



Town of China

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

Planning Board Meeting
January 14, 2020
Begin 6:30 PM

Approved by Planning Board by a vote of 4-0 on February 11, 2020

Board members in attendance: Tom Miragliuolo, Toni Wall, James Wilkens, Randall Downer, Natale Tripodi

Code Enforcement Officer William Butler present

Board meeting opened by Chairman Miragliuolo
Pledge of Allegiance to the American Flag

- Chairman Miragliuolo recognizes Board Member Tripodi to voting compacity as the alternatate at large.

Review/Approve Minutes of December 10, 2019 Meeting

- Board Member Wall motioned to approve minutes as written. Board Member Wilkens seconded motion.
 - Remove meetingAll in favor. No further discussion. Minutes unanimously approved
- Chairman Miragliuolo advised there is a School Board meeting on 1-22-2020 and the school has offered a tour for the Planning Board at 6:45pm. He also explained they can schedule for another time as well. The Board members felt they could do the tour on their own at another time due to conflicting schedules.
- Chairman Miragliuolo distributed copies of the Planning Board Summary to all Board Members.

Discussion of Marijuana Ordinances from the towns of Bangor, Damariscotta, Auburn, Winslow, Fairfield, Bethel and Poland

- CEO Butler advised the Board that he felt that larger towns had thinner ordinance packets. He explained that there was a wide variety of approval processes. For example, some had to have planning board approval, while others had the office clerks approve and some had the marijuana tied to land use ordinance.



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- CEO Butler states he likes Fairfield's marijuana ordinance. He feels it is well done and in the "middle of the road" to what they may want. He states his only tweak would be the engineering of the ventilation and outside odors. Board Member Wall commented that Poland states "no perceptible odors" in their ordinance. CEO Butler states that Poland also allows for home occupations which no other towns had and he feels is not a good idea.
- Board Member Downer commented that he liked the definition of terms from Damariscotta and Board Member Wall advised they will also need to look at laws and definitions that the state has used. CEO Butler explained that he likes Fairfield's application due to being fairly easy to complete and the application fee is \$100. Board Member Downer questioned if China charges a fee? CEO Butler advised that China charges a standardized fee which is listed on application. Board Member Wilkens advised the Town of Bethel asks for ID and permit to be displayed on premise. Chairman Miragliuolo advised they should leave feet to state laws. CEO Butler advised Fairfield has setbacks from schools, rehab centers and churches. Board Member Downer questioned if the state has any restriction between facilities in its laws? CEO Butler explained Rockland has spacing requirement between facilities.
- Chairman Miragliuolo explained that once they have something they are working on; they can use pieces from different ordinances. Board Member Wall recommended having a copy of the State law. There was discussion as to which Towns they should use. CEO Butler reiterated that he feels Fairfield is the better fit for China. Board Member Wall motioned to review Fairfield, Bethel and Damariscotta ordinances to help draft an ordinance for Town of China. Board Member Wilkens seconded motion. All in favor.
- Chairman Miragliuolo questioned if they should have something to work from? And states it is easier to have something in a format, to work from, like a template. Board Member Wall states that Damariscotta's is organized well and could use as a template. Chairman Miragliuolo suggested they can do "strike through" of portions they do not like. CEO Butler advised he will reach out to Damariscotta to get a word document. Board thanked CEO Butler for compiling ordinances.

