

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

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

BARNSTABLE  
TOWN CLERK

'06 AUG 23 P1 58

**Our Lady of Victory Church, Appellant/Applicant**

**Vs.**

**Decision #2006-3**

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

On Tuesday, August 1, 2006 at 7:45 P.M., the Commission held a hearing at the Fire Station Community Room, 340 Route 6A, Yarmouth Port, Massachusetts, on Appeal #2006-3 filed by Our Lady of Victory Church seeking review and reversal of the Barnstable Historic District Committee's June 28, 2006 decision denying the use of bituminous asphalt paving material in an application for a Certificate of Appropriateness covering proposed landscaping and parking lot improvements to be located at 4 Parker Road, West Barnstable, Massachusetts.

Present were Robert DeRoeck, Sandwich; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Patricia Anderson, Barnstable; Peter Lomenzo, Dennis; James R. Wilson, Commission Counsel; and Joseph Gill, Joseph Della Morte, Michael Dionne (Steering Committee) and Daniel Ojala (Consultant) for Our Lady of Victory Church, the Appellant/Applicant.

Absent was Paul Leach, Orleans.

The Committee's decision was filed with the Town Clerk on June 29, 2006. The appeal was entered with the Commission on July 7, 2006, within the 10-day appeal period.

**The Appellant's Presentation:**

Joseph Gill addressed the Commission on behalf of the appeal. He identified a three member Steering Committee and pointed out July 15, 2006 letter from Reverend Mark R. Hession that declared that the Steering Committee was the official representative for the Parish in the appeal before the Commission. He submitted a petition signed by many parishioners to indicate their support for the application.

He stated that the Town Committee denial was based on the proposed use of a bituminous asphalt material for the surface of the parking lot. He stated that as written in the June 29, 2006 letter from the town committee, all other features of the proposed plan had been acceptable to the local committee.

He showed the Commissioners a 2005 Aerial Photo of the site and described the current traffic and parking conditions that the proposed project was designed to alleviate. The photo showed vehicles parked both in the existing parking lot and on Parker Road. He

indicated that at times of high use, vehicles had been parking in front of the Chapel and along the side of Route 6A and Parker Road.

He presented the Landscape Development Plan dated March 6, 2006 as revised: 04-14-2006; 05-02-2006; 05-31-2006; & 06-15-2006; which had been submitted to the Town Committee. He pointed out the proposed removal an existing parking area in front of the Chapel and the landscaping modifications that were to be made to the site. He stated that the proposed asphalt parking lot would not be visible from Route 6A and that substantial amount of plantings and screening would improve the esthetic appearance of the site.

He claimed that the current dirt conditions in the existing parking area were unsafe and unattractive. He said that bituminous asphalt paving had been used in many parking lots with in the historic district and that it was the best surface material to support the parking needs of the Applicant.

He asserted that the proposed asphalt surface material would increase the capacity and number of off street parking spaces for the Chapel. He pointed out that the asphalt surface would allow for better marking and control over the location of the vehicles. He stated that the paved surface would be safer for elderly and handicapped users of the Chapel. He indicated that winter snow plowing and ice removal would be better on a paved surface. Additionally, he claimed that the asphalt surface would be better for proper drainage control.

He requested that the determination of the Barnstable Town Committee be reversed and that the Commission issue a Certificate of Appropriateness for the requested landscaping and bituminous asphalt surface for the parking area.

**The Town Committee's Presentation:**

Patricia Anderson addressed the Commission on behalf of the Barnstable Town Committee.

She began by pointing out that the Town records indicated that the subject property was owned by the Roman Catholic Bishop of Fall River and questioned the authority of the Steering Committee to present the request for a Certificate of Appropriateness.

She said that the support petition submitted by the applicant was not certified and that the signers did not necessarily support the proposed use of an asphalt paving material.

She stated that while the Barnstable Town Committee had approved the general landscaping design as shown on the revised plan, the Barnstable Town Committee felt that the black asphalt material was inappropriate to service the relatively small rural Chapel. She indicated that the applicant exaggerated the amount usage and suggested that paving the relatively small parking area (46 parking spaces) would not result in a long-term solution to the church's parking problem. She reported that the Town Committee

had encouraged the applicant to consult with others to find a better material that could be substituted for the proposed bituminous asphalt.

