

VICTOR CILLIS & BRENDA CILLIS

v.

Decision #98-23

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

On Tuesday, November 3, 1998, the Commission held a hearing on Appeal #98-23 filed by Victor Cillis and Brenda Cillis, seeking review of a decision by the Barnstable Historic District Committee allowing a Certificate of Demolition to David Troutman and Pamela Troutman with regard to alterations to a stone wall located at 2021 Route 6A, Barnstable, Massachusetts.

Present were Edward Molans, Barnstable; William Quinn, Orleans; Seth Crowell, Dennis; Roy Robinson, Brewster; Marian Reilly, Sandwich; David Moeller, Yarmouth; Robert G. Brown, Commission Counsel; Victor Cillis and Brenda Cillis, Appellants, David Troutman, Applicant; and Bruce P. Gilmore, Attorney for David Troutman.

The Committee's decision was filed with the Town Clerk on September 24, 1998. The appeal was entered with the Commission on October 2, 1998 within the 10 day appeal period.

**THE APPELLANT'S PRESENTATION:**

Victor Cillis, Co-Appellant, addressed the Commission in favor of the appeal. Displaying photographs of the area and various plans of the locus, he said that the stone wall on the site was breached so as to make an access to the Troutman's property. No permit was applied for. He said further input is needed to determine on whose property the stone wall stands. He described the decision as "dreadful" and said that this access is in the wrong place. He said this is definitely not the best access and allowing this to happen is contrary to the Old King's Highway Act.

**THE COMMITTEE'S PRESENTATION:**

Edward Molans, representing the Barnstable Committee, explained the Barnstable Committee's reasons for approval. He said that the case did come to the Committee after the fact. The wall was breached and trees were taken down on the Applicants' (Troutmans') property. The area itself is historic but is not exposed to Route 6A. A Cease and Desist Order was requested of the Building Commissioner, however, it was not ordered as the trees were on the Troutman's property and the issue of the stone wall was left to the determination of the Committee. The Committee made note of its displeasure with the situation, however, with regard to the application itself, it was clear that the existing opening would not serve two houses and it was better for the Troutmans and Mr. & Mrs. Mason to share one roadway. The application was approved with specific conditions and the Committee was neither arbitrary, capricious or erroneous in its decision.

**DISCUSSION:**

Bruce P. Gilmore, Attorney for David Troutman and Pamela Troutman, addressed the Commission in opposition to the appeal. He stated that his clients have an absolute legal right to pass and repass along the entire length of the stone wall. The wall can actually be breached in two places with both the Mason's and the Troutman's having the right of access. This proposal is for only one roadway and is a logical plan to solve a problem. His clients are willing to abandon their other right of access to guarantee there will be only one breach in the wall.

(At this point in the proceedings, David Moeller recused himself from further proceedings and left the hearing room.)

Lynn Mason of West Barnstable addressed the Commission in opposition to the appeal. She stated that she and her husband had worked with the Troutmans and she would much prefer the lower easement.

Victor Cillis again addressed the Commission in favor of the appeal, stating that the Old King's Highway Act should be upheld by allowing the appeal.

In discussion among Commission members, Roy Robinson stated he did not understand the reason behind the objection. Other Commissions felt the lower easement would be far more preferable than the original opening in the wall and would not compromise the area's historic integrity.

**FINDINGS:**

The Commission made the following Findings of Fact:

1. That the Barnstable Committee was not arbitrary, capricious or erroneous in allowing the Certificate of Demolition. 4-0-1.
2. That the appeal is denied, subject to the following conditions:
  - a. The opening at elevation 109.7 will be closed, using rock from elevation 102.
  - b. The opening and right of easement at elevation 109.7 will be abandoned and documents evidencing such abandonment will be recorded in the Barnstable County Registry of Deeds, with copies to the Commission, with 30 days of the expiration of the appeal period in this matter. 4-0-1.

**DETERMINATION:**

As to Appeal #98-23, the appeal is denied, subject to the above conditions.

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 Barnstable Town Clerk.

Marian Reilly  
Chair