



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: Peter Waide

Agent: Michelle Quatralo

**Tax Map #:**

985.70-8.31

**Application No.:**

#2 of April 18, 2012

**Zoning Authority:**

Brookhaven

**Community:**

Ocean Bay Park

**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:**

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

4/10/2012

Date

Cc: Applicant



# United States Department of the Interior

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

IN REPLY REFER TO:

(L1415) FIIS  
xSCTM 985.70-8.31

April 13, 2012

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

**RE: Peter Waide SCTM# 985-70.8.31 Ocean Bay Park, Fire Island  
Case #2 on April 18, 2012**

Dear Mr. DeChance:

Although the Seashore had no objection to lot occupancy or height restrictions, as articulated under the federal zoning standards, and as articulated in the public zoning board hearing for this project, we support the town in their efforts to uphold their own zoning code.

As you are aware, per the federal zoning standards, Part 28.11 Nonconforming uses, (b) *Change in nonconforming uses*. (1) "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." Essentially, this means that a property owner has a choice. If a property owner wishes to maintain their nonconformance, that nonconformance would be allowed to continue, and any maintenance and repairs are allowed to be made, as long as no substantial changes are made to the structure. However, if a substantial change is made, such as relocating decks, adding a second story or enlarging the development in any way, it must be brought into conformity with the approved town code. In other words, a property owner is entitled to maintain their nonconforming development, lot coverage or height but is not permitted to enlarge, expand or intensify such nonconforming uses or development. The intent of the law is to prevent further development of nonconforming structures and to eventually bring nonconforming developments into conformance with approved town codes.

This is entirely consistent with the approved [by the Secretary of the Interior] Town of Brookhaven Zoning Codes for nonconforming developments. Under Town code, Article XXXV – Supplementary Provisions, § 85-372 (8) Alterations "This section shall not prohibit minor repairs or alterations to a nonconforming building, structure or use, which alterations or repairs do not require the removal or replacement of any structural member, increase the floor area of the building structure or change the use thereof." The plaintiff's request for a variances from building setbacks and elevation requirements from the town's building code to prevent damages from flood events, is a change to this existing nonconforming development, which requires more than simply minor repairs or alterations, and does require removal and replacement of structural members of the house. Therefore, granting such a

variance would be inconsistent this supplementary provision of the town code, thereby the purposes of the code, which, as stated above, is intended to eventually bring nonconforming developments into conformity with town codes and federal standards.

With regard to this specific application, Mr. Waide is requesting variances for proposed first and second story decks, and rear yard setback relief for a proposed shed under the existing dwelling. In addition, the applicant seeks relief from Chapter 33-5 for base flood level of 16.5 feet, where 18 feet is required. Although the proposed development of 29.2% lot occupancy is in compliance with the Federal Zoning Standards, we continue to support the town in its initial denial of this application. Essentially, this is not an insignificant variance request. The proposed "shed" under the dwelling is proposed to be a 30' x 30' development below the first floor elevation. That's tantamount to adding an entire basement under the house, all below the requested 16.5 feet base flood variance that is requested. We are aware that home owners do use space below their dwellings to store various beach and recreation items. But, constructing an entire basement goes beyond that concept of simple storage. This kind of understory development can be fraught with potential problems, including, but not limited to: 1) walls acting as bulkheads, thereby deflecting and intensifying storm surge around it to neighboring properties, 2) if break-away construction is implemented, a 900 square foot "shed" can hold a significant amount of potential projectiles during storm events, and 3) a development that size could potentially be used as inhabitable space, entirely in conflict with town and state laws and federal zoning standards.

In conclusion, we reiterate our support of the Board's initial denial of this application, and encourage you to reaffirm your earlier decision and not set a precedent of legalizing basements below the flood elevation requirements on Fire Island.

Thank you for your consideration on the matter.

Sincerely,



K. Christopher Soller  
Superintendent



Town of Brookhaven  
Long Island

OFFICE OF THE BOARD OF ZONING APPEALS

**Paul M. DeChance**, Chairman

TO: F.I. NATIONAL SEASHORE  
FIRE ISLAND NATIONAL SEASHORE  
120 LAUREL ST  
PATCHOGUE, NY 11772

FROM: BOARD OF ZONING APPEALS

RE: Rehearing pursuant to court order: Pete Waide, Northwest corner of  
Traffic Ave. and Cayuga St., Ocean Bay Park

DATE: 4/10/12

FOR YOUR INFORMATION, PLEASE FIND ATTACHED A PHOTOCOPY OF  
THE ABOVE-CAPTIONED APPLICATION TOGETHER WITH A COPY OF THE  
SURVEY AND BUILDING DEPARTMENT APPLICATION SCHEDULED FOR  
OUR PUBLIC HEARING OF **April 18, 2012** CASE # **2 (originally of 3/16/11)**.  
THE BOARD WOULD APPRECIATE YOUR COMMENTS.

Encs.

