



Town of Dennis

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**PLANNING BOARD APPEAL OF BUILDING COMMISSIONER**

**Issuance of BUILDING PERMIT FOR 1 Love Lane - H.A.C. Family Transition Center**

**STAFF REVIEW – September 19, 2024**

<b>APPELLANT:</b>	Dennis Planning Board
<b>PROJECT BEING APPEALED APPLICANT:</b>	HAC Love Lane LLC, Housing Assistance Corporation, C/O Peter Freeman of Freeman Law Group LLC
<b>PROJECT ADDRESS:</b>	1 Love Lane, South Dennis, MA
<b>MAP AND LOT NUMBER:</b>	Map 168, Parcel 9 (5.47 acres)
<b>PROJECT APPLICANT BEING APPEALED ADDRESS:</b>	Housing Assistance Corporation, 460 West Main Street, Hyannis MA (02601) C/O Peter Freeman of Freeman Law Group LLC, 86 Willow Street, Yarmouthport, MA (02675)
<b>CASE NUMBER:</b>	ZBAPP-029119-2024
<b>ZONING:</b>	Industrial Zoning District
<b>MEETING DATE:</b>	September 23, 2024

<b>APPEAL</b>	The Town of Dennis Planning Board, C/O Planning Board Chair Paul McCormick Jr., is appealing the Building Commissioner’s issuance of a Building Permit to the Housing Assistance Corporation for a Family Transition Shelter at 1 Love Lane under the Dover Amendment (M.G.L. Ch. 40A Section 3), and thus only subject to Special Review under Section 2.2.2 of the Town of Dennis Zoning Bylaws; and that the Building Commissioner's failure to include the conditions voted by the Planning Board on July 22, 2024 as part of the Building Permit issued on July 29, 2024 was improper.
<b>PROJECT</b>	Conversion of a nursing home to a Family Transition Shelter under the Dover Amendment.
<b>ZBA ISSUE</b>	Was the Building Permit appropriately issued?
<b>DOVER</b>	<p><b><u>Dover Amendment:</u></b> MGL Chapter 40A (The Zoning Act), Section 3, Paragraph 2 (1950)</p> <ul style="list-style-type: none"> <li>Exempts agricultural, religious, and educational uses from certain zoning restrictions by limiting what zoning requirements apply to these uses.</li> <li>MGL 40A, §3, ¶12 states: “<u>No zoning ordinance or by-law shall... prohibit, regulate or restrict the use of land or structures for religious purposes or for educational purposes on land owned or leased by the commonwealth or any of its agencies, subdivisions or bodies politic or by a religious sect or denomination, or by a nonprofit educational corporation; provided, however, that such land or structures may be subject to reasonable regulations concerning the bulk and height of structures and determining yard sizes, lot area, setbacks, open space, parking &amp; building coverage requirements...</u>”</li> <li>Over time and many court cases, the courts have established a very broad interpretation of “educational purposes” and many legal precedents (See Legal Precedents Section Below).</li> <li>The vague language of the 75-year-old statute has led to dozens of court cases re-interpreting the language and meaning of what exactly applies. One of the key issues that confounds observers is the so-called two-part test: 1) Whether the use is educational; and 2) Whether it is primarily educational. It appears the courts have extended the broad interpretation to “primarily” as well.</li> </ul>
<b><u>History</u></b>	<ul style="list-style-type: none"> <li>The South Dennis Health Care Facility was owned and operated by Next Step Health Care LLC since 2018. Originally licensed for 142-beds, Next Step was permitted a maximum of 128 beds.</li> </ul>

