

TOWN OF CASCO
Planning Board Meeting Minutes
October 2, 2023
Community Center Meeting Room

Present: Ryan Mcallister, Pete Watkins, Marc Rocque, Kendra Osborne, Tuan Nguyen

Staff Present: Mary Tremblay, John Wiesemann, Ben McCall.

Absent: Mitchele Williams

Public Present: Per Sign in Sheet

First Order of Business:

- Call Meeting to Order
Ryan called the meeting to order at 6:35 P.M.
- A Quorum was determined by roll call. There were all 5 regular members and 1 alternate

Public Hearing:

- Ryan opened the public hearing for the Town of Casco Solar Ordinance

Tuan noted concerns of the ordinance passing at town vote
Intent statement of residential solar opening up to large-scale commercial solar development
He questioned the lowering the bond, he would like to see startup money be made available for soil test. For protection of the land, just as a precaution.
Tuan mentioned the protection of land in the aquifer overlay district and to consider adding it as a prohibited use under that district

Pete asked if it was a requirement to do a soil test.

John replied no

Discussion regarding protections of land and overlay
Consider prohibited uses, questioned a permit for bringing in large quantity of materials.

John noted in the ordinance there is a permit needed for large quantity of materials, which is issued by code, and the State requirements are in place for shoreland.

Uel Gardner noted a change to the Large Scale total area and the Small Scale total area, there looks to be a gap.

Ben McCall, Legal noted it was corrected to Large Scale is greater than 1500 square feet but not greater than 30 acres, Small Scale is less than 1500 square feet or generates less than 20kw

After discussion, the Surety bond assurance will remain in place for 125% of the estimated total cost of decommissioning.

TOWN OF CASCO
Planning Board Meeting Minutes
October 2, 2023
Community Center Meeting Room

Grant Plumber asked about the dimensional standards, setbacks, and feels the 50-foot buffer is not satisfactory. He recommended the Board consider a larger buffer in the residential area if developing a large scale.

Ben McCall noted it is a general performance standard as it is now. It will be up to the applicant upon review to present the standards and the Planning Board to decide what it may be. It will not be and less than what is required.

Ryan noted the language for the landscaped Buffer was to give the Board a tool to review that aspect and give some relief for the abutters.

After discussion it was determined it would remain as such in the ordinance. Each application will be different and this gives the board flexibility to determine the proper buffer.

Strike the wording batteries from the final copy

Sam Brown asked if the decommissioning is solely the responsibility of the applicant

Ryan replied yes

Uel Gardner asked about the glare

Peter noted this has been discussed and has been considered. The solar panels are non-glare and will be adjusted if needed.

Ryan closed Public Hearing after no further comments

After discussion by the board members on soil testing for decommissioning

The Board decided to leave the ordinance as written other than the small changes discussed: delete wording batteries and changing 20 acres to 1500 square feet

Ryan asked the Board if they are comfortable with all discussions and reviews to send to the Selectboard to present to the Town of Casco at a Special Town Meeting

Kendra moved to send Town of Casco Solar Ordinance to Selectboard with the small changes as discussed.

Pete seconded the motion

The Board voted 4 in favor 1 opposed

Motion passes

TOWN OF CASCO
Planning Board Meeting Minutes
October 2, 2023
Community Center Meeting Room

Old Business:

- Explanation and Further Discussion of the Previous Site Plan Review Presented by Derek Januszewski of 50 Rabbit Run Lane Casco Maine, map 3 Lot 9-2 Representing Pachamama Church, Requesting to Host Sanctuary Church Services

Ryan stated he would like to offer an explanation and further discussion to the decision the planning board made on September 11, 2023. When being walked through the Site Plan Review and the narrative it was express clearly, it was a residence and not a church and according to the definition within our ordinance, it did not line up sufficiently for the Board to be able to look at the application through the Site Plan and change of use checklist. He noted that is why the application was denied/voted down. He noted if the applicant is willing to acknowledge that you are looking to apply as a church acknowledge the use as a church or another commercial use, the board than can enter into the Site Plan Application.

