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CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

In the Matter of the
Public Hearing on the
of
RITA KRISTIANSEN

Quogue Wildlife Center
Quogue, New York

February 21, 1996
5:30 p.m.

PUBLIC HEARING

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

2 GEORGE PROIOS
3 Chairman
4 County of Suffolk

5 WILLIAM SPITZ
6 State of New York
7 Representing the Governor's Office

8 BRENDA FILMANSKI
9 Town of Riverhead
10 Alternate for Deputy Town Supervisor

11 DORIS ROTH
12 General Counsel for the Commission
13 Alternate for Deputy Town Supervisor

14 ANDREW P. FRELENG, Chief Planner, Department of
15 Land Management, Planning Division

16 JOHN GIRANDOLA
17 Representing Town of Brookhaven, Supervisor
18 Felix Grucci

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

20 DONNA PLUNKETT
21 Staff to Commission

22 LORRAINE TREZZA
23
24
25

1 THE CHAIRMAN: Our second hearing is
2 also one that was adjourned from February 7th.

3 For the record, I will read
4 the public notice that appeared in the local papers
5 regarding this hearing:

6 "Pursuant to the Environmental
7 Conservation Law Article 57-0121 subsections (9)
8 and (10), notice is hereby given that two public
9 hearings will be held by the Central Pine Barrens
10 Joint Planning and Policy Commission on
11 February 21st, 1996."

12 MS. PLUNKETT: Off the record.

13 (Discussion held off the record.)

14 THE CHAIRMAN: This is in the name of
15 Rita Kristiansen and the project was the
16 construction of a single family dwelling and
17 associated sanitary system on .25 acres in an A10
18 residentially zoned district, located on the north
19 side of South River Road approximately 800 feet
20 east of Forge Road, Calverton, Town of Brookhaven.

21 Is the applicant here. Would you like
22 to make a presentation.

23 MS. LACHEMMEYER: Connie Lachemmeyer.

24 MR. FOX: Bob Fox.

25 THE CHAIRMAN: Please speak up.

1 MR. FOX: Certainly. The project
2 description as you mentioned before was to
3 construct a single family dwelling and associate
4 sanitary system with retaining walls and wood deck
5 on a .25 acre parcel. Hopefully we can answer any
6 questions.

7 MS. FILMANSKI: Do you have a map for
8 the proposed description of this project?

9 MS. LACHEMMEYER: I wasn't aware that
10 I had to bring one. I have an original and a
11 photocopy.

12 It's a pre-existing non-conforming lot
13 that the owner has held in single and separate
14 ownership since 1947.

15 MS. FILMANSKI: Could you describe the
16 neighboring properties.

17 MS. LACHEMMEYER: There's a vacant
18 lot.

19 MS. ROTH: For the record, we are
20 looking at a survey prepared by --

21 MS. LACHEMMEYER: Rampart Surveying --

22 MS. ROTH: Survey dated July 8th,
23 1988, last revised August 30, 1995.

24 THE CHAIRMAN: The property directly to
25 the west, is that developed?

1 MS. LACHEMMEYER: No. There is a
2 single family dwelling there right now that the
3 Kristiansens live in.

4 MR. SPITZ: Where?

5 MR. FOX: To the west.

6 MS. LACHEMMEYER: To the east is
7 vacant property owned by the county.

8 THE CHAIRMAN: It fronts on the Peconic
9 River?

10 MR. FOX: Yes.

11 THE CHAIRMAN: Do you have a permit
12 from the DEC?

13 MS. LACHEMMEYER: Not yet. The DEC is
14 waiting for the Town of Brookhaven because they are
15 the agency -- the Town of Brookhaven is waiting for
16 us to settle this.

17 MR. GIRANDOLA: Is it before the Town
18 as far as the wetlands permit?

19 MS. LACHEMMEYER: Yes. The layout
20 comes about from various meetings with the Town and
21 the DEC.

22 MS. FILMANSKI: What permits do you
23 have?

24 MS. LACHEMMEYER: We don't have any
25 right now. We are close.

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MR. SPITZ: The DEC is waiting for a wetlands permit or a regular permit?

MS. LACHEMMEYER: Both.

MS. FILMANSKI: As a result of the variance?

MS. LACHEMMEYER: yes.

THE CHAIRMAN: Are there any other questions?

Donna, what is the single and separate status?

MS. PLUNKETT: Well, we don't usually require that, but we can. In the application that you received --

THE CHAIRMAN: If it's not single and separate and it's detached it doesn't conform.

