



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: September 29, 2009

PETITION NO: #4272

HEARING DATE: September 24, 2009

PETITIONER: Brian J. & Juanita A. Dubuc

**PROPERTY: 101 North Main Street, South Yarmouth
Map & Parcel: 0070.25; Zoning District: R40
Book & Page#: 18838/144**

MEMBERS PRESENT AND VOTING: Sean Igoe, Vice-Chairman, John Richards, Debra Martin, Joseph Sarnosky, David Reid, and Thomas Roche, Alternate.

Notice of the hearing has been given by sending notice thereof to the Petitioner and all those owners of property as required by law, and to the public by posting notice of the hearing and publishing in The Register, the hearing opened and held on the date stated above.

The petitioner seeks a Special Permit, per bylaw §407, for a family related accessory apartment. The petitioner's lot contains 16, 786 square feet of areas and is a corner lot. It is improved with a small (528 sq. ft.) two-bedroom, one-story home. The petitioner is in the process of constructing a one-car garage type second structure with a one-bedroom dwelling unit within it. Because the second structure will exceed the size of the original home, it will be considered to be the principal structure, which the owners will occupy as their principal dwelling, and the original house will be used as the accessory apartment. The apartment will be occupied by the petitioner's father. The petitioners understand the restrictions on further use of the accessory apartment. The "accessory apartment" is within the size and configuration limitations of the bylaw. The site has adequate off street parking for the uses. The new structure will conform dimensionally as a principal structure on the lot.

The Board received correspondence from the neighbors, both in favor of and opposed to the petition. The opposition expressed concern for overcrowding from the use (2 dwelling units on the lot), but also expressed concerns for past concerns which related more to personal conflicts rather the issues within the purview of the Board.

The Board finds that the site and proposal meet the requirements of the bylaw. A motion was made by Mr. Richards, seconded by Mr. Sarnosky, to grant the Special Permit, to allow an accessory family-related apartment to be maintained within the original one-story home, and to allow the new two-story garage structure to be occupied as the principal structure and the principal residence of the owner of the property. The members voted unanimously in favor of the motion.

No permit shall issue until 20 days from the filing of this decision with the Town Clerk. Appeals from this decision shall be made pursuant to MGL c40A section 17 and must be filed within 20 days after filing of this notice/decision with the Town Clerk. Unless otherwise provided herein, the Special Permit shall lapse if a substantial use thereof has not begun within 24 months. (See bylaw §103.2.5, MGL c40A §9)

Sean Igoe, Vice-Chairman