

Shapleigh Planning Board

Minutes

Tuesday, January 28, 2020

Members in attendance: Roger Allaire (Chairman), Steve Foglio (Vice Chairman), Madge Baker, Ann Harris, and Roland Legere. Maggie Moody was unable to attend. Code Enforcement Officer Mike Demers was also in attendance.

Minutes are not verbatim, unless in quotes “” – If the name of a citizen making a comment was not requested by the Planning Board Chairman, the reference to their name will be known as ‘Citizen’ or ‘Abutter’ depending on whom is speaking.

Public Hearing began at 6:00 p.m.

Citizens attending included: William “Bill” Mageary; Anthony & Jennifer Cappuccio

Roger opened the public hearing stating the board was presenting modifications to the existing Zoning Ordinance. He stated that several of the proposed changes to the ordinance are brand new.

Roger A. stated the first one he was going to review would be placed under §105-4, the section on nonconforming structures. The proposed addition is to allow a new accessory structure in the Shoreland District. The proposed ordinance reads as follows:

New Accessory Structure in the Shoreland District

- a) **On a non-conforming lot of record on which only a residential structure exists, and it is not possible to place an accessory structure meeting the required water body, tributary stream or wetland setbacks, the code enforcement officer may issue a permit to place a single accessory structure, with no utilities, for the storage of yard tools and similar equipment. Such accessory structure shall not exceed eighty (80) square feet in area nor eight (8) feet in height, and shall be located as far from the shoreline or tributary stream as practical and shall meet all other applicable standards, including lot coverage and vegetation clearing limitations. Additionally the following apply:**
 - 1) **In no case shall the structure be located closer to the shoreline or tributary stream than the principal structure.**
 - 2) **In no case shall the structure be located within 10 feet of a side lot line or 25 feet from the edge of the road or right-of-way.**
 - 3) **At no time shall the structure be expanded.**
 - 4) **The structure shall not be used for habitation.**

- b) **Section 105-35 of the ordinance does not apply when the criteria in this section are met.**

Roger A. stated that this would allow a shed on a property. Jennifer Cappuccio asked if it had to be right next to your house, it can't be closer to the shore? Roger stated, "Correct, it can't be any closer to the shore than what your house is now". Tony Cappuccio asked about having a place to store kayaks next to the water. Roger said you can't do that now, this is a new ordinance. He said, "Because of setback limitations of where you can put a new shed, you can't have one because no new accessory structure is allowed. If townspeople approve this in March, you will be able to have a shed." He noted that the new shed cannot be any closer to the water than what the residence is but it could be on the side of the camp, provided they have enough side yard or it can be on the road side. Jennifer Cappuccio stated it was hard to have to pull the kayak a long way in order to store it. Roger said they could put the shed along the side of the camp. Ann H. stated, "You just can't go past your house." Roger stated that currently new structures have to be 100 feet back from the water but this is going to allow an accessory structure within the 100 feet, with limitations. Jennifer Cappuccio stated that you can't put it on the property line. Roger agreed that it had to be 10 feet off the property line but you could put it on the road side if there wasn't enough room. Jennifer asked if someone didn't have the 25 feet to the road then they couldn't have it? Madge B. agreed, if you can't meet the setback requirements you can't have it.

Bill Mageary asked if a kayak stand would be considered a structure? Roger A. thought a stand would not be a structure because it was not permanent, it can be moved. He noted that CEO Demers may have a different opinion. Jennifer Cappuccio asked about a structure on blocks, would that be allowed? Roger said a patio made with paving blocks, is considered a structure. Barbara F. stated that with any structure they need to ask CEO Demers his opinion on whether or not something is allowed within 100 feet of the water. (CEO Demers was not present for the public hearing.)

Roger A. stated with this new ordinance, people who do not have an accessory structure and currently cannot have one, this may allow them to have one. Tony Cappuccio stated that some people do have structures currently, and he wanted to know if they are going to have to take them out. He said this was new to him, so he was trying to figure it out; if he had a structure and it wasn't on a slab, could he have one down by the water. He felt that with this conversation he would not be able to. Roger said that presently you cannot put a new structure down by the water. Jennifer Cappuccio asked if this would change? Roger said the current requirements stay the same but this is new and will allow what currently isn't allowed, as long as the criteria are met. Ann H. said they might want to ask CEO Demers what he will allow.

