



Town of Dennis

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7 Rhyspah Road

ZBA VARIANCE STAFF REVIEW – May 15, 2025

APPLICANT:	Mark Blotner c/o Mary Chamberlain
PROJECT ADDRESS:	7 Rhyspah Road, Dennisport, MA 02639
MAP AND LOT NUMBER:	Map 16 Lot 46
APPLICANT ADDRESS:	PO Box 40, Yarmouth Port, MA 02675
CASE NUMBER:	ZVAR-25-2
ZONING:	R-40; AE & VE Floodzone
HEARING DATE:	May 19, 2025

1. **Project Summary; Request per Zoning Bylaw; Plan Citations**
2. **Plans Specifications; Basic Site Data**
3. **Actions Requiring Findings**
4. **Town Department Comments**
5. **Proposed Conditions**

PROPOSAL	Raze and Replace pre-existing mom-conforming single-family dwelling
PROJECT SUMMARY	<ul style="list-style-type: none"> • The proposal is to demolish the pre-existing non-conforming 1.5-story, 1,596 sf single-family dwelling and replace it with a Modern 2,037 sf, 2-story single-family located on Nantucket Sound at the end of Rhyspah Road, a private cul-de-sac. • The Variance stems from a slightly smaller non-conforming front setback to the cul-de-sac and smaller east side setback to an external staircase. <ul style="list-style-type: none"> ○ Currently the northeast corner of the house is 16.2’ from the curve of the private cul-de-sac. The proposed new home has a covered stairwell in front that is 14.8’ from the curve of the cul-de-sac, 1’4” closer. ○ The existing east setback is 18.8’, the proposed is 18.8’ to the house but 14.1’ to the external stair. • Otherwise the new home raises the structure above the flood elevation, improves the west side setback, is slightly further from the Sound, has a smaller lot coverage, though it is a more prominent structure and is within the bulk thresholds. • The existing dwelling is storm damaged being directly on the water with an existing rock retaining wall. There will be no change to the current retaining wall. • The existing west setback is 2.9, the proposed is 5.2’. • There is a 120-sf shed on the front property line that will be removed. • The proposed lot coverage is 17.4% which will be decreased from 17.9%. • The Floor Area Ratio is 2,037 sf or 29.9% FAR, with a full second story and exterior access. • The house would be raised on open piles to allow for storm surges to pass under. • There is a decrease of hardscape of 656 sf and proposed plant mitigation of 250 sf. • The non-conforming area is increased from 464 sf to 649 sf, an increase of 39.9%. • The height is 34’6” from grade but 24’ from the flood elevation.

<p>MGL Variance</p>	<p><u>MGL 40A, Section 10:</u> <i>The permit granting authority shall have the power after public hearing for which notice has been given by publication and posting as provided in section eleven and by mailing to all parties in interest to grant upon appeal or upon petition with respect to particular land or structures a variance from the terms of the applicable zoning ordinance or by-law where such permit granting authority specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or by-law.</i></p> <p>1. REQUIRED FINDING #1 SOIL, SHAPE OR TOPOGRAPHY:</p> <p>1.1. Circumstances relating to Soil Conditions: due to uniquely poor/inadequate soil conditions...</p> <p>1.2. Circumstances relating to the Shape: peculiar or unusual shape...</p> <p>1.3. Circumstances relating to the Topography: terrain & contour such, construction on locus...</p> <p>2. REQUIRED FINDING #2 HARDSHIP: ...must relate to the premises for which the variance sought".</p> <p>2.1. "hardship" must be linked, or be caused by, the land's unique or problematic soil conditions, shape or topography.</p> <p>2.2. Board of Appeals must connect the unique circumstances of the lot (eg its soil conditions, shape or topography) to the hardship that unique circumstances create.</p> <p>2.3. "Unless circumstances relating to the soil conditions of the land, the shape of the land or topography of the land cause the hardship, no variance may be granted lawfully".</p> <p>3. REQUIRED FINDING # 3 PUBLIC GOOD: The third Required Finding is the Board's conclusion that the variance can be granted "without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw."</p>
<p>REQUEST</p>	<p>Finding per: <u>MGL 40A, Section 10:</u> <i>That a variance from the terms of the applicable zoning ordinance or by-law where such permit granting authority specifically finds that owing to circumstances relating to the soil conditions, shape, or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship, financial or otherwise...</i></p>
<p>SITE PLAN</p>	<p>Site Plan of 7 Rhyspah Road Dennisport MA prepared for Mark Blotner by Down Cape Engineering Inc, 939 Main Street (Route 6A) Yarmouth Port MA 02675. Plan consisting of 1 sheet existing and proposed conditions, Septic System Profile and Design with Test Hole Logs. Plan dated and stamped February 12, 2025 by Dan Ojala.</p>
<p>BLDG PLANS</p>	<p>Plans of 7 Rhyspah Road Dennisport MA prepared by Lighthouse Architects 180 Allen Street Braintree MA. Plan consisting of 10 sheets with Grade Floor Plan & First floor plan (Proposed); Second Floor Plan & Roof Plan (Proposed); Proposed Elevations (x2); Building Section (Existing); Renderings (Existing); Existing Basement & First Floor Plan; Existing Second & Roof Floor Plan; Existing North, South, East & West Elevations; Building Section (Existing). Plan dated 10-10-24.</p>

