

# Shapleigh Planning Board

## *Minutes*

July 13, 2021

Members in attendance: Roger Allaire (Chairman), Madge Baker, Maggie Moody, and Roland Legere. Alternate Ann Harris and Vice Chairman Steve Foglio were unable to attend. Code Enforcement Officer Mike Demers was also in attendance.

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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.

**The minutes from Tuesday, June 22, 2021 were accepted by members as read.**

**The Planning Board meeting started at 7:30 p.m.**

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

Michael Pierre was not present for the final review of the application, therefore the application will be tabled until Tuesday, July 27<sup>th</sup>.

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**Conditional Use Permit – Temporary Boat Ramp for Barge – Map 22, Lot 1 (84 Wardens Way) – Matt Colton, Jr., Applicant; Sean Dumont, Property Owner**

Mr. Colton was present for the review of the application. *Note: A site inspection was conducted prior to this evenings meeting.*

Provided along with the application was an email dated June 9, 2021 from Sean F. Dumont, which stated the following: I, Sean Dumont, owner of 84 Wardens Way, Shapleigh Maine 04076, give Matt Colton permission to pull a permit on my behalf.

Provided was a copy of part of Town Tax Map 22, depicting Lot 1. On the map was the general location of the proposed boat ramp, with the notation ‘Proposed Ramp 10’ Wide’.

The detailed description of the project is as follows: *Excavating a temporary ramp 10 feet wide to load and unload barge. Silt fence and erosion control in place.*

Provided this evening was a revegetation plan, which depicted the vegetation that will remain in place, 3 small Oak trees to be removed in order to create the ramp, and it was noted they will be replaced after the work is completed, the locating of the existing roadway and location of the new ramp.

Board members received an email from Town Administrator Karla Wilcox that had been sent to Selectmen Scott Cudworth, originally dated 6/22/2021 from Chris Leupold, Shapleigh Map 22, Lot 11 & 12 (Katos Nose). The email read in part as follows:

I understand there will be a public hearing at 7:00 tonight about a proposal for Colton Sweeney to build a boat launch for his barge on Warden's Way.

I am unable to attend but would like to express my concerns. My initial reaction to the barge last fall was positive. I thought it was a good idea to be able to repair failing seawalls from the water without having to remove trees repairing them from land. I was not happy to learn Mr. Sweeney started clearing land for his barge on Wardens Way. This should have required a permit from the CEO and possibly DEP.

I do not like the idea of heavy construction vehicles traveling over 23<sup>rd</sup> St., Katos Nose Road and Wardens Way to reach the barge location. I share the cost of upkeep on Katos Nose Road and am concerned what impact the construction vehicles might have on it. I am also concerned about all the dust that the construction vehicles will cause. The dust will end up in the lake, adding phosphorus which is bad for the lake. Camp roads are a significant contributor to non-point source pollution. Thank you.

Board members received an email dated 7/9/2021 from Thomas Snowe, Shapleigh Tax Map 3, Lot 3D (75 Wardens Way). The email read in part as follows:

Please accept this email as correspondence on record for comments and concerns regarding the application for a Conditional Use Permit to excavate a temporary boat ramp on the property of Sean Dumont (property owner), by Matt Colton Jr (applicant) at 84 Wardens Way, for commercial use by Mr. Colton's barge company.

I feel the application should be denied for several reasons:

- 1) The road easement is for access to the private residences only, NOT for commercial use. (See Section III <https://www.teellaw.me/easements> ).
- 2) Easements cannot be conveyed to a third party, which is what Mr. Dumont is trying to do for Mr. Colton. (See Section IV <https://www.teellaw.me/easements> ).
- 3) Multiple safety concerns regarding the dangers of heavy vehicles with heavy loads on the current easement roadway should prevent consideration for any commercial use. (see attached).
- 4) The current easement roadway cannot physically withstand heavily loaded vehicle traffic.

Please review the attached document prior to your inspection on Tuesday, July 13<sup>th</sup>, keeping in mind the marked areas of safety concern, as you drive to the site. Thank you for your attention. I look forward to reviewing my concerns, and discussing the validity of the Conditional Use Permit application at the Planning Board meeting on July 13<sup>th</sup>.

**Road Safety Areas of Concern:**

“A” – This area of the 23 Street Loop is a very dangerous corner due to limited visibility when making the left turn onto Wardens Way. The left turn is on a curve following a straight-away on the 23<sup>rd</sup> Street Loop. Traffic approaching on the 23<sup>rd</sup> Street Loop do not have adequate line of sight to react to safely to a vehicle crossing their lane during the left turn, let alone a vehicle pulling a trailer with thousands of pounds of concrete. Additionally, if an attempt to “scoot” across the lane by the turning traffic is made, due to the “B” pinch point, any vehicle within this section of Wardens Way that is approaching the 23<sup>rd</sup> Street Loop, is now in a position to be rammed.

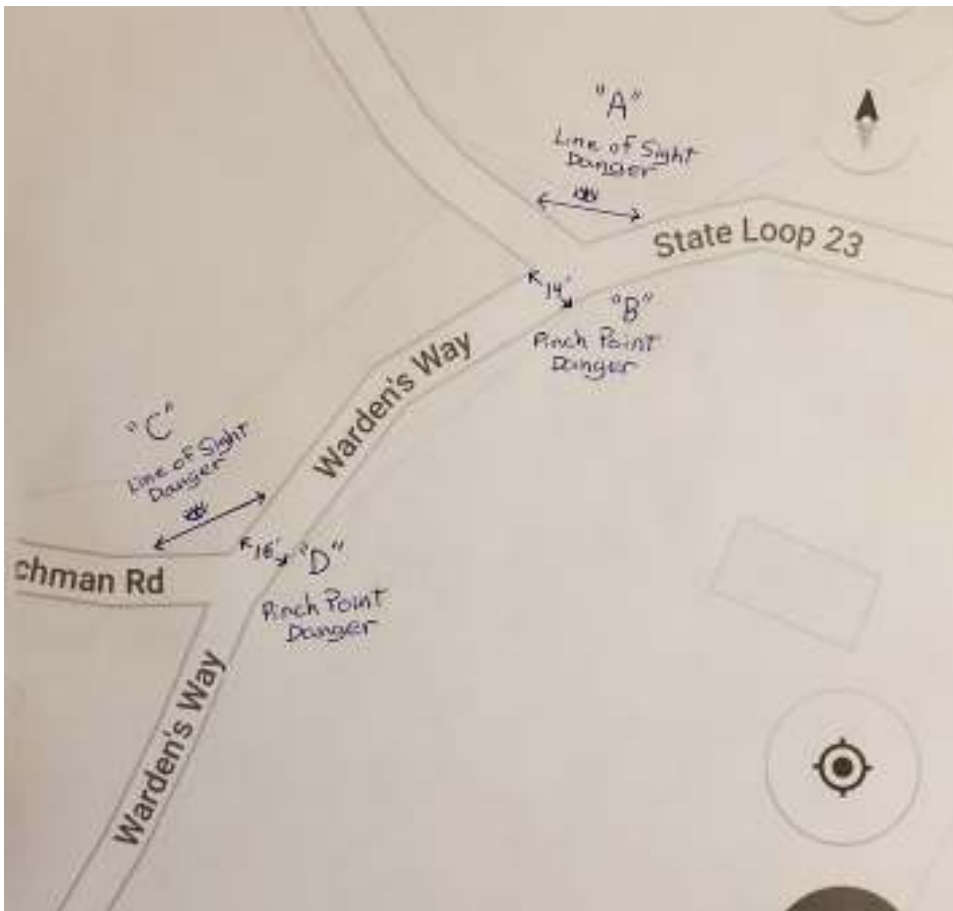
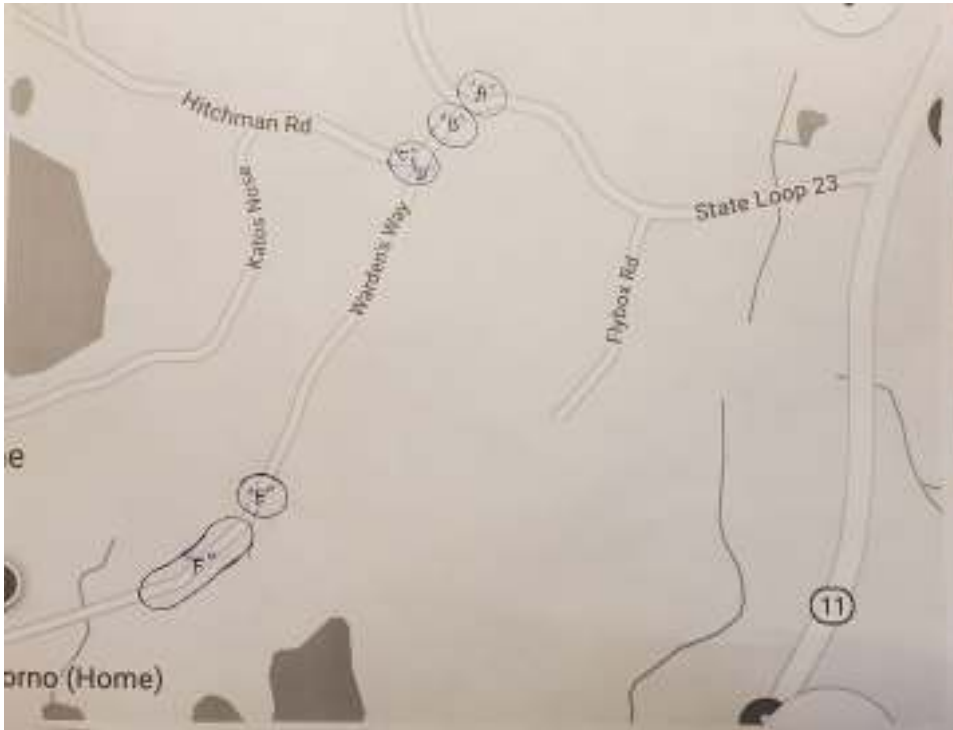
“B” - This spot on the conjunction of the 23<sup>rd</sup> Street Loop, and Wardens Way has less than 14' of travelable width. Only 1 vehicle can pass at a time.

