

Shapleigh Planning Board

Minutes

April 27, 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.

Public hearing began at 7:00 pm

Conditional Use Permit – Commercial Use – Map 7, Lot 1B-1 (776 Shapleigh Corner Road) – Caleb Chessie, Applicant & Property Owner

Mr. Chessie was present for the public hearing via Zoom.

Roger A. asked Mr. Chessie to brief the Board and anyone on line on what he would like to do. Mr. Chessie stated that he would like permission to have his business on his property.

Roger A. asked if there were any questions at this time, there were none. Roger stated since there were no other questions, he would close the public hearing.

The public hearing closed at 7:03 pm.

The minutes from Tuesday, April 13, 2021 were accepted as read.

The Planning Board meeting started at 7:30 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.

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

Members did a site inspection prior to this evening's meeting. The next review for this application, which includes a public hearing will be on Tuesday, May 11th.

Conditional Use Permit – Hold Small Events & Venues, and Weddings – Map 1, Lot 22A (24 Deering Ridge Road) – Megan & Brent Lavoilette, Owners & Applicants

Mrs. Lavoilette was present for the review of her application via Zoom.

Roger A. asked Mrs. Lavoilette to update the Board on where she was at. Mrs. Lavoilette stated she wanted to update the Board on what was happening with the barn. She said they have started putting in the structural support beams, 15 in total. She said the electrical for the Life Safety Code has started this week. She stated the Civil Engineer she is working with has drafted up the plans for the State Fire Marshall, so those should be wrapped up this week. She said as soon as she had the final draft, she would send them to the Board. She said other than minor construction on the floor, replacing floor boards, she thought this was all she had to share. She noted they were also putting in the means of egress, two additional doors will go in. She said it didn't seem like a big update but to her it was. The Board thought it was a big update, noting that quite a bit had been done.

Roger A. asked if there were any questions? Steve F. asked if this was all based on the meeting with the Fire Marshall? He wondered who she spoke with to gather all this information on what was required. Mrs. Lavoilette stated that she hired a Civil Engineer who is doing the Life Safety Code, and he is working with the State Fire Marshall's office. She said the Civil Engineer is also doing the structural analysis. She said she had the drafts of the final report, but there were several edits with respect to door placement and some minor things such as lighting placement. She hoped to have the final draft within 2 weeks, and again she said she would send it to the Board as soon as she had it. The Board members were very pleased with all the information provided and noted they were happy that she should be able to open soon.

Madge B. asked how much longer Mrs. Lavoilette had with her 90 days to table the application? Barbara F. stated that it was almost expired, so the Board may want to table one more time.

Madge B. moved to table the application for another 90 days. Steve F. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion to table was unanimous.

Mrs. Lavoilette stated that she was hopeful that things should be approved soon because everything will be in order, since the Civil Engineer works with the Fire Marshall's office all the time. She felt everything should be straight forward and inline when the report and plans were sent.

Roger A. stated the Board would wait to hear from Mrs. Lavoilette; when she receives the rest of the required information, she can contact Barbara F. Mrs. Lavoilette thanked everyone for their time.

Madge B. noted that the Land Trust owned the abutting forest land and they now have a parking lot, so she encouraged members to go take a walk in the forest, noting it was a delightful place, as she was sure Mrs. Lavoilette would agree.

Nothing more was discussed.

Conditional Use Permit – Commercial Use – Map 7, Lot 1B-1 (776 Shapleigh Corner Road) – Caleb Chessie, Applicant & Property Owner

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

Provided along with the application was a plan entitled 'Plan Showing a Proposed Site Plan for Caleb Chessie, 776 Shapleigh Corner Road, Shapleigh Maine 04076 – Of Property Located on State Route #11 (Shapleigh

Corner Road) in Shapleigh, Maine’, drafted by LinePro Land Surveying, LLC of Springvale, Maine, dated March 30, 2021. The plan depicted 2.86 acres owned by Caleb C. & Abigail M. Chessie, YCRD Book 17962, Page 15, as well as property recently purchased by Caleb & Abigail Chessie, consisting of 4.22 acres, YCRD Book 18225, Page 549, creating a total lot area of 7.08 acres. The plan also depicted the location of the existing house, garage, parking area, & lawn area; a possible 50’ x 100’ future addition to the existing garage; a proposed buffer area – trees to remain; proposed driveway; proposed 12’ x 12’ fuel storage location; proposed overflow parking & material storage area; and a proposed berm to help provide a buffer for the neighbor.

Also provided was a deed conveying property from Christopher G. Martha K. and Caleb C. Chessie to Caleb C. & Abigail M. Chessie, dated 6/3/2019, YCRD Book 17962, Page 15; and a deed conveying property from John F. and Maxine M. Crouch of 43 Valley Road, Wells, Maine to Caleb C. and Abigail M. Chessie, dated 4/22/2020, YCRD Book 18225, Page 549.