MS. PLUNKETT: But when the Town deals with that it's part of the building permit. In other words, they check single and separate. And if they require a variance under the Town building code then they would have to get another variance from the ZBA. Correct, John?

MR. GIRANDOLA: I have got a question. Who verified the zoning on this property? You are saying it's A10.

MS. LACHEMMEYER: I'm going to guess

1 the surveyor did.

2 MR. GIRANDOLA: The question I've got
3 is that the only parcels that I know of that are
4 A10 are public lands. So I'm not sure that this
5 parcel is really zoned A10.

6 MS. LACHEMMEYER: Okay.

7 MR. GIRANDOLA: The county property I
8 would say definitely. Then the question is what is
9 the -- the title is in Rita Kristiansen?

10 MS. LACHEMMEYER: Yes.

11 MR. GIRANDOLA: The parcel next door
12 is in?

13 MS. LACHEMMEYER: Kenneth Kristiansen.
14 And I believe they provided a title search.

15 MS. PLUNKETT: No.

16 MS. LACHEMMEYER: The Town of
17 Brookhaven, they had requested it. If they have
18 it, I will certainly provide it.

19 MR. GIRANDOLA: They stated it's
20 single and separate?

21 MS. PLUNKETT: On our ownership map it
22 shows it as a public parcel.

23 MS. LACHEMMEYER: I have a copy.

24 MS. PLUNKETT: If you have an extra
25 copy or you can fax it to us tomorrow.

1 THE CHAIRMAN: That was included on the
2 parcel --

3 MR. GIRANDOLA: Same thing as far as
4 Seltzer; the same area.

5 MS. PLUNKETT: It is a much smaller
6 lot though.

7 MS. FILMANSKI: What is the topography
8 of this lot?

9 MR. FOX: It's very flat. It doesn't
10 rise much about the river; six to eight feet.

11 MR. GIRANDOLA: It tapers down.

12 MR. FRELENG: Is there a development
13 pattern in the area? To the west there is approved
14 lots and to the east --

15 MS. PLUNKETT: The lot is here
16 (indicating). The shaded is all public. If you
17 want to look at the larger map I can show you.
18 It's going to be a little difficult to see it.
19 It's actually in here (indicating).

20 MS. ROTH: Could you tell us the map
21 you are referring to, Donna?

22 MS. PLUNKETT: This is the public
23 lands map of the Central Pine Barrens. This parcel
24 is right adjacent to a lot of green area although
25 it looks on the east side -- to the west of it is

1 still vacant, privately owned. Right in the
2 middle.

3 MS. FILMANSKI: It's vacant?

4 MS. PLUNKETT: Yes.

5 MS. FILMANSKI: Are the subdivisions
6 typically small lots such as we are looking at with
7 this application?

8 MS. PLUNKETT: Well, it's mostly
9 described property in this area. You are not
10 going to find too many subdivisions. All of the
11 lots along the river, from what we have been seeing
12 to date, are described parcels that were created
13 obviously way before zoning.

14 MS. FILMANSKI: With similar size
15 characteristics of the subject application?

16 MS. PLUNKETT: Yes, I would say under
17 zoning and then less than an acre or right around
18 an acre or so.

19 MS. FILMANSKI: What is the size?

20 THE CHAIRMAN: Quarter acre.

21 Any other questions?

22 MS. FILMANSKI: There is a hardship
23 application; correct?

24 MR. GIRANDOLA: What is the hardship?

25 MR. FOX: I think the hardship is they

1 owned the property for 50 years and they have paid
2 taxes on it wishing to construct something so they
3 would get the value from it.

4 MS. ROTH: Would this property be of
5 any beneficial use if you used it in conformity
6 with Article 57?

7 MR. FOX: To me, no. To the
8 applicant, I doubt it very much. I don't see where
9 we would be able to use it for anything along those
10 lines. I think the question there is what she was
11 pointing out -- it's right on the border of what is
12 residential and what would be part of open space.

13 MR. SPITZ: Are there any dwellings
14 across the street?

15 MR. FOX: To be honest, I can't answer
16 that.

17 MS. LACHEMMEYER: I'm not sure.

18 THE CHAIRMAN: Any other questions?

19 MS. FILMANSKI: Is the dwelling
20 supposed to be constructed by the applicant or is
21 it an attempt to obtain a waiver for the purpose of
22 selling the property?

23 MS. LACHEMMEYER: He is thinking about
24 putting up a modular home on the property.

25 MR. SPITZ: Do you know how many

1 square feet of floor area?

