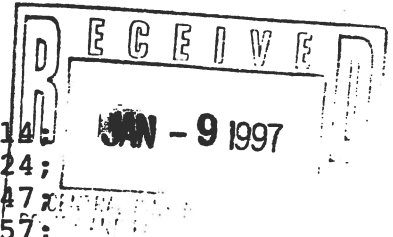


1/9/97

CENTRAL PINE BARRENS JOINT PLANNING & POLICY COMMISSION

Re: The Appeal of Martha Barkus, Shirley Hershkowitz, Philip Barkus, Max Hershkowitz & Sharon Berman of the Allocation of Pine Barrens Credits Concerning SCTM Parcel Nos. 200-411-1-5; 6; and 9



200-411-2-1;2;3;4;5;6;7;8;9;10;12;13;14;15;16;17;18;19;20;21;22;23;24;25;26;27;28;29;30;31;32;46;47;48;49;50;51;52;53;54;55;56;57;58;60;61;62;63;64;65;66; and 67

Petitioners.

1. Petitioners are Martha Barkus, Shirley Hershkowitz, Philip Barkus, Max Hershkowitz & Sharon Berman whose mailing address is 407 Cartwright Boulevard, Massapequa Park, New York 11762.

2. Petitioners, owners of the above listed parcels appeal the 11.1 Pine Barrens Credits allocated to the 48 parcels which received Letters of Interpretation.

3. Petitioners hereby submit to the Commission copies of 50 Single and Separate title searches prepared by East Coast Abstract, Inc., 85 Willis Avenue, Mineola, NY 11501 (marked Exhibits 1 through 50). In 1971 Martha Barkus and Shirley Hershkowitz inherited 47 parcels and these were distributed to us by the Estate as single and separate parcels. Three parcels were purchased by Sharon Berman in 1986. One additional parcel was purchased by Philip Barkus and Max Hershkowitz.

In 1989 a determination was reached by Petitioners and the Brookhaven Town Attorney to disallow several parcels which touched back-to-back, losing their single and separate status (copy attached, marked as Exhibit 51).

4. Therefore, Petitioners, after discussion with Brookhaven Town Planning Authorities, determined that a re-subdivision of the subject parcels into 36 single and separate building lots would be more advantageous both to the Town Planners and to Petitioners. A copy of this re-subdivision map is enclosed and marked as Exhibit 52. It was prepared by Smith and Jung, Surveyors. It provided for drainage, a sump, street widenings, domestic water, and other changes desirable to the local Town authorities and to Petitioners. The 37th parcel marked "out parcel" owned by Janice Moffat, was purchased subsequently by Philip Barkus and Max Hershkowitz in 1988.

5. The subject parcels are located on South Railroad Avenue, Shields Avenue, Fountain Avenue and Eastport Parkway, all of which access an improved Town road, Conungum Mill Road.

6. Herewith Petitioners submit a "Opinion of Value" from Frederick Wood, Associates, Inc., real estate appraisers, dated December 16, 1987 (marked as Exhibit 53).

7. Were it not for the restrictions imposed by preclusion of this property within the Core Preservation Area, it was the Petitioners intention to obtain building permits, improve South Railroad Avenue, Shields Avenue, Fountain Avenue and Eastport Parkway and offer these parcels for sale.

8. It is respectfully submitted that the allocation of 11.1 of Pine Barrens Credit for our thirty-seven (37) parcels is grossly inadequate for the reasons below:

a. The Long Island Pine Barrens Protection Act essentially prohibits development with the Core Preservation Area. The subject parcels are all located within the Core Preservation Area. Therefore these building parcels have lost their value other than the assignment of Pine Barrens Credits for which a market may develop.

b. Sub-paragraph 7 of Section 57-0119 directed the Commission to inventory private parcels within the Core preservation area and calculate the development yield for each property.

