

**Application to the Zoning Board of Appeals (“ZBA”)  
for Special Permit  
to Renovate a Pre-Existing Non-Conforming Structure**

**Supplemental Project Narrative (4-23-2025)**

**Property Owner: Joseph and Jessica Holberg  
Property Address & Map-Parcel: 71 Old Main Street, West Dennis; 82-7-0 (“Subject  
Property”)**

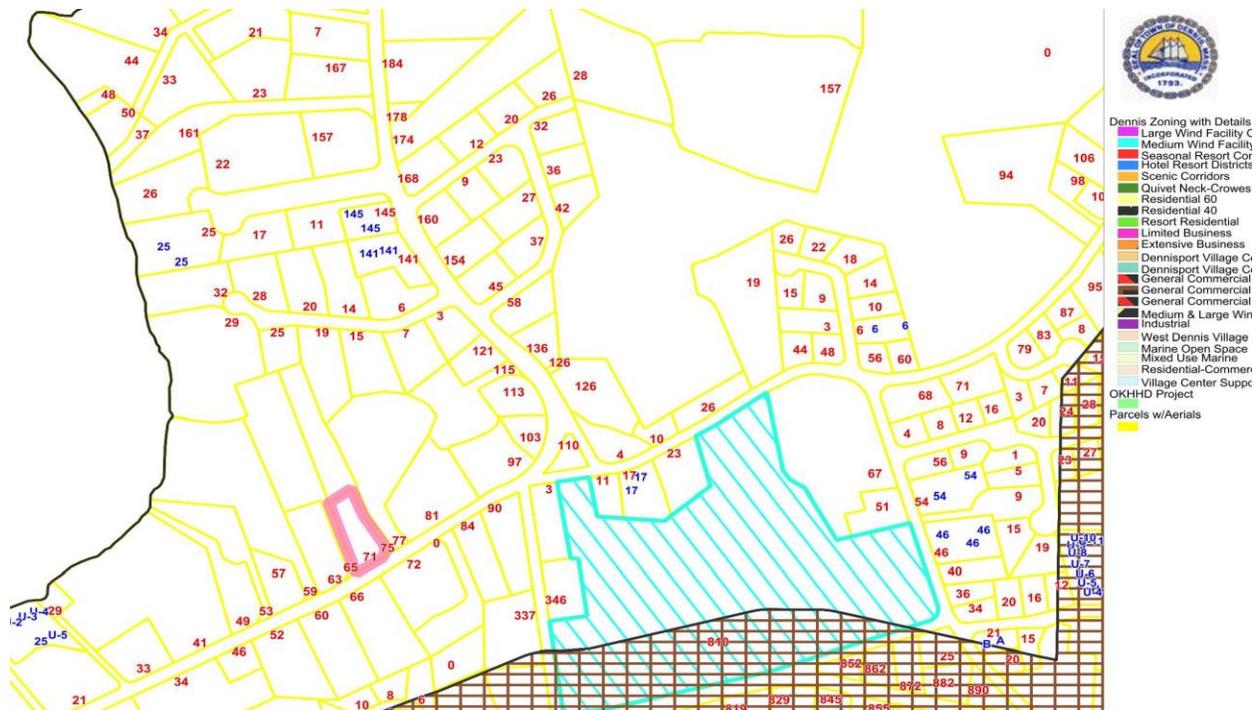
Introduction

This application was originally submitted in September, 2024, and after a hearing on November, 2024 was continued to February, 2025. The basis of the continuance was to allow the applicant to proceed under the new state law concerning Accessory Dwelling Units (ADU’s) rather than as an extension of a pre-existing nonconforming structure. The applicant has submitted revised plans showing the proposed dwelling on the first floor level, with storage space on the second floor. The proposal does not alter the existing footprint, and will bring the existing structure into compliance with the current floodplain regulations.

After a hearing on March 24, 2025, the applicant agreed to certain changes in the proposal, and to submit revised plans showing these changes. The changes included renaming the first floor of the renovated garage as a “protected ADU”, and moving the entire structure an additional four feet away from the Southwesterly property line.

The Subject Property

The Subject Property is located in the R40 District. This is evidenced by the Town GIS maps which show the lot to be located in the R40 District.



The Subject Property meets the frontage, rear setback and lot coverage requirements for structures that apply in the R40 District. But it is undersized with only 19,772 sq ft of area, and encroaches on the front setback at 19 feet, and the side setback on the southeasterly side at 1 foot from the lot line. On the otherside of the lot line is a driveway used to access 65 Old Main Street. Running along the opposite side of the driveway is a long hedge that belongs to 63 Old Main Street. The barn is roughly 64 feet from the house at 63 Old Main Street.

