

## CENTRAL PINE BARRENS

## JOINT PLANNING AND POLICY COMMISSION

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4 In the Matter of the Application of

5

6 JO ANN MANGOGNA,

7 MICHAELANGELO'S RESTAURANT

8 requesting Core Preservation Area

9 hardship permit to construct a 2,707

10 square foot masonry addition with

11 cellar, to an existing one story 6,534

12 square foot building used as restaurant

13 and catering hall, 265 square foot

14 walk-in cooler and 12 parking stalls,

15 on a 1.6 acre site, zoned J-2 Business.

12  
13  
14  
15                   HEARING in the above-captioned matter, held  
16                   on the 11th day of December, 2002 at 4:20 P.M., at  
17                   the Commission Office, 3525 Sunrise Highway, 2nd  
18                   Floor, Great River, New York, pursuant to Notice of  
19                   Hearing and before Sheila Pariser, R.P.R., a Notary  
20                   Public of the State of New York.

COPY

## 1 | 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."

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.

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.

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.

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

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

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

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

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

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

Thank you. Since we didn't do it 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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25

CERTIFICATION

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

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

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

SHEILA PARTSER R.P.R.

SHEILA PARISER, R.P.R.

## 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:

Signed: \_\_\_\_\_

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

**NOTARY PUBLIC**

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**NOTARY PUBLIC**