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Town of Dennis  
Board of Health  
Minutes of Meeting  
May 11, 2023

Kristen Keller,  
Health Director

Dennis Town Hall  
Nathan Stone Jr Hearing Room  
685 Route 134, South Dennis, MA

**Board Members Present:** Chairman Covell, Vice Chairman Bunce, Members Chamberlain, Duffy and McCormick

**Board Members Absent:**

**Other Attendees:** Director Kristen Keller, Office Assistant Kellie Dionne

**Call to Order:** Mr. Covell called the meeting to order at 7:00 p.m.

## ***I. ACTION***

**A. Thomas & Linda Brady** – Variance Application (Addition/Alteration)  
**37 Nobscussett Road, Dennis (329-5)**

The applicant seeks the following variance from the Town of Dennis Regulations for Subsurface Disposal of Sewage:

### **Town of Dennis**

**Reg.16B:** Variance requested to allow the addition/alteration or new construction of habitable space in an environmentally sensitive area.

#### **Proposal:**

The applicant proposes to raze and rebuild the existing 2 story four (4) bedroom dwelling with a new three (3) bedroom single story dwelling. The lot contains 66,578 square feet of land.

#### **Floor Plans:**

The **existing** dwelling contains two bedrooms, a living room, dining room/kitchen, one bathroom, and a sunroom off the rear of the first floor. The second floor contains two bedrooms.

The **proposed** first floor will contain a covered front porch, mud hall, laundry room with pantry, two (2) front bedrooms, one (1) bathroom, a kitchen, great room, dining room, master bedroom with master bathroom and walk in closets, a screened porch with a deck, and a side porch.

There is also a garage with proposed unfinished storage space above.

The **proposed** basement is unfinished.

#### **Septic System:**

The septic system will contain a 1500-gallon septic tank, distribution box, and two (2) 500-gallon leaching chambers. The proposed system shows 5.5' between the bottom of the SAS and adjusted high groundwater. The system has been designed for three (3) bedrooms and does not contain I/A technology.

Existing Nitrogen Loading with 4 bedrooms is 5.20 ppm

Proposed Nitrogen Loading with 3 bedrooms is 4.28 ppm.

The property is environmentally sensitive as adjusted high groundwater is within 6' of the surface.

The conservation commission has signed off on the project as "approval not required".

Asa Mintz, with AJM Site Design, presented on behalf of the property. He stated they are proposing a raise & replace of existing the 4-bedroom home that is located in an ESA. There is high ground water and on the north end of the property it is within 6ft. The new home will only be three bedrooms. Mr. Mintz stated the project was originally designed for three (3) bedrooms but they will install a four (4) bedroom system for flexibility for the future and re-sale. He respectfully asked the Board to continue the matter to the June meeting, so he can submit the four (4) bedroom plans. The nitrogen loading the new four (4) bedroom plans will show around 5 ppm.

There were no questions from the Board.

**Motion:** Move to continue the variance application for 37 Nobscusset Road, Dennis as printed in the memorandum dated May 3, 2023.

**Motion: Bunce      Seconded: Duffy      Vote: 5-0**

**B. Victor & Karen Fryxell** – Variance Application (Addition/Alteration)  
**16 Run Pond Road, Dennis (282-58)**

The applicant seeks the following variance from the Town of Dennis Regulations for Subsurface Disposal of Sewage:

**Town of Dennis**

**Reg.16B:**      **Variance requested to allow the addition/alteration or new construction of habitable space in an environmentally sensitive area.**

**Proposal:**

The applicant proposes the addition of a great room/family room off the rear of the three (3) bedroom dwelling. The lot contains 20,473 square feet of land.

**Floor Plans:**

The **existing** first floor contains a living room, kitchen/dining room, one (1) bathroom, a sunroom and a two-car garage with a shed off the rear.

The **existing** second floor contains three (3) bedrooms and two (2) bathrooms.

The **existing** basement is unfinished.

The **proposed** first floor will contain a living room, expanded kitchen, one (1) bathroom, new expanded dining room and a new great room. There is also a 2-car garage with shed off the rear.

There are no proposed changes to the second floor or the basement.

**Septic System:**

The applicant proposes to utilize the existing system that was installed in 2006 and consists of (2) 1000-gallon septic tanks, distribution box, and 3 infiltrators with stone. The system was designed for 3 bedrooms and does not contain I/A technology.

Existing Nitrogen Loading is 8.22 ppm.

