

**MINUTES  
FREEPORT PLANNING BOARD  
FREEPORT TOWN HALL COUNCIL CHAMBERS  
WEDNESDAY, AUGUST 4, 2021  
6 p.m.**

**Attending:** Rose Mary Burwell, Anna Child, Wayne Jortner, Chair Sam Kapala, Greg Savona and Town Planner, Caroline Pelletier **NOTE:** Secretary Sharon Coffin arrived at 6:10 p.m.

**Excused:** Robert Ball and Aaron Cannan

**Call to Order:** Chair Kapala called the meeting to order at 6 p.m. and noted that Board members are wearing masks which is a reflection of today.

ITEM I: Information Exchange

1) Update on Freeport Downtown Vision Plan – Phase One (Early Action Plan)

Ms. Pelletier advised that the Phase One is complete. It included the survey work, compiling the results and there was a report and presentation made to the Council of things to come to try to spark some excitement in the downtown area to get some feedback based on the values being identified as important to the community. If you drove down Main Street, you will notice the painted crosswalks, a traffic-calming measure. In front of Linda Bean’s across from L.L. Bean there is some white area with colored lobsters which is another traffic-calming measure. There is a parklet in front of Derosier’s which she understands is a big hit. If you went to Starbuck’s today, you might have noticed there is furniture out back where there are a couple of peddler carts. They have done some clean up there to create more lively green space with some seating. They hope everyone will test it out and see what they like and what they don’t like and make some observations because they want that feedback as they go forward to Phase Two.

Last night the Council approved awarding the contract for the Principle Group for Phases Two and Three of the Vision. There will be some more work going on. They are going to have a Design Week in October and she will share the dates as she gets them so the Board can publicly participate in that process. If the Board would like updates, we can have Councilor Whitney or Mary Davis who are leading the charge on behalf of FEDC and the Town of Freeport.

2) Update on recent actions by the Freeport Project Review Board

Ms. Pelletier advised that last month they did approve the Phase 3 plans which is the final phase of the corporate campus renovation project for L.L. Bean down on Casco Street. You may have noticed that they are running ahead of schedule. Their building is totally gutted and they are working on the improvements. Part of the next phase is taking down an existing building and reconfiguring the site which includes parking, drainage and storm water improvements that was approved. They also looked at some conceptual plans for The Desert of Maine for some changes they want to make out there. That is part of the new Overlay District that you approved. They are looking at changing the use to one of the uses that was created. They are also adding a mini golf course out there and will be coming back to the Board soon.

3) Review of upcoming meeting dates

Ms. Pelletier wanted the Board to look at their schedules for upcoming meeting dates. The first Wednesday of the next few months for the rest of the year, please look ahead and see if you can commit to that. It has been hard to get everyone here so if there is a first Wednesday through the fall that you cannot do, please let her know. In January she would like the Board to adopt a schedule for the year. In 2022 if there is a month anyone knows they want to take off to give themselves a break, let's get that incorporated in our schedule. The Board is going to have a busy year starting with the Comp update amongst other things,

- 4) The Council has asked the Board to look at a couple of things which we will talk about later. Last night the Council took action to make the recommendation that the Planning Board consider definitions and regulations for an area that would be appropriate for two uses of cannabis, manufacturing and processing and cannabis cultivation. We will have some legwork to do behind the scenes. We also have a lot of Shoreland Zoning we need to get done first so she sees this as an early fall project and expects the Board will have a lot of participation. This is just a head's up that this will be coming your way this fall.

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Chair Kapala asked if the Board could proceed to a public hearing without the Secretary and Ms. Pelletier advised that the Board should and she would take notes until the Secretary arrives.

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ITEM II: Public Hearing – Proposed Amendments to the Freeport Zoning Ordinance (pertaining to the Board of Appeals)

This will be a public hearing to consider proposed amendments to the Freeport Zoning Ordinance to Section 104. Definitions and Section 601. Enforcement – pertaining to the functions, process and standards for the Board of Appeals. The language is being updated to provide consistency with State law. Some additional non-substantive text changes are also proposed.

Ms. Pelletier explained that this item was brought to our attention by our Codes Enforcement Officer, Nick Adams. The Board of Appeals meets pretty regularly but for some reason their regulations have not been updated in years to reflect what is permitted for the Board of Appeals under State law. This is really some clean up to make our language consistent. In Section 104 Definitions there is only one thing updating the definition of a variance. In Section 601. Enforcement, there is some clean up to make the wording consistent and removing some of the he/she's. The biggest changes will be on Page 3 under the Board of Appeals where you will see that there has been some clean up to Administrative Appeals and to the variance language which is pretty similar but with a little bit of clean up. One of the new additions consistent with State law which we don't have now is the ability for the Codes Enforcement Officer to grant a Disabilities Structure Permit where there is a dwelling where someone resides there has a disability. The Board will also notice that there are some new standards for a setback variance for a one-family dwelling. That is just for a one-family dwelling. It is not for accessory structures and there are new standards that go along with that. There is a little bit of flexibility if your neighbor signs off that would allow the Board to grant an additional variance. The Board will see all the existing setback reduction language is being deleted and essentially is being replaced by the setback for the single family.

