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June 7, 2019

Hand Delivered

City of Newport
Zoning Board of Review
Attn: Guy Weston
City Hall
43 Broadway
Newport, RI 02840



Re: Notice and Claim of Appeal
166 Spring Street, Newport, Rhode Island
City of Newport Tax Assessor Map 24, Lot 225.
Mr. Leo and Mrs. Patricia Geoffroy

Dear Mr. Weston:

This office represents Federico Santi and John Gacher of 148-160 Spring Street, Newport, Rhode Island. Enclosed please find our Notice and Claim of Appeal from the Decision rendered by the Historic District Commission regarding 166 Spring Street. Our check in the amount of \$200.00, the required filing fee is enclosed. We request that the Historic District Commission transmit the record upon which this appeal is taken to the Zoning Board of Review.

I thank you very kindly for your anticipated assistance and cooperation.

Very truly yours,

Karen Augeri Benson
Law Office of Alan A. Amaral

KAB/dlm

cc: F. Santi
City of Newport HDC
City of Newport Planning Board
M. Leys, Esq.

COPY

www.kabensonattorney.com

LICENSED IN MASSACHUSETTS AND RHODE ISLAND

SATELLITE OFFICE: ONE COURTHOUSE SQUARE, NEWPORT, RI 02840 DIRECT ALL CORRESPONDENCE TO MASS OFFICE

CITY OF NEWPORT
ZONING BOARD OF REVIEW

In Re: 166 Spring Street
Plat 24, Lot 225
Mr. Leo and Mrs. Patricia Geoffroy

**NOTICE AND CLAIM OF APPEAL FROM THE DECISION OF THE
CITY OF NEWPORT HISTORIC DISTRICT COMMISSION**

Mr. Leo and Mrs. Patricia Geoffroy (hereinafter Applicants or Geoffroys) applied for a Certificate of Appropriateness for a proposed new stable structure for the property located at 166 Spring Street, Newport, Rhode Island. City of Newport Tax Assessor Map 24, Lot 225.

Federico Santi and John Gacher (hereinafter referred to as "the Appellants"), are Newport residents and abutters to 166 Spring Street, Newport, Rhode Island. They are aggrieved parties within the meaning of Rhode Island General Laws § 45-24-31(4). Santi and Gacher operate an antique shop on the first level and have their residence on the second and third level of 148-160 Spring Street, Plat 24, Lot 218, Newport, Rhode Island.

Santi attended hearings of the Newport Historic District Commission (hereinafter HDC) on March 19, 2019 and April 16, 2019. At those hearings the Appellants put written and oral objections into the record. The HDC voted 5 to 1 to grant a Certificate of Appropriateness. Appellants' property will be injured by the decision of the HDC. Santi and Gacher now appeal that Decision. A copy of the Decision is attached hereto as Exhibit A.

As reasons therefore, they aver:

1. The Decision was clearly erroneous.

A. The HDC failed and neglected to address certain criteria as required by the City of Newport Zoning Ordinance Historic District provisions.

For example, Ordinance Section 17.80.060 provides *inter alia* that new construction...shall be compatible with the surrounding historic area in terms of size, scale, siding, massing, set back, materials and details. Appellants aver that there were no similar historic structures associated with 166 Spring Street. They further suggest that there is little or no precedent for any such auxiliary structure and there are no buildings along Spring Street that have any "stable" or similar outbuilding. TR 3/19/19, P. 8. ¹

The structure was proposed so that the Applicants could have a secure and safe storage area for their items. According to the Geoffroy's architect it was designed to allow for a private and secure outdoor seating area for the family. The south side is open and the east side is open with no wall. There is a stable gate to *sort of* "evoke the image of a stable" which was once there. (Emphasis added.) In fact, a review of the drawings and photos submitted evoke nothing so much as a garage.

At the outset the HDC asked how does this structure differ from a garage. The Applicants glib answer was that it is not intended to park a car inside. The HDC was aware of the fact that the claimed existing ancillary buildings in the area are not located on Spring Street but rather are found on the upper area of historic hill. TR 3/19/19, P.23.

¹ The Hearing Transcripts will be referenced throughout as follows: TR date, P. page.

