

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

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

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YARMOUTH
TOWN
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Stephen Mill & Susan Mill, Appellants

Vs.

Decision #2008-4

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

On Tuesday, June 3, 2008 at 7:45 P.M., the Commission held a hearing at the Fire Station Community Room, 340 Route 6A, Yarmouth Port, Massachusetts, on Appeal #2008-4 filed by Stephen Mill & Susan Mill, seeking reversal of a decision by the Yarmouth Historic District Committee granting a Certificate of Appropriateness to Vladimir Cabrera and Patience Cabrera for construction of a single family two story colonial style home with one car attached garage and front portico with brick steps to be located at 95 Eileen Street, Yarmouth Port, Massachusetts.

Present were Patricia McArdle, Sandwich; Peter Lomenzo, Dennis; Richard E. Gegenworth, Yarmouth; Roy W. Robinson, Jr., Brewster; Patricia Anderson, Barnstable; James R. Wilson, Commission Administrator; Stephen Mill and Susan Mill, Appellants Vladimir Cabrera and Patience Cabrera, Applicants and Matthew Teague of Reef Realty, Applicant's Builder. Absent was Paul Leach, Orleans.

The Town Committee's decision was filed with the Town Clerk on April 18, 2008. The appeal was entered with the Commission on April 25, 2008, within the 10-day appeal period.

Applicant's Presentation:

Matthew Teague addressed the Commission on behalf of the Applicant and described the construction project as being a traditional, two-story, colonial style home with attached garage on a vacant lot. A site plan and set of elevation plans were presented to the Commissioners for review. He pointed out that the House would be located fifty-three feet back from the street line.

He acknowledged that there were many ranch style houses in the neighborhood, but pointed out that a few two-story dwellings had also been built nearby. He showed photographs of the nearby two-story houses and identified the locations of the existing two-story dwellings.

He indicated that the construction plans called for leaving as many trees as possible in place to screen the new dwelling and that new plantings would be added to help screen the new house.

Appellant's Presentation:

Susan Mill identified her husband and herself as the Owners of 87 Eileen Street, an abutting property. She showed the Commissioners photographs of twenty-one houses located in the neighborhood that were all of a one-story ranch style.

She presented a petition from the neighbors opposing the action of the Yarmouth Town Committee in its approval of the proposed two-story dwelling. She suggested that the neighbors were very upset that the Committee allowed the Applicants to build the proposed two-story dwelling and suggested that it was not compatible with the "Rolling Hills" subdivision.

She indicated that most of the houses had been constructed during the 60s & 70s and that the vacant lot was the last one without a house on it. She indicated that the neighbors did not wish to prevent the development of the vacant lot, but only objected to the visual impact that the large two-story dwelling would have on the character of the neighborhood.

Commissioner Peter Lomenzo asked if these concerns had been raised at the local hearing before the Town Committee.

Mrs. Mills indicated that she and her husband were in New Hampshire and that they had had very little advanced notice of the Public Hearing. The minutes of the Public Hearing indicated that the issues were raised by three e-mails, but that none of the neighbors appeared at the local hearing.

Town Committee:

Richard Gagenwarth presented copies from the Town Committee's file of the application, site plan, elevations, minutes and related correspondence to the Commissioners. He explained that the "hilly topography" of the subdivision and the set back from the street would minimize the two story's visual impact on the neighborhood.

He indicated that the Applicant had expressed the intent to leave many of the large trees in place. He also expected that the owner would use extensive landscaping to screen the proposed dwelling.

He acknowledged that the vote of the Town Committee was (2-1) with one member opposed to the height and design of the proposed dwelling. He further indicated that a detailed landscaping plan had not been submitted, nor incorporated into the Certificate of Appropriateness.

Public Comment:

Karen Elliott of 82 Eileen Street expressed concern for the protection of the neighborhood character and reported that ninety (90%) percent of the houses in the subdivision were of a one story ranch style.

Rosemarie Bartolini of 98 Eileen Street expressed concern that as many mature trees as possible should be preserved and that a strict screening plan be enforced.

Patricia Kaufman of 99 Eileen Street expressed the opinion that the proposed house would appear too tall for the neighborhood.

Patricia Donovan of 86 Eileen Street expressed concern that the proposed two-story dwelling would be located on a prominent hill in the middle of the subdivision.

Discussion:

Peter Lomenzo began the discussion by saying that it appeared that the local committee had ignored many of the abutters' comments and concerns. He indicated that he felt that the matter should be returned to the local committee for a full review of the design and screening issues. He pointed out that a proper landscaping plan had not been submitted and that the local committee should hear the neighbors concerns.

Patricia Anderson stated that proper screening buffer might be the answer, but that without a plan, any vegetated buffer zone would be impossible to enforce.

Roy Robinson and Patricia McArdle stated that they agreed with Mr. Lomenzo and Mrs. Anderson.

The Commission findings:

The Commission found as follows:

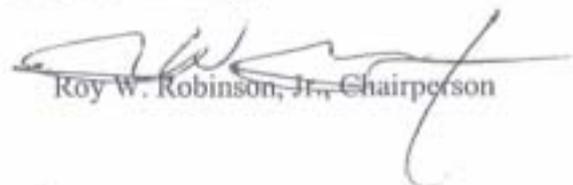
That the Town Committee's issuing the Certificate of Appropriateness without a detailed landscaping plan was an error, that the determination by the Town Committee should be annulled and the Town Committee should rehear the application with a new advanced notice to the abutters so that they may attend and present their concerns in person.

Determination:

As to **Appeal #2008 - 4**, the decision of the Yarmouth Town Committee is annulled and the matter remanded to the local Town Committee for a rehearing (4-0-1).

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 Yarmouth Town Clerk.

June 16, 2008


Roy W. Robinson, Jr., Chairperson