

**City of Hallowell**  
**Planning Board Meeting**  
**April 20, 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, Amy Mills (1<sup>st</sup> alt.), Jane Orbeton,  
Rosemary Presnar

Maureen AuCoin, Code Enforcement Officer

Excused: Judith Feinstein

Absent: Sandra Johnson

Ms. Mills will be voting.

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

Nathan Sylvester asked to have his application for a Certificate of Appropriateness added to the Agenda.

Motion to add an application from Nate Sylvester as Item 8a.

Moved: Orbeton

Seconded: Bostwick

Unanimously approved

**4. Approval of Minutes of the March 16, 2016 Planning Board Meeting**

Motion to approve the minutes of the March 16, 2016 meeting as presented.

Moved: Bostwick

Seconded: Orbeton

Unanimously approved,  
Ms. Mills abstaining

**5. Historic District Certificate of Appropriateness Application for Mad Brew LLC, 111 & 115 Water Street, Map 5 Lots 144 & 145-1**

Casey Hynes, Manager of The Liberal Cup, represented Mad Brew LLC in presenting an application for the transfer of an existing door to a new location and installation of a window in the door's existing location.

Ms. AuCoin explained that this application was tabled last month since Mr. Houghton was unable to attend due to a medical emergency. Mad Brew has purchased the property adjacent to The Liberal Cup and wants to make that building the entrance to the restaurant. They want to replace the existing door at 115 Water Street with a window and install the same door at 111 Water Street. Mr. Houghton submitted a letter providing more detail about the proposal.

Mr. Hynes said they want to continue the façade of The Liberal Cup to include the former Riverbooks store. They will install the door from The Liberal Cup at the right-hand side of the front of Riverbooks and install a 3'-wide window to the left of the door to provide space inside. He said the materials and colors will be the same as the rest of The Liberal Cup façade. Ms. AuCoin pointed out that signage will be taken care of through Code Enforcement. Ms. Orbeton asked if the side panels and the transom of the existing entrance to The Liberal Cup would be moved with the door. Mr. Hynes said they had not planned to but could if the Board wished them to. In either case, the side panels and transom would be removed from the current entrance and replaced with a single window. Ms. Orbeton asked if the horizontal lines of the transoms and sills would be continued; Mr. Hynes said they would be, both in The Liberal Cup and the former Riverbooks.

Mr. Brown said that he had expected the door would be moved with the side panels and centered in the Riverbooks front and he is having trouble visualizing it with the door to the right. Mr. Hynes explained that having the door to the right will allow people to step aside and avoid creating a bottleneck during busy times. Mr. Brown asked for dimensions of Riverbooks; Ms. Obery pointed out that the applicant has said Riverbooks is 6' wide inside. Mr. Brown asked for dimensions and a rendering of the finished appearance.

Motion to find the application incomplete.

Moved: Brown

Seconded: Orbeton

There was discussion of what the Board would like to see. Mr. Hynes added that they have granite to be used as a lintel and asked if the Board needed architectural plans; Ms. Obery said they would be pleased with a drawing with dimensions and specific descriptions of what is there, what will be where, etc. Mr. Brown asked if Ms. AuCoin had spoken with Mr. Houghton; she said Mr. Houghton told her the door at Riverbooks was 3' wide and they would move the door from The Liberal Cup to Riverbooks and fill in the remaining space with a window. There was further discussion. Mr. Bostwick pointed out that the Board has approved applications with verbal amendments before.

Vote:

Yea: Brown, Mills, Obery,  
Orbeton, Presnar

Nay: Bostwick

Motion carries.

## **6. Historic District Certificate of Appropriateness Application for Kathryn & Till Hoffman, 14 Middle Street, Map 5 Lot 9**

Kathryn and Till Hoffmann, 14 Middle Street, presented an application for construction of a deck and replacement of two windows with French doors and a door.

Ms. AuCoin explained that applicants want to construct a deck on the back side of the house and replace one window with French doors and another window with a door.