B. The Applicants erroneously indicated that they were in compliance with the City of Newport Zoning Code. Tr. 3.19.19, P. 16, 33

The property is zoned General Business. Section 17.60.040 of the ordinance governs setbacks. In this zone front and side setback requirements of 0 feet apply. However, this is a corner lot which has two front and rear yard setbacks. The required rear yard setbacks are 5 feet. Applicant's proposed structure is located just 15 inches from the lot line. Tr. 3.19.19, P 15. The Applicants repeated assertions that they were in compliance with the City of Newport Zoning Code was not supported by the weight of the evidence. Tr. 3.19.19, P. 16, 33.

C. The testimony presented by the Applicant's expert was contrary to the records relied on.

Maps relied on, but not submitted as full exhibits at hearing, actually show that in 1907 a very small "shed" type structure appears on 166 Spring Street. Applicant's expert did acknowledge that in 1921 there were no buildings on 166 Spring Street directly abutting Appellants' Tr. 3.19.19, P. 47-48. Additionally, the HDC allowed the Applicant to cherry pick the historic records relied on, despite the testimony of Federico Santi indicating the proposed structure would obstruct historic vistas.

2. The Decision was based on prejudicial procedural error.

It was the Applicants' position that as a "technical matter" there were no contributing or non-contributing structures in the district. TR 3/19/19, P. 11, TR 3/19/19, P.16. This issue is more than a mere technical matter. It is a matter of such significance

that the City Solicitor has taken it up for study and resolution. The discussion regarding whether this is a contributing verses non-contributing structure was a factor in the HDC decision TR. 3/19/19, P. 26-28. The question from the HDC regarding contributing verses non-contributing structures and the representations made by the Applicants, and Mr. Weston, on behalf of these Applicants surely constitute prejudicial procedural error.

There was no specific vote or decision on whether there was any precedent for such outbuildings or secondary structures in the immediate area. There was testimony that such out building and secondary structures appeared in other historic districts in the City of Newport. This further reflects an arbitrary and capricious approach by the HDC in considering the application.

At the end of the hearings the HDC moved to accept the staff's finding of fact as their findings of fact. TR 4/16/19, P. 28. The Commission made no independent findings of fact before voting. The staff findings of fact indicated that the lot is surrounded by significant contributing properties with Richard Munday's Trinity Church directly across the street and Dudley Newton's Theodore R. Helme Block directly abutting the property to the north.

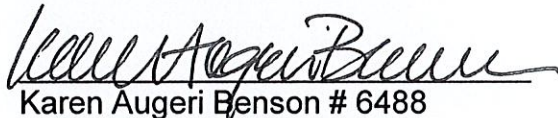
The City of Newport Historic District ordinance section 17.80.010 states, the purpose of Historic District Zoning in the City of Newport is to protect our historic assets and to guide new growth in ways that enrich and maintain Newport's sense of place and authentic historic character. This decision is an abandonment of that purpose.

Request for Relief:

Santi and Gacher request the Zoning Board of Appeals grant them the following relief: Reverse the Commission Decision and Find that there was prejudicial procedural error, and that the decision is not supported by the weight of the evidence.

This matter does not involve a subdivision or land development project and hence the names and addresses of abutters are not supplied herein.

Respectfully submitted,
Federico Santi and John Gacher
By their Attorney



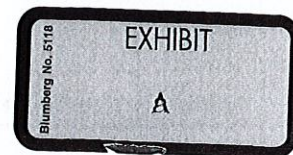
Karen Augeri Benson # 6488
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Dated: June 7, 2019

CERTIFICATE OF SERVICE

I, Karen Augeri Benson, Esquire, hereby certify that on the 7th day of June 2019, I served the foregoing Appeal From The Decision of the City of Newport Historic District Commission, by emailing copy of same, to Attorney Matt Leys, **Corcoran, Peckham, Hayes, Leys & Olaynack, P.C.**, 43-B Memorial Boulevard, Newport, RI 02840.


Karen Augeri Benson, Esquire



**STATE OF RHODE ISLAND
CITY OF NEWPORT**

HISTORIC DISTRICT COMMISSION

**RE: PETITION OF LEO & PATRICIA GEOFFROY
166 SPRING STREET, TAP 24, Lot 225**

DECISION

The within matter came before the Historic District Commission of the City of Newport ("the Commission") on March 19, 2019 and April 16, 2019 on the Application of Leo & Patricia Geoffroy ("the Geoffroys") for a certificate of appropriateness to build a one story post and beam structure on property the Geoffroys own located at 166 Spring St., TAP 24, Lot 225 ("The Property" or "166 Spring Street"), which is in the City of Newport Local Historic District and the Newport National Historic Landmark District.

