



# Town of China

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

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*Approved by Planning Board by a vote of 4-0 on May 23, 2023*

Planning Board Meeting

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

May 9, 2023

Begin 6:30 PM

Board members in attendance: Toni Wall, Natale Tripodi, Walter Bennett

Board members not in attendance: Michael Brown, Jim Wilkens

Attendees: Brent Chesley, Cathy Chesley, Mary Grow

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.

## **Review/Approve Minutes April 25, 2023 Meeting**

- Board Member Bennett motioned to approve minutes with emailed revisions.
- Board Member Tripodi seconded motion.

All in favor. No further discussion.

Chair Wall suggested for the Board to review the Planning Board ordinance under old business first since those changes are smaller. She continued this would allow them to have more time to review of the Solar Ordinance. She explained that she would like to get the Planning Board ordinance moved on to the Select Board and off the Planning Board agenda. Board Member Bennett and Board Member Tripodi agreed to review the Planning Board ordinance first.

## **Make changes to language in Planning Board Ordinance**

- Chair Wall advised she emailed the updated version to all Planning Board members. She explained they were changing “Chairman” to “Chair” and “Board of Selectmen” to “Select Board” throughout the document. She further explained she correct some omissions of wording and grammar. Chair Wall advised she added in “spouses and domestic partners”. Chair Wall advised under 3.1 (B), she changed “notes” to “minutes”. Chair Wall explained she would like to discuss the section, 2.1 (G), pertaining to members of the Planning Board not being able to be appointed to any other board. Chair Wall read section 2.1 (G) aloud. She continued that she wants to make sure this does not exclude any Planning Board member from serving on any other committee. She further explained she understands elected and that her view of appointed would be like the CEO position. Chair Wall stated she just wanted to verify her understanding was correct. Selectman Chesley, who was in the audience confirmed that is his understanding as well.



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- Chair Wall asked for a motion to move ordinance to the Select Board for review. She explained once the Select Board has reviewed, the Planning Board will need to schedule a public hearing. Board Member Bennett motioned to move ordinance to Select Board for review. Board Member Tripodi seconded motion. All in favor. No further discussion.

## **Review and Modify Solar Ordinance**

- Chair Wall opened discussion on the Solar Ordinance. Chair Wall advised CEO French sent most current version to all Planning Board members along with Attorney Amanda Meader's suggestions which Chair Wall advised were very good suggestions. Chair Wall explained they will go through the ordinance section by section and would like to spend at least one hour on the Solar Ordinance at this meeting and schedule additional review for the next meeting. Chair Wall read Section 1 aloud. She advised that she also would like to hear the comments of any members of the public in attendance as they go through the ordinance.
- Chair Wall read Section 2 aloud. She advised that "ordinance" should be capitalized and continued that Attorney Meader did not have any comments on Section 2.
- Chair Wall explained that Attorney Meader has some comments regarding Section 3. Chair Wall read Section 3 aloud. Chair Wall advised that Attorney Meader stated that using bullets is not a good idea for formatted and suggested they use alpha/numeric instead. Chair Wall explained they will use alphabetical (a,b,c...etc.) instead of bullets. Chair Wall continued to read subsections aloud. Board Member Bennett questioned what "industry competition" means under subsection d? Chair Wall stated she is not sure where language came from. Board Member Bennett stated he understands technological developments but is not sure why the Town of China would be concerned with industry competition. He continued that they always should have the most current technology. Chair Wall advised she will remove "industry competition" and the change will be noted in track changes. She continued this version will be Version 1 (5-9-2023) and the next version will be Version 2. Chair Wall continued to read remaining subsections. Board Member Bennett advise the that the section in general would seem to imply that the purpose of allowing solar installations in the Town of China is to benefit the Town of China. Chair Wall advised that when they reviewed Chapter 9, for example, it had some of the same general language regarding the purpose is to have a process. She continued that the purpose of the Solar Ordinance is to "provide a process and a set of standards for the construction, maintenance, and decommissioning of solar energy systems." Board Member Bennett explained it would be great if they could enforce and all the electricity flows back into the Town of China but that is no realistic. He continued it would all go into the grid and would not have any direct benefit to the Town of China. He further explained that he wants to make sure there is a balance. CEO French explained that the installations benefit the Town of China directly by taxes. Board Member Bennett stated he is referring to the electricity generated, and that the wording is false that it benefits the Town of China. Chair Wall explained she agrees with Board Member Bennett and purpose is to set the standards for the construction, maintenance, and decommissioning and not all this other stuff. Board Member Bennett explained he does not want language indicating the installations benefit the Town of China. Chair Wall advised she is not sure where all the additional language came from and is not sure if it is part of the model. Chair Wall referenced the ordinance for



