

Shapleigh Planning Board

Minutes

Tuesday, February 25, 2020

Members in attendance: Roger Allaire (Chairman), Steve Foglio (Vice Chairman), Madge Baker, Ann Harris, Maggie Moody and Roland Legere. 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.

The minutes from Tuesday, January 28, 2020 were accepted as read.

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

Conditional Use Permit – Barber Shop – Map 18, Lot 32 (112 Emery Mills Road) – Rhonda Burnell, Applicant; Paul & Bob Muse, Property Owners

Rhonda Burnell and Lisa Clarke were present for the review of the application, along with Paul Muse.

Presented along with the application was a sketch depicting the size of the lot, the size of the existing structure that being 26’ x 40’ and its proximity to the lot lines, the location of the leachfield and septic system, well, the location of the existing signage and Route 109. Also provided, was a sketch entitled ‘Parking Plan’ which depicted the existing structure, and parking area layout both beside and behind the structure. The plan noted that there was a total of 15 - 10’ x 20’ parking spaces on site.

The detailed description of the project is as follows: Barber Shop: 4 (possibly 5) booths. Cutting and styling hair. Open 7 days, 7:00 am thru 8 pm. Currently 3 Barbers (2 full time & 1 part time – 16 hours/week).

Roger A. asked Ms. Burnell to let the board what she wanted to do. Ms. Burnell introduced Lisa Clarke and stated that they currently work together at 4 Seasons Barber Shop in Springvale which was being sold, therefore, they want to relocate their business to Emery Mills. She said most of their business would follow them, and in addition, they expect business from the residents on the lake. She stated they were well established and quiet.

Roger A. stated that the application read 7 days a week, 7 am to 8 pm. Ms. Burnell said this window would take in hair emergencies, and special occasions. She said that typically they would be there Wednesday to Saturday, and Tuesday thru Saturday in the summer. Roger said the board likes the applicant to keep the window of time open for as long as possible taking into consideration times they may be there longer than expected. Ms. Burnell stated she was told this, which is why she put down 7 days a week, 7 am to 8 pm. She did not expect to need hours longer than that.

Ms. Burnell stated they were thinking about adding several beautician stations in the back room and those would be by appointment. She said she did not expect either her or Ms. Clarke to work 8 hours a day.

Madge B. thought they were in a good location, because sometimes with a business if you work late or early, in the winter the vehicle headlights can be a bother to a neighboring residence, but in this case that will not be an issue.

Roger A. asked if there were any additional questions? Madge B. asked how many parking places they needed? Looking at the parking plan, it appeared the parking spaces exceeded the amount required. (7 spaces are required for the square footage of the service establishment, plus 2 for the dwelling unit. The parking plan depicts a total of 15 spaces.)

Madge B. asked if there would be any additional lighting? She stated that the issue with lighting is to make certain there is no glare going out onto the street. Ms. Burnell stated that there would be no changes to the existing lighting. Ms. Clarke asked if they would be able to put up a lighted barber pole right outside of the entry door for the hours they were open? She said that the lighting that is there is in existence. Madge said she was just trying to be careful that the businesses are not throwing light out onto the street. Mr. Muse stated that there was a light on the east and west side of the building, but there would be no additional lighting. Ms. Clarke stated again that the only additional lighting they wanted to add is the barber pole and it would be on during business hours. The board had no issue with the barber pole.

Madge B. asked if they were going to do a site visit? Roger A. said he didn't believe he had to see it again, as he had already been there several times for other permits. Ms. Burnell said there were no structural changes being made, other than moving a counter top and adding a shampoo bowl.

Madge B. asked about the septic system. Roger A. stated that would be up to CEO Demers to make sure it is adequate. Roger said there will be no structural changes. Ms. Burnell agreed saying that the wall will stay the same, just the counter will come down. Ms. Clarke said, "Counter top".

Roger A. stated that he wanted to ask Mr. Muse if his office will be gone when they take over? Mr. Muse stated that was correct. Roger stated, with the ordinance we only allow one residence and one business on a two acre parcel. He said that was why he was bringing it up. Mr. Muse said his sign would be coming down and theirs would be going up.

