



Town of China

571 Lakeview Drive; China, Maine 04358
(207) 445-2014 info@chinamaine.org

Approved by Planning Board by a vote of 4-0 on March 28, 2023

Planning Board Meeting

Meeting held in Meeting Room at China Town Office and via ZOOM

March 2, 2023

Begin 6:30 PM

Board members in attendance: Toni Wall, James Wilkens, Natale Tripodi, Walter Bennett, and Michael Brown

Attendees: Select Board Member Brent Chesley, Cathy Chesley, Mary Grow, Amber French, Select Board Member Jeanne Marquis, Scott Pierz, Appeals Board Member Alan Pelletier, and Judy Stone

Assistant Code Enforcement Officer Nick French - Present

Board meeting opened by Chair Wall

Pledge of Allegiance to the American Flag

Chair Wall brought Board Member Tripodi into voting capacity. Chair Wilkens motioned to bring Board Member Tripodi into voting capacity. Board Member Brown second motion. All in favor.

Review/Approve Minutes February 14, 2023 Meeting

- Chair Wilkens motioned to approve minutes as written.
- Board Member Tripodi seconded motion.
All in favor. No further discussion.

Review proposed changes to Chapter 9 of the Land Use Ordinance

- Chair Wall opened discussion on Chapter 9. Chair Wall explained the Town made some changes based on the February 13, 2023 public hearing. She continued that they did add paragraph regarding that the Appeals Board members will become familiar with the comprehensive plan and all the ordinances and State rules and regulations that go with that. Chair Wall further explained that the Town added in the piece regarding the disability variance. Selectman Chesley advised of the requirement regarding filing a variance with the State registry within 30 days that was added.
- Mr. Pierz explained that the recording of a variance is extremely important. He continued that he feels to leave it up to the individual to file would be a mistake and it should be the responsibility of the Town to record the variances and to pass along the cost to the individual. Mr. Pierz explained that if the variance is not filed accordingly, it could cause issues in the future if the property is sold. Mr. Pierz advised that in looking at the statute regarding 20%, it states there “maybe” 20% but does not say “must” be. He further explained that it speaks to “home rule authority” if the Town wishes to have a stronger ordinance, then it could be left out. Mr. Pierz commented that there are a number of “qualifiers” that have been omitted that deal with pertinent information about a particular project or proposal and don’t appear to have been transformed into different language or relocated within the document. He further commented that their removal is



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a perceived weakening of the document. Chair Wall clarified that the section Mr. Pierz was referring to is Section 3 (A)(d)(II) regarding proposed use standards criteria. Mr. Pierz explained he is not sure why would want to remove as it allows for the Board of Appeals to look intensely at whatever that proposal is. He continued to explain that he has not heard of an instance where the 20% is going to come up and would like an example. He questioned that with the 20%, what happens with the written document from the abutter, does it get recorded with the Registry of Deeds? Mr. Pierz advised it is a good thing to have discrimination and disability language in the ordinance. Mr. Pierz gave the example of having to install a handicap ramp and continued that per his understanding that upon the death of the property owner, the CEO would have the authority to require removal of the ramp from the property. Mr. Pierz advised they always want to have the strongest ordinance the protect the water body and not to weaken it. He voiced his concerns over the conversation at the Select Board meeting on February 27, 2023, regarding Town of China being “anti-business”. Mr. Pierz advised everything has increased in price and takes a lot to keep everything working like the Youth Conservation Corps (YCC).

- Chair Wall advised of email comments from Selectwoman Janet Preston and Appeals Board Member Stephen Greene. She continued that in the email from Appeals Board Member Greene, he stated he agrees with the changes proposed by Selectwoman Preston. Board Member Bennett inquired if the changes address the concern of the 20% and if is in Section 3? It was advised that Selectwoman Preston would like to remove language under Section 3 (B) regarding written consent from an abutter. There was some discussion on the section. Chair Wall advised that regarding the standards, they can propose to add them back in. Board Member Bennett explained they do not want to weaken ordinance. Chair Wall advised she likes the version proposed by Janet Preston and went on to explain that in that version, it eliminates the piece regarding the abutter and goes back to the original language. Chair Wall advised there appears to be a consensus to add the standards back in. Board Member Bennett stated he did not realize they had been stricken but advised he would not have wanted to remove the standards. Chair Wall read Section B and explained Selectwoman Preston is proposing the original language be reinstated and the new language regarding the abutter approval be stricken. Board Member Bennett inquired about the abutter in the State statute? Chair Wall explained in the State statute, it is under a “may” not a “must”.
- Chair Wall suggested to make a motion to approve the “Janet Preston” version and to add in standards back in. Board Member Bennett agreed with the statement. Selectman Chesley argued that he is not sure where the Preston version came from, but it did not come through a Select Board meeting. Selectwoman Marquis advised Selectman Chesley he was cc’d on the emails with the updated version. He continued to argue that it appears it is a “one person wrote it version” and this is not proper procedure. He further advised that the Planning Board needs to comment on the one version that was worked on by the Select Board as a whole and not the Preston version. Chair Wall explained she likes the last version that the Select Board came up with, but her concern is exactly what Selectwoman Preston has been said. She advised that her comment would be that she would like to go back to the original language in the ordinance regarding the 20,000 sq. ft. Selectman Chesley voiced his concern with procedure and explained that he would like to see comment on the Select Board version and would like to also see in the comments the reason why the Board is of that opinion. Chair Wilkens advised the Planning Board is working on the



