

Shapleigh Planning Board

Minutes

June 8, 2021

This evening's meeting was conducted via Zoom due to Covid-19. *Note: As long as the reduction in positive Covid-19 cases continues, the Board will begin in-person meetings at the Town Hall beginning in July.*

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 – Skin Care / Aesthetics Business – Map 30, Lot 17 (5 Treasure Island Road) – Kaelyn Couture, Applicant & Property Owner

Ms. Couture was present via Zoom for the public hearing. Note: *A site visit was conducted by Board members prior to this evenings meeting.*

Roger A. asked Ms. Couture to let the Board know and anyone in attendance what it was she would like to do. Ms. Couture stated she wanted to open up an in-home skincare business, as a single member LLC, by appointment only.

Roger A. stated that the applicant would like access to the site via Totte Road. Ms. Couture stated correct, she would like to see it as 16 Totte Road.

Roger A. stated the hours of operation were 8 am to 8 pm, Monday thru Sunday. Ms. Couture stated this was correct.

Roger A. asked if anyone in the audience would like to comment?

Abutter Norman Carbonneau, 23 Totte Road, M30, L9 – I am kind of worried; how is the traffic going to be? It's pretty much one way in that area where the walls are.

Roger A. – Right, on the entrance coming in.

Norman C. – Correct.

Planning Board member Steve F. to Ms. Couture– For my information, could you identify how many clients you think you might be having on your best week? 1 day, 5 days, what is your anticipation?

Ms. Couture – I am anticipating for things to start extremely slow. I am relatively fresh out of school, so this will be my first start at building up my clientele. I am anticipating in the beginning, on a good day, maybe seeing one possibly two people per day. I am very small scale, it will be by appointment only.

Steve F. – Thank you.

Abutter Mike Dubois, 966 Goose Pond Road, M31 L1 – Two Questions. First, is that it was not a Treasure Island access but a Totte Road access. I didn't know if simply having a property that bordered Totte Road gives you access and use, if on a private road. And secondly, I attended a York County Water Conservation meeting earlier last month, and one of their areas of concern is directly across from that property, off of Totte, where

There is a lot of runoff and erosion into Goose Pond. My concern and question is how do we control the hillside that is cut back, and with traffic coming and going on a regular basis, how do we control the erosion that could end up in Goose Pond.

Roger A. – That is one of the issues we will be looking at when we get into the regular meeting. At present, I realize this is a private road and they are looking to have access, but I am not sure that will be possible.

Abutter Michael Keane, 35 Totte Road, M30 L11 – My concern is also the access coming down Totte Road. That is a blind corner, on a steep grade, and as Norm mentioned, there are obstructions on both sides of the road there, so if anyone met a car in the road, especially if the driveways are occupied, there is no option but to either back out onto Goose Pond Road, or ask the opposing car to back down the hill. I think that in particular, in the winter time, that steep grade is very dangerous. The road is maintained privately, it's not treated with anything for ice. So in the winter time that road, that steep grade gets to be packed ice. We've had several instances where fuel trucks refuse to come down because it's not safe passage. As one of your criteria to grant this conditional use permit, I think it's very difficult to find that safe access is going to be provided here. I also have concern with the address being 16 Totte Road, when the house address is 5 Treasure Island Road. I don't know whether the Fire Department is in on it, or enhanced 911, but it seems to be a bit confusing if an emergency call came in, as to where their best response would be. My other major concern is the location of the septic system, so close to the pond. And I understand that needs to be reviewed or has been reviewed. I am wondering if it was reviewed in context of this being used as a day spa and not just simply a residence. I don't know that we have enough information about different chemicals they are going to be using there, and how they might affect the septic system. My understanding is that they generally are not hazardous but some of those chemicals and things can basically affect the microbe environment and cause the leachfield to fail. Or if they are using clays or oils, if there are not proper filters, the leachfield could fail prematurely, and it is located so close to the pond, that would be a major concern of mine. There was no signage shown on the site plan. At the site walk we talked a little bit about lighting, but it's not shown on the site plan. My understanding is that no lighting is intended to be added unless the Board conditions it. There needs to be a sign to direct people, if they do come down Totte Road, so they know exactly where they are going to park. And whether or not there would be lighting for that sign, because we are talking about hours that go from 8 to 8, 7 days a week. During the winter time we are talking about 4 or 5 hours a day when that road is dark, so to have effective signage there will be lighting, so now there are glare issues. Thank you for listening.