The detailed description of the project is as follows: *Commercial Use*

Planning Board members did a site inspection prior to this evening’s meeting.

Roger A. asked Mr. Chessie to let the Board know what he intended to do. Mr. Chessie stated he wanted a permit to have his business on his property.

Roger A. asked if there were any abutters who would like to comment? There were no comments.

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

In regards to the application for commercial use property by Caleb Chessie Excavation:

Property is already used as a commercial business with commercial usage since last June 7 days a week, 3 am until 11:30 pm.

Property already has over 24 pieces of commercial vehicles, equipment and attachments, with more arriving daily.

Proposed berm was beginning last June and continues to this day.

Proposed berm in some sections is already over 8 feet tall.

Property has been a 7 day a week operation since last June.

Commercial noise from property has been from 3 am till 11:30pm regardless of day of week since last June including

i.e.: last Friday evening backup alarms for over 10 minutes at 11:30 pm

i.e.: noise and alarms past Sunday until 5:10 pm and 6:14 pm last evening.

Proposed ground and site work under proposal already is cleared and removal near completion.

Outline and positioning of equipment, attachments, bulk materials would suggest an operation that would additionally be used as a transfer station, bulk material sales and or a topsoil/mulch processing facility.

The quality of life in the close proximity has already been damaged and infringed upon without out prior permitting and notice.

The continued present operation and / or any extension would further erode that quality and effect neighboring property values as well.

- Paige C Lefay
795 Shapleigh Corner Rd

Roger A. stated that since there were no questions, he will start the review of the Ordinance.

Roger A. began review of the Basic Performance Standards for the application.

- 105-17** – Land Uses. *Roger A. stated a commercial excavation business in the General Purpose District requires a Conditional Use Permit from the Planning Board.*
- 105-18** – Dimensional requirements. *Roger A. stated there is enough land to support the dimensional requirements for a business, that being 7.08 acres total land area.*
- 105-20** – Applicability of standards. *Roger reviewed ‘Prohibited uses’. A. These standards apply to all new or expanded uses of land and buildings which are listed as permitted or conditional uses in Article IV of this chapter. B. Prohibited uses include all uses which would be obnoxious or injurious because of odor, dust, smoke, refuse matter, fumes, noise, vibration or waste material, or which would be dangerous to the health and safety of the community or which would disturb or annoy the community, notwithstanding any other provision of this chapter and applicable state and federal laws and regulations. C. Plans for the effective control and/or elimination of the same shall be presented to the Planning Board for approval. When the effects of a use are uncertain, the Code Enforcement Officer, after prior notification to and at the expense of the applicant, shall employ such independent recognized consultant as necessary to ensure compliance with all requirements of this Code specifically related to the public health, safety and welfare and the abatement of nuisances.*
- 105-21** – Traffic. *Roger A. stated the site distance recommendations in this location at 45 mph are a minimum of 315 feet. Roger stated this lot exceeds the minimum requirement to the North and it exceeds the recommended distance of 450 feet to the South, therefore, access to the site was safe.*
- 105-22** – Noise. *Roger A. stated the allowed dB(A), those being 60 from 7 AM to 10 PM and reduced to 45 from 10 PM to 7 AM., levels may only be exceeded for a period of 15 minutes in any one day. No person shall engage in very loud construction on a site abutting any residential use between the hours of 10 PM of one day and 7 AM of the following day. Activities exempt from the sound pressure level regulations: home maintenance activities; noises created by construction and maintenance between 7 AM and 10 PM; noises of safety signals, warning devices and emergency pressure-relief valves or any other emergency activity; and traffic noise on existing public roads. Roger stated the applicant must comply with the noise ordinance.*
- 105-23** – Dust, fumes, vapors and gases. *Roger A. stated emission of dust, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation or property, or which could soil or stain persons or property at any point beyond the lot line of the commercial or industrial establishment creating that emission, shall be prohibited.*
- 105-24** – Odors. *Roger A. stated no land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond its lot lines, either at ground or habitable elevation.*

