

CENTRAL PINE BARRENS

JOINT PLANNING AND POLICY COMMISSION

200 Howell Avenue  
Riverhead, NY 11901

November 21, 2012  
3:00 p.m.

Public Hearing:

Longwood Public Library Compatible Growth  
Area (CGA) Hardship Waiver Application

BEFORE: Peter Scully, Chair

1  
2 A P P E A R A N C E S :3  
4 JOHN W. PAVACIC, Executive Director  
Central Pine Barrens5  
6 SARAH LANDSDALE,  
Representing Suffolk County Executive  
7 For Supervisor Steven Bellone8  
9 KYLE COLLINS  
Representing Town of Southampton  
For Supervisor Thorne-Holst10  
11 SEAN WALTER, Supervisor  
Town of Riverhead12  
13 DAN McCORMICK, ESQ.  
Attorney, Town of Riverhead14  
15 John Milazzo, Esq.  
Commission Counsel16  
17 JUDITH E. JAKOBSEN,  
Policy and Planning Manager  
Central Pine Barrens18  
19 Julie Hargrave,  
Senior Environmental Planner  
Central Pine Barrens20  
21 S P E A K E R S:22  
23 Suzanne M. Johnson, Director  
Longwood Public Library24  
25 Douglas McNally, Esq.  
Attorney for Longwood Public LibraryCarrie L. O'Farrell  
Partner/Division Manager  
Nelson, Pope & Voorhis, LLC

## PROCEDINGS

( 3 : 00 p.m. )

CHAIRMAN SCULLY: I would like to call the public hearing to order. I will read the notice of hearing which I will provide to the reporter to incorporate in the transcript.

Pursuant to New York State Environmental Conservation Law Article 57-0121(9), notice is hereby given that the Central Pine Barrens Joint Planning and Policy Commission will hold a public hearing on November 21, 2012, on the matter of an application for a Compatible Growth Area Hardship Exemption.

The name of the project is: Longwood  
Public Library Compatible Growth Area (CGA)  
Hardship Waiver Application.

The Applicant/Owner is: Suzanne Johnson, Library Director.

The applicant's representative is:

The Project Site Location is 800 Middle Country Road, Middle Island, New York 11953.

The project Description is as follows:  
The applicant requests a CGA Hardship Waiver for a  
13,756 square foot expansion (44 percent) to an

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1 existing 31,550 square foot library and clearing of  
2 an additional 3 percent (0.2) acres on the 7.89  
3 acre project site. Combined with existing cleared  
4 area covering 52 percent, the final clearing limit  
5 is 55 percent (4.32 acres), which is 12 percent  
6 more than 43 percent (3.4 acres) of the site  
7 permitted to be cleared. Areas of revegetation and  
8 landscaping are proposed. Proposed sanitary flow  
9 is 2,145 gallons per day with conventional septic  
10 systems.

11 Will members of the Commission please  
12 identify themselves for the record.

13 MS. LANDSDALE: Sarah Landsdale,  
14 representing Steve Bellone, Suffolk County  
15 Supervisor.

16 MS. PRUSINOWSKI: Brenda Prusinowski,  
17 representing Town of Brookhaven, Town Supervisor  
18 Kathleen Walsh.

19 MR. WALTER: Sean Walter, Member.

20 MR. COLLINS: Kyle Collins, representing  
21 Anne Throne-Holst, Supervisor, Town of Southampton.

22 CHAIRMAN SCULLY: Peter Scully,  
23 representing the Governor of the State of New York.

24 We will hear first from my staff.

25 MS. HARGRAVE: Thank you.

1                   Good afternoon. Everyone should have a  
2 staff report, Commission members and  
3 representatives.

4                   You have a list of the staff report  
5 exhibits on the first page and they are listed for  
6 you, I am not going to read them out loud, but if  
7 you go to the last page of the staff report,  
8 actually pages 6 and 7, we have listed a few items  
9 requesting additional information and maybe these  
10 are items that the applicant who is here to present  
11 the project and they could speak to -- they have a  
12 copy as well.

13                   Just a few minor things, but this first  
14 item is an extension may be needed because the  
15 project was delayed and being reviewed as the  
16 Commission was investigating some clearing on the  
17 south side of the property that occurred in April;  
18 so the deadline for this application would be at  
19 the December meeting. Usually you have an extra  
20 month after the hearing so you could discuss it at  
21 the next meeting and perhaps the applicant would  
22 give an extension to the January meeting, January  
23 16th, meeting.

24                   The response from the State Historic  
25 Preservation Officer is pending. If the library

1 could elaborate on their plan for the property to  
2 the south, there was mention of it being used for  
3 passive recreation in the application and what  
4 measures, if any, would the project ensure to  
5 protect the head waters of the Carmans River, which  
6 is on the south side of the property.