Planning Board member Roland L. – For those who do not know who I am, Roland Legere, Planning Board member and also a year-round resident on Goose Pond. After this evenings site visit, a few of the folks who were there, who unfortunately are not able to participate in the meeting, they do not have internet access, some are seasonal, they were quite vocal with their concerns. We talked initially about the launching area, because I am on the committee that is trying to address the runoff there; the conversation did transition to their concerns, many of which Michael so well spoke to. The narrowness of the road, the slippery icing conditions, as well as evening hours which are after sunset certain times of the year which will generate extra lighting. With no street lights, increased possibility of accidents. Then another point was made, which I was not aware of, and I can only go by the map that I saw at that time, I think it can be researched, it appears like, from the survey map that I saw, there is a right-of-way between Couture's property and the Gary property right next door, and it leads to a back lot. I don't know if the Couture's have the right-of-way to cross that road, because from what I could see on the plan, it appears like the turnaround their proposing actually crosses over that right-of-way. I don't know that for a fact, I am only going by what I saw, but a concern was raised and it was mentioned that the Couture's boat may be parked in the ROW that accesses a back lot to the Gary's property. There were questions that came

up, safety was certainly one of them, and the fact that it is a private road. Since they were not able to bring it up, I am doing it on their behalf. Thank you.

Roger A. asked if there were any other comments?

Abutter Laura Joslyn, Map 30, Lot 8 & 16 & 67A (Totte & Dogwood Road) – I am right next door to the property with the proposed business. I am also going to ask about the boundary lines of the property and specifically related to what was called the cart road at one time, that starts on Totte Road and goes up to our Dogwood property behind our home. We also own that lot. I have the same concerns that Mike and Norm talked about with regards to safety and the turn-around, and the deterioration that is going to continue on this road, at the ROW for people to put their watercraft in. I had asked if Ms. Couture is going to have the property surveyed, so you can understand exactly where the boundary lines are. Thank you.

Roger A. ready 2 emails received by the Board from abutters. They read in part as follows:

As 31 year residents of Totte Road we feel we have experience regarding the one lane road and public boat launch. Parking for the proposed business is not Treasure Island Rd, it is on Totte Rd, which is dirt and is prone to washouts. The boat launch is busy with the launching of boats and trucks, trailers and other vehicles can be seen blocking the road. Obviously creating problems for those unfamiliar with the road, namely customers of the proposed business. Clearly this is a hazardous and dangerous situation. As mentioned before, Totte Rd is one lane and doesn't need traffic from those who are not residents of our street. Thank you for listening to our concerns. Pat and Dave Nordling, 83 Totte Rd.

We are the property owners of 22 Totte Road, Map/Lot 030-016; Dogwood Drive, Map/Lot 030-067-A & Totte Road Map/Lot 030-008, and received notification regarding a request for a home based business to be located at 5 Treasure Island Road. This property has a right-of-way access through our Dogwood Road property.

We have several concerns regarding this request:

This home based business request for 5 Treasure Island Road is being advertised as being located at 16 Totte Road, which I don't see identified as a location on a map. It is being advertised as Nourished Through Nature LLC which is also not identified on the notification letter.

Totte Road is a private road not maintained by the town, so wouldn't the residents need to grant permission for a parking lot on Totte Road at the advertised address? Is this currently being brought before the town? The road itself can just about withstand the use by us residents and the repairs we make at our own cost, not a constant flow of additional traffic.

22 Totte Road is the entrance to my property where my home is located. This should not be considered as part of a parking lot or turn-around. The width of the road doesn't allow for a turn around. I do not consent to anyone using my property for a parking lot or turn-around for vehicles.

The boat launch/ROW on Totte Road deteriorates every year from people accessing it with their water craft. Traffic using this specific area will only contribute to the deterioration.

Have you been on site at Totte Road, Dogwood Drive or Treasure Island Road?

Please let us know if you have office hours and would be able to discuss our concerns on a call. We do plan to call into the Zoom meeting, but would also like to know if there will be or has been an on-site visit to both road locations. Thank you, Ken & Laura Joslyn

Roger A. stated that the Board would be addressing these concerns at the regular meeting which begins at 7:30 p.m. He asked if there were any other concerns?

Abutter Michael Keane, 35 Totte Road, M30 L11 – May I make one more point? The applicant has stated that at this point in time that her business may be 1 or 2 customers a day. My hope is that any business would grow from its starting point, so if the Board is inclined to allow this conditional use permit, I would like to see a consideration of some sort of a condition placed on the approval that limits the number of customers a day and week, or something along those lines. I know it is difficult to do and to enforce, but representation was made that it will be a very low volume business, and if that is going to be part of your consideration, then it should be part of the conditions. Thank you.

Madge B. stated she believed this would be brought up at the regular meeting, but there seems to be a need to clarify what lotions, materials, possible chemicals would be used by the applicant. I know we have been in the facility and there is no running water there that I am aware of. I think either now or at the regular meeting, could we have more information about that. Roger A. stated that that was one of the articles in the ordinance that will be brought up, to see if there are any chemicals or to see if CEO Demers would have any concerns as well. Madge thanked Roger.

Roger A. asked if there were any other comments or questions? There were no other questions.

The public hearing closed at 7:30 pm.

Madge moved that the minutes from Tuesday, May 25 2021 be accepted as read. Roland 2nd the motion. All members approved the minutes as written.

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 who is speaking.

