

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

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Betterwood Homes, Inc.

V.

Decision #2003-4

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

On Tuesday, May 20, 2003 the Commission held a hearing on Appeal #2003-4 filed by Betterwood Homes, Inc., seeking reversal of a decision by the Dennis Historic District Committee denying a Certificate of Appropriateness for an imitation stone retention wall that had been previously constructed by the appellant/applicant with out a proper Certificate of Appropriateness from the Dennis Town Committee and which is presently located at 6 Dr. Bottero Road, Dennis, Massachusetts.

Present were Jonathan Shaw, Sandwich; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Brad Crowell, Dennis; James R. Wilson, Commission Counsel and Charles Deluga & Paul Sullivan, owners' of Betterwood Homes, Inc., the appellant/applicant and their Attorney Robert J. O'Neil of No. Andover, Massachusetts.

The Committee's decision was filed with the Town Clerk on March 31, 2003. The appeal was entered with the Commission on March 10, 2003, within the 10-day appeal period.

The Appellant's Presentation:

Attorney Robert J. O'Neil addressed the Commission on behalf of the Appellant/Applicant and requested that the determination of the Town Committee be reversed and that the Commission issue a Certificate of Appropriateness for the existing imitation stonewall. He submitted a written memorandum setting forth his client's claim that a series of procedural errors and mistakes had been committed by the Dennis Committee and it's staff entitling his client to the automatic issuance of the requested Certificate of Appropriateness. He argued that on the day of the hearing, March 27, 2003 the Town Committee's secretary called Charles Deluga and advised him that he need not appear with his attorney that Evening because the Committee appeared to lack a quorum to act on his application. He claimed that a reasonable effort was not made to advise his Client that a subsequent change in the Committee's status of a quorum was not properly communicated to his client and that his application was denied the Certificate because of his client's following the advice of the Committee's Secretary in not appearing at the scheduled hearing. He suggested that his client, as a resident and experienced developer in the town, has been regularly appearing before the Dennis Town Committee and could

have been easily called by telephone at his home. He went on to claim a member of the Committee for the wall which had been wrongfully built by his client. granting of proposed building. She submitted plans of the building and photographs of other buildings in the area. She stated that the proposed fencing studio building had been designed to meet zoning regulations and the parking requirements of the Town Sandwich. She indicated that it was in a commercial zone and near a large shopping plaza. She expressed the opinion that the building would be compatible with the neighborhood and that the committee erred in denying the application.

The Town Committee's Presentation:

Jonathan Shaw addressed the Commission on behalf of the Sandwich Town Committee. He stated that the applicant had submitted a large and massive building on a small lot (16,700 sq. feet) that would be too close to the road (Route 6A). He suggested that the location of the proposed building would give it a very massive appearance. He pointed out that the building would be cut into the hill and would have three stories on the front.

He indicated that his committee was properly exercising its' authority as stated in foot note #24 of the Massachusetts Supreme Judicial Court, decision *Dennis Housing Corp. v. Zoning Board of Appeals of Dennis, et al.* (See copy below).

Discussion:

The members of the Commission reviewed the plans and the pictures that the applicant had submitted to the Commission for the appeal hearing. The Commissioners agreed with the Committee's determination that the building would have an undesirable massive appearance.

Findings:

The Commission found as follows:

That location of the building would cause it to appear massive in its proposed location on Route 6A.

That the decision of the Sandwich Town Committee should be affirmed

Determination:

As to Appeal #2003-3, the appeal is denied and decision of the Sandwich Committee is affirmed (3-0-1).

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.

Roy Robinson
Chairman