

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

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

Douglas & Deborah Hempel, Appellant/Applicant

Vs.

Decision for Appeal No. 2010-4

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

On Tuesday, August 24, 2010 at 2:00 P.M., the Commission held a hearing at the West Barnstable Fire Station Meeting Room, 2160 Meeting House Way (Route 149), West Barnstable, Massachusetts, on Appeal # 2010-4 filed by Douglas & Deborah Hempel seeking reversal of a decision by the Barnstable Historic District Committee denying a Certificate of Appropriateness for the installation of two (2) skylights and twenty-four (24) solar panels on the roof of a dwelling located at 170 Capes Trail, West Barnstable, Massachusetts.

Present were Chairman Peter T. Lomenzo, Jr., Dennis; Patricia McArdle, Sandwich; Richard Geganwarth, Yarmouth; Lawrence Houghton, Brewster; George Jessop, Barnstable; James R. Wilson, Commission Administrative Counsel; Douglas & Deborah Hempel, Applicant/ Appellant; and Conrad Geysler of Cotuit Solar, Solar Engineer for the Appellant/Applicant.

Absent was Paul Leach, Orleans.

The Committee's decision was filed with the Town Clerk on July 20, 2010. The appeal was entered with the Commission on July 23, 2010, within the 10-day appeal period.

Copies of the, Appeal Petition, Town's Decision, Application, Plans and Minutes from the Town Committee's hearing were distributed to the Commissioners for review.

The Appellant/Applicant's Presentation:

Deborah Hempel addressed the Commission on behalf of the Applicant's appeal. She reviewed the proposed project of adding two (2) flat skylights and placing twenty-four (24) solar panels on the front roof of her home. She described the energy advantage of the addition of the proposed solar devices for her home. She claimed that the project would supply three-quarters (3/4s) of the yearly energy needs for her home. She indicated the skylights would add light to an upstairs office and bedroom.

She criticized the action of the Town Committee in denying the application. She stated that the location of her home near the Mid-Cape Highway and in a relatively remote part of the Historic District made it an ideal site for the proposed project. She described her

neighborhood as consisting of relatively new homes built within the last twenty years and suggested that the area was without historic value or significant.

She indicated that she had discussed the project with her neighbors and that none had come to the hearing to oppose the application.

She presented reasons why the project needed to be placed on the front roof and could not be placed on the ground or on the north side of the house.

She reviewed the project in relation to the Regional Historic District's Guidelines.

She showed the Commissioners photographs of solar panels and skylights that had been approved at other locations within the Regional Historic District.

The Town Committee's Presentation:

George Jessop addressed the Commission on behalf of the Barnstable Town Committee. He stated that the Town Committee denied the skylights and solar panels because of their proposed location on the front the house. He indicated the full solar panel array would be too visible and prominent for the neighborhood. He indicated that houses in the neighborhood, while being of recent construction, maintained a strong traditional Cape character in design and style.

He indicated that the Committee felt that a different location would have a less detrimental impact on the historical character of the neighborhood. He said that the Committee suggested alternative locations that were rejected by the Applicant.

Public Comment:

Allison Alessi expressed support for the Applicant stating that she was an architect that supported the use of solar power and felt that the design was appropriate for the District.

Commission Discussion:

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

Chairman Peter Lomenzo began the discussion by stating that determining whether the Barnstable Committee made a mistake of one of the five types set forth in Section 11 of the Historic District Act. He highlighted the points by asking the following questions. Did the Committee exceed its authority? Did the Committee exercise poor judgment? Was the Committee arbitrary in its actions? Was the Committee capricious in its actions? Was the Committee erroneous in its actions? He asked each Commissioner to comment.

Lawrence Houghton of Brewster expressed concern for the manner that solar panels are acted upon by the Town Committees. He suggested that this is not an historic area. He

pointed out that this is a relatively new area of recent development. He expressed the opinion that the front roof facing south is the only suitable place for the proposed solar panels and stated that there appears to be no objection from the neighbors. He concluded by saying that he believed that the Town Committee, in denying the application, has made an error.

Patricia McArdle of Sandwich stated that she believed that each application should be acted upon in a case-by-case manner. She indicated that in her opinion, the Town Committee made a mistake in denying the application based on a blanket policy against allowing solar panels and skylights on the front of a building.

Richard Gegenwarth of Yarmouth stated that he favored more solar panel use within the Regional Historic District, but was not sure that the Town Committee was wrong in denying the proposed Project. He agreed that each case should be judged carefully on its own merits and that he was not sure that the Town Committee had made an error. He indicated that he was not sure which way he would vote on the appeal.

Chairman Peter Lomenzo of Dennis stated that he could not find an error by the Town Committee. He expressed concern that the location of the proposed solar panels would be very visible from the street. He stated that he visited the site and observed the character of the immediate surroundings were as described by the Town Committee. He indicated that he did not believe that Town Committee had made a mistake in denying the Project.

Mrs. McArdle offered a motion, seconded by Mr. Gegenwarth, to annul the denial and issue a Certificate of Appropriateness for the proposed project, subject to the roof shingles being changed to better blend with the solar panels.

The motion carried by a vote of 3-1-1. (McArdle, Gegenwarth & Houghton in favor; Lomenzo opposed; and Gessop abstaining)

The Commission findings:

The Commission found as follows:

The Town Committee was erroneous in not approving the proposed skylights and solar panels.

The application for a Certificate of Appropriateness should be approved with roof shingles that will best blend with the solar panels.

Determination:

As to Appeal #2010-4, the decision of the Barnstable Committee is annulled and a Certificate of Appropriateness is issued in accordance with the plans and specifications on file with the Town Committee with the additional requirement that the roof shingles be modified to best blend with the solar panels. (3-1-1).

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.

Dated: September 17, 2010

Peter T. Lomenzo, Jr., Chairperson