

1 THE STATE OF NEW YORK : COUNTY OF SUFFOLK  
2 PINE BARRENS COMMISSION

3 -----X

4 In the Matter of the Application of

5

6 Arthur Miller/Roy Baiata

7 Beneficial Design Corp.

8 Hawkins, Webb and Jaeger.

9

10 -----X

11 Town Hall

12 Riverhead, New York

13

14 February 19, 2003

15 4:40 P.M.

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18 Taken by: Donna L. Spratt

19 Court Reporter

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ORIGINAL

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

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3 ROBERT J. GAFFNEY, Chairman  
4 Suffolk County Executive  
5 BY: George Proios, Acting Chairman  
6 RAY E. COWEN, P.E., Member  
7 DEC Regional Director  
8 Representing GEORGE PATAKI  
9 JOHN J. LA VALLE, Member  
10 Supervisor, Town of Brookhaven  
11 BY: BRENDA A. PRUSINOWSKI  
12 JEAN COMPITELLO  
13 PATRICK HEANEY, Member  
14 Supervisor, Town of Southampton  
15 BY: JEFFERSON MURPHREE  
16 ROBERT KOZAKIEWICZ, Member  
17 Supervisor Town of Riverhead  
18 BY: JOEY MAC LELLAN  
19  
20 Judy Jakobsen, Staff to Commission  
21  
22 MC MILLAN, RATHER, BENNETT & RIGANO  
23 Attorneys for Commission  
24 BY: JAMES P. RIGANO, Esq.  
25

10 MR. COWEN: Ray Cowen,  
11 representing Governor Pataki.

12 MR. MACLELLAN: Joey MacLellan,  
13 representing Supervisor Robert  
14 Kozakiewicz, Town of Riverhead.

15 MR. RIGANO: James Rigano, special  
16 counsel.

22 For the record, the applicant is  
23 Arthur Miller and Roy Baiata, Beneficial  
24 Design Corporation care of Hawkins, Webb  
25 and Jaeger Associates. The project is

1 located on the east side of Raynor Road,  
2 the north side of the Long Island  
3 railroad tracks, Manorville, Town of  
4 Brookhaven. The applicant is requesting  
5 a Core preservation Area hardship permit  
6 to construct a residential dwelling on a  
7 0.25 acre site zoned J 2 business.

8 Tax map number is 200-410-2-2.

9 I'll ask the staff if they would like to  
10 introduce any materials into the record.

11 MS. CARTER: My name is Ann  
12 Carter. I'm an environmental analyst  
13 for the Commission. I'm entering six  
14 exhibits. Exhibit one is the exhibit  
15 cover page.

16 (Cover page was marked as Exhibit  
17 1 in evidence: 2-19-03, D.S.)

21 (Staff report was marked as  
22 Exhibit 2 in evidence; 2-19-03, D.S.)

1 using a GIS program entitled Art View  
2  
3 3.2. The aerial photo was obtained from  
4 a project involving a consortium of  
5 municipal agencies and also a part of  
6 the Suffolk County police EN 11  
7 project. The photo is not  
8 orthorectified, and the property lines  
9 drawn are not necessarily accurate or to  
scale.

10 (Aerial photo was marked as  
11 Exhibit 3 in evidence; 2-19-03, D.S.)

12 Exhibit four is a map of the  
13 Manorville historic district area  
14 prepared by Commission staff on August  
15 30, 2002, showing the tax parcel,  
16 boundary lines in black with the subject  
17 parcel outlined in red, park land and  
18 other protected land shown in green and  
19 parcels containing historic sites in  
20 yellow.

21 (Map was marked as Exhibit 4 in  
22 evidence; 2-19-03, D.S.)

23 Exhibit five is a six page packet  
24 of photo prints taken at and around the  
25 site by Commission staff on August 14,

1                   2002 using an Olympus model 2020 digital  
2                   camera.

3                   (Six-page packet was marked as  
4                   Exhibit 5 in evidence; 2-19-03, D.S.)

