

Shapleigh Planning Board

Minutes

March 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, Roland Legere and Alternate Ann Harris. Code Enforcement Officer Mike Demers was also in attendance.

The minutes from Tuesday, March 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.

Best Practical Location – Replace Existing Structure – Map 32, Lot 9 (32 Dahlia Street) – Tyler Matthews, Applicant; Susan Kronlund, Property Owner

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

Provided was a boundary survey entitled 'Existing' which depicted the existing camp showing the distance to the side lot lines as being 14.9' and front setback of 3' to Dahlia Street. The plan noted the lot as being 15,694 ± sf.

Provided was a plan entitled 'Kronlund – 32 Dahlia Street, 'Proposed', which depicted the proposed new structure as being 20' x 30' in size, front setback 3' from Dahlia Street and 15' from the side lot lines.

Provided was a copy of the Subsurface Wastewater Disposal System Application for a 4 bedroom home (encompassing two separate structures), drafted by John Large SE #7, dated 7/7/2008, inspected by the Code Enforcement Officer on 9/9/2008. Along with the application is an evaluation letter for 27 Dahlia Street, written by John Large, which stated in part the following:

The attached application is for an expansion from the current three bedroom chambered system to add an additional bedroom in the small building.

The current requirements for a 4 bedroom system are 15, 4' x 8' concrete chambers. The existing system as inspected calls for a 1000g septic tank and 15 concrete chambers.

A concrete tank was found at the site and a chamber was uncovered. The locations and the elevations of the units were similar to the requirements of the original design. Clean, dry fill was found above the chamber indicating that the system is functioning properly.

Based on the above, the addition of a bathroom in the existing small building would be acceptable.

John Large

The detailed description of the project is as follows: *Tear down existing camp & build new single family house.*

Roger A. asked Mr. Matthews to let the board know what he intended to do on Map 32, Lot 9.

Mr. Matthews stated they were looking to tear down the small camp and build a new single family home, and leave it where it sits which is 3 feet from the road.

Roger A. reviewed §105-4, nonconforming structures, D(5) as follows: ‘Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed or damaged or destroyed regardless of the cause, by more than 50% of its Town-assessed value before such damage, destruction or removal, may be reconstructed or replaced, provided that a permit is obtained within one year of the date of said damage, destruction or removal and provided that such reconstruction or replacement must be in compliance with all water body, tributary stream or wetland setback requirements to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this chapter. In no case shall the structure be reconstructed or replaced so as to increase its nonconformity. If the reconstructed or replacement structure is less than the required setback it shall not be any larger than the original structure, except as allowed pursuant to Subsection D(1) above, as determined by the non-conforming footprint of the reconstructed or replaced structure at its new location. If the total amount of the original structure can be relocated or reconstructed beyond the required setback area, no portion of the relocated or reconstructed structure shall be replaced or constructed at less than the setback requirement for a new structure. When it is necessary to remove vegetation in order to replace or reconstruct a structure, vegetation shall be replaced in accordance with Section (D)(7)(b) below.’

Roger A. reviewed §105-4, nonconforming structures, D(7) as follows: ‘Relocation.

- (a) A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.
- (b) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with Section D(7). In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

[1] Trees, woody vegetation and ground cover.

[a] Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed.

[b] Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be established within the setback area. The

vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

[2] Where feasible, when a structure is relocated on a parcel the original location of the structure shall be replanted with vegetation which may consist of grasses, shrubs, trees, or a combination thereof.

(c) All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.

Roger A. stated that because the existing structure is greater than 100 feet from the water body, the Planning Board is only considering the placement of the structure that is within 3 feet of the road. Roger stated that he would like to see the structure 13 feet from the edge of the road.

Ann H. asked if the structure was more than 250 feet from the water? Roger stated, “No”. Ann asked how big the new structure was going to be? Roger stated that the board does not look at the new structure, only the existing as it is, and move that, per the DEP. Ann agreed that it should be pushed back.

Roger A. asked about a time line, when the project would begin and be finished. Mr. Mathews stated that he had not gotten that far with the property owners. He wanted to know how long the Planning Boards decisions last? Roger stated that the Conditional Use Permit is only valid for 2 years. Mr. Matthews asked if this was the Planning Board or the building permit? Roger stated that you have 1 year to have a substantial start with the building permit and 2 years to complete. Note: §105-73.F(2) ‘*A conditional use permit secured under the provisions of this chapter by vote of the Planning Board shall expire if the work or change involved is not commenced within two years of the date on which the conditional use is authorized.*’ Mr. Matthews said, “Ok, I would ask for that, because I honestly don’t know. I’m kind of just handling the permit process for them right now. I think they want to start in the fall and be done by the following summer.”

Steve F. stated the reason for the time frame is to try to minimize the time that the ground is exposed to stormwater and is an open working worksite. Mr. Matthews stated that it made sense. He said that he did not think they wanted to start in the summer where they have the adjoining camp. He said he would push them to start in the fall and be finished by spring or early summer, to keep the noise minimal. Steve stated that when the board puts a time frame, as long as they get back to the board if they need a new time frame, it’s not a big deal for the board to reconsider the time frame.

Roger A. asked about a start date of mid July 2021 and completion date of August of 2022, if that would work? Mr. Matthews thought that would work.

Mr. Matthews stated he heard several people wanted to move the structure back. He asked if the board would be willing to consider moving the structure back 7 feet for a total of 10 feet from the road? Steve F. stated that when the board was at the site inspection, they looked at moving the structure back to the first pier, which was basically 10 feet from the front of the camp to the first pier. He said his biggest concern was the power lines and getting the structure back away from the road. Steve said he understood it was not a heavily traveled road, but if there was an issue that required fire or rescue, they need to get around. He said that was part of the reason for his concern. Mr. Matthews thought it made sense. Steve believed they could achieve what they wanted, unless someone brings a good excuse that with what they want, they cannot push it back into the bank. He believed they could use the back wall as a retaining wall and it may actually improve the front of the property.

Steve F. stated that looking at the survey it did not appear Dahlia Street had been severely located and it might behoove the owners to get some measurements based on the Planning Boards request to move it back, so it can be set in the right spot. He said, unless someone can do some math and figure out some points. He didn't see where Dahlia Street, besides the traveled way, had been located well. Mr. Mathews stated he wasn't sure on that, he left it up to the surveyor, Joe Stanley. He said when Joe Stanley tells me where it is, I go by that. Steve said he was fine with that, so he must have ties to pins that are on there, so he will be able to figure it out. Mr. Matthews agreed.

Roland L. stated that when the board took the measurement from front to back of the existing structure, it was just shy of 19 feet. He asked if that was everyone's recollection? Steve F. stated, "Sounds right". Roland said the board rounded off from the center of the pier and went 20 feet back. Roger A. agreed. Roland added that they scuffed the side of the hill. Roland said when he looked at the proposed plan, they were looking at 20 wide by 30 deep. He asked if this was correct? Roland said if this was correct, it would take the end point of the structure 10 feet further into the bank. Mr. Matthews said correct, but he said that Roger stated the board cannot look at that. Roland said he just wanted a clarification. Mr. Matthews stated that yes, he wanted to make the thing bigger because it is so narrow, he wanted to make it deeper, and yes it would be back further into the hill. Roland said, "Ok, thank you".