Finally, there is a provision in here for a Mislocated Building and that language is not consistent with State law so our Attorney who did review all this advised that we strike that from the Ordinance. If

someone has a building that doesn't meet setbacks, they have options 1 or 2. A variance is very difficult to meet because you have to show that you have no other use of the property. If they couldn't prove that or meet the standards for the single-family variance, they will have to go to the Council to see if they can get some legal Consent Agreement to allow their building to remain. It is a slightly different process from what we had in the past.

Mr. Adams explained that in the Statute it is pretty clear for Home Rule Authority what the municipalities have for rights for granting variances. There are actually only 4 or 5 that can actually be granted and the 5<sup>th</sup> one is that the Codes Officer can grant one now for ADA. There have been several law court decisions that have upheld that saying if you have an ordinance that is not consistent with State law, it is illegal.

He worked with Ms. Pelletier and the Town Attorney to update that. It is pretty consistent with other towns around here. It will be a bit different going to the Board because they have been so used to the limited setback reduction. Before we always called them an appeal and the Board will notice it said in the Ordinance limited setback reduction appeal and Mislocated Building Appeal. In theory what you are doing is granting a variance for a dimensional requirement so by definition in State law and our Ordinance, it has to be consistent with the law. They have been working on it for a while and he thinks Ms. Pelletier and the Town Attorney did very well. There are a couple of other variances they could have considered but we never had them in our Ordinance in the first place so he didn't think they would need them at this time. One was a Practical Difficulty Variance and an ADA Variance for structures other than a single-family but they could always do an undue hardship for ADA if needed.

Chair Kapala asked about undue hardship and Mr. Adams advised that in both of them it says undue hardship. The regular undue hardship one has not changed. The second one that will be for a single-family, it says the term undue hardship as used in the subsection means that it is similar to some of the language that is in the limited setback reduction but then it goes into you have to be a year-round resident in order to get the single-family variance. That has not been done in the past. If you want to do more than a 20% reduction, you would have to get the neighbor's approval to do that as well. It is a little bit different. The other thing to be cognizant of, a setback reduction for a one-family, you cannot get a reduction to the shoreline or to a flood plain with that. That would still have to be an undue hardship variance. It is only lot line setbacks on the front, side and rear.

Ms. Pelletier added that the Board of Appeals will see less applications because at the advice of our attorney, we are having to remove the language that is not consistent so it will make it harder if you aren't a single-family. Single families will still have the option under State guidance proving strict variance and there is absolutely no other use of that property. The variance will stay pretty much the same but they are getting rid of that setback reduction and the mislocated building. Mr. Jortner asked if there are any prior actions this will invalidate? Mr. Adams clarified that when a variance is issued by the Board, they have been instructed by our Attorney to enforce the old ordinance we have in effect. Any variance that has been granted, there is an appeal period just like any other Municipal officials' opinion. They have 45 days from that. There have been a couple that have been issued but he doesn't believe there are challenges in court. There are no current applications this will affect.

Ms. Pelletier noted that one of the things the Board of Appeals just updated, they grant certificates and the certificates get recorded within 90 days in the Registry. If they are not recorded in 90 days, they are null and void. She forgot to summarize that the Attorney did add some language to clarify the procedure

for an Administrative Appeal. An Administrative Appeal would be something like if the Codes Officer were to make a decision regarding a permit and someone were to appeal that. That process has been clarified. There are a few other ordinances that allow appeals to the Board of Appeals and that has been clarified as well.

**MOVED AND SECONDED:** To open the public hearing. (Savona & Jortner) **VOTE:** (5 Ayes) (2 Excused- Ball & Cannan) (0 Nays)

There was one member of the public in attendance but did not offer any public comment.

**MOVED AND SECONDED:** To close the public hearing. (Child & Jortner) **VOTE:** (5 Ayes) (2 Excused- Ball & Cannan) (0 Nays)

Chair Kapala asked if compliance with State Law is enough and Ms. Pelletier suggested that the Board recommend the proposed changes to Section 104 and 601.

**MOVED AND SECONDED:** That the Freeport Planning Board adopt the suggestions as written and clarified by Caroline Pelletier to the amendments in Section 104 and 601 are in line with State Law and the Comprehensive Plan. (Savona & Jortner) **VOTE:** (5 Ayes) (2 Excused- Ball & Cannan) (0 Nays)

**ITEM III: Public Hearing – Proposed Amendments to the Freeport Zoning Ordinance (pertaining to solar energy regulations)**

This will be a public hearing to consider proposed amendments to the Freeport Zoning Ordinance pertaining to solar energy regulations. The following Sections of the Freeport Zoning Ordinance will be discussed:

- a. Section 104. Definitions - to increase the allowable size of a Large Solar Farm in the Commercial I (C-I) District to up to fifteen (15) acres;
- b. Section 409. Commercial I (C-I) District – to add Large Solar Farm as a permitted use subject to Site Plan Review;
- c. Section 412. Commercial IV (C-IV) District - to correct that the existing uses of Small Solar Farm and Large Solar Farm are subject to Site Plan Review, rather than Subdivision Review as currently listed; and,
- d. Section 534. Solar Energy Generation Systems – to prohibit the use of herbicides on solar farms and to add additional performance standards for Large Solar Farms in the Commercial I (C-I) District.

