



Town of China

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

Approved by Planning Board by a vote of 5-0 on January 10, 2023

Planning Board Meeting

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

November 22, 2022

Begin 6:30 PM

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

Board members not in attendance: Michael Brown

Attendees: Brent Chesley, Cathy Chesley, Mary Grow

Assistant Code Enforcement Officer Nick French - Present

Board meeting opened by Board Member Wilkens

Pledge of Allegiance to the American Flag

Board Member Wilkens brought Board Member Tripodi into voting capacity.

Review/Approve Minutes October 25, 2022 Meeting

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

Questions regarding Public Hearing Scheduled for November 22, 2022

- Board Member Wall inquired to Assistant CEO French regard public hearing that was scheduled for November 22, 2022. She explained that she would like to discuss email that was sent regarding the Town Attorney determining the business to be a home occupation. She continued that she would like to know why town attorney was brought in to make that decision? Assistant CEO French explained that it came up during discussion of other matters. Board Member Wall advised will be a new board once a new chair and co-chair are elected. Board Member Wall states that she is concerned because this is a medical marijuana facility and all the medical marijuana facilities have come before the board in the past. She continued that they are not home occupations and stated that if she was Mr. Masons neighbor, she would be concerned if there is no public hearing for a new marijuana facility, but in addition there is no public hearing for information on a new method of extraction of cannabinoids. Board Member Wall expressed her concern that the town attorney was brought into it, and advised that in the past, these have come before the board, and they have made the decision where was a home occupation and could go to the CEO. She further expressed that she is greatly concerned by how was handled.
- Board Member Bennett inquired into what is the definition of a home occupation? Board Member Wilkens advised is in Chapter 11. Board Member Bennett questions if the business has a store front? Assistant CEO French advised there is no storefront. He continued that Mr. Mason grows and supplies to others who manufacture. Board Member Wall advised that it would have been



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nice to have had heard from the applicant and for the Board to make the decision. Board Member Bennett advised he would look at the definition first to determine if needs to come to the Board. Board Member Wall advised that is why they are brought before the board to discuss to determine by unanimous decision if is a home occupation. Board Member Bennett states has a home occupation for contacting. Board Member explained there are different categories of home occupations but what they are discussing here is the application was already brought before the board and was voted on, which is a binding vote, by an elected board that Mr. Mason would have a public hearing. Board Member Wilkens continued to explained that Mr. Mason brought in the application himself, for a conditional use permit. He continued that Mr. Mason was told he would need to fix the application and a public hearing was scheduled. Board Member Wilkens states that the Town Attorney is for counsel, and does not make decisions for the Board, the Board had already made a decision. He further states that the expectation was to have a public hearing and that they made the exception to do the public hearing and review the permit the same day. Board Member Wilkens remarked that how things were handled was not right. He continued that the only people that make the decision regarding a public hearing and/or a conditional use permit is the Planning Board. He further explained the process is to go to the Planning Board, and if does not agree, it can go to Appeal, where the attorney could be involved. He also mentioned could go to Select Board in process.

- Board Member Bennett inquired of the different classifications and when would need to come before the board. He advised that the attorney may have been right that was a home occupation but the Planning Board was right in requesting the public hearing. Board Member Wilkens advised is not saying the Town Attorney is wrong, just the procedure was wrong. Board Member Wilkens inquired if Mr. Mason has a home occupation permit? Assistant CEO French advised has submitted but has not been approved or issued. Board Member Bennet suggested the Planning Board could review home occupation to which Board Member Wilkens responded that the Planning Board does not issue home occupation permits
- Board Member Wilkens advised Planning Board already voted and made the decision for a public hearing. Board Member Bennett questioned who has the jurisdiction? Board Member Wilkens and Board Member Wall advised that he needs to come back to the board and that there is a procedure that needs to be followed. Board Member Bennett questioned that there must be guidelines for the medical marijuana growing industry and referenced amounts for personal grows. He continued to comment the public should have a say if there is going to be an impact. Board Member Wilkens explained the past process regarding medical marijuana permit process. He continued to explain that the precedence has been set that a marijuana facility needs a conditional use permit. Assistant CEO French explained Mr. Mason had a permit to bring in shipping containers and after Mr. Mason began asking question regarding a retention pond for waste water. Assistant CEO French further when he asked Mr. Mason what he was going to be doing, Mr. Mason advised of the solvent-less hash lab. He continued he had Mr. Mason fill out a change for use application and after Planning Board meeting, Mr. Mason submitted something from his attorney which then went to Town attorney regarding home occupations. Board Member Bennett advised he cannot avoid coming before Planning Board with that amount of change of use. Board Member Wilkens advised there is no home occupation that would have waste water going to a retention pond. Board Member Bennett commented that it should come back before the