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Damariscotta. Board Member Bennett suggested changes to language of subsections. He advised he would like to remove “an important component from the Town of China sustainability goals” from subsection a. He continued that subsection b was fine and subsection c should be removed. Board Member Bennett advised that under subsection d, he would like to insist on having the most current technology. Chair Wall inquired how Board Member Bennett would like subsection d worded? Board Member Bennett advised he would like to re-word to include “Applications need to be consistent with industry standards” and the rest of subsection d can be stricken. Chair Wall reminded that it must be defensible in court. Mr. Chesley advised he thinks is a model from the Audubon Society. He continued to advise that the language needs to be concise and direct to be enforceable. Chair Wall explained that is why she keeps going back to the purpose and explained that is what it is, and all this other wording might not be needed. Board Member Bennett advised that subsection e should be kept. Chair Wall advised they will need criteria for how they are going to protect the public health and the safety and welfare of the community. Board Member Bennett suggested wording could be “consistent with Comprehensive Plan”. Board Member Bennett inquired if the Comprehensive Plan has that force to it and could it be used as a defense? Chair Wall explained Section 3 is just the purpose. CEO advised there is no criteria in the section. Board Member Bennett suggested removal of subsection e since subsection f covers the Comprehensive Plan. Chair Wall advised scenic would go under approval authority. She continued that she would like to have the purpose as just the first sentence and not say “in order to” and as they to move thought to Section 6, they use the subsections to make the criteria that they want. Chair Wall advised that some sections are not enforceable. She continued that she would reword the first section and will make sure the subsections are in the approval process.

- Chair Wall read Section 4 aloud and again advised the Attorney Meader suggested bullets be alpha/numeric and will use alphabetical. Chair Wall read subsection (a) aloud and advised should say “all state and local codes, regulations and standards”. Mr. Chesley advised to add “federal” to the wording as well. Chair Wall continued to read the subsections aloud. Board Member Tripodi stated the subsection (b) was good. Board Member Bennett inquired when someone would need to come back before the Planning Board regarding modification of existing structure? Chair Wall explained if they are enlarging it or change the size of and gave the example of Route 3 installation when they came before the Planning Board for Phase One and then had to come back before the Planning Board when they expanded in Phase Two. Board Member Bennett requested clarification on subsection (c) pertaining to structures. He continued that he remembered there being discussion on footprint. Chair Wall explained the footprint was regarding phosphorous control and explained when previous solar system projects calculations. CEO French advised they were counting the pad, the rails, and the solar panels as lot coverage. Chair Wall explained with previous projects they were not counting the panels. CEO French suggested that only the ground mounted be considered structures and not the roof top mounted. Board Member Bennett questioned the lot coverage? CEO French explained they can only cover 20% of the land. Board Member Tripodi suggested language for subsection. Chair Wall read subsection (d) aloud. Board Member Bennett questioned if actual footprint is limited? Chair Wall advised is basically in Rural district. Board Member Bennett stated he would like to discuss allowing only a percentage of district, in terms of how much land, that can be taken up. Chair Wall explained it is a landowner decision. Board Member Bennett stressed that they need to be



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out of view such as installation on Route 32. Mr. Chesley suggested referencing the China land use map.

