

Shapleigh Planning Board

Minutes

February 9, 2021

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.

The minutes from Tuesday, January 26, 2021 were accepted as read.

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

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.

Growth Permit(s)

• Map 41, Lot 33 (Pine Springs Road) – New Home

While waiting for Davis Bartlett of Corner Post Land Surveyors, Roger A. decided to review the Growth Permit applicant before the board, Map 41, Lot 33. The permit had been before the board prior, and the applicant, Ted Theriault, was requesting that the lot, which had been two lots joined into one by Assessing years ago, be split back into the two original lots. The Planning Board agreed to get a legal opinion on this matter prior to making a decision, and on Monday February 1, 2021, the board met with Attorney Durward Parkinson in Executive Session. The conclusion from this session was that the lot could not be split, as it would create 2 non-conforming lots which is not allowed in the Zoning Ordinance.

Roger A. stated that the deed at the courthouse may or may not reflect the fact that the two lots have been joined by the Town; therefore, the actual size of the lot may not be in the deed. He said it is important that Mr. Theriault understands that this permit will be for the two parcels that were joined, on Map 41, Lot 33.

CEO Demers asked if something should be recorded at York County Registry of Deeds prior to issuing a building permit? Steve F. asked, "Aren't the lots joined and non-separable at this point"? CEO Demers stated, "Yes, unless he wishes to challenge it in court". Steve asked if for the record at this meeting, the board should discuss why we made the decision based on the fact we were in executive session last time? CEO Demers stated that there is an email to be read into the record explaining that position.

Roland L. asked if the board should postpone any action and then come back to it later in the meeting, or should we make a determination now? Roger A. had no issue addressing it now, because it wasn't going to take much time, then the board can go on to the subdivision with Davis Bartlett.

Roger A. read CEO Demers email to Mr. Theriault into the record. The email is as follows:

Ted,

Looking at the Pine Springs one lot or two question I have been able to make a determination. In summary you now have one lot and I will provide the ordinance and definitions to provide clarity. Whereas your two vacant lots are in the same ownership they shall be combined to the extent necessary to meet the dimensional standards. The minimum land area per principal building in the General Purpose District is 80,000 square feet. The minimum street frontage per principal building is 200 feet.

LOT WIDTH - The horizontal distance between the side lot lines, measured parallel to the road, at the point where the principal structure is proposed.

NONCONFORMING LOTS OF RECORDS - A single lot of record which, at the effective date of adoption or amendment of this chapter, does not meet the frontage, width or depth requirements of the district in which it is located.

105-4 E (1) Vacant lots.

A nonconforming lot of record as of the effective date of this chapter or amendment thereto may be built upon, **provided that such lot shall be in separate ownership and not contiguous with any other lot in the same ownership**, and that all the provisions of this chapter, except lot area, lot width and shore frontage, can be met. Variances relating to setback or other requirements not involving lot area, lot width or shore frontage shall be obtained only by action of the Board of Appeals.

105-4 E (4) Contiguous vacant lots.

If two or more vacant, contiguous lots or parcels are in single or joint ownership of record at the time of adoption or amendment of this chapter and if these lots do not individually meet the **dimensional requirements of this chapter or subsequent amendment**, the lots shall be combined to the extent necessary to meet the dimensional standards, except in situations where the contiguous lots front on different streets, or except where rights have been vested as described in Subsection E(5) below

Roger A. stated that this is the criteria the Town is using, and at this time the applicant cannot separate the lot into two separate lots, per the ordinance today. Roger said there should be a notation that it is the boards understanding that the lots have been joined and the growth permit is being granted for the 'one' lot.

Ann H. asked if the board needed, for the record, a document from the Registry of Deeds that the lots were combined into one. Madge B. believed that was Steve's question. Roger agreed. Ann asked again if the board needed something from the registry to put in the file for the growth permit issued? Roger did not believe so, although he said the board could check with Attorney Parkinson. He thought if a notation was made that the lots have been joined, and the growth permit is granted based on this fact, it would work. Roger said this notes the board is aware the lot was joined years ago, and today the lot cannot be separated, or it would create a non-conforming lot by today's standards.

