

**MINUTES OF THE NEW CASTLE ZONING BOARD OF ADJUSTMENT
Tuesday, February 21st, 2023 – 7:00 p.m. (Macomber Room)**

Members Present: Todd Baker, Chair; John Fitzpatrick; Ben Lannon; Alyson Tanguay; Matt Taylor.

Members Absent: Mark Gardner; Rebecca Goldberg; Margaret Sofio.

Others Present: Christopher Drescher, Cronin Bisson & Zalinsky, P.C.; Karen Fay; Mary Pat and Jay Gibson; Keriann Roman, Town Counsel; Curtis Springer; Elizabeth Springer; Jon Springer.

Chair Baker called the meeting to order at 6:57 p.m. Voting members of the Board are Mr. Fitzpatrick, Mr. Lannon, Ms. Tanguay, Mr. Taylor and Chair Baker.

1. Case 2023-01. Attorneys Cronin & Bisson, P.C., for Applicants Curtis and Elizabeth Springer, of 98 Cranfield Street, Map 17, Lot 19, for an Amended and Revised Appeal of Administrative Decision that was denied by an application of the Historic District Commission on January 5, 2023.

Attorney Christopher Drescher was present along with applicants Curtis (Curt) and Elizabeth (Betsy) Springer. Chair Baker announced that the Board has reviewed the application for an appeal of the Administrative Decision of the Historic District Commission (HDC), and the Board has agreed to hear the case again de novo. Mr. Fitzpatrick motioned to hear the application of Curtis and Elizabeth Springer, 98 Cranfield Street, Map 17, Lot 19 for the administrative appeal. Mr. Lannon seconded. Motion carried unanimously by a vote of five to zero.

Attorney Drescher provided an overview of the property and the history of the application with the HDC. The Springers' house was built in the 1950s and sits on 0.36 acres in the Historic District. They filed an application with the HDC to make the following renovations: 1) a proposed bump-out to extend the kitchen six feet south toward Cranfield Street; 2) a proposed bump-out to extend the left side of the garage 12 feet south toward Cranfield Street; 3) widen the existing breezeway to become a mudroom; 4) shift some steps and an exterior door on the north side of the house; 5) add a new dormer window on the River Road side in between the existing dormer windows; 6) replace the large plate glass window on the River Road side; and 7) miscellaneous changes to the doors and windows on the River Road side. All proposed changes are compliant with the New Castle Zoning Ordinance, and would only require approval from the HDC.

The two proposed bump-outs were the primary source of disapproval with the HDC, with the Commission particularly concerned that they would greatly diminish the traditional cape look and feel of the house. Attorney Drescher explained that the proposed bump-out from the kitchen is to allow wheelchair accessibility. The bump-out off the garage is to create storage space since half of the existing garage has been living space for decades. The bump-outs will match the characteristics of the existing house and will not look contemporary. They will hardly be noticeable, according to Attorney Drescher. In addition, the Springers' designer made

modifications to some of the proposed windows based on the HDC concerns. Attorney Drescher noted that the Springers have asserted that they will work with abutters on any privacy concerns. He pointed out that one abutter has built substantial additions to their house in recent years.

There was also discussion at the HDC site walks and meetings about moving the bump-outs from the front of the house to the rear. Attorney Drescher stated that the “rear” side of the house is facing River Road and the Piscataqua River, and there is significant ledge with a ten foot drop-off on this side that would make it virtually impossible to construct the bump-outs.

Overall, Attorney Drescher felt that the bulk of the HDC concerns is that the façade of the home would be altered too much, yet per the *Guide to Architectural Forms and Styles in New Castle*, a guide posted on the Town of New Castle’s website, the Guide describes “Cape Cod Form” façades as being “symmetrical or nearly symmetrical”. Therefore, Attorney Drescher argued that there are no controlling criteria dictating that a traditional cape must be perfectly symmetrical. The New Castle Zoning Ordinance gives factors to consider in Section 9.3.6, but he felt that these criteria are not necessarily objective in nature. Attorney Drescher concluded that the Town has no concrete or legally binding document that defines what a traditional cape looks like. The HDC has an obligation to adopt guidelines to be used in adjudicating applications, as per Section 9.3.4(4)(b) of the New Castle Zoning Ordinance, yet there are no specifics to follow.