- 105-25 – Glare. *Roger A. asked Mr. Chessie if he would be adding any additional lighting? Mr. Chessie stated, “No, I don’t plan on any other lighting”. Madge B. asked what lighting was there currently? Mr. Chessie stated he had a few lights on the front of the building.*
- 105-26 – Stormwater runoff. *Roger A. stated surface water runoff shall be minimized and shall be detained on-site if possible and practicable. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by this project. The natural state of watercourses, swales, berms, terraces, wooded areas and floodways or rights-of-way shall be maintained as nearly as possible. The design period is the 100-year storm. Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.*
- 105-27 – Erosion control. *Roger A. stated erosion of soil and sedimentation shall be minimized by employing ‘best management practices’. Roger stated with the amount of land cleared and methods used to stabilize the property including ditching and a berm, it should help to mitigate stormwater from going onto the neighboring property. Madge B. asked Mr. Chessie if any water ran off the property? She said she believed it did not. Mr. Chessie stated that in the spring there was a lot of water running but not year round. He said there was a hole at the bottom where it goes and then it seeps into the ground. Madge said it appeared the runoff ran onto his property. Roger agreed that the water appeared to be running onto the gravel area on site. Mr. Chessie agreed.*
- 105-28 – Setbacks and screening. *Roger A. stated exposed storage areas, exposed machinery installation, sand and gravel extraction operations and areas used for storage or collection of discarded automobiles, auto parts, metal or any other articles of salvage or refuse shall have sufficient setback and screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties (a dense evergreen hedge, six feet or more in height). All such plantings shall be maintained as an effective visual screen; plants which die shall be replaced within one growing season. Roger stated at the site inspection it was stated there would be trees along the top of the berm and in the back of the proposed storage building, and a row of trees along the building Mr. Chessie has at the present time to help screen. Mr. Chessie stated, “Correct”. Madge B. asked if it would be beneficial to put a few trees in the front as well, so as to not see the equipment from the road. Ann H. said at the site visit Mr. Chessie stated he would plant trees at the edge of his house to block everything in the back. Roger agreed. Ann said that looking from the road toward the back he will be planting some sort of curve with trees which should block all the equipment from the road. Madge thanked Ann for explaining, she didn’t know if it was in the front but it sounds like it will be behind the building. Ann thought the only thing you would see from the road would be the house. Madge said, ok, but she did feel there needed to be some visual screening, and in part to keep people from coming on site to come in to see what was there.*
- 105-29 – Explosive materials. *Roger A. asked Mr. Chessie if he would have any propane tanks on site? Mr. Chessie stated, “No”. Roger stated the only highly flammable item would be the diesel fuel at the fuel depot. Mr. Chessie stated, “Correct”. Roger asked if it would be stored in bulk above the ground? Mr. Chessie stated, “Yup, in a container”.*
- 105-30 – Water quality. *Roger A. stated all outdoor storage facilities for fuel, chemicals, chemical or industrial wastes and potentially harmful raw materials shall be completely enclosed by an impervious pavement and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain*

falling into this storage area during a fifty-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for home heating oil and vehicle fuel, not exceeding two five-hundred-fifty-gallon vessels, may be exempted from this requirement, in situations where neither a high seasonal water table (within 15 inches of the surface) nor rapidly permeable sandy soils are involved. Roger stated this will be met because of the impervious surface that is proposed for the fuel storage tank.

- 105-31** – Preservation of landscape; landscaping of parking and storage areas. *Roger A. stated all parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide. The PB may require that within the buffer strip a visual screen of plantings be established and maintained. Roger stated this is what Madge was referring to, to create an area near the road to help minimize being able to see the equipment.*
- 105-33** – Refuse disposal. *Roger A. stated it would be Mr. Chessie’s responsibility to provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner.*
- 105-34** – Access Control to Route 109. *Roger A. stated all vehicular movements to and from the highway shall be via a common driveway or entranceway serving adjacent lots or premises. All lots of record existing at the time of the ordinance amendment shall be allowed direct access to Route 11, provided that minimum safe sight-distance standards can be met. Roger stated that they can.*
- 105-39** – Earth removal and filling for activities other than mineral exploration and extraction. *Roger A. stated the section to apply would be for earthmoving in the general purpose district for filling and grading, storage of soil, earth, loam, sand, gravel, rock and other mineral deposits. Roger stated there would be no other filling or grading once the project is completed.*
- 105-43** – Off-street parking and loading. *Roger A. stated this is where the Board reviews the width of the entrance and exit. Roger stated that within the first paragraph of the section it states ‘No off-street parking facility shall have more than two entrances and exits on the same street, and no entrance or exit shall exceed 26 feet in width. The Planning Board has the option upon clear showing of necessity by the applicant, to increase the maximum width, not to exceed 32 feet. Roger stated during the site inspection a tractor trailer came in and he used the full 75+ feet that currently exists. Roger stated that Mr. Chessie may want to ask for the maximum of 32 feet. Mr. Chessie stated that he wanted as much as he could have. Mr. Chessie stated that he would like to have what he has there now. Roger stated looking at the ordinance it would have to be reduced by half, because at present it is over 75 feet. Ann H. asked if the Board could approve more footage? Roger said, “Up to 32, no greater than”. Ann asked if that was 32 feet total or 32 feet on top of what he has? Roger stated 32 total. Roger stated it was supposed to be 26 feet but showing he needs the additional width the Board can approve the 32, that is the maximum. Steve F. stated when he read the ordinance, he believed it lent itself to parking lots for something like a mini mall, he felt that was the flavor of the ordinance. He asked the Board members to take a minute to read through the section. Roger said that as long as he’s been on the Board, the Board has used the 26 foot width and then the Board did allow for the 32, because it was needed for the Town garage to allow for the snow plow blades going in and out. Ann asked if there would be a safety situation by limiting it to 32 feet for a tractor trailer? She didn’t know how much they need*