Derek Januszewski applicant note the prior meeting was Dennis who presented the application and he did not have all the information. He noted they use it as a church 100 % of the time, all activities are based on church activities. Including free music lessons, educational, and regular church services as well as counselling.

Ryan stated with clarification, he would encourage the Board to reconsider the Site Plan Application that had been submitted through the lens of it being a church and therefore it being a change of use to the commercial use of a church. He noted it would be beneficial to the process to provide the applicant with reviewing the previous submittal and what is needed, so he can get as much information as possible.

Ben McCall mentioned the procedure for the Board. At the September 11 meeting, there was a vote from the board to deny the previous application. That allows moving forward if you want to entertain this application, and the applicant has the ability to submit a new application with new information or only one time at this meeting the board has an opportunity to reconsider the previous decision, which was to deny the application. He noted a motion to reconsider is simply a motion if adopted to undue your previous denial and the application placed back on the table. This will allow the board to ask for more information or deem this complete and the board would move on like any other application. It does not mean the application will be approve, just merely undoing what was done at the last meeting.

Pete asked would the Towns position be with them operating without any site plan or safety procedures in place.

Ben McCall noted that would be up to the Town enforcement to look at if property owner is using property in a manner that requires certain permits and is operating illegally

Ben noted if the application is not reconsidered, they could resubmit a new application or appeal the decision. Those options remain open. The reconsideration will be over if not voted to do so.

TOWN OF CASCO
Planning Board Meeting Minutes
October 2, 2023
Community Center Meeting Room

Pete noted there are a multiple number of items that have to be met, and if all are met, good. However, until that he does not see how it can be re-considered.

Ryan noted he stands by the decision the Board made on September 11, based off the information they have to work with. Procedurally he is open to what process the Board feels would be more efficient.

Pete agreed with Ryan.

Tuan noted there is a lot that there is not available. He noted a preliminary would be the best; it is so far from being ready.

Ryan opened it up to leave space for a motion to reconsider the decision of the Planning Board at the September 11, 2023 meeting in regards to the application for 50 Rabbit Run Lane, Casco Maine and if no motion made, it will be presumed tabled.

No motion made, reconsideration is denied.

The applicant may resubmit new application.

Mr. Moen asked the Board for some public time regarding Tamarack Trail, which was brought to the last meeting and was told it had to be a new road since adding a lot would make it a subdivision. The application is tabled.

He noted since then he has spoken to Chief Cole noted that if there was a sprinkler system in the house it would avoid road upgrades

Chief Cole stated they did review the road and acknowledged there are concerns with the road there is ledge on the left side and 10 foot or more drop off on the right, there is not enough space to safely operate two vehicles along the whole road. That is how they came up with the alternative suppression system in the house if they wanted to proceed with the next steps.

Ben Moen asked the board how to proceed.

Ryan noted it would still need to come back as a major subdivision plan review.

New Business:

- Site Walk Findings and Discussion on Pine Tree Maine 2, LLC Represented by Lindsay Holden for Site Plan Review for an Adult Use Marijuana Retail Store, 325 Roosevelt Trail Map 2 Lot 14-4

Ryan noted before the meeting tonight a site walk was performed at the 325 Roosevelt Trail

Pete noted everyone's concerns are the measurements. Questions as who takes the measurements, third party, applicant etc. he noted John made those measurements and they are conforming to the ordinance.

TOWN OF CASCO
Planning Board Meeting Minutes
October 2, 2023
Community Center Meeting Room

Ryan stated it has been a lot of concerns and questions regarding the measurements and it was asked if the measurements could be taken by a third party just to put it to rest and make sure the Board has official documented measurements that can be on file

Pete has this been asked of anyone or done with other applications or solely up to John to measure

Ryan it has been documented by surveyors and third party in other applications. It is not John's job to go out and measure every lot in town for conformance; he could certainly go out and look at it if there was a complaint. He noted his feeling is it is a lot more sufficient process a clean to have a third party do it.