	<ul style="list-style-type: none"> <li>In 2018 Next Step LLC was operating 28 facilities in Massachusetts. They currently operate 16, thus they have liquidated 12 nursing homes in six years. Their “closure plans” on the DPH website consist of nothing but a form letter with a brief recitation of state law and different names.</li> <li><b>January 2023:</b> Broker approached HAC to buy 1 Love Lane.</li> </ul>
<p><b>Town Review</b></p>	<ul style="list-style-type: none"> <li><b>August 24, 2023:</b> Freeman Law Group submit 1 Love Lane to Building as Dover Amendment Use.</li> <li><b>August 29, 2023:</b> Citing numerous legal precedents where courts allowed similar uses (see below), Town Counsel advises Town that the proposed family shelter use likely qualifies as an exempt educational use under the so-called Dover Amendment. After consultation with Town Counsel, Building Commissioner refers the proposed conversion of an existing Health Facility to a Family Shelter program and Educational Use as an exempt use for Special Review.</li> <li><b>September 13, 2023:</b> Town Planner and Health Director visit Next Step Health at 1 Love Lane. 92 of the 128 beds were occupied with stated goal of full occupancy. Over 100 employees in 3 shifts.</li> <li><b>October 2, 2023:</b> Department of Public Health receive “a draft closure plan” (actually a form letter stating South Dennis Healthcare LLC - aka Next Step LLC) plan to close the Facility at 1 Love Lane on or about January 30, 2024.</li> <li><b>November 1, 2023:</b> South Dennis Healthcare in coordination with DPH hold a “public hearing” via telephonic conference call. DPH and Next Step on phone, Town in COA room, no residents. Town is later told that only 13 residents remain at the time of the so-called public hearing. Next Step reads form letter. DPH states that Town should ask no questions as they will get no answers. SB asks if it is true that if the plan is inadequate and the facility is essential DPH can still not do anything. After long pause, DPH representative concurs. <b>Note:</b> It appears Next Step did not notice the “public Hearing” phone call while residents remained at the Facility and DPH did not follow any procedures in requiring an actual public hearing, process or closure plan and the facility was almost empty by the time of the phone call, much less the 90 days comment and review period.</li> <li><b>November 20, 2023:</b> Dennis Town Planner referred the project in an email to the Cape Cod Commission as a Mandatory DRI Referral per Section 3(f)(1) of the Cape Cod Commission Enabling Regulations (Change of Use of a private health facility greater than 10,000 sf), while Next Step Health LLC was still theoretically open as a nursing home. A private health facility is an institutional use and the applicants, citing Dover Amendment, are an “educational” use. Town was informed in December by phone that a local permit was required to refer a DRI. No local permit, or State permit for that matter, was required for Next Step to close another home.</li> <li><b>February 8, 2024:</b> Staff Review with HAC and Dennis Department Heads. HAC begins to provide general details on how the facility would operate. The intent is for residents to acquire life and job skills to become independent.</li> <li><b>March 21, 2024:</b> Second Staff Review with HAC and Dennis Department Heads.</li> <li><b>March 28, 2024:</b> Dennis Building Commissioner referred the project to the Cape Cod Commission as a Mandatory DRI Referral per Section 3(f)(1) once a Building Permit was finally applied for.</li> <li><b>April 1, 2024:</b> Planning Board begins its review of the project as a Special Review using the guidelines it uses for Site Plan Approval and Special Permit insofar as they are reasonable.</li> <li><b>April 2, 2024:</b> Cape Cod Commission Chief Regulatory Officer immediately administratively denied the mandatory referral as not meeting the Commission’s definition of a Change of Use.</li> <li><b>May 20, 2024:</b> During the second meeting of the Special Review the Planning Board voted to Appeal the referral of the project under the Dover Amendment. The Board also voted to appeal the administrative denial of the DRI Referral and re-refer the DRI a third time.</li> <li><b>July 1, 2024:</b> After the CCC questioned the Planning Board vote taken on May 20, 2024, the PB clarified their intention was to refer the HAC Family Transition Center for Review as a Development of Regional Impact (DRI) as both Discretionary and Mandatory with support letters from the Dennis and Harwich Select Boards.</li> <li><b>July 22, 2024:</b> PB voted to Rescind its Motion of 5/20/2024 to appeal the referral under the Dover Amendment (MGL 40A, §3, ¶12) and voted to pre-emptively Appeal the Building Permit, if</li> </ul>

and when the Building Commissioner issues a Building Permit based on the Dover Amendment. The Board cited a campus plan dated 5/14/2024 prepared by Catalyst Architecture and the following eight (8) Conditions as discussed during the Special Review plus an additional three (3) conditions to attach to the Building Permit.

