

Shapleigh Planning Board

Minutes

Tuesday, June 23, 2020

This evening's meeting was conducted via Zoom due to Covid-19.

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.

Public Hearing began at 7:00 pm

Amendment to the Subdivision known as Hidden Cove – Extend Subdivision Improvements Deadline from 2020 to 2023 – Map 9, Was Part of Lot 1A, Now Lot(s) 1B, 1C & 1D (Apple Road & West Shore Drive) – James Chadbourne, Applicant; Hidden Cove, LLC Property Owner; Robert Reinken, ReinCorp Development, Representative

Mr. Reinken was present via Zoom for the review of the application.

Roger A. asked Mr. Reinken to let the audience know why he was before the board. Mr. Reinken stated he was representing Jim Chadbourne and the amendment to Hidden Cove Subdivision, up at the end of Square Pond. He said they were before the board requesting a two-year extension to the build the private way and the associated power that goes with the subdivision. He stated two years ago, the Findings of the Facts, item number 4, required the applicants to come back to the board to request an extension if the improvements were not done. He said he also obtained an Irrevocable Letter of Credit, because the original one expired in May, and a copy was provided to the board. (Note: The Board of Selectmen have the Letter of Credit as well.) Mr. Reinken stated that this letter of credit was also good for two years.

Mr. Reinken stated that they were before the Planning Board to get the two-year extension.

Roger A. asked if there were any comments or questions? Roland L. stated that he was commenting, as he did at the last meeting, that unless abutters or someone else has a significant concern with this, he felt it was appropriate that the extension should be granted. Roland asked if the board had heard from anyone with respect to this application? Roger A. stated no one has expressed a concern.

Roger A. asked if there were any other comments? Roger stated the only thing he wanted to state was that depending on when the lot is sold, if the road is not completed and there isn't 200 feet of road frontage, they will not be able to get a building permit for the two lots being accessed by the private way. Roger said a Growth Permit cannot be issued until there is road frontage. (Note: You cannot get a building permit for a new home without a Growth Permit.) Roger wanted Mr. Reinken aware of this.

Mr. Reinken did not understand what Roger A was referring to. He thought the Irrevocable Letter of Credit was in place to protect the Town of Shapleigh from issuing a building permit to someone in the meantime; it gives the town tools to build the road if it didn't get built. Roger stated that the lot does not have road frontage until the road is completed and accepted by the Road Commissioner. Roger said unless the board wants to make a special arrangement specifically for this application, then it may be an issue for the applicant. Madge B. asked if one of the three lots were on an existing road? Roger said that one was on Town Farm Road. Madge asked if they could sell that lot and build on it? Roger said they could. Madge said that would be handy for them to build and then they could do the road. Roger agreed. Madge said she understood Roger's point, that they should keep this in mind when they decide what lots they want to sell.

Roger A. stated if there were no other questions for Mr. Reinken he was going to go into the next public hearing. This public hearing closed at 7:08 pm.

Conditional Use Permit – Mineral Extraction (Original Approval in 2015 Expired) – Map 5, Lot 44A (Goose Pond Road) – Frank Clark II, Applicant

Mr. Clark was present via Zoom for the review of his application.

Roger A. stated that the next application was for mineral extraction on Goose Pond Road. He said he would entertain any questions.

Mrs. Martha Pennell – Abutter – Acton Tax Map 231 / Lot 001 (Goose Pond Road) – Mrs. Pennell stated, “My name is Martha Pennell and I live at 806 Goose Pond Road and we spoke earlier about my concerns. But basically, my concern is the definition of an abutter, I couldn't find it in the code, what an abutter is and how many feet on either side qualified as being an abutter. I tried to go to your maps on your website and I found out how you can get abutters and there was a box that said how many feet, and it said 100. Maybe I didn't press hard enough to change that. But I couldn't find anywhere that defined what an abutter was. So, may I suggest that the next time you revise your zoning ordinance that you put somewhere where the definition of abutter and the fact that I believe sir, that you said it was 500 feet”. Roger A. stated, “That's true”. She felt it should be in print.

Mrs. Pennell stated, “The other problem I had, which is that I am an abutter but I am an abutter in Acton. I own two parcels of land. My parcel where my cottage is which is in Shapleigh on 806 Goose Pond Road, and I own in Acton, starting at the Acton/Shapleigh Town Line. And that put me within 500 feet, but according to you, you notified Acton and then Acton notifies me. Well they didn't”. She said she wanted to let the board know those two issues that she had.

Note: Mrs. Pennell was notified directly, as well as Raymond Beaudoin, John Beaudoin, David Ladd, along with the Acton Planning Board.

Mrs. Pennell stated that her concerns were the usual ones that were expressed at the previous hearing about noise, hours of operation, and traffic on the Goose Pond Road. She said if you are coming in from Shapleigh, over the Goose Pond bridge, it is an issue. She said coming in from Acton you have to come in over a hill and just before the hill there is a power line / telephone line crossing and she felt they looked low. She admitted to not being good at judging distances.

Mrs. Pennell stated she wanted to express herself and the fact she has been in Shapleigh for 50 years and she has enjoyed her time in Shapleigh as a summer visitor.

Roger A. thanked Mrs. Pennell and asked if there were any other comments? There were none.

Roger A. stated that regarding the wires, there are provisions for the power company, as well as cable and telephone companies, regarding the height of the lines. Roger stated that the wires that go across the road should be 14 feet in height, and most dump trucks will clear that easily. He stated that on site, where the site inspection was held earlier, that wire is approximately 12 feet high, and the dump truck will not hit that wire either unless the dump body is up, which not happen coming out onto the road. Mrs. Pennell thanked Roger.

Roger A. asked again if there were any comments? There were none.

The public hearing closed at 7:14 p.m.

The minutes from Tuesday, June 9, 2020 were accepted as read.

The Planning Board meeting started at 7:30 p.m.

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 via Zoom for the review of the application.

The preliminary application for the 4-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.

Provided was 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).

Provided was a Stormwater Management Narrative drafted by Atlantic Resource Consultants, written by Jason A. Vafiades, PE #12661, which concluded the project will use long-term and short-term erosion control measures that will mitigate environmental impacts from stormwater; a typical Erosion & Sediment Control Plan provided by Longview Partners, LLC for individual home construction; and a revised subdivision plan entitled 'Subdivision Plan, Map 8, Parcel 61, Gulf Road, Shapleigh, Maine' drafted by Isaiah E. Plante, PLS, which added Notes #10, #11 & #12. These notes read as follows:

- 10) No further division of lots allowed without additional Planning Board review.
- 11) Fire suppression for lots will be through approved sprinkler systems.
- 12) Waivers were provided for the following:
 - Capped iron pins at subdivision corners instead of stone monuments

- Sidewalks (There are none on Gulf Road to connect with)
- Underground Utilities

Roger A. stated the waivers have been approved. Roger said now they will meet with RC Burnell, so the easement can be put on the plan.

This evening members were provided with a copy of the revised final plan, dated revised 6/22/2020. The final plan included the addition of an existing wetland delineation, and a drainage easement on Lot #1 provided to the Town of Shapleigh, approved by the Road Commissioner, for the creation of a ditch turnout. Also, the abutters were updated, so all the abutters were the current owners.

Roger A. opened the zoom review for Mr. Logan and asked him to speak about his application. Mr. Logan stated that he wanted reiterate what happened at the last meeting regarding Road Commissioner Burnell, everyone decided to meet on site with RC Burnell on the Tuesday, the 16th, where RC Burnell described specifically what he wanted to see added to the plan to cover a drainage easement for the town, so that a ditch turnout could be created, to make sure the drainage did not further impede the downhill portion of Gulf Road beyond the property. Mr. Logan stated the area would be 15' x 75' and it is shown on the revised plan. He hoped the board members had a chance to look at it electronically. He said he had spoken with Barbara F. in the meantime regarding the number of paper copies and mylars required, to manage enough copies for the Registry of Deeds, copies for the Town and so the client can keep a copy. He said the easement is noted on the plan as Note #14, and the surveyor went one step further and created a Line Table on the lower left of the plan, which further describes by meets and bounds the lengths and directions of four lines of the easement.

Mr. Logan stated that as a result of a comment received by Barbara F. and forwarded to the board, some abutters were concerned about wetland areas on the property. He said they completed a standard detailed review and he was correct that there were 3 or 4 very small areas, near the perimeters of the property. He stated they contain runoff, particularly those on the left hand side going down the left boundary of the large lot, an area off the rear of the lot which also had runoff and an area on the right-hand sideline of the large lot, that is more of a flat area that dried out quickly this year. Mr. Logan did not believe it had long enough standing hydrology to make the status as a vernal pool, it is a very short duration, at least on their portion of the area. He said it did extend beyond their lot and may be bigger and wetter. He stated that in all cases there are no water bodies in those wetlands. He said those were forested freshwater wetlands and they had evidence of runoff during big storm events but nothing that would classify as a stream or a brook per the DEP standards. He said as a result of his investigation, no setbacks are going to be required that CEO Demers has to pay attention to. He said being forested wetlands it was pretty much that people just need to stay out of them when they build. Mr. Logan said there was a note, number 13, that refers to the wetlands that were added.

He thought the only other item brought to his attention at the last meeting was from Mr. Caramihalis, that they had Overby shown as the owner of the lot that he actually owned, Map 6, Lot 39A-1 which is now shown on the plan as Jo Jo Enterprises. He said that was corrected.

Mr. Logan stated that he was in the hopes that he has satisfied the last of the requirements and issues brought up by members and abutters at the last meeting, which regarded the memo from RC Burnell and it the meeting also included the CEO. He stated that he hoped they were now good to go.

Roger A. and Mr. Logan asked if there were any other questions? There were none.

Roger A. then read the criteria under Article VI ‘Minor Subdivision’.

§89-13. Compliance with major subdivision requirements. The Board may require, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision comply with all or any of the submission requirements for a major subdivision.

§89-14. Procedure. All procedures met the standards imposed.

§89-15. Submissions. All submissions required on the preliminary plan were presented to the board.

§89-19. Submissions. All submissions required on the final plan were presented to the board.

Roger reviewed the Subdivision Plan Review checklist for a Minor Subdivision as follows:

Preliminary Review

- 1) Sketch plan was received; wetlands were delineated on the plan; U.S.G.S. topo was indicated on the plan; file number #92 was assigned to the application; the minor subdivision conforms with Zoning and the Comprehensive Plan.
- 2) A site inspection was held on Tuesday June 9th as well as Tuesday June 16th to discuss the location of an easement on lot #1.
- 3) The Planning Board classifies this as a minor subdivision, consisting of four lots. The contour intervals on the plan were 10 foot and accepted by the board.

Final Plan Review

- 4) Final Plans were submitted 7 days prior to the meeting via email. Recording plans will be provided to the board for signature after approval due to the nature of review with is via Zoom communication.

Subdivision Name: Shapleigh Heights; Tax Map 8, Lot 61; Town of Shapleigh
Perimeter survey of each lot; Iron Rods; Surveyor Isaiah Plante PLS #2334
Scale; written graphic; date & North point on plan.
Owner and applicant’s Name, addresses & abutters on plan.
Lot lines, numbers and sizes on plan, all large lots.
Contour elevations USGS and soil test pit locations on plan.