Roger A. stated the board would notify abutters and a public hearing would be held on Tuesday, March 10th at 6:00 p.m. After that, the application will be taken up at the regular meeting.

Roger A. asked if anyone wanted to do a site inspection? The members were aware of the location and felt they did not need a formal site inspection.

Nothing further was discussed.

Minor 4-Lot Subdivision – Name ‘Shapleigh Heights’ – Map 8, Lot 61 (Gulf Road) – North Country Land / Robert Libby, Property Owner; James Logan, Representing

Mr. Logan was present for the review of the application.

The preliminary application for the 3 lot subdivision contained the following information:

Name of Property Owner: North Country Land, c/o Robert Libby, RW Libby & Sons, 483 Old Meetinghouse Road, Porter, Maine 04068

Name of Authorized Agent: James Logan, Longview Partners, LLC, 6 Second Street, Buxton, Maine 04093

Name of Land Surveyor: Isaiah Plante, PLS, Kimball Survey & Design, Inc., 30 Frost Hill Road, York, Maine 03909

Land Information:

Location of Property: YCRD Book 17858, Page 716
Shapleigh Tax Map 8, Lot 61

Current Zoning: General Purpose
No part of the property lies within 250 of the high-water mark of a pond or river.

Acreage to be Developed: 65± Acres
Property is not part of a prior subdivision.
There have been no divisions within 5 years.

Restrictive Covenants: No Mobile Homes Allowed
Existing Use: Wood Lot Selectively Cut
The parcel does not include a waterbody.
The parcel is not within a special flood hazard area.

Proposed Name of Development: Shapleigh Heights
Number of Lots: (4) Four
Date of Construction: Spring 2020 (no internal road)
Date of Completion: TBD, as lots sell.
Infrastructure Required: No
The property currently has road access on Gulf Road.

Method of Water Supply: Individual Wells
Method of Sewer Disposal: Individual Septic Systems
Method of Fire Protection: Sprinklers in home.

There are no Proposed: Streets
Recreation Areas
Common Land

Requested Waiver(s): To be submitted with final plan.

Also provided with the application was a Preliminary plan of the proposed four lot division.

Total Area Containing All Lots per the Surveyed Plan = 67.67 Acres; Proposed Lot Areas are as follows: Lot #1 = 6.02 Acres with 410.74 feet of road frontage; Lot #2 – 6.00 Acres with 410 feet of road frontage; Lot #3 – 6 Acres with 410 feet of road frontage and Lot #4 has 49.65 acres with 533.25 feet of road frontage. Also on the plan are a total of 10 Test Pits; TP 1 & 2 on Lot #1, TP 3 & 4 on Lot #2, TP 5 & 6 on Lot #3 and TP 7 thru 10 on Lot 4. Gulf Road is depicted as having a 50' wide public easement. The contours on the map are based on NAVD88 Datum and list elevation changes every 2 feet.

In addition, provided by the applicant is an ‘Authorization to Act as Agent’ signed by Robert Libby stating Mr. Logan can represent him before the Planning Board and to obtain municipal permits from the Town of Shapleigh; a deed description of the property, referencing the recorded deed located at the YCRD in Book 17858, Page 716 (a copy of the actual conveyance was obtained by the Planning Board from YCRD); the soils reports for each of the test pit done by James Logan, SE #237-CCS #213 dated 8/22/19 & 9/5/19; a copy of the USGS depicting the site location on the map; a copy of the Soil Map for the area and description of the soils noted, which appear to be LnB (Lyman loam, 3 to 8 percent slopes, rocky), LyB (Lyman – Rock outcrop complex, 3 to 8 percent slopes) & SrC (Skerry fine sandy loam, 8 to 15 percent slopes, very stony).

Roger A. stated that Mr. Logan was free to discuss the subdivision application. Mr. Logan began by stating he would not be able to attend the meeting on March 10th, so he will be placed on the agenda for March 24th.

Mr. Logan wanted to thank the board for the work they do, noting that he had been on the planning board in Buxton, and he understood it took a lot of effort to do the towns business on a regular basis.

