

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

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

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DENNIS TOWN CLERK

Audrey Yudell

V.

Decision #2002-9

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

On Tuesday, November 19, 2002 the Commission held a hearing on Appeal #2002-9 filed by Audrey Yudell seeking reversal of a decision by the Dennis Historic District Committee denying a Certificate of Appropriateness for the replacing pre approved metal chimney with brick chimney and installing 3 skylights that open and close at 66 Sears Road, East Dennis, Massachusetts.

Present were Carrie Bearse, Barnstable; Jonathan Shaw, Sandwich; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Peter Lomenzo, Dennis; James R. Wilson & Leslie Ann Morse, Acting Commission Counsels and Audrey Yudell, appellant/applicant.

The Committee's decision was filed with the Town Clerk on August 12, 2002. The appeal was entered with the Commission on August 19, 2002, within the 10-day appeal period. The Appellant requested and authorized in writing the extension of time to hear the appeal.

The Appellant's Presentation:

Audrey Yudell addressed the Commission on behalf of her appeal and requested that the determination of the Town Committee be reversed and that the Commission issue a Certificate of Appropriateness for the proposed three skylights. She submitted a lengthy statement setting forth her research and opinion on other skylights permitted within the historic district. She presented photographs of skylights that were contained in a photo album that the Commission members examined. She pointed out that the Dennis Committee had approved many skylights on the front of buildings including the Cape Museum of Fine Art. She presented examples of applications that had received Certificates of Appropriateness for skylights. She argued that denial of her Certificate was inconsistent with past action by the Committee. She stated that skylights were needed to add light to the interior of her dwelling and suggested that they would conserve energy. She additionally stated that the flat style and dark trim would cause the appearance to be compatible with the rooflines of her ranch house. She read from Sections of Act and the OKHRHDC Bulletin and suggested that the denial of her application was an error. She additionally suggested that it would cause a personal

hardship if her request were denied. She submitted a copy of the minutes of the Dennis Town Committee and a copy of the brochure for skylights.

The Town Committee's Presentation:

Peter Lomenzo addressed the Commission on behalf of the Dennis Town Committee. He stated that the style and design of the proposed three skylights was not compatible with the other houses in the area and offered pictures of the nearby buildings. He indicated that his Committee was concerned about large number of skylights that had been placed on buildings with in the District. He acknowledged that his committee had a practice of disapproving the use of skylights on the front buildings if the applicant could not demonstrate that a reasonable effort had been made to reduce the visual impact of the proposed skylights. He acknowledged that this practice had become a policy of his committee. He denied that this policy had been created with out public notice and/or participation. He stated that the policy had evolved directly from the many public hearings in which skylights were reviewed and either denied, approved, and/or modified.

He defended the stated policy as being a reasonable method of having consistence in the review process and providing all applicants for skylights a similar set of standards. He suggested that the applicant's challenge of the policy was unreasonable and expressed the opinion that skylights should not be allowed with out reasonable restrictions.

He indicated that the applicant requested that the proposed three skylights be either approved or rejected as submitted. He also expressed the opinion that denial would not constitute the substantial legal hardship required to allow for granting a Certificate of Appropriateness.

Discussion:

The members of the Commission reviewed the photographs and submissions by the appellant. Some of the commissioners indicated that they had visited the sight and agreed with the Town Committee's opinion that the design as proposed was not compatible. The chairman asked the appellant if she would consider any changes to her proposed design and/or location of the proposed skylights. The applicant indicated that she would not modify her proposed plans.

Commission Counsel was asked to clarify the hardship standard. Mr. Wilson stated that it was similar to the zoning variance standard. The hardship exception needed to be significant, unique and specific to the exterior architectural features of the building and not simply a personal deprivation to the applicant.

A majority of the Commissioners agreed with the Town Committee's determination that the applicant's proposed skylights were sufficiently incompatible to deny the issuance of a Certificate of Appropriateness and that insufficient hardship existed to reverse the Dennis Town Committee's denial of the application.

Findings:

The Commission found as follows:

That the design and style of the proposed three skylights would create a significant visual and aesthetic incongruity for its neighborhood.

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

That the Committee did not exceed its authority.

That the denial does not create a hardship that would support the granting of a Certificate of Appropriateness.

That the Committee did not make an error in denying the applicant's application for a Certificate of Appropriateness.

Determination:

As to Appeal #2002-9, the appeal is denied and decision of the Dennis Committee is affirmed (3-1-1).

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 Dennis Town Clerk.


Roy Robinson
Chairman