

Supervisor Romaine and Councilwoman Bonner Announce NYS Court of Appeals Decision Stops Shopping Center Development at Blighted Rocky Point Drive-In Site

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Pictured left to right are Maureen Liccione, a partner in the law firm of Jaspan Schlesinger who served as outside council for the case, Amy Lonigro, Councilwoman Jane Bonner, Bob Lonigro, Linda Cathcart, Supervisor Ed Romaine, Superintendent of Rocky Point School District Michael Ring, Joan Depken, John and Kathy Heggars.

Farmingville, NY - Supervisor Ed Romaine and Councilwoman Jane Bonner announced at a press conference today that the New York State Court of Appeals has ruled in favor of the Town of Brookhaven in the Rocky Point Drive-In developer's appeal to allow for a shopping center development at the site. The property owner had previously challenged the Town's up-zoning of the 18-acre property from J-D Business to Commercial / Recreational, which does not allow big-box stores.

The Supervisor and Councilwoman were joined at the press conference by Maureen Liccione, a partner in the law firm of Jaspan Schlesinger who served as outside council for the case, Superintendent of Rocky Point School District Michael Ring, Linda Cathcart and Joan Depken from the Rocky Point Historical Society, Bob and Amy Lonigro and John and Kathy Heggars, residents who live adjacent to the property..

The Rocky Point community has fought against a commercial center at this location for years and this decision puts an end to any chance that one would come to the site. The Rocky Point Drive-In was opened in the early 1960's and closed in the late 1980's, and was subsequently opened as a golf driving range, which has also been closed for years.

"The Town has fought long and hard to stop a commercial center on the Rocky Point Drive-In site," said Supervisor Romaine said. "The court ruling in favor of the Town is a victory for the local residents who can rest assured that this long-blighted property will be developed into an appropriate commercial / recreational use. I look forward to working with Councilwoman Bonner to redevelop the site in a way that is in the best interest of the surrounding area."

"A shopping center on this site would have been in conflict with the needs of the community while creating a traffic nightmare in an already high traffic area," said Councilwoman Bonner. "It would also severely impact the mom and pop stores that line the Route 25A Corridor, eliminating many local jobs or closing some businesses altogether. I

applaud the court's decision to finally put an end to this long running case. It's taken over a decade to close out this chapter, and now I ask Mr. Lerner to come to the table with residents and the Town. Let's find a solution that works with the Commercial Recreation zoning of the site and serve as a benefit to the entire community."

In 2000, the Town of Brookhaven commenced the process to re-zone the property from J-2 Business to Commercial/Recreational (C/R) consistent with the Town's Comprehensive Plan. Upon learning of the Town's proposal, the property owner of the Rocky Point Drive-In brought an application before the Town to construct a Lowe's, which he claimed was a permitted use under the original zoning. The owner brought several lawsuits against the Town, challenging the C/R zoning and also claiming that the Town intentionally and maliciously delayed hearing the Lowe's application until after the zoning was approved by the Town Board. Despite the fact that a commercial center was not a permitted use under J-2, the Suffolk Supreme Court ruled in favor of the plaintiff that a Lowe's could go forward without variances. The Town subsequently appealed and, in the meantime, Lowe's withdrew from the project.

On March 7, 2012, the New York State Appellate Division Second Department completely reversed the Suffolk County Supreme Court's original decision, stating that there was no intentional delay or malice on the part of the Town and that the Commercial/Recreational zoning was upheld. "The record does not support the [Suffolk Supreme Court's] determinations of undue delay and bad faith... or that the [Town] selectively enforced the prohibition against commercial centers in J-2 zoning districts," the court wrote in its decision at the time. The court additionally dismissed the plaintiff's cross-appeal and awarded a bill of defense costs to the Town.

Division of Public Information * Office of the Supervisor

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