



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: Danikki, Inc

Tax Map #:

986.40-2.22

Application No.:

Case #11 1/11/12

Zoning Authority:

Brookhaven

Community:

Fire Island Pines

Object (Yes/No):

No

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:

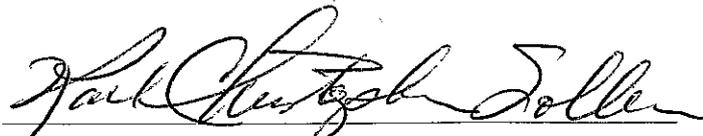
Objection Type:

Reconstruction of non-conforming use

Comments:

No objection to variance requests to rebuild property destroyed by fire to previous dimensions, as long as property obtained required permits and built legally at time of construction (36 CFR Part 28.11). 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

1/9/2012
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:

986-40-2.22

January 9, 2012

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

RE: Danikki, Inc, NE corner of Fire Island Blvd. and Picketty Ruff Walk,
Fire Island Pines
SCTM# 986.40-2.22
BZA Hearing #11 of 1/11/12

Dear Mr. DeChance:

The National Park Service, Fire Island National Seashore has reviewed the application of Danikki, Inc. regarding the application for variances to reconstruct their property in Fire Island Pines on the northeast corner of Picketty Ruff Walk and Fire Island Boulevard. The property in question was destroyed by a fire in November of 2011.

The National Park Service review is based upon the regulations found in Chapter 36 of the Code of Federal Regulations Part 28—Fire Island National Seashore: Zoning Standards. In accord with the regulations found in Part 28.2(k) the property in question is defined as a non-conforming use. The regulations go on in Part 28.11(c) *Reconstruction of nonconforming uses*, to discuss under what conditions a nonconforming use may be reconstructed. Part 28.11(c) states:

“If a nonconforming use or structure is severely damaged (as determined by professional insurance practices), destroyed or rendered a hazard, whether by fire, natural disaster, abandonment, or neglect, no alteration, intensification, enlargement, reconstruction, extension, or movement is allowable without compliance with the following conditions:

“(1) No use or structure within the Seashore built in violation of a local ordinance when constructed may be reconstructed except in compliance with the approved local zoning ordinance.

“(2) Local building permit applications for reconstruction shall be filed with the appropriate zoning authority within one (1) year of the damage, destruction or abandonment.

“(3) A commercial or industrial use may not be reconstructed without the approval of the local zoning authority and review by the Superintendent.

“(4) A nonconforming use in the Community Development District or in the Seashore District (i.e. “improved property) may be reconstructed to previous dimensions. It may not be altered, enlarged, intensified, extended, or moved except to bring the use or structure into conformity with the approved local zoning ordinance.

“(5) A nonconforming use in the Dune District may be reconstructed if it can conform to the approved local zoning ordinance and lie north of the crest of the dune at the time of reconstruction.”

Part 28.20 Review by the Superintendent states, “(a) The Superintendent, within 15 working days of the receipt of a copy of an application for a variance, exception, permits for commercial or industrial use, or special permit submitted to the zoning authority for any development, use or change in use shall provide the applicant/landowner and the appropriate zoning authority written comments on the application. The purpose of the review is to determine if the proposed use or development does not conform to the federal standards...”

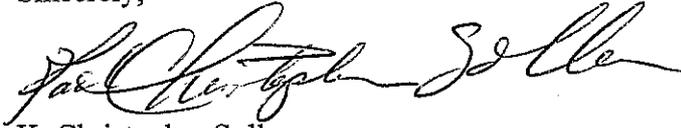
If the Town of Brookhaven determines that the property is a nonconforming use constructed in accord with the Town of Brookhaven Code and the Federal Regulations in effect at the time it was permitted for construction, then it may be reconstructed to its previous dimensions. If it is determined by the Town of Brookhaven that the property in question was not legally constructed nor had the required permits at the time of construction that complied with Town code, Federal regulations would not allow reconstruction to its previous dimensions and would require that it be reconstructed to conform to current Town Code.

The Town of Brookhaven’s current code is more restrictive than the Federal regulations found in 36 CFR Part 28. Brookhaven Town Code limits the reconstruction of nonconforming structures destroyed by fire or storm. Under current Brookhaven code, if the loss is greater than 75% of the property’s value the property is to be reconstructed in accord with current zoning which limits the property to 50% lot occupancy.

Although not a part of the Federal Zoning Standards found in 36 CFR Part 28 the National Seashore is concerned about public health and safety within the boundary of Fire Island National Seashore including structural and wildland fire resulting from development that lacks inadequate or proper fire protection and contamination of groundwater and the waters of the Great South Bay that can be effected by inadequate septic systems and sewage treatment systems. As the Brookhaven Board of Zoning Appeals deliberates this application, we hope the Board will also take into consideration the very real concerns regarding public health and safety and ensure that if this application is approved the resulting development addresses the issues of fire, water, sewage and other public health and safety issues.

Thank you for your consideration of the National Park Service, Fire Island National Seashore's comments.

Sincerely,

A handwritten signature in black ink, appearing to read "K. Christopher Soller". The signature is fluid and cursive, with the first name "K." being small and the last name "Soller" being larger and more prominent.

K. Christopher Soller
Superintendent

cc: Applicant