○ Conditions voted July 22, 2024

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.*
2. *A campus plan to improve the internal pedestrian circulation, recreational accommodations and landscaping shall be submitted for review and approval of the PB before residents occupy the building.*
3. *An emergency access and response plan shall be reviewed and approved by the Police and Fire Chiefs of Dennis and Harwich before residents occupy the building.*
4. *The Family Shelter 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.*
5. *The maximum number of residents shall be 177, regardless of age, or the Applicant must file and receive a Ground Water Discharge Permit (GWDP) from the Massachusetts Department of Environmental Protection (DEP). **Note:** The Applicant objected to condition #5 and offered #6 below instead.*
6. *The maximum daily septic flow as calculated under Massachusetts Title 5 shall be less than 10,000 gallons or the Applicant must file and receive a Ground Water Discharge Permit (GWDP) from the Massachusetts Department of Environmental Protection (DEP); provided, however, that occupancy of the building may be allowed prior to the issuance of a GWDP if allowed by DEP.*
7. *The lot owners shall erect a 6' high stockade fence around the perimeter of the property including possible gating.*
8. *A joint meeting, before residents occupy the building, is required with Housing Assistance Corporation and the Departments of Public Works, Engineering, Conservation, Water, Building, Health, School Department, Police and the Fire Department, to be coordinated through the Planning Department.*

**Additional Conditions in reference to the plan added by PB 7/22:**

9. *Especially as it affects the proposed use of the exterior, a complete updated stormwater management report shall be provided;*
  10. *The applicant shall be required to have 24-hour on-site security;*
  11. *There shall be an updated Traffic Impact Assessment Study (TIAS) including the impact of traffic and safety on Main Street extension (in Harwich) assessing the necessity of sidewalks on Main street Extension, the effect of transportation as discussed at previous public meetings in relation to delivery services (such as door dash, uber, etc.), additional traffic related to schools and possible improvement to the dangerous intersection at Depot and Main Street in Harwich.*
- **July 25, 2024:** The Cape Cod Commission Board held a Discretionary Referral review of the HAC Family Shelter at 1 Love Lane (first referred in November 2023). The Board voted 10-4 not to accept the Discretionary Referral as a DRI. This was not a public hearing and a Select Board member from Dennis and Harwich were allowed to speak very briefly after the Dennis Town Planner made the case for why the project had Regional Impact and triggered DRI thresholds.
  - **July 25, 2024:** The Town Planner sent a memo to the Building Commissioner informing him of the Planning Board vote to appeal the Building Permit and add the eleven conditions.
  - **July 30, 2024:** Building Permit issued. Permit is issued without the Planning Board Conditions. The conditions of a Special Review or a Special Permit (ordinarily) have not historically been included and are not required to be listed on the Building Permit.

