



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 June 15, 2023

Planning Board Meeting

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

May 23, 2023

Begin 6:30 PM

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

Board members not in attendance: Natale Tripodi

Attendees: Brent Chesley, Mary Grow, and Melissa Cote

Assistant Code Enforcement Officer Nick French - Present

Board meeting opened by Chair Wilkens

Pledge of Allegiance to the American Flag

Review/Approve Minutes May 9, 2023 Meeting

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

Branch Mills Dam Project – Atlantic Salmon Federation

- Chair Wilkens opened the discussion on the Branch Mills Dam project. Melissa Cote, the Sheepscot River Manager presented an overview of the project and advised she also has full scale maps of the project if the board would like to review. She explained the project has been in the works since 2017 and the primary elements of the project are to stabilize the dam. She continued that it was assessed by Maine Emergency Management Agency (MEMA) in 2014 and was determined to be a significant hazard. Ms. Cote advised that the goal is to stabilize the dam and install a fishway. Ms. Cote advised of the type of fishway that will be used and explained that the Natural Resource Conservation Service (NRCS), U.S. Fish & Wildlife Service (USFWS) and National Oceanic and Atmospheric Administration (NOAA) were all involved in the planning from the beginning and approve of the project. Ms. Cote continued that the goal is to bring alewives into their historic habitat of Branch Pond. Ms. Cote advised of the public enhancement of putting in a dry hydrant for both towns to use and a boat ramp for public use.
- Chair Wilkens inquired into how many dams have they worked on? Ms. Cote explained Head Tide Dam in Alna was partial removed in 2019, and then Coopers Mills Dam was removed in 2018. Chair Wilkens commented that the dam in Alna was significant and was a pretty good size. Ms. Cote advised it is a public recreation area and people go there to fish and swim. Chair Wilkens explained is a beautiful area and sea captains of sailing ships previously would moored there in the past. Chair Wilkens questioned if the alewives would find their way back or will they need to seed? Ms. Cote explained that DMR (Department of Marine Resources) currently stocks the pond and has for a few years to provide the alewives the signature to come back. She further



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explained she was just down in Whitefield Salmon Preserve and saw the salmon running. Board Member Brown inquired how the salmon were doing? Ms. Cote explained they are not doing well and continued that DMR does the red count in the Fall which counts the number of nests. She further explained that they only counted five nests in the Sheepscot last Fall. Board Member Brown questioned why the decline? Ms. Cote advised it is hard to say and there are a lot of issues with marine survival rates. She continued that warming water and habitat are factors as salmon need cooler waters. Chair Wilkens questioned if Atlantic Salmon on the St. Johns River might have the same issues? Ms. Cote advised she only handles the Sheepscot River and is not familiar with the northern runs. She continued that the Sheepscot salmon are an important population. Chair Wilkens asked if there are any in the Kennebec? Ms. Cote explained the Sandy River, which is a tributary of the Kennebec, is some of the best salmon habitat in the State of Maine. She further explained that the DMR plants eggs in the Sandy River and in the Sheepscot River which is why there are salmon in the Sheepscot.

