

STATE OF RHODE ISLAND

NEWPORT, SC.

SUPERIOR COURT

(FILED: October 6, 2025)

MARK ARAMLI, and IDA ARAMLI :
Appellants :
v. :
CITY OF NEWPORT ZONING :
BOARD OF REVIEW and SAMUEL :
GOLDBLATT, BART GRIMES, :
RUSSELL JOHNSON, WICK RUDD, :
SUSAN PERKINS, NICOLE :
SHEVORY, and DAVID RILEY, in their :
Capacities as Members of the City of :
Newport Zoning Board of Review :
Appellees. :

C.A. No. NC-2024-0163

EDWARD JAMES STREATOR III, and :
KATHRYN STREATOR, in their :
capacities as trustees of the revocable :
trusts of E. James Streator III and :
Kathryn Streator dated June 24, 2000 :
Appellants :
v. :
CITY OF NEWPORT ZONING BOARD :
OF REVIEW, SAMUEL GOLDBLATT, :
DAVID RILEY, RUSSELL JOHNSON, :
WICK RUDD, and BART GRIMES, in :
their capacities as members of the City :
of Newport Zoning Board of Review, :
MARK D. ARAMLI and IDA ARAMLI :
Appellees. :

C.A. No. NC-2024-0164

DECISION

LANPHEAR, J. Before this Court are appeals by Mark and Ida Aramli and Edward James Streator, III and Kathryn Streator from the Newport Zoning Board of Review’s (the Board)

decision sustaining the Aramlis' appeal of the Newport Historic District Commission's (the Commission) denial of the Aramlis' Application for a certificate of appropriateness. The two appeals regard the same decisions of entities below, so they are consolidated for the purposes of this Decision. For the reasons set forth herein, the Streators' appeal is granted, the Aramlis' appeal is denied, and the decision of the Board is reversed as set forth herein.

I

Facts and Travel

A

Commission Hearings and Denial of Application

The Aramlis and the Streators bring these actions challenging the Board's decision to remand the Application to the Commission. The Aramlis own property located at 54 Hammersmith Road in Newport, Rhode Island. The property is in the Newport Historic District and in the National Register of Historic Places Ocean Drive Historic District.

1

First Commission Hearing

On March 16, 2021, the Aramlis filed their Application with the Commission requesting approval for five projects: (1) construction of a new two-and-a-half story single-family residence, (2) modification of a historic stone wall for its entrance, (3) repair of damaged parts of the historic stone wall, (4) modification of the stone wall by adding stone caps, and (5) modification of the stone wall by embedding ornamental fencing in the new stone caps. On June 15, 2021, the Application came before the Commission for hearing, at which Mr. Aramli testified generally about the project and responded to Commission members' initial questions. Ms. Streator, whose property directly abuts the Aramlis' property, testified during the public comment portion of the

hearing. Ms. Streator objected to the Application, stating concern with the proposed siting and size of the house, the stone wall modifications, views from the street, and a proposed tennis court. The Commission members continued the Application to “have [Mr. Aramli] come back with maybe some additional information and thoughts[.]” (Hr’g Tr. 37:21-38:21, June 15, 2021.) Before the second hearing commenced, the Aramlis withdrew their requests for approval to modify the stone wall by adding stone caps and ornamental fencing.

2

Second Commission Hearing

On September 16, 2021, the Commission held a special hearing on the Application. At this hearing, the Commission heard testimony from four witnesses for the applicants in addition to Mr. Aramli. First to testify was Lucinda Brockway, whom the Commission accepted as an expert in landscape preservation. Ms. Brockway was retained by the Aramlis to assist in the restoration of a historic garden on the property. Ms. Brockway opined that the Application’s landscape design was consistent with “much of the character that exists in this subdivision,” and that the siting of the residence was “really the best location[.]” (Hr’g Tr. 27:12-14; 35:14-36:7, Sep. 16, 2021.)

Next, John K. Grosvenor testified and was accepted as an expert in architecture. Mr. Grosvenor discussed the size, scale, massing, and materials of the proposed residence and opined that they were “appropriate and compatible with this Historic District,” and that the design was architecturally thoughtful and considered. *Id.* at 60:12-19.

