



Town of Dennis

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

**16 Spruce Way**

**ZBA SPECIAL PERMIT STAFF REVIEW – October 24, 2024**

*Note: New information is printed in Bold Italic Type.*

<b>APPLICANT:</b>	Deborah Simpson C/O Paul Beaulieu
<b>PROJECT ADDRESS:</b>	16 Spruce Way, Dennisport, MA (02639)
<b>MAP AND LOT NUMBER:</b>	Map 57 Lot 22 (0.15 acres - 6,907 sf)
<b>APPLICANT ADDRESS:</b>	149 Pleasant St 149 Pleasant St, Bridgewater MA (02324-2423)
<b>CASE NUMBER:</b>	SP-029278-2024
<b>ZONING:</b>	R-40
<b>HEARING DATE:</b>	October 28, 2024 heard & continued to December 23, 2024. <b>12/23/24 continued with testimony to January 27, 2025</b>

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>	Demolition and reconstruction
<b>PROJECT SUMMARY</b>	<ul style="list-style-type: none"> <li>• Demolish the one-story cottage built in 1945 and reconstruct a two-story house.</li> <li>• Plan is to make it a year-round home and add a full basement.</li> <li>• <b>Property is a small corner lot resulting in three 25’ setbacks making it difficult to fit within the no more than 40% increase on non-conforming area.</b></li> <li>• <b>Applicant has revised design but has not yet been able to quite get the non-conforming area below the 40% level. The rear drip line also extends into the side setback. Applicant would like to discuss with the ZBA and hear their inclination.</b></li> </ul>
<b>REQUEST</b>	Finding per: <b>§ 2.4.1.2.C.</b> - Special Provisions for Relocation/Recon. of 1 or 2-Family Structures Not Located w/n Existing Footprint <b>(C.2)</b> The <u>voluntary demolition and reconstruction</u> of a building or structure <u>nonconforming by dimension</u> ...and the non-conforming nature of the new proposed structure is found to be substantially less non-conforming.
<b>PLOT PLAN</b>	Site Plan of 16 Spruce Way Dennisport, Mass. prepared for J. O'Loughlin, Inc. by TS Surveying, Inc. P.O. Box 303 Harwich Port MA (02646). Plan consisting of 1 sheet with existing and proposed conditions, Septic System Profile and Design with Test Hole Logs. Plan dated August 7, 2023 by Thomas M. Stello. <b>Revised "Draft" dated 1/21/25.</b>
<b>BUILDING PLANS</b>	Plans of 16 Spruce Way Dennis MA, for Simpson Residence by Main Street Architects, 25 Mathewson Drive Suite: 120, Weymouth, MA 02189-2345. Plans consisting of 4 Sheets with, Existing First Floor plan, Existing Front & Side Elevations, Proposed First & Second Floor Plans, and Proposed Right Side, Front Side, Rear Side & Left Side Elevations. Plans dated 10-10-23. <b>Revised Elevations: A-2. Not dated.</b>

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	6,907 sf
NAMES OF STREETS	Yes
NAMES OF ABUTTING PROPERTY OWNERS	No
DISTANCES EXISTING AND PROPOSED STRUCTURES TO PROPERTY LINES	Yes
PROPOSED ADDITONS/ALTERATIONS OF EXISTING BLDGS W/ SETBACKS	Yes
PROXIMITY OF WETLANDS	N/A
EXISTING AND PROPOSED TOPOGRAPHYAND/OR OTHER LAND ISSUES	Yes
DIMENSIONS OF EXISTING AND PROPOSED STRUCTURES	Yes
ARCHITECTURAL DRAWINGS ILLUSTRATING THE PROPOSED CONDITIONS	Yes
ARCHITECTURAL DRAWINGS ILLUSTRATING THE EXISTING CONDITIONS	Yes

