



Town of Dennis

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

54 SURFSIDE ROAD

ZBA SPECIAL PERMIT STAFF REVIEW – April 24, 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.

APPLICANT:	Michael Sams C/O Robert Perry
PROJECT ADDRESS:	54 Surfside Road WD, MA 02670
MAP AND LOT NUMBER:	Map 27 Lot 150 (0.17 acres – 7200 sf)
APPLICANT ADDRESS:	PO Box 1517, East Dennis, MA 02641
CASE NUMBER:	ZBAS-25-9
ZONING:	R-40; AE Flood Zone
HEARING DATE:	April 28, 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

PROPOSAL	Raze and Replace
PROJECT SUMMARY	<ul style="list-style-type: none"> • The proposal is to demolish a single-story single-family house constructed in 1960 and replace it with a 2 ½-3 story single-family dwelling. • Currently a 2- bedroom single-story house with an existing Septic cap of 3 bedrooms. The proposal is for 4-bedrooms. • Proposal is to remove existing horseshoe driveway and replace with a driveway on the right side of the parcel, 3.5 ft. off the lot line, reducing curb cuts from 2 to 1. • Existing building height is 14.8 ft. and the proposed building height is 33.75 ft. including 2.25’ of elevation above the flood zone and third story “loft”. A cupola is an additional 4.25’ above that with a wind 2.25’ tall weathervane.
REQUEST	<p>Finding per: § 2.4.1.2.C. - Special Provisions for Relocation/Recon. of 1 or 2-Family Structures Not Located w/n Existing Footprint (C.1) The relocation or movement of a building or structure in whole or in part which is nonconforming by dimension to any other location on the lot in which it is located outside of the existing non-conforming footprint unless every portion of such building or structure is made to conform to all of the dimensional requirements of the zone in which it is located, or the non-conforming nature of the new proposed location is found to be substantially less non-conforming by the Board of Appeals. (C.2) 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.</p>

	§ 2.4.1.2.D -Actions Requiring a Finding of Substantially More Detrimental (D.3) The addition of floor space to a lawfully pre-existing non-conforming structure on a site that exceeds the fifteen percent (15%) lot coverage restrictions, if said addition would exceed a floor space to lot area of thirty percent (30%) excluding basements and uncovered porch/deck.
SITE PLAN	Site Plan of 54 Surfside West Dennis, Massachusetts prepared for Courtney and Michael Sams, 14 Crownridge Road Westboro, MA by Robert Perry of Cape Cod Engineering, Inc. P.O. Box 1517 East Dennis, MA 02641. Plan consisting of 1 sheet with existing and proposed conditions, Septic System Profile and Design with Test Hole Logs. Plan dated February 19, 2025 by Robert Perry.
BUILDING PLANS	Plans of 54 Surfside West Dennis, Massachusetts prepared for Courtney and Michael Sams by Moore Home Design Company of Cape Cod, LLC, P.O. Box 2124 949 Route 137 Brewster, MA. Plan consisting of 3 sheets with Proposed Front & Right side Elevations & First floor Plan, Second & Loft Floor Plan & Rear & left side Elevations, and Existing Front, Rear, Left & Right side Elevations and Existing Floor Plan. Plans dated 1-14-2025 by T.A.M.

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	(Map and Parcel)
DISTANCES EXISTING AND PROPOSED STRUCTURES TO PROPERTY LINES	Yes
PROPOSED ADDITONS/ALTERATIONS OF EXISTING BLDGS W/ SETBACKS	Yes
PROXIMITY OF WETLANDS	Yes
EXISTING AND PROPOSED TOPOGRAPHYAND/OR OTHER LAND ISSUES	No
DIMENSIONS OF EXISTING AND PROPOSED STRUCTURES	No
ARCHITECTURAL DRAWINGS ILLUSTRATING THE PROPOSED CONDITIONS	Yes
ARCHITECTURAL DRAWINGS ILLUSTRATING THE EXISTING CONDITIONS	Yes

Basic Site Data	Required/ Allowed	Existing	Proposed
Frontage	50'	80'	80'
Front Setback	25'	20.8'	22.2'
Right Side Setback	15'	14.7'	22.3'
Left Side Setback	15'	9.7'	19.3'
Rear Setback	25'	16.1'	23.2'
Lot Area	40,000sf	7,200 sf	7,200 sf
Lot Width	100'	80'	80'
Non-conforming floor space within Setbacks	0	400.5	52
D2. Increase in new non-conforming floor space by more than 40% within any 10-year period	0		< 40%
Cumulative footprint size of all structures	1080	1,487	1,077

Cumulative lot coverage (footprint) percent for all	15%	20.3%	14.92%
Cumulative floor space of all structures (F.A.R.)	0	1458	2366
Cumulative floor space to lot area % all structures	30%	20.3%	32.9%

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

ACTION	FINDING
C1 - Relocation of structure in whole or in part which is nonconforming by dimension to any other location on the lot in which it is located outside of the existing non-conforming footprint unless every portion of such building or structure is made to conform to all of the dimensional requirements of the zone in which it is located, or the non-conforming nature of the new proposed location is found to be substantially less non-conforming by the Board of Appeals.	
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	

§ 2.4.1.2 D Actions Requiring a Finding of Substantially More Detrimental

ACTION	FINDING
D3 The addition of floor space to a lawfully pre-existing non-conforming structure on a site that exceeds the fifteen percent (15%) lot coverage restrictions, if said addition would exceed a floor space to lot area of thirty percent (30%) excluding basement and uncovered porch/deck.	

