

**OLD KING'S HIGHWAY REGIONAL HISTORIC DISTRICT
COMMISSION**

P.O. Box 140, Barnstable, Massachusetts 02630-0140
Tel: 508-775-1766

**J. K. Scanlon Co., Inc., Commonwealth of Massachusetts Department of Capital
Asset Management, and Cape Cod Community College, Appellant**

Vs.

Decision for Appeal No. 2010-1

**Old King's Highway Regional Historic
District Committee For the Town of Barnstable**

On Tuesday, March 2, 2010 at 1:30 P.M., the Commission held a hearing at the West Barnstable Fire Station Meeting Room, 2160 Meeting House Way (Route 149), West Barnstable, Massachusetts, on Appeal # 2010-1 filed by J. K. Scanlon Co., Inc., Commonwealth of Massachusetts Department of Capital Management, and the Cape Cod community College seeking reversal of a decision by the Barnstable Historic District Committee denying a Certificate of Appropriateness for the installation of a 600 KW Wind Turbine to be located at the Cape Cod Community College, 2240 Iyannough Road, West Barnstable, Massachusetts.

Present were Chairman Peter T. Lomenzo, Jr., Dennis; William Collins, Sandwich; Richard Geganwarth, Yarmouth; Lawrence Houghton, Brewster; George Jessop, Barnstable; Paul Leach, Orleans; James R. Wilson, Commission Administrative Counsel; Bruce P. Gilmore, Attorney for the Appellants/Applicants.

The Committee's decision was filed with the Town Clerk on February 3, 2010. The appeal was entered with the Commission on February 5, 2010, within the 10-day appeal period.

Copies of the Appeal Petition, Town's Decision, Plans, Minutes and Photographs from the Town Committee's hearings were distributed to the Commissioners for review.

The Appellant/Applicant's Presentation:

Attorney Bruce P. Gilmore addressed the Commission on behalf of the Applicant's appeal. He stated that the Town Committee made a series of errors in reviewing and acting on his client's application. He read the following sentence from Section 10 of the Historic District Act (Ch. 470 of the Acts of 1973, as amended): "The Committee shall consider the energy advantage of any proposed solar or wind device." He argued that the Town Committee failed to properly consider the energy advantage of the proposed wind turbine. He suggested that the absence of a statement of detailed facts about this issue by the Town Committee either in its minutes or in the written decision reflected a failure to fully consider or properly address this aspect of the proposed wind turbine. He went on to claim that the Town Committee appeared to act in an arbitrary and capricious manner by

not adopting substantial findings on the electrical energy that would be generated by the proposed large wind turbine.

In addition, he argued that the Town Committee acted erroneously in not recognizing the Applicant's claim that the site of the college campus was isolated and lacked any significant historical buildings or structures near the proposed site of the wind turbine.

He further claimed that the existence of radio and cell phone towers and large power transmission lines in various locations within the historic district supported his claim that the denial reflected arbitrary and capricious action by the Town Committee.

He asserted that the appearance of the proposed large wind turbine would be screened by trees and minimally visible. He presented photo simulation pictures from nearby locations to support this claim.

He pointed out that the height of the proposed structure had been reduced from four hundred (400) feet to two hundred forty-three (243) feet and that it had been relocated from the southeastern corner of the campus to the northwestern corner to accommodate the requirements of the Federal Aviation Administration. He again claimed that the visual impact of the proposed wind turbine on the neighborhood would be minimal.

He stated that the Town Committee made an error when it stated in its decision that there would be lights on the blades of the turbine. He clarified the issue by stating that the Federal Aviation Administration only required that one red light to be located on the top of the proposed wind turbine.

He mentioned the historical use of wind power in the region and suggested that the early use of windmills by the salt works and other industries had an important place within the history of Cape Cod.

Returning to the energy advantage issue, Attorney Gilmore again expressed the opinion that the Town Committee had failed to properly address that aspect of the project. He criticized the last sentence of paragraph thirteen (13) of the written Decision in which the Town Committee stated that: *"The Committee considered the energy advantage of the proposal but found that the adverse impact of the project upon the historic values and character of the district were too great."* He claimed that the statement amounted to a simple restatement of the statutory language of the Act. He argued that the Decision did not represent a proper statement of the benefits of the proposed wind turbine.

