

LINDA J. COLBY

v.

Decision #2000-20

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

On Tuesday, December 5, 2000 the Commission held a hearing on Appeal #2000-20 filed by Linda J. Colby, seeking review of a decision by the Yarmouth Historic District Committee denying a Certificate of Appropriateness for a fence to be located at 384 North Dennis Road, Yarmouthport, Massachusetts.

Present were Dorothy Stahley, Barnstable; Jonathan Shaw, Sandwich; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Elizabeth Wilcox, Dennis; Robert G. Brown, Commission Counsel; Linda J. Colby, Appellant and Gordon Clark, agent for the Appellant.

The Committee's decision was filed with the Town Clerk on September 29, 2000. The appeal was entered with the Commission on September 30, 2000, within the 10 day appeal period.

THE APPELLANT'S PRESENTATION:

Linda Colby addressed the Commission in favor of the appeal. She said that when she bought her home she did not realize it was in an historic district and would have erected a wooden fence if they had known they were in an historic district. She said that she inquired of the building department as to whether she could put the fence up and she was told it was o.k. so long as it was under six feet. She introduced Gordon Clark who was representing her as her agent.

Gordon Clark addressed the Commission in favor of the appeal. He displayed photos of other fences in the area. He did say that some of the fences in the area were built before the enactment of the District and probably would not have received approval today. The fence in question is not as visible as others in the area and pointed out several fences along North Dennis Road and also displayed a photo of a fence in front of Oliver's Restaurant in Yarmouthport to show how plantings can reduce the impact of

fencing. He said this is a situation that can be mitigated.

THE COMMITTEE'S PRESENTATION:

Deborah Gray, representing the Yarmouth Committee, addressed the Commission in opposition to the appeal. She said the fence was first cited by the building department on August 21 and that the building department should have told the appellant earlier about the District. She said the fence is very visible and, because it is vinyl, will never weather. She pointed out that the fence at Oliver's Restaurant was erected in violation of the Act and that matter is currently being addressed. She asked that the appeal be denied.

DISCUSSION:

In general discussion, Albert Gray, a member of the Yarmouth Committee addressed the Commission in opposition to the Appeal. He said the fence is six feet high on a varied elevation. The fence is vinyl and will never weather. In addition, its massiveness makes it inappropriate in the District

In discussion among Commission members there was a consensus that the Yarmouth Committee had a rational basis for its decision and should be upheld.

FINDINGS:

The Commission voted as follows:

1. That the Yarmouth Committee did not act in an arbitrary, capricious or erroneous manner in denying the Appellant's application in this matter. 3-0-2.
2. That the appeal be denied. 3-0-2.

DETERMINATION:

As to Appeal #2000-20 the appeal is denied.

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.

Roy Robinson
Chairman