

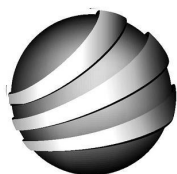
**In the Matter Of:**  
**COMMISSION MEETING**

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**HEARING**

*April 20, 2016*

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RALPH L. VAIL represented by THOMAS CRAMER of  
CRAMER CONSULTING GROUP  
CORE PRESERVATION AREA HARDSHIP WAIVER APPLICATION  
One Independence Hill, Farmingdale, New York 11738  
-----x

April 20, 2016  
3:10 p.m.

PRESENT:

CARRIE MEEK GALLAGHER, Chairwoman  
JAY SCHNEIDERMAN, Member  
SEAN WALTER, Member  
EDWARD P. ROMAIN, Member  
BRENDA PRUSINOWSKI, Member  
ANDREW FRELENG, Member  
JOHN PAVACIC, Member  
JOHN MILAZZO, Commission Staff  
CAROL SHOLL, Commission Staff  
SARAH LANSDALE, Representative  
DON McCORMICK, Representative  
MARTIN SHEA, Representative  
KYLE COLLINS, Representative  
JUDY JAKOBSEN, Commission Staff  
JULIE HARGRAVE, Commission Staff

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1 MS. MEEK GALLAGHER: This afternoon  
2 we will hold a public hearing for the  
3 project on 71 Lakeview Drive in  
4 Northampton in the Core Preservation  
5 Area Hardship Waiver Application. It's  
6 a request for a Core Preservation Area  
7 Hardship Waiver to develop a 10,000  
8 square foot wooded vacant property with  
9 a single-family residence, individual  
10 septic system, related infrastructure  
11 and accessory structures. The proposal  
12 is a Type II Action pursuant to SEQRA.

13 MS. HARGRAVE: I'm just going to  
14 briefly go over the exhibits. I just  
15 handed out the staff report for the  
16 exhibits for this Public Hearing. A is  
17 the draft staff report. It hasn't  
18 changed. B is a copy of the aerial of  
19 the project site and its surrounding  
20 area that's discussed in the staff  
21 report and it shows the site in  
22 relation to the surrounding development  
23 in the community and also open space in  
24 the area with a significant amount of  
25 county and state park land and town

1 parcels within the community. Some of  
2 them are not labeled. I'm sorry about  
3 that. Across the street a little to  
4 the west of the property is county  
5 land. C is a copy of the layout of the  
6 plan just showing the single-family  
7 residence on this property. The 10,000  
8 square foot lot on Lakeview Drive and  
9 it is adjacent to two developed parcels  
10 to the north and south. It fronts on  
11 only one street. D is a copy of the  
12 applicant's environmental assessment  
13 form, which you have the information in  
14 that form, and E is a copy of some  
15 photographs of the site on Lakeview  
16 Drive and the adjacent dwellings and  
17 you can see that the site is wooded  
18 right now. The road sort of does slope  
19 downward. Towards the end of Lakeview  
20 Drive is Wildwood Lake, so south of  
21 Lakeview Drive. F is a copy of the  
22 applicant's petition, the letter that  
23 was sent with the application that goes  
24 through the hardship and the applicant  
25 discussed the property not being on the

1 road front exemption list, the  
2 residential road for the exemption  
3 list, which that is a select group of  
4 parcels in the core, parcels that are  
5 on the road, but not every undeveloped  
6 parcel in the core is on that list. It  
7 was created for certain reasons and  
8 certain parcels made it on that list  
9 and others didn't.

10 MR. COLLINS: Do you know what the  
11 criteria was for being placed on that  
12 list?

13 MS. HARGRAVE: It was up to the  
14 town that selected.

15 The last exhibit is G, which shows  
16 other parcels in the neighborhood or on  
17 the exemption list. Just to briefly go  
18 through the staff report.

19 MS. PRUSINOWSKI: Where is that?  
20 I'm sorry. Oh, okay.

21 MS. HARGRAVE: The applicant  
22 submitted that map showing other  
23 parcels in the neighborhood that are on  
24 residential list.