Chair Kapala mentioned that there are no members of the public in attendance but the Board has some things that it needs to discuss. This has been sent back with a couple of recommendations by the Council.

Ms. Pelletier advised that the Council did take action. They made two changes to the language the Board sent to them during their public hearing process. They struck the 20 acres for a large solar farm to 10 acres and also took out the use of a large solar farm on U.S. Route One South. Otherwise, the language stayed the same and everything else was adopted. After that occurred, the Council was approached by an applicant for a contract zone for a large solar farm on U.S. Route One South. The Council did want the Planning Board to look at the herbicide issue because the herbicide issue came up. It is back to this

Board to look at a couple of things the Council had flagged. She walked the Board through the language. At the recommendation of the Council, the language before the Board would amend the definition for a large farm in the Commercial I District so that the solar array development area could be between 2 and 15 acres so it is kind of a happy medium between what the Board recommended and what the Council adopted. In Section 409 it would add a large solar farm to the permitted uses subject to Site Plan Review. To Section 412 Commercial IV, that is a typo. When we put the uses in there before, they were pasted under Subdivision Review and should have been Site Plan Review. This is not really substantial but cleaning it up with the intent of the previous recommendation. If the Board jumps ahead to page 13, at the top the Board will see the language it talked about at the last meeting. Some of the concerns from the Council was do we want solar panels on every vacant parcel on U.S. Route One? It also came up in certain cases, an individual cannot own two solar farms within a certain proximity. The distance of a mile came up at the Council. We don't want to rely on anyone else's standards. If we want separation, let's put in our own standards to require it. At the last meeting the Board looked at the length of the general area being about three miles so what we have here is that the solar array development area cannot be within one mile of another large farm within the district. We also would have to meet a minimum setback from U.S. Route One so that is something the Board debated at the last meeting whether 100' or 200' would be appropriate. She noted she would put the maps up.

Ms. Pelletier noted that the other standard we have in here is a flat-out restriction on herbicide use. The Town Attorney advised that we could do it for herbicides. We had to notify the State Board of Pesticide Control that we were having a public hearing tonight. The Town Attorney felt that if the Town wants to regulate pesticides, that would be a different matter and the best way for the Town to regulate pesticide use would be through another mechanism that could look at it more broadly. We are only looking at the herbicide restriction which is what we talked about before.

Ms. Pelletier advised that one of the things the Board talked about at the last meeting, we have buffering requirements in here and we have Section 527 but we talked about is it good to put them back 100' so they are partially screened or 200'? She displayed a map prepared by her Assistant showing the district outline and explained it. The way it is drawn, solar farms can have a driveway off of Route One to get in but the solar array development area would be behind the setback. The Board then talked about 200' and it will eliminate almost all of the small parcels entirely. Furthermore, large solar farms need to be a certain size to make it financially viable. The applicant that approached the Council wanted 20 acres but was able to scale the project down using a different technology so they could make it smaller in size. She noted that the Board should consider that someone could buy four parcels and merge them together. Today it looks like we have about 10 parcels that are probably 10 acres or greater.

Mr. Jortner asked if Route One in Freeport is the only place they can be located? Ms. Pelletier advised that technology changes but most of them need to be near 3-phase power because it is expensive. Our consultant advised that they would not go much more than a mile. She has heard that the cost to extend that 3-phase power is going down so it might get to be more economically feasible. Mr. Savona added that one of the things he heard from a developer is that some of this is up on high ground and even though it is back from the road, it is still pretty prominent. Ms. Pelletier advised that the developer that approached the Council was up behind Cold River Vodka. She read the standards in 527-E for the Commercial District into the public record. It gives discretion to the Project Review Board.

Mr. Pelletier mentioned the herbicide use is one thing. Originally the Board recommended 20 acres. Does the Board want to add a large solar farm back in and go up to 15 acres? If so, what, if any, should be required for an additional setback? Today the requirement is 50' but does the Board feel 100' or 200' is reasonable and is something you want to see?

Chair Kapala feels the herbicide one for him is fairly straight forward and we do exactly what is suggested here which is to prohibit herbicide use and that pesticide use should be avoided and add this to the long list of things the Board should talk about in a town-wide blanket policy on pesticide use. Ms. Pelletier added that the Town limits that type of use on Municipal properties so it might be something done on a stand-alone limit. We could flag it at some point. Board members did not voice any opposition to the herbicide use suggested.