She pointed out that the Chapel was built in 1915 in a unique Spanish monastic style and was listed on the National Register of Historic Places. She stated that Barnstable has seven villages with their own character and that West Barnstable has a special rural character that needs to be preserved.

She said that the Barnstable Town Committee had acted properly in denying the application.

George Jessop, architect on the Barnstable Town Committee, stated that a large part of the current parking problem was the current dome shape of the existing parking lot. He indicated that when the lot is reshaped with square edges cars will line up properly and that striping should not be necessary.

**Public Comment:**

Joanne Wallace of West Barnstable identified herself as being a member of the Parish. She stated that each of the seven villages of Barnstable have a Local Comprehensive Plan for their development and that West Barnstable has been identified as having an historic and rural character that needs to be protected. She distinguished the applicant from the Sandwich Riverview School parking lot application in Case # 2004-3 by pointing out that the usage was much greater and more intense at the Riverview School. She said that there was very little activity at the Chapel site and suggested that most events were scheduled at the larger church facility in Hyannis and Centerville. She claimed that walking on gravel was not hazardous and expressed the opinion that asphalt and striping were not needed.

Robert Bergman, Town Engineer for the Town of Barnstable, expressed the opinion that if you need to maximize the number of parking spaces in a parking lot, the most effective method is to use paving and painted lines. He stated that after thirty-five years of designing and working in the business that you lose between 25% and 30% of the capacity of the parking lot if you do not permanently paint and identify the lines for the parking spaces.

He reported that the area around the Chapel has been identified a traffic problem for the Town of Barnstable. He indicated the Fire Chief had expressed concern about the safety hazard created by vehicles parking on the side of road in the area and noted the potential blocking of access for fire vehicles and rescue trucks.

He indicated that the continued use of dirt and/or gravel in the parking lot might plug up the proposed drainage system. He suggested that the use of a loose material in the parking lot could create an additional safety problem by the gravel being carried out on to the public roadway.

He stated that from his point of view, as an engineer, paving the parking lot was the best way to address the current safety and parking problems at the site.

Deborah Fitton of Church Street, West Barnstable stated that she was an active member of the West Parish Congregational Church and that it broke her heart when they paved that parking lot at her church. She requested that the Commission not make the same mistake of approving asphalt paving at the Chapel site.

Gay Black of West Barnstable read a statement that she had prepared supporting the Barnstable Town Committee's denial of the use of asphalt paving. She stated that in her opinion the Barnstable Town Committee did not act in an arbitrary, capricious or erroneous manner.

She described the proposal as being a complete change to the gravel parking lot that existed on the site. She repeated the Barnstable Town Committee's statement that the Chapel is a very significant historic building and added that it was constructed with local West Barnstable bricks. She questioned whether or not there could be any basis for the applicant's appeal.

She claimed that the proposed project would not improve the safety conditions at the site and repeated the observation that the plan showed only forty-six (46) marked parking spaces and suggested that it would not support the eighty (80) motor vehicle capacity alleged by the applicant.

She expressed the opinion that the black asphalt pavement would adversely affect the historic value of the Chapel by detracting from her recollection that it had once appeared to be located on a grassy knoll.

She repeated a prior speaker's distinguishing the applicant's appeal from the Riverview School of Sandwich (Appeal # 2004-3) by re-stating various points of difference between the school facility and the Chapel.

She claimed that the applicant declined to consider alternative materials that might better restore the appearance of the original natural setting of the Chapel.

F. T. Jacobanis of West Barnstable and a member of the Parish reported that parking on the Street created a dangerous condition. He stated that a dirt and gravel surface would be hazardous. He expressed the opinion that many parking lots within the historic district have been paved with bituminous asphalt and suggested that it is too late to start to prohibit the use of an asphalt paving material.

Sgt. Andrew McKenna addressed the Commission on behalf of the Barnstable Police Department. He expressed the police department's concern about the existing traffic safety conditions at the site. He indicated that the proposed changes would improve sight lines. He confirmed that there had been accidents in the area and repeated the Town

Engineer's statement that marked lines in the parking lot would increase its capacity up to thirty (30%) percent.

He stated that the Barnstable Police Department supported the proposed changes and that the use of permanent markings in the parking lot would provide a public safety benefit to the community.

