

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

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

**Arthur La Franchise, Appellant**

**Vs.**

**Decision for Appeal No. 2012-1**

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

On Tuesday, February 7, 2012 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 # 2012-1 filed by Arthur La Franchise seeking reversal of the Yarmouth Historic District Committee's granting of a Certificate of Appropriateness to the Seven Hills Foundation for the construction of a five bedroom home to be located at 19 Centerboard lane, South Yarmouth, Massachusetts.

Present were Chairman Peter T. Lomenzo, Jr., Dennis; Lawrence Houghton, Brewster; William Collins, Sandwich; Carrie Bearse, Barnstable; Richard Gegenwarth, Yarmouth; James R. Wilson, Commission Administrative Counsel; Paul Revere, III, Attorney for the Appellant and Arthur La Franchise, Appellant; Lucille B. Brennan, Attorney for the Applicant; David M. Sorgman and Luanne Perry of Group 7 Design, Designer for the Applicant; and Richard Martell, Construction Manager for the Applicant, Seven Hills Foundation.

Absent was Paul Leach, Orleans.

The Yarmouth Town Committee's decision was filed with the Town Clerk on January 11, 2012. The appeal was entered with the Commission on January 20, 2012, within the 10-day appeal period.

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

**Applicant's Presentation:**

David M. Sorgman of Group 7 Design, addressed the Commission on behalf of the Applicant's Application. He described the proposed dwelling as being designed to accommodate five (5) female residents with disabilities in a non-institutional environment. He claimed that many of the exterior design features were selected to give a "residential" character and to avoid a "commercial" appearance to the building. He indicated that handicap ramps and other similar institutional style features had been omitted from the design.

He reported that many design concessions had been incorporated into the final plans. He showed the Commissioners the original submitted plans and highlighted the changes in entrance design and other changes in location, size and materials that were reflected in the final set of plans and specifications approved by the Yarmouth Town Committee.

He compared the proposed dwelling with other houses located in the neighborhood and pointed out that many exceeded the height (one story vs. two story) and size (square footage of floor space). He described the large 1.10-acre size of the Applicant's lot and the proposed dwelling's substantial setback from the Centerboard Lane. He also described the landscape plan and compared the smaller size of the proposed driveway with the Appellant's and other homes located with in the immediate neighborhood.

Commissioner Collins asked the height of the proposed building, which was identified as being 21 feet, 6 inches to the ridgeline.

Chairman Lomenzo asked for clarification of the various changes that had been discussed at the September, October and January public meetings before the Yarmouth Town Committee, which was described in more detail by Mr. Sorgman.

#### **The Appellant's Presentation:**

Attorney Paul Revere, III addressed the Commission on behalf of the Appellant, Arthur La Franchise. He identified his client as an immediate abutter and therefore declared him to be "a person aggrieved" under the Historic District Act.

He claimed that while the application process had taken three meetings and involved many modifications to original proposed building, the final submission represented only one major redesign and the deletion of features that were obviously inappropriate for the Historic District.

He suggested that the proposed use as a home for five women with disabilities was not a proper factor to be considered by the Town Committee. He asserted that the Yarmouth Town Committee had been wrongfully influenced by the proposed use and argued that the building should be judged solely on its harmony of appearance with other single-family dwellings located in the immediate neighborhood.

He described the proposed building as being "a large ranch" that was lacking in Cape Cod character or tradition. He suggested that square footage was too great and that the five parking spaces for the residents would be excessive for the neighborhood. He criticized the large size of the driveway.

He concluded by claiming that the Town Committee exercised poor judgment in its action of approving the proposed group home at the proposed site. He requested that the determination be annulled and returned to the local Town Committee for further review.

Additionally, he suggested that the five-bedroom use might violate Title V of the State Environmental Code and suggested that the health code issue should be resolved before a Certificate of Appropriateness is granted for the proposed building.

Commissioner Collins asked for a clarification of the parking space concern. Attorney Revere indicated that the size of the parking area was reflective of the overall excessive size and use of the project. He pointed out that there would be two employees on site per day, visitors, and a large van would be needed to transport the residents. He claimed that this would give a "commercial appearance" to the property.

