

City of Hallowell
Planning Board Meeting
March 16, 2016
7:00 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, Sandra Johnson, Jane Orbeton, Rosemary Presnar

Maureen AuCoin, Code Enforcement Officer

Absent: Amy Mills (1st alt.)

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

Ms. AuCoin explained that Jessica Gilbert, 4 Bridge Street, submitted an application for a Historic District Certificate of Appropriateness. Ms. Gilbert was not able to attend the meeting, but Ms. AuCoin would like to add the application to the Agenda.

Motion to add the application as Agenda Item 9a.

Moved: Brown

Seconded: Bostwick

Unanimously approved

Ms. Feinstein asked the Board to add a discussion of developing procedures and guidelines for decision-making in the future as part of Item 10: Other Business.

4. Approval of Minutes of the February 17, 2016 Planning Board Meeting

Mr. Bostwick noted that on page three the phrase "the DOT survey does not agree with MHPC" implies that it is contrary. His meaning was that the data the DOT have was not the same material the MHPC had. Ms. Obery suggested correcting the phrase to read "the DOT survey was not the same material as the MHPC". Mr. Bostwick agreed.

Motion to approve the minutes of the February 17, 2016 meeting as amended.

Moved: Bostwick

Seconded: Brown

Unanimously approved

5. Historic District Certificate of Appropriateness Application for Mad Brew LLC, 111 & 115 Water Street, Map 5 Lots 114 & 145-1

Ms. AuCoin told the Board that Mr. Houghton was unable to attend because of a medical emergency. She suggested postponing the application to the end of the agenda. She said she would present the material she has, and the Board can decide whether it wishes to proceed. The Board concurred.

6. Historic District Certificate of Appropriateness Application for Jeffrey Wood, 7 Spring Street, Map 5 Lot 28

Ms. AuCoin told the Board that the application is for demolition of a portion of the structure. She introduced Mr. Woods' contractor, Brian Alexander. Ms. AuCoin explained that the single-family home has an attached barn/garage which is in really bad shape. Mr. Alexander provided additional photographs of the structure. Ms. AuCoin said the barn is definitely structurally unsafe. She said the applicant's insurance company has refused to insure the property while the structure stands. The insurance company also wants the roof replaced, but it is not a part of the application. Mr. Alexander provided photographs of the roof. Ms. AuCoin said the existing roof is a metal roof with cedar shingles underneath. The proposal is to remove the metal and cedar shingles and put on a new asphalt shingle roof that would somewhat match the neighboring roofs. They will also add a small overhang since the existing roof does not have any overhang.

Mr. Bostwick observed that there appears to be an ell connecting the barn to the house and that the ell is also in poor condition. Mr. Alexander said that the plan was to remove the ell as well and rebuild it with a few slight changes. They will apply to the Planning Board when they have definite plans. Ms. Feinstein asked if the application included demolition of the ell. Mr. Alexander said it did; they would like to obtain approval before the closing for insurance purposes. Ms. Orbeton asked if demolition would leave a portion of the interior of the house exposed; Mr. Alexander explained that they would cover the exposed area with plywood temporarily until the ell could be rebuilt. Mr. Brown asked if the Board needed to approve the roof replacement because it was a change of material; Ms. AuCoin said it did. Mr. Bostwick asked if there was a foundation under the ell; Mr. Alexander said there were just the rotted sills.

Motion to find the application complete as amended to include removal of the ell on a temporary basis and replacement of the metal roof with asphalt shingles.

Moved: Orbeton

Seconded: Brown

Ms. Feinstein asked what the estimated cost was with the addition of the roof. Mr. Alexander said the cost with the roof would be about \$15,000. Ms. Feinstein asked that the application be amended to show the estimated cost as \$15,000. Both Ms. Orbeton and Mr. Bostwick accepted the change as a friendly amendment. Mr. Bostwick asked if there were issues with the ell. Mr. Alexander said there was a rotted door on the driveway side and many of the clapboards at the base are rotted; he said it was beyond repair.

Amended motion:

Unanimously approved

Motion to approve demolition under §9-560(2) as an immediate hazard.

Moved: Orbeton

Seconded: Presnar

Unanimously approved

Motion to find the change of material of the roof, extension of the roof, and removal of the ell, provided it is rebuilt with the Planning Board's approval, in harmony with Historic District standards and approve the application as amended.

