

Shapleigh Planning Board

Minutes

February 23, 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, and Roland Legere. Code Enforcement Officer Mike Demers was also in attendance.

Alternate Ann Harris was unable to attend.

The minutes from Tuesday, February 9, 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.

Conditional Use Permit – Replace Patio & Wall Removed 10/5/2020 – Map 40, Lot 50 (50 Loon Lane) – Nancy Lightbody, Property Owner & Applicant; Mr. Tom Kinney, Representing

Mrs. Lightbody was present for the review of the application via Zoom, along with the contractor, Tom Kinney, who is overseeing the project.

At a previous meeting it was established that Mrs. Lightbody was before the board for the replacement of a patio and wall that was removed on October 5th, 2020.

Provided along with the application, was a sketch plan of the property which depicted the lot dimensions, the location of the existing structure(s), patio area (2 patios & walls), and wellpoint in relation to the lot lines and waterline of Granny Kent Pond; a sketch plan which depicted in addition to the structure(s), patio and wellpoint, the area that was disturbed and the notation that the area will be graded, loamed and seeded; a copy of the Permit by Rule & Notice of Intent Acceptance Date of 11/12/2020, as reviewed by Lucien Langlois; a copy of the Subsurface Wastewater Disposal System Application, dated 12/6/1991, SE #121, Mark Truman; and a letter dated December 14, 2020 whereas Nancy Lightbody gave permission for Tom Kinney of Property Essentials LLC to discuss the project with the Planning Board and represent her in her absence.

The detailed description of the project was as follows: *Finish 18' x 24' patio with retaining wall at the rear of 50 Loon Lane adjacent to the home. Property had two patios and two retaining walls which extended from the home to the shoreline of Granny Kent Pond. They were removed on or about 10/05/2020.*

In addition, the following letter, dated December 14, 2021 was written to the board from Mrs. Lightbody. The letter reads as follows:

Respectfully, I would like to submit the following with regards to the work being done at 50 Loon Lane in Shapleigh. As the current owner, I purchased the property in 2014. At the time of purchase, there were two patios and retaining walls in place. Based on the wear, condition of the patio (it was disintegrating) and how the wall was leaning, they had been in place for some time. However, there is no record with the Town as to the exact date of their installation.

The intent of the project was to replace the existing patio in its existing location on the south side of the home (with minor modification for safety / leveling) and replace the retaining wall – to stop the leaning and to make the area safe before it fell into disrepair.

The work being done is not adding any new structures or expanding the existing structures. In fact, we removed the stone patio that extended all the way to the water's edge. Once the work is complete, the yard will be brought back to a natural state including some minor landscaping work to help with the current runoff issue (from the top of the hill/road) caused by the slope of the land.

Our belief was that since we are replacing an existing patio – not adding a new patio – that we had the ability to replace what was existing without a permit. Once we were made aware of the towns concerns, we took immediate action to resolve the issue:

- Silt fencing was placed around the perimeter of the property
- We requested and were granted a Permit by Rule from DEP
- We are currently seeking an 'after the fact' permit from the Town due to the scope of the project

We are requesting a permit be issued so that the work can be completed. Not doing so would:

- make the lakefront side of the property unusable due to the slope
- increase the likelihood of erosion – given a retaining wall is necessary to stop dirt and other material from entering into the lake
- make the rear egress from the home difficult (the stairs landed on the patio) and caused a possible safety issue
- decrease the property value of the camp

Our family has been part of the Granny Kent and Shapleigh community for over 30 years. In addition to our camp, we have other family members in the area and on the lake. It has always been our intention to protect the land and not diminish the lake's natural beauty. We feel that the work being done will enhance the property, protect the natural resource and allow it to be enjoyed for years to come.

Presented to the board was a letter dated January 4, 2021, written by Mrs. Lightbody, it read in part as follows:

We met with the Planning Board on December 22nd to review the work being done at 50 Loon Lane. As a result of that conversation, there were several requests for additional information / documentation. The information requested included:

1. Additional Fee – It was unclear on the application that the additional fee was needed at the time of submission. The additional \$750 fee was mailed on 12/31/20 and should be in your possession
2. Pictures of the property prior to and current state including the height of the current wall – see attached
3. Vegetation Plan – See attached
4. Engineering Certification if the proposed wall is over 4 ft. – The design and plans will be approved prior to the continuation of work – once the Conditional Use Permit is granted
5. DEP Shoreline Certified Contractor – A DEP Certified contractor will be on site for the remainder of the project – verified by CEO

Admittedly, there have been several missteps with this project. However, I submit that we have worked hard to come into compliance and to meet all requirements that have been asked by the Board.