SUMMARY OF THE PROCEEDINGS BEFORE THE COMMISSION

The Geoffroys were represented at the hearing by attorney Matthew H. Leys. At the beginning of the hearing, the Geoffroys requested that the Chair of the Commission recuse herself based on her relationship to an objecting neighbor. The Chair declined to do so. The hearing proceeded and the Commission accepted three (3) Newport City Council resolutions as Exhibit A, which were discussed. It was noted that the existing main house was the subject of a more than 50% renovation in 2014.

Next, the Geoffroys called Frank Gaj, the architectural designer for the project, as a witness. In summary, Mr. Gaj testified as to the details of the proposed secondary structure, including that it would be twelve (12) feet in height and have a hip roof, would be 262 square feet in footprint, would match the main house in terms of materials, would be setback 17' 3" from the property line, and other details of the project. He also discussed the size of the proposed secondary structure relative to the main house. In addition, Mr. Gaj testified regarding the

number of other secondary structures on properties in the area. He further testified that the style of the proposed structure is different and the height lower than an application for a garage that was denied by the Commission in 2018. Mr. Gaj testified about a set of photographs, which were accepted by the Commission as Exhibit B, with views north and south on Spring Street and up and down Mill Street to demonstrate that the proposed structure would not be visible traveling up and down Spring Street and would have little visibility travelling up and down Mill Street. Mr. Gaj was questioned by the Commission members and responded to their questions. During this discussion, two Commission members suggested reducing the depth of the structure approximately one and one half feet to line up the proposed structure with the bump out addition on the main house. At the conclusion of Mr. Gaj's testimony it was suggested that perspective photographs be provided to show the proposed structure in the context of surrounding buildings, and the Geoffroys agreed to provide such photographs at a subsequent hearing. A foam board with renderings prepared by Mr. Gaj was accepted as Exhibit C.

The Geoffroys' next witness was Leslie Donovan, who was accepted as an expert in historic preservation. Her resume was accepted as Exhibit D. In summary, Ms. Donovan testified about the history of the structures at 166 Spring Street, including the fact that there was historically a stable in the location where the Geoffroys propose to build the secondary structure that is the subject of the application, and she testified about the details of the stable that was historically on the Geoffroy Property based on her review of historic atlases. She testified that a stable was present when the structure at 148-160 Spring Street, owned by the objectors ("the Objectors' Property"), was constructed. Ms. Donovan testified that the proposed structure met the standards contained in the Newport Historic District Zoning Ordinance ("the Ordinance") for the granting of a certificate of appropriateness, and explained in detail why those standards were

met. Ms. Donovan testified that the current design of the proposed structure was the third or fourth one she had seen and that she had worked with the Geoffroys to make sure that the features were appropriate to the period of the Property, and that the Geoffroys had done that and did an outstanding job.

Ms. Donovan also testified about the details of the surrounding area historically, including the densely built up nature of the area where Trinity Park is now located across the street from the Geoffroy Property, which resulted in minimal visibility historically across the street. She also testified to the presence historically of a house in the backyard of the Objectors' Property further limiting visibility, and the creation of a gas station which was present across the street from the Property until the 1970s. Ms. Donovan also testified that a tree and fence were located in the side yard of the Geoffroy Property after the stable that was previously on the Geoffroy Property was taken down. Ms. Donovan testified that the proposed structure is subservient to the main structure at 166 Spring Street and to the Objectors' Property, and would not have any detrimental impact on the property at 166 Spring Street or surrounding properties, nor affect any historic vistas. She testified that "as a matter of fact, it would more closely return this particular property, 166 Spring Street, to its historical development." Ms. Donovan also testified that there were several secondary structures historically in the neighborhood and provided examples using historic atlases. Ms. Donovan testified that the proposed structure is not incongruous with those items given consideration in the Ordinance. At the conclusion of her testimony the letter submitted by Mr. Leys prior to the hearing with attached historic atlas pages and other materials was acknowledged by the Commission as being part of the record of the proceedings.