The Commission also heard testimony from Alec Tesa, the Aramlis’ project architect, who testified regarding the square footage of the house, and from Pamela Rodgers, the Aramlis’ landscape architect, who testified about materials to be used in constructing new stone steps. Ms. Rodgers then testified about the plans for the historic stone wall: “the gates and the walls are

intended to create that formality, the formal entrance as you drive in, . . . [a]n alley of trees on both sides of the driveway.” *Id.* at 62:2-6. She continued, “in order to create that . . . grand opening of the front of the house, the intent is to remove a small portion of that wall [and] rebuild it . . . to create the opening that is desired.” *Id.* at 65:2-6. Ultimately, several Commission members requested additional information about the project, and the Aramlis agreed to continue the hearing to provide the requested information. *Id.* at 107-109.

3

Third Commission Hearing

The Commission held a third hearing on the Application on February 3, 2022. (Hr’g Tr. 4:1-4, Feb. 3, 2022.) Mr. Tesa testified again and presented information about the dimensions of the proposed house. *Id.* at 14:9-24. He explained that the house was more “square” than “linear” to reduce its prominence from the road. *Id.* at 15:5-18. Mr. Tesa opined the siting was compatible with the surrounding area and that the size, scale, and massing of the house was “[a]bsolutely” “appropriate and consistent with the surrounding District[.]” *Id.* at 17:16-24. He also opined his design of the house was architecturally thoughtful. After Mr. Tesa testified, the Commission adjourned and continued the matter to allow Commission members who were not present at one or more prior hearings to review those hearing transcripts.

4

Fourth Commission Hearing

The Commission held its final hearing on the Application on March 15, 2022. Mr. Tesa and Mr. Grosvenor testified again on behalf of the Aramlis, then Ms. Streator and John Tschirch testified on behalf of the Streators. Mr. Tesa stated that the siting and setback of the house could not be changed without elevating it and thereby making it “[m]uch more visible” from the road.

(Hr’g Tr. 17:12-18:2, Mar. 15, 2022.) He reiterated his opinions that the size, scale, massing, and materials were compatible with the surrounding district and that the design was architecturally thoughtful and considered.

Next, Mr. Grosvenor opined again that the siting and materials were compatible with the surrounding district. He explained that the “square geometry” was appropriate because a rectilinear geometry “would spread the frontage out[,]” resulting in too much massing. *Id.* at 29:13-22. He reiterated his opinion that the house was of thoughtful and considered architectural design.

Mr. Grosvenor also discussed the Nomination Form for the Ocean Drive National Register Historic District, which contained a Statement of Significance. Mr. Grosvenor read portions of the Statement of Significance, which stated in part that “most segments of the district are readily perceivable from the public roadways” and that “[a] diverse body of generally large and elaborate homes spanning almost a century of design are included in the area.” *Id.* at 34:3-35:4. He concluded that these statements indicated character-defining aspects of the district and, in terms of compatibility, the proposed house was “spot-on.” *Id.* at 34:19-35:8. Mr. Grosvenor then compared the height, length, massing, materials, scale, and setback of some other residences in the area to the proposed house. He concluded “there is nothing that is too unusual in terms of materials,” and “the aesthetics are entirely appropriate for this particular area.” *Id.* at 44:4-23.

At the Chair’s request, Mr. Grosvenor read the paragraph of the Nominating Papers for the Ocean Drive National Register Historic District describing the Harrison Avenue-Beacon Hill Road area, which concluded with the sentence, “[t]his part of Newport is much more rural and bucolic with rolling green land and farms with larger estates further on.” *Id.* at 53:5-22.

Ms. Streator testified next. The Streators live next to the Aramlis’ property and their house is “about 20 feet” from the boundary line. *Id.* at 63:20-23. Ms. Streator’s primary concern was that

the massing and size of the proposed house was too large for the area. She criticized a “setback study” the Aramlis submitted as part of the Application materials, testifying the study included setback data for only some houses in the area and that she “filled . . . in” the study by including “[all of] the numbers” from the Newport Tax Assessor’s office. *Id.* at 66:7-67:5. The Commission accepted the filled-in study as an exhibit. The exhibit indicated that out of twenty-three comparable houses, the Aramlis’ proposed house was the third largest with 12,800 square feet of living space. (Objector’s Ex. A to Mar. 15, 2022 Hr’g.) It further indicated that the Aramlis’ proposed 124-foot setback was slightly greater than the 111-foot median. *Id.*