c. In Section 261-a of Town Law "The legislature further finds and declares that transfer of development rights, utilizing the normal market in land, may provide just compensation to owners of property to be protected or preserved."

d. In same Section 261-a, Section 6.1 of the Act deals with the purpose of the Pine Barrens Credit Program and states in part as follows:

It is the primary purpose of the Pine Barrens Credit Program to maintain value in lands designated for preservation under the Plan by providing for the allocation and use of Pine Barrens Credits."

e. Sections 6.3.1 of the Plan provides for allocation of one Pine Barrens Credit for each single family dwelling permitted on a parcel of land based upon the development yeild set forth in Section 6.3.1.1.1 through 6.3.1.1.9 under the zoning regulations in existence at the time the Plan was adopted. More specifically the development yeild factor ignores Section 85-372 of the Code of the Town of Brookhaven which permits, as of right, development of a single family dwelling on each of the parcels that is the subject of this appeal.

f. By only granting 11.1 credits, the Pine Barrens Commission has given Petitioners only partial credit for their holdings. All 37 building parcels are single and separate entities and must be credited as such.

9. Petitioners have elected to seek allocation of Pine Barrens Credits in an effort to attempt to receive a fair and adequate return for their property without the necessity of seeking a hardship permit to develop it.

10. The determination of the bank in awarding only 11.1 Pine Barrens Credits to the subject parcels constitutes a taking of property without just compensation, and at the same time does a disservice to the goals and objectives of the Long Island Pine Barrens Protection Act.

Petitioners respectfully request that the Commission overturn the determination of the bank and award full Pine Barrens Credit for the 37 Building parcels owned by Petitioners.

Respectfully Submitted,

MARTHA BARKUS for
Petitioners
(516) 798-9040

Martha Barkus

CC- Easement-L1Lco



Town of
Brookhaven
New York

- 11127-51

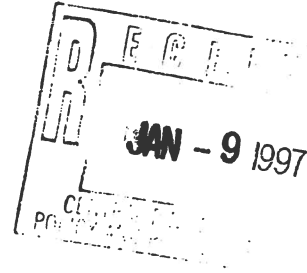
DEPARTMENT OF LAW

DAVID P. FISHBEIN, Town Attorney
PHILIP H. SANDERMAN, Chief Deputy Town Attorney
RUDOLPH S. MAZZEL, Deputy Town Attorney

MICHAEL E. WALTER
HOWARD M. BERGSON
DENISE F. MOLIA
MICHAEL T. GROBEN
GLADYS N. GENTILE
HAROLD A. STEUERWALD
GARRETT W. SWENSON, JR.
HELEN LEFKOWITZ

January 3, 1990

Fredrick Meyer
Municipal Planner
P.O. Box 171
Remsenburg, New York 11960



RE: Prudence House Sites, old filed map

Dear Fred:

Pursuant to our meeting today, attached please find a more explicit determination of the chains of title with regard to the above referenced subdivision. Below is a breakdown of parcels that are single and separate under Town of Brookhaven Town Code Section 85-221.

<u>Dist.</u>	<u>Sect.</u>	<u>Blk.</u>	<u>Lot/s</u>
0200	411	2	3
0200	411	1	5
0200	411	1	6 & 9
0200	411	2	10
0200	411	2	13
0200	411	2	14
0200	411	2	15
0200	411	2	16
0200	411	2	17
0200	411	2	18 & 19
0200	411	2	20 & 21
0200	411	2	22
0200	411	2	23
0200	411	2	24
0200	411	2	25
0200	411	2	31

<u>Dist.</u>	<u>Sect.</u>	<u>Blk.</u>	<u>Lot/s</u>
0200	411	2	46
0200	411	2	47
0200	411	2	48 & P/O 64
0200	411	2	49
0200	411	2	50
0200	411	2	52
0200	411	2	53
0200	411	2	54
0200	411	2	55
0200	411	2	56
0200	411	2	57
0200	411	2	58
0200	411	2	P/O 64
0200	411	2	P/O 66
0200	411	2	51 & P/O 66

If I can be of any further assistance, please do not hesitate to contact me.

