

Old King's Highway Regional Historic District Commission
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WILLIAM BOWEN, et al.

v.

Decision #94-9

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

On Tuesday, January 10, 1995 the Commission held a hearing on Appeal #94-9 filed by William Bowen and others, seeking review of a decision by the Yarmouth Historic District Committee which had approved a Certificate of Appropriateness to Aaron Weinberg for the construction of a new building to be located at 7 Shell Lane, Yarmouthport, Massachusetts.

Present were Chick Craig, Dennis; Roy Robinson, Brewster; David Moeller, Yarmouth; Peter Freeman, Barnstable; Christopher Miner, Orleans; Robert Terrill, Sandwich; Robert G. Brown, Commission Counsel; William Bowen, Appellant; Everett Boy, representing Reef Realty, Ltd., agent for the Applicant; and several interested members of the public.

The Committee's decision had been filed with the Town Clerk on December 1, 1994, and the appeal entered with the Commission on December 5, 1994, within the 10 day appeal period.

THE APPELLANTS' PRESENTATION:

William Bowen, Appellant addressed the Commission in favor of the appeal. He stated that the integrity of the setting will be destroyed if the proposed application is allowed to proceed. He stated that the street elevation is 13' while the height of the foundation is 17' 5". He stated that the height of exposed foundation will cause unacceptable grading and the overall height of the home is unacceptable.

THE COMMITTEE'S PRESENTATION:

David Moeller, representing the Yarmouth Committee, addressed the Commission to explain the Yarmouth Committee's reasons for approval. He distributed minutes of the pertinent meetings and said that the elevation of the property was taken seriously and given a great deal of attention. He described the neighborhood as having a verticle rather than a horizontal look to it and that the home would be appropriate. The front of the house has no foundation showing. In other areas there will be no more than 18" of exposed concrete. The rear of the building is not visible from a public way. With regard to other homes in the neighborhood and the setting in general, the decision of the Yarmouth Committee is correct.

DISCUSSION:

Everett Boy, representing Reef Realty, Ltd. addressed the Commission in opposition to the appeal. He stated that there was a great deal of concern by the Yarmouth Committee for opinions and concerns of the abutters. He said that the grading is all fairly modest for a custom designed septic system for a lot that is not perfectly flat. He said the house is a single-story, modified Cape that is appropriate to the District.

Mr. Edwin Hartranft, owner of the lot in question addressed the Commission in opposition to the appeal. He stated that he had owned the lot in question since 1970 and had worked on this project for the past year and would like to see it go forward.

In discussion among Commission members, a majority of the members of the Commission felt that the consideration given to the application by the Yarmouth 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 Yarmouth Committee did not act in an arbitrary, capricious or erroneous manner in determining that the Applicant's application was appropriate for the area. 5-0-1.
2. That the Yarmouth Committee did not use poor judgment in determining that the Applicant's application was appropriate for the area. 5-0-1.

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 ~~Warmouth~~ Town Clerk.



Christopher R. Miner
Chairman

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