

Shapleigh Planning Board

Minutes

Tuesday, July 14, 2020

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

Members in attendance: Roger Allaire (Chairman), Madge Baker, Maggie Moody, Roland Legere, and Alternate Ann Harris. Code Enforcement Officer Mike Demers was also in attendance.

Steve Foglio was unable to attend. Ann Harris sat in as a regular member this evening.

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

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

Mrs. Johnson was in attendance via Zoom for the public hearing.

Roger A. opened the public hearing and asked Mrs. Johnson if she would let everyone on Zoom know what she intended to do. Mrs. Johnson stated she wanted to move her existing business, Primitive Quarters Quilt Shop, from their home at 52 Jones Road, to the new location at 120 Emery Mills Road. She stated there would be a larger space, and therefore, she would be able to expand, since her business has grown over the last five years.

Roger A. asked if anyone had any comments or questions for Mrs. Johnson?

Roger A. asked Mrs. Johnson if the hours of operation were still going to be from 6 am to 10 pm? Mrs. Johnson stated, yes, she was covering herself because sometimes she has events. She said that typically she opens at 10 am, but she may want to open at 9, so she wanted to be sure her hours were covered. She said, also, she may be in there working and if someone wanted to come in, she didn't want to have to turn them away. She added that she also does evening classes and sewing groups. She stated that she was not sure what nights she would be there, and the nights and times change, so she wants to be sure any time she was there she was covered. Roger did not think any board member would have an issue with it.

Roger A. asked if there were any other questions for Mrs. Johnson?

Roland L. asked Mrs. Johnson if she would be having other people work with her, or would it be her sole operation? Mrs. Johnson stated that because she is expanding to the sale of sewing machines, she probably will at some point hire some employees. She said that definitely for events, she would need people to help in addition to herself.

Roger A. asked if there were any other questions for Mrs. Johnson?

Roland L. asked if there would be any special signage or lighting? Roland said he realized signage was handled by the CEO. Mrs. Johnson stated that she planned on taking the existing sign that she had currently. She said that she measured Mary’s sign (Keepin it Local) and her sign is roughly about the same size, so she is taking her existing sign and moving it to the new location. Roland L. thanked Mrs. Johnson.

Roger A. asked if there were any other questions for Mrs. Johnson?

Madge B. asked when she might open? Mrs. Johnson stated that Mary Letourneau would be moving out next Monday, Sunday (July 19) is her last day of serving. Mrs. Johnson said she planned on moving in then and finishing the restorations and painting. She believed she would not be opening until the last Wednesday in July (29th).

Roger A. asked if there were any other questions for Mrs. Johnson? There were none. Roger stated the public hearing for Mrs. Johnson was closed. It closed at 7:10 p.m.

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 for the public hearing, representing Mr. Richardson.

Roger A. asked Mr. Stanley to brief the board and those on line, for the amendment to the subdivision. Mr. Stanley began by introducing himself and that he was from LinePro Land Surveying, representing Mr. Nickolas Richardson. He stated Mr. Richardson owned about 80 acres on the Newfield Road. He said that years ago Mr. Richardson had purchased the remaining lot in the subdivision, which was known as Lot 4 at the time. He said that since that purchase, back in 2007, Mr. Richardson approached the board and sought approval on a private way and one additional house lot coming off that private way. He stated that Mr. Richardson still owned the lot as a rental unit, and currently Mr. Richardson moved a house onto the large lot from a different location, and is currently finishing up construction on the house. He stated Mr. Richardson would like to use the previously approved private way for access to this moved house. He said the primary concern for approval of a new lot is not for sale purposes, but so he can get a mortgage on the home and new lot, rather than encumber the entire ownership of the 80 acres. He noted that if he got approval for the new lot, it is a good function to be able to sell the lot in the future if he wanted or needed to.

Mr. Stanley stated that he met on site with the Planning Board prior to the meeting this evening. He said they went over a few things on site. He said two major things were whether or not the private way needed to be paved, and also possibly moving the hammerhead turnaround up 50 feet, to better suit the site conditions as they are currently constructed.

Mr. Stanley asked if anyone had any questions? Roland L. wasn’t sure if this was the time to bring this up or not, but during the site visit it was mentioned to grant the Town of Shapleigh an easement to the fire pond, which is located on the back side of the property. He wasn’t sure if he should mention it now or later but he thought he would bring it up, since it was talked about on the site visit.

Mr. Stanley stated, “The hydrant that Roland is speaking of was part of the approval in 2007, from when the private way and new lot went in. It was on his plan and the recorded plan the board approved in 2007. What Roger had brought up, and it was discussed without objection, that as part of this approval, should this move forward, I would write a clearer easement for the Town to be able to access that hydrant in the future.” He didn’t think the Town would have trouble doing so now, but it wasn’t depicted clearly what the Town’s rights were on the current plan. He said that taking the two steps of adding more verbiage to his plan and deeding the Town an actual easement recorded at the YCRD separately from the plan, would be the goal, to be sure the Town always has a clear right to access the hydrant.

Roger A. asked if there were any additional questions? There were none. The public hearing closed at 7:15 pm.

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 for the public hearing.

Roger A. asked Mrs. Lavoilette to let anyone who is attending the Zoom meeting know what she intended to do. Mrs. Lavoilette stated she was proposing to have weddings and small venues and events in her barn on Deering Ridge Road. She stated she intended to have under 200 people at the events. She said the hours of operation would be expanded since her first application review, she now was requesting 6 am to midnight, because if she had weddings, she wanted people to be able to come in and set up in the morning and have time to pick up in the evening. She said if the venue ends by 10 pm for noise control, to meet the ordinance, she wanted them to have time after, to pick up and exit the premises.

Mrs. Lavoilette stated with respect to noise control, she did not plan to have any outside entertainment past 8 pm, everything will be contained inside the barn after that. She stated parking would be in the field behind the barn. She said they would be having traffic control at the end of the venue if there will be a large amount of people exiting at the same time. She said in her proposal she had stated if there were 50 or more people, they plan to hire in traffic control.

Roger A. asked if anyone had any comments or questions for Mr. Lavoilette?

Abutter Gary Goodwin of 28 Deering Ridge Road (Map 1, Lot 23) – Mr. Goodwin stated his concern was noise and that Deering Ridge Road was very busy as it is. He was concerned what this would do adding to the traffic that already goes down the road. He stated he lived about 100 feet away from their property and he wasn’t thrilled about having a lot of noise.

Roger A. stated that noise was one of the board’s concerns as well, along with traffic. He stated that the board did a site inspection and noted the amount of traffic currently, and the amount that could be generated, which is why he believed Mrs. Lavoilette was looking to hire traffic control.

Mr. Goodwin stated that he understood that but he said there was an unbelievable number of vehicles that go by the property, and added that where their driveway was there is a blind spot between there and the highway.