7 There is currently a drainage pipe that  
8 goes under the property, the project site of the  
9 library, from the main road and to the head waters  
10 of the Carmans River. We have been on the site and  
11 inspected that with the former library director and  
12 our executive director has corresponded with the  
13 state and the town on potentially relocating that  
14 pipe or the outfall to improve that system; and so  
15 we were just wondering if this project, since it's  
16 going to involve drainage improvements, if they  
17 were going to rectify that situation at all, and  
18 other minor maps drawing information, and if you  
19 close the hearing today, is there a public comment  
20 period?

21 I think that's about it. If you have  
22 any questions?

23 CHAIRMAN SCULLY: Questions for Julie?  
24 (No response.)

25 CHAIRMAN SCULLY: So the only relief

1 sought here is from the clearing standard.

2 MS. HARGRAVE: That's right.

3 CHAIRMAN SCULLY: So with regard to the  
4 drainage pipe, do you know who the owner of that  
5 infrastructure is?

6 MR. PAVACIC: I believe that the pipe  
7 is owned by the town. It was installed by the  
8 town.

9 MR. MILAZZO: I have something  
10 indicating it's owned by the state.

11 MR. PAVACIC: The state?

12 MR. MILAZZO: Is there an easement? If  
13 the state owns it, then they operate it through an  
14 easement that runs across the site.

15 MR. PAVACIC: I believe, if I am not  
16 mistaken, it is not only taking drainage from Route  
17 25, but also from the town road to the north of  
18 Middle Country Road.

19 CHAIRMAN SCULLY: I remember this was an  
20 issue being raised in the context of a short-term  
21 improvement to the Carmans River in the Carmans  
22 River plan. Right?

23 MR. PAVACIC: Yes.

24 CHAIRMAN SCULLY: This was an early  
25 action on it.

1                   MR. PAVACIC: Right.

2                   CHAIRMAN SCULLY: So maybe we can,  
3 separate from this process, we can go about  
4 pursuing that with the state officials.

5                   MS. PRUSINOWSKI: The location of that  
6 pipe, is that shown on any of the drawings in the  
7 exhibit?

8                   MS. HARGRAVE: Yes, it is.

9                   MR. McCORMICK: Exhibit C.

10                  Is there any drainage being -- this site  
11 is going to be left at 25?

12                  MS. HARGRAVE: I don't think so. No.

13                  I apologize, but I have two more items  
14 to enter into the record, if you would.

15                  We have compiled a list of some of the  
16 applications the Commission has decided on in the  
17 past or rendered a determination of jurisdiction in  
18 the core and the CGA, and they involve LIPA,  
19 Brookhaven Town, Town of Southampton, Suffolk  
20 County and libraries and schools. So we have just  
21 summarized that information verbatim from the  
22 decisions or the minutes. We will hand that out.

23                  The second one -- I guess that will be  
24 I, and then J will be a letter from the applicant,  
25 dated October 23rd, which is discussing the

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1 assertion that Supervisor Walter made at the last  
2 meeting about the jurisdiction question.

3 CHAIRMAN SCULLY: Are there other  
4 questions for staff?

5 (No response.)

6 If not, we will hear from the applicant.

7 Who is here on behalf of the applicant?

8 MS. O'FARRELL: Carrie O'Farrell, from  
9 Nelson Pope & Voorhis LLC.

10 CHAIRMAN SCULLY: Raise your hand to be  
11 sworn and identify yourself for the Reporter.

12 Whereupon,

13 CARRIE L. O'FARRELL,  
14 after having been first duly sworn, was examined  
15 and testified as follows:

16 MS. O'FARRELL: Good afternoon.

17 Actually, I am going to have Lara Urbat operate the  
18 PowerPoint for me.

19 Also with me today is Suzanne Johnson,  
20 the Library Director and Douglas McNally, the  
21 attorney for the project.

22 I am going to go through just a brief  
23 overview of the project. I know, given the pending  
24 holiday, everybody is probably very eager to move  
25 along here, so we are just going to hit some of the

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1 highlighted topics and if you have any questions, I  
2 will address the comments in the staff report  
3 quickly, and then if you have no further comments  
4 -- we will run through that.

5 Nelson Pope & Voorhis was retained by  
6 the library board to assist with the SEQRA process  
7 for the proposed expansion and bond, as well as to  
8 assist with this application. The Pine Barrens  
9 Commission was a part of that SEQRA review and was  
10 an involved agency. The expanded EAF was  
11 circulated to the Commission and the Commission's  
12 staff provided comment on that review and it's been  
13 involved throughout that process.

14 As a piece of information -- just some  
15 background information: The site consists of  
16 several parcels. The original library spot or  
17 parcel, rather, was built in 1987, opened in 1988.  
18 The library acquired several parcels over time,  
19 including two parcels -- several parcels to the  
20 east, which at one time had a house and several  
21 other accessory structures. That area was  
22 purchased for that purpose, a parking lot  
23 expansion. A hardship application was applied for  
24 and granted by the Commission in 2005 to do the  
25 parking lot expansion, which are shown in the

1 pictures below.

