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September 21, 2021

*Via Hand Delivery*

Stephanie Pires  
City Hall – Zoning Office  
43 Broadway  
Newport, RI 02840

NOV. 1

**Re: *Appeal of Historic District Commission Decision re Application of Mr. William and Mrs. Lisa Ruh, 88 Washington Street, Plat 12, Lot 46***

Dear Ms. Pires:

We are counsel for Newport PM LLC, Karen G. Harris 2003 Living Trust, R. Perry Harris 2003 Living Trust, Edward W. Kane, and Martha J. Wallace (“Appellants”). Enclosed please find Appellants’ Notice of Appeal of the September 21, 2021 decision of the Historic District Commission regarding the above-referenced property, recorded on September 27, 2021 at Book 3035 Page 280. Kindly docket this appeal for hearing, and please advise the undersigned of the date of same.

Thank you for your courtesies.

Sincerely,



Joshua S. Parks  
[jparks@apslaw.com](mailto:jparks@apslaw.com)

Encl.

cc: Jay Lynch, Esq.

In re: Application of Mr. William and Mrs. Lisa Ruh, 88 Washington Street, Plat 12, Lot 46

**NOTICE OF APPEAL**

Newport PM LLC, Karen G. Harris 2003 Living Trust, R. Perry Harris 2003 Living Trust, Edward W. Kane, and Martha J. Wallace (collectively, “Appellants”), by and through undersigned counsel, hereby appeal the decision of the Historic District Commission of the City of Newport dated September 21, 2021 and recorded on September 27, 2021 in the Land Evidence Records for the City of Newport at Book 3035 Page 280 (the “Decision”), which Decision granted conceptual approval to Mr. William and Mrs. Lisa Ruh for, *inter alia*, the construction of a new 4,380 square foot house (“Proposed House”) at the premises located at 88 Washington Street, Plat 12, Lot 46 (the “Premises”). A copy of the Decision is attached to this Notice as Exhibit 1.

As grounds therefore, Appellants state that the Historic District Commission (“HDC”) lacked evidentiary support for its Decision and ignored both City Ordinances and its own Standards and Guidelines when issuing its Decision, constituting clear error:

- Pursuant to Title 17 of the General Ordinances of the City of Newport, which constitutes the City’s Zoning ordinance (the “Ordinance”), the “purpose of historic district zoning in the City of Newport is to protect our historic assets[.]” Ordinance at § 17.80.010. The HDC’s Decision to grant conceptual approval for the Proposed House does not serve the stated purpose of the City’s historic district zoning.
- The Ordinance requires that new construction “shall be compatible with the surrounding historic area in terms of size, scale, siting, massing, setback, materials and details.” Ordinance at § 17.80.060(C)(1). The Decision ignored the fact that the

Proposed House dwarfs, by a factor of more than 3.5 to 1, the historic Tripp House with which the Proposed House would share the Premises. The Proposed House's roof line is more than 10 feet taller than the Tripp House's.

- There is a total lack of evidence in the record that would support construction of a second house on the same lot where an historic home already exists. The HDC wrongly failed to evaluate the Proposed House in relation to the Tripp House – with which it would share the Premises – the Proposed House should not have been evaluated solely in comparison to other historic houses located on different lots in the Point neighborhood. *See* Standards at 5-4 (requiring one to “[l]imit the size and the scale of an addition in relationship to the historic building (or adjacent neighbors) so that it does not diminish or visually overpower the building(s)”.

- The Decision additionally ignored the Standards and Guidelines for the Newport Local Historic District (rev. April 2016) (the “Standards”), promulgated by the City to provide “essential guidance for planning projects that are sensitive to the distinctive character of our community’s historic district.” Standards at ii.

- For example, the Decision wholly ignores the requirement as set forth in the Standards that one “design new construction or additions so that large trees and other significant site features (*such as vistas and views*) are preserved” (emphasis added). Standards at 4.1(6). *See also* Standards at 5.6(3) (same). The Proposed House will occupy a space that has remained open land for hundreds of years, and serves as a vista to the waterfront from the public way on Washington Street. The Proposed House is designed to decimate this historic vista, not preserve it.

- It was clear error for the Decision to fail to address the fact that the Proposed House – which will be connected to the Tripp House by an exterior deck and creates the novel scenario of two houses on one parcel – falls under certain aspects of the Ordinance and Standards that address both new construction and additions.