Mrs. Lavoilette speaking to Mr. Goodwin stated that she did contact Bill King at the York County Sheriff's office, he is the Sheriff, and she said they had a lengthy conversation about it and they do offer traffic control. She said her plan was for a larger event to hire them in. She said they have a minimum of four hours, so they would be on site four hours up to the end of the event for traffic control. She stated she was waiting for a call back from Paul Mitchell, who is the one who organizes the traffic control. She stated that safety was a concern for her as well, so her plan was to have a marked vehicle at the top of the hill for traffic control. She said she wouldn't have just anybody doing traffic control, her priority, as well as the Planning Board, is to have it as safe as possible.

Mr. Goodwin asked how Mrs. Lavoilette would control keeping people inside the barn and not wandering?

Mrs. Lavoilette stated she would have people monitoring it and noted that the parking is out in the field. She stated it would be part of her policy and contract, that people needed to stay inside the barn.

Mr. Goodwin stated with respect to the bands that would be playing, would they keep the sound down? He pointed out that sound carries in the neighborhood.

Mrs. Lavoilette believed she knew the location of Mr. Goodwin. She stated that she had doors on each side of the barn.

Mr. Goodwin stated he was familiar with the barn, noting he was located right beside her. He said he was very familiar with the property.

Roger A. stated the noise would fall under the noise ordinance, and if there are any complaints, the Sheriff's Department will be called to come and measure the volume at the outside property lines to see what the decibels are, and to see if the noise exceeds the levels permitted. He said if the noise exceeds the limit then the noise will have to be reduced.

Mr. Goodwin wanted to know if this would be a 7 day a week operation?

Mrs. Lavoilette stated this would be just weekends.

Mr. Goodwin wanted to know if it was every weekend all year long?

Mrs. Lavoilette stated it would not be every weekend. She said her primary focus is to have weddings, that is her passion. She believed she would only be holding them in the warmer months, May through October, Friday thru Sunday. She noted that it was her residence as well, so it would not be a 7 day a week operation.

Mrs. Carol Goodwin also of 28 Deering Ridge Road – Mrs. Goodwin stated she was not only concerned about the driveway but going across the bridge, where there are people fishing, and also at the top of the hill where you go onto Route 109. She said it was a very tricky corner to get out of going from Deering Ridge to Route 109. She wanted to know if Mrs. Lavoilette would have traffic control in that location.

Mrs. Lavoilette stated that was not part of her plan.

Mrs. Goodwin stated that that was a very dangerous corner. She stated that when pulling out onto Route 109, you could not see well pulling out toward Mousam Lake (taking a left), you could only see a short distance. She said coming in from Ted's (Fried Clams), there is a steady stream of traffic on the weekends. She said adding 30, 40, or 50 more cars trying to pull out could be an issue.

Ann H. asked Mrs. Lavoilette if people were going to have to exit in one direction, either right or left, or would they be able to go either way? Mrs. Lavoilette stated that she was going to have people use the lower driveway to exit because she felt that would be safest.

Mrs. Goodwin asked if Mrs. Lavoilette was going to have people exiting the driveway, all go to the left, so they don't go over the bridge and out onto Route 109? Mrs. Lavoilette stated they would go left or right, whichever direction they needed to go in. Mrs. Goodwin stated that still left the issue of the corner of Route 109 and Deering Ridge Road.

Roger A. agreed and he stated that the board would be looking at this during the review at the regular meeting. The board would look at traffic requirements.

Ann H. asked if she was standing in the driveway, what direction was left and right. Mrs. Lavoilette stated if you pulled out of her driveway, right would go toward the bridge. She said left would go up the hill. Ann said, ok. She was wondering where the best location would be for traffic control, the right or the left. Mrs. Lavoilette stated that at the site inspection the board thought the safest spot would be to have someone located at the top of the hill. Ann agreed. Mrs. Lavoilette stated that people tend to drive over the speed limit over the hill, so that was the safety concern she believed everyone agreed upon.

It was asked what the speed limit was. Mr. Goodwin thought it was 35 mph. He said that coming out of his driveway he has almost been hit several times, due to the speed of traffic. CEO Demers stated that he looked for a speed limit sign and there is none on the road all the way to Sanford. Mr. Goodwin thought on Rte. 109 there was a speed limit sign posted where it says Deering Ridge Road.

Mrs. Goodwin stated that on weekends there are a lot of motorcycles that go by and she noted that they are very hard to see. Mrs. Lavoilette did not think the fact motorcycles used the road should be her responsibility. Mrs. Goodwin said they were looking at traffic and you can't see the motorcycles. She said traffic overall was a big concern, especially going onto 109 and coming up over the hill. Mrs. Lavoilette stated that she could appreciate that. Roger A. stated that the board did realize it as well, and it was brought up at the site inspection, and it is an issue the board will need to discuss during the regular meeting. Mrs. Goodwin stated it would be nice to have a traffic light at the end of the road. Roger agreed that it would help getting out onto Route 109, it can be difficult.

Mr. Goodwin stated that these were the concerns they had. He did not want to take away people's rights to do what they wanted with their property. He said it was a beautiful barn and he's been in it, and he thought it was probably a perfect place for what they want to do.

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

The public hearing closed at 7:28 pm.

The minutes from Tuesday, June 23, 2020 were accepted as read.

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

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 Keepin it Local. Hours of Operation: 6 am to 10 pm. Days of Operation: Sunday through Saturday. We will offer the sales of the following: 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 posted to the description of services.

Roger A. asked Mrs. Johnson to let the board know what she wanted to do in case there are someone new to the meeting. Mrs. Johnson stated she was relocating her existing business Primitive Quarters Quilt Shop to a new much larger location at 120 Emery Mills Road in Shapleigh, and she planned on expanding her hours. She stated currently she sells fabric, books, patterns, sewing/quilting notions, and she planned on expanding to also the sale of sewing machines, and offering service of the sewing machines that she sells. She said she would increase her hours of operation, and days of operation, and she is looking forward to this new chapter.

Roger A. asked if anyone had any comments or questions for Mrs. Johnson? There were no questions.

Roger A. stated moving the existing business to the new location is allowed, and Mr. Muse accepting the new business is allowed once the existing business, Keepin it Local vacates the premises. Roger stated that a condition of approval will be that prior to the Quilt Shop moving in or opening, Mr. Muse will have to relinquish the existing Conditional Use Permit at present. Mrs. Johnson asked what he had to relinquish? Roger stated, “The permit for Keepin it Local”. Mrs. Johnson stated, “Ok”. Mrs. Johnson

asked where he had to do that, did he go to the town hall to do that? Roger stated, that yes, he would have to provide a letter stating that fact, and that would allow Mrs. Johnson to open her business. Mrs. Johnson stated, “Ok, alright. That’s easy enough”.

Roger A. began review of the Basic Performance Standards for the application.