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examples
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The hearing was continued to the Commission's April 16, 2019 hearing. At the beginning of that hearing, the Chair recused herself. Revised plans were received prior to the hearing which reduced the depth of the structure so that it matches the bump out addition on the main house as suggested by two Commission members at the prior hearing, and those plans were discussed. It was noted that the footprint of the proposed structure was reduced to 235 square feet and that the structure was now set back 18' 7" from the Property line adjacent to Spring Street. Also, the perspective photographs previously requested by the Commission were received by the Commission, discussed, and accepted as an Exhibit. Next, Patricia Geoffroy testified to certain details of the Objectors' Property, including the recent additions to the Objectors' Property. She also testified that she was informed that Trinity Church has no objection to the application. In addition, Mrs. Geoffroy testified regarding a circa 1930s photograph, which was accepted as an Exhibit, showing a row of buildings across the street from 166 Spring Street to rebut the objector's anticipated argument about historic views across the area of the proposed structure.

After Mrs. Geoffroy testified, Federico Santi, an owner of 148-160 Spring Street, testified in objection to the application. He testified, in summary, that he believed there had never been a structure in the area proposed for the structure, that the proposed structure would obstruct historic vistas, that it would pose a fire hazard and maintenance problem, and would obstruct light and air. Mr. Santi noted a number of historic structures in the nearby area. He also quoted certain provisions of the Ordinance. He submitted a letter in support of his objection as Opponents' Exhibit 1.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the staff report, which the Commission accepts, the testimony, exhibits and materials in the record, the Commission finds that the application for a certificate of appropriateness meets the requisite standards contained in the Ordinance. In particular, with regard to the applicable standard contained at 17.80.060 (C) "For New Construction, Reconstruction and New Walls, Gates, Gateposts and Fences Made Subject to Review Pursuant to Section 17.80.100(6) of this Chapter", the Commission finds that:

(A.) The proposed structure is compatible with the surrounding historic area in terms of size, scale, siting, massing, setback, materials and details. Ms. Donovan testified that in her opinion the proposed structure is compatible with the surrounding historic area in terms of size, scale, siting, massing, setback, materials and details, and the Commission agrees. In particular, the size, scale and massing is about the same as what historically existed and is compatible with the surrounding historic area. The structure is a single story structure and the height was "brought down to an appropriate height," as Ms. Donovan's testified, to avoid overshadowing the main house at the Geoffroy Property. She also testified that the proposed structure is subservient to the main house on the Geoffroys' Property and to the Objectors' Property. The staff report also finds that the proposed structure is subservient to the main house on the Geoffroy Property (which, as the staff report notes, is mostly a reconstruction of what once existed there, but remains listed as a contributing building). The structure was also reduced in depth to match the bump out addition on the main house, further limiting the size, scale and massing and minimizing the harm to the historic district. Ms. Donovan also testified that the siting and setback are compatible, and the Commission agrees. The proposed structure would be set back from the street and near the north property line, as was the case with the stable that was

historically on the Property. The structure is now proposed to be 18' 7" from property line on Spring St., which, along with the width of the sidewalk, will result in it not being visible traveling up and down Spring St. until you are next to the structure. Ms. Donovan testified, and the Commission finds, that the design and materials are compatible with the surrounding historic area. In particular, Ms. Donovan testified that a hip, shingle roof would have been "extremely historically appropriate"; a wood frame structure, is "totally appropriate"; the design is not overly "beefed up" and is "extremely compatible with the historic architecture, not only of this site but of other properties right in the vicinity." In making the forgoing finding of compatibility with the surrounding historic area in terms of size, scale, siting, massing, setback, materials and details, the Commission also cites Ms. Donovan's testimony, noted above, that the proposed structure would not have any detrimental impact on the property at 166 Spring Street or surrounding properties, nor affect any historic vistas. Also, as Ms. Donovan testified, there were a number of ancillary buildings historically in the area, and the staff report also notes that there is precedence for outbuildings and secondary structures in the Newport Local Historic District.

(B.) The proposed structure is of thoughtful and considered architectural design. Ms. Donovan testified that in her opinion the proposed structure is of thoughtful and considered architectural design. As noted, Ms. Donovan testified that the current design of the proposed structure was the third or fourth one she has seen and that she had worked with the Geoffroys to make sure that the features were appropriate to the period of the Property, and that the Geoffroys had done that and did an outstanding job. The finding of compatibility with the surrounding historic area in terms of size, scale, siting, massing, setback, materials and details also supports the finding that the proposed structure is of thoughtful and considered architectural design.

