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CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

In the Matter of the Application of

JO ANN MANGOGNA,
MICHAELANGELO'S RESTAURANT

requesting Core Preservation Area
hardship permit to construct a 2,707
square foot masonry addition with
cellar, to an existing one story 6,534
square foot building used as restaurant
and catering hall, 265 square foot
walk-in cooler and 12 parking stalls,
on a 1.6 acre site, zoned J-2 Business.

HEARING in the above-captioned matter, held
on the 11th day of December, 2002 at 4:20 P.M., at
the Commission Office, 3525 Sunrise Highway, 2nd
Floor, Great River, New York, pursuant to Notice of
Hearing and before Sheila Pariser, R.P.R., a Notary
Public of the State of New York.

COPY

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

ROBERT J. GAFFNEY, Chairman
Suffolk County Executive
BY: JENNIFER KOHN

RAY E. COWEN, P.E., Acting Chair
DEC Regional Director
Representing GEORGE PATAKI

JOHN J. LA VALLE, Member
Supervisor, Town of Brookhaven
BY: BRENDA A. PRUSINOWSKI, AICP and
JEAN COMPITELLO

PATRICK HEANEY, Member
Supervisor, Town of Southampton
BY: JEFFERSON MURPHREE

ROBERT KOZAKIEWICZ, Member
Supervisor, Town of Riverhead
BY: JOEY MAC LELLAN

JUDY JAKOBSEN, Staff to Commission

WILLIAM SPITZ, Staff to Commission

MC MILLAN, RATHER, BENNETT & RIGANO, P.C.
Attorneys for Commission
BY: JAMES P. RIGANO, ESQ.

TSUNIS, GASPARIS & DRAGOTTA, LLP
Attorneys for Applicant
801 Motor Parkway
Hauppauge, New York 11788
BY: EVAN TANENBAUM, ESQ., of Counsel

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1 [THE HEARING WAS CALLED TO ORDER BY THE
2 ACTING CHAIRMAN, RAY E. COWEN, AT 4:20
3 P.M.]
4

5 MR. COWEN: We will do Michaelangelo's next.
6 Does someone have the notice of that one?

7 MS. JAKOBSEN: Yes.

8 MR. COWEN: I am going to open this hearing
9 by reading the Notice of Public Hearing.

10 "Pursuant to Environmental
11 Conservation Law Article 57-0121(10),
12 notice is hereby given that a public
13 hearing will be held by the Central Pine
14 Barrens Joint Planning and Policy
15 Commission on December 11, 2002 on the
16 matter of an application of Core
17 Preservation Area hardship exemption. The
18 subject of the hearing is:

19 "Applicant/Owner: JoAnne
20 Mangogna, Michaelangelo's Restaurant.

21 "Location: Northeast corner of
22 Port Jefferson Westhampton Road (CR 111)
23 and Chapman Boulevard, Manorville, Town of
24 Brookhaven.

25 "Project Description: Applicant

1 requests a Core Preservation Area hardship
2 permit to construct a two thousand seven
3 hundred seven square foot masonry addition
4 with cellar, to an existing one story six
5 thousand five hundred thirty-five square
6 foot building, presently used as a
7 restaurant and catering hall, a two hundred
8 sixty-five square foot walk-in cooler and
9 twelve parking stalls, on a 1.6 acre site,
10 zoned J-2 Business.

11 "The permit application also
12 seeks approval of existing site and
13 building alterations done without
14 Commission approval.

15 "Suffolk County Tax Map No.:
16 200-462-2-12.2.

17 "The hearing will be held at
18 three-thirty p.m., Riverhead Town Hall,
19 Town Board Meeting Room, 200 Howell Avenue,
20 Riverhead. A copy of the application is
21 available for examination during regular
22 business hours between eight-thirty a.m.
23 and five p.m. at the Commission's Office at
24 3525 Sunrise Highway, 2nd Floor, Great
25 River, New York."

1 We are going to waive staff
2 comments at this point. I believe the
3 applicant has a statement they would like
4 to make.

5 Please introduce yourself and be
6 sworn by the court reporter.

7 MS. TANENBAUM: Good afternoon. My name is Evan
8 Tanenbaum from the law firm of Tsunis,
9 Gasparis & Dragotta. I represent the
10 applicant, JoAnne Mangogna and
11 Michaelangelo's Restaurant, which is
12 located as described.

13
14 E V A N T A N E N B A U M, having been duly sworn,
15 testified as follows:

16 MR. TANENBAUM: The Commission's consideration
17 first is my request for an adjournment, and
18 we decided to go forward with the hearing
19 today. We request a reconsideration for
20 the following reasons:

21 I spoke with staff on Monday and
22 Tuesday about an adjournment. I did not
23 put in writing my request for an
24 adjournment until Tuesday, yesterday. At
25 the time that I spoke with Staff and put

1 that in writing, I was told by Judy
2 Jakobsen that the adjournment would
3 probably be considered today. I was given
4 no other information to the contrary, and
5 as a result of that I informed my clients
6 that the hearing would not take place
7 today, and that is why my client is not
8 available today.

9 The request was put in
10 specifically because an expert who would be
11 testifying at the hearing on behalf of the
12 applicant is not available, and as a result
13 we would only be able to offer limited
14 evidence as to the actual hardship.