Mr. Logan stated that he was a wetland scientist, soil scientist, site evaluator and septic designer. He said in the past he worked on the subdivision on White Tail Lane for Mr. Libby while at Frick Associates. He said now he works under Longview Partners. He noted he previously spoke with the Chairman of the Board about their plans and he was told that if they created greater than 4 lots it would require an internal road. He wanted to add that he felt this was counter-intuitive when it came to certain properties. He believed there are certain properties that are unique and he felt there possibly should be the ability to waive the requirement. He didn’t feel in this instance, putting in a paved road that came out onto a dirt road made sense. He added that he is always trying to keep impervious surfaces to a minimum, to keep runoff to a minimum, so if there was the requirement for paving and bonding, he didn’t feel it was always necessary.

Mr. Logan said his client did not want to put the money into a road. He realized at some point someone may want to buy the 50 acres and put in a road but at present they did not want to do it. He said the plan he presented this evening was from the surveyor and it contained no protective notes but they can be added, such as any further divisions must come back to the planning board. He said any required notes will be added to the final plan.

Mr. Logan said there are three 6 acre lots, and the remaining land. He said they started with 10 lots that would be fully complying, but they didn’t have an internal road. The three lots depicted were six lots at one time, so if there is a desire to split them in the future, with Planning Board approval, he wasn’t sure how it would be accomplished regarding the road. He thought perhaps the road would prohibit them from being split?

Mr. Logan stated that the area was logged off by Mr. Libby and now there were some great views. He believed the land still had some trees and the lots were nice, because Mr. Libby was both in the business as a logger, as well as land developer, so it is in his best interest to be mindful how the lots look once he is done logging. He said based on this, there is no clear cutting and there are trees. He also noted the deer population is flourishing on site.

Mr. Logan said he provided the soils information that lists lots of Lyman soil which is shallow, and there are some shallow areas, but where he dug he was able to go six feet down without issue. He said there are a lot of places for full basements and a septic. He stated that he has two test pits on each of the three 6 acre lots and there was no issue in each location.

Mr. Logan said each lot has frontage on Gulf Road, so each lot would have its own driveway onto Gulf Road. He said there shouldn't be a problem because there isn't much traffic on the road. Madge B. agreed.

Mr. Logan stated with respect to waivers he would like to waive the stone monuments, as he felt the iron rod with a cap was sufficient. Madge B. agreed and stated that was what the board was used to waiving. He said the other waiver was for a performance bond for the completion of the subdivision, because the completion of the subdivision was the plan provided, there is no infrastructure being built. Madge agreed. Mr. Logan said there would be no roads, and for fire suppression they are going to use sprinklers instead of a pond or cistern. He said with fire suppression tanks there are issues with easements, and the ability to hold water; dry hydrants can silt in; so he felt sprinklers there would be acceptable by the Fire Chief and easier for the town.

Mr. Logan said that he has already submitted all the fees required for both preliminary and final.

Roger A. said other waivers he might want to consider are for sidewalks and underground utilities. Mr. Logan felt in areas like this it was easy to get those waivers. The board agreed but it is in the ordinance, so it needs to be waived. Madge B. said the board will have to vote on each waiver, so he will need to list them all. Ann H. reminded him that he wanted to waive stone monuments. Ann asked if he was going to go underground with power? Mr. Logan said they were going to leave it up to the buyers. CEO Demers said that he should ask for a waiver for underground, so they can use overhead lines if they want to. Roger agreed and said they still could do underground but they would not have to. Roger also noted that Lot #2 has a pole across the street, so it is likely some of the lots may need a pole put in.