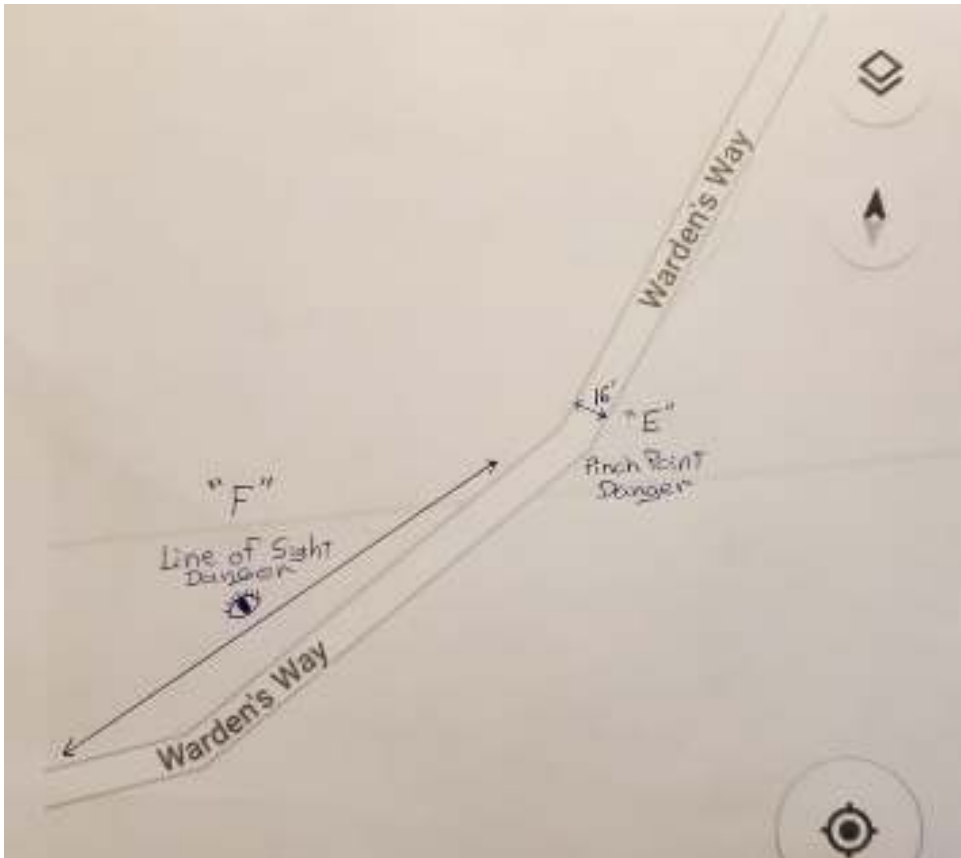
“C” - Another inadequate line of sight spot that makes another left turn across Hitchman Rd dangerous.

“D” - This spot on the conjunction of the Wardens Way and Hitchman Rd has less than 16' of travelable width. Only 1 vehicle can pass at a time.

“E” - This spot upon Wardens Way has less than 16' of travelable width. Only 1 vehicle can pass at a time. It is at the beginning of a long curve with significant Line of Sight danger.

“F” – Another inadequate Line of Sight area involving a downward sloping curve that prevents safe viewing of any oncoming traffic, and comprises safe braking if larger vehicles enter the curve.





Board members received an email dated 7/9/2021, from Dick & Liz Jagger Map 22, Lot 5 (103 Wardens Way). The email read in part as follows:

By this email, I am expressing my concern about the likelihood of severe damage to privately-maintained roads (Katos Nose and Wardens Way) by heavy commercial truck traffic.

I recognize the need for Mainely Barge, LLC to perform the necessary retaining wall repairs on Mousam Lake and am not opposed to them doing so. However, private roads, maintained at the expense of property owners should not be exposed to damage without assurance that company causing that damage must be held responsible and make repairs and restoration.

Mr. Matt Colton, at the last Planning Board meeting, stated that he would "take care of the roads". Such verbal assurance is not enough - **there must be a legally-binding and enforceable guarantee.**

Before any approval of this permit several users of Katos Nose and Wardens Way roads request that the following terms be inserted in to the conditions:

- (1) A Performance Bond shall be obtained by Mainely Barge LLC in an amount necessary to rectify any damages should they fail to comply with the conditions set out below. The amount of this bond shall be determined by the Shapleigh Planning Board as based upon the price paid by the Town to current town Road Commissioner for restoration of one-half mile of twenty-foot width gravel road. Such Performance Bond shall be payable to the Town of Shapleigh to pay the Road Commissioner, if necessary.
- (2) Roads are to be maintained in their present condition as based upon video taken at the onset of work. This video will be saved on YouTube with a date stamp. (Search YouTube for "Katos Nose" to view the current video.) Additional videos will be taken for comparison, as deemed necessary, as evidence of damage.

- (3) Failure to repair any substantial damage shall result in a “Stop-Work” order from the Shapleigh CEO.
- (4) If after a period of time (as deemed reasonable by the Shapleigh Planning Board) the road(s) condition has not been restored, the permit granted to Mainely Barge LLC shall be permanently revoked and their performance bond called.
- (5) This permit, if granted, will have a term of Two Years and is subject to renewal by the Shapleigh Planning Board only after public comment is heard.
- (6) Upon completion of Mainely Barge LLC’s work on Mousam Lake, the shoreline shall be restored to a condition as specified by the Maine Department of Environmental Protection and confirmed by the Shapleigh CEO. Failure to comply will result in the Performance Bond being called.
- (7) This project shall not be “Grandfathered”. Mainely Barge LLC shall not sell or otherwise transfer this permit to another entity. Any future use of the Dumont property at 84 Warden’s Way shall require application to the Shapleigh Planning Board.