2 MS. LACHEMMEYER: I believe we have
3 that here. Under 1200 square feet.

4 MR. SPITZ: Would you consider that to
5 be the minimum this land owner would require to
6 alleviate the hardship which you plan to have?

7 MS. LACHEMMEYER: I know that the
8 maximum allowed by the Town of Brookhaven is 1600
9 square feet. He is under that and it is a minimum
10 sized dwelling.

11 MS. ROTH: There is a minimum square
12 footage required on a single family dwelling under
13 Brookhaven.

14 MR. GIRANDOLA: Under the code, a
15 thousand square feet. However, with the single and
16 separate lots we have small lots with this which
17 allows them to go down to 800 square feet depending
18 on certain frontages.

19 MS. PLUNKETT: This was 1120.

20 MS. ROTH: One story.

21 MS. PLUNKETT: 1120 without the
22 garage.

23 MS. LACHEMMEYER: The garage is
24 existing.

25 MS. ROTH: It's existing?

1 MS. PLUNKETT: No, there's a building
2 existing over here (indicating).

3 MR. FOX: No, the garage is there.
4 There was a building permit from 1970.

5 MS. PLUNKETT: Well, we went back and
6 forth with Al before he even made his application,
7 and it's a little confusing that Al is not here
8 because we have been dealing with him all along,
9 but he came before us before he even made the
10 application and told us that there was a building
11 over here back at that time and we went back --

12 MR. FRELENG: The concrete slab area?

13 MS. PLUNKETT: The original concrete
14 slab area -- before he even made an application --
15 to determine whether he would need to make an
16 application and there was no mention of any garage
17 being on the property.

18 MS. LACHEMMEYER: I'm sorry for
19 whatever information he did or didn't give you.

20 MS. PLUNKETT: I don't know that that
21 has any bearing on the --

22 MS. ROTH: Are you saying that this
23 garage as shown here as a two car garage on the
24 drawing is existing?

25 MR. FOX: That's correct.

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1 MS. LACHEMMEYER: And the concrete
2 slab was a dog pen.

3 MR. SPITZ: So there is currently a
4 two car garage on the property? I'm assuming it is
5 there being used.

6 MS. LACHEMMEYER: Mr. Kristiansen
7 parks his car there.

8 MR. SPITZ: So he does have some
9 beneficial use of this property at this time?

10 MS. LACHEMMEYER: He parks his cars
11 there, yes. This other house does not have a
12 garage.

13 MR. FRELENG: The approval that you
14 referred to in the 1970's that you say before was
15 for --

16 MS. LACHEMMEYER: A house and a
17 garage.

18 MS. PLUNKETT; But that has expired
19 before our date so --

20 MR. FRELENG: That approval expired?

21 MS. PLUNKETT: Yes, that expired and
22 that's why there was no--

23 MR. FRELENG: So the two car garage as
24 constructed, the approval expired?

25 MS. PLUNKETT: I believe so, yes.

1 MR. GIRANDOLA: Do you have
2 documentation showing that the two car garage
3 exists?

4 MS. LACHEMMEYER: I have a copy of a
5 photographs that it is there.

6 MR. FOX: To answer your question, I
7 can't prove as to when it was constructed. That
8 would be up to the applicant.

9 MR. GIRANDOLA: I think it would be
10 helpful as far as to show when -- any sort of
11 documentation showing that the garage was there.

12 MS. ROTH: Maybe the assessor's report
13 would show it and you could trace it back.

14 MR. GIRANDOLA: If that was the
15 situation, he may not even have to be here.

16 MS. FILMANSKI: That's correct. We
17 were all under the assumption that there is a slab
18 on this property and that's why --

19 MR. GIRANDOLA: It could have been
20 used as a house. I don't know. We need more
21 information is all I am saying. Do you have an old
22 C.O. Did he just build it? Do you have a C.O. for
23 the garage?

24 MR. FOX: I understand the question.
25 I just can't answer it.

1 MS. ROTH: I think we need to adjourn
2 this.

3 MR. SPITZ: Before we do that, should
4 we give a little direction as to why we are doing
5 this?

6 MS. ROTH: Yes. Do you want to do
7 that?

8 MR. SPITZ: Within the statute there
9 is a non-development definition related to
10 expanding upon an existing residential use, that
11 you should review and please come back to us with
12 some description of how that relates to the
13 situation we have just become aware of; the
14 existing garage.