5                   Exhibit six is a letter to the  
6                   Commission staff from Hawkins, Webb and  
7                   Jaeger dated December 3, 2002,  
8                   explaining how the proposal meets the  
9                   criteria for special hardship.

10                  (Letter dated 12-3-02 was marked  
11                  as Exhibit 6 in evidence; 2-19-03, D.S.).

12                  Turning to the staff report, I  
13                  want to highlight a few items. The  
14                  location of the site is on the east side  
15                  of Raynor Road, north of the railroad  
16                  tracks in Manorville. We received the  
17                  Core Hardship application on 12-4-02,  
18                  and the Commission decision deadline on  
19                  this matter is April 3, 2003. The staff  
20                  report says that the applicant is  
21                  requesting a hardship permit for  
22                  proposed development in the Core  
23                  Preservation Area, and it says in the  
24                  staff report as shown on a plan entitled  
25                  Baiata, date stamped received on October

1                   30th. I would like to correct that  
2                   because I did find a subsequent site  
3                   plan in the file that was received by  
4                   the Commission on November 20th, and it  
5                   was entitled Beneficial Design Group  
6                   with the same date, prepared by Hawkins,  
7                   Webb and Jaeger on September 9th, so  
8                   that is the most recent plan we're  
9                   working off of.

10                  The proposed development consists  
11                  of clearing of approximately 2,800 feet  
12                  of existing vegetation and the  
13                  construction of a 24 feet by 50 foot  
14                  two-story dwelling with on site sanitary  
15                  system on a 0.25 acre parcel. The  
16                  proposal may also involve the  
17                  installation of utilities. It is within  
18                  the adjacent Suffolk County Pine Trail  
19                  Nature Preserve. The zoning of the  
20                  parcel is J-2 and was J-2 as per the May  
21                  22, 1995 Town zoning map. It is  
22                  situated at the northerly end of a small  
23                  J-2 zoned business district in  
24                  Manorville.

25                  The small business district is

1                   surrounded by a larger land area that is  
2                   zoned A-5 residential. The subject  
3                   parcel is vacant and contains remnants  
4                   of a masonry structure near the soil  
5                   surface. To the north and east is the  
6                   Suffolk County Nature Preserve, to the  
7                   south are the Long Island railroad  
8                   tracks and a vacant parcel containing a  
9                   Pine Barrens conservation easement. To  
10                  the southwest is an historic structure  
11                  known as The Maples and to the west is  
12                  Raynor Road and a wooded parcel  
13                  containing an historic dwelling.

14                  Attached to your staff report is a  
15                  table. There was a lot of confusion  
16                  regarding who the ownership history of  
17                  the parcel. I summarized it in a table  
18                  because we weren't sure about who the  
19                  owner was and who the applicant was. If  
20                  you're interested, I do have a packet of  
21                  the different documents that were  
22                  submitted by the applicant. I could  
23                  pass this around, with conflicting  
24                  information about who the owner of the  
25                  parcel is and was.

1 MR. COWEN: Let me interrupt. Is  
2 there an applicant's representative here  
3 today? Are you going to present  
4 testimony as far as who actually owns  
5 this thing and when they bought it?

17 MS. CARTER: We did receive two  
18 pieces of correspondence because I did  
19 try to get it clarified. They're in  
20 your packet.

21 MR. COWEN: Do you think it is the  
22 clarified?

23 MS. CARTER: No, I don't, but  
24 maybe Jim could look at it. About the  
25 site, it is in an area that has fairly

1 high groundwater. There was a test  
2 boring taken on February 8, 2002 that  
3 shows depth to groundwater of 9.2 feet.  
4 The area has been identified as one  
5 that's culturally, historically  
6 sensitive. Section 14.09 of the New  
7 York State Historic Preservation Act  
8 requires us to send this to SHPO for  
9 review. A letter was received from them  
10 dated September 11, 2002 with the prior  
11 application which identified the area in  
12 which the site lies as historically  
13 sensitive and noted its identification  
14 as a potential historic district.

