

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

**Members Present:** Todd Baker, Chair; John Fitzpatrick; Ben Lannon; Margaret Sofio; Matt Taylor.

**Members Absent:** Mark Gardner; Rebecca Goldberg; Alyson Tanguay.

**Others Present:** Christopher Drescher, Cronin Bisson & Zalinsky, P.C.; Pat Driscoll, Star Island Builders; Karen Fay; Mary Pat Gibson; Monica Kieser, Hoefle, Phoenix, Gormley & Roberts, PLLC; Keriann Roman, Town Counsel; Tom Smith; Curtis Springer; Elizabeth Springer; Jon Springer; Pat Wilson.

Chair Baker called the meeting to order at 7:03 p.m. Voting members of the Board are Mr. Fitzpatrick, Mr. Lannon, Mr. Taylor, and Chair Baker.

**1. Continuation of 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.**

Ms. Sofio recused herself from the hearing of this case. Chair Baker confirmed that the Applicants wished to proceed with four voting members hearing the case. He noted that the Board agreed to re-hear this case at the last ZBA meeting. At that meeting, several Board members felt that they needed additional information in order to make a decision on the case. The Applicants have submitted an additional drawing and photographs for the Board's consideration.

Chair Baker opened the public hearing at 7:06 p.m.

Attorney Christopher Drescher was present along with applicants Curtis (Curt) and Elizabeth (Betsy) Springer. Ms. Springer provided a timeline of the case since September 2022, when the case was before the Historic District Commission (HDC). She reiterated the Springers' desire to renovate the house in a way that respects the HDC so they can enjoy their home while aging in place. The house has not been updated in any meaningful way since the Springers moved into it in 1971. The home is very small, with about 1,000 square feet of space on the first floor, and roughly 500 square feet on the second floor. Ms. Springer explained how they would like to maintain the look and character of the house as much as possible. Despite the unusual lot shape and the challenges of the terrain, the Springers have come up with a design that respects the zoning barriers with their neighbors and would not require a variance. Ms. Springer noted how they are giving up floor space in the living room in order to accommodate a first floor bathroom. They have developed a plan that includes modest square footage, with a 72 square foot bump out off the kitchen and a 120 square foot bump out for storage. Mr. Springer handed out pictures of other homes in the HD that have bump outs and/or additions.

Ms. Springer showed pictures that gave a better perspective as to how the house currently appears from different angles. She pointed out that all houses in the surrounding area have been renovated and include eclectic buildings. The Springers' lot is chevron-shaped with a split rail fence along the property line, which is not a straight line to Cranfield Street. The side setback with the next-door neighbor runs through the bulkhead and the right corner of the house, which prevents the Springers from constructing a bump out of this side. Furthermore, the garage is in the setback. The proposed length of the kitchen bump out is 12 feet, which is shorter than the existing garden bed out front. The wall of the storage bump out was previously going to be flush with the garage, but after hearing input during the HDC and ZBA meetings, the Springers have changed it so it will be one foot less wide, thereby reducing the dimension of the proposed storage area. Ms. Springer also pointed out how 90 Cranfield Street blocks the view of the Springers' house leaving town, so the visual impacts of the project should be minimal.

Ms. Springer emphasized what the bump outs mean for the house and for the Springers personally. The kitchen bump out creates space while allowing people to traverse between the mudroom and the rest of the house. There will be landscaping along the front of the house and garage, and the use of tall, columnar shrubs will soften the visual impact of any of the changes. The Springers have respected every zoning setback, kept the size as close to the original footprint as possible, and will be using the same materials as the existing structure. The façade satisfies the symmetrical or nearly symmetrical guidance that the HDC has relied upon. Ms. Springer noted that during the public remarks at the last ZBA meeting, a comment was made implying that the Springers do not support HDC principles, which she asserted is not true. She explained how the Springers have always valued and supported the HDC, and the plans were carefully made to comply with the zoning ordinances while allowing the Springers to have modern amenities and be able to age in place. Where the HDC's suggestions were not taken, it is due to the house configuration and terrain of the lot.

