

CENTRAL PINE BARRENS JOINT  
PLANNING AND POLICY COMMISSION

..... X

In the Matter of the Violations of Article 57 of the  
Environmental Conservation Law of the State of  
New York ("ECL") and the Central Pine Barrens  
Comprehensive Land Use Plan, by

**ORDER ON CONSENT**

HUGH MCCARRICK

Respondent

..... X

**WHEREAS:**

1. The Central Pine Barrens Joint Planning and Policy Commission (hereinafter "Commission") was created pursuant to the Long Island Pine Barrens Protection Act of 1993 (hereinafter "Act"), and has jurisdiction over, among other things, land use activities within the Central Pine Barrens as defined in Article 57 of the ECL.
2. Hugh McCarrick, (hereinafter "McCarrick") residing at 22 Valentine Road, Shoreham, New York 11786 is the owner of certain property located at 7 Sunset Trail, Ridge, New York 11961 which property has the SCTM # 200-217-1-25 (hereinafter "Property").
3. McCarrick acquired the Property by deed dated April 13, 2007 from Donald R. Buckingham and Rita J. Buckingham (hereinafter "Buckingham"). See, Exhibit A. The Property consists of approximately 9,763 square feet.
4. The Town of Brookhaven Zoning Board of Appeals (hereinafter the "ZBA") by resolution dated September 13, 2006 approved an application submitted by McCarrick for a two lot subdivision which subdivided the Property from the adjoining parcel to the north owned by the Buckinghams. The ZBA resolution stated that the clearing of the Property could not exceed 53%. By resolution adopted May 21, 2008, the ZBA modified its September 2006 resolution to require that McCarrick obtain a hardship exemption from the Commission. On August 20, 2008, the ZBA again revised its approval by allowing McCarrick to clear up to 70% of the Property. See Exhibit B.
5. On November 10, 2008, McCarrick was issued a Building Permit authorizing the construction of a single family residence on the Property. The Building Permit stated that the maximum clearing on the Property was not to exceed 53%. See Exhibit C.
6. The Property is located within the Compatible Growth Area of the Central Pine Barrens area as defined at ECL §57-0107(12).
7. Standard 5.3.3.6.1 of the Central Pine Barrens Comprehensive Land Use Plan sets forth the percentage of the Property that may be cleared without a Commission hardship

exemption. According to the Standard, 53% of the Property could be cleared without a Commission hardship exemption.

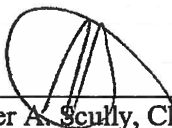
8. On April 14, 2009, McCarrick submitted a hardship exemption request to the Commission seeking relief from the 53% clearing standard to allow 70% of the Property to be cleared. As part of the hardship exemption request, McCarrick submitted an as built survey of the Property indicating that 70% of the Property was cleared. As of the date of McCarrick's application to the Commission, more than 53% of the Property was cleared. See Exhibit D.
9. As of July 15, 2009, a single family residence was constructed on the Property.
10. By resolution dated July 15, 2009, the Commission found that McCarrick cleared in excess of 53% of the Property.
11. McCarrick admits violations of Article 57 of the ECL, the Comprehensive Land Use Plan, in that, without obtaining the requisite permission or exemption from the Commission, McCarrick caused or permitted to be caused, (1) the clearing of more than 53% of the Property in the Compatible Growth Area without receiving a Commission hardship exemption and (2) engaged in development (i.e. the construction of a single family residence) that did not conform to provisions of the Plan.
12. Pursuant to ECL §57-0136(2)(b), a person who violates any provision of ECL Article 57, the land use plan adopted by the Commission, any regulation promulgated by the Commission, or the terms or conditions of any order, permit, or determination issued by the Commission pursuant to ECL Article 57, shall be liable to a civil penalty of not more than ten thousand dollars, and as additional civil penalty of not more than one thousand dollars for each day during which each such violation continues.
13. McCarrick desires to resolve the violations through this Order on Consent rather than to engage in litigation on the issues.
14. The Commission agrees to settle the within matter through this Order on Consent with McCarrick rather than to engage in litigation on the issues.
15. After opportunity to consult with an attorney, McCarrick affirmatively waiving his right to a hearing on this matter, consents to the entering and issuing of this Order, and agrees to be bound by the terms and conditions contained herein.

**NOW**, having considered this matter and being duly advised, **IT IS ORDERED THAT:**

- I. Cease and Desist. McCarrick shall immediately cease and desist any and all further clearing of the Property. The Property may only be used as a single family residence.
- II. Relief.
  - A. Implementation of a Restoration Plan. McCarrick shall completely and fully implement the Restoration Plan attached hereto and made a part hereof as Exhibit E.
  - B. Retirement of Pine Barrens Credits. McCarrick shall submit to the Commission a valid and duly issued Pine Barrens Credit Certificate in the amount of 0.15 Pine Barrens Credits for retirement within thirty (30) days of the full execution of this Consent Order. McCarrick may request one thirty (30) day extension in order to obtain the Certificate. The Commission shall grant the request.
  - C. Suspended Penalty. With respect to the violations identified in paragraphs One through Fifteen of this Order, if the Commission determines, after affording McCarrick notice and an opportunity to be heard, that McCarrick has failed to completely and fully implement the terms and conditions of this Order during the three year period commencing on the effective date of this Order on Consent, McCarrick shall provide the Commission within thirty (30) days of such determination a valid and duly issued Pine Barrens Credit Certificate in the amount of 0.30 Pine Barrens Credits for retirement. McCarrick need not provide to the Commission Pine Barrens Credits pursuant to this subparagraph if he completely and fully implements the terms and conditions of this Order.
  - D. McCarrick shall not undertake or cause to be taken any construction activity, alteration of vegetation or change in topography other than as required for the complete and full implementation of the Restoration Plan pursuant to Section II.A. above, and no "development" as defined by Section 57-0107(13) of the ECL on Property, unless prior to commencement of such activity the same receives all applicable approvals including pursuant to Article 57.
- III. Settlement and Reservation of Rights.
  - A. Upon completion of all obligations created in the Order, this Order settles only all claims for civil and administrative penalties concerning the violations described in Paragraphs One through Fifteen of this Order against McCarrick and its successors (including successors in title) and assigns.
  - B. Except as provided in Subparagraph IV.A of this Order, nothing contained in this Order shall be construed as barring, diminishing, adjudicating or in any way affecting any of the civil, administrative, or criminal rights of the Commission, or authorities with respect to any party, including McCarrick.