Patricia Anderson submitted a copy of an e-mail from Joan Neuwirth of 24 Parker Road, West Barnstable. As an abutter, she stated that she did not wish to see the asphalt and stripes that were proposed by the applicant. Additionally, she objected to the appearance of the two-foot landscaping berm that had been added as screening for the parking lot.

Charles Coombs of Parker Road, West Barnstable, expressed his opposition to the proposed project. He stated that West Barnstable has a character and texture that should be preserved. He stated that while the Church may have a parking problem, it does not serve the village residents interest to sacrifice the neighborhood's village character to serve the interests of the Church's congregation.

Tom Sullivan, a Parishioner from Cummaquid, expressed his support for the application. He stated that his wife had fallen in a gravel parking lot and had sustained serious head injuries from the fall. He indicated that walking on a loose gravel surface could cause serious injury to people visiting the chapel.

Kristine Clark, a Parishioner from West Barnstable, stated that she opposed the paving of the parking lot. She repeated the prior claim that there were members of the church that did not support the use of the asphalt paving material and suggested that the Steering Committee did not properly collect the supporting petition signatures.

She claimed that her church had decreased use of the Chapel and that the site was not being used as much as claimed by the applicant.

While she supported improving the parking for the site, she felt that a better alternative such as parking guides might better resolve the problem.

John Brennan, a Parishioner from West Barnstable, repeated the prior opinion that the only way to increase the off street parking capacity of the site would be to use paving and striping in the parking lot.

He pointed out that the Local Comprehensive Plan for the village recommended that all parking be located at the rear of buildings and that the proposed project was following that recommendation.

William LaPointe of Barnstable stated that he felt that the proposed plan would improve the beauty of the site and that like all the other churches along Route #149 and Route #6A, it needs the ability to use bituminous asphalt in the parking lot.

Leonard Clark, a Parishioner from West Barnstable, read a letter from a petition signer who claimed that he did not know what he was being asked to sign. The letter indicated that the signer did not understand the parking plan and therefore requested that his name be removed from the list of supporters for the proposed parking project.

Mr. Clark expressed his opposition to the proposed berm and the cutting of the trees that are to be removed as a part of the re-landscaping project.

Helen Wirtanen of Barnstable expressed support for the local Barnstable Town Committee decision and requested that the regional Commission uphold the denial of application.

Peter Childs of West Barnstable identified himself as a retired arborist who had worked on the trees that were to be replaced in the landscaping plan. He requested that the trees be preserved and not removed.

Robert Leeman of West Barnstable expressed concern about pollution and suggested that the catch basins in the proposed plans would help to trap the oil and other contaminants from the vehicles parking in the parking lot.

Commissioner Robert DeRoeck of Sandwich inquired about the town's required minimum distance of paved surface from a road into a parking lot.

Mr. Bergman, the Town Engineer, indicated that it was about twenty feet.

#### **Appellant's Concluding Response:**

Michael Dionne addressed the Commission on behalf of the appellant. He stated that the project had been discussed openly for more than eleven months. He reviewed the history of the work of the Steering Committee and defended its right to present the application and appeal.

He re-stated the applicant's claim that the parking lot would not be visible from Route 6A and that the two foot berm was proposed to screen the parking lot from Parker Road. In rebutting the allegation that the usage of the chapel had declined, he listed many special meetings, events and activities that continue to take place at the chapel.

In response to the number of parking spaces issue, he submitted a sketch plan showing eighty vehicles bumper to bumper in the parking lot. (Patricia Anderson pointed out that the plan had not been shown to the Barnstable Town Committee at its hearings.)

In response to the local opposition presented during the hearing, he identified a series of abutters and near by neighbors that supported the project.

In response to the suggestion of finding an alternative to bituminous asphalt paving, he stated that they had consulted with a number of engineers and experts, but could not find a suitable alternative material.

**Town Committee's Concluding Response:**

Patricia Anderson addressed the Commission on behalf of the Barnstable Town Committee.

She said that her committee never received a formal authorization from the record title owner of the property. Mr. Robinson noted the letter dated July 15, 2006 that the Commission had received from the Pastor of the Chapel specifically authorizing the Steering Committee to represent the Parish.

She stated that the Barnstable Town Committee had approved paving for the handicapped parking spaces and denied that the Committee had required that the parking lot had to be gravel. She asserted that the Committee offered many alternative suggestions to the use of gravel.