Copy of the deed provided; deed restriction of No Mobile Homes; easement on Lot #1 to the Town of Shapleigh noted on plan. Roger A. and Mr. Logan discussed the fact the easement located on Lot #1 of the subdivision did not need further description, other than the placement on the plan as presented. Note #14 on the plan refers to the easement, along with the actual placement on Lot #1. Soils report from licensed site evaluator James Logan SE #237-CCS #213 provided.
Verification of ownership via deed provided.

- 5) Dated receipt issued to applicant.
Planning Board determined all submissions complete on June 23, 2020.
Public Hearing held on June 9, 2020.
Written findings shall be drafted stating the Planning Board’s decision and findings that the development met the following:

Will not result in undue water or air pollution.
Will have sufficient water available for the foreseeable needs of the subdivision.
Will not cause an unreasonable burden on the existing water supply.
Will not cause unreasonable soil erosion or reduction in the capacity of land to hold water so that a dangerous or unhealthy condition results.

Will not cause unreasonable traffic congestion or result in unsafe conditions on existing or proposed roads.

Will provide adequate sewage waste disposal.

Will not cause an unreasonable burden on municipal solid waste disposal.

Will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

Will conform to local regulations, ordinances, development plan and comprehensive plan.

Will not adversely affect the quality of surface water or shoreline of ponds, rivers, streams or tidal areas.

Will not alone or in conjunction with existing activities, adversely affect groundwater quality or quantity.

Will demonstrate adequate technical and financial capacity to meet the above.

Will have all buildings one foot above the base flood elevation.

Does have freshwater wetlands identified on maps.

Does have rivers, streams and brooks identified on maps.

Does have a stormwater management plan.

Will not have spaghetti lots.

Will not unreasonably increase a great pond's phosphorous concentration.

§89-20. Final approval and filing. Upon findings of fact, all standards in 30-A M.R.S.A. §4404 have been met.

Roger A. stated the following waivers were approved on June 9, 2020:

Roland L. made the motion to waive the requirement, Article 89-30.A, "stone monuments shall be set at all street intersections and at all corner and angle points" and instead they will use capped rebar. Ann 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.

Roland L. made the motion to waive the requirement, Article 89-36.M, "sidewalks shall be installed within all subdivisions within the urban compact area" due to the fact this subdivision will not have an internal road, it is in a rural area, and does not fall within an Urban Compact Zone. Madge B. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.

Roland L. made the motion to waive the requirement, Article 89-29.A, "Utilities shall be installed underground except as otherwise approved by the Board.". All parcels have access to the Gulf Road where there are already overhead utilities running adjacent to the property. Madge B. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.

Roger A. asked if there were any additional comments or issues by members or those in the audience? No comments were given.

Roger A. asked if there was a motion to approve the four-lot subdivision?

Steve Foglio made the motion to approve the 4-lot subdivision to be known as Shapleigh Heights per the plans presented, which includes a restriction of 'No Mobile Homes' and an easement on Lot #1 to the Town of Shapleigh. Madge B. 2nd the motion. All members were in favor. By a vote of 5 – 0 the motion passed unanimously.

Roger A. stated that Mr. Logan can bring the plans to the town hall and Barbara F. will notify board members when they arrive for signature. Once the signatures are complete, she will contact Mr. Logan to

The Planning Board determined the preliminary application was completed on February 25, 2020. A notice to abutters was mailed on March 11, 2020, and a second notification was mailed on May 26, 2020 due to the town hall being closed from the week of March 20th until the first week of June, 2020 due to Covid-19. Notification was mailed to the Road Commissioners and Fire Chief.

The public hearing was held on Tuesday, June 9, 2020 via Zoom communication. Notices of the meeting included the Zoom link to the meeting.

The final plan was presented to members, reviewed, and approved by members on Tuesday, June 23, 2020. The final plan included the addition of an existing wetland delineation, and a drainage easement on Lot #1 provided to the Town of Shapleigh, approved by the Road Commissioner, for the creation of a ditch turnout.

WAIVERS REQUESTED

The Applicant has requested that the Board waive the requirement for Article **89-29.A** – Utilities; Article **89-30.A** – Stone Monuments; and Article **89-36.M** – Sidewalks.

BOARD’S FINDINGS OF FACT

Preliminary Findings

As a preliminary finding of fact, the Board finds that the proposed Subdivision falls under the provision of the Shapleigh Subdivision Code, which relates to Minor Subdivision, this being “Subdivision of Land, Chapter 89, Town of Shapleigh”.

Specific Findings

Based on the preliminary findings set forth above, the Board makes the following specific findings in accordance with Shapleigh’s Subdivision Ordinance 4404 “Review Criteria”.

The Board finds that the Shapleigh Heights Subdivision, creating a 4-Lot Minor Subdivision:

1. Does not result in undue water or air pollution.
 - *Test Pit Logs were provided by James Logan, SE #237-CCS #213 dated 8/22/19 & 9/5/19, showing the soils on site will adequately support a subsurface wastewater disposal system on all four lots.*
 - *There is no air pollution being generated by this activity.*
2. Does have sufficient water available for the foreseeable needs of the subdivision.
 - *The water is to be supplied by individual drilled wells; no dug wells allowed.*
3. Does not cause an unreasonable burden on the existing water supply.
 - *There is no existing municipal water supply at this time.*
4. Does not cause unreasonable soil erosion or reduction in the capacity of land to hold water so that a dangerous or unhealthy condition results.

- *A typical erosion & sediment control plan was provided by Longview Partners, LLC, using Lot #3 as an example, depicting proposed silt fence or erosion control berm at the downslope perimeter of construction site(s).*
 - *A Stormwater Management Narrative was provided by Jason Vafiades PLS #12661, which included the Watershed Map of the Gulf Road area, Hydrologic Soil Group map of York County including calculations; and Natural Resources Conservation Service Medium Intensity Soil Survey dated March 3, 2020, which concluded the following: This project will use long-term and short-term erosion control measures that will mitigate environmental impacts from stormwater, including filter berms to contain potential nutrient and sediment particles. This project has not had any adverse impacts on downstream properties as a result of stormwater.*
 - *All new structures will be permitted through the Code Enforcement Office.*
5. Does not cause unreasonable traffic congestion or result in unsafe conditions on existing or proposed road.
- *The driveway location shall be approved by the Road Commissioner.*
6. Does provide adequate sewage waste disposal.
- *The soils observed are suitable for individual septic systems on all lots, as defined by the State of Maine Subsurface Wastewater Disposal Rules. This is per Test Pit Logs provided by James Logan, SE #237-CCS #213 dated 8/22/19 & 9/5/19, showing the soils on site will adequately support a subsurface wastewater disposal system on all four lots.*
 - *Test Pits contain Skerry soils which consist of “Stony, fine, sandy loam”, “Stony, loamy, sand”, “Stony, loamy, sand & sand”, “Stony sandy loam & loamy sand”. Sites friable to firm with an average limiting factor of 20.5 inches.*
7. Does not cause an unreasonable burden on municipal solid waste disposal.
- *Each property owner will be responsible for handling his or her individual waste.*
 - *This subdivision is subject to the Growth Ordinance, and therefore, shall not unreasonably burden the municipal solid waste facility.*
8. Does not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat as identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas.
- *This is not a scenic or historic site, nor is it in the vicinity of one recognized by the Town of Shapleigh.*
 - *This location is not recognized as a high value plant or animal habitat by the Maine Department of Inland Fisheries and Wildlife.*
9. Does conform to local regulations, ordinances, development plan and comprehensive plan.
- *The final approved plan meets all zoning and subdivision regulations.*
 - *Any changes to the final approved subdivision plan shall have to come back before the Planning Board and any building permits must be obtained by the Code Enforcement Officer.*
10. Does not adversely affect the quality of surface water or shoreline of ponds, rivers, streams or tidal areas.
- *There is no pond, river, stream or tidal area on the lots.*
 - *Wetland delineation on Lot #4, show existing areas along the side and rear of the property, leaving more than adequate area for building sites away from noted areas.*
 - *There shall be State approved septic designs / systems for each new home on site.*

11. Does not alone or in conjunction with existing activities, adversely affect groundwater quality or quantity.
 - ***Test Pit Logs indicated soils are adequate to hold a State approved septic system.***
 - ***A State approved septic system must be installed and approved by the Code Enforcement Officer prior to the granting of an occupancy permit for any new home built.***
12. Has demonstrated adequate technical and financial capacity to meet the above.
 - ***There is no infrastructure being created that requires a performance guaranty.***
13. Does have all buildings one foot above the base flood elevation.
 - ***No portion of the property is within the 100-year flood plain per the Flood Insurance Rate Map for the Town of Shapleigh.***
14. Does have freshwater wetlands identified on maps.
 - ***Wetland delineation was provided for Lot #4.***
15. Does have rivers, streams and brooks identified on maps.
 - ***There is no river, stream or brook identified on the new lots.***
16. The applicant has provided an adequate stormwater management plan.
 - ***A Stormwater Management Narrative was provided by Jason Vafiades PLS #12661, which included the Watershed Map of the Gulf Road area, Hydrologic Soil Group map of York County including calculations; and Natural Resources Conservation Service Medium Intensity Soil Survey dated March 3, 2020.***
 - ***Any required stormwater mitigation will be dictated by the Code Enforcement Officer during the permitting process.***
17. Shapleigh Heights subdivision shall have no spaghetti lots.
18. Does not unreasonably increase a great pond's phosphorous concentration.
 - ***The project is not located near a Great Pond.***

FINDINGS ON THE REQUESTED WAIVER(S)

The Planning Board finds that the request to waive the requirement, Article 89-29.A, "Utilities shall be installed underground except as otherwise approved by the Board." ***shall be granted.*** All parcels have access to the Gulf Road where there are already overhead utilities running adjacent to the property.

The Planning Board finds that the request to waive the requirement, Article 89-30.A, "stone monuments shall be set at all street intersections and at all corner and angle points"; ***shall be granted.*** All the lots have been surveyed and there are existing steel rebar w/survey caps at this time.

The Planning Board finds that the request to waive the requirement, Article 89-36.M, "sidewalks shall be installed within all subdivisions within the urban compact area"; ***shall be granted*** due to the fact this subdivision will not have an internal road, it is in a rural area, and does not fall within an Urban Compact Zone.

Planning Board ACTION

The Planning Board hereby approves the application for the minor 4-lot Shapleigh Heights Subdivision, including the requested waivers, located on Tax Map 8, Lot 61, with the following conditions:

1. There shall be one restrictive covenant, no mobile homes allowed.
2. All homes shall have an in-home sprinkler system as fire protection.
3. There shall be a drainage easement provided to the Town of Shapleigh on Lot #1 for a ditch turnout.
4. Any subdivision not recorded at the York County Registry of Deeds *within ninety days* of the date upon which the plan is approved and signed by the Planning Board shall become null and void, unless an extension is granted by the Board in writing.
5. Any further division shall have to come back before the Planning Board.
6. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given, unless the revised final plan is first submitted to the Planning Board and the Board approves any modifications.

Amendment to the Subdivision known as Hidden Cove – Extend Subdivision Improvements Deadline from 2020 to 2023 – Map 9, Was Part of Lot 1A, Now Lot(s) 1B, 1C & 1D (Apple Road & West Shore Drive) – James Chadbourne, Applicant; Hidden Cove, LLC Property Owner; Robert Reinken, ReinCorp Development, Representative

Mr. Reinken was present via Zoom for the review of the application.

