

COPY

CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

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In the Matter of the
Public Hearing on the
MICHAELANGELO'S RESTAURANT

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Suffolk County Water Authority
Great River, New York

August 5, 1998
5:00 p.m.

PUBLIC HEARING

ACCURATE COURT REPORTING
6 Frances Lane
Port Jefferson, New York 11777
516-331-3753

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

GEORGE PROIOS
Chairman
County of Suffolk

RAY COWEN
State of New York
Representing the Governor's Office

WILLIAM SPITZ
State of New York

MARTIN SHEA
Representing Supervisor Vincent
Cannuscio, Town of Southampton

JOHN GIRANDOLA
Town of Brookhaven, Planning
Division

JAMES RIGANO, ESQ.
General Counsel for the Commission

RAYMOND CORWIN, Executive Director Central Pine
Barrens Joint Planning and Policy
Commission

A L S O P R E S E N T :

DONNA PLUNKETT
Staff to Commission

LORRAINE TREZZA

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MR. PROIOS: I'd like to call this public hearing to order. We have three today, and I'll take them in the order they appeared in the publications that they were noticed in.

The first one is Michaelangelo's restaurant.

Let me backtrack. First let me introduce myself and members of the commission. My name is George Proios. I'm acting chair of the Commission representing Suffolk County Executive, Robert Gaffney, who is Commission chairman, and I'll let the other members introduce themselves.

MR. GIRANDOLA: John Girandola, representing Brookhaven Town Supervisor Felix Grucci. He's vice-chairman of the commission.

MR. SHEA: Martin Shea, representing Vincent Cannaluzzi of the Town of Southampton.

MR. COWEN: Ray Cowen, representing Governor Pataki.

MR. PROIOS: The first application

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2 is a core preservation area hardship in the
3 name of Michaelangelo's Restaurant. The
4 applicant proposes to build two additions of
5 a 675 and 298 square feet respectively to an
6 existing restaurant and to construct
7 additional parking on a 1.6 acre parcel
8 zoned J2 business. The property is located
9 on the northwest corner of County Road 111
10 and Chapman Boulevard just south of the Long
11 Island Expressway in Manorville in the Town
12 of Brookhaven.

13 The applicant is represented and
14 would like to make a presentation.

15 MR. SANDERMAN: Philip Sanderman,
16 1770 Motor Parkway, Hauppauge, New York, and
17 I'm representing the applicant in the
18 official name of the applicant. The
19 corporate name is Michaelangelo's Restaurant
20 and Pizzeria of Eastport, Inc., and with me
21 today is Frank Cassaro, who is the owner.

22 At this point, they have three
23 facilities operating. They've been 18 years
24 located in Eastport in their facility there,
25 and then they have a restaurant in Hampton

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2 Bays and one in Middle Island, both of which
3 have been opened for ten years.

4 The proposed facility's description
5 has been given by Mr. Proios. The location
6 is -- it's the old Sportsman's, Grizzly
7 Sportsman's bar and restaurant, and prior to
8 that for many years it was a diner that had
9 fallen somewhat into a state of disrepair,
10 and my client came along and entered into a
11 lease. The landlord is Carl Governale.
12 They entered a long-term lease to convert
13 the facility into an Italian restaurant, and
14 they did, and I have to admit on the record,
15 they did jump the gun and commenced
16 construction.

17 This facility exists pursuant to an
18 existing site plan and certificate of
19 occupancy, but we are renovating the
20 facility and converting it. They added a
21 675 square feet addition to the rear of the
22 building, rear left section. About half of
23 that consists of handicapped bathrooms which
24 are a requirement. When they upgraded the
25 facility to the extent of the renovations,

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2 they must conform with the New York State
3 building construction code. The other half
4 of this 675 square foot addition was a small
5 bar, because the room that's directly
6 opposite that on the left side, the plan is
7 to use it as a party room, a catering room
8 for small parties such as anniversary
9 parties and the like. On the right side of
10 the building they're proposing an addition
11 of 298 square feet solarium.

12 Construction was started on that just
13 with the pouring of footings, and when the
14 Town came in and advised them they're in
15 violation, they stopped construction there.
16 Unfortunately, they had already completed
17 the 675 square foot addition. At this
18 point, they've invested approximately half a
19 million dollars in renovating the facility.
20 The kitchens have been completely gutted and
21 replaced. The interior of the building has
22 been modernized. The exterior, they're in
23 the process of applying stucco and
24 renovating the exterior.

25 At the time the Town -- it came to

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2 light with the Town that this was in
3 violation, they did submit a site plan
4 amendment to rectify those additions, and in
5 reviewing the site plan, it was determined
6 that it could not be processed without
7 coming to the Pine Barrens Commission.
8 Initially we applied for an interpretation
9 which was denied, and I'd like to thank the
10 Board for allowing me to come in quickly on
11 a hardship variance. Normally it takes some
12 additional time, but we are under a lot of
13 pressure to complete the facility, and we'd
14 like to think the residents of the area are
15 looking forward to this.