Very truly yours,

James M. Tullo
James M. Tullo

Enc.
JMT/cc



Town of Brookhaven New York

DEPARTMENT OF LAW

DAVID P. FISHBEIN, Town Attorney
 PHILIP H. SANDERMAN, Chief Deputy Town Attorney
 RUDOLPH S. MAZZEI, Deputy Town Attorney

MICHAEL E. WALTER
 HOWARD M. BERGSON
 DENISE F. MOLIA
 MICHAEL T. GROBEN
 GLADYS N. GENTILE
 HAROLD A. STEUERWALD
 GARRETT W. SWENSON, JR.
 HELEN LEFKOWITZ

January 3, 1990

Fredrick Meyer
 Municipal Planner
 P.O. Box 171
 Remsenberg, New York 11960

RE: Prudence House Sites, old filed map

Dear Fred:

Pursuant to our meeting today, attached please find a more explicit determination of the chains of title with regard to the above referenced subdivision. Below is a breakdown of the parcels that are not single and separate as spelled out in Town of Brookhaven Town Code Section 85-221.

<u>Dist.</u>	<u>Sect.</u>	<u>Blk.</u>	<u>Lot</u>	<u>Parcel merges with:</u>
200	411	2	1	Southwest
200	411	2	2	Southwest
200	411	2	4	Northeast
200	411	2	5	Northeast
200	411	2	6	North
200	411	2	7	Northeast
200	411	2	P/O 8	Northwest
200	411	2	P/O 8	Southeast & Southwest
200	411	2	P/O 9	Northwest
200	411	2	26	West
200	411	2	28	Southwest
200	411	2	29	Southwest
200	411	2	30	Southwest
200	411	2	32	Northeast
200	411	2	60	Southwest
200	411	2	61	Northeast
200	411	2	62	Northeast
200	411	2	63	West