The Streators next called John Tschirch, whom the Commission accepted as an expert in historic architecture and preservation. Mr. Tschirch reiterated the portion of the Nominating Papers describing the “section” of the district in which the property sits as “rural and bucolic.” (Hr’g Tr. 78:21; 79:3-6, Mar. 15, 2022.) He stated that “it’s a rural, picturesque, and rustic district.” *Id.* at 80:3-4. He then reviewed photographs of some houses near the property and opined that the size, scale, and massing of those houses were “typically smaller than what Mr. Aramli is proposing[.]” *Id.* at 80:5-82:10. Mr. Tschirch acknowledged the existence of some residences of similar size to the proposed house but distinguished those houses as having more asymmetrical massing than the Aramlis’ and being built with “natural materials” as opposed to stucco. *Id.* at 82:11-83:25. He opined that it was “absolutely essential to look at [the Application] as an integrated whole,” and that the Aramlis’ comparator houses were “in materially different surrounding areas.” *Id.* at 86:18-19; 88:21-23. Mr. Tschirch criticized “putting a classical Bellevue Avenue house . . . in this naturalistic environment” was not a thoughtful architectural design considering the history of the site. *Id.* at 91:5-7. Mr. Tschirch characterized the proposed house as “a large-mass cube . . . in an area that is natural, rustic, and picturesque” and concluded that it was therefore “incongruous with

. . . the historic and architectural significance of the district[.]” *Id.* at 92:18-93:12. After Mr. Tschirch’s direct examination, a Commission member asked about Mr. Tschirch’s “integrated whole” approach: “In your opinion, if there was a design that was not a cube [but was] more . . . asymmetrical in nature, utilized materials such as brownstone, granite, limestone, et cetera . . . could [the Aramlis] actually put a home on here that size[?]” *Id.* at 96:2-9. Mr. Tschirch opined, “[Y]es.” *Id.* at 96:12.

Counsel for the Aramlis cross-examined Mr. Tschirch. Regarding the proposed setback, counsel asked, “[i]n your opinion, how much further back does it need to go?” *Id.* at 97:11-12. Mr. Tschirch was initially confused as to the proposed setback distance, but ultimately opined that the problem with the house was not the setback, but the scale and massing “that overpowers the site.” *Id.* at 97:13-98:12. Mr. Tschirch then affirmed his opinion that, based on his reading of the Nominating Papers, “a more formal design that’s not rural and bucolic is not appropriate . . . [i]n [this] specific part of the District.” *Id.* at 98:13-99:17. Questioned next about the compatibility of the materials, he opined that stucco was not an inherently inappropriate material for the area and that “[t]he real issue, again, is the massing of the building.” *Id.* at 100:2-10. Counsel for the Aramlis asked Mr. Tschirch, “part of your issue with this design is that it’s more visible than you would like it to be; is that correct?” *Id.* at 103:18-24. Mr. Tschirch answered “[n]o” and reiterated his view that “the massing is too visible. The massing is the key; it really is.” *Id.* at 103:25-104:9. Cross-examination concluded by Mr. Tschirch testifying a compatible residence would use natural materials and be asymmetrical.

Commission Decision

Following argument by both parties' attorneys, the Commission voted 7-0 to deny the Application. Pursuant to Newport Historic District Zoning Ordinance § 17.80.050(C)(5), the Commission issued a twenty-nine-page written decision on June 20, 2022 to explain the basis for its conclusion that "the proposed activity would be incongruous with those aspects of the structure, appurtenances, or the district which the commission has determined to be historically or architecturally significant[.]" (Commission Decision at 29.) In determining whether to issue a certificate of appropriateness, the Commission was required to consider:

- "a. The historic and architectural significance of the structure and its appurtenances;
- "b. The way in which the structure and its appurtenances contribute to the historical and architectural significance of the district; and
- "c. The appropriateness of the general design, arrangement, texture, materials, and siting proposed in the plans." Newport Historic District Zoning Ordinance § 17.80.050(C)(1).

Additionally, the Commission was required to apply the "Newport Standards:"

- "1. Compatibility. New construction, reconstruction and new walls, gates, gateposts and fences . . . shall be compatible with the surrounding historic area in terms of size, scale, siting, massing, setback, materials and details.
- "2. Architectural Quality. New construction, reconstruction and new walls, gates, gateposts and fences . . . should be of thoughtful and considered architectural design.
- "3. Appearance. New construction, reconstruction and new walls, gates, gateposts and fences . . . may clearly read as such and need not present a false historic appearance." *Id.* § 17.80.060(C).

