



Old King's Highway Regional Historic District Commission
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FORN L. BROWN
CLERK - 100 ADP 17

JAMES MASON AND SANDRA MASON

v.

Decision #94-1

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

On Tuesday, March 22, 1994 the Commission held a hearing on Appeal #94-1 filed by James Mason and Sandra Mason seeking review of a decision by the Dennis Historic District Committee which had approved a Certificate of Appropriateness to the George Hitchiner, for a new building to be located at 102 Scargo Hill Road, Dennis, Massachusetts.

Present were Avard Craig, Dennis; Janet Francois, Brewster; Christopher Miner, Orleans; Steve Carmel, Sandwich; Robert G. Brown, Commission Counsel; James Mason and Sandra Mason, Appellants; Daniel P. Tighe, Attorney for the Appellants; Everett Boy, Agent for the Applicants; and many interested members of the public.

The Committee's decision had been filed with the Town Clerk on February 25, 1994, and the appeal entered with the Commission on March 5, 1994, within the 10 day appeal period.

THE APPELLANTS' PRESENTATION:

Daniel P. Tighe, Attorney for the Appellants, addressed the Commission in favor of the appeal. He stated that the Committee had not fully taken into consideration the entire setting of Scargo Hill and Scargo Lake. He specifically stated that the decision did not take into consideration the fact that a large number of trees will have to be removed. He said that the Committee should have taken the overall setting into consideration and read from a Cape Cod Commission publication regarding setting. He asked that the matter be remanded to the Committee in order for the Committee to be able to take the overall setting into consideration. He stressed that this was not an effort to prevent development but only to see the Masons' views considered.

James Mason, Co-Appellant, addressed the Commission in favor of the appeal. He stated that, in light of the revised plan which had been presented to the Committee, the process is now one of asking a person to evaluate the design of a house without knowing where on the lot the house will be. He said that the total setting should be taken into consideration and the removal of trees should not be decided on the whim of a builder.

Sandra Mason, Co-Appellant, addressed the Commission in favor of the appeal. She displayed various pictures of homes located around Scargo Lake, showing the affect of removal of trees.

THE COMMITTEE'S PRESENTATION:

Avard Craig, representing the Dennis Committee, addressed the Commission to explain the Dennis Committee's reasons for approval. He stated that there were discussions with regard to possibly postponing that night's meeting but that it was ultimately decided to hold the meeting. He stated that no amended plan had, to his knowledge, been applied for. He also said that it had been made clear by the builder that no trees would be cut until the house was constructed.

DISCUSSION:

Everett Boy, agent for the Applicant, addressed the Commission in opposition to the appeal. He stated that the procedure that had been followed with regard to this application was proper. He did say that revised plans had been first distributed to the Committee on the night of the hearing but that the Dennis Committee does allow this procedure. He asked the Commission to not impose a higher standard on this project than on any other project approved by the Committee. He further stated that if a person tours the area (s)he will find that a number of houses in the area are built in a suburban style and have sod lawns.

FINDINGS:

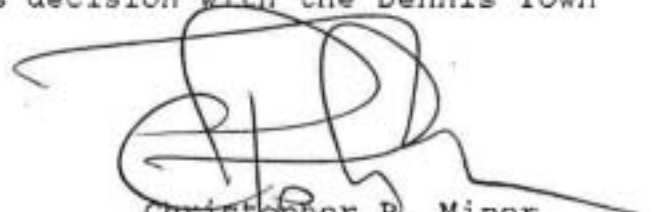
The Commission made the following Findings of Fact:

1. That the Dennis Committee did not act in an arbitrary, capricious or erroneous manner in approving the Applicant's application. 3-0-1.

DETERMINATION:

Based on the above findings, the appeal is denied and the determination of the Dennis Historic District Committee is affirmed.

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.



Christopher R. Miner
Chairman