Ms. Hoffmann explained that they have fenced the back yard and constructed a retaining wall, but the back yard has no means of access from the house. They want to provide access from the kitchen through French doors and from the garage through a standard door. Mr. Hoffmann added that the tops of the windows are 8' from the floor so they will fill in the height with transoms. The existing top trim would be retained but the width of the doors would be wider. He added that they would like to change the front door to a style that is more appropriate to the house. Ms. Hoffmann said they would like to have dark wood for the doors but maintain the white trim. There was discussion of the style of the French doors and the transoms. Ms. Orbeton pointed out that the side where the French doors are proposed is very visible and she is having a hard time concluding that the changes are in harmony with the Historic District, specifically Standards 1: A, B, E, I, and J and 2: A, C, D, and G of the Draft Findings of Fact. Ms. Obery agreed that they would drastically change the look of the house. Mr. Brown said he had no issues with the front of the house since they would be replacing a non-historic door with a non-historic door, but he agreed that French doors were a concern; he added that the deck should look like it was added on rather than be made to look like an original part of the building. Ms. Orbeton said she had a problem with the deck; Mr. Hoffmann pointed out that most of the houses in the neighborhood have decks. Mr. Bostwick asked when the house was built; Ms. Hoffmann said it was built in 1870. Ms. Presnar asked where the level of the deck falls in relation to the doors in the PhotoShopped rendition; Ms. Hoffmann said it would be at the threshold of the doors so it would probably cover the four lowest clapboards.

Ms. Obery asked if there was any other access to the back yard from the house. Mr. Hoffmann said the only access is from Winthrop Street. He added that he even has to walk around the house to get to the furnace and one of the electric panels in the basement. The door proposed for the garage is to allow equipment to be brought into the back yard without taking it through the kitchen. The Board discussed the plan of the deck. Ms. Orbeton asked if the applicant would be willing to work with a consultant to create a design more in harmony with the house. Ms. Hoffman said the doors are not structural and could easily be changed, but the deck layout has a structural component and is somewhat dictated by the lay of the land and the retaining wall and the ability to access the door for snow removal. They chose railings with a low profile with a traditional format that blends with the fence. She said she could not see that there would be options available to them

that would respect the house more than they have done. Mr. Brown asked if the railing was depicted accurately on the computer rendition; Mr. Hoffmann said it was. Mr. Brown asked if the decking would be composite material; Mr. Hoffmann said it would. Ms. Orbeton suggested moving the French doors to where the house is indented so they would not be so visible from the street. Mr. Hoffmann pointed out that the proposed location is through the kitchen whereas the location Ms. Orbeton proposes is in the children's playroom. Mr. Bostwick asked if the wide French doors are needed; Mr. Hoffmann said they are a standard size and narrower doors would have to be custom built. There was further discussion about the doors.

Ms. Obery said she would like to see a design for the deck that blended in more with the house. Mr. Bostwick asked if the deck would be visible over the fence; Mr. Hoffmann said that because of the hill it would be visible from the street. Several Board members suggested the Hoffmanns discuss the issues with a historic consultant and return to the Board next month. Mr. and Ms. Hoffmann expressed their frustration.

Motion to find the application complete.

Moved: Presnar

Seconded: Brown

Ms. Orbeton said she would like more information regarding the front door.

Vote:

Yea: Brown, Mills, Obery,  
Orbeton, Presnar

Nay: Bostwick

Motion carries.

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

Moved: Presnar

Seconded: Brown

Ms. Orbeton asked the Board members to examine Standards 1: A, B, E, I, and J and 2: A, C, D, and G of the Draft Findings of Fact.

Vote:

Yea: Brown, Mills, Presnar

Nay: Bostwick, Obery, Orbeton

Motion fails.

Ms. Hoffmann asked if she could communicate with the Board between meetings; Ms. Orbeton explained that the Board can only deal with applications in public meetings. Ms. Hoffmann asked if the problem was the choice of materials or the visual look; Ms. Obery said it was the visual since it was a high-profile area. Ms. Presnar stressed the French doors. Ms. Hoffmann asked if a single French door instead of a double French door would be better; Mr. Brown said it would blend better but hinder use.

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

Steve LaChance of Waterside Properties LLC and Ben Murray of Coffin Engineering presented an application for an addition to an existing building and construction of a landscaped area.

Mr. LaChance provided the Board members with a drainage plan for the patio and additional photographs of proposed fixtures, paving blocks, windows and doors.

Ms. AuCoin observed that this application was carried over from last month.

Mr. Bostwick asked Ms. AuCoin about her email regarding the requirement for a site plan review. She said the fact that the business will be open later than 8 PM triggers the requirement for a site plan review under the Ordinance and observed that the Board has not done site plan reviews of other businesses in the downtown area where the time of operation was the only thing that triggered the requirement. She noted that even The Liberal Cup's application could be found to require a site plan review. Ms. Presnar said she had read through the section dealing with the purpose of site plan review [§9-861] and felt that the applicability of the ordinance was where it was necessary to protect the general health and safety of the public and preserving the environment; for replacing a door it wouldn't fit, but for a complete hardscape and lot review with

drainage there is a need. Ms. Orbeton asked if the project was in the 100-year flood area. Ms. AuCoin said it was but it can probably meet the requirements for floodplain compliance; she said floodplain permits are generally handled through Code Enforcement rather than the Planning Board. Ms. AuCoin told the Board that this is a minor site plan review and the Board can waive the requirement for a Public Hearing.