Roger A. asked Mr. Colton to let the Board know for the record what he intended to do. Mr. Colton stated he would be using the land to access retaining walls around the lake. He said it would be temporary, for 2 years, and he stated that he had his State permit. He said he had a lot of shoreline work around the lake and would use this location as an access point to move material on and off the barge. Roger asked if this would be used for walls that you are permitted for only? Mr. Colton stated, “Correct”. He stated that if they had walls that did not need to be accessed by the boat, he would go the other way around, an easier way.

Roger A. stated that he would entertain comments at this time. He asked that they state their names for the record.

Tom Snowe, 75 Wardens Way, was the first to speak. Mr. Snowe began by stating he and his wife Pam have lived in this location about 6 years. He thanked the Board for the time to speak and he said he had several points he wanted to review as follows:

- 1) As I mentioned in my pre-sent correspondence for this meeting, and as nicely explained in the included document from the Teel Law Office, the intent of the roadway easement was for access to private residences, not commercial ventures. Additionally, the attempt by a 3<sup>rd</sup> party, in this case Mr. Sean Dumont, to change the conditions of the easement, cannot be legally done without the express consent of the land owners burdened with the easement, and the operation of the law.
- 2) The safety concerns for the easement roadway speak for themselves. The allowance of heavy truck traffic upon this roadway is a sure recipe for collisions, and injury. There is a surprisingly high level of pedestrian traffic for such a rural roadway, particularly during the summer months when the beautiful mornings and evening lure resident out in the air. Myself, I am a marathon runner, and my training takes me all around the roads of Shapleigh. When I meet a vehicle on the easement roadway at those areas I have highlighted in my correspondence, (see above) I have to jump off the roadway to provide safe clearance for the vehicle’s passage. That is with a car, with a truck I have to well jump off. The most dangerous point (noted as “B” in the correspondence) violates the MDOT ordinance 2.1-B for a driveway entrance width, which in essence describes this turn off of the 23<sup>rd</sup> St. Loop. The ordinance requires a minimum of 22 feet of width when 30% or less of the traffic is to be larger vehicles.
- 3) Regarding DEP permitting: Mr. Colton stated he had permitting. I called them, and had a nice conversation with Mr. Colin Clark, who graciously checked for the filing of a permit by Mr. Colton, Colton Construction, Mr. Dumont, and Mainely Barges. He found nothing. No permits have been

applied for. I have a call into Mr. Lucian Langlais at the Natural Resources Protection Council, and I am waiting for the results, his office was shut down because he was on vacation.

- 4) So in summary, this conditional use permit should be denied because:
- Mr. Colton has not completed due diligence in acquiring the proper State & DEP permitting, and thereby the Town cannot go forward with the permitting process.
  - The easement was never intended to have commercial traffic, and physically will not withstand this increased load.
  - The safety of the roadway would be compromised by the increase in heavy vehicle traffic.

He said, “Personally, this is not the appropriate spot for the Mainely Barge. It’s a rural, residential area. Not a commercial area. Thank you.”

Roger A. asked for additional comments.

Kevin LaPierre, Map 21, Lot 42 (17 Hollon Way). Mr. LaPierre stated, “I didn’t get the letter, it was my neighbor that brought it to my attention. I live in Texas so I was not served anything, so I haven’t had a chance to prepare.” He said that his neighbor to the left, Rawnsley, brought it to his attention and he had a few questions.

Mr. LaPierre wanted to know what access road they were referring to, was it 24<sup>th</sup> street? Mr. Colton stated, “23rd Street to Wardens Way, Katos Nose.” Mr. LaPierre stated, “Not 24<sup>th</sup>.” Mr. Colton replied, “Nope”. Mr. LaPierre asked why this spot was chosen for the barge? Mr. Colton stated, “Simply it is the access point, it’s a flat shoreline. We put out a bunch of letters, offers, asking, and the Dumont’s were willing to make a deal.” Mr. LaPierre asked if the Dumont’s were the owner. Mr. Colton stated they were, noting it was the field with the camper. Mr. LaPierre stated he needed more time, he only received the notice the day before. He said that he was strongly opposed at the point of calling his attorney tomorrow. He added that it was a private cove and the barge is a giant eyesore. He said there was a low spot in the middle of the cove, so if you put the barge to the right, you have to go out, around, and in, to avoid the low spots of the lake. He said it would be sitting in front of his property and another abutter that was in the audience, from what he could tell from the drawing.

Maura Lowe, Map 21, Lot 45 (11 Hollon Way). Ms. Lowe stated she was also strongly opposed to the location of the barge, it would be right where the children are swimming. She said there was a lot of kid activity in this lake, skiing, swimming, and she felt it was a bad location for the barge.

Mr. LaPierre asked if there was an option for a continuance for him to understand better? He said he didn’t know what the legal process was for serving him. Roger A. stated the Board had 10 days to notify abutting property owners. Mr. LaPierre stated he needed proof he was notified. He said he wasn’t saying the Board didn’t. Barbara F. stated that the notices go out certified mail. (A notice was sent certified mail to Keven LaPierre on June 23, 2021.) Mr. LaPierre stated that he must have left the house prior to receiving notification and apologized for that. He said that he just wanted to understand the process.

Kristy Borst, Map 22, Lot 9 (94 Katos Nose). Mrs. Borst stated her concerns are mostly human error. She stated, “Not even on Katos Nose or Wardens Way but 23<sup>rd</sup> Street Loop. There are 2 very bad blind spots coming out of Katos Nose Road going toward 23<sup>rd</sup> Loop on the Knox garage end. The corner by Flybox, I have had cars, SUV’s, come around the corner and almost hit my car, so that’s a concern. I suggest if this went forward

that that portion be cleared of brush on both sides of the road. Similarly coming in, going by Flybox, there's a big house on the right. You have to really stop in the middle of 23<sup>rd</sup> Loop because there's a berm, the road turns to the right and you cannot see if someone's coming on 23<sup>rd</sup> until you are in the middle of 23<sup>rd</sup> to go up to Katos. So I just cannot imagine a big truck, someone with a time line etc. and just the size of the vehicles on these roads that really aren't even built for SUV's. I am not opposed if things are done to the road to make it safe. Thank you."

Mary Peterson, Map 3, Lot 3 (Shapleigh Corner Road). Mrs. Peterson began by stating she owned a good deal of the right-of-way on Wardens Way. She stated that as the property owner of the burdened property, she believed that any changes to the right-of-way, according to the State, the people are supposed to contact the burdened property for permission to do those things. She stated, "You can't block the property because it's been 20 years of prescriptive, appurtenant easement. The power companies have gross easement to be able to go across property. I do not support, as the property owner, I do not want to see that property burdened with a business going in. I also have a question regarding Teel Law that deals with right-of-ways. They did a lot of research. It says that an easement appurtenant cannot be conveyed to a third party. The holder of the easement has limited rights to use the burdened way, even though you cannot stop them from accessing their property, they cannot give or sell them to someone else separate from the intended easement holder, which is the piece of land which went from Batchelder to Dumont. So they will always have access to their property. The other questions I had is Shapleigh Code 89-26 'Land that is not suitable for development'. Development is a pretty loose word there, I don't know what the word development is, can it mean buildings or any kind of development of any kind. C. under 89-26, land that is not suitable for development is land that is part of a right-of-way or easement; and E. land that has been created by filling or draining a pond or wetland. That was the issue with that piece of property, half of the wetland, and I border 900 feet of the property on the back side, half of that wetland was filled in illegally. In my mind, the Town can't grant, you don't have the power to be able to grant them something where they are going across my property." She said she didn't know about Jagger's property, it is difficult to tell from the tax map, which are prescriptive easement property and which are Town maintained roads. She said the Town can't cut brush, clear the road or anything like that. She didn't know what could be done on the turn on 23<sup>rd</sup> Street because the Town does have maintenance of that road. Roger A. said with respect to the width, you cannot go out too far. Mrs. Peterson agreed.