- 105-21 – Traffic. *Roger A. stated access to the site was safe, this location was previously approved on the original CUP. Site distances can be met in both directions.*
- 105-22 – Noise. *Roger A. stated there will be no noise generated from the activity.*
- 105-23 – Dust, fumes, vapors and gases. *Roger A. stated there is no dust, fumes, vapors or gases, generated by this activity.*
- 105-24 – Odors. *Roger A. stated there will be no obnoxious odors generated.*
- 105-25 – Glare. *Roger A. stated there shall be no additional lighting added to the structure. There is existing lighting on the building at this time.*
- 105-26 – Stormwater runoff. *Roger A. stated there are no changes being made to the property that would cause a stormwater problem. There are no issues at this time, and the building and parking area are in existence.*
- 105-27 – Erosion control. *Roger A. stated there are no changes being made to the existing property that would create an erosion issue. The building and parking area are in existence.*
- 105-28 – Setbacks and screening. *Roger A. stated existing vegetation will remain, no changes are being made on site.*
- 105-29 – Explosive materials. *Roger A. stated, there shall be none on site and none to be generated.*
- 105-30 – Water quality. *Roger A. stated, there is no waste or hazardous material generated by this activity and no outdoor storage of fuel to affect water quality.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *Roger A. stated no changes are being made to the existing parking area, there is no outside storage associated with this activity.*
- 105-32 - Relation of proposed building to the environment. *Roger A. stated the building is in existence and conforms well with others in the surrounding area.*
- 105-33 – Refuse disposal. *Roger A. stated there was minimal refuse generated by this activity. The applicants will take refuse to the transfer station.*
- 105-34 – Access Control to Route 109. *Roger A. stated that the existing entrances were previously approved, there are no curb cut changes being made. The minimum site distances can be met.*
- 105-43 – Off-street parking and loading. *Roger A. stated there was plenty of off-street parking in existence at this time and was approved for the prior business.*
Madge B. asked Mrs. Johnson how many people she would have at a class, since traffic could be an issue on Rte. 109. She wanted to know if there would be many cars leaving the site all at once? Mrs. Johnson stated that she wasn’t positive how many she could fit, but she said most instructors do not want anymore than 8 to 10 students at one time. She felt that would be the maximum for a class. Mrs. Johnson also pointed out that students finish up at different times, so it isn’t necessarily the case that they will all leave at the same time. Madge said, “Perfect”.

105-46 – Sanitary provisions. **Roger A. stated there is an existing State approved septic system on site.**

Madge B. asked if there was an approved septic system and bathroom. Mrs. Johnson stated that it did have both and she noted one of the reasons for the move, was to be able to have a bathroom for customers. She said that it was handicap accessible.

105-47 – Signs and billboards. **Roger A. stated that all signage must be permitted and approved through the Code Enforcement Office.**

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

Roger A. then reviewed §105-73.G ‘Standards applicable to conditional uses’ and made findings of fact.

Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **Roger A. stated, it will not.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Roger A. stated this is not applicable.**
- 3) The use is consistent with the Comprehensive Plan. **Roger A. stated it is, the Comp Plan wants businesses along Route 109.**
- 4) Traffic access to the site is safe. **Roger A. stated it is, the site distances meet the minimum in both directions. Roger noted that this business will likely produce less traffic than the previous business on site.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger A. stated it is, the project is not in the flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger A. stated a State approved Septic System is on site, and any solid waste will be removed by the applicants.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger A. stated that there is none generated by this activity.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger A. stated there are no changes being made to the property from the previous application approval for a CUP.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated no changes are being made on site to create an erosion issue.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger A. stated this location is not far from the Emery Mills fire hydrant.**
- 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. **Roger A. stated there are no changes being made to the existing vegetation.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. stated they shall with conditions.**

Roger A. stated the conditions of approval are as follows:

- 1) The hours of operation shall be 6:00 am through 10:00 pm, 7 days a week.**
- 2) Prior to occupancy by Primitive Quarters Quilt Shop, property owner Paul Muse must give the Planning Board a letter stating he relinquishes the permit for Keepin it Local.**

Madge B. moved for approval of the Conditional Use Permit to move Primitive Quarters Quilt Shop to 120 Emery Mills Road, Map 18, Lot 32A, with the stated conditions of hours of operation and that the land owner must submit a letter to the board as stated. Roland L. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.

Note: Ann H. was a voting member with the absence of Vice Chair Steve Foglio.

Nothing further was discussed.

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### **The Findings of Facts**

1. The applicants are Donna and John Johnson of 52 Jones Road, mailing address of P.O. Box 88, Shapleigh, Maine 04076. The owner of Shapleigh Tax Map 18, Lot 32A (120 Emery Mills Road), is Paul Muse, mailing address of P.O. Box 157, Acton, Maine 04001.
2. The property is located in the General Purpose District and according to the assessor, the property contains .50 acres.
3. The 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 Keepin it Local. Hours of Operation: 6 am to 10 pm. Days of Operation: Sunday through Saturday. We will offer the sales of the following: 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 posted note that stated ‘Transition Date July 17, 2020’ was posted to the description of services.
4. Received 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.
5. Received 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).
6. The board reviewed Zoning Ordinance, Article V, Basic Performance Standards and the board concurred the application met all the standards imposed.
7. The board reviewed Zoning Ordinance §105-73, Section G, ‘Standards applicable to conditional uses’ and concurred the application and information as presented met the performance standards in this chapter, with conditions.

- 8. A notice was mailed to all abutters within 500 feet of the property on June 25, 2020. Meetings were held on June 23, 2019 and July 14, 2020 via Zoom due to Covid-19. A public hearing was held on July 14, 2020, prior to the meeting.
- 9. The Planning Board unanimously agreed to approve the Conditional Use Permit to move Primitive Quarters Quilt Shop to Map 18, Lot 32A (120 Emery Mills Road), per the plans and information provided, with two conditions.
- 10. **The conditions of approval are:**
  - 1) **The hours of operation shall be 6:00 am through 10:00 pm, 7 days a week.**
  - 2) **Prior to occupancy by Primitive Quarters Quilt Shop, property owner Paul Muse must give the Planning Board a letter stating he relinquishes the permit for Keepin it Local.**

Motion:

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinances Article V, Basic Performance Standards, and §105-73, Section G, ‘Standards applicable to conditional uses’ a motion was made on July 14, 2020 to approve the Conditional Use Permit to move Primitive Quarters Quilt Shop to Shapleigh Tax Map 18, Lot 32A (120 Emery Mills Road), per the plans and information provided, with two conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit to move Primitive Quarters Quilt Shop to Shapleigh Tax Map 18, Lot 32A (120 Emery Mills Road), per the plans and information provided, with two conditions, was accepted.

Decision:

**The Conditional Use Permit to move Primitive Quarters Quilt Shop to Shapleigh Tax Map 18, Lot 32A (120 Emery Mills Road), per the plans and information provided, with two conditions, was approved.**

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**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 & Applicant: Nickolas Richardson  
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

Tax Map 11, Lot 28F

Zoning: 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

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.