- Chair Wall questioned if they did have public hearings? Ms. Cote explained they recently had a public hearing at the Palermo Grange which was well attended. She further explained that they have a lot of community support. Chair Wall questioned the fish way and asked to see the plans. Ms. Cote showed plans of fishway to the Planning Board and explained how the fish will travel. Chair Wall advised she was at Weber Pond and advised the number of fish was amazing. Board Member Brown questioned who owns the property? Ms. Cote advised the Atlantic Salmon Federation owns the property. Chair Wilkens commented that he saw some eagles fighting over fish on Weber Pond. Chair Wall inquired if the intent is to get started as soon as possible? Ms. Cote explained they are looking to mobilize in June for the upland portion and to work on the water work in July. Chair Wilkens questioned how far down is pond drained? Ms. Cote explained they would drain 3 to 4 feet down depending on the water level at the time. Chair Wilkens complimented that it is amazing work they are doing. Ms. Cote advised the goal is for the rivers to be healthy again. Chair Wilkens advised of seals at the Benton Dam. Chair Wilkens asked what is needed from Planning Board? Assistant CEO French explained they only need a permit from Planning Board for earth moving in Shoreland. Chair Wilkens inquired into the amount? Assistant CEO explained is more than 100 cubic yards.
- Chair Wilkens reiterated that they are looking at a permit for earth moving of greater than 100 yards and advised he will entertain a motion to permit for earthmoving of greater than 100 cubic yards for the Atlantic Salmon Federation for the Branch Pond project. **Board Member Brown motioned to grant permit for earthmoving of greater than 100 cubic yards to the Atlantic Salmon Federation for the Branch Pond project. Chair Wall seconded motion.** Chair Wilkens asked if they will be back filling? Ms. Cote explained there will be some removal of bedrock to put fish way in. **All in favor. Unanimously approved.** No further questions. Planning Board members thanked Ms. Cote for her presentation. Ms. Cote inquired if there will be a physical copy issued? Chair Wilkens advised of 30-day appeal period. Assistant CEO French advised he will send permit to Miranda when ready.



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Solar Ordinance

- Chair Wilkens opened the discussion on the solar ordinance. Chair Wall explained they started the solar ordinance review at the last meeting and advised of the sections reviewed. She further explained that the public in attendance also made comments. Chair Wall explained she can go over changes made up to Section 6 and why the changes were made, or they can start where they left off? Chair Wilkens advised he would like to hear the background to the changes made. Chair Wall explained in Section 3 they talked about the purpose and the purpose really is the very first sentence. She further explained why the 8 bullets were deleted and that they wanted the 8 bullets to be part of the criteria process and not the purpose. Board Member Bennett commented that some of the items were not applicable, and Chair Wall added that also how they were going to be enforced. She continued that the 8 bullets have not been eliminated but want to make sure are included in the criteria as best as they can. Chair Wall explained that in Section 4 changed the bullets based on recommendation that they should be alphabetical or numeric when writing an ordinance, they choose to go with alphabetical and labeled a – d. Chair Wall advised Board Member Bennett provided clarifying language regarding codes. Chair Wall continued that under (c) Ground Mounted are considered structures and the reason they defined was because the ordinance is for a roof-mounted and ground-mounted and a roof-mounted would not be considered an extra structure. She continued that they wanted to reference the Town of China Land Use Map. Chair Wall advised of some grammatical error corrected and that under 8-3 it ended with a “and” and a comma and they guessed the missing wording is “meets the requirements of Table 1”. She further explained they went into the “Permitting Required” in the table and there was discussion that it should be based on the scale and not the intended use. She further explained that if is based on the scale of small, medium, and large, then the table should coincide with that. Board Member Bennett clarified that the discussion was the interpretation of the aspects of leaving it the way it was which was confusing and would be hard to enforce. Chair Wilkens advised the table is much easier to read. Chair Wall provided the example of Board Member Brown’s farm and if was put on the house, would that still be a principal use? She explained therefore they decided that size not the usage should matter. Chair Wilkens gave example if they put solar panels on one side of the barn roof, would that be large? Chair Wall advised would be a rooftop. Board Member Bennett pointed out the dimensions for small, medium, and large in the ordinance. Chair Wall explained they could define a rooftop? Chair Wilkens explained that is not needed as there is a lot the property owner would have to go through to make sure the roof is engineered to hold the panels. Chair Wall advised the under medium-scale ground mounted on table, there was question of why PB/NO and advised proposed table changes to new version to make the table more consistent. She continued that under Section 6, the approval process, they reviewed 6.1 and changed the bulleting to alpha/numerical. Chair Wall explained they were also using Attorney Meader’s suggestions since most of her suggestions are in Section 6. She continued that some of Attorney Meader’s “suggestions” are actual questions and gave an example. Chair Wilkens questioned if they are stating all review application finding of fact are in accordance with Chapter 2, what if it is not only Chapter 2? Chair Wall explained finding of fact are in Chapter 2, Section 6 and all findings of fact need to be written. Chair Wilkens confirmed all Planning Board finding of fact need to be written.
- Board Member Brown questioned with regard of height, and advised they have done a good job breaking down square footage, but do they want to have something for the height limit for the



