

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

- - - - - :  
:  
In the Matter of the Application of :  
:  
:  
BENEFICIAL DESIGN CORP., :  
c/o HAWKINS, WEBB & JAEGER, ASSOC. :  
:  
:  
requesting a Core Preservation Area :  
hardship permit to construct a 1,700 :  
square foot retail commercial building :  
with sanitary system and parking lot on :  
a .25 acre site zoned J-2 Business. :  
:  
- - - - - :

HEARING in the above-captioned matter, held  
on the 4th day of September, 2002 at 4:30 P.M., at  
the Commission Office, 3525 Sunrise Highway, 2nd  
Floor, Great River, New York, pursuant to Notice of  
Hearing and before Sheila Pariser, R.P.R., a Notary  
Public of the State of New York.

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, AICP and  
JEAN COMPITELLO

PATRICK HEANEY, Member  
Supervisor, Town of Southampton  
BY: JEFFERSON MURPHREE

ROBERT KOZAKIEWICZ, Member  
Supervisor, Town of Riverhead  
BY: JOEY MAC LELLAN

ANN CARTER, Staff to Commission

MC MILLAN, RATHER, BENNETT & RIGANO, P.C.  
Attorneys for Commission  
BY: JAMES P. RIGANO, ESQ.

HAWKINS, WEBB & JAEGER ASSOCIATES  
Representing Applicant  
200 East Broadway  
Port Jefferson, New York 11777  
BY: WILLIAM JAEGER

o0o

1 [THE HEARING WAS CALLED TO ORDER BY THE  
2 HEARING OFFICER, GEORGE PROIOS, AT 4:30  
3 P.M.]  
4

5 MR. PROIOS: The next Core Preservation Area  
6 hearing is by Beneficial Design  
7 Corporation, c/o Hawkins, Webb & Jaeger  
8 Associates; 200 East Broadway, Port  
9 Jefferson, New York, 11777.

10 The project is a "request for a  
11 Core Preservation Area hardship permit to  
12 construct a one thousand seven hundred  
13 square foot retail commercial building with  
14 sanitary system and parking lot on a .25  
15 acre site, zoned J-2 Business," and is  
16 located on the "east side of Raynor Road,  
17 north side of the Long Island Rail Road  
18 tracks in Manorville, Town of Brookhaven."

19 The County Tax Number is 200-410-  
20 2-2.

21 I would start by introducing  
22 myself, George Proios, Acting Chair of the  
23 Commission, acting on behalf of Robert J.  
24 Gaffney, Suffolk County Executive, and  
25 Commission Chairman.

1 Starting to my right, I will let  
2 the other members of the Commission  
3 introduce themselves.

4 MR. COWEN: Ray Cowen, representing Governor  
5 Pataki.

6 MR. MAC LELLAN: Joey MacLellan, representing  
7 Supervisor Kozakiewicz from the town of  
8 Riverhead.

9 MS. CARTER: Ann Carter, Environmental  
10 Analyst, Pine Barrens Commission.

11 MS. PRUSINOWSKI: Brenda Prusinowski, designated  
12 alternate of Supervisor John L. LaValle,  
13 Town of Brookhaven.

14 MR. MURPHREE: Jeff Murphree, representing  
15 Patrick Heaney, Supervisor, Town of  
16 Southampton.

17 MS. COMPITELLO: Jean Compitello, representing  
18 John J. LaValle, Town of Brookhaven.

19 MR. RIGANO: James Rigano, counsel to the  
20 Commission.

21 MS. CARTER: I would like to introduce some  
22 exhibits. The first exhibit, Exhibit  
23 Number 1, is a staff report prepared by  
24 myself, dated September 4, 2002.

25 Exhibit 2 is a 2001 aerial

1 photograph showing the subject site  
2 outlined in red.

3 Exhibit 3 is a tax map section of  
4 the area with the subject parcel outlined  
5 in red with, in green, is parkland and  
6 other protected land, and yellow are  
7 parcels containing historic sites. That  
8 information was taken from the office of  
9 Parks, Recreation & Historic Preservation.

