



Old King's Highway Regional Historic District Commission
P.O. Box 279, Hyannis Mass. 02601

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JEANETTE ELLIS

v.

Decision #87-3

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

On Tuesday, April 14, 1987 the Commission held a hearing on Appeal #87-3 filed by Jeanette Ellis seeking review of a decision by the Barnstable Historic District Committee which had denied a Certificate of Demolition of a barn located at 4251 Route 6A, Cummaquid, Massachusetts.

Present were Anne Stout, Dennis; Milton Smith, Yarmouth; Kevin Ordway, Brewster; Peter Freeman, Barnstable; Robert G. Brown, Commission Counsel; Charles S. McLaughlin, Esq., Counsel for Jeanette Ellis and co-holder of a purchase and sale agreement on the property; George Blakely, co-holder of the purchase and sale agreement on the property; T. Varnum Philbrook P.E., and various members of the public.

The Committee's decision had been filed with the Town Clerk on March 16, 1987, and the appeal entered with the Commission on March 27, 1987 within the ten day appeal period.

Charles S. McLaughlin addressed the Commission and stated that he was an abettor to the property and that he was a holder of a purchase and sale agreement on the property along with Mr. Blakely. He explained that the appeal was based on the denial of a request to demolish the barn in question which he stated was visually in "decrepit" condition. He stated that the appeal would proceed on two grounds, the first that there was prejudice on the part of one of the members of the Barnstable Committee and the second ground being the merits of the case. Attorney McLaughlin stated that one of the members of the Barnstable Committee, Lee Davis, had said at the hearing that he would not consider the matter of economics. Attorney McLaughlin stated that he did not feel that Mr. Davis had independently judged the matter with respect to costs and that, as a result, the applicants were denied a fair hearing. Attorney McLaughlin produced numerous photographs of the structure stating that they showed that the building was in very poor condition, that the building was twisting and was in danger of callapsing, that the south face of the barn was falling in and that portions of the sills were rotting. He presented a small section of the building as an example of the poor condition of the building and said that it would cost twice

as much to restore the building as opposed to demolishing it and building a replica directly to the rear of the present structure.

T. Varnum Philbrook addressed the Commission and stated that he was a professional engineer who had inspected the building. He stated that the West wall of the barn was most salvagable in that trees had shielded it from the elements. He stated that the front sills were rotten and that, overall, there were only 10-15% reusable components in the barn.

George Blakely addressed the Commission and stated that the barn was no longer a functional barn but was a one car garage. He stated that in his function as a licensed contractor in Massachusetts he was bound by the Massachusetts Building Code and that it would be a hardship to have to bring the building up to code. He then showed the Commission plans of the structure that the Applicants intended to construct.

Charles S. McLaughlin again addressed the Commission and said that he felt the Commission had more than enough evidence to reverse the Barnstable Committee on either ground of prejudice or merit.

Peter Freeman, representing the Barnstable Committee, addressed the Commission to explain the Barnstable Committee's reasons for denial. He stated that the area in question was a very sensitive and important area of the District. He said that the Barnstable Historical Commission had conducted an inventory of historic buildings along Route 6A which showed this barn to be on the 1880 atlas. With regard to the issue of possible prejudice he stated that even if a hardship were to be presented it did not rise to the level where the local committee could grant relief.

Patricia Jones Anderson of the Barnstable Historical Commission addressed the Commission and read a long letter in support of the decision of the local committee pointing out that the general area had been considered in the matter of *ARKUS v. OLD KING'S HIGHWAY REGIONAL HISTORIC DISTRICT COMMISSION* and *LUTHER M. STRAYER III* and that the Court had determined this area to be a very historic area.

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After lengthy discussion, the Commission made the following determination.

1. That the Barnstable Committee did not act in an arbitrary, capricious and erroneous manner in denying the Applicant's Certificate of Demolition. (3-0-1)

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 Barnstable Town Clerk.

Anne Stout (s)

Anne Stout
Chairman

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