The preliminary application for Amendment to the subdivision contained the following information:

Hidden Cove Subdivision

Property

Owner:	Hidden Cove, LLC 173 Butternut Trail Wells, Maine 04090	Applicant:	James Chadbourne 173 Butternut Trail Wells, Maine 04090
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Surveyor:	Joseph Stanley, PLS #2453 455 Main Street Springvale, ME 04083	Representative:	Robert Reinken 469 Main Street Springvale, ME 04083 207.490.1878, ext. 3
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Land Information

Location: YCRD Book 395, Page 20
Tax Map 9, Formerly Part of Lot 1A; Now known as Lot 1B, 1C & 1D

Zoning: General Purpose
Part of the property lies within 250 feet of the high-water mark of Square Pond.

Acreage to be Developed: 8.6 Acres

General Information

No. of Lots:	3
Water Supply:	Individual Wells
Sewage Disposal:	Individual Septic Tanks

Fire Protection: Private Sprinklers
There Are No Proposed Recreation Areas or Common Land
Waiver(s): See Plan & Findings

Along with the application, provided was a letter from Robert Reinken, dated February 28, 2020, which stated: It is our request, on behalf of James Chadbourne, that Planning Board Action #4 of the Finding of Facts be amended to allow all subdivision improvements, including construction of the private way, to be completed within five years of the date of approval. The date of approval is May 8, 2018.

In addition, received was a copy of the approved subdivision plan, dated May 8, 2018, recorded at the YCRD on May 31, 2018, as Book 395, Page 20; and a copy of the Findings of Fact signed and dated by Planning Board members on May 8, 2018; and a copy of the Irrevocable Letter of Credit from Partners Bank of New England, 900 Main Street, Sanford, ME 04073, Letter of Credit Number 05012020, Date of Issue May 1, 2020, in the amount of \$58,914.00 with an expiration date of May 1, 2022. The purpose of the Letter of Credit is for the construction of the private way to access proposed plan Lots #1 and #2 engineered by Craig A Burgess, PE #12638 of Sebago Technics and providing electricity to proposed plan Lot #1 and #2.

Roger A. stated the applicant is before the board for an extension of time for the improvements to be done within the subdivision, the applicant is Mr. Chadbourne for Hidden Cove and Mr. Reinken is representing.

Madge B. stated that she recalled from the minutes, the board agreed to put off the vote for two reasons. She said one was the fact there needed to be a second meeting, because it is an amendment to the subdivision, and to be able to notify abutters of a change. Roger a. agreed.

Madge stated that being said, she was ready to make a motion to approve the extension of time to complete the plan improvements for Hidden Cove subdivision, along with accepting the Letter of Credit, extending the date to create the private way and provide electricity to Lot #1 & Lot #2, to May 1, 2022.

Roger A. stated he had a question for Mr. Reinken. Roger asked if Acton was giving them an extension as well, regarding their portion of the road to be done? Mr. Reinken stated, "Acton does not have anything to do with the approval, it's all on Shapleigh". Roger said, "From the turnaround onto the property, the Road Commissioner was giving you an approval, because there was a requirement that you tar a piece of that. Is that true?" Mr. Reinken stated he was not sure. He said there was no time frame put on them by the Town of Acton. Roger agreed but noted there was the provision that it was to be done. Mr. Reinken stated that he did not have the information in front of him at present. Roger said, "Ok". Mr. Reinken stated that whatever was supposed to be is still being done. Roger said he didn't know with a change in the Road Commissioner if any standards would be changed on their end. Mr. Reinken did not believe so. Roger suggested that Mr. Reinken check to verify. Mr. Reinken stated they would do that.

Roger A. asked if there was a second on Madge's motion to approve the extension to Planning Board Action #4 for the completion of improvements within Hidden Cove subdivision along with accepting the Letter of Credit, extending the date to create the private way and provide electricity to Lot #1 & Lot #2, to May 1, 2022. Steve F. 2nd the motion. All members were in favor. By a vote of 5 – 0 the motion passed unanimously.

Roger A. stated that when the road is completed, the Road Commissioner will have to sign off stating the road was build to the town standards. He stated the Planning Board Chairman will also have to sign off stating the power is in, prior to the release of the Letter of Credit.

Mr. Reinken thanked the board for their time.

Nothing further was discussed.

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### **Findings of Fact**

1. The owner of the property known as Shapleigh Tax Map 9, Lot(s) 1B, 1C & 1D is Hidden Cove, LLC, c/o James Chadbourne of 173 Butternut Trail, Wells, Maine 04090.
2. Provided was a copy of the plan recorded at YCRD on May 31, 2018, recorded in Book 395, Page 20, which depicted the three lots of the subdivision, along with the proposed private way to access Lot #1 & Lot #2, the turning easement to be deeded to the Town of Shapleigh on Apple Road, along with a strip of land reserved for road realignment (widening) purposes.
3. Provided was a letter from Robert Reinken, dated February 28, 2020, which stated: It is our request, on behalf of James Chadbourne, that Planning Board Action #4 of the Finding of Facts be amended to allow all subdivision improvements, including construction of the private way, to be completed within five years of the date of approval. The date of approval is May 8, 2018.
4. Provided was a copy of the Findings of Fact signed and dated by Planning Board members on May 8, 2018.
5. Provided was a copy of a new Irrevocable Letter of Credit from Partners Bank of New England, 900 Main Street, Sanford, ME 04073, Letter of Credit Number 05012020, Date of Issue May 1, 2020, in the amount of \$58,914.00 with an expiration date of May 1, 2022. The purpose of the Letter of Credit is for the construction of the private way to access proposed plan Lots #1 and #2 engineered by Craig A Burgess, PE #12638 of Sebago Technics and provide electricity to proposed plan Lots #1 and #2.
6. During the Planning Board meeting on June 9, 2020, Mr. Reinken stated to the board the applicant is now requesting a two-year extension of Action #4, based on the expiration of the Letter of Credit.
7. A public hearing was held on June 23, 2020. A notice to abutters within 500 feet of the property was mailed on June 11, 2020. Meetings were held on June 9, 2020 and June 23, 2020. All meetings were held via Zoom due to Covid-19.

### **Conclusions**

After review of the Findings of Fact and all information presented, the board unanimously moved to approve the amendment to Hidden Cove Action #4, extending the date to complete all improvements which include the private way and providing electricity to Lots #1 & #2, for two years and expiring on May 1, 2022.

### **Planning Board Action**

Based on the above facts and conclusions, on June 23, 2020, the Planning Board voted to approve the application for an amendment to the subdivision known as Hidden Cove, A Proposed Minor Subdivision by Hidden Cove, LLC, Plan Book 395 Page 20, specifically amending Action #4 to read as follows:

- 4) All subdivision improvements, including construction of the private way as engineered by Craig A. Burgess, PE #12638 of SEBAGO Technics, and having power available to each lot, shall be completed by May 1, 2022. Should the improvements fail to be completed, the owner/applicant shall have to come back before the Planning Board for reconsideration of the improvements and date of completion.**

All other conditions of approval remain in effect, and are as follows:

1. No lots shall be built upon until all pins have been set for all lots approved for this subdivision.
2. All houses within Hidden Cove Subdivision shall have individual fire suppression sprinkler systems that meet State and local standards for single family homes. See Plan Note 13.
3. The two road easements, for the Town of Shapleigh to be able to utilize for vehicle turning, road construction, grading, and other standard roadway easement uses, and the easement for the realignment strip for future widening of Apple Road shall be returned to the Planning Board approved by the Town Attorney and recorded within two (2) months of the subdivision approval.
5. An Irrevocable Letter of Credit in the Amount of \$58,914.00 shall be held as a performance guarantee for the Town of Shapleigh in accordance with Shapleigh Subdivision Ordinance 89-42. Release of monies shall be made upon completion of the improvements which include a private way to access proposed plan Lots #1 and #2 and access to power on each lot. Money shall be released after the work is completed and must be approved by the Planning Board Chairman, Board of Selectmen and Road Commissioner, prior to release of funds. The estimated time of completion for all improvements is *May 1, 2022*.
6. Wells shall be set back 100 feet from the high-water mark of Square Pond without additional Planning Board approval. See Plan Note 17.
7. Best Management Practices shall be kept in place during the construction of the private way, and building construction, until all work is finished in its entirety.
8. Any subdivision not recorded at the York County Registry of Deeds *within ninety days* of the date upon which the plan is approved and signed by the Planning Board shall become null and void, unless an extension is granted by the Board in writing.
9. No changes, erasures, modification, or revisions shall be made in any final plan after approval has been given, unless the revised final plan is first submitted to the Planning Board and the Board approves any modifications.

### **Decision**

**On June 23, 2020, the Planning Board voted to approve the application for an amendment to the subdivision known as Hidden Cove, A Proposed Minor Subdivision by Hidden Cove, LLC, Plan Book 395 Page 20 specifically approving that all subdivision improvements, including construction of the private way as engineered by Craig A. Burgess, PE #12638 of SEBAGO Technics, and having power available to each lot, shall be completed by May 1, 2022. By a vote of 5 – 0, the decision was unanimous.**

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### **Conditional Use Permit – Mineral Extraction (Original Approval in 2015 Expired) – Map 5, Lot 44A (Goose Pond Road) – Frank Clark II, Applicant**

Mr. Clark was present via Zoom for the review of his application.

Provided along with the application were the following:

- 1) Site Location Map
- 2) Map depicting Map 5, Lot 44A including lot dimensions, along proposed conditions as follows:
  - Hours of operation for gravel extraction shall be 7:00 am through 5:00 pm, Monday thru Friday; 7:00 am thru 12:30 pm on Saturday.
  - There shall be no trucks travelling over Goose Pond Road culvert, all gravel pit traffic shall exit left onto Goose Pond Road and travel on State Route 109.
  - No excavation shall be within the 50 ft buffer strip of property lines and the depth shall be no lower than 530 ft.
  - A stone apron shall be constructed to remove gravel and dust from the tires of the equipment used for hauling gravel.
  - Dust shall be maintained through use of water truck, watering the area as needed to prevent dust from going onto neighboring properties.
  - No more than 5 acres shall be excavated at one time or 10 acres cleared of trees.
  - Noise levels shall be obeyed per the Town of Shapleigh Zoning Ordinance.
  - A surety bond shall be established and maintained, payable to the Town of Shapleigh in the amount of \$16,000.00
- 3) Site Plan depicting where the entrance shall be located, that being 20' x 150', and the 5-acre area for extraction.
- 4) Maine Dept of Environmental Protection Notice of Intent to Comply, dated as signed off on 8/6/2015.
- 5) Maine Dept of Environmental Protection letter regarding Placard for Clark Pit, Shapleigh (GPID #860), dated August 6, 2015, stating that the gravel pit is licensed to the standards under the Performance Standards for Excavations, 38 M.R.S.A. §490-D.
- 6) State of ME, Dept of Inland Fisheries & Wildlife letter, dated March 20, 2105, stating that there are no locations of endangered, threatened, or special concern species within the project area.
- 7) Mineral Extraction Site Description – 20 Acres
- 8) Quitclaim Deed, dated recorded at YCRD on June 25, 2015, Book 17043, Page 765, Frank Clark to Frank W. Clark and Gloria S. Clark.
- 9) Proposed Gravel Extraction Site Closure Plan, dated March 2020.
- 10) Clark Parcel, Shapleigh Maine Test Pits, dated July 26, 2013, done by Civil Consultants – A total of 14 test pit sites indicating the type and depth of sand & gravel on site.
- 11) 2015 Findings of Facts from the Mineral Extraction Approval that was voted on September 22, 2015.