Chair Kapala advised that the other two big ones are the size and the setback. Originally, we recommended 20 acres but the Council has reservations about that size. He feels there is really only one parcel that would allow a 20-acre farm. Ms. Pelletier pointed out that the Board did the original standards under 20 acres because it matched the maximum size that would be allowed under State law. Somehow with the new different technology, the person that approached the Council was able to get it done a little smaller but they said they can produce a certain amount of energy with that amount of grid but they make them a little extra so they can push their maximum limit back into the system which is why they were looking for a 15-acre farm.

Ms. Child added that for her, the Board needs to determine whether it wants to allow these or not. Personally, she feels the Board wants to allow them in the C-I District and they need to be more than a mile apart. It appears that we protected ourselves from having the whole Route One be solar farms so she would say 15 acres and would rather do 100' setbacks because it makes it more realistic. She is aware that people have different views on how solar farms look and there are some people that really don't like them. If you drive down Route One now, it is not like it is beautiful. Having solar farms shows we are progressing towards sustainability if we do have people coming in. It says something about our town when they are driving by and seeing solar panels. That is her personal opinion.

Mr. Savona asked if the 100' setback is enough to have some back lot development and also potentially preserve some space where there could be some retail space, housing or some other use? Ms. Pelletier advised that in the Commercial District, given a few special uses, it is a 15' setback. With 100' back, somebody else could definitely have a project there.

Chair Kapala asked if you are the owner of a 20-acre lot and you set your solar farm back 200', would you have to subdivide it to do a separate use in that 200' zone or could you just put in an additional allowed use in the district without redrawing the lot lines. Ms. Pelletier advised that she did not know if the two uses could co-exist on a lot. Mr. Savona likes the idea that there are some parcels that would let you put the panels far away but still preserve the front. Chair Kapala feels that most of the small parcels are going to be smaller with or without the setback. It seems like the bigger parcels are not on edge. Most of the parcels either work for solar or they don't with or without the setback. They are big enough without the setback but not big enough with the setback. Chair Kapala feels the 200' setbacks still leave plenty of space on the bigger lots. Ms. Pelletier feels that there is a mix. There are some that appear to have a good amount on road frontage on the map and could be visible but most of the smaller lots are the ones along Route One. Chair Kapala feels the 200' setback still leaves plenty of space in the bigger lots. He is a big difference splitter because of the carpenter in him. Ms. Pelletier added that this is an

approximation so you can't get the perfect property line so her Assistant estimated and it could be off a little here and there.

Ms. Child asked what the Board originally recommended? Ms. Pelletier advised that when the Board originally recommended this, you did not have a setback from Route One and did not have a separation. You just recommended 20-acre large solar farms so you are adding those additional restrictions. As far as the mile separation, it is the solar array development area and not just the parcel's boundaries. If there is a solar array development area in one corner and then another corner. Route One is only so big but to be clear, it is not from the property line, it is from that solar array.

Mr. Jortner asked if one of the Board's goals is to preserve for other uses the space between the road and the setback and if so, how do we accomplish that? Ms. Pelletier advised that it is up to the Board to decide if you want these things everywhere? Is it acceptable to have them all up and down Route One? If the Board takes this as it is, they have to be one mile apart and that is a limiting factor because the road is only a couple of miles long. Chair Kapala feels the maximum we could get is three solar arrays in here. Ms. Pelletier did not know if the utilities could support three tie-ins in that section of Freeport. Mr. Savona still likes the idea that if we have that setback, we can make it fit in there and also preserve the real estate for something else such as commercial use in the back and parking in the front. Ms. Pelletier thinks by putting in that requirement the Board is making it so a lot of the small parcels with Route One frontage can't have it on the west side of the highway, anywhere over there and then you are protecting a lot of the lots that have existing businesses in the current configuration.

Chair Kapala noted it reduces it on the west side of Route One sort of like the Idyll Court's small array right next to the highway. Ms. Pelletier noted if we see them on the west side it is going to be more of an accessory to businesses. Chair Kapala advised that for him personally, 15 acres seems pretty reasonable fast forward. Mr. Savona liked it. Mr. Jortner advised that he is in favor of as few restrictions as possible on solar development. He feels it is a good thing to support so the more we can encourage it, the better, short of anybody being hurt by a particular project. Ms. Child noted it would be 100 feet. Ms. Pelletier advised that the Board didn't have to do any of that. Mr. Savona added that in that section of town he would like to see the Board set decent setbacks because it is an important part of town and if it makes financial sense, they could do it at 150' and still preserve some uses along Route One. It wasn't that long ago the Board was talking about putting sidewalks all the way down Route One South. He is trying to picture businesses coming in and they have 60 feet of parking and 70 feet before you hit the building because it will go back so far. Chair Kapala agreed and is picturing Royal River Heat Pumps and it is 150 feet by the time he gets there. Mr. Jortner mentioned his problem is that he does not know what restrictions hurt projects. Chair Kapala generally feels that back there the further back you go, the better the solar is because it starts going uphill. Ms. Child remembered that a caller was saying something about the setback and how they needed it to be a certain setback. Ms. Pelletier added again, with the approximation she did not know. If this is off a bit, the 200' could hurt the back project but again we are looking generally speaking. Ms. Child recalled asking the consultant but didn't remember what she said what the average setback is for towns near us. South Portland has done a lot of solar farms. Ms. Pelletier did not recall but did remember what the Board adopted. In certain zones where you required a bigger setback, you were doing the 50/50 and 75. The Board made the regulations easier for homeowners and businesses that wanted to do it. She asked where the Board is at with the mile?