I again respectfully ask that the Board issue the Conditional Use Permit so that the work can be completed. Approving the existing plan will benefit the lake by removing the stone, minimizing the run off and bringing it back to a natural state; creating a usable space for our family and ultimately increasing the value of the property for both us and the town.

Along with the above letter there were the following pictures:

‘Existing Lower Patio’ with this description: ‘As you can see, the lower patio on the property extended all the way to the water’s edge and was severely sloping towards the lake. The stone has been removed, the area leveled and will be replaced with sand/grass (see vegetation plan)’.

‘Retaining Wall’ with description: ‘Only a portion of the prior retaining was above grade. The wall consisted of 8” high blocks – 3 rows or 24” were above grade. 4 rows or 32” were below grade. The bottom row (footing) remains visible in the ground in the picture below. The wall that was removed was 56”. The new wall is 54” from the footing with an additional 3” finished cap – total height 57”

‘Upper Patio’ with description: ‘The exterior dimensions of the replacement patio are 24’ x 18’. It is supported by a 57” retaining wall. The retaining wall construction includes: Geogrid every 18 inches, all blocks are core filled and glued in place, the area was backfilled with $\frac{3}{4}$ crushed stone and the wall step back is 1 inch per level. The bottom two levels of the wall will be below grade. Details are outlined in the vegetation plan.

‘Vegetation Plan’ – The vegetation plan will include grading, adding loam and seed to the area to the right of the house (used to access the rear of the property). Waterbars will be added to help reduce runoff. The lower undisturbed area to the left includes crushed stone to help runoff and drainage. The area where the prior patio was removed will be covered with 6-8 of site fill and top dressed with 4 inches of beach sand. It will cover the bottom two courses of the wall. The use of sand is preferred as it will improve drainage and run off – if anything, it will be less impactful to the lake (no chemicals or fertilizer from soil/grass). See attached vegetation plan.

The attached vegetation plan depicts the existing camp and attached 18’ x 24’ patio, an area to the left of the camp from the water side with a notation ‘Add 4-6 inches of $\frac{3}{4}$ ” crushed stone over existing undisturbed grade – approximately 10 yards’; an area in front of the new patio with a notation ‘Replace previous patio with 6-8 inches of fill from the site. Add approximately 4 inches of screened beach sand or loam and seed.’; an area to the right of the new patio with a notation ‘Disturbed area from equipment – Regrade to remove track marks and other disturbances, -Add 4-6 inches of loam where necessary, -Add seed to grow grass back to its original state.’; and an area alongside the existing camp with a notation ‘Waterbar – 6 inches of $\frac{3}{4}$ crushed stone’.

Provided by the Code Enforcement Officer were pictures of the existing conditions and prior patio areas.

Received by an abutter within 500 feet of the property was the following letter:

In reference to letter received as an abutter to application for a Conditional use Permit for Shapleigh Tax Map 40, Lot 50 (Loon Lane). Nancy Lightbody, Applicant; John Lightbody.

I have several concerns regarding this application, first of which is the letter states applicant requests the ‘replacement of existing patio and retaining wall’ that were removed in October 2020.

The information provided in this letter is incorrect because as an abutter, I know they are requesting permit after the fact. This work was already done and completed at this site all at the same time removal was done in October 2020 (see enclosed pictures).

Work began approximately sometime late September with excavation done with backhoe and skid steer from street side to the shoreline of the property.

This replacement is completely different from the original patio and retaining wall (see enclosed pictures). Enough earth was removed to allow for the cement replacement of wall with top patio to be much larger in width, depth and height.

Maine Erosion and Sedimentation Control a concern as no silt barrier was placed at the shoreline during wall/patio removal and earth excavation for placement of new one.

I would also ask if the Planning Board will be considering the Standards Applicable to Conditional Uses regarding this application.

Thank you for notification of this application and allowing me to express my concerns and comments.

Attached to the letter was the follows:

- A copy of the Town's assessing dimensions of the existing camp, patio on road side, and patio on water side (which is depicted as 10' x 24' in size).
- Picture of the existing camp and what the prior patio looked like.
- 2 pictures of the new patio.
- Google picture of the existing camp and patio area prior to removal.

At the meeting held on January 12, 2021 a motion was made that the wall be moved, returned to its original location; and that the applicant comes back before the board with the new proposed height of the wall, and whatever adjustments they feel are necessary if they do run into plumbing; and also, a revised landscaping or replanting stabilization plan.