Madge B. said the question that others have raised is, how would someone find that information if its not in the Registry of Deeds? Steve F. thought the easiest solution, if it doesn't go outside of the scope of what the board can do, is simply to have Mr. Theriault record a document or re-record a corrective deed stating that the lots are combined and can't be separated. He said this was a simple and inexpensive fix for him. He didn't think the board had to hold up the growth permit to do it. He said it could be stopped at the building permit phase. Roger A. thought it was a great idea, but when the board grants the growth permit, he only has 90 days to get a building permit. Madge stated that the deed can get done easily within 90 days. Steve agreed. Maggie M. stated that he is billed for one lot, she believed this showed it was put together. Madge and Ann both stated that that has no legal authority. Steve said, as a safeguard to prevent this from coming back before the board in the future, he thought a corrective deed was an easy fix. He stated that in Lake Arrowhead the Town of Limerick does it often when they sell tax acquired lots to abutters, they make them combine it and it's a simple one-page

document, or it could be an affidavit tied to that lot which would always show up in the title search. He said there were various ways to tie it together permanently. Madge agreed.

Roland L. stated that he supported what Steve F. and others have said. He felt having some formal documentation is important, it protects all parties and should it come up again and the board can't recall what was discussed, it will be on the record. Steve agreed, 10 or 15 years from now, when we are not here.

CEO Demers stated the board can issue the Growth Permit with the notation that two lots are now one, and before the building permit is issued, I will have him record that fact at the York County Registry of Deeds. The board members agreed.

Roger A. stated this would be Growth Permit #03-2021 for a new home.

Nothing further was discussed.

4 Lot Minor Subdivision ~ Grammar Ridge II – Preliminary Review - Map 11, Lot 10 (Newfield & Grey Road) – David Dubois & Linda Chadbourne, Property Owner(s); Corner Post Land Surveying, Inc., Authorized Agent

Davis Bartlett of Corner Post Land Surveying was representing the applicants this evening via Zoom.

The sketch plan application for the 4-lot subdivision contained the following information:

Name of Property Owner: David P. Dubois and Linda B. Chadbourne
Mailing Address: 80 Sand Pond Road, Sanford, Maine 04073
Name of Applicant: David P. Dubois and Linda B. Chadbourne c/o Michael Dubois
Mailing Address: 1204 Main Street, Sanford, Maine 04073
Name of Authorized Agent: Davis Bartlett of Corner Post Land Surveying, Inc.
Mailing Address: 600 Main Street, Springvale, Maine 04083
Name of Land Surveyor: Dana Libby of Corner Post Land Surveying, Inc.; PLS #1350
Email Address: dana@mainesurveyors.com

Land Information:

Location of Property: YCRD Book 7632, Page 212
Shapleigh Tax Map 11, Lot 10
Current Zoning: General Purpose
No part of the property lies within 250 of the high-water mark of a pond or river.
Acreage to be Developed: 55.46± Acres
Property is not part of a prior subdivision.
There have been other divisions within 5 years.
Restrictive Covenants: No dug wells will be allowed.
Existing Use: Wood Lot
The parcel does include a waterbody.
The parcel is not within a special flood hazard area.

Proposed Name of Development: Grammar Ridge II
Number of Lots: (4) Four
Date of Construction: Spring / Summer 2021
Date of Completion: Unknown
Infrastructure Required: No
The property currently has possible road access on Grey & Newfield Road.
Method of Water Supply: Individual Wells
Method of Sewer Disposal: Individual Septic Systems
Method of Fire Protection: Sprinklers in individual homes.

There are no Proposed: Streets
Recreation Areas
Common Land

Requested Waiver(s): 89-30.A – Request waiver to set concrete monuments instead of stone.
89-30.B.2(c) – Request waiver to install individual sprinkler systems instead of a fire pond.

Also provided with the application was a copy of the Town’s Tax Map 11, depicting the location of Lot 10; a copy of the Warranty Deed between Santo A. and Mary T. Sullo, property owners, to Grammar Ridge, Inc, Book 6913, Page 074, dated received at YCRD on January 21, 1994; and a copy of a document entitled ‘Significant Sand and Gravel Aquifers’ and it appears this parcel does not lie over a significant aquifer.

Provided was a copy of the soils map for Lot 10, which depicts AdB adjacent to Grey and Newfield Road which refers to Adams loamy sand, 0 to 8 percent slopes (11.7% of area), as well as HmC along Newfield Road and in a large area in the center of the lot, which refers to Hermon sandy loam, 8 to 15 percent slopes (33.4% of area). Along the upland wetland interface and toward the center and then back of the property lies Na, which refers to Naumburg sand (8.2% of area) and SrC, which refers to Skerry fine sandy loam, 8 to 15 percent slopes, very stony (23% of area). To a lesser extent and along the boundaries of the property depicted is also AdB (see above); CrB, which refers to Croghan loamy fine sand, 0 to 8 percent slopes (1.6% of area); CoB, which refers to Croghan loamy fine sand, 0 to 8 percent slopes, wooded (2.9% of area); BsB, which refers to Brayton and Westbury very stony fine sandy loams, 0 to 8 percent slopes (2.6% of area); HmB, which refers to Hermon sandy loam, 0 to 8 percent slopes, very stony (.4% of the area); LyC, which refers to Lyman-Rock outcrop complex, 8 to 15 percent slopes (1.1% of area); HmC (see above); HnE, which refers to Hermon sandy loam, 15 to 60 percent slopes, extremely stony (3.1% of the area); and LyE, which refers to Lyman-Rock outcrop complex, 15 to 80 percent slopes (12% of the area).

