

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

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

**Timothy C. Williams, Appellant/Applicant**

**Vs.**

**Decision #2008-5**

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

08 NOV 12

On Tuesday, November 4, 2008 at 3:00 P.M., the Commission held a hearing at the West Barnstable Fire Station Meeting Room, 2160 Meetinghouse Way (Route 149), West Barnstable, Massachusetts, on Appeal #2008-5 filed by Timothy C. Williams, seeking reversal of a decision by the Barnstable Historic District Committee denying a Certificate of Appropriateness for an as built attached garage located at 22 Kent Road, Barnstable, Massachusetts.

Present were Patricia McArdle, Sandwich; Peter Lomenzo, Dennis; Joseph Sullivan, Yarmouth; Roy W. Robinson, Jr., Brewster; Patricia Anderson, Barnstable; James R. Wilson, Commission Administrator; Appellant/Applicant Timothy C. Williams; and Peter L. Freeman, Appellant/Applicant's Attorney.

Absent was Paul Leach, Orleans.

The Town Committee's decision was filed with the Town Clerk on October 2, 2008. The appeal was entered with the Commission on October 9, 2008, within the 10-day appeal period.

**Appellant/Applicant's Presentation:**

Peter L. Freeman addressed the Commission on behalf of the Appellant/Applicant and described the construction project as being a constructed attached garage. He stated that the application had been acted upon at a meeting when he could not be present and that his client had requested a continuance to a time when he could be present to represent his client's interests. He indicated that the denial had been by a tie vote of 2-2.

He reported that he had sent a letter to the Barnstable Committee requesting that matter be remanded back to the Town Committee for a new hearing with notice to the abutters so that he could be present to clarify the information contained in the application and properly represent his client's position before the Town Committee.

**Town Committee:**

Patricia Anderson stated that a remand for a new hearing would be acceptable, but that she wanted the record to show the following statement that she read:

1. On August 27, 2008, during an OKH committee discussion of lack of a Certificate of Appropriateness for increased garage height and increased dormer change, both Atty. Freeman and Mr. Williams were present in the audience. The Committee voted unanimously to require an application to be forwarded forthwith and a public hearing on these issues be held on Sept 24. Atty. Freeman has, in the past, requested a full committee be present (see OKH Minutes 7/23/08).
2. Members arranged their schedules to ensure a full Committee would be present on Sept 24 and abutters were noticed. One member had just had leg surgery that morning and another cancelled vacation plans.
3. Subsequently, on Sept 10, on TV, Attorney Freeman made an appointment with the Barnstable ZBA for the same night (Sept 24) and stated he also had another meeting in Harwich and would have someone else in his office cover that meeting. Nothing was said about the OKH meeting. Attorney Freeman never informed the OKH Committee that he could not come on Sept 24.
4. 48 hours before the OKH hearing a member of Mr. Williams staff called and indicated that Mr. Williams wanted a continuance. A fax was received on Sept 23 with a request to continue the hearing to Oct. 8<sup>th</sup>. Also on Sept 23 Attorney Freeman called our staff person Patty Mackey, and asked her to read Mr. Williams' fax to him.
5. There was no offer to extend the time frame for the application, and the Committee was at risk of not having a Quorum at the next meeting on Oct 8. In fact 2 members and the alternate could not attend that meeting and the meeting was shortened to allow another member to leave early. The committee would have been over the 45-day limit before its next scheduled meeting.
6. The owner continued construction of the house and garage throughout this application process and other pending application for modifications to approved plans. Is the applicant willing to stop construction during this appeal process, or will construction continue according to plans that have never been approved?

She added that she was prepared to go forward with the hearing.

**Discussion:**

Peter Lomenzo began the discussion by saying that it appeared that the request for a remand ought to be granted and that a new hearing with notice to the abutters should be scheduled as soon as possible.

Joseph Sullivan supported annulling and remanding the matter to the Barnstable Committee for new hearing within ninety days.

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

**The Commission findings:**

The Commission found as follows:

That the Barnstable Town Committee's action should be annulled and the matter remanded to the Barnstable Town Committee to rehear the application with a new publication and notice to the abutters.

**Determination:**

As to **Appeal #2008 - 5**, the decision of the Barnstable Town Committee is annulled and the matter remanded to the Barnstable Town Committee for a new hearing (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 Barnstable Town Clerk.

November 12, 2008

  
Roy W. Robinson, Jr., Chairperson