Mr. Springer walked through the criteria for existing structures, per Section 9.3.6.a of the Zoning Ordinance. He felt that the proposed bump outs are not contemporary architecture and that the proposal will not affect the character of the Historic District. At the last ZBA meeting, there was discussion about other houses in the Historic District. Mr. Springer distributed photos of various houses in the Historic District in Town that support the case that the District is comprised of an eclectic range of houses. The photos include between 69 and 81 Cranfield Street, 34 Main Street, 41 Piscataqua Street, which has a streetside bump out and asymmetrical entrance, 134 Portsmouth Avenue, 160 Main Street, which is an old cape with many additions and is very prominent from the street, 14 Shore Lane, and 29 Salamander Lane, which is an example of a single car garage visible from the street. Mr. Springer concluded that his proposal is respectful of the historic character of the district.

Mr. Springer noted that one of the goals of the ordinance is the preservation of property values. Terri Golter submitted a letter providing her professional opinion as a real estate agent that the Springers' proposal will have no impact on the surrounding property values. She felt that the proposal will increase the value of the Springers' home given its current poor to fair condition, and the renovations and landscaping plans will enhance the overall look and values of surrounding homes.

Chair Baker read additional letters in support of the application. Dick Spaulding, 106 Beach Hill Road, wrote that he and his wife frequently walk through town, including the Historic District, and they feel that the proposed plans to modify the home at 98 Cranfield Street will not affect the character of the Historic District. J.D. Barker, 28 Colonial Lane, submitted a letter stating that he sees the Springers' house on a daily basis, and he did not believe that the proposed changes would be detrimental to the streetscape or the Historic District. He felt that the architect has gone to great lengths to ensure the proposal blends seamlessly with the existing home and its traditional cape design, as well as with the surrounding properties. Jim and Patti Ryan, 81 Cranfield Street, wrote that the proposed changes will not affect, in any way, the historical, architectural, or cultural value of the buildings and streetscapes of the Historic District. They support the Springers' desire to safely age in place. John and Lauren Lannan, 35 River Road, submitted a letter of support for the proposal, noting that the changes will be in keeping with the neighborhood aesthetics.

Attorney Drescher summarized how the Springers' application meets the four criteria for existing structures. The proposal is minimal and will not have an impact on the character of the neighborhood. The additions are consistent with the neighborhood as evidenced by the pictures Mr. Springer presented. The sizing of the proposal is consistent with the rest of the house. Compared to the scale and general size of the house, the changes are small and will largely go unnoticed. The roof will remain the same and the setbacks will remain zoning compliant.

Mary Pat Gibson, 90 Cranfield Street, spoke. Her home directly faces the garage, and she noted that the Springers' house is viewed regularly by passerby. Ms. Gibson did not believe that the submitted plans follow the architectural lines and details of a 1950s cape-style home. She commented that the HDC had made suggestions, and while minor changes have been made to the proposal, the overall design is not consistent with the HDC. The addition of the rectangular storage area is not in line with traditional capes, according to Ms. Gibson. She would have no objections if the proposal met the aesthetics of the Historic District. Since the Springers' home is in the existing Historic District, the changes to the exterior of the home need to match the appearance of the District as a whole. The HDC guidelines are not written to be followed by some and not all, and Ms. Gibson felt that the HDC has dedicated time and resources to guide the Springers. She concluded that the ZBA should agree with the HDC vote.

Pat Wilson, 27 Colonial Lane, shared that while her home is not in the Historic District, it is similar in age to the Springers' house. She understands the constraints facing the Springers and how it is difficult to bring a house of that size to modern amenities. However, Ms. Wilson objected to the proposed bump out off the garage, and wondered if it could be put in the back of the house since it is going to be used for storage. She asked the Board to consider what is best for the community and what the area will look like 50 years from now.

