



TOWN OF CHINA

571 LAKEVIEW DRIVE; CHINA, ME 04358

(207) 445-2014 INFO@CHINAMAINE.ORG

Approved by Planning Board by a vote of 4-0 on July 9, 2024

Planning Board Meeting

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

June 25, 2024

Begin 6:30 PM

Board members in attendance: Toni Wall, Michael Brown, Elaine Mather

Board members not in attendance: Natale Tripodi

Attendees: Mary Grow, Brent Chesley, Cathy Chesley, David Landmann, Norman Elvin, and Grace McIntyre

Code Enforcement Officer Nick French – Present

Board meeting opened by Chair Wall

Pledge of Allegiance to the American Flag

Review/Approve Minutes 5-14-2024 Meeting

- Board Member Mather motioned to approve minutes as written.
- Board Member Brown seconded motion.
All in favor. No further discussion.

Chair Wall explained she would like to change the order of the agenda to move old business of discussion on Chapter 2 updates to after new business to allow for review of the conditional use permit application.

Conditional Use Application – Grace’s Busy Bees Learning Care

- Chair Wall opened discussion on the conditional use permit application. Chair Wall inquired to CEO French if this is a complete application? CEO French confirmed he believes the application is complete. Board Member Brown motioned the application is complete. Board Member Mather seconded the motion. Unanimously approved.
- Chair Wall asked Mr. David Landmann and Ms. Grace McIntyre to speak on what the plans are for the building. Mr. Landmann explained the plan for the project is to take an existing commercial building and reuse it commercial purposes and explained the change is from a restaurant to a daycare. He continued to explain the changes require review by DHHS and the State Fire Marshal which are currently pending. Mr. Landmann advised the Fire Marshal’s office has stated it should not be a problem since the building fully meets the codes but that they may be required to make a few changes which Mr. Landmann stated they are very willing to make whatever changes are needed. He further advised building had to meet more stringing codes as a restaurant than are required for a daycare. He continued that all codes are more stringent for a restaurant, waste water treatment is more stringent, parking is more stringent, life safety codes are more stringent and just about every code is more stringent for a restaurant. Mr. Landmann explained they are safety and environment focused. Mr. Landmann advised he is willing to answer any additional questions about the building and Ms. McIntyre can answer any questions about the daycare. Board Member Brown asked about the number of children that will be

attending the daycare? Ms. McIntyre explained her long-term goal is 100 or less children, but she is looking at 65 the first year and would like to have an increase in number of kids after the first year pending enrollments. She explained she is currently working at a childcare facility that has 75 children. Board Member Brown stated that there would be less water used for 100 children than for 100 customers if it was a restaurant.