He went on to state that the economic advantages of the project were multiple. He indicated that the College would receive a \$170,000.00 reduction in its annual electric bill of approximately \$725,000.00. In addition, a \$50,000.00 benefit in surplus energy could be sold back to the grid and the cash profit re-distributed to low-income utility users. He claimed that the proposed project would assist in providing students with a wind energy educational program and that the clean energy produced would reduce green house gases and pollution.

He submitted a letter dated March 1, 2010 from Mark Zielinski, Treasurer of the Cape & Vineyard Cooperative, Inc. in support of the project and a copy of a letter dated January 1, 2008 from Paul O'Keefe, Director of Facilities at the Massachusetts Maritime Academy in Buzzards Bay, indicating an absence of noise complaints about the operation of their similar wind turbine. He also submitted fax copies of a letter from a Mark Wirtanen, a neighbor, and one from Edward Wirtanen, another neighbor, in support of the project. Additionally, he submitted copies of four (4) local newspaper articles that appeared to show local media support for the project.

He next submitted a copy of the June 9, 2005 Massachusetts Environmental Policy Act (MEPA) determination that the proposed project did not require an Environmental Impact Report. He indicated that all other approvals for the project had been obtained and that a misunderstanding of the requirements of the Historic District Act had caused the improper commencement of construction at the site. He indicated that the approval of the project by the Town Committee and/or the Regional Commission was all that remained in the way of erecting the large wind turbine.

He requested that he be allowed to have four speakers associated with the college and/or the project, offer additional information in support of the appeal.

The Chairman Peter Lomenzo granted the request.

Dixie Norris, Vice President for Administration and Finance, described the estimated economic and energy advantages that would flow from the proposed wind turbine. She reported that the eleven million dollar Commonwealth's share of the twenty-three million dollar annual operating budget for the college had been level funded for nearly nine (9) years and that the proposed wind turbine would reduce the Seven Hundred Twenty-five Thousand annual electric bill by nearly twenty-four (24%) percent. She stated that the college uses approximately 4.6 million kilowatts of electricity per year and that the wind turbine was projected to generate one million eighty-two thousand kilowatts of energy per year.

Demetrius Atsalis, D-Barnstable Representative, spoke in support of the use of wind turbines and the proposed project for the college. He expressed the opinion that a wind turbine has a "majestic" appearance and can provide great economic benefit as well as an educational value to the college.

John Lebecca, Assistant Vice President for Facilities and Sustain Abilities, stated that the reduction in the height of the tower and its relocation to the northwest corner of the campus was for the benefit of the people using the Airport. He indicated that the college had investigated the placement of a second wind turbine on the campus and been told that they only had sufficient space for the proposed turbine.

Richard Tabaczynski, Engineer for Atlantic Design Engineers, Inc., showed a plan of the area and a series of nine (9) photographs to demonstrate how the proposed wind turbine

might be seen from various nearby locations. He explained that the photographs were generated by a computer software program called "photo simulation" that allows the addition of the appearance of the proposed wind turbine, as it might be seen following construction. He also described the tethered balloon test that was requested by the Town Committee and indicated that it confirmed the accuracy of the photo simulations.

Kathleen Schatzberg, President of the College, stated that the college was a leader in promoting land based wind energy for the region. She disputed four (4) items in the Town Committee's decision. She asserted that the proposed wind turbine would help to preserve the history of the District by preserving the 19th Century commercial and business use of wind energy. She again pointed out the absence of lights on the tips of blades and stated that steel and not fiberglass would be used in the construction of the wind turbine. She challenged the "industrial" characterization of the turbine claiming that it was only half the size of the smallest commercial turbines. Finally, she interpreted a statement in the decision that identified some of the opinions expressed in favor of the wind turbine as coming from outside the District as implying a negative or diminished weight to their input in the process.

Based on the above observations, she stated that the Town Committee failed to appreciate the scope and benefits of the proposed wind turbine. She highlighted these benefits as providing the Community quality education at a low cost, education for renewable energy jobs, support for the development of new jobs and businesses in renewable energy and a financial support for energy costs reductions for low-income families.

She urged the Commission to approve the construction of the proposed wind turbine.

Attorney Gilmore indicated that this concluded his presentation.

Chairman Lomenzo asked the Commissioner's if they had any questions.

