



MORIARTY BIELAN & MALLOY LLC

ATTORNEYS AT LAW

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Admitted in MA

February 23, 2024

DENNIS TOWN CLERK
RCVD 2024 FEB 23 PM 1:23
CLEAR

Via Hand Delivery

Theresa T. Bunce, Town Clerk
Town of Dennis
685 Route 134
South Dennis, MA 02660

**RE: Notice of Complaint Given Pursuant to G.L. c. 40A, §17
Susan Kantor, Trustee of the Kantor Realty Trust v.
Dennis Zoning Board of Appeals, et al
Land Court No. 24 MISC 000100**

Dear Clerk Bunce:

This letter is intended to provide you with notice, pursuant to G.L. c. 40A, §17, that my office has filed a Complaint in the Massachusetts Land Court appealing the decision of the Dennis Zoning Board of Appeals Decision filed with your Office on February 6, 2024 in Case Number ZBAPP-023269-2023. The Land Court docketed the Complaint on February 21, 2024, under docket number 24 MISC 000100.

Enclosed please find a copy of the Complaint.

Thank you for your attention to this matter.

Sincerely,

MORIARTY BIELAN & MALLOY LLC

Michael J. Kennefick

Enclosure

cc: Susan Kantor

COMMONWEALTH OF MASSACHUSETTS
TRIAL COURT OF THE COMMONWEALTH

BARNSTABLE, ss

LAND COURT
No. 24 MISC 00100

SUSAN KANTOR as she is the
TRUSTEE of the KANTOR
REALTY TRUST,

Plaintiff

v.

PETER CHECKOWAY,
JAMES KYRIMES, ELISA RIDLEY,
AARON RIDLEY and MARK CARRICK
as they are members of the
TOWN OF DENNIS ZONING
BOARD OF APPEALS and the
TOWN OF DENNIS,

Defendants

COMPLAINT

INTRODUCTION

The plaintiff, Susan Kantor, the Trustee of the Kantor Realty Trust, brings this action, pursuant to G.L. c. 40A, §17, appealing a decision of the defendant Zoning Board of Appeals, which upheld the Building Commissioner's denial of her shed permit application. The denial of the application is unlawful, as the shed is situated in a location on the property which exempts it from or, alternatively, is allowed by, the Town's zoning bylaws. The plaintiff also seeks to recover

her fees and costs in this action, as the Building Commissioner and Board have acted in bad faith, as that term is defined by the statute, regarding her application and appeal.

PARTIES

1. The plaintiff, Susan Kantor, is the Trustee of the Kantor Realty Trust, u /d/t dated July 30, 1998 (hereinafter "Kantor"). Kantor has a mailing address of 9 Hunter Lane, Canton, Norfolk County Massachusetts 02021.

2. The defendants, Peter Checkoway, James Kyrimes, Elisa Ridley, Aaron Ridley and Mark Carrick are the duly appointed members of the Town of Dennis Zoning Board of Appeals and reside at the properties and have mailing addresses as follows:

Peter Checkoway: 11 Scargo Hill Road, Dennis, Barnstable County, Massachusetts 02638

James Kyrimes: 59 Main Street, Unit 40-2, Dennis, Barnstable County, Massachusetts 02638

Elisa Ridley: 111 School Street, Unit 4, Dennis, Barnstable County, Massachusetts 02670

Aaron Ridley: 111 School Street, Unit 4, Dennis, Barnstable County, Massachusetts 02670

Mark Carrick: 36 Christopher Hall Drive, Dennis, Barnstable County, Massachusetts 02638

3. The Town of Dennis is a municipal corporation organized and existing under the laws of the Commonwealth of Massachusetts with a usual place of business located at 685 MA-134, South Dennis, Barnstable County, Massachusetts 02660.

FACTS

A. The Property

4. Kantor is the owner of the property known and numbered as 568-E Main Street, Dennis, Barnstable County, Massachusetts 02660. Kantor acquired title to the property by a deed from

Kathleen D. Henehan and Thomas E. Henehan, dated October 10, 2019 and recorded with the Barnstable County Registry of Deeds at Book 32373, Page 108. See Exhibit 1

5. The property is located in the Town of Dennis' Low-Density Residential, i.e. "R-40" Zoning District and is improved with a single-family dwelling and a shed, 8' x 12' in size, located on the southwest corner of the lot. The location of the shed, which is the subject of this appeal, is shown on a Plan entitled "Existing Conditions Plot Plan Prepared for Susan Kantor, 568-E Main Street West Dennis, MA" prepared by Moran Engineering Assoc., LLC and dated October 2, 2023. and attached hereto as Exhibit 2.

6. Kantor's Property is located on the Bass River and is part of a waterfront community developed prior to the adoption of zoning in the Town of Dennis. The Property is located about 400 feet from Main Street, the street in which it derives its address, as shown on the Town of Dennis GIS map attached hereto as Exhibit 3.

7. Access to the property is provided by a single, deeded, private right-of-way that runs from Main Street to the southeastern corner of the Property. The right-of-way is described in the deed to the Property, attached as Exhibit 1, as "the right-of-way ten (10) feet wide from the southeasterly corner of the premises to Old Main Street and the State Highway..." It is also shown on the GIS map attached as Exhibit 3.

B. Kantor's Original Plan to Construct a Larger Shed on the Property

8. Kantor originally intended to construct a new, 12' x 16' shed on the southwest corner of her Property, which would have replaced the 8' x 12' shed. She filed a series of applications with the Conservation Commission and ultimately received approval to construct the new, larger shed, as shown on the approved plan entitled "The Kantor Residence" prepared by Philip L. Cheney and dated February 23, 2023. See Exhibit 4.

9. Kantor was then instructed by the Town to file an application for a variance with the Zoning Board of Appeals. As established below, Kantor was incorrectly advised to file such an application as the proposed shed would have been exempt from, or allowed by, the applicable Town zoning bylaws.

10. Kantor withdrew her application to the Zoning Board of Appeals on March 27, 2023, after it became apparent that it wouldn't be granted.

C. Kantor's Relocation of the Existing Shed In Lieu of Constructing the Larger Shed

11. On April 6, 2023, Kantor's attorney at the time, and Kantor's landscape architect, Philip Cheney, met in person with the Town of Dennis Building Commissioner, Paul Fowler ("Fowler"). During their conversation, Fowler recommended two alternative locations for the shed: the northeast corner of the lot in front of the main door to the house (in the area that runs along the Bass River bulkhead seawall), or directly behind the rear of the house on the south side of the Property.

12. Kantor then met with the Town of Dennis Conservation Agent, Erin Burnham, on June 5, 2023, to discuss the recommended relocation areas. The Conservation Agent stated that the Commission would likely not consider an application to locate the existing shed closer to the resource area than originally approved.

13. One week later, on June 12, 2023, Kantor met with Fowler and explained that the Conservation Agent advised against seeking to relocate the shed closer to the northeast corner of the Property. Kantor also explained that the second location, on the southern section of the Property, wasn't a viable option either, as the septic system is located there. During the conversation, Fowler recommended that Kantor simply move the existing shed to the area where the larger, proposed shed was going to go.

14. The next day, on June 13, 2023, Kantor informed her attorney at the time of her conversation with Fowler. She then asked her landscape architect to prepare a new plan showing the relocation of the existing shed to the area where the larger shed was intended to be constructed. A copy of the Plan, entitled “The Kantor Residence, 568E Main Street, West Dennis” prepared by Philip L. Cheney, originally dated January 21, 2021 and last revised on June 13, 2023, is attached hereto as Exhibit 5.

15. Kantor then wrote to the Conservation Agent, on June 19, 2023, explaining that her petition to the Zoning Board of Appeals had been withdrawn. The letter requested that the Commission approve the relocation of the smaller shed, as shown of the June 13, 2023 plan.” See Exhibit 6.

16. The Conservation Agent indicated her approval of the alternative plan to relocate the existing shed, writing, on July 6, 2023:

“Your letter now indicates that you would like to relocate your existing shed (which would decrease the overall approved shed size) as well as relocate the rinsing station to be adjacent to the shed (further from the resource areas).

