



Town of Dennis

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255 LOWER COUNTY ROAD, DP

ZBA SPECIAL PERMIT STAFF REVIEW – March 19, 2026

APPLICANT:	Epsilon Portunus LLC C/O Kieran Healy BSC Group
PROJECT ADDRESS:	255 Lower County Road, Dennis Port MA 02639
MAP AND LOT NUMBER:	Map 37 Lot 36 (0.25 acres – 23,170 sf)
APPLICANT ADDRESS:	349 Route 28, Unit D, West Yarmouth, Default 02673
CASE NUMBER:	ZBAS-26-12
ZONING:	RR; Floodzone: AE
HEARING DATE:	March 23, 2026

PROPOSAL	Elevate (in the same footprint) two non-conforming structures built in 1960 and located within 50 feet of a coastal bank on a non-conforming lot.
PROJECT SUMMARY	<ul style="list-style-type: none"> • Proposal is elevating (in the same footprint) two non-conforming structures built in 1960 and located within 50 feet of a coastal bank to be and converted to four residences (2 each approved by PB) increasing the height on a non-conforming lot. • The proposal also seeks to revoke a previous variance granted to convert the two buildings to commercial. A Permit was granted in 2002 for a change of use to allow the opening of an antique/gift shop in a pre-existing non-conforming structure. • Property has two existing buildings constructed in 1960. One 1,224 sf building and one 960 sf building. The proposed new elevated dwelling units will conform to current FEMA requirements and as such will be elevated on new foundations. • The proposed building coverage is currently 10% and will not change. • A filing with the Board of Health is ongoing. The Dennis Conservation Commission has approved and has issued an Order of Conditions. • Plantings are proposed along the easterly edge of property to eliminate parking adjacent to the intersection of Lower County Road and Shad Hole Road.
REQUEST	Finding per § 2.4.1.2.B - Actions Requiring a Finding that the proposal is NOT Substantially More Detrimental (B.3) Increase in building height for any structure with a non-conformity subject to item B1 above if the increase in height is located within the portion of the structure that is non-conforming or for any structure covered by item B2 above; and 2) Rescind Variance for change of use to commercial.
PLOT PLAN	Site Plan of 247 & 255 Lower County Rd Dennis Port, Massachusetts prepared for Sanddollar Customs LLC, 182 Old Townhouse Rd, Suite 1 West Yarmouth, MA (02673) 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 December 23 2025; Revised 2-16-2026 by Kieran Healy.

BUILDING PLANS	None
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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	23,170 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'	347.47'	347.47'
Front Setback	50'	19.3'	19.3'
Right Side Setback	50'	113.4'	112.4'
Left Side Setback	50'	74.7'	74.7'
Rear Setback	50'	8.3'	8.3'
Lot Area	40,000	23,170 sf	23,170sf
Lot Width	100'	343.16'	343.16'
Non-conforming floor space within Setbacks	0	2,248 sf	2,248 sf
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	3473	2,319 sf	2,319 sf
Cumulative lot coverage (footprint) percent for all	15%	10%	10%
Cumulative floor space of all structures (F.A.R.)	6950	2,319 sf	2,319 sf
Cumulative floor space to lot area % all structures	30%	10%	10%

§ 2.4.1.2 B Actions Requiring a Finding that the proposal is NOT Substantially More Detrimental

ACTION	FINDING
B3 - Increase in building height for any structure with a non-conformity subject to item B1 above if the increase in height is located within the portion of the structure that is non-conforming or for any structure covered by item B2 above; and 2.4.1.2 C	

§ 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:**
 - Proposal is to convert the two buildings from commercial and storage to four residential units.
 - Proposal was reviewed and approved by the Planning Board through § 4.9 of the Zoning Bylaw (affordable housing). One of the four units has to be Affordable per (SHI) MGL 40B regulations and all four must be for year-round occupancy.
 - The building is being raised to meet the FEMA flood regulations. None of the units are proposed to be accessible. Developers should refer to the MGL 40B Guidelines Section IV, Section A.3.b to understand the manner in which the Subsidizing Agency will review the design.
 - Project is not currently scheduled to ever be connected to the sewer system. The parcel where the septic system is proposed was created through an ANR in 2021 that had been part of Salt Air Village. Not clear how a high-density multiple unit property was able to sell land.
 - Proposed is for four residential units in two buildings.
 - One unit will be a deed-restricted Affordable rentals at 80% AMI level.
 - The remaining three units are proposed to be rental housing and must be year-round.
 - Trip generation will be minimal
 - **Parking:**
 - Not clear that parking spaces are conforming in size, design, and location.
 - 8 parking spaces are proposed where 8 are required;
 - The proposal will be flood compliant with no change to setbacks.
 - The Board can find that a lawful pre-existing non-conforming structure exists on the property and the proposed elevation, as conditioned, will not be substantially more detrimental to the neighborhood than the existing structure.
- **NATURAL RESOURCES:** Project reviewed and approved by Conservation Commission and Order of Conditions was issued in January 2026.
- **HEALTH:** Pending Board of Health hearing on 3/12/2026.