Roger A. stated he would entertain a motion with the following conditions:

- 1) Move the building back 13 feet from the road.
- 2) Project to begin July 2021, completion by August 2022.
- 3) Surveyors to set the building per the Planning Board approval.

Roland L. added that the demo would have to leave Shapleigh. Mr. Mathews stated that he wouldn't leave it in Shapleigh and agreed with Roland.

A gentleman asked if an abutter could have input? Roger A. stated that he certainly could voice any concerns. He stated he was Doug Wells from 41 Dahlia. He stated he was not opposed to the project but wanted to bring up a couple of points that he considered important. He stated that Dahlia is a dead end and construction would have to be done in a way that the road was kept open year round. He noted he used the road in the winter. He stated that his second issue was water runoff. He said if the board was on the site 2 weeks ago, they would have seen about 5 or 6 inches of water flooding behind the Richards camp. He said again he didn't oppose the project but it isn't something you can put a gutter system on and drain into the right-of-way, because it would go right down the roads and flood them. He said the board already discussed the sewerage capacity, and he noted that was a low area and it tends to erode and flood in severe rainstorms, so it's important to have a leachfield that is appropriate for increased usage. He said these were common sense things but he would like to hear the boards response to keeping the road open, address the water runoff issue as the development continues, and sewage.

Ann H. asked if after the demo is removed if there would be some sort of water basin to catch the runoff, when the revegetation is done? She said when the board had the meeting with the DEP, they addressed water retention. She asked Roland if he remembered what it was called? Roland stated, "It's a rain garden". Ann asked if they could have a rain garden basin to catch the runoff on the property? She said there was a house that was approximately 5 feet from the water and it went into an embankment, in Acton, and they made them push it more into the bank, and they had them put in a rain garden to catch all the runoff. She asked if this could be part of this vegetation plan?

Steve F. stated that the ordinance calls for the water that is produced by the project to be retained on the property. Ann agreed. Mr. Matthews stated that there was no vegetation in front of the property to suck up the water. He stated that CEO Demers would not sign off on the project unless he knows the water is controlled, whether it is a dry well, rain garden, etc. He stated he would have a good stormwater plan to be certain he was controlling the water. Ann asked Mr. Wells if that made sense? He stated it did. He said there were 2 issues with water runoff, some comes down the hill and this addresses that. He said there was also a large amount of water that comes down the right-of-way as well, down the paved part of the road, and into Richard's yard. He said he understood the applicants cannot block this but it makes the water coming off the hill more of an issue. Roger A. asked Mr. Matthews if he had any additional input. Mr. Mathews stated that the water coming down the road he did not feel was fully his responsibility, but he said when he was on site, he did see the ponding. He asked if Mr. Wells was speaking about the camp just past the Kronlunds? Mr. Wells stated he was 2 camps away but the camp that is 1 past them takes the lions share of the water. He said his drain fields are across the right-of-way and they do not flood, but noted that 2 weeks ago there was up to 6 inches of water he had to drive thru to get to his camp. He said it was a combination of problems and it was addressed somewhat when the road was paved and french drains were put in on each side. He said it still comes down the center, from the Desrochers home and into the Richards, which is one beyond them. Mr. Matthews stated that he assumed it was more of a problem when the ground was frozen and it was raining, so it wasn't being absorbed. Mr. Wells agreed the spring thaw was one of the toughest times, whenever the ground is frozen and the snow is starting to melt. He added that weather is changing, he has seen more severe weather in the last few years than all of the 68 years he has come to Square Pond.

Roger A. asked Mr. Matthews if he was going to do anything with the septic system across the street? Mr. Matthews stated that no, not on the lakeside of the street. He said all the work being done is on the opposite side of the street. Mr. Wells asked if they were going up the hill? Mr. Matthews asked, "With the septic"? Mr. Wells said, yes. Mr. Matthews said that no, they were adding a tank and tying into the existing leachfield. Mr. Wells asked if this was under the road? Mr. Matthews believed it was in Kronlund's parking area, on the back side, where the rock wall goes. Mr. Wells said, "Right". Mr. Wells said his intention was not to make this more difficult than it had to be, but he wanted them to pay attention to what he noted, or it will come back to haunt them in the future. Mr. Matthews said that he understood.

Roger A. asked if CEO Demers had any input? CEO Demers showed the board §105-4.D(3) 'Foundations.

(a) Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and the new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board.'

CEO Demers believed the Planning Board should consider the size of the new foundation and what that will look like going into the hillside. He said it was his opinion, but the board could do what they felt best. Roger A. stated that in the past the board looked at both the old and new foundation but the DEP stated they could not. He said they were told the board could only look at the existing structure and move it back to the greatest practical extent. CEO Demers stated that he didn't see anything in the ordinance that tells him that, he only sees that the new foundation needs to be placed. Roger stated that the DEP required the board to look at the old foundation. CEO Demers said he had no guidance on that, and again he said he reads it as the replacement foundation. Roger stated again that the board used to look at the new foundation, until the DEP came in and said they would bring us to court if the board did it any other way. CEO Demers asked if there was a court ruling on that? He said the board can only apply the ordinance as it is written. He believed if the board diverted from that it could lead to unintended consequences.

Roger A. stated that he did not think there was a problem going back 10 feet, with the building being 30 feet, he didn't see a big impact. CEO Demers said to just consider that. Ann H. stated to CEO Demers that she believed they would have more space because part of the hill is already cut back more than 20 feet. She said it was odd shaped. Mr. Matthews believed if you go back anymore than 5 feet you are getting into the hill and there will be a lot more work done. He said he understood the board wanting him to move it back. CEO Demers stated that when you dig the foundation hole its larger than the foundation. Roger agreed and noted a large pine that will probably have to come down because it will be affected.

Steve F. stated, "At the end of the day not every lot is suitable for an expanded structure. All we can work with is the best that we can work with. Maybe we are trying to fit too big a place in the hill. That's my thought on the whole thing. It's not the lots' fault. There is an existing structure there now that works. But we are trying to expand and if the lot doesn't conform to that, so be it."

Ann H. stated that if it gets pushed back to the 13 feet, the hill is going to butt up to the foundation, there would then be permanent erosion control, along with whatever DEP requires which will help with runoff too.

Roger A. stated at this time he would entertain a motion with the 4 conditions:

- 1) The footprint of the new structure shall be no closer than 13 feet from Dahlia Street, and shall be 15 feet from each side lot line.**
- 2) The project will begin in July of 2021, and it shall be completed by August 2022, which includes retaining stormwater on site and stabilization of the area. If the date of completion cannot be met, the applicant shall come back to the Planning Board to establish a new date.**
- 3) A licensed surveyor shall confirm in writing that the structure is correct per the plans approved by the Planning Board, which move the existing structure as noted in condition 1.**
- 4) All debris from the demolition of the existing structure shall be taken out of Shapleigh and disposed of at a proper facility, such as Simpson's in Sanford Maine.**

Steve F. made the motion to approve the best practical location to replace the existing structure on Map 32, Lot 9 with the four stated conditions. Maggy M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the decision was unanimous.

Mr. Wells stated that the only thing he didn't hear was that the road would remain open during construction. He asked Mr. Matthews if this would be possible? Mr. Matthews stated, "Yes, I cannot block the road. Absolutely". Mr. Wells stated he understood it would not be easy but he has no other way in or out. Mr. Matthews stated that was one reason why he didn't want to do it during the busy season.

