



Town of Dennis

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

**27 Captain Nickerson Lane**

**ZBA SPECIAL PERMIT STAFF REVIEW – January 23, 2025**

**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>	Timothy Sullivan c/o Christopher Kenney
<b>PROJECT ADDRESS:</b>	27 Captain Nickerson Lane South Dennis, MA 02660
<b>MAP AND LOT NUMBER:</b>	Map 117 Lot 24 (0.96 acres – 41,896 sf)
<b>APPLICANT ADDRESS:</b>	603 West Yarmouth RD West Yarmouth, MA 02673
<b>CASE NUMBER:</b>	SP-030515-2024
<b>ZONING:</b>	R-40
<b>HEARING DATE:</b>	January 27, 2025

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>	Construct a roof over existing deck above existing boat house for shade
<b>PROJECT SUMMARY</b>	<ul style="list-style-type: none"> <li>• Boat house is a detached approximately 20’ by 25’ (500 sf) structure in Flood Zone.</li> <li>• New roof over existing structure does not trigger Conservation unless new construction, digging, cutting, etc. proposed in wetland buffer.</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.1</b> ) for an Increase in the footprint of a structure that <u>does not comply with one or more required setbacks where the alteration will extend lot coverage or building height</u> where a structure does not conform to current setback requirements; ( <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; and C
<b>SITE PLAN</b>	Site Plan of 27 Captain Nickerson Lane, South Dennis, MA, prepared for Timothy Sullivan by Dan Ojala. Plan consisting of 1 sheet with existing conditions noting proposed location, Local Buffer Regulations, Riverfront Mitigation Calculations. Plan dated February 20, 2019 by Dan Ojala. <i>Note: No Proposed Data Summary</i>
<b>As-Built Site Plan</b>	As-Built Site plan of 27 Captain Nickerson Lane prepared for Chris Kenney BLDR., by Down Cape Engineering, inc. 939 Main St. (Route 6A), Yarmouthport MA, 02675. Plan dated 12-11-2018 by Dan Ojala.
<b>BUILDING PLANS</b>	Boathouse Elevations for proposed new Porch on Existing Deck at 27 Captain Nickerson Road, South Dennis. Prepared for Mr. and Mrs. Timothy Sullivan by Kenney Builders, West Yarmouthport, MA. Plan consisting of 1 sheet with Left, right, Rear, and Front Elevations. Plan date unreadable.

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	41,896 sf
NAMES OF STREETS	Yes
NAMES OF ABUTTING PROPERTY OWNERS	Yes
DISTANCES EXISTING AND PROPOSED STRUCTURES TO PROPERTY LINES	No
PROPOSED ADDITONS/ALTERATIONS OF EXISTING BLDGS W/ SETBACKS	No
PROXIMITY OF WETLANDS	Yes
EXISTING AND PROPOSED TOPOGRAPHYAND/OR OTHER LAND ISSUES	Yes
DIMENSIONS OF EXISTING AND PROPOSED STRUCTURES	Not on Site Plan
ARCHITECTURAL DRAWINGS ILLUSTRATING THE PROPOSED CONDITIONS	Fuzzy
ARCHITECTURAL DRAWINGS ILLUSTRATING THE EXISTING CONDITIONS	No - Photos

Basic Site Data	Required/ Allowed	Existing	Proposed
Frontage	50'	40'+ 30'+	40'+ 30'+
Front Setback	25'	30	30
Right Side Setback	15'	15.7'	15.7'
Left Side Setback	15'	Non	Non
Rear Setback	25'	55.7'	55.7'
Lot Area	40,000	41,896 sf	41,896 sf
Lot Width	100'		
Non-conforming floor space within Setbacks		475	475
D2. Increase in new non-conforming floor space by more than 40% within any 10-year period			0%
Cumulative footprint size of all structures			
Cumulative lot coverage (footprint) percent for all	15%	12.8%	12.8%
Cumulative floor space of all structures (F.A.R.)			
Cumulative floor space to lot area % all structures	30%		

§ 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;	
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;	

§ 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:**
  - Proposal is to construct a roof over an existing flat-roofed boat house that is used as a deck.
  - Boat house is an approximately 20' by 25' (500 sf) detached structure in the AE Flood Zone.
  - 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 and the proposed addition, as conditioned, will not be substantially more detrimental to the neighborhood than the existing structure.
- **NATURAL RESOURCES:** Does not trigger Conservation unless new construction, digging, cutting, etc. proposed in wetland buffer. ***Must remain an open-air space. An enclosed space may require additional review.***
- **HEALTH:**
- **ENGINEERING:**
  - The project may require review and approval by the Conservation Commission.
  - Project as presented does not appear to alter greater than 500sf, and is therefore NOT required to meet the intent of the Town of Dennis Stormwater By-Law
  - Engineering recommends the project incorporate methods to capture, route and infiltrate runoff from the new roof. Roof runoff should not be discharged directly to the ground and allowed to flow toward the resource area. Subsurface infiltration drywells fed by roof gutters and downspouts, or stone infiltration trenches installed along the drip line are possible considerations. The method should be deemed acceptable by the Conservation Commission.

- Any ground disturbance caused by construction or materials storage should be stabilized and restored in a manner acceptable to the Conservation Commission as soon as practical following any occurrence, and at the completion of the project.

<p><b>PROPOSED CONDITIONS</b></p>	<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. There shall be no lighting on the proposed new structure.</li> <li>5. 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>6. Any off-street parking shall be a pervious surface.</li> <li>7. 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>8. 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>9. Construction vehicles shall not park in or block the road.</li> </ol>
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