



# Old King's Highway Regional Historic District Commission

P.O. Box 279, Hyannis Mass. 02601

Telephone: 617-775-1766

JOHN and KAREN O'CONNELL

v.

Decision #88-3

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

On Tuesday, February 23, 1988 the Commission held a hearing on Appeal #88-3 filed by John and Karen O'Connell seeking reversal of a decision by the Yarmouth Historic District Committee which had denied Certificates of Appropriateness and Demolition pertaining to property located at 302 Main Street, Yarmouthport, Massachusetts.

Present were Barbara Hart, Dennis; Michael Shay, Brewster; Peter Freeman, Barnstable; Milton Smith, Yarmouth; Allen Abrahamson, Sandwich; Robert G. Brown, Commission Counsel; and Attorney James H. Quirk, Counsel for the Applicants.

The Committee's decision had been filed with the Town Clerk on January 29, 1988, and the appeal entered with the Commission on February 1, 1988.

Attorney James H. Quirk addressed the Commission on behalf of the Applicants and displayed architects plans and a plot plan of the proposed demolition and construction. He also presented a written memorandum in favor of the appeal. He described the application process stating that the original application had been made in November and that the matter had been continued so as to have the matter presented to the Town of Yarmouth Historic Commission. He described how the house had been maintained and restored in the approximately 12 years that the Applicants have owned the home and described how a single story addition, as proposed by the the Yarmouth Committee, would not be feasible in that a new foundation would have to be poured. He stated that the property is consistent with others in the neighborhood and presented photographs of other homes in the area. He stated that the Historic District Act is not designed to prevent changes but to allow changes that are beneficial to the District and that every effort had been made to address the concerns of the District.

Milton Smith, representing the Yarmouth Committee, addressed the Commission to explain the Yarmouth Committee's reasons for denial. He said that the Committee had no problem with big additions, but that some sites and houses should be preserved. He cited the Town of Yarmouth Historic inventory

which showed that the home had been constructed in 1804. He also stated that some of the additions cited by the Applicants had be added prior to the Act. He questioned whether they should allow every half or three-quarter Cape to expand so that in some cases the addition overwhelms the house, which the Committee felt was the case here.

William Harrison, Chairman of the Town of Yarmouth Historic Commission addressed the Commission in favor of the decision of the Yarmouth Committee. He stated that the area from the Barnstable town line to White's Brook Marsh has been accepted as a Federal Historic District and that the Town Historic Commission as well as the Yarmouth Committee must act together on the preservation of this area.

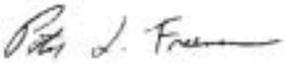
Gordon Clark, the designer of the Applicants' proposed additions addressed the Commission to speak in favor of the appeal. He stated that other homes were taken into consideration when determining the design of the addition and that the addition had been limited to 1 1/2 storys so as to minimize the impact. He stated that he tried to look at the situation in the same manner as it would have been done years ago, and not so as to overwhelm other homes in the area.

Attorney Quirk again addressed the Commission and stated that setting is setting and whether items were allowed before the Act or not is not proper. Whether home is old or new is not proper and that it is not proper to limit the use of the property based on the age of the property.

After lengthy discussion the Commission made the following determinations:

1. That the Yarmouth Historic District Committee did act in an arbitrary, capricious and erroneous manner in denying the applications for Demolition and Appropriateness.
2. That the decisions of the Yarmouth Historic District Committee be and are annulled and that superceding Certificates of Demolition and Appropriateness shall issue based on plans on file with the Commission. 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  
Chairman