- Chair Wall questioned if they should have a public hearing? Chair Wall advised she has heard about change of use on Facebook and on the radio. CEO French states he has not heard any comments from the public. Mr. Landmann explained time of the essences as they need to get the approvals and renovations done to be ready to open by start of the school year. Board Member Brown states he does not see a need for a public hearing. Board Member Mather suggested they air on the side of caution for a public hearing to allow a chance for people to discuss unless there is something that suggested they should not. CEO French explained there is no one across the street and the people who live behind the property and across the stream have not commented. Mr. Norman Elvin explained there were 2 options for the property, either a veterinary hospital or a daycare. He continued that an ice cream shop has also inquired but he declined due to there being an existing local ice cream shop. He commented that a daycare is a really good use for the building. Board Member Mather reversed her suggestion and advised her opinion is they can go forward without a public hearing. Board Member Mather motioned to not hold a public hearing on the application. Board Member Brown seconded motion. Chair Wall commented that she is in agreement with not holding a public hearing since the change of use is not detrimental to the Town of China. CEO French explained the use is still a commercial use, and under the ordinance would still be the same use as commercial and if anyone has any comments or concerns, there is still a 30-day appeal. Unanimously approved.
- Board Member Mather questioned about lead paint and asbestos in the building? Chair Wall advised was part of the review process for the China Dinah and Mr. Elvin went above and beyond to make sure the building was safe for the public. She continued that Mr. Elvin updated water and sewer for the building as well. Mr. Elvin explained he took the building down to bare walls when he did the restaurant and the outside of the building was painted by himself. Chair Wall asked Ms. McIntyre where the outside play area will be located? Ms. McIntyre advised the play area will be in the back of the building, with access to the back doors. Mr. Elvin states he will be putting in a 6-foot cedar fence buffer for the neighbors behind the building. Chair Wall explained that The State of Maine has many regulations for daycare facilities that need to be met before they can open. Mr. Elvin advised Ms. McIntyre has done her work at making sure everything is in compliance with the State of Maine.
- **Criteria**
 1. Criteria 1 and its responses were read aloud. Board Member Brown motioned for approval of Criteria 1 as complete. Board Member Mather seconded motion. Unanimously approved. No further discussion.
 2. Criteria 2 and its responses were read aloud. Board Member Mather motioned for approval of Criteria 2 as complete. Board Member Brown seconded motion. Chair Wall questioned how fire safety has been improved? Mr. Landmann explained they will be upgrading fire alarm system and there will be more exits than are required for a restaurant. Board Member Brown inquired if sprinklers are not needed? Mr. Landmann advised a sprinkler system is not required. Mr. Elvin advised that the commercial kitchen will be completely eliminated so there will be no fire risk. Unanimously approved. No further discussion.
 3. Criteria 3 and its responses were read aloud. Board Member Mather motioned for approval of Criteria 3 as complete. Board Member Brown seconded the motion. Chair Wall asked if there will be no changes to current lighting? It was advised that the sign has a night light and there will be enough lighting in the back. Mr. Landmann advised the business will have a shorter number of hours. Chair Wall explained it still gets dark at 4pm in the winter. Unanimously approved. No further discussion.

4. Criteria 4 and its responses were read aloud. Board Member Brown motioned for approval of Criteria 4 as complete. Board Member Mather seconded motion. Chair Wall stated there will be a buffer behind the building. Mr. Elvin advised will be the fence for the daycare. He also advised that the line of sight has been destroyed by over growth of vegetation and will be clearing brush. Board Member Brown suggested they could ask the State for help clearing the brush from road. Unanimously approved. No further discussion.
5. Criteria 5 and its responses were read aloud. Board Member Mather motioned for approval of Criteria 5 as complete. Board Member Brown seconded motion. Unanimously approved. No further discussion.
6. Criteria 6 and its responses were read aloud. Board Member Mather motioned for approval of Criteria 6 as complete. Board Member Brown seconded motion. Chair Wall explained they are going to remove trees from line of sight. Chair Wall inquired if unloading will be at front of building and through the main entrance? Ms. McIntyre states drop off and pick up times will be staggered and they will enter and exit via the main entrance. Ms. McIntyre advise the hours of operation will be 6:30am to 5:30pm. Board Member Mather questioned if the parking spaces and traffic flow will remain the same? She stated she is concerned for the safety of the children in the parking lot. Mr. Elvin advised the parking lot has been restriped and Ms. McIntyre advised there are now wider lanes. Mr. Elvin explained that he would like to think the kids would be escorted to the building. Ms. McIntyre states she will send memo to all the parents advising they will need to use the parking spaces closest to the building first. Unanimously approved. No further discussion.
7. Criteria 7 and its responses were read aloud. Board Member Brown motioned for approval of Criteria 7 as complete. Board Member Mather seconded motion. Unanimously approved. No further discussion.
8. Criteria 8 and its responses were read aloud. Board Member Mather motioned for approval of Criteria 8 as complete. Board Member Brown seconded motion. Unanimously approved. No further discussion.
9. Criteria 9 and its responses were read aloud. Board Member Brown motioned for approval of Criteria 9 as complete. Board Member Mather seconded motion. Unanimously approved. No further discussion.
10. Criteria 10 and its responses were read aloud. Board Member Mather motioned for approval of Criteria 10 as complete. Board Member Brown seconded motion. Unanimously approved. No further discussion.
11. Criteria 11 and its responses were read aloud. Board Member Mather motioned for approval of Criteria 11 as complete. Board Member Brown seconded motion. Chair Wall inquired if they have changed anything from the restaurant. Mr. Elvin advised he has had traps cleaned and they have checked the field. Unanimously approved. No further discussion.
12. Criteria 12 and its responses were read aloud. Board Member Mather motioned for approval of Criteria 12 as complete. Board Member Brown seconded motion. Chair Wall confirmed there is no increase demand and the demand meets the proposed standards for fire safety. Unanimously approved. No further discussion.
13. Criteria 13 and its responses were read aloud. Board Member Brown motioned for approval of Criteria 13 as complete. Board Member Mather seconded motion. Board Member Brown questioned if there is any hazardous waste? Ms. McIntyre advised there is no hazardous waste. Chair Wall inquired if they will have a dumpster? Ms. McIntyre advised there will be a dumpster. Unanimously approved. No further discussion.