10 Exhibit 4 is a packet of  
11 photographs taken of the site by myself on  
12 August 14, 2002. There are six  
13 photographs.

14 This is a Core Preservation Area.  
15 This application was received on June 28,  
16 2002. The decision deadline is October  
17 26th, 2002.

18 It is located on the east side of  
19 Raynor Road in Manorville, on the north  
20 side of the Long Island Rail Road tracks,  
21 Manorville, and the applicant is requesting  
22 a hardship permit to construct a seventeen  
23 hundred square foot retail commercial  
24 building.

25 On the site plan that was

1 received by the Commission on June 28,  
2 2002, and it was prepared by Hawkins, Webb  
3 & Jaeger, to construct the retail  
4 commercial building with sanitary system,  
5 parking lot, loading stall, dumpster,  
6 landscaping, signs and artificial lighting  
7 on a .25 acre parcel.

8 The proposal may also require the  
9 removal of street trees within the right-  
10 of-way of Raynor Road for the installation  
11 of a side, and the installation of utility  
12 poles and overhead wires through the  
13 adjacent Suffolk County Pine Trail Nature  
14 Preserve.

15 As per the May 22, 1995 Town  
16 zoning map, the subject parcel was zoned J-  
17 2 Business and was situated at the  
18 northerly end of a small J-2 zoned Business  
19 District. This small Business District is  
20 surrounded by a large land area zoned A-5  
21 Residence.

22 The subject parcel is vacant. To  
23 the south are the Long Island Rail Road  
24 tracks and a vacant parcel containing a  
25 Pine Barrens Conservation Easement.

1 To the southwest is an historic  
2 structure known as The Maples. To the west  
3 is Raynor Road and a wooded parcel  
4 containing an historic dwelling.

5 The depth to groundwater at the  
6 site, according to the site plan, is 9.2  
7 feet, according to a test boring taken on  
8 February 8, 2002, as shown on the site plan  
9 received on June 28, 2002.

10 The vegetation on the parcel  
11 consists of grassland interspersed with  
12 shrubs and trees, including butternuts,  
13 white oak, poplar, black oak and sassafras.

14 As required, we sent the proposal  
15 to the New York State Department of Parks,  
16 Recreation & Historic Preservation,  
17 Historic Preservation Field Services  
18 Bureau, for review on August 14, 2002. We  
19 haven't heard back from them yet.

20 The site is located in the  
21 Manorville Historic District and contains  
22 remnants of old structures. For now, we  
23 are treating this as an unlisted action  
24 pursuant to SEQRA, and doing an  
25 uncoordinated review of it.

1                    Depending on the response from  
2                    the Historic Preservation Office, it may be  
3                    a Type I Action.

4                    It also requires a site plan  
5                    approval from the Town Planning Board and  
6                    building permit from the Town, Suffolk  
7                    County Health Department approval for the  
8                    sanitary sewage and DEC approval for the  
9                    Recreational River Corridor.

10                   It is unclear the amount of  
11                   clearing that is proposed. However, if you  
12                   look on the site plan, there is a small  
13                   area on the north side that's proposed to  
14                   remain natural. However, there is two  
15                   parking stalls that are encroaching into  
16                   that area.

17                   On Page 3 of the Staff Report  
18                   there are other considerations the  
19                   Commission would have to think about.

20                   If you have any questions or  
21                   maybe you want to hear from the applicant.

22                   MR. PROIOS:                   Any questions for Ann before the  
23                   applicant speaks?

24                   Mr. Jaeger.

25                   MR. JAEGER:                   For the record, my name is Bill



1 Jaeger. I am a member of the firm of  
2 Hawkins, Webb & Jaeger Associates,  
3 Engineers, Surveyors and Planners, located  
4 in the Incorporated Village of Port  
5 Jefferson.

6 I am here today speaking on  
7 behalf of the applicant. I would like to  
8 clarify a couple of things. The Beneficial  
9 Design is a -- I believe it is a  
10 partnership, although I am not certain,  
11 between Arthur Miller and Roy Baiata.

12 As far as I know, the property is  
13 still in Arthur Miller's name. It was  
14 obtained by Arthur Miller through his now  
15 deceased wife, Sylvia Kaye. It was  
16 purchased in April of 1987.

