



Town of Dennis

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

**242 Upper County Lane**

**ZBA SPECIAL PERMIT STAFF REVIEW – August 21, 2025**

|                            |  |
|----------------------------|--|
| <b>APPLICANT:</b>          | Richard R Racine ET UX C/O Jack Herndon    |
| <b>PROJECT ADDRESS:</b>    | 242 Upper County Road, Dennisport MA 02639 |
| <b>MAP AND LOT NUMBER:</b> | Map 90 Lot 12 (0.23 acres – 10064 sf)      |
| <b>APPLICANT ADDRESS:</b>  | 15 Cape Ln, Brewster, MA 02631             |
| <b>CASE NUMBER:</b>        | ZBAS-25-28                                 |
| <b>ZONING:</b>             | DPVC AREA B                                |
| <b>HEARING DATE:</b>       | July 28 2025                               |

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|------------------------|--|
| <b>PROPOSAL</b>        | Raze and Rebuild   |
| <b>PROJECT SUMMARY</b> | <ul style="list-style-type: none"> <li>Proposal is demolition of existing dwelling built in the 1838 to be replaced.</li> <li>The proposed raze and rebuild decreases the nonconformities of the front and rear.</li> <li>Lot coverage increases from 16.1% to 23.2% with revised <u>plan showing 28.6% FAR.</u></li> <li>There is an existing driveway that straddles the Subject Property and 246 Upper County Rd which served as access when 246 Upper County Rd was formerly improved with a small dwelling. The 246 Upper County Rd dwelling was destroyed.</li> <li>All that remains on the lot is a garage and shared driveway. Owners purchased 246 Upper County Rd as well as 38 Telegraph Rd in 2017. Plan is to retain the existing shared driveway to access a new attached two-car garage</li> <li>A driveway easement will be drafted for the benefit of both lots.</li> </ul> |
| <b>REQUEST</b>         | Finding per: <b>§ 2.4.1.2.C.</b> - Special Provisions for Reconstruction of 1/2-Family Structures Not Located w/n Existing Footprint <b>(C.2)</b> 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 <u>found to be substantially less non-conforming.</u>  |
| <b>SITE PLAN</b>       | Site Plan of 242 Upper County Road Dennisport, Massachusetts prepared for Richard & Diane Racine by Down Cape Engineering, 939 Main Street (Route 6A), Yarmouth Port MA, 02675. Plan consisting of 1 sheet with existing and proposed conditions, Septic System Profile and Design with Test Hole Logs. Plan revised July 23, 2025 by Dan Ojala.   |
| <b>BUILDING PLANS</b>  | Plans of 242 Upper County Road Dennisport, Massachusetts prepared for Racine by Custom Building Systems LLC, 200 Custom Ave. Middleburg, PA 17842. Plans consisting of 6 Sheets with Front Elevation, Rear Elevation, Left Elevation, Right Elevation, 1 <sup>st</sup> Story Floor Plan, and 2 <sup>nd</sup> Story Floor Plan. Plans dated 8-7-2024.   |

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  | 10,064sf |
| 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  | NA       |
| 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/<br>Allowed | Existing | Proposed |
|---|----------------------|----------|----------|
| Frontage  | 50'                  | 172.6'   | 172.6'   |
| Front Setback   | 25'                  | 13.6'    | 14.5'    |
| Right Side Setback  | 15'                  | 54'      | 18.8'    |
| Left Side Setback   | 15'                  | 0        | 0        |
| Rear Setback  | 172.6'               | 5.5'     | 19.5'    |
| Lot Area  | 40,000sf             | 10064sf  | 10064sf  |
| Lot Width   | 100'                 | 97'      | 97'      |
| Non-conforming floor space within Setbacks  | 0                    | 786      | 339      |
| D2. Increase in new non-conforming floor space by more than 40% within any 10-year period | 0                    |          |          |
| Cumulative footprint size of all structures   | 0                    | 1619     | 2336     |
| Cumulative lot coverage (footprint) percent for all                                       | 15%                  | 16.1%    | 23.2%    |
| Cumulative floor space of all structures (F.A.R.)   | 30                   |          |          |
| Cumulative floor space to lot area % all structures                                       | 30%                  | 19.6%    | 28.6%    |

