

Shapleigh Planning Board

Minutes

August 24, 2021

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

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, August 10, 2021 were amended as follows:

Page 18 of 33 – 1) Hours of operation 7:30 am to 5:00 pm, Monday through Friday; Saturday hours 7:30 am to noon, excluding July 1st through August 31st, where there shall be no hours of operation.

Revised to read – 1) Hours of operation 7:30 am to 5:00 pm, Monday through Friday. Saturday hours 7:30 am to noon, excluding July 1st through August 31st, where there shall be no hours of operation **on Saturday**.

Maggie Moody wanted it to be clear the ‘no hours of operation’ in July and August were for Saturday only. The Board members agreed to the clarification and amendment. Page 19 of 33, Number 11 1) was also amended as written above.

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

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

Mrs. Laviolette was present for the final review of the application.

Originally provided along with the application were the following:

- Aerial photo / sketch plan of the property with the land survey imposed, which depicted the existing structures, lot line measurements and entrance onto Deering Ridge Road. The sketch plan also noted that the property was 3.5 ± acres to the river’s edge and 5.10 ± acres to the river centerline.
- Sketch of the property depicting the location of the house / garage / barn and the distance from the structures to the river that being 184 ¾’ to the barn and 149 ¾’ to the house; the distance from the road to the house being over 200 feet; and the distance from the house and barn to the septic tank being a minimum of 25 feet from either. Both the barn and house appear to be located in the Shoreland District.
- A sketch plan which appeared to be part of a surveyed plan, depicting the location of the house / garage / barn; the location of the gravel driveway including two entrances onto the property; the location of a garden area, cemetery, and three proposed locations for parking. One parking location was depicted as 64 feet by 113 feet, one location 60 feet by 103 feet and a third location being 52 feet by 64 feet. Each parking area is located on the rear of the property behind the barn.

- A sketch plan entitled Parking Plan. The plan depicts the flow of the traffic pattern, in addition, the size of the parking areas, the square foot calculations, were given for each area. The total parking area calculation is 16,740 square feet. The amount per parking space is 200 square feet. This allows for 83.7 spaces for parking. The barn size is also depicted on the plan, that being 38 feet by 72 feet or 2,736 square feet. (Note: §105-43. 'Off-street parking and loading'. If allowing for 200 people, 66.66 parking spaces are required per the ordinance.)

The detailed project description is as follows:

We are proposing to have the following venues and events in our barn on 24 Deering Ridge Road:

- Weddings (≤ 200)
- Small events & venues: small bands/music events, anniversary parties, bridal showers, baby showers, exercise classes, open barn vendor expos, community events, fundraisers, silent auctions, food & beverage events

We are proposing the following as part of our plan:

- Parking Plan
- People working: The only people working on the premises will be volunteers of Babbling Brook Farm and the Laviolette family. All other working people will be hired by vendors of the customer.
- Hours of Operation: 10 am thru 10 pm – all patrons will be off the premises by 10 pm
- Noise control: Events involving music, live music, and audio systems will be contained in the barn. In the event there is a live band or music outside of the barn, it will not surpass 8 pm.
- Septic: There are no plans for use of the septic system on the property. Septic needs will be rentals specific to the event.
- Trash removal: Trash will be disposed of by the owners of the property at the local transfer station or by the customer. If trash is being taken off the property by the customer, we will ensure disposal location is indicated within their rental contract.

On August 28, 2020, Mrs. Laviolette provided members with a proposal in lieu of traffic control using a person to direct traffic. The new proposal was either to use a customized blinking LED sign "Caution Event in Progress Ahead" or a flashing beacon with a custom sign.

Mrs. Laviolette in an email dated 9/8/2020, stated the following: *I have talked with the road commissioner and he has approved the use of the portable sign, we will work together for the placement. I have attached the proposed material we will use to construct the sign, could you please pass this along? Thank you. Best, Meagen*

Along with the email from Mrs. Laviolette was a picture of the sign to be used and the portable stand it will sit on. The sign will say 'Caution: Event in Progress Ahead', it will be attached to a 6-foot post on a 40 lb. portable sign stand. A 3-volt Amber LED Barricade Flasher light will also be attached to the signage.

