

## Shapleigh Planning Board

### *Minutes*

**Tuesday, August 25, 2020**

This evenings meeting was conducted via Zoom due to Covid-19.

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

Note: Alternate Ann Harris was unable to attend.

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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.

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#### **Public Hearing began at 7:00 pm**

#### **Amendment to Dezan Subdivision – Adjust Lot Line on Lot 3-2 to Correct a Setback Issue with Neighbor’s Garage – Map 7, Lot 41 (Norton Ridge Road) – Lee Dezan, Applicant & Property Owner; Joseph Stanley MPLS #2453, Representing**

Mr. Stanley was present via Zoom to represent Mr. Dezan at the public hearing.

Roger A. asked Mr. Stanley to let the audience know why he was before the board. Mr. Stanley stated that to summarize, he was before the board to propose a slight revision to the subdivision Planning Board approval from last year on Owl’s Nest & Norton Ridge Road for Lee Dezan. He said, when they went to stake out the subdivision and place the pins for the subdivision, they realized there was a setback issue with one of the neighbor’s garages. He said because of this, they were looking to make a slight modification between Lot 3-2 and the lot to the north owned by David Bourque. He said basically this line modification would add a few angles to that property line that would allow Mr. Bourque’s garage to meet setbacks and alleviate further issues that could relate to a future sale of Mr. Bourque’s property or code enforcement issues. He said that otherwise nothing has changed from the original subdivision approval in 2019, they were just hoping to make the modification, set 2 new pins, and exchange deeds to create a more conforming boundary line between the two parties. He said nothing else would be changing, the road frontage remains the same, the size of the lots would be the exact same, they would be swapping 1,430 sq. ft of property between the two lots; so, they end up with the same lot size as they have now. He believed this was it, and said he would be happy to answer any questions.

Roger a. asked if there were any questions? There were none. Roger, therefore, closed the public hearing at 7:08 pm. Mr. Stanley thanked the board.

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**Roger A. asked if there were any changes to the minutes from August 11, 2020? There were none. The Planning Board minutes from Tuesday, August 11<sup>th</sup> were accepted by members as read.**

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

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#### **Conditional Use Permit – Relocate Driveway and Prevent Runoff – Map 5, Lot 12 (23<sup>rd</sup> St. Loop) – George Rankin, Applicant & Property Owner**

George Rankin was available via Zoom for the review of the application. *Note: Prior to this evenings meeting was a site inspection done by board members.*

Along with the application, provided was a sketch plan which depicted Map 5, Lot 12, and the location of 23<sup>rd</sup> Street Loop Road. The sketch also depicted the location of the existing entrance, proposed entrance, existing leach field, existing shed, and the delineation between the shoreland and general purpose district that bisects the lot. In addition, shown is an area where gravel will be removed to create a water retention area to help with the existing stormwater issues, as well as where an earth berm will be added to create a rain garden, also to mitigate stormwater runoff. Elevation notations on the plan show how elevations will be changed after the project is completed.

Also provided, was the Rain Garden Design. Included in the design was a graphic picture showing the location of a 23' long berm, where there will be plantings added, the location of the new driveway, and a crushed stone apron to filter sediment. The Rain Garden Design was described as follows:

- The rain garden will be trapezoidal shape approximately 18' long on the road edge, 30' feet long, and 12' on the far end with a depth of 8" in the center. It will sit in the depression of the old driveway/entrance to the woodlot. It will capture and filter ~1800 sq. ft. of runoff from the road and new driveway.
- A 23' berm will be located behind the rain garden on the road side to prevent overflow. Two stone aprons will also be located on the right-hand side of the rain garden to help filter large amounts of sediments that may wash in from the road and driveway.
- Plants that can tolerate wet soils will be planted in the center of the rain garden. The sides and top of the rain garden will be planted with those that like drier soils with occasional flooding. Soils at the site are well-drained, sandy, and acidic. Plants will be chosen that favor partial sun to shade.

Plants were also listed for the Rain Garden. For the center: Summersweet; Marsh marigold; Lady fern, and Rhodora. For the sides: Highbush blueberry; Cinnamon fern; Sheep laurel; Columbine, Purple coneflower; and Common witch hazel. For the Top: Bush honeysuckle; Sweet fern; Bearberry, and Lupine.

The detailed description of the project was written as follows: *Relocate driveway to prevent runoff and remove gravel to provide water retention area. Proposed work to be done by Jeff Goodwin.*

Roger A. asked Mr. Rankin to let the board and anyone attending know what he wanted to do. Mr. Rankin began by stating that his proposal was on a lot he owned across the street from his home on 23<sup>rd</sup> Street, which is a wood lot, which also has their wood shed on it, that he accesses frequently. He said in order to enter the property currently, you use the existing driveway, where you have to go uphill about three feet in elevation before it starts to level off. He said that unfortunately, when it rains, the rain comes down the driveway and then onto the east side of 23<sup>rd</sup> Street, gets down to where 23<sup>rd</sup> Street levels off, then crosses the road and goes onto the Cavanaugh property, his neighbor, and from there it runs straight into Mousam

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Lake. He noted that it caused erosion on the Cavanaugh property, therefore, they are trying to reconstruct their property, and he felt by correcting his water issue it would also help them and save them some work. He stated that he has tried to come up with different ways to deal with the stormwater, and the only way he believed would work would be to plug up the existing driveway, move the new entrance uphill, so when you enter the property you will be going down a slight grade rather than going up a slight grade. He said that he worked with York County Soils and came up with a rain garden next to the street, removing dirt to make a downhill slope and create a berm between the road and the lot, as well as create a rain garden. He will also create a retention pond, to contain a heavier rain. He said unfortunately, he has heard some controversy about taking trees down, but it has to be done. He noted the property had been in his family for 102 years, and its never been cut, so many of the trees are hollow hearted and have no value. He stated that the section where the driveway is going to be, he took the time this summer to dig out the small vegetation, and he transplanted roughly 30 trees in an elevated section of the property, so when the project is done, they will be reseeded back to where they came from. Mr. Rankin stated he would be happy to answer any questions.

Roger A. stated that the board did receive a letter from an abutter, it read as follows:

Dear Mr. Allaire,

I am writing in response to the letter received regarding a Conditional Permit for earth moving in the shore land district within 500 feet of our property. The property being discussed is Shapleigh Tax Map 5, Lot 12 (23rd street loop), George Rankin, Property

Owner.

We were hoping to receive some additional information and insight prior to the Zoom meeting being held on 8/25/20. The notice indicates that the applicant is looking for a permit to relocate his driveway. We unfortunately only spend the summer at our Maine property and therefore are a little blindsided with the request. Can you provide us with a clear understanding of what is attempting to be done? Logistically, it is hard for us to visualize the relocation of a driveway and how it would only minimally affect everything we love about our lake front property.

In addition to further information so we can be prepared to join the meeting with a better understanding of the property owners request, I kindly ask that the planning board takes into consideration the love that our family has for our property and the legacy that it offers. Our family purchased this property in 1951 and it has continued and will continue to be passed down for generations with little to no changes. When my Grandmother's parents bought this property, they fell in love with all that it had to offer. This includes the dirt roads and pine trees. You can literally smell Maine when you turn onto 23rd street loop, if the sap on the cars isn't telling enough!