2 Since that time, the library has also  
3 purchased additional property to the south. So  
4 this is an aerial photograph of the property. You  
5 can see the northern parcel, as we call it, where  
6 the existing library building and the parking lot  
7 area are currently located, and then there is the  
8 southern parcel, which was purchased in 2009, which  
9 also has improvements in disrepair: Several  
10 trailers and a single-family home. The library has  
11 done quite a bit of clean-up activity in this area,  
12 as well as the former single-family home and  
13 structures on that property.

14 The purpose of this acquisition is to  
15 allow for the library to have a nature program.  
16 They would like to, in addition, to allow for this  
17 expansion which is shown on the western portion of  
18 the building. It involved a small portion of the  
19 existing building, which would be removed and  
20 reconstructed, and then an 8,000 square footprint  
21 proposed for the new improvements.

22 If we could go back, actually, to the  
23 area of the proposed expansion, which you can see a  
24 little bit better in this rendering. It's that  
25 shaded area. The location of the proposed

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1 expansion is within areas that are currently  
2 landscaped areas. There are three photographs to  
3 follow. This is looking south and east towards the  
4 existing building. The proposed expansion is in  
5 this area right here (indicating). There is a  
6 patio and a small seating area in that portion of  
7 the property.

8 If you flip again, this shows the area  
9 where there is a stake where the building  
10 location -- that's the corner of the building.  
11 Flip again, one more, and this is in the southwest  
12 corner of the building, which will be the south  
13 west extent of the proposed expansion.

14 The area is landscaped, as I mentioned,  
15 right now. There are a few white pines that would  
16 need to be removed as part of this. Those were  
17 planted by the library over time. It's part of the  
18 original library construction.

19 As Julie mentioned, as part of the  
20 project, there is a revegetation proposed because  
21 we are proposing for an extension of the clearing  
22 requirements. That totals .48 acres. If the area  
23 is in blue in this northwest corner, this area  
24 where the existing trailer is and some parking was  
25 informally done, and along the property perimeter,

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1 as well as next to the existing wetland area and  
2 recharge basin.

3 The area we were clearing under current  
4 conditions is .67 acres. The proposed condition,  
5 the area that we are clearing would be .72 acres.  
6 Again it's all related to existing landscape areas.  
7 Then, the revegetation involves taking a lot of the  
8 landscaped areas and providing natural vegetation,  
9 and that involves again .48 acres.

10 This is just a calculation again. This  
11 is within the application we gave you that shows  
12 what the permitted clearing is based on rezoning at  
13 the time of the Pine Barrens planned adoption.

14 The next slide showing the existing  
15 condition and the changes to the property under the  
16 proposed -- you will notice the change is related  
17 to the landscaped area, an addition of the building  
18 itself, and some revegetation to a disturbed  
19 portion of wetland.

20 In terms of the hardship criteria, I am  
21 just going to run through that quickly. The  
22 applicant is a public entity that serves the  
23 community. The expansion is needed to meet the  
24 growing needs of the community, which we will talk  
25 about following this presentation in greater

1 detail.

2                   The library in this area, the library  
3 has become a central portion of the community.  
4 There is a growing need at the library, which,  
5 again, we will also talk about. There is no burden  
6 on the community with the library as it currently  
7 exists, and its expansion is, again, in an already  
8 disturbed area. The library is unique in that it  
9 is a public entity that serves the community. The  
10 Pine Barrens Commission acknowledged that in the  
11 2005 hardship exemption that they granted for this  
12 property, part of that resolution said the  
13 applicant has demonstrated that the hardship is  
14 unique due to its use as a public library, and the  
15 hardship does not apply to a substantial part of  
16 the community surrounding the project.

17                   The purchase of the eastern parcel for  
18 the parking-lot expansion involves quite a bit of  
19 clean-up on that property, as I mentioned.  
20 Similarly, also with the southern parcel, with two  
21 photographs that follow that will show that  
22 condition, which the library is in the process of  
23 cleaning up at this time. The primary goal of the  
24 library board is to improve the environment of the  
25 southern parcel and use those grounds for natural

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1 resource education. Some of the activities  
2 proposed are children's programs. They do an  
3 annual hour walk and also just nature trails within  
4 the area.

5 In turn, the alteration of the central  
6 character of the area of the public library is an  
7 essential portion of this area. It is the defining  
8 characteristic of this downtown Middle Island area.  
9 The hardship is requested for improvements that are  
10 limited to previously disturbed and landscape  
11 portions of the property and there will be no  
12 change in the type of land use associated with the  
13 property.

14 The library was established in 1987,  
15 prior to the Pine Barrens planned adoption. The  
16 applicant could not, at that time, forecast in 1987  
17 that the Pine Barrens plan would be adopted,  
18 obviously. The need for the hardship is based on  
19 the community's needs. It's not a self-created  
20 situation. The site has occupied the site for 25  
21 years and the expansion is proposed to help further  
22 facilitate the growing needs of the area.