Nothing further was discussed.

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**The Findings of Facts**

- 1. The owner of Shapleigh Tax Map 32, Lot 9 (32 Dahlia Street) is Susan Kronlund of 9 Hill Street, Shrewsbury, MA 01545.
- 2. The property known as Map 32, Lot 9 is located in the Shoreland District and according to the Assessor the property contains .35 acres.
- 3. The Best Practical Location application was presented to replace the existing structure with a new structure.

4. The application description reads as follows: *Tear down existing camp & build new single family house.*
5. Provided was a boundary survey entitled ‘Existing’ which depicted the existing camp showing the distance to the side lot lines as being 14.9’, and 3’ to Dahlia Street. The plan noted the lot as being 15,694 ± sf.
6. Provided was a plan entitled ‘Kronlund – 32 Dahlia Street, ‘Proposed’, which depicted the proposed new structure as being 20’ x 30’ in size, set back 3’ from Dahlia Street and 15’ from the side lot lines.
7. Provided was a copy of the Subsurface Wastewater Disposal System Application for a 4 bedroom home (encompassing two separate structures), drafted by John Large SE #7, dated 7/7/2008, inspected by the Code Enforcement Officer on 9/9/2008. Along with the application is an evaluation letter for 27 Dahlia Street, written by John Large, which stated in part the following:

The attached application is for an expansion from the current three bedroom chambered system to add an additional bedroom in the small building.

The current requirements for a 4 bedroom system are 15, 4’ x 8’ concrete chambers. The existing system as inspected calls for a 1000g septic tank and 15 concrete chambers.

A concrete tank was found at the site and a chamber was uncovered. The locations and the elevations of the units were similar to the requirements of the original design. Clean, dry fill was found above the chamber indicating that the system is functioning properly.

Based on the above, the addition of a bathroom in the existing small building would be acceptable.

John Large

8. The application required Planning Board review as a Best Practical Location under §105-4 ‘Nonconformance’. The application as presented, will meet all the criteria in the ordinance with conditions.
9. Planning Board members agreed to move the structure back another 10 feet from the existing location, which moves it further from Dahlia Street, as there was concern with the existing location, which could cause issues with emergency vehicle access and the ability to keep stormwater on site.
10. The applicant agreed during the meeting on March 23, 2021 that Dahlia Street will remain open during construction. No construction equipment shall block the passage way, so as to not interfere with residential traffic to and from homes.
11. A notice was mailed to all abutters within 500 feet of the property on March 10, 2021. Meetings were held on Tuesday, March 9, 2021, and Tuesday, March 23, 2021 via Zoom due to Covid-19. A site inspection was done by members on Tuesday March 23rd.
12. The Planning Board unanimously agreed to approve the Best Practical Location for the replacement of the existing structure on Map 32, Lot 9 per the plans provided and information presented, the footprint of the structure shall be 13 feet from Dahlia Street, and 15’ away from each side lot line, per the plans provided and as discussed during the meeting on March 23rd, with four conditions.
13. **The conditions of approval are:**
  - 1) **The footprint of the new structure shall be no closer than 13 feet from Dahlia Street, and shall be 15 feet from each side lot line.**

- 2) All debris from the demolition of the existing structure shall be taken out of Shapleigh and disposed of at a proper facility, such as Simpson’s in Sanford Maine.
- 3) The project will begin in July of 2021, and it shall be completed by August 2022, which includes retaining stormwater on site and stabilization of the area. If the date of completion cannot be met, the applicant shall come back to the Planning Board to establish a new date.
- 4) A licensed surveyor shall confirm in writing that the structure is correct per the plans approved by the Planning Board, which move the existing structure as noted in condition 1.

**Decision:**

**The Best Practical Location application to replace the existing structure, moving the footprint 13’ from Dahlia Street, and 15’ away from each side lot line, per the plans provided and as discussed during the application review, with four conditions was approved.**

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**Best Practical Location – Replace Existing Structure – Map 30, Lot 43 (22 Hemlock Road) – Tyler Matthews, Applicant; Kevin Seigny, Property Owner**

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

Provided was a copy of the Boundary Survey for Vincent & Diane Srebnick for 22 Hemlock Road, drafted on May 31, 2016, done by Dana Libby PLS #1350 of Corner Post Land Surveyors. The survey depicted the location of the existing structures, the location of the existing well, and abutting properties were also noted on the plan. Distance from the structure to the lot lines was not on the survey plan.

Provided was a plan entitled ‘Kevin Seigny – 22 Hemlock Rd’ - ‘Proposed’ which depicted the lot, including the location of the existing driveway, well, and proposed house location that being 17’ from the high-water-mark, along with the proposed new structures footprint dimensions of 36’ x 48’.

Provided was a plan entitled ‘Kevin Seigny – 22 Hemlock Rd’ - ‘Revegetation Plan’ which depicted the lot, the location of the existing driveway, well, proposed structures location / footprint and red dotted lines which were indicating a dripline trench along the 48’ length of the structure; and the area where the existing shed will be removed has a green area indicating that it will be revegetated. The type of vegetation is not indicated.

Provided was a plan drafted by the previous owners for a proposed addition, which indicated the distance from the addition to the well as being 15’8”, and the distance from the existing house to be 11’ 11” from the high water mark of Square Pond. Also on the plan was the existing storage shed, driveway, septic tank and leachfield. There is no date on the plan.

Provided was a copy of the Subsurface Wastewater Disposal System Application for a 2 bedroom home, drafted by John Large SE #7, dated 5/12/1999, inspected by the Code Enforcement Officer on 6/22/1999. In addition, a copy of the Replacement System Variance Request, signed by the Code Enforcement Officer on 5/13/1999.

The detailed description of the project was as follows: *Tear down existing camp & shed & build new single family house.*

Roger A. asked Mr. Matthews to let the board know what he intended to do.



Mr. Matthews stated they are looking to tear down the existing structure and rebuild. He said they were expanding going from left to right, moving it back a little bit from the water, tearing both the garage and house down and building one structure.

Ann H. stated that the board can't push the structure back any further due to the location of the well. Mr. Matthews agreed. Steve F. asked if there was a restriction on how close a well can be to a house? Mr. Matthews did not believe so. Madge B. asked if Steve's point was whether or not it could go back a little bit farther? Steve said that at the end of the day this is a flat lot, so water quality wise he did not think it made much difference whether it was 17 feet or 20 feet. Madge agreed it could not be more than 20 feet. Steve said they are doing a new foundation, and personally he would move it back to give more real estate in the front but that was just his opinion. He said if they want to have it tight, he didn't think it made a difference to move it 3 or 5 feet. Madge said as long as they control the roof runoff, it isn't an issue. She said if they weren't, it would make a difference. Madge said they are making a plan to ensure the roof runoff doesn't go directly into the lake. Steve believed there was enough land to work with to take care of it.

Roger A. asked what the time frame would be? Mr. Matthews stated they would start after Labor Day and finish by July 1, 2022.

Roger A. reviewed §105-4.D(5) 'Removal, reconstruction or replacement' and D(7) 'Relocation'. (See both above)

Roger A. stated the following conditions:

- 1) This project will require Best Management Practices due to the close proximity of the water until ground cover is established.
- 2) Start date September 2021, completion date July 2022.
- 3) The surveyor must set the building and DEP Permit by Rule must be obtained.
- 4) The roof runoff must be contained on site.