25 MR. ROMAIN: Apparently, when the

1 Central Pine Barrens were created,  
2 there was a list of homes or lots that  
3 were on streets that had preexisted  
4 before the creation of the Pine  
5 Barrens, correct me if I'm wrong. Now,  
6 what was the -- this seems to be on a  
7 preexisting road within the Central  
8 Pine Barrens. Why was this excluded  
9 when other lots of a similar nature on  
10 preexisting roads were included? I'm  
11 trying to understand that to understand  
12 how we would act on this.

13 MR. MILAZZO: Well, the application  
14 that's before you is for a hardship  
15 because it's not on that list. Had it  
16 been on that list, it would have been  
17 non-developed as it --

18 MR. ROMAINE: I am trying that, but  
19 I am trying to understand why it wasn't  
20 on the list when others were. What was  
21 the purpose in saying no to this and  
22 saying yes to other similar lots?

23 MR. MILAZZO: The town prepared the  
24 list.

25 MR. SHEA: The development of the

1 list was based on the assessment of  
2 land use conditions at that time. You  
3 know, most of the lot that were  
4 included on the list were between  
5 existing homes. This lot --

6 MR. ROMAINÉ: Were there other  
7 vacant lots on preexisting roadways  
8 that were included on this list?

9 MR. SHEA: Yes.

10 MR. ROMAINÉ: So what was the  
11 criteria for the conclusion of this?

12 MR. SHEA: The consideration was  
13 given to the environmental -- you know,  
14 a certificate of the land, the  
15 proximity of projected lands, proximity  
16 to wetlands. In addition to looking at  
17 existing development patterns in that  
18 area.

19 MR. ROMAINÉ: That's extremely  
20 unconvincing because I'm going to tell  
21 you that there are probably other lots  
22 that you put on this list that are  
23 similarly situated that were not  
24 excluded and were, in fact, included on  
25 this list.

1 MR. MILAZZO: So what happened --  
2 it's not on the list, but their option  
3 to develop it is why they are here  
4 today so they can make a hardship  
5 request. Whether it's on the list or  
6 not, that decision was made 20 some odd  
7 years ago. And the town, at the time,  
8 decided this didn't meet the criteria  
9 they were using then.

10 MR. ROMAINE: What was the legal  
11 basis then? The commission didn't make  
12 those decisions.

13 MS. MILAZZO: No, the town did and  
14 that was part of the planning process  
15 in '94 or '95.

16 MR. ROMAINE: Right, and the town  
17 communicated that?

18 MS. MILAZZO: Yes.

19 MR. ROMAINE: That's what I'm  
20 trying to understand. Each town  
21 communicated this list and the towns  
22 have updated that list.

23 MR. MILAZZO: But the key piece of  
24 the road front exemption list was that  
25 was approved. There was, like, a state



1 legislative action where they said the  
2 list has been verified by the  
3 commission on this day and this day.  
4 That happened twice. It's not  
5 something as simple as saying any  
6 parcel in the Pine Barrens, whatever  
7 one it is and not just one in  
8 particular, should be on that list.

9 MR. ROMAIN: I didn't say should  
10 be.

11 MS. MILAZZO: Or any others. I  
12 didn't say this one.

13 MR. ROMAIN: Because if you give a  
14 similar situated parcel the right to be  
15 on this list and this parcel not the  
16 right to be on the list. That's what  
17 I'm trying to understand. Was there a  
18 standard applied by the town?

19 MR. SCHNEIDERMAN: Is there a  
20 consistency?

21 MR. ROMAIN: Right, is there a  
22 consistency in the standard or what?

23 MR. MILAZZO: That was the town's  
24 discretion and again, the applicant  
25 today will say they didn't put it on

1 the list, but it doesn't matter. He  
2 missed that time. So his time to  
3 challenge that is long gone. So his  
4 second fight is to say hardship and  
5 here's the reason why.

6 MR. ROMAINÉ: He missed the time to  
7 challenge it, but let's go back. I  
8 have only one other question. State  
9 legislation authorized the town to have  
10 sole discretion on that list; is that  
11 correct?

12 MR. MILAZZO: No.

13 MR. ROMAINÉ: Where did they get  
14 the power to choose what's on that list  
15 and not on that list?

16 MR. MILAZZO: The commission staff  
17 said to the town, are there parcels  
18 that should be on the list that will be  
19 added to the plan and then the town had  
20 a better sense of their town and which  
21 parcels existed and which ones should  
22 be on the list and they would view the  
23 criteria that Marty looked at and other  
24 people were --

25 MR. ROMAINÉ: But the authorization

1 rested with the commission, not the  
2 town.