Moved: Brown

Seconded: Orbeton

Unanimously approved

7. Historic District Certificate of Appropriateness Application for Stephen Hammond, Hallowell IV LLC, 226 Water Street, Map 9 Lot 189

Attorney Walter McKee represented Mr. Hammond. Ms. AuCoin told the Board that some additional information was received: 1) a letter from Mr. McKee dated March 7, 2016; 2) a report from Row House Inc. by Scott Hanson at Sutherland Consulting dated March 14, 2016; and 3) written comments from Mr. McKee dated March 16, 2016, which arrived only that afternoon and which she had not had time to read. Photocopies of all three have been provided to the Board members.

Ms. Feinstein observed that at the last meeting there had been a question about having an engineering study. Mr. McKee agreed that the subject had arisen but they had not had an engineering study done because they were not applying under the safety hazard provision of the Ordinance. Ms. AuCoin explained that she had not received any additional information from Maine Historical Preservation Commission (MHPC); she did find copies of the original nomination papers for the national historic district designation, but since 226 Water Street was not included in the national historic district those papers were of little value. Ms. Feinstein observed that in addition to its dictionary definition the word "limited" has a conceptual meaning in respect to historical context. Mr. Brown observed that the City has an Ordinance permitting demolition if a building meets the criteria but does not have an Ordinance that requires an owner to maintain a historic structure.

Mr. McKee noted that the 1968 survey of homes in Hallowell was clearly done as an inventory and included over 400 homes and includes notes of historical or architectural significance for many of them, but this building had no such note. He also showed the Board a copy of *Historic Hallowell* published in 1962, which also includes details of historic homes but does not mention the house that is now 226 Water Street. He reiterated that Row House's own pamphlet, which is not just the homes of the "rich and famous," does not mention the house at 226 Water Street. He suggested that having a number of people fail to include this house in such surveys indicates that it is of limited historic or architectural value. He added that though Mr. Hanson's report is comprehensive and helpful, but it is still only recycled information that the Board already has. He admitted that the deed research is compelling and tells a story, but you can tell a story about every

single house in the Historic District. However, the standard is that there is something special. He said he respected Ms. Feinstein's observation concerning the contextual nature of the word "limited," but the word is in there and must be considered. He said the problem here is that the opponents to demolition have taken the position that every single property has historical attachment. He addressed the idea of the "gateway experience" that was mentioned at the February meeting; he pointed out that the southern "gateway experience" is a whole mix of properties, some of which have changed in significant ways. This house is not the bulwark of the gateway experience that says "You have arrived in Hallowell." He maintained that this building is beyond the point of being made usable by putting money into it and that if the building is demolished Mr. Hammond can build something that will be compatible and effective as part of the gateway experience.

Sam Webber, City Historian, told the Board that he has no more information than has already been presented. He said it is one of the few buildings left in the lower end and that twenty or more buildings were torn down when the City was doing little for preservation and Maine DOT bought the properties between Masciadri & Sons and the house next to the Public Works garage and tore the buildings down. He noted that the building has Greek Revival cornice returns and that the door overhang is Victorian and is found throughout the Historic District. He commented that he assisted the editor and Paul Plumer in creating the *Tour of Hallowell* pamphlet, and the selection of the buildings to include was influenced by a desire to maintain an even flow and overlooked many of the buildings that might have been included. Mr. Brown asked Mr. Webber if he felt that if this building were to stay or go would add any great difference to his view of the history of Hallowell; Mr. Webber said he was neutral on that. He observed that there are some problems as far as being in the Historic District and renovation that limit what could be done as far as restoring the building. Ideally it could be lifted up and moved to one of the vacant lots across the street, but it wouldn't really change his view of Hallowell.