The Board received an email dated 9/1/2020 from the Town Administration, Karla Bergeron, who had an email response from Road Commissioner Jeff Goodwin, who was asked if he had an issue with Mrs. Laviolette placing a sign alongside Deering Ridge Road when events would be letting out. Road Commissioner Jeff Goodwin replied as follows: *I don't have a problem with it, I think a sign with a flashing light will work. I don't think it should be a permanent sign; I think it should be portable and put out when they have an event. Jeff*

Provided by Mrs. Laviolette were the following emails from the architect working on the project and the State Fire Marshalls Office. The emails read in part:

October 20, 2020 from Architect Robert Foster to Marc Veilleux, Public Safety Inspector III, Office of State Fire Marshal – I just got contacted by a couple that wants to use the barn on the property as an events (weddings) barn. The intent is to leave the barn rustic and un-heated for summer use only. Toileting will be provided by temporary facilities (portable toilets). The barn is approximately 40' x 72' or 2,800 sf. As an assembly occupancy this project would require a permit by your office. The intent is to only use the main floor level with no access to flanking mezzanines and the un-finished crawl space underneath. How is your office reviewing these projects in reference to sprinkler, alarm & detection systems? A sprinkler system would be difficult/ expensive due to lack of public water and the associated costs for large water storage tanks & pumps.

October 21, 2020 from Marc Veilleux to Robert Foster – Based on your description, the occupant load could be 187 to 400 depending on the use and layouts. If the furniture is not fixed and can be moved and stored away, then we have to assume that the layout can be a wide open floor plan which would put them over the 300 occupant threshold and require sprinklering. If they can have built in elements that can utilize some of the square footage to reduce the overall useable space, then the calculations can be reduced. If they understand that they have to maintain a pre-set furniture plan for all events then I can accept that as long as you provide a few furniture plan options that they will have to abide to. The option for storage of tables and chairs is always a red flag for us that the tables and chairs can be removed and they can have a wide open floorplan event. So take that into consideration. As well, a signed letter on letterhead of their understanding of the furniture layout limiting them to less than 300 occupants at all times is beneficial with the furniture plans. The mezzanine if usable space, would also add to the occupant load, so take that into consideration by either eliminating access to it somehow or calculating the occupant loads accordingly.

October 21, 2020 from Robert Foster to Meagen Laviolette, email read in part: – See attached response from State Fire Marshal's Office. As you can see, the goal is keep the occupancy below 300 persons if you don't want to sprinkler the barn. To determine the occupant load for assembly occupancies the code uses 7 sq. ft. per person for a wide open floor plan and 15 sq. ft. per person for areas with pre-set furniture plans like restaurants or banquet halls. If you want complete flexibility and want to accommodate more than 300 people you will need to factor in installing an NFPA 13 sprinkler system. The system will also need to extend into attached structures unless you provide a 2 hour fire wall between the structures. Since the building won't be heated and there is no public water you would need to install a dry system with a water storage tank (dedicated to the sprinkler system) and a fire pump (kept in a heated area). If interested, you could contact High Tech Fire Protection Co., in Poland, Maine to get a budget for installing all of the required components. Off the top of my head (without doing a detailed code analysis) other items that you will probably be required to address include:

- 1) Provide a minimum of 2 remote, code compliant, means of egress (current sliding barn doors don't count), with illuminated signage. This may require the construction of exterior stairs and/or ramps.
- 2) Provide full fire alarm & detection system.
- 3) Provide emergency lighting.
- 4) Provide portable fire extinguishers.
- 5) Provide handicapped accessibility & proper signage.
- 6) Have a structural analysis performed to determine if all the structural elements are sound and can properly support the proposed uses.

