

Old King's Highway Regional Historic District Commission

P.O. Box 279, Hyannis Mass. 02601

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WINKER REALTY TRUST

v.

Decision #88-23

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

On Tuesday, July 12, 1988 the Commission held a hearing on Appeal #88-23 filed by Winker Realty Trust seeking review of a decision by the Yarmouth Historic District Committee which had denied a Certificate of Appropriateness for the repainting of two signs on property located at 923 Route 6A, Yarmouthport, Massachusetts.

Present were Ronald Lindholm, Dennis; Michael Shay, Brewster; Christopher Miner, Orleans; Peter Freeman, Barnstable; Milton Smith, Yarmouth; Allen Abrahamson, Sandwich; Robert G. Brown, Commission Counsel; and James Quirk, Jr., Attorney for the Applicant.

The Committee's decision had been filed with the Town Clerk on June 10, 1988, and the appeal entered with the Commission on June 13, 1988.

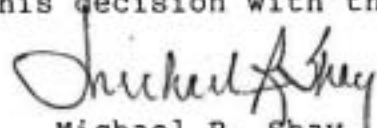
James Quirk, Jr., Attorney for the Applicant, addressed the Commission on behalf of the Applicant. He distributed a memorandum and described previous experiences before the Committee and the Commission with the same property. He stated that the signs had been submitted as a repainting in that a new business was occupying the unit. He stated that the Committee felt that it was a new sign and that because the Applicant had checked the wrong box on the application the Committee declined to take action. Attorney Quirk argued that just because the Committee felt the Applicant had checked the wrong box does not mean the Committee does not have to take any action at all. Attorney Quirk pointed out that the past practice of the Yarmouth Committee was to allow repaintings such as what was proposed by the Applicant to be submitted as repaintings and not as new signs. He said that the sign complied with the sign code and that the delay had been disruptive to his clients. He argued that because of the Committee's past practices they should not be allowed to deny the application. He asked that the Commission reverse the Committee's action.

Milton Smith, representing the Yarmouth Committee, addressed the Commission to explain the Yarmouth Committee's reasons for denial. He distributed minutes of the meetings attended by the Applicants and a copy of the decision. He stated that the sign is very visible, that the question is whether or not it is a repainting or a new sign. He stated that it was the Committee's opinion that once the text of the sign is changed, it is a new sign. He stated that not all of the signs in the complex that had been referred to had been approved by the Committee or the Commission. He asked that the Commission uphold the actions of the Yarmouth Committee.

After extremely lengthy discussion the Commission made the following determination.

1. That the Yarmouth Historic District Committee did act with poor judgment and in an erroneous manner in denying the Applicant's Certificate of Appropriateness based on prior applications at the same complex.
2. That a Superceding Certificate of Appropriateness issue based on plans on file with the Yarmouth Committee. 5-0-1

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 Yarmouth Town Clerk.


Michael R. Shay
Chairman

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TOWN CLERK & TREASURER