	<ul style="list-style-type: none"> <li>• <b>August 21, 2024:</b> Deadline to apply for the September 23, 2024 ZBA Meeting. Planning Board file Appeal of issuance of Building Permit to HAC Love Lane at Town Clerk and apply online through the online permitting system to be heard by the ZBA Sept. 23, 2024.</li> <li>• <b>August 29, 2024:</b> Last day (30 days) to Appeal a decision of the Building Commissioner.</li> <li>• <b>September 25, 2024:</b> Deadline to apply for the October 28, 2024 ZBA Meeting.</li> </ul>
<p><b>HAC &amp; LOVE LANE EDUCATION</b></p>	<ul style="list-style-type: none"> <li>• The Housing Assistance Corporation (HAC) was founded in 1974 as a rental voucher agency and is now a 501(C)3 Non-Profit Organization with about 120 employees providing a wide variety of housing assistance on the Cape and Islands.</li> <li>• HAC mission revised in 2021: <i>“to strengthen the Cape Cod and Islands region by empowering individuals, fostering community connections, and increasing affordable housing opportunities”</i>.</li> <li>• The Articles of Organization for HAC includes, as a purpose of the corporation: <i>“to receive and administer funds exclusively for educational and charitable purposes without pecuniary profit, either direct or indirect, to its members.”</i></li> <li>• The HAC Love Lane LLC proposal is to consolidate their Family Transition Program from 3 locations with about 40 families to 1 location with approximately 80 families.</li> <li>• The intent is for residents to acquire life and job skills to become independent. HAC estimates the average stay at their existing homes is 9 months with no maximum but rare to be over 3 years.</li> <li>• Most residents will generally be single mothers with 1-2 kids.</li> <li>• HAC has listed the following courses to be offered so that residents can acquire the life and job skills to become independent: <ul style="list-style-type: none"> <li>○ <u>Ending Homelessness Course:</u> a self-paced course designed to provide instruction and coaching in the basic skills needed to obtain and maintain permanent, stable housing. Skills include how to apply for Social Security and state benefits; how to better budget and save; how to do a housing search and the role of a tenant, how to save money at the grocery store and make food money last longer, how to attend your health.</li> <li>○ <u>Wheel of Life:</u> Developing good money “habitudes” such as budgets &amp; how to apply for housing</li> <li>○ <u>Money Matters:</u> Money “habitudes” such as wants versus needs, goals versus dreams, how to get your credit report, understanding credit, S.M.A.R.T. saving and spending plans, financial calendar, financial CPR, etc.</li> </ul> </li> </ul>
<p><b>DOVER LEGAL PRECEDENTS</b></p>	<ul style="list-style-type: none"> <li>• <u>Regis College v. Town of Weston</u>, 462 Mass. 280, 285 (2012), citing <u>Fitchburg Housing Authority v. Board of Zoning Appeals of Fitchburg</u>, 380 Mass. 869, 870 (1980). <i>“A proposed use of land or structures may have an educational purpose notwithstanding that it serves nontraditional communities of learners in a manner tailored to their individual needs and capabilities.”</i></li> <li>• <u>Gardner-Athol Area Mental Health Association, Inc. v. Zoning Bd. of Appeals of Gardner</u>, 401 Mass. 12 (1987). In determining whether this test is met, <u>courts have customarily required only a demonstration that the articles of organization permit it to engage in educational activities</u>. The proposed educational activities <u>must merely “be within the corporate purposes of the nonprofit corporation” to qualify for the exemption</u>. The Articles of Organization for HAC includes, as a purpose of the corporation, <i>“to receive and administer funds exclusively for educational and charitable purposes without pecuniary profit, either direct or indirect, to its members.”</i></li> <li>• In the <u>Regis College</u> case, the Supreme Judicial Court stated <u>two established principles in determining applicability of Dover Amendment protection: first, the use must have as its “bona fide goal something that can reasonably be described as ‘educationally significant.’</u> 462 Mass. at 285, quoting <u>Whitinsville Retirement Soc’y, Inc. v. Northbridge</u>, 394 Mass. 757, 761 (1985); and <u>second, the educationally significant goal must be the “primary or dominant” purpose for which the land or structures will be used.</u> 462 Mass. at 285, quoting <u>Whitinsville Retirement Soc’y, Inc.</u>, supra at 760.</li> </ul> <p><u>Non-traditional educational uses have been held to qualify for Dover Amendment protection:</u></p> <ul style="list-style-type: none"> <li>• <u>Residential group home for the elderly, mentally ill, in Campbell v. City Council of Lynn</u>, 415 Mass. 772, (1993);</li> </ul>

