

City of Hallowell
Planning Board Meeting
City Hall
August 16, 2023
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, Melvin Morrison,
*Matthew Rolnick (1st alt.), Richard Seymour (2nd alt.)

Doug Ide, Code Enforcement Officer

Excused: Lisa Rigoulot

Absent: Andrew Landry

Mr. Seymour will 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 July 19, 2023 Planning Board Meeting

Motion to approve the minutes of the July 19, 2023 meeting as presented.

Moved: Brown

Seconded: Bostwick

Unanimously approved

5. Certificate of Appropriateness for New Construction in the Historic District for Troy Ireland, 59 Middle Street, Map 9 Lot 4

Mr. Ide explained that Mr. Ireland has not submitted a drawing. Since Mr. Ireland was not present, the Board moved on to the next Agenda Item.

6. Certificate of Appropriateness for New Construction in the Historic District for Jacqueline Clark & Deborah Mattson, 32 Winthrop Street, Map 5 Lot 32

Jacqueline Clark and Deb Mattson, 32 Winthrop Street, presented an application to install a garden shed. Ms. Clark explained that their lot is very long. There is an existing shed that is invisible from the street, but it is badly deteriorated. They want to construct a new shed reusing some of the materials from the existing shed. The new shed will be approximately the same size with a shed roof instead of a gable roof. There was a brief discussion of the existing shed.

* Mr. Rolnick arrived. Mr. Rolnick will be voting.

Ms. Clark said the new shed will be dark colored. She pointed out that their property is substantially lower than Warren Street.

Motion to find the application complete.

Moved: Feinstein

Seconded: Morrison

Unanimously approved,
Rolnick abstaining

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

Moved: Feinstein

Seconded: Bostwick

Unanimously approved,
Rolnick abstaining

7. Certificate of Appropriateness for New Construction in the Historic District for Sarah Moore, 18 Summer Street (formerly 159 Second Street), Map 9 Lot 104

Sarah Moore presented an application for construction of a small rear deck and addition of an exterior entrance to an existing apartment above their garage/carriage house. When the apartment was built the building code did not require a secondary egress. They want add a deck and stairway to provide a secondary egress to meet the current code. She added that it will be built of pressure-treated wood, but they are uncertain whether it will be painted to match the garage or left the raw color. There is an existing deck on the house that has been left natural.

Mr. Brown asked about the balusters. Ms. Moore said the railings will be wrought iron with caps to match the existing fence. The deck and stairs will be at the rear of the garage and will not be visible from the street.

Motion to find the application complete.

Moved: Brown

Seconded: Feinstein

Mr. Bostwick asked what style the new door would be; Ms. Moore said they have not picked a style yet. It will most likely have lights, but they want to make sure it fits the property. The new door will be the primary entrance.

Vote on motion:

Unanimously approved

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

Moved: Rolnick

Seconded: Bostwick

Unanimously approved

8. Public Hearing & Conditional Use Permit Application for North Street Development, LLC, 33 Water Street, Map 4 Lot 34

Edward Dugay, representing North Street Development LLC, presented an application for a Conditional Use Permit for a small scale Medical Marijuana Cultivation Facility at 2 North Street. Mr. Ide asked Mr. Dugay to describe the conditions that require a Conditional Use Permit. Mr. Dugay explained that he has converted his business Hallowell4Twenty from a care-giver store to a registered medical marijuana dispensary. Because the change of status also changes the status of his existing grow facility at 2 North Street, he needs to obtain a Conditional Use Permit. He noted the cultivation facility has been in operation for about three years, though it has been idling for the last 90 days. He explained that all of the required filtering and security systems are already in place.

Ms. Obery opened the Public Hearing and invited members of the Public to speak.

Jeannie Ross, 5 North Street, expressed concern about an increase in odor and noted that several neighbors have the same concern. She asked if the change would enable an increase in the number of mature plants. Her understanding is that it will. She asked if there were inspections to verify the number of plants. Mr. Dugay said the building is restricted by its square footage; he used to grow 18 tall plants; now they will grow plants only 24" high. No one can increase the canopy because of the size of the building. He noted that they have carbon filters, and have recently installed an air dam on the door.

Mr. Rolnick asked if the City has received any odor complaints. Mr. Ide told the Board that he had received no complaints until Ms. Ross contacted him after the abutter notices went out, saying there have been times when the odor was a problem. Mr. Rolnick asked what zoning restrictions existing in this district; Mr. Ide said this is the BA District and that grow facilities are a conditional Use in the district. He added that the operation of a caregiver facility was not a commercial operation per se and did not fall under the definition of a cultivation facility. Mr. Rolnick asked about the confusion about the address; Mr. Ide explained that the house is 33 Water Street, but the separate building behind it is known as 2 North Street.

Ms. Feinstein asked for confirmation that this is a change of classification only and that nothing else is changing; Mr. Dugay concurred.

Ms. Ross asked if the 500 square feet was both floors of the building; Mr. Ide said he could not say precisely. He added that the building is divided up into smaller spaces and those spaces are further divided by tents. Ms. Ross pointed out that there is more than 500 square feet in the building but Mr. Dugay has chosen to use only 500 square feet; he might be able expand the operation into space in the building that is not currently in use.