Mrs. Laviolette provided the Board with a copy of the Submittal Criteria for Construction Permits for the State Fire Marshal's Office; a copy of the Construction Permit Application for Renovation & Occupancy Change, Mixed Use for an Assembly <300 People; a copy of the Barrier-Free Permit Application for a Renovation, Mixed Use for an Assembly <300 People; and a copy of the Life Safety Plan, drafted by Geoffrey Aleva, LPE #9679 of Civil Consultants.

Provided for this evening's meeting was a copy of the Construction Permit, No. 28031 from the State of Maine Dept. of Public Safety, Office of the State Fire Marshal, dated 8/9/2021. This permit was issued to Babbling Brook Farm, owner(s) Meagen & Brent Laviolette, approving the Life Safety Plan drafted by Geoffrey Aleva LPE #9679 of Civil Consultants, dated 7/30/2021. The plan is for a maximum load capacity of 200 occupants. The notes and additional requirements on the permit are as follows: *Occupant load calculations based on the 3 furniture plans provided maintaining an occupant load of less than 300 occupants. Any variation from these submitted and approved seating charts shall result in the need for further permitting.*

Roger A. began by asking Mrs. Laviolette to let the audience know what she wanted to do. Mr. Laviolette stated that she was before the Board in order to be able to hold small events and weddings in her barn.

Roger A. asked if there were any questions for Mrs. Laviolette? There were none.

Roger A. began review of the Basic Performance Standards as follows:

Basic Performance Standards:

- 105-21 – Traffic. *Roger stated that with the posted speed limit and the use of the flashing caution sign during events, coming from the direction of the Lebanon Road towards Rte. 109, people will know that there is traffic coming out onto Deering Ridge Road, therefore, traffic is safe.*
- 105-22 – Noise. *Roger stated there would be reasonable hours of operation, noting that from 7:00 am to 10:00 pm the noise level allowed is 60 decibels, and from 10:00 pm to 7:00 am 45 decibels. He stated the Code Enforcement Officer and Sheriff will enforce these standards.*
- 105-23 – Dust, fumes, vapors and gases. *Roger stated this business will not create any dust, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation or property, emitted beyond the lot lines.*
- 105-24 – Odors. *Roger stated there will be no offensive or harmful odors perceptible beyond its lot lines, either at ground or habitable elevation for this business.*
- 105-25 – Glare. *Roger stated there will be no additional lighting creating a strong dazzling light onto neighboring properties. Roger stated the Board wanted lighting in the parking area, which is well screened from the road and neighboring properties.*
- 105-26 – Stormwater runoff. *Roger stated stormwater will remain on site, even in the parking area, due to the lay of the land and existing vegetation. The barn is in existence and there has been no issues.*
- 105-27 – Erosion control. *Roger stated there is nothing being done to the site to create erosion. There is vegetation around the existing parking area.*
- 105-28 – Setbacks and screening. *Roger stated no changes are being made to what exist at this time, existing vegetation will remain, no outside storage of materials.*
- 105-29 – Explosive materials. *Roger stated any propane gas tanks will be placed by the company supplying them, there are no other explosive materials associated with this business.*
- 105-30 – Water quality. *Roger stated there is no chemicals or industrial waste stored outside. If the well is used, it will be monitored for safety.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *Roger stated there are no changes to the existing vegetation. The parking will be well off the road.*
- 105-32 – Relation of the building to the environment. *Roger stated the building has been in existence for many years and fits in well with the surrounding area.*
- 105-33 – Refuse disposal. *Roger A. stated the applicant would be taking her waste to the Transfer Station, or it would be removed per the contract of the individual(s) using the facility.*