Richard Jagger, Map 22, Lot 5 (103 Wardens Way). Mr. Jagger said his issue was probably damage to the road. He stated, "Mr. Colton does a fine job of building walls. He uses these concrete leggo's on steroids. (Mr. Jagger provided the Board with a picture of Loc-Blocks from R. Pepin & Sons, used for retaining walls.) The lightweight one weighs 2300 lbs., the heavyweight ones weighs 4700 lbs. or something, and this is the triaxle truck. You are getting these from Pepin, right? Mr. Colton stated that he was. Mr. Jagger said, "Ok, this is the truck that is going to be coming down the road. I am concerned with damage to the road. I did by email, and I won't drag it out and take time, but I asked for a performance bond, enforceable, and monitoring of the road. If you care to pull up You Tube and do a search on Katos Nose, I've already done two trips down the road, documenting the condition of it. Once this project gets under way, which it should, I will be taking regular trips down the road to document the damage. And Jeff I want you to take care of that road. This is why I am asking for a performance bond. Now at the previous meeting, Jeff said he had about 2 years' worth of work (I believe he meant Matt). I am proposing that this permit, if granted, be for a period of 2 years. If he proves to be a good neighbor, come back, and we will keep it going. If he does not prove to be a good neighbor, it gets shut down. The other thing in here is "grandfathering" of this; should Mr. Colton, the way things go now, if you want to look at Springvale National Bank became the Depositor's Trust, which became Key Bank, little fish get eaten by bigger fish and for all we know some mega construction company will buy you out and make you a

millionaire. I don't want to see this, if permitted, that it ever go from Mr. Colton to mega-corporation. Thank you."

Roger A. stated that the conditional use permit goes to the landowner, it does not go to the company. He said any conditional use permit is attached to the land. He said when someone buys the property, the permit is still valid and it has nothing to do with, in this case, Mr. Colton. Mr. Jagger asked if this permit would be carried forward. Roger said it is attached to the land, so if the land is sold, the new owner would hold the conditional use permit for the amount of time the Board approves it for.

A citizen stated that if the permit goes to the Dumont's than that is the 3<sup>rd</sup> party (Mr. Colton) and it is not allowed. Roger A. stated Mr. Dumont is the owner. Several people were speaking and Mr. Snowe said that the info from the Teal Law Office said that Mr. Dumont can't change the condition of the easement, it can be legally done but only by the landowners and due process of the law. He felt because Mr. Colton is the 3<sup>rd</sup> party, this should stop this from going forward. He said that the landowner is saying it can be used for commercial. Another citizen stated the easement was strictly for accessing the property, across her mother's property. She did not think Mr. Dumont had a legal leg to stand on. Mrs. Peterson asked how the Board can go forward with this? She wanted to know how it can happen? Roger A. stated if this permit is approved, it is for Sean Dumont, his property, even though Matt Colton is using the easement for access, it is by approval from Mr. Dumont. Mr. Snowe stated that he cannot do that, because he cannot change the terms of the easement, Mr. Dumont can't say he will allow a commercial use. He said to build a camp there, it is residential, so that doesn't change the terms of the easement. He said in this case, the 3<sup>rd</sup> party is Mr. Colton.

Mr. LaPierre asked what the process was from here, does the Board vote on approving the permit? Roger A. stated that if the application meets all the conditions in the Zoning Ordinance, the Board is required to approve it. It was asked if it would be approved this evening. Roger said he did not know if it would be this evening, or it could be tabled and reviewed again at the next meeting. He did not know at this time. Mr. Snowe did not feel the Board could act when there was no DEP permit to do the work. He said that he claimed he did have one but he searched four different ways by the DEP and they could not find one. He felt the process should stop. CEO Demers stated that he and Lucien Langlais (DEP) visited the site last Tuesday. CEO Demers stated that Mr. Langlais was on vacation which may be why nothing was located. Mr. Snowe stated he had an email from Mr. Clark stating there was nothing in the DEP system for Mr. Colton or Mainely Barge. CEO Demers said he didn't know the workings of the DEP office, but Mr. Langlais was the DEP rep for this area. Mr. Snowe asked if there was a permit that he can refer to Mr. Clark? CEO Demers stated that he had not seen the permit. Mr. Snowe said he wasn't sure they should take the word of Mr. Colton who began work without a permit. Mr. Snowe felt the Town should have documentation that Mr. Colton has filed for a permit. Roger stated that the Permit by Rule is a form you fill out and it is a 14 day notification from the DEP. He said if they do not get back to you, provided you followed the guidelines, you are ok to go. Mr. Snowe still felt the Board should have evidence that the permit was filed. Roger agreed the Board should have that. Mr. Perkins asked if the Board had documentation when the application was filed. Roger said the Board did not have that information. Mr. Colton stated he had confirmation through the payment portal and that the PBR that was sent in, all through email. He said that you send it in, you don't get a certificate in the mail, you only get a telephone call from Mr. Langlais if it is a no. He said Mr. Langlais went out with the Code Enforcement Officer and Mr. Langlais said he had no problem with it. He said because of this it is a go from the State.

Mr. Michael Roberts, Map 23, Lot 10 (37 Starboard Lane). Mr. Roberts began by stating he has lived in Shapleigh since 2004. He said, "You said this will go to the landowner. This permit, if it is approved, you are



saying it goes to the current landowner. If the big multi-million dollar mogul wants to come in and buy that land, because he's already seen the current landowner is already letting him do this because of the arrangement financially, a business arrangement, and you approve it today, the multi-million dollar tycoon that wants to put this on the lake forever now buys the land from this guy you (Mr. Colton) are doing business with, it goes back to what he was saying. How do we stop the big boys from coming here? You said it goes to the landowner and he can sell it at any time, correct?" Roger said, "Yes". Mr. Roberts said, "So you are not limiting it to just him (Mr. Colton)." Roger said it is limited to the conditions of the permit. Mr. Roberts said the landowner can sell the land to someone else and they all profit. Mr. Perkins said that the conveyance goes with the land, not the owner. Mr. Roberts said, "That's correct, and that is my point." Mr. Roberts said that whatever the landowner sells the property for, the permit goes with the land. A citizen asked Mr. Perkins to introduce himself. He stated, "John Perkins, Shapleigh resident, 45 years." Mr. Roberts stated, "That answers my first question, the landowner can sell the land to anyone he wants at any time. Ok".

Mr. Roberts stated, "The next question I have is, we were brought here tonight, some of us, because they are abutters and they get notifications. How did all this come about to begin with? It is my understanding they started work, a landowner called and asked a question, and they were ordered to cease and desist. Is that correct?" CEO Demers stated there were no open violations on the property right now. Mr. Roberts stated, "So that's not even the case." A citizen stated that there was a stop work order placed because they did not have a permit. Mr. Roberts stated that that was his point, there was no permit issued when they started working. A citizen said, exactly.

Mr. Roberts said that there was a whole other realm he wanted to bring up and that is the quality of the lake and what everyone fights for, property values. He said, "I am not opposed to business people coming in and doing what needs to be done, because there is a lot of property damage and lake damage as a result of these walls falling apart. It's a necessary evil to do this, as long as it is done by rules and regulations. What I want to know here, and I assume the work being done is by the two of you or the crew you have out there, is currently the work they have done, it hasn't been done according to DEP regulation. IE silt fencing, erosion control, dredging out of the lake to backfill walls, things like that. Here are pictures I want to submit. (The pictures depicted a wall going in without silt fence in place.) I am not opposed to their business, I am opposed to the water quality we are all here on the lake for and we have fought so hard for to keep and maintain, them breaking all the rules and regulations. I am not opposed to the business as long as someone is watching them, because when this was taking place, I contacted the Acton CEO and no one ever responded to me and the work continued on. If this is going to pass, there needs to be someone on this making sure, and if it is not their business, whoever else owns the business that the landowner sells to, is doing things to protect our lake. That's all I wanted to say."

Mr. Perkins asked about the work being done, he wanted to know when it was done? Mr. Roberts said that it was done last fall. Mr. Perkins asked who the CEO was at that time? No one was certain. Roger A. thought it was Ken Paul. Mr. Perkins believed he had resigned and left the post by that time. Roger added that the Planning Board has nothing to do with Acton. Mr. Roberts said that it didn't matter which side of the lake it was, Acton or Shapleigh, everyone was affected because they both share the lake. He felt they should work together to protect the lake and the properties, in part by building a proper wall and having people come in and police the area, whether it be the CEO or DEP. He said he wasn't suggesting people be whistle blowers, but we need to do something to protect the properties. Roger agreed that it is both the DEP and CEO who regulates what is taking place. Mr. Roberts agreed. He thanked the Board.