- Chair Wall explained they will move on to Section 5 and advised most of Attorney Meader's comments are concerning Section 6 and later sections. Chair Wall read 5.1 (a) and (b) aloud. She explained that there appears to be some missing language since just jumps to Table 1. There was discussion on what might be missing from subsection (b). Chair Wall read descriptions for small-scale, medium-scale and large-scale solar energy systems. Chair Wall questioned total airspace projected over a roof? She explained that she thinks a large-scale would only be ground mounted and not rooftop mounted in the Town of China. Board Member Bennett explained what he feels the table is trying to enforce is distinguishing the size of the installation. He continued that they should just use total air space. CEO French explained that it was in case there was a hybrid system of ground mounted and roof mounted. Chair Wall advised she is ok with keeping as is. Mr. Chesley questioned if the dimensions are the actual footprint of the panels or the entire system? CEO French explained it would be the space of the panel and the ground pieces. Chair Wall questioned if they need to define the panel and the ground pieces? CEO French advised the airspace should define. CEO questioned if will be a stand-alone ordinance or part of land use ordinance? Chair Wall explained solar ordinance would go in the land use ordinance because there is a lot of reference to Chapter 2. CEO French advised may need own definitions too. Mr. Chesley inquired if based on structure coverage? CEO French explained it is and gave example. Board Member Bennett stated he had some questions about the table. Chair Wall explained Attorney Meader also had some questions regarding the table. She further explained that Table 1 is very similar to table in Section 4 and Table 1 explains who has the authority. Board Member Bennett questioned table information for medium-scale being a principal use and an accessory use? He continued medium-scale is between 1/3 of an acre and 2 acres and is a broad span to be considered an accessory. CEO French advised Route 3 is a large scale. Chair Wall advised that what is confusing is under medium-scale, ground mounted, where it says "PB/NO" for Resource Protection, Shoreland and Stream Protection, those should all be "NO". Board Member Bennett inquired how is it determined whether a 2-acre installation is a principal or accessory use? CEO French explained if the property is only used as solar farm, it would be a principal use and if the property owner lives there and has solar, it would be an accessory use. He further explained the land has another principal use, would be accessory. Chair Wall read Section 5.2 aloud. All members approve of section 5.2 as is.
- Chair Wall advised Section 6 is where there begins to be some questions. Chair Wall read 6.1 (A) read aloud and advised Attorney Meader questioned why there is no boundary survey? Chair Wall stated she can understand the roof mounted not requiring site plan review. CEO French advised the site plan review is extensive. Board Member Bennett stressed that they need to be making sure the terminology is consistent. CEO French advised Resource and Stream do not allow under any circumstances. Board Member Bennett suggested re-wording Medium-scale. Chair Wall explained should only be "CEO approval" in Rural District under Medium-scale ground mounted, all other districts should be "NO". There was discussion for a site plan review for medium-scale ground mounted principal and accessory use. Board Member Bennett advised that Attorney Meader stated regarding large scale never being an accessory use. CEO French explained could have a commercial structure but large-scale is always a principal and never



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accessory use. Mr. Chesley explained he would consider an accessory use to be someone using the power for their own residence. He continued that when it starts getting big enough to sell back to the grid, doesn't that become commercial use? Mr. Chesley explained he is not sure how big of a system you would need for a home but having 2-acres of solar panels should be enough. Board Member Bennett advised the distinction is who reviews the plan. Chair Wall gave the example of a roof top mounted generating enough energy to sell back to the grid. CEO French suggested schools where it could generate enough to power the school, and they could have a solar farm. He posed the question if that would be considered principal or accessory use. Board Member Bennett questioned what if they only used the size of the installation to determine if the Planning Board reviews and not the intended use? Mr. Chesley advised that would reduce a lot of the confusion. Chair Wall advised that would eliminate a lot of the confusion if based on size and not principal or accessory use. She clarified that they would remove Principal Use and Accessory Use leaving only the size of the installation. Board Member Bennett confirmed and stated they need to simplify to make easily understandable. Board Member Bennett asked what does site plan review mean? CEO French advised is on page 8-6 and is like a conditional use permit. Chair Wall advised she will fix the table and will make the public hearing a requirement of all site plan reviews and more applicable to the table.