Jon Springer, 375 S. Main Street, Wolfeboro, NH, is the brother of Curt and Betsy Springer, and grew up in the home at 98 Cranfield Street. He reminded the Board that the ZBA is not sitting as the HDC in this case. The ZBA's job is to take standards, apply them and determine if it is a fair and reasonable outcome. The ZBA acts as a quasi-judicial body. Mr. Springer argued that when looking at what has been submitted, the decision is straight-forward. He questioned why no one from the HDC has been present or spoken at the ZBA meetings. The river view is what needs to be protected the most, in Mr. Springer's opinion. He pointed to the neighbor's house to the right

of the Springers and how they have a propane tank and parking in the front of the house, just like the Springers.

Attorney Drescher added that there is no ordinance that dictates exactly what a cape is supposed to look like. The guidance is for the front to be symmetrical or nearly symmetrical. The Springers have made some concessions and changes to the plan in an attempt to accommodate the concerns of their neighbors and the HDC. Ms. Springer noted that there are now formally adopted regulations that dictate how renovations must look. There is a Guide to Architectural Forms and Styles in New Castle, which discusses a Cape Cod style home. The Guide indicates that this style home should have a symmetrical or nearly symmetrical façade, and the Springers would be in keeping with this. She did not feel that it was appropriate to compare the Springers' experience with the HDC to the experience of members of the public, as everyone has different lots.

Hearing no further comments from the public, Chair Baker closed the public hearing at 7:51 p.m. and opened discussion back up to the Board. Mr. Fitzpatrick said that he is not an architect, and while the intricacies of the proposed design fall outside of his expertise, he must rely on the record and the Zoning Ordinances to draw his own conclusions. Based on his reading of the Zoning Ordinance and the submissions of the Applicants, he is satisfied that they have met the criteria to have the application approved. Mr. Fitzpatrick added that he respects the HDC's opinion, but is persuaded that the Springers have met their burden, while also recognizing that reasonable people can differ in opinion. He did not believe that the proposal offends any of the criteria in Section 9.3.6.2.

Mr. Lannon appreciated the amount of detail that has gone into the design and the attention to setbacks to minimize any impact in that regard. He felt that some of the controversy with this application comes up because in avoiding zoning issues, the Applicants have created some Historic District issues. On a different lot, the design may be different. Mr. Lannon noted that this case is not being judged on the zoning criteria or property values that the ZBA typically looks at. The case is being judged on a separate set of criteria as outlined in Section 9.3.6.2 of the Zoning Ordinance. Mr. Lannon's biggest issue is with Criterion B, which is somewhat subjective. In his opinion, the layout of the storage area that is being built is asymmetric and not "nearly symmetric". He acknowledged the importance of aging in place, but was mostly hung up on the importance of the symmetry of design and the impact of approving the entire proposal as opposed to certain aspects of it.

Chair Baker stated that this is a complicated case, and he was on the margin between approval and denial of the application. The changes do not appear to be in line with the architectural desires based on the previous testimony of others and the opinion of the HDC. He felt that the HDC and its authority need to be respected. A unanimous vote by the members of the HDC gives Chair Baker reason to pause. He pointed out that while the proposal would not be a traditional cape, it would not necessarily be out of line with other houses in the Historic District. He also did not believe that people would notice the small bump outs ten years from now, as the changes are relatively small.

Chair Baker read through the HDC criteria once again, which he noted have been in place since approximately 1976.