3 MR. MILAZZO: And then the  
4 commission said we would rather not go  
5 through this process every time a  
6 parcel comes in and say we are going to  
7 amend our plan to this one, this one  
8 and this one. So we said we want the  
9 state legislator to say that this list  
10 that was prepared on this day is now  
11 non-developmental because you are  
12 exempting something that otherwise  
13 would have been development, which the  
14 commission has that right to do that's  
15 why you have the hardship waiver.

16 If there are parcels that were  
17 missed, we have had occasions where  
18 people have come and said, I should  
19 have been on that list and they got --

20 MR. ROMAINE: And that's what we  
21 are doing today.

22 MR. MILAZZO: That's the history of  
23 it.

24 MR. ROMAINE: This is the first  
25 time that since I have sat here that

1 this type of thing has come up.

2 MR. MILAZZO: We used to hear more  
3 parcels on -- we used to hear that  
4 argument more frequently in the past, I  
5 should have been on that list. We  
6 haven't heard that one recently because  
7 those parcels have either been granted  
8 hardships, approved, acquired or  
9 something else has happened or people  
10 have moved on. I don't even think  
11 Mr. Cramer has made that argument, but  
12 I bet he does now.

13 MS. HARGRAVE: One more thing.  
14 There are maybe hundreds of parcels in  
15 the core that aren't on that list that  
16 are on roads so similarly the opposite  
17 is --

18 MR. ROMAINE: I'm just trying to  
19 understand the underlying process by  
20 which we arrived here because I looked  
21 at that street and some of that street  
22 is developed with houses on there and  
23 there are a few empty parcels on it.  
24 I'm just trying to understand the  
25 process. I have a much better

1 explanation and I understand the  
2 process and now I understand the state  
3 legislation and that ends that argument  
4 because that's it.

5 MR. SHEA: Just a few more comments  
6 because I worked hard on the road front  
7 exemption list for Southampton Town and  
8 some additional factors that were  
9 considered in looking at this lot is  
10 its in close proximity to developed  
11 wetlands and to state regulated  
12 freshwater. Also, it's location is  
13 within the immediate watershed of  
14 Wildwood Lake. There was the potential  
15 for impacts as Wildwood Lake is a down  
16 gradient from this site. So there were  
17 a whole bunch of issues that were  
18 factored into decision-making.

19 MR. SCHNEIDERMAN: This was, Mart,  
20 not an oversight?

21 MR. SHEA: No, it wasn't. It was a  
22 conscious decision, correct.

23 MS. MEEK GALLAGHER: Mr. Amper, did  
24 you want to add something to this?

25 MR. AMPER: Yes.

1 MR. MILAZZO: Can we do that after  
2 the applicant and then we will comment?

3 MS. MEEK GALLAGHER: All right.

4 MR. MILAZZO: Just swear him in, if  
5 you would.

6 T H O M A S C R A M E R, the witness herein,  
7 having been first duly sworn before a Notary  
8 Public of the State of New York, was examined  
9 and testified as follows:

10 MR. CRAMER: Thomas Cramer,  
11 C-R-A-M-E-R, from Cramer Consulting  
12 Group our office is at 54 North Country  
13 Road in Miller Place.

14 I represent the owner today. He has  
15 owned the property since 1970. I  
16 provided the commission with a copy of  
17 the single and separate search that  
18 shows the property being a single and  
19 separate ownership since 1955.

20 The site is 10,000 square feet in  
21 size and it's in the hamlet of  
22 Northampton. It's Zone R-15, which is  
23 a zone of 15,000 square feet and it's  
24 owned by the Town of Southampton.

25 Mr. Ralph Vail has always intended to

1 use this property towards his  
2 retirement. He does not have any  
3 pension presently and he's looking  
4 forward to being able to sell this  
5 property and utilize it for living  
6 expenses.

7 In the primary plan figure 9.1, as  
8 it was pointed out, there's a list of  
9 parcels that considered nondevelopment  
10 within the core. This is one of them,  
11 that in our opinion, should have been  
12 included in it and we are seeking the  
13 hardship at this time. In the  
14 immediate area, there are seven lots  
15 that have been identified in that list  
16 and that is provided as Exhibit G. I  
17 do have a large copy for the  
18 commission. I don't know if I have  
19 enough for everybody, but I will pass  
20 out what I have.

