



Old King's Highway Regional Historic District Commission

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TOWN CLERK & TREASURER
DPW
Decision #92-9

TOWN OF YARMOUTH-DPW

v.

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

On Tuesday, November 10, 1992 the Commission held a hearing on Appeal #92-9 filed by the Town of Yarmouth-DPW seeking review of a decision by the Yarmouth Historic District Committee which had denied a Certificate of Appropriateness for the seasonal use of a Porta-John, to be located at Route 6A/Old Church Street, Yarmouthport, Massachusetts.

Present were Chester Shea, Dennis; Janet Francis, Brewster; Peter Freeman, Barnstable; Gordon Clark, Yarmouth; Robert G. Brown, Commission Counsel; George Allaire, Superintendent of the Town of Yarmouth DPW; John C. Creney, Town Counsel for the Town of Yarmouth; and many interested members of the public.

The Committee's decision had been filed with the Town Clerk on September 17, 1992, and the appeal entered with the Commission on September 25, 1992. The 10 day appeal period was waived by agreement.

THE APPELLANT'S PRESENTATION:

John C. Creney, Yarmouth Town Counsel, addressed the Commission in favor of the appeal. He stated that the review of the structure was clearly within the purview of the Historic District Act. He said that the toilet had been on site at the Yarmouthport Playground in August and September of 1992 and had been placed there by the Yarmouth DPW at the request of the Yarmouth Board of Health. He said that the Yarmouth DPW is willing to place a toilet there and is willing to place screening to hide it. The Yarmouth Historic District Committee denied the application. He said that the Yarmouth DPW is more than willing to compromise on architectural features to soften the impact.

George Allaire, Superintendent of the Yarmouth DPW addressed the Commission in favor of the appeal. He displayed a picture of the unit and showed a site plan of the area. He also displayed possible screening alterations. He asked that the Commission approve the appeal so as to comply with the request of the Yarmouth Board of Health.

THE COMMITTEE'S PRESENTATION:

Gordon Clark, representing the Yarmouth Committee, addressed the Commission to explain the Yarmouth Committee's reasons for denial. He said that the unit is highly visible and whether or not the unit was desired or requested was not before the Committee. He said that the decision was based on aesthetics and that the Committee unanimously felt that a fiberglass porta-john was inappropriate for the location.

DISCUSSION:

In the discussion portion of the hearing various members of the Yarmouth Historic District Committee and also residents of the immediate area addressed the Commission in opposition to the appeal. All of those addressing the Commission said that the Committee had interpreted the Historic District Act properly and that the Committee had not acted in an arbitrary, capricious or erroneous manner.

FINDINGS:

The Commission made the following Findings of Fact:

1. That the Yarmouth Committee did not act in an arbitrary, capricious or erroneous manner in denying the Appellant's Certificate of Appropriateness. 3-0-1.

DETERMINATION:

Based on the above findings the appeal is denied, 3-0-1.

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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.



Peter L. Freeman
Chairman

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