(C.) Appearance. New construction, reconstruction and new walls, gates, gateposts and fences made subject to review pursuant to Section 17.80.100(6) of this Chapter may clearly read as such and need not present a false historic appearance. As Ms. Donovan testified, "you understand this is something new that has been interpreted from the old, what was here before." The staff report also concludes that it clearly reads as new construction.

Based on the testimony of Ms. Donovan and others, the staff report, exhibits and materials in the record, and for the reasons described above and below, the Commission finds that the proposed structure is not incongruous with those aspects of the structure, appurtenances, or the district that are historically or architecturally significant, giving consideration to the historic and architectural significance of the structure and its appurtenances; the way in which the structure and its appurtenances contribute to the historical and architectural significance of the district; and the appropriateness of the general design, arrangement, texture, materials, and siting proposed in the plans.

The Commission considered the position of the objectors and found them to be unpersuasive. First, the objectors' claim that there has never been a structure on the site was thoroughly disproved by the testimony and evidence presented by Ms. Donovan as noted, and the historical atlas pages submitted. Next, the claim that the structure would interfere with "vistas" that have been enjoyed for generations was shown not to be accurate, as the surrounding area was historically densely build up and has changed substantially over time. Again, Ms. Donovan testified and the atlas pages and other evidence showed that if you looked across the street historically, at the view toward the park and Trinity Church, those areas were densely built up with buildings, and a gas station was on the corner of Mill and Spring Streets until the 1970s when Trinity Church built the present park. Moreover, as Ms. Donovan testified and the atlas

pages show, there was a house in the back of the Objectors' Property from the area where the objectors now claim a view, and a large tree and fence in the Geoffroys' side yard where they propose to put the secondary structure. The large tree and fence were taken down in 2014 in conjunction with the renovation of the main house at the Geoffroy Property. Thus, the current view looking across the area where the structure is proposed to be placed did not exist until about 5 years ago.

The objectors claimed there will be an impact on the adjacent building on the Objectors' Property, but the only competent evidence on this point was from Ms. Donovan that it will have no detrimental effect on the Objectors' Property or any of the other surrounding buildings. Indeed, she testified that there was a stable in the same location on the Geoffroys' Property when the building on the Objectors' Property was built, and that there were a number of ancillary buildings in the area historically. She testified that "as a matter of fact it [the proposed structure] would more closely return this particular property, 166 Spring Street, to its historical development" and that the proposal was also "appropriate to the historical development of this neighborhood." Accordingly, there is not detrimental impact on any contributing buildings that may be in the area. The perspective shots further demonstrate there will be no adverse affect, as it shows that the proposed structure is subservient and recessed from the street. As Mrs. Geoffroy testified, many of the features on the Objectors' Property are recent additions, thus further reducing impact on historic fabric. Thus, considering the relative architectural and historic significance of structures and the integrity and condition of historic fabric the proposed structure is appropriate and reasonable.

Arguments about fire safety and maintenance are without merit. Mr. Gaj testified that the proposed structure would be fire code compliant and it will not receive a building permit if it is

not, and Mr. Gaj's testimony also adequately addressed maintenance. In support of their objection, the objectors also quoted a provision of the Ordinance which states that "The purpose of the Historic District Zoning in the City of Newport is to protect our historic assets and to guide new growth in ways that enrich and maintain Newport's sense of place and authentic historic character for now and for future generations." However, the Commission finds that the Geoffroys' plans satisfy that purpose.

The expert testimony of Ms. Donovan was uncontradicted by any other expert evidence.

Conclusion

Based on the foregoing, by a 5-1 vote of the members of the Commission, with Mr. Bjork, Mr. Dias, Mr. Babcock, Ms. O'Brien, and Ms. Stafford voting in favor, and Mr. Elliott voting against, the application is GRANTED.

Mr. Bjork (AYE)

Mr. Dias (AYE)

Mr. Babcock (AYE)

Ms. O'Brien (AYE)

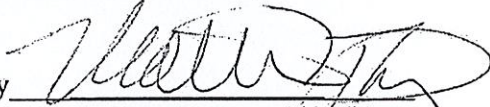
Ms. Stafford (AYE)

Mr. Elliott (NAY)

Respectfully presented by,

Attorneys for the Applicants,

CORCORAN, PECKHAM, HAYES,
LEYS & OLAYNACK, P.C.