Mr. Murray ran through the information that was submitted since the March meeting: 1) a revised plan; 2) elevations of the three sides of the addition; 3) photographs and cut-sheets of proposed fixtures; and 4) a site plan. He pointed out changes from the original plan provided in March. The service counter will have a raised-panel overhead door and the doorway beside the service counter will have a matching door. There will be an ell-shaped covered patio area in front of the addition. The addition will be sided with cedar clapboards and will have a squared-off raised parapet and a sloped roof. There will be a projection of the addition at the back for the walk-in cooler. Fencing along the Water Street side of the patio seating area will be constructed of granite posts with steel fencing sections similar to the fencing at Joyce's Restaurant. This fencing will also be used along the lower part of the patio. Guardrails along the inner side of the upper level will be granite posts with steel cable instead of the steel fencing; this will be along the upper level and down the stairs. There will be a steel door for access to the basement of the addition. There will be a full granite retaining wall. The longest wall will be tiered with a landscaped area. Lighting fixtures will be of historic character. Some will be small pole lighting with some hanging fixtures in the covered patio. The doorway from the Tap Room onto the patio will be a black-finish aluminum double door. The lower level of the patio will be irregular flag stones; the upper level will have pavers laid in a herringbone pattern.

Mr. Murray said the walls of the addition will be finished with a red cedar color to blend in with the existing building. Roofing on the main part of the addition will not be visible from the street and will be rubber. The roof of the covered patio could be either black standing-seam metal (preferred by the applicant), plastic with a slate shingle appearance, or asphalt architectural shingles. The columns supporting the patio roof will be silver-gray.

On the drainage plan Mr. Murray explained that the upper patio will be slightly sloped away from Water Street and provided with a perimeter trench drain piped into a vertical drain tied into a catch basin at the center of the lower patio with a drain running across Front Street to a plunge pool at the river bank.

Ms. AuCoin told the Board that the shoreland setback for downtown Hallowell has been reduced from the usual 75' to 50' because so many of the existing buildings are close to the river. She said they may have to obtain a permit by rule from DEP for the plunge pool. Jim Coffin of Coffin Engineering said the plunge pool will be handled by a permit by rule but there is no restriction on the distance of the plunge pool from high water. They will not be storing any water. He pointed out that the area being hardscaped is boxed between two buildings and will not trigger any floodplain issues; Ms. AuCoin requested a letter to that effect.

Ms. Orbeton asked what the maximum seating would be; Mr. Murray said they have consulted the State Fire Marshal's Office and the covered patio area is considered part of the occupant load of the existing building so the combined occupancy must be less than 100. The open patio area does not count as part of the occupant load. Ms. Orbeton cited §9-425 of the ordinance which requires a statement of the maximum seating capacity of the full restaurant; she requested a statement of seating occupancy with a figure for the restaurant and a figure for the open patio. She asked how wide the stairs will be; Mr. Murray said they will be 6' wide which is wider than required by code. Ms. Orbeton observed that lighting must also be approved and asked for an exact plan for the lighting. Mr. Murray said they will do that; the plan is for perimeter lighting. Ms. Orbeton pointed out that the City requires Dark Sky compliance. She asked if there will be music and pointed out that the City has a noise ordinance; Mr. Murray said they will comply with the ordinance. He added that this will be a dining atmosphere with light background music, possibly 1- or 2-piece acoustical performance at some point. There is no plan to turn this into a waterfront concert. Mr. Bostwick cautioned that they seem to be relying somewhat on the City street lighting and that may change. Mr. Brown mentioned that the Water Street Reconstruction coming up. Mr. Murray pointed out that the existing entrance to the Tap Room is a step up from the sidewalk; the rise of the sidewalk makes it level with the proposed patio and the new door, which would make the restaurant ADA accessible. Normally access to the patio will be through the restaurant. Ms. Orbeton asked if the plan meets loading area requirements; Ms. AuCoin verified that they are in the area of downtown that is exempt from the loading area requirements. Ms. AuCoin said the applicant will have to meet floodplain requirements but she does not foresee any problems; Mr. Murray informed the Board that they have been corresponding with Sue Baker at Maine Floodplain Management Program.