Provided by the applicant for this evenings meeting were the following:

- Sketch Plan depicting the outer dimension of the wall measurements, those being 11' 3" from the house toward Granny Kent Pond by 24 feet in width.
- Sketch Plan depicting the front wall that being 24' in width with a height of 3' 9", with 2' 4" showing at the finished grade.
- Sketch Plan depicting the side wall on the right, facing the camp from the water side, as being 11' 3" in width, with a height of 3' 9", showing 2' at the finished grade.
- Sketch Plan depicting the side wall on the left, facing the camp from the water side, as being 11' 3" in width, with a height of 3' 9", showing 1' 6" at finished grade.
- Revegetation / stabilization plan which depicts the lot dimensions those being 100' on the road, sides lot lines of 175' and 105', and 100' on the water; the existing camp; location of the new wall showing it as being 11' 3" from the camp; area on the left of the camp facing the road, having 3/4 inch crushed stone added for water retention; the area to the right of the camp facing the road, adding 3/4 inch crushed stone; area where the lower patio is removed and the area disturbed by equipment, both shall be regraded, loam added and area seeded.

Nothing further was discussed.

Conditional Use Permit – Earth Moving in the Shoreland District to Replace Retaining Wall – Map 28, Lot 9 (126 17th Street) – Kenneth Sawaya, Property Owner; Matt Colton, Jr., Applicant

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

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Provided along with the application, was a copy of an email from Mr. Ken Sawaya that gave Matt Colton permission to replace his retaining wall, to do any measurements, removals and any construction on the property. Also provided was a picture of the existing retaining wall from the water side, with a notation that the wall was 4 feet in height and 56 feet in length; and a sketch plan which showed the location of Mr. Sawaya's home which was noted as being 23' 8" from the retaining wall to be replaced, the length and width of the existing retaining wall that being 56' long x 4' in height, along with the adjacent property of Mr. Richard Brady.

The detailed description of the property is as follows: *Replace existing retaining wall on lake side of property.*

Roger A. asked Mr. Colton to let the board know what he intended to do. Roger noted that the board would be looking at both walls at the same time, since they are side by side and being done by the same contractor, both on Lot 9 and Lot 10. Roger asked if that was ok with Mr. Colton? He said, "Perfect".

Roger A. asked Mr. Colton if he knew when he wanted to get started? Mr. Colton stated, "As soon as we get this permit". Roger asked about the Permit by Rule? Mr. Colton stated that it was all signed off.

Roger A. asked if the wall located at 126 17th Street would be approximately 4 feet in height? Mr. Colton stated, "Correct. He has an existing failing railroad tie wall". Roger agreed. Roger said the wall would not be any taller than 4 feet. Mr. Colton stated, "Correct".

Roger A. stated that on 120 17th Street, that wall will not be at the same height as 126, because it is quite a bit lower. Mr. Colton stated, "Correct, it steps down between the properties". Roger agreed. Mr. Colton stated they would do the walls at the same time as soon as the permit was approved.

Steve F. asked if the board would be doing a site inspection together? Roger A. stated he had seen the walls today and noted that the wall on 126 was leaning, it was 8 x 8 railroad ties and leaning toward the water. Mr. Colton agreed. Roger stated that other members were welcome to go take a look at the walls.

Roger A. stated there would be notification to the abutters, and the final review would be at the meeting on Tuesday, January 26.

Maggie M. asked if the road was clear to get through to the lots? Roger A. stated that it was icy going down, but after the rain coming on the weekend things could change.

Roland L. asked if all the work would be done from the land side? He didn't think they would use the barge. Mr. Colton stated from land and that it was a nice flat lot, so they try to schedule lots like this for the wintertime. Roland asked if there was a silt fence down into the water, or is there shoreline between the wall and the water. Mr. Colton stated, "Right now the water is going down, its currently about 6 to 8 inches away from the wall. We plan on drilling and putting in silt fence through the ice on the lake side. You take a one inch drill bit, and pound in stakes and we do our silt fence that way". He added, "If that's what you guys want. We can't do hay because of this year, where its so dry, nobody has access to hay". He believed silt fence would be sufficient.

Roland L. asked if the two walls connect at any point? Mr. Colton stated that yes, they were going to do one continuous wall, with just a height difference and the property maker is going to change. He stated that they would be replacing exactly what is there, so if the board gets a chance to go and see it it will make sense.

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Roland L. asked what size blocks they would be using? Mr. Colton stated they would be using the Pepin engineered blocks, the 1000 pound blocks. He stated he was told they withstand the water for years to come. He stated they were 16 inches tall, 4 feet wide and 26 or 28 inches deep. He stated it was a 2000 pound face block, similar to blocks he has used on the other side of the lake.