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panels to prevent screening? He gave the example of the solar panels at Colby. Assistant CEO French advised the maximum structure height is 35 ft. Chair Wall suggested they could cite the maximum height in the ordinance. Chair Wilkens advised of height of other solar panels in different areas of the State. Board Member Brown questioned if the height matters? He gave examples of the solar panels such as near the interstate and others that are “out of sight out of mind”. Chair Wilkens advised the maximum height should put in to make sure there is no question. Selectman Chesley advised under 7.4, the height standards, it states that the maximum height is 24 ft. Chair Wilkens questioned if they want to keep it at that or change it? Chair Wall inquired under site plan review, roof-mounted and small-scale do not have to have a site plan review but why does small scale not need a site plan review? Assistant CEO French explained would be under CEO permit and building permit. Chair Wall commented that medium is not subject to site plan review except in Shoreland, Resource Protection, and Stream Protection but states, under the Land use, that solar is not allowed in those districts. Board Member Bennett advised they would want to have a site plan review. Chair Wall restated her question as to why they would not want a site plan on a medium or a large? Board Member Bennett questioned setback issues and how they would be avoided? Chair Wilkens stated his concern with in how the phosphorus load limits fit into the site plan. Board Member Bennett questioned shouldn't any ground-based installation be subject to a site plan? Chair Wilkens explained that in the building permit, there is a site plan review if the CEO does it but is the phosphorus part of that too? Assistant CEO French advised phosphorous would be for all new principal structures but not accessory. He continued that for the small-scale it would not apply but would only apply to the principle. He further explained that for the medium-scale, which is 2 acres to 10 acres, the solar would be the main structure and would be principal use. Board Member Bennett questioned if they are removing designations for principle and accessory use, should they just call anything medium or above principal use? Chair Wilkens advised the principal structure could be the farm, the home, or the barn and the solar could be accessory use. Board Bennett questioned if there can be more than one principle and why would need to call principle? Chair Wilkens advised is only for phosphorus loading and if are structure, would be part of the calculation. Assistant CEO French explained medium and large would need site plan review and phosphorus would be part of that.

- Chair Wall advised that they left off at 6.1 (B) which is regarding the site plan review application process and what is required. Chair Wilkens stated he does not see phosphorus and is part of the calculation. The Board added in phosphorus loading as number 12. Board Member Brown advised 1-8 are well written and approves of number 9. Chair Wilkens explained with the inclusion of number 12, they have good coverage of what is needed. Chair Wall mentioned property lines and gave the example of run off on Route 3 project. Chair Wilkens advised it was the back corner and they have a swale there. Chair Wall suggested it could be property lines, and physical features including contour lines could be number 1. Chair Wilkens suggested topography and stated would want to know what the gradient of the drop is. Chair Wall advised she will add topography in. Chair Wilkens explained they should have location of electrical structures including the inverters. He continued that it is important where they are placed. Chair Wall inquired if would be included in number 6? Assistant CEO French advised number 6 would be where to place since is referring to electrical. Chair Wilkens inverters are in a building and creating a structure. Board Member Brown inquired if they should put something specifically in 6