She suggested that perhaps a combination of ideas would relieve the needs of the Applicant. She stated that car-pooling or some kind of a shuttle service would be a better solution than paving the parking lot. She stated that the Committee's architect advised the Applicant that they could use other methods than striping to control the parking. She said that the proposal would only work when there were less than forty-six vehicles, but not when there were eighty vehicles at the site.

She insisted that there would always be a problem of parking on the Parker Road and Route 6A and that the proposed parking lot was not large enough to meet the parking needs of the Parish.

In conclusion, she again confirmed that the Barnstable Town Committee did not want the parking lot paved.

**Discussion:**

The members of the Commission reviewed the plans, photographs and related material shown to the Commissioners during the hearing.

Roy W. Robinson, Jr. stated that he had visited the site and observed that the parking lot's location behind the chapel made it very difficult to see. He agreed with the Applicant's opinion that proposed berm and vegetated screening would obscure the asphalt parking lot from the view of travelers on Route 6A and Parker Road. He noted that the existing parking area in front of the Chapel was very un-attractive and suggested that moving the existing parking spaces to the rear would provide a great improvement for the appearance of the site. He additionally noted his agreement with the concerns voiced by many about the existing safety issues at the site.

Peter Lomenzo stated that he wished to focus his remarks on the appropriateness of the proposed use of asphalt and striping in the parking lot. He reported that he visited the site that afternoon and observed a large amount of bituminous asphalt already existing with in the immediate surroundings. He noted that the Barnstable Town Committee had approved the use of asphalt with in the parking lot area for the handicapped parking spaces. He indicated that the two public places for observing the location of the proposed paving and striping were from Route 6A and Parker Road. He said that the Applicant and Barnstable Town Committee had worked hard to obscure the public's view of the proposed paved parking lot and its striping.

Robert DeRoeck stated that it appeared that the Barnstable Town Committee in its review of the proposed project had made no procedural errors. The issue therefore before the Commission is whether the Committee exercised poor judgment in denying permission to use bituminous asphalt and striping in the parking lot. He observed that currently there is a fifteen foot space between the Chapel and Rectory Building that might allow the public to see the proposed parking lot from the side of Route 6A. He noted that this could be easily be covered by suitable plantings.

He observed that visibility of the parking lot from Parker Road would be greatly reduced by the proposed landscaping. He noted that the entrances and exits, as the most noticeable part of the parking lot, would have to be paved under other Town regulations.

He concluded that the relatively minor negative visual impact of the proposed paving would be greatly out weighed by the benefit of reducing the parking along Route 6A and Parker Road. He noted the public safety benefits of the paving over gravel and expressed the opinion that proposed new landscaping would greatly improve the visual impact for the public in driving along the Old King's High Way.

Deborah Gray stated that the only issue is paving or some other surface for the parking lot. I have listened to the professionals and the neighbors. The Town engineer and the police department recommend the paved surface. I do not believe that the Committee acted arbitrary or capricious. However I do believe that they exercised poor judgment. I think that the Committee exercised poor judgment.

Peter Lomenzo and Roy Robinson indicated that they agreed with the conclusion that the Committee exercised poor judgment in denying the proposed paving and striping for the parking lot.

**The Commission findings:**

The Commission found as follows:

The Barnstable Town Committee exercised poor judgment in denying the applicant's request for the use of bituminous asphalt and striping of the proposed screened parking lot located at the rear of the Lady of Hope Chapel.

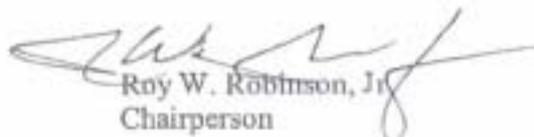
The Barnstable Town Committee's determination should be annulled.

A Certificate of Appropriateness should issue for the construction of the proposed landscaping and parking lot improvements as shown on the site plan dated Landscape Development Plan dated March 6, 2006 as revised: 04-14-2006; 05-02-2006; 05-31-2006; & 06-15-2006. (See copy of plan placed on file with the Barnstable Historic District Committee by the Old King's Highway Regional Historic District Commission)

**Determination:**

As to Appeal #2006-3, the decision of the Barnstable Town Committee is annulled and the Certificate of Appropriateness issued (4-0-1) in accordance with the findings set forth above.

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