

Old King's Highway Regional Historic District Commission  
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Telephone 508-775-5793  
TOWN CLERK  
BARNSTABLE, MASS.

'95 JAN 17 P2:05

SUSAN T. HALL

v.

Decision #94-8

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

On Tuesday, December 13, 1994 the Commission held a hearing on Appeal #94-8 filed by Susan T. Hall seeking review of a decision by the Barnstable Historic District Committee which had denied a Certificate of Appropriateness for the use of a certain color on a building to be located at 2644 Main Street, Barnstable, Massachusetts.

Present were Chick Craig, Dennis; Roy Robinson, Brewster; David Moeller, Yarmouth; Peter Freeman, Barnstable; Christopher Miner, Orleans; Robert G. Brown, Commission Counsel; Susan T. Hall, Appellant; and several interested members of the public.

The Committee's decision had been filed with the Town Clerk on November 3, 1994, and the appeal entered with the Commission on November 10, 1994, within the 10 day appeal period. The 30 day determination period had been waived in a telephone conversation between the Appellant and the Commission Counsel.

THE APPELLANT'S PRESENTATION:

Susan T. Hall, Appellant addressed the Commission in favor of the appeal. She recounted the procedural history of the application, stating that the first hearing on the application had been held on October 5. She stated that the Committee claimed that most Greek Revival style homes were white or other light colors. She stated that the Committee had claimed that the color she was proposing to use was acqua. She agreed that acqua would not be an appropriate color but that the color she was intending to use was not acqua but Benjamin Moore Waterbury Green which is actually a green-gray. She presented photos of numerous homes in the Barnstable and Yarmouth area and stated that she had bought her home in 1988 and had no idea that the Old King's Highway District regulated exterior color. She stated that her goal was to improve and protect her home and she asked that the appeal be allowed.

#### THE COMMITTEE'S PRESENTATION:

Peter Freeman, representing the Barnstable Committee, addressed the Commission to explain the Barnstable Committee's reasons for denial. He said the Barnstable Committee bent over backwards to accommodate the Appellant. He said that an opinion was sought from the Historic Preservation Department so that any opinion would not be construed as a personal judgment. The hearing on the matter took nearly a full hour and, although the Appellant made a good presentation before the Barnstable Committee, the Barnstable Committee did not feel that the proposed color was appropriate for the building. In support of the Barnstable Committee's decision he distributed copies of the Committee's decision along with a copy of a Memorandum from Patricia Anderson of the Town of Barnstable Historic Preservation Department which was part of the basis for the Barnstable Committee's decision. He also distributed a section from the book "Cape Cod Architecture" by Claire Baisly which also supported the Committee's decision. He stated that the Committee is very sympathetic with the Appellant's desire to improve and protect her home, however, the Committee cannot walk away from its responsibilities.

#### DISCUSSION:

In discussion among the general public there was strong sentiment towards seeing a possible compromise of the situation. The Commission Chairman pointed out that the Commission could only act on the appeal before it. Some members of the public questioned the role of the Town of Barnstable Historic Preservation Department in the decision-making process while others questioned how the Appellant could have owned a home on Route 6A for over six years and not known that a Certificate of Appropriateness was required from the Barnstable Committee.

In discussion among Commission members, a majority of the members of the Commission agreed that, while they were sympathetic to the desire to maintain a home, the law had to be upheld. They further felt that the consideration given to the application by the Barnstable Committee showed that the decision was not arbitrary or capricious and there was no evidence presented by the Appellant of any clear error or poor judgment.

#### FINDINGS:

The Commission made the following Findings of Fact:

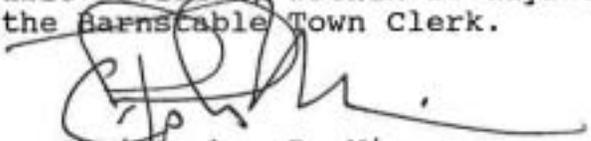
1. That the Barnstable Committee did not act in an arbitrary, capricious or erroneous manner in determining that the Appellant's application was inappropriate for the area. 4-0-1.

2. That the Barnstable Committee did not use poor judgment in determining that the Appellant's application was inappropriate for the area. 4-0-1.

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 Barnstable Town Clerk.



Christopher R. Miner  
Chairman