23 One of the questions that I think Julie  
24 had mentioned was what is the purpose of the  
25 southern parcel? How will it be used and how will

1       it be maintained? Again, it is proposed that it  
2       would remain in natural condition. The existing  
3       house, there was some discussion about retaining  
4       that structure for use as sort of a classroom area  
5       or a natural guide area. There was a question  
6       about the sanitary system as part of one of the  
7       comments. That is something currently not in use  
8       and the library does not have a problem with  
9       formally abandoning that system.

10           With respect to the drainage as was  
11       brought up by several of the Commission members,  
12       the site itself has its own independent drainage  
13       system. There is nothing on any part of this  
14       property that enters that drainage pipe. They  
15       utilize drainage improvements associated with this  
16       project in the form of leaching pools in the onsite  
17       wetland, which is a recharge basin originally that  
18       is now regulated and will continue to function as a  
19       collection of storm water.

20           To summarize, the SEQRA process was  
21       complete. A negative exploration was adopted by  
22       the library board. Again, this Commission was part  
23       of that as an involved agency in the review. The  
24       project conforms to all of the other standards and  
25       guidelines, with the exception of the clearing

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1 standards and the project has been designed to  
2 limit the amount of disturbance to the maximum  
3 extent that they can. Again, the revegetation is  
4 proposed as a way to try to mitigate the existing  
5 over clearing of the property.

6                   Does anyone have any questions?

7                   Suzanne wanted to go through quickly  
8 demonstrating the need for the expansion of the  
9 library.

10                  MR. COLLINS: Yes. What is the status  
11 of your Health Department approval as it relates to  
12 your taking some flow from the southern adjacent  
13 property, and have you gotten to the position where  
14 they are issuing some type of covenant that is  
15 going to be proposed on that side?

16                  CHAIRMAN SCULLY: What is your name,  
17 please?

18                  MS. JOHNSON: Suzanne Johnson.

19                  Whereupon,

20                  SUZANNE M. JOHNSON,  
21 after having been first duly sworn, was examined  
22 and testified as follows:

23                  MS. JOHNSON: There has been a  
24 preliminary meeting with the Suffolk County Health  
25 Department with our civil engineer, Jerry Rosen

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1 from P.W. Grosser, and they advised us during the  
2 pre referendum phase of the project.

3 MR. COLLINS: Was the issue of  
4 sterilization or type of covenant going to be  
5 imposed on that southern property?

6 MS. JOHNSON: It was discussed and they  
7 are aware that we are -- what I understand is that  
8 we did not have to do a transfer of development  
9 rights formally, but that by joining the properties  
10 that would be part of the calculation.

11 MR. COLLINS: Joining the properties  
12 how? It seems like there may be an old paper  
13 street in between these two properties?

14 MS. JOHNSON: There is.

15 MR. COLLINS: You said join the  
16 properties?

17 MS. JOHNSON: In the calculation they  
18 consider the southern part in their calculations  
19 because it's owned by the library.

20 CHAIRMAN SCULLY: Staff points out that  
21 the application states that the library purchased  
22 and cleaned up the south parcel from the past and  
23 then opened space use and it's suggested that we  
24 have a clarification as to whether the property can  
25 be considered protected and how.

1                   MS. JOHNSON: Well, I think we have  
2                   done a fantastic job so far in cleaning up the  
3                   property. As was shown, there were many abandoned  
4                   trailers and wrecked facilities on the property and  
5                   our staff -- I think we took away ten dumpsters  
6                   worth of material off the property. We have  
7                   demolished some of the out buildings, the smaller  
8                   ones, things like that. The house that is still  
9                   there is kind of interesting in the way it was  
10                   built by the homeowner, and so -- visually it's  
11                   interesting to walk by. Whether we could actually  
12                   use the building for anything is doubtful because  
13                   of its age and its structure.

14                   Walking there, in the circular driveway  
15                   is very pleasant. There is, as you mentioned, our  
16                   children's librarians take kids over there for  
17                   story times and programs in the fall and in the  
18                   spring.

19                   CHAIRMAN SCULLY: The precise phrase in  
20                   the application is "passive and open space use," so  
21                   I guess we are looking for clarification as to  
22                   whether an improved library would be designated as  
23                   open space assessment, that there wouldn't be any  
24                   future improvements or would it be -- what does  
25                   "open space" mean in this context?

1                   MR. McNALLY: Mr. Chairman, if I might,  
2 Doug McNally, attorney for the Longwood Public  
3 Library.

4                   We haven't defined it beyond that. We  
5 would certainly be willing to discuss with the  
6 staff some covenant restrictions along those lines,  
7 but the intent of the trustees is to keep it in its  
8 current state and just use it for very passive,  
9 non-intensive uses. There are no current plans to  
10 do any development whatsoever over there. That  
11 would really defeat the whole purpose of it and  
12 that is to use it as an outdoor education area.

13                  MS. JOHNSON: Maybe I would just like  
14 to take a few minutes to tell you about the  
15 Longwood Public Library.

