City of Hallowell
Planning Board Meeting
Remote Meeting via ZOOM
May 20, 2020
6:30 pm

1. Call to Order

Ms. Obery called the meeting to order.

2. Roll Call / Quorum

Ms. Obery took the roll call and established a quorum.

Present: Danielle Obery (Chair), Richard Bostwick, Darryl Brown, Judith Feinstein, Andrew Landry, Melvin Morrison (1st alt.), Jane Orbeton, Lisa Rigoulot, *Matthew Rolnick (2nd alt.)

Doug Ide, Code Enforcement Officer

Absent:

Mr. Morrison will not be voting.

3. Public Comments (The Board has agreed to limit the time allotted to Public Comment to fifteen minutes.)

None.

4. Approval of Minutes of the April 15, 2020 Planning Board Meeting

Motion to approve the minutes of the April 15, 2020 meeting as presented.

Moved: Landry Seconded: Feinstein Yea: Bostwick, Brown, Feinstein, Landry, Obery, Orbeton, Rigoulot

Nay: None

Motion carries.

* Mr. Rolnick arrived. Mr. Rolnick will not be voting.

5. Certificate of Appropriateness for New Construction in the Historic District for Pam Delashaw, 175 Second Street, Map 10 Lot 4

Pam Delashaw, 175 Second Street, presented an application for construction of a deck at the rear of the house. She explained that on the north side of the house there is a small patio. They would like to construct a deck. It will not extend the full length of the house; it will be 30 to 34 feet wide and will extend 15 feet from the house with steps from the front and one side. Construction will be pressure-treated wood stained gray to match the steps at the front of the house. The white composite railing will look like wood and will be a very simple design with straight spindles.

Motion to find the application complete.

Moved: Brown Seconded: Landry Yea: Bostwick, Brown, Feinstein, Landry, Obery, Orbeton, Rigoulot

Nay: None

Motion carries.

Motion to find the application in harmony with Historic District standards and approve the application as presented.

Moved: Brown Seconded: Landry Yea: Bostwick, Brown, Feinstein, Landry, Obery, Orbeton, Rigoulot

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Nay: None

Motion carries.

6. Certificate of Appropriateness for New Construction in the Historic District for James Rossides, 119 Second Street, Map 9 Lot 56

James Rossides, 119 Second Street, presented an application for construction of a rear deck and replacement of two roofs with a single new roof. He explained that the deck will be in a corner at the rear of the house; it will be in a corner between the house and the ell. The deck will be triangular with a small storage shed. He explained that the kitchen and mud room were added to the house with two different rooflines. He would like to replace the gable roof and shed roof with a single gable roof. The peak of the new roof would be about three feet higher than the existing roof, but not higher than the main roof. The new roof will not extend farther than the existing roofs. There will be no extension of the building itself.

There was discussion about the application forms. Mr. Ide noted that he had neglected to include Mr. Rossides' separate application for the deck and provided an electronic copy of it to the Board members.

Mr. Brown asked for information about the storage shed. Mr. Rossides explained that it would be a pre-fabricated closet set on the deck, not an addition to the house. It would be just large enough to house a snow blower and a push mower. The deck will extend from corner to corner of the house. The shed will be about 3½ feet tall. The site is not visible from the street.

Mr. Bostwick asked if Mr. Rossides would remove part of the ell to replace the roof. Mr. Rossides said they will build the walls higher to meet the new roof.

Ms. Feinstein asked if the project included replacing the main roof. Mr. Rossides said it would. Mr. Ide added that replacing the main roof was not part of the application.

Motion to find the application complete as amended by Mr. Rossides at the meeting.

Moved: Orbeton Seconded: Brown

Mr. Brown pointed out that the application also mentions skylights. He noted that the Board had not discussed them, but they remain as part of the original application.

Vote: Yea: Bostwick, Brown, Feinstein, Landry, Obery, Orbeton, Rigoulot

Nay: None

Motion carries.

Motion to find the application in harmony with Historic District standards and approve the application with regard to the deck, the storage shed on the deck, the raised roof and the skylights.

Moved: Orbeton Seconded: Bostwick

Ms. Feinstein observed that the application says that he *may* add the skylights and noted that approving them gives Mr. Rossides the option of adding them. Mr. Rossides agreed that it was more than likely unless he decides they would create problems.