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ordinance currently and they were offered suggestions and there was a meeting on February 14, 2023 where many people brought up suggestions. Chair Wall explained that she thinks the 20,000 sq ft and the resource protection piece that was in the original, should be put back in. Chair Wall advised she read the Monday night version and what she is suggesting is to add back in 20,000 sq. ft. section and abutter piece is removed. She continued that she will add the comments made by the Planning Board members that the standards be put back in. She further advised that she is fine with the rest of the document that the Select Board cleaned up.

- Appeals Board Member Pelletier questioned if the 20,000 is removed, would that not make it more confusing? He continued that with applications coming in and gave the example of a septic system. He further explained that if the goal is to clean up the lake, and there are older septic systems, and if they do not have the 20,000 sq ft., this could cause more confusion on what they can allow. Mr. Pierz stated he has put a lot of effort into reviewing the ordinance and advised anything septic is under the control of the Maine sub-surface wastewater disposal rules. He continued that they need an example of why they would want the language in the ordinance and if they take out more quantifiable numbers, it could make it all more difficult. Mr. Pierz explained the Board of Appeals needs to maneuver around what that language says, in real life terms, for the person that is the appellant. Mr. Pierz stated if the Select Board and Planning Board continue the way they are, then this would probably end up at the polls without a Town meeting which would allow for a conversation. He stressed there needs to be conversation versus just having a ballot where people just check a box. Chair Wall asked the audience if there are any other comments? Judy Stone states that per her understanding, the Town and the Select Board came up with the revised ordinance that was pretty good except for 2 pieces, one to restore language to the original version of 20,000 sq. ft to make it easier for the Appeals Board and the other part is the striking of the optional abutter language from the State. Chair Wilkens added that they are also adding back in the criteria. Mr. Pierz advised the language is also regarding shoreland zoning. Ms. Stone inquired if they were clear on what they are voting on or still discussing? Board Member Brown explained they are working on voting on a version to send to the Select Board. Board Member Brown confirmed that all members of the public had a chance to comment.
- Chair Wall motioned that the Planning Board version to the Select Board will omit the following, *“Variances granted from setback requirements shall be in accordance with 30-A M.R.S.A. Section 4353(4-B). Upon written consent from an affected abutting landowner, a variance may be allowed to exceed 20% of a setback requirement, except for minimum setbacks from a wetland or waterbody required within shoreland zones by rules adopted pursuant to 38, M.R.S.A., subchapter I, article 2-B.”* She explained this section would be stricken. She continued to advise that they would add back in what was originally written *“A variance, however, is not authorized to permit construction of principal structures or to permit expansion, enlargement, or addition of principal structures as prohibited by Chapter 2, Section 2(D) in the Resource Protection, Stream Protection and Shoreland Districts on lots of less than 20,000 square feet.”* Chair Wall continued that they are recommending the Select Board add back in the following standards that were omitted on the February 27, 2023 version:
“II. The proposed use would meet the following standards:
 - a. Will not result in unsafe or unhealthful conditions.*
 - b. Will not result in erosion or sedimentation.*



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- c. Will not result in water pollution.*
- d. Will not result in damage to spawning grounds, fish, aquatic life, bird, and other wildlife habitat.*
- e. Will conserve shoreland vegetation.*
- f. Will conserve visual points of access to waters as viewed from public facilities.*
- g. Will conserve actual points of public access to waters.*
- h. Will conserve natural beauty.*
- i. Will avoid problems associated with flood plan development and use.”*

Board Member Bennett seconded motion. Unanimously approved, 5-0.

- Chair Wall advised she will deliver to Town Manager Hapgood on March 3, 2023 and will include why the board is of the opinion. Board Member Bennett explained the overall goal is not to weak an ordinance in anyway. Board Member Brown requested clarification of the process and if there would be another public hearing? Chair Wall advised is up to the Select Board. Mr. Pierz explained there will always be a public hearing.

