

Furia Core Hardship Application Decision (Second)
200-463-1-12.3

5/2/94 - Commission denied application.

5/11/94 - Commission adopted a written decision and findings of fact.

The resolution from the first meeting, plus the findings from the second meeting, follow.

Central Pine Barrens
Joint Planning and Policy Commission

Robert J. Gaffney, *Chairman*
John LaMura, *Vice Chairman*
Ulric S. Haynes, *Member*
Joseph F. Janoski, *Member*
Fred W. Thiele, Jr., *Member*

P.O. Box 587
3525 Sunrise Highway, 2nd Floor
Great River, New York 11739

Session of May 2, 1994
Riverhead Town Hall

Resolution to disapprove the Furia Single Family Dwelling Core Preservation Area Hardship Application

- WHEREAS,** The Environmental Conservation Law Section 57-0121(10) provides for hardship exemption permit applications for development projects located within the Core Preservation Area of the Central Pine Barrens (as defined in the Environmental Conservation Law Section 57-0107(11) and provides for the holding of public hearings on such applications; and
- WHEREAS,** Such an application has been filed for the construction of a single family dwelling by the applicant, Mr. Russell Furia; and
- WHEREAS,** A public hearing was held on this application on April 21, 1994 and the matter has since been duly considered by the Commission; now, therefore, be it
- RESOLVED,** That the Central Pine Barrens Joint Planning and Policy Commission find that the application does not meet the criteria established by the statute for a core area hardship exemption and hereby disapproves the application.

Record of Motion:

Motion by Commissioner Thiele
Seconded by Ms. Wiplush

Yea Votes:

Commissioner Gaffney
Commissioner Thiele
Commissioner Haynes
Ms. Filmanski
Ms. Wiplush

Nay Votes:

None

~~5/19/94~~

DECISION AND FINDINGS OF FACT
CORE PRESERVATION AREA HARDSHIP EXEMPTION PERMIT

Applicant: Russel E. Furia; Single Family Dwelling in Manorville

Property Location: Approximately 68.8 acres on the north side of Hot Water Street, approximately 752 feet east of County Road 111, south of the Long Island Expressway and west of Toppings Path in Manorville, Town of Brookhaven, County of Suffolk.

Description of Proposed Development:

The applicant wishes to construct a single-family residence on property zoned A-5 Residence (5 acre). The proposed development consists of the construction of a single-family dwelling, approximately 40 feet by 75 feet, on 68.83 acres of land of which approximately 58.11 acres are forested.

Decision of Central Pine Barrens
Joint Policy and Planning Commission:

By resolution dated May 9, 1994, the Central Pine Barrens Commission voted to deny the application based upon the findings of fact set forth herein.

Date of Public Hearing: April 21, 1994

Findings of Fact:

The subject property is located in the Core Preservation Area of the Central Pine Barrens as such term is defined in Article 57 of the Environmental Conservation Law ("Article 57").

Pursuant to §57-0121(8) of Article 57, no development is permitted in the Central Pine Barrens prior to the approval and implementation of a comprehensive land use plan. Prior to the adoption of this land use plan, an application for a hardship permit exempting a Core Preservation Area property owner from the development prohibition in § 57-0121(8) may be submitted to the Central Pine Barrens Commission pursuant to § 57-0121(10).

Section 57-0121(10) sets forth specific standards which must be met in order for the Commission to grant a hardship permit exemption in the Core Preservation Area. First, the applicant must satisfy one of the following two conditions: (a) "an extraordinary hardship, as distinguished from a mere inconvenience" if he is precluded from developing the property or (b) a compelling public need for the proposed development. In order to establish an extraordinary hardship, the applicant must demonstrate "that the subject property does not have any beneficial use if used for its

present use or developed as authorized by the provisions of this article, . . ."

The lack of beneficial use must result "from unique circumstances peculiar to the subject property which:

- (i) Do not apply to or affect other property in the immediate vicinity;
- (ii) Relate to or arise out of the characteristics of the subject property rather than the personal situation of the applicant; or
- (iii) Are not the result of any action or inaction by the applicant or the owner or his predecessors in title including any transfer of contiguous lands which were in common ownership on or after June 1, 1993."

Based upon the statements contained in the applicant's written application, dated March 1, 1994, and upon the testimony and documents submitted during the public hearing held on April 21, 1994, in this matter, the Central Pine Barrens Commission finds that extraordinary hardship has not been established under criteria set forth in § 57-0121(10). With respect to cleared areas, the subject property is similar to other vacant property in the Core Preservation Area and it is not unique. The adjacent property to the east of the subject property contains portions of cleared land subject to the aforesaid regulations. The Commission finds that other parcels in the Core Preservation Area are also affected by trespassing and other unlawful activities. Any lack of beneficial use is due to the personal situation of the applicant rather than the unique characteristics of the subject property.

In addition to the criteria set forth above, the applicant must meet additional standards under § 57-0121(10)(c), which include the following: "[t]he waiver will not be inconsistent with the purposes, objectives, or the general spirit and intent of this article." The Commission finds that the proposed construction is not consistent with the intent of Article 57 to protect the ecologic integrity of the Central Pine Barrens. Based upon the evidence in the record as analyzed in light of the goals and purposes of Article 57, the Central Pine Barrens Commission finds that the proposed development will be detrimental to other property in the area by virtue of the impact on the ecology of both the site and adjacent property, will substantially impair the resources of the Core Preservation Area and will be inconsistent with the purposes, objectives and general intent of Article 57.

The application is denied.