



Town of Dennis

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

**149 OLD WHARF ROAD, DP**

**ZBA SPECIAL PERMIT STAFF REVIEW – Date of S.R.**

<b>APPLICANT:</b>	Michael R Banas ET UX C/O Kieran Healy of BSC Group
<b>PROJECT ADDRESS:</b>	149 Old Wharf Road, Dennis Port MA 02639
<b>MAP AND LOT NUMBER:</b>	Map 18 Lot 183 (0.14 acres – 3,832 sf)
<b>APPLICANT ADDRESS:</b>	349 Route 28, Unit D, West Yarmouth, 02673
<b>CASE NUMBER:</b>	ZBAS-25-60
<b>ZONING:</b>	Resort Residential (RR); Flood Zone: VE
<b>HEARING DATE:</b>	February 23, 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**

<b>PROPOSAL</b>	Raze and Replace of a Single-Family dwelling
<b>PROJECT SUMMARY</b>	<ul style="list-style-type: none"> <li>• The proposal is a <u>voluntary demolition</u> of a non-conforming one-story single-family house built in 1943 and located within 50 feet of a coastal bank to be replaced by a larger raised one-story single-family house on a non-conforming lot.</li> <li>• Building will have one floor of living space and will be elevated to allow parking underneath half of the structure.</li> <li>• Septic system in an Innovative / Alternative septic system and the septic treatment tank will be relocated to the front of the new piled structure.</li> <li>• A deviation from the initial disturbance within the setback lines is requested and is listed in the proposed application and will remain under 40% (30% increase proposed). This results from the stairs and landing to get from the existing grade to the elevated structure. According to the applicant, the deck on the rear is being reduced and the building is being moved towards the street.</li> <li>• Entrance to building is on side and rear as any stairs in front would not comply with the street setback.</li> </ul>
<b>REQUEST</b>	Finding per: <b>§ 2.4.1.2.C.</b> - Special Provisions for Relocation/Recon. of 1 or 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 found to be substantially less non-conforming.
<b>PLOT PLAN</b>	Site Plan of 149 Old Wharf Road, Dennis Port MA prepared for Michael Banas, 63 Main St Easthampton, MA 01027 by BSC Group 349 Route 28, Unit D, West Yarmouth, 02673.

	Plan consisting of 1 sheet with existing and proposed conditions, Septic System Profile and Design with Test Hole Logs. Plan dated January 8, 2026 by Kieran Healy.
<b>BUILDING PLANS</b>	Plan of 149 Old Wharf Road, Dennis Port MA prepared for Michael Banas by KRA Architecture & Design 7Johnson Way #2A Bluffton SC29910. Plan consisting of 3 sheets with Cover Page/ Engineer Review, Floor Plan & Reflected Ceiling Diagram, and Elevations. Plan dated 11-24-2025 by R. Ruiz and J. Isaman.

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	3832sf
NAMES OF STREETS	Yes
NAMES OF ABUTTING PROPERTY OWNERS	Yes
DISTANCES EXISTING AND PROPOSED STRUCTURES TO PROPERTY LINES	Yes
PROPOSED ADDITONS/ALTERATIONS OF EXISTING BLDGS W/ SETBACKS	Yes
PROXIMITY OF WETLANDS	Yes
EXISTING AND PROPOSED TOPOGRAPHYAND/OR OTHER LAND ISSUES	Yes
DIMENSIONS OF EXISTING AND PROPOSED STRUCTURES	Yes
ARCHITECTURAL DRAWINGS ILLUSTRATING THE PROPOSED CONDITIONS	Yes
ARCHITECTURAL DRAWINGS ILLUSTRATING THE EXISTING CONDITIONS	Yes