15 I believe it is prejudicial to do
16 this in a piecemeal fashion, and in terms
17 of some of the discussion that occurred
18 during the Minutes of the Board, of the
19 Commission, a little earlier, the question
20 as to whether there is an expense
21 associated with having the hearing today, I
22 think it could be remedied.

23 The applicant would be able to
24 pay whatever expense is incurred as a
25 result of the reporter or the re-

1 advertising. That re-advertising will
2 allow the public an opportunity to be
3 heard.

4 This is not an adversarial
5 proceeding. Using the term of a trial to
6 be adjourned, I don't think is accurate.
7 Many courts offer adjournments for purposes
8 of convenience to the parties. The courts
9 typically have a number of matters on the
10 calendar and address those.

11 For all those reasons, I again
12 would request that the hearing be put off
13 to a date in February that's convenient.

14 MR. COWEN: Any questions for the applicant
15 at this point?

16 MS. PRUSINOWSKI: Yes. May I inquire as to the
17 nature of the expert witness, in what
18 field?

19 MR. TANENBAUM: The witness that is not
20 available?

21 MS. PRUSINOWSKI: Yes.

22 MR. TANENBAUM: He is the owner of a catering
23 facility, and he is going to speak to the
24 expansion being a necessity for the
25 applicant.

1 MR. COWEN:

As you indicated, there was an
2 extensive discussion by the Commission
3 during its regular meeting today concerning
4 matters of requests for adjournments that
5 are received by the Commission which are
6 too late to adequately notify the public
7 that the hearing would not be held on the
8 given date.

9 If you note that the title of the
10 hearing is actually a public hearing, and
11 it mostly for the public to be heard and to
12 listen to the presentation as well as for
13 the Commission to make its judgment.

14 So, in this particular case, the
15 Commission has come to consensus that we
16 will agree to, I guess we will call it,
17 adjourn this hearing and leave it open
18 until February 19th.

19 MR. RIGANO:

Essentially, the hearing will be
20 continued to that date.

21 MR. COWEN:

22 So, the hearing will be continued
23 until February 19th. Let me just note that
24 the Commission will be preparing a policy
25 for future discussion as to how we handle
requests for postponements or continuations

1 of hearings, and that will be discussed at
2 one of our meetings.

3 So, your request is granted more
4 or less to continue until February 19th.

5 I am going to ask the public at
6 this time, however, if there is anyone that
7 is here to make a statement since we did
8 advertise this hearing.

9 Mr. Amper? Please state your
10 name for the record.

11 MR. AMPER: Richard Amper. I am Executive
12 Director of the Long Island Pine Barrens
13 Society.

14
15 R I C H A R D A M P E R, having been duly sworn,
16 testified as follows:

17 MR. AMPER: It is very, very difficult for
18 the public to take the time away from work
19 and other things or to properly brief those
20 who want to represent themselves,
21 especially to have somebody knowledgeable
22 here to respond to the presentations only
23 to find out that those aren't going to
24 occur.

25 Here is a particular application

1 in which there exists beneficial use, where
2 minimal relief has been supplied by this
3 Commission before, and quite frankly, the
4 applicant has helped himself to additional
5 minimum relief.

6 So, it is not clear to us that
7 there is a case for hardship exemption here
8 under any circumstances with or without any
9 evidence concerning what catering
10 facilities or food establishment is
11 required. It would have been our
12 recommendation that this not be granted,
13 and we are actually pleased that the
14 Commission is going to make a policy in the
15 future.

16 Since there is no expert here, we
17 have no objection, and we will be able to
18 respond at the meeting formally.

19 MR. COWEN: Any other statements for this
20 hearing?

21 If not, we will declare this
22 hearing to be continued on February 19th at
23 three-thirty p.m.

24 Thank you. Since we didn't do it
25 at the beginning, let's just introduce the

1 members of the Commission for the record.

2 My name is Ray Cowen, and I
3 represent Governor Pataki.

4 To my right.

5 MS. COMPITELLO: Jean Compitello, representing
6 Supervisor John J. LaValle, Brookhaven.

7 MR. MAC LELLAN: Joey MacLellan, representing
8 Supervisor Robert Kozakiewicz, Town of
9 Riverhead.

10 MS. PRUSINOWSKI: Brenda Prusinowski, representing
11 Brookhaven Town Supervisor, John J.
12 LaValle.

13 MS, KOHN: Jenny Kohn, representing Suffolk
14 County Executive, Robert Gaffney.

15 MR. RIGANO: James Rigano, counsel to the
16 Commission.

17 MR. MURPHREE: Jeff Murphree, Town of
18 Southampton, representing Supervisor
19 Heaney.

20 MR. COWEN: Thank you. The hearing is
21 continued.

22 [WHEREUPON AT 4:30 P.M., THIS HEARING WAS
23 CONTINUED TO FEBRUARY 19, 2003.]

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CERTIFICATION

STATE OF NEW YORK)
)
COUNTY OF SUFFOLK)

I, SHEILA PARISER, R.P.R., a Notary Public in
and for the State of New York, do hereby certify:

THAT this is a true and accurate record of
the Hearing held before the Central Pine Barrens
Joint Planning and Policy Commission, in the matter
of JO ANNE MANGOGNA, MICHAELANGELO'S RESTAURANT,
held on December 11, 2002, and transcribed under my
direction.

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



SHEILA PARISER, R.P.R.

SS. :

COUNTY OF

[illegible]

NOTARY PUBLIC

631.421.2255

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:

[illegible]

Signed: _____

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

NOTARY PUBLIC