As these proposed changes will not have any additional adverse impacts to any wetland resources or their associated buffer zones, the revised plan is approved. The plan entitled “The Kantor Residence” prepared by Philip L. Cheney, and dated June 13, 2023, will now be incorporated into the project file as a new Plan of Record.” See Exhibit 7.

17. The following month, on July 20, 2023, Fowler arrived at the Property, unannounced, to conduct a site visit. By that time, the shed had been relocated as shown on the June 13, 2023 plan and in accordance with the Commission’s approval and Fowler’s earlier recommendation. While there, Fowler opened the doors of the shed and saw bicycles, paddles, outdoor chairs, cornhole boards and cooler. During a conversation with Larry Demers, Kantor’s contractor, and Mr. Demer’s co-worker, Fowler stated that the new location of the shed was “fine” with him, as was

the 6' solid vinyl fence and 12' arborvitae (which Kantor installed in March 2023) that provide screening of the shed and rinsing station to abutters.

D. The Violation Notice

18. The following day, Fowler called Kantor and told her that she had to remove the shed from the Property, without any explanation. Several weeks later, on September 5, 2023, Fowler served Kantor with a Violation Notice for the relocated shed. See Exhibit 8.

19. The Violation Notice included a “summary” of the alleged violation, including that an “[a]ccessory [s]tructure...[s]hall not be erected without a Zoning Compliance certificate from the Building Department...” as well as a description of the “nature” of the purported violation, including Fowler’s belief that the “[e]xisting shed...was designated abandoned.”

20. The Violation Notice advised Kantor that the violation could be “abate[d]” by removing the shed or by applying for a Shed Permit.

E. The Administrative Appeal

21. Kantor thereafter submitted an Application for a Shed Permit, as advised by Fowler, though such an application was unnecessary as the shed is exempt from, or allowed by, the Town of Dennis’ zoning bylaws.

22. The Application for a Shed Permit was denied by Fowler on or about October 2, 2023. The only reason provided in the denial was: “Variance required to locate a non-conforming shed in a front setback.” See Exhibit 9.

23. Kantor thereafter filed a timely appeal of the denial of the shed permit application to the Zoning Board of Appeals, pursuant to G.L. c. 40A, §8.

24. The Zoning Board of Appeals denied the appeal, following a hearing on January 22, 2024. A copy of the Decision denying the appeal is attached hereto as Exhibit 10.

COUNT I
(G.L. c. 40, §17)

25. Kantor repeats and realleges the allegations set forth in paragraphs 1 through 24 above as if expressly set forth and incorporated by reference herein.

26. The Notice of Violation and denial of Kantor's shed permit application are unlawful, as the shed is situated in a location on the property which exempts it from or, alternatively, is allowed by, the Town's zoning bylaws.

27. Section 2.3.3.6 of the Town's Zoning Bylaws, entitled "Accessory Structures," provides an exemption from certain zoning restrictions for accessory structures under 200 square feet in size, including the "front setback" that Fowler's shed permit application denial was based upon.

It states, in pertinent part:

“a. A single accessory building with a footprint of 200 square feet or less, and a building height of no more than 15 feet:

- i. Shall not be located forward of the front face of the principal structure whose front face is seventy-five (75) feet or less from the street line. For corner lots the front face shall be determined by the street from which the property gains its street address;
- ii. Shall not be placed less than seventy-five (75) feet from the street line when the front face of the principal structure is more than 75 feet from the street line.
- iii. May be located within other setback areas in accordance with Section 2.3.3 provided no portion of the accessory building is located within two (2) feet of any lot line, and subject to appropriate screening as determined by the Building commissioner...” See Exhibit 11.

28. Kantor's shed meets all of the requirements for the exemption:

- Accessory structure must be under 200 square feet: Kantor's shed which is 8'x12', i.e. 96 square feet, in size.
- Front face of the principal structure must be more than 75 feet from the street line: Kantor's address is 568E Main Street. As the GIS map, attached as Exhibit 3 shows, her residence is located significantly further than 75 feet from Main Street. Indeed, four properties (addresses of 568, 568A, 568B,

568C, and 568D) are situated between her property and Main Street. While access to those properties are provided by small, private rights of way, the “street” in which to measure the façade of Kantor’s residence, and her shed, from for purposes of the exemption, is the “street from which [her] property gains its street address” from. In this case, that “street” is Main Street, which is much further than 75 feet away from her home, her shed, or even her property line.

- Accessory structure must be 75 feet or more from street line if principal structure is more than 75 feet from street line: As the GIS map shows, and as explained above, both the shed and Kantor’s home are significantly further than 75 feet from Main Street. See Exhibit 11.

29. As for 2.3.3.6(a)(iii), which allows an exempt accessory structure to be located two feet from a side yard lot line, Kantor’s shed is located 6.3’ feet from her side property line.

30. Alternatively, if the private right-of-way that leads to the Property is to be considered “frontage” for purposes of application of the Town’s zoning setback requirements, Kantor’s shed would comply with those requirements. The way, which is the only way that provides vehicular access to Kantor’s lot, runs from Main Street to the northeasterly corner of the property, as described in the deed. Here, the main structure, the house, is located to the west of that way. Given that the way runs to the eastern border of the lot, it follows that the “front” of the house would be the eastern facing side of the structure. The shed, based on the assumption that the private right-of-way constitutes frontage, is located behind the house. And, because the shed is less than 200 square feet in size, it can be placed anywhere, from a zoning perspective, within the rear yard so long as it is two feet away from the lot line and adequately screened, which it is.

31. Despite the fact that the shed does not violate any of the Town’s zoning provisions, the record demonstrates that Fowler and the Town Planner, Paul Foley (“Foley”) engaged in a strained, searching effort to manufacture support for the Violation Notice.

32. Prior to the January 22, 2024 hearing, Foley submitted a “Staff Report” which included his opinions regarding Kantor’s appeal. See Exhibit 12. The Staff Report contained a number of erroneous, and false, legal and factual assertions concerning Kantor’s Property and her appeal.

They include:

- An extreme error stating that Kantor reaches her Property by way of the a private way that runs from Main Street to 560-E Main Street: “actual vehicle entrance to the property crosses from the Private Way on the west between the south side of the house and the neighbor (Units C&D) and turns in on the east side of the house on the 10’ ROW and turns back to the west with the car parking directly south of the house facing west...” This statement is false, as Kantor has never used, and indeed has no legal right of access over, the private way that leads to 560-E Main Street, or over the 568C and D properties. Indeed, the deeds to the properties addressed 560 Main specify that the private way leading to those lots are for access to those lots. See Exhibit 13.
- An erroneous statement that “[b]ecause cars cross the south of the property from the west and enter on the east it could be considered a corner lot.” Actual and legal access to Kantor’s property is provided only by the exclusive, deeded right-of-way that runs from Main Street to the southeast corner of the Kantor property. Again, the Property has no legal or actual access to 560 Main and no legal or actual access over 568-D to reach the 560 Main private way. Accordingly, there is no way to support an argument that Kantor’s lot is a corner lot, legally or factually, when that argument is based on a false claim that a way passes between Kantor’s Property and 568D to 560 Main’s private way.
- An erroneous statement that “[Kantor] appears to think the front of the house is the side that faces the water...” which not only was never included in any submission to the Town, but is also simply not true.
- An erroneous and entirely irrelevant reference to a patio on Kantor’s Property, referring to a request for enforcement authored by the former Town Planner and which was made part of the Zoning Board’s record when Kantor chose to withdraw her request for a variance in March of 2023. The Building Commissioner never acted on the request, as there was no zoning violation involved, as a patio is not a “structure” subject to zoning requirements. The reference was obviously made to paint Kantor in the worst possible light.
- Another statement to, again, paint Kantor in the worst possible light, alleging that Kantor does “not seem to think that [she is] subject to the zoning code enforcement in any way....” and implying that Kantor has engaged in a pattern of making improvements on the Property without adequate permission, which couldn’t be any further from the truth, as she obtained all necessary permits from the Conservation

Commission and never constructed or engaged in any activity that violated the Town's zoning bylaws.

