



# Town of China

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

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*Approved by the Planning Board by a vote of 4-0 on 9-14-2021*

Planning Board Meeting

Meeting held in portable building and via ZOOM

August 10, 2021

Begin 6:30 PM

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

Board members not in attendance: n/a

Attendees: Brent Chesley and Cathy Chesley

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 capacity.

## **Review/Approve July 27, 2021 Meeting Minutes**

- Board Member Wilkens motioned to approve minutes as written.
- Board Member Tripodi seconded motion.  
Board Member Wall abstained from voting. All other members approved. No further discussion.

## **Review final edits of Solar Energy Systems Ordinance and Chapter 2: Definitions received from Kelly**

- Chairman Downer advised of minor edits made and approved by Town Manager, which included some spelling errors and editorial changes. He further advised that document has been distributed to the Select Board and will be reviewed August 16, 2021. Chairman Downer explained other modification that was made was to “dovetail” all the definitions together for what will be Chapter 8 for the Solar Ordinance. Chairman Downer stated he does not feel a motion needs to be made for final edits since the changes were not substantive changes.

## **Continue review of Chapter 2 section 5, shoreland protection with DEP amendments**

- Chairman Downer gave a brief overview of the updates to Chapter 2, Section 5 that were required by the Department of Environmental Protection (DEP) as mandatory to update the Shoreland Zone Act.
- Chairman Downer explained that one issue, that was discussed at the last meeting, as part to the changes the State made, there is going to be an impact to changing land coverage calculations specifically with having roads count. Chairman Downer explained they were



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working on discussion of what to do about people who are in 15% lot coverage limitation and the issue of them becoming nonconforming. Chairman Downer further explained he was unable to find data from the Town to help determine the impact was unsuccessful. The Town does not have the data, only has images and trying to calculate out from images from 2010 is not possible. He continued that when and how the pictures were taken in problematic as well as the roads are not visible in some and some are not looking directly down, which would be inaccurate at providing number they could work with. Chairman Downer stated he reached out to Kennebec Valley (KVCOG) to see if their GIS team can help further but was unable to get any numbers. He continued that the question is of what percentage of people at 15% will be illegal and are going be impacted? Chairman Downer advised State law is set at 20% of coverage and China currently has 15%, how do they proceed? Board Member Wilkens explained they would be grandfathered as of the date. He further explained that anyone knowing the percentage, would need to calculate for the road. **Board Member Wilkens motioned to leave as 15% and grandfather those who would go over due to the DEP rule as of this date. Board Member Wall 2<sup>nd</sup>.** Chairman Downer inquired into how they would insert language into the current wording. Board Member Wall stated she believes there is wording somewhere in ordinance regarding grandfathering. Board Member Rollins requested clarification of Board Member Wilkens motion. He questioned if someone is at 15% now, would they allow them go up or are they out of luck if is over? Board Member Wilkens explained would not be able to expand if already at 15%. Chairman Downer and Board Member Wall both advised they would have to comply with the current rule. Board Member Wilkens reiterated that anyone at 15% now cannot expand but anyone who goes over because of the new rule is grandfathered. Board Member Rollins stated that with new DEP rule change and making impervious, that they should bump up to 20%. Chairman Downer advised they need to get wording done for grandfathering. Chairman Downer advised on page 2-5, Resource Protection District, section 8 and was read aloud. Board Member Wilkens explained is just talking about the building at 30% but still has 15% lot coverage. Board Member Wall explained that what the DEP further defined what they needed and they provided definition of what they meant. Board Member Wall expressed her opinion that they should stay at 15%. Board Member Wilkens further clarified wording that if the new definition puts you over the 15%, you will be grandfathered but cannot expand. Board Member Rollins inquired if there is a term somewhere? He explained that definition of grandfathering is usually for what you have but cannot exceed the new law. Board Member Wall advised of 2-1 under definition B “any structure or lot”. Chairman Downer advised wording is good. CEO Hanson further explained that they can continue but need to conform after date. Board was in agreement. Board Member Rollins explained 20% coverage is pretty minimal of a change from 15%. Board Member Wall states biggest question is DEP going to accept from 15% to 20%? Chairman Downer states the objective is to get it to pass. Board Member Rollins voted no to the motion. Board Member Wall, Board Member Wilkens, Chairman Downer and Board Member Tripodi voted to yes to motion.

- Chairman Downer advised they have read through most of the document. Board Member Wall complemented that DEP did a nice job explaining what they wanted. Chairman



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Downer advised they have reviewed up to 2-19. Chairman Downer questioned the clarity of the statement “and other areas from which vegetation has been removed” Board Member Wilkens states should state “vegetation has been cleared” and if not replanting. Planning Board members agreed statement is clear as is. Board Member Wall advised of other areas would also be changed if they changed wording. CEO Hanson confirmed wording is good.

