

BARNSTABLE  
TOWN

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

P.O. Box 140, Barnstable, Massachusetts 02630-0140 '11 SEP 15 A11:17  
Tel: 508-775-1766

**Fred Schilpp and Carolyn Pickman, Appellant/ Applicants**

**Vs.**

**Decision for Appeal No. 2011-6**

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

On Tuesday, September 6, 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 # 2011-6 filed by Fred Schilpp and Carolyn Pickman seeking reversal of a decision by the Barnstable Historic District Committee denying a Certificate of Appropriateness for additions and alterations to a dwelling located at 115 Rendezvous Lane, Barnstable, Massachusetts.

Present were Chairman Peter T. Lomenzo, Jr., Dennis; Lawrence Houghton, Brewster; William Collins, Sandwich; George Jessop, Barnstable; James R. Wilson, Commission Administrative Counsel; Fred Schilpp and Carolyn Pickman, Appellants/Applicants; and Deborah L. McCutcheon, Appellants/Applicant's Attorney.

Absent was Paul Leach, Orleans and Richard Gegenwarth, Yarmouth.

The Barnstable Town Committee's decision was filed with the Town Clerk on June 30, 2011. The appeal was entered with the Commission on Monday, July 11, 2011, within the 10-day appeal period. The Appellants/Applicants requested in writing that the hearing be continued from August 2, 2011 until the September 6, 2011.

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 Deborah L. McCutcheon of Truro addressed the Commission on behalf of the Appellant/Applicants' appeal. She presented a collection of photographs that showed the existing building and other nearby buildings. She identified the proposed additions as consisting of adding two shed dormers to the front roof and a screened gazebo/porch that would be located on the south side of the building. She presented a series of plans that had been shown to the Town Committee reflecting different possible options for constructing the requested additions to the building. She stated that her clients began the hearing process in November 2010 and had appeared before the Town Committee at six (6) separate hearings in an effort to find an acceptable design for the proposed additions.

She suggested that the Town Committee was in error about the age of the building and its historical value and significance. She submitted a copy of the building's Massachusetts Historical Commission Form B stating that the building was constructed in 1836 as a Federal Cape and disputed the 1750 Town assessor's record date noted as possible in the Town Committee's written decision. She described many changes to the rear of the building, indicating that the front parlors and a bedroom upstairs were the only original features remaining. She claimed that the front façade, which she identified as being the only significant surviving feature of the original building, had been altered by the removal of a front porch at some time after 1910. She showed the Commissioners a letter dated September 5, 2011 from Keith Mackenzie-Betty, Architect for the Applicants, supporting and describing possible changes to the front portion of the building. She claimed that the building was not listed as a separate building on the Federal or Massachusetts Register of Historic Places, but only was included as a part of the four hundred and fifty-nine (459) buildings listed for the Old King's Highway Regional Historic District.

She stated that the proposed additions to the building are consistent with historical character of the property and it's setting. She showed the Commissioners drawings from Clair Baisly's Cape Cod Architecture and photographs of similar dormers found on other houses located within the historic district. She suggested that the addition of the proposed dormers and proposed porch would be appropriate for the building and that their approval would not be incongruous to the purposes set forth in the Historic District Act.

She concluded her presentation by stating that the Town Committee's determination that the front façade could not be altered by the addition of the two dormers and porch exceeded its authority, exercised poor judgment, or was arbitrary, capricious or erroneous in its action.

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

George Jessop addressed the Commission in support of the Barnstable Town Committee decision to deny the application. He stated that the front portion of this building is the original structure that was sited and constructed in 1836 for Thomas Holmes and his wife Polly. He described it as being in the style of a traditional British folk forum of hall and parlor design with two rooms wide, one room deep, bedrooms over and of a post and beam construction. He indicated that after its initial construction, many additions had been added to the rear of the building. These rear additions were all removed in 1960 and replaced by a large living room, kitchen, maid's room (downstairs) and three bedrooms (upstairs). He stated that the original dwelling/front portion has for the most part remained un-changed and in the opinion of Town Committee should be preserved in its existing original form.

He indicated that "preservation" under the U. S. Secretary of the Interior's Standards for the Treatment of Historic Properties requires applying measures to sustain the exiting form, integrity, and materials of an historic property. He stated that new exterior addition of the proposed dormers would not support the preservation of the building's original and

present historic form. He pointed out that the dormers would permanently alter the front roof plain which is original to the 1836 hall and parlor house design.

He suggested that the already existing dormer on the rear ought to provide the ventilation and additional headroom desired without disturbing the appearance of the building's historic frontal elevation.

He stated that the projection of the porch, in front of the existing house line, would detract and improperly draw away from the existing appearance of the historic building's streetscape elevation.

He indicated that the Town Committee determined that the preservation of the original structure, yard and site in the form of the original construction is important to the street, neighborhood and Town. The building's simple design distinguishes it and makes it important to be preserved intact.

He characterized the building as a contributing original structure that has survived for years without historic district protection because of recognition by its prior owners of the unique historic and architectural significance of the original front portion of the building.

