

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

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

Karen Bruckhauser and Martha Woodward, Appellants

Vs.

Decision for Appeal No. 2012-7 YARMOUTH TOWN CLERK

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

'13 JAN 4 AM 8:41 REC

On Tuesday, December 18, 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 # 2012-7 filed by Karen Bruckhauser and Martha Woodward seeking reversal of the Yarmouth Historic District Committee's denial of a Certificate of Appropriateness for an oval glass front door to be located at 384 Weir Road, Yarmouth Port, Massachusetts.

Present were Chairman Peter T. Lomenzo, Jr., Dennis; Lawrence Houghton, Brewster; William Collins, Sandwich; Richard Gegenwarth, Yarmouth; James R. Wilson, Commission Administrative Counsel; Karen Bruckhauser, Appellant/Applicant; and John Mackenzie, Appellant's, Builder.

Absent was Paul Leach, Orleans and Carrie Bearse, Barnstable.

The Yarmouth Town Committee's decision was filed with the Town Clerk on November 21, 2012. The appeal was entered with the Commission on November 29, 2012, within the 10-day appeal period.

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

Appellant/Applicant's Presentation:

Karen Bruckhauser addressed the Commission on behalf of the Applicant's appeal. She described her home as not having historical value or historical significance and suggested that they purchased the door because they had seen other similar style doors in the neighborhood. She pointed out that the next-door neighbor had an identical style door. She stated that her co-owner was hearing impaired and that the translucent glass door would assist her in being able to identify or communicate with any visitors that might come to the property.

She showed the Commissioner's a notice that had been sent to local residents and property owners that had omitted "doors" from the list of exterior architectural features that required approval by an Old King's Highway Regional Historic District Committee.

She suggested that it appeared unfair for the neighbors to have an oval glass entry door on their houses and that she should be denied approval.

Commissioner Collins asked for a clarification of the translucent nature of the glass.

Ms. Bruckhauser stated that it had a design etched in the clear glass and was not frosted. YARMOUTH TOWN CLERK

Chairman Lomenzo asked for clarification of the reason for purchasing the door prior to having it approved by the Town Committee. 19 JAN 4 4:41 REC

Ms. Bruckhauser explained that they did not realize that the front entry door would require an approval and noted the notice that had come with her water bill, which omitted doors from its list of exterior features.

The Town Committee's Presentation:

Richard Gegenwarth addressed the Commission in support of the Yarmouth Town Committee decision to deny the proposed oval glass entry door. He reviewed the procedural history of the request, indicating that it was originally submitted as a part of an application to install new windows on the side back and front of the house. He reported that because of Yarmouth Town Committee's opposition to the Victorian style door an agreement was reached to delete the door and just act on the windows, which were approved.

He stated that the applicant returned with a new application for the oval glass door, which the Yarmouth Town Committee rejected and is the subject of the appeal.

He stated that the neighbor's oval glass entry door was put up with out a Certificate of Appropriateness and was never approved by the Yarmouth Town Committee.

He stated that the Applicant's house is much closer to the edge of the scenic and historic Weir Road.

Public Comment:

Chairman Lomenzo asked for public comment and there was none.

Appellant/Applicant's Rebuttal:

Karen Bruckhauser suggested that she felt that because the neighbors have the same door that she would like to have, it should have been approved. She indicated that the notice had been sent to her separate from her water bill after they moved into the house in 2011.

She again stated that the door had been purchased based on the existence of similar doors in the neighborhood and that it is a safety issue for her co-owner.

John Mackenzie suggested that Weir Road does not have a lot of historic houses and that the two other oval glass entry doors were located close to the edge of the road.

Commission Discussion:

Lawrence Houghton of Brewster stated that he felt that it was regrettable that matter had happened and that the Applicant had purchased the door. However, he indicated that the Yarmouth Town Committee appeared to have acted within its authority in denying the application. He suggested that the fact that the door has been purchased should not become a basis for its approval.

YARMOUTH TOWN CLERK

William Collins of Sandwich stated that he agreed with some of what Mr. Houghton had stated but indicated that he was not as sure that the proposed door was not appropriate for its proposed location. He stated that when he visited the site he observed many new homes in the area. He also indicated that in his Town of Sandwich there are a number of oval glass doors on houses of different styles and periods.

13 JAN 4 AM 9:41 REC

Chairman Lomenzo of Dennis stated that he focused on the five grounds for appeal that are set forth in Section 11 of the Act. He suggested that it did not appear that the Town Committee “exceeded its authority” as they had jurisdiction of the proposed entry door. He suggested that the Town Committee did not appear to have “exercised poor judgment” as they had a reasonable basis for their determination. He suggested that Town Committee did not appear to have acted in an “arbitrary or capricious manner,” but conducted a proper review of the application. Finally, he suggested that he could not see an “error” by the Yarmouth Town Committee.

Mr. Collins suggested that he felt that perhaps the Town committee had made an error in applying a general policy against oval glass doors on contemporary style homes.

Mr. Houghton suggested that he felt that it was a local determination and that he could not fault the Town committee’s action.

Chairman Lomenzo stated that he felt that a policy of consistency was an import part of maintaining fairness in the district.

He called for a motion to vote on the appeal.

Mr. Houghton moved, seconded by Mr. Collins, to affirm the decision of the Yarmouth Town Committee in denying the oval Glass entry door.

The motion carried by a vote of 3-0-1. (Collins, 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 denying the Certificate of Appropriateness for the proposed oval glass entry door to be located at 384 Weir Road, Yarmouth Port, Massachusetts.

The Yarmouth Town Committee did not exceed its authority in denying a Certificate of Appropriateness for the proposed oval glass entry door to be located at 384 Weir Road, Yarmouth Port, Massachusetts.

The Yarmouth Town Committee did not exercise poor judgment in denying a Certificate of Appropriateness for the oval glass entry door to be located at 384 Weir Road, YARMOUTH TOWN CLERK
Yarmouth Port, Massachusetts.

The Yarmouth Town Committee decision of to deny a Certificate of Appropriateness to the Applicant should be affirmed.

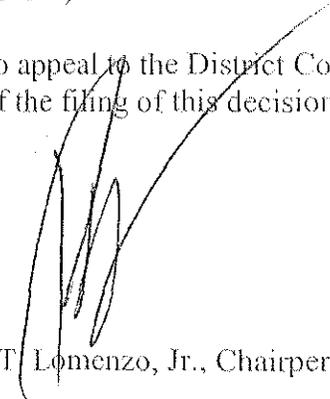
'13JAN4AM8:41 REC

Commission's Determination:

As to Appeal #2012-7, the Decision of the Yarmouth Town Committee in denying a Certificate of Appropriateness for an oval glass entry door to be located at 384 Weir Road, Yarmouth Port, Massachusetts is affirmed. (3-0-1).

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: January 4, 2013


Peter T. Lomenzo, Jr., Chairperson