1.3.2 Plans and Specifications

<p>REQUIREMENTS</p>	<p>PROVIDED ON PLAN</p>
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CERTIFIED PLOT PLAN INCLUDING			
LOCUS MAP		Yes	
PERIMETER DIMENSIONS, INCLUDING FRONTAGE		Yes	
AREA OF LOT		6806 sf	
NAMES OF STREETS		Yes	
NAMES OF ABUTTING PROPERTY OWNERS		Yes	
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		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'	111.96'	111.96'
Front Setback	25'	16.2'	14.8'
Right Side Setback	15'	18.8'	14.1'
Left Side Setback	15'	2.9'	5.2'
Rear Setback	25'	0	0
Lot Area	40,000	6,806 sf	6,806 sf
Lot Width	100'	108'	108'
Non-conforming floor space within Setbacks		464'	649'
D2. Increase in new non-conforming floor space by more than 40% within any 10-year period			39.9%
Cumulative footprint size of all structures		1,218 sf	1,184 sf
Cumulative lot coverage (footprint) percent for all	15%	17.9%	17.4%
Cumulative floor space of all structures (F.A.R.)	30		
Cumulative floor space to lot area % all structures	30%		29.9%

TOWN DEPARTMENTS COMMENTS:

- **PLANNING:**
 - The pre-existing non-conforming structure is on a property directly on Nantucket Sound on the south and a cul-de-sac impacting the shape of the property.
 - The property is small and sits on the large curve of the private cul-de-sac with 4 homes.
 - The Variance stems from a slightly smaller non-conforming front setback to the cul-de-sac and smaller east side setback to an external staircase.
 - Otherwise the new home raises the structure above the flood elevation, improves the west side setback, is slightly further from the Sound, decreases hardscape, has a smaller lot coverage, though it is a more prominent structure; and is within the bulk thresholds.
 - Due to the location of the property between a rising sea and the widest part of a larger than necessary cul-de-sac, the ideal location of a building on the property is impacted.
- **REQUIRED FINDING #1 SOIL, SHAPE OR TOPOGRAPHY:** The property has a peculiar and unusual shape within a unique terrain and contour.
- **REQUIRED FINDING #2 HARDSHIP:** The property is unique with a problematic shape in a difficult location and this unique circumstance of the lot, particularly the shape creates a hardship.
- **REQUIRED FINDING # 3 PUBLIC GOOD:** The Board can conclude that the variance can be granted "without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of such ordinance or bylaw."

- The Board can find that a variance from the terms of the zoning by-law owing to circumstances relating to the **shape and topography** of said land and structures and especially affecting said land and structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of the ordinance or by-law would involve substantial hardship.
- **NATURAL RESOURCES:** Approved at 4/3/2025 Con. Comm. meeting with an Order of Conditions.
- **HEALTH:** Project located in an ESA. Will require 16B variance from BOH at public hearing
- **ENGINEERING:**
 - Project alters greater than 500sf of ground, must meet the intent of the Stormwater By-Law.
 - Construction period linear erosion and sedimentation controls should be provided at the clearly defined limit of work shown on the plan and as approved by the Conservation Commission. Should be installed and maintained until all work is completed.
 - No proposed grading has been indicated on the site plan. Post construction, stormwater will need to be contained and infiltrated on-site and should not be directed toward the resource area. Natural areas surrounding the dwelling should be graded and vegetated to slow velocity and contain runoff for infiltration on the property boundary or the resource area.
 - Roof drains shall direct runoff to subsurface drywells or stone trenches for infiltration.
 - Any existing screening to abutting properties should be maintained to the extents practical.
 - The plan proposes to extend the existing shell driveway into the property and based on the architectural drawings submitted, the driveway appears to extend beneath the proposed dwelling. Although the shell surface is considered pervious, it should be graded to slope to adjacent natural areas to prevent any runoff from flowing toward the resource area. Also, if the proposal is to construct parking beneath the dwelling, it is unclear how close the surface will be to the top of coastal bank. This should be confirmed with the Conservation Commission, and if there are safety concerns a guardrail or similar structure may be considered to prevent vehicles from encroaching on the bank.
 - Existing shell driveway covers a majority of the private ROW/Cul-de-sac. This should be reviewed with the Fire Department, as limited area for apparatus turn around appears to exist if the full extent of the driveway were to be used for parking of residential vehicles.

POSSIBLE 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 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 as suggested by town engineering shall be implemented.
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