

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

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Tel: 508-775-1766 FAX 508-775-9248

**Stephen Grande, III, Appellant**

**V.**

**Decision #2004-6**

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

On Tuesday, November 2, 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 #2004-6 filed by Stephen Grande, III seeking reversal of a decision by the Barnstable Historic District Committee denying a Certificate of Appropriateness for the construction of a 7 ½ foot fence to be located at 4040 Main Street, Cummaquid, Massachusetts.

Present were Roy W. Robinson, Jr., Brewster; Jeffery Wilson, Barnstable; Robert DeRoeck, Sandwich; Deborah Gray, Yarmouth; Peter Lomenzo, Dennis; James R. Wilson, Commission Counsel; Stephen Grande, III, the Appellant/Applicant.

The Committee's decision was filed with the Town Clerk on September 24, 2004. The appeal was entered with the Commission on October 4, 2004, within the 10-day appeal period.

**The Appellant's Presentation:**

Stephen Grande, III addressed the Commission on behalf of his appeal and stated that the Committee failed to provide a written reason for its denial of his application. He indicated that a member of the Committee said that "they didn't want any 7 ½ foot fences on Route 6A."

He indicated that the Committee had previously approved a 6-foot stockade fence for the proposed location and that the Certificate had expired. (Certificates expire after a year if not used). He stated that his neighbors supported the application.

He felt that the denial did not serve any public interest.

He suggested that because the portion of the fence that was to be 7 ½ feet tall was perpendicular to Route 6A and located a substantial distance back from the Street, that it would have little visual impact on the public interest of the Historic District.

He stated that the reason the fence was needed was to provide visual privacy between neighbors and that both he and his neighbor had out door showers and decks that needed

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the screening. He indicated that the 6-foot fence was not high enough to provide proper visual protection.

**The Town Committee's Presentation:**

Jeffery Wilson addressed the Commission on behalf of the Barnstable Town Committee. He confirmed that two of the members indicated that the 7 ½ foot section was too high for Route 6A. He stated that he and the Committee's architect suggested a lattice top as a compromise but that it failed to be acceptable to either the applicant or the other members of the Committee. He reported that the Committee approved the 6-foot fence but not the 7-½ foot section. He felt that the Committee had tried to work with the applicant for a compromise but that the applicant wanted to stay with the proposed design as submitted. He acknowledged that a specific written statement of the reasons for denial had not been given to the applicant. He indicated that it had been clear to the applicant that the 7 ½ foot fence was "too tall for Route 6A."

**Public Comment:**

Stephen Porter, a neighbor located at 4042 Route 6A, stated that he supported the approval of the proposed fence. He stated that as you drive down Route 6A that there would be very little opportunity to see the proposed 7 ½ section of the fence. He indicated that the only people that would see the proposed fence would be the Grandes and their neighbor, the Richards.

**Discussion:**

The plot plan that was presented indicated some variation as to the exact distance from Route 6A and the location and length of the 7 ½ foot section.

Mr. DeRoeck asked if the fence would be visible from Stoney Point Way. The applicant acknowledged that it might be visible from that way, but there would be screening and that said way was not heavily traveled.

Deborah Gray observed that the style of the nearby houses incorporated high foundations and a tall appearance, which might support the approval of the tall fence.

Roy W. Robinson, Jr., indicated that each application should be judged on its own merits and not whether it sets a precedent for other future applications to be located on Route 6A.

Peter Lomenzo stated that he was troubled by the failure of the Barnstable Committee to give clear written reasons for its denial. He indicted that a blanket statement that the Committee did not want to have any 7 ½ foot fences located on Route 6A sounded arbitrary and reflected a failure to fully examine the setting and location of the proposed fence.

Deborah Gray stated the height of the two houses and its setting ought to have been given greater consideration by the Barnstable Committee.

Robert DeRoeck stated that he was troubled by the failure of the Barnstable Committee to have given a clear statement of the reasons for the denial.

Peter Lomenzo stated that he had concern about the failure to be clear on the location of the fence and that the Barnstable Committee failed to give a clear statement of its reasons for denying the application.

After further discussion, it became clear that a majority of the Commissioners felt that the action and determination of the Barnstable Committee appeared to have been arbitrary and in error.

**Findings:**

The Commission found as follows:

The Committee was erroneous in failing to provide a clear statement of its reasons for denying the application.

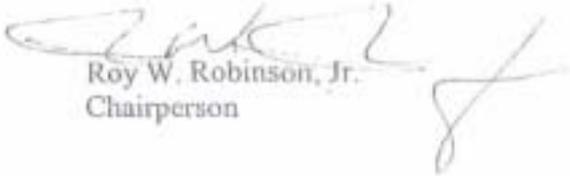
The Committee should review the application in relation to the factors set forth in Section 10 of the Act with specific attention given to the "setting" and the location of the proposed fence.

**Determination:**

As to Appeal #2004-6, the decision of the Barnstable Committee is annulled and the application remanded back to the Barnstable Committee for further hearing and review with a specific focus on the setting and the location of the proposed fence.

It is further directed that if a determination to deny the application is to be made by the Committee, it shall provide a clear written statement of its findings and reasons for the denial (4-0-1).

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 Barnstable Town Clerk.

  
Roy W. Robinson, Jr.  
Chairperson