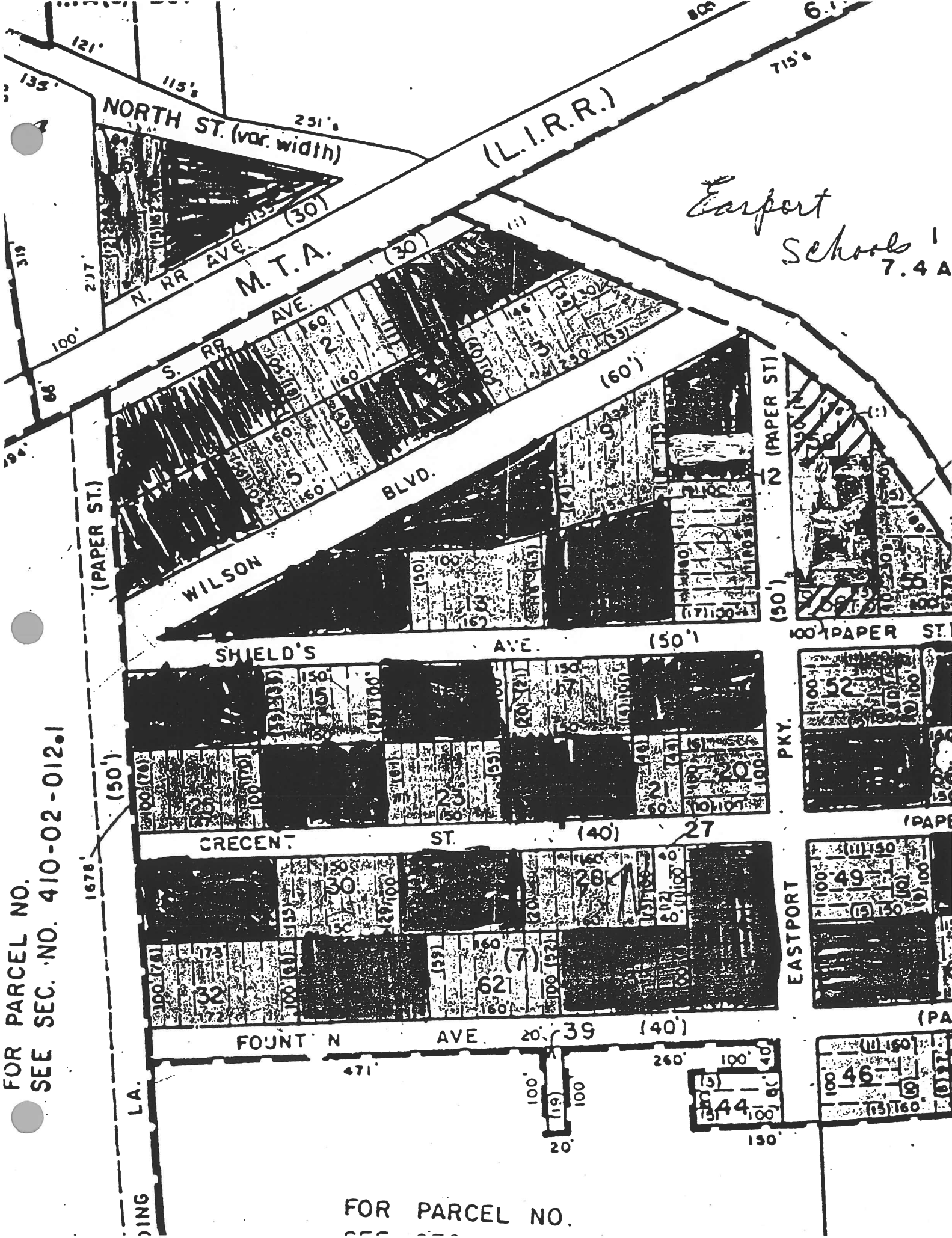
If I can be of any further assistance, please
do not hesitate to contact me.

Very truly yours,

James M. Tullo
James M. Tullo

Enc.
JMT/cc

FOR PARCEL NO.
SEE SEC. NO. 410-02-012.1



Eastport
School 1
7.4A

FOR PARCEL NO.



TOWN OF BROOKHAVEN

PLANNING BOARD MEMBERS

CHARLES B. SULLIVAN
ANTHONY ALPERTI
LEWIS W. DAVIS
LINDA PETERSEN
PETER SAPIENZA
Thomas J. Galinski
Donald Leo

LOUIS K. McLEAN
Consulting Engineer

June 12, 1989

Ms. Martha Barkus
407 Cartwright Boulevard
Massapequa Park, New York 11762

Dear Ms. Barkus:

Please be advised of the history of the property, as requested, in the hamlet of Manorville, District 0200, Section 411, Blocks 1 and 2. According to our staff the original 1937 Zoning Maps call out this property as "C" Residence, and the rest of the history is as follows:


1950 - Block 1 "C" Residence
Block 2 "D" Residence

1964 - "C" Residence and "D" Residence changed to
"B" Residence

1975 - "B" Residence and "B-1" Residence changed to
"A-2" Residence

The property in question is presently zoned "A-2" Residence. The Town Board has targeted this site for upzoning to either "A-5" or "A-10" Residence.