§ 2.4.1.2 C - Special Provisions for Recon. of 1 or 2-Family Structures Not Located w/n Existing Footprint

| ACTION  | FINDING |
|---|---------|
| 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 |         |

§ 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. Proposal to demolish a house built in 1839 does not meet the intent to “protect the character of the character of the historic environs...”**
- 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 includes the demolition of a Full-Cape built in 1839 (Martin Van Buren - President).
- The house was the home of several illustrious Dennis families including Kelley and Eldredge.
- The proposed lot coverage is increasing from 16.1% to 23.2% and adding a second floor and yet plans show only increasing the F.A.R. to 28.6%. Original plans submitted incorrectly listed the FAR as 19%. No calculations are shown for how these numbers were calculated.
- **The calculations still do not seem correct. The lot is 10,064 sf. The proposed lot coverage on the revised plans says it is 23.2% (2,336 sf). That leaves only 543 sf for the second floor for the proposed house to remain below 30% Floor Area Ratio. However, the second floor appears to be almost 800 sf.**
- The Town will be considering a Historic Preservation Incentive Bylaw next year that would give a density bonus for retaining and restoring historic structures. The Applicant should consider waiting for a bylaw that provides a density bonus for retaining and restoring historic house or revise the proposal to bring it under 30% FAR.
- The Board can find that a lawful pre-existing non-conforming structure exists on the property. However, **at this time it appears the proposal exceeds the 30% Floor Area Ration.**

- **NATURAL RESOURCES:** Not in Conservation jurisdiction.

- **HEALTH:** A Complete septic application for new 3-bedroom system will be required prior to signing off on a Building Permit

- **ENGINEERING:**

- The project as presented will alter greater than 500sf of ground, and is therefore required to meet the intent of the Town of Dennis Stormwater By-Law.
- 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.
- The proposed grading on the plan appears to slope toward Telegraph Road and Upper County Road. Grading should be performed on natural areas, and the driveway with the intent to retain all runoff within the property boundary to the extents practical. Slight depressions or swales should be considered as required, at slope bases and upgradient of the property lines to contain an infiltration accumulated runoff within the property boundary.

- All disturbed areas of the site should be stabilized and re-vegetated as soon as practical, especially on newly graded slopes surrounding the dwelling, or in areas close to the property boundary. Bare earth should not be left exposed for extended periods of time. Additional erosion and sedimentation controls should be provided during construction, as site conditions warrant, to contain sediment and runoff within the work limits.
- The existing driveway should be utilized and maintained as a construction entrance for the duration of the project to mitigate tracking of sediment onto the paved road surface. Construction vehicles should not park on Telegraph Road or Upper County Road.
- Safe pedestrian travel along the existing sidewalk along Upper County Road should be maintained at all times during construction and after hours. If pedestrian traffic along the sidewalk will be impacted at any time, adequate signage and detours should be provided as required. Any damage to the existing sidewalk, resulting from the proposed construction, shall be repaired at the contractors/applicant’s expense. If the driveway apron or transitions to the sidewalk are modified, all work shall comply with ADA requirements.

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| <b>PROPOSED<br/>CONDITIONS<br/>if Approved</b> | <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. Failure to comply with all conditions in the Board of Health Permit shall be deemed cause to revoke the ZBA Special Permit.</li> <li>5. Any off-street parking shall be a pervious surface.</li> <li>6. 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.</li> <li>7. 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 shall be implemented.</li> <li>8. Construction vehicles shall not park in or block the road.</li> <li>9. Safe pedestrian travel along the existing sidewalk along Upper County Road should be maintained at all times during construction and after hours. If pedestrian traffic along the sidewalk will be impacted at any time, adequate signage and detours should be provided as required.</li> <li>10. Any damage to the existing sidewalk, resulting from the proposed construction, shall be repaired at the contractors/applicant’s expense.</li> <li>11. 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.</li> </ol> |
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