- 105-34 – Access control on Routes 109 and 11. **Roger A. stated the Board spoke about this and the MDOT has no issue with safe site distances where Deering Ridge Road comes out onto Route 109.**
- 105-43 – Off-street parking and loading. **Roger stated one space for every 150 sf of floor area used for a service establishment; one space for each three seats, permanent or otherwise, for patron use for restaurants and other places serving food or beverage and for theaters, auditoriums and other places of amusement or assembly; and one space for each person employed or anticipated to be employed. The parking area plan shows a total of 84 parking places which was determined to be adequate for the size of the barn and the intended use.**
- 105-46 – Sanitary provisions. **Roger A. stated the applicant is going to use portable toilets for the functions. It was determined that there needed to be 1 portable toilet for every 40 people gathering, for a total of 5 required for functions with 200 guests.**
- 105-47 – Signs and Billboards. **Roger A. stated that all signage must be permitted and approved through the Code Enforcement Office.**

Roger A. stated that under §105-17, Land Uses, Commercial, you are not allowed to sell alcoholic beverages in the Shoreland District. **Roger said this would be a condition of the permit.**

Roger A. asked if there were any comments or concerns? There were none.

Roger A. reviewed §105-73.G ‘Standards applicable to conditional uses’ findings of fact are as follows:

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds, or other wildlife habitat. **Roger stated, it will not, everything for the business is in existence and there are no changes to the vegetation near the river. The parking area is going to remain natural / sand, so there should be no impact to the environment. Cars driving on and off the property should not affect existing wildlife.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Roger stated there is no change to the visual or actual access to the water body.**
- 3) The use is consistent with the Comprehensive Plan. **Roger stated it is, the Comp Plan is in favor of small family owned businesses.**
- 4) Traffic access to the site is safe. **Roger stated it is with the use of the caution sign while events are taking place.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger stated it is.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger stated there is an existing State approved septic system on site for the house, but portable toilets will be used for the events taking place. There shall be 1 porta potty for every 40 people in attendance.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger stated there will not be any generated.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger stated there are no changes being made to the exterior of the structure for this business, and the existing vegetation on the property keeps stormwater on site. The parking area was reviewed to see if there would be any impact on the Mousam River and there will not be.**

- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger stated there are no changes being made on site to create soil erosion.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger stated there is, it is very near the Emery Mills fire hydrant and there is a life safety plan approved by the State Fire Marshal's Office.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors, and the like. ***Roger stated there is existing vegetation, no changes are being made to the site. Noise shall be limited by the allowed noise levels, there are no fumes, dust or odors associated with this business. Lighting for the parking area will not glare onto Deering Ridge Road.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger stated they will with conditions.***

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

- 1) **Hours of operation are 6:00 am to 11:00 pm, allowing for setup and dispersal from the activity taking place.**
- 2) **There shall be 1 portable toilet provided for every 40 people on site. A total of 5 portable toilets must be present for the maximum number of people allowed for an event, which is 200.**
- 3) **There shall be no liquor sold on site, as it is in the Shoreland District.**
- 4) **The blinking caution sign shall be put out for events, and taken off the side of the road when no events are taking place.**

Roger A. noted that it might be best to keep 5 portable toilets on site and have them serviced on a regular basis vs having someone drop off and pick up depending on the event.

Madge B. made the motion to approve the Conditional Use Permit on Map 1, Lot 22A, for the ability to hold small events & venues for up to 200 people in the existing barn, per the plans provided and with the stated conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.

Nothing further was discussed.

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### **Findings of Fact**

1. The owner(s) of Shapleigh Tax Map 1, Lot 22A (24 Deering Ridge Road) are Meagen & Brent Laviolette, of 24 Deering Ridge Road, Shapleigh, Maine 04076. Proof of ownership via Warranty Deed, Book 17909, Page 374, recorded at the York Country Registry of Deeds on 3/12/2019.
2. Provided along with the application were the following:
  - Aerial photo / sketch plan of the property with the land survey imposed, which depicted the existing structures, lot line measurements and entrance onto Deering Ridge Road. The sketch plan also noted that the property was 3.5 ± acres to the river's edge and 5.10 ± acres to the river centerline.
  - Sketch of the property depicting the location of the house / garage / barn and the distance from the structures to the river that being 184 ¾' to the barn and 149 ¾' to the house; the distance from the road to

