

6 Church Street, Gardiner, ME 04345 Debby Willis, Chairperson

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**PLANNING BOARD MINUTES**

**Special Meeting**

**Tuesday March 10, 2020 @ 6:00 PM**

**City Hall Council Chambers**

1. **Call the Meeting to Order at 6:06**
2. **Roll Call: Chair Debbie Willis, Adam Lemire, Zachary Hanley Lester Young, Pamela Mitchel- Absent- Kristine Johnson**

**Others present-** Tracey Desjardins- Economic Development Director, Kris McNeill- Code Enforcement Officer, Angelia Christopher- Planning and Development Administrative Assistant. Brooke Barnes-Stantec, Eben Baker-Stantec, John Callinan- Owner Jokers and Rouges, James Vasoll, Billie Lee Vasoll, Sabrina Vasoll, Heather Ouellette, Mark Ouellette, Jennifer Boudreau, Ward Boudreau, Jonathan McLaughlin, Kristie Baker, Eric Baker, Allyce Pepin, Carl Pepin, Peter Williamson, Bob Lambert, Veronica Babcock, Jo Roderick, Roland Pinette, Paul Pottle, Pete Coughlan, Mark Ouellette, Darlene Moody

**Review of the January 21, 2020 meeting minutes-** The Board had the chance to review meeting minutes from 1/21/2020 prior to this meeting and were requested to send changes in prior to this meeting. Pam Mitchel and Chair Willis had changes that she sent to this writer via email.

-Changes are as follows: 10.28.2 Set limits of operation- neither Medical nor Adult use cannot have public activity or sales between 8pm or 8 am.

-The word cannot should be "can" and or should be "and" so that the sentence reads: neither Medical nor Adult use can have public activity between 8 pm and 8 am.

-page 5, under Section 5. Hearing - Land Use Ordinance Change - 3rd paragraph on page 5, second sentence beginning "There is no one in the audience for or against this meeting." Meeting with Land Use amendment.

-Also, an error in date on application #1 should 1/9/2020 instead of 12/16/2019

Chair Willis asks for a motion to accept the minutes for 01-21-2020.

Pam Mitchel makes a motion to approve the minutes with small changes identified. Zachary Hanley makes a second motion. All are in favor.

1. **Public Hearing – Land Use Ordinance Changes**

**The Ordinance Review Committee, on January 9, 2020 by a vote of 6-0-0, recommended proposed changes to the Land Use Ordinance relating to Land Use Code- to address the Treatment of Brew Pubs- Small-Scale alcoholic beverage production and sales.**

**Defined as:**

**Small-scale Alcoholic Beverage Production and Sales:** An establishment that is licensed by the state as a small brewery, small winery, or small distillery that produces alcoholic beverages and that may offer the beverages produced by the establishment for sale either for consumption on the premises or for take-out of limited quantities in accordance with state regulations.

Pam Mitchel states that this proposal looks good, and the areas of the City that these establishments will be allowed in works well too. The Board discussed the six places that Brew Pubs will be allowed in the City, which includes TD (Traditional Downtown, MUV(Mixed Use Village), IT(Intown Commercial, CC(Cobbossee Corridor, PIC(Planned Industrial Commercial, and PHD(Planned Highway Development

Lester Young questions how we handle the Brewpubs that want to serve food. It appears that there are two different licenses and it depends on the size of the facility. This Ordinance is meant to address tasting rooms, only.

Adam Lemire points out that in the definition, Small-scale alcoholic beverage production

and sales, should be capitalized before it is finalized in the ordinance. Board members

agree and this change will need to be made before it is sent to City Council.

Chair Willis opens the meeting for public comment.

John Callinan, owner of Jokers and Rogues, is here to speak. He tells the board, that in his experience with other brewpubs he has owned in the past that most brewpubs can serve food, they just cannot prepare it on site. They can bring it from home, or have a food truck come in. If it is prepared off site, it is allowable.

Chair Willis closed the public hearing after Mr. Callinan spoke.

