



Alna Planning Board: Finding of Approval

Applicant: Central Maine Power

Applicant Request: Extension of an application submitted by CMP and originally approved on August 3, 2021

Date: August 1, 2023

Planning Board members present were Jim Amaral (Chair) Cathy Johnson (Vice-Chair), Pete Tischbein, Katy Papagiannis, Maria Jenness (Alternate) and Erik Mitchell (Alternate). Laurie Hiestand was absent. In her absence Maria Jenness was elevated to participate as a full voting member.

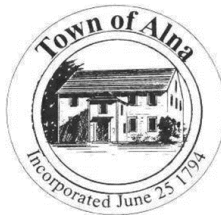
Prior to hearing from the applicant and at the request of the applicant's lawyer Cathy Johnson recused herself from deliberations because she was involved in litigation concerning the applicant. At that time Erik Mitchell was elevated to participate as a full voting member.

At the August 2023 Planning Board Meeting Gary Emond of Power Engineers representing Central Maine Power requested an extension to an application originally filed on May 28, 2001 and approved by the Planning Board on August 3, 2021. That original application was for a project requiring Shoreland Zoning and Floodplain Management Permits.

That project was described in the original application as "a 5.3 mile section of a new 345kV AC electric transmission line extending from the Coopers Mills Substation in Windsor to the Maine Yankee Substation in Wiscasset. The portion of the Project in Alna involves installation of 48 new poles. Wooden H- frame poles will be "direct embedded" into the ground (i.e., with no foundations) in 44 locations; self-weathering steel poles consisting of three poles will be installed on drilled concrete pier foundations in three locations; and a steel monopole will be installed on a drilled concrete pier foundation in one location in Alna. The average height of the new poles is 90 feet. The Project will be co-located within an existing CMP corridor on land that CMP owns in fee."

The original permit was scheduled to expire on August 2, 2023. The reason given for the extension request was a delay when construction came to a halt on November 23, 2021. At that time the Maine Department of Environmental Protection ("DEP") issued an order suspending its license for the Project on the grounds that on November 2, 2021 Maine voters approved L.D. 1295, "An Act To Require Legislative Approval of Certain Transmission Lines, Require Legislative Approval of Certain Transmission Lines and Facilities and Other Projects on Public Reserved Lands and Prohibit the Construction of Certain Transmission Lines in the Upper Kennebec Region" (the "Referendum"). After the decision in NECEC Transmission LLC v. Bureau of Parks & Lands, Docket No. BCD-CIV-2021-00058, Final Judgment (Bus. &

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Cons. Ct. Apr. 20, 2023) concluding that the Referendum unconstitutionally prohibited construction of the NECEC, the DEP issued a letter (enclosed herein as Attachment I) confirming that its license was no longer suspended and that construction may resume. While CMP planned to complete the Project in Alna within the two years allowed by the SZO, CMP was prevented from doing so by the DEP's license suspension based on the unconstitutional Referendum. In fact, during the period of DEP license suspension, which ran from the DEP's issuance of the license suspension on November 23, 2021 to the DEP's lifting of the license suspension on May 15, 2023, it was a legal impossibility for CMP to conduct any construction activities in Alna.

The applicant argued that as a matter of law, therefore, the deadline within which to complete construction should be tolled starting on the date of the DEP suspension order until the time that order was lifted (a period of 538 days). Adding that period of time to the August 3, 2023 permit expiration date results in a new construction deadline of January 22, 2025.

The Planning Board based on feedback from David Kallin the Town Attorney rejected the argument presented by the applicant that the extension should be tolled due to the delays due to the unconstitutional referendum. The Planning Board again based on advice from David Kallin decided it however did however have the authority to grant an extension.

The applicant provided evidence that substantial work had been initiated and significant funds had been disbursed to carry out the project prior to the interruption of the project.

Planning Board members had a number of questions for the applicant and after a brief discussion by planning Board members, the board voted unanimously to approve an extension which would expire on Jan 22, 2025 on a 5 - 0 vote.

Submitted By:

A handwritten signature in black ink on a light-colored rectangular background. The signature reads "Jim Amaral" in a cursive script.

Jim Amaral
Planning Board Chair
August 1, 2023