16                  The theme of our recommended campaign  
17 was "Grow with LPL." As has been mentioned, we  
18 built the first permanent structure 25 years ago.  
19 Before that, the library, for 25 years, had been in  
20 rented facilities around the Longwood area. Some  
21 of you might remember the Billy Blakes, a store  
22 where we rented and we had to put up plastic to  
23 avoid all the raindrops because the roof was always  
24 leaking.

25                  The library is a very busy place. We

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1 had more than 350,000 people come through the  
2 building last year, borrowing 800,000 items.  
3 50,000 people attended our programs. We have two  
4 large community rooms and one small program room  
5 downstairs. We created a computer lab for computer  
6 instruction out of our reference area and taught  
7 185 computer classes last year.

8 Of course, now E-books have become  
9 another service of the library and 27,000 e-books  
10 were downloaded. We also created, and some other  
11 libraries have done this, a museum pass program  
12 that has been very successful, introducing people  
13 to museums by borrowing a museum pass to museums  
14 around Long Island.

15 The Longwood community has a great need  
16 for more GED and English as a Second Language  
17 classes and we have now begun offering those in the  
18 library.

19 This chart illustrates just the  
20 libraries' relation to each other in the Town of  
21 Brookhaven with the libraries that have more than  
22 30,000 residents, Longwood having now 65,000  
23 residents, since we've had a 13 percent increase in  
24 population since the 2000 census. Our building is  
25 relatively small considering the size of our

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1 population, but somehow we cram a lot of materials  
2 in there and circulate a lot of materials.

3                   In the children's room we can add a book  
4 when we discard a book, because we do not have  
5 enough shelving for all of our children's books.  
6 We also do a very good job, I feel, in spending our  
7 taxpayer dollars wisely. Our tax rate is not as  
8 high as the surrounding libraries and so we were  
9 confident that we could put forward a bond to add a  
10 small expansion to our library so that we could  
11 better service our community. We are constantly  
12 having to turn down groups who want to use our  
13 community room. We need more program space, we  
14 need more people space in our building.

15                   I did bring an article that had been in  
16 Newsday two weeks ago which really demonstrated how  
17 vital the library was, the libraries in Suffolk  
18 County were during the storm. I am proud to say  
19 Longwood opened the second day after the storm. We  
20 were the only library open on Tuesday. We opened  
21 at 1:00 and stayed open until 6:00. 500 people  
22 came through that day. We offered our regular  
23 Halloween program. The next day we had 1,500  
24 people come in, and people were charging their cell  
25 phones, using the Internet to communicate with

1       their families across the country who were  
2       concerned, and staying warm. So it was very much  
3       demonstrated in the last two weeks how important  
4       the library is to the community. We also had  
5       people coming from other communities to Longwood  
6       once they found out that we were open and we had  
7       power.

8               So the goals of the project are to add  
9       15,000 square feet on to the west side so that we  
10       can create a new children's room. We can also  
11       create our first dedicated teen space. Many of the  
12       surrounding libraries have program space for  
13       teenagers, we do not.

14               We want to have an auditorium on the  
15       first floor for cultural events. We currently have  
16       our concerts upstairs on the second floor and we  
17       want first-floor access. Again, as I mentioned,  
18       just some space for programs and community meetings  
19       that are always oversubscribed.

20               We replaced one of our four roofs  
21       several years ago when we added a solar array and  
22       made it a white roof. So we do need to replace the  
23       other three roofs which are now over 25 years old.  
24       A great goal that came out of our Sharet process  
25       last summer was to improve the energy efficiency of

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1 the building, tighten up the thermal envelope,  
2 update the heating and cooling system, add a lot  
3 more insulation, better windows and improve the air  
4 quality.

5                   What we are really looking forward to is  
6 day lighting the building and opening the views to  
7 nature. We have that fabulous southern property  
8 now and the orientation of the building would  
9 change so that all of our residents could enjoy  
10 southern views and lighting.

11                  CHAIRMAN SCULLY: Any questions?

12 Anything further?

13                  MR. McNALLY: Thank you.

14                  If I may, Mr. Chairman, just a couple of  
15 comments.

16                  You have as part of the record my letter  
17 of October 23rd, and in that letter I touched on  
18 the library's view of the criteria that should  
19 apply when considering its hardship application. I  
20 am confident that the Commission members will read  
21 the letter, so I won't go through it this  
22 afternoon. I do want to take a brief moment to  
23 summarize the trustees' position on the criteria  
24 and briefly address the issue of jurisdiction.

25                  The question addressed in my letter is:

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1       What are the review criteria in a hardship  
2       application as a public entity?

3               You are enabling legislation that  
4       directs you to employ the standards required for a  
5       ZBA use variance. As you acknowledged in your 2005  
6       grant to the library, these standards don't readily  
7       apply to a public service, not-for-profit public  
8       entity, such as the library.