The Commission concluded the Application did not meet the standards for a certificate of appropriateness "[b]ased on the testimony, exhibits, plans, application materials, and all applicable sections of the Newport Historic District Zoning Ordinance[.]" (Commission Decision at 27.) It noted that the property "is a particularly important property in the area, as it is at the intersection

of important roads in the area” and that it “contains historic stone walls and a historic circular stone rose garden, alterations to which are under the jurisdiction of the Commission.” *Id.*

With respect to § 17.80.060(C)(1), the Commission found the Application was not compatible with the surrounding historic area. The Commission cited Mr. Tschirch’s testimony, “which it found the most persuasive.” *Id.* at 28. Specifically, “[a]s he testified, the proposed house is a large symmetrical cube that does not utilize natural, rough-hewn materials[.]” *Id.* Further, “[a]s [he] testified, the overall massing of houses cited as precedent by the Applicants—whether large or small—is broken by asymmetrical rooflines, profiles, and façade profiles. That asymmetry is lacking in the Applicants’ proposed house.” *Id.* The Commission also cited “the nominating papers for the National Register of Historic Places Ocean Drive Historic District, which describe the Harrison Ave.-Beacon Hill area in which the Aramli Property is located as rustic and bucolic, with which the Applicants’ proposal is incompatible.” *Id.*

Continuing to apply § 17.80.060(C)(2), the Commission found the proposed house was not of thoughtful and considered architectural design. The Commission relied upon the testimony of Mr. Tschirch and explained that “the Applicants’ use of architectural prototypes that are large neoclassical Bellevue Avenue or just off Bellevue Avenue style houses . . . is inappropriate because the area in which the Aramli Property is located is characterized by a romantic, picturesque, rusticated approach to design[.]” *Id.* The Commission continued, “[t]he Applicants’ proposed house may be suitable on Bellevue Avenue or just off Bellevue Avenue, but that is in a different National Register historic district.” *Id.* at 28-29. The Commission referenced Mr. Tschirch’s testimony and the Nominating Papers: “[t]he proposed house is not appropriate for the area in which the Aramli Property is located for the reasons discussed by Mr. Tschirch and as described in the nominating papers, as discussed above.” *Id.* at 29.

The Commission addressed the proposed alterations to the historic stone walls on the property citing § 17.74.030(C), which states an “[a]lteration to a historic stone wall shall be designed in a way that requires minimal changes to the design, materials, and construction methods that characterize the wall” *Id.* It found that “the Applicants’ plans for the stone wall is not in keeping with the character of the historic stone wall. In particular, the Commission finds that the proposal in relation to the historic stone wall is too grandiose, especially around the gate area.” *Id.* The Commission denied the Application.

B

Board Decision

The Aramlis appealed the Commission’s denial of the Application to the Board. The Board sustained the appeal, reversed the Commission’s denial, and remanded the matter “for the commission members to make more specific findings to substantiate their vote and for the Decision to reflect the findings of the Commission.” (Board Decision at 8-9.) The Board determined that the Commission committed prejudicial procedural error and explained its conclusion by referring to Chairman Goldblatt’s views, which he expressed during the hearing:

“The decision should have reflected the actual comments and specifics of the board members, which it did not. I also find, in reviewing the individual comments of the board members, that they failed to provide the requisite explanation for the basis for their decision to support the generalized characterization that the house was not compatible with this particular area. On the whole, I find that the Commission’s decision and the substance of what was said by the Commission members at the hearing failed to adequately address, discuss and make findings under the standards. They voted up or down. They included a generalized statement of what their conclusion was, but they failed to explain the why.” *Id.* at 8.

Both the Aramlis and the Streators timely appealed the Board’s decision to this Court on April 19, 2024. The Streators moved to intervene in and consolidate their appeal with the Aramlis’ appeal. The parties agreed to consolidate, and this Court granted that motion on June 3, 2024.

II

Standards of Review

A

The Board’s Standard of Review

When the Commission denies a certificate of appropriateness application, “[the] aggrieved party . . . shall have the right to appeal such decision to the zoning board of review.” Section 17.80.110. On appeal, the Board applies the following standard:

“[T]he zoning board of review shall not substitute its own judgment for that of the commission, but must consider the issue upon the findings and the record of the commission. The zoning board of review shall not reverse a commission decision except on a finding of prejudicial procedural error, clear error or lack of support by the weight of the evidence in the record. The zoning board of review shall articulate and explain the reasons and basis of each decision[.]”
Id.

