

BARNSTABLE  
TOWN

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

P.O. Box 140, Barnstable, Massachusetts 02630-0140 JUN 28 08:39  
Tel: 508-775-1766

**Gregory Ehret and Barbara Ehret, Appellant/ Applicants**

**Vs.**

**Decision for Appeal No. 2011-4**

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

On Tuesday, June 7, 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 # 2011-4 filed by Gregory Ehret and Barbara Ehret seeking reversal of a decision by the Barnstable Historic District Committee denying a Certificate of Demolition for the structures located at 21 Scudder's Lane, Barnstable, Massachusetts.

Present were Chairman Peter T. Lomenzo, Jr., Dennis; Lawrence Houghton, Brewster; William Collins, Sandwich; Richard Gegenwarth, Yarmouth; George Jessop, Barnstable; James R. Wilson, Commission Administrative Counsel; Gregory Ehret and Barbara Ehret, Appellants/Applicants; Tracey L. Taylor, Appellants/Applicant's Attorney; and Benjamin Thompson, Applicant's Agent.

Absent was Paul Leach, Orleans.

The Barnstable Town Committee's decision was filed with the Town Clerk on April 20, 2011. The appeal was entered with the Commission on April 28, 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 Applicant's Presentation:**

Attorney Tracey L. Taylor of Yarmouth addressed the Commission on behalf of the Appellant/Applicants' appeal. She presented a written Legal Memorandum in support of the appeal. She stated that the matter had been heard by the Commission on September 29, 2010 and remanded back to the Barnstable Town Committee for a determination as to whether, or not, the building had sufficient historical and architectural significance that it's demolition would be detrimental to the public interest.

She stated that a public hearing before the Barnstable Town Committee was held on April 13, 2011. She indicated that Katherine W. Converse, an abutter, claimed that the appearance of the building had many features that reflected the Colonial Revival style. Additionally, Attorney Taylor reported that it was asserted at the Barnstable Town

Committee hearing that the occupancy of the cottage by Rosamond Bigelow and Andrew Keck provided additional evidence to establishing that the building had historical significance.

Attorney Taylor claimed that the Barnstable Town Committee wrongfully relied on these assertions in denying the Certificate for Demolition. She stated that the evidence was insufficient to deny the application and requested that the Commission reverse the Town Committee's action and issue the requested Certificate for Demolition.

In support of the request, she presented pictures of the building and its many architectural features. She pointed out that the building was not listed on the Federal or Massachusetts Registry of Historic Buildings. She claimed that the building did not appear to have a significant number of classical Colonial Period architectural features.

She challenged the assertion that Rosamond Bigelow and Andrew Keck were significant historical figures by pointing out that Rosamond Bigelow genealogical claim of significant ancestry was not unique and that Andrew Keck appeared to be simply a college or university art professor without national prominence or notoriety.

She requested that the original July 14, 2010 determination by the Barnstable Town Committee to permit the demolition be reinstated.

Richard Gegenwarth, Commissioner of Yarmouth, asked when the building was built.

Attorney Taylor stated that the building was built in 1930 and used mainly as a guest cottage and not as a principal dwelling.

#### **The Town Committee's Presentation:**

George Jessop addressed the Commission in support of the Barnstable Town Committee decision to deny the demolition. He indicated that the Barnstable Town Committee felt that the building had historical significance for the local neighborhood. He suggested that the building, as a guest cottage, had been occupied by many of the local residents and that a well-known author and other persons of note had stayed or visited the cottage.

He asked that Eric Dray, a preservation consultant, be allowed to read his statement in opposition to the demolition. He indicated that the statement had been presented at the April 13, 2011 public hearing.

Chairman Lomenzo suggested that Mr. Dray should present his statement during the Public Comment part of the hearing. Mr. Jessop was allowed to submit a written copy of Mr. Dray's statement on the Colonial Revival style of the cottage for the record.

Mr. Jessop asked the Commissioners to uphold the Barnstable Town Committee's decision to deny the demolition.

**Public Comment:**

Chairman Lomenzo asked for public comment on the appeal.

Ben Thompson, an architect who had spoken on behalf of the Applicant at prior hearings on the application disputed the claim that the building was a good representative of the Colonial Revival style. He used photographs of the Applicant's cottage and compared the architectural features with those of other nearby buildings. He pointed out that the building lacked many of the significant features of the Colonial Revival style.

Christian Ehret, mother and neighbor of the Applicant, spoke in favor of the application. She stated that the cottage was a rental guest cottage and denied that it was a major fixture in the neighborhood. She pointed out that the cottage was screened by vegetation and did not appear to have a very prominent location.

