

Old King's Highway Regional Historic District Commission

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TOWN CLERK
TOWN OF SANDWICH

NOV 15 1993

RESIDENTS OF OYSTER HILL DRIVE
and Others,

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RECEIVED & RECORDED

v.

Decision #93-14

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

On Tuesday, October 19, 1993 the Commission held a hearing on Appeal #93-14 filed by the Residents of Oyster Hill Drive and Others, seeking review of a decision by the Sandwich Historic District Committee which had allowed a Certificate of Appropriateness to Michael Tuminelli for the construction of a new building to be located at Oyster Hill Drive, Sandwich, Massachusetts.

Present were Pat Rothermel, Dennis; Janet Francis, Brewster; Christopher Miner, Orleans; Steve Carmel, Sandwich; Robert G. Brown, Commission Counsel; Michael Tuminelli and Elizabeth Lane, Applicants, Jonathan Fitch, Attorney for the Applicants; and many interested members of the public.

THE APPELLANT'S PRESENTATION:

Lyman Goding, representing the Appellants, addressed the Commission in favor of the appeal. He stated that the appeal was being brought out of a concern for the neighborhood. He stated that the only reason for the appeal was the proposal for an end chimney in the house rather than a center chimney. He stated that the other residents of the neighborhood were under the impression that restrictive covenants had been recorded in the Barnstable County Registry of Deeds but it was discovered that the covenants were never recorded. He said that the construction of a house with an end chimney will result in the devaluation of the other houses in the neighborhood. He stated that when his house was being proposed for construction it was given very careful review by the Sandwich Committee and he would wish the same consideration to be given to this house.

THE COMMITTEE'S PRESENTATION:

Steve Carmel, representing the Sandwich Committee, addressed the Commission to explain the Sandwich Committee's reasons for approval. He displayed pictures of various homes in the neighborhood and various homes in the district. He stated that the pictures showed that chimneys were placed in various locations. He stated that what made the district in general, and this neighborhood in particular, charming was the fact that there are differences in the placement of chimneys.

DISCUSSION:

Jonathan Fitch, representing the Applicants, addressed the Commission in opposition to the appeal. He stated that the neighborhood is a neighborhood of tradition and that this was a traditional Cape Cod home. A center chimney will change the interior of the house and this is something the Applicants do not want to do. The neighborhood is beautiful and this house will be beautiful as well. Where diversity can be shown to be appropriate it is very good for the District. The Sandwich Committee applied the proper standard of review and the fact that the proposed restrictive covenants were never recorded is not an appropriate issue for the Committee or the Commission.

Pat Rothermel stated that she felt that the Sandwich Committee did a very good job and the house was not inappropriate to the District. Christopher Miner stated that, in his opinion, it was not within the purview of the local committee to enforce a common scheme within a subdivision.

FINDINGS:

The Commission made the following Findings of Fact:

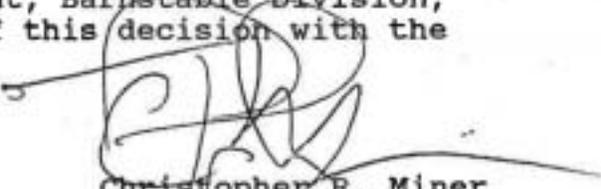
1. That the proposed house with an end chimney would not be inappropriate to the district 3-0-1;
2. That the fact that proposed restrictive covenants were never recorded is not an issue for the local committee or the Commission 3-0-1; and

3. That the Sandwich Committee did not act in an arbitrary, capricious or erroneous manner in approving the Applicants' Application for a Certificate of Appropriateness.

DETERMINATION:

Based on the above findings, the appeal is denied.

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 Sandwich Town Clerk.



Christopher R. Miner
Chairman