



Town of Dennis

685 Route 134, South Dennis, MA 02660 / Telephone: 508-394-8300 Fax: 508-394-8309

**45 Dr. Lords Road**

**ZBA SPECIAL PERMIT STAFF REVIEW – September 19, 2024**

**NOTE TO THE APPLICANT:** The staff review is prepared for the Board of Appeals and is provided to applicants to inform them of issues that have arisen during the review of the application. The hearing is based upon the plans originally filed – the plans that the public were able to review upon receiving notice.

<b>APPLICANT:</b>	Maria M. Kelleher C/O Paul Tardif
<b>PROJECT ADDRESS:</b>	45 Dr. Lords Road Dennis MA (02638)
<b>MAP AND LOT NUMBER:</b>	Map 404 Lot 5 (0.22 acres – 9,708 sf)
<b>APPLICANT ADDRESS:</b>	500 Sandy Valley Road, Westwood MA (02090)
<b>CASE NUMBER:</b>	SP-028800-2024
<b>ZONING:</b>	R-40; Old Kings Highway Historic
<b>HEARING DATE:</b>	September 23, 2024

1. **Project Summary; Request per Zoning Bylaw; Plan Citations**
2. **Plans Specifications; Basic Site Data**
3. **Actions Requiring Findings**
4. **§ 1.4.2.1 Special Permit Granting Authority – Criteria and Proposal**
5. **Town Department Comments**
6. **Proposed Conditions**

<b>PROPOSAL</b>	Renovate, expand and alter the existing two-story single-family dwelling.
<b>PROJECT SUMMARY</b>	<ul style="list-style-type: none"> <li>• Renovate, expand and alter the existing two-story single-family dwelling built in 1920 with a new, two-story single-family dwelling with doghouse dormers and basement.</li> <li>• The 1950 detached garage will be demolished and replaced with an attached garage.</li> <li>• Proposal will improve the front setback slightly; maintain the conforming side setbacks and otherwise be under the bulk thresholds.</li> <li>• The property abuts wetlands and is an ESA and subject to BoH and Conservation.</li> <li>• The new house will be somewhat larger overall, with a slight setback improvement, and better looking.</li> </ul>
<b>REQUEST</b>	<p>Finding per: <b>§ 2.4.1.2.B</b> - Actions Requiring a Finding that the proposal is NOT Substantially More Detrimental <b>(B.1)</b> for an Increase in the footprint of a structure that <u>does not comply with one or more required setbacks</u> where the <u>alteration will extend lot coverage or building height</u> where a structure does not conform to current setback requirements; <b>(B.2)</b> Increase in the lot coverage of a structure where the structure currently exceeds lot coverage; <b>(B.3)</b> Increase in building height for any structure with a non-conformity subject to item B1 above if the increase in height is located within the portion of the structure that is non-conforming or for any structure covered by item B2 above;</p>
<b>PLOT PLAN</b>	Site Plan of 45 Dr Lords Road Dennis, Massachusetts prepared for Craig Kelleher by Down Cape Engineering, 939 Main Street (Route 6A) Yarmouthport MA (02675). Plan

	consisting of 1 sheet with existing and proposed conditions, Septic System Profile and Design with Test Hole Logs. Plan dated July 2, 2024 by Dan Ojala.
<b>BUILDING PLANS</b>	Plan of 45 Dr Lords Road Dennis, Massachusetts prepared for Craig Kelleher by Patrick Ahearn, 160 Commonwealth Avenue, Suite L3 Boston MA (02116). Plan consisting of 8 sheets with Cover Sheet, Project Narrative, Existing Conditions Photos, 1 <sup>st</sup> Floor Plans, 2 <sup>nd</sup> Floor plans, Basement Floor Plans, North & East Elevations, and South & West Elevations. Plan dated July 31, 2024.
<b>OTHER</b>	Landscape Plan of 45 Dr Lords Road Dennis, Massachusetts prepared for Kelleher Residence by Dan Gordon. Plan consisting of 1 sheet with Native Plant list(Trees & Shrubs), Ornamental Plant List(Shrubs, Perennials, and Transplants) and proposed Ornamental vegetation, and Proposed Native Vegetation. Plan dated July 11, 2024.