Roger A. stated that the board will need something stating that stormwater runoff will not be an issue coming off any of the lots. Madge B. read the standard which states in part 'Adequate provision shall be made for disposal of all stormwater generated within the subdivision' §89-38 'Stormwater management design standards'. Mr. Logan believed this pertained to a road and not to an individual lot or driveway. Roger said the board looks at the lots. He said when the lots are cleared for the septic and house, there could be erosion going toward the road or neighboring lots, the board wants to know how this will be addressed. Mr. Logan felt erosion was different than stormwater. He said erosion was something that you don't want to move off the lot. Roger said the board looks at both. Mr. Logan said he works with an engineer and it is pretty regular to say that a small residential development in addition to the large lot, will make an imperceptible change to stormwater runoff due to the addition of the houses. In terms of erosion and sediment control, because there is no road, typically they would not provide that for each house. Roger said it was for the whole subdivision. Mr. Logan asked if he could do a typical erosion and sediment control plan that would go around a house, a conceptual plan, to make someone who buys a lot aware that they should put erosion and sediment control around their house. He said he would put in a typical plan for a silt fence or stump grindings. CEO Demers said it had been awhile since he had been up there but he believed it was sloping away from the road. Mr. Logan agreed, it all sloped away from the

road. He did not see a way that erosion would end up on the road. Roger said it was a provision and it did need to be addressed.

Madge B. said again that the abutters could be affected, so it made sense to address it. Mr. Logan agreed and it would give the CEO something to point to. Roger said the board had to review both §89-38 ‘Stormwater management design standards’ and §89-39 ‘Storm drainage construction standards’.

Roger A. asked about the USGS. Mr. Logan said a map was in the package he provided. He said on this map there were 20 foot contour intervals, but on the plan provided they were 2 foot intervals which was why there were so many lines. He said there were small areas of steep slopes but they are limited. He said they are primarily on the large lot. He said they didn’t count enough to deduct from the lot, they were very small inclusions. He said there were plenty of places to put drilled wells. Roger said no dug wells were allowed in subdivisions.

Roger A. said another note on the plan would be no further division without Planning Board approval. Ann H. asked if he needed to waive a bond? Roger A. said, no, there was not going to be any infrastructure created, so a bond was not required. Ann wanted to know if it had to be documented that it was waived? Roger said it did not. Madge B. agreed, there was no road going in or any other infrastructure other than the individual houses.

Roger A. said the only other question was the width of the Gulf Road. Mr. Logan said the width of the right-of-way is 50 feet. He did not know the width of the actual road but the ROW is on the plan. Roger said, ok.

Roger A. asked if there were any other questions? There were none. Madge B. stated that she assumed after the board sees the property, they would have an opportunity to ask questions. Mr. Logan thought after the site visit would be a good time to ask more questions, and after the public hearing.

Mr. Logan asked if the board wanted to do a site visit before the next meeting? Mr. Logan said you could see a lot by driving by. The board decided to go on their own on an individual basis. Mr. Logan said there was a pink flag at the corner of Gulf and Ross Corner Road. Steve F. said you will know where the property is because there is a nice view. Mr. Logan agreed. Ann H. asked if there was any water on the property like a stream? Mr. Logan stated there was not, or he would have put it on the plan. Roger A. asked if there were any pins? Mr. Logan said there were not but there is a cemetery on the far corner of the lot.

Roger A. stated the public hearing will be set for Tuesday, March 24th and a notice to abutters will be mailed as well. Members will do a site inspection on an individual basis.

Nothing more was discussed.

Other:

CEO Demers had several issues he wanted to discuss.

CEO Demers stated that Mr. Muse was looking for guidance from the board with respect to the existing structure he owns which currently houses Keepin it Local, which will be moving to its permitted new location. Mr. Muse was in the audience. CEO Demers stated that Mr. Muse asked if he could have two efficiency apartments in the structure but he wasn't sure how to answer the question. He said he knew it would be a Planning Board issue because it was a non-conforming lot, non-conforming structure, and change of use.

CEO Demers stated the lot was not 80,000 sf, and it did not have the required frontage on the road. Mr. Muse asked what the required frontage was? Roger A. stated, "200 feet". Mr. Muse believed he did have the 200 feet of frontage.

Roger A. stated that a duplex would require 200 feet of road frontage and a 2 acre lot. Mr. Muse stated that it could not meet the 2 acres. Mr. Muse asked if he could have a business, and an efficiency apartment. Madge B. thought he could change it to a residence or have one business but she didn't think he could have both because he didn't have the two acres required. CEO Demers said it was an existing lot of record, so he could have a residence. Roger A. agreed that he could have one or the other, but not both.

