

**OLD KING'S HIGHWAY REGIONAL HISTORIC DISTRICT  
COMMISSION**

P.O. Box 140, Barnstable, Massachusetts 02630-0140  
Tel: 508-775-1766 FAX 508-775-9248

**Robert E. Alberts**

**V.**

**Decision #2001-20**

**Old King's Highway Regional Historic  
District Committee For the Town of  
Barnstable**

On Tuesday, November 20, 2001 the Commission held a public hearing on Appeal #2001-20 filed by Robert E. Alberts, seeking reversal of a decision by the Barnstable Historic District Committee granting a Certificate of Demolition to demolish a residence and a Certificate of Appropriateness to build a new residence all to be located at 10 Kent Road, Barnstable, Massachusetts. The Commission made a public viewing of the site on December 4, 2001, and made its decision on December 11, 2001.

Present were Jeffery Wilson, Barnstable; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Elizabeth Wilcox, Dennis; James R. Wilson, Acting Commission Counsel; William C. Henche, attorney for appellants; Michael D. Ford, attorney for the applicants.

The Committee's decision was filed with the Town Clerk on October 25, 2001. The appeal was entered with the Commission on October 31, 2001, within the 10 day appeal period.

**The Appellant's Presentation:**

Attorney William C. Henche addressed the Commission on behalf of Mr. Alberts appeal and stated that the Committee acted improperly by using a series of informal meetings with the applicant to reach a determination to grant the requested Certificates. Mr. Henche argued that the Committee's focus on the Certificate of Appropriateness and the design features of the proposed new dwelling, with only limited focus on the Certificate of Demolition, was improper.

He showed the Commissioners pictures of the proposed site of the dwelling and argued that the local committee exercised poor judgment by not giving greater weight to the preservation of the "cohesive neighborhood appearance" that he identified with plans and pictures of the residential subdivision. He pointed out features of the existing dwelling that were similar to other dwellings in the neighborhood.

He argued that the dwelling had considerable architectural interest and suggested that the Committee was erroneous in not denying the request to demolish the building.

He pointed out that the applicant had been denied approval for their plans in September and subsequently allowed to go forward in October. He suggested that this action indicated that the Committee was being arbitrary and capricious.

He requested that the determination of the Town Committee be reversed.

**The Applicant's Presentation:**

Attorney Michael D. Ford addressed the Commission on behalf of the applicant and stated that the subject dwelling was built in approximately 1953. He suggested that the building lacked architectural and/or historical significance. He argued that a local Committee has discretion to deny a Certificate of Demolition only when a building has historic and/or architectural interest. He also argued that such denial must clearly be in the public interest. He stated that appellant had failed to offer evidence that would support such a determination.

Mr. Ford indicated that the series of town Committee meetings all complied with proper legal procedures and that the plans for the proposed dwelling had been modified to make the proposed building more compatible with the neighborhood.

**Public Comment:**

Robert Allen, Charles Baskin, Charles Fuller, and Betty Nelson all spoke in support of the appellant.

**Discussion:**

The Commissioners reviewed the approved plans. After discussion the Commissioners decided to take a special joint viewing of the site and its adjoining neighborhood. This was done on December 4<sup>th</sup> in the presence of the appellant's attorney and the Commission's acting attorney.

The Commissioners examined applicant's dwelling and the houses located in the neighborhood. They reviewed the plans and setting for the proposed new dwelling.

They reviewed the findings and determination by the local town committee. They reviewed the location of the proposed structure and noted the date of the construction of the dwellings in the immediate neighborhood.

They reviewed the factors set forth in Section 10 of the Act for permitting demolition and determining appropriateness. The Commission compared these factors with the finding made by the local town committee.

**Findings:**

The Commission found as follows:

That the Committee did not commit any prejudicial error in its open and public informal procedural review of the applicant's proposed plans.

That a visual examination of subject dwelling and its related neighborhood support the Committee's determination to grant the Certificate of Demolition and Certificate of Appropriateness.

That the Committee did not exceed its authority or exercise poor judgment in determining that the existing dwelling could be demolished.

That the construction of the proposed new dwelling will not cause an obviously incongruous change to the neighborhood nor adversely effect the public welfare.

That the exterior architectural features of the proposed new dwelling are similar to features of other residential dwellings in the area.

That the Committee was not arbitrary, capricious or erroneous in its action.

**Determination:**

As to Appeal #2001-20, the appeal is denied and the decision of the Barnstable Committee to issue a Certificate of Demolition and Certificate of Appropriateness is affirmed.

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.

Deborah Gray  
Vice Chairman