

Shapleigh Planning Board

Minutes

Tuesday, October 27 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, Maggie Moody, Roland Legere and Alternate Ann Harris. 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.

Roger A. asked if there were any changes to the minutes from October 13, 2020? There were none. The Planning Board minutes from Tuesday, October 13th were accepted by members as read.

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

Conditional Use Permit – Two Family Dwelling in Shoreland District – Map 17, Lot 9A (30th Street) – Steven & Wendy Ouellette, Applicants

Mr. Ouellette was present via Zoom for the review of his application. *A notice was mailed to abutting property owners within 500 feet of the property on October 15, 2020.*

Provided along with the application, was a boundary survey done by Corner Post Land Surveying, Inc., which depicted Lot 9A, showing that it consists of 3.51 acres – excluding right-of-way, it depicts the proposed location of the two family dwelling and the building envelope which keeps the structure beyond the 100 foot setback to the high water mark. The location of 30th Street is on the plan, along with direct abutters to the property and the location of Mousam Lake. There is also a notation on the plan that states .31 acres within the lot are a right-of-way.

Also provided was a copy of the Subsurface Wastewater Disposal System for a three bedroom duplex, drafted by mark A Truman, SE #121, dated 9/23/2020.

The detailed description of the project is as follows: *A two family dwelling in the shoreland zone.*

Roger A. began the discussion by stating a multifamily dwelling in the Shoreland District requires a Conditional Use Permit which is why the applicant is before the board. Roger stated that all the conditions required in the ordinance such as the size of the lot, the setback from the water, and road frontage, all meets the criteria.

Roger A. stated there was a letter from an abutter, which read as follows:

As an abutter I received correspondence from the Shapleigh Planning Board regarding a Conditional Use Permit for property located at Shapleigh Tax Map (17), Lot 9A 30th Street. Apparently, they want to build a two family dwelling there. I am opposed. I believe it would adversely change the atmosphere of the community.

Every other dwelling in that community is a single family residence and once we start adding multi-residence units, the entire shore community will be affected. Others would most certainly explore converting to three or even four family dwellings once that door is opened. If we start allowing multi-family units, it would certainly increase traffic on the dirt road. Particularly if the future includes multi-family rental units. I believe it is the wrong path forward.

Over the past couple of summers, we have already had issues on the shore front. I've had two boat moorings and a party platform anchored in front of my property by non-shoreline owners and it's proven difficult to deal with. Currently I am drafting a proposal for the town to consider regulating moorings as most other shoreline communities do.

But on the present issue, I do not believe granting multi-family units, in the midst of a small community of single family homes, is in the best interest of the town or the taxpayers who are directly affected by the decision. For this, I am in opposition.

*Lance Dawkins
88 30th Street, Shapleigh*

Madge B. asked how the Planning Board Secretary normally responds to a letter such as this, what is the boards procedure? Roger A. stated that she does not respond. He said that normally when we receive correspondence it is brought up at the meeting. Madge stated, "Correct". Roger said that then the board reviews it to see if the person has some standing to be able to limit a project, or change what is allowed. He said the board can view it to see if any of the issues apply, and if so, the board can make conditions to the Conditional Use Permit, and either approve or deny it. Roger said if it is just the fact someone doesn't want it in their back yard, the board has to review it according to what the ordinance states. He said if an applicant meets all the criteria in the ordinance the board has to grant it, unless the board can prove there is an issue regarding the health, safety and welfare of the community. He said in that case the board can condition the permit. He said with respect to an abutters letter, it is taken under advisement but that is all.

Madge B. said part of the reason she asked is she felt the author probably hasn't checked the ordinance, so they are unaware that although the ordinance allows two-family it doesn't allow multi-family. She said that was one point that was good to clarify. Roger A. agreed. Steve F. stated that he didn't disagree and felt the flavor of the letter may have lent itself to properties that don't meet the lot criteria that this one does. He stated that this was a waterfront lot, but it is also close to a 4 acre lot. He said its not a tenth of an acre with 50 feet of frontage on the lake and road, whereby I wouldn't disagree with the author that allowing people to stack in, in a situation like that, is not something the board should be looking at. He believed this is why the ordinance reads as it does. Madge said that was a good point and said one of the reasons she was impressed by this application is the fact the owners are being very upfront about the fact that they want a two-family, whereas on much smaller lots that don't meet the requirements, people are much more apt to try to do it without being open about it.