- IV. Failure, Default and Violation of Order.
- A. McCarrick's failure to comply fully and in timely fashion with any provision, term, or condition of this Order shall constitute a default and a failure to perform an obligation under this Order and under the Act and shall be deemed to be a violation of both this Order and the Act.
  - B. McCarrick's failure to comply fully and in timely fashion with any provision, term, or condition of this Order shall constitute a default and a failure to perform an obligation under this Order and under the Act and shall constitute sufficient grounds for revocation of any permit, license, certification, or approval issued to McCarrick by the Commission.
- V. Indemnification. McCarrick shall indemnify and hold harmless the Commission, its members, representatives, agents and employees for all claims, suits, actions, damages and costs of every name and description arising out of or resulting from the fulfillment or attempted fulfillment of this Order by McCarrick and their successors (including successors in title) and assigns.
- VI. Binding Effect. The provisions of this Order shall inure to the benefit of and be binding upon the Commission and McCarrick and his successors (including successors in title) and assigns.
- VII. Assignment. McCarrick may assign his rights and obligations under this Order upon the Commission's written approval. The Commission may deny, withhold or condition its approval for any reason. If assigned, McCarrick shall remain liable to the Commission for all of his rights and obligations under this Order to the date of the Assignment but shall be relieved of all future performance, liabilities and obligations under this Order. The assignee shall assume all of McCarrick's liabilities, rights and obligations under the Order from and after the date of assignment.
- VIII. Modification. In those instances in which McCarrick desires that any of the provisions, terms or conditions of this Order be changed, McCarrick shall make written application, setting forth the grounds for the relief sought, to the Commission at P.O. Box 587, 3525 Sunrise Highway, Great River, New York 11739-0587. No change or modification to this Order shall be made or become effective except as set forth by a written order of the Commission.
- IX. Access and verification. For the purpose of insuring compliance with this Order, and with applicable provisions of the Act and regulations promulgated thereunder, representatives of the Commission shall be permitted access to the Property without prior notice at reasonable hours and intervals in order to inspect and determine the status of the property, as well as access to relevant records in order to inspect and/or perform such tests as may be deemed appropriate to determine the status of McCarrick's compliance.

- X. Force Majeure. McCarrick shall not suffer any penalty under any of the provisions, terms and conditions hereof, or be subject to any proceedings or actions for any remedy or relief, if it cannot comply with any requirements of the provisions hereof, because of an Act of God, war, riot or other catastrophe as to which negligence or willful misconduct on the part of McCarrick was not a proximate cause, provided, however, that McCarrick shall immediately notify the Commission in writing when McCarrick obtains knowledge of any such condition and request an extension or modification of the provisions hereof.
- XI. Entire Order. The provisions of this Order constitute the complete and entire Order issued to McCarrick concerning resolution of the violations identified in Paragraphs One through Fifteen of this Order. No term, condition, understanding or agreement purporting to modify or vary any term hereof shall be binding unless made in writing and subscribed by the party to be bound, pursuant to Paragraph VIII of this Order. No informal oral or written advice, guidance, suggestion or comment by the Commission regarding any report, proposal, plan, specification, schedule, comment or statement made or submitted by McCarrick shall be construed as relieving McCarrick of its obligations to obtain such formal approvals as may be required by this Order.
- XIII. Effective Date. The effective date of this Order shall be the date upon which it is signed by the Commission's Chairman.

  
\_\_\_\_\_  
Peter A. Scully, Chairman  
CENTRAL PINE BARRENS  
JOINT PLANNING AND POLICY COMMISSION

11-10-09  
Date

By:

  
\_\_\_\_\_  
Hugh McCarrick

11-10-09  
Date

[See next page for acknowledgment]

**ACKNOWLEDGMENT**

STATE OF NEW YORK           )  
COUNTY OF SUFFOLK       ) ss.:

On the 10<sup>th</sup> day of November in the year 2009 before me, the undersigned, a notary public in and for said state, personally appeared Hugh McCarrick, personally known to me or proved to me on the basis of satisfactory evidence to be the individual whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his capacity, and that by his signature on the instrument, the individual or the person upon behalf of which the individual acted, executed the instrument.

Carol A. Sholl  
Notary Public

Carol A. Sholl  
Notary Public, State of New York  
No. 01SH6180927  
Qualified in Suffolk County  
Commission Expires January 22, 20 12

**SUFFOLK COUNTY CLERK  
RECORDS OFFICE  
RECORDING PAGE**

Type of Instrument: DEEDS/DDD  
Number of Pages: 3  
Receipt Number : 07-0038088  
TRANSFER TAX NUMBER: 06-30456

Recorded: 04/18/2007  
At: 11:14:55 AM  
LIBER: D00012501  
PAGE: 521

District: 0200      Section: 217.00      Block: 01.00      Lot: 025.000

EXAMINED AND CHARGED AS FOLLOWS

Deed Amount: \$105,000.00

**Received the Following Fees For Above Instrument**

		Exempt			Exempt
Page/Filing	\$9.00	NO	Handling	\$5.00	NO
COE	\$5.00	NO	NYS SRCHG	\$15.00	NO
EA-CTY	\$5.00	NO	EA-STATE	\$165.00	NO
TP-584	\$5.00	NO	Cert.Copies	\$0.00	NO
RPT	\$50.00	NO	SCTK	\$0.00	NO
Transfer tax	\$420.00	NO			
			Fees Paid	\$679.00	