14. Criteria 14 and its responses were read aloud. Board Member Mather motioned for approval of Criteria 14 as complete. Board Member Brown seconded motion. Unanimously approved. No further discussion.

15. Criteria 15 and its responses were read aloud. Chair Wall advised property is located in shore land and resource protection. Board Member Mather motioned for approval of Criteria 15 as complete. Board Member Brown seconded motion. Unanimously approved. No further discussion.

- Board Member Brown motioned Criteria 1 through 15 have been met and the conditional use permit is approved. Board Member Mather seconded motion. Unanimously approved. Mr. Landmann thanked the Planning Board and advised it makes his job is easier and applicants that go above and beyond. He thanked the Planning Board for everything that they do. Chair Wall advised of 30-day appeal period. Chair Wall explained she will need to complete the finding of fact and will have all paperwork signed off by Friday.

Chair Wall explained that the new ordinances have not been written yet and asked CEO French to advise the Planning Board about new ordinances.

Condemning Places Ordinance

- Chair Wall explained that they currently do not have anything in the ordinances to address properties that should not be inhabited and this would be a way to help address those properties. She continued that CEO French has contacted other towns and they have referred him to their own ordinances instead of relying on State rules. Chair Wall explained it is very difficult to condemn a place currently. CEO French explained this would provide some options and advised there are some places that are 60 years old that people should not be living in. He continued that the only way they have now is for a dangerous building and proving that it is an imminent danger can be difficult. CEO French advised it is a way to address deficiencies in buildings including issues that were before the HUD rules. Chair Wall explained she looked at building and property maintenance ordinances from a few towns that kind of address what they are looking for and will have CEO make copies. Board Member Brown questioned if this could be opening a Pandora's box and if there are examples of the problem and how many? CEO French advised they have a few places where people should not have been living in or squatting in. He further advised the buildings are unsafe due to plumbing and mold but are not considered as a dangerous building as the building is not a danger to the community, only the inhabitants. CEO French explained the ordinance is not really needed but would be good to have to address some of these types of buildings. Chair Wall explained she is working on finding other towns, including Harland and Ellsworth, that they can review. She further advised there is also some state legislation on condemning places. She advised they can discuss at another meeting. Board Member Brown gave an example of a place in Winslow. He questioned how the processes works for new ordinances? Does it go to the Select Board and then back to the Planning Board for review? Chair Wall explained the new ordinance goes to the Select Board for review and comment, then it comes back to the Planning Board for any changes and then goes to public hearing and vote. Chair Wall advised she will email other town ordinances and state rules to Planning Board members.