Conditional Use Permit – Skin Care / Aesthetics Business – Map 30, Lot 17 (5 Treasure Island Road) – Kaelyn Couture, Applicant & Property Owner

Ms. Couture was present via Zoom for the review of the application.

Provided along with the application, was a sketch plan which depicted the existing home, shed and garage; an area within the home blocked off entitled ‘spa room’, the location of the entrance door to the spa, stairs leading to the entrance door and location of the parking area / turn around. Other notations on the sketch were for the location of trees, the well, leach field and septic system, as well as a right-of-way from Treasure Island Road to the home and the location of Totte Road.

Provided was a copy of the State of Maine, Department of Professional and Financial Regulations, Barbering and Cosmetology License for Kaelyn Morgan Couture, License Number AE62117, as a qualified Aesthetician, dated March 19, 2021.

The application detailed description of the project is as follows: *Opening up a skincare / esthetics business.*

The Project Description continued as follows:

I would like to open a skincare spa in my home, offering hands-on services for clients. I also plan to sell retail skincare products in the same space as a part of this business. As a solo member LLC, I plan to run this business strictly by appointment only and be limited to one client at a time. My anticipated operating hours will be Monday – Friday, 10-7 and Saturday 10-2. (These hours were amended to 8 to 8, 7 days a week.)

I plan to make use of the existing room in my finished basement as well as an existing outdoor entrance to that space. This space has adequate utilities, heating and lighting already in place. To this point I have only repainted the room and outfitted it with spa equipment, furniture, and décor.

I plan to have clients access my property via Totte Road (approximately 16 Totte Road), where there is an existing portion of my property that will be used as a parking area. Due to its orientation, clients can also use this as a turnaround to safely get back onto Totte Road when exiting. Clients will use existing landscaping stairs to reach the exterior door and will enter directly into the skincare spa.

Roger A. asked Ms. Couture to once again state what she wanted to do for those present. Ms. Couture stated she was proposing to open an in-home skin care business as the solo member of the business. She said it would be in an already finished basement, which has lighting, and it will be by appointment only.

Ann H. asked Ms. Couture to let everyone know what products she would be using. Ms. Couture stated she had a firm stance on using a holistic approach to skin care, so she uses holistic certified USDA organic products. The product line she will be using is Evan Healy (www.evanhealy.com), and there are no harsh chemicals, parabens, phalates or anything like that. She said she is a firm believer in keeping everything as healthy as possible, meaning the water as well. She said keeping everything holistic keeps with her passion to keep things clean.

Roger A. stated that he wanted to note to anyone listening to the review of the application, that with any applicant under review, if they can meet all the conditions in the ordinance the Planning Board must approve the conditional use permit. He said if the Board makes findings that it does not comply with articles in the ordinance, there can be conditions or modifications made for approval.

Roger A. began review of the Zoning Ordinance as follows:

105-17 – Land Uses. *Roger A. stated a property located in the Shoreland District, located within 250 feet of a great pond, asking for a home based business, requires a conditional use permit. He stated this is why the applicant is before the Board.*

105-20 – Applicability of standards; prohibited uses. *Roger stated the Board needs to look at the uses of the land and the building with respect to health and safety, and determine if the applicant complies. He stated the use cannot be obnoxious or injurious because of odor, dust, smoke, refuse matter, fumes, noise, vibration or waste material.*

Basic Performance Standards:

105-21 – Traffic. *Roger A. stated he did not believe the Board could say that with respect to Totte Road that the access is safe. He said that Totte Road is a private way and he wasn't certain the Board could authorize the use of Totte, whereby saying the clients can use Totte Road there could be a liability issue for the Town.*