TRANSFER TAX NUMBER: 06-30456

THIS PAGE IS A PART OF THE INSTRUMENT  
THIS IS NOT A BILL

Judith A. Pascale  
County Clerk, Suffolk County

1 2

Number of pages 3

TORRENS

Serial # \_\_\_\_\_

Certificate # \_\_\_\_\_

Prior Cl. # \_\_\_\_\_

RECORDED  
2007 Apr 18 11:14:55 AM  
Judith A. Pascale  
CLERK OF  
SUFFOLK COUNTY  
L. 000012501  
P. 521  
DT# 06-30456

Deed / Mortgage Instrument	Deed / Mortgage Tax Stamp	Recording / Filing Stamps
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3	FEES	
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Page / Filing Fee	<u>9</u>		Mortgage Amt.	_____
Handling	<u>5.00</u>		1. Basic Tax	_____
TP-584	<u>5</u>		2. Additional Tax	_____
Notation	_____		Sub Total	_____
EA-5217 (County)	<u>5</u>	Sub Total <u>24</u>	Spec. / Anst.	_____
EA-5217 (State)	<u>1.05</u>		or	_____
C.R.T.S.A.	<u>50</u>		Spec. / Add.	_____
Comm. of Ed.	<u>5.00</u>		TOT. MTG. TAX	_____
Affidavit	_____		Dual Town _____ Dual County _____	
Certified Copy	_____		Held for Appointment	_____
Reg. Copy	_____	Sub Total <u>235</u>	Transfer Tax	<u>420</u>
Other	<u>15</u>	Grand Total <u>259</u>	Mansion Tax	_____



The property covered by this mortgage is or will be improved by a one or two family dwelling only.

YES \_\_\_\_\_ or NO \_\_\_\_\_

If NO, see appropriate tax clause on page # \_\_\_\_\_ of this instrument.

4-13-07

4	District 0200	Section 217.00	Block 01.00	Lot 020.000-5	Community Preservation Fund
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Real Property Tax Service Agency Verification

07012047

0200 21700 0100 025000  
0200 21700 0100 026002



12

Consideration Amount \$ 105,000

CFF Tax Due \$ \_\_\_\_\_

Improved \_\_\_\_\_

Vacant Land \_\_\_\_\_

TD \_\_\_\_\_

TD \_\_\_\_\_

TD \_\_\_\_\_

6 Satisfaction/Discharges/Release List Property Owners Mailing Address  
RECORD & RETURN TO:

STEPHEN G. REMUZZI, ESQ.  
P.O. BOX 465  
ROCKY POINT, NY 11778

7 Title Company Information

Co. Name: ABSOLUTE ABSTRACT, INC

Title # AA1446-3

## Suffolk County Recording & Endorsement Page

This page forms part of the attached DEED made by:

(SPECIFY TYPE OF INSTRUMENT)

DONALD R. BUCKINGHAM  
RITA J. BUCKINGHAM

The premises herein is situated in  
SUFFOLK COUNTY, NEW YORK.

TO

In the Township of BROOKHAVENHUGH MCCARRICK

In the VILLAGE

or HAMLET of RIDGE

BOXES 6 THROUGH 8 MUST BE TYPED OR PRINTED IN BLACK INK ONLY PRIOR TO RECORDING OR FILING

(over)



Dear Taxpayer,

Your satisfaction of mortgage has been filed in my office and I am enclosing the original copy for your records.

If a portion of your monthly mortgage payment included your property taxes, you will now need to contact your local Town Tax Receiver so that you may be billed directly for all future property tax bills.

Local property taxes are payable twice a year: on or before January 10th and on or before May 31st. Failure to make payments in a timely fashion could result in a penalty.

Please contact your local Town Tax Receiver with any questions regarding property tax payment.

Babylon Town Receiver of Taxes  
200 East Sunrise Highway  
North Lindenhurst, NY 11757  
(631) 957-3004

Brookhaven Town Receiver of Taxes  
250 East Main Street  
Port Jefferson, NY 11777  
(631) 473-0236

East Hampton Town Receiver of Taxes  
300 Pamlico Place  
East Hampton, NY 11937  
(631) 324-2770

Huntington Town Receiver of Taxes  
100 Main Street  
Huntington, NY 11743  
(631) 351-3217

Islip Town Receiver of Taxes  
40 Nassau Avenue  
Islip, NY 11751  
(631) 224-5580

Riverhead Town Receiver of Taxes  
200 Howell Avenue  
Riverhead, NY 11901  
(631) 727-3300

Shelter Island Town Receiver of Taxes  
Shelter Island Town Hall  
Shelter Island, NY 11964  
(631) 749-3338

Smithtown Town Receiver of Taxes  
99 West Main Street  
Smithtown, NY 11787  
(631) 360-7610

Southampton Town Receiver of Taxes  
116 Hampton Road  
Southampton, NY 11968  
(631) 283-6514

Southold Town Receiver of Taxes  
53095 Main Road  
Southold, NY 11971  
(631) 765-1803

Sincerely,

*Edward P. Romaine*

Edward P. Romaine  
Suffolk County Clerk

THIS INDENTURE, made the 13 day of April, 2007  
BETWEEN

DONALD R. BUCKINGHAM  
RITA J. BUCKINGHAM  
5 SUNSET TRAIL  
RIDGE, N.Y. 11961

party of the first part, and

HUGH McCARRICK  
22 VALENTINE ROAD  
SHOREHAM, N.Y. 11786

party of the second part,

WITNESSETH, that the party of the first part, in consideration of TEN (\$10.00)

dollars paid

by the party of the second part, does hereby grant and release unto the party of the second part, the heirs or successors and assigns of the party of the second part forever,