Detailed Description of the Project is as follows: Materials on-site to be excavated to elevation of 530 and trucked off-site. This is to occur in 5-acre increments, so that no more than 5 acres are active.



*Note: Roland L. recused himself from being a voting member. Ann H. who also has a vested interest will not sit in as a regular member. There will be only four voting members this evening. Roger A., Steve F., Madge B, and Maggie M.*

Mr. Clark stating June 9, 2020, that all operations he is requesting are the same as what was approved in 2015, he is not asking for any changes from that approval.

Roger A. opened the review by addressing Mrs. Pennell, stating that upon reviewing the file after the public hearing, that a notice of the public hearing was mailed out to her on June 11, 2020. Roger added that Mr. Costello also had asked about the notice, and a notice was also mailed to him on June 11, 2020, and it went to a Florida address with is what is on record at the town hall. Mrs. Pennell stated, "All right but it didn't forward". Roger stated that the board has no control over the mail, it was sent out as Certified mail, and there is a receipt.

Roger A. asked if there were any questions for Mr. Clark regarding his application for gravel extraction?

Roger A. stated that because there were no questions, he was going to review the standards for mineral extraction under §05-61. 'Mineral exploration and extraction, processing, and removal, including sand and gravel'.

**Roger A. began reviewing §105-61. 'Mineral exploration and extraction, processing, and removal, including sand and gravel.'**

- A. Mineral exploration to determine the nature or extent of mineral resources shall be accomplished by hand sampling, test boring or other methods which create a minimal disturbance of less than 100 square feet of ground surface.... Test pits and holes, shall be immediately capped, filled or secured by other equally effective measures. – **14 Test Pits were done and recapped by Civil Consultants, Inc. in July 2013.**
- B. Mineral extraction may be permitted under the following conditions:
  - 1) A reclamation plan shall be filed with the Planning Board before a permit is granted. Such plan shall describe in detail procedure to be undertaken to fulfill the requirements of Subsection B(15) – **A detailed reclamation plan is on file for this site, done by Albert Frick & Associates, Inc., dated March 2015. Additionally, a gravel extraction Closure Plan was received, dated March 2020 and a cost estimate to reclaim 5 acres of land, including spreading the existing loam and seeding, was provided by William Tobey, President of Mick Construction Corp. of Rollinsford, New Hampshire; estimated to be \$20,000.**
  - 2) No part of any extraction operation including drainage and runoff control features, shall be permitted within 100 feet of the normal high-water line of a great pond or river, and within 75 of any other water body, tributary stream or the upland edge of a wetland. Extraction operations shall not be permitted within 75 feet of any property line without written permission of the owner of such adjacent property – **The board has on file from the original permit granted September 2015, written permission from the adjacent property owner, Mr. Clark, and this project is not within 100 feet of a water body.**
  - 3) Developers of new gravel pits along significant river segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. – **This does not apply.**
  - 4) The smallest amount of bare ground shall be exposed for the shortest time feasible. – **Only five acres are allowed open at any one time and this will be a condition of approval.**

- 5) Temporary ground cover and temporary runoff filter shall be used as required to prevent stream sedimentation. – **There are no streams on site and all runoff remains on site per the plans provided for this location in 2015.**
- 6) Diversions, silting basins, terraces and other methods to trap sediment shall be used. – **All water and sediment shall be contained on site per the plans provided in 2015.**
- 7) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. – **The Maine Dept. of Inland Fisheries and Wildlife reviewed this location and, in a letter, dated March 2015, stating they had no issues with this location.**
- 8) The extent and type of fill shall be appropriate to the use intended. – **There is no fill being brought in, it is being removed from site.**
- 9) Fill shall not restrict a floodway, channel or natural drainageway. – **There are no floodways, channels or drainageways on site per the site plan provided in 2015**
- 10) The sides and bottom of cuts, fills, channels, and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. – **There are no cuts, fills or channels being constructed on site, gravel is to be removed, the area leveled and no excavation shall be below road level.**
- 11) Where activities carried out under this article require the removal of existing ground cover, revegetation shall be carried out. – **There will be a bond posted to be certain if the applicant does not do the required revegetation, the Town will have the money to be certain it is completed.**
- 12) Specific plans are established to avoid hazards from excessive slopes or standing water. – **There will be no standing water or excessive slopes per the plans presented in 2015.**
- 13) No excavation shall be extended below the grade of an adjacent street, except for drainageways, unless 100 feet from the street line. – **This project is 150 feet from Goose Pond Road and the excavation is not below street level per the plans received in 2015.**
- 14) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. – **This will be accomplished per the gravel extraction Closure Plan was received, dated March 2020 and the estimate to reseed & reloom received from William Toby, President of Mick Construction Crop. Of Rollinsford, NH.**
- 15) Within 12 months of completion of the extraction operation: a) All debris, stumps and similar material shall be removed to an approved location or buried on site. b) The final graded slope shall be 2 ½ to 1 slope or flatter. c) The Planning Board shall set a specific date by which permanent ground cover shall be planted. –**The date for permanent ground cover will be set at the next review in three years as this is a new operation.**
- 16) No existing rock, gravel or sandpit will be extended or expanded until the operation has complied with the provision of this chapter and obtained a permit therefore. – **This is a new operation.**

**Roger A. reviewed the Optional Conditions of Permit, Section 105-61.C.**

- 1) Methods of removal or processing. –**The exact methods of removal cannot be known until a contractor requests to purchase the gravel. The applicant provided test pits showing the type of gravel on site and did request the ability to process. In 2015, provided was a list of possible equipment to be on site for excavation and processing.**
- 2) Days and hours of operation. – **7:00 a.m. thru 5:00 p.m., Monday thru Friday and 7:00 a.m. thru 12:30 p.m. on Saturday.**
- 3) Type and location of temporary structures. - **The site plan provided in 2015, depicts a proposed office building and a watertight fuel storage enclosure.**
- 4) Routes for transporting material. – **All traffic shall be taking a left off site, traveling approximately 250 feet down Goose Pond Road in Shapleigh and then traveling thru**

**Acton on Goose Pond Road to State Route 109. At no time can any construction equipment travel over the culvert on Goose Pond Road.**

- 5) Area and depth of excavations. - **Per the plans provided in 2015, the excavation will be no lower than the lowest depth currently on the property. The plan shows a final depth of 530 feet to make the property nearly level.**
- 6) Provision of temporary or permanent drainage. – **There is no need for drainage, the area is self-draining and all water will remain on site as noted on the plans provided in 2015.**
- 7) Cleaning, repair and/or resurfacing of streets used in removal activities which have been adversely affected by said activity. – **Only 250 feet of roadway is in Shapleigh but any damage to the road shall have to be repaired by Mr. Clark. There can be no rocks or sand left on the road and an apron (stone) shall be created on site to clean off the tires before they enter Goose Pond Road.**
- 8) The need for written approval of a soil and erosion and sedimentation plan by a State of Maine licensed civil engineer selected by the applicant for the Planning Board. – **There is a soil and erosion plan provided by a licensed engineer at Albert Frick and Associates, Inc.**

**Roger reviewed §105-61.D Surety and terms of permit.**

- 1) No permit shall be issued without a surety bond or other equivalent security to ensure compliance with such conditions as the Planning Board may impose. – **There will be a surety bond or escrow account in the amount of \$20,000, payable to the Town of Shapleigh. This security shall remain in effect until the mineral extraction operation is completed and the area has been reclaimed per the plans provided with the original application in 2015. This security shall need to be received by the Town within 60 days of receipt of the date on the approval letter.**
- 2) No permit shall be issued for a period to exceed three years, although such permits may be renewed for additional periods in the same manner.

Roger A. stated that the board did receive an email from Michael S. Clark, Mining Coordinator, Bureau of Land Resources, Land Division of the MDEP which states as follows: Frank Clark called requesting that I email you regarding the status of his pit in Shapleigh. The pit is licensed by the Department under the Notice of Intent to Comply with performance standards for gravel pits. The Gravel Pit ID # is 860. The registration became effective on 8/6/15. Records indicate an inspection on 9/27/18 with status: ‘project not started’.

Roger A. stated a surety bond or equivalent security will need to be \$20,000 to reclaim the five acres, because the project is going to be permitted for 5 acres at a time. Roger stated this amount would be good for 3 years, and was provided by William Tobey of Mick Construction.

Roger A. asked if there were any questions for Mr. Clark? Madge B. stated she had a question. She said at the site visit there was talk of the type and location of temporary structures. She said she raised this because it is one of the conditions we require and she believed it was on the original approval. She was not sure of the details. Roger agreed there were temporary structures shown on the original plan on file from 2015. He said there is a shed at the beginning of the property and a rest room (portable toilet). Roger asked Mr. Clark if he wanted to comment. Mr. Clark stated there would be a small office structure that is temporary, movable, and there will be a serviced porta-potty for anyone working in the pit. Madge said that was fine, she wanted to be sure it was on the plan. She noted she hadn’t looked for the plan.

Roger A. asked Mr. Clark to state again what the hours of operation would be? Mr. Clark stated he would like to shoot for 6 am to 5 pm during the week and 7 am to noon on Saturday. Madge B. wanted to know if they would be processing during those hours as well as extraction? She stated she had concern with processing on a Saturday. She asked if she was correct in thinking the processing was noisier? Roger

said, "Yes". Ann H. stated that when the board first reviewed this, the time was 7 am to 5 pm, Monday thru Friday and 7 am to 12:30 p.m. on Saturday. Madge said her question was do the hours on Saturday allow him to process? Ann asked if the board could establish two different times, one for processing and one for extraction? Madge said it would be her preference because people will be bothered by the noise. She stated that she personally had timber harvesting going on near her, going on for the past five weeks and going on for another five weeks. She said Saturdays are quiet, and she appreciates that. She asked if the board could limit processing? She asked if it would be ok with Mr. Clark? He stated that he had no issue with no processing on Saturday. Madge stated she would like to add that as a condition.

Roger A. noted that the Town of Shapleigh had noise standards and there is to be no loud noise before 7 am in the town. (§105-22. Noise) Roger told Mr. Clark to anyone doing removal, any noises above 60 dB are from 7 am to 10 pm. Ann H. stated that she believed that was what happened during the last review, which was why the 7 o'clock time frame was put in the approval. Roger said they could come on site and get ready to start at 6 am but any noise generation, such as excavating or processing of gravel, needs to be limited to 7 am to 5 pm. Mr. Clark asked if he could start at 6 am? Roger said they could be on site at 6 am but they cannot do any crushing or extraction. They can get on site and get prepared but no loud noise.

Mr. Frank stated that he wanted the ability to process, but the contractor he will be using currently should be taking the material off-site to do the processing. He did not want to lose the ability to do it in the future. Roger said he understood but it would not be at 6 am.

Roger A. stated there shall be a stone apron at the entrance onto Goose Pond Road to help keep the dust from going off the property. Mr. Frank agreed.

Roger A. stated that as with the original approval, if it is extremely dusty, the area will be watered down by a watering truck. Mr. Clark agreed.