Commissioner Houghton stated that he had visited the site and observed two vans and a very large circular driveway on the abutting property next door.

Chairman Lomenzo asked if all of the Commissioners had visited the site and had observed the other homes in the neighborhood. All the Commissioners indicated that they had all visited the site prior to the hearing.

Chairman Lomenzo asked for a clarification of the purpose for requesting a remand of the project. Attorney Revere indicated that his Client wanted the size of the building reduced and the Title V septic issue resolved.

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

Richard Gegenwarth addressed the Commission in support of the Yarmouth Town Committee decision to approve the proposed dwelling. He pointed out that Cape Cod ranches have a greater roof pitch than western style ranches. He indicated that the Applicant's proposed dwelling has an eight (8) inch pitch, which is typical of many other houses located within the Historic District. He pointed out that many of the houses in the neighborhood have large blacktop driveways. He showed the Commissioners photographs in support of this observation.

He described the Appellant's property (23 Centerboard Lane) located on the northeast side of the Applicant's lot and pointed out in photographs the large blacktop driveway and six (6) vehicles parked in the yard.

He described the neighbor's property (15 Centerboard Lane) located on the South side of the Applicant's lot and pointed out its comparable size and exterior features.

He pointed out other houses in the neighborhood that were larger than the proposed dwelling and suggested that the Town Committee found the size to be compatible with the other houses located in the neighborhood.

He pointed out that the 2,900 square feet of paved driveway and parking area was less than that of the neighbors and therefore compatible with the neighborhood.

He showed the Commissioners the final landscape plan and suggested that it would enhance the aesthetic quality of the neighborhood. He described the proposed plantings and the relatively large (2.5 inch caliber) trees to be planted by the Applicant.

Commissioner Collins asked for clarification of the amount of modification and changes that occurred during the review process. Mr. Gegenwarth highlighted the changes to the site plan, front of the building, deletion of the garage, changes in siding, doors, windows and other exterior architectural features that were modified in an effort to address neighborhood and Town Committee concerns.

Commissioner Carrie asked when the issue of size had been raised and addressed. Mr. Gegenwarth indicated that the initial concerns were focused on the original proposed design features of the building and that the size issue was addressed in the final revised plans that were presented at the January meeting.

Chairman Lomenzo asked about the amount of public participation in the meetings. Mr. Gegenwarth indicated that the public attendance at the meeting grew as the review process progressed with the largest public participation occurring at the final January meeting.

**Public Comment:**

Chairman Lomenzo asked for public comment on the appeal.

Raymond Scichilone of 48 Cranberry Lane, South Yarmouth, Massachusetts stated that he was part of a group of about forty (40) neighbors that opposed the project. He indicated concern about the size of the proposed building and possible traffic problems that the proposed driveway could create. He also indicated that the lot would need to be clear-cut during construction and that it would take five to seven years for the landscaping to properly establish itself.

Bruce Scott of 15 Centerboard Lane, South Yarmouth, Massachusetts identified himself as the abutter on the south side of the proposed project. He stated that he felt that a four-bedroom building would be more appropriate for the neighborhood.

Arthur La Franchise (Appellant) of 23 Centerboard Lane, South Yarmouth, Massachusetts suggested that the exposure of five vehicles parked in a row was not appropriate for a residential neighborhood. He also expressed concern about the removal of trees during construction trash removal by large trucks after construction.

**Applicant's Rebuttal:**

David Gorgman reaffirmed that the proposed building is designed to look like a home and to fit into the residential neighborhood. He described the building as being similar to other residences in the neighborhood and suggested that the driveway was very much like

the Appellant's paved driveway. He showed more photographs of the Appellant's paved driveway, vans and other vehicles located on his property.

He claimed that the septic system had already been engineered to meet the requirements of Title V and suggested that other authorities would address it.

He disputed the claim that the proposed dwelling would be too large for the neighborhood by again pointing out other larger house that were located in the neighborhood. On the issue of the ranch style of the proposed building, he pointed out that the house across the Street had a ranch style and had the same seventy-four foot length as the Applicant's proposed building.

He concluded by claiming that proposed building was smaller and in harmony with the residential character of the neighborhood.

He requested that the Town committee's determination be affirmed.