ALL that certain plot, place or parcel of land, lying and being at Lake Panamoka, Town of Brookhaven, County of Suffolk and State of New York, known and designated as Lot No. 790 and part of Lot No. 789 on a certain map entitled, "Map of Lake Panamoka, Sec. 3" and filed in the Suffolk County Clerk's Office on February 24, 1940 as Map No. 1306, said lot and part of lot, when taken together, are more particularly bounded and described as follows:

BEGINNING at a point on the easterly side of Sunset Trail distant 90.26 feet southerly from the corner formed by the intersection of the easterly side of Sunset Trail with the southerly side of Rockaway Trail;  
RUNNING THENCE from said point of beginning along other land now or formerly of Buckingham South 84 degrees 06' 00" East, 112.50 feet to a point;  
THENCE along the division line between Lots 789 and 790 and Lots 782 and 783 South 05 degrees 54' 00" West, 75.00 feet to a point;  
THENCE along the division line between Lot 790 and Lot 791 North 84 degrees 06' 00" West, 112.50 feet to the point on the easterly side of Sunset Trail;  
THENCE along the easterly side of Sunset Trail North 05 degrees 54' 00" East 75.00 feet to the point or place of BEGINNING.

TAX MAP NUMBERS: 0200-217-00-01, 02-025.000 & p/o 025.000

BEING AND INTENDED to be the same premises conveyed by the grantors herein by deed dated 1/3/73, recorded on 2/7/73, in Liber 7340 cp 25.

TOGETHER with all right, title and interest, if any, of the party of the first part in and to any streets and roads abutting the above-described premises to the center lines thereof; TOGETHER with the appurtenances and all the estate and rights of the party of the first part in and to said premises; TO HAVE AND TO HOLD the premises herein granted unto the party of the second part, the heirs or successors and assigns of the party of the second part forever.

AND the party of the first part covenants that the party of the first part has not done or suffered anything whereby the said premises have been encumbered in any way whatever, except as aforesaid.

AND the party of the first part, in compliance with Section 13 of the Lien Law, covenants that the party of the first part will receive the consideration for this conveyance and will hold the right to receive such consideration as a trust fund to be applied first for the purpose of paying the cost of the improvement and will apply the same first to the payment of the cost of the improvement before using any part of the total of the same for any other purpose. The word "party" shall be construed as if it read "parties" whenever the sense of this indenture so requires.

IN WITNESS WHEREOF, the party of the first part has duly executed this deed the day and year first above written.

IN PRESENCE OF:

  
DONALD R. BUCKINGHAM

  
RITA J. BUCKINGHAM

**TO BE USED ONLY WHEN THE ACKNOWLEDGMENT IS MADE IN NEW YORK STATE**

State of New York, County of Suffolk ss:

On the 13 day of April, 2007 before me, the undersigned, personally appeared DONALD R. BUCKINGHAM & RITA J. BUCKINGHAM, known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

State of New York, County of \_\_\_\_\_ ss:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)

JEREM O'SULLIVAN  
Notary Public, State of New York  
No. 01088074885  
Qualified in Suffolk County  
Commission Expires March 24, 2011

**TO BE USED ONLY WHEN THE ACKNOWLEDGMENT IS MADE OUTSIDE NEW YORK STATE**

State (or District of Columbia, Territory, or Foreign Country) of \_\_\_\_\_ ss:

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year \_\_\_\_\_ before me, the undersigned, personally appeared \_\_\_\_\_

personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument, and that such individual made such appearance before the undersigned in the \_\_\_\_\_

\_\_\_\_\_  
(Insert the City or other political subdivision)

in \_\_\_\_\_  
(and insert the State or Country or other place the acknowledgment was taken)

\_\_\_\_\_  
(signature and office of individual taking acknowledgment)

**BARGAIN AND SALE DEED  
WITH COVENANT AGAINST GRANTOR'S ACTS**

Title No. \_\_\_\_\_

TO

SECTION  
BLOCK  
LOT  
COUNTY  
STREET ADDRESS:

Recorded at Request of  
COMMONWEALTH LAND TITLE INSURANCE COMPANY

RETURN BY MAIL TO:

STANDARD FORM OF NEW YORK BOARD OF TITLE INSURANCE

Distributed by



**Commonwealth**

Land Title Insurance Company

COMMONWEALTH LAND TITLE INSURANCE COMPANY

STEPHEN G. REMUZZI, ESQ.  
P.O. BOX 488  
ROCKY POINT, N.Y. 11778

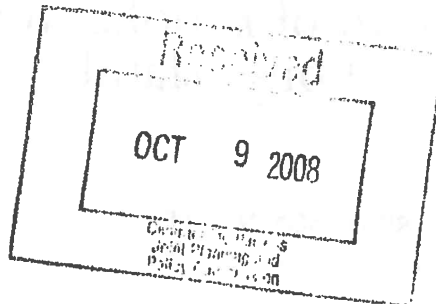
RESERVE THIS SPACE FOR USE OF RECORDING OFFICE



## Town of Brookhaven Long Island

OFFICE OF THE BOARD OF ZONING APPEALS

Paul M. DeChance, Chairman



August 22, 2008

Re: Hugh P. McCarrick, c/o Sal Malguarnera: East side of Sunset Trail 90.26' South of Rockaway Trail, Lake Panamoka/Ridge. Applicant requests relief of clearing limits imposed by the Board of Zoning Appeals decision of 9/13/06 (53% permitted - 70% proposed).