Provided was wetland information from Chris Coppi CWS, LSE, Independent Wetland Scientist from Albert Frick Associates, Inc. The letter was entitled ‘Wetland Delineation, Newfield Road, Shapleigh’. The letter reads as follows:

On October 12, 2020, I completed a wetland delineation at the above-mentioned property. The investigation area contains a DEP stream that traverses west to east and a forested wetland. Wetlands (blue flagging), the DEP stream (pink flagging) and drainage (pink flagging) were labeled alphanumerically and were located by

Corner Post Land Surveying, Inc. The water course, shown as a Blue-Line stream according to the USGS map, was inspected in its entirety. As shown on my attached sketch, a portion of this blue-line stream in the area between the wetland and Newfield road, did not exhibit a scoured mineral. As such, I flagged these areas in pink and labeled them “Drainage”. No vernal pools were observed within the investigation area.

The DEP stream starts west of the investigation area and then proceeds easterly across the investigation area. The stream exhibited a scoured mineral between a defined bank and contained aquatic vegetation (aquatic mosses).

Shortly after the existing pedestrian crossing and forested wetland, the stream appears to dissipate, and becomes a seasonal drainage all the way to the Newfield Road culvert. At that point, the drainage did not exhibit a scoured mineral and channel. It is my opinion that the stream becomes more of a sheet flow-type drainage after depositing sediment in the forested wetland. Afterwards, the blue-line stream is essentially intermittent flow and is not persistent enough to scour a channel consistent with the DEP stream definition under the Natural Resources Protection Act. As such, the drainage section of the blue-line stream does not meet the DEP stream definition because it does not have a scoured mineral.

Per your survey, you have showed the entire water course as a stream. If development is affected by this resource designation as a stream all the way to Newfield Road, then perhaps this warrants a reclassification of the drainage portion of the blue-line stream as a possible non-jurisdictional water course for DEP purposes. The blue-line stream designation also has ramifications for subsurface wastewater disposal as the state plumbing code requires a 100 foot setback from a blue-line stream to a disposal field. A reclassification of this water course in the drainage areas discussed above may require state concurrence of these findings with both DEP and if necessary, DHHS (Subsurface Wastewater Group).

Wetland impacts on the property will require a DEP and Army Corps wetland permit in accordance with the Natural Resources Protection Act (NRPA) and Maine General Permit (Maine GP) respectively. Wetland impacts located within 25 feet of a DEP stream, do not qualify for the normal Tier review process and therefore, would require an Individual NRPA permit; Individual permits are not a guaranteed approval. However, if the wetland impact occurs only within 25’ of the stream and is associated with a stream crossing (e.g., driveway or utility crossing), then the activity would qualify for a Permit by Rule (PBR) under that process. The PBR program is a 14-day review process.

A DEP-regulated stream requires a 75-foot setback to an activity, such as clearing of vegetation, filling or soil disturbance. A DEP permit is necessary if that activity encroaches into the 75-foot setback. However, the activity may be eligible for the Permit by Rule process provided the activity maintains at least a 25’ setback to the DEP stream and is justified within the 75’ foot setback.

According to Shapleigh WEB GIS, the property does not contain a shoreland zone.

Provided was a ‘Boundary Survey for David P. Dubois & Linda B. Chadbourne for Property Located on Newfield Road & Grey Road in Shapleigh, Maine’, drafted by Dana Libby, PLS 1350, dated November 30, 2020, labeled Sheet 1. This survey contained the location of the proposed lots, abutting properties, location of Grey and Newfield Road, overhead utility lines and poles, existing stone walls on the property, building setback lines for each property, approximate upland/wetland interface; soils boundary and type; contour lines (both 2’ and 10’ intervals), and survey markers found.

Provided was a sketch plan showing ‘Grammar Ridge II, a 4 Lot Subdivision by David P. Dubois & Linda B. Chadbourne of 80 Sand Pond Road, Sanford, Maine 04073 of Property Located on Newfield Road, Grey Road & Abbott Mountain Road in Shapleigh, Maine’, drafted by Dana Libby, PLS 1350, dated November 30, 2020, labeled Sheet 2. This sketch plan depicted the entire parcel consisting of 55.46 acres. Proposed lot areas are depicted as follows: Lot #1 = 2.40 acres with 318’ of road frontage on Grey and Newfield Road; Lot #2 = 49.38 acres; Lot #3 is 1.84 acres; and Lot #4 is 1.84 acres in size. Also depicted on the plan were contour intervals, stream delineation, wetland area, building envelope, soils, and abutting properties.