Steve F. asked why he could have both next door, an apartment and a business. Roger A. stated, "Because it was grandfathered, he can have both, as long as he doesn't discontinue a use". Maggie M. thought the building in question at one time had two businesses in it. CEO Demers stated that it had been more than a year since there were two businesses. Roger and Madge B. agreed, once discontinued you lose the grandfathered status.

Mr. Muse asked how the town viewed Airbnb's? Roger A. said the town doesn't look at it. He said it has come up before, if a person wants to rent a house for a year or for a night, the board looks at it as a dwelling. Madge B. said the board used to think the owners live in them, but she was aware now that may not be so. Madge said she thought there should be a definition in the ordinance.

Mr. Muse asked about shared space? He listed as an example if there was a common secretary, and separate offices. Real estate was given as an example. Steve F. said real estate, insurance, that would have several spaces in one building. CEO Demers stated that the use would be called office space and the rooms could be sublet. Ann H. asked about signage? CEO Demers stated that as long as the sign was 32 square feet then it wouldn't be an issue. Roger A. said that the board would look at each individual business as being on its own, so it becomes a strip mall. CEO Demers said, "Then this building could only house one business". Steve F. asked if One Earth was a strip mall? Barbara F. did not believe so, as there were multiple businesses approved at that location. Roger agreed. Steve said there was a store, massage business, apartment, yoga studio and brew shop, five businesses. Maggie M. thought the yoga business was a class held within the store, it didn't count as a separate business. Barbara stated that the yoga studio was approved separately as a business, as it replaced another approved business on site that was discontinued. Roger agreed it was approved separately. Steve stated that he was approved for Real Estate and the ability to rent two offices. Madge said that it sounded like it wasn't clear in the ordinance. Steve said what Mr. Muse was asking for made sense. CEO Demers stated the difference between what Steve was approved for and Mr. Muse, is that Steve had a conforming lot. He said Mr. Muse had a non-conforming lot and a non-conforming structure. Mr. Muse asked if it was a non-conforming structure

because it was too close to the road? CEO Demers stated that he believed so, but he would have to measure it. Steve thought he was as close to the road as Mr. Muse.

Steve F. thought for this area along route 109, it would be a good idea for the board to look at perhaps changing the requirements for business. CEO Demers said the board needs to be careful to change the ordinance to suit one particular situation. He said it would have to be non-specific. Madge B. said her concern in this area was the number of entrances onto Route 109. Steve agreed noting the traffic doesn't abide by the speed limit. Madge agreed the only thing the board can look at is what is in the ordinance now, and noted there was a drainage issue in this location.

Madge B. liked the idea of multiple businesses all using one entrance/exit, instead of having multiple entrances onto Route 109. Steve F. said at present the board has to work with what is in the ordinance but perhaps the board can look at this for town meeting next year. Other members agreed. Roger A. stated that the Comprehensive Plan would like to see businesses located along Route 109 & 11. He felt the board just needs to change the ordinance.

CEO Demers asked if a variance from the ordinance would be the avenue Mr. Muse would need to take if he wanted to have multiple businesses this year. Roger A. said yes, because the board would have to give an application approval a no vote. Roger did not see the ZBA granting a variance, for one reason, Mr. Muse can get a return for his lot. CEO Demers said, "Then he would need a change in the ordinance before he could have two uses". Roger agreed. He said at present he can only have one use per the ordinance, as it is written now.

Mr. Muse asked how a change could be made to the ordinance? Roger A. stated the board would need to come up with wording to make the change. Mr. Muse asked how it could be suggested? Barbara F. stated, "What we are doing right now". Ann H. said, "Then the town votes on it in March".

Mr. Muse said he would like an apartment in the back and a small seasonal business in the front. He asked if with a variance that would be allowed? Roger said there were four criteria that all have to be met in order to obtain a variance. He said if you can get a return on your property, the ZBA cannot grant you a variance. Roger said if you cannot get a return, then it's a hardship. Roger did not believe what Mr. Muse was discussing was a hardship by definition. CEO Demers agreed with Roger and said he did not see a variance as a viable avenue.