Ms. Obery invited comments from the Public.

Janet Merrill, an abutter, expressed concern over noise. She said one of her tenants is blind and has acute hearing. She has concerns that the granite paving combined with the two buildings will magnify the noise. She asked what happens if the noise level does prove to be excessive and what her options are. Ms. AuCoin said the applicant would have to comply with the noise ordinance and complaints should be brought to the Code Enforcement Officer.

Ruth Lachance, president of the Hallowell Board of Trade, said the Quarry Tap Room has gone to great extents to show the Planning Board what they want to do. She said the HABOT includes 85 businesses. She pointed out that those businesses are facing extensive street reconstruction in 2018 and Hallowell needs to find a way to help and not hinder the Tap Room from expanding. She pointed out that Rock on the River is audible above Second Street. She observed that there is outside seating at Joyce's, Slates, and Brews & Views. She encouraged the Planning Board to approve the application.

John Merrill, an abutter, said that the concern about noise is not so much what happens during the day but what happens later in the evening. According to the plan there are 68 seats in the outdoor section. That's a lot of people, and combined with alcohol as it gets later in the night there is a potential for a lot of noise. It might not reach the 60 decibel level, but after 9:00 the standard drops to 50 decibels. He said he thinks that could be a serious problem. He pointed out that the seat at the northwest corner is approximately 12' from his tenants' living room window. He asked the Board members to consider whether they would want to live in that situation. He said the scale of 68 seats is out of line for anything compatible with Downtown Hallowell if it is going to be open after 9 PM. He also expressed concern that in warm weather the impulse is going to be to have the doors from the restaurant open which will also increase the noise level. He contended that there will be a serious issue with noise after 9 o'clock. He asked whether the lower patio will be used in a way that will further increase the noise level.

Ms. Orbeton observed that there was a second set of stairs and an upper level to the patio on the original plan; Mr. Murray said those had been eliminated.

Motion to find the application complete.

Moved: Brown

Seconded: Presnar

Ms. Orbeton pointed out that the application does not include a lighting plan or figures for maximum seating. Ms. AuCoin told the Board that the maximum seating requirement is not clear in the ordinance; it is required for Victualer's License and Liquor License approval by the City Council. She said she does not remember seeing seating requirements on previous permits before the Planning Board.

Chris Vallee of Waterside Properties LLC told the Board that he had gotten the impression that the Board did not want overhead lighting. Even inside the Tap Room he uses subtle, low-voltage mood lighting. The same will be true of the lighting on the patio. Ms. Obery suggested that the applicant could submit a lighting plan to the Board. Mr. Bostwick pointed out the process is driven in part by whether or not the Board is going to go through the Site Plan Review process. Ms. Mills pointed out that the motion before the Board is completeness of the application for Certificate of Appropriateness.

Mr. Brown amended his motion to include a condition that the engineer forward to the Code Enforcement Officer a plan with the number of seats and the location of lighting. Ms. Presnar seconded Mr. Brown's amendment.

Vote on the amended motion:

Unanimously approved

The Board discussed whether the application required site plan review. Ms. AuCoin cited §9-862 (1)E which requires site plan review for a nonresidential use that regularly will be open for business or use before 6 AM or after 8 PM. She added that the material already presented covers everything for a site plan review that could not be reasonably waived. She also pointed out that for a minor site plan review the Board can waive a Public Hearing. The Board decided by consensus that a site plan review was required. Ms. Mills pointed out that the Board has not received an application for a site plan review. Discussion followed. Mr. Bostwick pointed out that the Board has all of the information needed for site plan review on this property. The Board decided to proceed with site plan review provided the applicant files an application the next day.

Motion to waive holding a public hearing on this application.

Moved: Bostwick

Seconded: Brown

Unanimously approved

There was discussion of whether the Board should approve the application for a Certificate of Appropriateness before doing the site plan review. The Board decided the site plan review should be done before approving a Certificate of Appropriateness.

Motion to approve the site plan review with the condition that the applicant files a formal application with the Code Enforcement Officer.

Moved: Brown

Seconded: Presnar

Yea: Bostwick, Brown, Obery,  
Orbeton, Presnar

Nay: Mills

Motion carries.

Ms. Orbeton pointed out that the Board has not approved the sign that was shown in the artist's rendering.