Roger stated that Ms. Couture was asked earlier if she participates in any funds that go toward restoring or general maintenance of Totte Road and she said, no. Ms. Couture stated that they said they would put funds toward the road if the access was allowed via Totte. Roger said that at present the applicant has not participated in the maintenance. Ms. Couture agreed that they do not currently, but they are willing to. Madge B. said that when she read Section 21, it says 'access to and from public and private roads'. She said the fact this is a private road is not a disqualifying factor. Roger agreed, it is the safety aspect because of the narrowness of the road, the grade, and the curvature. Madge wanted to ask if they were willing to have the access from Treasure Island Road, and what is the status of that road, is it public or private, and is there a maintenance agreement on it. Madge said the Board would have to ask the applicant if they would be willing to use that access. Ms. Couture stated she would be willing to use that access, more or less as a last resort, but would be willing to use it if it meets the ordinance. Laura Joslyn of 22 Totte Road stated the property on Dogwood is owned by her and the ROW access that Ms. Couture has to the 5 Treasure Island property is a ROW over her property. She said there were other people who had access to use the ROW. She said it could not be considered, as far as she knew, as a parking lot for customers. Ann H. stated that she did have a ROW to cross the road to get to her property. Mrs. Joslyn stated that it was not a road. Ann said, "Treasure Island Road". Roger said, "She has access across Dogwood over your property". Mrs. Joslyn said, "Correct". Ann said, "If we were driving to her house over Treasure Island Road to get to her house, we would have to go from Treasure Island to Dogwood to get to her house". Ann asked if this is the way it is, or did it go Treasure Island directly to her garage? Ms. Couture stated, "It is Treasure Island to my house". Mrs. Joslyn stated, "Treasure Island to the ROW that runs over Dogwood". She said her lot was on Dogwood Road, that abuts Treasure Island. Ann said that she drove from Treasure Island to the garage, so she wasn't sure where the crossover point is with Dogwood. Mrs. Joslyn said, "Our lot is labeled as Dogwood Road and it starts at the ROW and runs all the way over to Nancy Moses property." (3 Dogwood Drive) Madge said that as a point of clarification, it's her understanding that the parking would be on their property, not on the ROW. She wanted to know if that was correct? She said the parking would be where the applicants park now. Ann asked if it was Dogwood where they park or property owned by Ms. Couture. Ms. Couture stated that it was her property. Madge thought the Board either needed a survey or some type of documentation regarding the ROW. Steve F. asked CEO Demers to share his screen in order to look at the town map. Ann said that it sounded like the ROW abuts Ms. Couture's property line. Ms. Couture stated, yes, but there is enough room to park on our property. CEO Demers, using his computer showed Ms. Couture's property, 5 Treasure Island Road, and that it only had road frontage on Totte Road. He then showed Treasure Island Road and the general location of the ROW and noted where Ms. Couture parks currently, which is not in the ROW. CEO Demers noted that 5 Treasure Island Road has no road frontage on Treasure Island Road. Madge said that one of the issues was that Ms. Couture cannot park on the ROW, which makes sense, but they would park on their property. Ann stated that the Board needed to find out how many feet they have from their garage to their property line on their side, to separate out the ROW.

Madge added that the Board needs to know what the ROW says, because ROW's depend on the terms of the ROW. Ann said, "They might say private use only". Madge agreed. Ann said, "It would be on the deed". Madge said, "Yes, or on a recorded document". Roger stated that the Board does not have that information. Madge said that unless the applicant can provide it, she wasn't sure the Board could move forward. Ms. Couture stated that she could provide a copy of it. Ann said the Board needs to see if they have enough room for her vehicles and one additional, as well as a place to turn around. Madge believed they could keep one of their vehicles in the garage. Ann said they could also put one on the other side of the house. Ms. Couture stated she was open to doing that. Madge said that as long as she could show the parking was on her property, which at present the Board cannot determine, then the Board could make a determination. Ann said the Board needs to know if the ROW allows passage of someone other than the applicant as well. Steve F. stated that if in the event the language is vague, it would be in favor of the applicant, especially if the ROW has been in use for a long time. He said if the Board is leaning toward not allowing the applicant to use Totte Road, then it changes the scenario for the applicant. He said there seems to be better access from Treasure Island Road, based on the narrowness of Totte Road. Roger said he agreed. Roger made note that under §105-21 'Traffic', Section B it states that traffic cannot be the sole criterion for rejecting an application, and if there is an additional access option the Board needs to look at it. Roger felt at this time it would be best to table the application until further information on the ROW was provided. Madge agreed, but thought it would be helpful to go through the other pertinent sections to see if there was any other information the Board would require of the applicant. Roger agreed it would be in the best interest of the applicant to see if anything further was required, so the applicant can make the decision of whether or not to move forward if additional material is required. Roger noted that one other issue may be an additional septic requirement but that is up to the CEO. Madge added that she did not believe her property was the major cause of phosphorus going into the lake. Roger agreed. Madge said that this business would not affect the water either. Mrs. Joslyn stated that she wanted the cart road and boundary lines addressed. Steve F. stated that boundary line disputes are not part of the scope of the Planning Board. Mrs. Joslyn stated that if they are talking about the Totte Road area, the parking and the turnaround, she wanted to know how she will address that since she abuts that property. Roger said the Board is taking this into consideration and the Board will review whether or not to approve or deny the permit once further information is provided such as the description of the ROW. Mrs. Joslyn stated she was speaking about Totte Road, has the Board moved away from that. Roger stated, "Yes".

- 105-22** – Noise. *Roger A. stated due to the nature of the business there is no excessive noise, and traffic noise is not applicable, as it is a limited amount of traffic. This criteria is met.*
- 105-23** – Dust, fumes, vapors and gases. *Roger A. stated there is no dust, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation or property, emitted beyond the lots lines. This criteria is met.*
- 105-24** – Odors. *Roger A. stated there will be no offensive or harmful odors perceptible beyond its lot lines, either at ground or habitable elevation for this business. This criteria is met.*
- 105-25** – Glare. *Roger A. stated there will be no additional lighting creating a strong dazzling light onto neighboring properties. This criteria can be met.*
- 105-26** – Stormwater runoff. *Roger A. stated the applicant has done a great deal to prevent stormwater from leaving the property, which includes landscaping around the existing structure and walkway, and limiting exposed areas that could erode. This criteria is met.*