§ 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; **No change.**
- 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; **No change.**
- 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, with the upgraded denitrification septic system, should not degrade the natural environment.**

TOWN DEPARTMENTS COMMENTS:

• **PLANNING:**

- The proposed replacement house is significantly larger than the existing house. It is in the AE flood zone and becomes flood compliant and improves a couple of setbacks but is much larger. The proposed elevations show the third-story is essentially a square.
- One of the neighboring houses did a similar raze and replace in the last few years. However, the third-story is clearly a ½ story with a gable roof and a couple of dog-shed dormers.
- This plan has floor plans that list the third-floor as a loft, but calculations do not include the stairs and the elevations look like a full third floor.
- The proposal brings the lot coverage below 15% in order to exceed the 30% Floor Area Coverage, which balloons to 33%. That's with the FAR not counting by GSF.
- The Zoning Bylaw States: **2.4.1.2 D. Actions Requiring a Finding of Substantially More Detrimental**

In the following circumstances, alteration, reconstruction, extension or structural change (collectively "alteration") to a single- or two-family residential structure shall be considered to create additional non-conformities and shall be considered to be substantially more detrimental than the existing nonconformity to the neighborhood: 3. The addition of floor space to a lawfully pre-existing non-conforming structure on a site that exceeds the fifteen percent (15%) lot coverage restrictions, if said addition would exceed a floor space to lot area of thirty percent (30%) excluding basements and uncovered porch/deck.

- The language of the bylaw should be clarified as it restrains the size of houses over 15% lot coverage such that they cannot exceed 30% FAR. The language currently does not apply to houses under 15%. In this case, the new much larger house is on a smaller footprint that brings the property below the 15% lot coverage threshold in order to exceed 30% FAR.
 - **The Board should first make a separate finding whether this is consistent with the intent of the bylaw. If not, the applicant should scale the third floor back (counting the stairs) and make the third floor a true half-story and bring the Floor Area Ratio under 30%.**
 - The house was built 75 years ago and therefore the proposed demolition must be referred to the Historic Commission per the Demolition Delay General Bylaw (§61-3).
 - Proposed driveway is within the 10' vegetated buffer but is less non-conforming than exists.
 - 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.
 - **If the Board finds that bringing the lot coverage below 15% allows them to exceed 30% F.A.R. and the top floor is a legitimate half-story: then;** The Board can find that a lawful pre-existing non-conforming structure exists on the property and the proposed reconstruction, as conditioned, will not be substantially more detrimental to the neighborhood than the existing structure.
- **NATURAL RESOURCES:** Project was approved at 3/20/2025 Conservation Commission meeting.
 - **HEALTH:** Located in an ESA. Requires 16 B variance from BOH. On April 10, 2025 BOH approved the replacement Title 5 septic system with enhanced treatment and UV disinfection with conditions on April 10, 2025.
 - **ENGINEERING:**
 - The project will require review and approval by the Conservation Commission, as well as building code review for construction in the flood zone,

- The project appears to alter greater than 500sf of ground, and is therefore required to meet the intent of the Town of Dennis Stormwater By-Law.
- Roof drains discharging to subsurface drywells are noted to be installed on the plan.
- Construction period linear erosion and sedimentation controls should be provided at a clearly defined limit of work as close as practical to contain the area of disturbance. These controls should be installed and maintained until all work is completed and any new vegetation has stabilized.
- Post construction, stormwater will need to be contained and infiltrated on-site. Natural areas surrounding the dwelling should be graded and vegetated to slow the velocity of, and contain runoff for infiltration prior to reaching the property boundary.
- The relocation and downsizing of the existing double entrance driveway is an improvement. A waiver may be required to zoning, as specified in the project narrative, to allow construction within the 10ft. buffer strip. This driveway configuration is typical of other sites in the vicinity. Screening should be maintained or provided as necessary to the adjacent property. If the driveway is to be paved, it should be graded with a low point within the property boundary to contain and direct runoff from the surface to adjacent natural areas for infiltration
- The contractor shall be responsible for maintaining Surfside Road (Private Way) free of sediment during construction.

PROPOSED CONDITIONS	<ol style="list-style-type: none"> 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. 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. 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. 4. 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. 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 determined by town engineering shall be implemented. 6. There shall be no exterior construction (including foundation work) or heavy equipment between the Friday before Memorial Day and the day after Labor Day. 7. Construction vehicles shall not park in or block the road. 8. The proposed demolition must be referred to the Historic Commission per the Demolition Delay General Bylaw (§61-3). This Special Permit shall not be valid and a Building Permit shall not be issued until such time as the Historic Commission either votes that the building is not preferably preserved or the demolition delay expires. If the Historic Commission votes that the original house built in 1899 is preferably preserved, the applicant shall work with the Historic Commission and the Town Planner to explore alternatives to the proposed demolition.
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