to pull in and out. Roger said they need no more than the width of a DOT road. This allows them to use that width. Steve said again he didn't think this applied, as it talks about parking spaces and parking lots. Roger stated that he and Madge did talk on site about possibly amending the ordinance to grant the Board the ability to say they can approve wider. Steve said again as he read through the section it was dealing with something different. Steve believed for safety reasons what exists makes sense, the Board would not want to create a safety issue. Mr. Chessie stated the reason he made it wider is because coming from the Boonies side, they would have to pull into the oncoming lane with a big truck, so that is why he made it as big as it is. Roger stated that under Section C, Off-street loading, it refers to commercial or industrial uses shall provide, as necessary, off-street loading facilities located entirely on the same lot as the building or use to be served so that trucks, trailers and containers shall not be located for loading, unloading or storage upon a public way. Roger believed this is the section that the Board could work on, but again noted the width in the ordinance is the standard that has always been used. Ann stated there would be no off-street loading because the trucks come onto the property. Madge stated that there could be off-street loading of materials. Madge noted that the plan provided does not show the appropriate driveway entrance, the plan does not have the correct dimensions. Ann stated that the plan states the entrance is 40 feet wide. Madge stated the entrance is about 75 feet wide.

105-46 – Sanitary provisions. *Roger A. stated there is an existing State approved septic system on site.*

105-47 – Signs and Billboards. *Roger A. stated that all signage must be permitted and approved through the Code Enforcement Office.*

Roger A. asked if there was anything additional before he reviewed §105-73? There were no comments.

Roger A. asked if Mr. Chessie knew when he was going to put up the proposed new structure? Mr. Chessie stated that it would be at least several years. Roger asked if he would prefer to remove this from this permit and come back when he is ready? Mr. Chessie stated that he wanted to do it all now.

Roger A. asked what the hours of operation would be? Mr. Chessie stated that some of the trucks leave early in the morning. He asked if he could operate until midnight. Steve F. stated that no matter what the hours of operation are, the applicant still has to comply with the sound ordinance. Roger agreed. Steve said as long as he is not detrimental to the neighbors and is not in violation of the sound ordinance; understanding Caleb's business like he does, some of his trucks leave at three in the morning. Steve said some of the trucks are back at 8 o'clock at night. Ann H. added that the backup noise would be considered a safety noise, so that wouldn't come into play. Steve said he wasn't trying to say it should be 24 hours a day, but he felt it made sense that as long as he is complying with the ordinance, and there wouldn't be work performed at the site; maybe that is what the Board should look at, that there is a difference between trucks entering and exiting vs work being done on site. Ann said that is what she wanted to know, what other kind of noise would there be other than trucks going in and out. Mr. Chessie said the only noise would be a truck entering or coming back to the property, there is no work done on site. Roger asked if what he was looking for was 7 days a week in compliance with Section 105-22? Ann thought this sounded good.

Roger A. then reviewed §105-73.G 'Standards applicable to conditional uses' and made findings of fact.

Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **Roger A. stated, it will not.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Roger A. stated this is not applicable.**
- 3) The use is consistent with the Comprehensive Plan. **Roger A. stated it is, the Comp Plan wants businesses along Route 11.**
- 4) Traffic access to the site is safe. **Roger A. stated it is, the site distances meet the minimum in both directions.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger A. stated it is, the project is not in the flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger A. stated a State approved septic system is on site, and any solid waste will be removed by the applicant.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger A. stated that there are. Madge B. stated that there is going to be, the storage facility is not finished. Roger agreed. Madge asked if the Board could issue the permit even though it is not finished? Roger said that the Board could, the CEO will verify that it is according to code. Madge asked if the Board could condition that Mr. Chessie has to tell the CEO when he starts using the storage facility? Roger said, "Yes". Ann H. asked Mr. Chessie if he was bringing fuel in himself or having it delivered? Mr. Chessie stated, "Delivered". Ann thought whomever delivered the product would require Mr. Chessie to have a code compliant container. Mr. Chessie believed she was correct. Steve F. asked if there was a permit required from the CEO for the containment bunker? CEO Demers stated that yes, there would be a permit required. Steve thought that would be the check.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger A. stated he believed Mr. Chessie was handling the stormwater on site currently. Madge B. asked Mr. Chessie if she was correct in understanding that the berm is not yet finished? Mr. Chessie stated, "Correct, it is not finished". Madge said she would like to encourage him to finish it because it protects the neighbors. She asked if he knew when he would finish it? He said he would like to finish it sooner rather than later. Steve F. asked if the berm was going to be a requirement? He felt the applicant did the berm to be a good neighbor. Madge said she was suggesting that the sooner it is finished, the easier it will be for Mr. Chessie to meet the noise requirement. Steve said, "Sure". Ann H. pointed out that the size of the berm is noted on the plan submitted. Madge said she had an issue with the plan because it is not accurate. She said the entrance is much wider than what the plan depicts, the berm is not completed, and she felt the plan should show where he plans to put more screening. She stated she was trying to alleviate the impacts of the business, which we all love, on the neighborhood. Steve said perhaps the Board can continue the review and make the bullets points known to the applicant, table it for two weeks and have the plan revised so that everyone is satisfied. The other members nodded in agreement.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated the berms being created and the ditching is to try to keep the water on site.**

- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger A. stated this location is not far from a tank located on the old Hannon property that is available for the Town to use. Roger added that most things being done on site are not something fire protection would be required for, except for the fuel storage.**
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. **Roger A. stated this is what has been discussed, creating the berms and vegetative screening.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. stated they shall with conditions.**

Roger A. stated some of the conditions of approval would be:

- 1) Hours of operation to be 7 days a week in compliance with §105-22 at all times.
- 2) The berm shall be completed per the plan.
- 3) The fuel shall be stored in an impervious container approved by the CEO & fuel storage company.

Madge B. asked what the Board wanted to do about the entrance, none of the Board wants to enforce the 32 foot width in the ordinance. Steve F. said the more he reads the section, and he knows it looks like a blanket standard for everything the Board deals with, the more he reads it he feels it is for a parking lot for a retail business. He knows the Board can't void anything as they see fit for different applications, but he feels it doesn't work if the Board is going to apply it to every conditional use. Roger agreed that this should be reviewed, and possibly modify it. Steve said that in some instances, such as this, narrowing the entrance to 32 feet makes no sense for the safety of the townspeople and the applicant. Roger noted again that at the site inspection, when a trailer was coming in, he spoke with Madge that the trailer needed the full 75 feet. Steve agreed that the truck could fit into a 32 foot opening but he would have to go into the opposite lane to make it happen. Madge agreed. Roger said with the speed limit being 45, it would be a safety issue. Ann H. asked if the Board could do something with the Town Attorney to modify the ordinance for safety reasons. Roger said, no. Madge said that she did not believe the Board had to do that. She said that she thought the Board would say it would be as wide as it is in this instance because of the tractor trailer on that road. She said she could not imagine anyone being opposed to this exception, so she would not bother the Town Attorney. She said that she would like the plan to show what is there.

Steve F. stated that he would like to review what the Board would like to see on the plan, that being the correct entrance onto the road, the vegetative screening and the berm. He asked if there was anything else? Roger A. believed that was all the Board was asking for.

Mr. Chessie asked what the screening was at the entrance? Ann H. said it was to block the view of the property. Madge said it was the screening behind the house. Ann said he needed to show something on the plan and the exact size of the berm, how it goes around the corner, how many feet wide and long is it, so it is measurable by the CEO.

Roger A. asked for a motion to table until the Board receives the information.

Steve F. made the motion to table the application, so the applicant can provide a new and accurate plan. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion to table was unanimous.

Nothing further was discussed.

Best Practical Location – Replace Existing Structure(s) in SD – Map 36, Lot 1A (58 Indian Village Road) – Bradford & Brigitte Davis, Applicant & Property Owners.

Brad & Brigitte were present via Zoom for the review of the application, along with Roo Collins and Russ Tyson from Whitten Architects, and Soren DeNiord from DeNiord Design Studio.

Presented along with the application was an email dated April 13, 2021 from Bradford Davis stating that Roo Collins, Russ Tyson and Soren DeNiord could join the discussion at the Planning Board meeting speaking about the project presented.

Provided were letters from abutting property owners which commented in part as follows:

- Andrew & Jennifer Regan, 64 Indian Village Road – ‘We are writing a letter regarding our support for the project that Brad and Brigitte Davis are looking to undertake.’
- Ernest A. and Susan L. Cote, 70 Indian Village Road – ‘We highly support the new building project that Brad & Brigitte Davis are proposing.’
- Jay Zaino, 40 Indian Village Road – ‘I am writing this letter in support of the proposed renovations for the Davis property.’
- Roger and Gale Michaud, 82 Indian Village Road – ‘We are in favor of such a construction and have been informed of their plans being created by their architect.’

Provided was a copy of the Subsurface Wastewater Disposal System Variance Request, and the Subsurface Wastewater Disposal System Application, drafted by Brady A. Frick, SE #352, dated 10/30/2020, for a 3 bedroom system.

Provided was a Sketch Showing a Site Plan for Davis Family Trust, drafted by LinePro Land Surveying LLC of Springvale Maine, dated March 10, 2020; provided by Whitten Architects of Portland, Maine; Sheet AS102 depicting the existing structures, which include a house, deck, porch, several concrete pads, concrete walkway, landscaping, paved walkway and parking area, propane tanks and garage. The setback to the existing deck from the high water mark to the deck is 63.6’ at its closest point; the setback from the house to the north side lot line is 7.3’ at the closest point; and the setback from the house to the south lot line is 3.7’ at the closest point. The setback from the existing garage to the north side lot line is 1.05’ and the setback to the lot line adjacent the road is .63’. The plan depicts the 50 foot setback to the road and the 100 foot setback to the water.