Roger A. stated that this new provision is what the DEP allows in their Chapter 1000 Shoreland Guidelines at this time. He noted that Shapleigh didn't adopt it originally, but now is considering it. Jennifer Cappuccio asked, "Prior to this could you put a shed closer to the water?" Both Roger and Ann stated, "No". Jennifer stated that she sees so many sheds close to the water. Roger said if they put them in prior to 1974, when the ordinance went into effect, then they could put one up. Roger said if a new one is going in, the Code Enforcement Officer will have to take action on it, because you can't have a new one within 100 feet of the water.



Roger A. stated the next proposed ordinance change is a new ordinance as well, and it will also be placed under §105-4. The proposed ordinance read as follows:

- (9) **Low Retaining Walls in the Shoreland District less than 24 inches in height for erosion control.**

Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

- (a) **The site has been previously altered and an effective vegetated buffer does not exist;**
- (b) **The wall(s) is(are) at least 25 feet horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland;**
- (c) **The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings;**
- (d) **The total height of wall(s), in the aggregate, are no more than 24 inches;**
- (e) **Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils.**
- (f) **The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and**
- (g) **A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. The buffer area must meet the following characteristics:**
 - [1] **The buffer must include shrubs and other woody and herbaceous vegetation. Where natural ground cover is lacking the area must be supplemented with leaf or bark mulch;**
 - [2] **Vegetation plantings must be in quantities sufficient to retard erosion and provide for effective infiltration of stormwater runoff;**
 - [3] **Only native species may be used to establish the buffer area;**
 - [4] **A minimum buffer width of 15 feet, horizontal distance, is required, measured perpendicularly to the normal high-water line or upland edge of a wetland;**
 - [5] **A footpath not to exceed the standards in Section 105-51.B(1)(a) may traverse the buffer.**
- (h) **All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.**

- [1] **Side setbacks for structures shall not apply to low retaining walls.**

Roger A. stated that this is for a new wall for erosion. He stated that at present you can only repair existing walls, you cannot add a new wall with 100 feet of the water. He said under Chapter 1000 there is

a provision for low retaining walls to help stabilize an area, so this will be added for stabilization of the ground. He noted that it does have to be 25 feet from the shoreline but it will help certain properties.

Jennifer Cappuccio stated that she was losing 2 feet of property a year to erosion at the water, so what happens in her case. She wanted to know how she could fix that? Roger A. stated at this time the DEP only allows the repair of an existing wall at the water's edge. She said, "So I just keep losing my property every year". It was discussed how climate change, and boats going too fast and close to the shore are part of the problem. Roger stated that riprap would help stabilize the area. Bill Mageary said this was a step in the right direction, because it does address some of the issue with runoff going into the lake, but it does not address the erosion at the shoreline. He said, in his opinion it is caused by bigger boats and jet ski's that come in too close to the shoreline and Mousam is not a wide lake to begin with, so if they would enforce the no wake zone it would stop much of the problem. He stated that people on the lake, who pay a big share of the taxes, are seeing their land erode away.

Steve F. stated that the DEP did have methods to stabilize the shoreline. Bill Mageary stated that he did go to the DEP, prior to the lake drawdown. He said they went into the DEP with an application and they were asked what lake they were on. When they said 'Mousam' the DEP stated they were not doing anything on Mousam. Bill stated they agreed to send someone out to look at the property, and three months later 4 people came out. He said that they agreed there was a problem due to the hill, and he noted that he didn't remove any of the trees as they were holding the soil back. Bill stated that the Permit by Rule would not cover this but there was a form he could fill out which would allow for riprap and other measures. Bill stated that the form was 81 pages and he was discouraged so he said 'forget it'. Steve stated, "A full permit". Bill said, "Yes". Bill added again that this was a step in the right direction.

