



United States Department of the Interior

NATIONAL PARK SERVICE
Fire Island National Seashore
120 Laurel Street
Patchogue, NY 11772

Review and Comments on Building/Zoning Permit Application

Applicant(s):

Owner: Douglas Harris

Agent: Michelle Quatralo

Tax Map #:

986.30-2.20

Application No.:

FI 3555 Hearing: 3/16/11 #12

Zoning Authority:

Brookhaven

Community:

Object (Yes/No): Yes

If Objection status is "Yes", property will be subject to the condemnation authority of the Secretary of the Interior, if built as proposed, or previously built with or without permits beyond allowable standards.

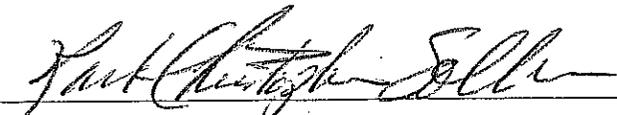
Reason for Objection: 36 CFR Part 28.12(f)

Objection Type: Exceeds 28 feet maximum height

Comments:

Objection to expansion of a 2-1/2 story A-frame to become a 3-story dwelling, in violation of both town code and federal regulations. Lot occupancy is 33%. See attached letter and photograph.

Review of this application for construction or variance request within the Fire Island National Seashore is made in accordance with 36 C.F.R. Part 28, Federal Zoning Standards for Fire Island National Seashore.



Superintendent

3/7/2011

Date

Cc: Applicant



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NATIONAL PARK SERVICE
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120 Laurel Street
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IN REPLY REFER TO:
986-30-2.20

March 7, 2011

Paul M. DeChance, Chairman
Board of Zoning Appeals
Town of Brookhaven
One Independence Hill
Farmingville, NY 11738

RE: Douglas Harris, w/s of Tuna Walk ±247' n/s Shore Walk, Fire Island Pines
SCTM# 986.30-2.20 FI #3555
BZA Hearing #12 of 3/16/2011

Dear Mr. DeChance:

This letter provides supplemental information and concerns that we have with the above-referenced application. It is attached to our form letter, which states our objections to this application.

As you can see from the form letter, we object to the intensification and enlargement of this already existing nonconforming development. Per the survey provided with this application, the finished floor elevation of the A-frame house is at 7.1 feet. The roof elevation is at 37.2 feet. However, this survey does not indicate if the roof elevation is measured from the finished floor or the existing ground. Either way, this house exceeds the maximum height requirement of 28 feet, be it 37.2 above finished floor or 30.1 feet from the ground. Given that the applicant is proposing to turn this into a 3-story house, we suspect the former to be true. Also, as you can see from the photograph attached with this letter, the house is clearly in excess of 2-1/2 stories, as required by federal standards and town codes.

Per the Federal Zoning Standards for Fire Island National Seashore, 36 CFR Part 28, § 28.12(f) *Development Standards*, "No building or accessory structure may be erected to a height in excess of 28 feet as measured from the average existing ground elevation or the minimum elevation necessary to meet the prerequisites for Federal flood insurance as determined by the national Flood Insurance Program/FEMA shown on Flood Insurance Rate Maps for Fire Island communities." Per the Brookhaven Code, § 85-170C(1) *Height*, "In the RD Residential District, no building or structure shall be erected to a height in excess of 28 feet or 2 1/2 stories, whichever is less, as measured from the average existing ground elevation, but not less than the minimum elevation necessary to meet the prerequisites for

federal flood insurance ..." Obviously, the Federal Zoning Standards and the Brookhaven Zoning Code are consistent. As shown on the survey, the base flood elevation determined by the latest flood insurance rate map is VE 7/AE 7, or 7 feet. Therefore, federal flood insurance requirements are not germane to this issue, as presented. Given that the finished floor is already at 7.1 feet, the *maximum* height of this structure should be at 35.1 feet elevation. Again, this structure is already at 44.3 feet elevation (7.1 feet + 37.2 feet + 44.3 feet).

Per the Federal Zoning Standards, § 28.11(b) *Change in nonconforming uses*, "No nonconforming development or use may be altered, intensified, enlarged, extended, or moved except to bring the use or structure into conformity with the approved local zoning ordinance." Again, this is consistent with the town zoning code, § 85-372A(3) *Nonconforming uses* – "Changes. No nonconforming building, structure or use shall be changed to another nonconforming use." Additionally, per town code, § 85-372B(1) *Nonconforming Buildings and Structures*, "An existing nonconforming building or structure designed and used for a conforming use, whether located on a conforming lot or a nonconforming lot, may be structurally altered, restored, repaired or reconstructed, in whole or in part, except that the degree of nonconformity shall not be increased nor shall there be any increase in the floor area of the building or structure except as permitted elsewhere in this code." The granting this variance application would create two distinct inconsistencies with the federal standards *and* the town codes: 1) an excessively high building, and 2) a 3-story house.

If this building is a legally constructed, grandfathered development, the Seashore would have no objection to the repair and maintenance of it, as allowed under town code. But, by granting this variance, the town would condone the massive overbuilding that is both inconsistent with the codes and standards mentioned above, but also completely divergent from the neighborhood characteristics of the area on Fire Island, as can be seen from the photograph attached with this letter, which shows the predominance of 2-story structures that are allowed. If granted and built as proposed, this property will be subject to the condemnation authority of the Secretary of the Interior.

Sincerely,



K. Christopher Soller
Superintendent

CC: Applicant

Attachment