23                   It is my understanding that that  
24                   would require a special permit from the  
25                   Town Board of Zoning Appeals to

1 construct a residence in the J-2  
2 business district. We've been doing an  
3 unlisted, uncoordinated review pursuant  
4 to SEQRA and have identified this as an  
5 unlisted action. Another approval he  
6 would need is a New York State DEC  
7 permit and the Health Department  
8 approval for sanitary sewage.

9 Prior Commission actions on this  
10 matter on the parcel, on June 9, 1999  
11 the Commission determined that a  
12 proposal to construct a farm stand on  
13 this site was not within the  
14 jurisdiction. It was represented to the  
15 Commission at that time that Joseph  
16 Prizer was the owner of the property and  
17 that he intended to sell products grown  
18 on his farm from his stand. There is no  
19 evidence at the site now that the farm  
20 stand was ever constructed.

21 On September 4, 2002, the  
22 Commission denied a prior Core  
23 Preservation Area hardship application  
24 on the site to construct a 1,700 square  
25 foot retail commercial building on the

1 site which was really supposed to be for  
2 a 7-11 at the time. That proposal did  
3 not meet the criteria for a hardship  
4 exemption. There have been no  
5 applications for Pine Barrens credits on  
6 the site.

7 The proposal does meet the  
8 definition of development in Article 5  
9 under 10-713. Some of the  
10 considerations the Commission might want  
11 to consider, the Commission should  
12 consider whether the applicant has  
13 demonstrated extraordinary hardship and  
14 meets the conditions and standards  
15 pursuant to ECL 57 12110, and there is a  
16 letter that was submitted in your packet  
17 from the applicant that specifically  
18 addressed some of those criteria.

19 The other thing that needs to be  
20 clarified is the applicant should  
21 describe the construction and approvals  
22 that are required for the proposed  
23 installation of utilities within the  
24 Nature Preserve, the abutting Suffolk  
25 County Pine Trail Nature Preserve. It

1                   is not quite clear whether or not they  
2                   would have to try and get special  
3                   permission or if maybe there would be a  
4                   better way to get access for their  
5                   utilities without going through the  
6                   Nature Preserve.

7                   The Commission might also want to  
8                   clarify that this proposal is for a  
9                   single family dwelling. The application  
10                  nowhere states that it is a single  
11                  family. It just says, I believe,  
12                  dwelling. That is about all I have.

13                  MR. COWEN: Ann, in the previous  
14                  appearance of this parcel in front of  
15                  the Commission, did we research what  
16                  that prior foundation was for? Was it a  
17                  residence at some time? Did we ever  
18                  figure that out?

19                  MS. CARTER: No. When you go out  
20                  to the site, it looks quite old but it  
21                  looks like a concrete slab, and this was  
22                  in an area when you go through the  
23                  historic records, there is some historic  
24                  inventory forms. This is the area where  
25                  they turned trains around.

1                   There was a spur that went to Sag  
2                   Harbor and there was a lot of activity  
3                   with regard to train activity and  
4                   turning the trains there. But I do  
5                   recall in the prior application that Mr.  
6                   Jaeger had mentioned something about a  
7                   taking map that showed a prior structure  
8                   on that site.

9                   MR. COWEN: He didn't characterize  
10                   the structure as to whether it was  
11                   strictly commercial, residential?

12                   MS. CARTER: I don't recall that  
13                   he did.

14                   MR. COWEN: Counsel, would it be  
15                   relevant if, in fact, that structure was  
16                   residential? Would that be relevant to  
17                   this application in some way of making  
18                   it nonjurisdiction due to a provision in  
19                   there, which I can't recall the exact  
20                   language of?

21                   MR. RIGANO: It would be  
22                   interesting to know. I'm not sure if it  
23                   is relevant. I would have to check, but  
24                   certainly it would be an interesting,  
25                   useful piece of information to have.

1 MR. COWEN: Do you think it is  
2 possible to figure that out from the  
3 records or does no record exist?

4 MS. CARTER: From the last  
5 hearing?

6 MR. COWEN: No. From historical  
7 records.

8 MS. CARTER: I could look into it  
9 more. There may be something in the  
10 file. I could look while the applicant  
11 is making his presentation.