With this being said, it would be extremely unfortunate with all the other changes in the world, for a place we call home and our love for nature to be disrupted. Part of our family tradition is to play family horseshoes in our dirt "driveway." We cannot imagine doing this nightly while staring directly at a driveway on the top of ours rather than the pine trees that make Maine, Maine. Given the location of our property, moving forward with this permit would leave us no choice. I am hopeful that further information will guide our thoughts in a clearer direction, but in order for this relocation to happen, multiple trees would have to come down. Aside from our family's love for nature and our Shapleigh property, I imagine this would disturb much of our regular wildlife.

I look forward to hearing from you,

Thank you for your time,

1 Waters Edge

Roger A stated the board would place the letter in the file. He said the board would go through their permitting process, and if the application meets the criteria in the Zoning Ordinance, it must be approved. He noted a permit cannot be denied because someone doesn't like what the project is.

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Roger A. asked if there were any questions or comments?

Abutter Courtney Zando – Ms. Zando began by thanking the board for reading the letter they emailed in. She apologized, but asked that the owner of the property brief them on the objective; how it was helping him; any negative effects on the surrounding properties, since they are below the driveway; and if there is, how will the problem be fixed?

Roger A. stated that in the information provided to the board, as well as the site inspection, the board is aware of how the land is, the existing water runoff and how it moves. He added that York County Soils and Water are involved with the project and they have designed a Rain Garden to be built to help retain the water on site. (Note: If you want more information about York County Soils & Water Conservation District, their website is: <https://www.yorkswcd.org>) Roger stated that one of the conditions in the ordinance is to keep water on site as best possible. Roger added that he believed the Planning Board Secretary sent the Zando family a copy of the information provided to the board by Mr. Rankin.

Abutter Zando (the first name was not provided) – Ms. Zando stated that several family members joined the onsite meeting the board had this evening. She said not all family members could attend, and she wasn't sure if there was a presentation, but wanted to know if the board would be going through it at this meeting? Ms. Zando wanted to clarify the agenda, with respect to the disruption of the rain that the property owners are saying vs is it going to be a driveway, where we will see parked vehicles up there. She believed there was confusion on what the main focus and purpose was for taking down the trees and adding the additional driveway, which she believed was on top of her property. She asked who would be responsible for the upkeep of the rain garden, and she assumed it would have to be nature friendly, but she wanted to know what they could expect to be seeing? She wanted to know if there would be a car parked up there or is it just for this rain traffic flow. She asked if the applicant could touch on that?

Roger A. stated that this was not an additional driveway, there will be just one driveway because the existing driveway will be removed. He said where the existing driveway is, that will be the rain garden and the Rankin's will be responsible for the rain garden upkeep because it is on their property.

Abutter Zando – Ms. Zando asked Mr. and Mrs. Rankin if they were talking about the empty space, that when they are looking from their property onto the street, there is an empty space, will that be the new driveway, not near their house?

Mr. Rankin stated they would not see the new driveway, whereas, at this time they are looking at the existing driveway, where the water runs down it and then down the side of the road. He stated the new driveway was going 30 feet up hill. He said that was the only change. He added that if he wanted to park a vehicle on his property, he would park one. He stated that this project had no advantage to him. He said that he goes across the street and stores wood in his woodshed. He stated with the new driveway he will have to walk further up the hill to enter the property, so he is gaining nothing from this project, other than trying to keep the lake cleaner. He thought if everyone in the area would do the same, the area would be in a lot better shape.

Abutter Zando – Ms. Zando asked if anyone at Water's Edge could confirm if they had a water issue? She said they have not seen this happen (referring to the existing water problem being addressed). She stated that they do have a water drainage issue, and if this project isn't being done for the purpose of a

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driveway but for a water flow issue, then she didn't want to see cars over there. She asked if this was for a water flow issue or to park cars?

Mrs. Rankin stated that it was their land and they could do what they wanted with it. She stated that if they want to park a car, they will park a car. Mr. Rankin also did not know where they were coming from trying to tell them what they could do with their property, where he had issues with their parking numerous vehicles on a small lot, but did not say anything.

Roger A. redirected the conversation back to the application.

Abutter Zando – Ms. Zando stated that if they are going to be cutting down trees for water flow, she wanted to be sure that was the main and sole purpose. She said that earlier in a conversation she was led to believe that maybe it was for convenience to move the driveway. She said she wanted to be sure they were taking down trees and doing this for the correct reason.

Roger A. stated that based on the site inspection this evening, there is a lot of water coming down the road and onto the Zando property, where it comes from the top of the hill. He stated that that water was not coming from the Rankins property. He said the water that is coming from the Rankins property, is coming onto 23<sup>rd</sup> Street and further down the road. He said this application is to try to keep it on the Rankin property.

Abutter Zando – Ms. Zando asked if they should expect to have less water coming down their driveway as well?

Roger A. stated, "Not at all. This project will not affect any of the water going down your driveway." Ms. Zando stated, "So we will still have the same amount of water coming down our driveway." Roger A. stated, "I would presume, yes".

Abutter Zando – Ms. Zando asked if there could be a small detail in the planning that if we move forward with this that it can also prevent the water from going down to the three other cabins, the driveway that is right below the Rankins property?

Roger A. stated that this was not part of this project, and that isn't property that Mr. Rankins owns. He stated that if they have a water issue, they would have to work with someone to see about resolving it on their own and not require a third party to pay for it.

Abutter Courtney Zando? – Ms. Zando stated, "That's fine we don't have a water issue."

Abutter Zando – Ms. Zando stated that they assumed if they were working on it that it would benefit everyone to some extent, but she said it was not a real concern. She was just wondering if they would benefit from it in any way.

Roger A. did not believe they would benefit at all from it. Ms. Zando thanked him for clarifying.

Steve F. stated that the board would be happy to look at any type of application, and if they wanted to address their water issues, the board would be happy to work with them. Abutter Zando stated that it was

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not a main issue. She said they have puddles in the driveway because they were right at the bottom of the hill and were hopeful if this went through it would benefit them. She said that their driveway was beside the Rankins, and if it was affecting their driveway, then it was hitting theirs too. She thought there might be a way that it can be slanted to benefit both.

Roger A. stated that he did not believe that any of the water being mitigated at this time, is going onto the Rankin's house property, it goes further down the road. He said it goes further down the hill before it crosses the road. Ms. Zando said, thank you.

Abutter Zando – Ms. Zando stated that in the plan that was described with trees coming down, is there any alternative to take down less trees, or is this the only option.

Roger A. stated the trees will be taken down and new ones will be planted. Ms. Zando asked if they could expect trees to be planted? Roger stated, "Yes". She asked if that would be done within this project? Roger stated, "Yes". Roger said that as Mr. Rankin stated earlier, he already has a lot of trees transplanted, and once the project is completed, he is going to transplant these trees alongside this project. Ms. Zando hoped this would fill in the area somewhat.

Abutter Zando – Ms. Zando stated that they were done with questions, she asked how this proceeds?

Roger A. stated the Planning Board would review the ordinance to see if the application meets the criteria, and if it does, the application will be voted on and granted.

Roger A. asked if there was any additional questions or comments? There was none.

