



Old King's Highway Regional Historic District Commission
P.O. Box 2187, Hyannis, Mass. 02601
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EDWARD T. GALLIVAN and
MARGARET M. GALLIVAN

v.

Decision #94-7

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

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TOWN CLERK & HISTORIC DISTRICT COMMISSION
NOV 15 1994

On Tuesday, November 15, 1994 the Commission held a hearing on Appeal #94-7 filed by Edward T. Gallivan and Maragaret M. Gallivan seeking review of a decision by the Yarmouth Historic District Committee which had denied a Certificate of Appropriateness for the installation of window treatments on a building located at 91 Longfellow Drive, Yarmouthport, Massachusetts.

Present were Roy Robinson, Brewster; Peter Freeman, Barnstable; Gordon Clark, Yarmouth; Robert Terrill, Sandwich; Robert G. Brown, Commission Counsel; and Edward T. Gallivan and Margaret M. Gallivan, Appellants.

The Committee's decision had been filed with the Town Clerk on October 21, 1994, and the appeal entered with the Commission on October 28, 1994, within the 10 day appeal period.

Due to the absence of Chairman Christopher Miner, the hearing was presided over by Vice-Chairman Peter Freeman.

THE APPELLANT'S PRESENTATION:

Edward and Margaret Gallivan, addressed the Commission in favor of the appeal. Edward Gallivan stated that the house is approximately a half mile from Route 6A on the North side. He said that he and his Wife had proposed to place two half-round windows on the side of the house facing Longfellow Drive. Both windows were rejected by the Yarmouth

Committee. He said there are many houses in the neighborhood with large, half-round windows. He said he believed the windows would offer some symmetry and thought they were entirely appropriate for both the house and the neighborhood.

THE COMMITTEE'S PRESENTATION:

Gordon Clark, representing the Yarmouth Committee, addressed the Commission to explain the Yarmouth Committee's reasons for denial. He distributed the minutes of the Yarmouth Committee's meetings of October 19, 1994. He said that the Yarmouth Committee is not opposed to the use of half-round windows as a design element per se, however, feels that how the design element is used is very important. He said that this is a very visible area and the proposed design did not balance. He said that if a number of houses have poor design elements it will eventually bring the whole neighborhood down. A design which includes a round window and two half-round windows is a poor design element and is not indicative of the historic period the District is mandated to protect.

DISCUSSION:

In discussion among Commission members, Roy Robinson stated that houses are sometimes designed from the inside and this may have been such an example. He said that transom windows would have been a much better choice for the house. He advised the Appellants that the Brewster Committee would also have had a problem with this particular application. In discussing the applicable standard of review, none of the Commissioners felt that the Yarmouth Committee had acted in an arbitrary or capricious manner and that there was no evidence of clear error of poor judgment.

FINDINGS:

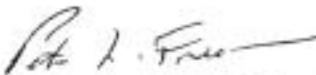
The Commission made the following Findings of Fact:

1. That the Yarmouth Committee did not act in an arbitrary, capricious or erroneous manner in denying the Appellants' application. 3-0-1.

DETERMINATION:

Based on the above findings, the appeal is denied and the determination of the Yarmouth Historic District Committee is affirmed. 3-0-1.

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
Vice-Chairman