

MICHAEL P. CONENA

v.

Decision #2001-01

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

On Tuesday, February 6, 2001 the Commission held a hearing on Appeal #2001-01 filed by Michael P. Conena, seeking review of a decision by the Sandwich Historic District Committee denying a Certificate of Appropriateness for alterations to a building located at 36 Torrey Road, East Sandwich, Massachusetts.

Present were Dorothy Stahley, Barnstable; Jonathan Shaw, Sandwich; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Elizabeth Wilcox, Dennis; Robert G. Brown, Commission Counsel; and Anne M. Michniewicz, Agent for the Appellant.

The Committee's decision was filed with the Town Clerk on January 10, 2001. The appeal was entered with the Commission on January 16, 2001, within the 10 day appeal period.

THE APPELLANT'S PRESENTATION:

Anne M. Michniewicz, Agent for the Appellant, addressed the Commission in favor of the appeal. She told the Commission that the problem was the result of the Appellant's misunderstanding of how the permitting process works. The original plans called for a roof deck to be constructed with 22 inches of the railing to be showing above the roofline. The roof deck as originally approved was not structurally sound and the roof deck had to be altered in such a way that it was raised 14 inches so that 36 inches of the railing was now visible. She displayed pictures of the site and displayed an as built plan of the site. She said the roof deck as it now existed would be minimally different from the original approval and it would be difficult for the Appellant to now remove the roof deck.

THE COMMITTEE'S PRESENTATION:

Jonathan Shaw, representing the Sandwich Committee, addressed the Commission in opposition to the appeal. He recounted the procedural history of the project, stating that the Certificate of Appropriateness had been approved on June 23, 2000 and that a letter dated September 2, 2000 was later received from the Torrey Beach Association, saying that the project had not been completed according to approved plans. On September 5, 2000 a stop-work order was issued by the Sandwich Building Inspector and there was a subsequent re-filing for a Certificate of Appropriateness for the as-built project. On January 10, 2001, the Committee denied the application as the way the roof deck had been built caused the house to look inappropriately asymmetrical. He read a letter from the Torrey Beach Association in opposition to the appeal and he asked that the Committee be upheld.

DISCUSSION:

In discussion among Commission members there was a consensus that the Sandwich Committee did not err in its consideration of this application and that any resulting hardship was not the fault of the Committee. As such, the Sandwich Committee should be upheld.

FINDINGS:

The Commission voted as follows:

1. That the Sandwich Committee did not act in an arbitrary, capricious or erroneous manner in denying the Appellant's application in this matter. 4-0-1.
2. That the appeal be denied. 4-0-1.

DETERMINATION:

As to Appeal #2001-01 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 Sandwich Town Clerk.

Dorothy Stahley
Chairman