- The Decision ignores several of the specific requirements set forth in the Standards. For example, the Standards require that the “historic character of a property shall be retained and preserved. The . . . alteration of features and spaces that characterize a property shall be avoided.” Standards at 1.5(2). It was clear error to grant approval to the Proposed House when it would eliminate the historic space that the Tripp House occupies and entirely dwarf the Tripp House. *See also* Standards at 1.5(9) (“modern additions and construction must respect the historic character of the nearby buildings and neighborhood”); Standards at 4.1(1) (“retain and preserve . . . significant vistas and views”); Standards at 4.1(6) (“design new construction or additions so that . . . significant site features (such as vistas and views) are preserved”); Standards at 4.1(8) (“it is not appropriate to alter the residential character of the district by significantly reducing the proportion of built area to open space on a given site through new construction, [or] additions”); Standards at 5.3 (“New additions within the historic districts are appropriate as long as they do not destroy historic features, materials, and spatial relationships that are significant to the original building and site. A new addition should be designed to respect a building’s character and to preserve its historic integrity. This generally means using existing rooflines, trim lines, material and massing as a guide for designing the new addition. It is critical that additions do not visually overpower the original building”); Standards at 5.4(4) (“Locate a new addition on an inconspicuous elevation of the historic

building, usually the rear one”); Standards at 5.4(5) (“Limit the size and the scale of an addition in relationship to the historic building (or adjacent neighbors) so that it does not diminish or visually overpower the building(s)”); Standards at 5.4(7) (“It is not appropriate to construct an addition if it will detract from the overall historic character of the principal building and the site”); Standards at 5.5 (requiring that new construction harmonize with existing older structures, and take into account height, scale, massing, form, proportions, etc.).

### **CONCLUSION**

For the reasons set forth above, and as will be set forth in subsequent briefing and at the hearing of this appeal, Appellants respectfully request that the Zoning Board of Review overturn the Decision of the HDC in its entirety.

Dated: October 1, 2021

Respectfully submitted,

/s/ Joshua S. Parks

Joseph DeAngelis (#1395)

Joshua S. Parks (#9782)

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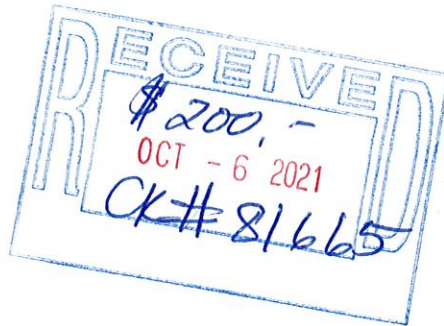
[jdeangelis@apslaw.com](mailto:jdeangelis@apslaw.com)

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# **EXHIBIT 1**

October 5, 2021

Stephanie Pires  
City Hall – Zoning Office  
43 Broadway  
Newport, RI 02840



ZBR  
NOV-1

**Re: *Appeal of Historic District Commission Decision re Application of Mr. William and Mrs. Lisa Ruh, 88 Washington Street, Plat 12, Lot 46***

Dear Ms. Pires:

Attached please find our check in the amount of \$200 in payment of the filing fee for the Notice of Appeal. I have attached a copy of both my September 21, 2021 letter and the Notice of Appeal.

Kindly docket this appeal for hearing, and please advise the undersigned of the date of same.

Thank you for your courtesies.

Sincerely,

Joshua S. Parks  
[jparks@apslaw.com](mailto:jparks@apslaw.com)

Encl.

cc: Jay Lynch, Esq.

STATE OF RHODE ISLAND  
THE CITY OF NEWPORT  
HISTORIC DISTRICT COMMISSION

APPLICATION OF MR, WILLIAM RUH and MRS. LISA RUH, owners; for Conceptual Approval to restore the existing contributing structure, including minor alterations to the fenestration at the west foundation wall, a new retaining wall to the north, new materials on the rear deck and the construction of a new two (2) story 4,380 square foot home, applying to the premises located at 88 Washington Street, Plat 12, Lot 46

DECISION

The above matter was heard by the Commission on May 18, 2021. The applicants were represented by Jeremiah C. Lynch, III, of Moore, Virgadamo & Lynch, LTD.

