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CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

- - - - - :
:
In the Matter of the Application of :
:
JOSEPH GAZZA :
:
:
For a core preservation area hardship :
exemption and Compatible Growth Area :
approval within a Critical Resource :
Area. :
- - - - - :

HEARING in the above-captioned matter, held
on the 16th day of July, 1997 at 5:25 P.M., at
Brookhaven Town Offices, Building 4 Conference
Room, Medford, New York, pursuant to Notice of
Hearing, and before Sheila Pariser, R.P.R., a Notary
Public of the State of New York.

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

ROBERT J. GAFFNEY, Chairman
Suffolk County Executive
BY: ROY S. DRAGOTTA

VINCENT CANNUSCIO, Member
Supervisor, Town of Southampton
BY: ANDREW P. FRELENG, AICP

JAMES R. STARK, Member
Supervisor, Town of Riverhead
BY: BRENDA A. FILMANSKI, Planner

RAY E. COWEN, P.E., Member
DEC Regional Director
Representing George Pataki, Governor

DONNA PLUNKETT, Staff to Commission

oOo

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1 [THE HEARING WAS CALLED TO ORDER BY THE
2 ACTING CHAIRMAN, ROY S. DRAGOTTA, AT
3 5:25 P.M.]
4

5 MR. DRAGOTTA: Applicant Number Two is Joseph
6 Gazza.

7 MR. GAZZA: Appearing before you is Joseph
8 Frederick Gazza. With me this afternoon is
9 Mr. Michael Nobiletti, who has also been
10 involved with this application for the Pine
11 Barrens.

12 MR. DRAGOTTA: Before you start, let me just put
13 some housekeeping stuff on the record.

14 My name is Roy Dragotta. I am
15 Acting Chairman on behalf of the County
16 Executive, Robert Gaffney, Chairman of the
17 Commission.

18 I will ask each one of you to
19 identify yourselves.

20 MR. FRELENG: Andrew Freleng, representing
21 Supervisor Cannuscio, Town of Southampton.

22 MR. COWEN: Ray Cowen, representing Governor
23 George Pataki.

24 MS. FILMANSKI: Brenda Filmanski, representing
25 the Supervisor of the Town of Riverhead,

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1 James R. Stark.

2 MR. DRAGOTTA: Would you put the Notice of
3 Public Hearing on the record?

4 "Pursuant to the Environmental
5 Conservation Law Article 57-0121(10),
6 notice is hereby given that two public
7 hearings will be held by the Central Pine
8 Barrens Joint Planning and Policy
9 Commission on July 16, 1997 on the matter
10 of two applications for core preservation
11 area hardship exemptions. The subject of
12 the hearing is:

13 "Applicant: Joseph Gazza.

14 "Project Description: Proposed
15 single-family house and associated septic
16 system, well and other infrastructure on a
17 6.5 acre parcel in a CR200 Zoning District.

18 "Project Location: Southwest
19 corner of Sunrise Highway and County Road
20 31, Westhampton, Town of Southampton.

21 "Suffolk County Tax Map Number:
22 900-247-1-4.1.

23 "The hearing will be held at five
24 p.m., Brookhaven Town Offices, Building 4
25 conference room. Copies of the

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1 applications are available for examination
2 during regular business hours between
3 eight-thirty a.m. and five p.m. at the
4 Commission's office at 3525 Sunrise
5 Highway, second Floor, Great River, New
6 York."

7 MR. DRAGOTTA: Mr. Gazza, are you ready to
8 present your case?

9 MR. GAZZA: Yes. We had appeared before this
10 Commission approximately a month and a half
11 ago, at which time I outlined the
12 application to build a single-family
13 dwelling on the six-and-a-half acre parcel
14 as a substitute or alternate use for the
15 original intended use of the Pine Barrens
16 drinking water well site.

17 The application to secure the
18 approval of that has been stymied by the
19 Southampton Town Zoning Board of Appeals.
20 We will be having our seventh hearing
21 tomorrow evening some time after seven
22 p.m., and the Zoning Board closed the sixth
23 hearing with the position that to obtain a
24 use variance for the well site on this
25 property -- as I explained earlier, this is

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1 a use variance because it is not a
2 permitted use in the Code. It is a use
3 which is unlisted, thereby not permitted
4 without a special exemption use variance
5 -- absent a showing that no other permitted
6 uses under zoning could be taking place on
7 this property, the Board would be hard
8 pressed to find the relief necessary to
9 grant a use variance.

