



## United States Department of the Interior

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

IN REPLY REFER TO:  
986-30-2.20

July 27, 2011

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

RE: Jennie Mandelino, e/s of Surf (Doctors) Walk  $\pm 25'$  n/o Lewis Walk,  
Fire Island Pines  
SCTM# 986.20-4.28 FI #3566  
**BZA Hearing #25 of 4/6/2011**  
**Rehearing 7/27/2011**

Dear Mr. DeChance:

This letter provides supplemental information and concerns that we have with the above-referenced application, which states our objections to this application, and to which we sent our form letter objection, dated April 4, 2011 and sent the following day, via fax, to the Board. That letter is attached herein.

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 existing lot occupancy is 41.75%, which already exceeds the maximum allowed under federal regulations and town codes. This application proposes to add an additional 450 square feet deck, or 11.25% lot occupancy, resulting in 53%, according to our calculations.

The applicant is also proposing to raise the roof to the height of the existing dormer, and interior renovations to create two bedrooms and two baths to a nonconforming development (41.75% lot occupancy), thereby relocating an existing bedroom and bath to an upstairs second story house. Note that the survey is for a one-story frame dwelling. The Seashore has no objection to adding a second story to this house, as long as the development, including decks, is reduced to 35% lot occupancy, and the resulting height does not exceed 28 feet from the average existing ground elevation or federal flood insurance base flood elevation, whichever prevails.

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."

As a legally constructed, grandfathered development, the Seashore would have no objection to the repair and maintenance of it, as allowed under town code. With regard to the proposed 10-foot high fence, we leave this to the discretion of the town. If granted and built as proposed, including deck additions and raising the roof to become a 2-story house, without reduction of lot occupancy, this property will be subject to the condemnation authority of the Secretary of the Interior.

Sincerely,



K. Christopher Soller  
Superintendent

CC: Applicant

Attachment



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Patchogue, NY 11772

**Review and Comments on Building/Zoning Permit Application**

**Applicant(s):**

Owner: Jennie Mandelino

**Tax Map #:**

986.20-4.28

**Application No.:**

FI 3566 #25 on 4/6/2011

**Zoning Authority:**

Brookhaven

**Community:**

Cherry Grove

**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(d)

**Objection Type:** Exceeds 35% maximum lot occupancy

**Comments:**

Objection to 54% lot occupancy for proposed 1st & 2nd story decks and 10' fence with setbacks variance requests. Also, survey with application shows a 1-story dwelling, yet application is requesting decks for 2nd story. FINS has no record of expansion.

*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

4/4/2011  
\_\_\_\_\_

Date

Cc: Applicant