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regarding the inverters? He advised it should be laid out to make it easier for CEO. Chair Wall clarified language for section with Planning Board members. Board Member Brown questioned the fees? Chair Wilkens explained the Select Board can set the fees. Board Member Brown asked Selectman Chesley if there are different fees for different types of projects now? Assistant CEO French answered that there is unfinished space, finished space and miscellaneous for fees. He also advised there is agricultural. Chair Wilkens advised that finished space is one thing but finished project is another and some projects are huge. Selectman Chesley suggested to determine the fees they should ask Assistant CEO French what he has in for time for inspections and reviews. He continued that they would want the fee to cover the cost. Assistant CEO French advised that they generally approach the Town with engineered diagrams so there is not a lot of review, it is the inspections leading up to. He continued to advise that the Town of China does not inspection for electrical and is deferred to the State Electrical Inspector. Chair Wall inquired if the fee would be \$100? Assistant CEO French explained that is the fee to meet with the Planning Board but would still need a building permit because is a structure and based on square footage. He continued that where it is an unfinished space, at \$.10 a foot, initial \$35 fee and then based on how many inspections. Chair Wall pointed out that under fees, it mentions a submission waiver? Board Member Brown questioned why they would have waiver or “get out of jail fee card”? Chair Wall inquired what would constitute a waiver? Chair Wilkens stated he is not sure why they would grant a waiver of what they must do and if cannot meet that, then it would go to appeal. Board Member Bennett explained that they have the right in land development code and are just specifying the process. He further explained that Attorney Meader advised that “the fees should be specified”. Chair Wall mentioned in other ordinances, they reference the fee schedule and has never seen a “waiver” in the Land Development Code. Chair Wall explained that every time the fee schedule changes, it must go to public hearing and be voted on which is why they do not have a fee schedule in every ordinance. Board Member Bennett mentioned scenic vistas from Attorney Meader’s suggestions to which Chair Wilkens replied it is part of the 15 criteria. Chair Wall inquired if the are good with fees a and b? Chair Wall asked about Planning Board application fee and where it states the applicant can get refund if application is withdrawn within 15 days? Assistant CEO French advised they don’t normally do that. Board Member Brown advises the applicant has still used the time. Chair Wilkens explained they have the meeting within 14 days and should be 30 days. Chair Wall advised is not under administration in Chapter 2, Section 6 and should not be included. Board Member Bennett inquired if the fee substantial? Assistant CEO French explained the \$100 application fee is to pay for the Planning Board time. Chair Wall advised it is to cover the CEO’s time as well. Board Member Bennett are they striking the refund? Chair Wilkens advised they are since is not in the Land Use Ordinance and they do not usually do. All Planning Board members in attendance in agreement to strike refund. Chair Wilkens inquired into the Planning Board piece and if that should also be removed? Chair Wall stated that they should get rid of both. Board Member Bennett questioned who certifies the fees? Chair Wilkens advised the CEO certifies. Board Member Bennett references 6.3 (B) and stated it does not say how is certified. It was explained that CEO certifies fees. Board Member Bennett advised that under Section 7 he disagrees with Attorney Meader comments about 7.1 and 7.2. Assistant CEO French explained that for 7.1 (a) it is within 30 calendar day of a complete application which may or may not be depending on a public hearing being scheduled. He continued that they are on a timeline as soon as they determine the application is complete and they must give a determination within 30 calendar days. Chair Wall advise it is 35 days in code. Chair Wilkens



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advised it should be more than 10 days and the Planning Board votes if complete. Board Member Brown advised they need to give more time and what is reasonable? Chair Wall explained it is 35 days for the review and once deemed complete, they have 35 days for the public hearing and determination. Chair Wall questioned if they should specify days or calendar days? Board was fine with calendar days. Board Member Brown advise they should all be 35 days. Assistant CEO French advised they need 7 days prior to meeting and would make constant with 7 days. Chair Wall advised they should make this review process similar to reviews in Chapter 2 Section 6. Chair Wilkens does not go anywhere until deemed complete nor do they have a public hearing scheduled before they have the application. Chair Wall explained the whole process is 35 days once it is complete. Chair Wilkens do they want to change? Board Member Bennett questioned if the applicant can request extension to the timeframe? Board Member Brown questioned if the principal clock restarted every time there is missing component? Board Member Bennett inquired into the length of process and gave examples. Chair Wilkens explained that sometimes they voted for a walk through and sometimes they don't have time to do the review right after. Board Member Bennett stated the applicant should have the ability for an extension. Chair Wilkens explained there have been a few times where they have had longer review time. Chair Wall provided the language that an extension can be requested by both Board and Applicant if necessary. Chair Wall read number 6 aloud. Board Member Brown stated number 6 it can be crossed out. Board Member Bennett questioned if they are still holding to timeframe? Chair Wilkens explained they are to timeframe by code. Chair Wall explained there is another 35 days and the whole process restarts if denied. Board Member Bennett states these are complex projects. Chair Wall advised should be like Chapter 2, Section 6.