16 It would be the only sit-down
17 restaurant, real restaurant in the area.
18 There's McDonald's which is fast food.
19 There's Grace's which is fast food, and
20 there's a 7-11 which I won't say anything
21 about, but this will be the only sit-down
22 dining facility there, and they have an
23 excellent reputation of serving good Italian
24 food at family oriented prices. I've had
25 numerous calls asking me when is this going

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2 to open, so I'd like to ask the board's
3 indulgence in this.

4 I will be very brief in my
5 presentation. I realize it has been a long
6 afternoon for you. There are several
7 elements to a hardship application, and let
8 me go through them very briefly. The
9 request would be for an extraordinary
10 hardship for the additions. The facility
11 had basically been dying for the last six or
12 seven years because of the lack of return,
13 the inability to use it profitably the way
14 it was. In order to compete, the facility
15 must be modernized, contain the proper
16 cooking facilities, and I would just
17 conclude that the beneficial use as it
18 existed -- that it lacked a beneficial use
19 as it existed. It had to be brought up to
20 modern standards, including the handicapped
21 bathrooms, modern kitchens.

22 The additions were very, very minor
23 and the actual construction of the two
24 additions did not involve clearing any
25 land. That was all over land that was

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2 previously cleared on the older site plans.
3 I would say that the inability to have a
4 beneficial use does result from unique
5 circumstances. There are very few existing
6 commercial buildings in the core. This is
7 one of them.

8 It's unique just because it is an
9 existing business in the core, and minor
10 additions and alterations such as this minor
11 expansion and changes as the needs, the
12 economic needs of the business change should
13 be expected and anticipated, and I believe
14 that that makes the circumstances unique,
15 particularly on the subject property. The
16 circumstances, I don't think, would apply or
17 affect other property in the immediate
18 vicinity, at least as far as property that's
19 in the core. The only other restaurant
20 located in the core along that area is
21 Grace's, which is essentially a
22 drive-through fast food operation.

23 The hardship does arise out of the
24 characteristics of the subject property
25 rather than the personal situation of the

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2 applicant. Again, it's just the shape and
3 relationship of the site. In order to make
4 it work as a restaurant and be able to have
5 a small catering room on the site, it was
6 necessary to add the additional bathrooms
7 and the bar area, and it was absolutely
8 essential to add the new kitchens. It just
9 could not work without it. The hardship is
10 not the result of any action or inaction of
11 the applicant, and had this not been built,
12 we would be here. Had I been retained prior
13 to it being built or we had the luxury of
14 the time, we would be here asking for the
15 same relief anyway, so it was -- I don't
16 believe -- I'm not claiming that the
17 hardship is a result of his action or
18 inaction.

19 That's essentially very briefly our
20 argument. I understand there's been some
21 clearing in the area to the rear, and
22 certainly we are willing to remedy that and
23 to restore it with native species, and I
24 happened to look at some comments that came
25 in mid July that may be taken care of in the

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comments on our pending site plan

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application. If you just give me a

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moment to look at this.

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The rear yard -- this is a condition

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of one of the comments which will be

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incorporated in site plan approval by the

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Brookhaven Town Planning Board 7A which says

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rear yard depicted to remain natural, needs

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additional supplemental plantings. This

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area should be revegetated only with native

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species as illustrated on the plan, and we

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are more than willing to comply with that.

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Then they talk about the plantings

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must be maintained with strip irrigation.

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We must provide a buffer along the westerly

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property line, and there are other comments

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on the site plan. If you wish, I could

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leave a copy with you.

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MR. COWEN: Indicate what document

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you're referring to.

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MR. SANDERMAN: A letter dated

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July 14th addressed to the applicant, signed

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by Diane Mazarakis, who is a planner in the

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planning division of the Town of Brookhaven,

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and it's the comments here from the planning division based on their preliminary analysis of the site plan.

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MR. COWEN: The current owner of the property has owned it for how long?

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MR. SANDERMAN: Many years. The Governale family has owned that entire strip. I'm guessing back to the sixties.

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MR. COWEN: How does the lease address the ownership of improvements? Do they acquire to the owner?

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MR. SANDERMAN: I did not negotiate the lease, but usually the improvements do, although the kitchen facilities would generally, I believe, would go -- I could ask my client.

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What happens at the termination of the lease? Do the improvements go to Mr. Governale?

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MR. CASSARO: Yes.

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MR. PROIOS: Could you describe on the site plan the improvements that were made in terms of the shaded portion of the map? Those are the additions?