- 105-27** – Erosion control. *Roger A. stated the way the walkways are designed, and the exposure of open areas has been kept to a minimum to prevent erosion issues, therefore this criteria is met.*
- 105-28** – Setbacks and screening. *Roger A. stated this is not applicable, all business is taking place inside the existing structure, no outside storage of materials.*
- 105-29** – Explosive materials. *Roger A. stated this is not applicable, no explosive materials associated with this business. No propane tanks used for this business.*
- 105-30** – Water quality. *Roger A. stated there is no chemicals or industrial waste stored outside. There is no impervious pavement. This criteria is met.*
- 105-31** – Preservation of landscape; landscaping of parking and storage areas. *Roger A. stated parking is in existence, no changes being made to the landscape for the business. This criteria is met.*
- 105-33** – Refuse disposal. *Roger A. stated the applicant would be taking her waste to the Transfer Station, there should not be enough waste to warrant a dumpster. This criteria is met.*
- 105-43** – Off-street parking and loading. *Roger A. stated two spaces per dwelling unit would be required, and one space for every 150 sf of floor area used for a service establishment. This business would require one additional space, for a total of three spaces. Roger stated the Board would need to know where these 3 spaces would be located to be sure there was enough area. Each space has to be 200 sf in size.* Steve F. asked if there would be an issue with the applicant parking out back for themselves, leaving the front area for the customer? He did not think the Board had the right to tell the applicant where they had to park. Roger agreed, it was up to them where they parked. Steve said in reality, they just need the one space up top for the customer. Roger said that they have to have 3 spaces, they just have to show the Board where they are going to be. Roland L. asked if they would show it by depicting it on the plan that they gave us? Roger said, “Yes.” Roland said he wanted Ms. Couture to be aware of what was required, that the plan had to be marked to indicate where the parking places were, customer vs homeowner. Roger added that it needed to be noted how large the parking space is, because every parking space is required to have 200 sf of area. He said if 2 vehicles are going to be up top there will have to be 400 sf, again he said it just needed to be added to the plan. Ms. Couture said, “Ok, perfect. Thank you.”
- 105-46** – Sanitary provisions. *Roger A. stated there is an existing State approved septic system on site for the house. The private sewage disposal system, regardless of the date of installation, no system shall be allowed to malfunction, and the Plumbing Inspector, in this case the CEO, shall take all immediate and necessary measures under the State Plumbing Code to correct malfunctioning systems. Roger stated that any additional requirements for products will be through the Code Enforcement Office. This criteria will be met in order to operate.*
- 105-47** – Signs and Billboards. *Roger A. stated that all signage must be permitted and approved through the Code Enforcement Office, so if this application is approved it will be allowed through that office.*

Ann H. stated with respect to the parking issue, she thought that if they are parking on their property it would not be considered off-site parking. She thought off-site parking would be parking not on their property. Roger A. stated they needed to have parking ‘on’ their property for the business. Ann said, “Since it’s on their property vs off-site, they’re still subject to the 150 – 200 foot parking spot”. Roger said, “That’s true”. Ann said it said ‘off-street’ so she wasn’t sure. Roger agreed ‘off street’. Ann said if they are parking next to their garage it would be off-street. Roger said, “Yes, it’s off the street, it’s not on the street”. Ann said she understood.

Roger A. believed these were the sections that applied, except for §105-73 ‘conditional use permits’, conditions to a conditional use. He said that once the Board has the parking area shown on the plan, and the right-of-way description, then the Board will be all set to go through §105-73. He stated there was nothing in §105-73 that would require additional information or review. Madge B. thanked Roger, she thought the review was helpful.

Roger A. asked for a motion to table the application.

Madge B. made the motion to table the application pending further information as noted. Maggie M. 2nd the motion. All members were in favor to table. By a vote of 5 – 0, the motion passed unanimously.

The applicant shall provide a parking plan for 3 vehicles on site (two for the applicant and one for the customer), each parking space 200 sf in size, along with a depiction of the area to turn around on site; as well as a copy of the legal description of the right-of-way used to access 5 Treasure Island Road.

The abutter’s asked if they would be notified when it comes back before the Board? Roger A. stated no, but the agenda is posted on the Friday before the meeting and is on the Town’s website. The next meeting will be Tuesday, June 22nd and this will be on that agenda if all the information is presented in time.

Roland L. asked if the next meeting would be via Zoom or in person. Roger A. stated via Zoom, in person will start on July 13th.

Ms. Couture stated she wanted to double check what she was to be doing in the next two weeks. She stated, “Measuring the parking area, and describing the right-of-way from the deed”. Roger said, “That’s true, we need a copy of the deed”. She thanked the Board and said she would get a copy as soon as she could.

Nothing further was discussed.

Conditional Use Permit – Baked Goods Business – Map 12, Lot 30-5 (70 Silver Lake Road) – Lynn Carter, Applicant; Michael Pierce (Son), Property Owner

Ms. Carter was present for the review of the application via Zoom.