Roger A. began the review of §105-39 'Earth removal and filling for activities other than mineral exploration and extraction.', as follows:

- A. General. The following provisions shall apply to filling, grading, Lagooning, dredging, excavation, processing and storage of soil, earth, loam, sand, gravel, rock and other mineral deposits. Filling, grading, Lagooning, dredging and other earthmoving activity which would result in erosion, sedimentation or impairment of water quality, of fish and aquatic life are prohibited. ***The permit is before the board due to excavation & filling in the Shoreland District.***
- D. Earthmoving in Shoreland District. Any filling, dredging or excavation of land above or below the normal high watermark, except earthmoving of less than 10 cubic yards which shall require a permit from the CEO (except as provided above) to ensure proper erosion and sedimentation, shall require a conditional use permit from the Planning Board. ***Roger A. stated that is why they are before the board today. Madge B. asked if project was less than 250 feet from the water? Roger stated that it was, the project is in the Shoreland District.***
- (1) When an excavation contractor will perform an activity that requires or results in more than one cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the MDEP.... ***The Road Commissioner is doing the work and is certified by the MDEP.***

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- F. Application for permit. Application for a permit from the Planning Board for excavation, processing and storage of soil, loam, gravel, rock and other mineral deposits shall be accompanied by a plan which shall show:
  - (1) The name and current address of the property owner. ***This information is on the application.***
  - (2) The location and the boundaries of the lot or lots for which the permit is requested. ***A sketch plan was provided for the lot the work is being conducted on.***
  - (3) The location of all proposed access roads and temporary structures, and the site distances from all entrances and exits. ***The sketch plan depicts the location of the road, and entrances both existing and proposed. There are no temporary structures.***
  - (4) The proposed provisions for drainage and erosion control, including drainage calculations. ***Erosion control measures were placed on the sketch plan, as well as the plan for the rain garden created by York County Soils & Water Conservation District.***

- (5) Other information necessary to indicate the physical characteristics of the proposed operation, including existing topography and the proposed horizontal and vertical limits of the excavation or filling and proposed reclamation measures (grading, loaming, seeding, mulching, planting, etc.) ***The sketch plan depicted the change in grade proposed to mitigate stormwater, and a reclamation plan was provided by York County Soils, as well as the applicant both at the site inspection and during Planning Board review.***
- 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. ***A project completion date shall be set as a condition of the permit.***
  - (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. ***The project completion date which includes plantings shall be set as a condition of approval.***
  - (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used. ***A plan was provided for a rain garden and settling area for stormwater, as well as a berm for stormwater and sediment.***
  - (4) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board. ***No Lagooning to be done with this project.***
  - (5) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used. The plan addresses what fill which will be used, which will come from on site. ***Fill to be used will come from on site and was addressed in the application. Fill will be moved from where the trees are going to be cut, and moved to where the existing driveway is.***
  - (6) Fill shall not restrict a floodway, channel or natural drainage way. ***It shall not.***

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- (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications. ***York County Soil and Water was involved with this project and created a water mitigation plan that meets their specifications.***
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out. ***Trees will be replaced once the project is completed, and there is was a vegetation plan presented for the rain garden.***
- (9) (Reserved)
- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal. ***This is not applicable, there will be no standing water or excessive slopes.***
- (11) No excavation shall be extended below the grade of an adjacent street, except for drainage ways, unless 100 feet from the street line. No excavation below the grade of the surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a side or rear lot line if no excavation below the grade of abutter's properties occurs. ***There is no excavation being done below the grade of an abutting property or adjacent street.***

- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions. ***The driveway shall be left in a gravel state, and a revegetation plan has been provided.***
- (13) No existing rock, gravel or sandpit will be extended or expanded until the operator has complied with the provisions of this chapter and obtained a permit therefore. ***This is not applicable to this project. Any changes to a Conditional Permit approval must come back before the board as an amendment.***
- H. Optional conditions of permit.
- (1) Methods of removal or processing. ***There is no removal or processing for this permit. Existing soil is being relocated on site per the plan.***
  - (2) Days and hours of operation. ***The project is a short duration project, not to exceed a weeks' time frame.***
  - (3) Type and location of temporary structures. ***There are no temporary structures.***
  - (4) Routes for transporting material. ***This is not applicable for this project.***
  - (5) Area and depth of excavation. ***The area and depth are noted on the sketch plan.***
  - (6) Provision of temporary or permanent drainage. ***All stormwater is proposed to remain on site with the use of the rain garden, and berm created.***
  - (7) Disposition of stumps, brush and boulders. ***No tree stumps or brush shall be taken to the Transfer Station.***
  - (8) Clearing, repair and/or resurfacing of streets used in removal activity which has been adversely affected by said activity. ***This is not applicable.***
  - (9) The need for written approval of soil and erosion and sedimentation plan by a State of Maine licensed civil engineer selected by the applicant for the Planning Board. ***The board***

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***accepts the soil and erosion control plan provided by York County Soils and Water Conservation District.***

Roger A. asked board members if they had any additional questions?

Steve F. asked who the contractor was that would be doing the work? Roger A. stated it would be Road Commissioner Jeff Goodwin. Steve stated that he knew this section of road was not maintained by the Town, but do they need a driveway entrance permit to relocate? Roger said yes, and that would be done by RC Goodwin. Steve stated, "Ok". Roger said that RC Goodwin would be taking care of moving the existing location to the new location. Madge B. believed RC Goodwin was certified to work in the Shoreland District and she mentioned again that the project was within 250 from the high-water mark. Roger stated that where the project is located was in the Shoreland District.

Roland L. stated he would like to make a comment for board members and the abutters. He stated, "Many months ago, Mr. Rankin put this presentation to the Mousam Lake Improvement Committee, which he is a member of and which I have sat on in the past. There was a great deal of thought given to this project and in particular in regards to the impact that any unwanted runoff has, in this case, on Mousam Lake. And I can understand why the abutters have a strong feeling about natural habitat, trees and what-have-you, but in my opinion having sat in on the original presentation that he made to the Mousam Lake Improvement Committee and the overwhelming approval that he got from them because of the impact on the lake; and then what I saw today at the site visit, and understanding the mitigation actions that this project is going to have, I do believe it is in everyone's and in particular Mousam Lakes best interest, that this project goes ahead. That is my perspective." Roger A. thanked Roland.

Abutter Zando – Ms. Zando stated she appreciated this as well because she was not there to see the presentation, so hearing someone else's point of view if helpful. She said with that being said, she had a question, with the priority being the lake. She said when they were talking about discussing disrupting the earth and the soil, she said she wondered would driving vehicles on that, be a complication of that. She said again that the main focus is keeping things in focus to help with the rain.

Roland L. stated, “Again speaking from my observations, looking at the plan, visiting the site, knowing the individual who is going to be conducting the work, I feel very confident that that isn’t going to be a problem. The whole idea of the plan is to keep any runoff on the site. So, I don’t see that being an issue. In fact, if anything, it’s going to improve the situation. The runoff on the abutter’s property, possibly yours, is being created by a whole separate issue. If you look at the crown of the road, as we did during the site visit, that’s something that several abutters are going to have to address. This is a separate issue that Mr. Rankin is looking to control, and he can do that because it is on his property. The issue that is affecting the other folks, it’s a public right-of-way, and that’s a whole other discussion that you folks will have to have, as a group, to collectively decide how you are going to address that. And I hope that you do, because there is no doubt in my mind that the runoff there is negatively affecting Mousam Lake, albeit small but accumulative. And it will only get worse over time.”

Madge B. had a question under §105-51.3, ‘Revegetation requirements’. She said because he is going to remove five trees, does he have to replace those with 6-foot trees? Roger A. stated that you have to look at §105-51.2 ‘Exemptions to clearing and vegetation removal requirements’. Madge stated, “Then 51.3 does not apply”? Roger said, “Right”. Madge stated, “Fine”.

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Steve F. stated that it appeared that Mr. Rankin’s entire project is outside of the 100-foot mark from the high water. Madge B. agreed. He said that it was his understanding that this replant is strictly because of what York County Soils put together, not because he is required to replace these trees. Steve stated he could take up to 40% of the trees if he wanted to, outside of the 100-foot mark. He said again, that the replant plant was trying to do things the way York County Soils had put forth. Roger A. stated that Steve was totally correct. Roger said that Mr. and Mrs. Rankin are trying to re-establish some trees in that area for their own personal wellbeing, vs being a requirement. Roger said it was great that they want to replace the trees they are removing.