33. During the appeal hearing, Foley and Fowler discussed their baseless accusations that Kantor had previously violated the Town's zoning bylaws. The allegations, which are patently false, were never the subject of any Cease and Desist or other enforcement effort by the Building or any other Town Department. They were also wholly irrelevant to the issue of the appeal, and made only to disparage Kantor before the Board. Nevertheless, the purported violations were cited in the Decision in support of the Board's vote.

34. Foley and Fowler, and the Board, failed to acknowledge that the Building Department had relied on the same setbacks (25 feet front yard – facing Main; 15 feet side yard – facing 560E; 25 feet rear yard – facing Bass River) when the Building Department issued permits for work done on the Property in 2010 and which Kantor had relied upon in support of the appeal. See Exhibit 14. Contrarily, and despite the precedence, Fowler asserted to the Board that the Property has “two front yards” – an illogical assertion that was actually included in, and cited in support of, the Decision.

35. Fowler and Foley argued, and the Board found, that the private right-of-way that leads to 560-E Main Street, which Kantor has no legal access over, constitutes “frontage” for Kantor's Property, though the Town's bylaws define “lot frontage” as “[c]ontinuous portions of the street line over which automobiles have legal and physical access from the lot.” See Exhibit 15.

36. Because Kantor's shed is located in an area where it is exempt from zoning prohibitions, or complies with zoning, Kantor was made to unnecessarily seek relief through the Zoning Board of Appeals, and now, through this Court.

37. The Decision was based, in whole or in part, upon the irrelevant and false assertions made by Foley and Fowler. Indeed, the Decision references a patio in Kantor's yard that has nothing to

do with the shed or Kantor's appeal, falsely claiming that the patio would require a building permit and asserting that Kantor had it constructed illegally.

38. The proceedings before the Board were based upon a Violation Notice that was issued, upon information and belief, in response to the influence of neighboring property owners.

39. The Decision was based upon an interpretation of the Town's zoning bylaws that were legally incorrect and influenced by legally and factually false assertions from Foley and Fowler.

40. The proceedings before the Board were substantively and procedurally defective.

41. The Board's Decision contains errors of fact and conclusions of law, is arbitrary and capricious, is not based upon substantial evidence.

42. The Decision of the Board was issued in bad faith as that term is defined by 40A, §17.

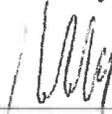
43. Kantor is aggrieved by the Decision of the Board.

WHEREFORE, Kantor requests that the Court:

- a. Enter judgment in her favor;
- b. Annul the Board's decision;
- c. Order the Violation Notice to be overturned;
- d. Enter a finding that the Board acted in, and issued its Decision in, bad faith, as that term is defined by G.L. c. 40A, §17;
- e. Award Kantor her fees and costs; and
- f. Grant such other relief as this Court deems just and equitable.

Respectfully submitted,

Susan Kantor, as she is the Trustee of the
Kantor realty Trust,
By her attorneys,



Michael J. Kennefick (BBO #648004)
Kimberly A. Bielan (BBO #685466)
MORIARTY BIELAN & MALLOY LLC
One Adams Place
859 Willard Street, Suite 440
Quincy, MA 02169
(781) 817-4900
mkennefick@mbmlc.com

Dated: February 21, 2024

Exhibit 1

NOT A N
OFFICIAL QUITCLAIM DEED OFFICIAL

We, Kathleen D. Henehan and Thomas E. Henehan, both of 568 Main Street, #E, West
Dennis, Massachusetts 02670, as tenants in common,

for consideration paid in full of Seven Hundred Thousand Dollars and 00/100 and 00/100
(\$700,000.00),

grant to Susan J. Kantor, Trustee of Kantor Realty Trust, Trustee Certificate recorded
herewith, of 9 Hunter Lane, Canton, Massachusetts 02021,

with quitclaim covenants,

the following property in Barnstable County, Massachusetts.

The land together with buildings thereon situated in Dennis (West), Barnstable County,
Massachusetts, bounded and described as follows:

- NORTHERLY by Grand Cove, sixty-five and 15/100 (65.15) feet, more or less,
- EASTERLY by land now or formerly of Pine Cove Condominium, one hundred
seven and 39/100 (107.39) feet, more or less;
- SOUTHERLY by land now or formerly of Edmund A. Hohmann, Jr. and Joyce A.
Hohmann, seventy-eight and 34/100 (78.34) feet, more or less;
- WESTERLY by land now or formerly of Joyce A. Hohmann and Kenney Family
Realty Trust, one hundred three and 80/100 (103.80) feet, more or
less.

Said premises is more particularly shown as LOT 7 on a plan entitled: "Plan of Land in West
Dennis, Massachusetts as made for Kathleen D. Henehan" dated October 23, 2006 and
recorded at the Barnstable Registry of Deeds in Plan Book 615 Page 65

Together with the right-of-way ten (10) feet wide from the southeasterly corner of the
premises to Old Main Street and the State Highway as shown on said plan which right-
of-way is to be used for all purposes for which ways are commonly used in the Town of
Dennis..

Together with and subject to all easements, rights of way, reservations and restrictions of
record, insofar as the same are now in force and applicable.

NOT AN OFFICIAL COPY NOT AN OFFICIAL COPY

The street address of the property is: 568 Main Street, #E, West Dennis, Massachusetts 02670

For our title reference, see Deed of Kathleen D. Henehan and Thomas E. Henehan, dated February 24, 2012 and recorded with the Barnstable County Registry of Deeds in Book 26391, Page 295

Executed as a sealed instrument this 10th day of October, 2019

[Signature of Kathleen D. Henehan]
Kathleen D. Henehan

[Signature of Thomas E. Henehan]
Thomas E. Henehan

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss

On this 10th day of October, 2019, before me, the undersigned notary public, personally appeared the above-named Thomas E. Henehan, proved to me through satisfactory evidence of identification which were driver's license and personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he signed it voluntarily for its stated purpose.

[Signature of Kyla L. Collette]
Kyla L. Collette
Notary Public
My Commission Expires: 02/19/2021



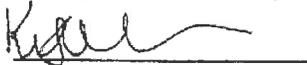
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COMMONWEALTH OF MASSACHUSETTS

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Barnstable, ss OFFICIAL OFFICIAL
COPY COPY

On this 10th day of October, 2019, before me, the undersigned notary public, personally appeared the above-named **Kathleen D. Henehan**, proved to me through satisfactory evidence of identification which were driver's license and personal knowledge to be the person whose name is signed on the preceding or attached document, and acknowledged to me that she signed it voluntarily for its stated purpose.



Kyla L. Collette
Notary Public
My Commission Expires: 02/19/2021



Exhibit 2

Exhibit 3



- Plots of Interest - Facility
- Fire Station
- Police Station
- Town Hall
- ICOA
- Town Hall Annex
- Public Library
- School
- Community Health C
- Plots of Interest
- Beach
- Beach (Fresh Water)
- Beach (Way To Walk)
- Landmark
- Golf
- Business
- Recreation
- Parcels w/Arbitals
- MA Highways
- River/State
- US Highway
- Numbered Routes



The data shown on this site are provided for informational purposes only. The Town and its consultants are not responsible for the misuse or misinterpretation of the data.

Town of Dennis, MA

Printed on 12/14/2023 at 10:45 AM

0 100 200 ft

Exhibit 4

PLANT SCHEDULE

CONIFERS

BOTANICAL NAME	COMMON NAME	SIZE
Thuja occidentalis 'Smaragd'	Emerald Green Arborvitae	7'-8'

SHRUBS

BOTANICAL NAME	COMMON NAME	SIZE
Hydrangea arborescens 'Inviectabil Ruby™'	Inviectabil Ruby™ Hydrangea	7' gal
Hydrangea macrophylla 'Nikko Blue'	Nikko Blue Hydrangea	3' gal
Hydrangea paniculata 'Bobo'	Bobo Hydrangea	3'-4'
Ilex crenata 'Sleeds'	Sleeds Japanese Holly	5' gal
Ilex glabra 'Densa'	Densa Holly	4.5'
Ilex x messeriace 'Blue Maid™'	Blue Maid Holly	3' gal
Syringa japonica 'Miss Kim'	Miss Kim Lilac	5' gal

PERENNIALS

BOTANICAL NAME	COMMON NAME	SIZE
Nerita x pauciflora 'Blue Wonder'	Blue Wonder Calceol	7.5"

GROUND COVERS

BOTANICAL NAME	COMMON NAME	CONT.	SPACING
Sedum spectabile 'Autumnum'	Autumnum Sedum	plugs	18" o.c.