Provided along with the application, was a sketch that depicted the location of the house / porch, front and back yard, septic system location, driveway, parking area, and entrance into the house. There was a notation that there would be no parking in the back yard, and that were was woods on three sides of the property.

The detailed description of the project is as follows: *This application is for a permit to be able to make baked goods (specialty cakes and deserts) for the public. Orders only, pickup & delivery.*

Roger A. asked Ms. Carter to let the Board know what she wanted to do. Ms. Carter stated she was asking to be able to open an in-home bakery, specifically specialty orders such as wedding cakes, pies and deserts. Pick-up and delivery only. She said there would be no service within the house.

Roger A. asked what the hours of operation would be? Ms. Carter stated, “From 9:00 am to 5:00 pm, regular business hours. It probably will run into the weekends as well, probably on Saturday’s. A six day week.” Roger

told Ms. Carter she could be open 7 days a week if she wanted to. Ms. Carter said she may need a day off. Roger said that normally when the Board asks for the hours of operation, if you request something like 8 to 8, seven days a week, you don't have to be open 7 days or those hours, it just allows you to be open those hours. He said if you have extended hours, and if a neighbor says they don't like you being open at 7 in the morning, and you are only approved for 8 am, it would be an issue. Roger said asking for longer hours provides a bigger window, and you don't have to come back before the Planning Board to amend the approval, because you want an extra hour or two or another day of the week. Roger said having a larger window does not force you to be open those hours, it just allows you the possibility of being open those hours. She said the business is primarily telephone calls, not people showing up at the door. She said she could take phone calls at 8 o'clock at night, and it would not cause a problem for anyone. Roger said if he was picking up his order at 8 at night then someone could complain if it was only approved for 5. Ms. Carter said she wouldn't want anyone showing up at night.

Roger A. asked if anything else was going to be conducted on site? Ms. Carter said, "No, just specialty desert items." Madge B. said, "You talked about them being picked up or you drop them off." Ms. Carter said, "Correct". Madge said, "So everything is ordered ahead. No one comes and scans what you've got and decides". Ms. Carter said, "Correct". Ms. Carter said she would have nothing on display; it's strictly phone calls or emails. She did not expect to have anyone knocking at the door.

Roger A. stated the Board will do a site inspection on June 22nd at 6:00 pm, and hold a Public Hearing at 7:00 pm. A notice to abutters will be mailed as well.

Ms. Carter thanked the Board. Nothing more was discussed.

Conditional Use Permit – Replace Retaining Wall – Map 26, Lot 18 (286 16th Street Loop) – Michael Pierre, Applicant; Bruce Haines, Property Owner

Michael Pierre was present via Zoom for the review of the application.

Presented along with the application, was a copy of the Town Tax Map with Lot 18 highlighted in yellow, a red circle around the area and a small circle with an X on each side showing where the wall was located.

Provided was a sketch which showed the location of the driveway, house, stairs, the location of the wall and stairs. Notations stated the following: A. 81.8' x 217.77' lot dimensions; B. 16th loop (Mousam Lake); C. Waterfront Retaining Wall; D. (nothing written); E. Behind existing wall materials; F. Retaining wall.

Provided was a picture of the existing retaining wall, and the Permit by Rule that was mailed to the MDEP, dated 5/26/2021.

Provided was a letter from the property owner, Bruce Haines, dated 2/7/2021, which stated the following in part: The purpose of this note is to ask that the Town of Shapleigh recognize Michael Pierre as my representative with regard to the construction of a retaining wall at my property on Mousam Lake at 286 16th Street Loop, Shapleigh. His company, Pierre Enterprises, has been retained by my wife and I for this purpose.

The detailed description of the project is as follows: *Deconstruct the existing retaining wall due to the fact the wood used is rotted & has failed. The plan is to construct a new wall, riprap & geogrid; cut 2 trees & plant a couple new trees.*

Roger A. asked Mr. Pierre to let the Board know what Bruce Haines wanted to do. Mr. Pierre stated they are replacing a retaining wall that is failing. He said it is made of railroad ties that are falling apart; the plan is to remove it and reconstruct it with, cement blocks with a capped system on top. He said there were currently stairs going down toward the water and they will be redone with granite or something similar. He said there was a large tree that is causing issues, with the roots growing in front of the retaining wall, so he will be removing it. He thought the tree might be 80 feet tall. He stated the existing wall is 87 feet long and 3 feet high and the new wall will be the same, being approximately 261 sf. He said there are two corners, left and right, and he will be removing a 14' x 9' concrete pad because it is deteriorating.

Ann H. asked Mr. Pierre if he would be replacing the concrete pad? Mr. Pierre stated, “Negative”. Steve F. asked if this would be hand work or excavation work? Mr. Pierre stated he may take apart the railroad tie wall by hand, but the area has to go back 4 feet to install the geogrid, so there it would be easier to use an excavator. Steve said he knew it was steep in that area, he didn’t know if he would be able to get down there with an excavator. Mr. Pierre agreed, and said he would put his bucket out and crawl his way down, and push his way back up. He said he would be using hand tools on the site as well, but wouldn’t do the entire project by hand.