Roger A. asked Mr. Bartlett if he wanted to address the board? Mr. Bartlett was having issues with his computer, so the board waited for him to dial in via telephone.

While waiting for Mr. Bartlett, Madge B. stated she had a request. She asked Roger A. if they could start the discussion from the beginning, where the board accepts the minor subdivision application, then goes through it to make sure its complete, so the process is done methodically. She stated she was requesting it because the board hasn’t done a lot of these, and when Roger starts doing this he remembers the submission requirements, she said she did not. Madge said that when she reviewed what was done at the last meeting, she heard Roger say this and that was needed, but she wants to see it is writing why it is required. She said she hoped the board would put up with her request, that the board reviews the application methodically.

Roger A. stated that he wanted to see if the applicant had anything they wanted to add this evening before he brings up the review. Madge B. said that was fine, she was waiting for Mr. Bartlett to come in. Roger said he was asking if there were any modifications from the last meeting. Madge pointed out that the applicant had not heard the board state that they accept the minor subdivision. She said the board needs to request what is needed for a minor subdivision. Roger agreed, but noted then the board needs to determine whether or not to go from minor to major review requirements.

Mr. Bartlett returned via telephone.

Roger A. asked Mr. Bartlett if there was any additional information he would like to share with the board, prior to reviewing the application? Mr. Bartlett stated they did receive back responses from the Maine Dept. of Inland Fisheries and Wildlife, and Dept. of Agriculture, Conservation and Forestry. He said he would pass the information along, but neither department had any concerns with the site. Roger said, “Ok”.

Mr. Bartlett stated he reviewed the zoning and Roger was correct about the open space requirement and they would find a way to take care of that in such a way that it meets everyone’s criteria. He said he wanted to hear the Town’s attorney’s response before they put more time and money into the project.

Roger A. said the sale of a lot in September on Map 11, Lot 10, needs to be included on the subdivision plan, because it was sold within a 5 year period, so it is a fifth lot. Roger said it won’t have to comply with the subdivision regulations because it was already sold, but it has to be included. Steve F. stated, “It only has to be shown on the plan, right”. Roger said that it will have to be counted as a lot. Mr. Bartlett said that it was the one lot sold in a five year period, and the subdivision is everything that is left. Roger agreed. Mr. Bartlett said, “If it doesn’t change anything, it doesn’t change anything, but I was under the impression, and Dana as well, that we can sell out one lot before we do the subdivision with the rest of the parcel”. Roger agreed, but stated that it will count as a division. Mr. Bartlett stated, “Yes, but just not part of the subdivision”. Roger said, “Right”. Mr. Bartlett said, “Then we are on the same page then”.

Roger A. said another thing was there were no soil test pits. Roger said that Mr. Bartlett said he had them but they were not submitted with the preliminary plans. Mr. Bartlett stated he did not believe he had the test pits yet, but if they moved forward with the subdivision, then they would get Albert Frick to do them. He said they did get a soils report from Albert Frick, which was included in the packet supplied. Roger agreed that it was. Roger said that it spoke of requiring a Natural Resources Protection permit. Mr. Bartlett stated that if they say we need it, they are probably correct. Roger stated that it was noted in the third paragraph in the letter from Albert Frick Associates and then later in the letter. He said depending on how the property will be situated the wetland impact may even require a DEP or Army Corps wetland permit in accordance with the NRPA and a Maine General Permit respectively. Roger said likely on the Maine permit it will be a PBR (Permit by Rule). Mr. Bartlett believed they were avoiding any wetland impact in order to not have to go through the DEP permit process. He said they were avoiding all wetland and water crossings in order to avoid triggering anything with the DEP.

Roger A. said his issue would be the stormwater runoff from the top of the property. He said there is no engineering saying there will be no additional impact due to the tree harvesting that took place. Roger said a waiver isn't required for 30.D(4), which Roger believed was for culvert crossings which it doesn't appear there will be any.

Roger A. said with respect to whether or not this subdivision will be reviewed as a minor vs major, he believed with the prior subdivision, and now adding a fifth lot on this one, he believed the board could review this as being a major. He said under 89-13, the board has the ability to look at any minor as a major, providing the board can demonstrate that health, safety, and welfare of the community is being affected. Roger said with the addition of a fifth lot, possible wetland impact, entrances onto Newfield Road, an additional 3 entrances, he believed the board could review this as a major.

