

Old King's Highway Regional Historic District Commission  
First District Courthouse, Barnstable, Mass. 02630 Telephone: 617-362-4092

EDITH M. OSBORNE  
Appellant  
VS.  
Old King's Highway Regional  
Historic District Committee  
in the Town of Barnstable  
Appellee

DECISION ON APPEAL TO  
THE ABOVE COMMISSION

No. 80-2

TOWN CLERK  
BARNSTABLE, MASS.  
80 APR -3 PM 2 20

A hearing was held on April 1, 1980, by the above Commission upon an appeal by the above appellant from a decision of the Barnstable Historic District Committee denying a Certificate of Demolition of a dwelling located on Route 6A in the Village of Barnstable, Massachusetts.

Present were: Mr. MacSwan, Barnstable, Mr. Long, Yarmouth, Mr. Tubman, Brewster, Mr. White, Sandwich, Mr. Hanger, Dennis, Mr. Shuman, architect for the appellant and Attorney Wilson, Counsel for the Commission.

The record of the Barnstable Committee together with photographs of the dwelling and related areas were presented to the Commission. Additionally, a copy of the Barnstable County 1858 map and an 1884 aerial view sketch of Barnstable Village were shown to the Commission. Numerous letters by concerned citizens were also entered into the record of the proceedings.

The original decision by the Barnstable Committee was filed with the Town Clerk on March 4, 1980, and the appeal to the Commission was filed on March 12, 1980, within the ten day period as required under the Act.



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An initial problem raised by the application and appeal was the term used to describe the proposed project which apparently allows through the use of the term "removal of the dwelling house and garage" instead of "demolition of the dwelling house and garage". This problem of semantics was resolved by a brief explanation from the appellant and the Chairman of the Barnstable Committee in which they each stated that at all times during the proceedings the term "removal" was treated as a proposal to demolish the dwelling and garage. While the Commission feels that the terms "demolition" and "removal" should be treated differently and that in the future all applications in which the proposed project contemplates the demolishing of a building or structure as opposed to relocation of a building or structure should properly use the appropriate terms, The proceedings thus far in this particular case should not be interrupted or altered by the apparent misuse of terms. The Commission considered the application and appeal to be for the demolition of the dwelling house and garage.

Mr. Shuman stated that in his professional opinion as an architect, that the dwelling lacked historical or architectural significance and that to the best of his knowledge the dwelling was erected between 1858 and 1884. He offered as evidence for this opinion the 1858 map and suggested that the dwelling did not appear on that map. He further pointed out that the inventory and map prepared for the Bi-centennial by the Town of Barnstable entitled

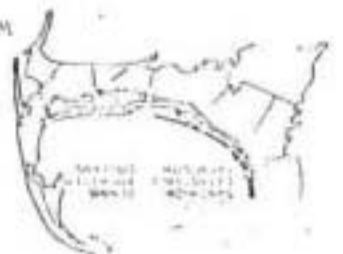


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"Seven Villages of Barnstable" did not mention or show the Osborne house. Mr. Shuman further testified that the dwelling had sustained significant damage due to major structural alterations and deterioration. He further indicated that in his opinion it would cost approximately \$40,000.00 to rehabilitate and restore the structure. Finally, Mr. Shuman indicated that the building blocked access to his client's 8 acres of land located at the rear of the dwelling and that because of the narrowness of the lot his client could not develop her back acreage without demolishing the dwelling. Mrs. Kramer an abutting owner of the applicant testified that she had researched the history of the Osborne house and that her research indicated that the dwelling existed as far back as the seventeen hundreds and cited as a source a reference in "A Cape Cod Village" by Mary A. Sprague in which the property was alleged to have been occupied by the Reverend Joseph Green. Mrs. Kramer and other local residents of the Village testified that they felt the dwelling was an essential part of the Village community and that it was essential for the proper maintenance of the Village's historic character. The location of the dwelling and its close proximity to many old and historically significant dwellings was also pointed out as a significant reason for not allowing the building's destruction. Mr. Shuman was asked whether or not he had considered re-location of the building as an alternative to the demolition and he indicated that it was his opinion that re-location was not practical and that the only practical solution for his client



would be to raze the building

Mr. MacSwan then stated that his Committee had

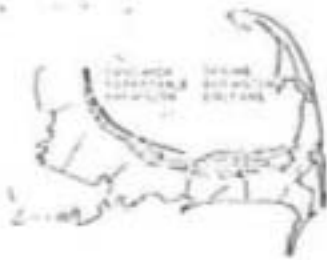
determined that the dwelling was of historical interest. That while they considered the issue of hardship they did not feel that denial of the application would constitute a significant hardship to the appellant and that demolition of the dwelling would destroy an important part of the District's heritage.

Based upon the evidence before the Commission,

it makes the following findings:

1. That the dwelling is of historical interest.
2. That demolition of the dwelling would destroy a part of Barnstable Village's heritage and adversely effect the appearance and character of an historically significant portion of the District.
3. That a substantial hardship within the meaning of the Act does appear to exist for the appellant due to the location of the dwelling and its deteriorated condition.
4. That the proposed remedy for the hardship, to wit: demolition of the dwelling would derogate from the intent and purposes of the Act.
5. That the Committee in disapproving the application for the demolition of the dwelling erred in its conclusion that no hardship existed, but did not err in its ultimate determination that the application for a Certificate of Demolition should be disapproved.

The parties were advised that they may appeal this



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decision by filing an appeal with the First District  
Court of Barnstable within twenty days.

Respectfully submitted

*Elliott B. MacSwan*

Elliott B. MacSwan  
Chairman

Filed April 3, 1980