PLANT SCHEDULE

BOTANICAL NAME	COMMON NAME	SIZE
Hydrangea arborescens 'Inviectabil Ruby™'	Inviectabil Ruby™ Hydrangea	7' gal
Hydrangea macrophylla 'Nikko Blue'	Nikko Blue Hydrangea	3' gal
Hydrangea paniculata 'Bobo'	Bobo Hydrangea	3'-4'
Ilex crenata 'Sleeds'	Sleeds Japanese Holly	5' gal
Ilex glabra 'Densa'	Densa Holly	4.5'
Ilex x messeriace 'Blue Maid™'	Blue Maid Holly	3' gal
Syringa japonica 'Miss Kim'	Miss Kim Lilac	5' gal

PLANT SCHEDULE

BOTANICAL NAME	COMMON NAME	SIZE
Nerita x pauciflora 'Blue Wonder'	Blue Wonder Calceol	7.5"

PLANT SCHEDULE

BOTANICAL NAME	COMMON NAME	CONT.	SPACING
Sedum spectabile 'Autumnum'	Autumnum Sedum	plugs	18" o.c.

PLANT SCHEDULE

BOTANICAL NAME	COMMON NAME	SIZE
Sedum spectabile 'Autumnum'	Autumnum Sedum	7.5"

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Sedum spectabile 'Autumnum'	Autumnum Sedum	7.5"

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BOTANICAL NAME	COMMON NAME	SIZE
Sedum spectabile 'Autumnum'	Autumnum Sedum	7.5"

PLANT SCHEDULE

BOTANICAL NAME	COMMON NAME	SIZE
Sedum spectabile 'Autumnum'	Autumnum Sedum	7.5"

Area Calculations for C-50' Buffer from Bulkhead

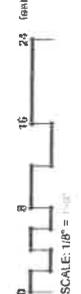
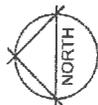
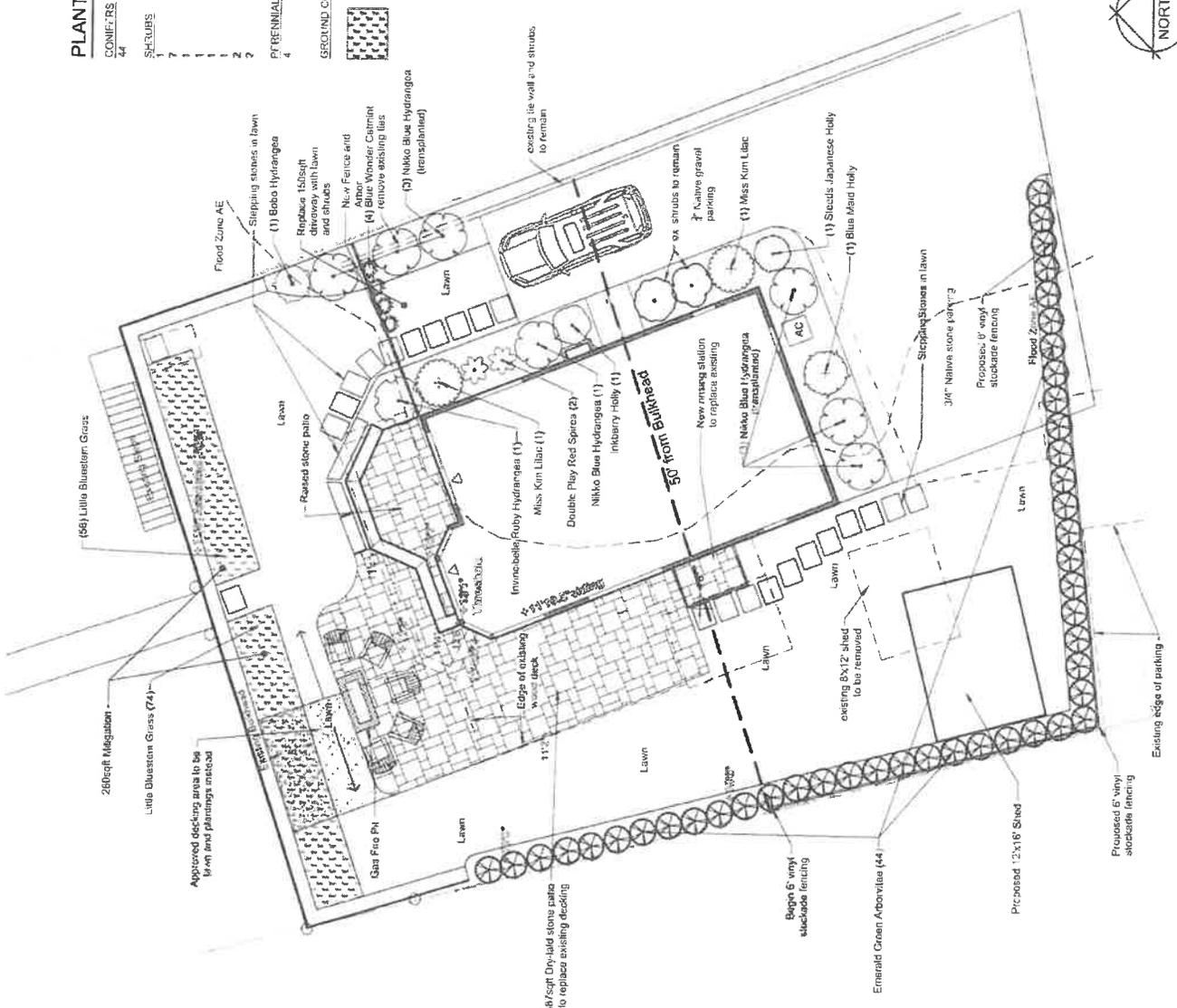
	existing/approved	proposed	change
Patio/decking	798sqft	757sqft	-41sqft
Shed/Rinsing	57sqft	32sqft	-25sqft
Driveway	280sqft	123sqft	-157sqft
Total:	1135sqft	912sqft	-223sqft

Area Calculations for E0-100' Buffer from Bulkhead

	existing/approved	proposed	change
Patio/decking	31sqft	76sqft	+45sqft
Shed/Rinsing	57sqft	217sqft	+160sqft
Driveway	1340sqft	1329sqft	-11sqft
Total:	1428sqft	1622sqft	+194sqft

Total decrease in hardscape from existing/approved = 293sqft
 Current Mitigation proposed: 280sqft

2/27/2021 revision results in less coverage in the 0-50' buffer, relocating the shed to the 50-100' buffer.



The Kantor Residence

568E Main Street, West Dennis

By: Philip L. Cheney 508-394-1373

Scale: 1/8" = 1'-0" 1/21/2021

Rev. 9/27/2021-moved shed/rinsing station
 Rev. 2/23/23 -shed location, hedge & fence

Exhibit 5

Exhibit 6

Susan J. Kantor
568E Main Street
West Dennis, MA 02670

June 19, 2023

Ms. Erin Burnham
Conservation Agent
Town of Dennis Conservation Commission
685 Route 134
South Dennis, MA 02660

Re: Map 81 Parcel 13, SE16-2262 (568 House E, Main Street, West Dennis, MA)
FIELD CHANGE AND PERMIT EXTENSION REQUEST

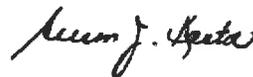
Dear Erin,

The Dennis Zoning Board and Building Department did not approve a new 12' X 16' shed that was reflected on the Landscape Plan dated February 23, 2023 which Conservation had approved on March 3, 2023. Subsequently, Paul Fowler, Building Commissioner granted me approval to move my existing 10' X 12' shed to the back of my property which is further away from the 50' buffer zone than the shed is currently located. I would also like to move the existing rinsing station next to the shed, which is also further away from the 50' buffer zone than the rinsing station is currently located. The Landscape Plan dated February 23, 2023 which was previously approved by Conservation is enclosed for your reference along with the Revised Landscape Plan dated June 13, 2023 which reflects the new shed and rinsing station locations. I am formally requesting Conservation's approval of the June 13, 2023 Landscape Plan.