Ms. Orbeton amended her motion to say that Mr. Rossides can install the skylights as proposed unless he chooses not to. Mr. Bostwick accepted the amendment.

Vote on the amended motion: Yea: Bostwick, Brown, Feinstein, Landry, Obery, Orbeton, Rigoulot

Nay: None

Motion carries.

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7. Certificate of Appropriateness for New Construction in the Historic District for Michelle Dix, 6 Grove Street, Map 11 Lot 11

Michelle Dix, 6 Grove Street, presented an application for installation of an above-ground swimming pool. She explained that the pool would be in the back yard. Mr. Ide added that he provided a location map and a generic illustration of an above-ground pool. There will be no decking and access to the pool will be by a ladder.

Motion to find the application complete.

Moved: Landry Seconded: Brown

Ms. Orbeton asked if there was any issue regarding safety for other properties. Mr. Ide explained that there is a code book for swimming pools and no installer can install a pool that hasn't been certified. He confirmed that he has no reservations regarding the environment or the neighborhood.

Vote: Yea: Bostwick, Brown, Feinstein, Landry, Obery, Orbeton, Rigoulot

Nay: None

Motion carries.

Motion to find the application in harmony with Historic District standards and approve the application as presented.

Moved: Landry Seconded: Bostwick Yea: Bostwick, Brown, Feinstein, Landry, Obery, Orbeton, Rigoulot

Nay: None

Motion carries.

8. Amendment to Site Plan Review approval of June 19, 2019 for Bureau of Parks and Lands, Hallowell Boat Launch, Map 9 Lot 187

8a. Public Hearing and Approval of Amendment to Site Plan Approved on June 19, 2019

Heather Seiders represented the Bureau of Parks and Lands (BPL) in presenting an amendment to the approved Site Plan.

Ms. Obery opened the Public Hearing. She asked Ms. Seiders to summarize the changes BPL is proposing.

Ms. Seiders explained that they want to add ADA accessible floats to the project. This will include a 6'×12' concrete abutment, three easily removable piles, and four 6'×16' wooden floats. Mr. Ide observed that the changes being proposed were in part a response to community input.

Ms. Seiders guided the Board members through the changes shown on the revised plans and described how the floats would be connected and how the piles will be installed and removed. She noted that the Bureau has been working with the Army Corps of Engineers on the construction plans. She pointed out that the three piles will be located between the high and low water levels, so the construction can be done dry.

Ms. Orbeton asked if there were any changes proposed to the parking lot and the new road along Water Street. Ms. Seiders stated that that part of the plan was approved and they are planning to proceed with the work as it was approved. In the amendment they are only asking for the addition of the concrete abutment, the removable piles and the floats. Ms. Orbeton asked if they were still going to proceed with the parking lot and new road; Ms. Seiders said that was their intent. Mr. Ide observed that that is why they are also asking for an extension of six months to the previous approval.

Mr. Ide asked if the bids came in out of whack as they did last year, would the Bureau consider doing only a portion of the project, and if so, what portion. Ms. Seiders said she could not answer for the Director.

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Ms. Obery invited comments from the public.

Rosemary Presnar, Chair of the Hallowell Conservation Commission, submitted written comments from the Commission. She pointed out that the lot in question is located in the Resource Protection and Downtown Zoning Districts. It is also zoned Shoreline Protection District within the State's Zoning Overlays and is designated Conserved Lands in the current Maine Geographic Information System library. She cited the purposes of the two zoning districts. The Conservation Commission is opposed to the extension of the Planning Board's approval for the following reasons: 1) the Commission was not notified 30 days in advance by the Planning Board nor by the Bureau of Parks and Lands of the Site Plan Review in June 2019 as required by statute; 2) the Commission was not notified 30 days in advance by the Planning Board nor by the Bureau of Parks and Lands of the submitted Amendment and Request for Extension; 3) a public informational session with the Bureau of Parks and Lands which was requested by the Conservation Commission and Vision Hallowell via the City Council was cancelled based on an email notification from the Bureau's Project Manager that the parking and access road changes would not happen in 2020.

The Conservation Commission also asked the Board to consider these questions:

1. Did the Planning Board in its initial June 2019 review and approval consider the zoning descriptions for Resource Protection and the Downtown districts, and how the boat launch parking and road access changes will impact each district as described by ordinance?

