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CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

In the Matter of the
Public Hearing on the
PRO CORM

Riverhead Town Hall
Town Board Meeting Room
Riverhead, New York

October 29, 1997
5:10 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 MARTIN SHEA, Representing Supervisor Vincent
6 Cannuscio, Town of Southampton

7 DORIS ROTH, ESQ.
8 General Counsel for the Commission

9 BARBARA WIPLUSH, Representing Supervisor Felix
10 Grucci, Town of Brookhaven.

11 BRENDA FILMANSKI, Representing Riverhead
12 Supervisor, James R. Stark

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

14 DONNA PLUNKETT
15 Staff to Commission

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1 CHAIRMAN: I'd like to call the public
2 meeting to order.

3 My name is George Proios. I'm acting
4 chairman on behalf of Suffolk County Executive,
5 Robert Gaffney, who is chairman of the Commission.
6 I will let the other members of the commission
7 introduce themselves.

8 MS. WIPLUSH: I am Barbara Wiplush
9 representing Supervisor Felix Grucci, Town of
10 Brookhaven.

11 MR. SHEA: I am Marty Shea
12 representing Supervisor Vincent Cannuscio, Town of
13 Southampton.

14 MS. FILMANSKI: I'm Brenda Filmanski,
15 representing Riverhead Town Supervisor James R.
16 Stark.

17 MS. ROTH: Doris Roth, McMillan,
18 Rather, Bennett and Rigano, P.C., General
19 Counsel for the Commission.

20 CHAIRMAN: Pursuant to the
21 Environmental Conservation Law Article 57-0121(10),
22 notice was given that two public hearings would be
23 held by the Central Pine Barrens Joint Planning and
24 Policy Commission on October 29, 1997, on the
25 matter of two applications for core preservation

1 area hardship exemptions.

2 The first applicant which was the
3 Ridge Full Gospel Church has been canceled
4 and will not be held tonight. Therefore, let
5 the record show that the applicant withdrew
6 his application.

7 The second application, which is the
8 subject of our hearing, is ProCorm. It is the
9 construction, with additional 3,600 square foot
10 warehouse building on 54,285 square feet parcel of
11 land, and an 860 square foot addition to existing
12 3,660 square foot warehouse building located in
13 L140 zoned district. It's located on the west side
14 of County Road 31, Westhampton, Town of
15 Southampton.

16 Would the applicant or his
17 representative like to make a presentation to the
18 commission?

19 MR. SCHENK: I have never done this
20 before so I don't know what it is you would want
21 from me but -- should I come up?

22 CHAIRMAN: Sure. Identify yourself
23 for the record.

24 MR. SCHENK: My name is Ralph Schenk,
25 the owner of the property. All I can really say is

1 the same thing I said in my
2 letter of application. In reading over your
3 specifications of why this would be granted,
4 there's talk of having a -- what's the word you
5 use -- compelling public need.

6 MS. WIPLUSH: No, there is two
7 things. One is hardship which I believe you're
8 having a hardship application. Correct? This is
9 not a compelling public need application.

10 MS. ROTH: Hardship can be based on
11 two things. They are both hardships. It's either
12 ordinary hardship based upon the characteristics of
13 the property or it's compelling public purposes.
14 They are both within the same section in the sense
15 that they are both hardship exemptions.

16 CHAIRMAN: For the purposes of having
17 a public record, even though you sent to us a
18 letter, just try to summarize the main portions of
19 the letter as you feel it pertains to our
20 definition of hardship in the law.

21 MS. FILMANSKI: Before you get to
22 that, would you please describe the plan, tell us
23 what it is that you are doing, you're proposing?

24 MR. SCHENK: Yes, sure. What might
25 give you a little better background is if I show

1 you the original survey. Originally when I
2 originally bought this parcel back in 1984 --

3 MS. FILMANSKI: You are showing me one
4 parcel; is that correct?

5 MR. SCHENK: That is correct.

6 MS. PLUNKETT: You might want to
7 explain that the parcel is originally where the
8 line was.

9 MR. SCHENK: Right. Originally when
10 I purchased this, it was this 50 foot entranceway
11 and this section of land, which is kind of here on
12 this and down here (indicating).

13 MS. FILMANSKI: That was in what year?

14 MR. SCHENK: 1984. At the time this
15 was zoned by Southampton Town LI200 and it was
16 before the Pine Barrens Commission existed. I
17 received a variance for the building for some set
18 back requirements that couldn't be met because it
19 was an undersized lot and erected this building in
20 '84. A few years back a piece of land adjacent to
21 me became available and it made sense for me to buy
22 because it was kind of land-locked, no one else
23 could really get to it so I purchased it.