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MR. SANDERMAN: Yes.

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MR. PROIOS: What was there prior, starting from the left side of the map from the first area? Was that paved area, was that vegetation?

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MR. SANDERMAN: That was just a landscaped cleared area and a walkway was added. A secondary means of egress had to be added to bring that building up to fire code, so a concrete walkway was added there. That's on the far left of the building.

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On the rear left of the building, an approximately 13 foot deep by 50 foot wide addition was made to the structure, and that addition contains roughly -- half is handicapped bathrooms and a coat room, and then the other half is a small bar to service the dining room that's located there.

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MR. PROIOS: What was that prior to that; was that paved also?

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MR. SANDERMAN: I don't recall. I'm trying to remember whether it was paved

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or just dirt. The rear was just dirt. Just

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grass and dirt. To the rear on the far

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right, there's a shaded area labeled

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proposed solarium, and that's an expansion

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of approximately 298 square feet which is

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within a landscaped area that was located

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along the right side of the building.

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MR. PROIOS: Where did the actual

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clearing of natural vegetation take place?

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MR. SANDERMAN: The clearing that

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took place was in the rear, and let me get

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my bearings here. It would be on the

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northerly -- along the northerly property

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line of the site. I don't have my scale,

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but I'm guessing it's approximately a 75

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foot deep area that was cleared and the

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clearing -- the bulk was the grubbing out of

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the underbrush. I believe most of the big

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trees were left. There's a large stand of

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pine trees 50 feet high that were left along

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here, and basically all the underbrush was

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removed. When I spoke to the owner -- and

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that was not by my client but by the

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property owner -- and I asked why that was

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2 removed. He said that the thorn bushes kept
3 grabbing all the debris that blew across
4 from the 7-11, and he couldn't clean it out
5 but he cleared it out.

6 MR. SHEA: All underbrush in the
7 northerly portion of the lot was cleared?

8 MR. PROIOS: But the applicant
9 didn't do that clearing?

10 MR. SANDERMAN: No. That was the
11 property owner, but under the terms of our
12 lease, we're responsible to -- we will put a
13 site plan approval and all improvements
14 necessary on the site plan, so we would be
15 agreeing to undertake the vegetation.

16 MR. SHEA: Is that revegetating
17 naturally?

18 MR. SANDERMAN: It had in the past.

19 MR. SHEA: It hasn't been changed
20 to lawn?

21 MR. SANDERMAN: No. This was done
22 recently, and many years ago it had been
23 grubbed out and then came back with the
24 sticker bushes.

25 MR. SHEA: It wasn't bulldozed out,

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just grubbed out?

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MR. SANDERMAN: Yes. I walked it yesterday, and they went through with a power rake and grubbed it out.

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MR. COWEN: If the Board were to act favorably, one of the findings -- the minimal relief necessary to minimize the hardship, I think you've given a pretty good description of the project on the record. The improvements that are made have been proposed or are made, are those improvements which will bring the facility into compliance with certain State laws regarding disabled access and sanitary conditions regarding the kitchen and that sort of thing. It's not a grandiose refurbishment of the entire facility.

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MR. SANDERMAN: It's not a major expansion of the facility. The inside has been -- is very minor expansion to the footprint. The inside, though, on the other hand, has been totally renovated.

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MR. COWEN: Which was perfectly fine. That's not jurisdiction as far as I

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know.

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MR. PROIOS: Any questions?

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MR. RIGANO: As far as the issue of existing violations regarding the expansion, it is the Commission's understanding that the construction work has commenced in violation of Article 57, and we wanted to discuss with you resolution of those violations prior to a decision with respect to a permit.

What the commission had in mind was the imposition of a \$2,000 penalty, plus an agreement by the developer. The restaurant says that it agreed to the restoration work on the northern portion of the property shown on your site plan. That would be subject to a stipulation that counsel for the Commission would prepare.

MR. SANDERMAN: We would have no objection. We would agree to that, to those conditions.

MR. RIGANO: To the extent that approval was to be granted, it could be subject to resolution of that stipulation.

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MR. SANDERMAN: Yes.

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MR. RIGANO: Which would be really straight forward and could be done expeditiously.

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MR. COWEN: Procedure-wise, how do you go about this? Can we offer a resolution approving this subject to SEQRA or resolution of that or just wait?

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MR. PROIOS: Let's finish the public portion, though.

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MR. RIGANO: You could make it conditioned on an acceptable stipulation.

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MR. PROIOS: Any further questions?

(WHEREUPON, there was no response.)

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MR. PROIOS: Any members of the public wish to address the Commission on this matter?

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(WHEREUPON, there was no response.)

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MR. PROIOS: If not, I would like to bring the public hearing to a close to entertain a motion with regard to this application.

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(WHEREUPON, this hearing was concluded.)