12 MR. COWEN: Don't spin too many  
13 wheels.

14 MR. RIGANO: Upon further review  
15 of the statute, I don't think it is  
16 relevant. I think if there is an  
17 existing structure there, regardless of  
18 its use, it may pertain to the  
19 nonjurisdiction question. It refers to  
20 replacement of any existing structure.

21 MS. CARTER: I believe the Town  
22 would let them rebuild if it hasn't been  
23 abandoned for more than a year.

24 MS. PRUSINOWSKI: Under zoning,  
25 yes.

1                   MS. CARTER: Anything more than a  
2                   year, I think there has to be a wall  
3                   standing.

4                   MS. PRUSINOWSKI: A certain  
5                   percentage.

6                   MR. PROIOS: In your map showing  
7                   different parcels, do you recall whether  
8                   Joseph Prizer owned any of the adjacent  
9                   lands around that quarter acre parcel?

10                  MS. CARTER: I wouldn't know that.

11                  MR. PROIOS: Because he couldn't  
12                  have grown enough material on just a  
13                  quarter acre to have a farm stand.

14                  MS. CARTER: I believe it was for  
15                  another property that he owned, but I  
16                  don't know where that property was.

17                  MR. PROIOS: There is no evidence  
18                  that he ever did go ahead and build a  
19                  farm stand?

20                  MS. CARTER: I didn't see any  
21                  evidence of a farm stand being there.

22                  MR. PROIOS: Any questions? Would  
23                  the applicant's representative care to  
24                  address the Commission?

25                  MR. VOORHIS: Mr. Charles Voorhis,

1 Nelson, Pope and Voorhis. I'm here  
2 today on behalf of Mr. Jaeger of  
3 Hawkins, Webb and Jaeger who asked that  
4 I attend the meeting.

5 I have heard the staff report, and  
6 we'll go through a couple of those  
7 points, but I would like to just again  
8 characterize the area. The subject  
9 property is zoned J-2. It's at the  
10 fringes of a very small rural hamlet  
11 associated with Manorville. The prime  
12 feature is the post office which is  
13 located here. This is the Maples bar  
14 and restaurant, and it has a little  
15 nucleus of J-2 activity. There are a  
16 couple of other uses farther to the  
17 south.

18 MR. COWEN: You're pointing on a  
19 map, but it doesn't come out very well  
20 in the transcript.

21 MR. VOORHIS: This is a 1999  
22 aerial photograph. It is plotted at a  
23 scale of one inch equals 60 feet, and it  
24 depicts the subject property. North is  
25 directly up on this photograph. This is

1 the Long Island railroad tracks. The  
2 subject property is outlined in kind of  
3 an orange yellow color. It depicts the  
4 quarter acre property.

5                   If you have been to the site, and  
6                   as you can see on the aerial photograph,  
7                   there are specimen trees within the  
8                   property. The rest of the site is  
9                   overgrown. It's primarily comprised of  
10                  grasses. Immediately to the east is the  
11                  former extension right of way that's  
12                  currently a County nature trial, and  
13                  from a physical standpoint, there is an  
14                  extension of land roads which still  
15                  remains and bisects that right of way in  
16                  this area.

1                   I do have with me today the taking  
2                   map that was referred to by Mr. Jaeger  
3                   at a prior hearing. The date, as I  
4                   understand it, is 1966, and it depicts a  
5                   two part residential; a two-story  
6                   portion and a one-story portion of a  
7                   framed dwelling, and I can leave that  
8                   with you today. I believe it will help  
9                   to clarify the prior use on the  
10                  property. The dashed line is the  
11                  location of the former footprint of that  
12                  residence.

13                  MR. RIGANO: Describe the document  
14                  that you're referring to.

15                  MR. VOORHIS: This is an  
16                  enlargement of the site that you have in  
17                  the file identifying the subject  
18                  property. Scale is one inch equals 20  
19                  feet. The original site plan is a  
20                  slightly reduced version. I blew this  
21                  up for today's hearing. It was prepared  
22                  by Hawkins, Webb and Jaeger dated  
23                  September 9, 2002, and the north arrow  
24                  is directly up on this survey. It is  
25                  depicted with the north arrow.