Scott Stover, Map 22, Lot 2 (90 Wardens Way). Mr. Stover said he had several issues. He said one was safety on the road, speed, because the speed on a dirt road is supposed to be 15 mph but most people do not know or care. He felt most on the road seem to be NASCAR wanna-be's and they are out there getting ready to qualify for the next race. He didn't think the applicants truck would be going that fast, but if there is someone going the other way, it's an issue. He wasn't sure if the application goes through, how to mitigate the speed on the road causing problems for other cars, people, etc. He said the other issue, was back when the land was Roger Batchelder's, Torno's and Dumont, and before Tom (Snowe) built his house, we paid to have the road resurfaced with reclaimed concrete, so there is a good solid base. He said he knew it would not last forever, but it is in good shape for its intended use. He felt there should be a performance bond to protect the road in case it gets in bad shape. He said that was all he wanted to share.

Roger A. asked if there were any other comments?

Norman Baker, Map 23, Lot 16 (15 Directors Lane). Mr. Baker asked if the PBR (DEP Permit by Rule) was applied for and in place? He asked if we were only waiting for the 14 days? Mr. Colton stated that the 14 days had already passed. Roger A. stated that they were told it was done. Mrs. Peterson agreed with Roger, that we assumed but don't have proof. Roger agreed there was no verification. Mr. Colton stated that he submitted his application on June 9, 2021. Roger said again that at the present time the Board did not have verification.

John Chamberlain, Map 5, Lot 3-7-1 (32 Jib Way). Mr. Chamberlain said that it sounded like the DEP had looked at the site and approved the access. He asked if he was correct? Roger said, yes, according to the CEO. Mr. Chamberlain asked if the DEP would follow up as the access road got built? He felt there would need to be some substance to the path because the path would be used by heavy trucks and then the added weight of the blocks that are coming in. Roger stated that Mr. Colton told Board members that the blocks would be laid in the field and picked up with machines to place them on the barge. Mr. Colton stated that at the site visit, in the location of the red SUV, the blocks will sit there and a 10,000 lb. rubber track excavator will walk up and get a block and walk down onto the boat.

Mr. Chamberlain said the concern over the road still applies because whatever he builds, he hoped the Town would be taking a good look at it, and the DEP should follow up, because they need to know what the result is. Mr. Chamberlain felt there would be heavy traffic up and down, even with a smaller vehicle he (Mr. Colton) is talking about, so he wanted to know what is to protect the lake from the erosion as a result of all the trafficking on and off the barge? Mr. Colton stated he would have erosion control mulch sitting on site and it will be put down on the ramp, and over time when it packs down, more will be added. Mr. Chamberlain wanted to know if the DEP was responsible for coming back to see how this in reality was working? He asked if anyone came back to see? CEO Demers stated if there was a violation or complaint they could come talk to him. Mr. Chamberlain noted that CEO Demers was not the DEP.

Mary Peterson began by stating she has lived in Shapleigh for 79 years and she owns part of Katos Nose Road, that many of the people here are on, and she had an issue with some people who originally lived here. CEO Demers asked if this was about this project. Mrs. Peterson stated it answered the question about what has just been said. The Town of Shapleigh does nothing about private ways, because they don't own them. She said they don't plow them, they don't repair them, they don't cut brush, it's a private way. She said that the people who use the private way are responsible with the permission of the landowner, to take care of it. She stated that when she came to the Town to say that she had problems with these people and what they did, she was told 'it has

nothing to do with us, you have to get a lawyer’. So she stated she was very interested in what is going to happen here. She added that she would happily get a lawyer.

Roger A. asked if there were any other comments? Roger said that because there were no other comments, he wanted to ask Mr. Colton if he was ready to continue with the application? Mr. Colton stated that he would like to continue, that he would prove he had filed with the DEP, and he knew a major concern was the road. He stated he would put up a bond if that would satisfy the concerns. He said he was here to make an honest living and do a good job. He said that he could not predict the future if he was ever to sell his business. He said he had customers that need work done that other contractors cannot do because the project needs the barge, due to the inclines and steep areas that you can’t access without the barge. He said he had a piece of property before and everything went well there, the lease ran out and the family chose a different path for the property. He stated that it was temporary using Wardens Way, and again noted he was trying to make an honest living.

Roland L. said that when the Board was at the site visit Mr. Colton shared with some of us, noting he was not sure how many people heard, the amount of traffic, the size of the truck, etc., he thought it would be helpful if the audience heard what Mr. Colton said, and he asked him to speak on it. Mr. Colton stated that he and his partner had a one-ton truck, an F350 and noted it was in the parking lot. He said it had a 4-yard dump cart on it, and it is 10,000 pounds. He said he drives it in the morning, he parks it in the field, the excavator and skid steer are on site, and he puts them on the boat. He said they drive to the job site on the lake, take the demo or bring new material to the site. He said that traffic would be several trips a day up and down the road. He said it would not be every hour back and forth. He said there were only 2 of them. He stated they went five miles and looked at the road today, looked at the blind curves, and from a pedestrian standpoint it is a tight road. He said there were a lot of tight camp roads in the area. He said he was working on 17<sup>th</sup> Street last year, in a similar situation, and they fixed the road when they left, the road was better when they left. He said that 15 mph was fast on the road with the condition it is in. Mr. Colton noted that the first time he traveled on this road, there was a tractor coming up the road with its bucket up and the man didn’t see him, he had to stop. He said he didn’t think anyone could predict an accident, and noted they do happen. He believed it could happen to anyone.

Mrs. Snowe stated that it was a camp road, it wasn’t meant for a business. Mr. Colton asked if they used trucks and equipment on the road when their house was built? Mr. Snowe said that that was temporary and in a matter of several months it was completed; and he repaired the road where he created an issue. Mr. Colton stated he was willing to do the same. Mr. Snowe stated this would be a regular thing that we are discussing, and that Mr. Colton noted he was busy in the fall and spring. Mr. Snowe stated that because he lived there full time, he would be seeing Mr. Colton every day.

Mr. John Perkins asked to speak. He stated, “I think we need to put this whole commercial traffic on 23<sup>rd</sup> Street Loop and the access road, and the operations to take place into some perspective. Yes, it’s a narrow road, has been, it’s a gravel road, we all know. It gets graded at least twice a year.” Mrs. Snowe stated that it did not. Mr. Perkins stated, “I’m sorry, I stand corrected. Does it get graded once a year?” There was a resounding no from residents. Mr. Perkins stated he was sorry if he misspoke, he was referring to 23<sup>rd</sup> Street. He said 23<sup>rd</sup> Street Loop gets graded. Mrs. Snowe stated that was not the issue.

Mr. Perkins asked if he could continue. He stated, “The majority of the traffic that takes place along this loop is in the middle of 23<sup>rd</sup> Street. The access road themselves, from my experience, is very limited use, primarily for the individual property owners, guests and weekenders. It was commented earlier, if you’ve ever been down 23<sup>rd</sup> Street it is like a NASCAR circuit on any given day. People haul ass up and down that road and they don’t

care whether its washboard, full of potholes, or whatever. In spite of the blind corners, and everybody knows that it's a narrow and dangerous road. The frequency of commercial vehicles going in and out of that main way, the 23<sup>rd</sup> Street, and accessing the spurs going down to Katos Nose, or this area where Matt and Cole are proposing to set up operation, I do not honestly think it see's a hell-of-a-lot of traffic. They are not proposing to be bringing in 18 wheelers loaded down with 10 or 20,000 concrete blocks on an hourly basis. They probably go to the processor, put on their truck what they need, or they meet on a mutually agreed upon place. They're not going to be driving an 18-wheel truck down 23<sup>rd</sup> Street, down the access road, because there is no place to turn around and navigate. So, what do they do, they compromise, they make an arrangement, they meet up at some agreed upon location, and put on their vehicles what they need for that particular day and then go down in their 10,000-pound truck. You've got cement mixers going up and down the road, or Lowes trucks, or UPS trucks, more frequently than you are going to see these guys."