10 Since the application had
11 previously been before you and the Zoning
12 Board for agricultural purposes, and was
13 denied by both Boards, since there is no
14 interest on the part of the municipality
15 for a fire station, or public schools or
16 museum, quasi-public facilities, the only
17 remaining use on the property that's
18 permissible under zoning -- and you have
19 them provided with a copy of the Zoning
20 Code, the pertinent sections -- is a
21 single-family residence.

22 It is that request that was made
23 at the last meeting and is before you this
24 afternoon.

25 Mr. Nobiletti is here. He is

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1 quite familiar with the property and the
2 prior application if the Board needs any
3 further questions answered on this
4 application, or myself.

5 That's it. Does the Commission
6 have any questions?

7 MR. FRELENG:

Mr. Gazza, are you prepared at
8 this time then to address the criteria for
9 core hardship provisions as outlined in the
10 Environmental Conservation Law 57?

11 MR. GAZZA:

It is difficult for me to address
12 that in favor of a single-family dwelling
13 because as we know, the Code provides for
14 the least possible use, and I think we
15 found the least possible use, and we all
16 found that was the least possible use at a
17 prior hearing, the well. I think that a
18 single-family dwelling is asking for a well
19 and extra things, a house, a driveway, a
20 sanitary system.

21 But I am forced in a corner to
22 ask for that, and this Board knows that
23 there is a less offensive, if you want to
24 call to it, use than a single-family
25 dwelling with a sanitary system. There is

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1 a less offensive use, and that being the
2 well with no sanitary system, simply to
3 extract pure water, take it to Riverhead
4 and bottle it and sell it for human beings
5 to drink; but that is the least offensive
6 use.

7 I hate to use the word offensive.
8 That least undesirable use has not been
9 found acceptable to the Town of Southampton
10 despite this public hearing.

11 MR. COWEN: Notwithstanding the difficult
12 position you find yourself in, it might be
13 beneficial to go through a few of these
14 criteria with you. Let me just go through
15 it with you.

16 First of all, the zoning on the
17 property is residential, is that correct?

18 MR. GAZZA: CR200 residential zoning.

19 MR. COWEN: So that makes that property
20 somewhat unique, does it not, to that area?

21 MR. GAZZA: It is a very unique parcel in
22 that it is surrounded by roads on all four
23 sides. The parcel was disturbed during the
24 construction phase of Sunrise Highway
25 during 1975 and '76. It was truly unique

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1 at the last application for agriculture
2 use, but it wasn't unique enough to be
3 cleared of all its vegetation, but it is a
4 unique parcel.

5 MR. COWEN: Does the proposal for a single-
6 family residence require clearance of
7 vegetation out there?

8 MR. GAZZA: The proposal is for a house right
9 at the vegetation line, and it is
10 impossible to build right to a line, so
11 there would be some clearing; minimal, but
12 some clearing necessary in order to place a
13 house on that property at the setbacks
14 prescribed by the Town and the zoning.

15 MR. COWEN: As you pointed out, there would
16 be other impacts such as the sanitary
17 system, fertilizer?

18 MR. GAZZA: Lawn area, driveway. There would
19 have to be some buffering by clearing
20 between the dwelling and the wooded area.
21 You couldn't have --

22 MR. COWEN: [INTERPOSING] For fire
23 protection?

24 MR. GAZZA: Yes; you couldn't have foliage
25 growing right up next to the house. It

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1 would be an unsafe situation.

2 MR. COWEN: How long have you owned this
3 property?

4 MR. GAZZA: 1988 I believe.

5 MS. FILMANSKI: Was this site affected at all by
6 the Sunrise fires?

7 MR. GAZZA: It was not. The fires went to the
8 west, approximately half a mile.

9 MR. FRELENG: Mr. Gazza, on this plot plan that
10 you provided, what you don't show on here
11 is the building envelope which would be
12 established by the local zoning. Would it
13 be safe to say, though, that the "building
14 envelope," pursuant to the local zoning
15 would encompass a significant part of this,
16 what is it, a six acre parcel?

