



DENNIS TOWN CLERK
RCVD 2022 MAR 11 AM 10:36

Town of Dennis

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

DECISION

APPLICANT	Marianne Colanduno representing the Estate of Nancy J. Cushing
CASE NUMBER	ZBA 40-89
ZONING DISTRICT	RR

REGISTRY OF DEEDS REQUIRED INFORMATION (Must be filled out by applicant)			
Current Property Owners:		Marianne Colanduno representing the Estate of Nancy J. Cushing	
Property Address:		36 Depot Street, Dennis Port	
Registry of Deeds Title Reference		Book: 11891	Page: 326
or Certificate of Title #		And Land Ct Lot	And Plan #
Town Map #	11891	Parcel	326

HEARING DATE	February 28, 2022
REQUEST	seeking a Variance pursuant to Bylaw Section 2.4.1.2 to grant lawful status to Lot 1 on a plan recorded at Book 278 Page 34 from 1973 and allow for potential future expansion within a designated building envelope, with potential upward expansion for either two single family units or one two-family unit by Special Permit

PLANS	
PLOT PLAN	"As-Built" Plot Plan by Sweetser Engineering dated 1/19/1999 as modified by Attorney Paul Tardif to represent future building envelope and attached hereto.

FINDINGS	<p>The Board of Appeals found that the site is substandard in every dimensional aspect due to the use of Chapter 81 Section 81L to divide the property into "lots with structures that were in existence at the time Subdivision Control was adopted in the Town of Dennis". Further the Board found:</p> <p>Hardships</p> <ul style="list-style-type: none"> • The current property owners were not a party to the division of the land. • The current property owners acquired by individuals with no knowledge of the underlying zoning violations.
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	<ul style="list-style-type: none"> • The "81L" Plan that divided this cottage colony was based upon the incorrect assumption that the cottages stood on the site in 1935 when Dennis adopted Subdivision Control. • None of the lots created by the "81L" plan met lot area requirements for this part of Dennis Port in 1973. • The land in question has no legal zoning status. • The structures, based upon case law regarding "81L" plans; the required 7,500 sf per dwelling required in Dennis Port prior to November 15, 1973; and the fact that the plan history illustrates two of the structures that were part of the "81L" plan were not in existence in 1935, are not lawfully pre-existing non-conforming. • The lack of legal zoning status could result in the total loss of investment to the unit owners should a disaster occur.
VOTE	The Board voted unanimously to approve the Variance with conditions (Oliveira [Chair], Kyrimes, E Ridley, Carrick and A Ridley [alt])

CONDITIONS	<ol style="list-style-type: none"> 1. The lot is granted variance from minimum lot size requirements and is allowed to remain in its current size. 2. The property may continue to be used for residential purposes without the need for further Variance relief. 3. The property may have the residences altered or replaced with a new structure(s) as long as the structure(s) are located within the building envelope on the plan accompanying this decision. 4. New structure(s) on the property may either be two single family dwellings or one two-family dwelling. 5. Future changes on the site shall be subject to normal Dennis Site Plan or Special Permit review processes as appropriate as long as condition 3 and 4 are complied with.
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Details of the hearing and decision are on file in the Planning and Appeals Office at the Dennis Town Offices as File ZBA 40-89. Appeal from this decision may be made pursuant to Massachusetts General Laws Chapter 40A, Section 17, within 20 days of filing with the Town Clerk. This Special Permit shall lapse if substantial use or construction has not commenced without good cause within one year from the date issued.

I certify that a copy of the original decision has been filed with the Town Clerk.

DATE: April, 2022

I certify that this decision was filed on March 11, 2022, and no appeal was filed within 20 days after date of filing.

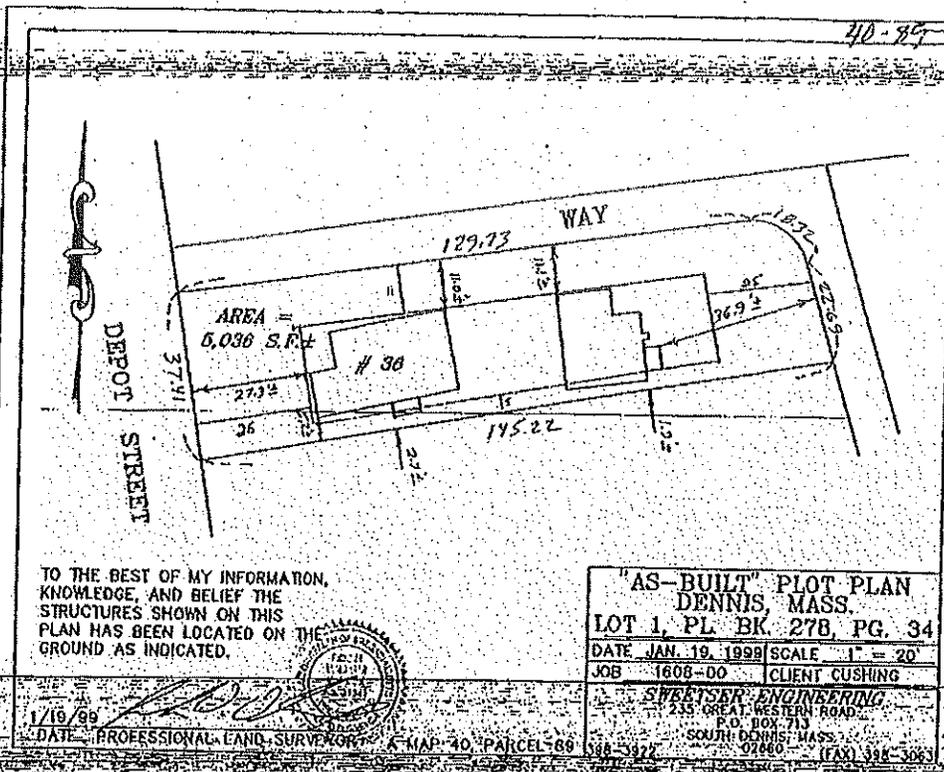
Ernie Oliveira ^{Chair}

Ernie Oliveira, Chair

James P. McDevitt
Dennis Town Clerk

ASL

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TO THE BEST OF MY INFORMATION, KNOWLEDGE, AND BELIEF THE STRUCTURES SHOWN ON THIS PLAN HAS BEEN LOCATED ON THE GROUND AS INDICATED.



"AS-BUILT" PLOT PLAN
 DENNIS, MASS.
 LOT 1, PL. BK. 278, PG. 34
 DATE JAN. 19, 1998 SCALE 1" = 20'
 JOB 1808-00 CLIENT CUSHING
 SWEETSER ENGINEERING
 235 GREAT WESTERN ROAD
 P.O. BOX 713
 SOUTH DENNIS, MASS. 02660
 508-3927 (FAX) 508-3963

DATE 1/18/99 PROFESSIONAL LAND SURVEYOR A MAP 40 PARCEL 89