### **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 help protect fish and aquatic life by protecting the lake.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Roger A. stated this is not applicable, this lot is not on the water.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger A. stated it is, the Comp Plan wants to protect the lakes.***
- 4) Traffic access to the site is safe. ***Roger A. stated it is safe for the intended project.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger A. stated this project is not in a flood zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Roger A. stated this is not applicable, none is being generated.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***Roger A. stated that this is not applicable, 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 a stormwater management plan was created by York County Soils and Water District to help mitigate the impact to the area.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger A. stated an erosion and sedimentation control plan was created by York County Soils and Water District. Roger added that the person doing the work will be licensed by the MDEP in erosion control practices.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger A. stated this is not applicable for this project.***



- 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 to the existing landscape, revegetation including trees are proposed in the plan, the project is short in duration, so any noise generated will be minimal.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger A. stated they shall with conditions.***

Roger A. asked Mr. Rankin when he anticipated this being completed? Mr. Rankin stated that they signed a contract with York County Soils that the project would be completed by November 1<sup>st</sup>, 2020. Mr.

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Rankin stated that he was told he could get an extension, but he told them he would rather not because he wanted it done as soon as possible.

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

**The project, the relocation of the existing driveway, creation of the rain garden and revegetation on Map 5, Lot 12, shall be completed by December 1, 2020.**

**There must be a person certified by the DEP in erosion control practices on site during the project. The certification number must be given to the Code Enforcement Officer.**

Roger A. asked if the board members had any other conditions? There were none.

**Roland L. made the motion to vote for approval to relocate the driveway per the plans provided, with the two stated conditions. Madge B. 2<sup>nd</sup> the motion. All members were in favor. By vote of 5 – 0, the motion passed unanimously.**

Nothing further was discussed.

### **The Findings of Facts**

1. The owner and applicant of Shapleigh Tax Map 5, Lot 12 (23<sup>rd</sup> Street Loop) is George Rankin, mailing address of P.O. Box 56, Shapleigh, Maine 04076.
2. The property known as Shapleigh Tax Map 5, Lot 12, is located both in the Shoreland District and General Purpose District, and according to the assessor the property contains 16.29 acres.
3. The application description reads as follows: *Relocate driveway to prevent runoff and remove gravel to provide water retention area. Proposed work to be done by Jeff Goodwin.*
4. Provided was a sketch plan which depicted Map 5, Lot 12, in relation to 23<sup>rd</sup> Street Loop Road. The sketch also depicted the location of the existing entrance, proposed entrance, existing leach field, existing shed, and the delineation between the shoreland and general purpose district that bisects the lot. In addition, shown is an area where gravel will be removed to create a water retention area to help with the existing stormwater issues, as well as where an earth berm will be added to create a rain garden, also to mitigate stormwater runoff. Elevation notations on the plan show how elevations will be changed after the project is completed.
5. Provided was the Rain Garden Design. Included in the design was a graphic picture showing the location of a 23' long berm, where there will be plantings added, the location of the new driveway, and a crushed stone apron to filter sediment. The Rain Garden Design was described as follows:
  - The rain garden will be trapezoidal shape approximately 18' long on the road edge, 30' feet long, and 12' on the far end with a depth of 8" in the center. It will sit in the depression of the old driveway/entrance to the woodlot. It will capture and filter ~1800 sq. ft. of runoff from the road and new driveway.

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- A 23' berm will be located behind the rain garden on the road side to prevent overflow. Two stone aprons will also be located on the right-hand side of the rain garden to help filter large amounts of

sediments that may wash in from the road and driveway.

- Plants that can tolerate wet soils will be planted in the center of the rain garden. The sides and top of the rain garden will be planted with those that like drier soils with occasional flooding. Soils at the site are well-drained, sandy, and acidic. Plants will be chosen that favor partial sun to shade.
6. Provided was a plant list for the Rain Garden. For the center: Summersweet; Marsh marigold; Lady fern, and Rhodora. For the sides: Highbush blueberry; Cinnamon fern; Sheep laurel; Columbine, Purple coneflower; and Common witch hazel. For the Top: Bush honeysuckle; Sweet fern; Bearberry, and Lupine.
  7. 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.
  8. A notice was mailed to all abutters within 500 feet of the property on August 12, 2020. Meetings were held on Tuesday, August 11, 2020, and Tuesday, August 25, 2020 via Zoom due to Covid-19. A site inspection was done by members on Tuesday, August 25, 2020 prior to the meeting.
  9. The Planning Board unanimously agreed to approve the Conditional Use Permit to relocate the existing driveway and remove gravel to create a water detention area, per the plans provided, on property known as Tax Map 5, Lot 12, with conditions.
  10. **The conditions of approval are:**

**The project, the relocation of the existing driveway, creation of the rain garden and revegetation on Map 5, Lot 12, shall be completed by December 1, 2020.**

**There must be a person certified by the DEP in erosion control practices on site during the project. The certification number must be given to the Code Enforcement Officer.**

**Decision:**

**The Conditional Use Permit to relocate the existing driveway and create a water retention area, per the information provided and as discussed during the project reviews, on property known as Tax Map 5, Lot 12 with two conditions, was approved.**

**Amendment to the Subdivision Known as Dezan Subdivision – Adjust Lot Line on subdivision plan Lot 3-2 to Correct a Setback Issue with neighbor’s Garage – Map 7, Lot 41 (Norton Ridge Road & Owls Nest Road) – Lee Dezan, Property Owner & Applicant; Joseph Stanley, Representative**

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

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

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**Dezan Subdivision**

Property

Owner & Lee F. Dezan

Applicant: 35 Norton Ridge Road

Shapleigh, Maine 04076

Surveyor: Joseph Stanley , PLS #2453

455 Main Street

Springvale, ME 04083 jstanley@lineprosurveying.com

**Land Information**

Location: YCRD Book 11543, Page 57-59

Recorded April 16, 2002

Tax Map 7, Lot 41

Subdivision Plan Book 402, Page 22

Zoning: General Purpose

No part of the property lies within 250 feet of the high-water mark of a pond or river.

Acreage to

be Developed: 11.24 Acres as Shown on the Plan (10.79 acres noted in the deed)

No Current Deed Restrictions, Easements, or other Encumbrances.

Part of the parcel does include a waterbody, Norton Brook, which is noted on the plan.

The property is not within a special flood hazard area as identified by the Federal Emergency Management Agency.

### **General Information**

No. of Lots: 4 in the amended Dezan Subdivision, a total of 6 on Lot 41 (two previous divisions on Lot 3)

This development currently has a road.

Water Supply: Individual Wells

Sewage Disposal: Individual Septic Tanks

Fire Protection : Nearby Hydrant & Fire Department

Provided was a copy of the Warranty Deed for Lot 3 or Map 7, Lot 41, recorded at YCRD on 2/16/2002, Book 11543, Pages 57 - 59. (This deed was associated with the original Dezan Subdivision, drafted by Brad Lodge MPLS #2057 of Middle Branch Land Surveying, for 3 lots divided from Lot 41, approved by the Shapleigh Planning Board on 2/26/2002 and recorded at the YCRD as Plan Book 268, Page 7.)