Chair Willis asked if City employees had any inquiries into this application. The only inquiry was from Mr. Callinan himself, who spoke with Tracey Desjardins the day of the meeting.

Chair Willis asks for a motion. Pam Mitchel makes a motion to forward this Land Use change- with the corrected capitalized definition, to City Council with recommendations for passage. Pam Mitchel makes the motion. Zachary Hanley seconds the motion. All are in favor.

1. **Public Hearing – Site Plan Review-**

**Sun- Raise- 47 Market St. 011-032- Proposing to construct a distributed**

**generation ground mount solar facility at 47 Market St.**

Chair Willis reports that there is a procedural concern with this application- It appears that abutters were notified incorrectly. They were notified by certificate of mail. According to Gardiner Ordinance Section 6.4.6.5 the correct process is for abutters to be notified by Certified mail 30-14 days prior to a public hearing.

The City of Gardiner has sought advice on this matter, from the City’s legal counsel, Jonathan Pottle. His advice was that the board does not have the authority to cancel the application completely. Mr. Pottle gave three options for Planning Board to make sure that they handle the situation in the best possible manner.

1. Option #1 - Hold the Public Hearing on March 10.
2. Option #2 - Hold a Special Planning Board Meeting in Late March to Conduct a Public Hearing
3. Option #3 - Conduct a Public Hearing at the Board’s Regular April Meeting.

There are representatives from Sun Raise here to speak for the application.

Bobby Lambert- Sun Raise would like to go over the touch points of the application, in hopes that they will speak at the public hearing in April. He goes on to state that this project will be hosted on land owned by Pine State, a company who is interested in clean energy. This project will not be seen from public roads. No homeowners will be able to see it from their properties. There will be no light emitted from the array, and there is no noise. Stantec/Sun Raise plans to be a good partner to the city. Studies on the land started in January. Department of Environmental Protection and Inland Fisheries and Wildlife were consulted for the impact on the land. There is a reported mapped deer wintering area near the proposed project, and the results of studies show that there would be minimal to no impact on that area or the quality of the deer wintering area.

There will be an area of disturbed wetlands. Developers met with DEP on 3/27. The area in question is under 15000 sq. ft of impact, does not require compensation, or a site location amendment.

Lester Young asks about reported electrical output for the array. Representatives for Stantec report that the reported megawatt output is 4.9 MW. The PUC has a 5MW cap in order to qualify. Many projects are coming as close as they can to that cap, without going over. Most are trying to stay below 20 acres with this technology. He then asks what are the benefits of the technology they are using? The benefits prove that this technology is tried and true. This project has the potential to generate the equivalent to about 1000 homes of energy. This is an excellent use of the land resources that a town has. The panels themselves have warranties that last as long as the lease. The degradation of the panels, annually, is only half a percent. As noted in the application, the life of the project is 20-35 years. While the panels can work longer than that. The project is limited to the length of the lease, which is written into the decommissioning bond. That is the life of the lease. Lastly it looks like a fairly large layout, but effectively it’s just ‘An Erector set with rocks that turn sunlight into electricity’ as stated by Mr. Lambert.

Chair Willis asks for a motion for a decision about this application. Pam Mitchel makes a motion that we table this application until next month. This will allow the applicant to notify abutters, following the correct notification process. Zachary Hanley seconds the motion. All are in favor.

1. **Public Hearing- Site Plan Review- Iron Mine Mobile Home Park- finish current park to the state licensed 24 lots- and purchase lots 15B and 14A for the future expansion.**

Owners of the Park, Jo Roderick and Roland Pinette- Home Deals of Maine are here to present the information in their application. They report that they purchased the park a year ago, and there were 23 sites that had water and sewer on them. Some of the sites had concrete pads, but most were gravel pad sites.

Kris McNeill- Code Enforcement, reports that there was an approval in 1989 for 24 lots. Over the next 20+ years, that original plan went astray and was never brought back into compliance. When the new owners took over the property, their goal was to rehab the park, bring occupancy to the originally approved 24 sites, and eventually expand with the purchase of more land.

