

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

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TOWN CLERK
TOWN OF SANDWICH

Joel Harder, Appellant/Applicant

Vs.

Decision #2006-5

NOV 27 2006

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

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On Tuesday, November 7, 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 #2006-5 filed by Joel Harder seeking reversal of a decision by the Sandwich Historic District Committee denying a Certificate of Appropriateness covering the addition of a half story to an existing two story house located at 77 Freeman Avenue, Sandwich, Massachusetts.

Present were Robert DeRoeck, Sandwich; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Patricia Anderson, Barnstable; Peter Lomenzo, Dennis; James R. Wilson, Commission Counsel; Jane E. Estey, Attorney for the Appellant/Applicant; and Joel Harder, Appellant/Applicant.

The Committee's decision was filed with the Town Clerk on October 12, 2006. The appeal was entered with the Commission on October 20, 2006, within the 10-day appeal period.

The Appellant's Presentation:

Attorney Jane E. Estey addressed the Commission on behalf of her client's appeal. She requested that the determination of the Town Committee be reversed and that the Commission grant a Certificate of Appropriateness for the requested alterations to the dwelling. She stated that the matter had been before the Commission last year in Case #2005-5 and had been remanded back to the local Town Committee for a new hearing based on a failure to notify an abutter.

She described the proposed project as requiring a six - foot increase to the roof - line and the addition of an extended dormer. She indicated that the it should not be called a three story building because the addition is to convert the existing attic space into living space and would result in only a half story change to the building's appearance. She indicated that the neighborhood supported the project and claimed that the Committee did not have jurisdiction over the rear elevation.

Mr. Robinson pointed out that the rear of the building could be seen from Bay Beach Lane and therefore was subject to review by the Town Committee.

Attorney Estey described the Town Neck neighborhood as a typical beach cottage area that is located on Cape Cod Bay. She indicated that many of the cottages had been modified over the years to increase their size and make them more suitable for year round occupancy.

Joel Harder presented photographs of his existing house and other houses in the neighborhood. Plans of the proposed changes were shown to the Commissioners.

Mr. Harder stated that the Committee had approved similar proposals and suggested that an approved three and half house was under construction across the street from his house. He stated that there were many larger houses located in the neighborhood and that it was unfair to deny his application.

Attorney Estey asked that the Commission consider the issue of hardship. She indicated that while her client had declined to offer any evidence on the issue at the local hearing she would like to present evidence to the Commission. She indicated that the small size of the applicant's lot and the many zoning and land use regulations created a hardship that would allow the Commission grant the requested Certificate of Appropriateness.

The Town Committee's Presentation:

Robert DeRocck addressed the Commission on behalf of the Sandwich Town Committee. He stated that the applicant had an informal discussion with the Town Committee nearly a year ago following the remand in Case #2005-5. The Committee offered suggestions for changes that might reduce the inappropriateness of the applicant's proposed modifications to the dwelling. He indicated that little change had been made and suggested that the applicant was unwilling to work with the local Committee to address the problems in the rear elevation and other related concerns.

He indicated that the committee was not arbitrary, capricious or erroneous; but was reasonably concerned about the proposed extreme height ratio and proposed three stories of decks with large glass sliders that were being proposed for the rear of the building.

He suggested that the Committee was willing to consider other alternatives in an attempt to meet the applicant's needs for additional living space and acknowledged that some progress had been made on the design features shown on the front elevation.

He reported that the proposed design had been determined to be inappropriate by three (3) of the Committee members and that faced with an up or down vote, all three had voted against the approval of the proposed project.

Public Comment:

Yvonne Anderson, a member of the Sandwich Committee, stated that she and another member of the Committee had favored approving the proposed design.

Discussion:

The members of the Commission reviewed the plans (elevations), photographs and other items submitted for review during the hearing.

Peter Lomenzo expressed concern that this matter has not been properly reviewed and suggested that the both the Applicant and the local Town Committee need to work together find a proper design for the proposed modifications to the building. He noted that prejudice appears to be clouding both sides in the process and that a remand to the local committee is the proper action for the Commission to take at this time.

Mr. Robinson agreed with Mr. Lomenzo's comments and added that it is not for the Commission to determine the appropriateness of the proposed design. He supported returning the matter to the local Town Committee and encouraged the Applicant to address the concerns voiced by a majority of the members of the local Committee.

Deborah Gray expressed the opinion that the design issues, including the front and rear elevations, need to be better addressed by the applicant's architect.

Patricia Anderson stated that she agreed with annulling and remanding the Application to the local Committee for additional design revision by the applicant's architect and review by the town Committee.

The Commission findings:

The Commission found as follows:

An error in the review process exists.

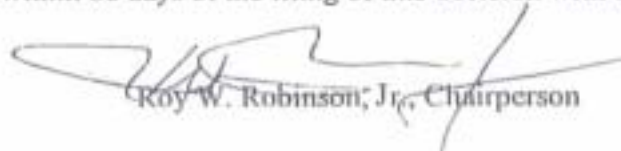
The Town Committee's determination should be annulled.

The Application should be remanded to the Sandwich Town Committee for continued review and that the applicant needs to submit alternative design changes for the rear and front of the building.

Determination:

As to Appeal #2006-5, the decision of the Sandwich Committee is annulled and the matter remanded for additional review by the Sandwich Committee (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 Sandwich Town Clerk.


Roy W. Robinson, Jr., Chairperson