My Conservation permit expires July 27, 2023 and I am also formally requesting a one-year Conservation permit extension to July 26, 2024 to provide time to relocate the existing shed and rinsing station further away from the 50' buffer zone. Please notify me via email at susanikantor@gmail.com of Dennis Conservation's decision to approve a one-year extension of my conservation permit to July 26, 2024, along with Conservation's decision to approve the June 13, 2023 Revised Landscape Plan.

I can be reached at 781 910-8106 if you have questions or if you wish to speak directly. I appreciate the Conservation Commission's consideration of my request for a permit extension and approval of the June 13, 2023 Revised Landscape Plan.

Sincerely,



Susan J. Kantor
Trustee Kantor Realty Trust

cc: Phil Cheney, Cheney Landscape Design

Exhibit 7



Town of Dennis
Conservation Commission

George Macdonald, Chairman
Erin Burnham, Conservation Agent

Tel: (508) 760-6123

July 6, 2023

Susan Kantor (via email)
568E Main Street
West Dennis, MA 02670

Subject: 568E Main Street, West Dennis (Map 81, Parcel 13)
Plan Change Request for SE16-2262

Dear Ms. Kantor,

This office received your letter, dated June 19, 2023, requesting that a revised plan be accepted to replace the previously approved permit plan for Order of Conditions SE16-2262. This permit granted approval for the reconstruction of an existing bulkhead and construct a new pier, ramp, and float system. An earlier plan revision was approved in 2016 that allowed for a reconfiguration of the proposed beach access steps. An Amended Order of Conditions, approved on March 5, 2021 approved landscaping changes landward of the bulkhead and construction of a larger shed. Previous administrative approvals granted permission to make changes to the patio, relocate the shed, and add privacy fencing.

Your letter now indicates that you would like to relocate your existing shed (which would decrease the overall approved shed size) as well as relocate the rinsing station to be adjacent to the shed (further from the resource areas).

As these proposed changes will not have any additional adverse impacts to any wetland resources or their associated buffer zones, the revised plan is approved. The plan entitled "The Kantor Residence", prepared by Philip L. Cheney, and dated June 13, 2023, will now be incorporated into the project file as a new Plan of Record.

Please note that any further, additional alterations to the approved plan must be approved by the Dennis Conservation Commission and/or the Department of Natural Resources office.

Please contact this office if you have any questions.

Sincerely,

Erin Burnham
Conservation Agent

Exhibit 8



Town of Dennis
Building Department

Paul Fowler
Building Commissioner

Tel: (508) 760-6163
Fax: (508) 394-6289

Ms. Susan Kantor Trustee
Kantor Realty Trust
9 Hunter Lane
Canton, MA 02021

September 5, 2023

568E Main Street, W. Dennis

Dear Trustee(s),

You are hereby notified that you are in violation of the Town of Dennis Zoning By-Law section(s) 2.3.3.6.v

Summary of Violation: 2.3.3.6.v. *Accessory Structures... Shall not be erected without a Zoning Compliance Certificate from the Building Department and is subject to all fees in accordance with the Building Department Fee Schedule.*

Nature of Violation: Existing shed on the property at 568E Main St. West Dennis, was designated abandoned with Conservation filing and no zoning compliance Certificate (shed) application has been made for a new shed or new shed location.

Action to Abate Violation:

1. Within 14 days from the date of this notice, remove shed, *or*
2. Apply to the Building Department for a Shed Permit (Zoning Compliance Certificate) and be issued a Shed Permit for an approved location.

And, if aggrieved by this notice and order; to show cause as to why you should not be required to abate the violation in this notice, you may file a Notice of Appeal (specifying the grounds thereof) with the Town Clerk of Dennis and the Town Planner, within thirty (30) days of the receipt of this order and in accordance with MGL 40A Section. 8. If, at the expiration of the time allowed, action to abate this violation has not commenced, further action as the law allows may be taken.

Paul Fowler
Building Commissioner
Town of Dennis

Exhibit 9

Building Permit Review
Submittal Status

Denied

Received Date

09/19/2023

Due Date

10/10/2023

Completed Date

10/02/2023

Zoning • denied • Fowler Paul • Completed :
10/02/2023

Due Date

09/19/2023

Completed Date

10/02/2023

Comment

See SP-017872-2022 . Variance required to locate a non-conforming shed in a front setback

Exhibit 10



DENNIS TOWN CLERK 

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

568 Main Street Unit #E, West Dennis, MA
APPEAL OF A BUILDING COMMISSIONER'S DECISION

APPELLANT	Kantor Realty Trust, Susan J. Kantor Trustee C/O Moriarty, Bielan & Malloy Law, LLC
PROJECT ADDRESS:	568 Main Street. Unit E, West Dennis
MAP AND LOT NUMBER:	81-13
APPLICANT ADDRESS:	Kantor Realty Trust, 9 Hunter Lane, Canton, MA C/O Moriarty, Bielan & Malloy Law, LLC, One Adams Place, 859 Willard Street, #440, Quincy, MA, 02169
COMPLAINT	568 Main Street Unit #E Appeal of Building Commissioner: That the applicant is not subject to Dennis Zoning Bylaw §2.3.3.6.a.i-v (Zoning Compliance for Accessory Structures) for moving a shed into a front setback.
CASE NUMBER	ZBAPP-023269-2023
ZONING DISTRICT	R-40; 2/3 of property is in the AE Flood and 1/3 in 500-Year.
PLOT PLAN	Existing Conditions Plot Plan prepared for Susan Kantor by Moran Engineering, 941 Main Street, Harwich, MA dated 10/2/2023.
HEARING DATE:	November 27, 2023; continued to December 18, 2023; continued to January 22, 2024.

REGISTRY OF DEEDS REQUIRED INFORMATION			
Subject Property Address:		568 Main Street Unit E, West Dennis, MA	
Registry of Deeds Title Reference		Book: 32373	Page 108
or Certificate of Title #		And Land Ct Lot	And Plan #
Town Map #	81	Parcel	13

HEARING DATE	November 27, 2023
REQUEST	Appeal of Building Commissioner denial of request for cease and desist of construction of a garage at 332 Main Street based on lack of Notice for the Special Permit that allowed the construction.

PROJECT SUMMARY	<ul style="list-style-type: none"> 568 Main Street Unit E is a 0.16-acre (6,925 sf) parcel of land created behind 568 Main Street with several other dwellings that appears to have been a cottage colony at one time and is accessed by an unnamed private unpaved road/driveway on the west side of the house. The site is constrained due to its being less than 20% the size of the minimum lot area (6,970 sf in a 40,000-sf zone), its non-conformity, located partly in a flood zone with wetlands and lack of clear frontage on an accepted road.
------------------------	---