Roger A. stated that the board wished at times they could do something to over-ride the DEP, because the board has seen at times on site visits for replacing a wall, where there was a tree with exposed roots in the way of the wall, and the DEP won't allow the tree to be removed. He said there were times removing tree and roots makes sense, especially when the water is eroding it, and it will be gone eventually anyway. Jennifer Cappuccio stated that it was not just the water but also the ice causing issues to erode it. Roger agreed. Jennifer talked about her property, how eroded it was underneath the embankment, how she tried to place some rocks in the cavity, but she wasn't able to completely stabilize it and knew it would continue to erode.

Roland L. asked the Cappuccio's if they had been in touch with the Acton-Shapleigh Youth Conservation Corp. to see if they would come out, he noted it was a free service. Jennifer stated they had not. Tony Cappuccio stated they were going to do it this year. Roland said that they would come out, look at the situation, possibly offer a solution. He believed the labor is free, you only pay for the materials. He said if you travel around Mousam lake their placards are around the lake, they have done numerous projects including carrying stone in and stuffing it under banks. He said there are areas where they brought in large riprap to reduce erosion. He strongly encouraged them to get in touch with them sooner rather than later, so they can get on the list. Jennifer said she did the best she could. Roland said he didn't feel they should wait to contact them. Roland said they know how to get things done, and he didn't think the Cappuccio's should wait for warm weather because they want to be on the top of the list. Jennifer asked if they could wait until fall. Roland stated, no, they only work during the summer months. He felt they should be proactive, get a site review, and let them tell the Cappuccio's what they can offer and what they suggest. Jennifer said, "Ok". Roland noted that Shapleigh contributes taxpayer money to the YCC, so

they should take advantage of this service. Ann H. added that they know the DEP rules. Roland agreed and said they know what to do. Jennifer started talking about the 25 foot buffer to the lake, how you cannot do anything in that area. Madge B. stated it did not hurt to ask Youth Conservation before assuming what they will say or can do.

Roger A. stated the next amendment to the Zoning Ordinance was adding two new definitions under Section 105-15, because of adding the new ordinance for retaining walls. The additions are as follows:

Retaining Wall – Retaining Wall is a structure that retains (holds back) any material (usually earth) and prevents it from sliding or eroding away. It is designed to resist the material pressure of the material it is holding back.

Low Retaining Wall – A low retaining wall is considered to be a wall less than 24 inches in height measured from the base of the wall to the top of the wall. The base is considered the area exposed that can be seen upon visual inspection.

Roger A. stated under Section 105-17 Land Uses, a section for Low Retaining Walls was added as follows:

§105-17. Land uses.	RP	SD	GP	FD	SP
Low Retaining Walls	NO	CU	YES	NO	CU

Roger A. stated an amendment was being made to Section 105-26 Stormwater runoff, as follows:

§105-26 ‘Stormwater runoff’.

- A. Surface water runoff shall be minimized and shall be detained on-site if possible and practicable. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by this project. The natural state of watercourses, swales, berms, terraces, wooded areas and floodways or rights-of-way shall be maintained as nearly as possible. The design period is the ~~fifty~~ **one hundred** year storm (the largest storm which would be likely to occur during a ~~fifty~~ **one hundred** year period).

Roger stated that this change was made to make this section consistent with other areas in the ordinance.

Roger A. asked if there were any questions? There were none.

The public hearing on ordinance changes ended at 6:25 p.m.

The minutes from Tuesday, January 14, 2020 were approved as written.

The Planning Board meeting started at 6:30 p.m.

Thomas Cashin & Gavin Maloney from the Town of Acton Planning Board to Discuss Wetland Mapping & How Wetlands are Regulated in the Acton Zoning Ordinance

Roger A. stated the board would be hearing from Tom Cashin, and told Tom he was welcome to speak. Madge B. stated that Gavin was also here from the Acton Planning Board to speak about wetland water protection in Acton’s ordinance and mapping.