	<ul style="list-style-type: none"> <li>• <u>Residential programs for mentally handicapped, providing education in daily living activities, in Fitchburg Housing Authority v. Board of Zoning Appeals of Fitchburg, 380 Mass. 869 (1980); and Gardner-Athol Area Mental Health Ass’n, Inc. v. Zoning Bd. of Appeals of Gardner;</u></li> <li>• <u>Residential group home for children with educational and psychological disorders; in Harbor Schools, Inc. v. Board of Appeals of Haverhill, 5 Mass. App. Ct. 600 (1977);</u></li> <li>• <u>Residential group home for single mothers in Brockton Coalition for Homeless v. Tonis, 2004 WL 810296 (Mass. Super. Mar. 5, 2004);</u></li> <li>• <u>Educational services “to homeless families, single mothers, persons with AIDS and other physical disabilities such as deafness and blindness, and persons recovering from addictive habits,” in Congregation of the Sisters of St. Joseph of Boston v. Town of Framingham, 1994 WL 16193868 (Mass. Land Ct. Mar. 31, 1994); and</u></li> <li>• <u>Residential life skills program for 15 to 21-year old males exhibiting “emotional dysregulation;” in McLean Hospital Corporation v. Town of Lincoln, 483 Mass. 215(2019).</u></li> </ul>
<p><b>PROJECT SUMMARY</b></p>	<p><b><u>HAC Proposal:</u></b></p> <ul style="list-style-type: none"> <li>• The application said there would be about 79 units/rooms and up to 179 residents. One issue the PB objected to during the Special Review was that HAC refused to set a maximum capacity.</li> <li>• HAC said rooms will have a maximum of 3 people unless one is a toddler. Otherwise families with four or more people will have two rooms/units. The rooms are 16’ by 17’ (272 sf) including the bathroom, which is allowed by 105 CMR 420 as an exemption from the required square footage.</li> <li>• Most rooms will have a ½ bathroom. There will be no televisions or chairs in rooms.</li> <li>• There would be communal commercial kitchens with a refrigerator &amp; microwave in room</li> <li>• There will be case managers on site. No staff will live on site.</li> <li>• There will be two (2) Security officers at night (7 pm – 7 am).</li> <li>• No alcohol or drugs will be allowed on premises. Visitors will have to check in.</li> <li>• HAC will not be responsible for parents or kids. If someone goes missing they will call the police or the Department of Children and Families (DCF). HAC said this is not supportive services but rather all about teaching independence.</li> <li>• HAC will not charge the Participants for the use of the premises. HAC operates under a contract with the Executive Office of Housing and Livable Communities that requires the Participant to actively participate in the shelter program.</li> </ul> <p><b><u>Traffic</u></b></p> <ul style="list-style-type: none"> <li>• The applicant submitted a The Traffic Impact Assessment (TIA) that estimatds the use (according to ITE) requires only 35 parking spaces and that traffic will be more dispersed than nursing home.</li> <li>• HAC estimates 40-50% of tenants have a car.</li> <li>• Cape Cod Regional Transit Authority (CCRTA) will provide an on-call service.</li> <li>• HAC estimates most trips will be generated by parents attending interviews or going to work and kids going to school. Estimate that half go out to work &amp; half to training.</li> <li>• The Planning Board believes there will be more traffic than estimated by the TIAS. <ul style="list-style-type: none"> <li>○ The residents at the nursing home did not come and go and had few visitors; Lack of nearby shopping and kitchens will increase deliveries; HAC residents, both parents and children will regularly come and go unlike before.</li> <li>○ Furthermore, the Board expressed concern that the four way stop at Depot and Main Streets in Harwich and the lack of pedestrian accommodations could become dangerous.</li> </ul> </li> <li>• Further study by an applicant’s consultant would not reveal anything new. Time will tell. The Applicant could offer to assist the Towns in assessing the adequacy of the road and intersection for the shelter and support the Towns, if necessary, to address safety relative to this location.</li> </ul> <p><b><u>Septic System and limitation on occupants</u></b></p> <ul style="list-style-type: none"> <li>• The septic system is already permitted by the Massachusetts Department of Environmental Protection and the Dennis Board of Health; and any further requirements for permitting will be appropriately addressed with those entities.</li> </ul>

	<ul style="list-style-type: none"> <li>• Applicant noted that the Septic system is beyond the purview of review under Dover Amendment, as is restriction on the number of occupants.</li> <li>• The property is located in an Environmentally Sensitive Area (ESA) due to its abutting land with wetlands. Property also abuts to Zone 2 Mass DEP Wellhead Protection Area.</li> <li>• Project will require a Board of Health hearing and variance approval for any additions or alterations of habitable space. Site already has Bio-Clere and Amphidrome de-nitrification.</li> <li>• HAC has agreed that if the actual discharge exceeds 10,000 gallons per day (as measured by the system flow meter) then HAC will apply to DEP for a groundwater discharge permit.</li> </ul> <p><b><u>Schools</u></b></p> <ul style="list-style-type: none"> <li>• The impact on local schools is unknown at this time. The State generally places the residents within 20 miles of their community/schools. Eventually there is likely to be a local impact.</li> <li>• H.A.C. has said most students will likely bus to the schools they attend now.</li> <li>• However, it was noted that after several months' students may tire of the long commute and opt to attend a closer school. The towns are not prepared for such an eventuality.</li> <li>• The State should assist the Towns if they incur unforeseen costs with respect to new students.</li> </ul> <p><b><u>Planning Board Questions and Concerns according to the Planning Board public meetings:</u></b></p> <ul style="list-style-type: none"> <li>• Through the Special Review process improvements were made to the internal circulation, but concerns remained with the pedestrian, bicycle and vehicular access along Main Street.</li> <li>• PB was concerned that the applicant was unwilling to put a cap on the occupancy which adds to the concern that the space could become crowded and unsafe.</li> <li>• The site is secluded surrounded by woods, highway and a sand pit. Where will people go when they want to get away?</li> <li>• HAC did provide a concept campus plan during the Special Review, but the PB still had questions.</li> <li>• HAC has not communicated with Harwich, where all traffic must go through.</li> <li>• What happens and who is responsible if things do not go as well as hoped for?</li> </ul>
<p><b>CLAIM OF CONFLICT OF INTEREST</b></p>	<p><b>HAC has suggested that three of the Planning Board members had conflicts of interest.</b></p> <ul style="list-style-type: none"> <li>○ 1 because they do not live in Town and should no longer serve on PB;</li> <li>○ 1 because they own industrial and agricultural property in the vicinity;</li> <li>○ 1 because their father owns industrial and agricultural property in the vicinity;</li> </ul> <p><b>The Planning Board members assert they are not in conflict.</b></p> <ul style="list-style-type: none"> <li>○ The first bought a house in a neighboring town and will be moving out of town and stepping down from the PB when the house is ready. The house in the neighboring town is being renovated and they live in Dennis at this time.</li> <li>○ The abutters list from Dennis and Harwich show that neither the PB member, or the father of the other PB member, own land within 300 feet of the property. Had the applicant notified neighbors, as they were asked to do, this would have been clear. Though a PB member does own significant industrial and agricultural properties along Main Street Extension in Harwich, it is his opinion that the industrial and agricultural uses would not be affected by this proposal.</li> <li>○ Finally, though the PB Members interpretation of the voluminous case law surrounding the vague Dover Amendment may not be upheld, some of the concerns expressed by members of the Planning Board are legitimate concerns such as: Whether there is enough staffing and security; the capacity of the facility; the potential for pedestrian and vehicular impacts; future communication with the Towns; and the lack of oversight.</li> </ul>