- A) Mr. Taylor struggled with the severity stand point and whether the impact of the proposed activity is negative enough to deny the application. Mr. Lannon felt that this criterion has been met. As seen from other pictures, neighboring properties are different, so he did not find the proposal to be detrimental to the special characteristics of the district. Mr. Fitzpatrick agreed that this criterion has been met, with the proposed activity having little to no impact on the special activity of the Historic District.
- B) Chair Baker had no objection to the texture and materials to be used for the project, but stated that the question is whether the architectural components are compatible. Mr. Fitzpatrick pointed out that this is grounded in the setting and not in the abstract. Other buildings, including one across the street from the Applicants, have similar structures to what the Springers are proposing. Mr. Lannon cited examples showing symmetrical or nearly symmetrical bump outs. But, he did not believe there was an example of a cape with an asymmetric or unilateral bump out. He is struggling with this criterion the most, specifically the relationship of different forms of the building. Mr. Taylor also struggled with this prong. He felt that the proposal would go against the wording of this section. While there are individual examples attesting to aspects of this proposed design, the examples do not attest to the overall visual impact.
- C) Mr. Lannon felt that this criterion has been met. The addition is minimal and is not dramatically changing the size or height of the house. Mr. Taylor thought this was a reasonable proposal from an expansion standpoint. Mr. Fitzpatrick found the plan to be modest in scope, using materials that are consistent with other buildings in the neighborhood. The structure will not be too tall or wide, nor will it be contemporary architecture. The proposal satisfies the Zoning Ordinances.
- D) Mr. Lannon noted that this prong seemed like a combination of some of the other criteria. He did not think it would be a detriment to the community to do this proposal. While the proposed form certainly enhances the house for the homeowners, he did not find that it would enhance the quality of the overall district. Mr. Taylor struggled with the asymmetrical design of the bump outs off the kitchen and garage. He believed these would be a detriment and would like to see them more symmetrical. Mr. Taylor felt that the proposal meets portions of this criterion but not all of them. Chair Baker questioned whether the proposal enhances the historical, architectural and cultural qualities of the district and the community. He found the proposal to be reasonable overall, but cited the importance of following these guidelines. Architectural professionals have commented that the proposal does not enhance the qualities of the district. Mr. Fitzpatrick pointed out that these criteria all need to be balanced against each other. Specifically, this prong notes the “extent to which” the proposal will preserve and enhance the qualities of the district. To some extent, this particular proposal may not enhance the overall qualities of the district and community, but Mr. Fitzpatrick did not find that this outweighs all other criteria. He could grant some opposition that the proposal will not be the most traditional structure for a Cape Cod style home, but he did not see how it would have any impact on the historical, architectural and cultural qualities of the district. Mr. Fitzpatrick reiterated that this is a balancing/equities-based test. Attorney Roman clarified that the way Criterion D is written where it states “shall be *considered*”, it does not require that the proposal *MUST enhance* the qualities of the district and community.

Mr. Fitzpatrick motioned to grant the application of Curtis and Elizabeth Springer, 98 Cranfield Street, Map 17, Lot 19 because it satisfies all four criteria for Existing Structures, Section 9.3.6.2 of the New Castle Zoning Ordinance, as follows:

- a) The impact of the proposed activity on the special character of the District, including the historical, architectural or cultural value of the buildings and streetscapes of the District is minimal;
- b) The compatibility of the exterior design, architectural components, texture and materials proposed to be used in relationship to existing structures and their settings are relatively compatible, as there are a number of other buildings in the area that have similar structures as to what is proposed with this application;
- c) The scale and general size of new construction and renovations in relation to the existing surroundings, with consideration of such factors as height, width, streetscape, setbacks, number of stories, roof type, façade opening (windows, doors, etc.) and architectural details are modest in scope, using materials consistent with other buildings, not too tall or wide, and traditional and not contemporary architectural style; and
- d) The impact that the proposal will have on the setting and extent to which it will preserve and enhance the historical, architectural, and cultural qualities of the district and the community, having been considered, are minimal. While the proposal is not the most traditional structure, it will not have any significant impact on historical or cultural qualities of the district and the community.

Further, the proposal will not affect the character of the Historic District. Mr. Taylor seconded. Motion carried by a vote of three to one, with Chair Baker voting no.

**2. Continuation of 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.**

Attorney Monica Kieser was present along with applicant Karen Fay, Pat Driscoll of Star Island Builders, and Tom Smith, the developer of the original property in 1984. Attorney Kieser noted that the variance request for lot coverage is no longer needed, as the lot coverage will not be increasing under the latest proposal.