Eric Dray, Preservation Consultant who had spoken on behalf of Katherine W. Converse at prior hearings and prepared a written statement that was submitted in opposition to the application, read his statement to the Commission. He pointed out the growth of the summer visitor tourism of the Thirties and suggested that the guest cottage was an important example of the architecture of that period. He acknowledged that the cottage may not be the best or most historic example, but claimed that it was significant enough to warrant its protection from demolition.

John Ehret, father and neighbor of the Applicant, spoke in favor of the demolition. He claimed that the cottage lacked historical significance and argued that it was unreasonable to classify the specific building as requiring preservation.

**Appellant/Applicant's Rebuttal:**

Attorney Taylor restated the Applicant's claim that the local Town Committee exercised poor judgment when it denied the application. She asserted that the Barnstable Town Committee was wrongfully influenced by the many letters of opposition from the neighborhood and wrongfully found historical significance where there was none.

She again reviewed the claims of the prior owner's genealogical ancestry and the historical architectural significance issue.

She requested that Commission find that the Barnstable Town Committee made an error in determining, on the presented evidence, that the cottage had historical significance.

She requested that the Commission issue the Certificate for Demolition for 21 Scudder's Lane, Barnstable, Massachusetts.

**Town Committee Rebuttal:**

George Jessop stated that the local use and relationship of the cottage to the people living in the neighborhood was an important factor in the Barnstable Town Committee's determination that the building had historical significance. He indicated that the emotional response from the neighborhood was important and the effort to relocate the structure was a reasonable effort to address the public's interest in preserving the history of a local neighborhood.

He requested that the Barnstable Town Committee's decision to deny the Application be upheld.

**Commission Discussion:**

Mr. Gegenwarth stated that he had visited the site and noted that the cottage was difficult to see from the Street. He stated that his observation of the cottage indicated that it appeared not to be of great architectural significance, but rather common in its architectural features. He indicated that he felt that the Barnstable Town Committee made an error and exercised poor judgment in finding, on the evidence as presented, that the cottage had sufficient historical significance to require its preservation.

William Collins indicated that he visited the site and had a different opinion. He found that the cottage had a special charm. He expressed the opinion that the remand worked properly and that the Barnstable Town Committee, after a second look at the application, heard sufficient evidence to support a conclusion that the cottage did have historical significance and should be preserved. He observed that the local Barnstable Town Committee knows the neighborhood and should be the best judge for determining a building's historical significance.

Mr. Houghton expressed the opinion that he also visited the site and observed that the cottage did not appear to have unique or special architectural features that might make it architecturally significant. He agreed with the Applicant's claim that the occupation by the prior owners did not appear to sufficiently support the Barnstable Town Committee's finding that the cottage had sufficient historical significance to require its preservation.

Mr. Houghton, however, did express the belief that building ought to be preserved by relocation. He indicated that he felt that the Barnstable Town Committee appeared to have acted properly in its efforts to have the cottage preserved by relocation to another site.

Mr. Lomenzo stated that he felt that the Barnstable Town Committee made an error when it determined that the cottage had historical significance. He expressed the opinion that the evidence offered did not support a finding that the building had sufficient historical or architectural value to require its preservation.

Mr. Gegenwarth moved, seconded by Mr. Houghton, to annul the decision of the Barnstable Town Committee in denying a Certificate for Demolition to the Applicant and for the Commission to issue the Applicant a Certificate for Demolition.

The motion carried by a vote of 3-1-1. (Houghton, Gegenwarth & Lomenzo in favor; Collins against; and Jessop abstaining)

**The Commission findings:**

The Commission found as follows:

The Barnstable Town Committee was in error in determining that the building had sufficient historical and architectural significance that it's demolition would be detrimental to the public interest.

The denial of a Certificate for Demolition to the Applicants was an error.

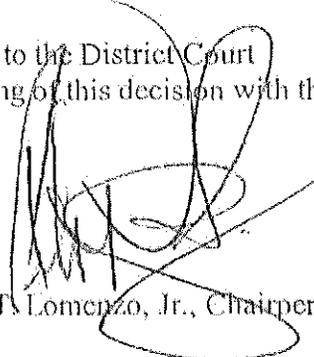
The Certificate for Demolition should be issued to the Applicants.

**Commission's Determination:**

As to Appeal #2011-4, the Decision of the Barnstable Town Committee in denying the Certificate for Demolition to Gregory Ehret and Barbara Ehret for 21 Scudder's Lane, Barnstable, Massachusetts is annulled and a Certificate for Demolition is hereby issued to the Applicant. (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: June 28, 2011

  
Peter T. Lomenzo, Jr., Chairperson