

SEPPO RAPO & DENNIS M. WAITEKUNAS

v.

Decision #95-10

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

On Tuesday, January 16, 1996 the Commission held a hearing on Appeal #95-10 filed by Seppo Rapo and Dennis Waitekunas, seeking review of a decision by the Sandwich Historic District Committee which had approved a Certificate of Appropriateness to the Captain Ellis Condominium Trust for the construction of a fence to be located at 114-116 Tupper Road, Sandwich, Massachusetts.

Present were Christopher R. Miner, Orleans; Peter L. Freeman, Barnstable; Roy Robinson, Brewster; Robert Terrill, Sandwich; Chick Craig, Dennis; Robert Miller, Yarmouth; Robert G. Brown, Commission Counsel; and Dennis Waitekunas, Appellant.

The Committee's decision was filed with the Town Clerk on November 24, 1995. The appeal was entered with the Commission on November 29, 1995 within the 10 day appeal period.

THE APPELLANTS' PRESENTATION:

Dennis M. Waitekunas addressed the Commission in favor of the appeal. He stated that he was an abutter of the property and that the fence/barricade the Condominium Trust had erected was totally inappropriate in the District. He stated that he had discussed the matter with a representative of the Condominium Trust and the representative had admitted that the fence/barricade was not pleasant to look at. He said the fence/barricade had been up for six months before it was flagged by the Building Inspector and then the abutters were not notified of the hearing before the Sandwich Committee. He requested that the matter be remanded to the Sandwich Committee.

THE COMMITTEE'S PRESENTATION:

Robert Terrill, representing the Sandwich Committee, addressed the Commission to explain the Sandwich Committee's reasons for approval. He said that the application was presented to the Committee on November 22, 1995 after the Building Inspector had cited the property owner(s). He said that the crux of this issue is a disagreement about a right of way that is not within the jurisdiction of the Committee. He said the fence would be hidden from Tupper Road and that the application was seriously considered for approval as an exemption.

DISCUSSION:

In discussion among Commission members it was agreed that the approval for a Certificate of Appropriateness could not be affirmed due to the fact that abutters had not been notified. However, it was agreed that the project may well be eligible for a Certificate of Exemption.

FINDINGS:

The Commission made the following Findings of Fact:

1. That the Sandwich Committee did act in an erroneous manner in approving the Appellant's application for a Certificate of Appropriateness.

DETERMINATION:

Based on the above findings, the appeal is allowed and the prior determination by the Sandwich Committee is rendered null and void.

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