Mr. Jortner advised that he has no problem with setbacks if it is not precluding projects and he doesn't really know where the tradeoff balances out. He doesn't believe setbacks are as important as the underlying goal of promoting solar. Personally, he doesn't feel solar is aesthetically displeasing. Chair Kapala thinks if the Board puts it at 150', we will hear about it. Chair Kapala noted that they would have to return to the Board and go through the whole zoning amendment process. He would favor a bigger setback and more arrays. Ms. Pelletier read the rules governing solar farm separation. More discussion followed. This can be revisited in a year to see if it is functioning and works. Anyone can bring in an amendment at any point in time if they have right, title and interest. In this zone, they can go for a contract zone. In a year from now when the Board has its annual workshop with the Council and the Project Review Board we can say, how is this working? How has it been applied in the real world? What is great about it?

Chair Kapala noted 15 acres is the least restrictive palatable option to the Council and 150 feet feels personally like it is a compromise that airs on the side of caution and leaving the mile in place for a year. The Board felt that this sounded reasonable.

**MOVED AND SECONDED:** To open the public hearing. (Savona & Jortner) **VOTE:** (5 Ayes) (2 Excused-Cannan & Ball) (0 Nays)

There were no public comments provided.

**MOVED AND SECONDED:** To close the public hearing. (Burwell & Jortner) **VOTE:** (5 Ayes) (2 Excused-Cannan & Ball) (0 Nays)

**MOVED AND SECONDED:** That the Freeport Planning Board recommends that we change the text as written for the proposed amendments to the Freeport Zoning Ordinance pertaining to Solar Energy Regulations with one note that in Section 3 for Performance Standards for Small Solar Farms and Large Solar Farms that the minimum setback for Large Solar Farms in the C-I District of 150 feet from U.S. Route One and they may not locate within one mile of the solar array development area of another Large Solar Farm in the C-I District and the Board will revisit all of these Solar amendments within a year to see how they play out in the real world and if any applicants are having challenges with the setbacks. The Board finds it consistent with the Freeport Comprehensive Plan and that it promotes environmental stewardship of the land and helps natural resources and displays Freeport's sustainability. (Child & Jortner)

Mr. Savona asked when someone comes and does this, is there still a provision that they will put up some type of performance bond? Ms. Child answered yes.

**VOTE:** (5 Ayes) (2 Excused-Cannan & Ball) (0 Nays)

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ITEM IV: Discussion of the Town of Freeport Chapter 60: Emergency Ordinance: Temporary Suspension of Certain Ordinance Standards to Safely Accommodate Expanded Outdoor Business Activities due to COVID—19 and the possibility of making some of these provisions permanent changes to the Zoning Ordinance.

Ms. Pelletier explained that she is hoping to get some feedback from the Board. Back in May of 2020 when things started to slowly reopen, the Council adopted this Emergency Ordinance to support our community all around as they started to reopen during the pandemic when people couldn't go inside. There were limits and a whole set of rules that made us the great place we are today. With our rules, you can't have temporary signs, you can't displace parking, at certain times of the year you have to get approval when you change your site, you have to provide parking if you want to do outdoor seating. The list goes on. In response to the pandemic, the Emergency Ordinance was passed by the Council multiple times. They reasonably just adopted it to help our businesses and our schools to get through the summer but it is coming to an end on Labor Day Weekend. The Council has requested that the Board look at making some of the temporary changes permanent. She put a copy of the permanent Ordinance in the Board's packets. It is broken down by ordinance but the Board does not deal with the Sign Ordinance but you do deal with temporary activities. We have limits now on the number of sidewalk sales. One can only have three a year. Sometimes they will do a temporary activity and get a sign. Food trucks have had a lot of debate in Freeport and made it challenging to allow them in certain areas. They were controversial. We had some people that were going to hold events but were not going to meet the threshold of 250 people which was a requirement to have a food truck. We loosened food trucks standards because we said they could have furniture, umbrellas or generators and in the Ordinance, we allowed people to make modifications such as outdoor seating without having to provide parking or having to come to the Board as long as they were not displacing ADA parking or creating new impervious area. She gave examples. She is really looking for feedback on what sorts of things the Board has seen happen in the past year and feels is good for Freeport and is willing to make them permanent or things you haven't liked. We have had about 40 businesses, schools and groups taking advantage of this.