21 In the immediate area, there are --  
22 at the time, there were nine parcels  
23 that were vacant and undeveloped.  
24 Seven of them were included on the  
25 list. One was owned by the Town of

1 Southampton and this parcel.

2 I point out that this parcel is  
3 surrounded by development. There were  
4 houses at the time on all three sides  
5 of it and it doesn't lend itself to the  
6 preservation of any real Pine Barrens  
7 itself. There are wetlands immediately  
8 across the street. I have a letter  
9 here from Marty that says it's outside  
10 of the jurisdiction and I provided that  
11 with the application that I submitted.  
12 However, I will submit a copy of it  
13 again, letter of no jurisdiction, dated  
14 October 7, 2009 signed by Martin Shea  
15 saying that there is no jurisdiction to  
16 the town's wetlands ordinance because  
17 of deportation.

18 Site inspections, I did periodic  
19 site inspections on it. There are  
20 state designated wetlands across the  
21 street. However, they appear to be  
22 outside the jurisdiction and any  
23 activity on this. It looks greater  
24 than 100 feet. If after we flagged the  
25 wetlands and it is within 100 feet, we



1 would have to make an application to  
2 the DEC for the activity, but we would  
3 be able to meet all the criteria that  
4 they have with regard to setbacks and  
5 whatnot for the development of the  
6 site.

7 At present, there is dumping  
8 occurring on the site, from the  
9 neighbor's property, land sinking  
10 debris and things like that.

11 The parcel is unique in the  
12 community and it's the only parcel,  
13 other than a town known parcel, that's  
14 vacant in the area. There are similar  
15 size lots that were identified as  
16 nondevelopment in the immediate area  
17 and this one was excluded.

18 It would not be an impact on any of  
19 the homes in the area, both from an  
20 economic and environmental standpoint.  
21 Granting of the hardship would not have  
22 the adverse impacts on the property in  
23 the area, nor would it impact public  
24 safety or impair the resources of the  
25 core. Granting it's not consistent

1 with the purposes of objectives and the  
2 general spirit and intent of the Pine  
3 Barrens statute, it would fall into  
4 criteria of the parcel formed and  
5 undeveloped roadway.

6 As I said, the New York State DEC  
7 did designate wetlands across the  
8 street as Wetlands R-10, which is part  
9 of the Wildwood Lake complex and, as I  
10 said, field inspections would not need  
11 wetlands permits. Even if we did, we  
12 could comply with all the standards.

13 The original -- we did not apply for  
14 the letter of credit as far as what the  
15 Pine Barrens credit would be. However,  
16 given the zoning and the procedures  
17 they look at, given it's two-thirds  
18 size of the zoning, we would most  
19 likely obtain two-thirds of a Pine  
20 Barrens credit. That in and of  
21 itself -- I believe if you look at the  
22 sales of the Pine Barrens credits in  
23 the past for Southampton, in the past  
24 two years, only one and seven-eighths of  
25 a Pine Barrens credit has been sold.

1 If you average those out, one credit  
2 was sold for about \$85,000 and I think  
3 another one was sold for 50 some odd  
4 thousand. It averages out so that the,  
5 approximately -- given the size of it,  
6 it would approximately be \$48,000 if  
7 the Pine Barrens were -- given the Pine  
8 Barrens' credits sold in the past,  
9 that's probably about what he would  
10 sell for. Given the area of the  
11 community and the lot would probably go  
12 for about \$80,000 and that's what the  
13 real estate agent is looking to price  
14 it out at.

15 There are, I guess, the Wild Scenic  
16 Recreational River permits that would  
17 have to obtained if this was a  
18 developable lot. We could conform to  
19 all the standards that they have, the  
20 Wild Scenic Recreational Rivers. If  
21 necessary, the state wetlands, as I  
22 pointed out before, the town has  
23 already said that there is no  
24 jurisdiction involved.