17 In actuality, it was purchased  
18 the prior year, 1986. The deed wasn't  
19 recorded until 1987. The deed transaction  
20 took place on I believe the 22nd of  
21 October, 1986. Here's a copy of the deed  
22 for the record.

23 The property is currently zoned  
24 J-2 Business. As to whether or not there  
25 would be a requirement for the installation

1 of sidewalks and/or removal of street trees  
2 would be a matter to be determined by the  
3 Town of Brookhaven, specifically the  
4 Superintendent of Highways.

5 The Town, in many cases,  
6 particularly in areas such as this, would  
7 accept a payment in lieu of the  
8 construction of sidewalks for development  
9 of the site.

10 This particular project was  
11 previously developed with a residence -- I  
12 shouldn't say residence -- with a building,  
13 and that is verified by the taking map  
14 surveyed when what we call Port  
15 Jefferson/Westhampton Road now, which is  
16 known as County Road 111, based upon data  
17 that existed at that time.

18 Based upon that data, it was  
19 represented to my client that the subject  
20 property could be developed for residential  
21 purposes. That's a letter from Donna  
22 Plunkett of this agency representing such.  
23 So, based on our belief that this  
24 particular property can be developed for  
25 residential purposes, and based on the fact

1           that this property has been zoned J-2  
2           Business for many, many years, this goes  
3           back to the point in time where the  
4           Manorville -- it was to be the downtown  
5           area of Manorville.

6                     I would submit to you that we are  
7           not asking for something that's  
8           inconsistent with traditional zoning;  
9           further, that historic structure across the  
10          street is a bar and restaurant. We are not  
11          looking at an historic home. When I was  
12          out there, I would not say it was a  
13          structure that was well maintained. It is  
14          a hangout, something you might see in a  
15          typical small Town.

16                    So, our request of the Board is  
17          to provide simply a 7-11 on a piece of  
18          property that happens to be zoned for such  
19          use, and I am going to back away from  
20          saying 7-11. We are talking about a  
21          convenience store, the nature of which  
22          could be structured in different ways, and  
23          we would certainly be open to any covenants  
24          and restrictions or limitations that this  
25          Board might place on the nature of the use

1 for that particular structure.

2 We believe, and my client asked  
3 me to come here representing him I believe,  
4 that this may very well be something that  
5 would support the activities, the passive  
6 activities that are going on within this  
7 particular area, and I heard Mr. Amper very  
8 clearly speaking to the nature of certain  
9 activities before, and in those comments he  
10 was talking about whether development was  
11 to allow recreation or whether it was in  
12 support of recreation.

13 One of the things that struck me  
14 with his presentation was that it seemed  
15 that we really do not want to promote any  
16 recreation. We do want to promote use of  
17 this land by the public. I think that came  
18 up in the Town of Southampton application.

19 If that is the basic conception  
20 of this Board, then perhaps this  
21 application is not appropriate, but if we  
22 are to utilize this land that is under  
23 County control for the purposes that many  
24 of us out there believe it was intended  
25 for, and that is the passive use of the

1 residents of this County, then perhaps it  
2 is necessary to have some sort of facility  
3 to support that use, a place that might  
4 serve you coffee, a place where one can buy  
5 a bottle of water, a place where a woman  
6 might purchase a trail bar, or something of  
7 that nature, and it is in that light that  
8 we are bringing this application.

9 If that is not what this Board  
10 deems to be appropriate, then so be it and  
11 we accept your determination.

12 I would like to point out that  
13 there are a number of impacts that one  
14 normally looks at when developing a piece  
15 of property. The property is served by  
16 public water, and we would be putting in a  
17 sanitary system that is based on a flow  
18 capacity of some two hundred fifty-five  
19 gallons per day.

20 Now, a normal residence such as  
21 which is permitted on this property, would  
22 have a flow of some three hundred gallons a  
23 day.

24 So, from a sanitary perspective,  
25 we are providing a lesser impact than would

1 be provided by the construction of a  
2 residence.