Mr. Cashin thanked the board for the invite and said that Madge had spoken with him saying that the Shapleigh Planning Board might be interested in what Acton approved years ago, regarding protecting wetlands smaller than 10 acres. He said he believed the board realized the State of Maine wetland protection begins at 10 acres. He said when Acton did work on the Comprehensive Plan, one of the results was Acton should be as protective of their wetlands as possible. He said, “Because there was a strong endorsement from the Comprehensive Plan which I believe was in 2006, when the opportunity came along, because there was an update in the State’s shoreland zoning, we thought it made sense while revamping the entire ordinance to bring the town in compliance with the new Shoreland regs and enhance what we could.” He said they hoped they could convince the town this was a sensible option. He said what the board had this evening was what they came up with. (Barbara F. provided board members with copies of Section 4.2 Resource Protection District, which addresses the actual wetland setback requirements; and Section 1.4.11.1 Expansion in Shoreland District or Resource Protection District within the Shoreland Zone & Section 1.4.11.2 Expansion of Structures Existing Prior to September 29, 2011 in the Resource Protection District Outside of the Shoreland Zone, both refer to wetland setbacks.)

Mr. Cashin stated that they came up with smaller wetland buffers, the minimum threshold is 2 acres and they have a buffer of 50 feet. He said they simply increase the buffer by 25 feet as the wetland increases in size. He noted this could be seen on page 36 of the current Acton Zoning Ordinance. Mr. Cashin stated that what is meant by buffer is an area that is undisturbed, or enhanced ground if it was disturbed, that would meet or exceed the existing site conditions.

Mr. Cashin brought a copy of Acton’s Shoreland Zoning Maps, which delineated wetlands of 2 or more acres. He said a majority of the wetlands mapped flow into larger streams or directly into bodies of water that would be enhanced by the protection of the buffer. His said this was what the board was looking at on Map 2 of 2.

Mr. Cashin stated on map 1 of 2 it depicts other criteria of the nature of Resource Protection and why it is designated as such. Note: The Legend on Map 1 depicts the following under Shoreland District and Resource Protection District:

- Shoreland District
- Great Pond and River – 250 ft. Buffer
- Stream – 75 ft. Buffer

Resource Protection District

- Slopes 20% or greater, 2 or more acres
- Wetlands (2 or more acres)
- Wetland Buffer (see Map 2 for buffer distance)
- Inland Waterfowl and Wading Bird Habitat
- FEMA 100- Year Floodplain

Mr. Cashin said there was a small area of RP that is in the Shoreland Zone. He said while walking with Madge B. for Three Rivers Land Trust, so far they haven't come across areas of steep slope that are actually in the Shoreland District. He said the State has language to describe the steep slopes. Mr. Maloney said that initially they wanted any areas with a steep slope greater than 20 % and 2 acres in size but it turned out a substantial amount of that area was already developed. Mr. Maloney read from Acton's ordinance Section 4.2.1, 'Those areas shall not be included within the Resource Protection District. (Developed is defined as more than one principal structure per five hundred (500) feet of shore frontage for more than one thousand (1,000) feet.)' He said instead of encompassing over 200 camps that are on these steep slopes, we made it the areas of 20% steep slopes in areas that are undeveloped. He said there was approximately five miles of shoreline on Great East Lake, but it is considered developed, so it was not included in the Resource Protection District.

Mr. Cashin said they broke it down further, another layer on the map, designating the standards for Resource Protection within the Shoreland Zone, and protection for areas outside the Shoreland Zone. He said it was less stringent for people who owned property in Resource Protection prior to the implementation of the new standards, so they tried to give a break to people who were directly impacted by the adoption of the new smaller than 10 acre wetlands. He said the landowners that had lands that would be in the new RP designation had the opportunity not to lose the right for some development on the parcel, noting there are a couple of conditions. He asked Mr. Maloney to run down the conditions, which are located under Section 1.4.11.2 'Expansion of Structures Existing Prior to September 29, 2011 in the Resource Protection District Outside of the Shoreland Zone'. Mr. Maloney said this was similar to the Best Practical Location and he noted that Shapleigh must do a BPL. Roger A. said that they did. Gavin said this section was similar to that.