Review of Town Comprehensive Plan

- Chair Wall opened discussion on comprehensive plan. She explained she went through the recommendations and pulled out all sections pertaining to the Planning Board. Chair Wall advised that some of the recommendation she found were strengthen the land use ordinances, the phosphorous ordinance, and historic resource. Chair Wall advised the comprehensive plan is going to require them to do some work. Board Member Bennett inquired if there is a DEP annual inspection of the lake? Mr. Pierz explained that the Kennebec Water District (KWD) does various types of water monitoring during the summertime. Board Member Bennett Walt questioned if the results would be sent to the Town? Mr. Pierz advised that Robbie Bickford who is the water quality director at the Kennebec Water District would contact the Town if there was a known problem. Chair Wilkens inquired how many times are they sampling, to which Mr. Pierz responded they are out there several times during the summer. Board Member Bennett inquired if any residents have voiced concerns? Mr. Pierz advised it depends on who you talk to. He continued that 2017, 2018 and 2019, China Lake had its best water quality in 30 years. He further explained about phosphorous content, algae and how to mitigate phosphorus content. Mr. Pierz advised of a full-scale watershed survey that was conducted by the China Lakes Alliance (CLA) in October 2020. He continued that they have come up with 161 sites and have made a list of “low, med, high” based on risk to lake. There was discussion on treatment of the lake and Mr. Pierz states there has been discussion of CLA working with CEO and advised of recent comments from Stephen Greene to the Board. Mr. Pierz advised there have been discussion on how to support and protect the water quality of China Lake? Board Member Bennett questioned if the CLA reviews ordinances and standards? Mr. Pierz states they do not usually but may take a position on a particular ordinance. He continued that generally they do not get involved in the politics. Board Member Bennett inquired if there is anything they could do to help runoff? Mr. Pierz advised of phosphorous ordinance and other ordinances including impervious surfaces. Chair Wilkens stated there is a section in the comprehensive plan regarding the phosphorous ordinance and read the section. Mr. Pierz advised they need to strike a balance between strong land use regulations and consideration for businesses. Chair Wall explained there is a big section regarding the lake and phosphorous control and stormwater run-off. She continued that she would



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like to look at new DEP information to make sure the China information is up to date. Mr. Pierz explained as a result of the survey, the association also went about sampling the sediment in the lake. He continues that there are 2 spots, one in the north end of the East Basin and one in the south end of the East Basin that are loaded with phosphorous. He further advised of remediation options and role of alewives.

- Chair Wall advised they can start to look at phosphorous control. Board Member Bennett suggested it would be nice to have another survey. Chair Wall explained they could have groups such as CLA come in to present on status of lake before they look at the ordinance and see if there are any updates needed. She suggested the end of March for a presentation. Chair Wall advised the comprehensive plan is very heavy on preserving the lake. Chair Wilkens advised it is also heavy on helping CEO.
- Board Member Bennet read section regarding local economic development and questioned how that works? Chair Wilkens advised there are economic areas, and they work with Select Board and the Planning Board. He continued that the comprehensive plan looks at areas and gave the example of the light on Rte. 3 by Hannaford. Chair Wilkens advised there are different things that go into it than just a yes, you can do that. Board Member Bennett questioned if there are no current zoning requirements and is that something they need to talk about? He continued that he is concerned of industrial sprawl. Chair Wilkens explained is DOT involved and some parcels are large. Board Member Bennett explained they need to have balance. Board Member Brown inquired into how they are going to proceed? Chair Wall stated that the plan really talks a lot about phosphorous control and feels that would be a good place to start. Board Member Bennett stated he is worried about farmland being converted and that they need to work on solar ordinance. Chair Wall states they can start working on phosphorous and solar ordinances. She continued that they could invite people in to talk about phosphorous to get information.
- Chair Wall questioned the Select Board Members in attendance if the Select Board is going to have a Comprehensive Plan Implication committee? It was advised the Select Board creates the committee and the Planning Board works with the committee. Selectwoman Marquis advised she has read the comprehensive plan and it is good.

Planning Board Ordinance

- Chair Wall stated that she has a few other things to fix in the ordinance before it can be voted on. She continued that she will have ready for review for the next meeting on March 14th.

CEO Report

- Assistant CEO French advised of Subdivision application that will be on the agenda for the next meeting. He also advised of a possible permit application for a gym.
- Assistant CEO French explained there have been 2 appeals applications. One has been completed and the other is due to be reviewed on March 10, 2023.
- Assistant CEO French explained that he continued to work on cleanup of the delinquent properties.



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Future Schedule and Adjourn

Next Planning Board Meeting: March 14, 2023

Motion to adjourn meeting made by Board Member Bennett

Motion seconded by Board Member Tripodi

There was no further discussion and the motion to adjourn was unanimously approved.

Respectfully Submitted,
Dawn Kilgore
Planning Board Secretary