

Old King's Highway Regional Historic District Commission
P.O. Box 279, Hyannis Mass. 02601

RECEIVED
1990 MAR 16 PM 2:01
Telephone: 0175-751766

TOWN OF DENNIS
CLERK--TREASURER

RICHARD A. MOUREY

v.

Decision #90-2

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

On Tuesday, February 27, 1990 the Commission held a hearing on Appeal #90-2 filed by Richard A. Mourey seeking review of a decision by the Dennis Historic District Committee which had approved the application of Michael J. MacDougal for a Certificate of Appropriateness for a new building to be located at 78 South Yarmouth Road, Dennis, Massachusetts.

Present were Brendan Joyce, Dennis; Jan Francis, Brewster; Peter Freeman, Barnstable; Willard Sheppard, Yarmouth; Christopher Miner, Orleans; Robert G. Brown, Commission Counsel; Richard A. Mourey, Appellant, Michael J. MacDougal, Applicant, John P. McCormick, Esquire, Attorney for the Applicant; and Jeanne Mourey and Cindy Richards, Abutters to the Applicant.

The Committee's decision had been filed with the Town Clerk on January 29, 1990, and the appeal entered with the Commission on February 2, 1990 within the ten day appeal period.

Richard A. Mourey, Appellant, addressed the Commission and stated that he was appealing on behalf of himself, his wife and Mrs. Richards, another abutter to the property of the Applicant. He explained the procedural background of the project in question and said that the location of the garage is not conducive to the setting and the aesthetics of the area. Mr. Mourey stated that he has no objection to Mr. MacDougal having a garage adjacent to his house, but that it should not front on Flax Street. He displayed an assessor's map of the area and also displayed photographs of the area. He stated that the major reason for the appeal is the fact that the project will result in cutting into the embankment on Flax Street and that the garage will look aesthetically better on South Yarmouth Road. He stated that although windows have been added and the garage gable has been changed 90 degrees it will still be cut into the hill. Placing the garage adjacent to Mr. MacDougal's home on South Yarmouth Road will result in only one oak tree being removed while the placement of the garage on the approved site will result in many oak trees being removed. Mr. Mourey presented a petition with 24 names in opposition to the Applicant's proposal.

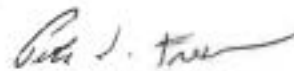
John P. McCormick, Attorney for the Applicant, Michael J. MacDougal, addressed the Commission in opposition to the appeal. He reiterated the procedural background of the project and stated that, in response to concerns stated by the Committee and the Commission, his client had placed seven windows in what had formerly been a blank wall and had repositioned the structure 90 degrees so as to be in conformity with the rest of the neighborhood. He said the embankment which Mr. Mourey had referred to was common to the neighborhood and that Mr. Mourey's home also cut into the embankment. Because of an existing septic system and the possible desire to expand the present house, the proposed location is the best. He stated that the biggest oak tree on Mr. MacDougal's property--which serves as a shade tree for Mr. MacDougal--would be saved under this plan but lost under the plan proposed by Mr. Mourey.

Brendan Joyce, representing the Dennis Committee, addressed the Commission to explain the Dennis Committee's reasons for approval. He stated that when the application was first heard by the Dennis Committee in 1989 there were three objections 1. cutting into the embankment; 2. lack of windows; and 3. positioning of the building on the lot. There was no one overriding factor, they were taken as a whole. The Applicant made changes in the application with the addition of several windows and a 90 degree repositioning of the building on the lot. The Dennis Committee came to the collective decision that cutting into the embankment was not a major problem and that, with the changes that had been made, the structure would fit into the area.

After lengthy discussion the Commission made the following determinations:

1. That the Dennis Committee did not act in an arbitrary, capricious or erroneous manner in approving the Applicant's Certificate of Appropriateness. 4-0-1.
2. That the appeal be denied. 4-0-1.

Any person aggrieved by this decision has a right to appeal to the District Court Department, Orleans Division, within 20 days of the filing of this decision with the Dennis Town Clerk.



Peter L. Freeman
Chairman