



Town of Dennis

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257 Old Wharf Road U-6

ZBA SPECIAL PERMIT STAFF REVIEW – November 4, 2025

APPLICANT:	Simon Peter Kotzeff C/O Paul R Tardif
PROJECT ADDRESS:	257 Old Wharf Road, Unit 4, Dennisport MA 02639
MAP AND LOT NUMBER:	Map 20 Lot 32 (50,400 sf – 1.15 acres)
APPLICANT ADDRESS:	490 Main Street, Yarmouth Port, MA 02675
CASE NUMBER:	ZBAS-25-26
ZONING:	Resort Residential Zone
HEARING DATE:	July 28 2025

1. **Project Summary; Request per Zoning Bylaw; Plan Citations**
2. **Plans Specifications; Basic Site Data**
3. **Actions Requiring Findings**
4. **§ 1.4.2.1 Special Permit Granting Authority – Criteria and Proposal**
5. **Town Department Comments**
6. **Proposed Conditions**

PROPOSAL	Demolish a single-story 712 sf detached condominium unit built in 1953 with a 2-story condominium structure with a finished walkout basement and four (4) bathrooms.
PROJECT SUMMARY	<ul style="list-style-type: none"> • Project is Unit 6. Unit 4 on the map but 20-32-6 on the Assessors Building Card and is a single-family structure in a cottage colony on shared common land. • The Cottage Colony has 7 single family dwellings and a garage built in approximately 1953 on about 1.15 acres (50,400 sf - 42,015 sf of upland). • The existing structure is a single-story, 2-bedroom single-family seasonal cottage with a footprint of 712 sf (35.5' X 20') with a crawl space. • The proposed structure is a two-story, 2-bedroom, 2-bathroom single-family seasonal cottage with a footprint of 640 sf (32' X 20'). • The proposal decreases the footprint and moves the structure 2 feet further from the side boundary and further forward. • The project was referred under § 2.4.1.2.F because it is part of a cottage colony and thus subject to higher setbacks (50'). The structure itself is a single-family structure and thus may be interpreted as entirely in non-conforming area per § 2.4.1.2.D.2, which only allows such single-family structures to increase by 40 %. • The project was before the Board earlier this year but was withdrawn without prejudice and has been revised to conform with the dimensional requirements.
REQUEST	<p>§ 2.4.1.2.F -Activities Requiring a Finding of Substantially More Detrimental for Structures Other Than Single and Two Family Structures With Setback Non-Conformities</p> <p>In the following circumstances, alteration, reconstruction, extension or structural change (collectively "alteration") to structures other than single or two family residential structures shall be considered to increase the intensity of an existing non-conformity and shall be considered to create additional non-conformities and shall be</p>

	<u>considered to be substantially more detrimental than the existing nonconforming structure to the neighborhood: ((F.4) The voluntary demolition and reconstruction of a building or structure nonconforming by dimension 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 Board of Appeals.</u>
PLOT PLAN	Site Plan of Unit 4, 257 Old Wharf Rd., Dennisport, MA prepared for Simon & Laura Kotzeff by Moran Engineering Assoc. 941 Main Street (Rte. 28), Harwich, MA. Plan consisting of 1 sheet with existing and proposed conditions, Septic System Profile and Design with Test Hole Logs. Plan dated 6-19-2025; Revised 10-15-25 by Michael Ladue and Daniel Croteau.
BUILDING PLANS	Plan of #4, 257 Old Wharf Rd. Dennisport, MA prepared for Simon & Laura Kotzeff by Ric Roy Construction 123A Queen Anne Road Harwich, MA 02631. Plan consisting of 3 Sheets with, Proposed Front Elevation, Proposed Right Elevation (x2), Proposed Left Elevation, Proposed 1 st Floor Plan, Proposed Basement Plan (x2), Proposed 2 nd Floor Plan, and Hold Down Key. Existing Plan dated May 12, 2025; Proposed Plan dated October 14, 2025.