Basic Site Data	Required/ Allowed	Existing	Proposed
Frontage	50'		
Front Setback	25'	25'	25.5'
Right Side Setback	15'	22.9'	17.7'
Left Side Setback	15'	na	na
Rear Setback	25'	13.9'	14'
Lot Area	40,000	6,907 sf	6,907 sf
Lot Width	100'		
Non-conforming floor space within Setbacks		<b>380 &gt; 85 SF</b>	<b>821 &gt; 236sf</b>
D2. Increase in new non-conforming floor space by more than 40% within any 10-year period			<b>216% &gt; 277%</b>
Cumulative footprint size of all structures			
Cumulative lot coverage (footprint) percent for all	15%	15%	17.1%
Cumulative floor space of all structures (F.A.R.)			
Cumulative floor space to lot area % all structures	40%	15%	30%

§ 2.4.1.2 C - Special Provisions for Relocation/Recon. of 1 or 2-Family Structures Not Located w/n Existing Footprint

ACTION	FINDING
C2 - Voluntary demolition and reconstruction of a building or structure which is non-conforming by dimension on any other location on the lot in which it is located outside of the existing non-conforming footprint unless it conforms with the dimensional regulations of the zone in which it is located or the non-conforming nature of the new proposed structure is found to be substantially less non-conforming by the ZBA	

§ 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 proposal is to demolish the one-story cottage built in 1945 and reconstruct a two-story year-round house with a full basement.
- ***Property is a small corner lot resulting in three 25' setbacks making it difficult to fit within the no more than 40% increase on non-conforming area.***
- ***Building reviewed the property and determined that the "Front" is on Spruce Street even though the house faces James Street. The Town bylaws state the front is that which the property derives its address.***
- ***While this lessened the amount of existing non-conforming area it also lessens the total amount you can add to. Therefore, even though they decreased the total amount of non-conforming area they actually increase the percentage growth.***
- ***Applicant has revised the design by pulling in the second floor, but has not yet been able to quite get the non-conforming area below the 40% level. The rear drip line also extends into the side setback. Applicant would like to discuss with the ZBA and hear their inclination.***
- 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 Board can find that a lawful pre-existing non-conforming structure exists on the property.
- ***The Applicant would like to know if the Board would rather they redesign father to bring the proposed reconstruction, within the non-conforming area requirements or whether they would be able to apply for a variance.***
  
- **NATURAL RESOURCES:** Not in Conservation jurisdiction.

- **HEALTH:** Current Title 5 System Inspection required.
- **ENGINEERING:**
  - Project as presented results in a ground disturbance greater than 500 sf and is therefore required to meet the intent of the Stormwater By-Law.
  - Provide temporary linear erosion controls (silt fence/wattles) at the clearly defined work limit during construction to prevent discharge of stormwater or sediment to adjacent properties and/or roads. Due to the close proximity of work to the north and west abutter, linear controls inboard of these property lines is recommended.
  - Maintain any existing ground cover or vegetation to the extents practical. Disturbed areas should be stabilized and revegetated as soon as practical following construction to minimize erosion. Existing screening to abutting properties should be maintained or additional screening considered as necessary to provide a vegetated buffer.
  - No site grading or new top of foundation elevation is specified on the plan submitted. The foundation elevation and any grade changes should be confirmed on a revised plan, or prior to construction with the engineer. The site should be graded to contain and infiltrate all runoff on-site post construction.
  - Roof drains directed to subsurface infiltration areas should be provided to contain and infiltrate all roof runoff.
  - stone construction entrance will be required in area of equipment access to and from the site. It is recommended to utilize the existing driveway for this purpose. The contractor should be responsible for maintaining Spruce Way in a condition free of accumulated sediment during construction.
  - Any improvements to the existing stone driveway should maintain a 10ft. buffer to the abutting property line to the west. If the driveway is to be paved, the surface should be graded to provide a low point within the property boundary to collect and direct water to adjacent natural areas for infiltration. If a low point cannot be constructed, a separate drainage system should be provided inboard of the property line to intercept and infiltrate runoff from the driveway prior to discharging into Spruce Way.

***No proposed Conditions at this time. Either the Applicant has to redesign and submit signed and dated final Site Plan, or, the Board may indicate whether they might entertain a Variance request.***