Very truly yours,


Dorothy Horak
Secretary to the
Planning Board

DH:kj

FILE COPY

**Central Pine Barrens
Joint Planning and Policy Commission**

Robert J. Gaffney, *Chair*
Felix J. Grucci, Jr., *Vice Chair*
Vincent Cannuscio, *Member*
Ray E. Cowen, *Member*
James R. Stark, *Member*

P.O. Box 587
3525 Sunrise Highway, 2nd Floor
Great River, New York 11739-0587
516-563-0385 / Fax 516-277-4097

June 26, 1997

Ms. Martha Barkus
407 Cartwright Boulevard
Massapequa, NY 11762

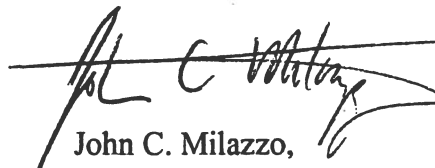
Re: Amended Resolution for Letters of Interpretation Appeal decided on March 12,
1997

Dear Ms. Barkus:

Please find enclosed an amended resolution on the above referenced matter to correct a clerical error. The March 12, 1997 resolution contained a clerical error indicating Suffolk County Tax Map Parcel 200-411-2-11 was subject of the appeal and did not indicate that Suffolk County Tax Map Parcel 200-411-2-23 was subject of the appeal. This amended resolution corrected this discrepancy. However, the total number of Pine Barrens Credits allocated to the 54 tax map parcels remains 19.34.

Please feel free to contact me at (516) 563-5692, if you have any questions on this matter.

Very truly yours,



John C. Milazzo,
Commission Staff

Enclosure

QUALIFICATIONS

The following information is presented as evidence attesting to the professional competence of FREDERICK E. WOOD, principal author of this report.

FREDERICK E. WOOD, a real estate appraiser and licensed real estate broker has been actively engaged in the valuation and sale of real property for the past fourteen (14) years, during which time he has appraised all types of properties located in New York State, with an aggregate value in excess of one hundred million dollars. Appraisal assignments have included residential, commercial and industrial properties with appraisement for investment, financing, condemnation, certiorari, estate, resale, fire insurance, etc. purposes. Mr. Wood has also lectured on real estate appraisal practice at various real estate academies and professional associations.

By Administrative Order, dated June 7, 1982, Mr. Wood was appointed as small claims hearing officer for assessment matters by the Supreme Court, Tenth Judicial District, Suffolk County.

In addition to his real property appraisal qualifications, he is a Licensed Professional Engineer in the State of New York, heading his own consulting firm engaged in cost surveys, technical valuations, land planning, building design, inspection services as well as many other related areas.

He is qualified as an Expert Witness for court testimony in matters pertaining to the valuation of real property and fields of engineering and has testified in local, county and state courts in the State of New York.

EDUCATION:

Rensselaer Polytechnic Institute - Bachelor of Science, 1954

Adelphi University - Master of Science, 1965

Completion of various courses, seminars, lectures on Real Estate Appraising sponsored by various colleges, universities and appraisal societies.

PROFESSIONAL AFFILIATIONS:

Member: N.Y. State Society of Professional Engineers

Member: National Society of Professional Engineers

Senior Member: American Society of Appraisers

Candidate Member: Society of Real Estate Appraisers

DESIGNATIONS:

Senior Member: American Society of Appraisers

407 Cartwright Blvd.
Massapequa Park, N.Y. 11762
January 27, 1997

Mr. John Millazzo
Central Pine Barrens
Joint Planning and Policy Commission
P.O. Box 587
3525 Sunrise Highway
Great River, N. Y. 11739-0587

Dear Mr. Millazzo:

We wish to amend our appeal. We would like our appeal to show that a letter from the Pine Barrens Clearing House dated January 15, 1997 has given us 1.57 additional credits. We now have 12.67 credits.

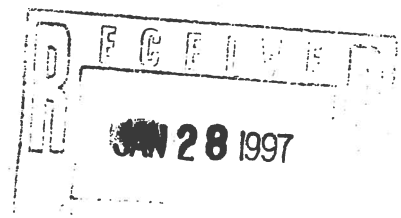
Please correct our appeal to show that we are appealing the 12.67 Pine Barrens Credits allocated to the 48 parcels which received Letters of Interpretation.

We request the Bank award us full Pine Barrens credit for the 37 building parcels that petitioners own.