15 In addition, under the hardship
16 provisions there is a requirement that you make
17 some statement as to whether or not the owner of
18 the property has a beneficial use. You were asked
19 about that this evening by counsel.

20 MR. FOX: I think the question was a
21 little different.

22 MR. SPITZ: And the garage that we
23 have found existing on the property would be of
24 beneficial use to someone. We would like to go a
25 little bit further in establishing that. If you

1 could be prepared to address those two concerns
2 that we have when we re-open the hearing, we would
3 be delighted to hear about it.

4 MR. GIRANDOLA: I think we want to see
5 the determination for the single and separate.

6 MR. SPITZ: That apparently already
7 exists. It's just a matter of --

8 MR. GIRANDOLA: Well, the title search
9 has been approved by the Town. But you haven't
10 gone before the building department.

11 MS. LACHEMMEYER: No.

12 MR. GIRANDOLA: Have you submitted the
13 title search to the law department?

14 MS. LACHEMMEYER; I have submitted it
15 to Glen Pisano. I don't know if he forwarded it
16 to the law department. As a matter of fact yes,
17 Christine Huff (phonetic). She sent it back to
18 Glen Pisano.

19 MR. GIRANDOLA: We need that
20 documentation.

21 MS. ROTH: I think it would be helpful
22 if you look at the statute itself, Article 57
23 Section 0121 subdivision 10, as to hardship
24 criteria because it's the applicant's burden to
25 show the commission that it meets those criteria

1 and is entitled to a hardship permit.

2 MS. PLUNKETT: This information was
3 faxed to the land use company previously. So you
4 might have this in your office already. I have
5 faxed that portion of the statute to Al Wilkinson.

6 MR. FOX: The question I have is
7 regarding let's say for argument's sake it's
8 approved since 1971 -- at that point I'm trying to
9 understand what happens then. You stated something
10 to the effect that you wouldn't have to be here. I
11 lost you at that point.

12 MR. GIRANDOLA: Well, based upon what
13 you submitted as far as your documentation, you may
14 be exempted -- it's grandfathered, let's put it
15 that way.

16 MS. PLUNKETT: I had explained it to
17 Al when I asked him to provide us with the
18 information regarding the permit, what was on the
19 site, and the survey he submitted only included the
20 concrete slab and had nothing to do with the garage
21 and that's when we came before the commission at a
22 special meeting and discussed it and counsel made a
23 determination at that time, based on the
24 information you submitted, that it wasn't exempt
25 but it may well be. So it's important that that

1 information is proper.

2 THE CHAIRMAN: We will continue the
3 hearing and resume it on March 6th at 5:00 p.m.

4 MS. PLUNKETT: SEQUA is being done at
5 the town level under the wetlands permit.

6 MS. ROTH; Did they coordinate it with
7 you?

8 MS. PLUNKETT: Not to date but it was
9 stated that --

10 MS. ROTH: Have you received anything
11 definite?

12 MS. LACHEMMEYER: We were told by Glen
13 that he could not issue anything definite until we
14 get this issue resolved.

15 MR. GIRANDOLA: It's still open.

16 MS. PLUNKETT: We do not have a
17 coordination letter from the Town yet.

18 THE CHAIRMAN: Has the staff contacted
19 the Town to ask if they would be given a response
20 immediately.

21 MS. PLUNKETT: This is probably going
22 to be a type two action now.

23 THE CHAIRMAN: Motion to adjourn the
24 hearing to March 6th.

25 MS. FILMANSKI: Motion.

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CHAIRMAN: Second?

MR. FRELENG: Second.

CHAIRMAN: All those in favor say
aye.

(All members said aye.)

CHAIRMAN: Opposed?

(No opposition.)

CHAIRMAN: Motion carried.

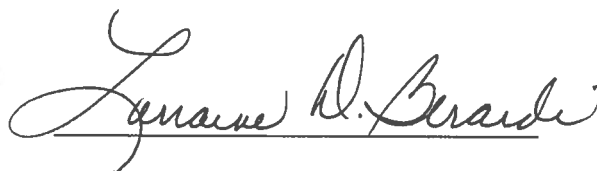
(WHEREUPON, this hearing was
concluded.)

* * *

CERTIFICATION

I, LORRAINE D. BERARDI, Court Reporter,
do hereby certify that the foregoing is a true and
correct transcript of the proceedings held
February 21, 1996, at Quogue, New York, in this
matter.

Dated: March 9, 1996



LORRAINE D. BERARDI