Roger stated that it was mentioned on site there was an open permit for tree removal, because CEO Demers knew they were looking to replace the existing structure. Roger asked if trees should be addressed as a condition. CEO Demers stated that yes, add that to the permit. Steve F. asked if they should be on the revegetation plan and it be resubmitted? CEO Demers stated he was looking up the number of trees to be replanted, that can be added to the conditions. Roger asked Mr. Matthews how many trees were flagged? Mr. Matthews said he did not know. CEO Demers stated that there were 4 trees to be replanted on the tree permit. Steve stated there are more than that tagged at the site now. CEO Demers asked if that was tagged to be replanted or removed? Roger and Steve said, removed. CEO Demers said, Ok. Mr. Matthews stated it was where the new structure is going. Steve said the board has 2 options, they can table it until they figure out how many trees or approve it and have CEO Demers take care of the trees. Steve asked CEO Demers what he would prefer? CEO Demers said he had no issue with taking care of it. CEO Demers asked if they knew how many trees were flagged to be removed? No one knew. Roger said he didn't do a count, but he believed there were at least 8. Mr. Matthews agreed. CEO Demers stated they could do a 1 for 1 replacement for up to 8 or 9 trees, whatever the number is and if the number changes they can go back to the board to amend it, plus the 4 already permitted. Steve asked if that was the 4 already taken down? CEO Demers stated, correct.

Roland L. stated he noticed one of the abutters is in the meeting, he wanted to ask if they had any comments or questions. Roger A. asked Mrs. Lemelin, a direct abutter, if she wanted to speak. Mrs. Lemelin said there is a

lot of stuff happening on site. She said there have been a lot of trees removed and more to be removed. She said it was her concern as it affects her property as well. She said as the trees are removed it lets in more sunlight and that it created less privacy. She added that they don't disapprove of the project, just the number of trees being removed. She said the entire lake is having all the trees removed, its disconcerting. She said again, the whole lake not just this property. Ann H. stated that they are supposed to replace a tree for every tree removed, the same distance from the water.

**The conditions of approval are as follows:**

- 1) **The project, including stabilization of the area and replacing all trees removed, four just prior to construction and approximately 8 during, with trees a minimum of six feet in height no farther from the water than the existing, will begin in September 2021 and shall be completed by July 2022. If this date cannot be met, the applicant shall come back before the Planning Board to establish a new date of completion.**
- 2) **Best Management Practices shall be kept in place until the project is completed and the area is stabilized, which includes the use of silt fencing or hay bales.**
- 3) **All debris from the demolition of the existing structure shall be taken out of Shapleigh and disposed of at a proper facility, such as Simpson's in Sanford Maine.**
- 4) **All roof runoff shall be contained on site.**
- 5) **A licensed surveyor shall confirm in writing that the structure is correct per the plans approved by the Planning Board, which move the structure 17 feet from the high water mark / concrete retaining wall.**
- 6) **Approved DEP Permit by Rule required prior to construction.**

**Maggie M made the motion to approve the best practical location on Map 30, Lot 43 to replace the existing structure, the footprint to be 36' x 48', moving the structure back 17' from the high water mark / existing concrete wall with the stated conditions. Roland L. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0 the motion passed unanimously.**

Nothing further was discussed.

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The Findings of Facts

- 1. The owner of Shapleigh Tax Map 30, Lot 43 (22 Hemlock Road) is Kevin Sevigny of 10 Cedar Hill Road, Springvale ME 04083.
- 2. The property known as Map 30, Lot 43 is located in the Shoreland District and according to the Assessor the property contains 2.2 acres.
- 3. The Best Practical Location application was presented to replace the existing structure with a new structure.
- 4. The application description reads as follows: *Tear down existing camp & build new single family house.*

5. Provided was a copy of the Boundary Survey for Vincent & Diane Srebnick for 22 Hemlock Road, drafted on May 31, 2016, done by Dana Libby PLS #1350 of Corner Post Land Surveyors. The survey depicted the location of the existing structures, the location of the existing well, and abutting properties were also noted on the plan. Distance from the structure to the lot lines was not on the survey plan.
6. Provided was a plan entitled ‘Kevin Sevigny – 22 Hemlock Rd’ - ‘*Proposed*’ which depicted the lot, including the location of the existing driveway, well, and proposed house location that being 17’ from the high-water-mark, along with the proposed new structures footprint dimensions of 36’ x 48’.
7. Provided was a plan entitled ‘Kevin Sevigny – 22 Hemlock Rd’ - ‘*Revegetation Plan*’ which depicted the lot, the location of the existing driveway, well, proposed structures location / footprint and red dotted lines which were indicating a dripline trench along the 48’ length of the structure; and the area where the existing shed will be removed has a green area indicating that it will be revegetated. The type of vegetation is not indicated.
8. Provided was a plan drafted by the previous owners for a proposed addition, which indicated the distance from the addition to the well as being 15’8”, and the distance from the existing house to be 11’ 11” from the high water mark of Square Pond. Also on the plan was the existing storage shed, driveway, septic tank and leachfield. There is no date on the plan.
9. Provided was a copy of the Subsurface Wastewater Disposal System Application for a 2 bedroom home, drafted by John Large SE #7, dated 5/12/1999, inspected by the Code Enforcement Officer on 6/22/1999. In addition, a copy of the Replacement System Variance Request, signed by the Code Enforcement Officer on 5/13/1999.
10. Planning Board members did not feel moving the proposed structure farther from the water than the proposed distance of 17 feet would make a difference, since the lot was relatively flat, as long as the roof runoff is channeled so as not to go into Square Pond.
11. Planning Board members agreed the trees that have been removed, currently 4, and those to be removed for the construction of the new structure, approximately 8, shall be replaced one for one, with a tree at least 6 feet in height, measured from the base of the tree to the top, and no further from the water than the existing, per the ordinance.
10. The application required Planning Board review as a Best Practical Location under §105-4 ‘Nonconformance’. The application as presented, will meet all the criteria in the ordinance with conditions.
12. A notice was mailed to all abutters within 500 feet of the property on March 10, 2021. Meetings were held on Tuesday, March 9, 2021, and Tuesday, March 23, 2021 via Zoom due to Covid-19. A site inspection was done by members on Tuesday March 23rd.
13. The Planning Board unanimously agreed to approve the Best Practical Location for the replacement of the existing structure on Map 30, Lot 43 per the plans provided and information presented, the footprint to be 36’ x 48’, moving the structure back 17’ from the high water mark / existing concrete wall, per the plans provided, with six conditions.

14. The conditions of approval are:

- 1) The project, including stabilization of the area and replacing all trees removed, four just prior to construction and approximately 8 during, with trees a minimum of six feet in height no farther from the water than the existing, will begin in September 2021 and shall be completed by July 2022. If this date cannot be met, the applicant shall come back before the Planning Board to establish a new date of completion.
- 2) Best Management Practices shall be kept in place until the project is completed and the area is stabilized, which includes the use of silt fencing or hay bales.
- 3) All debris from the demolition of the existing structure shall be taken out of Shapleigh and disposed of at a proper facility, such as Simpson's in Sanford Maine.
- 4) All roof runoff shall be contained on site.
- 5) A licensed surveyor shall confirm in writing that the structure is correct per the plans approved by the Planning Board, which move the structure 17 feet from the high water mark / concrete retaining wall.
- 6) Approved DEP Permit by Rule required prior to construction.