Sincerely,

Martha Parkus

Martha Parkus



FREDERICK WOOD ASSOCIATES, INC.

Real Estate Consultants and Appraisers

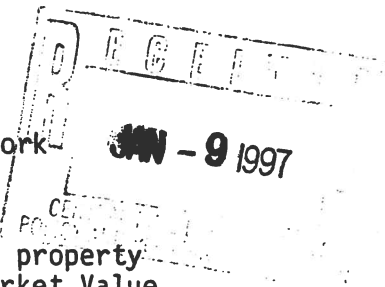
426 KANE AVENUE, EAST PATCHOGUE, NEW YORK 11772
(516) 286-8442

OPINION OF VALUE

December 16, 1987

Ms. Martha Barkus
407 Cartwright Blvd.
Massapequa Park, New York 11762

Re: Vacant Land
Mill Road
Manorville, New York



Dear Ms. Barkus:

At your request, I have inspected the above referenced property for the purpose of estimating its current market value. Market Value is defined to mean:

"The highest price in terms of money which a property will bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller, each acting prudently, knowledgeably and assuming the price is not affected by undue stimulus."

The subject property is a vacant, wooded area located on the south side of Mill Road, west of Halsey Manor Road in Manorville, New York. The site has a frontage of 1,000+ feet along Mill Road, containing an area of approximately 24+ acres. The topography of the plot is generally level. The area and neighborhood is sparsely developed with single family homes, with two new residential developments located to the south. The site suffers from some locational obsolescence with its proximity to the Long Island Railroad to the north and Long Island Lighting Company right-of-way running north and south.

The subject property is currently zoned "A" Residence 2 which requires a minimum lot area of 80,000+ square feet and a width of 200+ feet. The property is also located on an old filed map and has been checker-boarded by the owner to preserve its ownership as single and separate lots. For this appraisal, we have assumed the single and separate status of the property to be valid. In addition to valuation of the property on a plot basis, we have reviewed recent raw acreage sales in the Manorville area and find acreage values to range from \$20,000 to \$40,000 per acre with raw acreage at the lower range of values and one acre zoning at the upper range.

Our review of plot yield as single and separate plots indicates a potential for 46 building plots excluding out parcels and significantly under sized parcels. Research of unimproved plot sales indicate a probable value of \$11,500 per plot, as supported by a recent sale east of the subject. An estimate of value may be determined as follows:

46 building plots @ \$11,500 per plot = \$ 529,000.

OPINION OF VALUE
Ms. Martha Barkus

Re: Vacant Land - Mill Road
Manorville, New York

Considering an alternate approach as raw acreage, our market research indicates an acreage value of \$20,000 per acre in this area due to its A-2 zoning and remote location. Applying this figure to the estimated 24+ acre size of the property yields:

24+ acres @ \$20,000 per acre = \$ 480,000.

Based upon our preliminary appraisal of the property, it is our opinion that the current market value of the subject property would be in a range from

\$480,000 to \$530,000.

It should be clearly understood that this letter constitutes only an opinion of the value and that said value has been based upon a preliminary appraisal. This appraisal, although in rough form, has been prepared and retained in my files. The value conclusion reached in this assignment is subject to change should a full appraisal be completed and is based upon unverified conditions of title offered to the appraiser as fact.

I hereby certify that I have no present or contemplated future interest in the real estate that is the subject of this report and that I have no personal interest or bias with respect to the subject matter of this report, or the parties involved and that the amount of the fee is not contingent upon reporting a predetermined value or upon the amount of the value estimate. I certify that, to the best of my knowledge and belief, the statements of fact contained in the appraisal, upon which the analysis, opinions and conclusions are based are true and correct subject to the special and limiting conditions contained therein, that this report has been made in conformity with, and is subject to the requirements of the Code of Ethics and Standards of Professional Conduct of the American Society of Appraisers and that no one other than the undersigned prepared the analyses, conclusions and opinions concerning real estate that are set forth in the written appraisal.

