

**City of Hallowell  
Planning Board Meeting  
City Council Chamber  
April 17, 2024  
6:30 pm**

**1. Call to Order**

Mr. Landry called the meeting to order.

**2. Roll Call / Quorum**

Mr. Landry took the roll call and established a quorum.

Present: Andrew Landry (Vice-Chair), Richard Bostwick, Darryl Brown, \*Melvin Morrison, Lisa Rigoulot, Matthew Rolnick, Richard Seymour (1<sup>st</sup> alt.)  
Gary Lamb, City Manager; Daniel Kelley, Deputy City Clerk

Excused: Judith Feinstein (Chair), Keith Taylor (2<sup>nd</sup> alt.)

Mr. Seymour will be voting.

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

Allison Michaud and Clint Gould, owners of 152 and 154 Water Street, addressed the Board regarding the rear decks of their Property. Ms. Michaud explained that the decks were in bad shape, and last fall Mr. Ide gave verbal approval to replace them provided the railings meet building code standards. Their deal with a contractor fell through; now they have a new contractor, but the new CEO, Mr. McMullen, wants them to get approval from the Planning Board.

\*Mr. Morrison arrived.

Mr. Landry noted that Mr. Ide had a Delegation of Authority from the Board.

Mr. Seymour said he was working with Mr. Ide at the time and that he remembers the discussion. The major point was to leave the footings in place so the new decks would not be any bigger. He said the old decks were extremely unsafe.

Mr. Landry noted that there is no application and said that personally he would be willing to accept Mr. Ide's opinion. Mr. Seymour noted that the railing must be within historical review; Mr. Gould said the railings will comply with Mr. Ide's recommendations.

Mr. Brown asked if there were sketches; Mr. Gould said there were not, but he does have photographs of the old decks that were removed. He added that the decks would be no larger than the old ones and of similar design but with different railings.

Mr. Bostwick asked about the materials to be used; Mr. Gould said they would use pressure-treated wood.

Mr. Brown observed that the photographs provide dimensions and he agreed that this would fall under the Delegation of Authority. Mr. Seymour asked if the decks at Dom's Barbershop had been approved by the Board; other Board members said they had.

Mr. Gould said that he is willing to come back to the Board, but he is hesitant to push the contractor off; Mr. Lamb agreed to meet with Mr. Gould the next day.

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#### 4. Approval of Minutes of the March 20, 2024 Planning Board Meeting

Motion to approve the minutes of the March 20, 2024 meeting as presented.

Moved: Rolnick

Seconded: Seymour

Unanimously approved

#### 5. Conditional Use Application for DSW Holdings LLC, 31 Water Street, Map 4 Lot 44, to add manufacturing activities within the existing building (registered dispensary)

Malina Dumas, attorney, represented DSW Holdings in presenting an application for a Conditional Use permit for a Marijuana Manufacturing Facility at 31 Water Street. She explained that the existing dispensary was sold to a new owner, and they want to make sure that approval for the bakery portion of the business is documented. There will be no changes on site and the existing kitchen has been approved by the State. Ms. Dumas said she understands that the previous owner produced infused baked goods but does not have knowledge that that was so.

Mr. Landry asked if there will be an odor issue; Ms. Dumas said there would not be because they will not be doing any cultivation or extraction and will only be using purchased tinctures to infuse the baked goods.

Mr. Seymour noted that he inspected the kitchen with Mr. Ide when the previous owner opened the business, but he does not know if anything was to be processed there. He also asked if having an apartment on the second floor changes anything; Mr. Lamb said he will look into it.

Mr. Landry invited comments from the Public.