Ms. Fay explained the layout of the property. She owns Units 2 and 3 at 108 Main Street. Ms. Fay lives in Unit 3 and leases Unit 2 to a year-round tenant. Ms. Fay would love to expand Unit 2 and make this her permanent residence, with the tenant in Unit 2 moving into Unit 3. Jacqueline LaLime owns Unit 1. Ms. Fay works from home and would like to have additional space. Her intention is to remain here through retirement. Her proposal has approval from the HDC.

Attorney Kieser went through the proposal and accompanying exhibits. The existing lot is 0.17 acres and nonconforming, containing a three-story structure with a 1,349 square foot footprint and a 33 square foot shed. The previous owner obtained approval from the Planning Board in 1985 to create a three-unit Great Island Townhouse Condominium, which exists today. With Ms.

LaLime's consent, Ms. Fay seeks to remove the detached shed, construct a 196 square foot, three-story addition on the left side of the structure that will be height-compliant. The addition will have two 48 square foot decks and a 26 square foot boxed bay window. There will be an awning in the right rear portion of the building. A parking space that will be displaced by the addition will be relocated, with some of the existing walkway out front to be removed in order to make room for the parking space. The proposal calls for a second heat pump to be placed next to the existing storage bin on the right side of the structure. The addition will contain a common storage area, covered entryway and additional space for the future use of Unit 1.

The existing structure does not conform with the right side yard setbacks, with 15 feet required, 2.7 feet existing on the right side, and 27.2 feet existing on the left side. The structure will comply with the side setback on the left side, though variances will be needed for the proposed awning and covered entry on that side, as well as for the proposed heat pump and awning on the right side, which will be within the envelope created by the existing structures. The proposal has been revised so that the impervious lot coverage will no longer be increasing. It will still be above the required 25%, but with some of the walkway being shortened, the overall impervious area will decrease slightly from 66.8% to 66.5%. The maximum building area of the existing structure is 3,786 square feet, where 2,803 square feet is required. The proposed building area will be 4,761 square feet for the three units.

The property has 72 feet of frontage and provides access to two other properties, which is one reason why the lot coverage is significant. The site is burdened by two easements, one to provide access to 116 Main Street on the left, and a long, paved L-shaped right of way to provide access to 106 Main Street. Under the condominium site plan, there are four parking spots in the back. The parking area is gravel, which is compact and considered impervious under the New Castle Zoning Ordinance. Attorney Kieser explained that the calculations have been revised to properly count the gravel area as impervious.

Attorney Kieser noted that the Applicant has received the approval of Janice Murphy, 116 Main Street, located to the left of the Applicant, and the approval of the Gardners at 106 Main Street, behind the Applicant. The property to the right is an investment property, and Ms. Fay has not heard back from them.

Attorney Kieser argued that the elements of relief are relatively minor. The awning and heat pump will be minimal intrusions, as there is already an HVAC split compressor on the right side of the building. The compressor will be on a plastic pad stand, according to Mr. Driscoll. Attorney Kieser felt that the biggest ask is for the maximum building area, which is already nearly 1,000 square feet above the maximum allowed, and the proposal calls for an additional 1,000 square feet of building area. She pointed out that this is not a single family house, and the site is made immediately different by the fact that this is a three story building with three units. The lot coverage overall is decreasing, and much of the pavement that exists is required to access the Gardners' property. The existing shed will be removed, with the storage that the shed provided moving to the inside of the structure. The existing footprint is 1,349 square feet, with the proposed measuring 1,545 square feet. Attorney Kieser felt that since the overall lot coverage will be reduced, the Applicant should no longer require any relief for lot coverage, as it is already nonconforming. Attorney Roman clarified that if it is a significant increase in scope or size, that would require relief. Chair Baker and Attorney Roman both felt that it made sense to

leave the lot coverage variance request in with the proposal, given that it is significantly nonconforming still.

Ms. Fay explained that she does not require Planning Board approval, though she will have to update the condominium documents and the interior floor plans. The overall structure will remain three units. She also shared that per the HDC's request, the arms will be removed from the overhang awning, making it a cantilever style.

Attorney Kieser went through the five criteria for zoning relief.