1                   As I was saying, the dashed line  
2                   indicates the location of the former  
3                   dwelling that is identified on the  
4                   taking map. The taking map itself  
5                   identifies a two-story framed dwelling  
6                   with an attached portion that's a  
7                   one-story frame the dwelling and a ruin  
8                   in the rear yard of the property.

9                   MR. RIGANO: What do you mean by a  
10                  taking map? Do you want that as an  
11                  exhibit?

12                  MR. VOORHIS: There was a survey  
13                  that was certified by Charles H. Sells  
14                  Incorporated, consulting engineers. The  
15                  portion that I have does not have a date  
16                  on it, but I will make efforts to find  
17                  the full sized copy of this. My  
18                  understanding, and the representation on  
19                  the plot plan submitted by Mr. Jaeger's  
20                  office, is that this was from 1966.  
21                  That leads me to believe that he has the  
22                  full sized copy of this, but it is a  
23                  document that shows the taking. It  
24                  describes the boundary of that CR 111  
25                  right of way that was taken in 1966 and

1                   it also described the surrounding  
2                   features.

3                   This particular property was one  
4                   of those surrounding features, and the  
5                   dwellings are noted on that taking map.

6                   It may help to clarify the use that was  
7                   on the property in 1966 at the time of  
8                   the taking.

9                   MR. COWEN: The taking you're  
10                  referring to is the County acquired  
11                  property for that right of way which was  
12                  subsequently never built?

13                  MR. VOORHIS: That's correct.

14                  There was an alignment for CR 111 that  
15                  was intended originally to go directly  
16                  across all the way up to Port Jefferson  
17                  from the terminus of the major portion  
18                  of CR 111 as it existed at the  
19                  interchange of the Expressway.

20                  MR. COWEN: To your knowledge, was  
21                  a portion of the subject property taken  
22                  at that time by the County?

23                  MR. VOORHIS: To my knowledge, it  
24                  was. It was a fairly complete right of  
25                  way alignment that would also correspond

1 to the current status of it being  
2 dedicated to a nature trail because that  
3 road was never constructed.

4 MR. PROIOS: I'm confused. Was  
5 this parcel then not included?

6 MR. VOORHIS: This was an adjacent  
7 parcel. The map was describing the  
8 features of the taking. This happened  
9 to be immediately adjacent, shown on the  
10 taking survey. This taking took place  
11 to the east of it.

12 MR. COWEN: That was my question.  
13 I wanted to clarify whether or not any  
14 portion of this parcel, as it existed in  
15 1965 say, was taken by the County when  
16 that right of way was established.

17 MR. VOORHIS: Sorry if I didn't  
18 understand your question. I would have  
19 to recreate some of those records from  
20 the 1966 map. It doesn't appear that  
21 way. It appears there was a free  
22 standing parcel, but I would have to  
23 clarify.

24 MR. COWEN: It's just as an  
25 anecdotal. I'm not sure of the

1 relevance.

2 MR. PROIOS: It would be important  
3 because the entire roadway was dedicated  
4 to indicate a nature preserve. All the  
5 parcels the County owned through 111  
6 were dedicated simultaneously in a  
7 single legislative act. If that was  
8 part of it, it would be part of the  
9 nature preserve.

10 MR. COWEN: That the County  
11 acquired in between those two lines but  
12 not the portion outside which is the  
13 subject of the hearing today, right?

14 MR. PROIOS: That's my question.  
15 Is it a clear separate individual parcel  
16 or --

17 MR. VOORHIS: I have a copy of the  
18 tax map from the Brookhaven files, and  
19 that would be Section 410 of District  
20 200 which shows the subject property as  
21 block two, lot two, and I can submit  
22 that as well. This is the xerox of the  
23 Suffolk County tax map that shows this  
24 as an individual parcel, basically  
25 sandwiched between this right of way and

1 Raynor Road and the railroad to the  
2 south.

3 MR. COWEN: That was subsequent to  
4 the taking?

5 MR. VOORHIS: Yes.

6 MR. COWEN: It would appear to me,  
7 looking at this map, that what is now  
8 the easterly property line is coincident  
9 with the property line of the County  
10 holdings. At this point, it would seem  
11 to me that the County line was created  
12 when the County took part of this  
13 property. I don't know the relevance  
14 but it seems to me that's what happened.