Jeannie Ross, 5 North Street, told the Board that even infusing products produces odors. She enumerated three questions: 1) What will the bakery's operating hours be? 2) Is there an odor mitigation plan? and 3) Will the goods produced in the bakery be sold only in this store or also in the applicants other stores? She added that she represents several neighborhood residents in asking these questions. Ms. Dumas said that the bakery hours will be the same as the store, that it is equipped as a normal bakery and they will keep a complaint log. She said she thinks the products will be sold only at the location, not as a wholesale operation. Ms. Dumas offered to obtain definitive answers from the owner. Ms. Ross pointed out that all of the neighborhood issues are about odor. Ms. Dumas pointed out that it is standard operating procedure to keep a log of complaints about odor for use in improving odor control measures.

Ms. Rigoulot asked if the abutters had been notified; Mr. Kelley said they had.

There were no other comments from the Public.

Ms. Rigoulot noted the waiver requests and questioned the waiver for a traffic study; Ms. Dumas said that there will be no additional employees and that the previous owner also sold infused baked goods; she said that because of this there was no reason to expect increased traffic. She added that the facility meets the standards for a Conditional Use.

Mr. Seymour asked if odor standards would be enforced by the State; Ms. Dumas said that this was usually at the municipal level. There was general discussion. Mr. Landry pointed out the difference between a permitted use and a conditional use and that the standards for a conditional use permit include a requirement for the Board to consider whether the use would impact the value of neighboring properties. Mr. Lamb said he would look into the Board's concerns regarding the apartment.

Motion to continue the application to the next meeting, to hold a Public Hearing, and to ask the applicant to file responses to the questions raised regarding operating hours of the kitchen, any odor mitigation plan in place, and whether the baked goods are for local sale only.

Moved: Rolnick

Seconded: Bostwick

Ms. Rigoulot suggested requesting information regarding traffic and observed that it would be sufficient to compare the baked goods sales by volume between the previous owner and the new owner. Mr. Rolnick and Mr. Bostwick accepted the amendment.

Amended motion:

Unanimously approved

## 6. Conditional Use Application for McNaughton Brothers Construction, Central Street, Map 18 Lot 20, for a new Sand Pit

Andy Kokernak, owner of McNaughton Bros. Construction, presented an application for a Conditional Use permit for a sand excavation pit. The proposed extraction site is located at the northwest corner of the property, at least 400 feet from any residences. Access will be through an existing deeded right-of-way on Fish and Game Road, a route already utilized for over 60 years by the brush dump, public works storage, and the Laflin sand pit. The maximum open area for active extraction will not exceed 5 acres, complying with current regulations without requiring additional state permits.

Mr. Bostwick asked if there was enough sand to warrant the operation; Mr. Kokernak said there was. Mr. Bostwick asked how deep the pit would be; Mr. Kokernak said the pit must stay at least two feet above the water table, so the depth will not be more than 38 feet.

Mr. Rolnick asked about the requested waiver for identification and location of equipment likely to generate noise; Mr. Kokernak said the equipment used will be within the 5-acre extraction area but could be anywhere within that area. He added that in the past they have hauled sand from Mr. Laflin's pit; they will use three dump trucks which are currently using the road. The sand will be used for local projects only, and the pit will not be open to public use or retail sales.

Mr. Landry invited comments and questions from the Public.

Larry Davis, 123 Town Farm Road, said he is an abutter and pointed out that most of the houses in the area were built within the past eight years. He asked what kind of equipment would be used and how much noise and traffic would be generated. Mr. Kokernak observed that they would be using the same kind of equipment being used in the Laflin pit nearby. They will be using a front-end loader, an excavator and three dump trucks. Operating hours will be 7 AM to 6 PM, which is regulated by the permit. Activity will be mostly in the summer, probably 2 to 3 days per week, Monday through Friday.

Mr. Bostwick asked about security or protection against the Public; Mr. Kokernak said the site will be gated and provided with natural dirt berms around the perimeter. He pointed out that it will have gentle slopes at the sides, not sheer walls like a quarry.

Mr. Rolnick asked about lighting; Mr. Kokernak said there will be no lighting.

Mr. Brown noted that he himself is an abutter and has talked to Mr. Kokernak. He said he sees no problems with the project.

