



Old King's Highway Regional Historic District Commission
P.O. Box 279, Hyannis Mass. 02601 Telephone: 617-775-1766

MARILYN S. KAPLAN

v.

Decision #91-5

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

On Tuesday, October 15, 1991 the Commission held a hearing on Appeal #91-5 filed by Marilyn S. Kaplan seeking review of a decision by the Yarmouth Historic District Committee which had denied a Certificate of Appropriateness for fence to be located at 30 Lucerne Drive, Yarmouthport, Massachusetts.

Present were Brendan Joyce, Dennis; Jan Francis, Brewster; Peter Freeman, Barnstable; Willard Sheppard, Yarmouth; Robert G. Brown, Commission Counsel; and Marilyn S. Kaplan, Appellant.

The Committee's decision had been filed with the Town Clerk on September 18, 1991, and the appeal entered with the Commission on September 25, 1991, within the 10 day appeal period.

THE APPELLANT'S PRESENTATION:

Marilyn S. Kaplan addressed the Commission in favor of the appeal. She stated to the Commission that she had had a stockade fence in her yard and that she had replaced it with a flatboard fence in exactly the same location. She said that the fence company never told of the requirements of the historic district. She stated further that a stockade fence would have been \$500.00 less expensive and she would have put that in if she had known that a flatboard fence would have caused the problems it did. She showed pictures of the neighborhood and presented letters from residents of the neighborhood in favor of the appeal.

TOWN OF YARMOUTH
TOWN CLERK & TREASURER
RECEIVED
FEB 26 PM 2:54

THE COMMITTEE'S PRESENTATION:

Willard Sheppard, representing the Yarmouth Committee, addressed the Commission to explain the Yarmouth Committee's reasons for denial. He distributed an information package which related the history of the application at the Committee level and also contained several pictures. He stated that the Guidelines of the District call for fences to not run beyond the front fascia of the house. The Committee had denied the application on the basis that the fence was running beyond the front fascia of the house. He asked that the Committee's decision be upheld and that everything beyond the front fascia of the house be removed.

DISCUSSION:

The Commission briefly discussed the matter with regard to the fact that a stockade fence could have been placed in the same location, at the same height, via a Certificate of Exemption. There were no members of the public to speak either in favor of, or in opposition to, the appeal.

FINDINGS:

The Commission made the following Findings of Fact:

1. That the Yarmouth Committee did act in an erroneous manner in determining that the Appellant's application was inappropriate for the area. 3-0-1.

DETERMINATION:

Based on the above findings, the appeal is allowed, the decision of the Yarmouth Committee is declared null and void and a Superceding Certificate of Appropriateness will issue in accordance with plans now on file with the Yarmouth Committee.

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.

RECEIVED

92 FEB 26 PM 2:38

TOWN OF YARMOUTH
TOWN CLERK & TREASURER



Peter L. Freeman
Chairman