B

The Superior Court Standard of Review

General Laws 1956 § 45-24-69 of the Rhode Island Zoning Enabling Act governs this Court’s review of a decision of a zoning board of review, sitting as a board of appeals, to review the decision of the Commission. Subsection (d) provides

“[t]he court shall not substitute its judgment for that of the zoning board of review as to the weight of the evidence on questions of fact. The court may affirm the decision of the zoning board of review or remand the case for further proceedings, or may reverse or modify the decision if substantial rights of the appellant have been prejudiced because of findings, inferences, conclusions, or decisions which are:

“(1) In violation of constitutional, statutory, or ordinance provisions;
“(2) In excess of the authority granted to the zoning board of review by statute or ordinance;
“(3) Made upon unlawful procedure;
“(4) Affected by other error of law;
“(5) Clearly erroneous in view of the reliable, probative, and substantial evidence of the whole record; or
“(6) Arbitrary or capricious or characterized by abuse of discretion or clearly unwarranted exercise of discretion.” Section 45-24-69(d).

III

Analysis

The Aramlis and Streators suggest this Court should decide the merits of the Commission’s decision instead of affirming the Board’s remand because there was no prejudicial procedural error and a remand would only “further delay and unnecessarily extend the harm.” *See City of East Providence v. City of East Providence Zoning Board of Review*, No. PC-2015-5308, 2016 WL 1238158, at *7 (R.I. Super. Mar. 24, 2016) (citing *Citizens Trust Co. v. Silveira*, No. NC-94-0308, 1994 WL 930999, at *2 (R.I. Super. Nov. 22, 1994)). For its part, the Board *also* asks that this Court rule on the merits of the issue rather than remand the case back. The Court turns first to the threshold question of whether the Board was correct to remand the Application to the Commission on grounds of prejudicial procedural error.

A

Prejudicial Procedural Error

When the Commission decides not to issue a certificate of appropriateness, it must explain the decision in writing so that the Court may decide

“whether the board members resolved the evidentiary conflicts, made the prerequisite factual determinations, and applied the proper legal principles. Those findings must, of course, be factual rather than conclusional, and the application of the legal principles must be something more than the recital of a litany. These are minimal

requirements. Unless they are satisfied, a judicial review of a board's work is impossible." *Bernuth v. Zoning Board of Review of Town of New Shoreham*, 770 A.2d 396, 401 (R.I. 2001) (quoting *Irish Partnership v. Rommel*, 518 A.2d 356, 358-59 (R.I. 1986)).

This Court recently held in *Johnston Winsor I, LLC v. Town of Johnston Zoning Board of Review*, Nos. PC-2022-03675, PC-2022-03672, PC-2022-03670, PC-2022-03678, PC-2022,03676, 2024 WL 3543092, at *4 (R.I. Super. July 18, 2024), that a zoning board skirted its obligations to find the facts and apply the law when it issued decisions merely identifying whether board members voted in favor or against a proposal. *Id.* In *Johnston Winsor I*, there were "no facts listed" in the board's decisions and although the decisions identified the legal standards, they did not apply them. *Id.* at *1-2. Thus, judicial review was impossible. *See id.* at *5.

In this case, the Commission satisfied its obligations by articulating findings of fact and applying the law in its written decision. Thus, the Board was incorrect in concluding the Commission committed prejudicial procedural error by "fail[ing] to explain the why." (Board Decision at 8.) The Commission issued several pages of Findings of Fact and Conclusions of Law." (*See* Commission Decision at 27-29.) The Commission explained it based its denial on the "testimony, exhibits, plans, application materials, and all applicable sections of the Newport Historic District Zoning Ordinance[.]" *Id.* at 27. It found that the property was located at a particularly important area: the intersection of important historical roads. It also indicated that the Nominating Papers, which distinguish between the Ocean Drive and Harrison Avenue-Beacon Hill Road areas, were important to its conclusions. It explained, in support of its finding of incompatibility, it credited the testimony of Mr. Tschirch, "which it found the most persuasive." *Id.* at 28. The Commission adopted the view of Mr. Tschirch and explained the "size, scale and massing of the proposed house" was inappropriate because it was unbroken by asymmetries and did not utilize natural, rough-hewn materials. *Id.* It explained the proposed house was not of

thoughtful and considered architectural design because the area in which the property is located is characterized by “a romantic, picturesque, rusticated approach to design” and the proposed house was inconsistent with that neighborhood character, as Mr. Tschirch testified. *Id.* Throughout, the Commission referenced and applied the law in drawing its conclusions. Unlike *Johnston Winsor I*, the Commission here weighed credibility, determined facts, listed many facts, and applied applicable standards. Accordingly, the Board erred when it remanded the decision of the Commission for alleged incompleteness.