Mr. Geganwarth of Yarmouth asked if the proposed wind turbine was similar to the Massachusetts Maritime Academy wind turbine and was answered in the affirmative. He inquired about the average yearly usage of energy by the college and the cost of the wind turbine.

Dixie Norris stated that the college's total yearly usage was 4,621,508 Kilowatts and the proposed wind turbine cost 2.1 Million Dollars. She indicated that the wind turbine would generate about twenty-four (24%) percent of the College's annual electrical usage.

Mr. Lomenzo asked if all the information presented to the Commission was presented to the Town Committee at their public hearings on the application. Attorney Gilmore answered in the affirmative.

The Town Committee's Presentation:

George Jessop addressed the Commission on behalf of the Barnstable Town Committee. He stated that the Town Committee decided that the proposed structure was excessively large for the requested location within the Historic District.

He stated that the Town Committee did not decide that wind energy was inappropriate for the District. He claimed that the Town Committee regularly approves solar energy devices, but that the Town Committee determined that the large size of the proposed wind turbine would have a very detrimental visual impact upon the Historic District.

He criticized the photographs that had been submitted by the Applicant, pointing out that they were taken from a rather close proximity to the structure. He stated that the trees along the side of the streets are in excess of thirty (30) feet high and suggested that it does not take much separation to block anything from that perspective. He went on to state that given distance, the greater the height and size of the structure the more visible it becomes. He indicated that the proposed structure had the approximate height of a 23-story building and therefore would be very visible throughout the district.

He went on to claim that the proposed structure compares with the Sagamore Bridge for height. He stated that the Sagamore Bridge has a height of one hundred thirty five (135) feet to the road - bed and an over-all height of two hundred and sixty (260) feet. The proposed wind turbine has a proposed height of two hundred forty-three (243) feet. He claimed that when viewed with this comparison, the impact of the size of the proposed structure on the historic district becomes a much more significant issue

He pointed out that the radio towers and transmission lines that presently exist within the historic district are static. This he distinguished from the proposed wind turbine that will be in motion and have a very dynamic display and/or appearance. The blades are moving and will tend to draw the eyes attention.

He went on to say that the appearance of the 19th Century windmills has little resemblance to the proposed modern wind turbine. He acknowledge that the salt industry used windmills, but distinguished their size and appearance from the proposed wind turbine. He state that the windmills of the past were the equivalent in size to that of a two-story building.

He reported that the Town Committee determined that the large size of the wind turbine would not be compatible with its proposed residential setting. The issue was not the facility, but the size and appearance of the proposed facility.

Public Comment:

William E. Griswold of Centerville expressed concern about the existence of the 400 - foot Aircomm cell tower located at 749 Oak Street, West Barnstable.

Robert Senott of West Barnstable expressed support for the proposed wind turbine as a means to save the College money.

Wendy Northcross of West Barnstable expressed support for the proposed wind turbine both individually and as the C.E.O. of the Cape Cod Chamber of Commerce. She stated that the project would be an economic benefit to the College and the local community.

James Liedell of Yarmouth Port submitted a petition with thirty-five (35) signatures in support of the proposed wind turbine and stated that the project would expand wind energy related jobs and be an important step forward in the use of renewable energy devices.

Richard Bartlett of Cotuit expressed support for the proposed wind turbine as being a great asset to the College and its students. He expressed the opinion that the shape and design of the turbine was aesthetically pleasing.

Melody Masi of West Barnstable expressed concern about the photographs and the angle and/or location from which they were taken.

Erica Brown of Cummaquid expressed support for sustainable energy, but opposed the proposed wind turbine unless there was some sort of remediation ought to be required for the project.

George Zografos of Sandwich identified himself as a College Trustee and in support of the project as bringing a financial benefit to the College and its students.

William Mullin of West Barnstable expressed his opposition to the project. He stated that it did not look like the early windmills of Cape Cod and that he did not believe that it would be aesthetically appropriate for its proposed location.

Richard Kraos of West Barnstable registered his support for the wind turbine.

Sarah Cote of Sandwich identified herself as a former student at the College and as the Executive Assistant at Clean Power Now. She expressed support for the wind turbine as benefiting the local economy by helping to create green jobs and helping to educate students on the value of renewable energy devices.

Carl Freeman of Orleans expressed support for the wind turbine as being a step toward reducing air pollution and its related diseases.