- Chair Wall opened discussion on 7.2 – CEO approval standards. Board Member Bennett advised of Attorney suggestions. Chair Wall suggested would remove medium-scale ground-mounted in the Rural District because only going to do the roof. Chair Wilkens agreed and stating is not on the chart. Chair Wall asked Assistant CEO French if there is anything that needs to be added? Chair Wilkens questioned if CEO would be calculating weight load? Board Member Brown inquired if proof would need to be provide to CEO? Chair Wilkens advised roof specifications are an engineering standard. Board Member Brown stated proof would need to come from certified individual. Assistant CEO French explained if they provide the truss specifications, that would be helpful. Chair Wilkens explained most people are not aware of roof construction. Chair Wilkens inquired how they would determine wind. He continued he is aware there is a calculation to determine and would be engineered standard. Chair Wall advised the individual doing the calculations would need to be licensed. Board Member Brown advised that solar installers would make sure is structural sound before they install. Chair Wilkens advised the applicant would need to bring information to CEO. Chair Wall questioned if the Fire Chief would look at egress? Assistant CEO French explained would not look at for small-scale or roof but might for medium-scale or large-scale for roads. Chair Wilkens explained the Planning Board always asks for a letter, but the CEO would not be asking for a letter from the Fire Chief. Chair Wall asked Assistant CEO French if CEO would be looking for egress with a roof. Chair Wall explained that the most important would be the weight. Chair Wilkens inquired into electrical? Assistant CEO French advised it must be already signed off by electrical inspector. Chair Wall questioned number 4 regarding proximity of a ground-mound system to a building? Is there a standard of the distance it needs to be away? Assistant CEO French explained they do not currently have any



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dimensional requirements for accessory structures and gave examples of a shed next to a house. He continued they only have property lines or road not proximity to home. Chair Wall suggested maybe they should remove that wording. Chair Wall suggested reviewing 7.2 (b)(c)(d) and then continuing review at next meeting. Board Member Brown stated 7.2 (b)(c)(d) look good to him. Chair Wall advised she will draft version with revisions. Chair Wall and Chair Wilkens advised they will review waiver requirements to make sure. Board Member Bennett advised that Attorney Meader is saying their standards are too vague. Chair Wilkens explained that they need to work for everyone. Assistant CEO French advised that some of scenic is hard to enforce since is subjective.

CEO Report

- Assistant CEO French advised that there is another Planning Board application for a storage facility just off Route 3, next to Central Church and will be at the next meeting. He confirmed the storage facility will be an abutter to the Central Church.
- Assistant CEO French advised that he reached out to engineer at Family Dollar but did not receive a response. He continued that the hole was repaired within a week. Chair Wilkens inquired if is same material and explained that the pavement is porous pavement and that they need to make sure they replaced in kind. Board Member Bennett states it looks like it was a good job.

Chair Wall explained they did submit the Planning Board ordinance to the Select Board and it will be reviewed at the next Select Board meeting. Chair Wall advised herself and Chair Wilkens will be there to answer questions. She continued that once it is returned the Planning Board from, they Select Board, they will have to have a public hearing and then it will go on the warrant for November.

Chair Wall advised she will check the Town Manager Hapgood regarding on having the meeting on Thursday June 15th instead of Tuesday June 13th which is voting day.

Future Schedule and Adjourn

Next Planning Board Meeting: To Be Determined

Motion to adjourn meeting made by Board Member Bennett

Motion seconded by Board Member Brown

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

Respectfully Submitted,
Dawn Kilgore
Planning Board Secretary