2. Did the Planning Board consider that the 1.4-acre site would be 43.9% paved under the approved site plan? This is a significant loss of green space and open space in the downtown zone.

3. Did the Planning Board consider that the approved site plan's new road will be within 75' of the shoreline and cut into existing vegetation buffer? How does that impact the Shoreline Protection District in terms of future flooding considerations or stormwater runoff?

4. Did the Planning Board ensure that there will be proper handling, excavation, and disposal of invasive species (Japanese Knotweed, barberry, etc.) that are currently present on site during construction?

5. Did the Bureau of Parks and Lands submit a survey response or study demonstrating that there is a need for increased parking capacity at the Hallowell Public Boat Launch? What problem is being solved with an additional 7,000 sq. ft. of impervious surface and removal of 4 or 5 mature trees?

The Commission commended the Bureau for submitting an amendment to improve ADA access, replace the boat ramp, and install a new boarding float system, but the Commission believes these improvements should be decoupled from the June 2019 site plan and that the City work with the Bureau for alternative parking and road designs that fit current City zoning.

The Conservation Commission is opposed to the request for a 6-month extension to the original June 19, 2019, site plan approval and recommends that the Planning Board deny the extension.

Mr. Rolnick asked Ms. Presnar about notification regarding the initial process. She noted that the Commission was not notified of the review and that the public hearing was waived at that time.

Mr. Ide told the Board that at the time of the original review he was aware of the notification requirements, but in this case he did not consider the Boat Landing as open space or a park but as a functionally water-dependent use. He added that in the Resource Protection District this is a permitted use and the use already exists. Ms. Presnar pointed out that her interpretation is that this is conserved land.

Mr. Rolnick asked Ms. Seiders for more information on the Bureau's need to increase the paved area. Ms. Seiders explained that the boat landing was originally constructed in 1971 according to guidelines for boat launch parking. Since then the size of boats and vehicles has increased. When renovating boat launches the Bureau uses the State Organization of Boating Agencies' (SOBA)guidelines. Mr. Rolnick

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asked for information regarding public input; Ms. Obery observed that at the time of the original application the Board had not foreseen that this would be a controversial issue. Ms. Feinstein observed that there was also a sense of urgency since the Bureau needed to put the project out to bid. Mr. Brown pointed out that there was public input at the original hearing, but it was primarily directed to the issue of a crosswalk. Mr. Ide pointed out that abutters were notified as required by the Ordinance; Mr. Rolnick observed that statutory requirements go beyond our ordinances.

Ms. Orbeton observed that there was significant comment from David Wood regarding handicapped access whether there would be an abutment, and it sounded as though the Bureau's amendment is a response to that commentary.

Ms. Presnar cited MRSA Title 30-A, Part 2, Chapter 157, SS3261, para. 2.D.(1)): "Any body politic or public agency of the state conducting planning operations with respect to open areas within a municipality having a Conservation Commission shall notify that Conservation Commission of all plans and planning operations at least 30 days before implementing any action under that plan." Mr. Rolnick asked if the Conservation Commission was notified 30 days in advance of this meeting; Ms. Presnar said it was not. Mr. Ide reiterated that he did not consider this to be a conservation area and therefore it did not occur to him that notification was needed.

Ryan Gordon, 46 Greenville Street, said he was concerned with the extension of the approval and the expansion of impervious area so close to the river bank and the trees that will be maintained. He added that he does not think this plan fits within the character and goals of Hallowell's waterfront and historic downtown area. He urged the Board to reject the extension.

David Wood, 4 The Ledges, noted that SOBA's report addresses access roads; in this case the access road is Water Street, and heavy usage would impede traffic on Water Street. He stated his opinion that this site should be left for smaller craft; there are launches for large boats in Augusta and Gardiner. He advocated for addition of permanent restrooms and no changes for the parking area.

Patrick Wynne, 407 Central Street, a City Councilor, expressed opposition to the extension. He noted that there seems to be unanimity in the public comments. He maintained that the boat launch is part of the City's infrastructure and that the proposed changes are detrimental in increasing the impervious surface and the removal of trees. He admitted that if this plan must exist, the proposed amendment makes sense. He advocated for adding an extension of the sidewalk with a tip-down to provide access to the other side of Water Street.

