

DAVID R. MANLEY & DEBORAH A. MANLEY

v.

Decision #96-1

**OLD KING'S HIGHWAY REGIONAL HISTORIC  
DISTRICT COMMITTEE FOR THE TOWN OF  
YARMOUTH**

On Tuesday, March 5, 1996 the Commission held a hearing on Appeal #96-1 filed by David R. Manley and Deborah A. Manley, seeking review of a decision by the Yarmouth Historic District Committee which had denied a Certificate of Appropriateness for the construction of a building at Lot 53, 113 Nottingham Drive, Yarmouthport, Massachusetts.

Present were Christopher R. Miner, Orleans; Roy Robinson, Brewster; Virginia Amidon, Sandwich; Chick Craig, Dennis; Robert Miller, Yarmouth; Robert G. Brown, Commission Counsel; Lester J. Murphy, Jr., Attorney for the Appellant; Terry Luff, Architect for the Appellant; David R. Manley, Appellant; and several interested members of the public.

The Committee's decision was filed with the Town Clerk on February 6, 1996. The appeal was entered with the Commission on February 9, 1996 within the 10 day appeal period.

**THE APPELLANTS' PRESENTATION:**

Lester J. Murphy, Jr., Attorney for the Appellant, addressed the Commission in favor of the appeal. He introduced Terry Luff as the Architect for the house and also displayed a site plan and renderings of the proposed house. He said that the house is to be of a Victorian nature, but that the Yarmouth Committee felt that a hip-roof would be inappropriate to the area. Attorney Murphy displayed pictures of other homes in the area and in other towns with hip-roofs and asked that the decision of the Yarmouth Committee be reversed.

Terry Luff, Architect for the Appellant, addressed the Commission in favor of the appeal. He explained the reasoning behind the design of the house and defended the turret and hip-roof as legitimate examples of Victorian style. He displayed several books of house plans to substantiate his views.

### **THE COMMITTEE'S PRESENTATION:**

Robert Miller, representing the Yarmouth Committee, addressed the Commission to explain the Yarmouth Committee's reasons for denial. He distributed copies of the minutes of the meetings where the project was discussed. He said that the building can be seen from many roads in the area. He said that the Committee considered the design of the house and how it related to the site and the other homes that had been approved. He described the house as a mixture of Colonial and contemporary features which were not balanced. The hip-roof was not used in a traditional sense and the turret was disproportionate and out of balance with the rest of the house. He said that the proposed house is much different than neighboring houses and pointed out the Childs house as one that was better balanced with the turret not so noticeable. He said that other houses in the neighborhood are of a traditional design. He said that the Committee had used good judgment with regard to the application.

Charles Zahigian, developer of the Salt Works Cove subdivision, addressed the Commission in favor of the appeal. He stated that this house would be appropriate to the area and that there will be a variety of homes in the area.

Gordon Clark, a member of the Yarmouth Historic District Committee, addressed the Commission in opposition to the appeal. He stated that while other modern homes are reminiscent of historic homes, this one is definitely not reminiscent of an historic home.

### **DISCUSSION:**

In discussion among Commission members it was felt that the Yarmouth Committee had fully considered the project and there was little if any evidence that the Yarmouth Committee had acted in an arbitrary, capricious, or erroneous manner in denying the application. Roy Robinson of Brewster remarked that, in his opinion, the house looked as though it had been designed from the inside.

### **FINDINGS:**

The Commission made the following Findings of Fact:

1. That the Yarmouth Committee did not act in an arbitrary, capricious, or erroneous manner in denying the Applicant's application for a Certificate of Appropriateness. 4-0-1.

**DETERMINATION:**

Based on the above findings, the appeal is denied.

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.

Christopher R. Miner  
Chairman