

DENNIS KARUKAS & CYNTHIA KARUKAS

v.

Decision #97-20

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

On Tuesday, December 2, 1997 the Commission held a hearing on Appeal #97-20 filed by Dennis Karukas & Cynthia Karukas, seeking review of a decision by the Dennis Historic District Committee denying a Certificate of Appropriateness for a fence to be located at 31 Rodoalph Way, Dennis, Massachusetts.

Present were Marian Reilly, Sandwich; Robert Miller, Yarmouth; Paul San Clemente, Dennis; Roy Robinson, Brewster; Robert G. Brown, Commission Counsel; and Dennis Karukas and Cynthia Karukas, Appellants.

The Committee's decision was filed with the Town Clerk on November 15, 1997. The appeal was entered with the Commission on November 24, 1997 within the 10 day appeal period.

Due to the absence of the Chairman, the Vice-Chairman presided over the hearing.

THE APPELLANT'S PRESENTATION:

Dennis Karukas and Cynthia Karukas, Appellants, addressed the Commission in favor of the appeal. They stated there had been an earlier application which had been approved in 1991. Thereafter they were engaged in litigation in the Massachusetts Land Court with a neighbor regarding their common boundary. The current application is an attempt to relocate the fence. They both stated their primary objective was to maintain their privacy.

THE COMMITTEE'S PRESENTATION:

Paul San Clemente, representing the Dennis Committee, addressed the Commission to explain the Committee's reasons for denial. He said he was not present for this meeting, but that fences are subject to exemption if they meet the criteria. Whether the fence is four feet

high or six feet high is not materials as you will not see anything at four feet. He said he did not think the fence was inappropriate.

DISCUSSION:

In discussion among members of the Commission, there was a consensus that the Committee did not have a sustainable reason for its actions as there had been a prior application for the same fence that had been approved and the Land Court had ordered the fence moved.

FINDINGS:

The Commission made the following Findings of Fact:

1. That the Dennis Committee used poor judgment in denying the Appellants' request for a Certificate of Appropriateness. 3-0-1.
2. That the appeal be allowed and that a Superceding Certificate of Appropriateness issue pursuant to plans on file with the Dennis Committee. 3-0-1.

DETERMINATION:

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

Robert N. Miller
Vice-Chairman