Attorney Drescher went on to explain that Section 9.3.6 of the New Castle Zoning Ordinance contains the criteria for the HDC. When the Springers’ application was remanded to the HDC, the Commission erroneously referenced the City of Portsmouth zoning criteria as a guide, despite this not being a part of the New Castle Zoning Ordinance, nor has it ever been adopted by the Town. In addition, Attorney Drescher argued that the latest notice of decision from the HDC is still deficient and is filled with opinions as opposed to findings of fact. His written brief detailed specific instances of Commission members citing subjective opinions in their reasoning behind the denial. He repeated that the purpose of the HDC is to make sure the District remains historic as a whole, and not specifically each house within the District. The Springers’ house in particular is not historic – it was built in the 1950s and no historic event occurred there, nor did a historic individual live there.

Curt Springer spoke about the layout of the existing home and the purpose of the proposed renovations. The house was built in the height of the 20th century modernity. There is a plate glass picture window, aluminum combination screens and storm windows, and an attached two car garage. The structure was built in the form of a center chimney Cape Cod house. The overarching focus of the design is the river view, which makes up a large part of the assessed value of the land and is critical to the Springers’ enjoyment of the home. Mr. Springer felt that the house should not have to adhere to someone’s opinion of a historic home, as this particular house is not historic. The left side of the garage is actually a bedroom that was built in 1972, and the garage door does not even open. Only the right side of the garage is used as an actual garage/storage space. The proposal is for the whole current garage structure to be living space, and to have a 132 square foot bump-out for storage space for kayaks, lawn mowers, etc. The breezeway would be made into a mudroom on the other side of the house facing River Road. The proposed six foot bump-out off the kitchen is to provide more space to be able to navigate around the kitchen table and have a way to pass back and forth between doorways. On the river side of the house, there are two identical dormers. The Springers are proposing to put an

additional dormer on the back to bring in more light on the Cranfield Street side of the house. The second floor consists of a bedroom, den and bathroom. The Springers would like to shrink the size of the living room to make the first floor bathroom full size in what will be the master bedroom. The current bathroom on the first floor is very small and cannot even fit two people.

Ms. Tanguay asked for depictions of other views of the house, such as a 3D view, as this would help her evaluate the character of the additions from the streetscape. Mr. Fitzpatrick clarified that plans and renditions of the new renovations would be helpful. Mr. Taylor asked if any of the plans presented this evening were different from what the HDC had for their meetings. Mr. Springer confirmed that all materials remain the same.

Ms. Springer stated that their house does not directly face Cranfield Street, but rather is set far back and angled with vegetation. On the lot plan, the 100 foot setback is where the ten foot drop-off is that Attorney Drescher was referring to. While it may look like there is a lot of room on the river side of the property to put the proposed additions, given the slope of the land in this area, it is actually quite limiting. Ms. Springer confirmed that the materials will be in keeping with the existing house.

Mr. Springer addressed the preamble in Section 9.3.6.1 of the New Castle Zoning Ordinance. Half of the preamble states that no contemporary architecture is allowed in the Historic District. The other half of the preamble resembles Criterion A for Existing Structures in Section 9.3.6.2. Mr. Springer went through the four criteria as per this section of the Ordinance. Regarding Criterion A, the special character of the Historic District includes all changes in the 300 years prior to the New Castle Zoning Ordinance that originated approximately 30 years ago. The proposed changes are small and will not affect anyone's sense of character of the overall district. For Criterion B, Mr. Springer noted that the small bump-outs to the existing house will have textures and materials that are compatible with what the house currently has. There are no incompatibilities with the materials used in neighboring houses. Regarding Criterion C, the Springers are proposing small changes to a small house. The HDC did not have any objections to the actual items mentioned in this criterion. Lastly, Criterion D addresses the preservation and enhancement of the historical, architectural, and cultural qualities of the district. Mr. Springer stated that this house is not historic, but is respectful of the actual historic Cape Cod houses in the district. The changes will barely be visible given the existing vegetation, which will not be removed, and the angle of the house to the street.