Basic Site Data	Required/ Allowed	Existing	Proposed
Frontage	50'(150' in app)	56.7'	56.7'
Front Setback	25'	33.5'	28.8'
Right Side Setback	15'	2'	2.2'
Left Side Setback	15'	16.5'	10.8'
Rear Setback	25'	34'	44'
Lot Area	40,000	3832sf	3832sf
Lot Width	100'	56.4'	56.4'
Non-conforming floor space within Setbacks		245	244
D2. Increase in new non-conforming floor space by more than 40% within any 10-year period	0	0	0
Cumulative footprint size of all structures	575	728 sf	1,043 sf
Cumulative lot coverage (footprint) percent for all	15%	19%	27.2%
Cumulative floor space of all structures (F.A.R.)	1149	684 sg	910 sf
Cumulative floor space to lot area % all structures	30%	17.9%	23.8%

§ 2.4.1.2 C - Special Provisions for Reconstruction 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	
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§ 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 and, as conditioned, may improve the relation to the street.**
- 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 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, as conditioned, should not degrade the natural environment.**

#### **TOWN DEPARTMENTS COMMENTS:**

- **PLANNING:**

- The property is an ESA, Coastal Bank buffer and Velocity Zone subject to BoH, Conservation and Flood Plain Coordinator review and approval.
- The new house improves the front setback non-conformity from 33.5' to 28.8'; the right setback from 2' to 2.2'; and the rear setback from 34' to 44'. The left side setback to the house is conforming to the side setback (15"), but the deck crosses the setback to 10'8" to allow for the second egress on the rear (ocean side) of the proposed house.
- The existing access to the site is a two-car wide sandy area with an asphalt apron close to the westerly neighbor. The proposal is to park under the building. The access should be narrowed to allow to a thicker vegetated buffer along the westerly property line and cars should back out of the parking area underneath the building and enter the street forward facing.
- 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.
- Per § 6.4 Special Provisions for Lifting Existing Structures to New and Appropriate Elevations  
*(1) Notwithstanding the provisions of any other provision of the Dennis Zoning By-law to the contrary, except as otherwise provided pursuant to paragraph (3) of this subsection, a person shall be allowed to lift an existing structure located in an Area of Special Flood Hazard to a new and appropriate elevation, or constructing a staircase or other attendant structure necessitated by*

*such raising without the need for Board of Appeals relief, provided, however, this exemption shall apply only to the minimum extent or degree necessary to allow the structure to meet the new and appropriate elevation with adequate means of ingress, egress ...*

- (2) *Appurtenant to lifting an existing structure, the existing structure may be relocated elsewhere on the lot as long as said relocation does not create a new, or increase the intensity of a setback nonconformity. For the purposes of accomplishing meeting the new and appropriate elevation, the restrictions found in Section 2.4.1.2 D 2 (a.k.a. the 40% rule) shall not apply.*
- (3) *The exemption established pursuant to paragraph (1) of this subsection shall not be available to a person who has altered or is seeking to alter the original dimensions of a structure if, had the alteration not been made, the structure could have been raised to meet the new and appropriate elevation either without the exemption or with an exemption of lesser degree than is needed with the alteration.*