*[Signature]*  
2/25/11

**APPLICATION TO THE BOARD OF ZONING APPEALS**  
(FILE IN TRIPLICATE - ALL PAGES MUST BE LEGIBLE)  
**BACKSIDE OF WHITE PAGE MUST BE SIGNED & NOTARIZED**  
**SEE INSTRUCTION SHEET FOR ADDITIONAL REQUIREMENTS**

**APPLICANT NAMED BELOW MUST BE (check one)**  
**PROPERTY OWNER**  **OR IN CONTRACT TO PURCHASE**   
 Name: Pete Wade  
46 Michelle Quattrale  
 Address: 335 Norman Avenue  
East Patchogue, NY 11772  
 Phone #: (631) 417-3007  
 Also Notify:  
Pete Wade  
3 Garden Place Patchogue NY 11772  
 Phone #: 804-4430

**LOCATION OF SUBJECT PROPERTY**  
 N  S  E  W side of Traffic Avenue  
 Distance center  N  S  E  W of Coupage St.  
 Village Deer Bay Park  
 Property is zoned RD  
(As shown on current zoning map)  
 Address of property 37 Traffic Avenue, Deer Bay Park  
 S.C. TAX MAP NO. 200-285-10-8-31  
 Has building permit or proposed use been denied by Building Department?  Yes  No  
 (To be stamped by Building Department) 001293

**VARIANCES REQUESTED**  
 LOT AREA   
 LOT WIDTH  8' setback (20')  
 FRONT YARD SETBACK  7' mostly Deck (20')  
 REAR YARD SETBACK  11' (20')  
 SIDE YARD SETBACK  minimum \_\_\_\_\_  
 total \_\_\_\_\_  
 1st STORY SQ. FT.   
 2nd STORY SQ. FT.  Chimney 33-5  
 OTHER  Raise Flood Level  
(as Arise (8' AMSL))

Request: **SPECIAL PERMIT**  
 Describe: SOFT BEACH HW  
" FI SANDPARK HW  
11/18/11  
**SEC. OF BUILDING ZONE ORD.** 85-170FC

**FREE:**  Postage  Chain of Title  **SEGRA**   Special Permit   
 Minor Setback  Lot Area   Appeal Administrative Decision  Other   
 Cleaning/Buffer/Covenant Relief

1. Is there a school, library, church, hospital, orphanage or fire hall within 200 ft. of the premises in question? No
2. Is property located on an improved road? Yes
3. Is road Town maintained? Yes
4. Is the property in question conforming to the lot area requirement? Yes  No
5. When was property acquired? \_\_\_\_\_
6. When was area upzoned? 1981
7. Has premises ever been the subject of a prior application for a variance/special permit before the Board of Appeals?  
 Yes \_\_\_\_\_ No  If yes, when? \_\_\_\_\_
8. a) Is the property within one (1) mile from any nuclear power plant or airport? Yes \_\_\_\_\_ No   
 b) Is the property within 500 ft. of the following:  
 (1) the boundary of any village or town? Yes \_\_\_\_\_ No   
 (2) any existing or proposed County, State parkway, thruway, expressway road or highway? Yes \_\_\_\_\_ No   
 (3) any existing or proposed County, State or Federal park or other recreation area? Yes \_\_\_\_\_ No   
 (4) existing or proposed right-of-way of any stream or drainage channel owned by the County or for which the County has established channel lines? Yes \_\_\_\_\_ No   
 (5) the existing or proposed boundary of any County, State or Federally owned land held for government use? Yes \_\_\_\_\_ No   
 (6) the Atlantic Ocean, Long Island Sound, any bay in Suffolk County or estuary of any of the foregoing bodies of water? Yes  No \_\_\_\_\_
9. Is this property situated in (a) Historic District? No (b) Hydrogeological Sensitive Zone? No (c) Suffolk County Pine Barrens Zone? No If yes, Compatible Growth Area? \_\_\_\_\_ or Core Preservation Area? \_\_\_\_\_
10. Is SEQRA applicable to any part of this application? Yes \_\_\_\_\_ No

**LIST THE STRUCTURE(S) REQUIRING VARIANCE(S); SPECIFY WHETHER EACH ITEM IS PROPOSED OR EXISTING:**  
Front Yard Setback Variance for Proposed 1st and 2nd story  
Docks and Rear Yard Setbacks for Proposed sheds  
Under Existing Dwelling, Requesting Relief of Chapter 33-5  
for Base Flood Level @ 11.5' AMSL (18' Required)



# TOWN OF BROOKHAVEN BUILDING & FIRE PREVENTION

ONE INDEPENDENCE HILL, FARMINGVILLE, NY 11738  
PHONE # (631) 451-6333 - www.brookhaven.org

## APPLICATION FOR BUILDING AND ZONING PERMIT

Each application must be typewritten or printed and have all information answered. Incomplete or illegible applications will not be accepted. APPLICATION is hereby made for a permit to do the following work, which will be done in accordance with the description, survey and plans submitted pursuant to Section 57 of the Worker's Compensation Law, Zoning Ordinances, Building Code and all other applicable ordinances and laws.

