

STEPHEN & AMY BRITTON

v.

Decision #99-23

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

On Tuesday, January 11, 2000 the Commission held a hearing on Appeal #99-23 filed by Stephen & Amy Britton, seeking review of a decision by the Barnstable Historic District Committee denying a Certificate of Exemption for the construction of a new building to be located at 500 Maple Street, West Barnstable, Massachusetts.

Present were Dorothy Stahley, Barnstable; Paul White, Sandwich; Paul SanClemente, Dennis; Deborah Gray, Yarmouth; Roy Robinson, Brewster; Robert G. Brown, Commission Counsel; James Quirk, Attorney for the Appellants; Stephen & Amy Britton, Appellants; and many interested members of the public.

The Committee's decision was filed with the Town Clerk on November 18, 1999. The appeal was entered with the Commission on November 26, 1999, within the 10 day appeal period.

In the absence of both the Chair and Vice-Chair, the Commissioners elected Roy Robinson as Chair Pro Tem.

THE APPELLANTS' PRESENTATION:

James Quirk, Attorney for the Appellants, addressed the Commission in favor of the appeal. He explained that the property in question is 17 acres in size with the proposed house 470 feet from Maple Street. Maple Street is an Ancient Way and is not a way as defined in the Old King's Highway Act. There will be a substantial number of trees blocking the view of the proposed house. The property is surrounded by private property and conservation area which he claimed was not within the definition of a public place as defined in the Old King's Highway Act.

Commission Counsel ruled that, while Maple Street did not qualify as a "way" as defined in the Old King's Highway Act, it did fall within the definition of a "public place." Additionally, the conservation area abutting the Appellants' property did fall within the definition of a "public place" as defined in the Old King's Highway Act.

THE COMMITTEE'S PRESENTATION:

Dorothy Stahley, representing the Barnstable Committee, explained the Barnstable Committee's reasons for denial. She said the Appellants demanded a Certificate of Exemption and would not settle for applying for a Certificate of Appropriateness. She discussed the Committee's Findings of Fact with regard to the application and said a Certificate of Appropriateness was in order rather than a Certificate of Exemption.

DISCUSSION:

In general discussion, many members of the public spoke in opposition to the appeal. All felt the proposed house would be visible from either Maple Street or the conservation area. In addition many of those who spoke felt that all people should follow the same rules and regulations to maintain the character of the area.

In discussion among Commission members, there was a consensus among the Commission members that the Barnstable Committee had not acted in an arbitrary, capricious or erroneous manner and, as the Committee appeared to have a reasonable basis for its actions it should be upheld.

FINDINGS:

The Commission voted as follows:

1. That the Barnstable Committee did not act in an arbitrary, capricious or erroneous manner in denying the Appellants' application for a Certificate of Exemption. 4-0-1.
2. That the appeal be denied. 4-0-1

DETERMINATION:

As to Appeal #99-23, 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.

Roy Robinson
Chair Pro Tem