Roger A. asked if there were any additional questions for Mr. Clark? Steve F. stated he had a question for CEO Demers. He said assuming once this gets started, if there are potential issues with noise or the roadway, will CEO Demers be able to deal with those without this getting too far out of hand? CEO Demers asked if he was asking about the noise? Steve F. stated there is a noise ordinance, and the processing is going to be more out toward Goose Pond Road, than back towards the lake. He said his question was where does the burden lie for the applicant or compliance of the noise level if there are complaints? CEO Demers stated his office was not equipped with a decibel meter, the Sheriff's office is, and so a sound complaint would be forwarded onto the Sheriff's office for enforcement. Steve said he wasn't saying there would be issues, he just wanted to lay some ground work so everyone is on the same page. CEO Demers hoped there would be no issues but if so, it would be handled by the Sheriff's Department because they had the equipment. CEO Demers stated it would be documented and if there was non-compliance then action would be taken at that point, but he didn't foresee any issues.

Roger A. said as a note, the sound pressure levels are to be measured on a sound-level meter at all major lot lines of the proposed site, at a height of at least four feet above the ground surface. He said at these locations it will be metered to see whether or not it complies. Roger stated there was quite a distance from the site before you can take a sound pressure level.

Roger A. asked if there were any other comments?

Roger A. stated that before the next five acres can be opened up, the Planning Board Chairman and the Code Enforcement Officer shall have to certify that the first five acres have been reclaimed per the plans presented.

**Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses” are met as follows:**

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *It will not according to the Maine Dept. of Inland Fisheries and Wildlife, letter dated March 20, 2015.*
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. *It is consistent with the Comprehensive Plan.*
- 4) Traffic access to the site is safe. *The site distances are on the original site plan provided in 2015 and exceed both the minimum and recommended site distance at 35 mph.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *Per the plans provided in 2015, this location is not in the flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There will be a portable toilet on site.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A – None generated.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *There was an engineered plan done by Albert Frick and Associates, Inc., dated March 2015. All stormwater shall be kept on site, this location is self-contained with all water remaining on location. There have been no changes from the original plan.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There was an engineered site plan done by Albert Frick and Associates, Inc., dated March 2015, which depicts appropriate sloping and containment of stormwater on site.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is per the approval in 2015.*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *There is a 50-foot buffer between neighboring property lines and 150-foot buffer to Goose Pond Road per the site plan provided.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall with conditions.*

**The conditions of approval are as follows:**

1. **The hours of operation for gravel extraction and processing shall be 7:00 a.m. through 5:00 p.m., Monday thru Friday, 7:00 a.m. thru 12:30 p.m. on Saturday. There shall be no processing of gravel on Saturday. There may be activity on site at 6:00 a.m. Monday thru Friday that does not create noise above 60dB.**
2. **There shall be no trucks traveling over the Goose Pond Road culvert; all gravel pit traffic shall exit left onto Goose Pond Road and travel to State Route 109.**
3. **Gravel extraction shall be per the plans provided, no excavation shall be within the 50-foot buffer strip as depicted on the plan provided by Albert Frick and Associates, plan dated 1/27/2015; the depth of excavation shall be no lower than 530 feet to eventually make the property near level.**
4. **It is the applicant’s responsibility to make certain the entrance onto Goose Pond Road is clear of all sand and stone dust to prevent a hazardous situation. A stone apron shall be constructed to remove gravel and dust from the tires of the equipment used for hauling gravel.**

5. **Dust shall be maintained thru the use of a water truck, watering the area as needed to prevent dust from going onto neighboring properties.**
6. **Per the plans provided, no more than 5 acres can be excavated at one time or 10 acres cleared of trees. When the first 5 acres have been excavated and proof is provided to the Planning Board Chairman and Code Enforcement Officer that the area has been reclaimed, then the next five acres can be excavated.**
7. **The applicant / property owner must abide by the noise levels in the Town of Shapleigh Zoning Ordinance §105-22 ‘Noise’.**
8. **A surety bond or escrow account shall be established and maintained, payable to the Town of Shapleigh in the amount of \$20,000. This bond or escrow account shall remain in effect until the mineral extraction operation is completed and the area has been reclaimed per the plans provided. The bond or escrow account shall be signed and accepted by the Board of Selectmen. This must be established within 60 days of the date on the approval letter.**

Roger A. asked if there was a motion for approval?

**Maggie M. made the motion to approve the gravel extraction operation per the plans provided both in 2015 and 2020, on Map 5, Lot 44A with the stated conditions. Madge B. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 4 – 0 the motion was approved.**

Roger A. noted that the bond needs to be received by the town within 60 days or the permit would go null and void. He also stated that the permit was good for 3 years, at which time the applicant can come back before the board to have it extended.

Nothing further was discussed.

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The Findings of Fact

1. The owners of Shapleigh Tax Map 5, Lot 44A are Frank W. Clark and Gloria S. Clark, of 90 Hubbard’s Cove Road, Shapleigh, ME 04076.
2. The property is located in the General Purpose District and according to the Quickclaim Deed, dated June 24, 2015, registered at the YCRD Book 17043, Page763, contains 20 Acres, more or less.
3. The applicants are before the board for a mineral extraction permit for three years to excavate to an elevation no lower than 530 feet and truck the gravel off-site. This is to occur in 5-acre increments, so no more than 5 acres are active or up to 10 acres are open / cleared. Provided were 14 Test Pit results taken on site along with a map depicting the approximate Test Pit locations, which showed approximately 330,000 cubic yards were of quality material over a 13 acre + or – area on site. Information provided by George Chobanian of Civil Consultants, South Berwick, Maine on July 26, 2013.
4. A Notice of Intent to Comply – Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt (For Use with 38 MRSA Section 490-C) was applied for to the Maine Dept. of Environmental Protection, Division of Land Use Regulation. Approval was received on August 6, 2015, Permit Number L-860. An email confirmation from Michael Clark, Mining Coordinator, Bureau of Land Resources, Land Division MDEP, dated June 22, 2020, confirmed that the proposed gravel pit is still licensed by the department.

5. A copy of a letter was received, dated March 20, 2015, from the Dept. of Inland Fisheries & Wildlife, stating in part, 'Our information indicates no locations of Endangered, Threatened, or Special Concern species within this project area. Additionally, our Department has not mapped any Essential Habitats or Fisheries Habitats that would be directly affected by your project'. Also received was a copy of a map provided by MDIF&W showing the location of the proposed mineral extraction site, the map entitled Environmental Review of Fish and Wildlife Observations and Priority Habitats, noted no indication of Essential Habitats.
6. A copy of the gravel extraction Closure Plan was received, dated March 2020. A cost estimate to reclaim 5 acres of land, including spreading the existing loam and seeding, was provided by William Tobey, President of Mick Construction Corp. of Rollinsford, New Hampshire. The cost was estimated at \$20,000 on June 22, 2020.
7. Provided was a scaled sketch of Map 5, Lot 44A, which depicted the location of the 20' x 150' entrance onto the property and the dimensions of the initial 5-acre section to be excavated.
8. Provided was a copy of Shapleigh Tax Map 5, Lot 44A, which listed the requested conditions of approval.
9. Additional information provided by the applicant, during the approval process in 2015, and remaining on file for this location, were as follows:
 - A) A copy of the Laboratory Test Results of the Test Pit Samples sent to Thomas Harmon, P.E. of Civil Consultants, Inc., letter dated July 16, 2013, done by the firm R.W. Gillespie & Associates, Inc., Geotechnical Engineering – Geohydrology – Materials Testing Services, as well as the Summary of Laboratory Testing Program – Test Pits results & Particle Size Distribution Report. These results showed the amount of topsoil, depth and size of course rocky gravel, the fact that no water was seen on site, along with the type of sand and gravel.
 - B) A copy of the approved curb cut onto Goose Pond by Road Commissioner John Burnell, dated 8/7/2015.
 - C) A site plan drafted by Albert Frick Associates, Inc., Environmental Consultants, Gorham, Maine, dated 1/27/15; entitled Proposed Mineral Extraction Site Plan prepared for Frank Clark, Goose Pond Road (Map 5, Lot 44), Shapleigh, Maine. Details on the site plan drafted by Albert Frick Associates, Inc., dated 1/27/15 include:
 - 1) Cross Section View depicting limits of Mineral Extraction / Regrading of Slopes, which includes areas for control of internal drainage / runoff, existing grades, areas for extraction and limits of mineral extraction / regrading of slopes.
 - 2) Location of the 20-acre parcel is depicted within the larger parcel owned by Mr. & Mrs. Clark, now known as Map 5, Lot 44A. Within the 20-acre parcel depicted is:
 - The location of the proposed site access.
 - The site distances from the site access location, those being 1005' toward Acton and 964' toward State Route 11.
 - Proposed location of a future office building.
 - Proposed location of a watertight enclosure for fuel storage.
 - Location of (2) five-acre extraction locations / restoration-reclamation area.
 - Location of (1) 7.89 acre for future removal once previous 10-acre area is completely restored-reclaimed.
 - Stump storage and future stump areas.

- 50-foot area/setback for regrading to match surrounding existing slopes (only around extraction area).
 - Location of stockpiled/stabilized loamy surface materials (to be seeded & mulched).
- 3) Information box stating: Proposed mineral extraction area (as depicted): 779,288+/- Sq. Ft. (18 +/- AC). Proposed bottom elevation of extraction: 530' +/- (See Cross-Section Diagram).
 - 4) Notes box stating: No wetlands or vernal pools exist on the proposed extraction site. All drainage/runoff from the extraction area will remain subsurface or will drain internally on-site. No water table exists within 5' of the ground surface in the proposed extraction area. Clear/Stump 10 acres at a time, as shown. Once materials are removed and ground surface is leveled/smoothed, reclaim in 5 acre increments as shown. Reclaimed slopes not to exceed 4:1. No more than 5 acres of area may be active for mineral extraction at any one time.
10. The applicants requested the hours of operation to be 7:00 a.m. to 5:00 p.m., Monday thru Friday and 7:00 a.m. thru 12:30 p.m. on Saturday.
 11. A notice was mailed to all abutters within 500 feet of the property, on June 11, 2020, and a Public Hearing was held on Tuesday, June 23, 2020 via Zoom (due to Covid-19).
 12. The Planning Board unanimously agreed to approve the Conditional Use Permit for mineral extraction, including processing on Map 5, Lot 44A per the plans provided and as discussed via Zoom meetings (due to Covid-19) held on June 9, 2020 and June 23, 2020 with conditions.
 13. **The conditions of the permit are as follows:**
 - 1) **The hours of operation for gravel extraction and processing shall be 7:00 a.m. through 5:00 p.m., Monday thru Friday, 7:00 a.m. thru 12:30 p.m. on Saturday. There shall be no processing of gravel on Saturday. There may be activity on site at 6:00 a.m. Monday thru Friday that does not create noise above 60dB.**
 - 2) **There shall be no trucks traveling over the Goose Pond Road culvert; all gravel pit traffic shall exit left onto Goose Pond Road and travel to State Route 109.**
 - 3) **Gravel extraction shall be per the plans provided, no excavation shall be within the 50-foot buffer strip as depicted on the plan provided by Albert Frick and Associates, plan dated 1/27/2015; the depth of excavation shall be no lower than 530 feet to eventually make the property near level.**
 - 4) **It is the applicant's responsibility to make certain the entrance onto Goose Pond Road is clear of all sand and stone dust to prevent a hazardous situation. A stone apron shall be constructed to remove gravel and dust from the tires of the equipment used for hauling gravel.**
 - 5) **Dust shall be maintained thru the use of a water truck, watering the area as needed to prevent dust from going onto neighboring properties.**
 - 6) **Per the plans provided, no more than 5 acres can be excavated at one time or 10 acres cleared of trees. When the first 5 acres have been excavated and proof is provided to the Planning Board Chairman and Code Enforcement Officer that the area has been reclaimed, then the next five acres can be excavated.**
 - 7) **The applicant / property owner must abide by the noise levels in the Town of Shapleigh Zoning Ordinance §105-22 'Noise'.**
 - 8) **A surety bond or escrow account shall be established and maintained, payable to the Town of Shapleigh in the amount of \$20,000. This bond or escrow account shall remain in effect until the mineral extraction operation is completed and the area has been reclaimed per the plans provided. The bond or escrow account shall be signed and accepted by the Board of Selectmen. The bond must be established within 60 days of the date on the approval letter.**

Motion:

After careful consideration and a review of all material presented to the Board, as well as Ordinance 105-61, ‘Mineral exploration and extraction, processing, and removal, including sand and gravel’ and 105-73 “Standards Applicable to Conditional Uses”, a motion was made on Tuesday, June 23, 2020 to approve the Conditional Use Permit for mineral extraction, on Map 5, Lot 44A, per the plans and information provided both in 2015 and 2020, with the above stated eight (8) conditions for a period of 3 years from the date of approval.

