

**EUGENE L. BARTLEY, JR. and
CHRISTINE A. BARTLEY**

v.

Decision #97-7

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

On Tuesday, May 20, 1997 the Commission held a hearing on Appeal #97-7 filed by Eugene L. Bartley, Jr. and Christine A. Bartley, seeking review of a decision by the Dennis Historic District Committee which had denied a Certificate of Appropriateness for a garage, pool, boardwalk, pool fence, stone pavers and landscaping at 38 Hiram Pond Road, Dennis, Massachusetts.

Present were Peter Freeman, Barnstable; Roy Robinson, Brewster; Marian Reilly, Sandwich; Robert Miller, Yarmouth; Seth Crowell, Dennis; Donald F. Henderson, Counsel for the Appellants; Tony Butler, Architect for the Appellants; Eugene and Christine Bartley, Appellants; and Robert G. Brown, Commission Counsel.

The Committee's decision was filed with the Town Clerk on April 25, 1997. The appeal was entered with the Commission on May 2, 1997 within the 10 day appeal period.

THE APPELLANTS' PRESENTATION

Donald F. Henderson, Attorney for the Appellants, addressed the Commission in favor of the appeal. He introduced the Appellants and their Architect and distributed a memorandum in support of the appeal. He stated that the Appellants own the property at 25 and 38 Hiram Pond Road. The application for a Certificate of Appropriateness was heard by the Dennis Historic District Committee in April and was denied by a 3-2 vote. The Committee's reasoning was that the Appellants' application, if approved, would be an overuse of existing buildable land and too massive a structure for the neighborhood. He said the Dennis Committee also objected to the number of garage stalls.

With regard to the issue of overuse of the property, Attorney Henderson said the building coverage would be between 13%-17%, with the Town of Dennis Zoning By-Law allowing for 25% coverage. With regard to the size of the structure, Attorney Henderson pointed to examples of several homes in the area of comparable size. With regard to the number of garage stalls he stated that the doors on the original building must be maintained so as not to create what the Town of Dennis would construe as another bedroom. In addition, he stated that not all of the garage doors would be visible.

THE COMMITTEE'S PRESENTATION

Seth Crowell, representing the Dennis Committee, explained the Dennis Committee's reasons for denial. He agreed with the presentation given by Attorney Henderson and stated that a majority of the Dennis Committee felt the application was inappropriate.

DISCUSSION:

In discussion among members of the Commission, it was felt that the Dennis Committee had erred in taking the issue of use of the property into consideration. With regard to size of the building and number of garage doors, a majority of Commission members felt the property would not be seen in its entirety from a way. As such, the Commission felt the Dennis Committee had not presented a sustainable reason for their decision.

FINDINGS:

The Commission made the following Findings of Fact:

1. That the Dennis Committee used poor judgment in considering the issue of use with regard to the Appellant's application as this is beyond the scope of the Historic District Act. 4-0-1.
2. That the appeal be allowed and a Superceding Certificate of Appropriateness issue, pursuant to plans on file with the Dennis Historic District Committee. 4-0-1.

DETERMINATION:

Based on the above findings, the appeal is allowed, subject to plans on file with the Dennis Historic District Committee.

Any person aggrieved by this decision has a right to appeal to the District Court Department, Orleans Division, within 20 days of the filing of this decision with the Dennis Town Clerk.

Peter L. Freeman

Chairman