Decision:

The Best Practical Location application to replace the existing structure, the footprint to be 36' x 48', moving the structure back 17' from the high water mark / existing concrete wall, per the plans provided with six conditions was approved.

Conditional Use Permit - Earth Moving to Widen Driveway in the SD – Map 30, Lot 61 (86 Treasure Island Rd) – Tyler Matthews, Applicant; Joy Whatley Paules, Property Owner

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

Provided along with the application was an authorization letter stating that Tyler Matthews could represent Whatley Family Trust, Joy Whatley Paules, Trustee, in all aspects in order to obtain a building permit from the Town of Shapleigh.

Provided was a sketch plan of Map 30, Lot 61 which depicted the lot as being 2.51 acres in size; showing the location of the existing main camp, deck and stone patio, 2 sheds, outdoor shower, storage box and fire pit, along with the location of the existing driveway. The driveway is depicted as being 250 ± in length. The plan stated that the original driveway would be made 10 feet wider, and they would be taking out about 50 yards (3 truckloads) of leaves & top soil to grub for road.

Provided was a second copy of the sketch plan of Map 30, Lot 61. This plan was entitled 'Re-vegetation Plan' and it showed an area alongside the driveway that would have erosion mulch added to stabilize the hill.

Provided was a copy of the Town of Shapleigh Shoreland Septic Systems Registration Form, which appears to be dated June 1, 1995, which states by the owners (Whatley Family Trust) that the steel septic tank is 500 gallons in size, the size of the leach bed was undetermined and is approximately 105 to 110 feet from the water/wetland. There was a sketch attached to the form which depicted the camp as 85 feet from Square Pond, the septic tank 105' to 110' from the lake and noted again that the size of the leach field was undetermined.

The detailed description of the project is as follows: *The driveway to the existing camp is too narrow. Looking to widen about 10' to allow for larger vehicles & in case of an emergency a fire truck.*

Roger A. opened the discussion stating that the proposal was to widen the driveway. Mr. Matthews agreed. Mr. Matthews stated the driveway comes in off of the Treasure Island parking area. He said it was kind of a goat path in, if you needed an ambulance or fire truck, they would have difficulty, it is very narrow. He stated they were going to widen it on the opposite side of the lake by approximately 10 feet creating a better driveway to the existing camp. Mr. Matthews stated he already had the DEP Permit by Rule approval.

Roland L. asked Mr. Matthews if he wanted to widen it by 10 feet? Mr. Matthews said, “Widen it by 10 feet”. Roland said what he wanted to know is how wide it will end up being. Mr. Matthews thought it would be 18 feet but at the walk thru he could get the exact number. He said he could stake it out. He stated they did not plan on taking any trees or fill away on the lakeside, he said that is holding the land in place. He said he had several excavators walk the property with him, and not much fill needs to be removed, mostly leaves and grub. He again said he thought it would be 18 feet wide when finished.

Madge B. asked again about the widening and the fact it will not be on the lake side. Mr. Matthews said that was correct, it is away from the water. He said the driveway itself is close to the lake, as the board will see on the site visit. He said there is only a small section with a slope. He didn’t see an issue with anything going into the lake. Madge asked if there would need to be special drainage? Mr. Matthews did not believe so.

Roger A. stated they would do a site visit on April 13th at 6:15 pm. A notice to abutters will be mailed as well.

Nothing further was discussed.

Conditional Use Permit – Gravel Pit (Previously approved in January 2010) – Map 7, Lot 28 (State Rte. 11) – Hissong Development Corporation, Applicant & Property Owner

Steve Patch of Sevee & Maher Engineers was present to represent Chris Pizey of Hissong Development Corp.

Previously provided to the Planning Board in 2009/2010 & 2012, for the approval of the gravel pit were the following required documents:

- A copy of the letter from the Maine Historic Preservation Commission (MHPC), dated 7/27/09, which stated the project location could possibly contain one or more prehistoric archaeological sites so an archaeological survey was required prior to any ground disturbance.
- A copy of the Prehistoric Archaeological Investigation Report, dated October 2009, MHPC File No. 1310-98, prepared by Tetra Tech, Inc. of Portland Maine, which concluded there were no prehistoric archaeological sites recorded within the Project area.
- A copy of the letter from the MHPC, dated 11/16/09 which stated they reviewed the report provided by Tetra Tech Inc. and found the report acceptable as written and they agreed with the conclusions in the report.
- A copy of the letter from the Maine Dept. of Inland Fisheries and Wildlife (MDIFW), dated 8/27/09, which stated the proposed location likely supported one or more endangered species. MDIFW offered three options for the development of the property. Note: Hissong chose the third option which required the western side of the stream be put into a permanent conservation easement or deed restriction, and that the area to be mined be allowed to revert back to a Pitch Pine Scrub Oak community once the mining project is completed. Furthermore, upon completion of the mining the entire parcel would be subject to the same conservation easement/deed restrictions above, the terms of which need to be reviewed and approved by MDIFW.

- A copy of the Declaration of Restrictions drafted to satisfy MDIFW’s development plan option three of the above letter. Note: The Declaration of Restrictions was approved by MDIFW & the Planning Board.
- A copy of the approval for the mineral extraction plan by the Maine Dept. of Environmental Protection and a copy of the placard to be placed on site, issued 12/29/09, Permit No. L-724.
- A copy of the Driveway/Entrance Permit by the Maine Dept. of Transportation, dated 11/30/09.
- The Survey / Reclamation Plan, dated 1/13/2010, drafted by Stephen Stearns, PE #4437, of Pinkham & Greer, located in Springvale, Maine. The survey plan included in addition to the reclamation plan the following: The calculated net gravel pit volume of 343,200 cubic yards; hours of operation; location of access road and refueling pad; wetland area; setbacks to gravel pit from high water mark, roadway and side lots lines; site distance on Route 11; size of borrow pit (approx. 7.7 acres); plans for dust control and disposition of stumps, brush and boulders; the soils legend; and noted was the requirement to restrict truck travel past the Shapleigh Memorial School during school hours of pick-up and drop-off of the children.
- The Survey / Reclamation Plan amended by MDIFW, dated June 7, 2010, signed by Stephen Stearns, PE #4437, of Pinkham & Greer. The plan satisfies the requirements imposed by MDIFW as stated in the email from Judy Camuso, Wildlife Biologist, MDIFW, dated April 27, 2010 forwarded to the Planning Board on June 7, 2010. (This action satisfied condition #4 of the original conditional use permit approval letter dated 1/15/2010.)

For this evening’s review the Planning Board received the following:

- An email from Christopher Pizey, President of Hissong Ready Mix and Aggregates LLC, to Steve Patch which stated, ‘Steve, please accept this email as Hissong Ready Mix’s authorization to represent us in matters regarding the Great Hollow gravel pit with the Town of Shapleigh’.
- A page taken from Sand & Gravel News, entitled ‘DEP Inspection Report’, which read in part as follows: *The Department uses an estimated reclamation cost of about \$3,500 per acre, so if your financial assurance amount is significantly below this, it should be updated to reflect current costs.*
- Reclamation Plan for Hissong Ready-Mix & Aggregates, LLC, drafted by Brian D. Pierce, PE #9609 of Sevee & Maher Engineers of Cumberland, Maine, dated 3/2021. Boundary & Topographic information was provided by Corner Post Land Surveying, Inc., of Springvale, Maine. Wetland boundaries were delineated and located by Joe Noel (Maine CCS #209), of South Berwick, Maine.