Provided were pictures of the existing structures and property, provided by Whitten Architects, dated 4/6/21; Sheet AS103, which showed both the existing house and garage from different angles, and the trees and vegetation currently in existence.

Provided was a Proposed Site Diagram, provided by Whitten Architects, dated 4/6/21; Sheet AS104, which depicted the existing structures along with the proposed structure locations. The new home, attached garage, new chimney, and new deck locations, along with the new driveway were shown. The new house appears to be 10’ from the side lot lines not including the overhang, the deck approximately 75 feet from the high water mark, the new garage, (measurements were not noted from the new garage and the lot line adjacent to Indian Village Road). The plan also noted that the existing lot is 10,100 sf, the existing lot coverage by structure is 2,340 sf or 23.17% lot coverage, the proposed lot coverage by structure is 2,336 sf or 23.15%.

Provided was a Site Plan / Revegetation Plan provided by Soren deNiord Design Studio, dated April 6, 2021, Sheet L1.0, which depicts the proposed vegetation, how topsoil shall be dealt with, how the vegetation shall be planted, and erosion control measures to be taken.

The detailed description of the project is as follows: *The project will include the tear-down of the existing home and separate garage and construction of a new home with an attached garage further from the road. There will be a new driveway, fence and landscaping with a mix of native planting and flowering perennials. There will be a new septic system located below the driveway, further from the lake and neighboring wells than the current septic location.*

Members did a site inspection prior to this evening's meeting.

Roger A. asked that the applicant or representative let anyone who may be watching, know what they were doing. Mr. Collins began by reading the project description for Brad and Brigette Davis of 58 Indian Village Road. He read as stated above.

Mr. Collins stated it currently is a non-conforming home and the task was to make it less non-conforming.

Roger A. stated that members were all on the site visit this evening and he asked if any members of the audience had any questions? There were no questions.

Roger A. began the review of §105-4.D as follows:

Roger stated that Section (1) 'Expansions' was not allowed because the lot coverage allowed was already exceeded with the existing structures. He stated the footprint of the square footage of the new non-conforming structure will be less than the existing square footage.

Roger reviewed Section (5)

Removal, reconstruction or replacement.

- (a) 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.
- (b) Any nonconforming structure which is located less than the required setback from a water body, tributary stream, or wetland and which is removed by 50% or less of the Town-assessed value, or which is decaying, damaged or destroyed by 50% or less of the Town-assessed value of the structure, excluding normal

maintenance and repair, may be reconstructed in place if a permit is obtained from the Code Enforcement Officer within one year of such decay, damage or destruction or removal.

- (c) In determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board shall consider, in addition to the criteria in Subsection D(7) below, the physical condition and type of foundation present, if any.

Roger reviewed Section (7)

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 with the plans presented included the site plan and revegetation plan, the application and material presented all meet the requirements under Section 105-4, and the new location is what the Planning Board believes is the best practical location.

Roger A. stated he would entertain a motion for approval for the project as presented.

Madge B. moved for approval of the location of the new structure on Map 36, Lot 1A, it being as perfect a relocation as feasible. Madge added that the applicants and architects did a great job.

Roger stated that if this structure is going from seasonal to year round, the applicant will need a Growth Permit. Mrs. Davis stated that the woman they purchased the property from lived in the structure for 30 years year round, does that make a difference? Roger stated that CEO Demers may be able to answer this. CEO Demers stated he would check the file on this. He said they could use it year round, but whether or not it is considered a year round vs a seasonal dwelling by the Town is a different question. He said he would look into it. Mrs. Davis said they want to live there year round, so whatever needs to be down they will do.

Roger A. asked when they expect to have the project completed? He also noted that when the existing structure is demolished the debris cannot go to the transfer station. Mr. Collins stated he would notify the contractor and let them know they cannot take it to the transfer station.

Roger A. asked again about the time frame for construction. Mr. Collins they were looking at the end of October to start construction. He said they did not have a timeline for construction yet, but he estimated a year from start to completion. Mrs. Davis said she would like faster, she hoped it would be done for July 1st 2022.

Roland L. stated that given that they are moving the structure, is the Board going to require a surveyor's certification? Roger A. said, "Yes". Roland asked if this should be a condition of approval? Roger said that it is a requirement under the ordinance and the Board does usually put it as a condition.

Mr. Roo asked if this was covered under drawing AS102 in the package? He asked if this was additional information. Roger asked CEO Demers if he looks at the surveyor's plan for where the building sets. CEO Demers stated the surveyor will go out and pin the location prior to the footings. Mr. Collins asked if this was for the new home? CEO Demers stated, "Correct".