Discussion of "unique" retaining wall on Fire Road #9 and whether it meets the criteria for requiring Planning Board Review

- CEO Butler explained this project has generated a lot of interest with neighbors and CLA. He explained they received a DEP permit stating was not within a great pond. Board Member Wilkens questions if it may need to come to the planning board? CEO Butler explains that it should be looked at. The wall is 7 feet high, with sheet metal and concrete on water side and decorative on the other side. Chairman Miragliuolo states the sketch shows that at high water line is in the water and he was under the impression could not be built. He also questioned if this is a problem being built in the shoreland zone? CEO advised is best to given to department but neighbors are unhappy and have hired a lawyer. He explained that Scott Pierz wrote a letter from the CLA to the DEP regarding the impact of the project on the lake. Board Member Wilkens states he feels everyone



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will want to have a flat yard if this project goes through. CEO Butler explained DEP has language to have an alternative to have lower impact

- Board Member Wilkens voiced his concerns regarding runoff going into the lake. CEO could not find a way to deny in ordinance but states when built, soil cannot go into the lake. There was discussion on placement of the piping. Board Member Wilkens advised that China lake has a pitch. If this project goes forward, is going to open up for others to do the same. What is their recourse? Board Member Wall advised that retaining wall is touching the water. CEO expressed his opinion that it should not be done. Chairman Miragliuolo inquired if the DEP wants an analysis and could this property be year-round at some point? CEO Butler advised work has not been started yet and property owner is currently renovating home.
- Board Member Wall states looks like creating a patio not a retaining wall. Would this not be a structure? CEO Butler advised there is a seasonal dock which would be turned in but would infringe on neighbors' access to their docks. CEO Butler advised thinks earth patio would have bricks or something more impervious. Board Member Wall states is 13 ft out and 30 ft across. CEO Butler explained he is currently waiting on letter from Colin Clark.
- Board Member Wilkens reiterates that a retaining wall is a structure. They are driving down into bedrock and he has to wait for low water to put steps in. Board Member Wilkens advised is high water mark, not low water mark they are concerned with. CEO Butler states he deferred to DEP on water. There was question if the Planning Board should be reviewing? CEO explained property owner has all permits.
- There was discussion involving if the wall is being rehabilitated or actually replaced and if any trees are being removed. CEO states if they remove a tree from the buffer, then it needs to be replaced. CEO states there are good temporary measures in place to prevent runoff. CEO explained he received a copy of application to DEP and spoke with applicant. CEO advised is contingent based on not going over 100 yards. Board Member Wall questioned if existing stone wall failing? Was advised is not a stone wall and meets definition of rip wrap. CEO explained they are sheet metal to elevate. Board is in agreement that is construction.
- Board Member Downer suggests this is clearly a breakwater and neighbors could have argument regarding erosion to their properties. CEO Butler explains section 5 N, under "other uses", is where it fits. Also is extending over high water. CEO Butler advised there is a floating silt fence catch erosion that might drift since there is not enough room for a silt fence. Board Member Tripodi questions the use of heavy machinery which could cause damage. Board Member Wilkens stressed that the machinery cannot be in the water.



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- Chairman Miragliuolo inquired if it has gone passed the 30-day DEP appeal period? CEO Butler confirmed appeal timeframe has passed. There was concerns brought up by Board Member Downer regarding wave action and ice movement in regard to the retaining wall and its ability to withstand. CEO Butler states ice movement would probably cause damage to the wall. Chairman Miragliuolo states he is more concerned with where it is, not so much the material. Board Member Wall advise that per DEP, the property owner is going to plant vegetation behind wall.
- CEO Butler questions if Board would like to have reviewed for conditional use? Chairman Miragliuolo states would be reviewed as any other project. Board Member Wall inquired is the existing wall failing, and if not would this be cosmetic? CEO Butler advised owner states is not holding the soil back, is filtering thru. CEO Butler states has asked owner to put in more rock. Board Member Wilkens explained is adding level property into the high water mark and this is not a low retaining wall. Per Section 5 of Land Use standards, 2-20 describing would need to be farther back like the steps, no more than 2 ft in height and A-G would have to be met.
- It is pointed out that the DEP Order states it does not supersede local ordinances. Board Member Wall suggests DEP are looking at from low water where China would be looking at from high water. Board Member Downer questions how is it protecting when removing the shoreline? CEO Butler states they are not destroying but developing the shoreline. Board Member Wilken stressed that China ordinances do not allow within 75ft. Chairman Miragliuolo asked about DEP federal water pollution national protection act? CEO Butler advised already has, is DEP letter.
- Board Member Wall asked for a definition of “all natural”? CEO Butler advised it can be sand but has to be vegetated. Can also be grass. Board Member Walls inquired what happens if gullies form on neighbors’ properties? They would need to protect their shorefront. CEO Butler advised has to stay under 100 yards. Board Member Wall questioned how they will know if 100 yards? CEO advised would be based on how many dump trucks. There was discussion on how much fill would be needed.
- Board Member Downer need a motion? CEO does not have permit for the wall. Chairman Miragliuolo advised can reject proposal within resource however DEP is stating is not within the resource. There was discussion regarding status of steps, whether it is an installation of new steps or relocating of existing step. Board Member Wilkens advised appears to be adding more and cannot add more. CEO Butler explained he wanted to bring board up to speed. He states has done a dozen inspections and currently has a gully and bowl which would need to be improved.