Commissioner Houghton asked for clarification of the distance of the porch projection, which Mr. Jessop indicated, had been scaled from the plans to be from three to six feet.

Chairman Lomenzo asked if the lengthy discussions about different types and styles of dormers in the Minutes reflected a willingness by the Town Committee to approve the requested feature.

Mr. Jessop stated that he was in large part responsible for the lengthy dormer discussions. He indicated that he pursued the matter in an effort to find a compromise that might be acceptable to a majority of his Town Committee. He stated that the final vote to deny the proposed dormers was split (3-2).

**Appellant/Applicant's Rebuttal:**

Attorney McCutcheon presented copies of 1880 and 1910 Atlas sketches of the footprint of the building. She restated that the front façade had been altered by the removal of what appeared to have been a full porch or deck across the front of the building and replaced by the construction of the front enclosed portico. She claimed that the Town Committee failed to properly consider this modification to the front of the building when it determined that the front portion of the building should be preserved.

**Town Committee Rebuttal:**

George Jessop stated that the Town Committee was aware of the prior existence of the front porch/deck that had been removed and the enclosed front entry that had been added to the front of the building. He indicated that the original structure from the foundation to

the ridge remains unchanged. That notwithstanding the addition of the enclosed entry, the Town Committee determined that the style and condition of the original frontal portion of the building should remain intact and that all additions and/or modifications should be limited to the area beyond the plain of the front elevation.

**Commission Discussion:**

Chairman Lomenzo asked the Commissioners to focus on whether or not the Town Committee exceeded its authority; exercised poor judgment; was arbitrary, capricious, or erroneous in its action.

William Collins began the discussion by stating that on all the information and material presented that the building is an historic building. He expressed the opinion that the Town Committee was not arbitrary in its review but examined many factors including researching the buildings long architectural history. He observed that the Town Committee appears to have consulted the Guidelines for making modifications to historic buildings and fully discussed the style and design of the proposed additions and considered the appropriateness of the placement of the proposed new features on the historic building. He concluded that the Town Committee did not act in an arbitrary manner but had cogent reasons for denying the proposed porch and dormers.

He stated that the Town Committee did not appear to exceed its authority because the denial of the proposed porch and dormers falls within the Town Committee's jurisdiction and the presented information reasonably supports denying the application to protect the front façade in an undisturbed condition. He observed that an effort was made to find a compromise, but in the end the Act gives the local Town Committee the authority to deny the proposed changes to the historic building.

Mr. Houghton agreed with Mr. Collins that the Town Committee did not exceed its authority or act in an arbitrary manner. He stated that he did not believe that the Town Committee exercised poor judgment because the issues were well considered and debated throughout the process.

However, he expressed concern about the Minutes and stated that he was surprised by the denial of the dormers. He indicated that the record reflects that the Town Committee may have acted erroneously or capriciously when it voted to deny the dormers. He found that the denial of the porch placement was correct, but was disturbed by what appeared to have been a sudden change of position by some of the members of the Town Committee.

Mr. Lomenzo stated that it looks like we are in agreement that the Town Committee did not exceed its authority, act in an arbitrary manner, or exercise poor judgment. We are left with the issues of capricious or erroneous action.

He stated that the issue of capricious action was resolved for him by the explanation that Town Committee's Chairman was working to find a compromise. He reminded the

Commissioners that Mr. Jessop had explained that he was trying to find an acceptable solution to the dormer issue.

On the issue of erroneous action, he indicated that he found the Town Committee properly did their review of the proposed dormers and porch. He stated that it appeared that the review was thorough and the determination reasonably based on the historical value, setting, and features of the building.

Mr. Collins concurred with Mr. Lomenzo's opinion.

Mr. Collins moved, seconded by Mr. Houghton, to affirm the decision of the Barnstable Town Committee in denying a Certificate of Appropriateness to the Applicants

The motion carried by a vote of 2-1-1. (Collins & Lomenzo in favor; Houghton against; and Jessop abstaining)

**The Commission findings:**

The Commission found as follows:

The Barnstable Town Committee did not exceed its authority in denying the application.

The Barnstable Town Committee did not exercise poor judgment in denying the application.

The Barnstable Town Committee did not act in an arbitrary, capricious or erroneous manner in denying the application.

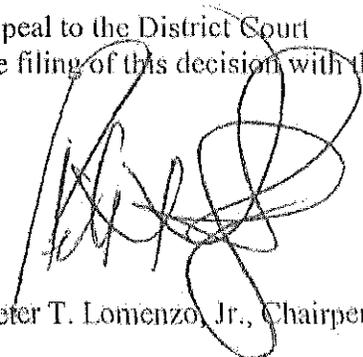
The denial of a Certificate of Appropriateness for the proposed dormers and porch should be affirmed.

**Commission's Determination:**

As to Appeal #2011-6, the Decision of the Barnstable Town Committee in denying the Certificate of Appropriateness to Fred Schilpp and Carolyn Pickman for 115 Rendezvous Lane, Barnstable, Massachusetts is affirmed. (2-1-1).

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 15, 2011

  
Peter T. Lomenzo, Jr., Chairperson