



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: David Green

Agent: Michelle Quatralo

Tax Map #:

985.70-1.47

Application No.:

FI 3561 Hearing: #33 on 3/16/11

Zoning Authority:

Brookhaven

Community:

Seaview

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 28.11(b)(1)

Objection Type: Change in non-conforming use

Comments:

Objection to enlargement and intensification of existing 49.8% lot occupancy by proposing a 1-story addition and requesting setback variances. See attached letter.

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

3/14/2011

Date

Cc: Applicant



United States Department of the Interior
NATIONAL PARK SERVICE

FIRE ISLAND NATIONAL SEASHORE

120 Laurel Street
Patchogue, New York 11772
(631) 687-4750

IN REPLY REFER TO:

986-30-2.20

March 14, 2011.

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

RE: David Green, e/s Ivy Ave., 170.14' s/o Bay View Ave, Seaview
SCTM #985.70-1.47 FI #3561
BZA Hearing #33 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, which was at 44.9% in 1986. However, we also want to point out that this property has seen expanding developments, which have been objected to in the past by the Seashore and seem to exceed the applications for development that were previously granted.

By letter dated April 3, 1986, the Seashore noted that the property exceeded 35% lot occupancy, and had no objection to the requested repairs to decks damaged by Hurricane Gloria. However, in 2001, the survey provided with the application for a proposed screened porch shows that development on the property actually enlarged, including expansion of decks and sheds, since that 1986 application, bringing the lot occupancy to 47.7%.

Now, this application being presented before the board at the above-referenced hearing is looking to expand the development further, by increasing the size of the house on what is now 49.8% lot occupancy. The creeping expansion of this nonconforming development is unacceptable.

Per the Federal Zoning Standards for Fire Island National Seashore, 36 CFR Part 28, § 28.12(d) *Development Standards*, "Maximum lot occupancy for all development may not exceed 35 percent of the lot. Lot occupancy is calculated to include all buildings and accessory structures on the property and any extension of the upper floors beyond the developed area on the ground." Also, per the federal 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." 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."

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. As already built, this property is subject to the condemnation authority of the Secretary of the Interior. But, by granting this variance, the town would condone the continued overbuilding that is both inconsistent with the codes and standards mentioned above.

Sincerely,



K. Christopher Soller
Superintendent

cc: Applicant

Attachment