By 

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**STATE OF RHODE ISLAND
CITY OF NEWPORT**

HISTORIC DISTRICT COMMISSION

**RE: PETITION OF LEO & PATRICIA GEOFFROY
166 SPRING STREET, TAP 24, Lot 225**

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SUMMARY OF THE PROCEEDINGS BEFORE THE COMMISSION

The Geoffroys were represented at the hearing by attorney Matthew H. Leys. At the beginning of the hearing, the Geoffroys requested that the Chair of the Commission recuse herself based on her relationship to an objecting neighbor. The Chair declined to do so. The hearing proceeded and the Commission accepted three (3) Newport City Council resolutions as Exhibit A, which were discussed. It was noted that the existing main house was the subject of a more than 50% renovation in 2014.

Next, the Geoffroys called Frank Gaj, the architectural designer for the project, as a witness. In summary, Mr. Gaj testified as to the details of the proposed secondary structure, including that it would be twelve (12) feet in height and have a hip roof, would be 262 square feet in footprint, would match the main house in terms of materials, would be setback 17' 3" from the property line, and other details of the project. He also discussed the size of the proposed secondary structure relative to the main house. In addition, Mr. Gaj testified regarding the

number of other secondary structures on properties in the area. He further testified that the style of the proposed structure is different and the height lower than an application for a garage that was denied by the Commission in 2018. Mr. Gaj testified about a set of photographs, which were accepted by the Commission as Exhibit B, with views north and south on Spring Street and up and down Mill Street to demonstrate that the proposed structure would not be visible traveling up and down Spring Street and would have little visibility travelling up and down Mill Street. Mr. Gaj was questioned by the Commission members and responded to their questions. During this discussion, two Commission members suggested reducing the depth of the structure approximately one and one half feet to line up the proposed structure with the bump out addition on the main house. At the conclusion of Mr. Gaj's testimony it was suggested that perspective photographs be provided to show the proposed structure in the context of surrounding buildings, and the Geoffroys agreed to provide such photographs at a subsequent hearing. A foam board with renderings prepared by Mr. Gaj was accepted as Exhibit C.

The Geoffroys' next witness was Leslie Donovan, who was accepted as an expert in historic preservation. Her resume was accepted as Exhibit D. In summary, Ms. Donovan testified about the history of the structures at 166 Spring Street, including the fact that there was historically a stable in the location where the Geoffroys propose to build the secondary structure that is the subject of the application, and she testified about the details of the stable that was historically on the Geoffroy Property based on her review of historic atlases. She testified that a stable was present when the structure at 148-160 Spring Street, owned by the objectors ("the Objectors' Property"), was constructed. Ms. Donovan testified that the proposed structure met the standards contained in the Newport Historic District Zoning Ordinance ("the Ordinance") for the granting of a certificate of appropriateness, and explained in detail why those standards were

met. Ms. Donovan testified that the current design of the proposed structure was the third or fourth one she had seen and that she had worked with the Geoffroys to make sure that the features were appropriate to the period of the Property, and that the Geoffroys had done that and did an outstanding job.

Ms. Donovan also testified about the details of the surrounding area historically, including the densely built up nature of the area where Trinity Park is now located across the street from the Geoffroy Property, which resulted in minimal visibility historically across the street. She also testified to the presence historically of a house in the backyard of the Objectors' Property further limiting visibility, and the creation of a gas station which was present across the street from the Property until the 1970s. Ms. Donovan also testified that a tree and fence were located in the side yard of the Geoffroy Property after the stable that was previously on the Geoffroy Property was taken down. Ms. Donovan testified that the proposed structure is subservient to the main structure at 166 Spring Street and to the Objectors' Property, and would not have any detrimental impact on the property at 166 Spring Street or surrounding properties, nor affect any historic vistas. She testified that "as a matter of fact, it would more closely return this particular property, 166 Spring Street, to its historical development." Ms. Donovan also testified that there were several secondary structures historically in the neighborhood and provided examples using historic atlases. Ms. Donovan testified that the proposed structure is not incongruous with those items given consideration in the Ordinance. At the conclusion of her testimony the letter submitted by Mr. Leys prior to the hearing with attached historic atlas pages and other materials was acknowledged by the Commission as being part of the record of the proceedings.