Ben McCall noted the Board has the authority to ask for more information from a 3rd party or based on the standards if the board is satisfied with the applicant's measurements or the code officer information that is fine as well.

Ryan stated is the Planning Board satisfied with the measurements provided or does the Planning Board want a third party measurements.

Ben McCall noted the response is there are two sets of data, which shows compliance however, it would go a long way to verify the measurements.

Ryan noted it would serve the Planning Board well to have a third party do the measurements.

Tuan agreed it would help cover multiple concerns and questions to have the third party verbiage

Ryan noted the third party should have a directive as to the verbiage the Board has sorted out in the previous meeting or be referred to Ben to get clarification

Ben McCall noted through the code office would be fine, however, he would like a clear definition discussed from two meetings ago but it would be helpful for all to agree on the exact definition so 1. The applicant knows what to ask for and 2. The code office knows exactly as well if asked and himself to give the information accurately.

Marc noted what was noted last. Was from the corner down the street and around the corner. He noted it is probably not so much the accuracy of the measurement but the methodology of the measurement. That was the language use the last time.

Tuan asked Ben McCall about the ROW and the question of an easement that exists or not, any clarity on this

Marc noted whether the easement exists or irrelevant to the ordinance, the Board is reviewing

Ben noted he agreed with Marc. What the Board is looking at is in terms of this particular standard , clearly says that a proposed adult marijuana store or any marijuana establishment as defined in the ordinance, needs to be set back at least 300 feet from primary entrance to primary entrance as defined

TOWN OF CASCO
Planning Board Meeting Minutes
October 2, 2023
Community Center Meeting Room

in residential properties , measured along street lines. The town's definition of street would come from the zoning ordinance. He noted in his opinion it would not include driveways, or unmark ROW. The Board needs to be very careful and clear that any private real estate dispute, the existence of an easement and what rights may be conveyed however, it does not fall into the definition of street in the ordinance, Section 215-2.1.

Ryan asked is the Planning Board satisfied with the measurements done for that setback or does the Board what to ask for third party measurements.

Hayden Stokes public participant asked for official measurements

Pete asked legal Ben McCall with the measurements he has seen on the plans and what John has provided meet the town's setback

Ben McCall noted the applicant has given their testimony they obtained the measurements walked by a wheel and the measurements from John. The Board has two sets of data that to which is in compliance. Since there is a concern about the measurements, the Board is justified to get those measurements verified for accuracy.

Ryan and Tuan agree it would serve the Board in this process well to have a third party do some measurements

Pete asked John if he was confident in his measurements

John replied yes

Pete noted he was too

Ryan asked if the Board feels comfortable with the measurements and setbacks taken, and the Board can move on to other concerns of the application

Board members replied yes

Tuan asked if it were a change of use, residential to commercial, it would need to go through the State Fire Marshall

Chief Cole recommended to submit the change of use permit to the State Fire Marshalls office and see if it would need to go through a review approval from the change to residential to commercial

Ben McCall noted one verification he can provide on that is it is true the ordinance requires a review for a change from residential to commercial but it also requires site plan approval in any situation a marijuana establishment is seeking permission to operate and that is how it came to you. Therefore, even though it is a change of use from a residential to a commercial property it is coming to the Board because it is a marijuana retail store. In terms of State Fire Marshalls review that would certainly be

TOWN OF CASCO
Planning Board Meeting Minutes
October 2, 2023
Community Center Meeting Room

something before a Certificate of Occupancy issued through the code office for that particular use to be approved before they can open. This will be a condition of approval on the decision of the Site Plan

Tuan asked if the Planning Board have to do a change of use before the board moves this forward

Ben McCall noted no, the Board is reviewing this, as a marijuana establishment as a separate line item on your list of activities or land use that requires site plan approval. If it were coming to the Board as a different type of business seeking to establish a soda shop or anything in that home, it would still have to come to the Board because of that change of use. However, this is coming before the Board because it is a marijuana establishment.