If you should have any questions concerning this matter, please do not hesitate to contact me.

Respectfully submitted,



Frederick E. Wood, P.E., A.S.A.

FEW/lw
Enclosure

Central Pine Barrens Joint Planning and Policy Commission

Robert J. Gaffney, *Chair*
Felix J. Grucci, Jr., *Vice Chair*
Vincent Cannuscio, *Member*
Ray E. Cowen, *Member*
James R. Stark, *Member*

P.O. Box 587
3525 Sunrise Highway, 2nd Floor
Great River, New York 11739-0587
516-563-0385 / Fax 516-277-4097

Session of June 24, 1997

Brookhaven Town Office Complex

Present: Mr. Cowen, Mr. Proios (for Commissioner Gaffney), Ms. Filmanski (for Commissioner Stark), Mr. Freleng (for Commissioner Cannuscio), Ms. Wiplush (for Commissioner Grucci).

Amended Resolution on the Letter of Interpretation Appeal of Martha Barkus, Shirley Hershkowitz, Sharon Berman, and Max Hershkowitz and Philip Barkus for Suffolk County Tax Map Parcels 200-411-1-5; 6; 9; 200-411-2-1; 2; 3; 4; 5; 6; 7; 8; 9; 10; 12; 13; 14; 15; 16; 17; 18; 19; 20; 21; 22; 23; 24; 25; 26; 28; 29; 30; 31; 32; 46; 47; 48; 49; 50; 51; 52; 53; 54; 55; 56; 57; 58; 60; 61; 62; 63; 64; 65; 66; and 67

Whereas, pursuant to the Pine Barrens Credit Program contained in the Central Pine Barrens Comprehensive Land Use Plan, the applicants applied for and were issued Letters of Interpretation allocating 12.67 Pine Barrens Credits on November 26, 1996 and January 8, 1997 for the above referenced 54 tax map parcels; and

Whereas, the applicants appealed the allocation and the Commission considered the merits of the appeal at its February 19, 1997 and March 12, 1997 meetings; and

Whereas, according to the tax bills for the above referenced parcels the collective acreage of the 54 tax map parcels is 19.34 acres; and

Whereas, the applicants submitted a map prepared by Smith and Jung, Professional Land Surveyors, dated March 8, 1997, indicating that the total area of the above tax map parcels is 24.06 acres, which area includes the areas of mapped but not improved roadbeds; and

Whereas, the Commission considered allocating one (1) Pine Barrens Credits to each of the 19.34 acres for a total of 19.34 Pine Barrens Credits or issuing eight-tenths of a Pine Barrens Credits (0.8) to each of the 24.06 acres, for a total of 19.25 Pine Barrens Credits recognizing that some of the total area would need to be dedicated for roadbeds and other infrastructure improvements; and

Whereas, the Commission determined to allocate one (1) Pine Barrens Credits to the 19.34 acres; and

Whereas, the Commission adopted a resolution on March 12, 1997 allocating 19.34 Pine Barrens Credits to the 54 parcels for the foregoing reasons; and

**Amended Resolution of March 12, 1997
Appeal of Barkus et al.
Page Two**

Whereas, the March 12, 1997 resolution contained a clerical error indicating Suffolk County Tax Map Parcel 200-411-2-11 was subject of the appeal and did not indicate that Suffolk County Tax Map Parcel 200-411-2-23 was subject of the appeal, now therefore be it,

Resolved, that this amended resolution replaces the resolution adopted on March 12, 1997 only to the extent of removing Suffolk County Tax Map Parcel 200-411-2-11 from the appeal decision and adding Suffolk County Tax Map Parcel 200-411-2-23 to the appeal decision and that the total number of Pine Barrens Credits allocated remains 19.34.

**Record of Motion:
Motion by Ms. Filmanski
Seconded By Mr. Cowen**

**Yea Votes:
Unanimous**