Ann H. asked why if someone meets all the setbacks, even if they are in the Shoreland District, they meet the shoreland and road setbacks and are 100 feet away from the water, why have a Conditional Use Permit? Roger A. stated that when the Town changed the criteria for a two-family dwelling which at that time needed four acres of land and 300 feet of road frontage, and decided to allow a two-family dwelling on a two acre lot throughout town, the board decided to have it reviewed by the Planning Board if it was in the Shoreland District. He said this is how it was presented at Town Meeting and this is how it was approved. Roger stated that under §105-17, a two-family dwelling is allowed in the General Purpose

District through the Code Enforcement Office as long as they have a Growth Permit. He said if they are in the Shoreland District, they have to go through Planning Board review and get a Conditional Use Permit. Ann asked if they didn't have to meet the road frontage? Roger said that they still have to meet the road frontage, lake frontage, septic design and distance from the water. He stated that these are some of the criteria the board will be reviewing this evening. Roger noted that when the board decided to bring this forward, allowing a two-family dwelling on a two acre lot he was not in favor of it. Madge said she remembered that.

Roger A. said that as of today, a two-family dwelling is allowed in the Shoreland District as of that vote. He stated the dimensional requirements are 80,000 sf in the shoreland, 200 feet of road frontage minimum and 200 feet of shore frontage. He stated this lot meets all that criteria. He said the setback to the high water mark is 100 feet. He said this proposal is 118 feet from the high water mark, therefore, they meet all the criteria. He said based on this he had no issues with this application.

Abutter #1 – They are 100 feet back from the shoreline?

Roger A. – Yes, they are 118 feet.

Abutter #1 – OK, because I was told by the Code Enforcement Officer that if I wanted to rebuild a house on my property, I had to be 200 feet off the shore.

Ann H. – Who told you that?

Abutter #1 – The code enforcer.

Ann H. – That you had to be 200 feet away from the water to build?

Abutter #1 – Yes.

Roger A. – Shoreland setback in our ordinance is 100 feet in the Shoreland District.

Abutter #1 – And what are they going to do about septic systems? Are they going to have two septic systems for the two houses?

Roger A. – Yes.

CEO Demers – They can have one system designed for the two houses.

Ann H. – Right, it just has to be big enough.

CEO Demers – Correct.

Ann H. – That would be like a 2000 gallon tank.

CEO Demers – I think it will be a 1250 gallon tank and a disposal field to handle the number of bedrooms.

Ann H. – They have to have a septic design which I think they did.

Steve F. – They do have a septic design on file.

Abutter #1 – A thousand gallon tank is only good for a 1 family house with two bedrooms. Two bathrooms.

Abutter #2 – Is there a stream that would be impacted by their septic? There is a stream there, that has been impacted by the last few houses.

Mr. Ouellette – I have had the property surveyed and all the proper setbacks have been met. The septic design which I enclosed has 2 thousand gallon tanks.

Mrs. Ouellette – And the stream is not on our property. It actually runs between our property and the next door neighbors, and it is nowhere near where the septic is.

Abutter #2 – And the trees from the house to the lake, will they be impacted?

Mrs. Ouellette – No, because it is not allowed.

Abutter #2 – They are not going to be cut down?

Mr. Ouellette – The only trees that are affected are in the building zone. If you read the information that I was given by the CEO referencing any cutting in the shoreland zone, it states exactly how it has to be cut.

Abutter #2 – OK

Mrs. Ouellette – Even the front ones that have to be cut, we have two open channels, we are actually planning on replanting in the front, because we want to get a buffer for the dirt for when people go in and out. Because we live on 31st Street, we know the traffic. So, we are planning on moving some of the trees to be able to fill that back in.