Madge B. stated this is why she is requesting that the board reviews this methodically, because he is going through standards and she cannot keep up. She said what the board is required to do is find that under any particular requirement, in order to protect the health, safety and welfare, the board needs to apply the major subdivision standard. She said she cannot do that unless the board reviews them methodically. She asked if anyone else was in her position, or was everyone able to keep up with Roger? Steve F. stated, "Personally, I have concern after talking with Durward (Attorney Durward Parkinson), and looking at the history on this property, and that's why I had asked some pointed questions at our last meeting; but the truth is if this property had been conveyed out or sold to a new buyer, then I would I guess feel the same way as I do now. Just because the property has not sold and is in the same ownership, I don't feel as though, you know, looking at it as a major subdivision is necessarily what we would have to do. What the applicants have done, over the last 20 years or whatever, since they've owned it, is held onto it. Had they just gone through and every five years, broken a lot off, we wouldn't be sitting here today looking at this application. So, I don't, I understand where Roger is coming from but I personally don't feel that anything that they've done has been done to skirt the subdivision law. And again, I think I would feel differently, had they gone through a minor subdivision and then 30 days later come back in for a second minor subdivision on the remaining parcel. My tune would change and I feel like I would be pushing stronger to enact that part of the ordinance that we do have the ability to look at as a major. I don't feel that looking at it that way right now is necessarily the course of action that I'm in favor of. I'm one vote on this board".

Madge B. said, "Obviously, I am in agreement with you, that's why I'd like to go standard by standard. And for standards that I think the minor subdivision adequately deals with it, then we go with the minor. If we find an

issue that we think has a higher impact on the area, then we look at the major requirement. But we do it with each, and it is slower, but with each one (standard), so that we can say in the end....because as I read 89-13, we have to be able to justify applying a major requirement for a specific reason.”

Roger A. stated that breaking a lot off of Map 11, Lot 10 in September, and being within a five year period, that makes five lots, that’s a major. Madge B. stated that the board does not review five lots. Steve F. said, “Right”. Madge said the fifth lot isn’t part of the subdivision. Roger said, “But its to be looked at with it”. Madge stated that what she got out of the legal review was that we don’t count the way that Roger is advocating. Steve said that the way he understood it with what they were told was that the lot should be shown on the plan, but it can’t be brought in or looked at. Madge agreed. He added that it can’t be part of the subdivision because it is already sold, so it can merely be shown on the plan. Madge again agreed. Mr. Bartlett stated that that was what they have always done as well, and noted they have had no issues in the past with breaking one lot off and making a subdivision out of the rest. Ann H. stated she was looking at the definition of major and minor subdivision in zoning, and a major is more than four lots or dwelling units, or containing a proposed street. She didn’t think there was another street that was being put in, so that answers that question. Ann said she remembered the attorney saying the board can’t count the fifth lot, but it has to show on the plan. Madge agreed. Ann asked if the board went thru the standards methodically like Madge said, would there be something else that would kick it into a major. Madge said, “It doesn’t have to kick the whole subdivision into a major, it just has to...if we think the impact is great enough, it will kick a particular issue into major”. Ann asked, “Then its legit to separate it out”? Madge said, “We have the standards”. Steve and Ann said, “Ok”.

Maggie M. said that for the purpose of looking at future subdivisions, she agrees with a big part of what Madge is saying. She said, because if we don’t review it with some type of method, if it comes up again then we have to go backwards and explain why we did something. She said, “Whereas someone can look at this in the future and see how we came to this decision and it would be a lot clearer. We wouldn’t have to go round and round again”. Roger A. stated that every division is different. Madge agreed. Maggie stated she was talking about the basics. Roger said that the criteria is the same but each division is separate. Ann asked if with this subdivision, the most lots that will ever be able to be put in is only going to be four? Mr. Bartlett stated, “Without coming back for review, yes”. Ann asked if he was talking about the fact there is additional property that is adjoining that could be changed into another subdivision? Mr. Bartlett stated, “It theoretically could be, but any numbered lot in any subdivision has to go back for Planning Board approval before it can be split again. So, any part of this subdivision would have to go through you guys again before anybody divided it”. Ann asked if there was more property, then could there potentially be more than four lots at that location? Mr. Bartlett did not see it as being feasible, but there is enough acreage. He said they would have to construct a road to get out to the new lots, and to him that would not be feasible, which is why they only want the four lots. Ann asked if they came back and put a street in, if that would automatically put it into major subdivision. Mr. Bartlett agreed that putting in a road would kick it over to major. Roger agreed with Mr. Bartlett and noted that any modification of a boundary line would have to come back before the Planning Board for approval. Mr. Bartlett agreed.

