

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

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TOWN CLERK
TOWN OF SANDWICH

DEC 28 2006

Telltale Realty Trust, Appellant/Applicant

Vs.

Decision #2006-6

1 H O S M P M T L
RECEIVED & RECORDED

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

On Tuesday, December 5, 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 #2006-6 filed by Jean Jordan, Trustee of the Telltale Realty Trust seeking reversal of a decision by the Sandwich Historic District Committee denying a Certificate of Appropriateness covering the construction of a new dwelling to be located at 52 Salt Marsh Road, Sandwich, Massachusetts.

Present were Robert DeRoeck, Sandwich; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Patricia Anderson, Barnstable; James R. Wilson, Commission Counsel; Anne M. Michniewicz, Designer for the Appellant/Applicant; and Jean Jordan, Trustee, Appellant/Applicant.

Absent were Peter Lomenzo, Dennis and Paul Leach, Orleans.

The Committee's decision was filed with the Town Clerk on November 9, 2006. The appeal was entered with the Commission on November 15, 2006, within the 10-day appeal period.

The Appellant's Presentation:

Anne M. Michniewicz 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 proposed dwelling. She presented photographs of other dwellings in the area and stated that the house represented the natural growth and change that was taking place in the beach cottage neighborhood.

She pointed out larger dwellings that had been approved and stated that the Sandwich Committee was being arbitrary and capricious in their disapproval of the height of the proposed dwelling.

She expressed the opinion that the Sandwich Committee was being inconsistent in its action by having approved houses of greater height. She pointed out a nearby location where the Committee had approved a new two - story dwelling next to an existing one - story dwelling. She suggested that the Committee was not interested in the design features of the proposed building but only focused on the height issue.

The Town Committee's Presentation:

Robert DeRoeck addressed the Commission on behalf of the Sandwich Town Committee. He indicated that the committee was not arbitrary, capricious or erroneous; but was reasonably concerned about the proposed extreme height ratio of the proposed new dwelling. He presented a transcript of the hearing and a picture of the neighborhood landscape. He pointed out to the Commissioners that the location had not yet been built up with tall houses.

He acknowledged that other parts of the neighborhood did have tall houses, but suggested that this part of the area still maintained a large portion of the natural tree line.

He stated that a majority of the Sandwich Committee believed that it was important to protect this identified remaining stretch of beachfront from the growth of tall two story dwellings.

He indicated that the natural view of Cape Cod beachscapes was an important part of the visual Cape's history and that protecting them from the visual intrusion of tall dwellings was an important part of a town committee's role in determining a proposed building's appropriateness.

Public Comment:

David Allen, abutter owning 54 Salt Marsh Road, showed photographs of existing dwellings in the immediate area. He stated that he was opposing the new construction. He indicated that his house was only one story high and that allowing the applicant to add the proposed second story would have a major visual impact on the immediate neighborhood.

John Blasdale, of 27 Boulder Brook Road and a neighbor from across the marsh, expressed his opposition to the proposed new dwelling. He supported the Town Committee's denial of the application. He stated that the test for "appropriateness" showed be determined by looking at the structures that are located in the "immediate surroundings" and not by a large section of the neighborhood.

Discussion:

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

Mr. Robinson began the discussion by reading from Section 10 of the Act. He reviewed the factors to be considered and encouraged the Commissioners to objectively review the appeal.

He stated that he sympathized with the neighbors that have spoken in favor of the Town Committee's denial of the application. He expressed the opinion that times are changing

and that because other larger houses had been approved for construction in the neighborhood, that the proposed building ought to have been approved.

Deborah Gray expressed the opinion that both sides of the issue did an excellent job of presenting the issues to the Commission. She indicated that in reviewing the factors set out in Section 10, she could not fault the Town Committee's determination. Each project must be judged based on the features in the "immediate surroundings." When I look at the proposed dwelling, I agree that the "height" was a proper concern and the action of the Committee was not arbitrary, capricious or erroneous.

Patricia Anderson stated that when she considers the dwellings that are located nearby, she agrees with the Town Committee's determination. I think that the Town Committee was correct in denying the application for the particular setting.

The Commission findings:

The Commission found as follows:

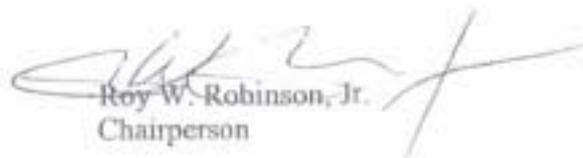
The Town Committee was not arbitrary, capricious, or erroneous in denying the application.

The Town Committee's determination should be affirmed.

Determination:

As to Appeal #2006-6, the decision of the Sandwich Committee is affirmed (2-1-1) 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