Mass Gathering Ordinance

- Chair Wall explained someone was interested in holding a foot race and they do not have a way to permit an event of this nature. Chair Wall advised there is information at the state level regarding mass gatherings and they are over seen by DHHS and there is a license required. She continued that the information can be found, on the Maine website under Chapter 265 Title 22. Chair Wall explained she also found ordinances from the towns of Fryeburg, Winthrop and Sabattus which mirror what is at the State level. She further advised they would need to submit a permit to the town, facilities, cooking food, approval from DHHS? Chair Wall advised this gives the town a way to deal with mass gatherings. Board Member Mather inquired if mass gatherings have been defined? Chair Wall explained the State defines mass gatherings as 2,000 people or more. Chair Wall advised the towns can reduced number down to what they see fit and the length of the event. Chair Wall advised of China Fun Run from years ago. Board Member Mather advised of protests on college campuses. Chair Wall advised if held event on a school property would have different regulations than what the Town would have. Board

Member Mather confirmed is just for state property. CEO French explained would need to be permitted with state and the Town. Chair Wall advised of needed for law enforcement and who will pay for law enforcement presence if needed.

Site Plan Review Ordinance

- Chair Wall explained they currently do not have one. She further explained the site plan review provides base line requirements that might not be conditional use and sure up what they are looking for on applications. She continued that this was suggested by the Town Attorney. Chair Wall advised Maine State Planning Office has a resource on how to for Towns and also the Town of Bridgeton has a good site plan review process.

Ordinance Prohibiting Retail Marijuana Establishments in China

- Chair Wall explained they currently have an ordinance prohibiting retail marijuana establishments but the state rules referenced in the ordinance have changed. CEO French advised the State rules have been repealed and by default, municipalities are prohibited unless they opt in. Board Member Brown inquired if they have retail marijuana establishments in China? CEO French confirmed they do have retail marijuana establishments and predates the distinction between medical and recreation. It was confirmed the ordinance is for medical currently. Mr. Brent Chesley explained they cannot prohibit it but can have an ordinance that prohibits certain activities. CEO French explained they can also cap the number of establishments and have an annual fee to regulate that way they would be acting with municipal approval. Board Member Brown questioned how many medical use facilities they have in town? CEO French explained only one establishment currently that is retail as the other establishment license expired. He also advised of a grow facility. Chair Wall explained she has looked at ordinances from other towns that prohibit recreational, no social clubs or places to smoke. Chair Wall advised of another ordinance that is a combination of recreational and medical. She continued that these are things to talk about as ways to protect the health and safety of the town. Chair Wall advised will email all information to Planning Board Members.

Chapter 2 Section 6 Land Use Ordinance – continued updates

- Chair Wall asked to postpone discussion until the next Planning Board Meeting when Board Member Tripodi can be in attendance. Chair Wall explained that they will need to work on Chapter 2 of the Land Use Ordinance over the summer. She continued that they will need to make sure the changes from DEP are reflected.

CEO Report

- CEO French advised he will be remote for July 9th meeting but will be moving back into town after that meeting.
- Board Member Brown questioned if there has been any more word of subdivision application. CEO French states has not heard anything and has tried to reach out to the applicant. Chair Wall asked about Ellis subdivision? CEO French advised the plans for a subdivision have been abandoned for now.
- Chair Wall inquired into property they had previously discussed. CEO French explained has leveled off property, and is between resource and stream protection and is more then 60,000 square feet. He continued that property is big enough for residential or commercial but property owner has not decided on use.

Planning Board Members Comments and Communications

- Board Member Mather advised will be unavailable July 14th -21st and August 10th- 21st. Board Member Brown need to make sure they are all in attendance to have quorum.
- Chair Wall advised of Select Board meeting on Monday. Mr. Chesley advised there is a Select Board meeting on Friday for Year End.

Future Schedule and Adjourn

Next Planning Board Meeting: July 9, 2024

Motion to adjourn meeting made by Board Member Mather

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