



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 August 10, 2021

Planning Board Meeting

Meeting held in portable building and via ZOOM

July 27, 2021

Begin 6:30 PM

Board members in attendance: James Wilkens, Randall Downer, Scott Rollins (via ZOOM)

Board members not in attendance: Toni Wall, Natale Tripodi

Attendees: Mary Grow, Brent Chesley, Cathy Chesley, Stephen Greene

Code Enforcement Officer Jamie Hanson present

Board meeting opened by Chairman Downer

Pledge of Allegiance to the American Flag

Chairman Downer brought Board Member Tripodi into voting compacity.

Review/Approve Meeting Minutes from June 28, 2021 & July 13, 2021

- Board Member Wilkens motioned to approve June 28, 2021 minutes as written.
- Chairman Downer seconded motion.
 - Chairman Downer advised of correction to attendees to add corrected name of Steve Greene.

All in favor. No further discussion

- Board Member Rollins motioned to approve July 13, 2021 minutes as written.
- Board Member Wilkens seconded motion.

All in favor. No further discussion.

Review edits of Chapter 2 Section 5, Shoreland Protection with DEP amendments

- Chairman Downer explained the edits reflect what they were advised on by the DEP. Chairman Downer advised they can begin discussion on the edits but feels would be better if they have a motion? **Board Member Rollins motioned to accept, Board Member Wilkens seconded motion.** Chairman Downer advised they have 3 guests from the community including Mary Grow. Board Member Wilkens advised they should start with the simplest to start. Chairman Downer inquired to CEO Hanson if definitions were move to definition section? CEO Hanson advised that was a decision that needed to be made and he had not moved them. Chairman Downer stressed the importance of keeping the definitions together to prevent duplication in chapters, and advised CEO to move over definitions.



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- Chairman Downer advised that on page 216, regarding percentage of lot coverage. Chairman Downer explained the problem is definition of lot coverage changes slightly based on State of Maine changes. He continued that currently China has 15% for lot coverage maximum in shoreland, while State of Maine is 20%. Chairman Downer questioned if they want to recommend to the Select Board a way to deal with this challenge? Board Member Rollins advised he did not have any other ideas except if they would want to go up to 20%?
- Chairman Downer states he looked at other places in the building ordinance where changes happened that would affect current situations. He explained the easiest place was the 2010 changes that were made and the most common solution is to come up with some kind of grandfathering clause to allow for individuals that may run into challenges with the DEP changes. Board Member Wilkens questioned if the DEP is requiring 20%? He continued that they can be more restrictive and commented that there are a lot of really small lots in China. Board Member Wilkens advised of lots of camp lots on the lake and that they need to be careful with their decisions. CEO Hanson explained that how the DEP is counting, they are roads, driveways, parking areas in the lot coverage. Chairman Downer explained that the recommendation has been to leave the wording as 15%. Chairman Downer explained he can see 2 solutions: 1. They can switch to 20% per state max or 2. Leave as 15% and work in language to grandfather current lots that would go beyond the 15% with the DEP lot coverage changes.
- Board Member Rollins questioned that with the grandfathering, he is not sure how they would write since typically if make a rule change that makes someone nonconforming, they are grandfathered and legal but the discussion sounds like it would allow for extra to go over. He continued that he is not sure how they would allow that? Board Member Rollins gave an example and questioned what would we be allowing them to have? Board Member Wilkens explained that because of roads being included, they would be automatically grandfathered since it was not their fault the rule changed. He advised it has been this way for a long time. Board Member Wilkens inquired if they would be allowing them to add another 5% on top of that? CEO Hanson explained he is not sure if allowing more lot coverage is the right fix and they are just trying to help property owners from any bad effects from being nonconforming. He continued lot coverage is not like a setback. CEO Hanson gave the example, from pg 261 regarding timber harvesting of a nonconforming road that is existing may continue to be maintained as long as it does not become more nonconforming.
- Board Member Wilkens inquired if they do not change percentage, how many lots will be nonconforming with new change? Chairman Downer advised he could not find information with the Town. Board Member Wilkens advised they should not be trying to make nonconforming if they have no control over. He continued he does not want to affect property values. He advised they are not looking at making many lots nonconforming and need to be careful how they go about this. Board Member Rollins confirmed that they need to meet the DEP guidelines. He continued that they are still



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going to make some lots nonconforming regardless. Chairman Downer explained this is why he felt the need for a grandfathering statement. Board Member Wilkens advised would already be grandfathered if they became nonconforming. CEO Hanson stressed that they cannot get ordinance approved with DEP if they don't make the changes needed.

