

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.

16
17
18 Taken by: Donna L. Spratt

19 Court Reporter

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21
22
23 ORIGINAL

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

ROBERT J. GAFFNEY, Chairman

Suffolk County Executive

BY: George Proios, Acting Chairman

RAY E. COWEN, P.E., Member

DEC Regional Director

Representing GEORGE PATAKI

JOHN J. LA VALLE, Member

Supervisor, Town of Brookhaven

BY: BRENDA A. PRUSINOWSKI

JEAN COMPITELLO

PATRICK HEANEY, Member

Supervisor, Town of Southampton

BY: JEFFERSON MURPHREE

ROBERT KOZAKIEWICZ, Member

Supervisor Town of Riverhead

BY: JOEY MAC LELLAN

Judy Jakobsen, Staff to Commission

MC MILLAN, RATHER, BENNETT & RIGANO

Attorneys for Commission

BY: JAMES P. RIGANO, Esq.

1 MR. PROIOS: I'll convene the
2 second public hearing. I'm George
3 Proios, acting as Chairman of the
4 Central Pine Barrens Commission, acting
5 on behalf of Robert Gaffney, County
6 Executive who is the Chairman of the
7 Commission. I'll have the other
8 Commission members introduce themselves
9 and who they represent.

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.

17 MR. PROIOS: I'll state for the
18 record that Jeff Murphree and Brenda
19 Prusinowski from the Town of Brookhaven
20 are here. They will be joining us
21 momentarily.

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.)

18 Exhibit two is a staff report
19 prepared by Commission staff, issue date
20 February 19, 2003.

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

23 Exhibit three is a 2001 aerial
24 photo showing the subject property
25 outlined in red. The photo was produced

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

6 MR. VOORHIS: I'm going to have to
7 provide that to you. I thought it had
8 been clarified by submissions from
9 Hawkins, Webb and Jaeger. If it was not
10 done, I will have to offer to submit
11 that to you.

12 MR. COWEN: I don't believe it has
13 been. I think that was part of the
14 significant controversy, to put it
15 mildly, the last time we heard this
16 issue.

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.

15 The letter urges the Commission to
16 recognize the historic character of the
17 structures and setting in the Manorville
18 area and consider the design of
19 development in the approvals that are
20 required. The important thing to
21 consider is the site is zoned J-2 and
22 the application is for a residence.

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.

17 There are utility poles
18 immediately to the east of the property
19 within that right of way. Raynor Road
20 is immediately to the west. The
21 application involves the construction of
22 a single family residence on the
23 property. I heard some discussion in
24 reviewing the staff report regarding the
25 prior uses.

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.

8 MR. PROIOS: Is that structure's
9 dimensions currently as existing or on
10 the date that was created?

11 MR. VOORHIS: Both the footprint
12 of a new dwelling proposed, roughly 24
13 feet in total width and 50 feet in total
14 length, and then the addition. The line
15 is extracted from the taking map that I
16 gave you before showing the former
17 structure.

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.

16 The convenience store was not
17 successful, and this represents a much
18 lower intensity use for the property
19 which would necessitate either a use
20 variance or change of zone with the
21 Town. We would pursue that if the
22 Commission finds favorably with regard
23 to this application.

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 --

7 MR. COWEN: Could you possibly do
8 that in the form of a certified title
9 report?

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

1 convenience store application that was
2 denied, that this was a low intensity
3 use that's commensurate with the
4 surrounding area. I indicated we would
5 seek a change of zoning or use variance
6 with the Town, and in terms of the staff
7 comments and considerations, there were
8 a couple of points regarding the
9 historical nature of the area that the
10 Office of Parks, Recreation and Historic
11 Preservation was contacted and stated
12 that will act as a historic review
13 entity that would be able to assist in
14 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.)

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CERTIFICATION

I, DONNA L. SPRATT, a Notary
Public in and for the State of New
York, do hereby certify:

THAT the foregoing is a true and
accurate transcript of my stenographic
notes.

IN WITNESS WHEREOF, I have
hereunto set my hand this 25th day of
February, 2003



DONNA L. SPRATT