Madge B. asked about a planting date of completion. Roger A. stated at present there is a completion date of October 2022, and it may be moved up. Roger said if they cannot meet that date, they will have to come back to the Board to change the date. Mr. Collins stated they would be working to the contractor's time line but having worked with them before he estimated a 1 year construction time. Ann H. asked if the contractor has to be DEP certified? Mr. Collins said he assumed so, if that is the requirement. He said the contractor was very reputable. She said the Board has seen contractors that are not and it creates a problem.

Roger A. added that they need a DEP permit for the removal of the existing building, a Permit by Rule.

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

- 1) 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. The contractor must be DEP certified in erosion control methods to work in the Shoreland District.**
- 2) A DEP Permit by Rule must be applied for prior to deconstruction of the existing structure.**
- 3) All debris from the demolition of the existing structure shall be taken out of Shapleigh and disposed of at a proper facility.**
- 4) The project, including the replanting of vegetation, shall be completed by October 2022. If this date cannot be met the applicant shall come back before the Planning Board to set a new date of completion.**

- 5) 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 75 feet back from the high-water-mark and 10 feet from the side lot lines, per the plans presented.

Madge B. moved for approval of the location of the new structure on Map 36, Lot 1A per the plans provided, with the stated conditions; it being the best possible location on this lot. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion to approve the best practical location as presented was unanimous.

Roger A. thanked the applicants for a well presented project. Nothing more was discussed.

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**The Findings of Facts**

1. The owner of Shapleigh Tax Map 36, Lot 1A (58 Indian Village Road) is Davis Farm LLC, Bradford S. & Brigitte L. Davis, Trustees, mailing address of 58 Indian Village Road, Shapleigh, ME 04076.
2. The property known as Map 36, Lot 1A is located in the Shoreland District and according to the Assessor the property contains .27 acres.
3. The Best Practical Location application was presented to replace the existing structure(s) with a new structure.
4. The application description reads as follows: *The project will include the tear-down of the existing home and separate garage and construction of a new home with an attached garage further from the road. There will be a new driveway, fence and landscaping with a mix of native planting and flowering perennials. There will be a new septic system located below the driveway, further from the lake and neighboring wells than the current septic location.*
5. Provided was a copy of the Subsurface Wastewater Disposal System Variance Request, and the Subsurface Wastewater Disposal System Application, drafted by Brady A. Frick, SE #352, dated 10/30/2020, for a 3 bedroom system.
6. Provided was a Sketch Showing a Site Plan for Davis Family Trust, drafted by LinePro Land Surveying LLC of Springvale Maine, dated March 10, 2020; provided by Whitten Architects of Portland, Maine; Sheet AS102 depicting the existing structures, which include a house, deck, porch, several concrete pads, concrete walkway, landscaping, paved walkway and parking area, propane tanks and garage. The setback to the existing deck from the high water mark to the deck is 63.6’ at its closest point; the setback from the house to the north side lot line is 7.3’ at the closest point; and the setback from the house to the south lot line is 3.7’ at the closest point. The setback from the existing garage to the north side lot line is 1.05’ and the setback to the lot line adjacent the road is .63’. The plan depicts the 50 foot setback to the road and the 100 foot setback to the water.
7. Provided were pictures of the existing structures and property, provided by Whitten Architects, dated 4/6/21; Sheet AS103, which showed both the existing house and garage from different angles, and the trees and vegetation currently in existence.

8. Provided was a Proposed Site Diagram, provided by Whitten Architects, dated 4/6/21; Sheet AS104, which depicted the existing structures along with the proposed structure locations. The new home, attached garage, new chimney, and new deck locations, along with the new driveway were shown. The new house appears to be 10' from the side lot lines not including the overhang, the deck approximately 75 feet from the high water mark, the new garage, (measurements were not noted from the new garage and the lot line adjacent to Indian Village Road). The plan also noted that the existing lot is 10,100 sf, the existing lot coverage by structure is 2,340 sf or 23.17% lot coverage, the proposed lot coverage by structure is 2,336 sf or 23.15%.
9. Provided was a Site Plan / Revegetation Plan provided by Soren deNiord Design Studio, dated April 6, 2021, Sheet L1.0, which depicts the proposed vegetation, how topsoil shall be dealt with, how the vegetation shall be planted, and erosion control measures to be taken.
10. The application required Planning Board review as a Best Practical Location under §105-4 'Nonconformance'. The Planning Board members agreed the application as presented, will meet all the criteria in the ordinance with conditions, and the proposed relocation of the new structure is in the best practical location.
11. The applicants were notified by the Planning Board during the review, that they may need a Growth Permit if they are to have the structure considered a year round residence.
12. A notice was mailed to all abutters within 500 feet of the property on April 14, 2021. Meetings were held on Tuesday, April 13, 2021, and Tuesday, April 27, 2021 via Zoom due to Covid-19. A site inspection was done by members on April 27, 2021.
13. The Planning Board unanimously agreed to approve the Best Practical Location for the replacement of the existing structure(s) on Map 36, Lot 1A per the plans provided and information presented, placing the new structure 75' back from the high water mark at its closest point and 10' from the side lot lines, with five conditions.
14. **The conditions of approval are:**
  - 1) **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. The contractor must be DEP certified in erosion control methods to work in the Shoreland District.**
  - 2) **A DEP Permit by Rule must be applied for prior to deconstruction of the existing structure.**
  - 3) **All debris from the demolition of the existing structure shall be taken out of Shapleigh and disposed of at a proper facility.**
  - 4) **The project, including the replanting of vegetation, shall be completed by October 2022. If this date cannot be met the applicant shall come back before the Planning Board to set a new date of completion.**
  - 5) **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 75 feet back from the high-water-mark and 10 feet from the side lot lines, per the plans presented.**