15 MR. VOORHIS: That may be  
16 possible. I did find it interesting  
17 that Lanes Road, again, physically  
18 appears to have existed for some long  
19 period of time. It is actually bisected  
20 by the railroad because it continues  
21 farther to the south, so this seems to  
22 be a very old roadway and the property  
23 itself had a structure which was  
24 completely enclosed within the  
25 boundaries of that property, so from a

1 physical standpoint, the property line  
2 would have been somewhat close to where  
3 it is shown, again, by the physical  
4 limitations of Lanes Road and the  
5 farmhouse on the property, but I don't  
6 know the relevance and I don't know the  
7 exact answer.

18 As was noted, this application  
19 came before you last fall for a  
20 convenience store. That application was  
21 denied. Based on that, it is our belief  
22 that the Commission did not find that to  
23 be the minimum relief necessary for a  
24 hardship, and, obviously, that was the  
25 result. That resulted in the denial.

1 For the purposes of determining  
2 possible beneficial uses of this  
3 property, there are only a couple that  
4 can be considered. No use at all,  
5 transfer of whatever credits might be  
6 yielded from it. This is a J-2 parcel,  
7 about a quarter of an acre. It would  
8 yield about a quarter of a credit. From  
9 an economic standpoint, it is difficult  
10 to conceive that is in any way  
11 compensation for the taxes paid on the  
12 property that has been owned for a long  
13 period of time by the current owner, and  
14 I will submit additional information to  
15 that effect.

24 Going through the points for  
25 establishing hardship exemption criteria

1 and the merits of this, the property  
2 does not share the features, the unique  
3 circumstances with other properties in  
4 the area. As I said, it is on the  
5 fringe of the Manorville rural hamlet  
6 area, adjacent to the railroad, to an  
7 existing secondary roadway in the area,  
8 Raynor Road. It had a former structure,  
9 evidence of those on the property in the  
10 form of foundations, and it is  
11 essentially cleared of native Pine  
12 Barrens vegetation with the exception of  
13 specimen trees which remain. It is  
14 unique in that regard that these arise  
15 out of the unique character of the  
16 property. I've touched on that.

17 Under 5701 2110 A iii it has to do  
18 with this is not the result of an action  
19 or inaction by the owner, and I  
20 understand the relevance of the  
21 ownership issue and I do apologize for  
22 the confusion in the file. What I would  
23 like to do is as the staff report  
24 indicated, withdraw those conflicting  
25 aspects and submit a full disclosure of

1 the ownership of this property so you  
2 have that. I'm not able to do that  
3 today, but I would like to have the  
4 opportunity to follow up with that  
5 because I think that's very relevant in  
6 terms of a --

10 MR. VOORHIS: That would certainly  
11 be the best way.

12 MR. RIGANO: I would like to refer  
13 you to the August 4, 2002 transcript  
14 with regard to this parcel -- September  
15 4, 2002, where there was an exchange  
16 with Mr. Jaeger with regard to the  
17 ownership issues on the property and a  
18 number of questions were raised at that  
19 hearing. If you could refer to that.  
20 If you don't have a copy of the  
21 transcript, staff can provide you with a  
22 copy and see if you could address those  
23 questions raised regarding ownership.

24 MR. VOORHIS: I know there have  
25 been exchanges of letters since this

1 application was made. I thought it was  
2 clarified.

3 MR. COWEN: Just for the record,  
4 who is the applicant today?

5 MR. VOORHIS: The application in  
6 terms of the name of the applicant, not  
7 necessarily Jaeger's office? It is  
8 Beneficial Design Group. My  
9 understanding, there are two partners,  
10 Arthur Miller and Roy Baiata. Those two  
11 names have been represented in the  
12 file. I understand the ownership goes  
13 back 30 to 40 years.

