

Old King's Highway Regional Historic District Commission  
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MARION VUILLEUMIER, LOUIS VUILLEUMIER  
and the UNITED STATES POSTAL SERVICE

v.

Decision #92-6

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

On Tuesday, July 28, 1992 the Commission held a hearing on Appeal #92-6 filed by Marion Vuilleumier, Louis Vuilleumier and the United States Postal Service seeking review of a decision by the Barnstable Historic District Committee which had denied a Certificate of Appropriateness for the construction of a building to be located at 4380 Main Street, Cummaquid, Massachusetts.

Present were Chester Shea, Dennis; Janet Francis, Brewster; Peter Freeman, Barnstable; Christopher Miner, Orleans; Steven Carmel, Sandwich; Robert G. Brown, Commission Counsel; Matthew Dupuy, Attorney for the Appellants; Marion Vuilleumier and Louis Vuilleumier, Appellants; and several interested members of the public.

The Committee's decision had been filed with the Town Clerk on July 8, 1992, and the appeal entered with the Commission on July 10, 1992, within the 10 day appeal period.

Prior to the start of the hearing Peter Freeman relinquished the Chair to Christopher Miner, who presided over the hearing.

THE APPELLANT'S PRESENTATION:

Matthew J. Dupuy, Attorney for the Appellants, addressed the Commission in favor of the appeal. He displayed a site plan of the area and stated that the Barnstable Committee had made several valid comments about the proposal, particularly

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TOWN CLERK  
BARNSTABLE, MASS.

with regard to the loading dock, the use of gravel in the parking area, and the location of the flagpole. Reading from the decision of the Barnstable Committee he questioned the Committee's findings that the placement of the proposed building would be "shoehorning in" another building on the site. He distributed copies of Town of Barnstable Assessors maps which he claimed showed that most lots in the areas were of a smaller size. He argued that the placement of another building on a lot of this size would not be obviously incongruous with the purpose of the Historic District Act and distributed a memorandum of law in support of the appeal.

Marion Vuilleumier, Appellant, addressed the Commission in favor of the appeal. She said that she was surprised that there was this much feeling regarding the project. She stated that she did not really want to remove a tree and take out part of the stone wall on the property but that State curb cut requirements make it mandatory.

Matthew J. Dupuy again addressed the Commission in favor of the appeal. He stated that the intent and purpose of the Historic District Act was to further the general welfare of the inhabitants of the District and that the construction of a Post Office was a legitimate factor to take into consideration as part of the general public welfare.

#### THE COMMITTEE'S PRESENTATION:

Peter L. Freeman, representing the Barnstable Committee, addressed the Commission to explain the Barnstable Committee's reasons for denial. He stated that the history of the proceedings as related by Attorney Dupuy was accurate and stated that the Appellants had acted in good faith, as had the Committee. He stated that, while the general welfare of the inhabitants of the District is a factor to be taken into consideration, it is not a controlling factor. Also, he stated that the issue of general welfare was never brought before the Committee. Addressing the argument that the proposed building was not obviously incongruous to the intent and purpose of the Historic District Act, he stated that the Committee had evaluated the proposal in terms of its impact on the setting and place and that the standard of what is obviously incongruous is not a visual standard but is to be evaluated in terms of whether or not a proposal is obviously incongruous to the intent and purposes of the Act. He distributed pictures of the locus and asked that the Commission support the Committee.

**DISCUSSION:**

John Latus, an abutter to the locus in question, addressed the Commission in opposition to the appeal. He distributed pictures of the area in question and stated that the proposed building would not be appropriate to the area. He asked that the Commission support the Committee.

Frank Gibson, a resident of Cummaquid, addressed the Commission in opposition to the appeal. He stated that much more work needs to be done with regards to evaluating the present site of the Post Office in Cummaquid and that it is possible that the Post Office would not have to be moved at all.

**FINDINGS:**

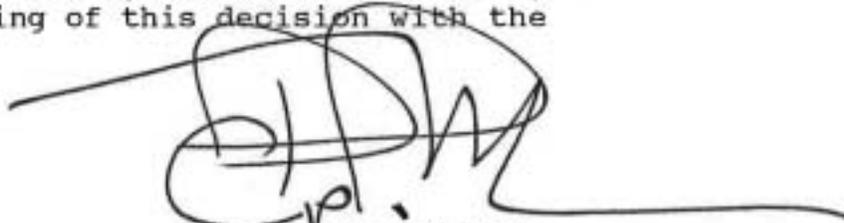
The Commission made the following Findings of Fact:

1. That the Barnstable Committee did not act in an arbitrary, capricious or erroneous manner in determining that the Appellants' application was inappropriate for the area. 4-0-1.

**DETERMINATION:**

Based on the above findings the Commission voted 4-0-1 to deny the appeal.

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.



Christopher Miner  
Vice-Chairman