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

Moved: Brown

Seconded: Presnar

Unanimously approved

Mr. Murray asked which roofing material the Board preferred. The consensus of the Board was that the metal roofing was acceptable. Ms. Obery reminded Mr. Murray to submit the lighting plan and the seating capacity to the Code Enforcement Officer.

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

Since Mr. Violette was not present, the Board postponed this discussion until after Item 8a.

## **8a. Historic District Certificate of Appropriateness Application for Nathan Sylvester, 19 Lincoln Street, Map 5 Lot 84**

Nathan Sylvester, 19 Lincoln Street, presented an application for an addition to an existing deck.

Ms. AuCoin told the Board that this application is for a deck on Lincoln Street which is an expansion of an existing deck. She enumerated the submitted documents. She said the project meets setback requirements. Since this is a late application the abutters have not been notified, though she noted that one abutter [Mr. Bostwick] is present and the City is also an abutter which leaves two abutters who have not been notified. She observed that they have done pending abutter notifications in the past.

Ms. Orbeton asked for a description of the railing. Mr. Sylvester said it will be 4×4 cedar posts with top rails of the same material as the decking and a cable system instead of balusters. The new deck will be at the same height as the existing deck. Mr. Sylvester said he will make the railing compliant with code. He pointed out that a portion of the existing railing will be removed because there will be steps there. Ms. Orbeton asked how old the house is; Mr. Sylvester said the addition was built in 2007 and he has traced the original building as far back as 1870. Ms. Orbeton said she felt that cabling would not be in harmony. Ms. Presnar agreed that cabling would be appropriate for a more industrial setting but is not appropriate for a dwelling.

Motion to find the application complete.

Moved: Orbeton

Seconded: Bostwick

Unanimously approved

Motion to find the application in harmony with Historic District standards and approve the application with the addition of conventional balusters as in the existing railing.

Moved: Orbeton

Seconded: Presnar

Mr. Bostwick asked Mr. Sylvester if he was agreeable to the using conventional balusters. He said he will use something vertical.

Vote:

Unanimously approved,  
Bostwick abstaining

Mr. Sylvester asked who was supposed to do the abutter notification. Ms. AuCoin said normally the applicant does it, but since this case is not normal she will send them.

**8. 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 has not heard from them. She has visited the site and the windows are still in place. She said she can issue a notice of violation as she has done twice previously. She said she does not need action by the Board because this is a shoreland violation which is handled as Code Enforcement.

**9. Other Business**

**Historic District Certificate of Appropriateness Application for Raymond Hicks, 12 Summer Street, Map 9 Lot 103**

Ms. AuCoin provided copies of an application submitted by Raymond Hicks. Mr. Hicks could not attend the meeting. The garage roof is leaking and he wants to replace it with a metal roof. It is a flat roof, there are no chimneys or peaks. The trim boards would be retained and the metal roofing would be installed over the existing shingles, which is permitted by the building code. The roof is almost invisible from any angle. The application also includes reapproval of a solarium that was previously approved but not constructed. Ms. Orbeton said she has had second thoughts about the solarium and has found out that the lot is more slanted than she thought, so she is not in favor of reapproving the solarium.

Motion to find the application complete in respect to the replacement of the roof.

Moved: Bostwick

Seconded: Brown

Ms. Orbeton asked if there was an estimated cost. Ms. AuCoin said the roof is about 20'x20' and the applicant is installing the roof himself, so cost will be minimal. Ms. Presnar suggested putting \$500 in the application. Ms. AuCoin added that abutter notification is not required for replacement of the roof but is required for approval of the solarium.

Vote:

Unanimously approved

Motion to find the application in harmony with Historic District standards and approve the application for the metal roof only.

Moved: Brown

Seconded: Orbeton

Unanimously approved

**Historic Preservation Guidance**

Mr. Brown observed that the Hoffmanns' application underscores the fact that the City should have a Historic Preservation Advisory Committee to guide applicants through the system. Ms. AuCoin said that Mike Johnson used to serve as Historic District Consultant and wrote up an opinion for each application. After Mike resigned, Earle Shettleworth was designated as advisor on an as-needed basis, but that was when he was still at Maine Historic Preservation Commission. He has since retired, so he may not even be available. There was general discussion of how the need for guidance could be filled.

**10. Adjournment**

Motion to adjourn.

Moved: Bostwick

Seconded: Brown

Unanimously approved

*Accepted as Presented on May 18, 2016, by a vote of 5 Yea to 0 Nay.*

Attested: \_\_\_\_\_

s/

\_\_\_\_\_  
Danielle Obery, Chair