3 We will be containing our  
4 stormwater system which would be allowed on  
5 this particular site. The storage is for  
6 two inches of rainfall on this site. We  
7 are proposing an asphalt pavement. If that  
8 is deemed undesirable, we will go with a  
9 pervious type of surface. We are not  
10 seeing a real impact relative to that.

11 We are retaining a certain area  
12 in its natural state. Ms. Carter made  
13 reference to the fact that there are two  
14 parking stalls shown in a form which is  
15 generally referred to in the Town of  
16 Brookhaven and other areas as land banking.  
17 Those stalls are shown as land bank stalls.

18 In walking the site I found it to  
19 be very lightly vegetated with grass that  
20 grew in certain areas. There were areas  
21 that were not vegetated, which were areas  
22 that were previously used for parking and  
23 other things, and whatever more vegetation  
24 there was was on the northerly portion of  
25 the property, and that is the area that is

1                   being retained in its natural state.

2                   Going beyond that, the areas  
3                   where we would be landscaping, we would  
4                   landscape with vegetation that was  
5                   indigenous or local to that area, or that  
6                   would be deemed satisfactory by this  
7                   particular agency.

8                   One would question the level of  
9                   intensity of use. Yes, this intensity of  
10                  use is more significant than a main  
11                  residence. Then we come into a beneficial  
12                  analysis as to whether or not this would  
13                  serve both those who are utilizing the Pine  
14                  Barrens for passive recreation, as well as  
15                  the residents in that area who do not have  
16                  a convenience store in the immediate area.

17                  I think I have deviated from my  
18                  testimony. I would note, also, this site  
19                  is not one that is conducive to a  
20                  residence. We have a site that is located  
21                  on the Riverhead-Greenport main line of the  
22                  railroad. The residence would be very  
23                  close to that railroad, which I think is a  
24                  site that would lend itself more to a  
25                  convenience store operation than it would

1 to the desirability of a residence.

2 As far as some of the questions  
3 that were left open, architecturally, the  
4 owner would be willing to meet whatever  
5 architectural criteria this Board would  
6 deem appropriate. We do not need to do a  
7 plasticized building. We would do  
8 something, perhaps, that was in conformity  
9 with the historic and well-used structure  
10 that is across the way.

11 The type of signage. We could go  
12 with, again, whatever type of signage this  
13 Board might deem appropriate, perhaps, some  
14 of the hard wood type of signage that is  
15 utilized at County Parks.

16 How many stories? The structure  
17 is proposed as a one-story structure, and  
18 that would be the nature of the  
19 construction.

20 I have not totally reviewed this  
21 plan, but I will say this. I did note when  
22 I looked at the plan earlier that my  
23 designer had put a grease trap on it. We  
24 are not proposing a wet store in which we  
25 would be doing the preparation of food, and



1 a grease trap would not be something that  
2 we would install incidental to the  
3 development of this particular site.  
4 Envision it as a strictly convenience,  
5 noncooking type of store. There may be  
6 food and sandwiches and the like, but they  
7 would not be prepared on-site. They might  
8 be the type of thing that one would find in  
9 a park vending operation or some sort of  
10 thing of that nature.

11 I think this would be something  
12 that would support the community, as well  
13 as those that might utilize the surrounding  
14 areas.

15 At this point, I could close my  
16 presentation unless there are questions.

17 MR. PROIOS: When was it actually zoned?

18 MR. JAEGER: I guess it as zoned at the time  
19 of zoning in 1937, whenever that was.

20 MR. PROIOS: When did Mr. Baiata purchase the  
21 property?

22 MR. JAEGER: He did not purchase it.

23 Mr. Baiata is a partner with Mr. Miller in  
24 certain construction properties.

25 Mr. Miller inherited the property from his

1 wife. In actuality, he was the purchaser  
2 and just added his wife's name for planning  
3 reasons.

4 MR. PROIOS: Have you, by any chance, reviewed  
5 the requirements for hardship in the Core  
6 Area?

7 MR. JAEGER: I have not. I reviewed certain  
8 aspects of it, and basically --

9 MR. PROIOS: [INTERPOSING] There is some very  
10 specific language there which deals with  
11 requirements for a hardship exemption.