24 MR. SHEA: When did you purchase it?

25 MR. SCHENK: I purchased it in

1 December of 1985.

2 MS. PLUNKETT: 1994.

3 MR. SCHENK: In -- right -- where am
4 I? Oh, yes. What am I saying '85. December of
5 '94 I purchased the parcel. Part of the deal in my
6 buying this piece, which was basically about this
7 size, was that the person I bought it from was
8 going to do an abandonment of a 40 foot paper road
9 that existed down this whole strip. He was going
10 to do an abandonment of a 40 foot paper road that
11 abutted between myself and my neighbor to the south
12 and he had already done an abandonment of a paper
13 road that existed to my north. So in buying this
14 parcel I picked up this strip and this strip and
15 then joined everything together to form one lot
16 which now conforms with the LI40 zone that exists
17 because the current -- I think you read into it --
18 the current size of the lot is over 50,000 square
19 feet.

20 What I am proposing to do, what I
21 would like to do is, this building is a 45 --
22 roughly 45 by 80 pre-engineered steel building.
23 What I'd like to do is put up a second building on
24 the lot, minimal amount of asphalt to just meet the
25 Town's code for parking and truck spaces and things

1 that the Town requires. The building would be a
2 concrete floor with a pre-engineered
3 steel building on top of it. Nothing during its
4 construction, during its use, would introduce
5 anything into the environment that I know of to be
6 harmful. I have a tenant who has signed a lease
7 for me -- if I could get the building up -- for
8 five years. He is Hampton Water Craft and Marine.
9 All they are going to do is they buy new jet skis
10 and wave runners and store them in here. So there
11 will be a truck in once in a while to take a jet
12 ski and put it in or take a jet ski and take it
13 out. I bring that up because the impact to the
14 traffic flow in this area will be minimal as any
15 egress ingress from the access way. The access way
16 already pre-exists 24 feet wide, so it meets the
17 fire department's needs.

18 MS. WIPLUSH: Is the area cleared?

19 MR. SHEA: Where's the current edge
20 wood line?

21 MR. SCHENK: This line.

22 MS. PLUNKETT: This is it right here.
23 Wooded. I verified that.

24 MR. SCHENK: I bought this parcel. It
25 was clear. I will be perfectly honest with you.

1 Other than as you see it here, the only place that
2 there was any trees in this area, and I could show
3 you pictures if you want -- but there was some
4 trees right up in here (indicating).

5 What happened was during the sunrise
6 fires as they are called, I was one of the few
7 buildings that was totally surrounded by the fires.
8 The vehicles that were anywhere along the edges
9 of my property were all burned. I lost four. My
10 men lost seven. We lost a couple of trailers.
11 Fortunately the fire department was able to
12 surround the building and save the building.

13 MR. SHEA: So this area here is
14 currently used for parking vehicles?

15 MR. SCHENK: Yes.

16 MR. SHEA: So it's heavily grassed.

17 MS. PLUNKETT: No, it's Har-tru and
18 compacted -- there's a small area here where you
19 have some grass but it is heavily disturbed.

20 MS. FILMANSKI: What is the use of the
21 existing building on the site?

22 MR. SCHENK: It's a warehouse. I have
23 a tennis court construction company.

24 MS. FILMANSKI: What are the uses of
25 the surrounding properties?

1 MS. PLUNKETT: The property here you
2 approved a hardship on under the name of George
3 Mathias recently which is another type of storage
4 warehouse. Over here you have New Scape
5 Landscaping facilities. You know, other similar
6 types of contractors, warehouses --

7 MS. WIPLUSH: So it would be
8 consistent with the uses of the properties in the
9 area?

10 MR. SCHENK: Yes. The people that
11 are in the area are -- actually, probably my
12 business is probably more docile, to use a word,
13 than some. There are some people like in the auto
14 motive businesses --

15 MS. FILMANSKI: Are those various
16 other parcels approximately the same depth as this
17 parcel?

18 MS. PLUNKETT: The other one on this to
19 the south is a automotive repair and his property
20 line comes --

21 MR. SCHENK: I don't think he's had
22 this road abandoned so this property line probably
23 comes to here (indicating) and he picked up this 20
24 feet when he did that road abandonment. Most of
25 the businesses on this street -- New Scapes fronts

1 on the road Plod (phonetic) Auto fronts on the road
2 Seely (phonetic) Electric fronts on the road, and
3 then comes back -- BOCES fronts on the road, the
4 new building going up fronts on the road. The auto
5 place has a wide strip that's fully open that you
6 could view his whole building which sits farther
7 back and then it -- fuel is the next building down
8 and he fronts the road a big parcel and that also
9 comes back. My buildings are probably farther back
10 than most and shielded view than most. This
11 building in particular has a building in front of
12 it here (indicating), has a building in front of it
13 here (indicating) and the BOCES building is here --
14 you see all these buildings down here --
15 probably the only time you would ever see that
16 building is right about in this corridor right here
17 (indicating). You would even be able to view the
18 building.