Dan Laflin, 305 Central Street, said he is an abutter and owns the existing pit nearby. He said he supports the application and is confident that Mr. Kokernak will run a tidy operation, be a good steward of the land, and comply with state standards for borrow pits. He cited the requirement for a 50-foot buffer strip around the perimeter. He noted that Mr. Kokernak's plan shows an access road along Mr. Laflin's boundary line which would be within the existing forested buffer and asked that approval be conditioned on maintaining that forested buffer as it is by relocating the access road.

Mr. Seymour asked if the abutters had been notified; Mr. Kelley said they had.

Mr. Davis asked about copies of the plans and said that no plan was included in this notification. Mr. Landry said the full application was posted on the City website and copies were not normally sent to abutters.

Mr. Brown pointed out that the operation will be in the corner farthest from most abutters. Mr. Rolnick suggested continuing the application to the next meeting to address the location of the access road. Mr. Kokernak said preserving the 50-foot buffer is not a problem and he will relocate the road.

Motion to continue the application to the next meeting, to hold a Public Hearing, and to make it clear that abutters can obtain copies of the application.

Moved: Rolnick

Seconded: None

Motion failed



Mr. Morrison noted that the Board previously approved a conditional use for this lot for off-site services which included structures. He expressed reluctance to drag this decision out.

Mr. Kelley told the Board that abutters had not been notified on this application.

Ms. Rigoulot said she was not comfortable with either the lack of Abutter Notices or the legal issues.

Motion to continue the application to the next meeting after abutters have been notified, to hold a Public Hearing, to request a legal opinion from the City Solicitor regarding the accessory use for retail, and to request an informal traffic study.

Moved: Rigoulot

Seconded: Rolnick

Mr. Rolnick observed that a formal traffic study can be expensive, and Mr. Brown maintained that a traffic study was not necessary because the landscaping industry won't generate peak hour traffic. Mr. Bostwick pointed out that Longfellow's in Manchester does generate peak hour traffic; Andrew Gray said that their aim is to stick to landscaping and they want to stay small. Mr. Seymour suggested that it need not be a formal traffic study, more a summary of the types of vehicles, estimated frequency, etc. Mr. Bostwick agreed that a formal study was not needed. Ms. Rigoulot accepted Mr. Seymour's suggestion.

Vote:

Yea: Bostwick, Rigoulot, Rolnick,  
Seymour

Nay: Brown, Landry, Morrison

Motion carried.

Ms. Rigoulot observed that she would like to see information regarding the median island at the entrance and details about the sign, especially if it would be lit.

## 8. Other Business

Mr. Brown asked Mr. Lamb if he had any information on reconstruction of Mr. Schumacher's house at 1 Franklin Street; Mr. Lamb said he has not heard anything from Mr. Schumacher recently and that the last he knew there were insurance issues.

Mr. Seymour expressed concern that odor mitigation was not addressed by the ordinance. There was general discussion. Several members said they were under the impression that the State did have odor standards. Mr. Lamb noted that the new chair of the Ordinance Review Committee is Councilor McKee.

Nate Laflin asked to speak to the Board and was acknowledged. He explained that he has been working with the Gray Brothers and was confused regarding the request to the City attorney. Mr. Lamb explained that the attorney wants the Planning Board to request an opinion as the authority having jurisdiction. Mr. Laflin said he thought the attorney gave an opinion to the City Manager and the CEO. Mr. Landry explained that because the Planning Board is the authority having jurisdiction, the Board must request a legal opinion. This is necessary to protect the Board and the applicant in the case of an appeal by an abutter. There was extended conversation between the Board and Mr. Laflin. Mr. Landry asked the City Manager to share the attorney's opinion with the applicant.

## 9. Adjournment

Motion to adjourn.

Moved: Seymour

Seconded: Rolnick

Unanimously approved

*Accepted as Corrected on May 15, 2024, by a vote of 7 Yea to 0 Nay.*

Attested:

S/

*Judith Feinstein, Chair*