**Decision:**

**The Best Practical Location application to replace the existing structure with no expansion, moving it 75’ back from the high water mark and 10’ from the side lot lines, per the plans provided, with five conditions was approved.**

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**Conditional Use Permit §105-13 – Build Garage w/Apartment Over – Moving Out of Shoreland District– Map 37, Lot 37 (Indian Village Road) – Tyler Matthews, Applicant; Gary Bracy, Property Owner**

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

Presented along with the application was a letter of authorization dated March 24, 2021, which stated that Tyler Matthews could act as agent to obtain a building permit from the Town of Shapleigh on behalf of Gary Bracy, owner of Map 37, Lot 37 (54 & 54A) Indian Village Road.

Provided was a sketch plan which depicted a structure entitled ‘Proposed Garage’, showing a structure 10’ from one side lot line with a dripline on two sides of the structure.

Provided was a sketch plan which depicted a ‘Garage’; notations that the lot was 100’ in width, 200’ in depth; the new structure would be 300’ from the high water mark; a line depicting the ‘road setback’ and a sentence stating ‘Looking to extend the shoreland zone an additional 50’ from the high water mark’.

Roger A. asked Mr. Matthews to let the Board know what they wanted to do. Mr. Matthews stated they were looking to build a garage with an apartment over, on a back lot on Indian Village and part of the lot is in the Shoreland District, 250 feet from the high water mark. He said with the side setbacks, CEO Demers said he would need to use the 25 foot setback instead of the 10 foot setback and 20 foot setback with a combined of 30. CEO Demers told him he could put the structure in and expand the shoreland district by 50 feet, moving it 300 feet from the high water and shrink the setback requirement. He said this is what he was looking for.

Roger A. stated that the apartment over the garage would need a Growth Permit. Mr. Matthews said, correct. He said CEO Demers told him to go through this process first and then get the Growth Permit.

Steve F. asked Mr. Matthews if there was anything there now, or was it just a vacant lot? Mr. Matthews stated it was vacant. Ann H. asked if anything had to be done with road frontage? Steve said it was an existing non-conforming lot of record.

Roland L. asked Mr. Matthews if it was going to be a rental apartment? Mr. Matthews stated, no, it was just for overflow for the owners of this lot. He said the Bracy’s own the lot on the water in front of this lot; it is mainly for boat storage, trailers out back, extra vehicles, and the occasional overflow. Roland said, “So it’s not revenue producing”. Mr. Matthews said, “No”. Roland thanked him.

**Roger A. stated a site inspection would be held on Tuesday, May 11 at 6:30 p.m. A notice to abutters will be mailed as well.** (Note: A public hearing will be held on that same evening for another application at 7:00 p.m.)

Nothing further was discussed.



**Growth Permit(s)**

**Map 1, Lot 24-3 (Deering Ridge Road) – New Home**

**GP #14-2021**

After reviewing the deed, it was determined the lot met the minimum lot requirements for a lot created in 2019.

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**The Planning Board meeting ended at 9:05 p.m.**

**The next Planning Board meeting scheduled will be via Zoom on Tuesday May 11, 2021 at 7:30 p.m. See the Town website, [www.shapleigh.net](http://www.shapleigh.net) to obtain the link details, or use the information below.**

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

• **Join Zoom Meeting**

<https://us02web.zoom.us/j/88005967573?pwd=OWxLdWM5eTZ5V28yL05VdWdVSmlFjQT09>

• **If calling in:** Find your local number: <https://us02web.zoom.us/j/88005967573?pwd=OWxLdWM5eTZ5V28yL05VdWdVSmlFjQT09>

**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](mailto:planningBoard@shapleigh.net) and the link to the meeting will be emailed to you, or you can find that link on [www.shapleigh.net](http://www.shapleigh.net) under Planning Board

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

Respectfully submitted,  
Barbara Felong, Land Use Secretary  
Town of Shapleigh  
[planningBoard@shapleigh.net](mailto:planningBoard@shapleigh.net)