- the house being over 200 feet; and the distance from the house and barn to the septic tank being a minimum of 25 feet from either. Both the barn and house appear to be located in the Shoreland District.
- A sketch plan which appeared to be part of a surveyed plan, depicted the location of the house / garage / barn; the location of the gravel driveway including two entrances onto the property; the location of a garden area, cemetery, and three proposed locations for parking. One parking location was depicted as 64 feet by 113 feet, one location 60 feet by 103 feet and a third location being 52 feet by 64 feet. Each parking area is located on the rear of the property behind the barn.
  - A sketch plan entitled Parking Plan. The plan depicts the flow of the traffic pattern, in addition, the size of the parking areas, the square foot calculations, were given for each area. The total parking area calculation is 16,740 square feet. The amount per parking space is 200 square feet. This allows for 83.7 spaces for parking. The barn size is also depicted on the plan, that being 38 feet by 72 feet or 2,736 square feet. (Note: §105-43. 'Off-street parking and loading'. If allowing for 200 people, 66.66 parking spaces are required per the ordinance.)
3. Provided was a picture of the sign to be used and the portable stand it will sit on. The sign will say 'Caution: Event in Progress Ahead', it will be attached to a 6-foot post on a 40 lb. portable sign stand. A 3-volt Amber LED Barricade Flasher light will also be attached to the signage. Road Commissioner Jeff Goodwin approved of the use of the sign, and asked that it only be put out for events, not wanting it a permanent fixture at the roadside.
  4. Provided was a traffic study for Deering Ridge Road done by Southern Maine Planning & Development Commission, done on August 28, 2019 for a full 24 hours. The Board after reviewing the study agreed that during the times that it was likely events would begin and end, the amount of traffic was not excessive, and agreed the use of a traffic flagger would not be required. The caution sign would be adequate.
  5. Provided was a copy of the Submittal Criteria for Construction Permits for the State Fire Marshal's Office; a copy of the Construction Permit Application for Renovation & Occupancy Change, Mixed Use for an Assembly <300 People; a copy of the Barrier-Free Permit Application for a Renovation, Mixed Use for an Assembly <300 People; and a copy of the Life Safety Plan, drafted by Geoffrey Aleva, LPE #9679 of Civil Consultants.
  6. Provided was a copy of the Construction Permit, No. 28031 from the State of Maine Dept. of Public Safety, Office of the State Fire Marshal, dated 8/9/2021. This permit was issued to Babbling Brook Farm, owner(s) Meagen & Brent Laviolette, approving the Life Safety Plan drafted by Geoffrey Aleva LPE #9679 of Civil Consultants, dated 7/30/2021. The Life Safety Plan is for a maximum load capacity of 200 occupants. The notes and additional requirements on the construction permit are as follows: *Occupant load calculations based on the 3 furniture plans provided maintaining an occupant load of less than 300 occupants. Any variation from these submitted and approved seating charts shall result in the need for further permitting.*
  7. The detailed description of the project is as follows:

We are proposing to have the following venues and events in our barn on 24 Deering Ridge Road:

    - Weddings (≤ 200)
    - Small events & venues: small bands/music events, anniversary parties, bridal showers, baby showers, exercise classes, open barn vendor expos, community events, fundraisers, silent auctions, food & beverage events

We are proposing the following as part of our plan:

- Parking Plan
  - People working: The only people working on the premises will be volunteers of Babbling Brook Farm and the Laviolette family. All other working people will be hired by vendors of the customer.
  - Hours of Operation: 10 am thru 10 pm – all patrons will be off the premises by 10 pm. *These hours were changed, see conditions of approval.*
  - Noise control: Events involving music, live music, and audio systems will be contained in the barn. In the event there is a live band or music outside of the barn, it will not surpass 8 pm.
  - Septic: There are no plans for use of the septic system on the property. Septic needs will be rentals specific to the event.
  - Trash removal: Trash will be disposed of by the owners of the property at the local transfer station or by the customer. If trash is being taken off the property by the customer, we will ensure disposal location is indicated within their rental contract.
8. The application as presented met the Basic Performance Standards in the Zoning Ordinance. Traffic access is safe with the use of the caution sign; noise standards shall be met; there are no dust, fumes, vapors or gasses; vegetation will remain in place to prevent stormwater or erosion issues, keeping existing screening and preservation of landscape; water quality will not be affected; waste will be taken care of by the applicant or per contract & sanitary provisions will be via portable toilets.
9. The application as presented met the performance standards under §105-73 ‘Conditional Use Permits’ as presented with conditions. There will be no adverse impact to fish, birds or wildlife; there is nothing taking place near the shoreline; traffic access is safe at the imposed speed limit; waste has been addressed; there are no hazardous materials associated with the business; there are no changes that would create erosion or a stormwater issue; existing vegetation will remain in place to prevent stormwater and protect neighboring properties from noise, glare and the like; and it is located in close proximity to the Emery Mills fire hydrant.
10. A notice was mailed to all abutters within 500 feet of the property on June 25, 2020. Meetings were held on Tuesday, June 23, 2020, July 14, 2020, July 28, 2020, August 25, 2020, September 8, 2020, January 25, 2021, & April 27, 2021 via Zoom due to Covid 19 and July 27, 2021 and August 24, 2021 in person. A site inspection was done by members on Tuesday, June 30, 2020 at 9:30 am and a public hearing was held on Tuesday, July 14, 2020 via Zoom.
11. The Planning Board unanimously agreed to approve the Conditional Use Permit to be able to hold small events & venues, including weddings for 200 people or less, in the existing barn, with 4 conditions.
12. **The conditions of approval are as follows:**
- 1) Hours of operation are 6:00 am to 11:00 pm, allowing for setup and dispersal from the activity taking place.**
  - 2) There shall be 1 portable toilet provided for every 40 people on site. A total of 5 portable toilets must be present for the maximum number of people allowed for an event, which is 200.**
  - 3) There shall be no liquor sold on site, as Map 1, Lot 22A is in the Shoreland District.**
  - 4) The blinking caution sign shall be put out for events, and taken off the side of the road when no events are taking place.**



**Decision:**

**The Conditional Use Permit to be able to hold small events & venues, including weddings, in the existing barn for up to 200 people, located on property known as Map 1, Lot 22A (24 Deering Ridge Road) per the plan provided, with four conditions, was approved.**

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**Best Practical Location – Replace Existing Structure(s) – Map 18, Lot 19 (7 1<sup>st</sup> Street) – Jan & Linda Rajchel, Trustees, Applicant; Rajchel Family Revocable Trust of 2014, Property Owner(s)**

Mr. & Mrs. Rajchel were present for the review of the application. *Note: As Mr. Rajchel was seated in the back of the room, the audio on the recording was very hard to hear, so some of the discussion may not be as accurate as when the audio is clearly heard.*

Provided along with the application was a survey map drafted by Dana Libby PLS #1350, dated June 20, 2000, which depicted First Street and the lots adjacent to First Street, including the applicants property. Provided was a copy of a survey by LinePro Land Surveying, dated December 3, 2020 for Stephen Foglio, Jr., depicting both Mr. Foglio’s property and the applicant’s lot, emphasizing the boundary line between the two properties.

Provided was a plan depicting the ‘Existing Building Dimensions’ and ‘Building Height per Shapleigh Code = 23.72’. Provided was a plan of both the existing structure dimensions and the proposed structure dimensions, and it included the following notations: proposed new roof over front stairs, proposed new roof over walkway with drip edge, replace retaining wall, drip edge of roof, proposed erosion control precast retaining wall (26 ft. min), location of proposed stairs, proposed flag pole, and high water mark. Also, provided was a computerized sketch of the proposed structure.