Ben noted the following factors before approval:

Deem it complete application this was done at the prior meeting

Site Walk done

Public Hearing

Performance Standards

Before compliance of criteria go through the list of all the factors site plan review and marijuana ordinance and find whether in compliance or not

Draft Findings, Ben will do

Final vote and adopt the findings of facts

Mr. Chute noted the site plan at the site walk - not to scale which is deceptive, he would like it stricken from the record. He noted handicap parking right in the deeded access of his ROW

Ben McCall stated this would fall under a civil matter and not within the Planning Boards jurisdiction

Mr. Chute requested a written letter as to what the measurements are and how they were determined; he does not feel it is clear. He questioned the primary entrance as a door. He feels it is a driveway. He requested a written methodology with a motion

Ryan asked for a motion in favor for Mr. Chute's request.

Tuan question the board has stated to the applicant how we would like it measured, but it is his understanding that it is not the official position of the Board until a vote takes place that has been used.

Ben noted it would be the best practice and best defensible practice where there may be outstanding questions on how these things are measured as the board has done, come to a consensus as the Board has done, about how these are measured, convey that to the applicant and that is what the Board will use in analyzing the application. The Board has not made any decision in the formal sense as to the application so there is no formal record in determining whether or not this application complies with the ordinance or not. There are records of the meetings. He noted the Board has the ability to reasonably interpret the standards you have in front of you, and the board has done that to this point.

Tuan asked so do they need to vote to give Mr. Chute a written letter

TOWN OF CASCO
Planning Board Meeting Minutes
October 2, 2023
Community Center Meeting Room

Ben noted that is within the discretion of the Board. Ben suggested as part of the written findings on the application, there would be a finding specifically how the Board came to determine the measurements and determine compliance. That will allow any other review or decision maker of the case to understand the methodology.

Ryan asked how to go about this procedurally if the board wants to provide Mr. Chute with a written description of the Boards interpretation

Ben McCall stated that ultimately, it is the Boards decision; Ben noted to clarify Mr. Chutes concern is that there would be a written record at the end of this procedure. Whether the application is granted or denied, there will be articular reasons why each and every one of those standards are met, and one of those will be how this application did or did not meet that site setback.

Pete aske John for his rendition of how he measured.

John the door that enters the sunroom, perpendicular out to 302 to the tar, went down to the edge of Old Mill Road to the perpendicular intersection of the primary entrance of Christen Chute's house

Mr. Chute would like a motion for the Board to strike the site plan from record – it is deceptive and not to scale

Ryan moved the applicant provide an amended site plan to reflect a more accurate scale

Marc seconded the motion

The Board voted 5-0

The vote passes

Ben noted the written methodology of the measurement from John would be in the minutes.

Comments or concerns

Tuan noted the traffic and what entrance will the applicants use

Ryan noted it should be one or the other and it is within the purview to waive. He would like to see it blocked off Red Mill.

The Applicant is questioning the ability to have two

The Board will review driveways next meeting

Location of sign and not impeding on 302 and meets the ordinance

Flood lights on side of building, provide with cuts sheets for the fixtures, and shadow casting with wide beam floodlights

The applicant will provide material

TOWN OF CASCO
Planning Board Meeting Minutes
October 2, 2023
Community Center Meeting Room

The Board set a Public Hearing for November 13, 2023 at 6:30 Community Center

The Board will need to go through the Checklist and Performance Standards of the Marijuana Ordinance

Once reviewed by the Board it will be moved to December

Tuan asked how long the applicants been working on it the Site Plan

The applicant stated since July

Tuan moved to set the Public Hearing for the marijuana establishment at the Board's regular meeting of November 13, 2023

Kendra seconded the motion

The Board voted 5-0 in favor

The motion passes

Next Meeting:

November 13, 2023

Adjourn:

Kendra moved to adjourn

Tuan seconded

The Board voted 5-0 in favor

Meeting adjourned

Ryan Mcallister, Chair
Planning Board
Town of Casco

Mary Tremblay, Deputy CEO/Assistant
Code Enforcement Office
Town of Casco