12 MR. JAEGER: I am aware of that. I find  
13 myself at a disadvantage. I am wondering  
14 if you would grant me the privilege of  
15 responding to that in writing.

16 MR. PROIOS: I will leave the comment period  
17 open.

18 MR. COWEN: I would like the opportunity to  
19 interact, though, George. It is a kind of  
20 an inconvenience for us.

21 MR. PROIOS: You can ask the questions.

22 MR. COWEN: I don't want to go through that,  
23 quite honestly.

24 MR. PROIOS: A house looks like it was on that  
25 property.

1 MR. JAEGER: Yes.

2 MR. PROIOS: Are these the remains of it?

3 MR. JAEGER: I would say it was nothing

4 substantial.

5 MR. MAC LELLAN: Is it 1.25 or .25?

6 MR. JAEGER: .25. One-quarter acre.

7 MR. PROIOS: Have you attempted to have any

8 other uses for the property, as far as

9 constructing a residential home or anything

10 else?

11 MR. JAEGER: No, he has not. In the report,

12 it is represented that an application was

13 made for a farm stand. I do not see

14 evidence -- I did not see evidence of a

15 farm stand on the site when I was there.

16 Based on the letter from

17 Ms. Plunkett, it did state that we would be

18 permitted to construct a residence on the

19 property.

20 MR. PROIOS: Where is the bar facility across

21 the street located?

22 MR. JAEGER: That is the bar. [INDICATING]

23 MR. COWEN: What sort of variances are

24 required in the Town as far as side yard,

25 rear yard, front yard, that sort of thing,

1 to build this size building, I guess is  
2 what I am asking?

3 MR. JAEGER: There may be a front yard relief  
4 required for parking in the front yard for  
5 one parking stall, and depending upon how  
6 the Town defines this former County Road  
7 111, there may be another front yard  
8 variance required there. I don't know how  
9 the Town would treat the fact that this is  
10 now a pine trail preserve. That would, I  
11 believe, technically be a side yard and,  
12 therefore, there is no minimum setback  
13 required.

14 If that were treated as if it was  
15 still a road, then it would be a fifteen  
16 foot setback required.

17 I don't think there is anything  
18 to stop the size of this particular  
19 building. This was a starting place to  
20 bringing an application, and then based on  
21 what might be required by the Town and  
22 granted by the Board of Appeals, then we  
23 would have to modify the application.

24 MR. COWEN: Ann, is there anything growing on  
25 this property that would be considered

1 native vegetation?

2 MS. CARTER: Yes, it is a mixture of native  
3 and nonnative vegetation.

4 MR. COWEN: What about the old story of  
5 trees, what are they considered?

6 MS. CARTER: They are mostly native, oak, and  
7 I think it is butternut.

8 MS. PRUSINOWSKI: Could you just elaborate a little  
9 more on having less impact than a  
10 residence?

11 MR. JAEGER: I said that particular area may  
12 very well be desirable for those who  
13 utilize the area to have a convenience  
14 store there. If someone comes off the  
15 trail and they are hungry or thirsty, or  
16 need a Band-Aid or something else, I think  
17 it could be a benefit.

18 As I prefaced my remarks here, I  
19 don't know how this Board would interpret  
20 that, but I have done hiking and other  
21 things, and it is nice to have a local  
22 facility, be at the top of a mountain or a  
23 flat area.

24 MS. COMPITELLO: Can I ask you about the photos  
25 here? This shows the property in the

1 program. Is this the subject property as  
2 well as what's back here, the trees? I see  
3 there is some type of driveway. I don't  
4 know what that is.

5 MS. CARTER: That driveway is this right here.  
6 [INDICATING] That photo was taken standing  
7 here at the railroad tracks.

8 MR. JAEGER: The development that is proposed  
9 would come up to that drive, come up to it  
10 and go a little across the driveway.

11 MS. COMPITELLO: The trees in the back would  
12 remain?

13 MS. CARTER: The land bank parking which is  
14 installed, then I would agree.

15 MR. RIGANO: With regard to this document, it  
16 says that Laurie Baiata is the owner  
17 effective, I see, some time in 2002, but  
18 the deed suggests that Arthur Miller is the  
19 owner.