1. *The variance will not be contrary to the public interest; and*
2. *The spirit of the ordinance is observed:*

Granting the variances would not violate the basic zoning objectives of the Ordinance. The purpose of the Ordinance is to promote the health, safety, and general welfare of the community, which this proposal will accomplish. The addition is tastefully designed, code compliant, and has been approved by the HDC. It will preserve the historic character of New Castle. The use will remain residential. A three-story building already exists, and the only encroachment will be for the overhang and awning in the left side setback, and the abutter on this side has consented to the proposal. The discrete elements that require relief from the right-side setback are minimal. The goal of the Master Plan is to strike a just balance between the rights of the property owner and protecting the general welfare of the Town. The proposed modest addition and related improvements are reasonable.

3. *The values of surrounding properties are not diminished:*

The walls and decks of the proposal comply with the side yard setbacks, so the increase in building area will not create a sense of overcrowding. The elements in the right side yard setback are driven by the location of the building and are similar to existing conditions, where a heat pump already exists. The application has approval from the HDC and the most impacted abutter. This, coupled with the tasteful nature of the addition, all attest that the proposal will not diminish surrounding property values. A stormwater management plan done by Spitbank Design will ensure that the slight increase in lot coverage will not negatively affect stormwater management compared to existing conditions. There is no net increase in impervious area on the site as a result of the proposed construction. The stormwater design for the new addition will aim to mitigate the flow velocity on the west side of the property. This will be accomplished via drip lines on the north and south eaves, which will direct water to the south side of the property and treat the stormwater through infiltration via a subgrade drywell.

4. *Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:*

Special conditions exist in that the existing property is small and contains a three-story, three unit condominium on a 72 foot wide lot, with the structure very close to the right side lot line. Any improvements to the right side of the structure would require relief. A long, paved access easement curtails the space available for outside landscaping and recreation, which contributes to an increased lot coverage compared to similarly sized lots. The easements on the property create



hardship because much of the pavement is required for access to other properties. In addition, there is no fair and substantial relationship between the general public purposes of the ordinance and its specific application in this instance. There is no reason to strictly apply the ordinance requirements in this instance given the existing nonconformities, the approval of the left-side abutter, the minimal side yard encroachment to accommodate the awning and entry on the left side, the minimal effect of the added heat pump and awning on the right side, and the implementation of a stormwater management plan to capture additional runoff. The proposed use is permitted and therefore reasonable.

5. *Substantial justice is done:*

If there is no benefit to the public that would outweigh the hardship to the applicant, this factor is satisfied. The property owner is constitutionally entitled to the use of the lot as she sees fit, subject to regulations. The proposed addition largely conforms to the side yard setbacks, with only the awnings, a portion of the covered entry, and the heat pump requiring relief. Landscaping and shrubbery will shield the heat pumps on the right side, so the visual impact of the improvements on the right side of the house will be minimal.

Mr. Fitzpatrick asked if there would be any impact on views or sightlines from across the street. Ms. Fay responded that there would be no impact, and there is no view of the water from across the street.

Mr. Lannon requested clarification about the ownership of the units. Ms. Fay explained that the second and third floor are split as two townhouse style condos. She owns both and lives in one, with a tenant in the other. The first floor is one unit, owned by Jackie LaLime. The left side of the townhouse is the side being revised.

Chair Baker opened the public hearing at 9:10 p.m. Tom Smith, 254 Wentworth Road, spoke in favor of the application. He shared that he was responsible for the building being converted from a convenience store to a residential unit in 1983, making it the first condominium unit in town.

Chair Baker read letters submitted by the Applicant. Janice Murphy, 116 Main Street, appreciated the thoughtfulness that Ms. Fay put into the historic design of the proposal. She was fully in support of the proposed plans.