- Board Member Wilkens questioned how to make the least effect to the property owners. He continued that they cannot do over night. Board Member Wilkens inquired how many lots at 15% vs at 20% will become nonconforming? He explained they need to know the facts and they need to make it work for the Town of China. CEO Hanson explained that grandfathering is typically attached by the date of change. There was some discussion on dating of the change and grandfathering. Board Member Wilkens advised if they keep lot coverage at 15%, then everyone is grandfathered for DEP change. CEO Hanson gave example of June 2010 when RP district created. CEO Hanson pointed out wording under 8 of Resource Protection District of "non lawfully nonconforming structure." CEO Hanson explained they are looking at nonconforming due to size not structure. Board Member Rollins gave the example if they add more because of driveways, they can no longer add in a shed due to be over in lot coverage. Chairman Downer states they are trying to protect those who, through no action of their own, get pushed over the line.
- CEO Hanson explained that for a permit, he would need to check back to before date. Board Member Wilkens inquired if they want to create that many nonconforming lots? CEO Hanson advised that with the language, they can pick a date, for the purposes of the building permit. Board Member Rollins expressed his concerns with the restrictions the new ordinance could possibly impose on expansion. He is not sure how they would be able to go back to a date and is concerned about legal ramifications. Board Member Rollins states he would like to boost percentage for lot coverage. Chairman Downer advised they need more data to review and he does not want to change from 15% to 20% if only a small percentage are impacted. CEO Hanson advised that some expansion of the lot could be detrimental to water quality. He continued that larger number that were not nonconforming that will now be allowed to expand.
- Board Member Rollins inquired into if other communities around the area have adopted DEP changes and if so, how did they handle the lot coverage? Chairman Downer advised he only knows about Readfield and they did not change lot coverage. Board Member Wilkens states he would like to see information from other towns. There was discussion on the wording on page 2-6 Section 3, continuous built lots and how it could be exemplar for lot coverage
- Mr. Chesley advise they could keep 15% lot coverage for structures only and have 20% for all other including driveways and other impervious. He states they would be keeping the ordinance they have had for years. Mr. Chesley continued that per DEP, there is not



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choice, driveways need to be included. He advised that way written now, 15% has basically been structures because driveways were not included. He continued if everything is included at 15%, this would be making it more restrictive. Mr. Chesley commented that there will be cases that are more restrictive regardless and some lots will be nonconforming. Board Member Wilkens advised they should be working to help not hinder. CEO Hanson advised that with many small lots, 5% will still be nonconforming even if they go to 20%. Board Member Wilkens stated his concern of how many would be affected. CEO Hanson explained about importance date for grandfathering, of when was in place, and suggested looking at aerial photography and advised has access to 2013 and 2020 aerial photos via GIS. CEO Hanson states they would be going by a case by case procedure. He explained he would have to review based on what looked like before date, November 2021

- Board Member Wilkens reiterated Mr. Chesley’s comment that right now 15% is for structures and they would be adding to it with the DEP including driveways. CEO Hanson suggested that maybe they change the language for lot coverage to being “impervious things”? CEO Hanson explained that his guidance from the DEP is, if grass can grow between, is not considered a structure. Board Member Rollins read language from Land Use Planning Commission regarding lot coverage. Board Member Wilkens states he thinks 30% is too much and Chairman Downer concurred that 30% is too much.
- Board Member Wilkens advised he would like to see information from other towns and what others have used as a solution? Chairman Downer stated that he feels they would be setting themselves up difficulty if they start changing lot coverage. He continued that if they can come up with wording, that has worked for other, to protect those that have become a nonconforming lot by no action of their own. **Board Member Wilkens motioned to table discussion for two weeks to gather more information. Board Member Rollins seconded motion.** All in favor. CEO Hanson advised he can pull ordinances from other towns. No further discussion.

