

**City of Hallowell
Planning Board Meeting
City Council Chamber
April 16, 2025
6:00 pm**

1. Call to Order

Ms. Feinstein called the meeting to order.

2. Roll Call / Quorum

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

Present: Judith Feinstein (Chair), Richard Bostwick, Darryl Brown, David Gilbert (2nd alt.), Andrew Landry, Melvin Morrison, Lisa Rigoulot, Richard Seymour, Keith Taylor (1st alt.)
Daniel Kelley, Deputy City Clerk; *Sarah Moore, Code Enforcement Officer

Excused: Melanie Weston, Community Planner

Mr. Taylor and Mr. Gilbert will not be voting.

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

Daniel Laflin, 305 Central Street, referred to his suggestion at the March meeting that the Board delegate Authority to the CEO to approve renewals of Extraction Conditional Use Permits. He asked if there had been additional discussion of the issue. Ms. Feinstein said there had not. Mr. Bostwick said that he has thought about it and felt it should be brought up when the Board renews the Delegation of Authority.

4. Approval of Minutes of the March 19, 2025 Planning Board Meeting

Motion to approve the minutes of the March 19, 2025 meeting as presented.

Moved: Landry

Seconded: Brown

Unanimously approved,
Rigoulot and Seymour abstaining

5. Public Hearing and Conditional Use Permit Application for Christopher Das, 91 Central Street, Map 7 Lot 1

Christopher Das confirmed that there have been no changes to the application. Ms. Feinstein told the Board that Ms. Weston has confirmed that the Conditional Use stays with the property and stressed that all conditions placed on approval will remain, including that it is an on-demand business not open to the Public. Mr. Seymour asked if there would be ventilation fans; Mr. Das said there will not but there are windows he can open.

* Ms. Moore arrived.

Ms. Feinstein opened the Public Hearing at 6:14PM. She explained that this is a time to make statements to the Board, not to hold a dialogue.

- 1) Hilary Neckles, 40 Middle Street, Chair of the Conservation Commission, provided written testimony from the Conservation Commission. She explained that it is the Commission's duty to protect natural resources. She observed that auto repair shops constitute potential contamination. The Commission agrees with the proposed conditions of approval and strongly endorses keeping the garage doors closed not only as a means of controlling noise but also as a means of secondary containment of hazardous materials. She called attention to the fact that under DEP rules the storage of three 55-gallon drums of hazardous materials makes the business a "small quantity waste generator plus" with additional requirements. She
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suggested the limit should be one 55-gallon drum and recommended consulting DEP's "Handbook for Hazardous Waste Generators."

Mr. Taylor noted that neither gasoline nor antifreeze are classified as hazardous waste. Mr. Das said he is not planning to have a third drum. Ms. Feinstein suggested changing the condition to "up to three 55-gallon drums." Mr. Seymour suggested adding a condition that the applicant is responsible for complying with DEP restrictions; Mr. Landry pointed out that any approved applicant is responsible for complying with the law.

Mr. Brown noted that oil must be kept separate from antifreeze because once they are mixed, as with a blown head gasket, they are hazardous waste and would require a third container.

Ms. Neckles stressed that the Conservation Commission is not opposed to the Conditional Use but is just calling attention to the environmental aspects of the use.

2) Daniel Laflin, 305 Central Street, expressed support for approval of the Conditional Use.

Ms. Feinstein summarized the written comments received by the Board:

3) Rosemary Presnar, 4 Mayflower Road, asked the Board to review the restrictions in the R2 District and expressed concern with setting a precedent of allowing residents to construct non-housing structures specifically for Home Occupations. She opposed approval of the Conditional Use.

4) Ken Young, 25 High Street, expressed concern with building without a permit. He also said the building was out of scale and out of character with the neighborhood.

Ms. Feinstein noted that Mr. Das did have a building permit and that a Home Occupation does not need to be physically connected to the residence. Mr. Brown noted that the garage is smaller in every dimension from the hay barn that used to stand on the property. Mr. Landry pointed out that the issue before the Board is the use, not the building. Mr. Gilbert observed that it does set a precedent and the Board needs to be cognizant of that.

Ms. Feinstein closed the Public Hearing at 6:36PM.

Mr. Morrison asked about the boundaries of the R2 District. Discussion followed. Mr. Morrison noted the motorcycle repair business in the BC District on the west side of the Turnpike. Mr. Brown stressed that Mr. Das is a professional, not a hobbyist or moonlighter.

Ms. Feinstein said she felt that the proposed conditions on the Conditional Use permit restrict the establishment of a precedent but agreed with Mr. Gilbert of the possible implications going forward.

Ms. Moore provided a letter detailing the history of the situation. She summarized her letter stressing that the building permit was issued by the interim CEO without addressing the issues regarding the use. When the problem was discovered during a call from Mr. Das to tie up loose ends with the building permit, she met with the City Manager and the City Planner and they deemed a Conditional Use permit for a Home Occupation was the appropriate solution. She added that Mr. Das has been committed to doing things by the book.