Margaret Warren, 4 The Ledges, observed that many residents of Cotton Mill Apartments view the boat as their park. Many residents cannot walk to the park at the north end of downtown. She opposed the extension of the approval.

Deb Sewall, a member of the Conservation Commission, spoke in opposition to the extension of the approval.

There were no additional comments from the public and Ms. Obery closed the Public Hearing.

Mr. Ide explained that in the original plan the parking area was closer to the river and that was changed to meet the City's 50-foot setback requirement. He added that there must be two votes: one on the amendment and one on the extension. Ms. Feinstein asked if there was any record of complaints from people who wanted to bring boats into the landing but couldn't because of size. She also asked if there was any data regarding traffic trying to turn in to the boat landing. Mr. Ide said he did not know of any complaints to the City. Ms. Feinstein observed that this was an opportunity to revisit the Board's earlier decision and address additional issues. Ms. Seiders noted that she cannot make decisions without the Director and asked if dropping the parking expansion would satisfy everyone. Mr. Rolnick expressed concern about making the Hallowell boat landing into a one-size-fits-all site and expressed opposition to approving the amendment and extension.

Mr. Bostwick asked Ms. Seiders how the additional storm water would be handled. Ms. Seiders said they will install a catch basin and direct the drainage. Mr. Bostwick pointed out that currently there is no catch

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basin; Ms. Seiders was uncertain about the drainage plan. Mr. Bostwick asked what the purpose of the lot was and noted that the conservation database contains some additions that aren't totally conservation oriented. Ms. Seiders said the lot was originally purchased with lock-on money with the intent to create a public boat launching facility. Mr. Bostwick asked if there was a landscape plan for the site.; Ms. Seiders said the areas would be grassed.

Mr. Seymour asked Ms. Seiders if he understood correctly that BPL was willing to proceed without the changes to the parking; Ms. Seiders said removing the parking is not a decision she can make, and she asked if removing the parking would satisfy everyone so that she could return to the Director for a decision. Mr. Seymour asked if the amendment and extension were denied, would the Bureau be willing to have some of the people with the biggest concerns involved in the redesign; Ms. Seiders said she could not answer that; it would be the Director's decision. Mr. Morrison observed that part of the plan was to remove the jug-handle to improve traffic flow; Ms. Seiders concurred.

Ms. Orbeton summarized the Board's options: they could approve the amendment and the extension on the whole project; they could approve the amendment and approve the extension on only the ramp itself and deny the extension on the rest of the property; they could deny both the amendment and the extension and BPL would have to come back with a revised plan; or they could table the amendment and extension and have BPL come back with a revised plan. Mr. Landry expressed doubt that the Board could approve the extension for only a portion of the plan. Mr. Brown pointed out that if the Board tables approval it will put BPL outside the construction window and opposed tabling the application. There was discussion of the options and the issues that need to be addressed. Ms. Seiders noted that the boat launch is old and the ramp needs to be repaired before it becomes a safety issue. Ms. Rigoulot noted that she sees more people using it as a park than as a boat launch. Mr. Brown and Ms. Feinstein expressed support for modifying the amendment to include what was originally approved for the ramp, allowing the old permit to lapse, and addressing the proposed parking changes as a separate application.

Mr. Ide said it was questionable whether the Board could decouple the parts of the original application. He also pointed out that the Board must approve or deny an application based on the standards in the ordinance and in order to deny the extension the Board must have a reason; he noted that the Army Corps of Engineers and the Department of Environmental Protection have not yet issued permits for the project, which could constitute grounds for denying the extension.

Motion to deny approval of the six-month extension and deny approval of the amendments on the grounds that the state process was deficient last year and the Planning Board/City's process was deficient last year, and the Board would like the opportunity to correct both of those problems.

Moved: Orbeton Seconded: Feinstein

Mr. Landry observed that the Board is treating BPL differently than it would an ordinary landowner because in this case the Board is essentially asking BPL to reach out to the public to get the public opinion as to how the lot should be used even though BPL is the landowner. Doing so is second-guessing the landowner's decision regarding the use of the land.

Mr. Bostwick asked why denial is better than tabling. Ms. Feinstein explained that denial allows the Board to start the process over and correct the deficiencies. There was further discussion.

