

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

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Jeffrey Smith and Ann Smith, Appellant/Applicants

**TOWN CLERK
TOWN OF SANDWICH**

Vs.

Decision #2006-4

OCT 19 2006

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

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On Tuesday, October 3, 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 #2006-4 filed by Jeffery and Ann Smith seeking review and reversal of the Sandwich Historic District Committee's August 23, 2006 decision denying a Certificate of Demolition and a Certificate of Appropriateness covering the removal of an existing cottage style dwelling and the replacement construction of a new 2 story dwelling to be located at 43 Wing Blvd. West, East Sandwich, Massachusetts.

Present were Robert DeRoeck, Sandwich; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Peter Lomenzo, Dennis; James R. Wilson, Commission Counsel; and Jeffery Smith, Appellant/Applicant and Richard Anderson, Appellant/Applicant's contractor.

Absent were Paul Leach, Orleans and Patricia Anderson, Barnstable.

The Committee's decision was filed with the Town Clerk on August 24, 2006. The appeal was entered with the Commission on August 28, 2006, within the 10-day appeal period.

The Appellant's Presentation:

Richard Anderson addressed the Commission on behalf of the appeal. He presented a plot plan of the lot and identified the location of the present cottage and the footprint of the proposed new dwelling. He submitted plans (4-Elevations) and showed the Commissioners a scale model of the proposed new two (2)-story dwelling.

He indicated that the proposed dwelling would stay largely within the area of the existing dwelling. He acknowledged that the proposed dwelling would be much larger (2,800 square feet) than the existing cottage, but suggested that much of the increased size would be located in the second floor and at the rear of the new dwelling.

He presented photographs of larger dwellings that had been approved by the Sandwich Committee and claimed that Sandwich Committee had been erroneous and/or arbitrary in denying the Certificate of Demolition and Certificate of Appropriateness.

He claimed that the Sandwich Committee had approved the identical house design in another application and that the Sandwich Downs neighborhood had many larger dwellings that he and other builders had built with the approval of the Sandwich Committee.

He indicated that the neighbors did not object to the project and submitted a letter of support from Mariellen and James Sears of 40-44 Wing Blvd. West.

He requested that the determination of the Sandwich Town Committee be reversed and that the Commission issue a Certificate of Demolition and a Certificate of Appropriateness for the requested new dwelling.

The Town Committee's Presentation:

Robert DeRoeck addressed the Commission on behalf of the Sandwich Town Committee. He stated that the applications had been denied because of concern about the large exposure of the north side of the proposed new dwelling. He indicated that the Sandwich Town Committee felt that when the leaves were off the trees, the large massive appearance of the side of the new house would be inappropriate for the immediate neighborhood.

He pointed out that the large dwellings were located closer to the beach and that dwellings near to the applicants lot were much smaller. He stated that the lot on the North side of the proposed dwelling was owned by the Town Sandwich and would be held for conservation purposes.

He acknowledged that the Town Committee did not review the two Certificates separately, nor did the Committee consider the issue of "hardship" in denying the applications.

Notwithstanding the acknowledged procedural errors, he indicated that the Sandwich Town Committee had carefully examined the plans and reviewed the "immediate surroundings" of the proposed dwelling. He indicated that the Committee felt that the proposed new dwelling would appear "too massive" during the winter and the new dwelling would have a detrimental impact on the character of the neighborhood.

Public Comment:

There was no public comment offered on the appeal.

Discussion:

The members of the Commission reviewed the specifications, plans, photographs and related material shown to the Commissioners during the hearing. All the Commissioners indicated that they had visited the site and examined the other dwellings of the neighborhood.

The Commissioners questioned the proposed chimney change from fieldstone to brick and the Applicant indicated that it was an error. Mr. Smith stated that he and his wife wished to keep the stone and incorporate it into the new home.

Roy W. Robinson, Jr. stated that he observed that the neighborhood was in transition. He indicated that the existing building did not have sufficient value to deny the application for a Certificate of Demolition.

He indicated that the proposed design reflected a reasonable effort by the applicant to reduce the visual impact of the increased size and that the Sandwich made an error in not approving the proposed dwelling.

Deborah Gray stated that she was concerned that the Town Committee did not consider the issue of "hardship" or act separately on the two applications. She expressed the opinion that the dwelling appeared to lack architectural and/or historical significance and that she felt that there was not a sufficient public interest for denying the request for a Certificate of Demolition.

She additionally indicated that she felt that an error had also been made in reviewing the application for a Certificate of Appropriateness. She stated that the applicant appeared to have made a reasonable effort to reduce the visual effect of the increased size of the proposed dwelling.

Peter Lomenzo stated that he felt that it was an error to merge the demolition application with the new dwelling issues. He indicated that he agreed with the other Commissioners' opinion that the Certificate of Demolition ought to have been issued.

He indicated that he agreed with the conclusion that the Sandwich Town Committee exercised poor judgment in denying the proposed new dwelling.

The Commission findings:

The Commission found as follows:

The Sandwich Town Committee was in error in denying the applicants' request for the Certificate of Demolition.

The Sandwich Town Committee was arbitrary in denying the applicants' request for the Certificate of Appropriateness.

The Sandwich Town Committee's determinations should be annulled.

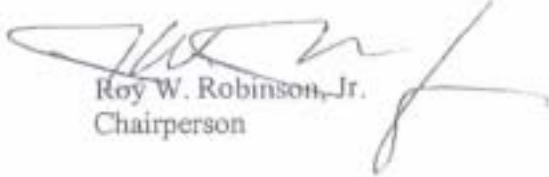
A Certificate of Demolition should issue in accordance with the application submitted by the applicants.

A Certificate of Appropriateness should issue for the construction of the proposed dwelling in accordance with plans and specifications submitted for review by the Old King's Highway Regional Historic District Commission with the chimney being changed to stone. (See copy of plans placed on file with the Sandwich Historic District Committee by the Old King's Highway Regional Historic District Commission)

Determination:

As to Appeal #2006-4, the decisions of the Sandwich Town Committee are annulled and the Certificate of Demolition and a Certificate of Appropriateness issued (3-0-1) 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