At a public hearing of the Town of Brookhaven Board of Zoning Appeals held **August 20, 2008** application No. **35 (originally of 8/6/08)** was duly considered and action taken as follows:

**Granted for 70% maximum clearing; subject to the execution and filing in the office of the Suffolk County Clerk of covenants & restrictions reflecting same; said covenant must be filed within 6 months, otherwise this approval becomes null and void.**

If this is a notice of approval, it is necessary for you to bring this letter with you to the Building Dept. in order to obtain the required building permit and/or certificate of occupancy or compliance within **two years**. You must comply with Section 85-30 of the Town Code. Failure to do so will render this approval **null and void**.

Please contact our office if you have any questions.

Sincerely,

Paul M. DeChance  
Chairman



# Town of Brookhaven Long Island

OFFICE OF THE BOARD OF ZONING APPEALS  
erry J. Karl, Chairman

Sept. 15, 2006

Re: Hugh P. McCarrick, c/o Sal Malguarnera: Southeast corner Rockaway Trail & Sunset Trail (plot A) and East side Sunset Trail, 90' South of Rockaway Trail (plot B), Lake Panamoka. Applicant seeks division of a parcel into 2 plots, A & B requiring:

lot area: <b>both plots</b>	lot frontage: <b>both plots</b> <b>(Sunset Trail on plot A)</b>	front yard setback: <b>plot B only</b>
rear yard: <b>plot B only</b>	min. side yard: <b>both plots</b>	total side yard: <b>both plots</b>

for existing one family dwelling on plot "A"; also, front yard setback variance from both streets for existing attached wood deck with steps and proposed one family dwelling on plot "B".

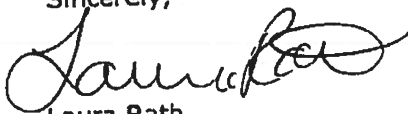
At a public hearing of the Town of Brookhaven Board of Zoning Appeals held **September 13, 2006** application No. **43 & 44** was duly considered and action taken as follows:

**Negative declaration under SEQRA issued (unlisted action) (enclosed); granted, respectively; subject to all recommendations of Planning, Environment & Land Management (except for mitigation measure #1); subject to the execution and filing in the Office of the Suffolk County Clerk, of covenants & restrictions for the following: no further subdivision; clearing of natural vegetation shall not exceed 53% on lot 2; maximum fertilizer dependent vegetation shall be limited to 15% for lot 2; existing trees on lot 2 to be preserved to the maximum extent practicable; said covenant shall further provide that in the event any remaining lots on the subdivision are capable of further subdivision in such a manner as to comply with the Zoning Code of the Town of Brookhaven, said lots may still be further subdivided with the approval of the Planning Board; any covenants & restrictions must be filed prior to obtaining building permits.**

If this is a notice of approval, It is necessary for you to bring this letter with you to the Building Dept. in order to obtain the required building permit and/or certificate of occupancy or compliance within **two years**. You must comply with Section 85-30 of the Town Code. Failure to do so will render this approval **null and void**.

Please contact our office if you have any questions.

Sincerely,

  
Laura Rath  
Secretary

Enc.

**RECEIVED**

**OCT 03 2006**

**PLANNING DIVISION**

**STATE ENVIRONMENTAL QUALITY REVIEW ACT  
NEGATIVE DECLARATION  
NOTICE OF DETERMINATION OF NON-SIGNIFICANCE**

**Hearing Date:** 9/13/06, Case(s) # 43 & 44  
**Applicant:** Hugh McCarrick  
**Location:** S/E Corner Rockaway Trail & Sunset Trail  
Lake Panamoka, NY  
**SCTM No:** 0200 217.00 01.00 025.000, 026.000

This notice is issued pursuant to PART 617 of the implementing regulations pertaining to Article 8 State Environmental Quality Review Act of the Environmental Conservation Law.

**THE TOWN OF BROOKHAVEN BOARD OF ZONING APPEALS**, as lead agency, has determined that the proposed action described below will not have a significant environmental impact.

<b>DESCRIPTION OF ACTION:</b>	<b>SEQR STATUS:</b> Unlisted
Two (2)-lot land division on .42 acres zoned A - 1.	

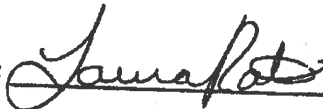
**A. REASONS SUPPORTING THIS DETERMINATION:**

1. The record presented before the Board.
2. No significant environmental impact is expected to occur to: local air quality, groundwater, surface water or agricultural land resources; aesthetic, historic or archaeological resources; wildlife habitat, endangered species, open space or recreation; transportation, energy, noise or odor impacts and public health.
3. No significant impacts are expected on the growth and character of the community.
4. Recommendations from the Department of Planning, Environment, and Development incorporated into the decision.
5. No further subdivision.
6. Clearing of natural vegetation shall not exceed 53% on lot # 2; maximum fertilizer dependent vegetation shall be limited to 15% for lot # 2.
7. Existing trees on lot # 2 to be preserved to the maximum extent practicable.
8. Applicant to apply to the Pine Barrens Commission for hardship waiver, re: clearing limits.

**B. COVENANTS SHALL BE PREPARED FOR ITEM (S): 5, 6, 7**

This Application not complete until authorized as follows:

**SECRETARY TO THE ZONING BOARD:**



9/15/06  
(date)

**Contact Person:** Thomas Chawner, Planner  
**Lead Agency:** Board of Zoning Appeals

**Address:** One Independence Hill  
Farmingville, N.Y. 11738



## Town of Brookhaven Long Island

OFFICE OF THE BOARD OF ZONING APPEALS  
Paul M. DeChance, Chairman

May 23, 2008

Re: Hugh P. McCarrick: Southeast corner Rockaway Trail & Sunset Trail (plot A) and East side Sunset Trail, 90' South of Rockaway Trail (plot B), Lake Panamoka. Applicant seeks division of a parcel into 2 plots, A & B requiring:

lot area: <b>both plots</b>	lot frontage: <b>both plots</b> (Sunset Trail on plot A)	front yard setback: <b>plot B only</b>
rear yard: <b>plot B only</b>	min. side yard: <b>both plots</b>	total side yard: <b>both plots</b>

for existing one family dwelling on plot "A"; also, front yard setback variance from both streets for existing attached wood deck with steps and proposed one family dwelling on plot "B".