Mary Jane Curran of Orleans identified herself as a former employee of the College and urged the Commissioners to allow the project to go forward for the benefit of the students. She expressed the opinion that wind turbine would be an invaluable teaching tool for the College.

Thomas Kelley of Yarmouth expressed the opinion that the historic district covers too large an area and should be reduced in size to the corridor of Route 6A and should not cover the area from Cape Cod Bay to Route 6.

Brenda Tri of West Barnstable identified herself as the owner of Diamond Edge Farm, an abutting seven and one-half (7 ½) acre farm. She expressed her opposition to the proposed wind turbine and suggested that energy conservation and other means would better serve the College and the local community. She criticized the all night emission of light from the College parking lots. She stated that she favored use of wind and solar renewable energy devices in the proper location.

She disputed the claim that the 2.1 Million Dollar cost of the wind turbine was free since the money came from a part of each person's utility bill.

Ann Canedy of Cummaquid expressed her support for the action of the Town Committee in denying the proposed wind turbine. She stated that two (2) of the members of the Town Committee have spoken publicly in favor of renewable energy. She indicated that the issue of size and height were the dominant reasons for denying the project.

Mark Bonainto of West Barnstable expressed his support for the Town Committee's decision to deny a permit for the proposed wind turbine. He indicated that he lived within the Historic District and that his home is located a quarter mile west of the proposed site for the wind turbine. He claimed that he bought his residence with the protections afforded by the Historic District Act that are intended to preserve the many visual and historic residential qualities that characterize the north side of Cape Cod.

He claimed that the wind turbine would be "catastrophic" for the Historic District by degrading the visual historical and architectural integrity of the area and reducing property values. He asserted that the Town Committee and local residents work to preserve the historic character of their neighborhood. He stated that residents design their homes and submit to the regulations of the Historic District Act in an effort to preserve the look and esthetic qualities that existed in the early days of Cape Cod.

He described the proposed wind turbine as consisting of a two hundred forty-two foot tall, ninety tons of steel, with a hundred fifty foot blade span, rotating, shadow flickering, light flashing, noise emitting structure that is dissimilar to all other structures ever constructed within the historic district. He referred to the Old King's Highway Regional Historic District Guidelines – Section 5 (a.) that states for wind generators, the device should have "Minimum visual impact on the surrounding neighborhood." He declared that the Act requires structures to be compatible in size, design and the use of materials so as to blend into an area. He referred to the structure as a "mammoth monolithic structure" that will tower over the Historic District and be visible from many historic views, sites and locations. He pointed out that the Historic District is listed on the Massachusetts and National Registers of Historic Places.

He identified the 600 Kilowatt size of the proposed wind turbine as being classified as an “industrial grade turbine” and therefore not compatible in size and appearance with the surrounding historic residential neighborhood. In support of this characterization, he stated that the Cape & Island Renewable Energy Resource Collaborative classifies wind turbines by size and that a 600 Kilowatt turbine fits into the “industrial category.”

Additionally, he claimed negative health consequences that had been reported from exposure to the flickering light and sound of wind turbines.

He showed the Commissioners a scaled drawing of the proposed height of the proposed wind turbine and compared it with the Bourne Bridge (265 ft.); the Bunker Hill Monument (220 ft.); and Pilgrim Monument (252 ft.).

Mary Anne Boniato of West Barnstable and the wife of the former speaker showed the Commissioners a picture of the historic Eastham Windmill and contrast it appearance with that of the proposed wind turbine. She expressed her support for the Town Committee’s denial of the permit stating that the proposed structure will be the tallest and largest non-static structure located on Cape Cod. She criticized the proposed location as being the least appropriate setting for the structure.

John Demilio of Marstons Mills expressed concern that the dispute would end in Court and encouraged all interested parties work for the best interests of the community.

Gabrielle Black of West Barnstable expressed support for the Town Committee in denying a permit for the proposed wind turbine. She expressed doubt that wind turbines provide cleaner and/or cheaper energy. She pointed out the residential and historical character of the area and suggested that the height and large size of the structure will have a major negative impact on surrounding neighborhood.

Appellant/Applicant’s Rebuttal:

Attorney Gilmore stated that the as a part of the MPA process the Massachusetts Historical Commission had approved of the Project and that the College is in complete compliance with all other regulatory authorities.

In addition he indicated that the Project meets the requirements of the Town of Barnstable’s proposed wind generator by law.