Kevin LaPierre asked Mr. Perkins if he had a house on the lake? Mr. Perkins stated that he did. Mr. LaPierre said, "How about they park the barge in front of your property?" Mr. Perkins stated that he offered them his property. Mr. Lapierre stated that Mr. Perkins was not addressing the fact that the barge was parked in their cove, blocking their view of the lake. He said, "So if they can park it in front of your place, I'm good to go." Mr. Perkins said, "I'll do you one better. You come to my house, you can sit in my front room, and you can look across the lake, you can stare at that barge." Mr. LaPierre stated that he knew where the barge was now, he was speaking about where it is going to be moved to, in the cove blocking the view from Ms. Lowe's beach. Mr. Perkins did not agree with the location. Mr. LaPierre stated he could be incorrect with the exact location.

Mr. Perkins stated that when he first learned that Mr. Colton was asked to relocate from their present location, he offered them a spot on property he owned. He said that presently looking across the lake at the barge, he was willing to offer the applicants an opportunity to relocate on his property.

Mr. Colton believed he made it clear on the plan and at the site visit, where he would be locating the barge. Roger A. agreed. A question was asked how far out from the shore the barge would be located? Mr. Colton stated, "40 feet". Mr. Colton stated that they were not in the cove, they were on the main lake. After continued discussion some were still concerned about the location of the barge.

Roger A. asked the Board members if the Board should have the Land Use Attorney review the access to the property to be sure it would be an allowed used? Madge B. agreed this would be best.

Norman Baker wanted the Board to know that he was in favor of the barge. Roger A. stated for the upkeep and protection of the lake he was as well. Mr. Snowe said he agreed the lake needed the barge, but not in the proposed location.

Roger A. stated that in order to grant the permit, if the applicant can meet all the conditions in the ordinance, the Board is mandated by law to grant the permit. Roger stated at this time the Board needs to know the applicant can have access across the private right-of-way before the Board can continue.

Mr. Baker wanted it known that he supports the applicant. He stated he did not know him, that he had just met him this evening. He said he was a resident of Shapleigh and had been traveling 23<sup>rd</sup> Street Loop for 57 years, that he was on the lake, and again he stated he supported them. He thought they were not only in the block building business but also in the soil erosion business. He felt they wanted to protect the lake from soil erosion, which he felt everyone could agree, soil erosion was an important issue.

Mr. Perkins wanted to know if the Board had what they needed to be able to make a decision this evening? Roger A. stated this was going to be tabled.

Roland Legere stated he was a Planning Board member and has had a connection to Goose Pond and Mousam Lake since 1950, and a year-round resident of Shapleigh for the past 20 years. He thought in addition to an opinion from the town attorney, they should also check with the Road Commissioner as well, since 23<sup>rd</sup> Street is the town's responsibility and he believed they owed it to Jeff Goodwin to speak with him and get some input.

**Madge B. made the motion to table the application in order to obtain a legal opinion regarding the right-of-way access to the property. Maggie M. 2<sup>nd</sup> the motion. All members were in favor to table. By a vote of 4 – 0, the motion passed unanimously.**

Mr. Michael Roberts asked Mr. Perkins why the applicants did not take him up on his offer to use his property? Mr. Perkins stated that it was not conducive to their needs. Mr. Perkins and Mr. Roberts continued a side bar regarding the access from his property. They were asked to take the conversation outside as it was time to move to the next application.

Mrs. Peterson thanked the Board for listening. Barbara F. asked those in attendance to look at the Town's website to see when the applicant will be back on the agenda. She was not certain whether or not it would be the next meeting, as it was pending an opinion from the attorney.

Nothing further was discussed.

**Conditional Use Permit – Replace Retaining Walls – Map 28, Lot 45 (31 Carpenters Cove Road) – Mainly Barge LLC (Matt Colton, Jr.), Applicant; Sean White, Property Owner**

Mr. Colton was present via Zoom for the review of the application. *Note: Board members did a site inspection prior to this evening's meeting.*

Presented along with the application, was a letter dated June 13, 2021 from Sean & Karen White which read as follows: We have contracted with Mainly Barge LLC and/or Matt Colton to replace retaining walls on our property located at 31 Carpenters Cove Road, Shapleigh, ME 04076. This letter authorizes Mainly Barge LLC and/or Matt Colton to apply on our behalf for whatever permits may be required to perform this work.

Presented was a picture of the existing retaining walls and stairs, and superimposed on the picture were highlighted areas of the walls, with measurements. One area was depicted as 4' x 67', one area 4' x 6', one area 4' x 67', and a final area as 70' x 32". Also on the plan depicted were 5 trees to be removed.

The detailed description of the project is as follows: *Replace existing retaining walls to same height, length and location.*

Roger A. asked Mr. Colten for the record to let the Board know what he intended to do. Mr. Colton stated he wanted to replace an existing retaining wall, leaving it the same height, same length as existing.

Roger A. stated that as mentioned at the site visit, the Board will need engineering certification for the engineered blocks because the wall is greater than 4 feet in height. Mr. Colton stated he would provide it for the Board.

Roland L. asked if Mr. Colton would be taking all the material from the existing wall out of Shapleigh? Mr. Colton stated that he would. Roland stated that at the site visit, Mr. Colton indicated that there were at least four large pine trees to be removed, several alders on the edge and one white birch that were all pushing the wall out. Mr. Colton stated that he was correct. Roland asked if this was the extent of it. Mr. Colton said, “Yes”.

Madge B. asked if the Board had a replanting plan? Mr. Colton said he did not provide a revegetation plan. Madge stated that the Board would need one. Mr. Colton stated they would be using blueberry bushes and ground cover. He felt this would be sufficient. He was concerned that if the Board wanted him to replant the pines, they would likely cause a problem with the wall in the future, so he would rather use ground cover. Roland L. asked CEO Demers if they were required to replace the pines with another tree? CEO Demers stated that typically with a permitted project, it is a 1 for 1 replacement. He said he had been to the site but didn't notice the tree coverage. Roland said that from his vantage point, given the topography and how heavily wooded it is, he shared Mr. Colton's concern with replacing the trees. Roland noted that he had a tree hugger side, which the Board was aware of, he doesn't like trees being cut at the waters edge unless absolutely necessary, but he felt in this case something planted there would create more of a problem than help in this situation. CEO Demers asked him if he felt there was plenty of inventory (trees) in the area. Roland said that was his opinion based on the site visit, noting both the topography and existing vegetation. Madge B. thought they could put bushes in. Roland agreed, as they would be shallow rooted. Roger said he agreed with Roland and Madge, to not replace the trees because they would push up against the wall, since the ordinance requires them to be the same distance from the water as what is existing. He said if they are placed there, they would be creating a situation where the wall would eventually fail. He felt blueberry bushes would be a much better choice. Madge agreed stating that because of the pitch you cannot place the trees away from the wall. Roger agreed slope was an issue.

**Roger A. stated that the Board needed a revegetation plan and the engineering certification for the new wall.**

Roger A. asked if the Board wanted to table until the information is provided? *Madge B moved to table the application pending further information as stated.* Roland L. asked if the White's (property owners) would have to come back? Mr. Sean White introduced himself and asked if there was anything else that would come up at the next review besides the revegetation plan and engineering certification? Madge said they would require that silt fencing be used during the project. Roger agreed, Best Management Practices need to be used to prevent soil erosion. Roger noted that Mr. Colton was a licensed DEP contractor, so he will put it in while doing the wall. Mr. White understood, what he wanted to know was, if the Board received the two remaining items, is that everything needed to make a decision or is there anything else that will be required? Roger said he didn't believe anything else was required. Madge said the Board would ask about a time frame for the project. Once the Board knows when they will start, they will want to know a date of completion. She asked Mr. White if he wanted it at a certain time of year? Mr. White said Mr. Colton expected it to be in the fall when the lake is at its lowest. He said had they found someone with a barge, they would have had it done five years ago. Madge said the revegetation would have to be done by the following summer. Roger said that under the criteria, the Board is required to place a date of completion for everything to be done including the revegetation, therefore,

Mr. Colton will need to give the Board an idea roughly when he would be starting and when it would be completed by. Roger said if the date has to be extended, the Board will either give it to the CEO to extend the date or they may require Mr. Colton to come back before the Board with an amended date.