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	42,015 sf
NAMES OF STREETS	Yes
NAMES OF ABUTTING PROPERTY OWNERS	No
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 TOPOGRAPHY AND/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	100'	60.5'	60.5'
Front Setback	50'	236'	247'
Right Side Setback	50'	51.3'	49.3' (50.1' on plan)
Left Side Setback	50'	9.6'	10.9'
Rear Setback	50'	256'	259'
Lot Area	320000sf	42,015sf	42,015sf
Lot Width	150'	100'	100
Non-conforming floor space within Setbacks	40	678	948
D2. Increase in new non-conforming floor space by more than 40% within any 10-year period	271 sf		39%

Cumulative footprint size of all structures	10,503	5,300	5,205
Cumulative lot coverage (footprint) percent for all	15%	12.6%	10.4%
Cumulative floor space of all structures (F.A.R.)			
Cumulative floor space to lot area % all structures	30%		N/A

§ 2.4.1.2 F Activities Requiring a Finding of Substantially More Detrimental for Structures Other Than Single- and Two-Family Structures With Setback Non-Conformities

<p>In the following circumstances, alteration, reconstruction, extension or structural change (collectively "alteration") to structures other than single- or two-family residential structures <u>shall be considered to increase the intensity of an existing non-conformity and shall be considered to create additional non-conformities and shall be considered to be substantially more detrimental than the existing nonconforming structure to the neighborhood:</u></p>	
ACTION	FINDING
F1 The creation of any new non-conformity where no non-conformity currently exists.	Revised plan conforms to 40% rule.
F4 The voluntary demolition and reconstruction of a building or structure nonconforming by dimension <u>unless it conforms with the dimensional regulations</u> of the zone in which it is located <u>or the non-conforming nature of the new proposed structure is found to be substantially less non-conforming by the Board of Appeals.</u>	

§ 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; **Revised plan is suitable to the "quality of a rural seaside".**
- 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; **Revised single-family seasonal cottage should not increase traffic to the site with no parking.**
- 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 should not generate additional light or other sources of nuisance as conditioned.**
- 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 revised proposal without a full basement should not affect the natural environment and slope.**

TOWN DEPARTMENTS COMMENTS:

- **PLANNING:**
 - The project has been revised to conform to the zoning bylaw. Because this is a cottage colony, the side setbacks are 50 feet. Therefore, the cottage can only increase by less than 40%.
 - The Board can find that a lawful pre-existing non-conforming structure exists on the property and the proposed reconstruction, as conditioned, will not be substantially more detrimental to the neighborhood than the existing structure and can be found to be substantially less non-conforming.
- **NATURAL RESOURCES:** Not in Conservation jurisdiction.
- **HEALTH:** Board of Health approved project in July 2025. Floor plans submitted with this application do not reflect BOH approved floor plans. Modifications to approved plans must go back before the Board of Health. Also pending 2-bedroom deed restriction and signed and recorded variance paperwork.
- **ENGINEERING:**
 - This project as presented does not alter >500sf of ground area and is not required to meet the intent of the Stormwater By-Law.
 - Engineering recommends providing linear erosion controls (silt fence/wattles) as necessary during construction to prevent discharge of stormwater or sediment to adjacent properties or the road layout.
 - Contractor shall maintain paved surface of Scott Tyler Road in condition free of sediment for duration of project.
 - Roof drains directed to properly sized subsurface drywells or stone trenches should be provided for new construction (and existing dwelling as required).

PROPOSED CONDITIONS	<ol style="list-style-type: none"> 1. The lot owners shall apply for all required permits and will comply with the intent of the Dennis Stormwater By-law, all requirements of the Dennis Conservation Commission and Board of Health and any other permits that are required. 2. Construction shall not commence before 7:00 am nor continue after 7:00 pm Monday through Friday and shall not commence before 7:00 am nor continue after 5:00 pm on Saturdays. No construction shall occur on Sundays or legal holidays. 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 Board of Health Permit shall be deemed cause to revoke the ZBA Special Permit. 5. Any off-street parking shall be a pervious surface. 6. Construction vehicles shall not park in or block the road. 7. Grading should be limited to what is absolutely necessary. Disturbed areas should be stabilized and revegetated as soon as practical following construction to minimize erosion. Additional screening should be provided in areas where vegetation is removed or the grade is altered. 8. There shall be no exterior construction (including foundation work) or heavy equipment between the Friday before July 4 and the day after Labor Day.
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