Mr. Seymour noted that as a caregiver grow facility the Code Enforcement Officer had no control over ventilation, scrubbing, etc., but as an indoor cultivation facility the CEO does have control; Mr. Ide said it is the Board that has more control. There was discussion of the state requirements and local control.

Mr. Morrison asked if the business were to change hands would any of the requirements the Board required in this approval carry over to the new owner; Mr. Ide said they would. Mr. Seymour asked if the Board could limit the use to 500 square feet or less; Mr. Ide said the Board could make that a condition of approval, but he could not comment on the legal durability. Mr. Rolnick asked what specific rooms in the building constituted the 500 square feet growing area. Mr. Dugay explained that the two flower rooms on the first floor constitute the 500 square foot grow area and the additional drying/veg areas do not. Mr. Rolnick suggested that one way to address the neighbors' concerns and Mr. Dugay's concerns would be to specify the canopy size allowable and requirements to minimize odor. Mr. Morrison observed that the concern is more about odor control than the number of plants.

Mr. Bostwick asked if the state license required odor control provisions; Mr. Dugay said the licensing process has changed and the application now includes a question about an odor control plan. Ms. Feinstein asked if the state does any inspections for odor control. Mr. Dugay said they do an annual walk-through inspection. Ms. Feinstein asked if there were any additional technologies he could use for odor control; Mr. Dugay said the technology is changing all the time. He described his current provisions.

Mr. Bostwick asked if the state license limited his canopy area. Mr. Dugay explained that the state issues licenses in several tiers covering varying canopy areas. His license is for the smallest tier.

Mr. Rolnick called attention to the restriction on Indoor Marijuana Cultivation Facilities in the BA District which limits the use to lots whose use as of 7/11/2018 was at least 60% non-residential. Mr. Ide explained that the restriction was added because Mr. Dugay's dispensary was in a building that had a residential use component. Mr. Ide said that he had interpreted Mr. Dugay's grow facility as an existing business and felt that the restriction did not apply because the business was not changing. Mr. Bostwick observed that the building was Garant Graphics at one time, but he did not know how it was used after Mr. Garant moved his business out of town.

Steve Ross, 5 North Street, said that Mr. Dugay has done a good job over the years he has been in operation. Odor has only occasionally been a problem. He noted that the facility on Whitten Road is a much larger facility and odor is a much bigger problem. His concern is that a new owner might increase the size of the operation and create a bigger odor problem. There was discussion of how the Board could address this concern.

Mr. Brown expressed concern with the diagram in the application and lack of exact measurements. He observed that there should be some documentation of the current capacity. Mr. Dugay said he will provide it.

Ms. Obery closed the public Hearing.

Mr. Ide called the Board's attention to the applicant's request for two waivers regarding a soils investigation report and a traffic engineering study.

Motion to grant the waivers requested.

Moved: Feinstein

Seconded: Brown

Unanimously approved

Motion to find the application complete.

Moved: Rolnick

Seconded: Bostwick

Unanimously approved

There was discussion of how the conditions on the permit should be stated. There was further discussion of odor control and state license requirements.

Motion to approve the application with the condition that the operation shall not exceed the existing canopy size as of the date of this approval and as documented within this application.

Moved: Rolnick

Seconded: Brown

Unanimously approved

9. Certificate of Appropriateness for New Construction in the Historic District for Jonathan Ives, 18 Warren Street, Map 9 Lot 3 I

Jonathan Ives, representing Sutherland Properties LLC, presented an application for the addition of two exterior doors and modification of the deck structure to accommodate the doors. Mr. Ives explained that there are five units in the building. This application is for Units 4 & 5. Currently the secondary means of egress for both apartments is through windows, and the plan is add a door to Unit 4 on the second floor and replace a window with a door in Unit 5 on the third floor. The doors will be similar to the doors installed in Units 1 and 2. The second floor of the deck structure will be extended to cover the existing open space in the middle of the structure.

Mr. Bostwick asked what the doors are made of; Mr. Ives said they are made of a plastic material that is dense, paintable, and looks like wood.

Motion to find the application complete.

Moved: Seymour

Seconded: Morrison

Unanimously approved

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

Moved: Rolnick

Seconded: Bostwick

Unanimously approved

10. Approval of Findings of Fact

A. Conditional Use: Accessory Dwelling Unit, Kristie Morin, 62 Central Street, Map 8 Lot 45

B. Conditional Use: Marijuana Products Manufacturing Facility, Mighty Viking, 301 Water Street, Map 15 Lot 38

Mr. Ide noted that these Findings of Fact are from older meetings that were overlooked.

Motion to approve both Findings of Fact as presented.

Moved: Bostwick

Seconded: Brown

Unanimously approved,
Seymour abstaining

Mr. Ide told the Board that Mr. Mulholland has not yet submitted his revised application.

11. Other Business

Mr. Ide told the Board that the stairs at 126 Second Street are new, and the owner will submit an application. The owner said the deck has been there for years.

Mr. Ide informed the Board that the brick work is continuing on 252 and 254 Water Street, and that Mr. Dale has removed most of his belongings except for the basement.

12. Adjournment

Motion to adjourn.

Moved: Morrison

Seconded: Bostwick

Unanimously approved

Accepted as Presented / Corrected on September 20, 2023, by a vote of 6 Yea to 0 Nay.

Attested:

S/

Danielle Obery, Chair