17 MR. GAZZA: Yes, the front setback in a CR200
18 zone is one hundred feet. Since the
19 property is surrounded by roads, one would
20 have to set back a hundred feet from all
21 sides of the property in order to establish
22 a setback line for a dwelling.

23 MR. FRELENG: Without it being drawn on the
24 plan, then the building envelope would
25 roughly be a pear-shaped building envelope

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1 that is pretty much one hundred feet
2 parallel to the property lines?

3 MR. GAZZA: That's correct.

4 MR. FRELENG: The application that you have
5 before the Commission, though, doesn't show
6 any amenities on a six acre parcel, such as
7 pool, or a tennis court or something that
8 might be typically associated with a
9 single-family dwelling six acres in size.

10 At the risk of sounding
11 ludicrous, would it be reasonable to assume
12 that at some point in the future, an owner
13 of this particular property might be
14 looking for a pool and/or a tennis court,
15 or some other amenity?

16 MR. NOBILETTI: Let me jump in. Under Local
17 Zoning 200, one hundred feet setback from a
18 road. So, the accessory structure of a
19 pool or other amenities --

20 MR. FRELENG: [INTERPOSING] The question is,
21 without the question of a building envelope
22 here, there would be room within the
23 building envelope for additional amenities?

24 MR. GAZZA: There would be.

25 MR. NOBILETTI: Accessory structures would have

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1 to be one hundred ten feet. What you are
2 looking at there is the setback of one
3 hundred feet for the primary structure
4 building envelope. If the primary
5 residence was small enough, you could have
6 accessory structures set back one hundred
7 ten feet within that envelope, but you
8 would have to have more area possibly.

9 MR. FRELENG: I understand what you are saying.

10 MS. PLUNKETT: He is saying if you draw the
11 building envelope according to zoning,
12 there would be room for a pool and a tennis
13 court within the building envelope?

14 The building envelope is now
15 going to be one hundred feet from this line
16 and one hundred feet from this line. So,
17 now you have --

18 MR. NOBILETTI: [INTERPOSING] There has to be
19 twenty feet distance.

20 MS. PLUNKETT: This is a street, too, and this
21 is a street, too. [INDICATING ON SURVEY]

22 MR. NOBILETTI: If they were to build a house
23 this size here, then there would be no --

24 MR. FRELENG: [INTERPOSING] You are missing my
25 point. Would there be a possibility in the

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1 future that the Commission would be faced
2 with another application by a future
3 landowner for a pool or a tennis court in
4 the area that's wooded?

5 I am asking you to speculate if
6 you believe it is possible.

7 MR. NOBILETTI: Yes, those amenities are usually
8 associated with residences.

9 MR. FRELENG: Would it be reasonable to assume
10 there might be children associated with the
11 occupants of single-family homes?

12 MR. GAZZA: Single-family residences usually
13 have 2.3 children.

14 MR. FRELENG: Would it be also safe to assume
15 there might be pets associated with the
16 family in a single-family residence?

17 MR. GAZZA: It is safe to say that a home
18 within this isolated area would probably
19 have several dogs because of the isolated
20 location for a dwelling. There would be no
21 other dwelling within a mile radius of this
22 house.

23 MR. FRELENG: Applications that you have had
24 before this Commission prior to this
25 application, do they include some of those

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1 aspects that we might have discussed,
2 domestic pets?

3 MR. GAZZA: Normal life, there are pets and
4 children.

5 MR. FRELENG: I am talking to the application
6 you have had prior, the well application.
7 Was there a component which included --

8 MR. GAZZA: [INTERPOSING] No, that was an
9 unmanned situation. We just had a well
10 extracting water. There is no waste
11 discharge. There was a minimal driveway
12 area, no disturbance to the natural
13 vegetation. It was a use that was probably
14 the best possible use for this property.

15 MR. NOBILETTI: It would be defined as an
16 unoccupied building. The development there
17 would be an unoccupied structure.

18 MR. FRELENG: Just to let you know where I am
19 going with this, a single-family home, in
20 addition to the wastewater aspect as shown
21 on the plan, would also have those elements
22 that I brought up that could impact on, in
23 one way or another, the wildlife associated
24 with the Pine Barrens habitat. In my mind,
25 as I look back -- and I am not trying to

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1 prequalify anything later on down the line
2 -- this particular aspect of the
3 application has impacts associated with it
4 which are not shown on the plan. That's
5 what I am getting at.

