

**CANAL MARINE, INC.**

**v.**

**Decision #99-6**

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

On Tuesday, July 6, 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; 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.

Prior to the start of the hearing, Robert G. Brown, Counsel for the Commission advised the Commission that the required advertisement was not advertised and the Commission's prior decision could be vulnerable due to the notice issue. The Commission voted 3-0-1 to reconsider its prior decision and hold a new hearing.

**THE APPELLANT'S PRESENTATION:**

Timothy Caffyn, Attorney for Canal Marine, Inc., Appellant, addressed the Commission in favor of the appeal. He read into the record the January 8, 1999 letter from the Barnstable Building Commissioner regarding the condition of the site. The property owner cannot use the property at the present time as the pilings are rotted. The building was designed with cheap labor and materials as it was meant to be a temporary structure for use in WWII. The building has no architectural or historic significance and its destruction would not harm the District.

Stuart Bornstein, President of Canal Marine, Inc., addressed the Commission in favor of the appeal. He said there are no utilities in the building and it is unusable as it cannot be rented in its current state. This is per order of the Building Commissioner.

**THE COMMITTEE'S PRESENTATION:**

Edward Molans, representing the Barnstable Committee, explained the Barnstable Committee's reasons for denial. He said the elected Committee followed the guidelines of the Commission and cannot ignore the feelings of the Town. There is no hardship to the owner at this time.

**DISCUSSION:**

In general discussion, Marci Santos addressed the Commission in opposition to the appeal. She said the building has historic significance because it is on an historic site. An archaeological survey of the property should be conducted.

Almost all of the members of the public in attendance were in opposition to the appeal, claiming the building was historic and should be preserved.

In discussion among Commission members there was a consensus that, while they may have voted differently, the decision of the Barnstable Committee should be upheld as they did not act in an arbitrary or capricious manner.

**FINDINGS:**

The Commission voted as follows:

1. That the Barnstable Committee did not act in an arbitrary or capricious manner in denying the Certificate of Demolition. 3-0-1.
2. That the appeal be denied. 3-0-1.

**DETERMINATION:**

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

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