

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

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

Jane Remy, et als

V.

Decision #2001-22

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

2002 APR 17 P 1:30
BREWSTER TOWN CLERK

On Tuesday, December 11, 2001 the Commission held a public hearing on Appeal #2001-22 filed by Jane Remy, Chester N. and Marion J. Lay, Thomas Brennan, John and Nancy Landon and Ruth Hodgkinson seeking annulment of the Brewster Historical District Committee's decision and remand to the Committee for further hearings and/or decision for expansion of Our Lady of the Cape Catholic Church building and parking lot located at Stony Brook Road, Brewster.

Present were Jeffery Wilson, Barnstable; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Elizabeth Wilcox, Dennis; Betty Allen, Sandwich; James R. Wilson, Acting Commission Counsel; David S. Reid, attorney for appellants; Lester J. Murphy, Jr. attorney for the applicants.

The Committee's decision was filed with the Town Clerk on October 31, 2001. The appeal was entered with the Commission on November 9, 2001, within the 10 day appeal period.

The Appellant's Presentation:

Attorney David S. Reid addressed the Commission on behalf of the appellants' appeal and stated that the appeal focused on four identified features approved in the Certificate of Appropriateness. Those four items are the following:

1. That the existing buffer island at Stony Brook Road be planted with adequate vegetation to form a visual screen of the parking lot;
2. That the new parking lot be buffered in conformity with the current bylaw;
3. That the new parking lot lighting be of low wattage and contained within the site, and that the existing high pressure sodium lights be replaced with similar controlled lights; and
4. That the existing naturally wooded area, separating the parking lot from A.P. Newcomb Road, be preserved in its present natural state, as a visual separator and buffer.

He showed a landscape plan of the subject features, and indicated that the failure of the Committee to impose the above conditions made the Certificate of Appropriateness improper.

He requested that the determination of the Town Committee be annulled, and the matter remanded to the Brewster Committee for further review.

The Applicant's Presentation

Attorney Lester J. Murphy, Jr. addressed the Commission on behalf of the applicant and stated that the Town Committee had been reasonable in issuing the Certificate of Appropriateness as issued. He indicated that the applicant had attempted to compromise with the neighbors and encouraged the Commission to affirm the decision by the Brewster Committee.

Discussion:

The Commissioners reviewed the approved plans. The Commissioners invited public comment, and, after further discussions, asked if the attorneys could reach an agreement of compromise that would allow for a settlement of the appeal and disputed matters. A recess was taken during which time counsel for the two parties met and reached an agreement for settlement.

Findings:

The Commission found as follows:

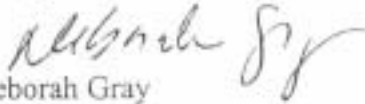
That the proposed compromise agreement as reflected in the attached "Addendum A" represents a reasonable minor clarification of the original Certificate of Appropriateness.

That in view of the agreed upon compromise, the decision of the Brewster Committee in granting a Certificate of Appropriateness should be affirmed, subject to the minor clarifications set forth in the attached "Addendum A" which is to be incorporated and made a part of the Certificate of Appropriateness for the project.

Determination:

As to Appeal 2001-22 the decision of the Brewster Committee to grant a Certificate of Appropriateness is clarified by the addition of "Addendum A" and affirmed.

Any person aggrieved by this decision has a right to appeal to the District Court Department, Orleans Division, within 20 days of the filing of this decision with the Brewster Town Clerk.


Deborah Gray
Vice Chairman

Agreed Upon Changes to Conditions
to Certificate of Appropriateness
Our Lady of The Cape

- A6 The BHC asked if the existing light fixtures in the lower north parking area (abutting Stony Brook Road) could be replaced under the construction agreement with the proposed type in the easterly parking area. Replacement of the existing fixtures will not be made a part of the initial church expansion, however it is agreed by both the BHC and OLC that as existing fixtures in the lower north parking lot "failed in use" or are "damaged beyond repair" they will be replaced with fixtures equal to those specified for the new easterly parking area, but in any event the replacement of all of the existing fixtures will be completed not later than 3 years from the date of issuance of the Certificate Occupancy for the renovated church structure.
- B4 The natural wooded buffer between the existing and proposed church development and A.P. Newcomb Road will be maintained in its present natural state, except that the church may remove invasive vines threatening healthy trees as determined by an ISA Certified Arborist of the Church's choosing, unless any clearing or grubbing is approved by the BHC with the issuance of a new Certificate of Appropriateness. Nothing in this paragraph shall prevent the Church from keeping the existing cleared areas along Stony Brook Road, from A.P. Newcomb Road to the parking lot access, in front of the stone wall, and inside the stone wall from the opening in the stone wall toward the existing parking area, (as approximately indicated by the hatched area on the enclosed plan), in their present cleared (of underbrush) condition.
- B7 The existing island buffer to the north of the north parking lot along Stony Brook Road, shall comply with the provisions of § 179 - 67E of the Brewster Zoning By-Law. Bushes planted in the island shall be located between the property line and the line of light poles, leaving room to pile plowed snow.