

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

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

Kevin and Jennifer Johnston, Appellant

Vs.

Decision #2007-2

07

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

MAY 11

On Tuesday, May 1, 2007 at 7:45 P.M., the Commission held a hearing at the Fire Station Community Room, 340 Route 6A, Yarmouth Port, Massachusetts, on Appeal #2007-2 filed by Kevin and Jennifer Johnston seeking reversal of a decision by the Brewster Historic District Committee denying a Certificate of Appropriateness covering a PVC fence located at 650 Main Street, Brewster, Massachusetts.

Present were Mark Marinaccio, Sandwich; Joshua Crowell, Dennis; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Patricia Anderson, Barnstable; James R. Wilson, Commission Counsel; and Kevin and Jennifer Johnston, the Appellant/Applicant.

Absent was Paul Leach, Orleans.

The Committee's decision was filed with the Town Clerk on February 7, 2007. The appeal was entered with the Commission on February 15, 2007, within the 10-day appeal period. The Applicants agreed to a written extension of the hearing date until May 1, 2007.

The Applicant's Presentation:

Kevin Johnston addressed the Commission on behalf of his appeal/application. He stated that he applied to the Brewster Committee in 2004 to replace a wooden split rail fence with "a square split rail fence" after it had been knocked down by an automobile. He stated that the application had been approved and a Certificate of Appropriateness issued.

He indicated that after obtaining the Certificate of Appropriateness, he erected a PVC split rail fence instead of wood and asserted that for two years nobody complained and/or noticed the difference between the plastic and wood material.

He reported that the Building Inspector sent a notice indicating that the fence was not in compliance with the Old King's Highway Act and that he would need to reapply for a new Certificate of Appropriateness for the fence.

He stated that he complied with the Building Inspector's request for a new application and was denied an approval by the Brewster Committee.

BREWSTER TOWN CLERK

Mr. Johnston showed the Commissioners photographs of the fence and other plastic fences that had been constructed along Route 6A in Brewster. He claimed that there was little difference in the appearance of the PVC material and that the Brewster Committee had been erroneous in denying his application.

The Town Committee's Presentation:

Roy Robinson addressed the Commission on behalf of the Brewster Town Committee. He stated that when the fence had been approved in 2004 it was clear to the Committee that the request was for a wooden fence and not a PVC fence. He stated that the Brewster Committee does not believe that PVC fences allowed because they appear glossy and different from wooden fences.

He stated that a "split rail" fence by its nature implied the use of wood and not plastic.

Discussion:

The members of the Commission reviewed the photographs and other items submitted for review during the hearing.

Deborah Gray began the discussion by pointing out that the applicant had applied twice for the same fence. It appeared that there had been some confusion in what had been approved and that a compromise might be the best solution. She proposed to the Applicant that while the appearance of the existing fence is not appropriate that if he would paint the fence with a flat white paint that the Commissioners might give him permission to keep the existing fence.

After discussion, the Applicant agreed to the proposed compromise and stated that he would paint the fence by September 1, 2007.

The Commission findings:

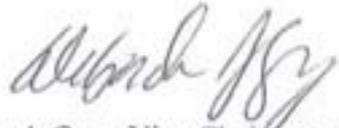
The Commission found as follows:

Confusion over the 2004 Certificate of Appropriateness, created an error in the process. The application for the existing fence should be approved provided the Applicant agrees to paint the fence with a flat white paint. The Applicants stated that they would paint the fence before September 1, 2007.

Determination:

As to Appeal #2007-2, the decision of the Brewster Committee is annulled and a Certificate of Appropriateness issued subject to the condition that the fence be painted flat white by September 1, 2007 (4-0-1).

Any person aggrieved by this decision has a right to appeal to the District Court Department, Orleans Division, within 20 days of the filing of this decision with the Brewster Town Clerk.

A handwritten signature in cursive script, appearing to read "Deborah Gray".

Deborah Gray, Vice Chairperson