He reassured the Commissioners that the granting of approval for the proposed Project would not have a precedent setting impact on the District because each application is to be judged on its own merits.

He disputed the visibility claims stating that the topography and vegetated buffer around the campus would screen and hide the appearance of the wind turbine.

He indicated that there was no evidence that the construction of wind turbines had a negative impact on property values.

He challenged the claim that the location was in the middle of the Historic District. He described the location as being in the periphery of the District and away from the location of any historical buildings.

He again asserted that the Town Committee failed to consider the energy advantage of the proposed wind turbine and that based on all the information presented to the Committee at its hearings and to the Commission in this proceeding, the decision of the Town Committee should be reversed and a Certificate of Appropriateness ought to be issued for the Project.

Town Committee's Rebuttal:

Mr. Gessop read from a portion of Section 10 of the Act, which, in addition to other factors, requires the Town Committee to consider "the relative size of any building or structure." The size and scale of the proposed wind turbine became the dominant factor for its determination that a Certificate of Appropriateness should not be issued for the proposed wind turbine.

He indicated that the Town Committee considered the Applicant's claim that the structure would be shielded by vegetation and determined that the great height above the tree line would cause the structure to be very visible through out the Historic District.

He disputed the Applicant's claim that the topography would conceal the tower. He stated that it is sited on one of the highest points in the Historic District. The site has been identified as having an elevation of 250 above sea level. The structure will be visible from up to five miles away.

He stated that the 400 foot Aircomm cell phone tower located at 749 Oak Street had never been approved by the Town Committee and therefore should not be considered as serving as a precedent for the approval of the proposed wind turbine.

He defended the Town Committee's determination that proposed location was in the middle of the Historic District by describing the Boundaries of the District that extends from the Cape Cod Canal to the Eastham town Line.

He indicated that he had been informed that the proposed 600 Kilowatt Unit is as small as could be submitted and still meet the requirements of the College for its 2.1 Million Dollar Funding. He stated that smaller units were not proposed and the Town Committee had to act on the proposal as presented.

Final Questions:

Mr. Lomenzo stated that he wanted to explore the Appellant's claim that the Town Committee did not properly address the energy advantages of the proposed wind turbine. He asked Attorney Gilmore to again clarify the issue.

Mr. Gilmore indicated that proper procedure ought to have been for the Applicant to present all of the information about the energy advantages of the proposed wind turbine to the Town Committee, which he indicated had been done and that the Town Committee should have discussed the information and based on the information presented, made a determination that incorporated the energy advantages of the proposed wind turbine.

Mr. Lomenzo reviewed the specific advantages presented and invited the Applicant to again clarify the amount of the economic savings of \$170,000 to the College and \$50,000 the local community from the proposed wind turbine. He additionally asked President Schatzberg to highlight the other advantages. Dr. Schatzberg restated the educational advantages of the proposed wind turbine.

Mr. Lomenzo requested that the Applicant clarify the significance of the claim that the site for the wind turbine was not a historically significant part of the Historic District. Attorney Gilmore explained that the issue was relevant to the character of the neighborhood and was not a suggestion that the College was not subject to the requirements of the Act.

Mr. Lomenzo requested that the Applicant clarify the visibility issue. Mr. Gilmore indicated that the impact on the immediate area would be minimal and that while it may be seen from a great distance that it would not amount to visual pollution.

Mr. Lomenzo asked Mr. Jessop if he wished to add or comment on the clarifications.

Mr. Jessop stated that the Town Committee had listened to the presentation on the energy advantages of the proposed wind turbine. He expressed the opinion that the Town Committee members could not have overlooked the extensive presentations by the Applicant.

Commission Discussion:

The members of the Commission reviewed the pictures, plans, photographs and other items submitted for review during the public hearing.

Mr. Lomenzo began the discussion by stating that determining whether the Barnstable Committee made a mistake of one of the five types set forth in Section 11 of the Historic District Act. He highlighted the points by asking the following questions. Did the Committee exceed its authority? Did the Committee exercise poor judgment? Was the

Committee arbitrary in its actions? Was the Committee Capricious in its actions? Was the Committee erroneous in its actions? He asked each Commissioner to comment.

Paul Leach of Orleans stated that he believed that the Town Committee did consider the energy advantage of the wind turbine and the omission of the financial data or other presented information did not mean that the factor was not considered. He indicated that he believed that the Town Committee Members acted properly in denying the wind turbine and that weight of the evidence was not in support of granting the Certificate of Appropriateness for the project.