The owners are currently working to update the lots and bring the current site up to the original plan which included 24 sites. This morning they met with landowners, to discuss details, finalize easements, deeds, other details, etc., in order to pursue the eventual expansion. The owners of the park report that as of today they have a purchase and sale agreement for lots 15B and 14A. 14A has a multiunit apartment building on it, and what appears to be an older mobile home pad.

The owners have put together an application packet that includes many maps. There is one map that has yellow and purple outlines that is intended to show current and future mobile home sites. The owners report that the City of Gardiner has never accepted the full amount of 24 mobile homes, according to their records. They also report that they have had the park recently surveyed by William Acheson and are currently working with him in order to meet the necessary setbacks for sites in the park. Roland Pinette states that the water and sewer have been checked at the sites, and any repair work has been done. He also states that many sites still need to have concrete pads installed.

Adam Lemire asks about for some clarification with the maps. The owners have stated that they are approved for 24 units. The map shows 26 units and Adam wants to know what the correct number of units proposed is supposed to be. Kris McNeill reports that their state license states the limit is 25 units. The application says 24 units. That still leaves one extra on the corner lot that should not be there. So right now, the proposed map shows 25 lots, and should show 24. There seems to be much confusion around the maps, number of units allowed, units proposed.

Also, on the proposed map, in the area that of the Quiron property there are three pads, but it does not look like there is enough room for three mobiles in this piece of land.

The consensus with Board members is that this application and the maps, need to be clearer, better identified about what the owners are trying to achieve. The maps that have been presented do not have legends, so it is almost impossible to see what the goal is. Lester Young reports that the application should be more complete meaning that members should be able to readily see what the owners want to do, what is already approved, what exists, and what is proposed. The way the application sits now, it is impossible to see what the applicants are asking to be approved in this meeting.

All Board members agree with this. Adam Lemire states that the recent survey done by Bill Acheson, is very clear, shows a lot of detail, perhaps they should build off that when working to come up with a new map of the property.

The owners would like to know exactly what the Board would like to see in the application. When they bought this property, it was bought as tax acquired property. They also quickly found out that they had purchased a mountain of work. They state that when they bought the property there were 21 established sites. When someone left (moved out) the property, as a homeowner, they purchased that mobile home. They then rehabbed that home and have since rehabbed the other rentals. Jo Roderick- Co owner states that she knows the park is a mess right now, landscape wise. The road is a mess, trees have been taken down, and it needs work. She states that they are working on it. They have a contract with Fine Line Paving to come pave the road in the park and likely the drives for the lots.

In a mobile home park, the size of individual lots needs to be 500 sq. ft and have 65 sq. ft of frontage. There is a question that some lots do not have this square footage. The owners state that most of the sites have the required footage, but some of the sites were established that way long before they became the owners. They will look further into it, and any sites developed going further will be set up with the required footage.

The Board has a question about an area on the recent survey map that is labeled ‘Proposed agreement line’ and want to know what this means. The owners of Iron Mine feel that there is a property encroachment. The survey dated that is presented at the meeting shows an encroachment Mr. Pinette feels there is an encroachment via the swimming pool of the neighboring property being on the park’s property. This needs to be more clearly identified, as this swimming pool has been in place for years.

Chair Willis asks if there are any other questions for the applicants.

Adam Lemire asks for clarification on the number of lots. He is counting 26 units but asks if the intention is 24? He then asks about the property next the apartment house, and the lot next to it. The lot does not show on the survey.

Jo Roderick had stated that the Director of Wastewater had run a camera to check the sewer lines to make sure they are working properly. The board would like a letter from the Director, stating that the lines are functioning properly for the load of the full capacity park. They would like a letter from the Water district too, regarding the water lines. Roland Pinette states that when they first took over the park, they found several leaks in the water system, which resulted in high water bills. Those leaks have been remedied now, and they will work on getting a letter from Gardiner Water District. The applicants would like to point out on the survey map that there is not clear/accurate location of where the sewer/water lines cross Old Brunswick Rd. and that this something that will have to be addressed eventually.