Chair Kapala noted he likes the outdoor seating but not the temporary signs. The fabric flags remind him of a used car dealership type flag. Ms. Pelletier advised that our Sign Ordinance is in need of a complete overhaul and the Board will see some changes to signage. She asked the Board what it thought of Buck's Barbecue having a tent last year outside of the village and Maine Beer's tent? Does the Board care what the seats look like? Mr. Savona feels anything we can do to support businesses at least on an on-going temporary basis is not a problem. He shared his views on what Waterville has done. He feels if we are not on the forefront of this, we will miss out. Ms. Pelletier explained in the downtown if someone wanted to put out outdoor seating, they typically would come in with a plan and show her how they are going to modify their site and where they will put in seating and where they will provide parking for that outdoor seating. It is at a reduced rate but they do have to provide it. If they are in Design Review, they have to get a Design Review Certificate for what the furniture or umbrellas will look like. Our business community seems to like this version of the Emergency Ordinance. In the Village, does everyone think outdoor dining, seating and benches is a good thing? The Board indicated they did. Parking is complicated but she asked the Board if it feels if somebody has some tables and chairs as an accessory, should they have to provide parking or are we going to consider that accessory. Mr. Savona was not sure how to handle the parking but Chair Kapala suggested that parking should be limited from the light at West Street to Mallet Drive. If all the parking spots on Main Street all went away, there would still be plenty. He knows some of them are close but if an individual business wants to control the parking spots in front of their business rather than have patrons park in them, that is a totally different issue. Ms. Pelletier mentioned in the Early Action Plan that faced a lot of challenges, one of them being that U.S. Route One is a state road so anything we do has to go in front of the State. She explained how parking for outdoor seating is calculated at a reduced rate. Ms. Pelletier asked about the aesthetics of outdoor seating in the Design Review District. Mr. Jortner mentioned that he noticed this morning that ugly road construction-type barriers at Derosier's and asked if there is anything more aesthetically pleasing than that? Ms. Pelletier advised that they are there for safety reasons but there are planters out there and

L.L. Bean donated some furniture. Chair Kapala explained what Portland has done in this regard. Ms. Pelletier noted that the Laundromat is going to be doing outdoor seating as part of their plan but to the Project Review Board, because they are in the Design Review Board, they provided cut sheets of what their furniture is going to look like. Right now, you have to get approval for that. Chair Kapala asked if this could be handled by Staff Review? Ms. Pelletier noted that we could somehow tie a limit to it as well like from Memorial Day to Labor Day or whatever. You could put some time period. Chair Kapala agreed and added that if you want to keep it longer than 90 days, you will have to go to the Design Review Board within those 90 days. Ms. Pelletier pointed out that if the Board did that, come Labor Day outside seating will go away. In Maine we still eat outside in September. She mentioned that some sort of process to temporarily allow accessory outdoor seating to make it easy and less regulation. Mr. Corona added that it should be subject to the Town Planner's approval. Ms. Pelletier advised that some of the people that had tents up this year rented them. This is giving people a chance to try something and Chair Kapala added that it typically a grace period where you can try something and if you don't like it after 60 days, you can take it down.

Ms. Pelletier brought up the Board's favorite topic – food trucks. The Board has talked about them before and had an applicant bring one in as we made changes on Route One South. We talked about general changes and she hears there are fees. It was developed that way because we wanted to be strict and have them for special events in town or accessory to certain types of business. She knows this Board has talked about loosening some of the standards if they wanted to have a couple of chairs or wanted a generator or other things. She asked how the Board feels about food trucks in Freeport? Are we comfortable only allowing them in the downtown area during special events or do we want to see more of them? Chair Kapala noted what he would really like to see in Freeport is more restaurants so if you bring food trucks in, does that discourage restaurants? Mr. Jortner pointed out that food trucks sometimes turn into restaurants. Ms. Child agreed that was an initial concern but it actually has been shown in other places such as Portland that food trucks have turned into restaurants. Ms. Pelletier added that Athena's food truck turned into a brick-and-mortar restaurant on Route One. Mr. Tuna has had a food truck and has an application to come in as a brick and mortar. She mentioned that we do have some long-time brick and mortars that come in when the Board talks about food trucks and advise that it is a struggle for them in downtown Freeport in the winter and they rely on every dollar. Right now, the way it is set up, if it is happening in the village, there has to be a special event and we are expecting 250 people or greater. People are not doing those large events and the standards are not changed. She called Mr. Jortner out and asked when he wants more food trucks to come, does he want just one food truck or a food truck court or does he also want something going on so he can go to a concert, etc.? Mr. Jortner thinks a food court would be nice but in general just ease the restrictions and let people do what they do. He doesn't think it should be the Board's priority to protect businesses from other businesses and we should allow competition. If they are aesthetically bad, we might need to look at some type of regulation but if people want to come here and they think they will be here. If they feel they are unappealing, they won't come. Chair Kapala mentioned one of the things the Board talked about in the past, he gets that the brick-and-mortar people pay taxes and have been established here and they are a lot more invested, but the other thing we talked about is where can the trucks go. If you were to build a restaurant and talked with Maine Beer Company, part of your building would not be so close or have a generator running. There is a lot of stuff to think about. Ms. Pelletier mentioned there is a need for setbacks and our Codes Officer is very busy but the way it is set up now, if they are coming and are accessories to a business, they need to know where people can use the bathrooms are take care of their trash so if we say food trucks can park anywhere, we may run into issues where they don't have access to trash or to bathrooms. Mr. Jortner mentioned the food truck by Mast Landing Brewery and asked if that is something the Board approved or Ms. Pelletier approved? She noted that the brewery