6 MR. COWEN:

I would like to note for the
7 record, following that vein, that a field
8 inspection was conducted on this property
9 for reasons not associated with this
10 property, for reasons associated with your
11 application further south on the same road,
12 and an examination of the Buck Moth was
13 conducted, and we did, in fact, find buck
14 moth larvae on the subject property. So,
15 that animal is present on the property. It
16 is an animal of special concern, I guess.

17 MS. PLUNKETT:

The species is a special concern,
18 yes.

19 MR. COWEN:

Based on your knowledge of the
20 zoning in the area, what would be the
21 closest single-family residence that could
22 be built?

23 MR. GAZZA:

Approximately one mile away, five
24 thousand feet away. That's located north
25 of the Sunrise Highway on the Road 104, the

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1 road to Quogue. It is about a mile to the
2 northeast.

3 Going to the south, the nearest
4 residence would be the Coast Guard base
5 housing. That's over ten thousand feet to
6 the southwest.

7 MS. FILMANSKI; That's a direct route?

8 MR. GAZZA: That's as direct as the crow
9 flies. There are no dwellings within a
10 mile of this site. In fact, the only
11 building that's in close proximity would be
12 the Suffolk County Water Authority across
13 the street. That's the only building.

14 MR. FRELENG: Just to follow-up on that a
15 second.

16 South of the South Service Road,
17 the property is zoned residential; south of
18 the South Service Road, is that correct?

19 MR. GAZZA: That's correct.

20 MR. FRELENG: Are the properties there any
21 different than this property, that are
22 zoned residential?

23 MR. GAZZA: Well, they are owned by the
24 Suffolk County Preserve, so they are
25 different. It is municipal ownership.

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1 MS. FILMANSKI: There are not privately held
2 pieces there?

3 MR. GAZZA: There may be a scattered piece or
4 two. I don't know. The largest piece, a
5 ninety some acre tract, the County
6 purchased with the Nature Conservancy about
7 three or four years ago.

8 MR. NOBILETTI: In this CR200 zoning area, the
9 only lot that is privately owned that has
10 the highway disturbance is this lot.
11 Otherwise, the other lots proceed south on
12 Old Riverhead Road.

13 The dwarf pines go right up to
14 the edge of the road with the exception of
15 the commercial development that has been
16 permitted as you proceed south.

17 MS. PLUNKETT: Staff would just ask a question
18 for clarification.

19 The previous approval for the
20 exact technology was for the extraction of
21 four million gallons per year. Is that
22 still the application that you are
23 presenting before the Zoning Board of
24 Appeals? That was stated in the public
25 record at the time of the application that

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1 was pending before this Commission.

2 MR. NOBILETTI: The application that was
3 submitted to the Commission was to extract
4 less than forty-five gallons per minute
5 from the well, and we did make the
6 statement based on the bottling capacity at
7 the plant and the equipment installed in
8 the plant, that plant had four million
9 gallons per year bottling capacity.

10 MS. PLUNKETT: That was also a submission of the
11 rechargeable capacity of the parcel that
12 spoke to the four million gallons. In
13 fact, it is in the hearing record that you
14 stated it was four million gallons. I want
15 to clarify that is still the application
16 that you were asking for at the Zoning
17 Board of Appeals.

18 MR. NOBILETTI: Yes. There is that difference in
19 figures, the forty-five, less than forty-
20 five gallons per minute would calculate to
21 twenty-three million gallons per year. The
22 site, itself, takes on forty-eight inches
23 of rainfall converting to forty-six inches
24 of rainfall into the aquifer, would yield a
25 recharge of four-and-a-half million gallons

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1 per year, the recharge from that site into
2 the aquifers.

3 MR. FRELENG: When you were giving those
4 numbers, you were trying to make a case
5 that the recharge is net positive on that
6 site.

7 MR. NOBILETTI: Based on the capacity of the
8 plant, the plant engineers and the plant
9 designers had calculated what is the
10 maximum bottling capacity of that plant
11 based on the equipment that is there now,
12 primarily the bottle handling equipment and
13 the water handling capacity of the plant at
14 this time.

