

BarnstableChief assessor resigns
Page 5**Dennis**Skateboard park plans
are off again Page 6**Yarmouth**Town meeting wrap-up
Page 4**Regional**Wind farm proposal sparks
ocean policy debate Page 3

A MEMBER OF THE CAPE CODDER FAMILY OF NEWSPAPERS SERVING THE TOWNS OF ♦ BARNSTABLE ♦ DENNIS ♦ YARMOUTH

The Register

with cape **life styles**

Cape Cod's weekly newspaper since 1836

"A map of busy life, its fluctuations and vast concerns"

Vol. 167 No. 16

COMMUNITY NEWSPAPER COMPANY

Three Sections

Thursday, April 18, 2002

50c

Landlords say prejudice motivates neighbor's complaint

By Adam Martignetti
amartign@cnc.com

A dispute between neighbors on Davidson Avenue in South Dennis is taking on racial overtones.

Joseph Conserva, a 26-year resident, says he filed a complaint against a neighbor to force the town of Dennis to enforce zoning bylaws regarding what is a one-family house and what is a two-family house.

The owners of the house in question say the complaint was filed only after they rented to a black family.

Conserva's complaint, filed with the building inspector on March 7, states that the neighboring home at 49 Davidson Ave. lies within a single-family zoning district, and therefore cannot be rented as a two-family property.

Owners Ronald and Marie Bourgeois say that the property has been used as a two-family home since 1970, and that Conserva had never complained prior to this year. On March 7, the couple rented to a black family, which was the real motivation behind Conserva's complaint, they say.

Ron Bourgeois has obtained signed affidavits from all three previous owners of the house stating that the home had always been used as a two-family duplex.

Gerald Sullivan who built the home in 1972 and owned it until 1985, Richard Cravenho, who owned it from 1985 to 1990, and Joseph Cadero, who owned it until 1998, all confirmed that they had used the home at 49 Davidson Ave. as a duplex. Town assessing records confirm that the home has been taxed as a duplex since 1972.

LANDLORDS continued on Page 11

Landlords say prejudice motivates complaint

continued from Page 1

Scott Fahle, assistant deputy assessor, said the house first appears under Sullivan's name in fiscal year 1973. The town assessor's commitment record explicitly states "duplex" for that year, Fahle said.

Marjorie Bourgeois, who bought the property in 1998 under her maiden name Marjorie Gordon, says it was even a three-family home before she purchased it.

Conserva bought his home in 1976.

"He had lived across the street since 1976 and had never complained," Ron Bourgeois says. "Then, we moved black people in and he complained."

According to a town bylaw passed in the early 1970s, Conserva was within his rights to complain. The bylaw states that only one family unit can exist in the South Dennis Historic District per 40,000 square feet of lot space. The property at 49 Davidson Ave. is less than 80,000 square feet.

The Bourgeois are simply wondering why Conserva complained after 26 years of living in the neighborhood. The couple has filed a complaint with the Massachusetts Commission

Against Discrimination as a result of the incident.

Ron and Marjorie Bourgeois, who formerly occupied the Davidson Avenue home, worked with the town's health department to obtain a rental permit for the property. The couple was part of the pre-rental program, according to Tanya Daigneault, Dennis health director, a proactive approach for landlords to ensure that everything on their property is in compliance with town bylaws.

While improvements were being made to the property, Conserva complained to the building inspector about illegal walls, according to Marjorie Bourgeois. That complaint was dismissed. Later, when the property was being shown to potential tenants, Conserva complained again.

Conserva was not available for comment by The Register deadline. According to his real estate broker, Alicia Gonsalves of Coldwell Brokers, he was "out of town" until next week. Gonsalves confirmed that Conserva's house is under agreement to be sold as of April 3.

There is a provision in the rental bylaw which states that a property must be in compliance with zoning, according to Daigneault, but it has not been enforced by the town since the 1980s.

"These people have put in a lot of work, a lot of time into the property," Daigneault said. "They're trying to do the right thing for the town and someone comes in with a complaint and ruins it."

As for the Bourgeois, they are now caught in a bind. Carolyn Redfern, Dennis building commissioner, has said that the zoning issue must be addressed through a variance process. Dan Fortier, town planner, believes that the home should be given a "cease and desist" order, which the Bourgeois could then appeal to the Dennis Zoning Board of Appeals. A variance assumes that what currently exists on the site is illegal, Fortier said.

The Dennis Board of Health, the agency that controls rental permits, is caught in the middle, Daigneault said. Ron and Marjorie Bourgeois appeared before the board last Thursday to apprise the board of the situation.

The family renting the property at 49 Davidson Ave. wishes to remain anonymous. The family, a single-mother and her son, came from Fall River, according to Ron Bourgeois.

"We take pride in helping people. The kid was in Fall River and we brought him to the Dennis school system and I was psyched," Ron Bourgeois said. "Everybody

deserves an opportunity. That's good business. That's the law. And that's the way it should be."

If their application for a rental permit is ultimately turned down, the Bourgeois could circumvent the zoning bylaw by bringing the house in as affordable housing under Chapter 40B. Ron Bourgeois called that option "unappealing".