Abutter #2 – Is it going to be a rental to family members?

Mrs. Ouellette – No, this is actually set up for my mother. My mother is actually living with us, she moved from Hawaii, my father passed away a year ago. And so she is moving in with us and we are trying to give her her own space, so she would be independent but also have us there for support. And for caring for her. That is the only reason this is going in this way, to give her her own private space is our home.

Abutter #2 – So it's one structure.

Mrs. Ouellette – Yes, it's one structure. It's not two buildings, but one, that we are separating so my mother can have privacy.

Abutter #2 – Is it multiple floors then?

Mrs. Ouellette – Yes, it is two. Two floors and a basement.

Abutter #2 – Is it like a big ranch with a part for your mother? Or is it up and down?

Mr. Ouellette – Both units have two floors and a basement.

Abutter #2 – Ok.

Abutter #2 – And how many square feet is it?

Mr. Ouellette – I can't tell you off the top of my head, I would have to calculate it.

Roger A. – We don't have any limitations on that in the ordinance as far as the size.

Abutter #2 – Ok. Will it be a preformed home? The home itself where the big trucks come in, where the house is half built and put together.

Mr. Ouellette – It's a stick built home.

Mrs. Ouellette – This is not a prefab house.

Abutter #2 – Do all you people live within 500 feet of this? (*Addressing those on Zoom.*)

Roger A. – The people on the screen, most are planning board members.

Abutter #1 – I live right across the road from them. I own the property across from them.

Abutter #2 – Are you going to have a dock and a boat?

Roger A. – The dock is actually regulated under the Maine Inland Fisheries and Wildlife, the Planning Board has no jurisdiction over docks. We don't have any jurisdiction inside the water.

Abutter #2 – The land has to be cleared for that. For a dock and for a boat.

Mr. Ouellette – There are actually paths down through there now.

Abutter #2 – I am glad you are a very positive person. (*She thanked everyone.*)

Mrs. Ouellette – Thank you for asking the questions.

Roger A. began the review of §105-42 'Multifamily dwelling units'.

- A. Two-family dwelling unit. A lot with one two-family unit shall meet all the dimensional requirements of a lot with a single-family dwelling unit, providing the lot and structure dimensions conform to ordinance standards in effect at the time the two-family dwelling unit is proposed.

The proposed two-family structure meets this criterion per the plans provided.

Roger A. noted that this refers back to the criteria under §105-17, where the lot is required to have 200 feet of road frontage, 200 feet on the shoreline, 80,000 sf for the size of the lot, which

they exceed all of the above. And being in the Shoreland District the setback from the high water mark of at least 100 feet is met as well.

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. **The structure sits back beyond the 100 foot mark, so existing shore cover shall be maintained.**
- 3) The use is consistent with the Comprehensive Plan. **The Comp Plan wants regulations in place to manage the environmental impact to the existing lakes in Shapleigh, and the existing regulations are met.**
- 4) Traffic access to the site is safe. **Roger A. stated it is as safe as it can be on a road around the lake. Driveway access is approved by the Road Commissioner.**
- 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. **A Subsurface Wastewater Disposal System for a three bedroom duplex, drafted by Mark A Truman, SE #121, dated 9/23/2020, was received and shall be installed prior to occupancy.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger A. stated this is no applicable.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger A. stated the stormwater will be addressed by the Code Enforcement Officer during the building permit process.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated erosion control measures will be put into place during the building process until it is completed and the area is revegetated. It will be overseen by the Code Enforcement Office.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger A. stated there is.**
- 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 will be no noise once the project is completed. There is no glare and fumes associated with the project. Trees will be removed as allowed per the ordinance only.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. stated they shall per the plans presented.**

There were no further questions, so Roger A. stated he would entertain a motion.

Maggie M. made the motion to approve the Conditional Use Permit to place a two-family home in the Shoreland District on Map 17, Lot 9A per the plans presented. Madge B. 2nd the motion. All members were in favor. By a vote of 5 – 0 , the motion passed unanimously.

Madge B. noted that it was a very nice piece of property.