25 There are no variances from the

1 town. Since this is a single and  
2 separate lot, we would be able to  
3 develop the site without any variances.  
4 In Article 6, 1981 tax map, so it is  
5 considered a single and separate lot  
6 and ground water and soil conditions  
7 are such that we would be able to put  
8 an on-site sanitary system, and again,  
9 there is a letter with regard to  
10 interpretation for the Pine Barrens  
11 credits.

12 Again, other permits and all would  
13 have to be obtained. In fact, my  
14 client doesn't have the money to  
15 continue to seek different permits at  
16 this time and he's looking to obtain  
17 the hardship so he could sell the lot  
18 and move ahead.

19 Any questions?

20 MR. McCORMICK: Is this within the  
21 WSR?

22 MS. HARGRAVE: It does dip down.

23 MR. McCORMICK: Isn't WSR a  
24 two-acre zone for the DEC permit? That  
25 could be a more difficult permit to

1 obtain than this permit.

2 MR. CRAMER: Well, it's single and  
3 separate, which goes back to 1955.

4 MR. McCORMICK: The blue is a WSR?  
5 I don't think that makes a difference  
6 on the WSR whether it was single and  
7 separate.

8 MR. CRAMER: We have gotten other  
9 permits from them.

10 MR. McCORMICK: I'm not saying you  
11 won't, but I'm saying I believe it's a  
12 two-acre zone.

13 MR. CRAMER: It's done by setback  
14 from the river. That's the criteria  
15 they look at. So the river in this  
16 case is --

17 MR. McCORMICK: It's a lake.

18 MR. CRAMER: Well, it's not even a  
19 lake. It's the Peconic River corner in  
20 this area. It's really the setback  
21 from the river is what they look at  
22 rather than the zoning.

23 MR. McCORMICK: That's my only  
24 question.

25 MS. MEEK GALLAGHER: Any other

1 questions for Mr. Cramer?

2 MS. PRUSINOWSKI: Mr. Cramer, the  
3 house is on either side. Do you know  
4 what year they were constructed?

5 MR. CRAMER: I went back to the  
6 period of -- when there were historic  
7 photos and they were all zoned in that  
8 area. In fact, as I said, the only  
9 ones within in this area were nine  
10 vacant lots that included the seven  
11 that are shown in figure 9.1. The one  
12 town owned property and the subject  
13 property. All the other lots were  
14 developed at that time back in the  
15 '90s.

16 MS. PRUSINOWSKI: Isn't that a log  
17 cabin type of construction immediately  
18 to the south of you?

19 MR. CRAMER: It could be.

20 MS. PRUSINOWSKI: It looks like  
21 much more recent construction than what  
22 you are indicating.

23 MR. CRAMER: The ones that were  
24 developed were along the -- all the  
25 lots that were on the nondevelopment

1 list have been developed.

2 MS. PRUSINOWSKI: I'm not disputing  
3 that. I'm just trying ascertain how  
4 old the houses on either side of you  
5 are. I think one has been there for a  
6 very long time, but in fact, that log  
7 cabin is much, much newer.

8 MR. CRAMER: Well, it may have been  
9 reconstructed at the time, but in  
10 looking at aerial photos, there were  
11 houses on these parcels surrounding it  
12 in historic areas.

13 MR. SCHNEIDERMAN: Do we know when  
14 the town lot was purchased?

15 MR. CRAMER: No, we don't.

16 MR. SCHNEIDERMAN: Or prior to  
17 that, was it on the list?

18 MR. CRAMER: No. The only two  
19 parcels that were not on the  
20 development list were the site and the  
21 town parcel.

22 MS. PRUSINOWSKI: Town parcel is  
23 very low for drainage.

24 MR. SCHNEIDERMAN: He says it was  
25 purchased after the Pine Barrens Act

1 and it may have been --

2 MR. CRAMER: At this time, it's in  
3 town ownership.

4 MS. PRUSINOWSKI: It was on the  
5 subdivision map and it was owned by the  
6 Hefters. So I think they sold it to  
7 their son somewhat recently.

8 MR. SCHNEIDERMAN: It was a  
9 developed lot?

10 MS. PRUSINOWSKI: It was a  
11 developed lot, yes. The parents lived  
12 on the next lot, they built that house.  
13 There's always been drainage.

14 MR. CRAMER: That parcel from the  
15 town ownership was never on the list.  
16 There was only seven parcels on the  
17 list, which was this one. This one and  
18 the town owned parcel were the only two  
19 undeveloped parcels in the early '90s  
20 that weren't on the list.