- The site plan labels the access as “Private Right of Way for 560 Rte 28 (no legal access for #568 Main Street)” on the west side of the property.
- The site plan also shows a “10’ ROW to Beach” along the east side of the property running south to neighbors. This is used as the access to this property and is also apparently access to the beach for others on the Right of Way.
- Due to the non-conforming nature of the property without any frontage on a real road, the applicant disputed the frontage of the property.
 - The legal access to the house is via the Right of Way on the east;
 - Main Street, from which the address is derived, is far to the south;
 - The legal access for several neighbors is a Right of Way directly to the west of the house;
 - Throughout Town many properties have multiple fronts and thus multiple sides with front yard setbacks, if they face on more than one Way. In this case, the private way to the west of the house, labelled as “Private Right of Way for 560 Rte 28” and the legal access on the East have been determined by the Building Commissioner to both be front yards subject to front setback rules.
- The site plan shows the 8.2’ by 11.8’ shed is currently 12.5’ from the Private Way on the west and 11.8’ from the southern border of the property.
- A rinsing station, also known as an outdoor shower, appears to have been added to the west side of the shed when it was moved again in 2023.
- The Site Plan shows the septic system is partly located in parking area.
- The Applicant filed a series of applications with the Conservation Commission in 2022 and 2023 and eventually was permitted by them to construct a new larger 12’ by 16’ shed. However, the Conservation Commission has the final word on where things cannot go in their jurisdiction, not on where they can go outside of their jurisdiction.
- At some point the shed was moved from near the water to a position next to the house (see aerial picture chronology below). It was later repositioned in 2021 and then moved again in 2023 with an outdoor shower and enclosure added.
- In March 2023, the appellant withdrew an application to the ZBA for the new larger 12’ by 16’ shed, at the hearing, that had been approved by Conservation.
- On September 18, 2023 the applicant re-applied to move the existing the 8.2’ by 11.8’ shed. The Building Commissioner denied this application stating the shed required a variance as it would be in the front setback and was “*designated abandoned with Conservation filing and no zoning compliance Certificate (shed) application has been made for a new shed or new shed location*”.
- In a follow-up request for enforcement signed by ZBA Chair:
 - *Shed was relocated from a non-conforming location to a more non-conforming location. Deck was replaced with a dry laid patio expanding the structural footprint in the front yard setback and expanded to be closer to the way shown on the attached plan. Patio is a structure under Section 5 Definitions: STRUCTURE An assembled combination of materials at a fixed location to give support or shelter, exclusive of boundary or retaining walls, ... and the like. The patio does not meet any of the tests for being exempt from*

	<p><i>setbacks and clearly provides support as illustrated on the landscape plan (attached) provided to the Conservation Commission.</i></p> <ul style="list-style-type: none"> • In the Appeal the appellant makes certain unsubstantiated claims about what the Building Commissioner said on site to their contractor about the location of the shed. • The appellant claims they are not subject to 2.3.3.6.a.i because they are more than 75 feet from Main Street, from which the property derives its address. • The appellant claims they are not subject to 2.3.3.6.a.v because the shed was pre-existing and was moved and not “erected”. <p><u>Aerial photographs indicate that in:</u></p> <ul style="list-style-type: none"> • April 2016 the shed was on the west side of the home aligned in a N-S position • A significant expansion of the bulkhead between April 2020 and March 2021. • Between March 30 and September 19, 2021 additional hardscape was added to the northwest side of the house. • By April 21, 2022 a pergola was built on the north side of the shed. The pergola appears to contain an outdoor kitchen. • Between April 21 and September 2, 2021, the shed was moved south and turned 45 degrees in an east-west orientation. • Between Sept. 2021 and April 21, 2023, a stockade fence was constructed along the west and south sides of the property. • Based on the Existing Conditions Plot Plan dated 10/2/2023 the shed was moved again, closer to the property border.
FINDINGS	The decision of the Building Commissioner was consistent with the zoning bylaws and the Building Commissioner was correct to deny the application for a shed permit, the vote was to uphold that decision.
VOTE	The Board’s vote to DENY the Appeal and uphold the Building Commissioner was unanimous, 5-0-0: Peter Checkoway [Chair], James Kyrimes, Elisa Ridley, Aaron Ridley and Mark Carrick.

At a continued public hearing held on January 22, 2024 relative to an Appeal of a Building Commissioner’s Decision under the Dennis Zoning By-law, the Board of Appeals voted unanimously to **DENY THE APPEAL AND UPHOLD THE BUILDING COMMISSIONER** in determining that the Building Commissioner was correct in their denial of a permit for the moving of the shed into a front setback.

Details of the hearing and decision are on file in the Planning and Appeals Office at the Dennis Town Offices as File ZBAPP-023269-2023.

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.


Peter Checkoway, Chair, Dennis Board of Appeals



Town of Dennis

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

February 7, 2024

Dear Sir or Ma'am,

Enclosed please find a copy of the decision letter resulting from your appearance before the Zoning Board of Appeals on January 22, 2024. Following the expiration of the twenty-day (20) appeal period on February 26th 2024 provided there are no appeals, this office will forward the original documents to you.

If you should have any questions or comments, please do not hesitate to contact this office by calling 508-760-6119.

Very truly yours,

Anna Pannell
Principal Office Assistant
685 Route 134
South Dennis MA 02660
Phone 508-760-6119
apannell@town.dennis.ma.us

Exhibit 11

Footnotes for 2.3.2:

¹Any structure having frontage on more than one street (i.e. corner lot, etc.) shall be set back from all streets a distance equal to the front yard setback requirement for the district.

²Where the rear lot line of a lot in a GC-I or Industrial District abuts a residentially zoned district, the rear yard setback shall be fifty (50) feet and shall conform to the standards set forth in Section 2.2.4.

³Where a lot is abutted at its street frontage by two (2) lots, each with existing buildings, the front yard setback requirement shall be determined by computing the numerical average of the existing front yard setbacks of those two abutting lots.

Where a lot is abutted at its street frontage by two (2) lots, one (1) of which has an existing building, and one (1) of which is a vacant lot, the front yard setback requirement shall be determined by computing the numerical average of the existing front yard setback on the built-upon lot and the required front yard setback for the zoning district. In no case shall the setback requirement be greater than the front setback for the Zoning District.

⁴Building Coverage Only – the percentage of the lot area, exclusive of wetland area, covered by the area of a building or building(s), refer to §5.B for definition of building.

⁵ Maximum total site coverage in the QNCP RP District shall be calculated by adding the square footage of the footprint of all structures, pools, patios, decks, parking, driveways (including gravel dirt or seashell) pavement, including street access drive, and “hardscape” including retaining walls and landscaping walls, but excluding walks, and dividing the total square feet thereby obtained by the total lot area in square feet.

⁶ Except as modified in Section 4.6.6.1.3.3 relative to land in the Quivet Neck/Crowe’s Pasture Scenic Vista Overlay District.

2.3.3 Supplementary Requirements

2.3.3.1 (Reserved)

2.3.3.2 Dwelling unit – two shall contain not less than twelve hundred (1200) square feet gross floor area.

2.3.3.3 No building shall exceed thirty-five (35) feet in height, except that spires, water tanks, chimneys, flag poles, and other structures normally built above the ridge and not devoted to human occupancy may be erected to such heights that are necessary to accomplish the purpose they are normally intended to serve.

2.3.3.4 No fence, wall, hedge, shrubbery, or other obstruction shall block vision of a public or private way two and one-half (2½) feet above street grade on a corner lot within a triangular area formed by the intersecting street lines and a straight line which joins points on such street lines twenty (20) feet from their intersection.

2.3.3.5 No structure other than a ramp, roadway, drive, walk, stairway, seawall, dock or boathouse shall be located within fifty (50) feet of the top of the bank of any river or stream having a year-round running flow of water, of any lake or pond containing one thousand (1000) square feet or more of water eleven (11) months of the year, coastal bank, or mean high water.

2.3.3.6 Accessory Structures

- a. A single accessory building with a footprint of 200 square feet or less, and a building height of no more than 15 feet:

- i. Shall not be located forward of the front face of the principal structure whose front face is seventy-five (75) feet or less from the street line. For corner lots the front face shall be determined by the street from which the property gains its street address;
 - ii. Shall not be placed less than seventy-five (75) feet from the street line when the front face of the principal structure is more than 75 feet from the street line.
 - iii. May be located within other setback areas in accordance with Section 2.3.2 provided no portion of the accessory building is located within two (2) feet of any lot line, and subject to appropriate screening requirements as determined by the Building Commissioner;
 - iv. Shall not be included in calculating: (a) maximum total site coverage under Section 2.3.2 (Intensity of Use Schedule); and (b) floor space under Section 2.4.1.2.D (Non-Conforming Conditions); and
 - v. Shall not be erected without a Zoning Compliance Certificate from the Building Department and is subject to all fees in accordance with the Building Department Fee Schedule.
- b. All other accessory structures:
- i. Shall be located in conformance with the required setbacks as found in Section 2.3.2 of this by-law;
 - ii. Shall be included in calculating (a) maximum total site coverage under Section 2.3.2 (Intensity of Use Schedule); and (b) floor space under Section 2.4.1.2.D (Non-Conforming Conditions);
 - iii. Shall not be placed forward of any face of the principal structure which is seventy-five (75) feet or less from the street line; and
 - iv. Shall not be placed less than seventy-five (75) feet from the street line when the principal structure is more than 75 feet from the street line.