Ann H. asked if Mr. Pierre was DEP certified in erosion control? Mr. Pierre stated that he was, he attended the class last fall.

Mr. Pierre stated he would be putting in drainage behind the wall, preferably pipe, cloth, and there would be 2 points of exit for the stormwater. He concluded he would be removing one tree, and removing and replacing the existing wall with concrete materials.

Ann H. asked how high the wall was at this time and how high will the new wall be? Mr. Pierre stated the wall is currently 3 feet in height, and it will remain 3 feet. He said the dimensions are 87 feet by 3 feet, or 261 square feet. He noted again that there were steps going down the middle, dividing the wall, so it is like two separate walls that tie in with corners that go into the grade.

Roger A. stated the site inspection would be at 6:30 pm. A notice to abutters will be mailed as well.

Roger A. asked Mr. Pierre if he applied for the DEP Permit by Rule for the project? Mr. Pierre stated that he had and a copy was provided to the Board.

Madge B. stated that it appeared there was a railroad tie wall behind this wall, she asked if anything would be done with that? Mr. Pierre stated that is the concrete pad that will be removed. He said there were railroad ties in the front and the top is concrete. Madge said, “Ok”. Mr. Pierre stated the only way to get the pitch for the wall is to go in from the side, and remove the concrete pad. He noted that the tree to be removed is to the right in the picture. Madge thought it was a Pine tree.

Roland L. asked Mr. Pierre to have a revegetation plan for the next meeting. Mr. Pierre stated that he could. Roland stated that any area that is going to be disturbed, the Board needs to see what will be put in to replace it. Mr. Pierre stated, “Understood”. Roland thanked Mr. Pierre. Madge B. stated that the tree would need to be replaced. Mr. Pierre stated that he knew there was a rule that if you take out one tree you have to replace it. He asked if it had to be in the same exact location? He said it would be close to the water. Roger A. stated that it is supposed to be no farther from the water than it is today, but in this circumstance it can’t be done, so the Board could allow it to go a little further back. He said the replacement tree will have to be 6 feet in height from the

ground up. Mr. Pierre stated, “No problem, and I don’t want the same problem to happen again in 20 years when the tree is tall”. Roger said the Board will need the location of where the new tree will be replanted.

Mr. Pierre stated, “I need the revegetation plan and where the tree is going to be relocated”. Roger said, “True”. Roger added that the relocated tree should not be on the property line, it needs to be at least 5 feet away from the lot line. Mr. Pierre said, “Ok”. Mr. Pierre said there was plenty of space on the slope back from where he is working that the tree can be placed.

Ann H. asked if due to the size of the tree to be removed, does it only get replaced by one tree or does it need to be four trees, again because of the size? Mr. Pierre was not sure. Ann asked CEO Demers if he knew. CEO Demers stated that the Board had done 1 for 1 replacement for similar situations in the past, and he felt it was reasonable in this case. CEO Demers said he would like to take a look at the tree cover that is existing and make a determination. Ann said she just wanted to prepare Mr. Pierre. CEO Demers said he could help Mr. Pierre with his revegetation plan.

Roger A. stated again that the site inspection would be at 6:30 pm.

Nothing further was discussed.

OTHER:

Chapter 299: Highway Driveway and Entrance Rules, Part A Driveway Rules, Section 2.1B ‘Driveway width’ & Part B Entrance Rules, Section 2.1.B ‘Entrance width’

Barbara F. provided Board members with Chapter 299: Highway Driveway and Entrance Rules, because of the discussion regarding an approved CUP which bordered on State Route 11. There had been confusion with respect to what should be allowed, and Roger A. did not believe the State would allow anything greater than what the Zoning Ordinance currently allows, which is 32 feet in width upon just cause.

Members were provided with the section of the MDOT ordinance which pertained to driveway width and entrance rules. They read in part as follows:

Section 2.1 B Driveway Width

B. Driveway Width. Unless a waiver is granted pursuant to Section 3.3(C), driveway width within the highway right of way must be between 12 and 22 feet inclusive. The width of a driveway is the distance across the driveway, excluding radii, measured parallel to the highway.

Section 2.1B Entrance Width

B. Entrance Width. If 30% or less of the traffic projected to use the proposed entrance will be larger vehicles, the width of a two-way entrance within the highway right of way must be between 22 and 30 feet inclusive, unless a waiver is granted pursuant to Section 3.3(D). If more than 30% of the traffic projected to use the proposed entrance will be larger vehicles, the width of a two-way entrance within the highway right of way must be between 30 and 42 feet inclusive, unless a waiver is granted pursuant to Section 3.3(D). Entrances must be designed in accordance with the MaineDOT Standard Details included in Appendix G. Unless a waiver

is granted pursuant to Section 3.3(D), the entrance width will be the minimum necessary to accommodate the design-vehicle.