21 MR. SHEA: The town parcel on the  
22 other side maybe a recharge area,  
23 actually.

24 MR. CRAMER: I don't know. It  
25 doesn't show up. It doesn't say



1 recharge on the tax maps or anything.  
2 It may have been a spot the town  
3 acquired for recharge purposes and it  
4 was never dugout or just used as a  
5 natural recharge area, but on the tax  
6 map, it doesn't show whether it was  
7 bought for a recharge basin or not.

8 MS. MEEK GALLAGHER: Any other  
9 questions?

10 MR. SCHNEIDERMAN: Just a  
11 clarification, this list of street  
12 fronting parcels that is known as the  
13 nondevelopment list?

14 MS. PRUSINOWSKI: Core road front  
15 exemption list.

16 MR. SCHNEIDERMAN: Exemption list.  
17 So that development on those is not  
18 considered development? I am a little  
19 bit confused as to nondevelopment.

20 MR. CRAMER: That's correct.

21 MR. SCHNEIDERMAN: So it's kind of  
22 backwards?

23 MR. ROMAINE: It's development  
24 that's considered nondevelopment.

25 MS. PRUSINOWSKI: It's an exemption

1 list.

2 MR. SCHNEIDERMAN: It's on a  
3 nondevelopment list and that's why it's  
4 okay to develop it.

5 MS. PRUSINOWSKI: It's called the  
6 Core Roadfront Parcel Exemption List.  
7 It's the process that's required for  
8 those not on the list.

9 MR. SHEA: The building on that lot  
10 doesn't have --

11 MR. CRAMER: There's no development  
12 lot at the core.

13 MS. PRUSINOWSKI: Have you applied  
14 what's behind this on the parcel/person  
15 on the front end --

16 MR. CRAMER: No, he's no longer in  
17 the area anymore. He's retired to less  
18 expensive areas. He has moved down  
19 south.

20 MS. MEEK GALLAGHER: Anything else  
21 for Mr. Cramer?

22 MR. McCORMICK: Any other  
23 documentation we need? Do you want us  
24 to close the hearing?

25 MR. ROMAINE: Mr. Amper wants to

1 speak.

2 R I C H A R D A M P E R, the witness herein,  
3 having been first duly sworn before a Notary Public  
4 of the State of New York, was examined and  
5 testified as follows:

6 MS. ALVAREZ: My name is Richard  
7 Amper, A-M-P-E-R. I am executive  
8 director of the Long Island Pine  
9 Barrens Society.

10 Going back to 1993 -- well, first  
11 of all, I want to say, I don't want to  
12 speak at all about the particular site.  
13 I just want to talk about the operative  
14 law.

15 There were people in each of the  
16 planning departments back then that  
17 said, there are prohibitions simply  
18 because these properties are in the  
19 core that are just not justified on  
20 the basis of the potential harm to the  
21 ecosystem and we would like to be  
22 selective and say there are some that  
23 are not going to harmful to the Pine  
24 Barrens and we would like to identify  
25 those and I think I'm the only person

1 who actually went to each of these  
2 sites in all of the towns to look and  
3 determine whether or not there was some  
4 ecological reason why they should not  
5 be excluded.

6 This is done necessarily by chapter  
7 amendment. It was the first amendment  
8 to Article 57. You know, generally my  
9 concern is about precedence and what I  
10 want to do is be sure that this  
11 commission does not decide that it has  
12 authority to add something to this  
13 list.

14 You can't just say it should have  
15 been on there in the first place so we  
16 are going to put it on there. Having  
17 said that, there is no reason why you  
18 can't do today what you did in 1995 and  
19 this is to go back and look again and  
20 say, Are there parcels that we think  
21 should not be subject to the core? If  
22 you did that, then the commission would  
23 recommend it and it would go through  
24 the state legislation and be another  
25 amendment to the chapter.

1       If you want to do that and I think  
2       you may find it completely unnecessary,  
3       but if you want to do that, you have  
4       the authority to do that and the Pine  
5       Barrens Society prefers you do it that  
6       way. If it's going to end up on the  
7       exempt list, do it right. Do it  
8       through the legislative process. You  
9       can't just say, That should have been  
10      on there.