20 MR. JAEGER: It is my understanding, based on  
21 speaking with Mr. Miller, that he is  
22 currently the owner. You know, counsel, I  
23 need to clarify that. I am not certain.

24 MR. RIGANO: And then you have submitted what  
25 looks like two deeds, and one looks like it

1 is dated from '87, and it looks like the  
2 owner is Sylvia Kaye, and then there is a  
3 subsequent deed from 2000 where the owner  
4 is Arthur Miller, as the spouse and sole  
5 heir, and Sylvia Kaye, also known as Sylvia  
6 Miller.

7 MR. JAEGER: She used her maiden name for many  
8 years. They were married for a long time.

9 MR. RIGANO: The Sylvia Kaye and the Sylvia  
10 Miller is the same person?

11 MR. JAEGER: Yes.

12 MR. RIGANO: Would you just confirm for us  
13 that Mr. Miller is the owner and whether or  
14 not Mr. Baiata is the owner?

15 MR. JAEGER: Yes.

16 MR. PROIOS: Any other questions?

17 MR. COWEN: Let's just say the import of who  
18 owns the property is extremely important  
19 because if it has been sold, then you are  
20 dead in the water.

21 MR. JAEGER: I am aware of that.

22 MR. COWEN: The best we can do is have you  
23 submit in writing your analysis of the  
24 hardship requirements, and that's what we  
25 will do, but I have to tell you that it is

1 going to seriously protract any answer you  
2 might be getting out of this Commission  
3 because we are going to have to correspond  
4 back and forth in writing on questions and  
5 that sort of thing.

6 MS. COMPITELLO: Why not just keep the hearing  
7 open?

8 MR. COWEN: We can do that, but we are still  
9 going to have to correspond back and forth.

10 MS. COMPITELLO: I am saying we can schedule a  
11 continuation of the hearing so we can ask  
12 the questions.

13 MR. COWEN: That's a little bit of an  
14 inconvenience for us to have to do that.

15 MS. COMPITELLO: Maybe the corresponding back and  
16 forth would be worse.

17 MR. COWEN: Either way I am a little  
18 frustrated that the applicant wasn't  
19 prepared today, frankly.

20 MR. MURPHREE: I agree. We should keep it open.  
21 That way the public can review the  
22 documents and have the opportunity to  
23 comment on it.

24 MR. COWEN: It is bad enough to have to go  
25 through these things once, let alone



1 sitting down and going through these things  
2 again.

3 MR. PROIOS: I would keep the record open, and  
4 we won't have to have a stenographic  
5 record, and we can still discuss what he  
6 submits.

7 MR. COWEN: However you want to do it.

8 MS. COMPITELLO: Maybe it should be the  
9 applicant's choice, if they want to rely on  
10 written submission or whether he wants to  
11 appear again so he can respond in person.

12 MR. PROIOS: Off the record.

13 [DISCUSSION OFF THE RECORD]

14 MR. PROIOS: I suggest we go back on the  
15 record to hear from the public.

16 Is there anything else you want  
17 to include in the record before we hear  
18 from the public?

19 MR. JAEGER: I am just wondering if there was  
20 any citing of what the requirements were  
21 that were supposed to be presented to this  
22 Board. You are listing certain criteria,  
23 and whether that is covered within the  
24 cover letter which outlines what needs to  
25 be presented at the hearing.

1                                   That's just an observation.

2       MR. COWEN:                   I might try looking at Article 57  
3                                   of the Environmental Conservation Law. It  
4                                   was passed in 1993.

5       MR. JAEGER:                 Okay.

6       MR. PROIOS:                 Any members of the public wishing  
7                                   to address the Commission?

8       MR. AMPER:                 My name is Richard Amper,  
9                                   Executive Director of the Long Island Pine  
10                                  Barrens Society; 547 East Main Street in  
11                                  Riverhead.

12                                  The Pine Barrens Society and this  
13                                  Commission might disagree about what  
14                                  constitutes appropriate development and  
15                                  hardship to be permitted in the Core  
16                                  Preservation Area. If a 7-11 is  
17                                  encouraging passive recreation, we are  
18                                  about as far apart as we can be.