9               The legislature recognized that when it  
10      specifically exempted from your jurisdiction,  
11      quote, "public improvements undertaken for the  
12      health, safety and welfare of the public." As I  
13      note in my letter, the Suffolk County Supreme Court  
14      has found that public libraries serve the public  
15      health, safety, and welfare. So one could argue  
16      that the library is not subject to the jurisdiction  
17      this Commission.

18               Although the library trustees reserve  
19      the right to make that argument, if the  
20      determination of this Commission is later  
21      challenged, we contend that the jurisdictional  
22      issue need not be resolved in connection with this  
23      particular application as there is a middle ground,  
24      a middle ground between the awkward use of the  
25      zoning use variance criteria and pulling the

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1 library into the jurisdictional crossfire. That  
2 middle ground is the public necessity exemption for  
3 public service entities that should be afforded  
4 when they seek variances, as well as the  
5 deferential treatment zoning and land-use  
6 regulatory bodies are required to extend to  
7 educational institutions. I discussed both of them  
8 in my letter and I ask that they both be applied  
9 here.

10 The legislative and judicial exemptions  
11 discussed in my letter boil down to this: We are  
12 in the same business. We both serve the public.  
13 We are both necessary and we are not in competition  
14 and we need to work together, and here is how we do  
15 that: The library trustees are required under  
16 those exemptions, under your legislation, to design  
17 their expansion to reflect and to advance the goals  
18 and the mandate of this Commission, and to mitigate  
19 any adverse impact that our expansion may have on  
20 the Commission's laudable goal to preserve the Pine  
21 Barrens environment. We believe we have done that  
22 by our application and in consultation with your  
23 staff.

24 The Commission is required, we believe,  
25 under the legislation and under the decisions that

1 have been issued under that legislation, you are  
2 required to accommodate the library's public  
3 service mandate within the Pine Barrens' region by  
4 tempering your hardship use variance criteria to  
5 advance our public service mission -- the same  
6 mission that you have -- and to work with us to  
7 mitigate any adverse impact the expansion project  
8 may have on the Pine Barrens' region, while  
9 allowing us to serve the increasing need of the  
10 public we both serve. That's what we ask you to do  
11 by granting this application.

12 Thank you.

13 CHAIRMAN SCULLY: Thank you, Mr.  
14 McNally.

15 MR. McCORMICK: Mr. McNally, are you  
16 asking that your October 23, 2012 letter be  
17 admitted into evidence here?

20 CHAIRMAN SCULLY: Any other questions?

21 | If not, thank you, Mr. McNally.

22 Anything further from staff?

1 the approval?

2 MS. HARGRAVE: No, but early January,  
3 before the January meeting and after the December  
4 meeting.

5 MR. MILAZZO: The decision deadline is  
6 after the December meeting or for the next meeting?

7 MR. WALTER: I don't know what the  
8 board's predisposition is on this, but if there is  
9 a sense that the board is willing to -- the  
10 Commission is willing to pass this resolution,  
11 would they need an extension and then they could  
12 draft the resolution for the next board meeting? I  
13 guess the question is: Will they give us an  
14 extension knowing that there may be some members of  
15 the board that may want to -- well, is that a  
16 problem?

17 CHAIRMAN SCULLY: Do you want to hear  
18 from the public first? Anybody from the public  
19 wish to be heard on the applicant?

20 MR. AMPER: Richard P. Amper, A M P E R.  
21 I am the Executive Director for the Long Island  
22 Pine Barrens Society. It's an environmental  
23 education agency.

24 Whereupon,

25 RICHARD AMPER

1           Having been first duly sworn, was  
2       examined and testified as follows:

3           MR. AMPER:   Richard Amper.  The  
4       Longwood Public Library is a terrific place.  It's  
5       in my community.  I use it and they make the  
6       limited space available for us and other community  
7       folks who use it, so there is no question that it's  
8       a fabulous facility.

9           I want to address the environmental  
10      concerns because we would assume that an  
11      educational and a public service organization  
12      should be concerned about all of those things too.

13           At the very outset, I do want to go to  
14      the observations of Mr. McNally with respect to  
15      jurisdiction.  Whatever you decide about this  
16      application, it is absolutely essential and I wish  
17      to make it clear that the fact that this is a  
18      public entity or even if it's a community service  
19      organization does not exempt the Longwood Library  
20      from the Commission's jurisdiction.  The specific  
21      public entity exceptions include fire fighting and  
22      all kinds of other things that are specifically  
23      laid out in the legislation -- -libraries are not.

24           I am, as you know, very sensitive to  
25      creating precedent that allow other folks to come

1 along and say, "Well, we do public service and we  
2 do good things and we help educate people," and so  
3 the state legislation does not apply to us. So  
4 let's try to get that straight.