Mr. Landry proposed an amendment to the motion to deny the extension on the grounds that BPL does not have all the necessary permits. Ms. Orbeton accepted the amendment. Ms. Feinstein accepted the amendment.

Vote on amend motion:

Yea: Feinstein, Landry, Obery, Orbeton, Rigoulot

Nay: Bostwick, Brown

Motion carries.

8b. Six-month Extension of Amended Site Plan Review Approval

See Item 8a.

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9. Amendment to Site Plan and Certificate of Appropriateness Approvals of November 19, 2019 for Mad Brew LLC and Alley Cat LLC, d/b/a The Liberal Cup and The Maine House, 113 & 117 Water Street, Map 5 Lots 143 & 144

Geoff Houghton, owner, presented an amendment to the Site Plan Review for his project. He explained that he wants to erect a privacy perimeter fence around the back deck at the Maine House. He also would like to construct a pergola spanning the former Dummers Lane between the two buildings. The pergola would have slats instead of a solid roof and would not extend across the rear of the building. The slats would be pivoted so the slats could be turned horizontal during rain events. It would be supported by brackets on each building. The color would match the existing fencing. It will also have side flaps that could be rolled down.

Mr. Seymour asked where rain would drain to. Mr. Houghton said there are gutters within the support beams that carry the water to downspouts that drain into an existing floor drain. He pointed out that the rainwater would end up in the floor drain with or without the pergola. Mr. Ide asked about the gooseneck lighting that was proposed in the former application; Mr. Houghton said he ditched that idea.

Motion to find the application complete.

Moved: Landry Seconded: Brown Yea: Bostwick, Brown, Feinstein, Landry, Obery, Orbeton, Rigoulot

Nay: None

Motion carries.

Motion to find the application in harmony with Historic District standards and approve the certificate of appropriateness and the amendment to the site plan as presented.

Moved: Landry Seconded: Bostwick Yea: Bostwick, Brown, Feinstein, Landry, Obery, Orbeton, Rigoulot

Nay: None

Motion carries.

Ms. Rigoulot recused herself from this application; Mr. Morrison will be voting.

10. Certificate of Appropriateness for New Construction in the Historic District for Lisa Rigoulot and Kate Dufour, 13 Lincoln Street, Map 5 Lot 88

Ms. Rigoulot, 13 Lincoln Street, presented an application for removal of rotted steps and construction of a deck. She explained that the deck will connect the existing porch with the ell of the house. Construction will be of pressure-treated wood. The existing fuel tank will be removed. She added that the posts of the porch will remain, but the railings are obvious add-ons and will be removed. Mr. Brown asked if the full-width stairs without a railing and the fence serving as a railing on the side complied with safety standards; Mr. Ide said he believed they do.

Motion to find the application complete.

Moved: Landry Seconded: Brown Yea: Bostwick, Brown, Feinstein, Landry, Morrison, Obery, Orbeton

Nay: None

Motion carries.

Motion to find the application in harmony with Historic District standards and approve the application as presented.

Moved: Feinstein Seconded: Bostwick Yea: Bostwick, Brown, Feinstein, Landry, Morrison, Obery, Orbeton

Nay: None

Motion carries.

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11. Other Business

Mr. Ide told the Board that he and Mr. Seymour have been working on getting the decking removed from the back Robert Dale's buildings. There have been complaints about people entering the buildings. They will remove the decking and block up any ground floor entrances. The front entrances have been secured. The City will charge the expense to Mr. Dale since the City declared them to be dangerous buildings.

Mr. Ide told the Board that there is a listing on Realtor.com for a six-unit townhouse on the vacant lot at the corner of Water Street and Gows Lane. The listing is a feeler for market interest in such a development. There was some discussion.

Mr. Brown expressed concern about the traditional right-of-way for the outer end of Central Street. Mr. Ide told the Board that the City Manager and the Highway Committee are examining the issue and what action the City should take.

Ms. Feinstein asked if there were any plans for the lot south of the boat launch. She pointed out that any project would involve Shoreland zoning. There was general discussion.

Ms. Feinstein suggested that the Board examine means of avoiding lapses of process and notification for applications like the Boat Launch improvements.

12. Adjournment

Motion to adjourn.

Moved: Bostwick Seconded: Brown Yea: Bostwick, Brown, Feinstein, Landry, Obery, Orbeton, Rigoulot

Nay: None

Motion carries.

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