#### **Appellant's Rebuttal:**

Attorney Revere suggested that the proposed use as a group home was driving the large size of the foot print of the proposed building and its related driveway and parking area. He suggested that the excessive number of parked cars in located on his client's property was a matter for enforcement but should not be a reason to permit the proposed project.

He requested that the decision of the Town Committee be annulled and the application be remanded to the Town Committee for additional study and review.

#### **Town Committee Rebuttal:**

Mr. Gegenwarth stated that the proposed dwelling is in keeping with the character of the neighborhood. He indicated that the scale, height, width, style, color, siding, trim, roofing material and other exterior architectural features were in harmony with the other buildings in the immediate neighborhood.

He concluded by suggesting that the proposed building with its landscaping plan would be an improvement to the aesthetic appearance of the neighborhood and asked that the decision be affirmed.

#### **Commission Discussion:**

William Collins of Sandwich began the discussion by stating that it appeared that the Town Committee was very thorough and open in its review of the proposed project. He indicated that the Yarmouth Town Committee appeared to have the authority to deal with the proposed project and asked for changes that the Applicant adopted in the final plans. The Town Committee did not appear to exceed its authority or act in an arbitrary or

capricious manner. He suggested that the only issue is whether or not the Yarmouth Town Committee exercised poor judgment in its approval of the revised plans.

He stated that the final plans appear to reflect features that are similar to the features of other buildings located in the neighborhood. He noted that he had visited the site and observed that the proposed building would appear to be in harmony with the exterior features other buildings located nearby. He therefore concluded that he did not believe that the Town Committee had exercised poor judgment or acted improperly.

Lawrence Houghton of Brewster stated that he spent a lot of time observing the homes in the neighborhood and expressed the opinion that he could not find a bases to believe that the Town Committee had made an error in approving the application. He indicated that he felt that the proposed dwelling was the right size for the lot and suggested that its exterior architectural features would fit in the neighborhood.

Carrie Bearse of Barnstable stated that she agreed with Mr. Collins and Mr. Houghton and expressed the opinion that the Yarmouth Town Committee did not make an error in approving the final plans. She stated that she examined the neighborhood and observed the many similar homes, some larger and some smaller, and felt that the proposed building was reasonably compatible in size, style and appearance. She expressed the opinion that the proposed dwelling looks like a single family home and does not look like a "commercial or institutional style" building. She concluded by stating that she felt that Yarmouth Town Committee acted properly in approving the application.

Chairman Lomenzo of Dennis stated that he spent a good deal of time visiting the site prior to the hearing. He thanked the parties for the depth of their presentations and indicated that he felt that the Yarmouth Town Committee did not make an error in approving the five bedroom dwelling at its proposed location.

He called for a motion to vote on the appeal.

Mr. Collins moved, seconded by Ms. Bearse, to affirm the decision of the Yarmouth Town Committee in their determination to issue a Certificate of Appropriateness for the proposed five bedroom dwelling to be located at 19 Centerboard Lane, South Yarmouth, Massachusetts.

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

**The Commission findings:**

The Commission found as follows:

The Yarmouth Town Committee did not act in an arbitrary, capricious or erroneous manner in granting a Certificate of Appropriateness for the proposed dwelling to be located at 19 Centerboard Lane, South Yarmouth, Massachusetts.

The Yarmouth Town Committee did not exceed its authority in granting a Certificate of Appropriateness for the proposed dwelling to be located at 19 Centerboard Lane, South Yarmouth, Massachusetts.

The Yarmouth Town Committee did not exercise poor judgment in granting a Certificate of Appropriateness for a new dwelling to be located at 19 Centerboard Lane, South Yarmouth, Massachusetts.

The Yarmouth Town Committee decision of January 9, 2012, to issue a Certificate of Appropriateness to the Applicant should be affirmed.

**Commission's Determination:**

As to Appeal #2012-1, the Decision of the Yarmouth Town Committee in granting a Certificate of Appropriateness for a new dwelling to be located at 19 Centerboard Lane, South Yarmouth, Massachusetts is affirmed. (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 Yarmouth Town Clerk.

Dated: February 21, 2012

Peter T. Lomenzo, Jr., Chairperson