in
11 Kings Park, it is \$250,000.

12 MR. SCULLY: Thank you.

13 MR. FABRIZIO: I may not get
14 anywhere, but if I took your land the
15 way you're taking mine and you paid \$800
16 taxes, you would feel very unhappy.
17 Eight hundred dollars taxes is a lot for
18 land that I'm getting credit of four
19 tenths of a credit for four pieces.

20 MR. SCULLY: Thank you, sir. Any
21 questions?

22 MS. PRUSINOWSKI: Have you ever
23 physically accessed this parcel?

24 MR. FABRIZIO: No, because I was
25 working at the time and I just bought

1 them because I was in Riverhead and a
2 fellow told me his father died and he
3 said -- I looked at the maps. They're
4 right there. I did look, and it showed
5 it right alongside the Long Island
6 Expressway.

7 I said my God, if they're going to
8 develop land, they won't do it in the
9 middle of nowhere. They will do it
10 where it is accessed.

11 MR. SCULLY: Any road connection
12 between the Expressway and these
13 parcels?

14 MS. PRUSINOWSKI: It's between
15 Exit 70 and 71; is that correct?

16 MR. FABRIZIO: I assume so.

17 MS. PRUSINOWSKI: Technically you
18 don't have access to your parcels.

19 MR. FABRIZIO: That's because when
20 you put the Pine Barrens in there but --

21 MS. PRUSINOWSKI: It has nothing
22 to do with that.

23 MR. FABRIZIO: I can show you
24 other parcels where at one time they
25 weren't accessible. The piece on Grand

1 Avenue had two streets, just became
2 accessible and I have the piece in Kings
3 Park. The builder is chasing me. He
4 wants to put the streets in.

5 MS. PRUSINOWSKI: It is not
6 relevant.

7 MR. FABRIZIO: It is if you didn't
8 have the restriction of five acres to
9 build on it. The builder in this area
10 you're putting a restriction that
11 prevents -- I can show you other parcels
12 where you've done the same thing;
13 upzoned the land. I can't use it.

14 If you want to upzone, you can
15 upzone your house and say you can't live
16 there any more and you continue paying
17 the taxes but you can't live there. He
18 can live for nothing, but you can't.

19 MR. SCULLY: Thank you, Mr.
20 Fabrizioo.

21 Does anyone else have any further
22 questions?

23 MS. PRUSINOWSKI: Any particular
24 rights he might have to the paper street

25 --

1 MR. FABRIZIO: I do have rights?
2 No, I don't have rights. When they put
3 the street in there, then the land
4 skyrockets in value. I know that
5 because I've done this.

6 MS. PRUSINOWSKI: Specifically
7 were the streets ever dedicated or did
8 they remain with this particular map
9 and, therefore, your parcels have rights
10 to the center lines in the streets?

11 MR. FABRIZIO: Once they put the
12 streets in, I could have accessed my
13 parcel.

14 MS. PRUSINOWSKI: In the absence
15 of putting those in.

16 MR. FABRIZIO: You prevented me
17 because you put me in the Pine Barrens.
18 Nobody is going to put a street there.
19 You've taken away my rights by saying
20 you need five acres to build on.

21 MS. PRUSINOWSKI: Actually it is
22 ten.

23 MR. FABRIZIO: This is only one
24 parcel I lost. I have others in
25 Brookhaven where they upzoned my land.

1 I figured when I got older, I could
2 retire, sell the land and use the money
3 to live on.

4 MR. SCULLY: Have you any other
5 questions?

6 Any member of the public have any
7 questions?

8 (No response.)

9 If not, Mr. Fabrizio, if we chose
10 not to make a decision on the matter
11 today, we need you to request an
12 extension.

13 MR. FABRIZIO: I'll do whatever
14 you want. They made the decision, told
15 me when I live in Islip -- I went to the
16 Pine Barrens Commission on Sunrise
17 Highway. They told me to come here.

18 I don't think it was fair.

19 MR. SCULLY: Would you be willing
20 to request an extension to May 19th?

21 MR. FABRIZIO: Certainly.
22 Whatever you want to do. I've had it
23 for thirty years. I don't expect a
24 decision in one day. Once you put me in
25 the Pine Barrens, I couldn't use it

1 anyway, .

2 You've taken the land away from me
3 and you're not paying me for it and I
4 continue paying the taxes which are
5 \$840; not minuscule taxes.

6 MR. SCULLY: Based on the fact
7 that the applicant is asking for an
8 extension, is there a motion?

9 MR. DEERING: Motion.

10 MR. SCULLY: Motion by Mike.

11 MS. LEWIS: Second.

12 MR. SCULLY: Seconded by Jill
13 motion. All in favor?

14 (All voted in the affirmative.)

15 Opposed?

16 (No response.)

17 Extension is accepted. Thank you,
18 Mr. Fabrizio.

19 (TIME NOTED: 4:15 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 6th day of
May 2004



DONNA L. SPRATT