

Old King's Highway Regional Historic District Commission
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TOWN OF DENNIS
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DOUGLAS and KATHY McCracken

v.

Decision #92-2

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

On Tuesday, March 10, 1992 the Commission held a hearing on Appeal #92-2 filed by Douglas and Kathy McCracken seeking review of a decision by the Dennis Historic District Committee which had denied a Certificate of Appropriateness for modifications to a building located at 94 Hillside Drive, Dennis, Massachusetts.

Present were Chick Craig, Dennis; Janet Francis, Brewster; Peter Freeman, Barnstable; Christopher Miner; Robert G. Brown, Commission Counsel; and James H. Quirk, Jr., Attorney for the Appellants.

The Committee's decision had been filed with the Town Clerk on February 19, 1992, and the appeal entered with the Commission on February 24, 1992, within the 10 day appeal period.

THE APPELLANT'S PRESENTATION:

James H. Quirk, Jr., Attorney for the Appellants, addressed the Commission in favor of the appeal. He explained that the McCrackens had hired a builder to build the house and the builder did not perform the contract. The house is now way over budget and the matter is in litigation. The Committee's objections were to the widow's walk and the color of the trim. There were no specific findings that the color was inappropriate. He stated that the Committee had no problem with the color itself but only with the location of the color. The house, as modified, is consistent with the Act and is consistent with the function of the neighborhood. He pointed out that the Appellants are from California and that it is truly a hardship for them.

Gordon Clark, speaking privately and not as a member of the Commission, spoke in favor of the appeal. He stated that he had been contacted to do the original design work for the widow's walk and that he had made a presentation before the Dennis Committee. He stated that he felt the widow's walk was appropriate for the house and the area. He said that he had billed for the work and that he had never been paid, as happened to many other subcontractors. He had given up on the project until he had received the Commission's notice in the mail and that is why he stepped down from the Commission for this hearing.

THE COMMITTEE'S PRESENTATION:

Chick Craig, representing the Dennis Committee, addressed the Commission to explain the Dennis Committee's reasons for denial. He stated that all three of the members present at the Dennis Committee hearing were against the widow's walk as they felt that it was inappropriate for the neighborhood. He also stated that painting the trim in the color suggested by the Appellants was too much.

DISCUSSION:

The Commission briefly discussed the matter with regard to the hardship facing the Appellants, both with regard to the widow's walk and with regard to the color of the trim. There were no other members of the public to speak for or against the appeal.

FINDINGS:

The Commission made the following Findings of Fact:

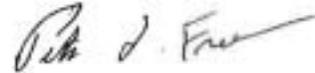
1. That the Dennis Committee did act in an erroneous manner in determining that the Appellant's application for a widow's walk was inappropriate for the area. 3-0-1.
2. That the Dennis Committee did not act in an arbitrary, capricious or erroneous manner in determining that the Appellant's application with regard to the proposed color of the trim of the house was inappropriate for the area. 3-0-1.

DETERMINATION:

Based on the above findings, the appeal is allowed with regard to the application for the widow's walk. The decision of the Dennis Committee with regard to the widow's walk is declared null and void and a Superceding Certificate of Appropriateness will issue in accordance with plans now on file with the Dennis Committee.

Based on the above findings, the appeal with regard to the proposed color of the trim of the house is denied.

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