Information provided on the reclamation plan:

- Hours of Operation: 7 am to 10 pm, Monday thru Friday; 7 am to 5 pm Saturday; No Sunday or major holiday operation
- Disposition of stumps, brush and boulders: Stumps will be disposed of on site by temporarily stockpiling them to decompose naturally, burial on site in areas designated, or ground with grindings used for slope stabilization and erosion control. Brush chipped or burned. Boulders buried on site or hauled offsite for processing.
- Dust shall be controlled by watering on an as-needed basis.
- Within 75’ of the edge of pavement of route 11, grade of access road shall not exceed 3%.
- Reclamation: The total area of the borrow pit is 7.7± acres. Within 12 months following the completion of extraction operations, which operations shall be deemed complete when less than 100 cubic yards of minerals are removed in a consecutive twelve month period, ground levels and grades shall be established in accordance with this plan and the reclamation section of this sheet.
- There shall be no traveling past the Shapleigh Memorial School at the time of children drop-off in the morning or pick-up times.
- Site distance determination November 18, 2009: Looking left, Northwesterly, 772+ feet; Looking right, Southwesterly, 571 feet.
- Reclamation Notes:

1. Grade site to limits shown on plan.
 2. All debris, stumps and similar material shall be buried on site. Only materials generated on-site may be buried or covered on site.
 3. Slopes shall be graded at slopes on 2.5 horizontal to 1 vertical or flatter.
 4. The top layer of soil is mainly comprised of the organic soil horizon and shall be retained to cover disturbed land areas to the greatest extent possible. Add mulch to disturbed areas for short term stabilization while natural processes re-establish vegetation native to the area.
 5. If within 1 year after complete reclamation:
 - a. Native vegetative cover has re-established over 15% of the reclaimed buffer area, no further plantings are recommended, as natural succession is allowed to take place.
 - b. Native vegetative cover has not re-established at least 15% of the reclaimed buffer area, plant with native herbaceous seed mix adapted to dry soils for the purpose of soil stabilization. Replant as necessary to achieve at least 15% vegetative cover.
 6. Remove the access road when no longer in use and reclaim in accordance with reclamation note 5(a). Remove bar gate and place 6-10 large boulders not less than 3 feet in smallest dimension, maintaining a minimum 2 feet clearance between boulders, across the reclaimed area and at least 5 feet inside the property line.
- The plan also depicted the lot area as 21.97 acres. An unnamed stream was shown, the location of the wetland interface and stream centerline as delineated by Joe Noel. A restricted buffer area was noted, the reclaimed buffer area and temporary stump stockpile area of 1 acre maximum. The location of the access road was on the plan, State Route 11, Square Pond Road and Great Hollow Road. Elevations for the entire site were noted, along with the elevation of the reclaimed buffer area. A cross section of the ‘Reclamation Section’ which depicts the grade and depth of soil, and organic soil horizon; and a Silt Fence depiction with a note stating, ‘Contractor’s option to use sediment barrier or silt fence for slope protection’.
 - Gravel Pit Volume:
 Total Volume - 349,300 CY;
 Less Topsoil
 & Grubbing - 6,200 CY;
 NET Volume - 343,200 CY

The detailed description of the project is as follows: *Mineral Extraction – Internally Drained Gravel Pit*

Roger A. asked Mr. Patch to brief the board on what Hissong would like to do. Mr. Patch began by thanking the board for their time. He stated he got involved with the project several months ago, and has had several conversations with Barbara and stated she was one of the most pleasant people he has dealt with in a long time. He stated he worked at Sevee & Maher Engineers in Cumberland Maine. He said much of his work is with the DEP and the gravel industry and mining. He said that is how he got involved with Hissong. He said he inherited this project and it looked like everything had been done about 10 years ago, and with his conversations with Chris Pizey of Hissong it was the economy that made him put this project on the shelf. He stated he did verify with the DEP that it is an active gravel pit from the DEP’s perspective. He stated he had seen information from Inland Fisheries and Wildlife, and the one thing he didn’t track down, but Barbara did was the MDOT Entrance Permit which was issued.

Mr. Patch stated that he confirmed the general setbacks that everyone likes to see with the gravel pits. He believed this met all of those for both the Town and State. He said the only thing he didn’t see on the plan, Pinkham and Greer did the plan, was the setback to a residential well. There is one residential location across

the street. He said the only question he had was on the Conditional Use Permit, there was a question regarding construction cost. He thought what was appropriate for this kind of project, and what the DEP likes to see is a reclamation fund for gravel pits greater than 10 acres. He said you can operate less than 5 acres without a DEP permit, and you can go up to 10 acres but when you go further along than that they like to see you put money aside to reclaim the gravel pit.

Mr. Patch said he was using an article, and noted he belonged to the Maine Aggregate Association, where the DEP used to show up but there hasn't been a meeting for the last year. He said the DEP typically comes and gives feedback on what they have been seeing and what they want to make sure people do, and this was an article they wrote giving everyone an idea on what they would like to see for reclamation cost. He said he applied their cost to the full buildout which is around 7.7 acres to come up with the reclamation number of \$26,950. He didn't think it would be necessary until they actually got started on the project, once they are 2 or 3 acres into developing the gravel pit, he wondered if the board wanted to see that kind of fund set up. He said he told Chris Pizey he would discuss it with the board. He said they will do what the board decides.

Mr. Patch stated he tried to get as much information to the board as he could and knew this would be at least a 2 meeting process. He believed the plan is well done and informative, and the wetland surveys have been done. Mr. Patch thought the plan may have been approved. Roger A. stated that the applicant has to start at square one providing information because the application that was submitted 10 years ago is no longer valid.

Roger A. stated that Inland Fisheries and Wildlife did have a concern with reclamation and they had given various options, and one of them was a 75% reclamation rate vs the 15% that is proposed on the plan. Ann H. asked if they can do a bond? Roger said that they could. Roger said the bond would have to be done prior to excavation. Mr. Patch said he did see there was a deed restriction and declaration. Roger said Inland Fisheries stated they wanted at least 75% coverage and he noted Barbara could send him a copy. Mr. Patch said he did see something about 75% coverage but stated that the DEP now requires 90% grass catch on any kind of reclaimed embankment and that is what they will have to live by. He said that IF&W doesn't usually get involved with the reclamation of gravel pits, he thought it was more a restriction on the area near the wetland.