The existing barn is a one and one-half story structure, built sometime after 1864, and sits on a brick foundation. The current height of the barn is 28.4 feet.

The barn is located entirely within the AE flood zone. Because Dennis is enrolled in the National Flood Insurance Program (NFIP), floodplain management regulations apply to reconstruction that is a “substantial improvement”. According to the Massachusetts State Building Code, a “substantial improvement” is any repair or improvement to a structure that equal or exceed 50% of its fair market value. *R105.3.1.1, Massachusetts Building Code 9th Edition Residential Volume*. During closing on the purchase of this property, the Holberg’s received an appraisal of the barn structure showing its fair market value of \$28,000. The current assessed value is \$12,000. The estimated cost of repairs that are needed to preserve the structure and integrity of the barn easily exceed \$14,000, or 50% of the fair market value. To put this in context, replacement of the roof and windows alone would exceed \$16,000. Repairs are also needed to the trim and siding, and possibly other areas of the structure, in order to preserve the barn’s integrity.

The Holberg’s are proposing to elevate the entire structure to comply with floodplain regulations. This would involve elevating the barn an additional four feet on a concrete foundation. This will

raise the height of the barn to 32.6 feet. The outward appearance of the barn will be kept the same, and the siding will be extended downward to cover the added foundation and to keep the existing distance of exposed foundation to two feet, in keeping with the prior approval by the South Dennis Historic District Commission. While making these improvements to the structure, the Holberg's propose to also renovate the interior of the barn to make it more useful to the property as a whole. Under the proposed Town requirements for permitting ADU's, the first floor will be used as a dwelling and consist of a kitchen, bathroom, closet space and open seating area. The second floor will be used for unheated storage.

In response to recommendations received at the March 24, 2025 hearing, the applicant further revised their plans to show the entire structure moved an additional four feet off the Southwesterly property line. This was in response to discussion over concerns of trespass onto the abutting property, which consists of a dirt road. In order to provide space for construction to take place, it was agreed that the structure would be moved further off the property line. While not compliant with the current setback requirements, this shift in location of the structure is an improvement over what exists and serves to lessen the nonconformity. It will also provide necessary space for staging and any other work that will go on around the structure.

#### Section 2.4.1.2 (E7)

Pre-existing non-conforming structures (other than single or two family structures) may be extended, altered or changed upon a finding that such extension, alteration or change is not substantially more detrimental to the neighborhood than the existing non-conformity.

Specifically, 2.4.1.2(E)(7) provides that the Board may allow an “[i]ncrease in building height for any structure with a non-conformity subject to item E5 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 E6 above”, upon such findings.

Section 6.4 (Floodplains) also provides that elevating a structure to the minimum necessary to meet floodplain requirements may be done without the need for special permit relief. Given the encroachment into the sideyard setback, out of an abundance of caution we are still asking for relief to raise the elevation of the structure by 4 feet.

In this case, elevating the barn 4' to comply with floodplain regulations is the minimum necessary to meet those requirements, and but for the side yard setback encroachment would be by-right. No change to the exterior of the building is proposed and it will maintain the current appearance as a barn. The present configuration has already been approved by the historic district commission. To the extent it is necessary, the Board should find the elevation of the barn by 4' within the side yard setback but going up along the pre-existing footprint is not substantially more detrimental than the existing structure.

In addition and separately, the barn will now consist of a separate dwelling as shown on the submitted plans. The use of this space is now an allowed use by-right in this zoning district

pursuant to M.G.L. c. 40A, s. 3, para. 11, and the applicant will need to satisfy the requirements for a building permit. Those requirements are: 1) no more than 900 sf of habitable space; 2) contains a separate entrance from the principal dwelling; and 3) is located in a single-family residential zoning district.

As shown the plans, the dwelling space is located on the first floor and is 748 sf in area. A kitchen and bathroom are shown, as well as a large area for seating and sleeping, if needed. Efforts have been made to segregate the second floor from the first floor, with the second floor designated for storage space.

Because both the elevation and accessory dwelling are permissible by-right, and where the increase in height is required by floodplain regulations and does not increase any non-conformities but now as proposed will lessen the nonconforming encroachment into the side yard setback, the proposal is not substantially more detrimental than the existing structure. We respectfully request the special permit be granted on this application.