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 on Not-a-Road, adjacent to the proposed new lot.

*A site inspection was done prior to this evenings meeting.*

Roger A. asked Mr. Stanley to brief the board and anyone new who may have come onto Zoom about Mr. Richardson’s plans.

Mr. Stanley introduced himself and that he was from LinePro Land Surveying. He said he was representing Nickolas Richardson and his property on the Newfield Road. He said Mr. Richardson owns a large lot in a previous subdivision, and in 2007 he broke off one lot of the parcel, which is accessed by a private way that the board approved. He said they were hoping to create one additional lot utilizing the existing private way, just on the opposite side of the road. He said this is a revision to two existing subdivision plans.

Mr. Stanley stated that he met on site with the Planning Board this evening and discussed several issues, which included whether or not it was necessary to pave the road in this case. He said they also discussed possibly moving the current location of the hammerhead turnaround about 50 feet further in off the main road to allow the existing clearing and driveway to be used as a turnaround rather than creating a second impervious surface right beside the first one. He said this was all discussed on site and now he is ready to discuss it further.

Roger A. asked if anyone had any questions for Mr. Stanley?

Madge B. stated that she looked up the waivers provisions, so she now understood that the board can legally waive the paving of the road, under §89-54 ‘Waiver of required improvements’.

Roger A. asked if there were any additional waivers being requested? Mr. Stanley said that was the big one, and the standard ones for monuments and sidewalks. He said they prefer to set rebar vs monuments, and he didn’t think sidewalks make sense in the countryside. Roger asked if he was going to waive the requirement for underground power? Mr. Stanley stated that there was already underground power servicing the building coming off the pole. He believed this met the ordinance requirements, but he was open to any suggestion if it is not. Roger thought it was fine. Roger stated that if the fire pond is used for this lot, then there will be no need to sprinkle the house. Mr. Stanley said he would like to add more verbiage to the plan, as well as draw up a clearer easement for the Town, for the Town to perpetually be able to go out and access the fire pond. He said there is a gate there to protect Mr. Richardson’s property and shop, so they will have to make sure they work out with the Fire Department that they have a key or a code or Knox box to assure that if the gate is closed the Fire Department will still have access in case of an emergency.

Roger A. asked if there were any other questions for Mr. Richardson? Madge B. thought they had the issue of moving the hammerhead. Roger agreed and thought the board would have to table the application, so the additional information can be added to the plan, prior to approval. Also, fire pond access and having the waivers on the plan for monuments, sidewalks, and paving. Madge asked if they had to table the application until everything is on the plan? Roger said, “True”.

Mr. Stanley stated that what the board was requesting was a very simple change. He said he didn’t have it this evening, because he didn’t know if the board would want it separate from the driveway or would accept moving it from where it is on the plan currently. He said Mr. Richardson would prefer it where it is, so there is less construction and less impervious surface. He noted Mr. Richardson wouldn’t fight if the board had a good reason to keep it where it is on the plan. Mr. Stanley did not know if the board wanted to act on the waivers first or just have him put them on the plan. He said he would do it however the board wanted him to present it.

Roland L. asked if this is going to be tabled, would it be coming up at the next meeting? Roger A. said that was correct. Roger said what the board was asking for was such minor changes, Mr. Stanley should be able to get it back to the board for the next meeting in 2 weeks. Mr. Stanley agreed, he just wanted to know if he had to get them to the board 7 days in advance or could he just bring them to the next meeting? Roger felt it would be fine to have the plans for the next meeting. Madge B. agreed. Roland L. Maggie M. and Ann H. said it was fine to have the new plan for the next meeting. Roger also thought he could

bring in the mylar, along with the paper copies for signature. Mr. Stanley noted that he prepares mylars for the Town records but York County Registry of Deeds no longer wants mylars, only paper. Roger said he understood.

Roland L. asked if the board would be meeting via Zoom for the next meeting? He said he was asking for Mr. Stanley. Roger A. stated Mr. Stanley will bring them in and give them to Barbara F. and she will let members know she has them. And yes, the next meeting will be via Zoom.

**Roland L. made the motion to table the application until the next meeting, at which time the necessary additional information will be placed on the plan, and the plan will be available for members signature. The plan will be brought to Barbara F. Maggie M 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.**

Nothing further was discussed.

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**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 less than 10%.
- 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; 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 1<sup>st</sup> 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 establish 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 tiers with only two on the driveway side and 2 will remain on the water side. The grade on the upper level will be fixed so that it is level and any runoff will be diverted appropriately, 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 and 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 and anyone attending Zoom on what she intended to do.

*The board members did a site inspection prior to this evenings meeting.*

Mrs. Carmichael stated they met on site with her wall builder to explain what he was going to do to improve the wall. She said two walls currently facing the water would remain the same, other than adding extra drainage that does not exist at the time to help with the erosion. She said with the three walls that face the driveway, the bottom 2 can be combined, so that there are walls on each side, all being less than 4 feet in height and to keep the landscaping / plantings as they are now. She said the railroad ties would be replaced with the landscaping block and adding the proper drainage there as well. She said there would be a silt barrier and the wall builder said he could put pins where everything is that exists now to aid CEO Demers to see that the wall is going back where it is now. Mrs. Carmichael said the wall builder stated that that is what he has done previously, and it would show that the new wall is no closer to the water than the existing and no longer than the existing.

Roger A. stated that as discussed on site, with your back to the water looking on the right-hand side looking at the shed, Mr. Main was going to address that area as well for water runoff. Mrs. Carmichael wasn't sure how he would be doing it. She said he would do the permit with CEO Demers address that with him. She agreed he wanted to fix that but not go any closer to the water, just fix the erosion issue. She said there would be no expansion of the existing footprint. Roger agreed. She said they are trying to correct so they don't lose more soil, and she noted there would be erosion control mulch added in a few landscape areas near the water to also help, and to add additional plantings, after the walls are demo'd and replaced.

Ann H. asked Mrs. Carmichael, when the gentlemen replaces the patio are you still going to use pavers similar to what is there now? Mrs. Carmichael said she believed so, after the board left the site, he said he would stabilize the wall, get the plantings, and then replace pavers with pavers. She said the wall builder wanted to see how the water flowed on the topside, once the new walls were in, and plantings, then the pavers would likely be last. Ann thought once the railroad ties were removed, the existing pavers would be disturbed. Mrs. Carmichael said she would be removing everything for him and save as many plants as they could and move them to other areas, then add new plantings that the DEP would prefer for erosion control. Ann said her question was when the patio goes back in, if it would also be pavers? Mrs. Carmichael said, "Yes, that's right".

Roger A. said he believed the application did show where the red pavers were, they would be replaced. He said the area with pavers might be a little smaller than the existing, once the project is completed. Mrs. Carmichael nodded her head. Ann H. said, "Ok". Mrs. Carmichael said again that the person doing the walls could mark where all the existing is and do measurements that are more exact than what she presented to the board. She said this way everyone will be comfortable that the replacement is in the right location.