Roger A. read from the document he was speaking about. It read as follows: *'Grade the reclaimed buffer area to the limits defined on the reclamation plan with side slopes not to exceed 2.5 horizontal to 1 vertical. The top layer of soil is mainly comprised of the organic soil horizon and shall be retained to cover disturbed land areas to the greatest extent possible. Add mulch to disturbed areas for short term stabilization while natural processes re-establish vegetation native to the area. If within one year after complete reclamation native vegetative cover has re-established over 75% of the reclaimed buffer area, no further plantings are recommended, as natural succession is allowed to take place. If within one year after complete reclamation native vegetative cover has not re-established over at least 75% of the reclaimed buffer area, plant with a native herbaceous seed mix adapted to dry soils for the purpose of soil stabilization.'*

Mr. Patch stated that he wasn't sure what happened 10 years ago but right now the DEP regulates and it is up to 90% currently. He said that can easily be put on the plan as it is a standard requirement. He said this wasn't hard to do, you go out and hydroseed and mulch it. He said as long as you have the topsoil.

Ann H. asked if there was something about a 100 foot buffer. Mr. Patch stated there was typically a 75 foot buffer for a wetland or rivers, streams or brooks. He said it was 100 feet for a great pond and it may be further for coastal. He stated it was his understanding this was a 75 foot setback. He stated there is a Declaration of

Restrictions and email traffic between IF&W and Hissong where they came to an agreement on how it would be left after Hissong reclaims the area. He said the next property owner cannot go in and cannot do anything in that 75 buffer zone. He didn't see that the restriction was ever filed or dated. Ann thought it was talked about but not filed. Mr. Patch agreed, and he thought it could easily be notarized and go to the Registry of Deeds.

Roger A. asked if there was a time limit, or an idea of start and finish? Mr. Patch believed they would like to start this year and Mr. Pizey wanted the board to know it would only be their trucks that utilize this site. He said they understand there is a school nearby and will live by those restrictions. He said the time frame depends on the economy. He said they came up with about 350,000 cubic yards. He said he would ask the question. Roger said one of the conditions is the smallest amount of bare ground exposed for the shortest amount of time feasible.

Mr. Patch stated that the easiest way to get a permit from the DEP is to make it internally draining and stay above the water table and this gravel pit will do that. He stated the property would be developed as a bowl and in this regard, this is why the DEP says you cannot go anymore than 10 acres before you start planting grass, or you have to get a variance and you have to start putting money in the bank. So, the DEP knows you will make it happen. He stated that this is only 7 acres, so they may shape this in a way they can try to put on grass as quickly as they can but sometimes its easier said than done. He stated the big thing is they have to be sure the stormwater is all internally draining. He said this is erosion control and best management practice which is used on any development whether it is a gravel pit or parking lot; you disturb the least amount of soil that you have to. He said in this case, as they go after the gravel, the odds are that the better part of the 7 acres will get disturbed before anything starts to be planted. He said that you want to shape it, you don't want to have to go over it and disturb it again. He said if the Town is holding an escrow, the only way he will get the money back is for him to demonstrate, and this is based on 7 acres, he has closed off half of it. You shouldn't have to have him hold anymore than half of what is required, which is usually how it works. Roger said the board needs a plan on paper on how it will be done.

Roger A. stated that the permit is only valid for three years. Mr. Patch understood and said he wasn't sure if he wanted to get it all out in 3 years. Roger asked if the stumps would be buried on site? Mr. Patch said, yes, that's allowed. He believed it had to stay no bigger than an acre. He said Hissong was also permitting a wood processing facility for beneficial use, a place they can bring stumps from away, they want to start making a mulch that can be manufactured for erosion control. He said even if they leave the stumps on site, they will likely grind them and use them as erosion control.

Roger A. asked if there would be any temporary structures on site? Mr. Patch did not believe so. He said there was an area dedicated for refueling to keep it out of the pit itself. He said they may have a porta-potty but he didn't see anything other than that. He did not believe there would be any power either. He will confirm about the structures, etc.

Roger A. asked regarding the entryway onto the road, would there be approximately 25 feet or more of rocks, so before they get to the road, they can distribute the sand on the tires? Mr. Patch stated that yes, it is a best management practice as well.

Roger A. asked if anyone else had any questions? Roger noted there were the days of the week and the time they would be staying away from the school listed, working with the Principal on when the children will be dropped off and picked up. Maggie M. noted they are also only supposed to use the main roads, not the side

roads like Jones or Back Road. Ann H. stated Back Road is posted year round. She thought they may have to go down Mann Road sometimes. Maggie thought Route 11 or 109 would be used. Roger believed the side roads were only posted March into April. Roland L. noted Back Road was posted year round. Steve F. asked about Goose Pond Road? Roland said there was a weight limitation over the culvert. Ann thought they would go to Lyman, so they would use Mann Road which was just posted seasonally. Mr. Patch said he knew he had a concrete plant at his quarry in Lyman but he also has another, he wasn't sure which location would be used. He said he knew it would be specific to his trucks for their use. Ann noted that the Hissong crew was very professional.

Steve F. asked again what the volume was? Mr. Patch said in rough numbers 350,000 cy.

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

Roger A. stated there would be a public hearing at 7:00 pm on April 13th. There would be a notice to abutters mailed as well.

Mr. Patch asked if there was more information the board would like? He realized the board wanted more regarding the reclamation plan; he would try to put something on paper. He said typically at 5 acres you get someone in to move material and put seed down. He said the entire pit is just over 7 acres, so they may decide to cap the entire pit at once. He said now it is 90% catch that DEP requires and he will make sure it is spelled out.

Ann H. said they should have something regarding the deed restriction on the back of the property, so if it is sold it is already in place.

Steve F. said he wanted to note questions that are likely to be brought up at the public hearing. Questions such as hours of operation and noise. He said the lake is near so it will come up. He said basic trucking information will probably come up, where is the material going and what types of trucks. Steve stated that 350,000 yards of material is a substantial amount, so will there be 5 trucks a day or 35 trucks. He said it is basic information as a citizen he would want to know and he felt this was the kind of people who would be at the public hearing. He felt the more information he could provide the better. Mr. Patch agreed and noted Mr. Pizey is willing to be part of the process and be part of the conversation at the next meeting.

Roland L. asked Mr. Patch if they would be doing any screening or rock crushing? Mr. Patch did not believe so, but he would confirm it. Roland said along the lines of what Steve mentioned, anyone within earshot is going to want to know. Roland noted he was within ear shot of 2 gravel pits, not close by, and can tell when they are operating. He can hear the screen going on and rock crushing. He stated that if you triangulate, he will be equidistant between the other 2 pits from where Hissong will be, so he is interested in knowing whether it will be the case. Mr. Patch said it was a fair question.

Mr. Patch asked if there was anything else that was required for the public hearing? Roger did not believe so.

Nothing further was discussed.

Growth Permit(s)

Map 6, Lot 34G (Nason Road) – New Home

GP #05-2021

Roger A. noted this was the White subdivision and Private Way. Roger asked CEO Demers if he knew whether or not the road had been accepted as a private right-of-way? CEO Demers said this was approved when he had just started in Shapleigh. He asked if Roger was asking if the road had been approved? Roger said, yes. CEO Demers thought it would be worked on, and is ongoing. He did not believe the Road Commissioner had signed off on it or that it’s up to spec. He said Mr. White has been working on it up to his building lot but not past it. He said the private right-of-way did go past the house and it should be completed before he gets an occupancy permit.

Steve F. asked if there were as-builts or just for John Burnell to sign off? Roger A. said that Roger Burnell signs off that the road is built to a private way standard. Roger thought the only way to get a Growth Permit was that the road was built to standard. He said if CEO Demers puts a condition on the building permit that no occupancy can be obtained until the road is signed off, he wouldn’t have an issue with it. Steve said it does make sense to finish the road after all the heavy equipment from construction is done going over it. Roger said that if they can get in there with mixers and other equipment, a fire truck should be able to get in. Steve said he had no issue giving the Growth Permit.