Provided was a copy of the second division of the Dezan Subdivision, drafted by Joseph Stanley MPLS #2453, of LinePro Land Surveying, LLC, creating a total of 6 lots from the parent lot, plan dated approved on 6/11/2019, recorded at the YCRD as Book 402, Page 22 on 6/17/2019.

Provided was a preliminary plan for the lot line adjustment to Plan Lot 3-2 of the Dezan Subdivision, plan entitled 'Revision to Plan Showing Division of Lot #3, Dezan Subdivision, Revising Plan Book 402, Page 22, Shapleigh Tax Map 7 Lot 41, Owned by Lee F. Dezan, 35 Norton Ridge Road, Shapleigh, Maine 04076 of Property Located on Norton Ridge Road & Owls Nest Road in Shapleigh, Maine', plan dated revised July 27, 2020, drafted by Joseph Stanley, MPLS #2453. The plan depicts a lot line adjustment on the property line between Plan Lot 3-2 and Map 7, Lot 41A, owned by David Bourque of 25 Norton Ridge Road, Shapleigh, Maine. The adjustment affects 1430.4 sq. ft, but does not change the total square feet of either lot involved.

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The project description is as follows: *The application contained herein is simply to revise one Boundary Line on the Subdivision Plan which was approved last year for Lee Dezan on Owls Nest Road. The purpose of this revision is to correct a potential setback issue for a garage situated on a neighboring*

*property. No other changes are proposed, and all other conditions and waivers per the previous approval will be adhered to.*

Provided this evening was a final plan for the lot line adjustment, drafted by Joseph Stanley, MPLS #2453, dated August 25, 2020. The final plan, entitled the same as the preliminary plan, depicts the same information as the preliminary plan, as the board required no changes from the preliminary review.

Roger A. stated that either Mr. Stanley or Mr. Dezan were welcome to speak about the application.

Mr. Stanley stated that to summarize, his client is Mr. Dezan and he is Joe Stanley from LinePro Land Surveying. He said they were looking to slightly modify the subdivision, which the Planning Board approved about this time last year. He said they wanted to modify the northerly boundary line of subdivision plan Lot

3-2, and the goal is to help the neighbor address a potential setback issue with an existing garage. He said the end result would be that the subdivision would remain the same other than adding two slight jogs on that one property line. He said the road frontage and lot sizes would remain the same. He said all other conditions and facts of the previous approval would remain in place. He said they only wanted to modify the one boundary line to help things out.

Roger A. did not see any issues. He asked if any of the board members had an issue. There were none. Roger said there were no abutters that had questions regarding the project. He said because of this, he asked for a motion to change the lot line and get the new plan recorded.

**Madge B. moved for approval for the change in the lot line for Lot 3-2 as proposed on the plan presented, with no other changes to the approval. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.**

Roger A. stated he would sign the plan this evening, and he asked members to come in when they could, to sign as well. The plan will be kept with Barbara F. until all signatures are obtained.

Nothing else was discussed.

### FINDINGS OF FACT

1. The owners of the property are Lee F. & Gail M. Dezan, of 35 Norton Ridge Road, Shapleigh, Maine 04076.
2. The subdivision is located at Shapleigh Tax Map 7, Lot 41 (Norton Ridge Road), and is in the General Purpose District.
3. The applicant is Lee Dezan, and has demonstrated a legal interest in the property by Title Reference of Deed Book 11543, Page 057-059, registered at the York County Registry of Deeds on 2/16/2002.
4. The applicant proposes to revise one boundary line between Subdivision Plan Lot 3-2 and property known as Map 7, Lot 41A, currently owned by David Bourque of 25 Norton Ridge Road, Shapleigh,

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Maine. This revision is to correct a potential setback issue for a garage situation on Map 7, Lot 41A. No other changes are proposed, and all conditions and waivers per the previous approval will remain.

5. Provided was a copy of the Warranty Deed for Lot 3 or Map 7, Lot 41, recorded at YCRD on 2/16/2002, Book 11543, Pages 57 - 59. (This deed was associated with the original Dezan Subdivision, drafted by Brad Lodge MPLS #2057 of Middle Branch Land Surveying, for 3 lots divided from Lot 41, approved by the Shapleigh Planning Board on 2/26/2002 and recorded at the YCRD as Plan Book 268, Page 7.)
6. Provided was a copy of the second division of the Dezan Subdivision, drafted by Joseph Stanley MPLS #2453, of LinePro Land Surveying, LLC, creating a total of 6 lots from the parent lot, plan dated approved on 6/11/2019, recorded at the YCRD as Book 402, Page 22 on 6/17/2019.
7. Provided was a preliminary plan for the lot line adjustment to Plan Lot 3-2 of the Dezan Subdivision, plan entitled 'Revision to Plan Showing Division of Lot #3, Dezan Subdivision, Revising Plan Book 402, Page 22, Shapleigh Tax Map 7 Lot 41, Owned by Lee F. Dezan, 35 Norton Ridge Road, Shapleigh, Maine 04076 of Property Located on Norton Ridge Road & Owls Nest Road in Shapleigh, Maine', plan dated revised July 27, 2020, drafted by Joseph Stanley, MPLS #2453. The plan depicts a lot line adjustment to the property line between Plan Lot 3-2 and Map 7, Lot 41A, owned by David Bourque of 25 Norton Ridge Road, Shapleigh, Maine. The adjustment affects 1430.4 sq. ft, but does not change the total square feet of either lot involved.
8. Provided was a final plan for the lot line adjustment, drafted by Joseph Stanley, MPLS #2453, dated August 25, 2020. The final plan, entitled the same as the preliminary plan, depicts the same information as the preliminary plan, as the board required no changes from the preliminary review.
9. The project description is as follows: *The application contained herein is simply to revise one Boundary Line on the Subdivision Plan which was approved last year for Lee Dezan on Owls Nest Road. The purpose of this revision is to correct a potential setback issue for a garage situated on a neighboring property. No other changes are proposed, and all other conditions and waivers per the previous approval will be adhered to.*

10. A notice to abutters was mailed on August 13, 2020. Meetings were held on August 11, 2020 and August 25, 2020, and a Public Hearing was held on August 25, 2020. Meetings were held via Zoom due to Covid-19.

### **WAIVERS REQUESTED AND ‘APPROVED’ ON JUNE 6, 2019**

The Applicant requested that the Board waive the requirement for Article **89-29.A** – Utilities; Article **89-30.A** – Stone Monuments; Article **89-30.B(2)(c)** – Fire Pond / Dry Hydrants; **Article 30.D** – Surface Drainage; Article **89-36.M** – Sidewalks; Article XI, **Sections 89-36, 37, 39, 40 & 41** – Street and Storm Drainage Design and Construction Standards.

### **Conclusion(s)**

Upon review of all material presented, the Board concluded the standards of the Town’s Subdivision Ordinance have been met.

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### **Planning Board ACTION**

The Planning Board hereby approves the amendment to the Dezan Subdivision, for the lot line adjustment between Plan Lot 3-2 and Map 7, Lot 41A per the plans provided, with all existing conditions to remain in place, they are as follows:

1. Pursuant to Subdivision of Land, Chapter 89, §89-30 ‘Required improvements’, proof shall be provided to the Planning Board by the surveyor that all the pins have been placed for the new lots, prior to the sale of any lots.
2. No additional fire suppression is required for two additional structures. The addition of a third structure shall require approval from the Shapleigh Fire Chief and Planning Board for additional fire protection measures.
3. Any subdivision not recorded at the York County Registry of Deeds *within ninety days* of the date upon which the plan is approved and signed by the Planning Board shall become null and void, unless an extension is granted by the Board in writing.
4. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given, unless the revised final plan is first submitted to the Planning Board and the Board approves any modifications.