Because the Commission did not commit prejudicial procedural error, remand is inappropriate, and the Court turns to the parties’ remaining arguments.

B

Compatibility of the Application in the Context of the Surrounding Historic Area

The Aramlis argue that the Commission erred by employing a so-called “micro-vicinity approach” in its compatibility analysis, and the Board in turn erred by not reversing the Commission’s “corresponding[ly] distort[ed]” conclusion. (Aramlis’ Br. in Supp. of Appeal at 95.) Specifically, the Aramlis aver that “Historic Zoning is *District*-centric” and that the Commission “has no power to define its own District . . . and to come up with its own ‘micro-standards’ for those would-be ‘districts’ that discriminate between properties within them.” *Id.* Thus, the argument goes, the Commission was required to determine the Application’s “compatibility” by reference to the Ocean Drive Historic District as a whole.

“‘[A] zoning board’s determinations of law, like those of an administrative agency, are not binding on the reviewing court; they may be reviewed to determine what the law is[.]’” *Freepoint Solar LLC v. Richmond Zoning Board of Review*, 274 A.3d 1, 6 (R.I. 2022) (quoting *Pawtucket Transfer Operations, LLC v. City of Pawtucket*, 944 A.2d 855, 859 (R.I. 2008)). “It is well settled

that the rules governing statutory interpretation are equally applicable to the interpretation of an ordinance.” *Jones v. Rommell*, 521 A.2d 543, 544-45 (R.I. 1987) (citing *Mongony v. Bevilacqua*, 432 A.2d 661 (R.I. 1981)). “An ordinance, therefore, must be construed in a manner consistent with its stated intent.” *Id.* at 545 (citing *Hydron Laboratories, Inc. v. Department of Attorney General*, 492 A.2d 135 (R.I. 1985)). The Court must ““presume that the [Legislature] intended to attach significance to every word, sentence and provision”” in an ordinance. *West v. McDonald*, 18 A.3d 526, 538 (R.I. 2011) (quoting *Retirement Board of the Employees’ Retirement System of Rhode Island v. DiPrete*, 845 A.2d 270, 279 (R.I. 2004)). And, “[w]here [a] document has used one term in one place, and a materially different term in another, the presumption is that the different term denotes a different idea.”” *Southwest Airlines Co. v. Saxon*, 596 U.S. 450, 458 (2022) (quoting A. Scalia & B. Garner, *Reading Law: The Interpretation of Legal Texts* 170 (2012)).

Here, the Commission applied and fulfilled the mandate of the Newport Historic District Zoning Ordinance § 17.80.060(C)(1), which required a determination of whether the Application was “compatible with the *surrounding historic area*” (emphasis added).¹ The “Purpose” section of the ordinance declares “Newport’s architectural vitality is dependent on *the context within districts* including streetscapes, neighborhoods, and vistas as well as the quality and character of individual buildings that make up its districts.” Section 17.80.010 (emphasis added). Reading the entire ordinance in accord with the canons of construction cited above, the Court finds the Commission’s assessment of the Application’s “compatibility” with the “surrounding historic

¹ In the preceding subsection of the same ordinance, the City Council articulated a different review standard for evaluating applications for alterations to other structures subject to review. Under § 17.80.060(B)(1), “[t]he alteration . . . shall be . . . compatible with other structures in the *surrounding historic district*.” (Emphasis added.)

area” by reference to the Harrison Avenue-Beacon Hill Road area within the Ocean Drive Historic District to be a correct application of the law.

The Aramlis next contend the Commission’s approach was contrary to state law because the State Historic District Enabling Act—which empowers the City of Newport to establish historic “districts”—did not permit the Commission “to determine what discreet ‘areas’ should effectively be treated as their own ‘Districts.’” (Aramlis’ Reply Br. in Supp. of Appeal at 14-15 (citing G.L. 1956 § 45-24.1-4(a)(2).) Indeed, the Commission has no power to expand or abridge a right contained in the enabling act. (*Hartunian v. Matteson*, 109 R.I. 509, 516, 288 A.2d 485, 489 (1972)) and did not do so. The Ocean Drive Historic District Nominating Papers—prepared by the City of Newport—distinguish the two areas within the district as possessing different characteristics. The Commission did not rewrite the Nominating Papers; it applied them. Accordingly, the Court finds that the Commission’s analysis was not contrary to state law and the Board did not err by refusing to reverse the Commission’s decision on this ground.