shows it on their site plan so they can have a food truck accessory to artisan food and beverage which is what Mast Landing Brewery is. Mr. Jortner noted there is plenty of room in the Shaw's parking lot. Ms. Child feels the event number should be struck but asked if there is agreement about that aspect? Chair Kapala advised that if you wanted to have food trucks just for the sake of food trucks, you could come in and get a permit for an event. Ms. Pelletier thought that if you wanted to make an event and wanted to have Food Truck Friday, and somebody is willing to host you as the property owner, you could pull a Temporary Activity Permit and then the way it is now, each food truck will each get their permit. You could do that way if you got rid of the 250 threshold. Chair Kapala feels that is a good idea but it doesn't reduce the paperwork. What Ms. Pelletier would probably bring to the Board is something that modifies some of the food truck provisions the Board talked about before. If the Board wanted to tweak it so they could come for a special activity or special event, we could do that. It seems like the brick and mortars are okay with food trucks coming here for something special that attract people. If you want to open up the downtown entirely, you could invite the people from downtown to a workshop which is what the Board did before. She would bring changes in the paperwork process. Mrs. Burwell asked if the Board has considered the people that do go into the brick mall, there is a vendor there. That is their competition. Ms. Pelletier explained that those are peddler carts and there are five or six spots but nobody ever wants to be in front of Town Hall. On private property they would have to get approval and go through Site Plan Review. In her 20 years, they have had one. The ones that the Board sees have been in place for a long time. We don't have a ton of space on the sidewalk for those carts so we haven't seen a lot of new peddler carts. They are heavily regulated and are licensed by the State. They are inspected and pay less of a fee than a food truck. They have standards on what they can have and like food trucks they are not supposed to have chairs. She did not want the Board telling her there are other things out there right now. She assumes they have a permit and they are pretty restricted. The Town and FEDC did look at changing the standards for a while.

Mr. Jortner mentioned an underlying value and that is a lot of people believe there is not a lot of great food in Freeport and many go to Portland for dinner. Anything we can do to bring better food to Freeport he thinks would be helpful and some of them could turn into brick and mortar.

Ms. Pelletier felt the Board gave her some guidance and she will streamline the permit process as recommended by Staff and will work on that language and will work in incremental steps to make our rules a little more business friendly. Chair Kapala likes the idea of lowering the barriers and other Board members agreed.

Ms. Child mentioned there has been advertising for the Freeport Farmers' Market at the Grange and one thing she heard that was successful at the Yarmouth Farmers' Market is that they have food trucks there and that brought people to come to the Farmers' Market and encouraged them to shop for other things. Ms. Pelletier noted that the Grange is in the Village I so if the Board lowers the threshold, it will open it up for them. Mr. Savona mentioned that they have to meet setbacks due to residential property. She knows there is a lot of community interest in farmers' markets but it would be hard to pull off and make it successful although there are a lot of successful ones in Cumberland County. Ms. Child indicated she would like to help them.

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#### ITEM V: Discussion on a remote participation policy for the Freeport Planning Board

Chair Kapala noted this has been discussed by the Council but indicated that if individual Boards want a policy, they could basically make their own. Ms. Pelletier advised that under State law we were allowed to have virtual meetings and have the Board participate and be an active member. We all saw a different

group of people participating gradually. We had some of our biggest meetings ever. New regulations were adopted by the State but municipalities can continue with remote meetings in certain situations but you have to adopt a policy for each Board or Committee that wants to have them. She explained what the Board would have to do. She mentioned that the Council just adopted one and what the Board has here is a policy adopted by the Maine Municipal Association and what it said is that the Board is expected to be here. It is not made for Board members to sit at home and do everything at home every month. It is not meant for Board members to stay home when there is a controversial application. It is made for when Board members are on vacation or out of town for business, you can participate. If you are going to allow the Board to participate virtually, you have to give the public the same opportunity. The new Cable Technician has been working hard to get this room up and running so that we would have the ability to have the Board and the public here and have more public and Board members on the screen so everyone can participate. We would have to give notice of meetings. If the Board was to have a large meeting that we could not have here and if we had it at the Library, we might not have that feasibility there so we would really want to make sure that we continue to meet in this room if the Board wants to go hybrid. If this is something the Board is interested in pursuing, she suggested that they take this policy and if there is something the Board doesn't like, she can get legal guidance to see if we have the ability to tweak or not. If this is something the Board wants to go forward with, she can schedule it for a subsequent meeting and you would look at it at the same time you look at the Rules of Order.