5 Obviously, he doesn't work for me, he  
6 works for you, but if Mr. Malarso can speak to that  
7 particular issue, that will go a long way towards  
8 resolving the larger issue facing information with  
9 respect to this application: The notion that  
10 because people are doing good, they can do it in  
11 the Pine Barrens in violation of the Pine Barrens  
12 Act. This can be stopped. I don't think there is a  
13 basis for it, but the case law that the applicant's  
14 memorandum addresses tends to deal with the  
15 disposition of zoning boards and other municipal  
16 facilities to make exceptions for things that are  
17 serving the public interest.

18 The public interest exemptions in the  
19 Pine Barrens Act are in this statute and in the  
20 Comprehensive Land Use Act and I am concerned that  
21 this institution would come forward and mirror  
22 Commissioner Walter's suggestion that somehow or  
23 other anything that is quasi-governmental or public  
24 service can exempt itself. We are trying to  
25 protect people's drinking water and we are trying

1 to protect critical habitat. That's something that  
2 the library, I am sure, is committed to as well.

3 So, let's, as we go through some of  
4 these things, get past the jurisdictional issue and  
5 make sure that the Commission presses ahead,  
6 however else it deals with the hardship, because we  
7 just really can't afford to have folks coming along  
8 and saying, "It applies to everybody but me."

9 I would ask for members of the  
10 Commission to review 510121, which I supplied you,  
11 and specifically the Chapter that deals with the  
12 changes which were made in the Pine Barrens Act  
13 concerning what would constitute a public need,  
14 that is the health, welfare and interest. It's  
15 really down now to health and safety, and the fact  
16 that it's a public entity or the fact that it's  
17 doing goods things was deliberately redefined to  
18 make it more difficult for anything government  
19 related to obtain a hardship exemption, even then  
20 that an individual private property owner would.  
21 It was assumed, under the Pines Barrens Act that  
22 everybody was going to take special protections of  
23 this area and it certainly was not the case that  
24 private individuals should do that, the government  
25 should not.

1           I would ask you to look, for example, at  
2 whether or not the applicant has beneficial use of  
3 the property. There is this adjoining property  
4 that occurred, the acquisition of the property that  
5 occurred that is being used in the calculation of  
6 all of this, and that acquisition did occur  
7 subsequent to June of 1993. I would remind you  
8 again, as much for future applications as for this  
9 one, that the Pine Barrens Society warned you  
10 several years ago that the granting of multiple  
11 hardship applications was going to pose an ongoing  
12 problem to the protection of the ecosystem. You  
13 are entitled to grant the minimum relief necessary  
14 to relieve a hardship under certain circumstances.  
15 If you granted the library the minimum relief  
16 necessary to overcome the hardship, then by  
17 granting more, are you not, in fact, granting more  
18 than the minimum relief necessary?

19           These things, again, apply yes to this  
20 application, but the reason they are of concern to  
21 the Society is that they have implications for  
22 other folks. I think you are going to see APS come  
23 back here for a third. I think you are going to  
24 have -- there is nothing, if you do this, to  
25 prevent their coming back for a third. At some

1 point or another I think you have to decide amongst  
2 yourselves what constitutes the minimum relief  
3 necessary, at least as described in the law.

4                   The area is an area that is a wetlands  
5 area. It is in the watershed of the Carmans River.  
6 It is in the CGA of the Central Pine Barrens, the  
7 Middle Island/Yaphank critical environmental area  
8 as designated by Suffolk County and in the Central  
9 Suffolk Special Ground Water Protection Act. So  
10 it's a great place serving the community in a very,  
11 very sensitive place. That's the concern the  
12 Commission should be aware of.

13                   No one is disputing the value of the  
14 facility. No one is contesting that the plan  
15 wouldn't be a good one, it's where it is and how is  
16 it protective of the goals and objectives of the  
17 Pine Barrens.

18                   The applicant's report indicates it will  
19 be 4.82 tons per month of solid waste to the  
20 facility; water usage of 2,645 gallons per day.  
21 The developable area of the site also contains  
22 protective water volume. The proposed action, the  
23 applicant admits, will affect surface and ground  
24 water quality. The depth of the ground water is as  
25 little as two feet at times. We do need to know

1 more about, more detail about the plans for the  
2 property to the south; that does seem to be an  
3 integral part of what is being proposed here.

4                   We would ask that you keep the record  
5 open. I didn't get a chance to see this  
6 application until last night, and we would like to  
7 at least be able to supply written comments. I  
8 don't think we need to have another public hearing.  
9 We don't need to talk about this much anymore, but  
10 I would like to be able to go through this in  
11 greater detail.

12                   I think it's important that you take a  
13 very, very hard look at the staff report. The  
14 questions that are raised there are extremely  
15 important, and it will be very, very important, I  
16 think, so for us to understand what is, in fact,  
17 being presented. I think that's all I have for the  
18 Commission.