Mr. Springer emphasized that the proposal is fully in compliance with the New Castle Zoning Ordinance and does not require any variances. The 15 foot side setback falls where the existing right-side garage door is, and the other side setback passes through the corner of the house. Mr. Springer noted that they have worked very carefully to make the proposal so that no variances would be needed.

Ms. Tanguay asked if this would be a complete gut renovation. Mr. Springer responded that the first floor would be mostly gutted, but not the second floor. The second floor is fundamentally staying the same, with the exception of modifying the bathroom to have updated amenities. The layout of the first floor will remain the same as well, with the flooring and center chimney remaining. The kitchen has not been updated since 1971 and will be gutted. They will also have more energy efficient heating by removing the radiators in the walls. The Springers will be

adding a bathroom to what will be the first floor master bedroom, as there is currently no full first floor bathroom, which is essential for aging in place. The six foot bump-out off the kitchen will be flat. Ms. Springer also distributed photos of 90 Cranfield Street to show how that house has a large ell and a large second floor addition, which interferes with the Springers' privacy.

Chair Baker confirmed that the Springers are not performing any work within the 100 foot setback, so no additional ZBA approvals will be needed. Chair Baker opened the public hearing at 7:50 p.m.

Jon Springer, 375 S. Main Street, Wolfeboro, NH, spoke in support of his siblings. Although he is not a current resident of New Castle, he grew up in the house in question and provided some further context. The front of the house was always considered to be from the river side. For example, there is only one front door, and that was on the river side. Cranfield Street is the side of the house that has always been considered to be the "back", as this is where the trash gets put out every week and where cars park. Mr. Springer argued that the view that the town should be concerned about is the view from River Road. He disagreed with the HDC's suggestion to move the bump-outs to the river side of the house. Mr. Springer also noted that since 1971, when his family originally moved into the house, every single house in that vicinity has had renovations and expansions. Some renovations were done before the HDC regulations were adopted in 1993, and some have been after. For example, the neighboring home at 90 Cranfield Street had a massive expansion that directly affects the Springers' views and privacy. Mr. Springer questioned how the HDC can say that that particular expansion is acceptable but not what the Springers are proposing. He felt that it was unreasonable and unfair that the Springers' modest proposal totaling 208 square feet in additional space is denied but not other larger projects.

Mr. Springer reiterated that when the family moved into the house, no one considered the home to be historic or contribute to the architectural fabric of the town. The house is a reproduction and not an original. As Attorney Drescher had noted, nothing historic ever happened in this particular house, and no historic person ever lived there. Mr. Springer added that when his mother was living in the house, it became impossible for her and her caregivers to navigate after she became wheelchair bound. Curt and Betsy Springer have mobility issues, and Mr. Springer felt that they should be able to continue to live in the home and age in place.

Mary Pat Gibson and her husband Jay, of 91 Cranfield Street, spoke. They live diagonally across the street from the Springers. Ms. Gibson stated that she is very happy that the Springers have made proposals that would allow them to age in place. But, the house is within the Historic District, whether it is a 1950s cape or a 1700s cape. The Historic District regulations apply to all houses within the district. The Gibsons had to go before the HDC for approval for their renovations. She noted that the Springers have come before the HDC three times and were given recommendations by the Commission. At the second meeting, the Springers' proposal had changes to accommodate some of the HDC's suggestions, but they were minor. Ms. Gibson pointed out that despite the discussion about the front of the house theoretically being on River Road, the Cranfield Street side of the home is just as important because it is the main entrance and leads into the center of town.

Ms. Gibson's primary issue with the application is the bump-out of the garage, which would be 132 square feet protruding into the driveway. She felt that this would not maintain the symmetry

of the cape, but rather would add a dimension that is not in keeping with an architectural design of a cape-style home. She concluded that regardless of whether the proposed changes are large or small, the Springers' house is within the Historic District and the HDC should have a say in renovations that are done to the exterior of the home. Ms. Gibson urged the Board to stand behind the HDC's decision. Attorney Drescher rebutted Ms. Gibson's comment about the symmetry of the proposal, and reminded Board members that the guidelines that the HDC cited state that capes are "symmetrical or nearly symmetrical". Further, the proposed bump-out of the garage is zoning compliant and is not changing the architecture of the home.