Vote:

By a unanimous vote of 4 – 0, the motion to approve the Conditional Use Permit for mineral extraction, on Map 5, Lot 44A, per the plans and information provided both in 2015 and 2020, with the above stated eight (8) conditions, for a period of 3 years from the date of approval, was accepted.

Decision:

The Conditional Use Permit for mineral extraction, on Map 5, Lot 44A, per the plans and information provided both in 2015 and 2020, with the above stated eight (8) conditions, for a period of 3 years from the date of approval, was approved.

Conditional Use Permit – Quilt Shop – Map 18, Lot 32A (120 Emery Mills Road) – John & Donna Johnson, Applicants; Paul Muse, Property Owner

Mrs. Johnson was present for the review of the application via Zoom.

Presented along with the application, was a copy of a sketch plan depicting approximately 21 parking spaces, the location of the septic system, the location of the existing building, the distance from the building to the septic system, and the traffic pattern on site. Also provided was a copy of the town tax map depicting Map 18, Lot 32A, a copy of the Subsurface Waste Water disposal System Application, drafted by John Large, SE #7, on July 23, 2008, for a single family 3 bedroom home or beauty salon – 2 chairs and 3 employees (1000 gallon tank with a small disposal field).

Detailed Description of the Project is as follows:

I plan to relocate my existing Quilt Shop at 52 Jones Road to 120 Emery Mills Road, formerly Keeping it Local. Hours of Operation: 6 am to 10 pm. Days of Operation: Sunday through Saturday. We will offer the sales of the follows: Fabric, Wool, Books, Patterns, Notions, Kits, Threads, All Sewing Supplies, Sewing Machines, Sewing Machine Accessories, Sewing Machine Tables and Cabinets. We will provide the following services: Quilt and Craft Classes, Group Sewing Sessions, Sewing Machine Service and Repairs.

A note that stated ‘Transition Date July 17, 2020’ was also posted to the description of services.

Roger A. asked Mrs. Johnson to let the board know what she wanted to do. Mrs. Johnson stated she was moving her existing Quilt Shop to the location of Keepin it Local currently. She stated that she wanted to expand and continue to selling all of the sewing and quilting supplies that she does currently at her existing location. She stated that she wants to expand into sewing machine sales, sewing machine

accessories, and sewing machine tables and cabinets. She would like to add something new as well, which will be sewing machine service and repairs on site.

Roger A. asked if anyone had any questions? Roger asked what the hours of operation would be? Mrs. Johnson stated, "The hours of operation are going to be 6 to 10 p.m., Sunday through Saturday".

Roger A. asked again if anyone had any questions for Mrs. Johnson? Maggie M. asked if it was only 6 to 10 pm. Mrs. Johnson stated, "6 am to 10 pm". Maggie stated she wanted to clarify the time. Mrs. Johnson said she wanted to have everything covered. She noted that she does a couple of evening classes and sometimes they last longer than 9 pm, so she put 10 pm to be safe. She said 6 am in case she happened to be there early doing what she does normally.

Madge B. didn't think they would do a site visit since they all know the property. Roger a. agreed.

Madge B. asked Mrs. Johnson if she planned to make any changes to the outside of the building? Mrs. Johnson stated that no, the parking was great. She might add some plantings only. Madge said there would be no construction. Mrs. Johnson said, no, everything was fine the way it is.

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

Roger A. stated the next meeting would be on July 14th and a Public Hearing would be held at 7:00 pm. A Notice to Abutters will go out as well. Roger noted it was a voting day but because they would be using Zoom, he did not feel there was an issue keeping this date.

Nothing further was discussed.

Amendment to the Subdivision Known as Red Pine Estates – One Additional Lot – Map 11, Part of Lot 28F (Newfield Road) – Nickolas Richardson, Property Owner; Joseph Stanley, Representative

Mr. Stanley was present via Zoom to present the application.

The preliminary application for the amendment to the subdivision contained the following information:

Red Pine Estates Subdivision

Property

Owner & Nickolas Richardson

Applicant: 41 Newfield Road
Shapleigh, Maine 04076

Surveyor: Joseph Stanley, PLS #2453
455 Main Street
Springvale, ME 04083
jstanley@lineprosurveying.com

Land Information

Location: YCRD Book 14748, Page 340-341 – Warranty Deed from Cormier to Richardson
Recorded February 6, 2006

Zoning: Tax Map 11, Lot 28F
General Purpose

Part of the property lies within 250 feet of the high-water mark of Lake Sherberne.

Acreage to

be Developed: **2.03 Acres**

No Current Deed Restrictions, Easements, or other Encumbrances.

Part of the parcel does include a waterbody.

Part of the property is within a special flood hazard area as identified by the Federal Emergency Management Agency.

General Information

No. of Lots: 4

This development currently has a road.

Water Supply: Individual Wells

Sewage Disposal: Individual Septic Tanks

Fire Protection: Existing Fire Pond

There Are No Proposed Recreation Areas or Common Land

In addition, provided was a copy of the soils map of the area; a copy of a Subsurface Wastewater Disposal System drafted by Kenneth Gardner, SE #73, dated 12/16/2019 for a 3 bedroom home, permitted on 12/20/2019; a copy of the Town of Shapleigh Tax Map 11, highlighting Lot 28F; a copy of the original subdivision Plan for Red Pine Estates, a 4 lot subdivision, approved on 7/17/1990, and a copy of the approved Private Way Plan on Lot 28F, dated 11/13/2007, recorded at YCRD on 11/14/2007, Plan 725, Page 38.

Lastly, provided was a plan for preliminary review entitled Plan Showing a Revision to Lot #4 of Plan Book 325, Page 37, Red Pine Estates, A Subdivision on Newfield Road in Shapleigh, Maine (Tax Map 11, Lot 28F) by Nickolas Richardson, 41 Newfield Road, Shapleigh, ME 04076, dated March 24, 2020, drawn by Joseph Stanley, MPLS #2453. The plan depicts a proposed 2.03 Acre lot with frontage on 'Not-a-Road', as well as Newfield Road. The proposed lot holds an existing house and leach field, as well as a turnaround area for Not-a-Road.

Roger A. asked Mr. Stanley to brief the board on what he was doing. Mr. Stanley stated what they were doing was located on the Newfield Road. He stated several months back Mr. Richardson moved a structure from Acton on his current property, which is a 65-acre property. He said Mr. Richardson has enough land and road frontage to do this, but Mr. Richardson, for mortgage purposes, is to break off a lot for the moved structure, so it sits on a standalone two acres. Mr. Stanley stated that by doing this any future mortgage on either property would not encumber the other. He thought Mr. Richardson was going to do a long-term rental for this new property but he wasn't sure, he thought CEO Demers might know more as he has worked with Mr. Richardson on this.

Mr. Stanley said the history of the property was that Mr. Richards purchased the 65 plus or minus acres, which was the remainder land of a former subdivision, back in 2006. He said in 2007, he came before the Planning Board and received two approvals. He stated one was to break off one house lot, along with an adjustment to a property line with a neighbor, Joe Pierce, due to a possible setback issue that needed to be taken care of. He said there were signature by the Planning Board for a lot in 2007, and then there was a Private Way approval which the new lot fronted upon. He stated the new lot was just shy of having enough frontage on the Newfield Road, so Mr. Richardson went through the process of having a Private Way approved.

Mr. Stanley stated that the lot Mr. Richardson was proposing would utilize the same approved Private Way for access, like the previous lot granted by the board in 2007. He stated Mr. Richardson's remainder piece would still have its own required 200 feet of frontage elsewhere, along with the 50-foot ROW to be able to get to the back. He stated there were several ways to access what would be the remaining piece of land.

Mr. Stanley asked if there were any questions? Ann H. asked if he was addressing the easement, the 75 feet that was original and now its 200 feet? Mr. Stanley said, "No, I can see where that would be confusing". Ann showed him using the plan, what she was referring to. Mr. Stanley stated Mr. Richardson still had access in that location with the 74 feet of frontage that's left. He said he used to have enough frontage there for a house lot in the future, but the 130 feet that is shown the plan, which is included with the application, that is the second version of the plan that came out, and that 130 foot strip is what was conveyed to Mr. Pierce. He said it should be labeled on the bottom of the plan she is looking at. Ann confirmed it was true. Ann noted that it also noted an extension to the rear of the lot, a triangle having 132 feet on one side. Mr. Stanley said it was a piece that Mr. Pierce owned that was supposed to be conveyed to Mr. Richardson as compensation. Ann said, "Ok".

Mr. Stanley stated the area they were discussing now was in the southwesterly corner of the same plan, it is the parcel that is shown as Map 11, Lot 4A (28FA) and the little private way that runs along beside it, that is what the board approved in 2007.

Roger A. stated the only concern he had was the fact this was a six-lot major subdivision, and now we are adding another lot, what is going to be done about the road? Will it be paved? Mr. Stanley stated it was not the intention at this point in time. He asked Roger, because what has happened over these previous two revisions, you feel as though this is a major subdivision? Roger said, "Yes, because every time it is an amendment to the minor subdivision and now, we are into the major". Mr. Stanley stated, "Ok, and so is that something, even though its only frontage for two homes, is that something you think the board is going to be looking for that its paved on that private way or is that just what you are asking me? Or are you kindly telling me to plead my case for a waiver?" Roger said, "You are going to have to. We have never approved a major without having it paved." Mr. Stanley said, "Ok." Roger said it would be up to the board. He said he could only speak for himself. Mr. Stanley believed that is what meetings were for, to get the information out and discuss it. He said he would make note of it as something for them to look into and be sure they were better prepared at following meetings, unless the board was ready to have the discussion now.

Roger A. stated they would be holding a public hearing as an amendment to a subdivision. Steve F. stated he was not disagreeing with Roger but he thought a site visit would be good to discuss the situation further, because at this point there will be just two parcels served by this private way. He wasn't sure how the board would safeguard it against something in the future but he thought it was worth a look. Roger agreed. Ann H. added that they could be making an impervious vs pervious surface for rainfall, but she wasn't sure what it looked like currently. She wondered if it got paved would it cause a water issue. Roger stated that the area was pretty flat in the vicinity where the lot is. Ann said, Ok. Mr. Stanley agreed a site visit would be a good idea. He stated there was a substantial road built there at this time. He said it was a unique situation where Mr. Richardson went ahead and put a house on the property before he went through the approval, so perhaps the board can see what is there and have a discussion on site about possible erosion or drainage issues and then they can be addressed at that point and see how the board wants to move forward.