14 MR. COWEN: They are not before us  
15 as agents of the owner but, in fact, as  
16 owners?

17 MR. VOORHIS: That's correct.  
18 Under C i, that the use would not be  
19 detrimental to other properties. I  
20 showed you the aerial photograph. The  
21 area does have intermittent development,  
22 although it is in the core. This  
23 particular property is surrounded by  
24 physical barriers. A land road  
25 currently exists and shown on the

1                   aerial. If you go out to the site, you  
2                   would see it.

3                   The railroad is to the south.  
4                   There are infrequent trains that occur  
5                   along this line of the railroad. My  
6                   understanding is that Mr. Miller would  
7                   intend to occupy this house and has been  
8                   at the site, and the trains don't bother  
9                   him because of the infrequent schedule.  
10                  He is also 89 and feels this would be a  
11                  very nice place to reside.

12                  Under C ii, that the application  
13                  is not inconsistent with the spirit and  
14                  intent of the Pine Barrens Act. I  
15                  believe that it is consistent in that  
16                  the property had been occupied by a  
17                  residence. It is surrounded by physical  
18                  features and barriers. It is  
19                  essentially used, the minimum use that  
20                  we believe would be appropriate for the  
21                  property.

22                  That really brings us to the final  
23                  aspect; C iii, that this is the minimum  
24                  relief. As I opened my presentation, we  
25                  are aware of the history, the

convenience store application that was denied, that this was a low intensity use that's commensurate with the surrounding area. I indicated we would seek a change of zoning or use variance with the Town, and in terms of the staff comments and considerations, there were a couple of points regarding the historical nature of the area that the Office of Parks, Recreation and Historic Preservation was contacted and stated that will act as a historic review entity that would be able to assist in architectural review.

15 I would represent that the  
16 conditions, if this Board were to act  
17 favorably on this, would be acceptable  
18 to the applicant, that we would seek to  
19 covenant the three items that are in  
20 those recommendations having to do with  
21 the use and development of the property  
22 which was unclear, but is specifically  
23 proposed for a single family residence;  
24 that the architecture of the dwelling  
25 and the site design would be subject to

1 approval by the Town of Brookhaven  
2 Historic District Advisory Committee,  
3 and that the single family dwelling and  
4 any accessory structures situated on the  
5 lot so that the natural and historic  
6 character of the area is protected.

7 We would survey the existing trees  
8 and seek to locate the dwelling in such  
9 a way it would impact a minimal amount  
10 of the property.

11 MR. COWEN: Without having to  
12 remove trees?

13 MR. VOORHIS: We don't have a full  
14 survey. It seems they're scattered. My  
15 guess is one or two trees might have to  
16 be removed, but we would seek to situate  
17 a reasonably sized dwelling in a way  
18 that would preserve as many trees as  
19 possible. We would have to survey the  
20 trees and look at the dwelling and  
21 location on the property.

22 MR. COWEN: With respect to the  
23 zoning category, do you have to get the  
24 property rezoned or can this be a  
25 special use exemption?

1 MS. PRUSINOWSKI: J-2.

2 MR. VOORHIS: I don't believe J-2  
3 allows single family dwellings, and I  
4 know that a use variance is difficult to  
5 prove. We perhaps could meet that  
6 burden because of the denial of a prior  
7 application that's consistent with the  
8 zoning and could use that as part of the  
9 approach to the land use issue, but in  
10 one case or the other, we would be  
11 seeking a land use variance.

12 MR. COWEN: If whatever vehicle  
13 were approved by the Town to allow the  
14 construction of that single family  
15 residence, at that point in time when it  
16 was built, what inherent rights would  
17 the owner have to revert back to some  
18 other use; a commercial use, or would it  
19 be strictly restricted to the single  
20 family use?

21 MS. PRUSINOWSKI: It could be  
22 strictly restricted depending on what  
23 avenue is taken successfully.

24 MR. COWEN: Would the applicant be  
25 willing to stipulate to no further

1 changes in use after the single family  
2 thing was granted by the Town?