Curt Springer stated that the role of the ZBA is to uphold the zoning ordinances as voted by the citizens of New Castle. The HDC did not evaluate the Springers' home on its compliance with the ordinances as voted by the Town. Chair Baker clarified that in this case, the ZBA is acting as the HDC. Betsy Springer shared that someone once told her that they thought that the entire Town of New Castle was historic. She said that there are any number of pockets of houses that are not historic in town, and that the modest changes the Springers are proposing are conservative and will not have any impact on the Historic District as a whole.

Ms. Tanguay asked if the Springers had any examples of analogous properties in town with diminutive bump-outs that the Board could reference. Ms. Springer cited the house across from the elementary school that has huge additions and is right on the edge of the Historic District. She added that HDC members had noted that many capes in the Historic District have anomalous additions to them, which recognizes that people have taken different approaches in renovating their homes. Mr. Springer pointed out that the house across from the Town Hall at 34 Main Street, and the house on the corner of Piscataqua and Cranfield Streets are good examples of similar style homes in the Historic District. Attorney Drescher added that a lot of capes in New Castle have a flat front, but that is because they are right on top of the street, which is not the case with the Springers' house. Ms. Tanguay responded that while these proposed bump-outs are smaller, they may appear to stand out more in relation to the rest of the house. She expressed concerns that the proposed bump outs appear to be articulated in a way that changes the reading of the entire volume of the dwelling in a way that is inconsistent with HDC regulations. She struggled with understanding the scale of the garage because of the lack of dimensions on the plans presented. Chair Baker asked about the size of the additions. The proposed garage addition is 12 feet by 11 feet, while the addition to the kitchen is six feet by 12 feet.

Ms. Gibson stated that the changes to the interior of the house are small and while she doesn't have issues with these changes, she does take issue with the exterior changes, particularly the large bump-out of the garage for storage. She felt that this could be placed elsewhere on the property so that it does not upset the architectural lines of the house. Attorney Drescher responded that they have belabored the point about why alternate locations cannot work, such as structural or efficiency issues with the alternate locations, or the alternatives would violate the zoning ordinances. He reminded Board members that the Springers have submitted letters in support of their application.

Ms. Springer explained that they cannot have accessible living space without bumping out the kitchen, so the exterior of the house does matter a lot. The garage bump-out will still appear as two garage bays. She noted that there was a question at a previous HDC meeting about putting a storage shed elsewhere on the lot, but the only place it could go would be on the lawn on the

Cranfield Street side of the property. Mr. Lannon asked if the HDC provided guidance that would meet the Springers' criteria but would be in violation of the zoning ordinances. He wondered if there was a way to have the additions be acceptable for the Springers while creating more symmetry. Ms. Springer responded that they did not want to bring the entire front of the house out because it would completely change the roofline and be much more expensive. She highlighted the importance of maintaining the roofline of the cape. Instead of the 12 foot by 11 foot storage bump-out, they could have a long and narrow bump-out in front of the garage, but this would go across both garage bays. Jay Gibson shared his point of view, which is that when looking at the Cranfield Street side of the property, he would like the face of the garage to be more consistent architecturally, though he acknowledged that this would require a zoning variance.

Hearing no further comments from the public, Chair Baker closed the public hearing at 8:20 p.m. and opened discussion back up to the Board. Chair Baker reminded the Board that Section 9.3.6 of the New Castle Zoning Ordinance contains the criteria relative to this case.

Mr. Lannon recognized everyone's time and energy that has gone into this application. He noted that the ZBA is acting as the HDC in this decision, though a lot of concerns that have been discussed also come up before the ZBA in other cases, such as altering a structure to allow for aging in place, and changing the size and location of a structure. Mr. Lannon felt that the HDC's opinion is particularly focused on the appearance, and he did not believe that the proposal was denied because of the size or needs of the homeowners. The Zoning Ordinance has criteria for the appearance of a home in the Historic District that take into account the visible aspects of the house. In particular, there are issues around asymmetry that are concerns for the HDC and some abutters. Mr. Lannon felt that the term "historic" is tricky because what is current now becomes historic at some point. The HDC's intention is also to keep in mind what we have to think about in the future. In 30 or 50 years, the vegetation shielding much of the proposed bump-outs may be gone, and the high water line will likely have changed, for example.