CEO Demers stated that at present he could have one commercial use, as it is being used now, he could change to another commercial use, or change it to a single family dwelling. Mr. Muse said, "Those are the options". Roger said, "Yes". Roger said the only other way is to get additional acreage. Mr. Muse said, "OK, thanks for your time".

CEO Demers stated that Mr. Berube came into his office because he wanted to demolish an existing house and replace it, which was on a non-conforming lot of record. He believed the structure could be rebuilt. Roger A. agreed stating a Growth Permit would be required. It was noted the house can meet setbacks.

CEO Demers stated that the business ‘Whole Nine Yards’, Marc Boisse’, had plans to move the business to Acton, so the lot will not have that conditional use any longer; then he wants to add an in-law apartment to his home. He said, this will create a multi-family dwelling. He noted that it was a non-conforming structure because it did not meet setbacks to the road. He said Madge B. pointed out that a non-conforming structure is addressed under §105-4.D(8) ‘Change of use of a nonconforming structure’. Madge read it as follows: The use of a nonconforming structure may not be changed to another use unless the Planning Board, after receiving a written application, determines that the new use will have no greater adverse impact on the waterbody, tributary stream, or wetland, or on the subject or adjacent properties and resources than the existing use.’

Steve F. stated, “So he is going from single family to multifamily”. CEO Demers stated that he has the square footage and lot frontage, the structure is non-conforming. Madge stated that the board should review it, it doesn’t mean we will turn it down. Maggie M. thought the only issue would be an increase to the septic. The board felt that was up to CEO Demers and he did not see it as an issue.

CEO Demers stated that he would not get the occupancy permit until the business is gone. The board agreed that once Mr. Boisse’ moved the business he would be able to have the in-law apartment. Roger A. stated that Mr. Boisse’ would need a Growth Permit in order to have the in-law apartment. CEO Demers felt that Mr. Boisse’ could add on now but he would not be able to get the OC until the business is gone. Roger said again that Mr. Boisse’ would need a Growth Permit to proceed; every unit or apartment needs a growth permit. Steve asked if the board could review the change when they review the Growth Permit. Madge B. did not see why not but she wasn’t sure what form to use because she did not believe this was a conditional use. CEO Demers agreed that it was a change of use. Madge didn’t think the form would matter to the applicants as long as they were not being charged. Barbara F. asked if the board could use the Best Possible Location form as it also deals with applicability of standards? CEO Demers said he would review the permit to see if it would work.

Roger A. said again that no occupancy permit can be obtained as long as the business is on site. CEO Demers said it would happen the same day, the in-laws move in when the business moves.

Roger A. said the board needs to look at language to change the ordinance to be able to accommodate business such as what Mr. Muse wants to do. CEO Demers asked if he was talking about making a new zone? General Purpose and then a Route 109 zone. Madge B. thought it made sense to make a new zone. Roger felt it would make sense to create a business zone along 109 and 11. Steve F. thought it made sense to place business in that area, so you don’t have to worry about the neighbors. He felt it also made sense to have more than one business in one building because many businesses do not need a lot of space. Madge added that the board doesn’t want more driveways onto Route 109 than necessary. Steve said there were a few non-conforming lots in that area now. Madge said that was all the more reason to look into changing the zoning.

Barbara F. suggested having workshops on this issue in the near future. She will look into what other towns are doing that are similar in size to Shapleigh with commercial districts.

CEO Demers had one additional question, regarding Adrienne Knox’s business, ‘Knox Auto Body’. He asked how the parking area was calculated when it was approved? Roger said it depended on what type of business. Madge B. believed the board likely went by the square footage of the structure and the number of employees. CEO Demers said he understand, that was what they were trying to figure out, what ordinance the board looked at. Madge believed it was 105-43 ‘Off-street parking and loading’. Roger agreed.

Nothing more was discussed.

Growth Permits

Map 5, Lot 20-4 (White Tail Lane) – New Home

GP #01-20

This is a legal lot in an approved subdivision known as ‘Evergreen Overlook’ approved in 2006.

Map 5, Lot 20-7 (White Tail Lane) – New Home

GP #02-20

This is a legal lot in an approved subdivision known as ‘Evergreen Overlook’ approved in 2006.

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, March 10, 2020.

Respectfully submitted,
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net