- **BUILDING:** ZBA approval for increased height in minimum required setbacks, and approval to change from a previously issued ZBA SP for a change in use to retail in building #1 and storage only restriction for building #2.
- **ENGINEERING:**
 - Parking is as close to Road Layout as practical to have maximum wetland setback.
 - Appears to permit maneuvering without backing into the road.
 - Requires setback variances/waivers to layout.
 - Should provide dimensions and parking spaces and aisles and list what variances required.
 - Plan should indicate width of apron to parking. Not clear it meets zoning.
 - Verify apron separation and distance from apron to Shad Hole Road. Variance may be required.
 - Area of disturbance may require a full Stormwater Permit. Drywell shown for roof drains.
 - How is parking drainage infiltrated?
 - Parking materials not specified. Does it meet zoning?
- **POLICE/ FIRE:**

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 deemed cause to revoke the ZBA Special Permit. 5. Any changes to the site plan shall require the applicant to return to the Planning Board for approval of the modifications prior to their implementation except as related to storm water system modifications directed by Engineering Department. 6. The applicant shall work with the town to provide safe pedestrian access along Lower County Road and Shad Hole Road. 7. A Preconstruction meeting is required with the Department of Public Works, Engineering, Conservation, Water, Building, Health, Planning and the Fire Department before work begins. This shall include clearing, cutting, digging, foundations, etc... <p>AFFORDABILITY CONDITIONS (Per Planning Board Special Permit approval)</p> <ol style="list-style-type: none"> 8. The applicant shall be required to execute an affordable housing restriction (“Restriction”) in a form acceptable to the Planning Board and the Massachusetts Executive Office of Housing and Livable Communities (EOHLC - Formerly DHCD). The Certificate of Occupancy shall not be issued until the Restriction is recorded in the Registry of Deeds. The Restriction shall establish that at least one of the apartments, or in any case at least 25% of the unit’s, be deed restricted affordable for persons earning no more than 80% of median income. 9. The applicant shall comply with any Massachusetts Executive Office of Housing and Livable Communities (EOHLC - Formerly DHCD) regulations and guidelines for qualification of the housing units created under this By-law towards the Town’s subsidized housing inventory (SHI), including but not limited to the form of the
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affordable housing restriction and regulations concerning tenant selection and marketing, unit design standards and income eligibility standards. The Restriction shall further provide that the applicant shall cooperate with the Town in good faith to qualify any restricted housing unit towards the Town's subsidized housing inventory.

10. The applicant shall be required to execute appropriate EOHLC Deed Riders such as the "Local Initiative Program Affordable Housing Deed Rider for Projects which Affordability Restrictions Survive Foreclosure" as directed by EOHLC.
11. The restriction shall provide that the two (2) deed-restricted Affordable residential units, or in any case at least 25% of the unit's, be made available for sale or rent at a cost (including heat, but not other utilities) not to exceed 30% of the annual income of a household earning 80% of the Barnstable County median income, and shall be rented to households earning at or below 80% of the Barnstable County median income.
12. Maximum rental prices shall be governed by EOHLC regulations under Chapter 40B of the Massachusetts General Laws, and shall be set at levels that will enable the Town to qualify the housing units created under this By-law towards the Town's SHI.
13. The applicant shall enter into a marketing and monitoring agreement with EOHLC and the Dennis Housing Authority, or other entity designated by the Town of Dennis to ensure all EOHLC requirements are met.
14. The applicant is encouraged to make use of the Regional Ready Renter list created by a partnership between the Town of Dennis, neighboring towns and the Cape Cod Commission for finding tenants.
15. Current employees of the Town of Dennis and residents of Dennis shall have preference over non-residents in the selection of tenants of housing units subject to a restriction to extent permitted by EOHLC regulations, state or federal laws.
16. In the event that a housing unit subject to a restriction created under this By-law becomes vacant, the owner shall give written notice to EOHLC, the Dennis Housing Authority and the Dennis Affordable Housing Trust.
17. If, after initial occupancy, the income of a tenant of a Low- and Moderate-Income Unit increases and, as a result of such increase, exceeds the maximum income permitted hereunder for such a tenant, the Developer shall not be in default hereunder so long as either (i) the tenant income does not exceed one hundred forty percent (140%) of the maximum income permitted or (ii) the Developer rents the next available unit at the Development as a Low- and Moderate-Income Unit in conformance with Section 2(a) of the Local Initiative Program (LIP) Local Actions Unit (LAU) Regulatory Agreement with EOHLC, or otherwise demonstrates compliance with Section 2(a).
18. Prior to the issuance of occupancy permits, the applicant shall enter into a marketing and monitoring agreement with the Dennis Housing Authority, The Housing Assistance Corporation, or other entity designated by the Town of Dennis, such as the existing Ready Renter Program, to ensure all EOHLC requirements are met.