Ms. Tanguay was sympathetic with the Springers' situation on a number of levels. She shared that she lives in a house that was built in 1997 and is in the Historic District. The house is not necessarily responsible for the general characteristic of the Historic District. Ms. Tanguay struggled with the information required for the application, as she did not feel that she had enough information to thoroughly evaluate the application in terms of its effect on the streetscape. There were no graphical renderings or dimensions on some of the plans presented, and no perspective views or complementary elevations, for example. This made it hard for her to know exactly what the bump-outs would look and feel like and how they may impact the historic character of this district. Ms. Tanguay also had an issue with the scale and the question of whether the bump-outs are too big. She did not necessarily think the additions should be called bump-outs since they would be attached to the edges of the existing structure. If the volume was offset slightly, this may change her viewpoint. She also struggled with criteria C of Section 9.3.6.2 of the Zoning Ordinance, and in particular how to understand and contextualize the scale of the bump-outs and additions within the context of the existing structure. Ms. Tanguay suggested that perhaps having conceptual drawings or a photoshopped montage may assist in making this determination.

Mr. Fitzpatrick acknowledged that this is a complicated case with a lot of considerations both ways. Some points of contention are not particularly relevant in this instance, such as questions of privacy and who else did things of greater scale, etc. The only concrete guidance in the Zoning Ordinance is that contemporary architecture is not allowed, and there are a series of four criteria that are a bit more nebulous. Mr. Fitzpatrick agreed with Ms. Tanguay that the bird's eye view and drawing of the front elevation from Cranfield Street do not tell much in terms of how the proposal may change the characteristics of the Historic District.

Mr. Taylor agreed that the lack of perspective views makes it hard to make a decision on the case. He felt that the main issue is with the proposed garage bump-out, and asked the applicants if the garage will eventually be used for a vehicle, to which Mr. Springer responded no. Mr. Taylor believed the proposal felt out of place and thought that more information would be helpful for him.

Ms. Springer noted that many drawings have already been submitted. Attorney Drescher suggested requesting to continue the application to ensure that the Board has all of the drawings they need to make a decision.

Mr. Fitzpatrick motioned to continue the application of Curtis and Elizabeth Springer, 98 Cranfield Street, Map 17, Lot 19, to the next meeting, scheduled for 7:00 p.m. on March 21, 2023 at the Town Hall. Ms. Tanguay seconded. Motion carried unanimously by a vote of five to zero.

Attorney Roman stated that once the Board can confirm what drawings are in the file and what may be missing, a meeting can be arranged with Chair Baker, Attorney Drescher and the Springers.

2. Case 2023-02. Attorneys R. Timothy Phoenix and Monica F. Kieser, of Hoefle, Phoenix, Gormley & Roberts, PLLC, for Applicant Karen Fay, of 108 Main Street, Units 2 and 3, Map 18, Lot 1, for relief from the following New Castle Zoning Sections: Section 4.2 Table 1.C Side Setback, Section 4.2 Table 1.H Lot Coverage, Section 4.2 Table 1.I Max Building Area, and Section 7.1.2 Expansion of Non-Conforming Structure.

Karen Fay, 108 Main Street, Units 2 and 3, Map 18, Lot 1, requested a continuance, as her attorney, Tim Phoenix, is unavailable for this meeting.

Mr. Fitzpatrick motioned to continue the application of Karen Fay, 108 Main Street, Units 2 and 3, Map 18, Lot 1 to the March 21, 2023 meeting at the Town Hall at 7:00 p.m. Ms. Tanguay seconded. Motion carried unanimously by a vote of five to zero.

3. Approve Minutes.

Mr. Lannon moved to accept the January 2023 minutes as written. Ms. Tanguay seconded. The motion carried unanimously.

4. Set Date of Next Meeting.

Chair Baker announced that the next Zoning Board of Adjustment meeting will be held on Tuesday, March 21, 2023 at 7:00 p.m. at the Town Hall.

5. Adjournment.

There being no further business, Chair Baker moved to adjourn the public meeting. Mr. Taylor seconded. The motion carried, unanimously, and the meeting adjourned at 8:42 p.m.

Respectfully Submitted,

Meghan Rumph
Secretary