**TOWN PLANNER RECOMMENDATION:**

- Given the long history of legal precedents and the broad interpretation of educational purposes with respect to the Dover Amendment, including several cases with uses very similar to what HAC proposes;
- Given the proposal is to educate the less fortunate and help them re-enter society;
- Given the facility, though ignominiously vacated by the nursing home LLC, is vacant and the need is present;
- Given that the Dover Amendment needs to be clarified;

- The Board should **DENY THE APPEAL AND UPHOLD THE BUILDING COMMISSIONER** and determine that the Building Commissioner was correct to issue the Building Permit.
- The Board should accept the Applicant offers of how the facility will be operated as described in the letters of Attorney Brennan on August 15, 2024 to the Town Administrator and August 19, 2024 to the Planning Board as reiterated herein below;
- The Board should attach the Planning Board Conditions (#’s 11-14 and 16-20 below), as amended herein, insofar as they are reasonable, do not nullify the ability of the applicant to perform the educational aspect of the family shelter program and are largely encapsulated in the applicants offers;
- The Board should not attach condition # 15 below, as the occupancy will be addressed by the Building Commissioner and Fire Chief with respect to the Building and Fire Codes, as is the usual case;
- The Board should condition that HAC, the Owner/Operator, provide an annual report on the overall operations of the Family Transition Shelter and specifically the educational aspect, to ensure that the Dover Amendment is and continues to be relevant and fundamental to the operation of the facility.
- The Board should condition that the annual report should be accompanied by an annual in-person meeting between the representatives of the Owner/Operator and the Towns in order to review operations, improve communications and adjust coordination and assistance as necessary.