1.3.2 Plans and Specifications

REQUIREMENTS	PROVIDED ON PLAN
CERTIFIED PLOT PLAN INCLUDING	
LOCUS MAP	Yes
PERIMETER DIMENSIONS, INCLUDING FRONTAGE	Yes
AREA OF LOT	Yes
NAMES OF STREETS	Yes
NAMES OF ABUTTING PROPERTY OWNERS	Yes
DISTANCES EXISTING AND PROPOSED STRUCTURES TO PROPERTY LINES	Yes
PROPOSED ADDITONS/ALTERATIONS OF EXISTING BLDGS W/ SETBACKS	Yes
PROXIMITY OF WETLANDS	Na
EXISTING AND PROPOSED TOPOGRAPHY AND/OR OTHER LAND ISSUES	Yes
DIMENSIONS OF EXISTING AND PROPOSED STRUCTURES	No
ARCHITECTURAL DRAWINGS ILLUSTRATING THE PROPOSED CONDITIONS	Yes
ARCHITECTURAL DRAWINGS ILLUSTRATING THE EXISTING CONDITIONS	Yes

Basic Site Data	Required/ Allowed	Existing	Proposed
Frontage	50'	171'	171'
Front Setback	25'	8.4'	8.6'
Right Side Setback	15'	17.5'	15.4'
Left Side Setback	15'	9.7'	9.9'
Rear Setback	25'	52.6'	35.8'
Lot Area	40,000	9,708 sf	9,708 sf
Lot Width	100'		
Non-conforming floor space within Setbacks		1,192 sf	1,556 sf
D2. Increase in new non-conforming floor space by more than 40% within any 10-year period			30.5 %
Cumulative footprint size of all structures			
Cumulative lot coverage (footprint) percent for all	15%	15.1%	17.5%
Cumulative floor space of all structures (F.A.R.)			
Cumulative floor space to lot area % all structures	30%	19.5%	25.8%

§ 2.4.1.2 B Actions Requiring a Finding that the proposal is NOT Substantially More Detrimental

ACTION	FINDING
B1 - Increase in the footprint of a structure that does not comply with one or more required setbacks where the alteration will extend lot coverage or building height where a structure does not conform to current setback requirements;	
B2 - Increase in the lot coverage of a structure where the structure currently exceeds lot coverage;	
B3 - Increase in building height for any structure with a non-conformity subject to item B1 above if the increase in height is located within the portion of the structure that is non-conforming or for any structure covered by item B2 above; and 2.4.1.2 C	

§ 1.4.2.1 To hear and decide applications for special permits upon which the Board is empowered to act under this By-Law pursuant to M.G.L. ch. 40A. Special permits may be granted only upon a finding by the Board that the proposed use will not create a nuisance, hazard or congestion, or other significant harm to the neighborhood, nor cause derogation from the general purpose and intent of the By-Law, the stated district intent or applicable use criteria. It shall be the responsibility of the applicant for any special permit to show, to the satisfaction of the Special Permit granting authority, that the following criteria are met:

- a. The use is allowed by special permit in the district in which proposed, pursuant to §2.2.2 - Use Regulations Schedule; **The site is used for residential purposes and will continue to be used as such.**
- b. Suitability of the site for the proposed use in light of the applicable district intent, as provided in §2.1.5; **Residential uses are allowed within this district.**
- c. Adequacy of management of traffic flow within the site as well as in relation to adjoining streets and properties, so as to minimize unsafe or harmful impacts of the use; **Proposed alterations will not increase traffic to the site.**
- d. Compatibility of the proposed use with surrounding land uses, so as to minimize harmful impact or conflict with existing desirable neighborhood character, including views, vistas and other aesthetic values; **Site will continue to be used in a fashion similar to that of other properties and historical use.**
- e. Adequacy of provision of utilities and other necessary or desirable public services; **The addition will not increase the need for utilities or other public services.**
- f. Adequacy of control of artificial light, noise, litter, odor or other sources of nuisance or inconvenience to adjoining properties, public ways and neighborhoods; **The addition will not generate light, noise, litter, odor or other sources of nuisance.**
- g. Adequacy of protection from degradation and alteration of the natural environment, including but not limited to slopes and other topographical features, vegetation, wetlands, groundwater and water bodies and wildlife habitat. **The addition will not degrade the natural environment.**

**TOWN DEPARTMENTS COMMENTS:**

- **PLANNING:**
  - Renovate, expand and alter the existing two-story single-family dwelling built in 1920 with a new, two-story single-family dwelling with dormers, basement and new garage.
  - Proposal will improve the front setback slightly; maintain the conforming side setbacks and otherwise be under the bulk thresholds.
  - Due to the location of the property in a dense residential neighborhood near the water, the time of year construction and not blocking the road conditions have been added.