Proposed Nitrogen Loading is 8.14 ppm.

The property is environmentally sensitive because it lies within a Zone II.

The conservation commission has signed off on the project as “approval not required”.

Victor Fryxell, the homeowner, presented. He stated he is proposing to remove and replace a pre-slab sunroom off the rear of the home and replace it with a 17’ x 26’ family room. The current room is currently 156 square-feet and will be 490 square-feet. The renovation will also bump the kitchen 4-feet on the south side of the existing home. No plumbing or bedrooms will be added.

Mrs. Chamberlain noted the system has not been inspected since 2016 and that she would like to see a re-inspection submitted to the Health Department.

**Motion:** Move to approve the variance application for 16 Run Pond Road, Dennis as printed in the memorandum dated May 3, 2023.

***Approved with the following conditions:***

Receipt by the Health Department of a passing Title 5 Inspection Report.

#1 No garbage disposal.

#2 Water-saving devices shall be installed and verified by the Health Department.

#3 No alteration of the floor plan to the dwelling without further review by the Board of Health.

#5 Record variances and conditions at the Registry of Deeds to run with the property with a copy to the Health Department.

**Motion: Bunce      Seconded: McCormick      Vote: 5-0**

**C. New Life Christian Nominee Trust** – Variance Application (Addition/Alteration)  
**486 Main Street, Dennisport (74-7)**

The applicant seeks the following variance from the Town of Dennis Regulations for Subsurface Disposal of Sewage:

**Town of Dennis**

**Reg.16B:**      **Variance requested for the addition/alteration or new construction of habitable space in an environmentally sensitive area.**

**Proposal:**

The applicant proposes an addition to the rear of the existing two story building previously used as a church. The proposed use will be a two story auto parts store with **two** apartments, each with one (1) bedroom. The lot contains 95,832 square feet of land.

**Floor Plans:**

The **existing** building contained a front lobby, two (2) offices, a nursery, kitchen, two (2) bathrooms, and the sanctuary.

The **existing** second floor contained classroom space, a mechanical room, and one (1) bathroom.

The **proposed** first floor will contain a one (1) bedroom apartment with kitchen, living room, and one (1) bathroom. There will be 2100 square feet of retail space, an office, two (2) additional restrooms, parts inventory area, and a new addition for parts storage. There is also a loading dock off the rear.

The **proposed** second floor will contain a one (1) bedroom apartment with living room, kitchen, and one (1) bathroom.

**Septic System:**

The **applicant** is proposing to utilize the existing septic system that was installed in 2004 and consists of a 4000-gallon septic tank, 3000-gallon pump chamber, distribution box, and 12 Cultec chambers with stone. The system was designed for 907 gallons per day.

The proposed flow is 450 gallons per day.

The system was last inspected by a Title 5 system inspector on June 23, 2022. The system passed inspection at that time.

The property is environmentally sensitive as there are wetlands on the property as well as adjusted high groundwater is within 6' of the surface.

Existing Nitrogen loading is 7.61 ppm.  
Proposed Nitrogen Loading is 6.01 ppm.

The Conservation Commission issued an Order of Conditions on February 3, 2023, and signed off on the project on April 26, 2023.

### **PREVIOUS VARIANCE HISTORY – July 2003**

Variances for a voluntary upgrade.

Variance of 1' from the bottom of the SAS to maximum high groundwater.

Variance of 3' from the SAS to water supply line.

Policy – requires that the elevated wall system be approved by the Health Department.

The Board approved the variance requests with the following conditions.

# 3 & # 6.

Jack O'Leary, with Green Seal Environmental, presented on behalf of the property. He stated the property is located in an ESA. The existing site is a church and has been sold and re-zoned to be designed as an auto-parts store with two (2) apartments above. The existing septic system will remain in place, it may need to be raised. They are not increasing any flow. They will be using half of what the current system is designed for.

There were no questions from the Board.

**Motion:** Move to approve the variance application for 486 Main Street, Dennisport as printed in the memorandum dated May 3, 2023.

#### ***Approved with the following conditions:***

#1 No garbage disposal.

#2 Water-saving devices shall be installed and verified by the Health Department.

#3 No alteration of the floor plan to the dwelling without further review by the Board of Health.

#5 Record variances and conditions at the Registry of Deeds to run with the property with a copy to the Health Department.