Provided was a copy of the Subsurface Wastewater Disposal System Application, drafted by John Large, SE #7, dated 10/31/97. Provided was a copy of the FEMA Standard Flood Hazard Determination Form, dated 6/6/19. Provided was a copy of the Town of Shapleigh 2020 Real Estate Tax Bill and John E. O’Donnell’s Property Information / Assessment for the property.

The detailed description of the project is as follows: *Replace existing dwelling and decks; add retaining wall for erosion control; elevate lowest ground grade adjoining the building; install flag pole.*

During this evenings meeting, provided was a copy of a survey drafted by Dana Libby, PLS #1350 of Corner Post Land Surveying, entitled ‘Plan Showing a Boundary / Existing Conditions Survey for Rajchel Family Revocable Trust of 2014’. Also provided was an enlarged copy of the survey which showed the proposed and existing building footprints, elevations, location of septic disposal field & septic tank, proposed erosion control wall, flag pole and various structure dimensions and distances to lot lines. The proposed structure distances to the proposed boundary line are 6.31 feet at its closest point to Map 18, Lot 20; 14.61 feet at the closest point to Map 18, Lot 18; 52.77 feet at the closest point to the high water mark; and 14.98 feet to the edge of First Street at its closest point.

Roger A. stated the applicants are before the Board for a best practical location of the existing structure. *Note:* Steve F. stated that he would be recusing himself from the meeting as he was a direct abutter. Ann Harris will be a regular member for the review of this application. *Prior to this evenings meeting the Board members did a site inspection.*

Roger A. began by reviewing Zoning Ordinance §105-4.D(3)(a) 'Foundations' as follows:

Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and the new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Subsection D(7), Relocation, below.

(7) Relocation.

- (a) A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.
- (b) In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with §105-51.3. In addition, the area from which the relocated structure was removed must be replanted with vegetation. Replanting shall be required as follows:

[1] Trees, woody vegetation and ground cover.

*Roger A. stated that there were no trees being removed, so only ground cover would be looked at.*

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

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

Roger A. stated there was also a retaining wall they want to replace and a new wall is to be put in.

- (9) Low Retaining Walls in the Shoreland District less than 24 inches in height for erosion control.

Retaining walls that are not necessary for erosion control shall meet the structure setback requirement, except for low retaining walls and associated fill provided all of the following conditions are met:

- (a) The site has been previously altered and an effective vegetated buffer does not exist; *Roger noted the site will be altered during the replacement of the foundation.*

- (b) The wall(s) is(are) at least 25 feet horizontal distance, from the normal high-water line of a water body, tributary stream, or upland edge of a wetland; *Roger stated that it will be greater than the 25 feet, he believed between 40 to 44 feet from the normal high-water line.*
- (c) The site where the retaining wall will be constructed is legally existing lawn or is a site eroding from lack of naturally occurring vegetation, and which cannot be stabilized with vegetative plantings; *Roger stated it is existing lawn at the present time.*
- (d) The total height of wall(s), in the aggregate, are no more than 24 inches; *Roger said it will meet this criteria.*
- (e) Retaining walls are located outside of the 100-year floodplain on rivers, streams, coastal wetlands, and tributary streams, as designated on the Federal Emergency Management Agency's (FEMA) Flood Insurance Rate Maps or Flood Hazard Boundary Maps, or the flood of record, or in the absence of these, by soil types identified as recent flood plain soils. *Roger stated it is beyond this area.*
- (f) The area behind the wall is revegetated with grass, shrubs, trees, or a combination thereof, and no further structural development will occur within the setback area, including patios and decks; and
- (g) A vegetated buffer area is established within 25 feet, horizontal distance, of the normal high-water line of a water body, tributary stream, or upland edge of a wetland when a natural buffer area does not exist. *Roger stated there is a natural buffer so the buffer area criteria is not required.*
- (h) All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.

