



TOWN OF YARMOUTH
BOARD OF APPEALS
DECISION

FILED WITH TOWN CLERK: January 28, 2009

PETITION NO: 4230

HEARING DATE: January 8, 2009 cont' to January 22, 2009

PETITIONER: Barbara J. Cambal

**PROPERTY: 24 Hedge Row, West Yarmouth
Map & Parcel: 0022.8 Zoning District: R25
Deed Book & Page #: 21018/48-50**

MEMBERS PRESENT AND VOTING: David S. Reid, Chairman, Joseph Sarnosky, Sean Igoe, John Richards, and Thomas Roche.

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 applicant seeks two Special Permits per bylaw §104.3.2 and §407; in order to construct a family related accessory apartment attached to the pre-existing non-conforming accessory garage structure. The property is located in the R25 zoning district and is improved with an existing single-family home.

The petitioner was before the Board on January 8, 2009, but due to illness of a board member the applicant chose to continue the matter. The petitioner submitted a revised site plan by Ronald J. Cadillac, PLS, RS, P.C. dated December 10, 2008 and revised January 22, 2009, and revised elevations and floor plans by Thomas A. Moore Design Co, dated January 21, 2009, two sheets A1 & A2, labeled New Guest Cottage. The applicant indicated to the board that the architect labeled the plan incorrectly and it should reflect that it is a "family related apartment" not a "guest cottage" and will have the correction made and a new plan forwarded to the Board. The Board proceeded based upon these revised plans only.

The family related accessory apartment will be occupied by the parents of the property owner as their year-round residence and the existing single-family home is occupied by the owner as her principal year round residence. The apartment will consist of one bedroom, a great room and a bathroom, all within 800 sq. ft. The apartment will be attached to the existing two-car garage which is at its closest, 1.3' from the side lot line. The 6.9' x 21' rear shed portion attached to the garage will be removed, thus making it less non-conforming, and the apartment will be constructed 7.2' from the lot line. The addition and the garage will match in architecture so as to retain the look of a single accessory structure to the single-family home, as the bylaw requires. The applicant states that the existing garage could not support a second story and therefore they can not construct the apartment above, and that since there is no basement or attic in the main house they need to continue to use the garage for storage as well. The remainder of the garage will remain an

uninhabitable garage and storage use. There is adequate parking on site for both the dwelling and the apartment.

A petition of support was submitted to the Board signed by neighbors and abutters in support of the request. One letter was received in support of the apartment for family members, but had concern for the future use becoming rental property or for an application other than what it is intended to be. The Board was assured that the homeowner understands the limitations of the bylaw and understands that the apartment's use is limited to defined family members. The homeowner has submitted the required affidavits in compliance with the bylaw.

The Board members agreed that the design is attractive and with the proposed roof line it will maintain the look of an accessory structure, and as long as they maintain the look of a garage, being one building, they could support the request. They also observed that this was not a typical application for an accessory apartment and that the garage would have to remain on the property in order to qualify for the Special Permit (i.e. the accessory apartment must be in the accessory structure, and may not be a separate free standing dwelling).

The Board finds that, as shown in the revised plans, and as represented by the petitioner, the proposal meets the requirements of the accessory apartment bylaw, and the alterations of the non-conforming structure will not be substantially more detrimental to the neighborhood. Mr. Richards made a motion to grant the two Special Permits under bylaw §104.3.2, and §407, to allow the alteration of and addition to the existing non-conforming garage and to allow the family related accessory apartment, as proposed and as shown in the revised plans referenced above. Mr. Igoe seconded the motion, and the members voted unanimously in favor. The Special Permits are therefore granted.

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)

David S. Reid, Clerk