Mr. Maloney said that initially if someone wanted to put an overhang on their house they were not allowed to because it was considered an expansion, so they revamped the ordinance. He said if the board read (a) thru (d) of Section 1.4.11.2, it was pretty straight forward. He said under (b) the structure cannot be expanded by more than 30 percent of the structure for the lifetime of the structure, this was started in September 2011 and it is both floor area and volume. He said under (c) whenever a new, enlarged or replacement foundation is constructed under a non-conforming structure the structure must be placed to the greatest practical extent. He noted that the DEP now considers sono tubes a foundation. He said they felt this section made sense for those who were being affected by the new overlay on the map.

Mr. Cashin said they didn't want to regulate the areas out of utility, so they maintain the right to develop what they could, so they used as a model the 30% expansion, a roadmap that was already in the ordinance. He said as far as he and Mr. Maloney were aware, this seemed to work well. He said Ken Paul runs a tight ship and they haven't heard of any pushback. Mr. Maloney said there were not nearly as many structures that would be within a 100 feet of a swamp, as compared to the lakes, so there were not as many people affected.

Steve F. asked what criteria they used or who did the map as far as delineating the wetland? Mr. Maloney said there was a national wetlands inventory. Mr. Cashin said it was done a while ago. He said they got updated information from Southern Maine Regional, Jamie Saltmarsh, was finishing her career there and spent a lot of time working with the Acton Planning Board. He said she worked to make it palatable for people who had some hesitation. He said instead of using the word protection, they used the word safeguards.

Mr. Cashin said again CEO Ken Paul has not indicated any major issues. He said if the self-interest was maintaining property values around the lake, they did homework of attending Lake Association meetings and touched based with every constituency in the town they could, prior to bringing it to town meeting; they wanted it to be accepted and it was proven to be the case. Mr. Cashin said that it intuitively made sense to have discussion, to have people say it was a good idea.

Madge B. asked if there had been much building around the wetlands? Mr. Cashin stated there had not, due to the nature of wetlands, such as black flies and mosquitos. He said they were strong allies.

Steve F. asked if there was any control over logging with this overlay? Mr. Cashin said, no, they had a logging consultant to make sure they were not trampling on a misunderstanding of Maine Forestry regulations and they supersede in terms of buffers. He said the forestry regs are the same as the State of Maine. Roger A. asked if they joined the Forestry collective where they got the 278 towns to opt in. Mr. Maloney said Acton was still in the process of changing their ordinance, noting they would go with State verbiage but they still needed to remove verbiage to be in full compliance. Roger A. asked if Acton was controlling timber harvesting? Mr. Maloney said, no, but the State isn't helping them because there are things in the ordinance that need to be removed to be in full compliance, so then they will receive State input. He said it is a slow process, each town meeting they try to remove more language. Ann H. asked what Shapleigh had for forestry? Roger stated that Shapleigh didn't have anything in the ordinance to regulate timber harvesting, they voted to leave it up to the State.

Mr. Maloney said the State didn't care about these smaller resources that Acton has protected, he said the State allows people to log within the buffer areas. Mr. Cashin felt that if they had tried to create buffers for logging it would have been a hornet's nest. Roger A. agreed, saying it was why they left the regulation up to the State. Mr. Cashin believed Acton was the same, leaving it up to the State.

Mr. Cashin said that something that wasn't on the maps, because they could not get support for it, was protection of 1st order streams. He said the State's protection of 75 feet of a buffer guard is for 2nd order streams. He said they had a map that delineated 1st order streams but they found it was not something they could develop support for at this time, therefore, the 75 foot protection is for 2nd order streams. Mr. Maloney said 2nd order streams are delineated in purple on the map and he said 1st order streams are on the map. He said there are over 24 1st order streams that flow directly into a great pond, not into another stream. Madge B. asked, "What's a 1st order stream?" Mr. Maloney said the definition is, in order to become a stream it has to have a water shed of 300 acres but the State still doesn't recognize it until it becomes a 2nd order stream. He noted that this was Shoreland District, not Resource Protection District. He said they would like to protect 1st order streams but in town some people have already sited houses next to these streams, so we didn't quite get there. He believed it was a good idea, noting the work he and Mr. Cashin did counting all the streams that flow directly into a pond. Madge wanted to know what kind of buffer they wanted to add to a 1st order stream? Mr. Cashin said, "No development and undisturbed