**Motion: Chamberlain**

**Seconded: Duffy**

**Vote: 5-0**

### **D. Brian & Christine Boucher/Brian A Boucher Living Trust – Variance Application (Addition/Alteration) 435 Setucket Road, East Dennis (264-9)**

The applicant seeks the following variance from the Town of Dennis Regulations for Subsurface Disposal of Sewage:

#### **Town of Dennis**

**Req.16B: Variance requested to allow the addition/alteration of habitable space in an environmentally sensitive area.**

**Proposal:**

The applicant proposes to combine 2 bedrooms on the main floor of the existing 3-bedroom single story dwelling as well as to finish the basement, creating additional living space with a bedroom and a bathroom. The lot contains 27,007 square feet of land.

**Floor Plans:**

The **existing** dwelling contains three (3) bedrooms, two (2) bathrooms, a family room, kitchen, breezeway and a garage.

The **existing** basement is unfinished.

The **proposed** first floor will contain two (2) bedrooms, one (1) bathroom, family room, kitchen, breezeway and a garage.

The **proposed** basement will contain an open finished space with laundry area, mechanical room, unfinished storage space, and one (1) bedroom with one (1) bathroom.

**Septic System:**

The applicant proposes to utilize the existing system that was installed in 1998 and consists of a 1500-gallon septic tank, distribution box, and 2 – 500-gallon leaching chambers with stone. The system was designed for 3 bedrooms and does not contain I/A technology.

The system was last inspected by a Title 5 system inspector in 2004.

Existing/Proposed Nitrogen Loading is 9.29 ppm.

The property is environmentally sensitive as it lies within a Zone II.

The conservation commission has signed off on the project as “approval not required”.

Ms. Christine Boucher, the homeowner, presented. She stated that she is seeking approval to renovate around 600 square-feet of the home to be ADA accessible. She stated they are working in two phases. Phase one will be finishing the walk out basement, adding a bedroom and a bathroom. During the second phase, on the upper level, they are going to be opening up two (2) bedrooms to create a larger bedroom and a handicap accessible bathroom. The home will remain three (3) bedrooms.

Mr. Bunce stated he would like to see a reinspection of the septic.

The Board discussed the needs for engineered plans.

Mrs. Keller stated that she is sure the Building Commissioner would require a more detailed set of plans with the Building Permit Application and the Health Department does get a copy of those.

**Motion:** Move to approve the variance application for 435 Setucket Road, East Dennis as printed in the memorandum dated May 3, 2023.

**Approved with the following conditions:**

Receipt by the Health Department of a passing Title 5 Inspection Report.

#1 No garbage disposal.

#2 Water-saving devices shall be installed and verified by the Health Department.

#3 No alteration of the floor plan to the dwelling without further review by the Board of Health.

#5 Record variances and conditions at the Registry of Deeds to run with the property with a copy to the Health Department.

**Motion: Duffy**

**Seconded: Chamberlain**

**Vote: 5-0**

**E. Mario Zocchi** – Variance Request (Rental Max Occupancy)  
**1 U-8 Ocean Drive, Dennisport (35-167)**

The applicant is requesting a variance to increase the Rental Occupancy number for the dwelling from two (2) occupants to four (4) occupants.

An inspection conducted on April 6, 2023 revealed 248 square feet of habitable space for two (2) occupants.

Previous rental history held an occupancy of two (2) occupants (April 2000).

The dwelling has three (3) rooms, a kitchen, a living room, one (1) bedroom and one (1) full bathroom.

Mario Zocchi, the homeowner, presented on behalf of the property. He stated that his cottage was inspected and approved for two (2) people based on square footage. He is seeking permission to increase the occupancy from two (2) to four (4) people, seasonally. He does not believe it has been a rental in the past two (2) decades.

Mrs. Keller stated there is previous rental history, from April 2000, for two (2) people.

Mr. Bunce stated the property is currently 3 square-feet under the minimum for two (2) people. The requirement states 150 square-feet for the first person and 100 square-feet for each additional person. At 248 square-feet there is not room for four (4) people in the space.

**Motion:** Move to deny the variance request for 1 U-8 Ocean Drive, Dennisport as printed in the memorandum dated May 1, 2023, keeping the occupancy at two (2) people.