At a public hearing of the Town of Brookhaven Board of Zoning Appeals held **May 21, 2008** application No. **43 & 44 (originally of 9/13/06)** was duly considered for modification of motion and action taken as follows:

**Previous grant amended as follows:**

- Mitigation measure #3 is deleted;
- Stipulation referring to clearing limit and fertilizer dependant vegetation is amended to read "clearing of vegetation not to exceed 53% on lots 1 & 2; maximum fertilizer dependant vegetation shall be limited to 15% for lots 1 & 2"
- Include stipulation that applicant must apply to Pine Barrens Commission for hardship waiver re: clearing limits
- Remaining conditions as originally approved.

If this is a notice of approval, it is necessary for you to bring this letter with you to the Building Dept. in order to obtain the required building permit and/or certificate of occupancy or compliance. You must comply with Section 85-30 of the Town Code. Failure to do so will render this approval **null and void**.

Please contact our office if you have any questions.

Sincerely,

Paul M. DeChance  
Chairman

cc: Cramer Consulting Group

**TOWN OF BROOKHAVEN BUILDING DIVISION**  
**ONE INDEPENDENCE HILL, FARMINGVILLE, N.Y. 11738**  
**PHONE # (631) 451-6333**  
**PERMIT NO.BA 08B52965**

**CASE NO 44 MEETING DATE 05/21/2008**  
**PERMIT TYPE BLD\_COMB R# 157**  
**ISSUED: 11/10/2008**  
**EXPIRES: 11/10/2009**

**APPLICANT: SAL MALGUARNERA / HUGH MCCARRICK**  
**251 HAWKINS RD**  
**CENTEREACH NY 11720**  
**732-0010**

**Permission is Hereby Granted For:**  
**Proposed 26.6' x 43.6' one story residence (no garage), 4' x 10' exterior**  
**basement entrance to unfinished basement, 3' x 8' front roof over porch,**  
**and 3' x 7' wood entry platform (3 bedrooms, 2 baths)(4 bedrooms max per**  
**SCDHS). Prior to issuance of a CO applicant must demonstrate compliance**  
**with ZBA grant dated May 23, 2008- requirement that applicant must apply**  
**to Pine Barrens Commission for hardship waiver re: 53% clearing limit.**  
**Clearing not to exceed 53%.**

**Located at No 7 N/S/E/W E Side SUNSET TRL**  
**Distance 90.26' N/S/E/W S OF ROCKAWAY TRAIL**  
**Village Ridge State of New York**

**MapLAKE PANAMOKASect Lot 788,789 & 790**

**SCTM: 0200-217.00-01.00-026.003 ITEM NO. 2012603M**

**OWNER: FLOOD ZONE**

**MCCARRICK HUGH x**

**22 VALENTINE RD**

**SHOREHAM NY 11786**

**ZONING: A1**

**VALUATION: \$40,600.00**

**PLUM FEE \$ \$85.00**

**ACC USE (NEW) \$1,000.00**

**ACC USE (EXIST) \$0.00**

**ZONE**

**CALCULATED FEE:**

**ADDITIONAL FEE:**

**TOTAL FEE:**

**PAYMENTS:**

**BZA**

**\$715.00**

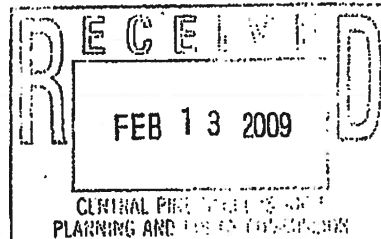
**\$0.00**

**\$715.00**

**\$715.00**

**Article 15 of the Executive Law of the State of New York, Section 296-5(A)(1) prohibits discrimination in the**  
**sale, rental or lease of housing accommodations, because of race creed, color or national origin. This permit is**  
**subject to immediate revocation if any ordinances or laws under which it is issued are violated**

**TOWN OF BROOKHAVEN BUILDING DIVISION**





To the Pine Barren Commission

February 15 2009

My name is Hugh McCarrick and I am asking for a hardship for 70% clearing. Back in April 2006 I went in to contract with Donald and Rita Buckingham to buy a lot of land they owned. The property was 50 by 112 ft.. I ask if they could add 25 ft to the lot and it would be 75 by 112ft.

September 15 2006 the Board of Zoning Appeals approved the land split.  
Reasons for supporting this determination.

1. The record presented before the Board.
2. No significant environmental impact is expected to occur to; local air quality, groundwater, surface water or agricultural land resources; aesthetic, historic or archaeological resources; wildlife habitat, endangered species, open space or recreation; transportation, energy, noise or odor impacts and public health.
3. No significant impacts are expected on the growth and character of the community.
4. Recommendations from the dept. of planning , environment, and development incorporated into the decision.
5. No further subdivision.
6. Clearing of natural vegetation shall not exceed 53% on lot #2; maximum fertilizer dependent vegetation shall be limited to 15% for lot #2.
7. Existing trees on lot #2 to be preserved to the maximum extent practicable.
8. Applicant to apply to the Pine Barrens Commission for hardship waiver, re; clearing limits.

After the Boards decision my wife and I bought the property for our daughter and son n law to build a home for them .

August 20. 2008 ZBA granted us 70% clearing limit.