Roger A. reviewed the pertinent sections of §105-39 ‘Earth removal and filling for activities other than mineral exploration and extraction’.

**105-39 – D. Earthmoving in the Shoreland District.**

***Roger A. stated the reason they are before the board is greater than 10 cubic yards of earth is being moved, therefore a Conditional Use Permit is required.***

***(1) Roger stated the excavation contractor must be licensed by the Maine Dept. of Environmental Protection in erosion control measures. Roger stated at the site inspection the board was informed the person being used, Patrick Main, is certified by the DEP. Mrs. Carmichael stated that Pat Stevens is also being used and he is certified as well.***

G. Conditions of permit. The Planning Board may issue a permit, provided that the following conditions shall be met:

- (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.  
***Roger A. asked what the time frame would be? Mrs. Carmichael stated, they would begin a week from Saturday on July 25<sup>th</sup>. Mr. Stevens is doing the excavating, demo and setting the base for the walls. She said then Pat Main would finish the walls, and she thought he stated that would take a couple weeks. She said this was assuming they could get the blocks from Genest. She stated if approved they would order the blocks tomorrow and then they would be on site the following Saturday. He wants the walls started and finished as soon as possible. Madge B. said there would be plantings as well. Roger asked if September 15, 2020 would work to be completed by? Madge thought that worked. Mrs. Carmichael asked if she could do the plantings? Roger and Madge said, yes. Madge said they needed to be done before it gets too late in the fall. Mrs. Carmichael agreed, so the roots get established.***
- (2) Temporary ground cover (such as mulch) and temporary runoff filter (such as hay bales in swales) shall be used as required to prevent stream sedimentation. The Planning Board shall set a specific date by which permanent ground cover shall be planted.  
***Roger stated Best Management Practices shall be used and the silt fences will stay up until everything is stabilized. Mrs. Carmichael stated she would leave them up extra-long just to be sure there would be no issue.***
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.  
***Roger A. stated the existing plantings shall be replaced as soon as possible, per the plans provided. Bark mulch shall be added where needed as well.***

Roland L. asked where Mr. Main would be bringing the existing wall? He pointed out that he cannot bring it to the Transfer Station. Mrs. Carmichael didn't know where it was going, but she knew it was not remaining in Shapleigh. She said she knew he was taking it and she could find out where it was going. Ann H. stated it could be a condition that it does not go to the Transfer Station. Roger A. agreed that the condition would be that the pressure treated wood cannot go to the Transfer Station and he will have to let CEO Demers where he will be taking it.



Roger A. asked if there were any other comments? Roland L. said he understood there would be no trees removed, he wanted to be sure he heard correctly. Mrs. Carmichael stated that only a stump would be removed.

**Roger A. stated the conditions of approval are:**

- 1. The project, the removal and replacement of the existing wall(s), and revegetation on Map 27, Lot 14-6, shall be completed by September 15, 2020.**
- 2. Best Management Practices shall be kept in place until the project is completed which includes revegetation and complete stabilization of the area. There must be a person certified by the DEP in erosion control practices on site during the project.**
- 3. All material from the existing wall(s) on Map 27, Lot 14-6 to be removed shall be taken out of Shapleigh and disposed of properly. The method of removal, as well as where it will be taken, shall be given to the Code Enforcement Officer prior to starting the project.**

**Roger A. then reviewed §105-73.G ‘Standards applicable to conditional uses’ and made findings of fact.**

*Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.*

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **Roger A. stated, it will not. The project will be using Best Management Practices and it will improve the fish habitat.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Roger A. the project will conserve shore cover once completed.**
- 3) The use is consistent with the Comprehensive Plan. **Roger A. stated it is, the Comp Plan wants to preserve the shoreline.**
- 4) Traffic access to the site is safe. **Roger A. stated it is, they are at the end of the road.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger A. stated it is.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger A. not applicable for waste water, solid waste of existing pressure treated lumber to be removed shall be taken out of Shapleigh. The location shall be given to the CEO.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger A. stated that the pressure treated wood will be removed from site.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger A. stated a stormwater management plan is designed for the area behind the wall, as well as the surrounding landscape. This is why the project is being done.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated Best Management Practices shall be used to prevent storm erosion during the project.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger A. stated no fire protection is required for the new wall.**
- 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. **Roger A. stated there are no major changes being made to the existing vegetation surrounding the property. No trees shall be removed. There shall be**

*no added lighting, no odors produced, or dust produced that will go onto neighboring properties.*

- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. stated they shall with the stated conditions.**

Mrs. Carmichael asked if she found out there is trouble getting the blocks for the wall, so the start date is later, what does she do, talk to the CEO? Roger A. asked if she believes it will be a later completion date beyond September 15, then what would the board like? He asked if they would want CEO Demers to move the date? The board members believed that would be ok. Mrs. Carmichael said she would not know until tomorrow about the blocks. Roger said he knew of people who were having trouble getting blocks from Genest because they are extremely busy. Mrs. Carmichael said that her contractor said if she was approved this evening, he would deal with ordering the blocks tomorrow, and he believed they would have the blocks in time to begin a week from Saturday.

Madge B. asked if the board should limit where the date can be moved to, so it doesn't go beyond the end of October? She was concerned about the plantings and erosion control. She felt if it went beyond the end of October, the applicant would have to do the project next year. She said if this happened the applicant should come back to the board for an amended approval. She wanted the boards opinion, because if it cannot be completed this year, she thought the board should have a plan. Roger A. stated he had no issue that if it goes beyond October 30, that it comes back before the Planning Board for a review and a new date of completion.

Roger A. asked if there was a Permit by Rule for this project? Barbara F. stated the project was approved by the DEP, the board has a copy on file. The members agreed and said they received a copy. The approved Permit by Rule Notification is dated May 15, 2020 and dated as accepted by the MDEP on May 26, 2020.

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

**Madge B. made the motion to approve the replacement of the existing pressure treated retaining walls which will be less than four feet in height and same length at existing, on Map 27, Lot 14-6, with blocks from Genest, providing the contractor and landowner meet the conditions of approval as stated. Ann H. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0 the motion passed unanimously.**

**The conditions of approval are:**

- 1. The project, the removal and replacement of the existing wall(s), and revegetation on Map 27, Lot 14-6, shall be completed by September 15, 2020. If this date cannot be accomplished the applicant must contact the Code Enforcement Officer, and have a new date of completion established. Should the completion date go beyond October 30, 2020, the applicant must come back to the Planning Board for further review.**
- 2. Best Management Practices shall be kept in place until the project is completed which includes revegetation and complete stabilization of the area. There must be a person certified by the DEP in erosion control practices on site during the project.**

- 3. All material from the existing wall(s) on Map 27, Lot 14-6 to be removed shall be taken out of Shapleigh and disposed of properly. The method of removal, as well as where it will be taken, shall be given to the Code Enforcement Officer prior to starting the project.**

Mrs. Carmichael asked if now she went to CEO Demers to fill out a permit? Roger A. stated, yes.