Lester Young points out that the whole application packet needs to be redone. There should be new drawings, with frontages, numbers for lots, setbacks, and this is just for the existing park. Also, there should be some clarification on what is already approved for lots, trailer pads, etc. He also points out that lots that are grandfathered to be undersized or not have the right setbacks, should be clearly identified as well.

The applicants report that their intent is for each lot to have 5000 sq. ft and for 25 ft to be between each home. For those homes that are preexisting, and don’t have 5000 sq. ft, they will have free space at another area in the park, for their use.

The applicants are looking for a total of 40 lots between the existing park and the future land purchase. They will have to merge the two parcels of land as the second parcel of land at 2.5 acres, is not big enough to be its own park.

Chair Willis discusses with the Board how they want to handle this application. They all agree that the information needs to be clearer in order to process this. Do they want to table the application until next month, or do the applicants want to withdraw? The applicants ask if they must go through the notification process again, if they table the application. The Board answers no, the notifications have been done. Chair Willis asks for a motion to table this application until the April meeting. Pam Mitchel makes a motion to table this application for more information until April. Lester Young seconds the motion. All are in favor.

*During this discussion, it became apparent that the application might not have been filed properly, due to the notification process. Several abutters were in the audience and stated that they did not receive certified mail. Jo Roderick states that she sent out the mailing herself. After much discussion, it is apparent that there were no green cards as part of this mailing, indicative of certified mail. It appears she sent out Certificate of Mail instead, which is not what the Ordinance calls for. Therefore, the notification will need to be sent out, for the April meeting, in the proper timelines of not more the 30 and less the 14 days prior to the meeting.*

Next meeting 4/14/2020 at 6pm

**4. Applicant - Jennifer and Ward Boudreau- Brookside Barn – Requesting approval to repurpose the existing barn structure on their property at 394 Marston Rd. for the use of social gatherings including weddings, receptions, reunions, and other social events.**

The Boudreau’s have a large barn, that they have done extensive work to over the years. They have approached Planning Board seeking approval to host events, social gatherings, weddings, etc., as a means of income from the barn on a scheduled basis. The Boudreau’s introduce themselves, and report that they have followed the proper notification protocols. They will leave their Certified Mail receipts with the Planning and Development Admin in the morning.

The Boudreau’s barn has three floors, but the event proposed use will only be happening on the first floor. There is a workshop space in the back of the barn that could eventually be used as a catering staging area, but that will not happen until a later date.

There is currently nothing in the Land Use chart that the Planning Board regarding an application of this nature. There is nothing in the Land Use Ordinance describing a Wedding Barn or Event center. The closest use the Board could compare this application to was outdoor recreation. Outdoor recreation is permitted with review in rural.

Adam Lemire asks to clarify the scale of the barn on the site plan. Mr. Bourdreau reports that the barn is 100 ft long, and he feels the program that he used to create the site plan might have created the scale to be a little off. But he assures that the barn is 100 ft long. Regarding parking, there are 45 parking spots currently allotted at the location. There is more land at the property, that can be used for parking if needed. Most of the land surround the project is flat and can be used for parking except for one corner that does get muddy in wet weather. Mr. Boudreau reports that they can easily shift parking away from this section, if needed. He reports that he has a normal dirt driveway, that he maintains with a grader as needed. The project will have an outdoor area, that could be an outdoor ceremony area, near the stream. This area will be a mowed walking path.

Les wants to know why they are requesting clients to secure portable toilets. If they take care of securing this need themselves, they can assure they will have the appropriate number for the size of the party coming. They can also include the cost for the rental of the portable toilets in the rental contract. The Boudreau’s agree to take this into consideration.

There is a question if they will need the Fire Marshall to approve events. There could be some events, over a certain number of people that could require the Fire Marshall’s approval. Kris McNeill, CEO, will investigate this and let the Boudreau’s know.

If the Boudreau’s will be having Food Trucks on the property as part of an event, the vendor of the Food truck would need to be permitted through the city.