11      Having said that, the second thing  
12      we ask is that the standards for Core  
13      Area Hardships be followed. If there  
14      are specific elements of this project  
15      that conform to those standards, that's  
16      fine, but you would not want to grant  
17      approval which would allow other less  
18      worthy parcels to make the same claim.

19      As you folks know from our history  
20      of litigation, we don't challenge  
21      projects unless they have the capacity  
22      or, in fact, that the approval would  
23      create a precedence that would allow  
24      parcels to be developed that were never  
25      intended to be developed and there

1 would be harm with respect to the  
2 ecosystem.

3 So I would merely ask that you look  
4 and satisfy yourselves that if you want  
5 to expand the exemption list, that you  
6 do it by chapter amendment through the  
7 state legislation and if you want to  
8 approve the project by granting it a  
9 hardship waiver, that it meets the  
10 explicit criteria of the hardship.

11 MS. MEEK GALLAGHER: Thank you.  
12 Any other comments? Mr. Cramer, you  
13 would like to address us again?

14 MR. CRAMER: Yes. I did provide  
15 all the justifications in my written  
16 comments to address all the aspects of  
17 the hardship. I didn't go over each  
18 one of them in detail. However, the  
19 commission does have it in writing that  
20 I presented at the time. You have them  
21 in your pamphlets.

22 MR. McCORMICK: I just have a  
23 question for counsel. I'm sorry,  
24 Mr. Cramer.

25 I'm looking at this and it's

1 surrounded by two roads and it's  
2 surrounded by houses and it fits into  
3 the character of the area. I don't  
4 know what the ecological value of  
5 this -- I'm just a simple country  
6 lawyer, but it's surrounds by one, two  
7 three, four houses and two roads.

8 Have we issued exemption such as  
9 this before, John?

10 MR. MILAZZO: I believe we have.  
11 We have given exemptions to parcels.

12 MR. ROMAIN: Through the state  
13 legislation?

14 MR. MILAZZO: No, on a hardship  
15 basis.

16 MR. ROMAIN: Were any of these  
17 hardships that were given follow the  
18 course of action recommended by  
19 Mr. Amper?

20 MR. MILAZZO: We have done both.  
21 The commission has granted hardships.  
22 People make the argument that it's an  
23 infill lot. If you look at my  
24 neighborhood, everyone else is  
25 developed and they were on the list and

1 I wasn't on the list and I should be  
2 approved. The commission has done  
3 that.

4 The commission also went back, I  
5 think, in the early 2000s and had the  
6 road for the exemption list expanded  
7 for the additional parcels. So they  
8 have done what Mr. Amper suggested  
9 today which we did in the early  
10 2000s -- that the commission did that.

11 MR. SCHNEIDERMAN: Were the other  
12 exemptions largely similar to the case  
13 here?

14 MS. MILAZZO: I have to look, but  
15 they were similar.

16 MR. SCHNEIDERMAN: Were they  
17 challenged legally?

18 MS. HARGRAVE: Just to be clear,  
19 there are core hardships that have been  
20 denied. There are at least 21 -- I'm  
21 sorry, approved and nine single-family  
22 residences that have been denied. If  
23 you would like, we can do similar and  
24 more research to see how similar these  
25 were, but there are lists for



1 single-family residents that have been  
2 denied and approved by the commission.

3 MR. SCHNEIDERMAN: I do believe in  
4 the general, you know, principal based  
5 on the similar circumstances, we are to  
6 come up with a similar conclusion and  
7 if those other exemptions were largely  
8 similar and they were challenged in the  
9 courts and the decision was appealed,  
10 I'm not saying we are duty bound to do  
11 the same thing, but we I think we ought  
12 to have that information in terms of  
13 making our decision. So yeah, a review  
14 like that and particularly anyone that  
15 has been challenged, I would like to  
16 see the findings of fact that the  
17 commission made.

18 MR. McCORMICK: I think that's a  
19 valid point. If we approved these  
20 before, we can look at it. John, you  
21 used one word that fits this parcel  
22 perfectly, infill lot. This is clearly  
23 an infill lot. I don't know how  
24 anybody could say it's not an infill  
25 lot. If you can pull the decisions, I

1 think that would be important for us to  
2 see if it's an infill lot.

