



Old King's Highway Regional Historic District Commission

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CHARLES N. FLINKSTROM, TRUSTEE,
MID-CAPE ASSOCIATES REALTY TRUST

v.

Decision #87-44

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

On Tuesday, February 9, 1988 the Commission held a hearing on Appeal #87-44 filed by Charles N. Flinkstrom, Trustee, of Mid-Cape Associates Realty Trust seeking review of a decision by the Yarmouth Historic District Committee which had denied a Certificate of Appropriateness for a commercial addition at 947 Route 6A, Yarmouthport, Massachusetts.

Present were Ron Lindholm, Dennis; Milton Smith, Yarmouth; Michael Shay, Brewster; Rob Stewart, Barnstable; Robert G. Brown, Commission Counsel; Charles N. Flinkstrom, Applicant.

The Committee's decision had been filed with the Town Clerk on December 18, 1987, and the appeal entered with the Commission on December 24, 1987.

In the absence of Chairman Peter Freeman, Vice-Chairman Michael Shay presided over the hearing.

Charles N. Flinkstrom addressed the Commission and produced at letter stating that he was attending the hearing "involuntarily" and claimed that he was due a Certificate of Appropriateness in that the hearing was being held beyond the 30 day determination period as set forth in the Historic District Act. The Commissioners requested an opinion of Commission Counsel regarding the matter. Commission Counsel stated that he had spoken with Mr. Flinkstrom prior to the first hearing date and had received an extension of the determination period. He stated that he had spoken with Milton Smith prior to the second hearing date and was informed that no one from the Yarmouth Committee would be able to attend the meeting. He stated that he asked Mr. Smith to telephone Mr. Flinkstrom and request another extension and that a message had been received by his office that Mr. Flinkstrom had agreed to an extension contingent on his being first on the agenda.

Milton Smith agreed with the remarks made by the Commission Counsel. Mr. Flinkstrom disagreed, stating that he had never discussed or agreed to an extension. When questioned by

Commission Counsel, however, as to the origin of the contingency that his matter be first on the agenda, Mr. Flinkstrom said that it was his "assumption" in talking with Mr. Smith that he would be first on the agenda and later admitted that the subject of an extension had been discussed. Mr. Smith stated that an extension had been granted and that had the issue of a written extension been important to Mr. Flinkstrom, he (Mr. Smith) would have driven to Mr. Flinkstrom's office to get it.

After discussion the Commission voted (3-0-1) to hear the matter.

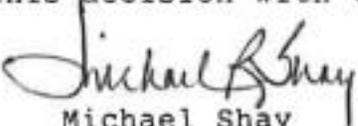
Charles Flinkstrom addressed the Commission and presented a brief video of the area in question. He discussed the chronological history of the project from its inception in 1983 and displayed a 1985 plan which had been approved by the Yarmouth Committee but was unable to be built due to zoning changes. He described in detail the proposed project and stressed that it was his intent to maintain the colonial architecture and that he thought that this project accomplished that goal. He stated that the architecture in the area is varied and that this addition will be substantially smaller than other construction in the area. He concluded by stating he feels there is a hardship present in that the shape of the lot is long and narrow and he also has commitments from tenants for the addition.

Milton Smith, representing the Yarmouth Committee, addressed the Commission to explain the Yarmouth Committee's reasons for denial. He stated that what had been approved in 1985 was a two story building and that this was a three story building with a retaining wall and some vegetation attempting to hide the lower level. Mr. Smith stated that despite this the building was still very visible from Route 6A. He also stated that there were questions as to the length of the building in that it had an unbroken roofline that extended well over 50 feet. He stated that Committee also had problems with the overall massing of the building.

After lengthy discussion the Commission made the following determination.

1. That the Yarmouth Historic District Committee did not act in an arbitrary, capricious and erroneous manner in denying the Applicant's Certificate of Appropriateness and that the Applicant's Petition for Appeal be denied. 2-1-1

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.


Michael Shay
Vice-Chairman