ground, or enhance the ground for better absorption.” Madge asked what the distance would be? Mr. Cashin said, “75 feet.” Mr. Maloney said they could do less than that. Roger A. said that as long as it was a defined stream, as long as there is a gravel base, the buffer was 75 feet in Shapleigh. Mr. Maloney said, “So if there is a defined stream channel, even if it isn’t flowing year round, the channel is still apparent with rocks and ferns and vegetation”. Roger said, “Yes, it is protected.”

Mr. Cashin asked if when the board presented it to voters, did they call it a first order stream? Roger said, “No, the board said ‘all’ streams in resource protection, that constitute a stream definition, so they have to have a gravel base, were protected, period. There is no ifs, ands or buts.” Mr. Cashin said that was good. He said it would be something they might try. Madge B. said it might work if you don’t get too specific. Roger said they didn’t want to differentiate between streams, instead they would use the definition of a stream bed. He said anything going into a great lake is protected. Mr. Maloney said, “You would almost think that some of these streams that flow directly into a great pond would be considered part of the great pond”. Madge agreed. Mr. Maloney said they should deserve a buffer. Roger said Shapleigh adopted most of the State language. Mr. Cashin said DEP, Mike Morse, was a strong supporter of what they presented. He said he was not sure Mike was still at the DEP. Madge said that sadly he is not.

Madge B. asked if they have any phosphorus runoff controls? Mr. Cashin said that they did not, they had work done addressing this years ago but it did not go well, so they put it on the shelf. He said some people felt what they were going to do was more complex than it needed to be, and they didn’t think it would be accepted at town meeting. Madge said she wasn’t advocating for it, because if you keep good buffers then there is no need for it.

Mr. Cashin stated that when proposing changes to the ordinance they take into consideration the fact that roughly 60% of the tax revenue is generated by properties on the water. Madge B. stated it was the same for Shapleigh. He said at one time it was as high as 75%. Mr. Maloney stated that they do require phosphorus control plans for larger developments. Mr. Maloney said one issue is people hire someone to put fertilizer on their lawn and they put the same thing down no matter what town they are in. He felt if people kept a more natural environment around their camp it would be beneficial. He didn’t feel grass was best. Roger A. agreed and although Shapleigh doesn’t allow fertilizer in the Shoreland District, you can’t monitor it. He said unless someone complains, the town has no idea, and even if a neighbor complains by the time the CEO goes down to look at it there is no evidence. Roger said the town doesn’t say no ‘phosphorus’, the town just says no ‘fertilizer’, but again he noted there was really no way to monitor or enforce it. Mr. Maloney asked if Shapleigh did anything with pesticides in the Shoreland Zone? Roger stated, “No”.

Mr. Maloney stated that anything the board thinks is unenforceable the board tries to take it out of the ordinance, which he did not feel is always beneficial. He felt some people will comply because it is the right thing to do, so the town still gets benefit from the regulation. Madge B. agreed.

Mr. Cashin felt the biggest difference between the two town’s ordinances was the use of the 10 acres standard for defining wetlands. Madge B. did not believe Shapleigh addressed wetlands less than 10 acres in size. Mr. Cashin said if the town decides to work on this or anything related to it, he would like it if the town would keep Acton’s board in mind and share thoughts on it and how it will be proposed at town meeting. Madge said the reason this came up was because they were talking about this at a meeting because the Land Trust is interested in protecting wetlands and Steve F. raised the fact that Acton has

been proactive in protecting them. She said from his comment she felt she would like to hear more about it. Steve F. said he believed it had a lot to do with what the Town of Acton has decided to spend on their map. He said it does delineate to some extent wetlands in the town. The board pointed out Shapleigh's zoning map on the wall and compared it to what Acton has, which depicts in greater detail water bodies, including wetlands of significance down to 2 acres in size.