Chair Willis asks if the Board can hear this application in an unbiased manner? All agree they can. Chair Willis reports that she lives down the road. But she can hear this in an unbiased manner.

Chair Willis opens the public hearing.

Jaime Vasoll reports that he thinks it’s a great idea.

Chair Willis Closes the public hearing.

Chair Willis asks City Staff if they had any inquiry about this matter? Angelia Christopher- Planning Development Assistant reported that she had at least 3 abutters come in for copies of the application.

-This application is complete. All the necessary requirements have been met and fees have been paid.

-This proposal will not interfere with the environment - No

Rolling Dam Brook is at the back of the property but will not be disturbed by this proposal.

-Proposal will have adequate disposal of waste- Dumpster already on site.

-No adverse effect on water bodies or wetlands

-Will provide adequate wastewater management- N/A

-They are not on City water systems and have a well. There is not water in the barn, but they do not need it. They can supply it if needed.

-Proposal will not adversely affect groundwater quality of quantity

-Provide safe and adequate vehicle circulation during events. If there is more than 20 vehicles they will have attendants, and parking will not exceed 50 vehicles.

-Proposal will not result in the reduction of quality of any city services N/A

-Applicants have the Financial and technical capacity to meet the needs of this proposal

-Not disturbing the land- in the event that any Archaeological or historical resources are found, work will stop

Section 8 general performance standards.

Exterior lighting-Mr. Boudreau reports that they will be adding exterior lighting. He plans to work with the Code Enforcement Officer and based on his recommendations, will install necessary lighting.

Noise- There is a noise ordinance in Gardiner. The Boudreau’s will check the ordinance and stay below the levels. Tracey Desjardins reports that most entertainment companies know that they must stay within the DBA levels and have equipment to measure it, so they should be fine.

Exterior material storage- they do plan to have a dumpster. It will need to be screened from view of the road. A fence, or landscaping, would be enough.

Buffering: 8.11.4.3.2 - There are no specific standards for Outdoor Rec.

The Board discussed the required screening according to the ordinance and noted that partial screening was required along the road. The applicant asked for a reason why. The biggest issue will be headlights from traffic coming and going from events at the property disturbing neighboring properties. The Board agrees that they don’t need buffering in the rear of the property, due to no neighboring properties there. There should be a full screen on the southside, and a partial screen by the road. Acceptable options for buffering include fences, berms, trees, etc. Kris McNeill, CEO will work with the Boudreau’s to make sure that this need is met properly.

Section 9 environmental performance standards

This project is not doing anything harmful to the environment.

There is a natural berm that protects rolling dam brook from any runoff.

There is no construction to be done. No wildlife will be disturbed.

Special activity standards. Signs

There be one small sign on attached to a tree out front, reading Brookside Barn. Lester Young feels that it should be on a signpost, not on the tree. Mr. Boudreau will work with Kris McNeill, CEO, to make sure the sign is compliant.

Section 6- This proposal conforms to all the applicable provisions of this ordinance.

Now that we have covered all criteria, can the board make decision on this application. Yes

Chair Willis asks for a motion.

Pam Mitchel makes a motion that this application be approved with the condition that the lighting be approved by the CEO, that the dumpster be screened, and buffering needs to be done on the southside and on the road. Zac Hanley makes the second.

Kris McNeill asks if the recreational area, that is down towards Rolling Dam Brook, will need to be cleared at all. Ward Boudreau reports that this area is all field and will not need any clearing.

Pam Mitchell makes a motion that we approve this application with the three previously mentioned conditions. Lester Young seconds the motion. All are in favor.

1. **Other Business:** No other business currently.
2. **Next Scheduled Meeting:** Next meeting is scheduled for April 14, 2020 at 6pm. This meeting will be a Public Hearing to address Sun Raise Application and revisiting the Iron Mine application**.**
3. **Adjourn:** Chair Willis asks for a motion to adjourn. Pam Mitchel makes a motion to adjourn. Zachary Hanley seconds the motion. All are in favor. Adjourn at 8:30 pm