Ms. Feinstein summarized a note from the City Manager in which he maintained that the Planning Board has placed appropriate conditions on the approval and that if the Board denies the Conditional Use it must provide specific reasons. He stressed that the business does meet the Ordinance's definition of a Home Occupation.

Mr. Bostwick observed that enforcement must go with the property. There was discussion of use by future owners of the property. Mr. Landry pointed out that the conditions of approval do not change.

Mr. Seymour noted the arrangement to have two cars in the garage and one outside could restrict Mr. Das' private cars. Ms. Moore said that cars registered to the owner would not count. Mr. Brown pointed out that any other homeowner can work on his car outside, but Mr. Das won't be able to.

Mr. Bostwick asked if secondary containment was part of the DEP regulations; Mr. Taylor said it was. Mr. Landry said he thought it should still be one of the conditions.

Mr. Brown expressed concern with the 5-gallon limit on gasoline. He posited the case of a fuel pump replacement which would require emptying the gas tank and storing the fuel during the repair. He suggested allowing temporary storage. Discussion followed. Mr. Taylor observed that the 5-gallon limit refers to waste gasoline and proposed excluding gasoline stored temporarily during a repair.

Motion to find the application complete with the addition of conditions of approval discussed this evening..

Moved: Landry

Seconded: Brown

Unanimously approved

Motion to approve the Home Occupation with the conditions discussed this evening.

Moved: Landry

In discussion the conditions were enumerated and several changes were suggested: 1) storage of gasoline is limited to five gallons at any one time, but the restriction does not apply to temporary storage of gasoline during a repair; 2) all hazardous materials and other automotive fluids (gasoline, oil, etc.) must be stored inside the garage; 3) storage is limited to up to three 55-gallon drums at any one time; 4) all hazardous materials must be stored in secondary containment; 5) the doors to the garage must be closed when work is being conducted; 6) signage is limited to only one sign; and 7) Saturday hours are limited to 9AM to 5PM.

Mr. Landry accepted the clarification of the conditions.

Seconded: Brown

Unanimously approved

6. Certificate of Appropriateness for New Construction in the Historic District for Karen and Thomas Knox, 1 Middle Street, Map 5 Lot 76

Karen and Thomas Knox, 1 Middle Street, presented a revised application for an addition to their home. Ms. Knox provided copies of email comments from neighbors. She said the revised application includes a survey that shows the setback requirements are met. The revised plan also eliminates the gambrel roof.

Ms. Knox noted Ms. Weston's recommendation for Mr. Bostwick and Ms. Rigoulot to recuse themselves because they are abutters. Ms. Rigoulot asked the Board for guidance. Ms. Feinstein she had not found where the Ordinance addresses the issue and but had consulted the MMA Manual; it refers to members who have a direct fiduciary interest but not abutters and suggests avoiding the appearance of impropriety.

Mr. Taylor pointed out that conflict of interest is not restricted to financial interest. He also cited Ordinance §8-104 (2) which allows the Board to make the decision as to when members should be disqualified from voting.

Mr. Brown observed that in dealing with the Knox' previous applications there was awareness of the abutters and no perception of a problem. Mr. Gilbert noted that conflict of interest can go both ways – pro or con. Ms. Rigoulot said that this is the third time for this application and the possibility of conflict of interest has not been brought up before. Mr. Landry added that he has participated in applications previously without bias.

Motion to move forward with both Mr. Bostwick and Ms. Rigoulot participating in the discussion and approval process.

Moved: Brown

Seconded: Seymour

The Board decided by consensus that Mr. Gilbert and Mr. Seymour should vote in place of Mr. Bostwick and Ms. Rigoulot on this motion.

Mr. Morrison said that he has recused himself on applications where he felt he was biased or encumbered. His concern was to avoid the possibility of creating grounds for an appeal. Mr. Landry concurred. Mr. Taylor observed that conflict of interest can be important. Mr. Bostwick agreed with Ms. Rigoulot and said he did not see a conflict in the sense of his having a stake in the approval. Mr. Landry observed that having this discussion and making a finding provides insulation to appeal.

Vote:

Unanimously approved

7. Other Business

Review of Ordinance Revisions for LD2003 Compliance

The Board noted the minor changes detailed in Ms. Weston's memo.

Motion to recommend the City Council approve the proposed amendments to address the statutory requirements as presented..

Moved: Landry

Seconded: Brown

Unanimously approved

Enforcement concerns

Mr. Brown expressed concern that there has been construction at a house on Central Street above the railroad tracks that has not been approved by the Planning Board and asked that it be referred to the CEO.

Mr. Brown also noted that two sheds have been placed along the driveway at 36 Central Street without the Board's approval and asked that this be referred to the CEO.

8. Adjournment

Motion to adjourn.

Moved: Landry

Seconded: Seymour

Unanimously approved

The meeting was adjourned at 8:33PM

Accepted as Corrected on May 21 2025, by a vote of 6 Yea to 0 Nay.

Attested:

S/

Judith Feinstein, Chair