19 MS. WIPLUSH: So if you're talking
20 about beneficial use, the property doesn't have any
21 beneficial use as it's used right now because of
22 the clearing that's already existed on the
23 property?

24 MR. SCHENK: It's a vacant piece
25 that's sitting there not doing anything. One of

1 the things I brought up in my letter is that other
2 than some area in the airport which is across the
3 street from me, in the Westhampton area, it's one
4 of the -- I think it is -- from my looking at the
5 maps -- the only light industry parcel in the
6 Westhampton Beach area -- and as I looked through
7 the whole town map I believe that there are only a
8 few in the whole town. Now, the Town of
9 Southampton has a very heavy demand for service
10 oriented businesses whether it be tennis courts,
11 pools, landscapers, marine products, whatever it
12 may be, and there's not a whole lot of places for
13 them to go.

14 MS. WIPLUSH: Now, I'm trying to help
15 you establish the criteria of the statute.

16 MR. SCHENK: One of my points was that
17 by allowing this building here, where a building
18 can be on an already developed property, it stops
19 somebody from coming to you and going up or down
20 the road fully -- treed and grown over piece of
21 property that wasn't decimated by the fire -- and
22 looking to clear that and put a building in.

23 MR. SHEA: Are you proposing to
24 re-vegetate any of the existing disturbed areas as
25 part of this project? What's going to happen to

1 this space here?

2 MR. SCHENK: Well, as you could see,
3 this is asphalt around to here. I have plantings
4 in here, along this area here --

5 MR. SHEA: How about this space here?

6 MR. SCHENK: Well, in all honesty,
7 being in the business, that sometimes you get
8 shipments of things and you just set them down and
9 you have vehicles that are off the road that you
10 are not using that you would like to get out of
11 the way, we do use it to park vehicles along the
12 edge of the woods line. So I would like to keep
13 that available. I'm not opposed to, you know, in
14 the areas around here -- left alone probably to
15 some degree might come back. I don't know.
16 There's not much growing back in a lot of the
17 areas. It was pretty heavy with the fire.

18 MR. SHEA: You would incorporate some
19 screening along the outside and do some
20 re-vegetation along the borders?

21 MR. SCHENK: If push came to shove,
22 sure. Let's put it this way, I'd like to put up
23 the building. I have a lease, I have the land. I
24 will tell one hardship that does exist for me -- I
25 don't know if it pertains to this Board -- prior to

1 my buying this parcel of land, I went to the Town
2 of Southampton Planning Board. I talked to the
3 building department, and everything was yes, it
4 could go, before I bought it, and based on that I
5 did. I now find I have to go for a variance for
6 them because they interpret the code a little
7 differently.

8 MR. SHEA: So you have a site plan
9 application?

10 MR. SCHENK: I have a variance
11 application. The site plan was given back to me
12 and they said that because this has become the lead
13 agency that they would hold off accepting it until
14 this was done.

15 MS. FILMANSKI: Is that an application
16 for a use variance or front yard area variance?

17 MR. SCHENK: For the Town?

18 MS. FILMANSKI: Yes.

19 MR. SCHENK: What I need for the Town
20 is this -- when I first went in to them they told
21 me that this was a flag lot, this could be my front
22 yard, this could be my rear and these could be my
23 sides. So that's why you saw the building placed
24 20 feet from the side yard, 50 feet back from the
25 front yard and I maintain 60 feet from the rear

1 yard. Based upon that information, I had a site
2 plan drawn, paid for the site plan, bought the
3 land. The building inspector is now telling me
4 that because this frontage is 40 feet or greater
5 that it's not considered a flag lot. This can't be
6 a front yard, this has to be the front yard, this
7 has to be the rear yard. So to maintain 20 feet
8 from the side yard here, the maximum I get from
9 this is 43 and a half feet instead of 50 because
10 I'm looking for six and a half feet for that, and
11 as far as the Planning Board is concerned, this is
12 a residential -- this area behind my line is CR200.
13 There's supposed to be a 50 foot transitional yard.
14 So I am looking for 16 and a half foot relief from
15 them on that.

16 MS. FILMANSKI: But you are not
17 providing any transition from what I can tell. Is
18 there any parking in that area?

19 MR. SCHENK: Yes, because -- well, and
20 my point to them is that this is in your core area,
21 all little chopped up parcels. By current law,
22 there will never be a residential dwelling back
23 there. So that's why I would think they should be
24 able to get relief from that.