Nothing further was discussed.

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The Findings of Facts

1. The owner(s) and applicants(s) of Shapleigh Tax Map 27, Lot 14-6 (66 Point Road) are Brian & Jane Carmichael, of 66 Point Road, Shapleigh, Maine 04076.
2. The property known as Map 27, Lot 14-6 is located in the Shoreland District and according to the assessor the property contains 2.5 acres.
3. The application description reads in part, as follows:
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. There is also a grading / pooling issue with the walkway at the end of the driveway. The landscaper recommended replacing the 3 tiers with only two on the driveway side and two will remain on the water side. The grade on the upper level will be fixed, so that it is level and any runoff will be diverted appropriately, to go into the landscaped beds that will be reestablished after the wall is done. 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. 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. 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 and stays in the ground that it falls on, as well as, put the appropriate material behind the walls to allow absorption into the ground.
4. Information received is as follows:
 - 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 less than 10%.
 - 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; 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 establish 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.
5. The Planning Board reviewed §105-39 ‘Earth removal and filling for activities other than mineral exploration and extraction’, and §105-73 ‘Conditional Use Permits’ and concurred the application and information as presented met the performance standards, with conditions.
6. A notice was mailed to all abutters within 500 feet of the property on June 25, 2020. Meetings were held on Tuesday, June 23, 2020, and July 14, 2020 via Zoom due to Covid-19. A site inspection was done by members on Tuesday, July 14, 2020 prior to the meeting.
7. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall(s), with two walls less than four feet in height, same length as existing, per the plans provided, on property known as Tax Map 27, Lot 14-6, with conditions.
8. **The conditions of approval are:**
- 1. The project, the removal and replacement of the existing wall(s), and revegetation on Map 27, Lot 14-6, shall be completed by September 15, 2020. If this date cannot be accomplished the applicant must contact the Code Enforcement Officer, and have a new date of completion established. Should the completion date go beyond October 30, 2020, the applicant must come back to the Planning Board for further review.**
 - 2) Best Management Practices shall be kept in place until the project is completed which includes revegetation and complete stabilization of the area. There must be a person certified by the DEP in erosion control practices on site during the project.**
 - 3) All material from the existing wall(s) on Map 27, Lot 14-6 to be removed shall be taken out of Shapleigh and disposed of properly. The method of removal, as well as where it will be taken, shall be given to the Code Enforcement Officer prior to starting the project.**

9. **Additional requirement:**

- **A building permit must be obtained from the Code Enforcement Officer, prior to the construction of the new wall.**

Motion:

After careful consideration and a review of all material presented to the Board, a motion was made on Tuesday, July 14, 2020, to approve the Conditional Use Permit to replace the existing retaining wall(s), with two walls, which will be less than four feet in height and the same length as the existing walls, per the information provided and as discussed during the project reviews, on property known as Tax Map 27, Lot 14-6 with three conditions.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional to replace the existing retaining wall(s), with two walls, which will be less than four feet in height and the same length as the existing walls, per the information provided and as discussed during the project reviews, on property known as Tax Map 27, Lot 14-6 with three conditions, was accepted.

Decision:

The Conditional Use Permit to replace the existing retaining wall(s), with two walls, which will be less than four feet in height and the same length as the existing walls, per the information provided and as discussed during the project reviews, on property known as Tax Map 27, Lot 14-6 with three conditions, was approved.

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 ± acres 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 184 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. Both the barn and house appear to be located in the Shoreland District.
- 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 located 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, 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. began by stating that the board had a request from her for a seasonal vegetable stand. Mrs. Lavoilette stated she did not know if she needed to add that to her application now, but she noted she wasn’t sure it was something she would do. She said she thought if in the future if she wanted to offer vegetables from her garden on a small stand, she wanted to know if she should tag this onto this application or if it was irrelevant. Roger stated that it was not irrelevant, vegetable stands in the Shoreland District are allowed with a conditional use permit. He said the only issue is, because Mrs. Lavoilette has a residence and is applying for a CUP for the venues, another business would not be allowed. He said she could have either the venues in the barn or the vegetable stand, not both. Mrs. Lavoilette stated, “The barn please”. She stated she had an overabundance of vegetables this year, which was great, so it was an afterthought, but it was no problem if it wasn’t allowed. Roger said that if she was in the General Purpose District it would not be an issue, but in the shoreland it does require a CUP.

Roger A. stated that when the board did the site inspection, he asked if she would have an engineer look at the barn floor to be certain it could support the weight of the number of people, she was applying for inside the structure. He asked if she had done anything with that? Mrs. Lavoilette stated she got a name from Steve Foglio that fell through, he wasn’t that type of engineer. She said there was another gentleman in Shapleigh that she has reached out to, but after communicating with Steve Foglio, he

recommended she wait until after this meeting to see if that is something that the board truly wants done before she spent the money.

Madge B. asked if the board did not require it, would the CEO require it? Roger A. stated that it would be a condition that they would have to have some supporting documentation prior to getting the permit to be able to use it. Ann H. asked if that was a Planning Board thing. Roger said, “Yes”. Mrs. Lavoilette stated, “So that is something you want me to go ahead and do”. Roger stated that if the application was approved, she would have to get the documentation prior to being able to open. Mrs. Lavoilette asked specifically what the board needed, just a licensed engineer and documentation of the weight limit? Roger said, “Yes”.

Roger A. stated the reason Mrs. Lavoilette is before the board is due to Zoning Ordinance §105-17, ‘Commercial outdoor recreation, excluding campgrounds’, which is an allowed use in the Shoreland District with a Conditional Use. Barbara F. noted that in the minutes of the last meeting the board felt this fell under ‘Public and private recreational areas involving minimal structural development’ perhaps more appropriately, because it wasn’t entirely outdoors.

Roger A. stated that the other issue that came up was the selling of alcoholic beverages. He stated it was not allowed in the Shoreland District. He said there was no getting around that. Mrs. Lavoilette stated, “So no outside vendors, licensed vendors can come in”. Roger said, “They cannot sell alcohol on the property, period. I don’t care who it is. A person cannot sell alcohol on that property.” Mrs. Lavoilette stated, “Ok. So, it would have to be a BYOB situation.” Roger said, “As long as they are not selling it.” Mrs. Lavoilette stated, “Ok.” She asked if she had something outside of a wedding, like a small event and tickets were sold. She asked, “There was alcohol there but a general ticket was sold, but it was being catered, etc., does that count under that??” Roger said, “As long as there are no alcoholic beverages being sold on the property, I can’t get any plainer, that is the ordinance.” Ann H. stated, “It doesn’t say anything about selling tickets.” Mrs. Lavoilette stated that when they had the site visit, she was swayed, she thought she would be able to have licensed people on site. Roger said there could be licensed people, they just can’t ‘sell’ the alcohol. Mrs. Lavoilette said, “Ok.”

