



Old King's Highway Regional Historic District Commission
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JAMES GOLDSMITH and
NINA GOLDSMITH

v.

Decision #87-10

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

On Tuesday, June 30, 1987 the Commission held a hearing on Appeal #87-10 filed by James and Nina Goldsmith seeking review of a decision by the Yarmouth Historic District Committee which had denied a Certificate of Appropriateness for a new building to be located at Lot 9, Willow Street, Yarmouth, Massachusetts.

Present were Barbara Hart, Dennis; John Blaisdell, Sandwich; Milton Smith, Yarmouth; Jan Francis, Brewster; Peter Freeman, Barnstable; Robert G. Brown, Commission Counsel; Mr. Goldsmith, Applicant; and Attorney John F. Thibbitts for the Applicants.

The Committee's decision had been filed with the Town Clerk on May 8, 1987, and the appeal entered with the Commission on May 15, 1987 within the ten day appeal period.

Attorney Thibbitts appeared before the Commission on behalf of the Applicants and distributed a memorandum in support of the proposed construction. He described the area where the building was to be located and showed pictures of various buildings in the surrounding area. He described the proposed building as being a two story, 34' x 108' structure that would be compatible with others in the area. He displayed plans which had been submitted to the Town of Yarmouth Zoning Board of Appeals. Attorney Thibbitts stated that the grade difference between the Applicant's property and the railroad bed, a difference of about five feet, would obscure the building from view. He also stated that the area was heavily wooded and that although the area would be brushed out, the building would still be hidden from view. He stated that the building complied with zoning and that the Applicants had been involved in an eight year effort to clear up problems with the property. He stated that the building was a good building that should be approved.

Milton Smith, representing the Yarmouth Committee, addressed the Commission to explain the Yarmouth Committee's reasons for denial. He distributed various pictures of buildings in the area and stated that the pictures submitted by the

Applicants may be deceptive in that they were taken from an angle and do not show that the buildings in question do not directly front on Willow Street, as this building does. He pointed out that 86 Willow Street, included in one of the pictures submitted by the Applicants, was more than 1/2 mile away. He stated that the Committee had made suggestions to the Applicants but the Applicants had rejected the Committee's suggestions stating that they needed this building to maximize the return on their investment. He stated that the building was much too massive and that it would dwarf other buildings in the area in that the building would front directly on Willow Street.

Donald Shaw and Robert DiMartile, both members of the Yarmouth Historic District Committee addressed the Commission and stated that they agreed with the comments of Mr. Smith in that the building would be too massive.

After lengthy discussion, it was agreed that there might be a basis for further discussion between the Applicants and the Yarmouth Historic District Committee, therefore, the Commission made the following determination.

1. That the matter be remanded to the Yarmouth Historic District Committee for further discussion and that the action of the Commission was not to be interpreted as a determination that the Yarmouth Historic District Committee acted in an arbitrary, capricious and erroneous manner in denying the Applicants' Certificate of Appropriateness.
- 3-1-1

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

Peter L. Freeman (v)
Peter L. Freeman
Chairman