Scott Hanson, Sutherland Conservation & Consulting, told the Board that since his report has been represented as a collection of opinions he felt he should provide context for those opinions. He has written or co-written twenty National Register nominations; he has completed fifteen Maine Historic Building documentation reports; and he has written two books with Earle Shettleworth. His opinions are based in extensive experience in the field of architectural history and historic preservation. He said the point is that the City Council and the Planning Board created the Historic District to include this building. A survey is an massive undertaking; you don't have time to research every building, so you write down what is immediately available about as many buildings as you can. Not being included in a book or survey is not proof that a building is eligible for demolition. He pointed out that the standard in the Ordinance is "limited architectural or historic value *as part of the visual character of the street on which it is located.*" (Emphasis added.) He said he reads that to mean that the issue is not whether or not the building has historic value of its own but whether it contributes to the historic character of the streetscape. He maintained that this building is a gateway structure and a part of the visual character of the street. He added that he could not see how new construction could meet both the standards for new construction in the Historic District and the standards for new construction in the Floodplain District. Mr. Brown pointed out that both the fish market [Map 9 Lot 132] and Ms. Harrington's addition [Map 9 Lot 125] are new construction that seem to fit. He also pointed out that 226 Water Street could have been built only ten years prior to creation of the Historic District and still have been included in the district in order to include the neighboring buildings. He noted that he found Mr. Hanson's report informative and educational and appreciates his input. Ms. Orbeton cited the last paragraph on Page 2 of Mr. Hanson's report which mentions that the Hallowell preservation ordinance contains the Secretary of the Interior's Standards; she asked if those were standards for demolition. Mr. Hanson said those standards are the review standards for alterations in the Historic District, but his point was that when the ordinance was written they were looking to the national standards for guidance in shaping the local district and therefore the criteria for the National Register have a relevance in the Ordinance. Ms. Feinstein asked Mr. Hanson for help on the concept of "limited." Mr. Hanson said that the standard is about the street, not the individual buildings, and each of the buildings in the district contribute to the sense of the community. The National Register is very clear that individual buildings do not have to be outstanding or important to contribute to a historic district.

Irv Paradis said that Row House took the initiative to commission a report from an architectural historian. He objected to the implication that the report was biased and stated that Row House had no input in that report. He noted that Earle Shettleworth is listed as a Historic Preservation advisor to the Planning Board and asked the Board to request his input.

Mr. McKee said that commissioning yet another report would not add to the discussion. He pointed out that the visual character of the street consists of the Thai restaurant and the seafood market, so removing the house is not going to make the streetscape look “off” in this case.

Raymond Hicks noted that his house is also not in any of the books, so the fact that a house is not in the books implies only that the person who lived there was not important enough or connected with the author to be included. He added that he is not convinced that a business person will let a property sit unused for a long period of time.

Ms. Orbeton stated that the question of what might be built on the site in the future and how that would fit into Hallowell is not relevant. It is not a standard for approval for demolition.

Ms. Feinstein expressed her difficulty in dealing with historical value and architectural value conflated with the visual character of the street. Mr. Bostwick mentioned that in its inventory MaineDOT considered the house a contributing structure. Ms. Obery said she has also wrestled with the application. Mr. Brown said he has also had difficulty, and in the beginning he expected to agree that the house should be preserved. He pointed out that it is an old house, but he has a hard time convincing himself that it is a historic structure with more than limited value, even as part of the street view. The small Cape and the yellow house next to it do seem to him to be significant parts of the streetscape, but not this house. The Board referred to and discussed the MaineDOT inventory. Mr. Hanson told the Board he was familiar with the surveys: they are done by qualified architectural historians under contract with DOT and they must meet the standards that are contained in the National Historic Preservation Act of 1966. If they determine a structure is contributing, it means it would be eligible as a contributing building in the National Register Historic District. The Board members consulted and discussed the DOT inventory.

Motion to find the application complete with new information provided tonight.

Moved: Brown

Seconded: Presnar

Unanimously approved

Motion to approve the demolition under §9-560 (1) because the building has limited architectural or historic value as part of the visual character of the street.

Moved: Brown

Seconded: Presnar

Yea: Brown, Presnar

Nay: Bostwick, Johnson, Obery, Orbeton

Abstain: Feinstein

Motion fails.

8. Historic District Certificate of Appropriateness Application for Waterside Properties LLC, 116 Water Street, Map 5 Lot 175

Steve LaChance and Ben Murray represented Waterside Properties LLC in presenting an application for an addition to an existing building and creation of a hardscape landscaped area. Mr. LaChance provided artist’s renditions of the proposed project which were displayed.