Mr. Cashin said Southern Maine Regional is still doing this type of work, and he could provide a copy of Acton's map if the board thought it would be useful. He said he asked Paul Schumacher from SMR if they still had the map on file and they do at this time. (Southern Maine Regional is now known as Southern Maine Planning and Development Commission.) Mr. Cashin stated that Acton has used their help with subdivisions in the past as well. He said he recently spoke with Mr. Schumacher and he noted that due to distance and time, it may be more difficult to get someone to come to the town. Ann H. asked if Mr. Cashin knew how much it cost to get a map such as what Acton has done? Mr. Cashin was not sure. Steve F. said being able to have the map in digital form would be helpful to himself, the landowner, and the CEO.

Mr. Cashin stated that their CEO Ken Paul used to be in partnership with Shapleigh's prior CEO (Steven McDonough) and they worked together on many of the same issues for the towns; they worked through the issues in depth, this worked well. Mr. Cashin stated with respect to who would do this type of in depth work now, he didn't know.

Mr. Maloney stated that CEO Ken Paul and Mr. Cashin went to many of the sites themselves to gain credibility. He said they didn't check every wetland noted on the map but they went to many of them to make sure the wetland was where it says it was on the map, or is it close to what is depicted. He said there was two years spent to be certain that the overlays were correct. He said they also used a topo map, and wetlands that were not draining into anything else were removed from the mapping because they were just considered a swamp. He said there was quite a process to complete the map and make it accurate.

Mr. Cashin said doing the legwork also made the map more palatable, noting that developers would go into CEO Paul's office wanting to know about the wetland delineation on the map and because of rigorous site visits the map gained credibility, as what was on the map was seen on site. He said it was also tested by applicants saying they wanted to do something on site and there was no wetland, and if this was the case, there was a correction made. Mr. Cashin said CEO Paul had the ability to zoom in to a partial lot and see exactly what is on that lot. Madge B. stated that was what Shapleigh needed. Mr. Cashin said this immediately can answer any questions. He said CEO Paul can find the acreage of a body of water to answer questions as well. He noted this cuts down on field work and shows what the applicant may or may not be able to do. He said if there is still controversy they suggest they hire a surveyor. CEO Demers asked if the Town of Acton found that the GIS layers closely resemble what they found on the ground. Mr. Maloney stated that the maps were generated by the GIS, then they did the ground work. Mr. Cashin said the GIS is always combined with a site visit, to provide a standard evaluation. Mr. Maloney stated that the site work helped to delineate the actual boundaries vs what appeared to be the case using the GIS. He said because there was site work, not many people objected to the maps, because someone had been to the site to find the actual boundaries of the wetland.

Mr. Cashin asked if there were any questions and if the board wanted to look at the maps. Mr. Maloney thought it might be helpful for the board to look at the maps further. He said they have it all on a computer so they didn't have to have the maps at present.

Mr. Maloney stated that if the Town of Shapleigh looked at the GIS map, they would have an idea of how many 2 acre, 5 acre or larger wetland areas you have and then you could see how big an undertaking it would be to do the site work involved. He felt Shapleigh was similar to Acton.

The board thanked Mr. Cashin and Mr. Maloney for their time, it was very informative.

Nothing further was discussed.

Other:

Madge B. had a question for CEO Demers. She said she walked Cedar Drive a lot and there was either a lot or two lots on what she believes is called Conifer Lane and she recently noted there were no trees on this lot or lot(s). She said she took a picture and she had with her on her computer, as she didn't have a printer to print them off. Again she said, "There are no trees".

Steve F. asked if it was on the peninsula? Madge B. said it wasn't. Steve asked if it was where the microburst came through four or five years ago? Madge did not believe so.

Madge B. said she didn't understand how you could clear a lot? She said perhaps you can, she didn't enforce the ordinance. Steve F. said again that perhaps she was near the microburst. Madge said, "No, these were just cut! Fresh cut." CEO Demers said he would look into it.