- Chair Wall read 6.1(B) and subsections 1-10 aloud. She advised of questions from Attorney Meader regarding a definition of height and boundaries. Chair Wall stated that Attorney Meader questioned under Section 6.1 why there is no boundary survey, and that this information could be important? Chair Wall inquired to CEO French what is a boundary survey, and would that be the property lines? CEO French explained would be the property lines and would require a survey. He continued if they already had a survey done, they could provide. Chair Wall states she likes the idea of having a survey. Board Member Bennett questioned if there are any standards for the minimized disruption for vegetation? Chair Wall explained they have standards in the land use ordinance especially down around the water way. Board Member Bennett inquired what standards are they comparing to and what standards can the Planning Board impose on the clearing of the site? He continued that he would care about the surrounding vegetation and minimizing the disruption of the site. He suggested that they may want to add something about not disrupting portions of the land that are not being used. Chair Wall advised that the questions that they have asked before has been regarding tree removal and were asked of the previous applications. Board Member Bennett continued that there is still 80% of property that does not need to be disrupted and would like to codify that. Chair Wall clarified that Board Member Bennett wants a detailed map of projects. She further advised that she also would like to see a map with contour lines and water flow showing run off. Board Member Bennett states he thinks they should have to map out any changes that will be made to the property to make sure they are disrupting the land as minimally as possible. Board Member Bennett suggested wording of "as little disruption to the existing land as possible". Board Member Tripodi advised that they need to be able to bring the land back reasonably and the changes should be reversible. Chair Wall advised is what they want them to do, they want them to re-vegetate the land. Board Member Bennett advised can only be mowed 1-2 time a year. He continued that they do want to have language that sets a standard. He further explained that the Planning Board ask them to tell them all the changes they are going to make and to make those changes reversible and minimally



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disruptive. Chair Wall explained they will end discussion on 6.2 and she will make changes for review at next meeting.

## **Review of Town Comprehensive Plan**

- Chair Wall explained there are currently 2 members on the Comprehensive Plan Implementation Committee. Ms. Grow corrected that there are now 3 members on the website. Chair Wall advised she will get in touch with the committee and see if there is a meeting planned that the Planning Board can sit in on.

## **CEO Report**

- Chair Wall questioned CEO French regarding status of subdivision application from Adam Ellis? CEO French explained they are now leaning towards 2 lots instead of 4 and are modifying the plan. Board Member Bennett explained is good decision and stated that he is happy that it has been worked out by the neighbors.
- CEO French advise of a new application for a change of use from a barn to a residential apartment that will be at the next meeting. He continued that there may or may not be another application, but the surveyor has a different opinion in mind of subdivisions.
- Board Member Bennett explained the State has been discussion about home rule and imposing requirements to allow for extra structures on residential lots. Chair Wall advised it is 3 extra structures. Board Member Bennett inquired it that will it require China to change their ordinance? CEO French advised it is set to take effect July 1<sup>st</sup> and any changes would supersede the China ordinances. He continued to explain if they did change the ordinance and the State law was appealed, they would need to change all ordinances back and would be a lot of work. CEO French advised is not changing the 1<sup>st</sup> dwelling requirement, only additional dwelling requirement.

Chair Wall advised Planning Board Members they should be using their Town email accounts. She advised that they should be checking every Friday if possible. CEO French explained he uses the Town email accounts to send emails regarding meetings.

## **Future Schedule and Adjourn**

Next Planning Board Meeting: May 23, 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