Ms. AuCoin told the Board that Waterside Properties LLC has purchased the vacant lot north of The Quarry Tap Room and wants to expand part of the existing building into that lot and construct outdoor patio seating and a landscaped area. The addition to the building will be small, but it is in the floodplain so there are issues to work out. The increased seating requires an increased kitchen area. Ms. AuCoin explained that much of the landscaping is outside the Planning Board’s Historic District review but does come in as part of the floodplain considerations. Ms. Presnar pointed out that the landscaping plan should be submitted to the Tree Board for examination. Mr. LaChance said they would do so. He explained that the plan is to move the bathrooms to the location of the existing kitchen. Ms. AuCoin explained that the Planning Board clearly has jurisdiction over the addition, but the outdoor seating area is less clear as to whether it is landscaping, which would not require Planning Board approval, or a deck, which would. There was a brief discussion.

Mr. LaChance said they envision having three-season seating. Ms. Orbeton asked if tonight’s presentation was meant to be a completed application for the addition with all the exterior details necessary for approval. Ms. AuCoin said that seemed to be the intent. Mr. LaChance explained that the roofline of the new addition will be

squared off with a parapet that will tie in with the existing architectural elevations. Mr. Bostwick expressed a desire to see architectural elevations; Ms. Orbeton also requested manufacturer's information about the new doors and windows and the siding for the back of the building. Mr. Brown asked if access to the deck would be from the existing building; Mr. LaChance said it would be a new door from the existing building. Ms. Obery requested side view drawings and elevations from the street as well as materials. Mr. LaChance said the addition will have a rubber roof, slightly sloped, a service door and the service window in the front. Ms. Orbeton asked if there would be any changes to the front of the existing building; Mr. LaChance said the front of the existing building would not be changed. The new door would be a commercial insulated double door. Ms. Obery asked for specs on the doors. Mr. Bostwick pointed out that the artist's rendering was not to scale. Ms. Presnar asked about lighting fixtures for the outdoor area; Mr. LaChance said they plan on strings of lights with a low light level through the trees. Ms. Orbeton suggested that there might be safety requirements regarding light levels. Ms. Feinstein asked if the fence would provide access from the street; Mr. LaChance said the gate would normally be kept locked and used only if direct access was needed. Ms. Orbeton expressed appreciation of the granite foundation for the deck and addition but wanted to see more information. Mr. LaChance said there would be a concrete foundation with granite applied as a sort of retaining wall. Ms. Orbeton requested dimensions, materials, plans for winter and summer, awnings, etc. Ms. Bostwick mentioned lighting specs. Ms. Feinstein asked if the Board should request more information about the patio seating plan, but consensus was that it was outside the Board's jurisdiction. There was uncertainty about the retaining walls, and it was determined that the Board did have jurisdiction over them.

Ms. Obery invited comments from the Public.

Janet Merrill, owner of 110 Water Street [Map 5 Lot 174], expressed concern about noise which might disturb her tenants. There was discussion of the issue. Ms. Merrill said that this project is a super idea but it should not intrude on the neighboring tenants. John Merrill pointed out that because the proposed patio is enclosed between large brick structures there will be a magnifying effect on the sound affecting not only the people on both sides but those across the street and even as far as the Row House. It is not appropriate to have outdoor music in the Historic District because of the impact on everyone around it. Indoor music is fine; outdoor eating is fine; but outdoor music will impact others in the neighborhood. He cited the fact that Joyce's down the street had to discontinue outdoor performances for that reason.

Ms. Feinstein said she was sensitive to the noise issue. She also expressed concern about the expansion of the restaurant. Ms. AuCoin explained that there are maximum decibel levels for various times of day. There was discussion about the noise issue among the Board members. Mr. LaChance said their focus was more on seating, not music; Ms. Orbeton pointed out that the "word on the street" was about music. Ms. Presnar pointed out that the concern regarding noise arose from the fact that the 3D model of the project showed a band. Mr. LaChance said they would probably be having music only a few times a year. Mr. Merrill pointed out that Rock on the River was carefully planned so that the music doesn't start until after most businesses are closed and ends early enough that it does not disturb residents in the evening.

Ms. Presnar observed that the rendition shows a sign and asked if the Board needed to address signage. Ms. AuCoin explained the sign approval criteria.

