

Planning Board Meeting  
MEETING WAS RECORDED

June 10, 2025

6:30 PM

9:25 PM

Board members Keisha Garnett, Paul Henninger, Carol Goode, Jim Madgey, David Hewey, Bryan Bizer were present for the meeting.

Attorney Leah Rachin (Representing the Town of Hiram), Attorney Sean Turley (Representing James Michael Day), Penelope St. Louis, Mike Day, Gillian Springer, Kent Cobb, Mary Cobb, Scott Knuse, Attorney David Goldman (Representing Brian & Sarah Schnell), Brian Schnell, Rebecca Schnell, Paul Schnell, and Angela Luem were also present for the meeting.

Meeting opened with the Pledge of Allegiance.

Board approved motion to move into the executive session with Attorney Rachin, the Town's Attorney.

**Executive Session: To hold an executive session, pursuant to 1 M.R.S. § 405(6)(E), to consult with the Town Attorney regarding the Board's legal rights and duties in light of the Maine Supreme Judicial Court's decision in the matter of *Day v. Town of Hiram*, 2025 ME 8.**

Executive session ended.

Keisha addressed the room for any items to add to the agenda. None to add.

Board approved the meeting minutes from 2/4/25.

Board approved the meeting minutes from 2/21/25 with edit of adding the list of public hearing attendees.

Board approved the meeting minutes from 5/13/25.

**To: (1) consider the remand order of the Maine Supreme Judicial Court in *Day v. Town of Hiram*, 2025 ME 8, which order vacated the conditional use approval granted to Brian and Sarah Schnell on May 30, 2023 for a microbrewery located at 466 Sebago Road (Map R11, Lot 47); and (2) take such further action consistent with the Court's instruction. Said further action may include taking additional evidence and making findings and conclusions on the issue of whether the Schnells' proposed microbrewery can meet the standards of § 6.7.3.4(2)(b) of the Town's Zoning Ordinance.**

Attorney Rachin opened the discussion summarizing why we are here, what the job of the board is and talked about procedure. Attorney Rachin explained that the law court (the highest court) remanded this matter back to the board on one limited issue for the board to make findings and conclusions on one of

the conditional use factors. The need of the particular location for the proposed use. Attorney Rachin continued to explain from the Law Court's decision that the need must be analyzed from the public/community perspective. The court has provided guidance on determining need. This guidance states the need has been judicially held to mean expedient, reasonably convenient and useful to the public. The court has also directed the board to look at the purpose section of the zoning district in where the use is going to be. The proposed property is 33 acres that straddles two zoning districts. The property where the use is found is within the residential district. The court directed the board to look at the zoning district which this use is going to be in. The court highlighted these for the purpose of the board's analysis. To provide public health safety welfare, environmental quality and economic well-being of the community. The need they directed that economic well-being of the community can be factored into that need determination. Also, there is another statement of purpose to provide areas for commercial uses compatible with and necessary to residential development.

The Law Court gave the Board the right to reopen the record to hear additional evidence on the case. Attorney Rachin explained that most of the current Board members were not the original members when the original proceeding occurred.

The Board approved the motion to reopen the record on the limited narrow issue on the need of the location for this use only.

Attorney Rachin continued discussing the procedural tasks at hand. First the Planning Board will discuss whether the board has jurisdiction. Second, open the floor to the public to hear evidence based on the need factor. Third, close the public portion and the Board deliberates whether the need is met. Drawing up finding of facts and conclusions. Attorney Rachin offered to do be the scribe for the finding of facts and conclusions.

This meeting was not advertised as a public hearing and was not required to be one by the Law Court. The Board agreed to hear the public's new evidence limited to the need of the location only.

Attorney Sean Turley spoke first concerning the jurisdiction issue and stating that the Certificate of Use Permit Application expired 2 months ago and is no longer valid and that the Schnell's will need to re-apply. Attorney Turley stated the issue raised is from the original approval in July 2022. There is a 1-year deadline to commence work under the permit. That one-year clock started July 13, 2022. On May 23 the applicants requested a stay a pause on that one-year clock. The board granted it until something happened. Attorney Turley stated further that his client's appeals were resolved on July 2022 when the decision and the grounds for that appeal was that the board in July 2022 misinterpreted that provision the ordinance dealing with the need of a particular location for the proposed use. The Law Courts decision was made on February 4th, 2025. The remedy that it came up with was to remand this back to the Planning Board with guidance on how to interpret the necessity standard. Attorney Turley closed his statement indicating that there is no longer any legal proceedings currently in place and so the February 4<sup>th</sup> decision resolved

all appeals. The first effect of this decision to grant the permit is vacated. The second effect indicated they the Planning Board does not have any authority to act on an expired permit.