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board. Board Member Wall advised they really need the whole history. She questioned if Mr. Mason is doing something with cannabis and a lab, she is concerned for the people of China and explained that the purpose of the public hearing was to determine exactly what he is doing. Board Member Wilkens advised if Mr. Mason has to have a permit from the State, he probably needs to talk with the Planning Board. Board Member Wall advised that Mr. Mason stated he had talked to DEP. She continued that she has not heard of any home occupation that required DEP involvement and that this raises the question that it should come to the Planning Board. Board Member Bennett referenced the Planning Board ordinance. Board Member Wilkens explained there was a public hearing scheduled for Mr. Mason. He continued that he came to Planning Board with a permit application and they followed procedure. Board Member Bennett suggested they give Mr. Mason to next meeting to responded.

- Board Member Bennett motioned for Assistant CEO French to take conversation back to applicant for response. Board Member Wilkens added to also notify Town Attorney they are reviewing. Board Member Wall seconded motion. All in favor.

Assigning Chairperson of the Board

- Board Member Tripodi motioned to elect Board Member Wall and Board Member Wilkens to be co-chairpersons for the Planning Board. Board Member Bennett seconded motion. All in favor.
- Co-Chairman Wilkens congratulated Selectman Brent Chesley on his election to the Select Board.

Review of Planning Board Ordinance and Remote Participation Policy

- Co-Chairman Wilkens inquired if everyone had a chance to review the Planning Board Ordinance. All members advised they had reviewed. Co-Chairwoman Wall inquired if on agenda for review since is new board? Assistant CEO French confirmed that is correct. Co-Chairman Wilkens asked if there are any questions on Planning Board ordinance or if there are any questions from the public?
- Co-Chairwoman Wall explained the Remote Participation Policy came about last year and was signed by the Select Board and the Planning Board. Co-Chairman Wilkens inquired if it has changed? Assistant CEO French explained it now applies to all boards and committees in town. Selectman Chesley advised that a new law requires a public hearing for a new remote participation policy and instead of going through individual for each board and committee, the Select Board had a public hearing and voted on policy. Co-Chairwoman Wall questioned amount of notification of the public hearing and advised she did not know about it? Selectman Chesley advised it does not require as much notice as a normal public hearing.
- Co-Chairwoman Wall explained she is not opposed to the policy but wanted to clarify when needed. She continued that if all the members are present, they do not need to all the public to remote in and is only if one member is at home that the public would need to be allowed to remote in. Co-Chairwoman Wall advised public still has access via livestream. There was discussion on what policy is for. Co-Chairwoman Wall explained that she understands every piece of information is displayed to the public if they are remote. Selectman Chesley advised all the material is accessible to public under Freedom of Information Act. Board Member Bennett



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advised he would prefer the public have access to materials and would like to see ZOOM continue. There was discussion on continuing ZOOM access for the public. Assistant CEO French advised the policy does not need to be voted on and is just for review. Co-Chairman Wilkens advised a quorum is 3.

CEO Report

- Assistant CEO French explained he is hearing back from notices of violations that were sent out. He continued to explain there are no new conditional uses at the moment and he is working on trying to close up building permits before it gets too cold.

Co-Chairwoman Wall explained the Comprehensive Plan may need to be reviewed. Board Member Bennett advised they need to discuss the solar sprawl and would like to get more community input. He continued that they need to find a way to make everyone happy and mentioned Route 32 project. He further explained that they need to be ahead of it.

Co-Chairwoman Wall advised that in the past, they were able to pick up printed materials at the town office for the meetings. She questioned the Board as to how they want to receive information? Co-Chairman Wilkens advised he would like to have the packet ready at least a week in advance and they can come in and pick up at the Town office. Co-Chairwoman Wall explained this will ensure all members have the same information.

Board Member Bennett questioned inclement weather and meeting cancellations. Co-Chairwoman Wall and Co-Chairman Wilkens both advised they usually cancel and notification is sent out quickly if the meeting is cancelled.

Future Schedule and Adjourn

Next Planning Board Meeting: December 13, 2022

Motion to adjourn meeting made by Board Member Tripodi

Motion seconded by Board Member Bennett

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

Respectfully Submitted,
Dawn Kilgore
Planning Board Secretary