Roger A. stated that the application before the board, if even for a minor subdivision is incomplete. He stated that the board did not have the test pits, the stormwater drainage is not complete, stormwater runoff. Roger noted that this would be the same whether it is a minor or major. Mr. Bartlett stated they were requesting a waiver for a stormwater drainage plan with the reasoning that no streets are proposed and they are not modifying the general topography of the site, only the small areas where the houses are going. Roger said that because of the logging that was done, it exposes the area to a stormwater issue, changing the stormwater coming

from the top of the property. He said because of this, he would like to see engineering that states there would be no additional impact because of the rise behind the subdivision and the logging that took place. Mr. Bartlett said he understood his point of view but the logging was done before they applied for the subdivision. Roger agreed. Mr. Bartlett stated the logging wasn't a change that happened during this process. Roger said he was not looking at the culverts and the road. Madge B. stated that if they applied for a waiver than the board considers the waiver and votes on it. Roger stated he was speaking of 89-17, item number 18, 'A soil erosion and sedimentation control plan endorsed by the county soil and water conservation district'. Madge said she was not prepared to vote on the waiver, she needed to gather more information on the submitted plan and to go to the site. Mr. Bartlett stated that with respect to 18, normally they put an erosion control detail on the plan stating how runoff from construction sites will be handled. He said that's how they control the erosion and sedimentation control plan. He said that requirement is generally for the construction phase, so the detail is put on the plan to show how the builder will control that. Roger stated that this would fall in line with 89-38 (Stormwater Management Design Standards). Roger said this was based on a 25 year storm, based on rainfall for Portland, Maine.

Madge B. asked if anyone else was having trouble following? She said again she would like to go through this section by section as she can't keep up with Roger. She asked if anyone else agreed with her? Ann H. asked if she was speaking about starting with minor subdivision under 89-13 and state either non-applicable or comment, going through the sections. Madge stated that she would like to go through the minor and then go through the major to see if any of those apply to this situation. She said that Roger can do this without that process but she cannot. Steve F. agreed that the board could take one piece at a time. Ann said she understood where Madge was coming from, the board could go through each standard.

Roger A. stated he was bringing up areas that were deficient with respect to the application. Roger said he wasn't going to give all that isn't complete, they have to submit a completed plan. Roger said once the plan is completed, then we can review it item by item. He felt at this time there is so much missing that he doesn't want to review it but just say its incomplete. Madge B. understood but said that Roger knew what was missing but she did not, because she hasn't gone through 89-10 herself. She said she can do that, but she hasn't done it. She said if everyone else has, then fine. Steve F. thought if the board went through this one item at a time, and then came across what was missing, perhaps that would be easier for the applicant and the board. He felt Roger was glancing over what is there and what is missing. He thought the board could ask for a complete package before the board did start the review process. He said, however the board wanted to handle it would be fine with him.

Roland L. stated he supported Madge's concern. He said as he rereads information they received of the areas that they have to take note of (letter from Durward Parkinson from 2003), he felt they need to start from square one. He thought it would be easier for him, Madge, and perhaps the others, to follow through. He said he wanted to have all the information available, and all the information they need, so they make an appropriate determination as to how they should proceed. He said he supported Madge's request. Steve F. asked if the board should tackle this piece by piece this evening or should the board get the rest of the information from the applicant, provided he can get it to the board by the next meeting, then start from scratch there with the completed application.

Mr. Bartlett said it sounded like the board was leaning toward starting fresh next meeting. He said if that is the case, he will go through the application he submitted, look at anything that is missing, take care of the open

space requirement, show the previously sold out lot, take care of things spoken about and submit a new plan and application. Madge B. stated that she agreed the board needed test pits, but she was worried the board was requiring something that they shouldn't because it is a minor subdivision. Roger A. stated that with a minor you would require test pits. Madge agreed. Mr. Bartlett stated he agreed. He said with the application, what happened is with every other town there is a sketch plan they submit and that was the intent of this. He said that Shapleigh doesn't do sketch plans, so he tried it as a preliminary plan but didn't have all the information required. Roger noted the drawing has to be 100' to the inch, not 150'. Mr. Bartlett stated that was why he submitted two sheets, the first sheet is 150' to give you an overview and the second sheet shows 80' scale. He asked if this was acceptable? No board members stated they had an issue with this.

Steve F. stated if the applicant has no further questions, he wanted to make a motion. Mr. Bartlett asked if it was possible to see the recommendations from the attorney, but if they can't provide them its ok. (The board was in Executive Session when they received advice from the town attorney, so information was not written and cannot be shared.) He said other than that, he had no further questions.