2.3.3.7 In order to comply with the minimum square foot requirement, a lot must be a closed plot of land having a definite area and perimeter and having a shape number not exceeding the numerical value of 22, except that a lot may have a shape number larger than 22 provided that the site intended for building, is contained within a portion of said lot, which said portion meets the zoning requirements of the area in which it is located and has a shape number not exceeding 22. Ninety (90) percent of the required zoning area of such lot shall be contiguous upland.

2.3.3.8 Any panhandle lot shall have at least fifty (50) feet of frontage on a street or way. The panhandle portion of the lot shall be no less than thirty-five (35) feet in width, except such a width of 20 feet if shown on a plan endorsed by the Planning Board, prior to May 4, 1999 shall be exempt from this provision. Panhandle lots shall only be allowed for residential uses.

2.3.3.9 No more than two (2) panhandle portions of any two lots governed by Section 2.3.3.8 may be contiguous at the street line. Any panhandle lot existing prior to the adoption of this amendment, May 4, 1999, shall be exempt from this provision.

2.3.3.10 An animal kennel shall not be located within 100 feet of a lot line. The 100-foot setback shall apply to the kennel's principal building(s), accessory building(s), runs and exercise yards.

2.3.3.11 No construction or site preparation work shall be done on any land including the removal of living trees of greater than four (4) inch caliper, measured six (6) inches above grade or the removal of greater than ten percent (10%) of existing vegetation until all necessary permits and approvals have been obtained.

Exhibit 12



Town of Dennis

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

Address

ZBA SPECIAL PERMIT STAFF REVIEW Date

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:	Kantor Realty Trust, Susan J. Kantor Trustee C/O Moriarty, Bielan & Malloy Law, LLC
PROJECT ADDRESS:	568 Main Street. Unit E, West Dennis
MAP AND LOT NUMBER:	81-13
APPLICANT ADDRESS:	Moriarty, Bielan & Malloy Law, LLC, One Adams Place, 859 Willard Street, #440, Quincy, MA, 02169
CASE NUMBER:	ZBAPP-023269-2023
ZONING:	R-40
HEARING DATE:	November 27, 2023; continued to December 18, 2023

REQUEST	That the applicant is not subject to Dennis Zoning Bylaw §2.3.3.6.a.i-v (Zoning Compliance for Accessory Structures) for moving a shed.
PLOT PLAN	Existing Conditions Plot Plan prepared for Susan Kantor by Moran Engineering, 941 Main Street, Harwich, MA dated 10/2/2023.

PROPOSAL	Appealing the Building Commissioner denial of a request to locate a non-conforming shed within a setback requiring a variance at 568 Main Street Unit E.
PROJECT SUMMARY	<ul style="list-style-type: none">• 568 Main Street Unit E is a 0.16 acre (6,925 sf) parcel of land created behind 568 Main Street with several other dwellings that appears to have been a cottage colony at one time and is accessed by an unnamed private unpaved road/driveway on the west side of the house.• The site plan labels the access as "Private Right of Way for 560 Rte 28 (no legal access for #568 Main Street)".• The site plan also shows a "10' ROW to Beach" along the east side of the property running south to neighbors.• The site plan shows the 8.2' by 11.8' shed is currently 12.5' from the Private Way on the west and 11.8' from the southern border of the property.• A rinsing station, also known as an outdoor shower, appears to have been added in 2023 to the west side of the shed.• The actual vehicular entrance to the property crosses from the Private Way on the west between the south side of the house and the neighbor (Units C & D) and turns in on the east side of the house on the 10' ROW and turns back to the west with the car parking directly south of the house facing west. Neither GIS or Tax Maps show this access.• Site plan shows septic system is partly located in parking area.

	<ul style="list-style-type: none"> • On September 18, 2023 the applicant re-applied for the existing shed. The Building Commissioner denied stating the shed required a variance as it is in the front setback and was <i>"designated abandoned with Conservation filing and no zoning compliance Certificate (shed) application has been made for a new shed or new shed location"</i>. • In a follow-up request for enforcement signed by ZBA Chair: <ul style="list-style-type: none"> ○ <i>Shed was relocated from a non-conforming location to a more non-conforming location. Deck was replaced with a dry laid patio expanding the structural footprint in the front yard setback and expanded to be closer to the way shown on the attached plan. Patio is a structure under Section 5 Definitions: STRUCTURE An assembled combination of materials at a fixed location to give support or shelter, exclusive of boundary or retaining walls, fences, flag poles, self-contained heating or ventilating equipment and the like. The patio does not meet any of the tests for being exempt from setbacks and clearly provides support as illustrated on the landscape plan (attached) provided to the Conservation Commission.</i> • In the Appeal the appellant makes certain unsubstantiated claims about what the Building Commissioner said about the location of the shed. • Due to the extreme non-conforming nature of the property without any frontage on a real road, the front and rear of the property is disputed. <ul style="list-style-type: none"> ○ The appellant appears to think the front of the house is the side that faces the water (the north side); ○ The access to the house is on the west; ○ Main Street is to the south; ○ Cars access from the southeast corner; ○ Because cars cross the south of the property from the west and enter on the east it could be construed as a corner lot. • The appellant claims they are not subject to 2.3.3.6.a.i because they are more than 75 feet from Main Street, from which the property derives its address. • The appellant claims they are not subject to 2.3.3.6.a.v because the shed was pre-existing and was moved and not "erected". • At some point the shed was moved from near the water to a position next to the house. It was later repositioned and added to. • The appellant withdrew an application to the ZBA for a new larger shed at the hearing in March 2023 that had been approved by Conservation. <p>Aerial photographs indicate that in:</p> <ul style="list-style-type: none"> • April 2016 the shed was on the west side of the home aligned in a N-S position • A significant expansion of the bulkhead between April 2020 and March 2021. • Between March 30 and September 19, 2021 additional hardscape was added to the northwest side of the house. • By April 21, 2022 a pergola was built on the north side of the shed. The pergola appears to contain an outdoor kitchen. • Between April 21 and September 2, 2021, the shed was moved south and turned 45 degrees in an east-west orientation. • Between Sept. 2021 and April 21, 2023, a stockade fence was constructed along the west and south sides of the property.
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TOWN DEPARTMENTS COMMENTS:

- **PLANNING:**
 - The appellant claims they are not subject to 2.3.3.6.a.i because they are more than 75 feet from Main Street, nor do they think they are subject to 2.3.3.6.a.v because the shed was pre-existing and was moved and not “erected”.
 - The appellant does not seem to think they are subject to zoning code enforcement in any way as they have added to the shed with a shower and a patio and outdoor kitchen to the pergola. A stockade fence has been added to the property and an enclosed area between where the shed was and the house also seems to have appeared since the shed moved.
 - The site is constrained due to its extreme non-conformity and lack of clear frontage on a real road. However, this situation should make the property more subject to oversight rather than less rather than avoid permitting due to semantics.
 - Despite the appellants claims, the Building Commissioner has suggested to the appellant where the shed could legally go. The Building Commissioner suggests the shed can be legally placed directly to the south of the house in the parking area.
 - The appellant does not like this answer because this would make parking on the site more difficult and the septic is partly in that area.
 - The appellant has created a nice space for themselves but the non-conforming site is constrained and the incremental development of the house and property is and must be subject to zoning code compliance.

- **ENGINEERING:**
 - All completed sitework should be reviewed for compliance with the intent of the Stormwater By-Law. All runoff should be contained and infiltrated within the property boundary. Runoff should not flow to abutting properties, or the resource areas.
 - Roof runoff from all structures should be directed to subsurface structures or stone drip trenches for infiltration.
 - Any outdoor rinsing station or showers should be directed to infiltration areas, and not cause any runoff to flow to abutting properties.
 - Adequate area for parking and vehicle maneuvering within the property should be confirmed.
 - The current status and description of the 10ft. ROW “to the beach” should be confirmed. If access is permitted, adequate means to access the beach over the ROW should be provided. The legal status of any development, improvements or structures in any current ROW should be verified.