CEO Demers asked if the road they were discussing was the same road Mr. Richardson used to access his gravel pit, and where he keeps his heavy equipment? Mr. Stanley said his house was on one of the lots that was part of the subdivision, so now he has a loop where he has a driveway on Newfield Road but he can do a loop out through the large lot from his property where his house is and he can come out the private way. CEO Demers thought it would be easier to maintain a gravel road that is used by heavy equipment vs repaving it so many years as it gets torn up. Mr. Stanley understood what he was saying and said most of his equipment does leave the property through the private way vs his yard. Ann H. asked if the location was where the tractor and the car were sitting on the corner. Mr. Stanley said she was correct. He said one reason people might be confused is if you look at the new two-acre lot, you can see the corner where the cars sit, where Mr. Richardson mows and maintains is left out of the two-acre lot and kept as part of the parent piece. Mr. Richardson's whole reason for that is he likes the car display and if something ever happened where wants to sell the two acre lot or if there is a foreclosure, he still wants the corner to remain with the large lot out back, which his why you see triangle on the plan which may be confusing. Ann stated that he does drive he equipment up the private way because she was behind one of his tractor trailer trucks and they turned in there, instead of over by his house. Roger A. added that Mr. Richardson's shop is down on the large lot as well and the town has access to the fire pond. Roger said the fire pond was a requirement for the major subdivision.

Roger A. asked members if they wanted to do a site inspection before the next meeting? Steve F. stated he was not available for the next meeting but said he was familiar with the property. Members will meet on site at 6:00 pm. (Madge B. may ride with Roger, meeting at the town hall.)

Nothing further was discussed.

Conditional Use Permit – Earth Moving for Retaining Walls & Erosion Control – Map 27, Lot 14-6 (66 Point Road) – Brian & Jane Carmichael, Owners & Applicants

Mrs. Carmichael was present via Zoom for the review of her application.

Provided along with the application were the following:

- Current lot coverage calculations – 2.59 Acre Lot or 112, 820 sq. ft.; 4,917.4 square feet covered by existing structures – 10% lot coverage = 11,282 sq. ft; existing lot coverage = 4,917.4 sq. ft.
- Copy of Shapleigh Tax Map 27, which included Lot 14-6.
- Partial Survey(s) depicting location of existing structures, septic tank location, well, 'circled area being replaced' and notation '220' + from Hermann's property line, 120+ from Cohen's property line.
- Sketch Plan Depicting: 'Current' conditions which included 2 Walkways (pavers); Wall #3 w/plantings; Wall #2 w/plantings; Wall #1 w/plantings; Deck / Under Deck; 2 raised beds - used to be pavers; Existing Patio 15' x 16 ½'; Sand Area to Water; Stairs to another Wall #2 w/plantings; Plantings; Wall #1 & Stairs.
- Proposed New Plan Depicting: Paver Walkway; New Wall height less than 4 feet in height; Plantings; Second Wall less than 4 feet in height; 2 Paver Patio Area's; Existing Patio and Deck / Under Deck.
- Memo which stated: After speaking with Steve Foglio with regard to retaining wall height, the water side retaining walls will be replaced as is/ where is, both heights less than 4 feet. The driveway side will combine the 1st two; to be less than 4 feet.
- Picture depicting existing conditions noting where walls will not be combined into one wall, and where walls will be combined, along with pictures depicting the existing rot in the timbers, the area above the project, slope and sandy area above project area, walkways, areas of runoff and how the water runs toward the lake.

- Copy of 2 Permit by Rule Notification Forms dated June 25, 2001 to established a vegetated buffer zone, along with pictures of where the buffer zone will be established. The permit copies do not include an acceptance date by the MDEP. The applicant was the York County Soil and Water District.
- Copy of Building Permit Application for the Town of Shapleigh to revegetate buffer zone, applied for by Janice Corr of the Mousam Lake YCC, dated July 31, 2001. There was no CEO signature or date.
- Copy of the approved Permit by Rule Notification, dated May 15, 2020 and dated as accepted by the MDEP on May 26, 2020, along with all attachments provided to the DEP.
- Subsurface Wastewater Disposal System Application for a 3 bedroom home, drafted by John Large, SE #7 on 12/30/2011 and approved by Shapleigh CEO Steven McDonough on 1/24/2012, Permit #2789.

Detailed Project Description is as follows:

Currently, we have a tiered railroad tie retaining wall in front of our house. This retaining wall seems to have been permitted in 2001.

Some of the railroad ties are rotting and it is probably just a matter of time before they all start having the same problem. As the stairs are built into the retaining wall and the retaining wall is holding back the grade, we obviously don't want it to get to the point where it is so damaged that it would cause erosion into the lake. The other issue we want to address is erosion. There is erosion that runs down the current walkway, down the stairs to the water and into the lake. The walkway is currently graded so that the slope is conducive to runoff. There is also a grading / pooling issue with the walkway at the end of the driveway. A professional landscaper Patrick Main of Final Touch Landscaping of Acton, who has taken the shore land course will be doing the physical work. The landscaper recommended replacing the 3 tires with only two on the driveway side and 2 will remain on the water. The grade on the upper level will be fixed so that it is level and any runoff will be diverted appropriately, but to go into the landscaped beds that will be reestablished after the wall is done. Also, the materials put behind the wall will also help for the water to filter through as opposed to run off. Now it runs into the lake. On the driveway side the slope will also be adjusted properly, diverting any potential water into landscaping done near the water. This landscaping was done using erosion control mulch and was part of an ASYCC erosion control project that the previous owner had done and we have maintained (see attached permit). The project is a remove, replace, and correct erosion problems. The materials will be landscape blocks for retaining walls and pavers for the walking area. The area up top where the walkway area is might be enlarged slightly to aid in the erosion situation. The retaining walls will be replaced as is where is except for the middle wall facing the driveway side. Plantings will be redone between the wall sections as it is now to help grab any water from rain/runoff if there were to be any. The area that is currently all sand at the top of this will be set up with erosion control measures and planted (unsure exactly with what, but certainly something to help erosion). We may do just erosion control mulch, clover, or plantings and erosion control mulch or some combination – the landscaper will devise what is determined to make the most sense once the walls are situated and he can see what needs to be done. The plan is to disturb the least amount of soil/sand possible, keep existing area, but just adjust the grade so that the water does run off but stays in the ground that it falls on, as well as, put the appropriate material behind the walls to allow absorption into the ground.

Just a brief history about us. When we purchased the property 14 years ago, there was a lot of eroded areas on the peninsula and island. My husband and I have worked diligently to restore the eroded areas with vegetation. We have had the ASYCC team come to our property a few times to do erosion control work. The biggest project they did (with a Permit by Rule of course) was installing rip rap on our island, around the peninsula and bridge as these areas were losing soil due to erosion, waves eroding the soil, and people trespassing on the property climbing up the sides. We have placed No Trespassing signs on the property and police it to ensure that people are not causing any unnecessary erosion. The plantings have come a long way and are getting stronger every year. It is important to us to preserve what we have and the lake. The Mother's Day storm took away a decent amount of soil with it, but that too we have been working on restoring with plantings. One thing that DEP professionals told us about was to lay

branches and leaves down embankments to help prevent erosion and to eventually rebuild soil. This has also helped the tree and shrub growth along the water to become thicker and healthier.

Roger A. asked Mrs. Carmichael to brief the board on what she intended to do.

Mrs. Carmichael stated that when they purchased the property there were landscape retaining walls and they have always had some small version of erosion that they try to stop. She said they continue to plant to control the erosion, pointing out that they have had a lot of erosion issues on the property. She said between the ASYCC and their efforts they have corrected most of the issues but the timber retaining wall is a project they cannot do alone. She said some of the landscaping timbers are rotting, so they did a Permit by Rule that the DEP approved. She has Pat Main from Final Touch Landscaping who gave them his thoughts on the retaining walls. Mr. Main thought he would slightly alter them in the same location to stop the erosion. She said he would have to put the right kind of rock underneath. She said in one of the pictures she put in the package, there is a visible slope that goes right towards the lake. She stated they would use the landscaping blocks because the timbers rot. She said she included a permit from 2001, she believed the Coors got the permit to place them initially. (There was no permit for the walls themselves, only an application for revegetation received by the board.)

Mrs. Carmichael stated the landscaping blocks were much better for erosion control as they last much longer. She said she would keep the plantings. She stated the only change to the existing is they were going to make it two walls to replace the existing three walls. She said there was not enough dirt existing to accept the runoff currently, to stop the erosion. She stated that if the board does not want them to merge one wall as noted on the plan, they will do it as however the board sees fit. Roger A. stated the problem with merging walls is they may be greater than four feet, so they would have to be engineered. Mrs. Carmichael stated she definitely did not want to have to do that. Roger understood. Mrs. Carmichael said it would be easier to show the board at the site visit, vs what she tried to explain on the pictures. She said the short wall would not be more than four feet, and the top wall would not be more than four feet. She stated that Steve Foglio helped her with that rule.

Mrs. Carmichael stated they definitely needed two walls on the water side, and she would also like two on the driveway side, unless the board wants it exactly as is. She said again she would do whatever the board allowed and said again the whole purpose was to fix the erosion. She stated that except for erosion at the end of the road that is not her property, she will have addressed all of the erosion issues on their property.

Roger A. asked if anyone had any questions? There were none.

Roger A. stated that the board could meet at 6:30 to do a site inspection. Mrs. Carmichael asked if the board would like the landscaper to be there? Roger did not believe it was necessary, he thought she provided enough information. Roger asked if anyone had anything to add? No one did.

A Notice to Abutters will be mailed. In addition, the site inspection was changed to 5:30 p.m. on July 14th due to a scheduling conflict. Barbara F. will email Mrs. Carmichael because she had already logged off.

Nothing further was discussed.

Conditional Use Permit – Hold Small Events & Venues, and Weddings – Map 1, Lot 22A (24 Deering Ridge Road) – Meagen & Brent Lavoilette, Owners & Applicants

Mrs. Lavoilette was present via Zoom to review her application.

Provided along with the application were the following:

- Aerial photo / sketch plan of the property with the land survey imposed, which depicted the existing structures, lot line measurements and entrance onto Deering Ridge Road. The sketch plan also noted that the property was 3.5 ± to the river's edge and 5.10 ± acres to the river centerline.
- Sketch of the property depicting the location of the house / garage / barn and the distance from the structures to the river that being 154 ¾' to the barn and 149 ¾' to the house; the distance from the road to the house being over 200 feet; and the distance from the house and barn to the septic tank being a minimum of 25 feet from either.
- A sketch plan which appeared to be part of a surveyed plan, depicting the location of the house / garage / barn; the location of the gravel driveway including two entrances onto the property; the location of a garden area, cemetery, and three proposed locations for parking. One parking location was depicted as 64 feet by 113 feet, one location 60 feet by 103 feet and a third location being 52 feet by 64 feet. Each parking area is location on the rear of the property behind the barn.
- A sketch plan entitled Parking Plan. The plan depicts the flow of the traffic pattern, in addition to the size of the parking areas the square foot calculations were given for each area. The total parking area calculation is 16,740 square feet. The amount per parking space is 200 square feet. This allows for 83.7 spaces for parking. The barn size is also depicted on the plan, that being 38 feet by 72 feet or 2,736 square feet. (Note: §105-43. 'Off-street parking and loading'. If allowing for 200 people, 66.66 parking spaces are required per the ordinance.)

