



**Town of Dennis**

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

**11 Donovan Way**

**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>	David Louis Albert C/O Jeffery Ford
<b>PROJECT ADDRESS:</b>	11 Donovan Way Dennis, MA 02638
<b>MAP AND LOT NUMBER:</b>	Map 345 Lot 33 (0.17 acres – 7,614 sf)
<b>APPLICANT ADDRESS:</b>	72 Main St, PO Box 485 West Harwich, MA 02671
<b>CASE NUMBER:</b>	SP-028694-2024
<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>	Add a second floor to the existing single-story residential dwelling.
<b>PROJECT SUMMARY</b>	<ul style="list-style-type: none"> <li>• Add a second floor to the existing single-story residential dwelling.</li> <li>• The new house will continue to be nonconforming as to the side-yard setbacks.</li> <li>• The property with two-curb cuts and existing horseshoe driveway with parking areas on either side of the house is developed up to the property lines. Historical imagery shows it has been like this for decades but, if possible, the applicant should remove pavement where possible.</li> </ul>
<b>REQUEST</b>	Finding per: <b>§ 2.4.1.2.B</b> - Actions Requiring a Finding that the proposal is NOT Substantially More Detrimental ( <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;
<b>PLOT PLAN</b>	Site Plan of 11 Donovan Way Dennis, Massachusetts prepared for David Louis Alberto by A.S. Elliott & Associates, P.O. Box 85, Hopedale Massachusetts. Plan consisting of 1 sheet with existing and proposed conditions, Septic System Profile and Design with Test Hole Logs. Plan dated March 12, 2024, Revised 5-29-24. Stamped by Elliott Paturzo 7-17-24.
<b>BUILDING PLANS</b>	Plan of 11 Donovan Way Dennis, for Alberto Residence stamped by Hossein V. Vamedi. Revised 7-6-24. Plan consisting of 6 pages with Proposed Alterations for Front, Left Rear and Elevations, First Floor Plan, & Second Floor Plan.

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	?
PROPOSED ADDITONS/ALTERATIONS OF EXISTING BLDGS W/ SETBACKS	Yes
PROXIMITY OF WETLANDS	NA
EXISTING AND PROPOSED TOPOGRAPHYAND/OR OTHER LAND ISSUES	?
DIMENSIONS OF EXISTING AND PROPOSED STRUCTURES	Yes
ARCHITECTURAL DRAWINGS ILLUSTRATING THE PROPOSED CONDITIONS	
ARCHITECTURAL DRAWINGS ILLUSTRATING THE EXISTING CONDITIONS	

Basic Site Data	Required/ Allowed	Existing	Proposed
Frontage	50'		
Front Setback	25'	27'	27'
Right Side Setback	15'	10.3'	10.3'
Left Side Setback	15'	14.2'	14.2'
Rear Setback	25'	58.4'	58.4'
Lot Area	40,000	7,614 sf	7,614 sf
Lot Width	100'		
Non-conforming floor space within Setbacks		89	124
D2. Increase in new non-conforming floor space by more than 40% within any 10-year period			39.5%
Cumulative footprint size of all structures		1,115 sf	1,115 sf
Cumulative lot coverage (footprint) percent for all	15%	14.8%	14.8%
Cumulative floor space of all structures (F.A.R.)		1,115 sf	2,176 sf
Cumulative floor space to lot area % all structures	30%	14.8%	28.57%

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

ACTION	FINDING
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:**

- The proposed second floor is within the existing footprint and second floor addition is pulled in where the property is over the right setback in order to stay under the allowable non-conforming floor area per §2.4.1.2.D.2.
- The applicant should consider reducing the existing driveway footprint and providing a vegetated buffer to the abutters. The property with two-curb cuts and existing horseshoe driveway with parking areas on either side of the house is developed up to the property lines. Historical imagery shows it has been like this for decades but, if possible, the applicant should remove pavement where possible.
- 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.
- The second floor is mostly within the allowable setbacks and is under the bulk thresholds.
- The Board can find that a lawful pre-existing non-conforming structure exists on the property and the proposed addition, as conditioned, will not be substantially more detrimental to the neighborhood than the existing structure.

- **NATURAL RESOURCES:** Project not in conservation jurisdiction.

- **HEALTH:** Septic System design for 3 bedrooms. Passing Title 5 report in August 2022.

- **ENGINEERING:**

1. This project as presented does not appear to alter >500sf of ground area and is not required to meet the intent of the Stormwater By-Law.
2. Engineering recommends providing linear erosion controls (silt fence/wattles) as necessary during construction, as close to the area of work, to prevent discharge of stormwater or sediment to adjacent properties or the road layout.
3. Construction access should occur via the existing driveway. Parking of construction vehicles and storage of materials should also be limited to the existing driveway. No vehicles should park in the road layout.

4. The contractor should maintain Donovan Way in pre-construction condition, for duration of project.
5. Roof drains directed to properly sized subsurface drywells or stone trenches should be provided for new construction (and existing dwelling as required).
6. The applicant should consider reducing the existing driveway footprint and providing a vegetated buffer to the abutters. Currently, the site and driveway appear to be developed close to the property lines.

<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 Board of Health Permit shall be deemed cause to revoke the ZBA Special Permit.</li> <li>5. 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>6. Construction vehicles shall not park in or block the road.</li> <li>7. 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>8. The second floor shall not add more than 40% to the existing non-conforming floor area per §2.4.1.2.D.2.</li> </ol>
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