**Madge B. again moved to table the application pending the revegetation plan and engineer’s certification for the replacement wall. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 4 – 0, the motion to table was unanimous.**

Nothing further was discussed.  
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**Minor Subdivision – 2 Lots + Remaining Land – Map 10, Part of Lot 22A (State Route 11) – Chris Chabot, Applicant; Gray Area Farm Trust, Property Owner; LinePro Land Surveying, Authorized Agent** Joseph Stanley was present representing the applicant & owners.

**The sketch plan application for the 3-lot subdivision contained the following information:**

Name of Property Owner: Gray Area Farm Trust  
Mailing Address: 385 Town Farm Road, Shapleigh ME 04076  
Name of Applicant: Chris Chabot  
Mailing Address: 1 Oak Hill Road, Shapleigh ME 04076  
Name of Authorized Agent: Joseph Stanley of LinePro Land Surveying  
Mailing Address: 455 Main Street, Springvale ME 04083  
Name of Land Surveyor: Joseph Stanley of LinePro Land Surveying, LLC; PLS #2453  
Email Address: [jstanley@lineprosurveying.com](mailto:jstanley@lineprosurveying.com)

**Land Information:**

Location of Property: YCRD Book 17598, Page 213  
Shapleigh Tax Map 10, Part of Lot 22A  
Current Zoning: General Purpose  
No part of the property lies within 250 of the high-water mark of a pond or river.

Acreage to be Developed: 4.5 Acres  
Property is not part of a prior subdivision.  
There have been other divisions within 5 years.

Restrictive Covenants: None  
Existing Use: Residential  
The parcel does not include a waterbody.  
The parcel is not within a special flood hazard area.

Proposed Name of Development: Chabot Ranch  
Number of Lots: (2) Plus Remaining Land  
Date of Construction: Fall / Winter 2021  
Date of Completion: Fall / Winter 2021  
Infrastructure Required: No  
This property currently has access on State Route 11.

Method of Water  
Supply: Individual Wells  
Method of Sewer  
Disposal: Individual Septic Systems  
Method of Fire  
Protection: None listed.  
There are no Proposed: Streets  
Recreation Areas  
Common Land  
Requested Waiver(s): §89-29.A – Underground Utilities  
§89-30.A (1), (2), (3) – Stone Monuments  
§89-36.M – Sidewalks.  
§89-36 – Paved Road Surface

Provided was a copy of the Town Tax Map 10, which depicts Lot(s) 22A & 22B. *Note, these lots on the Town Tax Map are currently not depicted correctly.*

Provided was a copy of the Subsurface Wastewater Disposal System Application, dated 9/21/2020 for Chris Chabot, provided by Kenneth Gardner, SE #73, which is for a 3 bedroom home. This application is for the proposed new lot, indicated on the plan provided as Lot #2. Also provided, was a Test Pit, provided by Kenneth Gardner, SE #73, dated 2/26/2021 for proposed Lot #1.

Provided was a copy of the York County, Maine Soil Map for the proposed subdivision. The Web Soil Survey, dated 7/1/2021 indicated Adams loamy sand (AdB), 0 to 8 percent slopes; Adams loamy sand (AdD), 15 to 60 percent slopes to make up the majority of the property.

Provided was a plan dated July 1, 2021, drafted by Joseph Stanley, PLS #2453, entitled ‘Plan Showing a Proposed Minor Subdivision “Chabot Ranch” for Chris Chabot, 2 Oak Hill Road, Shapleigh, Maine 04076, of Property Located on State Route 11 (Shapleigh Corner Road) in Shapleigh. The plan depicts Map 10, Lot 22B, which abuts the proposed division, along with Lot 22A, in which Proposed Lots #1 & #2 will be created. Lot #1 is depicted at 80,000 SF or 1.83 Acres, to be conveyed to a family member; Lot #2 is depicted as 2.00 Acres and is to be conveyed to a family member. Lot #2 and the ‘remaining land’ of Lot 22A which consists of 57.7± Acres are accessed via a proposed 50 foot wide right-of-way, entitled “Chabot Ranch Way”. The plan also depicts a ‘Road & Ditch Section’ for the proposed ROW, the location of a Fire Pond located on the adjoining property; the notation that ‘Chabot Ranch Way’ is to remain a private road, and that the Town of Shapleigh will not be responsible for the maintenance, repair, plowing or similar services for the private way shown hereon.

Roger A. began by asking about the applicant, Chris Chabot. Roger said the Board didn’t have any verification that he was in the Trust. Mr. Stanley stated that he had an email from Mr. Chabot stating that he was. Mr. Stanley asked if the Board needed further documentation? Roger stated that they did. Mr. Stanley said he would provide it. Roger said that his name is mentioned on the subsurface wastewater design but there is nothing showing the Board he has interest in the property. Mr. Stanley asked what type of information did the Board want? Roger said the Attorney for Mr. Chabot (Joe Lenkowski) can come up with something that shows he is part of the Trust. Madge B. agreed.

Mr. Stanley began by introducing himself, stating he was from LinePro Land Surveying, and he was representing Chris Chabot and Grey Area Farm Trust. He said that basically the Trust owns a U-shaped



property around the existing house. He said the house was owned by another family member, noting that the whole family went in together on the property when the alpaca farm went up for sale. He stated that Mr. Lenkowski (attorney) and himself have been involved for the past several years. He said there was confusion with property lines and mortgages. He said the Board will notice that the shape he has drawn was the not shape represented on the Town Tax Map. His version was correct, with the house being on the correct property and the Trust owning the correct property.

Mr. Stanley said he was approached by Mr. Chabot initially to create one lot in the corner, then it turned into making the lot large enough, so he could possibly give one to his brother. They needed to make some boundary line adjustments in order to make it work, and he noted an existing orchard that they didn't want to disturb, trying to avoid a private way. The private way was the best alternative, being on the edge of where the lawnmower racing track used to be. He said the area was fairly flat, and they did perform site topography, but to create a contour map it became 1 line across the page, and it didn't show much information. He may do ½ foot contours, which he has never done, or do spot elevations to show the area has been measured and how flat it is.

Mr. Stanley stated that basically what they are proposing is a private way coming in with a slight ditch on the left side and the road pitched toward it slightly. He said the primary goal is to have one residence toward the back, provide a turnaround, so they do not have to come back in the future. He said Ken Gardner came out and did a septic design on one lot, prior to his involvement, and then a soil test pit was done on the other lot in the front.

Mr. Stanley stated there were no wetlands on the property that needed to be mapped or addressed. He said the property is not in the flood zone. He said moving forward would be getting the Board on site. He was not sure if the private way would need to be paved or not. He said fire protection was another issue to discuss, and at one point Mr. Chabot had dreams of utilizing the pond on the neighboring property, but it is difficult to access and is not on his property. He thinks Mr. Chabot is looking now into sprinklers to meet the fire protection requirement. Roger A. stated that if there is no easement to the pond, then it isn't a valid choice. Mr. Stanley understood.

Mr. Stanley said that he was still in the process of getting an entrance permit from the State, since this is on a State road. He felt he could get this quickly and didn't think there would be any issue with the location.

Roger A. stated under Subdivision Ordinance 89-36, it requires 12 feet of pavement. Mr. Stanley said if that is what it is, it is what it is. He said he remembered a chart in the past that he didn't necessarily interpret it as requiring pavement. He said when CEO Steve McDonough was here, they had talked about making it clearer, what was required. He thought there was a chart that spoke about minimum pavement width if something was being paved, there was that minimum, but he didn't feel it was a requirement that it needed to be paved. Roger stated that under §89-37, it does not show a pavement width. He said under the §89-36 it states it should be a 12' paved ROW, but under §89-37 it speaks of base, subbase only, no pavement is noted for a private ROW. Roger said if pavement is required, the Board has allowed the base and subbase to be put down, and no final course until construction is complete, then pavement.