Attorney David Goldman spoke to address that there has never been a valid permit as far as the courts are concerned. The Planning Board issued a permit and then it was vacated by the courts. As far as the Maine Supreme Court is concerned there is not a valid permit which to commence work upon. Even if there was a valid permit there has been tree cutting work done on the property for this project and there is no place in the ordinance, does it say that the work that takes place must require a permit. The deadline cannot begin until a valid permit is issued so the clock officially never began to run. Attorney Goldman closed his statement by asking that the Planning Board review the deadline to commence construction begins to run when all appeals fully and finally resolved.

The Board approved a motion that the Planning Board has jurisdiction because all appeals have not been fully and finally resolved.

The Board moved into the substance on the need factor.

Attorney Goldman spoke first regarding the need stating that his client's proposed micro-brewery will have a positive impact on the local population due to its increased tourism from this use. The micro-brewery will increase new businesses, growth for the town and economic potential. It will also provide a social gathering place for residents. He implied that nothing about the micro-brewery would affect the surrounding properties. He indicated that the proposed business provides economic well-being, residential uses and easy access.

Brian Schnell spoke regarding the back story to his family's property. He stated that the micro-brewery would provide economic growth opportunities for Hiram. It would be economically viable for them as business owners plus for the community. A brewery will bring other people to this area as they drive through to go hiking, traveling to Portland or fishing. This will draw attention to the town. Breweries are a 600+ million-dollar business and there are 156 breweries in Maine.

Attorney Turney spoke in referring to two concerns: 1.) Does the brewery address the community need and 2.) The need of the particular location in the residential district.

Penelope St. Louis raised concerns regarding if the current new members of the board have reviewed the case in its entirety, not having received noticed of the meeting, and she submitted four letters for record. The following letters were submitted from Eric Brennan (Exhibit A), Georgia Littell (Exhibit B), Ben Horrisberger (Exhibit C) and Penelope St. Louis (Exhibit D). Penelope spoke concerning her opposition that the need for the business is not compatible or useful in a residential zone. She stated that she has not heard anything about how the business will provide economic well-being. She is concerned with having an empty building if the brewery is not successful due to breweries diminishing and rising costs.

She further stated her concern for environmental quality, stating that breweries use a high amount of water and energy. She closed her statement asking for the board to review the new evidence on the case.

Angela, a resident and business owner of Alpha Pilates Studio located at 466 Sebago Road in Hiram stated she would greatly appreciate having a micro-brewery in this location. It could entice others to open small businesses in the area also. She explained according to the Maine State Brewers Guide Micro-Breweries contributed 1.67 million to the economy and 260 million in Maine in 2020. 1.4 million in Maine income tax and 25 million in State Income Tax. She further stated that small brewery typically employs ten or more employees, and this would be good for the economy by providing additional jobs.

Gillian Springer – read and submitted to the Board a letter of opposition from her mother, Winnifred Davies, a resident of Hiram. This letter has been submitted for record Winnifred Davies (Exhibit E).

Mike Day spoke regarding his concerns regarding the brewery being in a residential zone versus a commercial zone. He is opposed to the brewery stating that there is no community need since there is no shortage on what Brian Schnell is trying to do. He also stated he has not heard or seen any numbers on the economic plan that would show how the business would provide economic well-being.

Mary Cobb spoke regarding her concerns about the need of the animals in the area.

Attorney Goldman spoke regarding the need of the community in this location is being satisfied. He indicated that his client did all that they needed to do to be in compliance with what is needed for the certificate of use permit. Attorney Goldman indicated that the Maine Supreme Court explains the need as economic well-being for the community and providing for commercial uses that are compatible with residential development. He stated that the previous findings concluded the areas on the air & water quality, character of the area, roads, safety, and disturbance concerns were all found to be compatible.

The discussion from the public closed and the Board entered deliberations.

The Board deliberated and each member spoke regarding being in favor of the micro-brewery and that it will bring growth to Hiram and that they have a reason to believe there is a need.

Board approved the motion based on evidence and agreement presented that the need factor articulated in section § 6.7.3.4(2)(b) has been met.

The Board approved the motion that in the event that no appeal has been made the pin comes out of the stay and the clock starts ticking when any and all appeals related to this matter are fully and finally resolved.

The Board's next meeting will be on Tuesday July 8<sup>th</sup>, 2025, at 6:30 PM. At that time the draft of the fact findings will be reviewed.

**Junkyard Ordinance:** Lisa advised the board that there is a sample ordinance from the Town of Cambridge to review. The Municipal Officers would like this reviewed to draft a similar ordinance regarding property maintenance, junk debris and trash for the Town of Hiram.

**Glenvale Solar** – Keisha signed the extension request letter of approval. This approval letter will be sent once Baldwin's letter of extension request approval is received.

Meeting adjourned at 9:25 PM.

Respectfully Submitted,

*Lisa Fox*