

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

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TOWN CLERK
BARNSTABLE, MASS.

Betty E. Allen et als
Appellants
vs.
Old King's Highway Regional
Historic District Committee
in the Town of Barnstable
Appellee

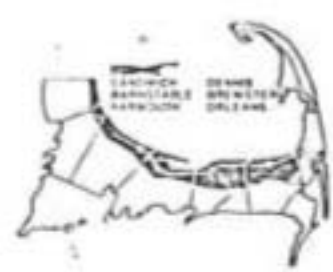
DECISION ON APPEAL TO THE
ABOVE COMMISSION

No. 80-3

A hearing was held on April 14, 1980, by the above Commission upon an appeal by the above appellants from two decisions of the Barnstable Historic District Committee granting a Certificate of Exemption for a pair of skylights and the granting of a Certificate of Appropriateness for six solar panels, all to be located on property owned by George Roehlk, Lot 17, Holway Drive, West Barnstable, Mass.

Present were: Mr. MacSwan, Barnstable, Mr. Hanger, Dennis, Mr. Long, Yarmouth, Mr. Ivers, Brewster, Mr. Leonard, Sandwich, Attorney James R. Wilson, counsel for the Commission, Mrs. Allen, appellant, Mrs. Bates, appellant, Mr. Street, appellant, Mrs. Rudy, appellant and Attorney Robert Donahue, appearing for the appellants. (Neither the applicant nor his agent appeared).

A plan of the building with the proposed solar panels, photographs of the installed skylights and subject building, neighboring buildings of the area, letters from neighbors, a copy of the Barnstable Committee's minutes, the Certificates of Exemption and Appropriateness, deed restrictions for the sub-division, testimony by interested persons and a prior



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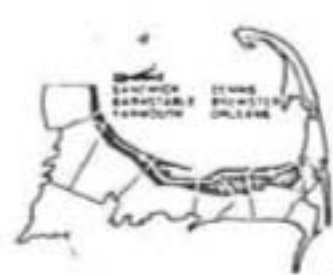
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viewing of the site were considered by the Commission prior to rendering its decision.

The applicant filed and received a Certificate of Exemption for the two skylights located on his garage. The Certificate of Exemption was dated June 20, 1979 and approved June 25, 1979. The applicant certified that the proposed construction would not be visible from any public street or way or public place. The viewing of the site indicated that the skylights were visible from Holway Drive. Based upon this information, the Commission found as a fact that the Town Committee had no authority to issue the Certificate of Exemption and that a Certificate of Appropriateness would be necessary in order to bring the skylights into proper compliance with the Act. The Commission voted on motion by Mr. Ivers, seconded by Mr. Leonard, to annul the Certificate of Exemption and advise the applicant to file a new application for a Certificate of Appropriateness with the Barnstable Committee. Adopted 4-0-1

The original decision by the Barnstable Committee on the application for solar panels was filed with the Town Clerk on March 24, 1980 and the appeal to the Commission was filed on March 25, 1980, within the 10-day period as required under the Act.

Attorney Robert Donahue appeared as counsel for the Point Hill Realty Trust and stated that the sub-division had been created with a strict intent to preserve the area as an historically significant community that reproduced



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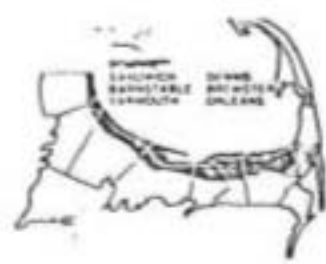
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older houses and preserves the design, tradition and characteristics of 200 years ago. He stated that the selection of buildings and building design was tightly regulated through restrictive covenants and that the proposed solar panels would destroy the character of the neighborhood. Mr. Street testified that no evidence was presented to indicate that the proposed solar panels would be energy efficient or that the design was going to furnish the amount of heat allegedly needed by the Applicant. Mrs. Allen testified that she had lost a number of sales in the sub-division because of her insistence of strict compliance with the traditional design characteristics that the present buildings exhibited. Mr. MacSwan testified that his Committee felt because the sub-division was a new sub-division and there was such a need for energy conservation and the experimentalization of solar and wind power, that the allowance of the solar panels would be in the public interest. He stated further that the Committee felt that the sub-division lacked historical significance.

Based upon the evidence before the Commission, it makes the following findings:

1. The Town Committee erroneously determined that the sub-division lacked historical significance.
2. That the Point Hill sub-division has historical significance because of the quality of the historical reproduction characteristics applied to the various designs built and being built within the area.



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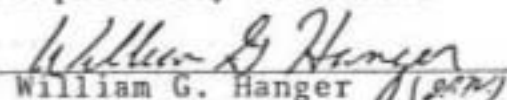
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3. That the solar panels when placed on the roof would contrast sharply with the cedar shingl roofs that presently exist on all buildings within the sub-division.

4. That the proposed solar panels when placed on the roof are inappropriate and that the Certificate of Appropriateness issued by the Barnstable Town Committee should be annuled and that an order be entered denying a Certificate of Appropriateness to the applicant.

The parties are advised that they may appeal this decision by filing an appeal with the First District Court of Barnstable within 20 days of the date of the filing of this decision.

Respectfully submitted


William G. Hanger
Vice-Chairman

Filed: 4/17/00