



Old King's Highway Regional Historic District Commission

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JOSEPH AND JANE ARGENTO

v.

Decision #86-25

OLD KING'S HIGHWAY REGIONAL HISTORIC
DISTRICT COMMITTEE FOR THE TOWN OF
BREWSTER

On Tuesday, January 6, 1987 the Commission held a hearing on Appeal #86-25 filed by Joseph and Jane Argento seeking review of a decision by the Brewster Historic District Committee which had denied a Certificate of Appropriateness for the construction of a house at Lot 5, Leona Terrace, Brewster, Massachusetts.

Present were Anne Stout, Dennis; Allen Abrahamson, Sandwich; Milton Smith, Yarmouth; Michael Shay, Brewster; Peter Freeman, Barnstable; Robert G. Brown, Commission Counsel; Mr. & Mrs. Argento, Applicants; Attorney Richard Perry for the Applicants; and Mr. Robert Zaino of Sandpiper Homes for the Applicants.

The Committee's decision had been filed with the Town Clerk on December 2, 1986, and the appeal entered with the Commission on December 11, 1986 within the ten day appeal period.

Attorney Perry appeared before the Commission on behalf of the Applicants and stated that the Applicants faced the prospect of a substantial hardship if the appeal were not allowed. Attorney Perry stated that the proposed house would be in an area off Route 137 in a small subdivision. He stated that the lot in question was approximately 1/3 within the district. He pointed out that the Argentos were not arguing that the site was not within the District but pleading that the case was one of first impression and that there was a significant hardship present. He stated that the Argentos had spent \$10,000.00 on a modular home which had been completed and was now in Pennsylvania awaiting transportation to Brewster. He stated that an attempt had been made to obtain a building permit and that a building permit had indeed been issued but that it had been immediately rescinded. He said that the Argentos were now stuck with a house that had been completed and that they would lose their \$10,000.00 if they could not place the structure on the lot. He said that the major difference between the Committee and the Applicants was in the requirement of the 5/12 roof pitch. He felt that, pursuant to Section 10 (c) (2) of the Act that there was substantial hardship to the Applicants in that they would lose their \$10,000.00, that there would be

no substantial detriment to the public welfare in that none of the abutters had objected and that there would be no substantial derogation from the intent and purposes of the act in that the construction would affect only a small subdivision and not the District in general. He said that the area was not of an historic nature and that the certificate should have been issued.

Michael Shay, representing the Brewster Committee, addressed the Commission to explain the Brewster Committee's reasons for denial. He admitted that there was some hardship and that the applicants did have a second application in process at the local level. He said that the main concern of the Brewster Committee was that the plans submitted were totally inadequate for review by the Committee, citing freehand alterations of photos, use of assessor's maps instead of plot plans, and discrepancies in the application and supporting materials as a result of the use of these substitutes.

Under questioning by various members of the Commission, Attorney Perry did admit that the house in question had been constructed prior to application for either a building permit or approval by the Brewster Historic District Committee.

After lengthy discussion, the Commission made the following determination.

1. That the Brewster Committee did not act in an arbitrary, capricious and erroneous manner in denying the Applicant's Certificate of Appropriateness.

Any person aggrieved by this decision has a right to appeal to the District Court Department, Orleans Division, within 20 days of the filing of this decision with the Brewster Town Clerk.

Anne Stout (r)

Anne Stout
Chairman