Jackie LaLime, 108 Main Street, Unit 1, wrote that she has reviewed the most recent design plans produced by Maguel DeStefano Architects, and she was comfortable with the plan assuming that: 1) the addition will not prevent adequate turning radius for the two existing deed parking spaces for Unit 1; 2) water runoff from the additional roof and porch areas will be designed to drain adequately; 3) the cost of changes to the front walkway, stone walls, and/or garden areas on the property will be covered by Ms. Fay; 4) the cost of repairs and repaving of any driveway area and/or parking spaces impacted by the project will be covered at Ms. Fay's expense; and 5) the condo by-laws will be updated accordingly and mutually agreed upon, including the new floor plans for Unit 2 and new homeowner association fee definitions. This may also include agreements for the potential expansion of Unit 1 in the future. Attorney fees for this process will be covered by Ms. Fay. Ms. LaLime submitted a follow-up letter confirming that she is fine with the plan as presented, assuming it is determined that there is ample room for

turning into and existing their parking spaces, including allowing enough room for larger vehicles like snowplows. She requested that all tenant spaces be clearly allocated, and acknowledged that there may be more of a two point turn required when backing out of their spaces given the overall space allowance and abutting neighbor driveways. Ms. LaLime requested more information on the engineering review of the drainage situation on the parking side of the house, which Ms. Fay confirmed she has followed up with her already on this subject.

Mark and Patricia Gardner, 106 Main Street, also wrote in support of the proposal, citing the tasteful and thoughtful designs that would be in keeping with the character of the neighborhood. The Gardners appreciated Ms. Fay's assurances that all reasonable steps will be taken to ensure access to their home via the easement will be kept clear during the construction process.

Hearing no further comments from the public, Chair Baker closed the public hearing at 9:16 p.m. and opened discussion back up to the Board.

Ms. Sofio appreciated how the case was well-prepared and how the Applicant worked with her neighbors to get their input and keep them updated about the plans. She felt that all criteria have been met and viewed the proposal favorably.

Mr. Fitzpatrick stated that while the hardship criterion was difficult, the Applicant made a good case with the unique aspects of the lot and easements. He found that all five criteria for zoning relief have been met.

Mr. Lannon appreciated the visuals presented to allow the Board to compare the existing conditions to the proposed. He was a bit concerned about the mass of the addition, and felt that the volume is not small in comparison to the rest of the structure, though it is small in terms of square footage. He felt that relative to other smaller homes in the area, the issue of light and crowding is relevant. Mr. Lannon found the proposal to be tastefully done and in keeping with the character of the house. He appreciated the revised stairway to compensate for the increase in volume, as the original square stairway is not particularly attractive. He also cited that there were no objections from neighbors.

Mr. Taylor struggled with the significant relief needed for the allowable buildable size, and believed that the proposal is a significant departure from what is allowed by the Zoning Ordinances. He felt that the Town has a permissible building size for a reason, though perhaps the proposal appears bigger on the plans than it will look once constructed.

In general, Chair Baker was supportive of Ms. Fay's plan to enhance her property. He felt that overall, the proposal will not detract from the community.

Chair Baker went through the five criteria for zoning relief:

1. *The variance will not be contrary to the public interest; and*
2. *The spirit of the ordinance is observed:* The lot coverage will be slightly less nonconforming than existing conditions. Therefore, the spirit of the ordinance is observed.

3. *The values of surrounding properties are not diminished:* The abutters' approval indicates that this is satisfied.
4. *Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:* Although the maximum building area and expansion of the nonconforming structure are issues, the overall proposal is reasonable and the abutters are in favor.
5. *Substantial justice is done:* there is not a significant enough impact to the community to deny the request.

Mr. Taylor asked who will review the site plan for code compliance. Chair Baker responded that the Town Building Inspector/Code Enforcement Officer will perform the inspections. Attorney Kieser addressed onsite parking and confirmed that the condominium will still maintain the six required parking spaces.