Chair Kapala noted he would support a hybrid policy for the public participation first but say the Board should be here. If members of the public want to participate remotely, that is okay. He is not opposed to Board members being able to participate remotely. What he thought was great was seeing all the participation the Board got. He mentioned he was here for the previous cannabis round and there was a lot of people for that. Ms. Pelletier advised that the Board did get good participation. She noted that the Board can't do it yet but Tom is working on it and we will be back to streaming on Facebook and YouTube. Every meeting there is always someone watching on Facebook but she can't see the YouTube. Mr. Jortner feels the Board should continue to accommodate the public to participate. We don't know what the course of the pandemic is going to be from here on out so it might be still a necessity to accommodate that. Ms. Pelletier mentioned the caregivers that cannot be here at night. Mr. Savona feels it is valuable to be here in person but likes to get whatever feedback we can get. Ms. Child pointed out that we are adopting this mostly for the public. There was consensus that the Board wants to move forward with this understanding that it will increase public participation. She mentioned the Board can have a public hearing at the next meeting. The Board will be able to do a hybrid on Shoreland Zoning. A legal ad will be placed in the paper.

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ITEM VI: Discussion on upcoming workshop with the Freeport Town Council and the Freeport Project Review Board including possible dates and topics for discussion.

Chair Kapala advised that the Board usually does an Annual Workshop with the Council and the only workshop the Board has had with the PRB was held in 2019. We invited the Project Review Board, the Council but no one came, and FEDC's Keith McBride. He thinks there is a lot of value in those workshops but he doesn't think they should happen all the time necessarily. Once a year with the Council and twice a year with the PRB would be viable. Ms. Pelletier mentioned that Chair Kapala suggested scheduling one later in September. One of the things we talked about for the Village to be flagged, we wanted to revisit the Overlays or Design Review. That was something we started pre-pandemic but never got any feedback from the Council. She feels it might be something the Board will want to pick back up. With cannabis coming up and we could hear from Project Review what new issues are working or not working

and anything else the Board feels it might need guidance on. If anyone has any topics, they can share them tonight. If you don't and you go home and think of something, let her know. She asked if the Board did a legal workshop and Chair Kapala explained that he has never met the Town Attorney.

Mr. Jortner advised that the Board attended the MMA's legal workshop that was on line. Chair Kapala feels that he would love to talk with the PRB about the Village Overlays and the Comp Plan in some form. Ms. Pelletier agreed the Board has to get going on the Comp Plan. We just got the \$100,000 funding available July 1. We talked to GPCOG and other groups out there. If we are going to use a consultant, we want a hands-on approach. We will send it out as a packaged deal. Once that starts, she feels the Board might need to meet a little more frequently than once a month. If we want to resume the Design Review orally discussions, she feels there is interest from both Boards and FEDC. She thinks it would be really good to talk to Council about it and know there is interest from them, then that is something we can pursue over the winter and fall. We need to be aware of people's schedules and who has time to commit to an additional meeting.

Chair Kapala advised that the Board has talked to the Council and got positive feedback about pursuing that. Is the next step to go to the Council and say, hey this is what we want to do? Can we appropriate a certain amount of money for a consultant to draft language or whatever? Ms. Pelletier advised that that is what we are going to do it for. She thinks if the Board goes to the Council with the PRB, they could explain the inventory they have had done, what they have for thoughts and the Board's thoughts. She thinks if the Board works really hard for a couple of months in a Working Group which is something else you can do, to see what you want, you can actually get a line-item budget request for early winter like January or February before they start the budget and get it in the next year's budget cycle. After the pandemic hit, we had to pull back on the budget. She feels the Board needs a professional.

Chair Kapala mentioned that the Board has talked about this for years now and has been thwarted every time. He feels the Board needs to figure out how to move the ball on that issue. It is a substantial project. He asked what is the deadline to get the proposal together? Ms. Pelletier advised that she could get the notes from the Working Group together and see where they ended up. They got stuck on what they wanted and how to go forward. Protecting the nature of our downtown is something our residents feel strongly about. Chair Kapala asked how the Board could get a copy of those notes to revisit it? He recalled wanting one set of guidelines. Ms. Pelletier offered to pull them together. She feels it is a good plan and she will put it on the agenda for September.

ITEM VII: Persons wishing to address the Board on non-agenda items.  
There were none provided.

September 1 is the first Wednesday in September and Ms. Pelletier mentioned that Shoreland Zoning needs 800 notices so if people are pending, we would have to find an alternate date. Mr. Jortner advised that he is not able to attend on the 1<sup>st</sup>. Ms. Pelletier will send a note out to the Board.

ITEM VIII: Adjourn.

**MOVED AND SECONDED:** To adjourn at 7:55 p.m. (Savona & Jortner) **VOTE:** (5 Ayes) (2 Excused-Ball & Cannan) (0 Nays)

Recorded by Sharon Coffin