

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

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

**Larry Locke and Lorraine Goyette, Appellant/Applicant**

**Vs.**

**Decision for Appeal No. 2011-2**

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

On Tuesday, April 5, 2011 at 1:30 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 # 2011-2 filed by Larry Locke and Lorraine Goyette seeking reversal of a decision by the Dennis Historic District Committee denying a Certificate of Appropriateness for sixteen (16) Photovoltaic Panels and one (1) Solar Thermal Panel to be located on the front roof of a dwelling at 202 Setucket Road, Dennis, Massachusetts.

Present were Acting Chairman Lawrence Houghton, Brewster; Peter T. Lomenzo, Jr., Dennis; William Collins, Sandwich; Richard Gegenwarth, Yarmouth; George Jessop, Barnstable; James R. Wilson, Commission Administrative Counsel; and Jason D. Stoots, Agent for the Applicant/ Appellant.

Absent was Paul Leach, Orleans.

The Dennis Town Committee's decision was filed with the Town Clerk on March 10, 2011. The appeal was entered with the Commission on March 16, 2011, 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:**

Jason D. Stoots addressed the Commission on behalf of the Applicant's appeal. He reviewed the proposed project and stated that the placement of the panels at the top of the roofline was to get the maximum exposure from the sun. He showed the Commissioners plans and photographs of the proposed panels. He also brought samples of the panels and explained that the trees in the area required the high placement on the front of the house.

He suggested that the Town Committee had been arbitrary in exempting solar panels on the south side of Setucket Road and not permitting the proposed panels on the north side.

He showed the Commissioners a newer panel that was all black and more efficient. He suggested that it might be a better option for the property. He stated that the original

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proposal was submitted with blue panels. He indicated that the new panel was not available at the time of the submission to the Dennis Town Committee.

He presented a plan that located all the panels on the easterly side of the roof. He indicated that the Town Committee had rejected this plan.

He stated that the dwelling was only five years old and appeared to lack any historical significance.

He requested that the Town Committee's denial be reversed and a Certificate of Appropriateness be issued

**The Town Committee's Presentation:**

Peter Lomenzo addressed the Commission on behalf of the Dennis Town Committee. He confirmed that the Town Committee denied the application because an acceptable location for the panel placement could not be found. He indicated that the Town Committee determined that the location on the front near the top of the roofline was too visible and not compatible with the area.

He reviewed the minutes from the Town Committee's hearing and suggested that the Town Committee acted properly in denying the proposed panels.

He asked the Commission to uphold the Town Committee's action in denying the project.

**Commission Discussion:**

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

Acting Chairman Lawrence Houghton invited the Commissioners to comment on the issues presented in the appeal.

George Jessop stated that he found the proposed location to be unacceptable. He indicated that he had visited the site and that he felt that the location on the garage roof would have been a better placement.

He expressed the opinion that the location of the dividing line down the middle of Setucket Road was not an arbitrary decision because the houses on the south side would have the panels located on the back of the houses.

William Collins stated that there are buildings and settings where solar panels are not appropriate. It is not the role of the Commission to substitute its judgment for that of the Dennis Town Committee.

He indicated that he did not find that the Dennis Town Committee acted erroneously or improperly in determining that the proposed panel placement was inappropriate for the site.

Mr. Gegenwarth stated that he felt that the Dennis Town Committee did not exercise poor judgment, but acted properly in denying the application. He indicated that the proposed location of the proposed panels would be very prominent and would have a negative impact on the area. He expressed the opinion that he hoped that an alternative location or proposal could be found for the Applicant.

Mr. Houghton expressed concern for the new panels and ideas introduced at the appeal hearing level. He expressed sympathy for the Applicant's request for solar panels and asked if a remand for further review by the Town Committee might be proper.

Mr. Jessop indicated that a second look by the Town Committee might allow it to consider the new panels and other possible new suggestions that were brought out during the hearing.

Mr. Wilson suggested that the Commission would need to find an error by the Town Committee in order to remand the matter back to the Dennis Town Committee. He suggested that a better course might be for the Applicant to submit a new application to the Town Committee.

Mr. Houghton indicated that it appeared that the Dennis Town Committee did not exceed its authority or act in an arbitrary manner in denying the proposed solar panels. He expressed the opinion that the Town Committee did not exercise poor judgment nor was it capricious or erroneous in its action.

Mr. Gegenwarth moved, seconded by Mr. Collins, to uphold the denial of a Certificate of Appropriateness for the proposed solar panels.

The motion carried by a vote of 4-0-1. (Collins, Houghton, Gegenwarth & Gessop in favor; and Lomenzo abstaining)

**The Commission findings:**

The Commission found as follows:

The Dennis Town Committee acted in a reasonable manner and did not exceed its authority or error in its determination to deny a Certificate of Appropriateness for the proposed sixteen (16) Photovoltaic Panels and the one (1) Solar Thermal Panel.

The application for a Certificate of Appropriateness should be denied.

**Determination:**

As to Appeal #2011-2, the decision of the Dennis Town Committee in denying the application is affirmed. (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 Dennis Town Clerk.

A handwritten signature in black ink, appearing to read "Lawrence Houghton", written over a horizontal line.

Dated: April 20, 2011

Lawrence Houghton, Acting Chairperson