C

Substantial Evidence

The Aramlis assert the Board erred by not reversing the Commission’s decision because its decision lacked support by the weight of the evidence in the record, and the Commission’s conclusions were unsupported by the reliable, probative, and substantial evidence in the whole record. They argue the Commission “allowed itself to get caught up in the patently erroneous testimony” of Mr. Tschirch and his “bold, conclusory statements are not supported by the actual evidence presented[.]” (Aramlis’ Br. in Supp. of Appeal at 82, 84.)

“It is the function of the Superior Court to ‘examine the whole record to determine whether the findings of the zoning board were supported by substantial evidence.’” *Lloyd v. Zoning Board*

of Review for City of Newport, 62 A.3d 1078, 1083 (R.I. 2013) (quoting *Apostolou v. Genovesi*, 120 R.I. 501, 507, 388 A.2d 821, 824 (1978)). ““Substantial evidence is defined as such relevant evidence that a reasonable mind might accept as adequate to support a conclusion, and means an amount more than a scintilla but less than a preponderance.”” *New Castle Realty Company v. Dreczko*, 248 A.3d 638, 643 (R.I. 2021) (quoting *Iadevaia v. Town of Scituate Zoning Board of Review*, 80 A.3d 864, 870 (R.I. 2013)). This Court “gives deference to the findings of a local zoning board” because it ““is presumed to have knowledge concerning those matters which are related to an effective administration of the zoning ordinance.”” *Pawtucket Transfer Operations, LLC*, 944 A.2d at 859 (quoting *Monforte v. Zoning Board of Review of City of East Providence*, 93 R.I. 447, 449, 176 A.2d 726, 728 (1962)). If the Court ““can conscientiously find that the board’s decision was supported by substantial evidence in the whole record,”” then it must uphold that decision. *Mill Realty Associates v. Crowe*, 841 A.2d 668, 672 (R.I. 2004) (quoting *Apostolou*, 120 R.I. at 509, 388 A.2d at 825).

The Commission heard the testimony, reviewed the evidence, found facts and determined credibility and the weight of the evidence, applied law, and rendered a decision. In considering the Nominating Papers, testimony, exhibits, and arguments, the Commission concluded that the proposed house was incompatible with the surrounding historic area because its massing and size was too large given the historic location, siting, and materials. On review of the whole record, the Court finds there is substantial evidence supporting the conclusion that the Application was not compatible with the surrounding historic area.

In his testimony, Mr. Tschirch distinguished houses that the Aramlis suggested as comparable and opined that the combination of the area’s historic character with the scale, massing, and materials of the house rendered it incompatible with the area. The Aramlis did present evidence

that the surrounding area included other large houses, houses clad in stucco, and houses with similar architecture, but the features of some houses does not necessarily result in compatibility. The record is replete with evidence from which a reasonable fact finder could conclude that the proposed new construction as an “integrated whole” was not compatible with the area.

For example, the Nominating Papers and photographs, coupled with Mr. Tschirch’s expert opinion, constitute substantial evidence. Several portions of the Nominating Papers were read into the record during the Commission’s fourth hearing. The portion of the papers describing the Harrison Avenue-Beacon Hill Road area stated “[t]his part of Newport is much more rural and bucolic[.]” (Hr’g Tr. 53:20, Mar. 15, 2022.) The Statement of Significance, which discussed the Ocean Drive Historic District generally, stated that the district includes “[a] diverse body of generally large and elaborate homes spanning almost a century of design[.]” *Id.* at 35:2-4. The Commission heard live testimony from Mr. Grosvenor and Mr. Tschirch regarding the significance and application of the Nominating Papers. It was well within the Commission’s discretion to credit Mr. Tschirch’s testimony over Mr. Grosvenor’s. *Koutroumanos v. Tzeremes*, 865 A.2d 1091, 1097 (R.I. 2005) (“It is well settled that a [fact finder] is free ‘to accept the opinion of one expert, while rejecting the opinion of another expert.’”) (quoting *Sun–Lite Partnership v. Town of West Warwick*, 838 A.2d 45, 48 (R.I. 2003)).

