



**TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION**

FILED WITH TOWN CLERK: **November 14, 2008**

PETITION NO: **#4221**

HEARING DATE: **November 13, 2008**

PETITIONER: **Antonia Teixeira Kutcher**

PROPERTY: **30 Fillmore Road, West Yarmouth**
Map & Parcel: 0063.55; Zoning District: R40
Registry of Deeds Book & Page: 20267/2

MEMBERS PRESENT AND VOTING: Joseph Sarnosky, Zoning Administrator

It appearing that notice of said hearing has been given by sending notice thereof to the petitioner and all those owners of property deemed by the Board to be affected thereby, and to the public by posting notice of the hearing and published in The Register, the hearing was opened and held on the date stated above.

The petitioner seeks a Special Permit from bylaw §407.2 and §407.5 in order to be allowed to retain the family related accessory apartment constructed prior to her ownership in 2007, in the basement of her single-family home. The apartment unit contains 728 square feet and has one bedroom, bathroom, kitchen and living room. The home is a split-level home and the entrance to the unit is through the front door down to the basement level. There is also access from the garage into the apartment. The property contains approximately 19,602 square feet of area and has 3 bedrooms, including the family related accessory apartment. The apartment will be occupied by the owner's sister, and the petitioner has submitted the required family related accessory apartment affidavit. The owner also indicated that she would secure building, electrical and plumbing permits in order that the unit can be inspected and receive an occupancy permit.

The petitioner understands that the Special Permit for the family related accessory apartment shall terminate upon the sale of the home and or the family member vacates the unit, and she must comply with §407.3.1 in order to retain the unit, or the unit must be removed upon satisfactory inspection of the Building Inspector.

The Zoning Administrator found that the Special Permit can be granted as requested and represented, as it meets the bylaw requirements and would not be substantially more detrimental to the neighborhood or the town, on the condition that they secure the required building, wiring, plumbing and health permits and inspections. The Special Permit is therefore granted.

No permit shall issue until 30 days from the filing of this decision with the Town Clerk. Appeals from this decision shall be made pursuant to MGL c. 40A section 13 & 14 to the Board of Appeals and must be filed within 30 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)

David S. Reid, Clerk