- Chairman Downer explained is just dealing with Chapter 2 modifications that are mostly in Chapter 5. Chairman Downer entertained a motion to leave wording as it stands. **Board Member Wall motioned to leave wording as written. Board Member Wilkens seconded motion. All in favor. No further discussion**
- Chairman Downer opened discussion on definitions. Board Member Wall advised appears to be combination of both solar system and land use.
  - There was discussion of “Expansion of a Structure”.
  - Board Member Wall explained “Home Occupation” (4) should say “employs no more than 2, not 3”
  - Board Member Wall commented on definition of “Individual Private Campsite”. Board Member Wilkens questioned if there wasn’t there a time limit? Board Member Wall confirmed time limit is in ordinance.
  - Chairman Downer read definition of stream. Board Member Wilkens explained a stream coming off China Lake into a bog would still be a stream. Board Member Rollins explained he looked up definition National Resource Protection Act and continued to explain that if meets 2 out of 5 criteria would qualify as a stream per the DEP. Board Member Wilkens suggested to add criteria Board Member Rollins found for better clarification. **Board Member Rollins motioned to change the definition to the River, Stream or Brook definition as depicted in DEP National Resource Protection Act, under definition 480-B. Board Member Wilkens seconded motion. All in favor. No further discussion.**
  - There was discussion on the definition of “Trees”. CEO Hanson explained that per DEP, a tree is described as being 2 inches in diameter at least 4.5 feet high. He further explained a sapling becomes a tree when it reaches that size. Board Member Wilkens brought up the question whether a shrub or bush could be classified “a tree”? Chairman Downer explained definition is the State’s wording for trees and read the definition of a tree on page 11-24 of reaching height of 10 ft at maturity. Board Member Wilkens questioned if dwarf trees are not trees? Chairman Downer states he has concerns with the height at maturity. Board Member Rollins questioned where definition came from. Board Member Wall advised is from DEP. Board Member Wall asked CEO Hanson if he can work with how it is written? CEO Hanson advised he can. Board Member Wilkens gave the example if someone has a grove, they could cut down the whole grove because they are not defined as “trees”. CEO Hanson advised they cannot make any new clearings in the buffer zone and this would also include shrubs. He continued when they take a tree out, they have to replant a tree unless there are special permissions. Chairman advised no definition for shrub. Board Member



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Wall explained is mentioned under “woody vegetations”. CEO Hanson states would be DEP definition of shrubs for Shoreland. Planning Board agrees that they do not need to further define “shrubs”.

- **Board Member Wilkens motioned to approve definitions as written and to move on to the Select Board. Board Member Rollins seconded motion. All in favor. No further discussion**

## Continue discussion of alternative options for large scale solar array lot coverage

- Chairman Downer advised discussion on alternative options for large scale solar array lot coverage was tabled last meeting. **Board Member Wilkens motioned to table any further discussion unless asked for by the Select Board for alternative options. Board Member Wall seconded motion.** Board Member Wall explained they have already voted and distributed and unless they want to rescind and ask for back to make changes. She advised she does not want to do that. Board Member Rollins states he feels Select Board should see document to see where other communities are coming from and where we are. He further states that the way it is currently written is being too restrictive. Chairman Downer explained that as a matter of process and if the ordinance is sent back to the Planning Board, they can discuss the options again. Board Member Rollins and Chairman Downer abstained from voting. Board Member Wilkens, Board Member Wall, and Board Member Tripodi all voted in favor to table any further discussion unless alternative options are requested by Select Board.

## CEO Report

- CEO Hanson advised that in the last 2 weeks, he has issued 9 building permits, that consisted of 4 mobile home permits, 2 garages, 2 houses and 1 small shed. He confirmed that he has also issued 9 plumbing permits. CEO Hanson explained that Erskine Academy is replacing some tanks to add more compacity and will tie into the disposal field. He further explained they will need to repave the parking lot once tanks are replaced. Board Member Wilkens inquired if this is an upgrade? CEO Hanson answered that field is still in good condition and they are just need adding tanks to increase compacity.
- CEO Hanson advised he has had no requests for shoreland clearings.
- CEO Hanson explained that one property has been moving forward to comply with violations. He continued he has had some complaints regarding rodents and the owner states cleaned up lawn. CEO Hanson commented that there still appears to be issues with the garage.
- CEO Hanson advised of property on Dirigo Rd and possible noncompliance with a consent agreement from past CEO. He further explained that the property owner has spoken with CEO and Town Manager Hapgood. CEO Hanson states is making sure consent agreement is being complied with. Board Member Wilkens inquired if there are still complaints about odor? CEO Hanson explained he has had numerous complaints of



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odor from the neighbors. CEO Hanson explained he has been directed Town Manager Hapgood and attorneys to reopened communication between CEO and Mr. Howe. CEO Hanson states Mr. Howes asked if could get containers for screening? CEO Hanson advised that he is being directed he can use containers for screening since it is an improvement. He further explained he will work with Mr. Howes to make sure container are safe and level. Chairman Downer stressed that the containers being level would be very important from Fire Department as well. CEO Hanson explained attorneys have been involved.

- CEO Hanson updated the Planning Board of the reopening of the discussion of the dangerous buildings in Town. He states he is working with the Select Board and the opinion is that they will handle the 4 remaining one at a time based on budget. He continued that they have already been filed 3 with the state as dangerous. Board Member Wilkens questioned if they could be used for Fire Department training? CEO advised they would need to use caution as there could be hazardous materials involved. Chairman Downer explained would need to be reviewed by State Fire Marshall. CEO Hanson advised there are special permissions to bury on site. Board Member Wilkens gave an example of a bus that was used for fire department training.
- Chairman Downer inquired into status of Fire Rd 19. CEO Hanson commented that Mike Marchette got back to him today advising he has reached out to a surveyor and an engineer for the design. CEO Hanson advised Mr. Marchette stated he still needs to talk to other residents and that there still is work to be done to survey map. Chairman Downer stressed they will need to give time for abutters to comment and is going to be tight it he is planning on building this year. CEO Hanson explained he will need to check with Road Association that right of way is included in deeds. Chairman Downer explained it will date a minimum of 3 meetings to process. Chairman Downer advised is not a fast process, they need to have time for the abutters response and then they will need to hold a public hearing. He continued that they would need a complete application before any meetings can take place.

## **Future Schedule and Adjourn**

Next Planning Board Meeting: August 24, 2021

Motion to adjourn meeting made by Board Member Wilkens and requested to move meeting to 2<sup>nd</sup> Tuesday in September unless there are any impending permits.

Motion seconded by Board Member Wall

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

Respectfully Submitted,  
Dawn Kilgore  
Planning Board Secretary