With photographs and the proposal in hand, the Commission concluded the proposal was inappropriate for the “romantic, picturesque, rusticated approach to design” characterizing the area. (Commission Decision at 28.) The Commission’s conclusion that the proposal was incompatible was supported by the evidence and testimony in the record. (Appl. Addendum at 13, Jan. 18, 2022.)

The Court finds unavailing the Aramlis' argument that the Commission could not reasonably credit Mr. Tschirch's opinions because it rested upon "patently erroneous" assertions. (Aramlis' Br. in Supp. of Appeal at 84.) While Mr. Tschirch was impeached on his knowledge regarding the proposed setback distance, it was within the Commission's purview as fact finder to determine Mr. Tschirch's credibility and weigh his opinions against the other experts' opinions. *Environmental Scientific Corp. v. Durfee*, 621 A.2d 200, 207 (R.I. 1993); *Koutroumanos*, 865 A.2d at 1097.

Mr. Tschirch testified he formed his opinions based on his personal observation of the site and the surrounding area, his prior professional study of the area as a historic architect, and his review of the Aramlis' application materials. This is a sufficient factual basis from which Mr. Tschirch could draw conclusions, and which the Commission could reasonably credit. *See Bellevue Shopping Center Associates v. Chase*, 574 A.2d 760, 764 (R.I. 1990) (finding administrative board's decision supported by competent evidence where board heard competing expert testimony and afforded greatest weight to architectural historian who "demonstrated the most familiarity with the Newport area").

In sum, Mr. Tschirch sought to distinguish the Aramlis' proffered comparable houses from the proposed house and opined the proposed house was incompatible with the surrounding historic area and not of thoughtful and considered architectural design. The Aramlis' experts opined the opposite. The Commission essentially adopted Mr. Tschirch's opinions, and it was appropriate for the Commission to do so. *Koutroumanos*, 865 A.2d at 1097. Based on the Nominating Papers, the expert witness testimony, and the exhibits, the Court finds the Commission's conclusions that the proposed house was not compatible with the surrounding historic area and that the house was not of thoughtful and considered architectural design were supported by substantial evidence.

The Aramlis also argue the Commission's denial of the proposed historic wall improvements was without any factual basis in the record. (Aramlis' Br. in Supp. of Appeal at 88.) The Aramlis contend that "[Commission] Member Bjork offered his own personal subjective design preferences for the gate, and not on the weight of the evidence presented in the record." *Id.* The Court disagrees. Ms. Rodgers' testimony and the Application materials provided substantial evidence supporting the Commission's conclusion that the proposed modifications to the stone wall were not in keeping with the character of the wall. Ms. Rodgers testified that "the walls are intended to create . . . the formal entrance as you drive in," and "in order to create that . . . *grand* opening of the front of the house, the intent is to remove a small portion of that wall [and] rebuild it . . . to create the opening that is desired." (Hr'g Tr. 62:2-7; 65:2-6, Sep. 16, 2021) (emphasis added).) The Aramlis also presented a slideshow that included a rendering of the proposed driveway and gated entrance. Ms. Rodgers' testimony plus the illustration of the proposal constitutes much more than a scintilla of evidence to establish the proposed historic wall modifications were not in keeping with the character of the historic stone wall.

Finally, the Commission, after a voluminous record, days of hearings, and active participation with the witnesses before it, does not detail the individual findings and rationales of each of the Commissioners. The failure to do so does not negate the conclusion and findings which the Commission voted upon. While such discussion and findings may be helpful to the Court, the Commission works as a whole and here made more than adequate findings. The extensive written decision clearly set forth the Commission's understanding and rationale.

The Court's review of the whole record indicates that the Commission's denial of the Application was supported by substantial evidence. Accordingly, this Court upholds the Commission's decision.

IV

Conclusion

For the foregoing reasons, the Aramlis' appeal is denied, the Streators' appeal is granted, and the Board's decision reversing the Commission's denial of the Application is overturned. The decision of the Newport Historic District Commission denying the application is upheld. The order of the Zoning Board of Review to remand to the Newport Historic District Commission is vacated. Counsel shall prepare the appropriate order.



RHODE ISLAND SUPERIOR COURT

Decision Addendum Sheet

TITLE OF CASE: **Aramli, et al. v. City of Newport Zoning Board of Review, et al.**

and

Streator, et al. v. City of Newport Zoning Board of Review, et al.

CASE NOS: NC-2024-0163 and NC-2024-0164

COURT: **Newport County Superior Court**

DATE DECISION FILED: **October 6, 2025**

JUSTICE/MAGISTRATE: Lanphear, J.

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