October 21 2008 Planing Dept gave me a permit.

November 10 2008 Town Of Brookhaven building dept. gave me a permit .  
#BH08B52965

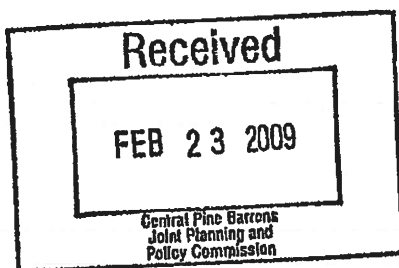
With requirement that I must apply for hardship waver 53% clearing limit.

December 18 2008 I started to build the home.

I am asking if this Board could you please grant my family the 70% clearing limits.

Thank you Hugh McCarrick

*Hugh McCarrick*



To The Pine Barren Commission.

February 15 2009

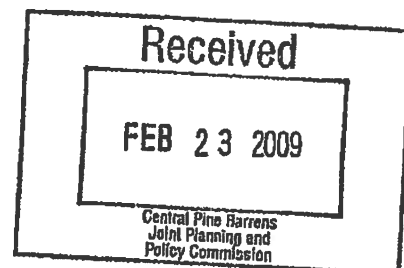
I am asking for a hardship, and 70% clearing.

1 If the property has only 53% clearing, on a lot that is only 75ft by 112ft it would only leave me 3,700 sq ft in witch to build a house and driveway including setbacks. The value of the property would be much less.

2 The property in question is unique. The code itself talks about the 53% clearing limit in the A-1 residential zoning district. 40,000 square ft lot 53% clearing still leaves you almost a half acre to build on. On a 75 by 112 lot with 53% there is almost no land left for my grandson to play.

3 If granted this would not alter the character of the neighborhood. The majority of the lots are small 50ft by 100ft. And most have either completely been cleared or they are in the 70, 80, 90 percentile.

4 This hardship has not been self-created. The Town of Brookhaven Building Dept. gave me a permit with the requirement that I must apply for a hardship.



## **Exhibit E**

### **Restoration Plan**

The Restoration Plan is contained in this narrative and the Proposed Revegetation Plan sketch, Rev. No. 6 (undated) with required plantings and specifications handwritten. The restoration requirements are provided separately for each yard area on the property – front, rear, north, and south sides.

The rear yard is split into two sections – north and south – since the existing conditions warranted specific requirements for these areas. Mulch can be applied after plantings are installed. The restoration work shall be completed within one month from the effective date of this Order on Consent unless the Commission approves, in writing an alternative schedule. The Commission must receive from McCarrick a written notification that the restoration has been completed within one week of completion.

McCarrick must, within one month after completion of the restoration, submit for Commission approval an “As-Built Plan” prepared by a licensed landscape architect that illustrates the actual restoration measures implemented by McCarrick. Commission staff shall perform a field inspection to determine compliance with the requirements of this restoration plan as indicated in the As-Built Plan before approving the As-Built Plan. Failure to comply with the Restoration Plan or the submission of an inaccurate As-Built Plan shall be deemed a default under the Order on Consent.

McCarrick must ensure that the plants are properly watered. No pesticides or herbicides may be applied to the Property.

At a minimum, McCarrick must provide for a two year planting survival rate of 85%. Thus, 85% of the plants installed in furtherance of the Restoration Plan must be viable and exhibit acceptable health and vigor two years from the date that the As-Built Plan is approved by the Commission. Any plants that do not survive during the two year period shall be promptly removed and replaced by a new plant consistent with the Restoration Plan.

Specific Planting Schedule based on the Revegetation Plan sketch.

#### **Front yard (west side)**

- Transplant existing potted plants to fill in bare areas on the south side

#### **Rear yard (east side) - Northern half**

- Plant one white oak (min. 2-2.5 inch caliper) in the bare area in the northeast corner
- Remove the dead flowering dogwood and plant one white oak (min. 2-2.5 inch caliper) in its place

- Remove debris and litter on the ground
- Remove weeds
- Retain existing maple sapling
- Plant 20 shrubs (min 2-3 gal container) including:
  - (1) cranberry viburnum (*Viburnum trilobum*) (sun)
  - (4) inkberry (*Ilex glabra*) (shade)
  - (4) mountain laurel (*Kalmia latifolia*) (shade)
  - (4) highbush blueberry (*Vaccinium corymbosum*) (sun/shade)
  - (2) bayberry (*Myrica pensylvanica*) (sun/shade)
  - (2) red chokeberry (*Aronia arbutifolia*)

**Rear yard (east side) - Southern half**

- Retain existing plantings (e.g., oak seedlings) and ferns
- Remove corner lawn area and plant (20) ferns (min 1 gal container grown, 2 feet on center)

**North side** - No restoration requirements are specified for this section.

**South side**

- Plant the following:
  - (1) arrowwood (*Viburnum dentatum*) (sun) (min 2-3 gal container)
  - (3) serviceberry/shadbush (*Amelanchier canadensis*) (4-5 ft. tall)
- This area will accept the transplanted potted plants from the front yard
- The existing (1) Norway Maple and Rosa Sharon can be removed.