Roger A. began review of the Basic Performance Standards

§105-21 – Traffic. Roger A. stated the board discussed this this evening. Roger said the board needs to discuss how they would deal with traffic. He said the board realizes it is a very busy road and noted that much of the activities will be on the weekend. He said the board has discussed how they are going to exit onto Deering Ridge Road and onto Rte. 109. He believed this was an issue and he didn’t know what Bill King has in mind. He said he knew there would be support for vehicles coming in and out of the driveway, but he wondered if he would also do Rte. 109 when there is a mass exodus at whatever time the event ends. Roger was concerned with there being an issue.

Mrs. Lavoilette stated that they hadn’t discussed this in detail, but it was her assumption that people pulling in and out of the driveway would be directed. She stated at the time people would be leaving, traffic significantly dies down. She said, “In my personal opinion, at 109, I don’t see any visibility issues. You can see right up to Ted’s; you can see up to the corner past the all-natural store. There is a business there they are pulling in and out of. I’ve never

had a problem, I guess it's the volume of traffic people are concerned about." She said her plan was not to have someone at each location (top of the hill and 109). She did not feel it was necessary.

Mrs. Lavoilette said she hasn't talked to Paul Mitchel; she was waiting for him to call her back. She wasn't sure if he hires in or if he comes out and looks at the area. She said she hasn't been able to touch base with him.

Roland L. stated, "Meagan when Mr. Goodwin raised the question about the traffic, did you say that there was going to be a marked car or an unmarked car?" Mrs. Lavoilette stated her assumption was marked. Madge B. agreed. She said it was under traffic control, they do not do personal detail. She said they would not be coming into her venue or on the property, it is strictly for traffic control. Roland said he was wondering if they would stop someone if they were speeding by, or would they disregard that and only be concerned with her traffic. Roland thought this was a question she would want to know. Mrs. Lavoilette said it was a question she could ask but when she was talking to Bill, he said it would be an off-duty cop. She said she had also asked if it would be a concern if they saw someone that appeared to be under the influence. She said it would not be handled by the traffic control officer, it would be handled the usual way with the law. She said she would ask the question when she spoke with him again.

- §105-22 – Noise. *Roger A. stated this would addressed under the time frame of 7 am to 10 pm it is 60 dB and that is at the height of at least four feet above ground surface and at the corners of the property. Roger stated that this was something the Sheriff's department would actually monitor. If it was exceeded multiple times then the CEO would have to put a stop order and deal with it.*
- §105-23 – Dust, fumes, vapors and gases. *Roger A. stated there would be none generated.*
- §105-24 – Odors. *Roger A. stated there will be no obnoxious odors generated, only possibly food.*
- §105-25 – Glare. *Roger A. stated there shall lighting placed on the barn for the parking area, so people could safely get to their vehicles. This lighting is well off the street.*
- §105-26 – Stormwater runoff. *Roger A. stated there are no changes being made to the property that would cause a stormwater problem. There are no issues at this time, and the building and parking area are in existence.*
- §105-27 – Erosion control. *Roger A. stated there are no changes being made to the existing property that would create an erosion issue. The building is in existence. Roger stated the parking area is grass.*
- §105-28 – Setbacks and screening. *Roger A. stated existing vegetation will remain, no changes are being made on site. The parking will not be seen from the road.*
- §105-29 – Explosive materials. *Roger A. stated, there shall be none on site and none to be generated.*
- §105-30 – Water quality. *Roger A. stated, there is no waste or hazardous material generated by this activity and no outdoor storage of fuel to affect water quality. Roger stated that water will likely be brought in from whomever was having the event, such as bottled water.*
- §105-31 – Preservation of landscape; landscaping of parking and storage areas. *Roger A. stated no changes are being made to the existing landscaping, the parking area is well away from the road, there is no outside storage associated with this activity.*

- §105-32 - Relation of proposed building to the environment. **Roger A. stated the building is in existence and conforms well with others in the surrounding area.**
- §105-33 – Refuse disposal. **Roger A. asked Mrs. Lavoilette where refuse would go. Mrs. Lavoilette stated there would be no dumpster. It would either be herself taking it to the transfer station in Shapleigh or it may be the customers responsibility if it is a large amount. She said that would be written into the contract with the customer. She believed it would be managed by her and her husband most of the time.**
- §105-34 – Access Control to Route 109. **Roger A. stated this property does not enter or exit from 109. He did however agree Rte. 109 was an issue due to its proximity.**
- §105-43 – Off-street parking and loading. **Roger A. stated there was plenty of off-street parking area for the venues proposed. He stated there was one parking space required for each 3 seats, permanent or otherwise, for patrons. He said there also needed to be spaces for employees. Mrs. Lavoilette stated that he meant one parking space for each three seats. Roger said, “Yes.” Mrs. Lavoilette stated that she wanted clarification, that if the amount of people is 200 that is approved, the volunteers, vendors and caterers need to be included in that count. Roger said, “That’s true.” Mrs. Lavoilette stated, “Ok, thank you.”**
- §105-46 – Sanitary provisions. **Roger A. stated there will be portable toilets on site. Mrs. Lavoilette stated, “Yes.” Madge B. asked if there is a rule for how many you need for the number of people at an event. Roger stated there was, but he didn’t know what that amount was. He asked if CEO Demers knew the answer. CEO Demers did not know. Roger thought it was one portable toilet for 40 people, but he said he was not positive. Madge thought the board would have to make the condition that she meets that number, whatever it is. She asked if it was a State rule? Roger said, “Yes.” Madge stated that the condition would be she meets the guidelines for sanitary disposal. Roger agreed. Ann H., looking on line, noted there was another amount required if alcohol was involved, you needed more toilets. Ann said the State of Maine states you need one portable toilet for every 40 people, Section 1686.A, under Public Health and Welfare. Ann noted they were talking about a toilet, not necessarily a portable toilet. Ann was looking at Title 22, Chapter 270-B: PUBLIC REST ROOM FACILITIES IN EATING PLACES.**
- §105-47 – Signs and billboards. **Roger A. stated that all signage must be permitted and approved through the Code Enforcement Office. Mrs. Lavoilette asked if she just went to the CEO if she wanted a sign. Roger A. said, “Yes.”**

Madge B. said she had another question that was part of the standards. Madge said Mrs. Lavoilette has spoken about having an off-duty police officer if she has 50 cars. She wanted to know if that was correct? She thought the board should have a clear number when to require traffic control. She said she had no idea what the number should be, given she is not a traffic engineer. Madge felt there should be some guidance on that number. Roger A. thought any event should have traffic control. Roger felt if there were 40 people it would have an impact if everyone was leaving at once. Madge didn’t think this is what she intended. Roger asked Mrs. Lavoilette what her intention was. Mrs. Lavoilette thought it would be dependent on a certain amount of people. She thought if it was a small event like an exercise class or something small, then she did not think that would have a great impact. She believed it was dependent on what type of event was happening. She did not think everything she hosted would require traffic control.