Steve F. made the motion to table the application until such time the applicant is ready for additional review, whether it be in two weeks or shortly after that. Madge B. 2nd the motion, adding that the applicant will come back with information based on what he feels meets the requirements of our preliminary plan. By a vote of 5 – 0, the motion passed was unanimous.

Madge B. asked Roger if she would get a better sense of the property if she walked along the road side of the property? Roger believed she would.

Roger A. stated that he would like to see the letter from Inland Fisheries and Wildlife, because he thought there were some endangered species in that location, some orchids closer to the Grey Road. He said at present you would not see any of that. Madge B. agreed. Mr. Bartlett stated he would show the board what they sent him.

Roger A. stated an issue was the number of driveways coming out onto the Newfield Road. Madge B. agreed. Mr. Bartlett stated he would take that into consideration, he would have to speak with his client. Roger said again he had a concern with the stormwater, the affect of stormwater in a 25 year storm, but noted Mr. Bartlett did not direct his waiver toward that. Ann H. asked if there was anywhere on the plan that showed catch basins for the stormwater, or should that be on the plan? Roger said it was not on the plan. Mr. Bartlett stated he showed a culvert only. Ann stated that she was aware of water issues in that location, because she lives in that area. Madge said looking at the plans there could be a water issue onto the road.

Roger A. said for the waiver they asked for Article 89-30.D(4), because of having no new roads and no new drainage modifications. He said he had no issue with that, but the board has to look at the total parcel of land with respect to the 25 year storm and if that would adversely affect any of the lots. He said this is why he was asking for a registered engineer to sign off stating there would be no stormwater issue. Mr. Bartlett stated he would take a deeper look into that. Roger said that if Albert Frick believes a DEP permit may be required, the board needs to look into that as well. Mr. Bartlett said, "Ok". Roger said these issues have to be addressed whether it be a minor or major subdivision.

Roland L. asked the board members if he was off-based to be concerned about sprawl? He said that to him this plan had sprawl written across it. Ann H. said there was always that possibility but the board can only look at what is being applied for. Madge B. added that the zoning doesn't enable the board to prevent sprawl. Roger A.

and Steve F. agreed. Steve also agreed it was a concern. Madge noted she was glad she didn't commute that road. Roland stated that he was looking at 3 new driveways onto the roadway, in addition to those that exist. He said he didn't know what the speed was on the road, noting the road he lived had issues with speed. He said that he wished there was an internal roadway that they would feed onto, then from that road go out onto the Newfield Road. Ann stated that the Newfield Road was rough. She noted her concern with water runoff onto the road causing ice on the road. She said that the owner of Country Goods & Grocery was good at trying to get the water to go somewhere else. She said he didn't have to because he bought the property as it is, but it is a sheet of ice. She added that the speed limit was 45 mph. Roland said that if this is the case, she just spoke to one of the points the board was asked to consider and that is whether or not we are contributing to a problem of public health, welfare and safety. Madge agreed. Mr. Bartlett stated there were ways they could mitigate that without going to a full roadway. He said they could require a negative grade for a minimum of 25 feet off the roadway, where the driveways have to slope downhill and keep the water on the lots. He said they may have to put culverts under them, but they can do things without going full blown major subdivision and a road through the property. Ann thought that is why the town added culverts and riprap down West and Newfield Roads, because of the water sitting on the road.

Roland L. asked other than the extensive timber harvesting that has been done, is there some type of flagging when he goes to do a site visit that would delineate the lot locations? Mr. Bartlett stated that all the lot corners were set, it has been some time, so he can't guarantee that the risers and flags are still in place. He said if they want to do a site visit, they could set it up. Roland wasn't sure that a site walk was necessary as a group but he said he personally would go to the site. Roland asked if there would be grading stakes. Mr. Bartlett said all the capped iron rods are set and there should be a grading stake next to them, but he wasn't sure they were still there. Ann H. noted there were a lot of people who rode 4-wheelers in that area going up Abbott Mountain. Madge B. said she would go look as well.

Roger A. stated that instead of stone monuments they were asking for a waiver to instead use concrete. Roger asked were they now looking at rebar vs the concrete? Roger asked if they wanted to redo the waiver? Mr. Bartlett stated that the outer corners were found, and he didn't think he had any corners along the roadway for the angular requirement for the monuments. He didn't see any monuments on the plan. Roger stated that asking for a waiver for 89-30.A, concrete monuments instead of stone, he is bringing this up because they are using rebar with caps, so he didn't think they were requesting the correct waiver, it should be asking to use rebar. Mr. Bartlett stated that if there was a point that he was required to set a monument, then they would like to use concrete. He said the concrete is easier to find with a metal detector, they are magnetically locatable, and they look good. Roger stated that most often people use rebar with the cap, which was why he noted it. Mr. Bartlett stated the rebar is set at all lot corners, and the zoning only states they have to set monuments at certain points and they are only asking for those points. Roger believed the monuments are set at every point. Mr. Bartlett stated that it was his understanding that it was required at any change in direction of the road or major corners of the intersection. He said it was his understanding the individual lots corners can be iron rods with caps. Roger read 89-30.A as follows:

A. Monuments

- (1) Stone monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.
- (2) Stone monuments shall be set at all corner and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.