Madge B. asked if a person can do that? Ann H. said, "People can do anything, it doesn't mean that they are supposed to." CEO Demers said, "No they cannot do that". Madge said there was some building going on on site. Madge showed CEO Demers the area she was speaking about. She said there was a garage, a shed and she pointed out the area that has been cut. CEO Demers said, "He does have a building permit for a garage, he is beyond the 100 foot setback and he's prepping the area apparently". Madge said again, "But there are no trees". She said there were trees there. She said she was not saying she knew what was right or wrong, but she said you walk along Cedar Drive and there are trees everywhere on all the lots, and then you get to these two lots; she wasn't sure if it was one or two lots but there are two dwelling units, and there are no trees. CEO Demers said he wasn't sure if there were two lots if it is where he is thinking. He said if there were two camps side by side, then he believed they were two lots that didn't meet the dimensional requirement and the camps are close. Madge agreed. She said there are no trees all the way to the water. She said she understood you can clear to put a septic system and leachfield in but asked if it was normal to remove all the trees? She said there isn't another lot in the area that looks like this, and she noted the trees were just cut.

Ann H. wondered about where the 100 foot mark was. Madge B. said she didn't know but she also wondered about the lots lot coverage because there are two buildings. CEO Demers asked for further explanation. Madge said there are two camps, and then the new structure with the trees all gone. She

said, “You say it is one lot with two dwellings on it”. CEO Demers said, “I didn’t say that. There is one camp, the one that Levesque bought and then there is an area that meets the 100 foot setback that he is clearing for a garage. That is one lot but it is narrow. So the percentage of lot, they meet the lot requirements because of the length of the lot.”

Madge B. said, “So the other lots meets the lots coverage too?” CEO Demers said that he wasn’t aware of another building permit in that area. Madge said there was a fairly new garage right next door. Madge said she was not saying there was anything wrong but she asked if they understood why she was asking? Ann H. said, “Yes because you walked near the water and there are no trees”.

Madge B. said there are two dwellings, on two separate properties, she asked if the adjacent lot had too much lot coverage? CEO Demers said there hasn’t been a new permit pulled for that property. Madge said, “Ok, it’s just this lot”. Ann H. asked what the address was? Madge thought it was Conifer Lane, where there is none. Madge said in the ordinance is it true you can clear cut 250 by 250? Roger A. stated beyond 250 from the water you can but closer you need a permit. Madge read from the ordinance, “there shall be no cleared openings greater than 250 square feet in the canopy from the outer limits of the tree or shrub crown, however a single foot path...” Madge was not sure this pertained.

Ann H. pulled up the lot on her telephone. Ann said it was 65 feet at the water and 60 feet on the road and 290 feet in depth. Ann said the adjacent property was 50 feet on the water and 50 on the road. Ann said if it was halfway, maybe it was out of the Shoreland. Madge thought the camp was about 50 feet from the water. Ann thought if they cleared the rear of the property, they were beyond the 100 foot mark. Roger said there was a point system up to 250 feet.

Madge B. said the board is trying to keep trees down by the water, but it seems there is nothing the board can do about it. Roger A. said there was enforcement. He said they would have to replace with 6 foot trees. Madge said Ann thought they were back 100 feet, so they don’t have to do anything. CEO Demers stated that was incorrect, it was still Shoreland zoning up to 250 away from the water, so they will have to have a replanting schedule. Madge said, “Ok”. CEO Demers said the garage will get built, and the replanting schedule will be put into place using the point system.

Madge B. said this property looks so different from the rest of the area. Roland L. was concerned with runoff. Madge stated that they had a silt fence up. Roland said that picks up large particulates, but not small silt. Roland noted that he would be taking a ride to the area tomorrow to look at it.

Nothing further was discussed.

Growth Permits

There are Growth Permits available.

The Planning Board meeting ended at 7:50 p.m.

NOTE: The winter hours are in effect thru March 31st, the meetings now begin at 6:30 p.m. and any scheduled public hearing begins at 6:00 p.m.

The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2844, x404.

The next meeting will be held on Tuesday, February 11, 2020.

Respectfully submitted,
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net