Madge B. asked if Mrs. Lavoilette was going to have exercise classes, would they need to be on the weekend? Madge knew weddings were going to be on the weekend. She wondered if the board needed more specifics on what would be held on site to make a decision.

Ann H. asked if people took a left and went up over the hill, would it be a long way to get to Rte. 109. Both Roger A. and Madge B. stated it would be a long way to get to 109 going in that direction. Mrs. Lavoilette stated that it depended on where they were coming from if taking a left would work best.

Madge said she would not be concerned with an exercise class. She asked if we were now talking about holding classes during the week? Mrs. Lavoilette stated her plan would be weekends still. She said if it were going to be a small 10 people class, that could be a personal event. She said that she had friends that were exercise instructors and they may want to have an all-day exercise event, hosting different classes, something fun to do. She said it would definitely be a weekend thing. She said if there was a weeknight thing, it would not be more than 10 people. She did not see it as something she would have consistently.

Ann H. asked what if a condition would be if there was going to be 50 or more people at whatever event, then there would need to be a flagger or someone for traffic control. Mrs. Lavoilette stated that was what she put in the email she sent to Barbara, she said it was the number that popped into her head. She felt with 50 people you would have about 25 cars, but admitted that was hard to put a number on. She stated she had a large family and could have 50 people and 25 cars. She said she didn't have an answer. Ann said she was trying to think of something measurable to have in writing.

CEO Demers stated the DOT has on their website, that this area is posted at 40 mph. He said the site distance recommended is 400 feet. He said from the lower driveway entrance the site distance to 109 is 400 feet and you can see it clearly. He said taking a left out of the driveway, he was not sure if there was 400 feet. CEO Demers noted again there is no sign stating what the speed limit is.

Ann H. asked Barbara F. if Karla knew what the speed limits were in different areas of Shapleigh. She thought the board had asked this question in the past, because there are not that many roads posted. Barbara said she was not sure; she could ask Karla tomorrow. Roger A. thought if a road wasn't posted the speed limit is 45 mph. Madge B. thought so as well.

Maggie M. stated that on Rte. 109, coming from Ted's, there is a sign posting 109 as 35 mph, until you get just past the motorcycle shop where it turns to 40 mph. Mrs. Lavoilette said her husband said there was a 25 mph sign just before you turn right onto Deering Ridge Road. CEO Demers asked if they were talking about the yellow sign? Mrs. Lavoilette stated, "Yes." CEO Demers stated that was the recommended speed limit for Rte. 109 during hazardous conditions. CEO Demers asked if anyone measured the site distance going in the other direction? Mrs. Lavoilette believed Steve Foglio measured it. Roger A. agreed but he couldn't remember what the distance was. Roland L. agreed he remembered it being measured, but could not remember the number.

Roger A. stated the board still needed to agree on what the standard would be for the volume of traffic, when would traffic control be necessary. Madge B. asked if the board could set that number without having any kind of traffic engineer give input? She asked if the board just made up the number from common sense? Roger stated that the board could ask for a traffic study. Madge said she hated to require a traffic study but on the other hand if the board knew how many cars went by it would be useful. She noted these cars were apt to leave after dark, so she wasn't sure what to do. Maggie M. asked if the Sheriff's Department would have a guideline? Roger was not sure. Roger said coming into the event would be staggered but the exodus would be the concern. Madge agreed. Roger said that in the summer, coming out onto Route 109, 20 vehicles coming out could be a big impact. Madge agreed it would be a problem. Roger thought more than 20 vehicles could be a serious problem. CEO Demers said, "Good point."

Roger A. thought someone like Bill King, because this is his area, perhaps he could give the board some input. Roland L. believed that Duffy Gold and her group, when they were doing a conversation about

replacing the bridge, had a traffic study done. He said he remembered a conversation about that, but he wasn't sure if it was done. He said they needed the information as part of the application they were going to put forth to replace the bridge. He thought maybe Karla (Town Administrator) would have the information. Barbara F. stated she would ask Karla tomorrow. Madge B. agreed they would have a lot of information on that road, in order to get some engineering on how to rebuild the road. The board agreed this might help save the applicant some money.

Roger A. asked if there was any other information the board felt they needed from Mrs. Lavoilette. Roland L said if Mrs. Lavoilette was going to speak with the Sheriff's Department, maybe they have a suggestion as to what number of vehicles would trigger them to want to be there. He felt they should have an idea what a certain number of vehicles do to the traffic flow.

Roger A. felt the board should table the application pending further information. Madge B agreed.

Mrs. Lavoilette stated she needed a letter from a licensed engineer for the weight limit. You would like some input from either Paul Mitchel or Bill King or one of the members of their team for the vehicle count. She asked if there was anything further they needed? Roger A. believed this is what they needed. Madge B. stated she agreed with Roland that Barbara could get information from Karla for the next meeting. Roger agreed, they wanted input from either Bill King or Paul Mitchell, along with the traffic count information from Karla.

Mrs. Lavoilette stated she might hold off on hiring an engineer for the weight limit of the barn until she might be approved because that would be an extra expense. Roger A. and Madge B. agreed.

Roger A. asked for a motion to table. Maggie M. made a motion to table the application pending further information as stated. Madge B. 2nd the motion. All members were in favor. By a vote of 5 – 0 the motion passed unanimously.

Nothing further was discussed.

Growth Permits

Map 3, Lot 20A (Simon Ricker Road) – New Home

GP #12-20

This is legal lot of record, a deed showing ownership was provided, the lot is 3 acres in size which exceeds the minimum lot size requirement for the Town of Shapleigh, and there is over 400 feet of road frontage.

Map 5, lot 3-7-6 (10 Jib Way)

GP #13-20

This is a legal lot of record, a deed showing ownership was provided, the lot meets the minimum lot size requirement, and has over 480 feet of road frontage. *Note: The mapping is incorrect on the town maps, so the exact size of the lot was not located on the maps on line. This will be brought to the attention of the Town Administrator.*

The Planning Board meeting ended at 9:15 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 28, 2020 at 7:30 p.m. See the Town website, www.shapleigh.net to obtain the link details, or use the information below.

To attend the meeting, you may connect via the following:

- **Join Zoom Meeting**

<https://us02web.zoom.us/j/84895865996?pwd=R0tBZE5ENFVLSGRibFRFaWFVQmEvZz09>

- **If calling in:** Find your local number: <https://us02web.zoom.us/u/kekLm2hxR2>

Zoom Meeting ID: 848 9586 5996 Password: 479754 (For all links)

- You may send an email by noon on the day of the meeting to planningboard@shapleigh.net and the link to the meeting will be emailed to you, or you can find that link on www.shapleigh.net 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.

Respectfully submitted,
Barbara Felong, Land Use Secretary

planningboard@shapleigh.net