The detailed project description is as follows:

We are proposing to have the following venues and events in our barn on 24 Deering Ridge Road:

- Weddings (≤ 200)
- Small events & venues: small bands/music events, anniversary parties, bridal showers, baby showers, exercise classes, open barn vendor expos, community events, fundraisers, silent auctions, food & beverage events

We are proposing the following as part of our plan:

- Parking Plan
- People working: The only people working on the premises will be volunteers of Babbling Brook Farm and the Lavoilette family. All other working people will be hired by vendors of the customer.
- Hours of Operation: 10 am thru 10 pm – all patrons will be off the premises by 10 pm
- Noise control: Events involving music, live music, and audio systems will be contained in the barn. In the event there is a live band or music outside of the barn, it will not surpass 8 pm.
- Septic: There are no plans for use of the septic system on the property. Septic needs will be rentals specific to the event.
- Trash removal: Trash will be disposed of by the owners of the property at the local transfer station or by the customer. If trash is being taken off the property by the customer, we will ensure disposal location is indicated within their rental contract.

We would love the ability to also provide a space for the community for functions and activities. We take great pride in this piece of history in Shapleigh and are anxious to share it with others.

Roger A. asked Mrs. Lavoilette to let the board know what she wanted to do. Mrs. Lavoilette began by stating she owned 24 Deering Ridge Road in Shapleigh, that they are calling Babbling Brook Farm. She said they have a beautiful barn that they would like to hold small events and venues such as weddings. She stated they would have under 200 people at the events. She said she included in the packet for members the parking plan on the lawn of their property. She stated they would not be using the existing septic system, they included the specifics for noise control, and she noted that everything that will be coming onto the property will be rental by the customer.

Roger A. asked if there would be any times that there could be over 200 people? Mrs. Lavoilette said, "No". She added that she did not want over 200. Roger said the reason why he mentioned it is because it puts the application into a different category where she would need crowd control, sheriff's and everyone has to be notified. Mrs. Lavoilette said it was not in her plans. Roger said, "Ok".

Ann H. asked regarding the septic system, would whoever rents it provide porta-potties or something like that? Mrs. Lavoilette said, "Yup".

Madge B. asked if this application was classified as a Home Occupation? Roger A. said, "It's an actual business". He did not believe it was a Home Oc. Madge stated that the business was in the Shoreland Zone. She said her biggest concern was road access, so she wanted to know if they were going to do a site visit? Roger said that yes, the board would be doing a site visit.

Ann H. asked if Mrs. Lavoilette was going to be subject to the 200 square feet per parking space? Roger A. said, "Yes". Ann said, "Ok". Roger said also it was dependent upon the number of people she was planning on having. Mrs. Lavoilette stated she gave a rough estimate for the parking areas, she thought she would have plenty but welcomed the board to come and check the area out. Roger said that when he looked at the parking plan, how the people came in, and how the areas were set up because there needed to be enough area to turn around. Ann asked if Mrs. Lavoilette could put stakes in the ground where the parking area is, so the board could see if it would work. Mrs. Lavoilette stated she could do that.

Roger A. asked if there would be the sales of alcoholic beverages on site? Mrs. Lavoilette stated that there would be for venues. She said it would be brought in and insured by the rental company for the customer. Roger said that he was bringing it up because it wasn't allowed in the Shoreland District. Ann H. asked Roger what he meant by that? She asked if they had an event with special event insurance coverage which included liquor liability that goes against the ordinance? Roger stated that in the Ordinance in the Shoreland District it is not an allowed use. He said the board would not be able to allow it on any portion of the property in the shoreland district. Ann said if the owner isn't selling it but the venue has a bar its not allowed? Roger said that he asked if liquor was being sold on site. Ann asked what if it was provided and not sold, such as at a wedding? Roger said the ordinance says 'selling' of alcoholic beverages, Roger said she can interpret however she wanted to. Ann was wondering about family get togethers where they have alcohol but they are not selling it. Maggie M. thought Ann was referring to BYOB. Ann asked if there was no money transaction with regard to beer, wine or hard liquor then it wasn't considered liquor sales. Roger agreed.

Madge B. asked since it isn't a Home Occupation, what use is it, that would be allowed in the Shoreland District? Roger A. said there were several that are allowed with a Conditional Use. Madge wasn't sure which category this would fall under. She said she saw Home Occupations, Garage Sales, Commercial or Industrial Requiring a Shorefront Location. She asked if she was in the right column? Roger said she

was and continue to read allowed uses; Amusement arcades, and Flea Markets. Madge stated she did not see what she was proposing complied with any of these allowed uses. (Roger and Madge were reviewing §105-17. Land uses.)

Madge B. asked if it was use similar to a permitted use? Madge wasn't sure what permitted use it was similar to? She said this was why she asked if this was a home occupation. Roger A. stated this would not fall under the definition of a home occupation because people other than the homeowner would be working at the venue.

Steve F. stated that because she was holding events for weddings there, he would consider it a religious building. Madge said, "A what?" Steve pointed out that a church or other religious building was allowed. Steve asked Mrs. Lavoilette if she considered her barn to be a parish house? Ann H. asked if this was because she would only have weddings, nothing else? Madge said she would also be having concerts.

Roger A. read the definition of Home Occupation: An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes. This shall not be interpreted to include telecommuting. Roger said based on this it cannot fall under the category of home occupation.

Ann H. asked Mrs. Lavoilette if she was only going to do this two days a week or was it going to be 7 days a week? She stated that it would not be 7 days a week, she anticipated Friday, Saturday and possibly Sunday's. She said she anticipated no more than 3 days a week.

Madge B. asked if the board could propose what use she thought it was according to the ordinance? Madge believed the board had to make a determination whether or not it is an approved conditional use in the Shoreland District. Ann thought if it was only for weddings it could be classified as for religious purposes but not with other activities. Roger A. asked CEO Demers why he was sending the applicant to us?

Steve F. said he was selling a property that used to be a grain store, then a train depot and now is a church. He said he struggled to fit a square peg into any kind of hole with respect to a building. He said he understood the flavor of the ordinance and what it was trying to do but it doesn't mean what the applicant is providing in this application is not a good fit for the property. Ann H. did not disagree, but she said there was a question if it was a home occupation or commercial. Steve said if you want to have several hundred people at your house right now you do not need a conditional use permit. Ann agreed. Steve said Mrs. Lavoilette wants to make her barn available to other people.

CEO Demers stated that further up in the Land Use ordinance, under Land Uses Rural, 'Commerical outdoor recreation, excluding campgrounds', Shoreland District is Conditional Use. Ann H. asked if this fell under this? Roger A. stated he was looking at this category himself. He said he also looked at 'Public and private recreational areas involving minimal structural development also is allowed with a CU. Steve F. felt this opened the door back up. Ann H. said she had things that fell under this category (insurance) that worked well, she wasn't sure if it was shoreland district. Roger thought the board could review under either of those categories but it could not be reviewed under a home occupation based on the definition. Ann agreed.

Madge B. asked which category Roger A. would be using? Maggie M. was concerned with it falling under the commercial 'outdoor' recreation because it would exclude them from being able to use the barn. Steve F. felt they would fall under 'Public and private recreational areas involving minimal structural development'. The other board members agreed. Roger said he was leaning more toward that one as well. Madge said that sounded fine.

Madge B. asked if the board would be doing a site visit? Roger A. stated that they should but due to the next meeting being loaded with site visits, he suggested they do one on a day other than the day they will be meeting. Board members agreed to Tuesday, June 30th at 9:30 am.

Ann H. asked if we change the use to Land Rural under the category 'Public and private recreational areas involving minimal structural development' does that still mean no alcohol? Maggie M. asked about the Brew Shoppe which was not far away, where they sell alcohol. She asked if it was in the shoreland? Ann said she was feeling weird about this because Mrs. Lavoilette wasn't going to be selling it, but the venue would be. Roger A. stated the ordinance is specific about no selling of alcohol in the Shoreland District, it is not allowed. He said if someone can get around that he will look at it. Roger said the ordinance goes with the property, not the person, so alcohol cannot be sold on site. Ann was looking at this from an insurance viewpoint, which was confusing. Roger said he was looking at it from the standpoint of the property.

Maggie M. asked if the Brew Shoppe shop was selling to take home, was that the difference? Roger A. stated the brew shoppe is grandfathered because liquor has always been for sale at this location from when the Rodrique's owned it. Maggie said, "OK, the grocery store they sold beer".

Mrs. Lavoilette asked if the only difference between herself and someone else in Shapleigh with the same conditional use permit is that she is in shoreland zoning? Roger A. said, "True". Mrs. Lavoilette said, "That is the only difference". Roger said, "It's true. If it was out of the shoreland zone, if you were more than 250 from the river, you'd be fine". She asked, "What if I sold it on the other side of the barn?" Ann H. noted it was not the board who created the rules, they are just upholding them. (Note: Shoreland Zoning is a State mandated guideline.)

CEO Demers stated, "The Brew Shoppe is technically outside of the shoreland zone". Maggie M. said, "Ok".

Roger A. stated an alternative would be to go to Town Meeting, next March, to try to eliminate it. Madge B. thought it was a good suggestion. It was noted that MDEP approval would be required as well.

Madge B. asked if they approve the rural use does that put two principal uses onto the property? Madge pointed out it was already a residential use, this will add an additional use. Roger A. believed the board changed the ordinance to allow two uses on a single property. Madge stated that she has plenty of acreage but she wasn't sure if she had enough frontage. She said she was concerned about the access. Madge thought you could have two uses now, but she couldn't find it in the ordinance. Madge wanted to be sure she didn't need 400 feet or road frontage. Ann H. asked what she had for road frontage. Madge believed it was 235 feet.

Roger A. found the ordinance that allows the two uses. Roger read §105-40.2 'One nonresidential use on single-family residential lot', it reads as follows: One use, other than a home occupation or a child day care, may be located on a single family residential lot that conforms to all ordinance dimensional standards

in effect at this time the owner applies for the use, providing a CU permit or CEO permit if required by §105-17 is secured for the use, and providing there is only one single-family residence on the lot. Roger noted the board approved this in 2018.

Public Hearing will be held at 7:00 pm on Tuesday, July 14th via Zoom. A notice to abutters shall be mailed and a site visit will be held on Tuesday, June 30th at 9:30 am.

Nothing further was discussed.

Growth Permits

Map 10, Lot 3 (Town Farm Road) – New Home

GP #11-20

This is legal lot of record, 3.25 acres, and exceeds the minimum lot size requirement for the Town of Shapleigh.

The Planning Board meeting ended at 9:30 p.m.

NOTE: The summer hours are in effect, the meetings now begin at 7:30 p.m. and any scheduled public hearing begins at 7:00 p.m.

The next Planning Board meeting scheduled will be via Zoom on Tuesday July 14, 2020 at 7:00 p.m. See the town website, www.shapleigh.net to obtain the link details if you wish to attend. Look under Planning Board.

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, 207-636-2839, x4.

The next meeting date is to be determined.

Respectfully submitted,
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net