3 MR. VOORHIS: Yes.

4 MR. COWEN: Turning to your site  
5 map, the westerly boundary of the  
6 property appears to have frontage on  
7 Raynor Road. It is a little confusing  
8 because of the way it is depicted. Do  
9 you know if there is frontage on Raynor  
10 Road?

11 MR. VOORHIS: I know that there  
12 is; that this property abuts the right  
13 of way for Raynor Road, and while this  
14 map depicts the physical location of  
15 road, that falls within the right of  
16 way.

17 MR. COWEN: It would be the  
18 intention to take access to the property  
19 off Raynor Road?

20 MR. VOORHIS: Again, in staff  
21 report discussions, I heard mention of  
22 utilities. It would be our intention --  
23 you can see the driveway goes to Raynor  
24 Road. It would be to bring utilities  
25 and access into the property from Raynor

1 Road wherever possible.

2 MR. COWEN: Are there utilities on  
3 Raynor Road?

4 MR. VOORHIS: I believe there  
5 are. I do see --

6 MR. COWEN: That is a matter we  
7 could supplement the record with at a  
8 later date.

9 MR. VOORHIS: We, in order to  
10 accommodate this use, will need  
11 utilities, but it would be our intention  
12 to come in from Raynor Road for any  
13 utilities that we need, assuming that's  
14 possible.

15 MR. PROIOS: Any other questions?

16 MR. RIGANO: With regard to the  
17 dashed line, that shows where there  
18 would have been a prior building. What  
19 is present at the site today?

20 MR. VOORHIS: Snow. It is  
21 specimen trees, grasses. There are some  
22 remnants of structural foundation type  
23 improvements on the property.

24 MR. RIGANO: There's no clear  
25 outline of a foundation?

1                   MR. VOORHIS: Not really.

2                   MR. RIGANO: What do you know  
3                   about what was on the property  
4                   previously in the way of a structure?

5                   MR. VOORHIS: I only know what the  
6                   taking map from 1966 shows me. There  
7                   were ruins on a portion of the property,  
8                   and a two and one-story single family  
9                   dwelling.

10                  MR. COWEN: The reason this is not  
11                  on the road list for exemption is  
12                  because it is J-2?

13                  MS. PRUSINOWSKI: Yes.

14                  MR. RIGANO: That's commercial?

15                  MS. PRUSINOWSKI: Yes. General  
16                  business.

17                  MR. PROIOS: Thank you very much.  
18                  Is there anyone from the audience that  
19                  wants to address us?

20                  MR. AMPER: Richard Amper,  
21                  Executive Director of the Pine Barrens  
22                  Society. The Society would ask the  
23                  Commission so satisfy itself concerning  
24                  the ownership and any other precedent  
25                  setting nature that such a hardship

1 approval would result in.

2 MR. PROIOS: Thank you. I'm going  
3 to close the public hearing. I'll leave  
4 the comment period open until our next  
5 meeting on March 19th, if the applicant  
6 chooses to provide us with the  
7 additional information including the  
8 history of the ownership of the  
9 property.

10 MR. COWEN: One comment. Just to  
11 reiterate something I said. I would  
12 like to see a certified title report on  
13 this property, irrespective of whether  
14 it supports your position or not, I want  
15 to see what that says. I've heard deeds  
16 have been stored in sock drawers for  
17 years, but I want to know what the  
18 public record reflects on this property,  
19 and then if you want to supplement that  
20 with information about deeds in sock  
21 drawers, that is your prerogative.

22 (TIME NOTED: 4:30 P.M.)

23

24

25

	EXHIBITS	PAGE
1	1 Cover page.	4
2	2 Staff report.	4
3	3 Aerial photo.	5
4	4 Map.	5
5	5 Six-page packet.	6
6	6 Letter dated 12-3-02.	6

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3 CERTIFICATION  
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67 I, DONNA L. SPRATT, a Notary  
8 Public in and for the State of New  
9 York, do hereby certify:10 THAT the foregoing is a true and  
11 accurate transcript of my stenographic  
12 notes.13 IN WITNESS WHEREOF, I have  
14 hereunto set my hand this 25th day of  
15 February, 200316  
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18  
19 DONNA L. SPRATT  
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21  
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24  
25