19                   I should express my disappointment that  
20 the neither the library director nor the board of  
21 trustees made any effort to do a presentation about  
22 the plans for this to the Pine Barrens Society,  
23 knowing that we are supportive of the library and  
24 knowing that they are supportive of the  
25 environment. It's always good when we have a

1 chance to sit down with the folks who are doing  
2 something that is a discretionary act of the  
3 Commission but which is guided and shaped by this  
4 specific provision of the law. It's just very,  
5 very helpful for us to be able to sit down with  
6 applicants to try to understand from their point of  
7 view why they think what they are doing is  
8 mitigating our concerns; that did not happen here.  
9 There is still an opportunity for that and I will  
10 reach out to them in the interim, but I would like  
11 you to keep the record open because we really just  
12 haven't had a chance to fully digest all of the  
13 applications.

14 This is a very good project. It's a  
15 very important project, but it's in a very  
16 sensitive area and causes enormous threats to the  
17 ecosystem.

18 CHAIRMAN SCULLY: Does anybody else wish  
19 to be heard on the application?

20 If not, any further questions for the  
21 applicant or for staff?

22 Staff wants to speak.

23 MS. HARGRAVE: Just one question about  
24 the town road that bisects the two parcels owned by  
25 the library: If there is an easement over that

1 road for them to bring visitors to that southern  
2 portion and, also, what their coordination status  
3 is with the town on abandoning that road.  
4 Originally the plan spilled over on to that  
5 abandoned road, but I think they scaled it back and  
6 maybe they can just speak to that on the record for  
7 a moment.

8 MR. McCORMICK: As to the easement,  
9 there is no formal easement. Certainly, I could  
10 make many arguments as to why there is an easement  
11 in effect notwithstanding the absence of a written  
12 agreement, but there is no formal file, written  
13 easement.

14 There was some discussion with the town  
15 as to abandonment. The town decided they did not  
16 want to pursue that, so the road is a paper street  
17 road and will remain that way.

18 MS. HARGRAVE: Thank you.

19 MR. PAVACIC: I have one other question  
20 that was earlier in the report. It's mentioned in  
21 the staff report, page 3.

22 With regards to if you're sterilizing,  
23 essentially sterilizing the southern property, the  
24 house has a sanitary system and a bathroom, will  
25 those be closed?

1                   MR. McCORMICK: The term  
2 "sterilization" is yours, I think, not ours. I am  
3 not sure what you mean by that. We do certainly  
4 intend to keep that. We would be willing to  
5 discuss with staff certain restrictions, including  
6 perhaps abandonment of the septic system, but it's  
7 not currently being used and there is no intent to  
8 use it in the future, so we would certainly be  
9 willing to do that.

10                  CHAIRMAN SCULLY: Are there any other  
11 questions?

12                  MR. MILAZZO: For the record, I am not  
13 sure that the bathroom in that building could be  
14 used absent a waiver from Article 6.

15                  MR. McCORMICK: It's not being used at  
16 present. I don't think that's a problem.

17                  CHAIRMAN SCULLY: Anything further?

18                  (No response.)

19                  If not, I will note that you did offer  
20 to discuss with staff the possibility of  
21 covenantary restrictions with regard to the  
22 southern parcel. We appreciate that and, most  
23 likely, will ask you to engage in those  
24 discussions. Thank you very much.

25                  Mr. Amper?

1                   MR. AMPER: Do you intend to return to  
2 the extension of time issue?

3                   CHAIRMAN SCULLY: We are going to need  
4 to do that.

5                   If there is nothing further, I guess we  
6 will -- I think we will close this hearing and keep  
7 the public comment period, the length of which will  
8 probably be two weeks.

9                   I guess staff had proposed that we seek  
10 an extension to allow them time to deal with the  
11 information and have some interaction with the  
12 applicant, that's why the extension is recommended.  
13 So I guess we need to hear from Mr. McNally whether  
14 an extension to the January meeting would be okay.

15                  MR. McNALLY: That would be acceptable  
16 to the applicant.

17                  CHAIRMAN SCULLY: Great.

18                  MR. WALTER: I'll move that we grant an  
19 extension.

20                  MR. COLLINS: Second.

21                  CHAIRMAN SCULLY: All in favor.

22                  (Show of hands.)

23                  CHAIRMAN SCULLY: Opposed?

24                  Motion carried.

25                  Is there anything else? Is there

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1 anything else anybody needs to bring before the  
2 Commission.

3 (No response.)

4 CHAIRMAN SCULLY: I ask for a motion to  
5 adjourn.

6 MR. WALTER: Second.

7 CHAIRMAN SCULLY: I thank everybody for  
8 your help and have a great Thanksgiving. I'll see  
9 you all next year.

10 (Time noted: 3:40 p.m.)

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## C E R T I F I C A T I O N

I, MONIQUE CABRERA, a Shorthand Reporter and Notary Public, within and for the State of New York, do hereby certify that I reported the proceedings in the within-entitled matter, on November 21, 2012, at Riverhead Town Hall, 200 Howell Avenue, Riverhead, New York, and that this is an accurate transcription of these proceedings.

IN WITNESS WHEREOF, I have hereunto set my  
hand this \_\_\_\_\_ day of \_\_\_\_\_, 2012.

MONIQUE CABRERA, Reporter