Exhibit 13

NOT NOT
A N A N

~~We~~ Robert E. Marsden and Florence H. Marsden, husband and wife,
as ~~Grantors~~ ~~by~~ ~~deed~~ ~~of~~ ~~record~~, both O F F I C I A L

C O P Y C O P Y

of Dennis, (West), Barnstable County, Massachusetts,
~~was~~ for consideration paid, grant to Lester E. Edwards and Eleanor F. Edwards,
husband and wife as tenants by the entirety and joint tenants or
tenants in common, both
of Milton, in the County of Norfolk A N with quitclaim covenants
all my right, title, and interest in and to
the land in Dennis (West) in the County of Barnstable and Commonwealth of
Massachusetts, bounded and described as follows:

A certain tract or parcel of cleared land located south of land
now owned by said Lester E. Edwards and more particularly bounded and
described as follows:-

Beginning at a point at the southwesterly corner of the premises
herein conveyed at a post and at a small fence at land now or formerly
of Arthur Wade; thence easterly along said small fence by land of the
grantor herein thirty-two (32) feet more or less to a point at other land
of M. A. S. den; thence northerly by said other land of Marsden
ninety-seven (97) feet to a point at land of the grantees herein; thence
westerly by land of the grantee herein forty-five (45) feet to a point
at land now or formerly of Arthur Wade; thence southerly by said land
now or formerly of Arthur Wade ninety-seven (97) feet to the place of
beginning.

Also a right of way to pass over and upon, by vehicle or on foot
or otherwise, a 12-foot strip of land owned by the grantor herein, which
12-foot strip of land extends from Grand Cove so-called on the north
to the main highway known as Route #28 on the south, with all rights of
ingress and egress to and from the land of said grantee over and upon
the said strip of way, either to Grand Cove so-called on the north or
to the main highway known as Route #28 on the south. The said strip of
land is twelve (12) feet in width and extends from the main state high-
way known as Route #28 along the easterly side of other land of said
grantor and along the easterly side of other land of said grantee to
the beach on the shore of Grand Cove so-called. It is understood in
this conveyance that an easement or perpetual right of way shall be
created and established in favor of the said grantee and those holding
his lands after him, forever, which easement and right of way includes
the right to pass over the said 12-foot strip of land in a northerly
direction to Grand Cove so-called, or in a southerly direction to the
main state road known as Route #28 so that an easement of ingress and
egress on foot or by vehicle to and from the land of said grantee,
either to or from said Grand Cove or to or from said state highway,
shall be created and established by this conveyance.

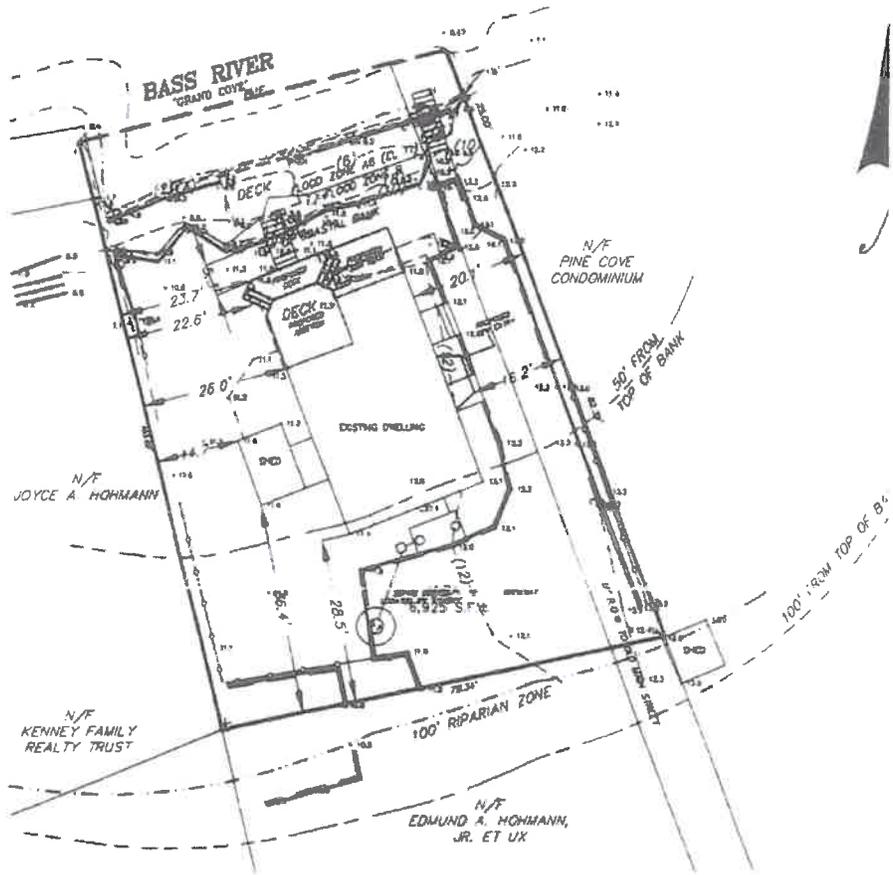
This conveyance is made subject to real estate taxes of the Town
of Dennis (West) for the year 1942.

The consideration for this conveyance is less than \$100.00.

Witness my hand and seal this _____ day of _____ 1942

Robert E. Marsden
Florence H. Marsden
To hold.

Exhibit 14



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

9/29/10 *[Signature]*
 DATE PROFESSIONAL LAND SURVEYOR

LOCATION MAP

ASSESSORS MAP 81 PARCEL

**PROPOSED PLOT P
 WEST DENNIS, MA
 2006 SWEETSER PLAN**

DATE	9/29/10	SCALE	1" =
JOB	6440-00	CLIENT	HENE
SWEETSER ENGINEERING 203 SETUCKET ROAD PO BOX 713 SOUTH DENNIS, MA OFF. 508-385-6900 02880 FAX 508			

Exhibit 15

Hotel/Motel Suite – A number of connected rooms in a hotel or motel forming one living unit.

INSTITUTIONAL USE, OTHER A public service use operated or run by a nonprofit corporation or organization which is not entitled to exemption from zoning requirements as set forth in M.G.L. c.40A, §3.

Laundry facilities – Areas for washing clothing/linens intended to serve the needs of the guests of a Hotel, Motel or Hotel/Condo property.

LIGHT INDUSTRY A use which involves the processing, assembling, or packaging of previously prepared or refined materials, provided that at no time will such use result in or cause: Excessive dust, smoke, smog, observable gas, fumes or odors, or other atmospheric pollution, objectionable noise, glare, or vibration discernable beyond the property lines of the industry, hazard of fire or explosion or other physical hazard to any adjacent building or land, or to surface or groundwater.

Including, but not limited to, food and associated industries such as: wholesale bakeries, packaging and/or bottling of food, winery and small brewery.

LODGING HOUSE A building in which living space, with or without common cooking facilities, is let for compensation to four (4) or more persons who are not within the second degree of kinship to the owner or operator, as defined by civil law, but not including a hotel, motel, motor court, or a building in an educational or philanthropic use.

LOT A parcel of land not divided by a street, in one (1) ownership, with definite boundaries ascertainable by recorded plan or deed, and used or set aside and available for use as the site of one (1) or more buildings or for any other definite purpose.

LOT AREA The horizontal area of a lot exclusive of any area within a street. A maximum of ten percent (10%) of the lot may be wetland as defined under M.G.L. c.131.

LOT FRONTAGE Continuous portions of the street line over which automobiles have legal and physical access from the lot.

LOT LINE A line bounding a lot.

LOT SHAPE NUMBER The number resulting from the division of the square of the perimeter by the area of the lot or said portion thereof.

LOT WIDTH The horizontal distance between lot lines measured parallel to the street line at the back of the required front yard.

MARINE USE A commercial or industrial activity serving or deriving its nature from water crafts, including but not limited to boat storage, repair or maintenance, sale and service of water crafts, motors, electronic, and other goods or services associated exclusively with water crafts.

MAXIMUM TOTAL SITE COVERAGE Maximum total site coverage shall be calculated by adding the square footage of the footprint of all structures, parking, pavement, including street access drive, but excluding walks, and dividing the total square feet thereby obtained by the total lot area in square feet.