Continued discussion of alternative options for large scale solar array lot coverage

- Chairman Downer explained about the 3 alternative options for lot coverage for large scale solar arrays. Board Member Wilkens expressed his concern that they have not done this before, voting an item out and then sending a second item related. Chairman Downer explained it is a separate item but Board Member Wilkens states it is a separate item on the same ordinance. Board Member Wilkens explained the process is they vote on it, send it to the Select Board, they review, and they will send back to the Planning Board if there are issues. He continued that he is concerned with having options. Board Member Wilkens explained it needs to come from Planning Board, they vote in the ordinance.
- Board Member Wilkens explained that part of business, in Town, is farming. He advised “fields are money and are producing product”. He continued that they must be careful not to sell out our community. Board Member Wilkens explained there is a fundamental



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problem if there are differences between ordinances based on business. He continued that having different percentage for a different business could cause issues in the future.

- Board Member Wilkens states they have never send the Select Board a list of ideas. CEO Hanson stated that he did not think they were asking the Select Board to make the decision but wanted this to go to vote to all the community to make the choice. There was discussion on the process of sending to the Select Board.
- Board Member Rollins explained they are not changing the lot coverage but how the panels are counted toward lot coverage. He explained a reason is they are vegetated underneath, and this would allow a choice. He continued they should not take away of choice for property use. Board Member Rollins explained they need to have the option for people to think about and it is important for voters to decide where to go from here. Board Member Wilkens explained they have already voted on then the Select Board give the yea or nah, if goes out to the voters and then it comes back to the Planning Board. There was discussion on the process of sending items to the Select Board. Chairman Downer advised they have had a good relationship with SunRaise and was still difficult to get the permits. He explained the importance of getting an ordinance before the voters. There was extensive discussion regarding the amendments and when the Select Board will review. **Board Member Wilkens motioned to table discussion for two weeks until other members are present. Board Member Rollins seconded motion.** All in favor. No further discussion.

CEO Report

- CEO Hanson advised he has issued 11 new building permits and still has 12 still to be reviewed. He continued that he has issued 4 external (septic) plumbing permits and 2 internal plumbing permits for new homes.
- CEO Hanson explained he has issued 2 shoreland clearing authorizations. He explained the letters are sent when they will need to replant trees. He states he also gave to verbal authorizations where they did not need to replant. He explained that all were from damage done during the recent micro-bursts they have had. Chairman Downer inquired if when they are required to replant, is there specification on the type and size of trees to replant? CEO Hanson advised he does specify and is under the DEP. He explained that a replanting tree is 2 inches in diameter at 4 feet high and a soft wood would be replaced with soft wood; hardwood would need to be replaced with a hardwood. He continued that they need to be species that will have same growth height as the one that they are replacing. CEO Hanson explained that only a dead tree can be removed and does not need to be replanted since is no longer considered a tree. He continued that a tree removal within 100-foot buffer would only be if close enough to cause damage and cannot be removed for appearance. He advised an individual can contact DEP for further guidance. CEO Hanson advised of a buffer plant list that advises how to replace and can ask local greenhouse.



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- Chairman Downer questioned if there is a timeframe to respond? CEO Hanson advised he handles within a week and only sends a letter if replanting is required. He explained if the cutting is within 100 feet of the water and creates a new 250 square foot clearing, then replanting is required by DEP. He continued that outside of 100 feet and up to within 250 feet, they need to maintain a well-established strand of trees defined on the points scale. CEO Hanson explained this is outlined in the letter.

Future Schedule and Adjourn

Next Planning Board Meeting: August 10, 2021

Motion to adjourn meeting made by Board Member Wilkens

Motion seconded by Board Member Rollins

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

Respectfully Submitted,
Dawn Kilgore
Planning Board Secretary