



Town of Dennis

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

43 POND STREET, U-5, WD

ZBA SPECIAL PERMIT STAFF REVIEW – January 22, 2026

APPLICANT:	Nicola Kavanagh C/O Kieran Healy of BSC Group
PROJECT ADDRESS:	43 Pond Street, Unit U-5, West Dennis MA 02670
MAP AND LOT NUMBER:	Map 46 Lot 1; Unit 5 (0.114 acres (Is not marked) – 16,8822sf)
APPLICANT ADDRESS:	349 Route 28, Unit D, West Yarmouth, Default 02673
CASE NUMBER:	ZBAS-25-59
ZONING:	R-40; AE Flood Zone
HEARING DATE:	January 26, 2026

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	Addition to an existing dwelling unit
PROJECT SUMMARY	<ul style="list-style-type: none"> • The proposal is an <u>addition</u> to a non-conforming Seasonal Cottage built in 1935. • The addition is an 8’-12’ deep by 28.4’ wide two-story tall structure with open cathedral ceiling (approximately 267 sf). • The proposed addition is an ESA, within the 50’ coastal bank and the 100’ wetland buffers but is on the street side of existing building. • This is one of 14 detached houses on 3.88-acre Seasonal Cottage Colony condo. lot. • Due to potential “Substantial Improvement” in a Flood Zone issue, they are in the process of filing the cost worksheet and appraisal for the Building Department.
REQUEST	<p><i>Finding per: § 2.4.1.2.E - Special Permit Required For Structures <u>Other Than Single and Two Family Structures With Setback Non-Conformities.</u></i></p> <ul style="list-style-type: none"> • <i>For other structures with setback nonconformities, an addition within the nonconforming setback area (including an increase in building height) shall be deemed to increase the nonconforming nature of the structure. Such pre-existing nonconforming structures may be extended, altered or changed by Special Permit, provided the Zoning Board of Appeals issues a special permit and <u>finds that such extension, alteration or change will not be substantially more detrimental to the neighborhood subject to the following provisions.</u></i> • <i>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 require a finding by the Board of Appeals that such change, extension or alteration shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood:</i>

	5. <u>Increase in the footprint of a structure that does not comply with one or more required setbacks where the alteration will extend lot coverage or building height where a structure does not conform to current setback requirements;</u>
PLOT PLAN	Site Plan of 43 Pond Street Unit 5, West Dennis, Massachusetts prepared for Nicola Kavanagh, 75 Webb Street Salem, MA 01970 by BSC Group, 349 Main Street-Route 28 West Yarmouth, Massachusetts 02673. Plan consisting of 1 sheet with existing and proposed conditions, Septic System Profile and Design with Test Hole Logs. Plan dated 12-17-2025 by Kieran Healy.
BUILDING PLANS	Building Sketches of 43 Pond Street Unit 5, West Dennis, Massachusetts. Plans consisting of 7 sheets with plans and elevations. Hand Drawn plans. No Stamp or signature.

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	168,822 sf
NAMES OF STREETS	Yes
NAMES OF ABUTTING PROPERTY OWNERS	Yes
DISTANCES EXISTING AND PROPOSED STRUCTURES TO PROPERTY LINES	Yes
PROPOSED ADDITONS/ALTERATIONS OF EXISTING BLDGS W/ SETBACKS	Yes
PROXIMITY OF WETLANDS	Yes
EXISTING AND PROPOSED TOPOGRAPHYAND/OR OTHER LAND ISSUES	Yes
DIMENSIONS OF EXISTING AND PROPOSED STRUCTURES	Yes
ARCHITECTURAL DRAWINGS ILLUSTRATING THE PROPOSED CONDITIONS	Yes
ARCHITECTURAL DRAWINGS ILLUSTRATING THE EXISTING CONDITIONS	Yes