**OFFERS OF THE APPLICANT and PROPOSED CONDITIONS:**

<p><b>OFFERS OF THE APPLICANT: 8/15 &amp; 8/19</b></p>	<p><b>As offered by the Applicant (8/15 &amp; 8/19), the Shelter will be operated in the following manner:</b></p> <ol style="list-style-type: none"> <li>1. <u>Compliance with applicable laws or regulations:</u> Housing Assistance Corporation (operator of the facility) will comply with both the letter and intent of all applicable state and local permits, statutes, regulations and bylaws.</li> <li>2. <u>Site Plan Design:</u> HAC will optimize the internal pedestrian circulation, recreational accommodations and landscaping at the Property for the benefit and enjoyment of its residents.</li> <li>3. <u>Public Safety:</u> Housing Assistance Corporation (operator of the facility) will coordinate emergency access and response plans with first responders and work closely with police and fire on an ongoing basis.</li> <li>4. <u>Dark Skies:</u> HAC adheres to “dark sky” protocols and consistent with its “good neighbor” policies, it does not generate or permit new light, noise, litter, odor, or other sources of nuisance.</li> <li>5. <u>Occupancy Limits:</u> Housing Assistance Corporation (the operator of the facility) will observe occupancy limitations prescribed by the Building Commissioner and Fire Chief pursuant to the Massachusetts Building Code and the Massachusetts Fire Prevention Code. Occupancy limits are established under those codes.</li> <li>6. <u>Wastewater:</u> The existing system at the Property was designed for a flow of 21,300 gallons per day (gpd), as allowed under its existing Department of Environmental Protection (“DEP”) permit. The projected flow associated with HAC’s Intended Use of the Property is less than 10,000 gpd, in accordance with design flow calculations set out at 310 CMR 15.203. If the actual discharge at the property exceeds 10,000 gallons per day (as measured by the system flow meter) then HAC will apply to DEP for a groundwater discharge permit.</li> <li>7. <u>Fencing and Security:</u> HAC will hold the safety and security of its residents to be of paramount importance. Safety features include fencing and maintenance of 24-hour onsite staffing and security, to ensure a safe and livable community. HAC has a certified residential security consultant, Secure Residential Services LLC, who advises on the design and implementation of additional security measures for the safety and well-being of residents.</li> <li>8. <u>Pre-occupancy Meetings:</u> HAC will participate in all applicable meetings as ordinarily required by the Town in securing its Certificate of Occupancy.</li> <li>9. <u>Stormwater:</u> Housing Assistance Corporation (the operator of the facility) will comply with all applicable local and state permitting requirements including the Dennis Stormwater Bylaw.</li> </ol>
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	<p>10. <i>Traffic</i>: HAC trip generation calculations found that the change of use at the Property from a nursing home to shelter housing would result in a <i>net decrease</i> in vehicle trips to and from the Property.</p>
<p><b>PLANNING BOARD CONDITIONS</b></p>	<p>11. <i>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. (Reasonable and Addressed by Offer # 1)</i></p> <p>12. <i>A campus plan to improve the internal pedestrian circulation, recreational accommodations and landscaping shall be submitted for review and approval of the Planning Board before residents occupy the building. (Reasonable relative to yard sizes, open space, parking – concept submitted and Addressed by Offer # 2)</i></p> <p>13. <i>An emergency access and response plan shall be reviewed and <b>agreed to</b> by the Police and Fire Chiefs of Dennis and Harwich before residents occupy the building. (Addressed by Offer # 3)</i></p> <p>14. <i>The Family Shelter 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. (Addressed by Offer # 4)</i></p> <p>15. <i>Maximum Occupancy Addressed by Offers # 5 and # 6 and Condition 16 following)</i></p> <p>16. <i>The maximum daily septic flow as calculated under Massachusetts Title 5 shall be less than 10,000 gallons or the Applicant must file and receive a Ground Water Discharge Permit (GWDP) from the Massachusetts Department of Environmental Protection (DEP); provided, however, that occupancy of the building may be allowed prior to the issuance of a GWDP if allowed by DEP. (Reasonable and Addressed by Offer # 6 and offered by applicant at Special Review)</i></p> <p>17. <i>The lot owners shall erect a 6’ high stockade fence around the perimeter of the property including possible gating. (Addressed by Offer # 7 and offered by applicant at Special Review)</i></p> <p>18. <i>A joint meeting, before residents occupy the building, is required with Housing Assistance Corporation and the Departments of Public Works, Engineering, Conservation, Water, Building, Health, School Department, Police and the Fire Department, to be coordinated through the Planning Department. (Reasonable and Addressed by Offer # 8 and offered by applicant at Special Review)</i></p> <p><b>Additional Conditions in reference to the plan added by PB on July 22:</b></p> <p>19. <i>Especially as it affects the proposed use of the exterior, a complete updated stormwater management report shall be provided; (Addressed by Offers # 1 and # 9 if necessary)</i></p> <p>20. <i>The applicant shall be required to have 24-hour on-site security; (Addressed by Offer # 7)</i></p> <p>21. <i>Traffic Study removed.</i></p>
<p><b>Additional ZBA Conditions for Consideration</b></p>	<p>22. HAC (or the Owner/Operator) will provide to the Town of Dennis an annual report in January of each year on the overall operations of the Family Transition Shelter and specifically the educational classes offered, including the title and descriptions of classes and the number of students completing the courses, to ensure that the Dover Amendment is and continues to be relevant and fundamental to the operation of the facility.</p> <p>23. The annual report of the Family Transition Shelter will be accompanied by an annual in-person meeting between the Executive Director of HAC or the owner/operator of the Family Transition Shelter (or their designees) and the Town Administrators of Dennis and Harwich (or their designees) in order to review operations, improve communications and adjust coordination and assistance as necessary.</p>