Roger A. stated that Barbara F. reached out to the MDOT with respect to the width allowed for an entrance onto a State road. Roger said that the DOT rules are similar to what Shapleigh allows, so he felt what the Board approved for the applicant was fine. He said the only issue was that the DOT required a business to obtain an entrance permit, which at this time the applicant only has a residential entrance permit. Roger stated he would have Barbara F. notify the applicant that they needed to apply to the DOT for a business entrance permit. He added that the applicant would not be allowed a wider entrance by the Board.

Roger referred to Section 1.1 under General Provisions

- **Change in Use.** A change in activity occurring on the property accessed by the entrance that will result in (a) an intermittent or seasonal use becoming permanent or year round, or (b) an increase in daily traffic, or (c) a “significant drainage risk” as described in section 2.1(E)(3). Examples include changes in use (a) from farming or forestry to a single-family dwelling (b) from a single-family dwelling to a residential subdivision or multi-unit building(s) with six or more units, and (c) **from residential use to commercial use.** A restaurant expansion adding patron capacity is a change in use when the daily traffic increases from under 50 trips per day to more than 50 trips per day. Any change in activity that increases the daily trips from under 50 to over 50 trips per day is a change in use. A change in ownership alone is not a change in use. A more complete list of examples is listed in Appendix H.

And Section 3.1 Application

C. **Change of Use.** A new entrance permit will be required for existing entrances when the use being served by such entrance will change. The standards outlined in Section 2 will apply.

Madge B. asked how this gets enforced? Madge said that the applicant has the permits from the Board. Roger A. stated that he does not have the MDOT permit. Madge agreed, but asked again how it gets enforced? Roger said it would be up to the DOT. He said the Board approved 32 feet in width, and amended the plan to this size. He said the Board talked about amending the ordinance to allow for a wider entrance width, but after reading the DOT rules, they are not in favor of that. He said the DOT would go wider with a waiver but it’s not going to be what the applicant was requesting. He believed the ordinance was written as it is based on DOT guidelines. He understood that Steve F. looked at the way the ordinance was written differently. Steve stated that he thought the ordinance needed work.

Roger A. stated at the last meeting he couldn’t remember how the Board came up with the numbers for the entrance width but now after some research, it makes sense why they were set as they are. Madge B. asked who would alert the applicant that he needs to contact the DOT? Roger A. stated that Barbara F. will send him a note that he was approved but he still needs DOT approval for the entrance. Madge asked if a copy of the note would be placed in the file? Roger stated that it would.

The following are excerpts from emails from the MDOT when asked what the allowed entrance width was on a State road for a business:

Yes, a change from residential to business requires a new permit. 42’ may be acceptable, but I would want my permit specialist to review. Please tell the property owner to apply for an entrance permit.

The answer is in Section 2.1 B. of the Entrance Permit Rules (page 22 of the linked document): <https://www.maine.gov/mdot/traffic/docs/accessmgmt/229c299dec2013.pdf>

If 30% or more of traffic is larger vehicles, the width of a two-way entrance is between 30' to 42'.

If this entrance is on a State road, the property owner must apply for a permit through the State. Please confirm that the Planning Board will require a State entrance permit.

Thank you,

Randy Illian, P.E.
Southern Region Traffic Engineer
Maine Department of Transportation

Nothing more was discussed.

CEO Demers asked about a Best Practical Location. He said the applicant was placed no closer than 17 feet from the high-water-mark and things changed, and now he will be push backed to the 75 foot mark. He asked if the Planning Board would want to see it back? He asked if it is Best Practical or no closer than 17 feet.

Roger A. stated that any change to an approved BPL has to come back before the Planning Board. CEO stated the conditions were no closer than 17', so does that change. Roger said that if it is going to be pushed back to 75 feet it is a change. CEO Demers said, "Ok". Roger said the Board would have to know the reason behind the change. CEO Demers asked if it would be an amendment or another application. Roger said that it would be an amendment to the original approval. CEO Demers asked if it would be the 2-stage process, public hearing or public comment, or is it a one and done, amended? Roger said the amendments are a 2 meeting process because there has to be a notification to the abutters. CEO Demers said, "Ok".

Ann H. asked about 'no closer than 17 feet', how do you look at that? CEO Demers added that if he was pushing them back to 20 feet, it probably wouldn't be an issue, but if a substantial change is taking place, the Board needs to look at it. Roger A. agreed. Ann asked if it was because there could be trees removed and things like that? CEO Demers said, "Right".

Nothing more was discussed.

Growth Permits

There are growth permits available.

The Planning Board meeting ended at 8:15 p.m.

The next Planning Board meeting scheduled will be via Zoom on Tuesday June 8, 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

NOTE: Beginning on July 13, 2021 the Planning Board will begin to hold their meetings on Tuesday evenings in person at the Shapleigh Town Hall, beginning at 7:30 pm.