Basic Site Data	Required/ Allowed	Existing	Proposed
Frontage	150'(In App)	383.74' (In App)	383.74' (In App)
Front Setback	25'	26.3' (In App)	26.3' (In App)
Right Side Setback	15'	3.2'(In App)	3.2'(In App)
Left Side Setback	15'	24.7'(In App)	24.7'(In App)
Rear Setback	25'	21.7'(In App)	21.7'(In App)
Lot Area	40,000sf	168822sf	168822sf
Lot Width	150'(In App)	203'(In App)	203'(In App)
Non-conforming floor space within Setbacks	0	33	33
D2. Increase in new non-conforming floor space by more than 40% within any 10-years	0	0	0
Cumulative footprint size of all structures		7,566 sf	7,834 sf
Cumulative lot coverage (footprint) percent for all	15%	4.48%	4.64%
Cumulative floor space of all structures (F.A.R.)			
Cumulative floor space to lot area % all structures	30%		NA

§ 2.4.1.2 E Special Permit Required For Structures **Other Than 1 or 2 Family** with Setback Non-Conformities

ACTION	FINDING
E5 Increase in the footprint of a structure that does not comply with one or more required setbacks where the alteration will extend lot coverage or building height where a structure does not conform to current setback requirements;	

§ 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.**
- 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:**
 - The addition does not technically encroach on any setbacks because the setbacks in a cottage colony are measured from the larger property bounds. The proposed addition will bring the front of the house from about 20’ off the gravel drive to within 10’ at the stoop.
 - Other cottages in the colony have similar setbacks from the grave; drive.
 - Due to the location of the property in a dense residential neighborhood near the water, the time of year construction and not blocking the road conditions have been added.
 - The proposal is likely to need to be flood compliant. Proposal is within the building envelopes and bulk thresholds for the cottage colony.
 - The Board can find that a lawful pre-existing non-conforming structure exists on the property and the proposed addition, as conditioned, will not be substantially more detrimental to the neighborhood than the existing structure *to the neighborhood*.
- **NATURAL RESOURCES:** The Conservation Commission has approved the project and issued an Order of Conditions on 12/19/25

- **HEALTH:** Property located in an Environmentally Sensitive Area. Board of Health hearing on January 8, 2026 approved the project with the inclusion of disinfection to the septic system.
- **BUILDING:** Seasonal use Cottage condominium.
 - The property is an ESA and Coastal Bank buffer subject to BoH and Conservation
 - The Building Department will require an engineered stamped flood compliant foundation plan for the entire building because the building is in the AE flood and likely a substantial improvement (SI). The contractor has been given the paperwork to fill out for Substantial Improvement.
- **ENGINEERING:**
 - The project as presented has the potential to alter greater than 500sf of ground, and is therefore required to meet the intent of the Town of Dennis Stormwater By-Law.
 - Roof drains discharging to subsurface infiltration areas or stone trenches along the drip line should be provided for new construction, and existing dwelling as required.
 - 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. These controls should be installed and maintained until all work is completed and any stabilization efforts are completed.
 - All work should be in conformance with approved Conservation Order of Conditions.

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. 3. The addition shall not generate new light, noise, litter, odor or other sources of nuisance. Any new lighting shall be restricted to downward-shielded motion sensitive security lighting that is “Dark-Sky” compliant. 4. Failure to comply with all conditions in the Conservation Commission Order of Conditions or Board of Health Permit shall be cause to revoke the ZBA Special Permit. 5. Any off-street parking shall be a pervious surface. 6. Construction vehicles shall not block the road. 7. 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. Additional screening should be provided in areas where vegetation is removed or the grade is altered. 8. The contractor shall be responsible for maintaining the road in a condition free of accumulated sediment during construction and all drainage and erosion control measures as suggested by town engineering shall be implemented. 9. There shall be no exterior construction (including foundation work) or heavy equipment between the Friday before July 4 and the day after Labor Day or on legal holidays. 10. The ground floor area denoted on the approved plans as “open” must remain open with uses limited per code.
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