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- Chairman Miragliuolo explains he wants to make sure they follow the correct route. The question is does it require another permit? Board Member Wall inquired how far is it being piledriven? CEO advised about 4 ft down, footing is below the high-water mark. Board Member Wilkens states goes against China ordinance. CEO Butler explained that our ordinance doesn't regulate in the water. Chairman Miragliuolo advised that 2-22 states can only bring in fill to control erosion. CEO Butler questions if there maybe a way to regulate the wall? Chairman Miragliuolo suggested it could contribute to water quality problems. There was discussion if is a breakwater or a retaining wall. CEO Butler advised that breakwaters are more of an ocean. Board Member Downer motion after further review and discussion of the sheet metal retaining wall, the Planning Board directs CEO to contact applicant for submitting a conditional use permit. Board Member Wilkens seconds motion. All in favor. No further discussion

CEO Report

- CEO Butler advises that they have a tiny home that is being built in town. He advised that everything has been going very well and he is very pleased.
- CEO Butler there is question of the need for a retaining wall at Randy Pottles 2 chair hair salon.
- CEO Butler advised there is a daycare 14 Brook View Ln which currently has 24 kids and 3 adults which is over septic design. Property was a 4-bedroom home. Chairman Miragliuolo states needs home occupancy permit. CEO Butler advised they are working on getting septic system taken care of.
- CEO Butler advised did a check for approvals and state permits for dog kennel McCausland Rd that was discussed at 12-19-19 meeting. All is in good order
- There was discussion on the lack of porous pavement at the Family Dollar Store. Board Member Wilkens advised was a condition of the permit, needs to have porous pavement due to phosphorus. CEO Butler explained need DEP permit for commercial and is an enforcement issue
- CEO Butler advised Lamarres' are taking the Appeals Board to Court regarding the outcome of the Lamarre vs Namer appeal. The appeal is regarding the RV park model that is owned by the Namers'. CEO Butler explained there is a possibility that previous CEO, Paul Mitnik, may need to be subpoenaed to testify.
- CEO Butler advise of 2 property owners having a dispute in regards to fabric shelters. There have been ongoing issues.
- CEO Butler explained that Nick Namer, Owner of Sunset Cabins, is allowing brother and girlfriend to live in seasonal cabin and is looking like they will be there for the winter. CEO Butler advised that Nick states he has the right to allow family to stay. CEO Butler



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informed the Board that he hand-served a NOV to tenants. The cabin is currently wrapped in black plastic. Chairman Miragliuolo states is no different than any other seasonal. There was discussion on contacting the Wellbeing committee or Adult Protective Services.

Future Schedule and Adjourn

Next Planning Board Meeting: January 28, 2020

Motion to adjourn meeting made by Board Member Wall.

Motion seconded by Board Member Wilkens

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

Respectfully Submitted,
Dawn Kilgore
Planning Board Secretary