

RICHARD E. GEGENWARTH

v.

Decision #97-11

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

On Tuesday, August 12, 1997 the Commission held a hearing on Appeal #97-11 filed by Richard E. Gegenwarth seeking review of a decision by the Yarmouth Historic District Committee which had allowed a Certificate of Appropriateness to Rodger Roberts for alterations to a building located at 314 North Dennis Road, Yarmouthport, Massachusetts.

Present were Peter Freeman, Barnstable; Roy Robinson, Brewster; Marian Reilly, Sandwich; Robert Miller, Yarmouth; Robert G. Brown, Commission Counsel; Rodger Roberts, Applicant; Stephen M. McGonigle, Attorney for Rodger Roberts; and Richard E. Gegenwarth, Appellant.

The Committee's decision was filed with the Town Clerk on July 3, 1997. The appeal was entered with the Commission on July 8, 1997 within the 10 day appeal period.

THE APPELLANT'S PRESENTATION:

Richard E. Gegenwarth, Appellant, addressed the Commission in favor of the appeal. He displayed various maps and plans of the locus and also displayed pictures of other homes in the area. He showed various plot plans of the property and compared the detail or lack of detail in the various plans. He said the plan that was approved was too vague and the Committee should not have approved it.

THE COMMITTEE'S PRESENTATION:

Robert N. Miller, Chairman of the Yarmouth Committee, addressed the Commission to explain the Committee's reasons for approval. He said that the Appellant, who is a member of the Yarmouth Committee, handled the ethics of the situation properly by stepping down from the Committee during discussion of the application. He said the structure itself is a small, run down cabin. The specifications were crudely done. Although the specifications were marginal, they

nevertheless showed what the owner was going to do and, on that basis, approved the application. The Committee is satisfied that the property is in basic conformity with regulations. If the property had district visibility the vote may have been different, however, the existing house is small and obscure, even with foliage gone in the winter.

DISCUSSION:

Rodger Roberts, Applicant, addressed the Commission in opposition to the Appeal. He displayed pictures of other houses in the neighborhood and stated that Mr. Gegenwarth's true desire is to buy the property.

Richard E. Gegenwarth, Appellant, replied that he does want the property but that is not the issue before the Commission.

David Moeller, a member of the Yarmouth Committee, addressed the Commission in opposition to the appeal. He said the plans presented to the Committee reflected what the Applicant wanted to build. He said he felt the project would be better than what is there now.

Successive votes to affirm, reverse and remand the matter failed to gain a majority of the quorum of the Commission.

DETERMINATION:

Based on the failure of a majority of the quorum of the Commission to either affirm, reverse, or remand the matter, the determination of the Yarmouth Committee is affirmed.

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.

Peter L. Freeman
Chairman