Mr. Stanley asked if it was Roger's opinion that it will require 12 feet of pavement? Roger A. said the requirement is in the ordinance at the present time, but there was one minor that the Board has not required pavement. He stated that road has not been completed yet. Barbara F. asked if the Board could wave requirements in the Subdivision Ordinance, whereas they cannot in Zoning? Roger said, "That's true". Madge B. added that the Board struggles with this issue every time. Roger said the Board would have to have a reason

to waiver. Mr. Stanley said the current road cross section he was showing was copied from a family division on a Town approved private way. He said he started with the details and notes that the Board approved on that road, but he can always modify it if needed. He said he will discuss this with his client. He thought his client may want to use reclaimed asphalt or something similar, but will get more information for the next review.

Roger A. said the only other issue he noticed was that not all the dimensions were on the deed provided, and this was the corrected deed. He said when he follows the lines, some are missing. Mr. Stanley said he saw what Roger was speaking about, so he will provide additional information. Mr. Stanley said the property was a long property, and he could label the remaining property as Lot 3, but he did not have all of Lot 3 depicted, because if he tries to show the entire lot, from a scale perspective, you cannot see what you need to in detail for the private way and 2 lots depicted. Mr. Stanley stated the lot with the house on it already has a road to the house and other buildings on the lot. He said there was a permitted house and septic system on that property now. Roger asked if that was the in-laws property. Mr. Stanley stated they were all family members, and the Chabot's, some who don't live here are part of the Trust. He said originally, he had it listed as 'to be conveyed to a family member' and he was going to get the private way approved on Nason Road, and do family divisions. He said it was a family Trust and family property, but can a Trust have family members? Roger said the Board looked at this in the past and it didn't fly. Mr. Stanley thought this would be the case, which is why they didn't do this that way. He felt doing it like this was best.

Roger A. said if they are going to use sprinklers that is fine. Roger wasn't a fan of sprinklers because no one checked to be certain in the future they are still working. Roger said if homes have public water it works, but on private wells it can be an issue. Madge B. asked how the ordinance can be changed? Barbara F. stated that they didn't have to do sprinklers, they have options, a cistern can go in, a pond, etc. Roger agreed but for two homes, the cost of a cistern would not be cost effective, it is cheaper to do a sprinkler system. Mr. Stanley agreed. Madge asked if having sprinklers gives you a better rate of insurance? Roger thought it might.

Roland L. asked if the Board was just accepting the information or were they ready to schedule a site visit? Mr. Stanley stated he was ready for a site visit if the Board wanted to schedule it. He said he could mark out where the lots were going to be.

Barbara F. asked if they wanted a notice to abutters and public hearing for the next meeting? Roger A. said they were not ready for that at this time, they still needed additional information.

**Roger A. stated a site inspection would be held on Tuesday, July 27<sup>th</sup> at 7:00 pm. Members will meet on site.**

Nothing further was discussed.  
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**Growth Permits**

**Map 9, Part of Lot 1C (Lot 2 Hidden Cove – Off of West Shore Drive)**

**Permit Denied**

The Board received an email from Robert Reinken, the Growth Permit applicant, which stated that as of June 30, 2021, construction of the private road for the Hidden Cove Subdivision had begun. Their intent was to construct a new home on Lot 2 once the private way is completed. Mr. Reinken asked the Board to table the application until he can provide proof that the private way was completed to the satisfaction of the Town of Shapleigh.

Barbara F. asked the Board if they had the ability to table a Growth Permit. She did not see in the Growth Permit Ordinance the ability to table an application. The only choices appeared to be approve or deny. She thought if the Board was going to start to table applications, they may want to amend the Growth Ordinance, so what they are doing is allowed. She didn't want it perceived that this person was getting special treatment if they vote to allow it to be tabled. She said in the past, when someone asked to table it, the Board said no. She said it was up to the Board, but if they want to table, they need to consider changing the language in the ordinance. Maggie M. agreed that in the past when she asked if an application could be tabled, it was brought up that it was either yeah or nay, no one should get special treatment and that the ordinance didn't allow for it to be tabled. She said the person was denied and they had to pay again and come back when they were ready.

Roger A. feels the permit is denied, because from the beginning the applicant was told without the private way being in, they would not be able to obtain a building permit. Roger said this conversation was when they came before the Board for an extension of time to have the road put in, extending it to five years.

**Madge B. made the motion to deny the permit, as the Board has already stated, they do not have the 200 feet of road frontage existing at this time. Maggie M. 2<sup>nd</sup> the motion. All members in favor. By a vote of 4 – 0, the Board members unanimously agreed that at this time, Lot 2 did not meet the minimum required road frontage of 200' that is required under §105-18 'Dimensional requirements' per principal building, because the private way is not in place at this time. Based on this information, the Growth Permit is denied.**

Mr. Reinken will be notified of the denial, and that he is welcome to reapply for the permit once the private way is in and approved by the Road Commissioner.

**Map 8, Lot 61 (Lot 3 of the approved subdivision on Gulf Road) – New Home**

**GP# 21-2021**

Roger A. stated the lot is a lot approved by the Planning Board in the subdivision on Gulf Road. It meets all the criteria for a lot in the ordinance.

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**Other:**

CEO Demers asked the Board to look at the definition of Medical Marijuana Home Production. It read as follows: Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. This use shall be considered an accessory use. CEO Demers pointed out the words 'accessory use'.

CEO Demers asked the Board to look at §015-17 'Land uses' and under 'Uses or structures accessory to' permitted uses, in each district the permitting authority is CEO.

He felt what this tells him is that Medical Marijuana Home Production is an accessory use, and the permitting authority is the CEO is all zones. Maggie M. asked if this was someone growing for themselves. CEO Demers said, no, home production. He said they had one on Cedar Drive and it came through the Planning Board. Roger said it came through Planning Board because it was commercial. Barbara F. said it was under Medical Marijuana Caregiver. Roger said she was delivering, not having customers come to the house. CEO Demers said that he had a lot of inquiries and he wanted to know who to direct it to. Barbara said she always tells them

to contact CEO Demers. He said he wants it to go to the Planning Board. He said he wants to make a distinction between a Medical Marijuana Home Production vs a Medical Marijuana commercial use, because Roger is saying the one on Cedar Drive was a commercial use. Barbara stated that she thought it was a Home Occupation. Board members noted that under Agriculture and commercial gardening, Note 5 states: Marijuana is neither considered an agricultural crop nor commercial gardening. Marijuana is not considered a seasonal produce or plant. Conduct pursuant to the Maine Medical Use of Marijuana Act, 22 M.R.S.A. §558-C requires a conditional use permit.

CEO Demers asked if the Land Use chart needed to be amended. Maggie M. thought there should be a new category. Roger A. thought it was addressed as a CU under agriculture.

CEO Demers said, “In this case two areas of the ordinance conflict, so in this case the more strict of the two apply, in this case the CU permit.” He said that even though under Accessory uses it is CEO, under Agriculture it is CU. Barbara F. asked if it should be changed at the next Town meeting to make it more clear? CEO Demers said it was up to the Board, he had no issue saying it was a CU. Barbara asked again what would work best for him. CEO Demers said a definition change and the Land use chart. Barbara asked what they would like her to change? Madge B. stated they needed to get rid of ‘This use shall be considered an accessory use’.

CEO Demers said the marijuana laws have continued to change. Madge B. said she would look into it more when she had time. CEO Demers noted a recent fire in a detached garage which was a grow room. His concern is what if they are in an attached structure and there is a fire. He is trying to find a way to regulate it. Madge B. said the fire was near her, and the power is a big issue.

Nothing further was discussed.

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**The Planning Board meeting ended at 9:25 p.m.**

**The next Planning Board meeting scheduled will be July 27, 2021, and the meeting will be held IN PERSON at the Town Hall.**

**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)