

Old King's Highway Regional Historic District Commission

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D. KENNETH GREENE

v.

Decision #87-31

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

On Tuesday, October 20, 1987 the Commission held a hearing on Appeal #87-31 filed by D. Kenneth Greene seeking review of a decision by the Barnstable Historic District Committee which had approved a Certificate of Appropriateness for the relocation of a house onto Lot #13 Governor's Way, Barnstable, Massachusetts.

Present were Barbara Hart, Dennis; Michael Shay, Brewster; John Blaisdell, Sandwich; Peter Freeman, Barnstable; Robert G. Brown, Commission Counsel; D. Kenneth Greene, Appellant and Howard W. Woolard and Virginia E. Wollard, Trustees of Carriage House Realty Trust, Applicants.

The Committee's decision had been filed with the Town Clerk on September 29, 1987, and the appeal entered with the Commission on October 1, 1987, within the ten day appeal period.

D. Kenneth Greene addressed the Commission and distributed a written memorandum in opposition to the Barnstable Committee's approval. He also showed a plan of the subdivision involved and a plan of the house in question. He stated that he was the developer of the subdivision and that there were common restrictions that required his approval of new house plans and that Mr. & Mrs. Woolard had not sought his approval before seeking to move the building to the property and that he had no intention of granting approval. He questioned the vote of the Committee saying that not all of the members who voted in favor appeared to fully favor the application. He also questioned the propriety of finding that a structure which was deemed expendable in Yarmouth would be appropriate in Barnstable. He said he felt his deed restrictions should take precedence and asked that the Barnstable Committee's decision be reversed.

Peter Freeman, representing the Barnstable Committee, addressed the Commission to explain the Barnstable Committee's reasons for approval. He stated that the Committee had no jurisdiction over private civil matters involving deed restrictions and suggested that Mr. Greene seek legal counsel. He said that the Committee felt it was in a

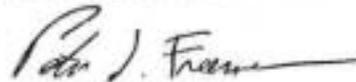
situation of damned if you do and damned if you don't in that the Committee has been alternately criticized for approval of buildings that were felt to be either too large or too small. He stated that the Committee felt that the building, with its 42 foot elevation was not overly small for the lot or area in question.

Howard W. Woolard, Trustee of Carriage House Realty Trust, Applicant before the Barnstable Committee addressed the Commission and stated that you should not equate square footage with value and that he was one of the abutters of the property and had as much of a chance to be hurt as anyone.

After lengthy discussion the Commission made the following determination.

1. That the Barnstable Historic District Committee did not act in an arbitrary, capricious and erroneous manner in approving the Applicants' Certificate of Appropriateness and that the Appellant's Appeal be denied. 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.



Peter L. Freeman  
Chairman

87 OCT 30 P2:05  
TOWN CLERK  
BARNSTABLE, MASS.