### **Conditional Use Permit – Earth Moving to Replace Stairs and Walls – Map 32, Lot 30 (110 Dogwood Drive) – Allan Krans, Applicant & Property Owner**

Mr. Krans was present via Zoom to discuss his application. *Note: Prior to this evenings meeting was a site inspection attended by board members.*

Provided in addition to the application, was a detailed description of the project which read as follows:

This application substantially duplicates the application of previous owners of 110 Dogwood (Mark Rautenberg and Terri Ball) approved by the Planning Board on or about September 27, 2017. The previous owners were not able to execute on their plans in time to meet the deadline approved by the Planning Board. The current applicant purchased the property in March 2019.

The scope of the work includes the relocation of wooden steps on the northerly side of the property running from the house area to near the edge of Square Pond in order to prevent water runoff and contaminants from entering the pond. The steps will be replaced with stone pavers and railing; the location of the steps will be in the middle of the property to improve water drainage.

In addition, 3 wooden retaining walls will be removed and replaced with 2 stone retaining walls approximately 80 feet in length each. Top retaining wall will have a railing.

Also provided was a revegetation plan which stated that the vegetation consistent with the existing conditions will be replaced if disturbed by the project. The existing vegetation consists of perennial plantings along the

retaining wall located nearest to the water. It is not anticipated that existing plantings at the water's edge will be disturbed. In addition, new additional vegetation will be planted along the retaining walls and stairs.

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A copy of the Permit by Rule applied for was provided, which had a project description which stated 'Fix retaining walls & stairs from house to waterfront'. The permit was dated 7/22/2020, but there was no approval date at this time.

A sketch plan was provided which depicted the existing house, deck, leach field, shed, well location and the location of the proposed walls & stairs. The 'pond' and 'Dogwood Drive' were also noted on the plan, along with the side lot line distances of 142' and 209', and the lot line along Dogwood Drive was noted as 90'.

A copy of the Mortgage Lender deed reference plan, dated 12/23/2002, was provided which depicted existing conditions as of that date. The plan showed the existing survey pins, a proposed conveyance of 700 square feet, structures which include the house, deck, walls, stairs and dock. The plan certifies the building predates zoning and that it does not fall within a flood hazard zone.

Pictures of the existing structure(s) were provided, taken from the property assessment record for the Town of Shapleigh, done by John E. O'Donnell & Associates, along with pictures of the existing retaining walls and stairs that the applicants wish to replace.

Provided this evening was a Permit by Rule dated 7/30/2020, which had a project description as follows: Replace 3 Retaining Walls with Stone; Move Stairs from Northerly Edge to Center of Property.

In addition, members received for the final review a second sketch plan which depicted the location of the house, deck, setback from house to side lot lines, those being 27', the location of Walls #1, #2 and #3, along with the new location of the stairs.

Included with the second sketch plan was the description of the existing walls and stairs and the proposed, they are as follows:

Existing Walls Existing Steps

- Wall #1 = 66' Long; 32" High • 55' Long Along Northerly Sideline
- Wall #2 = 77' Long; 32-38" High • 5'4" to 7'4" (4-6' treads)
- Wall #3 = 82' Long; 32-63" High

Proposed Walls Proposed Stairs

- Wall #1 = 66' Long to rocks; 32" High • 50' in Center of Walls
- Wall #2 = 77' Long; 32-38" High • 5'4" to 7'4" (4'-6' treads)
- Wall #3 = 82' Long; 32"-63" High • Genest style products
- Genest style products • Railings
- Railing on Wall #3

Roger A. asked Mr. Krans to briefly tell the board and the audience what it was he wanted to do. Mr. Krans began by thanking members for attending the site inspection. He stated his name and that he owned the property at 110 Dogwood in Shapleigh. He said the property has a small cape cod style house which sits at a significant height about Square Pond, and there are a series of three retaining walls made out of timber that go down toward the shoreline. He said there was also a walkway made out of wood timbers. He stated that the walkway was on the northerly side of the property and acts as a conduit for stormwater that comes down the driveway, then onto the stairs and into Square Pond.

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Mr. Krans stated their plan was twofold. The first aspect is to replace the timber, deteriorating retaining walls, in the same location, same height, same length with stone. He said the second aspect of the project is to move the stairs more to the center of the property in order to avoid having the stairs act as a water conduit and taking materials into the pond. He said they submitted a plot plan that calls for a four-foot-wide walkway that goes from the upper level down towards the shoreline, and to replace the three retaining walls with stone.

Mr. Krans added that the previous owner of the property had a similar concept a few years ago, 2017, and then he purchased the property and is asking for a similar concept.

Roger A. asked if Mr. Krans had an estimated completion date? Mr. Krans stated they rent the property from June until Labor Day, so they are hoping to get the project done in the fall. If not in the fall, then next spring. He said that if those two opportunities are missed, because it is hard to get a contractor, and he noted that it will take about a month to complete; if the board will give them until November 1, 2021, he felt it would work. He said he believed it would be done either this fall or in the spring, but he didn't want to have to come back before the board. He added that he didn't want to do the construction during the rental period.

Steve F. asked if it was possible to have a 45- or 90-day open permit period, then if it's not completed by this fall, allow the CEO to extend the date. Roger A. stated that they could or the board could give them a date of November 1, 2021, limit the amount of bare ground and that it be contained, as well as the person doing the work has to be certified in erosion control by the MDEP. Roger said he would have to manage any erosion issues. Steve said the permits are only good for a year, so he wanted a time frame that worked for the applicant. Steve asked if he was correct that the Conditional Use permits are only good for a year. Roger said, "True". Steve said he didn't want the applicant to have to come back if his work isn't started by August 25 of next year. Roger said, "Ok".

Roger A. stated that he noticed the DEP permit wasn't signed by the DEP, he asked if CEO Demers had any issue with it. CEO Demers stated that the DEP requested that the walls stay in the same location, same size as the existing. Roger asked CEO Demers to repeat what he stated as it was hard to hear him. CEO Demers stated that the project description that Mr. Krans described was what the DEP was looking for as well. He stated that the DEP was on board with the proposed plan. Roger thanked CEO Demers.

Roger A. asked Mr. Krans if the completion date would include the plantings. Mr. Krans stated, "Of course, yes".

Roger A. stated the board would need to know where the timbers being removed will be going. Mr. Krans stated that they would be going to Simpsons in Sanford.

Roger A. stated that the person doing the work will need a DEP license in erosion control, and that information will have to be given to CEO Demers when he goes for his permit. Roger A. stated that the stairs will be moved to the middle of the project, and it was discussed at the site inspection that no trees will be removed. Mr. Krans agreed.

Madge B. asked if the board needed a planting plan? Mr. Krans believed he submitted a vegetation plan with his application. He said that he could articulate what he planned to do. Madge stated that usually the

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board requires something in writing. Roger A. stated that he had it and it said, "Vegetation consistent with the existing conditions will be replaced if disturbed by the project. The existing vegetation consists of perennial plantings along the retaining wall located nearest to the water. It is not anticipated that existing plantings at the water's edge will be disturbed. In addition, new additional vegetation will be planted along the retaining walls and stairs." Madge said, "Ok, thank you."

Roger A. stated that on the site visit he noticed that on the 2<sup>nd</sup> wall, from that wall to the 3<sup>rd</sup> wall toward the camp, there was an incline. He said he would prefer to see that more flat, to help keep the water on site, rather than run toward the lake. Madge B. thought that made sense to flatten that area. Roger asked Mr. Krans to keep that in mind when backfilling the walls, to keep that area as flat as possible.