Prior to the meeting, the Commission received several e-mails (letters) of objection. These were reviewed by Commission members and accepted under the 'Correspondence' section of the agenda.

Mr. Lynch first summarized the travel of this application. He briefly described the changes in the various designs occasioned by prior comments from the Commission.

The applicants presented two (2) witnesses, Pieter Roos, a historic planning professional and Madeline Melchert of Hull Cove Design, architect of record. Ms. Melchert is a registered architect and was recognized by the Commission for her past work in historic design. Pieter Roos, a historic preservationist was recognized by the Commission as past Executive Director of the Newport Restoration Foundation (NRF) for 18 years. Mr. Roos first testified about the historic character of Washington Street from the colonial period to present. He explained that the Washington Street area is a mix of homes of several styles, size, scaling and massing. Mr. Roos noted that the area contained many large and significant home that represented Newport's prosperity in the eighteenth century.

Mr. Roos testified about the history of the John Tripp House. He explained that the house, building in the early eighteenth century was move from Providence and rebuilt on the site in 1960s Mr. Roos explained the historic characteristic of the Tripp House.

Mr. Roos offered his opinion, as a historic planning professional, with extensive experience in Newport. He stated the design of the new dwelling was appropriate and satisfied the standards in the ordinance for conceptual approval and also satisfied the Newport Design Standards for Historic Structures.

Madeline Melchert, the project architect, first summarized the modifications to the project since it was first presented to the Commission. Ms. Melchert noted that the first design consisted of an 8,700 square foot gambrel style, shingled structure with a retaining wall to the rear and a garage on Washington Street. Based upon comments from the Commission and abutters, Ms. Melchert modified the design. She reduced the size of the new dwelling to a 6,000 square foot Georgian style colonial home. The new structure was connected to the modified Tripp House. The Commission expressed concerns about the second design. Ms. Melchert again modified the design, and submitted the present design. The current plan provides that the



Tripp House will remain in its present location, excepting minor modifications to the west foundation. The Tripp House will be treated as a guest house for the new dwelling. Ms. Melchert pointed out the new dwelling was reduced to 4,380 square feet. She explained that the length of the house was shortened to preserve views from Washington Street to the Harbor. She also pointed out that the connector was removed to permit views between the two building. The new structure is located twenty-one (21) feet from the east property line, two (2) feet greater than the Tripp House setback. The new home will be nineteen (19) feet from the north line, to create a greater view corridor and shield the garage from street view. The street facing design was intended to be compatible with the neighborhood and reduce the scale of the structure. Ms. Melchert also summarized the massing of other comparable houses. Her analysis indicated that the scale, massing and location of the new dwelling was appropriate for the site and neighborhood.

Turner Scott, Esq. appeared on behalf of several neighbors and objected to the application. Mr. Scott cross examined Mr. Roos and Ms. Melchert, but did not offer any witnesses in opposition to the application.

One person spoke against the application.

Discussion transpired between Commission members and presenters. All discussion is part of the recorded Zoom Meeting, as well as the transcript.

In accordance with Newport Ordinance 17.80.060, the Commission considered and discussed size, scale, mass and siting of the proposed new building as related to both the Tripp House and other nearby properties. The Commission also considered requirements for compatibility with the surrounding historic area, as well as considering the requirement that the proposed new construction be clearly discernible from the old Tripp House.

The Commission members expressed their approval for the treatment of the Tripp House and the reduced size of the new structure. The Commission members were satisfied that the proposed dwelling is compatible with the neighboring properties but requested additional details on the harbor side of the new dwelling.

At the close of the hearing a motion was made, and duly seconded, to approve the application for conceptual approval as presented, with the condition that the applicant provide additional detail to the harbor side of the house and connecting point at the Tripp House at the final plan approval stage. The motion received the concurring affirmative votes of six members, Michael Ryan, Dave Adams, Donald Ross, Rosemary O'Brien, Howard Elliot and Andy Bork. Nancy Stafford voted in opposition. The Motion, with conditions, was approved on a vote of 6-1.



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Karl Andrew Bork, Chairman

Dated: 9-21-2021

LAURA C SWISTAK  
CITY OF NEWPORT  
CITY CLERK  
Sep 27, 2021 11:45 AM  
BOOK: 3035 PAGE: 280