19                                  You may be interested in  
20                                  determining ownership to find out whether  
21                                  there is a self-created hardship. I  
22                                  remember as clear as though it were  
23                                  yesterday when an applicant representing  
24                                  ownership of this property came before this  
25                                  Commission, Donna Plunkett responded, as

1 the correspondence presented by the  
2 applicants suggest, that a residential  
3 reuse on the existing foundation of this  
4 building might be appropriate. That would  
5 certainly constitute minimum relief.

6 Back again, whether it is the  
7 same applicant -- I wouldn't want to argue  
8 it. If it is a new owner, they have  
9 created their own hardship. If it is the  
10 old owner, they were granted minimum  
11 relief. They were told they could do a  
12 residence there.

13 You may recall that Ms. Plunkett  
14 pointed out to this Board at that time that  
15 because of the existing zoning we were  
16 likely to have to address the concerns  
17 about this development in that area again,  
18 and that we might want to take a look at  
19 it.

20 I share Commissioner Cowen's  
21 frustration today. We come to meeting  
22 after meeting, and you people, under the  
23 law, respond to requests for development.  
24 I am trying to figure out how the Pine  
25 Barrens Society can come and make an

1 application for preservation so we can talk  
2 about these things, about what does or  
3 doesn't constitute public need; how many of  
4 these senior living centers, etcetera, we  
5 are going to have to deal with.

6           Somehow or other, because they  
7 don't take the form of development  
8 applications, we never, as a Commission,  
9 seem to get to the preservation portion of  
10 it. But this one is a no-brainer. If it  
11 is the original owner and there was a  
12 request from this Commission -- before this  
13 Commission for minimum relief, and you  
14 would say go ahead and build a residence,  
15 then you have no responsibility to give  
16 them additional relief.

17           If it has been brought since  
18 then, then they have created their own  
19 hardship, and you have no responsibility to  
20 give them a hardship exemption.

21           It is very difficult for us in  
22 the not-for-profit world to keep up with  
23 the applications, especially when they come  
24 in on the last day, and you review them.  
25 We haven't seen them. It happened with the

1 shooting range and the application of the  
2 Eastport Senior Living quarters today.

3 We support the record being kept  
4 open, and the applicant coming forward and  
5 giving you everything that you need to make  
6 a decision.

7 Do we get a chance to review  
8 these? On what basis is the applicant  
9 asserting that he is entitled to a hardship  
10 application under the law?

11 This is no information. This is  
12 not something he has to research and  
13 discover. He needs to make a presentation  
14 on behalf of his client today.

15 If he doesn't do that, then  
16 presumably he is going to form an opinion  
17 to supply additional information. Will we  
18 have time to review it and have our  
19 responses as to whether that constitutes a  
20 hardship?

21 When you are making a decision on  
22 how you are going to handle this today, it  
23 is not just an application process. There  
24 are people in the community that want to  
25 see this law properly applied. His client

1 is entitled to it. He was told that if  
2 they say you can't do this, they will be  
3 doing something else, that's fine; but  
4 everybody is entitled to be heard and have  
5 an informed decision made, and this process  
6 doesn't always allow for that.

7 That's all.

8 MR. PROIOS: Anyone else wish to address the  
9 Commission?

10 If not, I will close the public  
11 hearing.

12 [WHEREUPON THIS HEARING WAS CLOSED AT 5:15  
13 P.M.]

14 oOo  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

CERTIFICATION

STATE OF NEW YORK)  
 )  
COUNTY OF SUFFOLK)

I, SHEILA PARISER, R.P.R., a Notary Public in  
and for the State of New York, do hereby certify:

THAT this is a true and accurate record of  
the Hearing held before the Central Pine Barrens  
Joint Planning and Policy Commission, in the matter  
of BENEFICIAL DESIGN CORP. held on September 4, 2002,  
as reported by me and transcribed under my direction.

IN WITNESS WHEREOF, I have hereunto set my  
hand this 28th day of September, 2002.



SHEILA PARISER, R.P.R.