25 MS. FILMANSKI: Fire aside, have you

1 any idea how long ago the area that you are
2 proposing to develop was cleared?

3 MR. SCHENK: I really don't. I don't
4 have a recollection of that, when that was cleared.

5 MS. FILMANSKI: Did you do the
6 clearing?

7 MR. SCHENK: No. The only piece --
8 as I started to say before, there were some trees
9 right in here and when the fire came it came --
10 besides coming all around and up to here and
11 whatever, it came right down through this, caught
12 these trees -- I don't know where but it did --
13 there was a stockade fence -- caught the stockade
14 fence -- various things were in the back of New
15 Scape's property, went around through them down
16 this fence and ended up burning the side of their
17 building. I have pictures of all this, if you care
18 to see it.

19 One of the things that I also took
20 pictures of was that a year later, in '96, I went
21 out and the smell of the fire was still very
22 extensive, especially when it was wet -- if you
23 went out, touched a tree, touched the ground -- I
24 took pictures just walking. I took a picture, my
25 boot was covered with soot. I touched a tree --

1 took a picture -- my hand is covered with soot and
2 this was just all being carried into my building,
3 the vehicles -- it was just --

4 MS. FILMANSKI: If you're not given
5 the permission you need to construct this building,
6 how will you use that portion of the property?

7 MR. SCHENK: Currently I have
8 somebody using it as a place to park vehicles.
9 You know, to get some form of income from it. My
10 intention to building the building was that this
11 building would be my children's college fund
12 through the income I could create from it.

13 MR. SHEA: The building would simply
14 be used for storage and sale --

15 MR. SCHENK: not the sale. They
16 have -- Watercraft Marine has a very large retail
17 place down over the tracks on the left. It will
18 simply be that they'll come, load them in there.
19 When a guy looks at one and says I will take it,
20 take it, deliver it up, pick up --

21 MR. SHEA: So you wouldn't be doing
22 any kind of maintenance work?

23 MR. SCHENK: No. They will probably be
24 in crates. Because they are going to shelve them
25 and stack them. It's simply in, out.

1 CHAIRMAN: So sort of recapping what
2 was said, this was a cleared lot. it was land
3 locked when you purchased it. By purchasing it you
4 annexed it onto yours and gave it access now to the
5 road front parcel and you are not going to be
6 changing the configuration of the roadway, that
7 same road provides access to the rear parcel.

8 MR. SCHENK: Right.

9 MS. WIPLUSH: And the inability to
10 beneficial use doesn't result in any action by the
11 applicant. It doesn't appear that it results in
12 any actions by the applicant.

13 MS. PLUNKETT: We normally don't
14 decide until we finish SEQR. This is just a
15 hearing tonight.

16 MR. SCHENK: This can't be decided
17 tonight?

18 MS. PLUNKETT: No, because we have to
19 finish SEQR. I did the coordination. I sent
20 letters to the other -- what they call involved
21 agencies -- and by the next meeting we should have
22 that back. The next meeting is November 19th. I'm
23 pretty sure we should have everything by that
24 meeting.

25 CHAIRMAN: if there are no further

1 questions, does anybody from the public wish to
2 comment?

3 (WHEREUPON, there was no response.)

4 MR. SCHENK: You guys can't give me a
5 feel now so I could know whether I can sleep easy
6 for the next two weeks.

7 MS. FILMANSKI: We couldn't tell for
8 the next three weeks.

9 CHAIRMAN: I would like to call the
10 public hearing to a close. I will leave the
11 comment period open until November 18th, and we
12 should have a decision available at our next
13 commission meeting on November 19th.

14 MR. SCHENK: I certainly appreciate
15 your time. Thank you.

16 (WHEREUPON, this hearing was concluded
17 at 5:33 p.m.)

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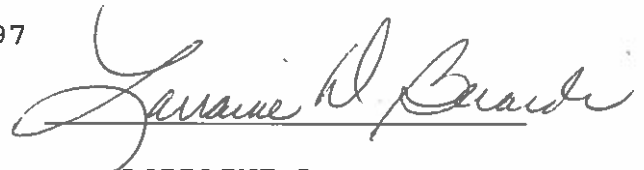
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CERTIFICATION

I, LORRAINE D. BERARDI, Court Reporter,
do hereby certify that the foregoing minutes were
recorded by me and transcribed under my supervision
and are a true and correct transcript of the
proceedings held on October 29, 1997 at Riverhead,
New York, in this matter.

Dated: November 8, 1997

A handwritten signature in cursive script, reading "Lorraine D. Berardi", written over a horizontal line.

LORRAINE D. BERARDI