Mr. Krans stated that they are in favor of having the construction of the walls be something that will be able to deal with the water. He said right now there is a slight slope, so if that is made a condition, they will comply with it, but he asked that it not be made a condition and let the contractor and them figure it out. Mr. Krans asked if what he was hearing is that the board wants the water retained, rather than have it move off site? Roger said, "Yes, have it remain on site, rather than having it go toward the lake". Mr. Krans stated that he thinks the water would move north toward where the stairs are now and be caught there and retained there. Roger said, "Between the second and third wall it is sloped all the way across, so it isn't pushing it toward the stairs, where they are today". Mr. Krans stated that that area will become an area that will retain water, it won't be in between the two walls, it will be off to the side. Roger said it will seep down through, between wall number 2 and 3 if it is kept flat, it will allow the water to percolate, versus at the present time during a heavy rain it will run right off towards the lake. Mr. Krans said he would abide by whatever conditions the board makes. Roger said that was his only concern, but it was also up to the rest of the board.

Steve F. stated that he wanted to be sure CEO Demers feel conformable with the replant plan, he's the one that has to enforce it. He said the board had a revegetation plan in writing, where normally it is on the plan specifically, so he can go out and count whatever. He didn't have a problem with the plan, based on the existing conditions on site, but he wants to be sure CEO Demers is ok with it. Roger A. asked CEO Demers if he was ok with the revegetation plan? CEO Demers said it was ok with him. Steve said, "Ok".

### **§105-73.G 'Standards applicable to conditional uses'**

*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. ***Replacing the retaining wall and moving the stairs will help to mitigate existing stormwater issues which could negatively affect Square Pond.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Replacing the deteriorating timber walls will help conserve the shoreline, and revegetating the area when the walls are replaced will also protect the shoreline.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comp Plan wants to protect the lakes.***
- 4) Traffic access to the site is safe. ***Access is safe for the intended project.***

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- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***This project is not in a flood hazard zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is no wastewater associated with this project. Solid waste, that being the wooden timbers shall be taken out of Shapleigh and brought to Simpsons in Sanford, Maine.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***This is not applicable, 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. ***The walls shall be built to adequately hold water, and keep it from going onto adjacent properties or into Square Pond as best possible.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best Management Practices shall be kept in place until the project is completed.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***This is not applicable for this project.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***There are no trees being removed and any vegetation disturbed shall be replaced. There is no glare, fumes, dust, odors and the like associated with the project which will have a limited duration once commenced.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall with conditions.***

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

1. **The project, the removal and replacement of the existing wall(s), moving the stairs and revegetation on Map 32, Lot 30, shall be completed by November 1, 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 November 1, 2021, 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 MDEP in erosion control practices on site during the project, and the person's MDEP certification number shall be given to the CEO during the permitting process.**

**All material from the existing wall(s) to be removed from Map 32, Lot 30 shall be taken out of Shapleigh and disposed of at J.A. Simpson in Sanford, Maine. No material will be taken to the Shapleigh Transfer**



**Station.**

A gentleman asked if there would be any public comment? Roger A. stated he could speak.

Abutter Dale Johnson – Mr. Johnson stated he was located at 120 Dogwood Drive. He said during this review Mr. Krans had referred to replacing with stone. He wanted to know if they were concrete preformed blocks?

Roger A. stated, “Yes”.

Abutter Johnson – Mr. Johnson just wanted to be sure what ‘stone’ meant. He asked, “And there are no trees coming out, is that correct”?

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Roger A. stated, “True”.

Abutter Johnson – Mr. Johnson said the only other thing is that there will be no runoff onto abutters property as you brought up.

Roger A. stated, “True”.

Abutter Johnson – Mr. Johnson said, he wanted to know and stated he knew the lot intimately, how will they access putting in the block when you have a leach field on one side and you would have to drive over it. He wanted to understand how they were going to bring blocks down. He wanted to understand if they would set them with a crane or not?

Mr. Krans stated that they would come down the south side.

Abutter Johnson – Mr. Johnson asked if meaning the south side was where the stairs are?

Mr. Krans stated they had two sets of stairs, one on the north side and one on the south. He said they would come down the south side.

Abutter Johnson – Mr. Johnson said, “Ok that’s not on my side of the property”.

Mr. Krans stated, “No it’s not”.

Abutter Johnson – Mr. Johnson stated, “Ok”.

Roger A. stated with respect to traveling over the leach field, if that has a chambered system, they would likely be able to drive over it with a smaller machine, to prevent it from being crushed.

Abutter Johnson – Mr. Johnson said, “I think that is on the north side, isn’t it Alan”?

Mr. Krans stated, “Yes, it is”.

Abutter Johnson – Mr. Johnson stated, “OK, then there are no issues”. He thanked the board.

**Madge B. moved for approval of the application to replace the three existing walls, and stairs, per the plans provided on Map 32, Lot 30, and with the three stated conditions. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.**

Nothing else was discussed.

**The Findings of Facts**

1. The owner and applicant of Shapleigh Tax Map 32, Lot 30 (110 Dogwood Drive) is Allan Krans of 4 Renaud Avenue, Dover NH 03820.

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2. The property known as Map 32, Lot 30 is located in the Shoreland District and according to the assessor the property contains .33 acres.

3. The application description reads as follows:

This application substantially duplicates the application of previous owners of 110 Dogwood (Mark Rautenberg and Terri Ball) approved by the Planning Board on or about September 27,

2017. The previous owners were not able to execute on their plans in time to meet the deadline approved by the Planning Board. The current applicant purchased the property in March 2019. The scope of the work includes the relocation of wooden steps on the northerly side of the property running from the house area to near the edge of Square Pond in order to prevent water runoff and contaminants from entering the pond. The steps will be replaced with stone pavers and railing; the location of the steps will be in the middle of the property to improve water drainage.

In addition, 3 wooden retaining walls will be removed and replaced with 2 stone retaining walls approximately 80 feet in length each. Top retaining wall will have a railing.

4. The revised project description, dated August 11, 2020, read as follows: *Keeping the 3 walls; removing and replacing with Genest style concrete block.*
5. Provided was a revegetation plan which stated: Vegetation consistent with the existing conditions will be replaced if disturbed by the project. The existing vegetation consists of perennial plantings along the retaining wall located nearest to the water. It is not anticipated that existing plantings at the water's edge will be disturbed. In addition, new additional vegetation will be planted along the retaining walls and stairs.
6. Provided was a sketch plan which depicted the existing house, deck, leach field, shed, well location and the location of the proposed walls & stairs. The 'pond' and 'Dogwood Drive' were also noted on the plan, along with the side lot line distances of 142' and 209', and the lot line along Dogwood Drive was noted as 90'.
7. Provided was a copy of the Mortgage Lender deed reference plan, dated 12/23/2002, which depicted existing conditions as of that date. The plan showed the existing survey pins, a proposed conveyance of 700 square feet, structures which include the house, deck, walls, stairs and dock. The plan certifies the building predates zoning and that it does not fall within a flood hazard zone.
8. Provided were pictures of the existing structure(s), taken from the property assessment record for the Town of Shapleigh, done by John E. O'Donnell & Associates, along with pictures of the existing retaining walls and stairs that the applicant wishes to replace.
9. Provided was a Permit by Rule dated 7/30/2020, which had a project description as follows: Replace 3 Retaining Walls with Stone; Move Stairs from Northerly Edge to Center of Property.
10. Provided was a second sketch plan which depicted the location of the house, deck, setback from house to side lot lines, those being 27', the location of Walls #1, #2 and #3, along with the new location of the stairs. In addition, was the description of the existing walls and stairs and the proposed, they are as follows:

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Existing Walls Existing Steps

- Wall #1 = 66' Long; 32" High • 55' Long Along Northerly Sideline
- Wall #2 = 77' Long; 32-38" High • 5'4" to 7'4" (4-6' treads)
- Wall #3 = 82' Long; 32-63" High

Proposed Walls Proposed Stairs

- Wall #1 = 66' Long to rocks; 32" High • 50' in Center of Walls
- Wall #2 = 77' Long; 32-38" High • 5'4" to 7'4" (4'-6' treads)
- Wall #3 = 82' Long; 32"-63" High • Genest style products
- Genest style products • Railings
- Railing on Wall #3

11. Planning Board members and Mr. Krans agreed no trees shall be removed for this project.
12. The Planning Board reviewed §105-73 'Conditional Use Permits' and concurred the application and information as presented met the performance standards, with conditions.
13. A notice was mailed to all abutters within 500 feet of the property on August 13, 2020. Meetings were held on Tuesday, July 28, 2020, and August 25, 2020 via Zoom due to Covid-19. A site inspection was done by members on Tuesday, August 25, 2020 prior to the meeting.
14. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing retaining wall(s), same length and height as existing, and move the existing stairs per the plans provided, on property known as Tax Map 32, Lot 30, with three conditions.

**15. The conditions of approval are:**

1. **The project, the removal and replacement of the existing wall(s), moving the stairs and revegetation on Map 32, Lot 30, shall be completed by November 1, 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 November 1, 2021, 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.**

**All material from the existing wall(s) to be removed from Map 32, Lot 30 shall be taken out of Shapleigh and disposed of at J.A. Simpson in Sanford, Maine. No material will be taken to the Shapleigh Transfer Station.**

**16. Additional requirement:**

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

**Decision:**

**The Conditional Use Permit to replace the existing three retaining wall(s), with three walls the same length and height as the existing, and relocate the stairs, per the information provided and as discussed during the project reviews, on property known as Tax Map 32, Lot 30 with three conditions, was approved.**

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**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.

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This evening Mrs. Lavoilette provided members with a proposal in lieu of traffic control. The proposal was either a customized blinking LED sign “Caution Event in Progress Ahead” or a flashing beacon with a custom sign.

Roger A. asked Mrs. Lavoilette to let everyone know what she planned on doing in case someone was on Zoom looking for information.

Mrs. Lavoilette stated that she was the owner of 24 Deering Ridge Road and she is proposing to have small venues and weddings in her barn.

Roger A. asked if there was anyone on Zoom looking for more information. No one came forward.

Mrs. Lavoilette stated she did not have a lot of updates. She said she sent Barbara F. a new proposal for traffic control because she has been very unsuccessful at reaching anyone for information. She said she could not get in touch with the Deputy that is in charge of traffic control at York County Sheriff’s, she said its been going on two months that she’s been trying. She said she was unsuccessful at reaching the Shapleigh/Acton Sheriff as well. She said she called several times, and sent emails to both parties with no response. She said she therefore, was trying to come up with an alternative plan, because this was holding her up.

Mrs. Lavoilette said she was able to talk to the structural engineer, as well receiving a name for an architectural engineer that will help her align with the Maine State Fire Marshal, so she feels she is heading in the right direction, but is being held up by the traffic control. She sent a proposed alternative to Barbara F., having a flashing LED light at the beginning of the hill, saying something along the lines as ‘caution event in progress’, or whatever the board would like. She said there were several designs, and she would be happy to go with whatever the board felt would work, if that was an option.

Roland L. stated that Barbara did forward the information to the board members, and he did have a chance to look at them. He added that he was disappointed for Mrs. Lavoilette that she hasn’t gotten the cooperation, that as a resident and taxpayer in Shapleigh, he believed she should have gotten. He asked if you could put up signs without permission from someone, such as the Road Commissioner. Steve F. thought the signage would be through the Road Commissioner. He said it was a Town road, and they deal with this sort of thing. Roland thought it might be them, but because it is affecting traffic, he didn’t want her to invest this kind of money only to find out she didn’t have permission to put the sign up. Mrs. Lavoilette said she assumed it would have to be approved by someone in the town.

Mrs. Lavoilette stated that she did contact a company out of Biddeford that construction companies use for flaggers. She said she spoke with a woman at length and she thought it would be expensive for what her purpose was. This person suggested the sign with the blinking light.

Mrs. Lavoilette stated she has tried multiple resources to see if there was someone else she could speak with or to contact, but admitted she was at a loss. Roland L. said he noticed the price tag for the sign was very expensive, he said it was not a small investment. Mrs. Lavoilette stated she didn’t know what else to do, she believed it was what was holding her up for getting a tentative approval, with all the other things she will have to get done, such as structural engineer and getting it up to fire code. She said she would be investing in thousands, but at present she is stuck with the traffic issue.

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Roger A. thought the blinking sign was a fantastic idea, in lieu of having a person out there for every event. He said to be able to turn it on and off for the event, he believed in the long run it would be best. Mrs. Lavoilette thought Roland had a point, but she felt the investment would be worth it. She added it would not be a small cost for any of the engineers, or the architectural designs she would need for the State.

Roland L. thought the location of the sign was important, and to have it placed in such a way that it doesn't get taken out by the wing of the plow. Roger A. agreed. Maggie M. stated there was something in the minutes of the Selectmen's meeting regarding the new Fire Chief having the guys being able to hire themselves out on non-duty time for traffic control, non-fire related. She said it was something they were working on, it has just started, but perhaps in the future they could get more information. She said the Chief has offered training and they are talking about it. Roland L. stated he was at that meeting when the new Chief, Steve Guillemette, proposed it, because he would like to see a component available where individuals are trained to direct traffic, so someone who has the fire fighting capabilities is not taken from the fire fighting duties to direct traffic. He said he did hear the same thing Maggie was talking about and he thought Karla, the Town Administrator, may have some updated information on it. Maggie noted there may be more info now.

Roger A. stated that he would have Barbara F. check with Jeff Goodwin on whether or not it was his jurisdiction, because it is a Town road not a State road. Roland L. thought that would be a good idea. Steve F. stated that he liked the idea of a sign. Madge B. stated she liked the sign too. She thought perhaps the Selectmen would have some authority over street signs.

Mrs. Lavoilette asked if she should reach out to Jeff Goodwin and Karla, or is Barbara going to? Roger A. stated that he was asking Barbara to do it. Mrs. Lavoilette stated, "Thank you". Roger said Barbara will call or email Mrs. Lavoilette to let her know the status. Mrs. Lavoilette stated, "That's good". She thought that was all she had for the board at this time. Roger said again he liked the sign. Steve F. stated, "Vehicles entering when flashing".

Mrs. Lavoilette thanked the board. Nothing more was discussed.

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**Growth Permits****Map 11, Lot 28-14 (Ridge Road / Pine Springs Development) – New Home GP #17-20**

The lot is a lot of record from the previously approved subdivision known as Pine Springs. A purchase and sale agreement was provided to prove ownership.

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**The Planning Board meeting ended at 7:45 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.**

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**The next Planning Board meeting scheduled will be via Zoom on Tuesday September 8, 2020 at 7:30 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>

**• If calling in:** Find your local number: <https://us02web.zoom.us/j/84895865996?pwd=R0tBZE5ENFVLSGRibFRFaWFVQmEvZz09>

**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

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