***Denied***

**Motion: Bunce      Seconded: Chamberlain      Vote: 5-0**

**F. Cynthia Northrop/Gary Obirst** – Show cause hearing for noncompliance with an order to correct violations of the Town of Dennis Housing Space and Use Bylaw: Renting Without a Rental Permit and 105 CMR 410.000 State Sanitary Code, Chapter II: Minimum Standards of Fitness for Human Habitation  
***(Continued from March 9, 2023 meeting)***  
**175 Telegraph Road, Dennisport (115-12)**

**UPDATE:**

**Per lawyer - tenant is out and the house is vacant. The home is currently on the market to be sold.**

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On November 7, 2021, a certified letter was sent to the property owner requesting that if the property was being offered for rent, that an application be filled out and sent to the Health Department within 10 days of receipt of that letter.

November 29, 2022 a second certified letter was sent to the property owner requesting that if the property was being offered for rent, that an application be filled out and sent to the Health Department within 10 days of receipt of that letter.

On January 12, 2023 a final certified letter was sent to the property owner requesting that if the property was being offered for rent, that an application be filled out and sent to the Health Department within 10 days of receipt of that letter.

January 20, 2023 the property owner was notified to appear at the February 9, 2023 Board of Health meeting.

A rental application was applied for on January 24, 2023.

An inspection of the property was conducted on February 6, 2023.

At the February 9, 2023 Board of Health meeting, the Board voted to postpone for one month until tenant was evicted per request of property owner.

The Health Department was notified on March 2, 2023 that the tenant would be out by March 10, 2023. Repairs to the dwelling would begin at that time.

At the March 9, 2023 meeting, the Board voted to continue that matter for 60 days to allow the current tenant(s) time to move out on March 10, 2023 and the violations found during the rental inspection to be repaired.

Mr. Gary Obirst spoke. He stated the house and property is now vacant and on the market. They are selling the property as is.

The Board discussed removing from the agenda.

**Motion:** Move to remove the matter at 175 Telegraph Road, Dennisport, as printed in the memorandum dated May 2, 2023, from the agenda.

***Removed from agenda***

**Motion: Bunce      Seconded: Duffy      Vote: 5-0**

**G. Lawrence & Mary Eaton and Constitution Properties LLC** – Show cause hearing for noncompliance with Town of Dennis Fuel Storage Regulations: Failure to Replace or Remove Above Ground Fuel Storage Tank (***Continued from March 9, 2023 meeting***)  
**11 Captain Prestons Road, Dennis (208-3)**

**Continued from March 9, 2023**

At the March 9, 2023 Board of Health meeting, the property owner, Mr. Lawrence Eaton, informed the Board that he was in the process of converting to gas and needed a bit more time. The Board voted to continue the matter for 60 days.

On April 25, 2023 the Fire Department confirmed that no permits have been pulled to date for the removal of the fuel storage tank.

As of the date of this memo, there has been no further communication from the property owner.

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On October 19, 2022 the Dennis Health Director approved a 90-day exemption form for the removal or replacement of the above ground fuel storage tank at the above listed property.

The exemption form had been signed by the seller of the property on October 5, 2022 and by the buyer of the property on October 5, 2022. The closing date listed on the form was October 28, 2022. The exemption was granted until January 26, 2023. A notation on the exemption form indicated the buyer intended to convert the property to gas.

As of the date of this memo, the Health Department has not received any communication from the buyer or the seller of this property and the Dennis Fire Department confirms they have not received a request for a permit for removal of the above ground fuel storage tank at this address.

**Fuel Storage Regulations: 2.3:(b) Above Ground Heating Fuel Oil Storage Tanks:**

4. At time of property transfer all Above Ground fuel oil storage tanks shall be replaced with a double wall fuel oil storage tank or shall be required to provide 110% containment capacity to prevent contamination from leaks that may occur. Exterior fuel oil storage tanks must be covered with substantial impermeable construction material to prevent water accumulation within containment in such a way that satisfies the Health and Fire Department. Enforcement and permitting shall be conducted by the Fire Department in conjunction with the Chapter 148 – 26 F inspections.

5. If an existing Above Ground Storage Tank exists in a building being transferred the buyer and seller may apply to the Board of Health for an exemption to this regulation if the intent is to convert to another form of heating appliance not using fuel oil or remove the existing single wall fuel oil storage tank and replace it with a double wall storage tank. The buyer and seller must agree in writing to the agreement and accept joint responsibility for completion of the replacement and or removal. A time frame for the completion of the removal and installation must be submitted to the Board of Health with the application for exemption.

Mrs. Keller stated on Monday May 8, 2023 the Fire Department confirmed a permit had been pulled to remove the fuel storage tank.

There were no questions from the Board.

