

CANAL MARINE, INC.

v.

Decision #99-6

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

On Tuesday, June 1, 1999 the Commission held a hearing on Appeal #99-6 filed by Canal Marine, Inc., seeking review of a decision by the Barnstable Historic District Committee denying a Certificate of Demolition for a building located at 153 Freezer Road, Barnstable, Massachusetts.

Present were Edward Molans, Barnstable; William Quinn, Orleans; Roy Robinson, Brewster; Marian Reilly, Sandwich; Elizabeth Wilcox, Dennis; Deborah Gray, Yarmouth; Robert G. Brown, Commission Counsel; Stuart Bornstein, President of Canal Marine, Inc.; Timothy Caffyn, Attorney for Canal Marine, Inc.; and many interested members of the public.

The Committee's decision was filed with the Town Clerk on April 29, 1999. The appeal was entered with the Commission on May 10, 1999 within the 10 day appeal period.

THE APPELLANT'S PRESENTATION:

Timothy Caffyn, Attorney for Canal Marine, Inc., Appellant, addressed the Commission in favor of the appeal. He displayed photos of the building in question and said he had visited the building that day. He described the building as being in very poor repair and consistent with the Building Commissioner's January letter which also described the building as being in very poor repair. He said he believes all of the issues raised at the prior hearing have been addressed. With regard to the Committee's recent opinion that the building was a visible reminder of the fishing industry on Cape Cod, he said that may be true, but the building itself had no historic or architectural significance having been built in the 1940's.

Stuart Bornstein, President of Canal Marine, Inc., addressed the Commission in favor of the appeal. He said the building is unsafe and unrentable in its current condition. The building is subject to vandalism and the Building Commissioner will not let any part of the building be occupied. In response to a question about the future of the property, he displayed a plan for condominiums which he stressed was preliminary. He asked that the Committee's decision be reversed.

THE COMMITTEE'S PRESENTATION:

Edward Molans, representing the Barnstable Committee, explained the Barnstable Committee's reasons for denial. He said the case has been before them for some time now and the Committee, in a 2-2 vote, felt the building should not come down at this time. He said the building should remain standing until it is condemned or until more is known about the future of the property.

DISCUSSION:

In general discussion, Steve and Marci Santos addressed the Commission in opposition to the appeal. Steve Santos presented a petition signed by many residents of the area who wanted the building preserved. Marci Santos said the entire site is historic and a reminder of the area's heritage and should be preserved.

Joseph F. Dugas, addressed the Commission in opposition to the appeal. He questioned the legal notice for the hearing and also questioned the Appellant's claim of structural problems, stating his property at 275 Millway was built on pilings about the same time as the subject building.

There was discussion among Commission members as to the philosophy of linking a Certificate of Demolition to the future of the site. Commission Counsel advised that the Certificate of Demolition should be considered separate from any proposed Certificate of Appropriateness. After considering this advice, a majority of the Commission felt the Barnstable Committee used poor judgment in linking the Certificate of Demolition to the future of the site.

FINDINGS:

The Commission voted as follows:

1. That the Barnstable Committee used poor judgment in linking the allowance of a Certificate of Demolition to the future development on the site. 4-1-1.
2. That the appeal be allowed and that a Superceding Certificate issue

in accordance with the Appellant's original application.
4-1-1.

DETERMINATION:

As to Appeal #99-6, the appeal is allowed.

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