William Conley of Sandwich stated that he has reviewed all of the submitted material and visited the site of the proposed wind turbine and the site of the existing wind turbine located at the Massachusetts Maritime Academy in Buzzards Bay.

He pointed out that the Appeal petition states that it is based on three (3) things. The first claim is that the decision is arbitrary and capricious. He stated that he found, after reading all the submitted material, visiting the sites and hearing the presentations, that the Town Committee did not make a capricious or arbitrary decision. In his opinion the Town Committee Members did their homework and put a lot of thought into the review of the application and their ultimate determination.

The second claim is that the Town Committee made an error in the application of Section 10. He agreed with the Applicant's claim that Section 10 requires the Town Committee to consider the energy advantage of a proposed wind device. However, he concluded that the Committee did consider the energy advantage of the proposed device as stated in their written Decision. He stated that not all things get into the Minutes because they tend to be a summary. He said that after reading the Minutes and hearing the testimony that the Town Committee members appeared to clearly understand wind energy devices and the issues related thereto. The decision states that the town Committee was "sympathetic to alternative energy proposals."

He went on to express the opinion that the sentence cited by the Appellant that the Committee "...shall consider the energy advantage..." does not represent a "trump card," but adds it as an additional factor to consider in determining the appropriateness of a proposed wind device.

The third claim is that the Town Committee's decision went against the substantial weight of the evidence. He stated that having reviewed all the material presented and heard the conflicting testimony presented at this public hearing, it all appeared to come down to a simple thing, that reasonable people may differ on their interpretation of the evidence. All the evidence, all this emotion, all the concerns, have to be weighed against the many interests set forth in Section 10 of the Act. He indicated that he believed that different people may disagree and will come to their own conclusion about the facts and the interests to be enhanced and/or protected. He indicated that he found that the Committee's decision did not go against the weight of the evidence and that there was a reasonable basis for the determination to deny the application.

Lawrence Houghton of Brewster stated that having reviewed the submitted materials and heard all the testimony, he could not find that the Town Committee Members acted in an arbitrary or capricious manner. Additionally, he indicated that he agreed that the Town Committee did consider the energy advantage of the proposed wind turbine and properly applied the many factors set forth in Section 10 to the review of the Application.

Richard Gagenwarth of Yarmouth observed that the Town Committee had seen the material and heard all of testimony that was presented to the Commission. He agreed with the observation of Mr. Conley that the record showed that the Town Committee Members thoroughly reviewed the application and considered the factor of the energy advantage of the proposed wind turbine. He expressed the view that the Town Committee did not act in an arbitrary or capricious manner, but acted reasonably in denying a permit for the proposed wind turbine.

Mr. Lomenzo of Dennis stated that it appeared that the Town Committee did not exceed its authority in acting on the application for the wind turbine. He pointed out that the project was located within the Historic District and legally subject to the jurisdiction of the Town Committee. He agreed with the other Commissioners that the Town Committee did not exercise poor judgment. He stated that it appeared that the Town Committee had several meetings and took their time to understand the application for the proposed wind turbine. He indicated that the requested red balloon test demonstrated an effort by the Town Committee to be thorough in its review of the proposed project and not to act in an arbitrary or capricious manner. He stated that he found that the Town Committee appeared to listen to the many benefits of the proposed wind turbine but that the concern for the size, location and visibility of the wind turbine was not unreasonable or erroneous.

The Commission findings:

The Commission found as follows:

The Town Committee did not exceed its authority or exercise poor judgment.

The Town Committee was not arbitrary, capricious, or erroneous in denying the application.

The Town Committee considered the issue of the energy advantage of the wind device.

The Town Committee did not commit an error in its application of the review standards of Section 10 of the Historic District Act.

The Town Committee acted reasonably in determining, from the presented evidence, that the large industrial size of the proposed wind turbine would have a significant detrimental impact upon the interests of the Historic District.

The Town Committee acted reasonably in denying a Certificate of Appropriateness for the proposed large wind turbine.

Determination:

As to Appeal #2010-1, the decision of the Barnstable Committee is affirmed (5-0-1).

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 Barnstable Town Clerk.

Dated March 18, 2010

Peter T. Lomenzo, Jr., Chairperson