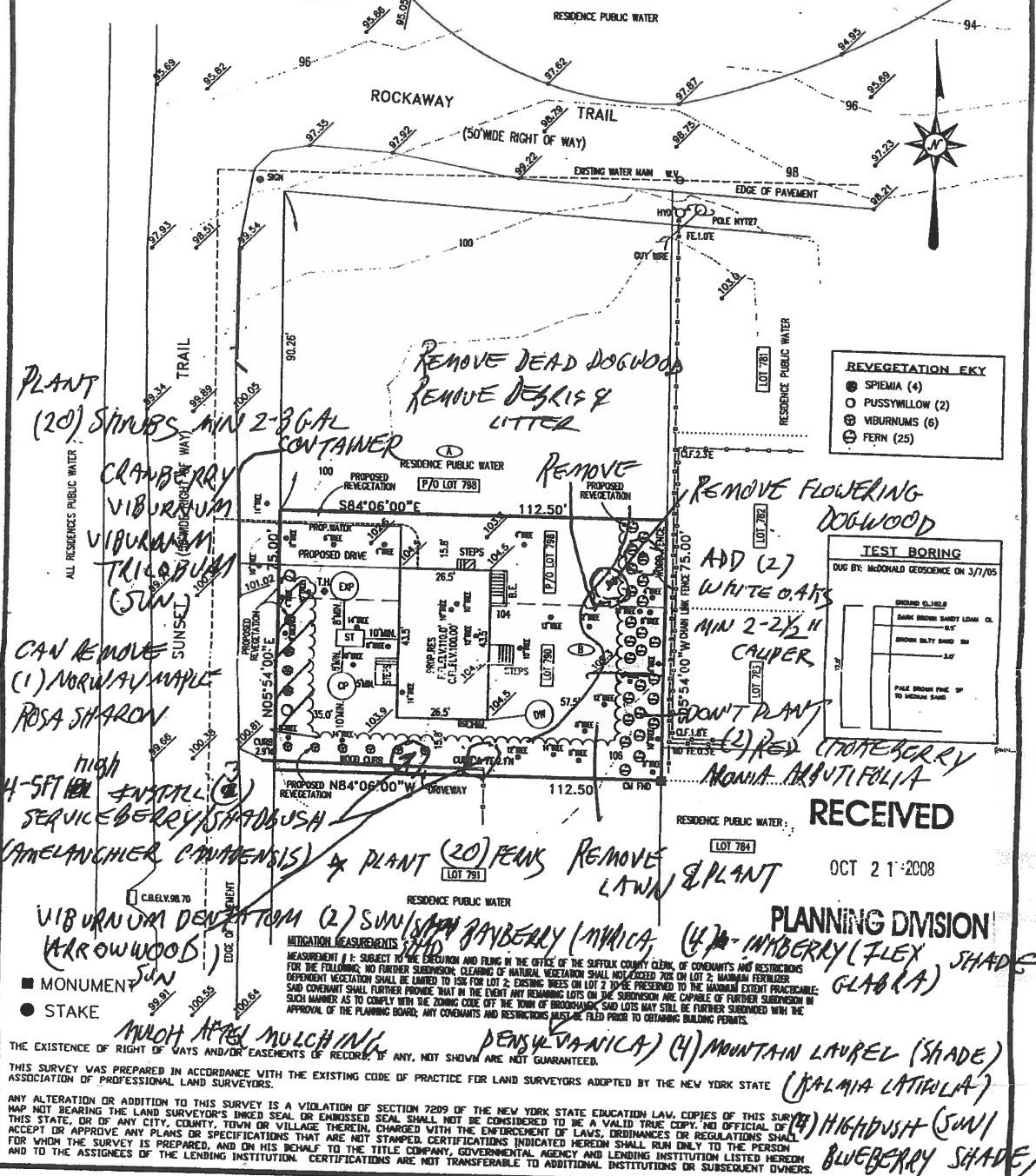
## TYPICAL ROOF DRAINAGE SYSTEM:

NO OVERFLOW WITH A 2" RAINFALL  
 ROOF AREA = 1,152.8 ± S.F.  
 PERMEABLE TRIBUTARY AREA = 0 ± S.F.  
 1,152.8 x 2 1/2 x 100% = 192.0 ± C.F. STORAGE REQUIRED  
 192.0 ± C.F. / 42.04 C.F. = 4.56 W OF 8" DRAINAGE POOLS  
 PROVIDE (1) 8" BY 6" DEEP POOL

## PROPERTY ZONED:

TOTAL PLOT AREA: 8,437.5 ± S.F.  
 PROPOSED FIRST FLOOR AREA: 1,153 S.F. ±  
 PROPOSED SECOND FLOOR AREA: 1,153 S.F. ±  
 PROPOSED BASEMENT AREA: FULL  
 ELEVATIONS SHOWN HEREON REFER TO N.G.V.D..  
 TOTAL AREA CLEARED = 70%  
 TOTAL AREA NATURAL = 30%  
 CLEARING LIMITS NOT TO EXCEED 70%

REV. NO.	DATE	ITEM
1.	4/12/07	ADD CERTS.
2.	8/22/07	HSE CHNG
3.	1/23/08	TREE LOCATION
4.	2/26/08	WATER LINE LOC. MOVED
5.	9/17/08	UPDATE
6.		PROPOSED REVEGETATION



SUFFOLK COUNTY TAX MAP DIST: 0200 SECT: 217 BLK: 01 LOT: 25 &  
 MAP NO: 1306 DATE: FEBRUARY 23, 2005  
 LOT(S): 790 & P/O 798  
 MAP OF: LAKE PANAMOKA  
 LOCATION: LAKE PANAMOKA  
 TOWN OF BROOKHAVEN, COUNTY OF SUFFOLK, STATE OF NEW YORK

SURVEYED: FEBRUARY 23, 2005  
 CERTIFIED TO: T&S BUILDERS  
 ABSOLUTE ABSTRACT INC.  
 NORTH FORK BANK

SCALE: 1" = 30'

FILE NO: 05-184-B

Wallace T. Bryan  
 Licensed Land Surveyor  
 MAINTAINING THE RECORDS OF  
 BURTON, BEHRENDT & SMITH

559 Middle Road  
 Bayport, New York 11705

(631) 472-1770  
 Fax 472-1771

(VACCINIUM  
 CORYMBOSUM)  
 WALLAULT. 154