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After Mrs. Geoffroy testified, Federico Santi, an owner of 148-160 Spring Street, testified in objection to the application. He testified, in summary, that he believed there had never been a structure in the area proposed for the structure, that the proposed structure would obstruct historic vistas, that it would pose a fire hazard and maintenance problem, and would obstruct light and air. Mr. Santi noted a number of historic structures in the nearby area. He also quoted certain provisions of the Ordinance. He submitted a letter in support of his objection as Opponents' Exhibit 1.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Based on the staff report, which the Commission accepts, the testimony, exhibits and materials in the record, the Commission finds that the application for a certificate of appropriateness meets the requisite standards contained in the Ordinance. In particular, with regard to the applicable standard contained at 17.80.060 (C) "For New Construction, Reconstruction and New Walls, Gates, Gateposts and Fences Made Subject to Review Pursuant to Section 17.80.100(6) of this Chapter", the Commission finds that:

(A.) The proposed structure is compatible with the surrounding historic area in terms of size, scale, siting, massing, setback, materials and details. Ms. Donovan testified that in her opinion the proposed structure is compatible with the surrounding historic area in terms of size, scale, siting, massing, setback, materials and details, and the Commission agrees. In particular, the size, scale and massing is about the same as what historically existed and is compatible with the surrounding historic area. The structure is a single story structure and the height was "brought down to an appropriate height," as Ms. Donovan's testified, to avoid overshadowing the main house at the Geoffroy Property. She also testified that the proposed structure is subservient to the main house on the Geoffroys' Property and to the Objectors' Property. The staff report also finds that the proposed structure is subservient to the main house on the Geoffroy Property (which, as the staff report notes, is mostly a reconstruction of what once existed there, but remains listed as a contributing building). The structure was also reduced in depth to match the bump out addition on the main house, further limiting the size, scale and massing and minimizing the harm to the historic district. Ms. Donovan also testified that the siting and setback are compatible, and the Commission agrees. The proposed structure would be set back from the street and near the north property line, as was the case with the stable that was

historically on the Property. The structure is now proposed to be 18' 7" from property line on Spring St., which, along with the width of the sidewalk, will result in it not being visible traveling up and down Spring St. until you are next to the structure. Ms. Donovan testified, and the Commission finds, that the design and materials are compatible with the surrounding historic area. In particular, Ms. Donovan testified that a hip, shingle roof would have been "extremely historically appropriate"; a wood frame structure, is "totally appropriate"; the design is not overly "beefed up" and is "extremely compatible with the historic architecture, not only of this site but of other properties right in the vicinity." In making the forgoing finding of compatibility with the surrounding historic area in terms of size, scale, siting, massing, setback, materials and details, the Commission also cites Ms. Donovan's testimony, noted above, that the proposed structure would not have any detrimental impact on the property at 166 Spring Street or surrounding properties, nor affect any historic vistas. Also, as Ms. Donovan testified, there were a number of ancillary buildings historically in the area, and the staff report also notes that there is precedence for outbuildings and secondary structures in the Newport Local Historic District.

(B.) The proposed structure is of thoughtful and considered architectural design. Ms. Donovan testified that in her opinion the proposed structure is of thoughtful and considered architectural design. As noted, Ms. Donovan testified that the current design of the proposed structure was the third or fourth one she has seen and that she had worked with the Geoffroys to make sure that the features were appropriate to the period of the Property, and that the Geoffroys had done that and did an outstanding job. The finding of compatibility with the surrounding historic area in terms of size, scale, siting, massing, setback, materials and details also supports the finding that the proposed structure is of thoughtful and considered architectural design.

(C.) Appearance. New construction, reconstruction and new walls, gates, gateposts and fences made subject to review pursuant to Section 17.80.100(6) of this Chapter may clearly read as such and need not present a false historic appearance. As Ms. Donovan testified, "you understand this is something new that has been interpreted from the old, what was here before." The staff report also concludes that it clearly reads as new construction.

Based on the testimony of Ms. Donovan and others, the staff report, exhibits and materials in the record, and for the reasons described above and below, the Commission finds that the proposed structure is not incongruous with those aspects of the structure, appurtenances, or the district that are historically or architecturally significant, giving consideration to the historic and architectural significance of the structure and its appurtenances; the way in which the structure and its appurtenances contribute to the historical and architectural significance of the district; and the appropriateness of the general design, arrangement, texture, materials, and siting proposed in the plans.