Mr. Lannon motioned to grant the variance request for Section 4.2 Table 1.C Side Setback, for Applicant Karen Fay, 108 Main Street, Units 2 and 3, Map 18, Lot 1, having met all five criteria for zoning relief as follows:

1. *The variance will not be contrary to the public interest:* Board voted unanimously in favor, five to zero;
2. *The spirit of the ordinance is observed:* Board voted unanimously in favor, five to zero;
3. *The values of surrounding properties are not diminished:* Board voted unanimously in favor, five to zero;
4. *Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:* Board voted unanimously in favor, five to zero; and
5. *Substantial justice is done:* Board voted unanimously in favor, five to zero.

Mr. Taylor seconded. Motion carried unanimously by a vote of five to zero.

Mr. Fitzpatrick motioned to grant the variance request for Section 4.2 Table 1.H Lot Coverage, for Applicant Karen Fay, 108 Main Street, Units 2 and 3, Map 18, Lot 1, having met the five criteria for zoning relief as follows:

1. *The variance will not be contrary to the public interest:* Board voted unanimously in favor, five to zero;
2. *The spirit of the ordinance is observed:* Board voted unanimously in favor, five to zero;
3. *The values of surrounding properties are not diminished:* Board voted unanimously in favor, five to zero;
4. *Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:* Board voted unanimously in favor, five to zero; and
5. *Substantial justice is done:* Board voted unanimously in favor, five to zero.

Mr. Lannon seconded. Motion carried unanimously by a vote of five to zero.

Mr. Fitzpatrick motioned to grant the variance request for Section 4.2 Table 1.I Maximum Building Area, for Applicant Karen Fay, 108 Main Street, Units 2 and 3, Map 18, Lot 1, with the majority of the Board voting that the Applicant has met the five criteria for zoning relief as follows:

1. *The variance will not be contrary to the public interest:* Board voted in favor, four to one, with Mr. Taylor voting no;
2. *The spirit of the ordinance is observed:* Board voted in favor, four to one, with Mr. Taylor voting no;
3. *The values of surrounding properties are not diminished:* Board voted unanimously in favor, five to zero;
4. *Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:* Board voted in favor, three to two, with Mr. Taylor and Mr. Lannon voting no; and
5. *Substantial justice is done:* Board voted in favor, four to one, with Mr. Taylor voting no.

Ms. Sofio seconded. Motion carried by a vote of three to two, with Mr. Taylor and Mr. Lannon voting no.

Mr. Fitzpatrick motioned to grant the variance request for Section 7.1.2 Expansion of Non-Conforming Structure, for Applicant Karen Fay, 108 Main Street, Units 2 and 3, Map 18, Lot 1, with the majority of the Board having found that the Applicant has met the five criteria for zoning relief as follows:

1. *The variance will not be contrary to the public interest:* Board voted unanimously in favor, five to zero;
2. *The spirit of the ordinance is observed:* Board voted in favor, four to one, with Mr. Taylor voting no;
3. *The values of surrounding properties are not diminished:* Board voted unanimously in favor, five to zero;
4. *Literal enforcement of the provisions of the ordinance would result in unnecessary hardship:* Board voted in favor, four to one, with Mr. Taylor voting no;
5. *Substantial justice is done:* Board voted in favor, four to one, with Mr. Taylor voting no.

This approval is subject to the following conditions:

1. Six (6) parking spaces are maintained on the property; and
2. The stormwater management plan, pursuant to the March 18, 2023 letter from Spitbank Design, is implemented and maintained as designed, and that the Town Building Inspector approves of said designs.

Mr. Lannon seconded. Motion carried by a vote of four to one, with Mr. Taylor voting no.

### **3. Approve Minutes.**

Chair Baker moved to accept the February 2023 minutes as amended on page 5, with the addition of the following: “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.” Mr. Fitzpatrick 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, April 18, 2023 at 7:00 p.m. at the Town Hall.

Chair Baker also announced that longtime Board member Margaret Sofio will be resigning after the April meeting. The new Planning Board liaison is proposed to be Rich Landry.

#### **5. Adjournment.**

There being no further business, Chair Baker moved to adjourn the public meeting. Mr. Lannon seconded. The motion carried, unanimously, and the meeting adjourned at 9:44 p.m.

Respectfully Submitted,

Meghan Rumph  
*Secretary*