15 MR. FRELENG: How does that relate to the well?

16 MR. NOBILETTI: The well right now, they have
17 another source well that they are using
18 owned by the Water Authority. They are
19 bottling water; they are in operation. The
20 plant capacity would remain the same. It
21 would still be at the four million gallons
22 per year maximum capacity.

23 Theoretically, you can say you
24 can take two million gallons from this well
25 and two million from the other well, and

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1 that would supply the needs of that plant.

2 MR. FRELENG: The needs of this --

3 MS. PLUNKETT: [INTERPOSING] Forty-five gallons
4 per minute allows them twenty-three million
5 gallons per year. The point that I am
6 making, that in the hearing record for the
7 previous approval, it was stated that there
8 would be four million gallons maximum. The
9 twenty-three million gallons, under the
10 forty-five, is allowed under the
11 nonpermitted well.

12 So, I just wanted to clarify that
13 because there have been a lot of numbers
14 that have been floating around about the
15 amount of what's being requested.

16 MR. COWEN: Can I go off the record for a
17 minute?

18 MR. DRAGOTTA: Yes.

19 [DISCUSSION OFF THE RECORD]

20 MR. DRAGOTTA: Let's go back on the record.

21 MR. COWEN: I am indicating we had a
22 discussion about the capacity of the well,
23 not really germane to the application in
24 front of us tonight.

25 Let's stick with the single-

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1 family residence idea. I don't think I
2 have any further questions, except one more
3 thing, I guess.

4 Mr. Gazza, as you pointed out,
5 one of the things the Commission has to
6 consider is whether or not the waiver
7 applied for or proposed to be granted, in
8 fact, is the minimum relief necessary under
9 the statute, and you have given us some
10 indication that you don't believe that the
11 single-family residence would be a minimum
12 relief because we have already granted a
13 project for the well that would represent
14 minimum relief?

15 MR. GAZZA:

That's correct. However, that
16 project has not been approved by staff.
17 They are looking at it differently. I am
18 at a loss as to how to handle a situation
19 like this.

20 Maybe it is the first time it has
21 come up with this Commission. Maybe the
22 Commission has an idea.

23 MR. COWEN:

It is odd, to say the least. I
24 have no further questions.

25 MR. DRAGOTTA:

Fran?

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1 MS. FILMANSKI: No.

2 MR. FRELENG: No further questions.

3 MR. DRAGOTTA: Do you have any further evidence
4 to present?

5 MR. GAZZA: I do not.

6 MR. DRAGOTTA: Does anyone in the audience wish
7 to be heard from?

8 MR. NOBILETTI: I would like to just state that I
9 believe the Zoning Board of Appeals is
10 sending Mr. Gazza back to the Commission
11 just as a means of delaying the response to
12 the Zoning Board of Appeals' request
13 variance on behalf of Exact Technology.

14 I also personally believe it is
15 clearly the least offensive use of that
16 property, would be this well use of a
17 nonoccupied building with no septic system,
18 without the associated pets and family that
19 has been brought up, and other amenities,
20 and that's really a noninvasive use of that
21 land and a means of disposing of that piece
22 of property, having it be tax paying and
23 beneficial all the way around, and staying
24 within the spirit and the intent of CR57.

25 MR. DRAGOTTA: Thank you. I declare the hearing

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1 closed.

2 I will keep the public portion
3 open until August 6, 1997.

4 MR. COWEN: I would like to reconvene the
5 Commission meeting for a brief period if
6 that's possible. Do I need a motion to do
7 that?

8 MR. DRAGOTTA: Yes.
9 Do I have a motion to come out of
10 recess?

11 MR. COWEN: I will make a motion that we come
12 out of recess.

13 MR. FRELENG: Second.

14 [FOLLOWING THE RECESS, THIS HEARING WAS
15 CONCLUDED AT 5:45 P.M. THE PUBLIC COMMENT
16 PERIOD IS OPEN UNTIL AUGUST 6, 1997.]

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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 JOSEPH GAZZA, held on the 16th day of July,
1997, as reported by me and transcribed under my
direction.

IN WITNESS WHEREOF, I have hereunto set my
hand this 23rd day of July, 1997.



SHEILA PARISER, R.P.R.

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