The Commission considered the position of the objectors and found them to be unpersuasive. First, the objectors' claim that there has never been a structure on the site was thoroughly disproved by the testimony and evidence presented by Ms. Donovan as noted, and the historical atlas pages submitted. Next, the claim that the structure would interfere with "vistas" that have been enjoyed for generations was shown not to be accurate, as the surrounding area was historically densely build up and has changed substantially over time. Again, Ms. Donovan testified and the atlas pages and other evidence showed that if you looked across the street historically, at the view toward the park and Trinity Church, those areas were densely built up with buildings, and a gas station was on the corner of Mill and Spring Streets until the 1970s when Trinity Church built the present park. Moreover, as Ms. Donovan testified and the atlas

pages show, there was a house in the back of the Objectors' Property from the area where the objectors now claim a view, and a large tree and fence in the Geoffroys' side yard where they propose to put the secondary structure. The large tree and fence were taken down in 2014 in conjunction with the renovation of the main house at the Geoffroy Property. Thus, the current view looking across the area where the structure is proposed to be placed did not exist until about 5 years ago.

The objectors claimed there will be an impact on the adjacent building on the Objectors' Property, but the only competent evidence on this point was from Ms. Donovan that it will have no detrimental effect on the Objectors' Property or any of the other surrounding buildings. Indeed, she testified that there was a stable in the same location on the Geoffroys' Property when the building on the Objectors' Property was built, and that there were a number of ancillary buildings in the area historically. She testified that "as a matter of fact it [the proposed structure] would more closely return this particular property, 166 Spring Street, to its historical development" and that the proposal was also "appropriate to the historical development of this neighborhood." Accordingly, there is not detrimental impact on any contributing buildings that may be in the area. The perspective shots further demonstrate there will be no adverse affect, as it shows that the proposed structure is subservient and recessed from the street. As Mrs. Geoffroy testified, many of the features on the Objectors' Property are recent additions, thus further reducing impact on historic fabric. Thus, considering the relative architectural and historic significance of structures and the integrity and condition of historic fabric the proposed structure is appropriate and reasonable.

Arguments about fire safety and maintenance are without merit. Mr. Gaj testified that the proposed structure would be fire code compliant and it will not receive a building permit if it is

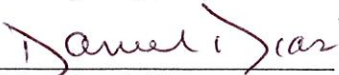
not, and Mr. Gaj's testimony also adequately addressed maintenance. In support of their objection, the objectors also quoted a provision of the Ordinance which states that "The purpose of the Historic District Zoning in the City of Newport is to protect our historic assets and to guide new growth in ways that enrich and maintain Newport's sense of place and authentic historic character for now and for future generations." However, the Commission finds that the Geoffroys' plans satisfy that purpose.

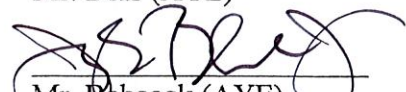
The expert testimony of Ms. Donovan was uncontradicted by any other expert evidence.

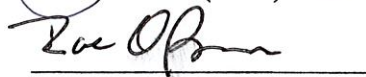
Conclusion

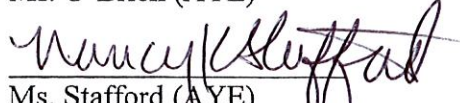
Based on the foregoing, by a 5-1 vote of the members of the Commission, with Mr. Bjork, Mr. Dias, Mr. Babcock, Ms. O'Brien, and Ms. Stafford voting in favor, and Mr. Elliott voting against, the application is GRANTED.


Mr. Bjork (AYE)


Mr. Dias (AYE)


Mr. Babcock (AYE)


Ms. O'Brien (AYE)


Ms. Stafford (AYE)

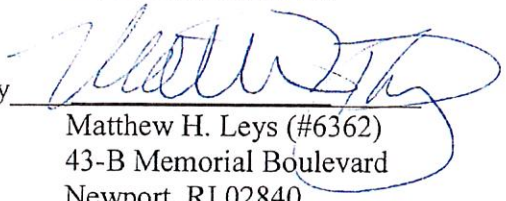

Mr. Elliott (NAY)

Respectfully presented by,

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By



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