- (3) Stone monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes, 112 inches deep, shall locate the point or points described above.
- (4) All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points, shall be marked by suitable monumentation.

Mr. Bartlett stated that what this says to him was that the stone monuments have to be along the street intersections and street points. He said, then at all corners and angle points of the subdivision boundaries to cement the outside boundary, and we are clear on the size of the monuments. He said the suitable monumentation, capped iron rods are generally considered suitable monumentation for a lot corner, but he would take a closer look and make sure he is asking for what they want before they resubmit.

Roger A. said he didn't see anything for a waiver for sidewalks or underground utilities. Mr. Bartlett thought that sidewalks were part of major subdivision. Roger said they were for both. Mr. Bartlett said he would put in a waiver for sidewalks. He asked if overhead utility lines were acceptable for this subdivision. Roger said it was up to the applicant. He said if they do not want to go underground then they will have to put in a waiver. Mr. Bartlett said, "Ok".

Roger A. asked on Lot #1, if the wet area depicted was added on to the 80,000 sf lot size requirement? Madge B. stated that at the last review Mr. Bartlett said it had been taken into consideration. Mr. Bartlett agreed and stated the wetlands are included in the lot calculations.

Roger A. asked Mr. Bartlett to let Barbara F. know when he was ready to come back before the board. Mr. Bartlett stated he will return as soon as possible.

Madge B. asked if they could have them combine driveways? Ann H. said she was wondering the same thing. Roger A. said that as long as you have great neighbors a combined driveway works, but most of the time it creates an issue. Madge asked, "What about two driveways for two lots come out at the same location"? Madge asked if they could be parallel and then come out? Roger noted that Lot #1 is coming out onto Grey Road. Ann wasn't concerned with that one because it was near where people have to stop. Roger agreed. He said then you have 3 lots and if you have 2 lots with one driveway and 1 lot with a driveway, he didn't think it would make that much of a difference. Madge agreed. Ann thought it would be nice if they could have the driveways run along the rear of the property and then come out in one location onto the Newfield Road. CEO Demers didn't see whether it was 1 driveway vs 3, was any safer. He said in that section of road there was a good line of site, if you have 3 driveways onto the main road, potentially 6 cars, what would be the chance they would all leave at the same time. He didn't see this as a human health concern. Ann said as long as they don't plant any bushes there and block someone's vision coming out. Steve F. said the board could look at a buffer, a no plant zone, so nothing blocks the site distance if it is a concern. Steve said he didn't disagree with anyone's concern, but he wasn't sure it was any safer to have combined driveways. He said whether they come out 30 feet apart or in the same spot, he didn't know if it was any better. Ann was concerned with people being able to stop coming out onto the road with the ice issue. Steve said he shared her concern, and noted that this is a State road not a Town road, so it will be an entrance permit from the State. CEO Demers agreed. Steve said the board could look at the driveway and require either a flat or as the applicant stated, a negative pitch back towards the house to keep the water out of the road and in the ditch line. The rest of the board agreed it would help.

Nothing further was discussed.

Growth Permit (See Above)

- **Map 41, Lot 33** (Pine Springs Road)

GP #03-2021

The lot was approved as one single lot, with no further division allowed.

Nothing further was discussed.

The Planning Board meeting ended at 7:55 p.m.

NOTE: The winter hours are in effect as of November 1st; 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 February 23, 2021 at 6:30 p.m. See the Town website, www.shapleigh.net to obtain the link details, or use the information below.

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

- **Join Zoom Meeting**

<https://us02web.zoom.us/j/88005967573?pwd=OWxLdWM5eTZ5V28yL05VdWdVSmFjQT09>

- **If calling in:** Find your local number: <https://us02web.zoom.us/j/88005967573?pwd=OWxLdWM5eTZ5V28yL05VdWdVSmFjQT09>

Zoom Meeting ID: 880 0596 7573 **Passcode:** 860338 **(For all links)**

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

The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2839, x4.

Respectfully submitted,

Barbara Felong, Land Use Secretary

Town of Shapleigh planningBoard@shapleigh.net