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.

FB355Y

(Type or print firmly to ensure legible copy. No carbon necessary)

ZBA # **01293**

Applicant **Wade & Michelle Quastale**  
Village or City **E. Patchogue**

No. & Street **NO 3555 HAERTMAN AVE**  
State **NY** Zip **11772** Phone **447-3972**

Architect or Engineer  
Contractor or Builder

No. & St. Zip Phone  
No. & St. Zip Phone

Village or City  
Property located at No. **37** (N.E.W. side) **TRAFFIC AVE**  
N.S.E.W. of **OCEAN BAY PK**

State **NY** Zip **11772** Phone  
Village **Ocean Bay Park** Distance **CORNER**  
Section **3 GARDEN PLACE BAYSHORE** State of New York  
Lots) **245, 246, 247**

County Tax Map Section **985.76** Block **3** Owner Address **3 GARDEN PLACE BAYSHORE 11705**  
Use and size of proposed work **Removal of lower level (Supercedes PA 219677), Proposed 2ND story addition 23.5' x 30.3', Proposed and SH. Deck 4' x 39.1' + 19.9' x 15', Reconstruct 1st SH. Deck 44' x 29' in place SH. Deck Proposed 4' x 4' 1st SH. Shower End. Proposed Garbage shed 4' x 8', New Access Walk 13' x 4' Remove Existing shower stall, Deck 8.2' x 11.5' w/ stairs + Platform.**  
**30' x 30' SHED UNDER Dwelling**

**This application must be signed in two places below, by the owner and the applicant, even when they are the same.**

I hereby certify that I am the owner of the property that is the subject of this application and acknowledge that the description set is intended to take place on said property. By signing this application, I acknowledge that there may be restrictive covenants or agreements held by private and/or public entities and do agree to fully comply with all requirements of said covenants and/or agreements. Any false statement made herein is punishable as a misdemeanor pursuant to § 201.45 of New York Penal Law.

Date: **1/8/11** Print Name: **Wade Wade** Signature: **[Signature]** OWNER  
Date: **1/8/11** Print Name: **Michelle Quastale** Signature: **[Signature]** APPLICANT

**This application must be signed in two places above, by the owner and the applicant, even when they are the same.**

**FOR BUILDING USE ONLY:** **VE16**

Proposed use **Ad**

Zoning District **Ad**

Property Area

Property Width **16.5 feet AMSL**

Front Yard Setback **8 1/2' (1st floor) (200 sq ft)**

Rear Yard Setback **11' (2nd floor) (200 sq ft)**

Side Yard Setback

S.C.H.D. **Chapter 33-5 Box Flood Level**

Plans **Chapter 33-5 Box Flood Level**

Other **Garbage Shed 3' Front**

Permit approved date Per: **[Signature]**

Permit Denied (expires in 60 days) date **1/10/11** Per: **[Signature]**

Remarks: **CO 113808 - Res. 30 x 44 window w/ open panel + deck**

Article **XIV** 85-1705 - 1st story Deck 8' x 8'

Article **XIV** 85-1706 - 2nd story Deck 17' x 15'

Article **XIV** 85-1707 - 11' Rear yard ground (6' x 6')

**Chapter 33-5 (1)(a) Box Flood Level plus 2' fire board required**

**requesting base Flood Level of 16.5 feet AMSL**

Building Permit # \_\_\_\_\_

CO # \_\_\_\_\_ Issued: \_\_\_\_\_

CC # \_\_\_\_\_ Approved for issuance of certificate Per: \_\_\_\_\_

Remarks: \_\_\_\_\_

Permit #:	Issued:
Receipt #:	Issued:
1st floor area:	sq. ft. _____
2nd floor area:	sq. ft. _____
Accessory area:	sq. ft. _____
Permit Fee:	Estimated Value:
Add. Fee:	
Plan. Fee:	
TOTAL:	CIA _____

9/24/09

<input type="checkbox"/> 1. Bldg. Insp.	approved	<input type="checkbox"/> 7. Highway Dept.	approved
<input type="checkbox"/> 2. Final Survey	approved	<input type="checkbox"/> 8. Assessment Cert.	approved
<input type="checkbox"/> 3. Electric Cert.	approved	<input type="checkbox"/> 9. Lead Test	approved
<input type="checkbox"/> 4. S.C.H.D.	approved	<input type="checkbox"/> 10. Debris Affidavit	approved
<input type="checkbox"/> 5. Fire Prevention	approved	<input type="checkbox"/> 11. Steel Affidavit	approved
<input type="checkbox"/> 6. Planning Board	approved	<input type="checkbox"/> 12. Disclosure	approved
		<input type="checkbox"/> 13. Smoke	approved
		<input type="checkbox"/> 14. Energy STAR	approved
		<input type="checkbox"/> 15. Pictures	approved
		<input type="checkbox"/> 16. Other:	