Ms. Orbeton suggested the Board provide a list of what it needed to see in order to review the application. Ms. AuCoin enumerated them: elevations to scale, door and window specs, lighting, awning specs, siding, roof and foundation materials and plans, fencing and railing specs, drainage information, and retaining wall material and design. Ms. AuCoin noted that this project is in the floodplain so there will be elevation certificate and impact requirements, which will be part of the building permit process. Mr. Bostwick asked if a site plan review was necessary; the Board determined that it was required as a minor development because of the time of operation.

Ms. Presnar observed that the address is incorrect in the draft findings of fact.

Motion to table the application to the April meeting.

Moved: Orbeton

Seconded: Bostwick

Unanimously approved

9. Discussion of Enclosure of an Open Deck within the Shoreland Zone at 234 Water Street, Map 9 Lot 194

Ms. AuCoin told the Board that she notified Mr. Violette. Mr. Violette did try to respond. She explained that it is the same issue that has come up before. By installing windows the owner has violated Shoreland Zoning restrictions. She noted that the propane heater has been removed. There was brief discussion of the issues. Ms. Orbeton suggested inviting both the building owner and the business owner to meet with the Board. Ms. Obery pointed out that since this is a violation of State law and the Board has no authority to approve the windows, it should issue a notice of violation. Ms. AuCoin explained the City's options and potential actions. There was continued discussion. The Board decided by consensus to request the building owner to attend the Planning Board's April meeting.

9a. Historic District Certificate of Appropriateness Application for Jessica Gilbert, 4 Bridge Street, Map 10 Lot 12

Ms. AuCoin explained that this was a last-minute item and Ms. Gilbert knew she would not be able to attend. She said the house is on Bridge Street and there have been storm water issues with several of the properties there because the grade is steep. Ms. Gilbert and Ms. Holsten have been getting severe washouts alongside their ground-level deck. They are proposing an unattached 6' x 12' deck to cover the washout area. It would be set on posts, probably as a temporary structure if the City can fix the storm water problem. Ms. Orbeton asked how this deck would prevent the washout. Ms. AuCoin said it wouldn't; it would cover the washout until something can be done about the storm water. There was general discussion of the construction.

Motion to find the application complete on condition that there is some sort of subsurface base.

Moved: Brown

Seconded: Bostwick

Unanimously approved

Motion to find the application in harmony with Historic District standards and approve the application as amended to require a subsurface base.

Moved: Brown

Seconded: Feinstein

Unanimously approved

5. Historic District Certificate of Appropriateness Application for Mad Brew LLC, 111 & 115 Water Street, Map 5 Lots 114 & 145-1

Ms. AuCoin explained that The Liberal Cup has purchased the small building next to their building and want to make that their entrance and close up the existing entrance. They propose removing the existing door, replacing with it a window identical to those on either side, and installing the same door in the neighboring building. Ms. Orbeton expressed concern that there is no good representation of what the buildings will look like after the work is done; she pointed out that the bookstore entrance is off-center and the Liberal Cup's door is wider. There were also questions regarding the side lights and transoms. Ms. Orbeton observed that the approval of the current entrance was criticized because it was not historical appearing. She suggested leaving the present front door but not using it and installing a new door in the former bookstore.

Motion to table the application to the next meeting.

Moved: Orbeton

Seconded: Bostwick

Unanimously approved

10. Other Business

Discussion of Guidelines for Decision-making

Ms. Feinstein said she was really uncomfortable with the process for dealing with the application for demolishing the house at 226 Water Street. She suggested holding a workshop meeting to discuss the process and create a framework or operating procedure for formulating decisions. She has obtained demolition criteria from Augusta and Gardiner and would like the Board to look at them. She hoped to avoid a long string of public meetings. She pointed out that there will be future applications for demolition and the Code Enforcement Officer should have a list of criteria and information that the Board will need so that there will be a consistent process. Ms. Orbeton pointed out that it is a good idea, but expressed concern about what body should be adopting such a procedure. She also pointed out that neither the Planning Board nor any subcommittee can meet in private. Mr. Brown said the City Council should look at rewriting the Ordinance. Ms. Feinstein agreed and pointed out that the Ordinance provides no definitions of some key concepts. She agreed that the Ordinance should be amended. Ms. AuCoin said the Board could request that the City Council start the ball rolling. Mr. Brown suggested a moratorium on demolitions until the Ordinance has been