3 MS. MEEK GALLAGHER: The decision  
4 deadline is not until June 22nd so we  
5 have time.

6 (Discussion held off the record.)

7 MR. SCHNEIDERMAN: In terms of  
8 Mr. Amper's other comments  
9 about reviewing the list or, you know,  
10 maybe amending the list to include  
11 certain parcels. Are there a number of  
12 properties that are coming us that are  
13 similar?

14 MR. MILAZZO: What I would suggest  
15 now, for the record, that we end our  
16 hearing today, close the hearing and  
17 close the public commentary hearing and  
18 staff would provide a memo. The  
19 decision deadline is June -- after the  
20 June meeting the commission -- this  
21 doesn't need to be written on the  
22 transcript.

23 (Discussion held off the record.)

24 MS. ALVAREZ: I would ask that you  
25 not close the public commentary until

1     you have had a chance to review the  
2     information that I think you will  
3     wisely submit to under the commission  
4     staff.

5           MS. MEEK GALLAGHER: We can close  
6     the hearing and leave it open for  
7     written comment for 30 days?

8           MR. MILAZZO: Yes.

9           MR. AMPER: That presumes that the  
10    information that you are seeking --

11          MS. MEEK GALLAGHER: Okay, 60 days  
12    until the June meeting.

13          MR. MILAZZO: Then we would have to  
14    ask the applicant for an extension of  
15    time.

16          MR. CRAMER: I don't know if my  
17    client would.

18          MS. PRUSINOWSKI: Is this parcel on  
19    a subdivision map or is this a square  
20    property?

21          MR. CRAMER: It was a subdivision  
22    map, but it could be described a square  
23    property.

24          MS. PRUSINOWSKI: Does Mr. Vail  
25    continue to own property along an

1 avenue or does he no longer own it?

2 MR. CRAMER: As far as I know, this  
3 is the only parcel they own.

4 MR. McCORMICK: I will make a  
5 motion that we close the public portion  
6 and leave it open for written comment  
7 for 60 days and ask that counsel, since  
8 he has mentioned that his client wasn't  
9 seeking the other permits, ask that  
10 counsel give us the extension so we can  
11 keep the decision period open for 60  
12 days.

13 MR. CRAMER: And then when would  
14 the decision be rendered?

15 MR. MILAZZO: It would be a  
16 one-month extension. The commission is  
17 asking for a one-month extension from  
18 June 22nd to July 22nd or the Wednesday  
19 after the commission meeting in July,  
20 whatever date that is.

21 MR. McCORMICK: We can always deny  
22 it with prejudice or without prejudice.

23 MR. CRAMER: I'm assuming that my  
24 client will not object to further the  
25 denial.

1 MR. McCORMICK: So we can take that  
2 as a consent to the extension?

3 MR. CRAMER: Under duress.

4 MR. McCORMICK: So I make a motion  
5 that we close the public comment  
6 portion and leave it open for written  
7 comment for two months on the extent of  
8 the applicant's counsel.

9 MR. MILAZZO: Well, he's not an  
10 attorney.

11 MS. MEEK GALLAGHER: Consultant.

12 MR. McCORMICK: Consultant.

13 MS. MILAZZO: And an extension for  
14 a one-month decision deadline?

15 MS. MEEK GALLAGHER: So moved. Is  
16 there a second?

17 MS. LANSDALE: Second.

18 MS. MEEK GALLAGHER: All in favor?

19 (Whereupon, there was a unanimous  
20 affirmative vote of the Board.)

21 MS. MEEK GALLAGHER: Any oppose?  
22 Any extension? All right, motion  
23 carried to close the public hearing and  
24 it will be kept open --

25 MR. McCORMICK: For two months and

1 the decision deadline is now an  
2 additional month after that.

3 (Whereupon, this hearing was  
4 adjourned at 3:42 p.m.)  
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C E R T I F I C A T I O N

I, CHARISSA SCHWAB, a Shorthand Reporter  
and Notary Public within and for the State of New York,  
do hereby certify:

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

IN WITNESS WHEREOF, I have hereunto set my  
hand this 20th day of April, 2016.

A handwritten signature in cursive script, reading "Charissa Schwab", is written over a horizontal line.

CHARISSA SCHWAB

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