- It appears the existing aged structure would be difficult to elevate as is.
- The proposal is larger than the existing house, but it is flood compliant, improves a couple of setbacks and, as conditioned, allows for cars maneuvering on site rather than backing into a busy road.
- 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.
- **NATURAL RESOURCES:** Proposed project has been reviewed and approved by the Conservation Commission. An Order of Conditions was issued in December of 2025.
- **HEALTH:** Project approved at 1/8/26 BOH meeting with conditions.
- **BUILDING:** Elevated building will be less non-conforming by making it flood compliant.
- **ENGINEERING:**
  - Project appears to result in a ground disturbance greater than 500 sf and is therefore required to meet the intent of the Stormwater By-Law.
  - Provide temporary construction period linear erosion controls as close as practical to the area of work, and as specified in the Order of Conditions issued by the Conservation Commission.
  - Runoff from roof areas should be collected and directed to shallow subsurface infiltration areas, or stone areas along the drip line to prevent erosion and scour of sand surfaces.
  - Post construction grading of the natural sand surface should incorporate means to collect and infiltrate runoff on-site and limit flow toward the resource areas. Driveway to be graded to natural areas on-site & not discharge to abutting properties, resource area, or road layout.
  - The proposed parking area beneath the structure appears to be an extension of the existing natural surfaced parking area which currently extends to the front of the existing structure.
  - Existing and proposed parking areas do not provide the required 10ft. vegetated buffer per 2.3.4.1.b. The applicant should consider any driveway and parking revisions that may provide a 10ft. buffer, or increase the horizontal setback to the maximum extents practical. Any means to provide additional screening via fence or vegetation should be considered if the driveway will be located along, or within 10ft. of the property line.
  - The plan indicates both the existing dwelling and the proposed piling foundation/new dwelling are located 2ft. from the western property line. The applicant/contractor should provide a clearly defined means and methods for construction to ensure work to remove the existing dwelling and construct the new piling foundation will not encroach over the western property boundary. Agreement should be made with the owner of the abutting property.
  - Pre-construction conditions of the abutting structure and surface on Parcel 184, as well as surface conditions on the Town Owned Parking lot on Parcel 91, should inspected and reported prior to any work being performed at the site. These conditions should be

monitored during construction, and any impacts reported and resolved. At the conclusion of work a final inspection should be performed of the same structure and surfaces to ensure no damage or substantial change to existing conditions has occurred as a result of the work. A determination will need to be made who will perform the inspections, and to whom the reports will be provided for review.

- Contractor shall utilize existing driveway for parking of vehicles, staging of equipment, and storage of materials. Construction vehicles shall not park in Old Wharf Road for extended periods of time as to impede traffic flow. Beach parking lot adjacent to the site shall not be utilized for parking of vehicles, storage of materials or staging of equipment, unless approved by the Town of Dennis.
- The Contractor shall maintain the paved surface of Old Wharf Road free of sediment during construction. Daily sweeping of sediment tracked from the site is recommended.
- The Contractor shall be responsible for any damage to the paved surface of Old Wharf Road, paved sidewalk or granite curb along the property frontage. Safe pedestrian travel shall be maintained along the sidewalk route at all times during construction. Appropriate signage, barricades etc, shall be utilized to direct pedestrian traffic as necessary.

- **POLICE/FIRE:**

<b>PROPOSED CONDITIONS</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 Conservation Commission Order of Conditions or 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. The access to the site should be narrowed to allow to a thicker vegetated buffer along the westerly property line and cars should back out of the parking area underneath the building on the subject property to allow vehicles to enter the street facing forward.</li> <li>7. Grading should be limited to what is absolutely necessary and as much existing vegetation 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.</li> <li>8. The contractor shall be responsible for maintaining the road in a condition free of accumulated sediment during construction and all appropriate drainage and erosion control measures as suggested by town engineering comments shall be implemented.</li> <li>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.</li> </ol>
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10. The area below the “lowest horizontal member” on the approved plans should remain open as limited per code.
11. Construction vehicles shall not park in or block the road or adjacent Town of Dennis beach parking lot. Contractor shall utilize the existing driveway for parking of vehicles, staging of equipment, and storage of materials.
12. The Contractor shall maintain the paved surface of Old Wharf Road free of sediment during construction. Daily sweeping of sediment tracked from the site is recommended.
13. The Contractor shall be responsible for any damage to the paved surface of Old Wharf Road, paved sidewalk or granite curb along the property frontage. Safe pedestrian travel shall be maintained along the sidewalk route at all times during construction. Appropriate signage, barricades etc., shall be utilized to direct pedestrian traffic as necessary.
14. Surface conditions on the Town Owned Parking lot on Parcel 91, should inspected by the Engineer of Record and reported prior to any work being performed at the site. These conditions should be monitored during construction, and any impacts reported and resolved. At the conclusion of work a final inspection should be performed by the Engineer of Record of the structure and surfaces to ensure no damage or substantial change to the parking lot.
15. Proposal must be reviewed and approved by the Flood Plain Coordinator.
16. 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.