Nothing more was discussed on this application.

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**The Findings of Facts**

1. The owner(s) of Shapleigh Tax Map 17, Lot 9A (30<sup>th</sup> Street), are Steven & Wendy Ouellette of 49 31<sup>st</sup> Street, Shapleigh Maine.
2. The property is located in the Shoreland District and according to the survey provided, the property contains 3.51 acres, excluding the .31 acre right-of-way.
3. The applicant is before the board for a Conditional Use Permit to place a 2-family dwelling on the property in the Shoreland District.
4. Provided was a boundary survey done by Corner Post Land Surveying, Inc., which depicted Lot 9A, showing that it consists of 3.51 acres – excluding right-of-way, it depicts the proposed location of the two family dwelling and the building envelope which keeps the structure beyond the 100 foot setback to the high water mark. The location of 30<sup>th</sup> Street is on the plan, along with direct abutters to the property and the location of Mousam Lake. There is also a notation on the plan that states .31 acres within the lot are a right-of-way.
5. Also provided was a copy of the Subsurface Wastewater Disposal System for a three bedroom duplex, drafted by Mark A Truman, SE #121, dated 9/23/2020.
6. The detailed description of the project is as follows: *A two family dwelling in the shoreland zone.*
7. The board reviewed §105-42 ‘Multifamily dwelling units’ and concluded this lot meets all the dimensional requirements for a 2-family structure.
8. 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.
9. A notice was mailed to all abutters within 500 feet of the property on October 15, 2020. Meetings were held on October 13, 2020 and October 27, 2020. *All meetings took place via Zoom due to Covid-19.*
10. The Planning Board unanimously agreed to approve the Conditional Use Permit to place a 2-family dwelling in the Shoreland District on Map 17, Lot 9A as it met all the criteria in the ordinance.

**Motion:**

After careful consideration and a review of all material presented to the Board, including the review of the Zoning Ordinance §105-42 ‘Multifamily dwelling units’, and §105-73, Section G, ‘Standards applicable to conditional uses’ a motion was made on Tuesday, October 27, 2020, to approve the Conditional Use Permit to allow a 2-family dwelling in the Shoreland District, to be located on Map 17, Lot 9A, as reviewed and per the plans provided.

Vote:

By a unanimous vote of 5 – 0, the motion to approve the Conditional Use Permit to allow a 2-family dwelling in the Shoreland District, to be located on Map 17, Lot 9A, as reviewed and per the plans provided, was accepted.

Decision:

**The Conditional Use Permit to allow a 2-family dwelling in the Shoreland District, to be located on Map 17, Lot 9A, as reviewed and per the plans provided, was approved.**

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Growth Permits

**Map 17, Lot 9A (30<sup>th</sup> Street) – New Home - Duplex**

**GP #26-20**

A Growth Permit was approved for the duplex on June 9, 2020, but only one growth permit was assigned to the structure, which should have had 2 permits assigned, due to the fact it is a two-family dwelling. Therefore, #26-20 was assigned this evening to clear up the inadvertent omission from June.

**Map 11, Lot 23H-4 (334 Gray Road**

**GP #27-20**

This is a lot of record which meets all the minimum criteria for a buildable lot. A copy of a Warranty Deed was presented, recorded at York County Registry of Deeds as Book 18244, Page 864, dated 5/14/2020, as proof of ownership.

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**The Planning Board meeting ended at 8:10 p.m.**

**NOTE: The winter hours are in effect as of November 1<sup>st</sup>; the meetings now begin at 6:30 p.m. and any scheduled public hearing begins at 6:00 p.m.**

**The next Planning Board meeting scheduled will be via Zoom on Tuesday November 10, 2020 at 6:30 p.m. See the Town website, [www.shapleigh.net](http://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](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](mailto:planningBoard@shapleigh.net) and the link to the meeting will be emailed to you, or you can find that link on [www.shapleigh.net](http://www.shapleigh.net) under Planning Board

The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> 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

Town of Shapleigh

[planningBoard@shapleigh.net](mailto:planningBoard@shapleigh.net)