

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

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YARMOUTH  
TOWN ENGINEER  
X

**Mark and Susan Grenier, Appellants**

V.

**Decision #2004-4**

**Old King's Highway Regional Historic  
District Committee for the Town of Yarmouth**

On Tuesday, July 6, 2004 at 7:45 P.M., the Commission met to hold a hearing at the Fire Station Community Room, 340 Route 6A, Yarmouth Port, Massachusetts, on Appeal #2004-4 filed by Mark and Susan Grenier seeking reversal of a decision by the Yarmouth Historic District Committee granting a Certificate of Exemption to Hope Ratner for the construction of twelve trellises at the rear of 44 Wild Hunter Road, Yarmouth Port, Massachusetts.

Present were Jeffery Wilson, Barnstable; Robert DeRoeck, Sandwich; Deborah Gray, Yarmouth; Roy Robinson, Jr., Brewster; Peter Lomenzo, Dennis; James R. Wilson, Commission Counsel; Mark and Susan Grenier and their attorney Susan Sullivan, Appellants; and Hope Ratner and her attorney E. Jamie Veara, Applicant.

The Committee's decision was filed with the Town Clerk on April 22, 2004. The appeal was entered with the Commission on April 26, 2004, within the 10-day appeal period.

**The Appellant's Presentation:**

Attorney Susan Sullivan addressed the Commission on behalf of the Greniers and stated that the Committee had made an error in granting the Certificate of Exemption for the lattice that had been affixed to the existing six feet high stockade fence. She stated that the lattice was a fence and ought to have been treated as a fence and thereby failed to qualify for the Certificate of Exemption. She showed the Commissioners pictures of other fences with lattice and pictures of the subject property.

**The Town Committee's Presentation:**

Deborah Grey addressed the Commission on behalf of the Yarmouth Town Committee. She stated that, while many of her Committee members were not in favor of the appearance of the lattice style trellis, that it met the definition of an exempt feature under the Commission's list of exempt features.

She indicated that she had consulted with the Commission Counsel for legal advice about the amount of discretion that the Committee could exercise over granting Certificates of Exemption. She stated that she had been advised that if the feature met the definition set forth in the Regulations that the Committee should issue a Certificate of Exemption.

**The Applicant's Presentation:**

Attorney E. Jamie Veara stated that the lattice structures met a three - part test as set forth in the Commission's Exempt Features Section 3.04 (F). He stated that the trellis was (1) of light weight, (2) wooden construction, and (3) not over nine feet high.

**Discussion:**

Jeffery Wilson stated that after looking at the property and hearing the presentations of the parties that he agreed with the Yarmouth Committee's determination to grant the Certificate of Exemption.

Peter Lomenzo stated that he felt that an error had been made by the Yarmouth Committee. He expressed the opinion that the large number of trellis violated the spirit of the Act. He indicated that he would favor reversing the Yarmouth Town Committee's granting of the Certificate of Exemption.

Robert DeRoeck stated that he felt that no error had taken place and that the Committee was correct to have issued the Certificate of Exemption.

Roy Robinson stated that he felt that the Committee had used poor judgment and that the Certificate should not have been issued.

**Determination:**

After a failed motion (2-2) to reverse the Yarmouth Committee's granting of the Certificate of Exemption, it was stated that it would take an affirmative vote to change the action by the local Town Committee. The voting members being dead locked, it was announced that the determination of the Yarmouth Committee would be affirmed.

As to Appeal #2004-4, the granting of the Certificate of Exemption by the Yarmouth Committee is affirmed (2-2-1).

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 Yarmouth Town Clerk.

  
Roy W. Robinson, Jr.  
Chairperson