**Motion:** Move to remove the matter at 11 Captain Prestons Road, Dennis, as printed in the memorandum dated May 3, 2023, from the agenda.

***Removed from agenda***

**Motion: Chamberlain      Seconded: Bunce      Vote: 5-0**

## **II. AGENDA ITEMS**

**1. Brian & Heather Dolan** – Request to reduce testing & service requirements for Wastewater Treatment System **14 Poiticki Road, West Dennis (15-61)**

MicroFAST and Ultraviolet start up for the above referenced property was completed on 9/26/2019.

The Original approval required testing to be conducted four times per year.

The State approval for this system is for General Use.

General Use Letter States:

4. An individual household shall be monitored at least once every 12 months (exclusive of alarm responses or other maintenance visits).

5. Facilities (residential and nonresidential) with a design flow of less than 2,000 gpd, other than an individual household, shall be monitored a minimum of twice/year with a minimum of 5 months since the last monitoring inspection (exclusive of alarm responses or other maintenance visits) and a maximum of 7 months between monitoring inspections.



**County Records:**

Date	TN<19	BOD5 <30	TSS <30
01/10/2020	21.04	NR	9.5
04/06/2020	20.4	NR	NR
07/16/2020	30.87	NR	12
10/28/2020	17.58	NR	10.5
05/17/2021	12.28	NR	6
10/15/2021	18.2	8.5	26
12/10/2021	17.27	NR	NR
5/10/2022	30.7	4.5	NR
10/21/2022	14.3	7.8	4
1/13/2023	14.53	5.3	14
3/28/2023	14.26	82.9	9

Ms. Heather Dolan, the homeowner, was present on behalf of the request.

Mr. Bunce stated that the majority of numbers are under the 20 ppm

Mrs. Chamberlain stated she would like the motion to include testing in the early summer and the late fall.

**Motion:** Move to approve the request to reduce testing & service requirements for Wastewater Treatment System at 14 Poiticki Road, West Dennis, as printed in the memorandum dated May 3, 2023, to twice per calendar year, once in the early summer and once in late fall.

***Approved***

**Motion: McCormick                      Seconded: Duffy                      Vote: 5-0**

**2. Wesley Atamian & Leiha Macauley** – Request to reduce testing & service requirements for Wastewater Treatment System  
**155 Uncle Barneys Road, West Dennis (25-13)**

MicroFAST and Ultraviolet start up for the above referenced property was completed on 1/15/2020.

The Original approval required testing to be conducted four times per year.

The State approval for this system is for General Use

General Use Letter States:

4. An individual household shall be monitored at least once every 12 months (exclusive of alarm responses or other maintenance visits).

5. Facilities (residential and nonresidential) with a design flow of less than 2,000 gpd, other than an individual household, shall be monitored a minimum of twice/year with a minimum of 5 months since the last monitoring inspection (exclusive of alarm responses or other maintenance visits) and a maximum of 7 months between monitoring inspections.

**County Records:**

Date	TN<19	BOD5 <30	TSS <30
8/19/2020	23.3	5	NR
11/9/2020	8.34	4.6	NR
2/5/2021	25.2	NR	NR
8/17/2021	6.42	8	6
10/22/2021	8.39	9.2	NR
12/29/2021	5.35	NR	NR
4/11/2022	8.21	NR	4
10/21/2022	9.09	6.6	33.5
1/18/2023	11.21	NR	4.5

No one was present to represent the property and request.

Mr. Covell questioned if staff made applicants aware that if they are not present the request will likely be denied.

The Board discussed the language to use.

Mrs. Keller stated the letter sent to the homeowner states, "Please be advised you must be present or represented."

The Board agreed that language is sufficient.

**Motion:** Move to deny the request to reduce testing & service requirements for Wastewater Treatment System at 155 Uncle Barneys Road, West Dennis as printed in the memorandum dated May 3, 2023.

***Denied***

**Motion: Bunce      Seconded: Duffy      Vote: 5-0**

***III. MINUTES***

**1. Regular Meeting of April 13, 2023**

**Motion:** Move to approve the minutes from the April 13, 2023 Board of Health meeting as printed.

***Approved***

**Motion: Bunce      Seconded: Chamberlain      Vote: 5-0**

## ***IV. ADJOURNMENT***

**Motion:** Move to adjourn at 7:28 p.m.

***Approved***

**Motion:** Chamberlain

**Seconded:** Bunce

**Vote:** 5-0