- Due to the house being over 75 years old the proposed major renovation and alteration may need to be referred to the Historic Commission per the Demolition Delay General Bylaw (§61-3).
- Pending review of Town Engineering comments regarding the common ownership of this and the neighboring lot and that the lots do not meet the current lot area requirement, compliance with Zoning 2.4.2 should be confirmed.
- The Board can find that a lawful pre-existing non-conforming structure exists on the property and the proposed renovation and expansion, as conditioned, will not be substantially more detrimental to the neighborhood than the existing structure.
- **NATURAL RESOURCES:** Project approved by Conservation.
- **HEALTH:** Property Located in an ESA. BOH approved raze and Rebuild 10/12/2023. Any alterations/modification must be heard before the BOH.
- **ENGINEERING:**
  1. The proposed redevelopment at this site extends near the limit of the 50 ft buffer zone, and will need to be reviewed and approved by the Conservation Commission
  2. The lot a 45 Dr. Lords Road North and the adjacent lot proposed for redevelopment at 41 Paul Street are under common ownership. As these lots do not meet the current lot area requirement, compliance with Zoning 2.4.2 should be confirmed.
  3. This project as presented appears to result in a ground disturbance greater than 500 sf. and is therefore required to meet the intent of the Stormwater By-Law
  4. Provide temporary construction period linear erosion controls at the clearly defined work limit surrounding the work areas as shown on the Site Plan. This work limit appears to extend slightly into the 50ft. buffer zone. This should be confirmed.
  5. Permanent erosion controls such as vegetated swales or natural depressions should be constructed at the limits of grading, to contain and infiltrate the maximum amount of runoff upstream of the buffer zone.
  6. Disturbed areas should be stabilized and revegetated as soon as practical following construction to minimize erosion. Construction and/or ground impacts should be phased to allow work in areas to be completed, and the area left to re-establish vegetation without impact from traffic or other construction activities. Any bare surfaces, especially on slopes should be stabilized with jute matting or terraced wattles to minimize erosion and enhance revegetation
  7. Maintain any existing ground cover or vegetation to the extents practical. Any existing screening to abutting properties should be maintained.
  8. The plan indicates roof drainage will be directed to subsurface drywells or stone trenches at the drip line. Drywells are shown on the plan, however either method is acceptable.
  9. Any grading which will extend onto abutting property, even if under common ownership should be approved by the owner
  10. The contractor should be responsible for maintaining Paul Street and Dr. Lords Road North in a condition free of accumulated sediment during construction. Additional linear erosion controls should be installed along the edge of road to prevent sediment from flowing onto the paved surface of both streets. A stone construction entrance should be installed and maintained in good condition for the duration of the project.
  11. The proposed expansion of the existing driveway appears to be located less than 10ft. to the abutting property to the north and require a retaining wall. The proposed wall height and materials should be reviewed with the engineer as it appears to extend to the property line.

The applicant should confirm if a waiver will be required to Zoning 2.3.4.1.b to allow the driveway less than 10ft from the property line as configured.

12. Any revisions to the driveway which may include a cobblestone apron, should hold the cobbles back a minimum 1ft. from edge of pavement
13. The proposed area drain appears to be proposed to contain driveway runoff, however the driveway, with the associated retaining wall, is located close to the abutting property line. Any overflow from the drain, or areas landward of the wall, could discharge runoff to the abutting property due to the close proximity to the property line without a reasonable natural buffer in place. Any means to provide a natural buffer to the abutting property, permitting containment of any runoff for infiltration into the ground prior to reaching the property line should be considered by the applicant.

<b>PROPOSED CONDITIONS</b>	<ol style="list-style-type: none"> <li>1. The lot owners shall apply for all required permits and will comply with the intent of the Dennis Stormwater By-law, all requirements of the Dennis Conservation Commission and Board of Health and any other permits that are required.</li> <li>2. Construction shall not commence before 7:00 am nor continue after 7:00 pm Monday through Friday and shall not commence before 7:00 am nor continue after 5:00 pm on Saturdays. No construction shall occur on Sundays.</li> <li>3. The addition shall not generate new light, noise, litter, odor or other sources of nuisance. Any new lighting shall be restricted to downward-shielded motion sensitive security lighting that is “Dark-Sky” compliant.</li> <li>4. Failure to comply with all conditions in the Conservation Commission Order of Conditions or the Board of Health Permit shall be deemed cause to revoke the ZBA Special Permit.</li> <li>5. Grading should be limited to what is absolutely necessary and as many existing trees as possible should be maintained. Disturbed areas should be stabilized and revegetated as soon as practical following construction to minimize erosion. Additional screening should be provided in areas where vegetation is removed or the grade is altered.</li> <li>6. The contractor shall be responsible for maintaining the road in a condition free of accumulated sediment during construction and all appropriate drainage and erosion control measures as suggested by town engineering comments shall be implemented.</li> <li>7. Construction vehicles shall not park in or block the road.</li> <li>8. There shall be no exterior construction (including foundation work) or heavy equipment between the Friday before Memorial Day and the day after Labor Day.</li> <li>9. The ground floor area denoted on the approved plans as “open” must remain open with uses limited per code.</li> <li>10. The proposed renovation, alteration and expansion should be considered by the Historic Commission whether it requires review under the Demolition Delay General Bylaw (§61-3). This Special Permit shall not be valid and a Building Permit shall not be issued until such time as the Historic Commission either votes that the building is not preferably preserved or the demolition delay expires. If the Historic Commission votes that the original house built in 1920 is preferably preserved, the applicant shall work with the Historic Commission and the Town Planner to explore alternatives to the proposed demolition.</li> </ol>
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