Map 1, Lot 41 (Emery Mills Road) – New Home

GP #06-2021

Roger A. said there was enough acreage and road frontage for a new home, so a Growth Permit can be issued.

Other:

Madge B. wanted to run by the board a hypothetical situation. The example: She decides on her spacious 5 acres lot that she wants to start a landscaping business. So, she starts with a truck, some tools and doesn’t need anything else. She goes out and starts offering her friends some landscaping. Her landscaping business gets going and it is going well, so she hires a friend and gets a second truck. She said they continue to work around the area, she puts signs on her truck and people can call if they are interested. She starts stockpiling some loam on the property, some mulch, and maybe a few trees, so she is ready to go.

Madge said her question to the board is, because she doesn’t know the answer, when does her business need a Conditional Use Permit. At what point? A change in the property? When I want to put up a building? Does it matter how many vehicles I buy or rent? She said she has plenty of yard, so there are no space problems. She said when do you decide I need a permit? It clearly isn’t a Home Occupation if she hires a couple of people. Madge said this is the answer she is looking for, when is a permit required?

Steve F. thought it was a grey area. Madge agreed. Steve said it is the success story of what we as a community support. Whether you are a landscaper, doing a gardening business, it is a positive thing. He felt the CUP comes in when there is a fact you have affected your neighbors or created an environment where those outside of your circle are affected by what is going on. Madge thought this is hard to say, my neighbors don’t complain. In my hypothetical they are not going to. I know my neighbors; we all do things to make a buck here and there.

CEO Demers said it doesn’t have to be the neighbors complaining, it could be any resident of the town, if you feel there is a land use violation or it isn’t zoned appropriately, contact the Code Officer and file a formal

complaint. He said what Madge shared with him, the definition of a commercial use, it could apply generally to a lot of things. He asked if they were familiar with the boiling frog. If you put it in a pot of water, it hops out because it knows it is hot. If you put that same frog in a pot then bring it to a boil, it will just sit there. It's the boiling frog success story, 'well I did it yesterday, so it is fine today' and it just goes on. He said it does come to a point, and this is what we are trying to figure out now. Madge said she didn't know, she said even the Supreme Court applies the sniff test, is that pornography or isn't it pornography. She agreed it's a grey area, and asks because she is the one complaining about at least one business that she feels needs a permit, but then why did she select that business, well one reason is because she drives by it all the time. She said that isn't a very good basis. She felt it would be helpful to her and CEO Demers if there was some way of making it less grey. CEO Demers said after they spoke, she did persuade him and he spoke with other people and things will happen.

Madge B. said this was one instance. CEO Demers agreed. She thought everyone could come up with other examples. CEO Demers said one example he had was an HVAC guy who lives in the shoreland district and he drives his van home, is he running a commercial business in a shoreland zone? He said, no. He has a home office and uses the property to create income, but by the definition of Commercial Use he is. He said it doesn't pass the sniff test.

Roger A. said there was a definition of Commercial Use and Conditional Use. Madge B. said she was talking about businesses that use an office in their house. Ann H. said she lives on the water and will have her business name on her vehicle and she has a small office if a client calls on the weekend or at night, but she isn't making her money at home. She thought the definitions of Commercial Use and Conditional say you are making money on your property. CEO Demers said the carpenter and plumber don't work out of their home. Ann said right, but they are not getting their money from their house, they are making it elsewhere. CEO Demers said if you advertise office hours or put out a sign, it's a commercial use. Ann said if you are selling mulch or stone from your house and people are coming to your house, and they are making money, you would need a permit. CEO Demers agreed. CEO Demers said it is to ensure the public coming and going is safe, the storage of material on site is safe. Ann agreed, but she thought money was a big part of the definitions. Madge said the discussion was helpful. She thought it is worth all of us to admit its harder for us to conclude what is or isn't a business. Ann added that each situation is different as well. Madge agreed. Ann thought more and more people would be working from home now, then do you have employees and do you have a parking issue.

Ann H. thought some people think its scary to get a permit or expensive. CEO Demers thought we should promote businesses. Madge B. stated that Roger A. keeps pointing out that the board does not turn businesses down, we don't say you can't do it. We focus on trying to make the situation safe for everyone. Roger said there may be a few conditions but there is nothing the board has denied.

CEO Demers said he's been getting a lot of phone calls on cannabis. He said there is the caregiver, if they are licensed from the State, they can have it in their home. He gave the definition of a caregiver is 'it is in their year round home' they can have the home occupation of being a caregiver. He said most calls are about a commercial production facility. He asked where the board stood on that? He asked if it was a commercial use or do we not want to touch it because of the cannabis. Ann H. stated she insured professional locations, and they are highly regulated, including filtration. She said there were no retail sales, and it reminded her of an indoor greenhouse like with tomatoes, but there is no glass. She added that it is different than retail. CEO Demers noted that retail sales are banned in Shapleigh.

CEO Demers said just the production facility, is this something the board would entertain as a business? Steve F. asked if it would be called a nursery? CEO Demers said, “Nope”. Steve asked what it would be called? CEO Demers said, “Just commercial use”. Roger A. stated that under §105-17, under Notes, 5, ‘Marijuana is neither considered an agricultural crop nor commercial gardening. Marijuana is not considered a seasonal produce or plant. Conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. §558-C requires a conditional use permit’. He believed the board would look at it as a commercial use. Roger added that the board would look at soil types, because the soil only lasts for so long, how will they dispose of it. Ann stated they can only use the soil once. Roger again said it would be a commercial use.

CEO Demers stated it answered his question. Ann H. asked if Shapleigh could or could not have this use. CEO Demers said it is a commercial use. He said there was a question under which use it falls under. A caregiver is a home occupation, this is a full fledged facility and it would be a commercial operation. Roger A. and Madge B. agreed. Ann asked if a greenhouse would be a commercial use, even if it was daisies? CEO Demers said that no, it would be agriculture. Roger stated the ordinance has language for agriculture. Ann asked why marijuana didn’t fall under agriculture. Roger stated under §105-17, (which he just read), states it is not an agricultural crop. CEO Demers agreed. Madge B. added that Roger had been reading right out of the ordinance. Ann asked if it was a State thing. Madge said, no, it is in our ordinance. It was noted it was added by town vote. Roger also told Ann that the townspeople were questioned as to whether or not they wanted marijuana and they said yes, but when it came to vote it was voted down. Ann asked if they were speaking of retail? Madge and Roger said, yes. Ann spoke about the caregivers being allowed to sell. Roger noted there was only 1 approved caregiver business in town.

Nothing further was discussed.

The Planning Board meeting ended at 8:30 p.m.

The next Planning Board meeting scheduled will be via Zoom on Tuesday April 13, 2021 at 7:30 p.m. See the Town website, www.shapleigh.net to obtain the link details, or use the information below.

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

- **Join Zoom Meeting**
<https://us02web.zoom.us/j/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

NOTE: The summer hours are in effect through October 30th; the meetings will begin at 7:30 p.m. and any scheduled public hearing begins at 7:00 p.m.

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