Roger A. asked about the time frame for completion, and noted the board will need to know that answer for the next meeting. Mr. Colton stated from the time he receives his permit, they have 2 to 3 weeks of work to complete from the start date to finish. Mr. Colton noted that come spring there may need to be some touch up on the loam.

Roland L. asked if any vegetation was being removed, trees or shrubs? Mr. Colton stated that on 126, on the lake, facing the camp on the left, there is a tree cut off at 10 feet, that will be coming out. He added that the tree is dead.

Roger A. asked if there were any other questions for Mr. Colton? Mr. Colton asked, "Other than you guys getting out there to get a chance to look at it, is there any chance I can get a permit sooner"? Roger said, "No". Roger said the board has to notify the abutters, that is required by law to give a 10 day notification and the next Planning Board meeting is in 14 days. Mr. Colton asked if in the future he sent out a notice prior to the meeting, could we have a permit issued sooner? He believed it was a lengthy process. He noted that he had a lot of work coming up on Treasure Island and time would be an issue, with permitting. CEO Demers stated that if he started the Permit by Rule process at the same time as the Planning Board, it all would have lined up. CEO Demers stated that he should apply to the Planning Board prior, to allow the one month lapse. Mr. Colton stated that he should allow for a month for a permit. CEO Demers agreed. Mr. Colton asked if the permit was good for two years? Roger said, "Right".

Roger A. stated the board would see Mr. Colton on January 26 and members will drop by and take a look at the site on an individual basis. Mr. Colton thanked the board.

Nothing further was discussed.

Conditional Use Permit – Earth Moving in the Shoreland District to Replace Retaining Wall – Map 28, Lot 10 (120 17th Street) – Richard Brady, Property Owner; Matt Colton, Jr., Applicant

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

Provided along with the application, was a copy of a letter from Richard & Barbara Brady which stated that as property owners of 127 17th Street, they gave Mr. Colton permission to demolish their retaining wall and replace it with a new one, and Mr. Colton could conduct all other activities necessary to complete this project. Also provided was a picture of the property from the water side which showed the existing retaining wall with a notation that it was 2 feet in height and 40 feet in length across the front and the wall section along the stairs was 20' x 2' with an adjoining section being 8' x 2' in height. An attached sketch plan depicted the location of the Brady house, the several distance markers from the house to the waterfront and stairs, and the length of the walls along the water, those again being 40' x 2' and 20' x 2', along with the section of stairs.

The project description was as follows: *Replace existing retaining wall on lake side of camp.*

• *See review above for Map 28, Lot 9.*

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Growth Permits

Growth Permit #22-20 – Map 41, Lot 33 – Incorrect Documents Provided for Approval

Roger A. stated that GP #22, approved in 2020, the board granted the permit based on incorrect information / paperwork provided by the applicant, Ted Theriault of Waters Edge Land Development. Roger stated because of this, the Planning Board will have to rescind the approval.

Madge B. moved the Planning Board rescind Growth Permit #22-20 which was issued in error. Steve F. 2nd the motion. All members were in favor. By a vote of 5 – 0, GP #22-20 was rescinded.

Map 25, Lot 12 – Sachems Way – New Home

GP #01-2021

Roger A. stated the contractor is Lee Dezan, and the lot was a buildable lot.

Map 42, Lot 23-1 – 1 Royal Coachman Way – New Home

GP #02-2021

Roger A. stated the lot is in Pine Springs Development, a lot of record and the contractor is Ted Theriault.

Roger A. asked Mr. Theriault if he had any questions for the board? Mr. Theriault said he had a question regarding Map 41, Lot 33 – GP #22-20. He stated that he had put in the wrong Book and Page which was his fault. He asked if the Growth Permit fee would be able to be re-applied to the correct permit? Roger stated that the money went with the application and is non-refundable, per the Growth Ordinance.

Roger A. noted that the board was still waiting for a legal opinion regarding Map 41, Lot 33 and whether or not it was legal to split a merged lot. Mr. Theriault wanted to know if the board wanted to hear the story about the lot in question. Roger stated that until the board gets the lawyers recommendation, they were not. Roger did add that when a land owner merges two properties, likely for tax purposes, you do not then separate it in his opinion. Mr. Theriault stated that Paul Bennett at O'Donnell's disagrees. Roger said again that is why it is being reviewed by a lawyer.

Nothing further was discussed.

The Planning Board meeting ended at 8:35 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 January 26, 2020 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/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)

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- 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