D. Nonconforming structures.

- (1) Expansions. All new principal and accessory structures, excluding functionally water-dependent uses, must meet the water body, tributary stream, or wetland setback requirements contained in Section 105-18. A nonconforming structure may be added to or expanded after obtaining a permit from the same permitting authority as that for a new structure, if such addition or expansion does not increase the non-conformity of the structure and is in accordance with Subsection D(1)(a) and (b) below.
  - (d) An approved plan for expansion of a nonconforming structure must be recorded by the applicant with the registry of deeds, within 90 days of approval. The recorded plan must show the existing and proposed footprint of the non-conforming structure, the existing and proposed structure height, the footprint of any other structures on the parcel, the shoreland zone boundary and evidence of approval by the municipal review authority.
- (2) Patios, steps, decks. The addition of an open patio with no structures elevated above the ground level shall constitute the expansion of a nonconforming structure. The addition of steps shall not constitute the expansion of a nonconforming structure. But the addition of a deck does constitute the expansion of a nonconforming structure and must be in compliance with Subsection D(1).

Roger A. stated the best possible location, and he noted the Board has looked at this site before, is where it sits today without relocation.

Roger A. said with respect to the deck on Steve Foglio's side of the property, the distance between the deck and lot line will be less than 10 feet. Roger stated that under §105-18 'Dimensional requirements', the side setback requirements is that they must be a total of at least 30 feet. Roger stated the proposed combined side setback dimensions do not equal 30 feet.

Mr. Rajchel asked that Steve F. be seated in the audience because he is in the appearance of a Board member, he believed the statutes require he sit in the audience. Roger said that was fine, noting he cited he was abstaining from voting but if Mr. Rajchel would like him in the audience he will comply.

Mr. Rajchel stated that he would like the record to show that Steve Foglio made an appearance at the site inspection as a Planning Board member. Roger A. stated that anyone can attend a site visit. Mr. Rajchel stated that he had commented that he might not show up because he was a Planning Board member. Roger agreed with that statement.

Mr. Rajchel stated that he was before the Board, because 2 years ago he was before the Board representing the Rajchel Family Revocable Trust of 2014, which owns the property known as Map 18, Lot 19. He said there were two abutters here, Steve Foglio on Map 18, Lot 18, and Jim Conner representing the owner on Map 18, Lot 20.

Mr. Rajchel said that 2 years ago they were before the Planning Board asking for a Best Practical Location for the building. He said in the information he provided there were the building dimensions of what was approved 2 years ago. He said at the time one of the Planning Board members made a comment not to come to the Board until he had the property line in question recorded. He said as of this evening, there still isn't a recorded boundary line.

Mr. Rajchel said when at the site inspection he was asked how far he was from the boundary, they didn't have an answer. He said, that being said, assuming that the proposed boundary line carries forward and gets recorded, the closest distance from his surveyor (Corner Post Land Surveying), would be 14. 61 inches from part of the deck which is not there now. He said on the Conner side the closest point is 6.31 feet. He said this was not in the drawings the Board has, but he had a copy for everyone if they wanted it. The Board did ask for a copy and reviewed the plan. Mr. Rajchel said again that these distances are assuming the proposing boundary line gets recorded.

Board members, looking at the plan, noted that the side setbacks could not be met and because the deck was removed more than a year ago, they did not believe they could allow the new deck to sit where it is on the plan, as there would not be the cumulative setback dimensions of 30 feet. Ann noted without the deck he could meet the side setback requirements.

Roger A. stated to the audience that because the side setbacks could not be met according to the plan presented, and the fact the deck has been removed greater than a year, the Board can ask the applicant to meet the 30 foot setback. Mr. Rajchel asked, what if it was not due to his fault? Roger said that it did not matter. Roger added that he believed for a non-conforming use you had to get this done within a year and it has been greater than a year. (§105-4.J 'Expiry of Permit' 'Permits issued under this chapter shall expire after 90 days, unless a building permit is issued'.) Roger stated that the previous approval was no longer valid as it was 2 years ago and a building permit was never taken out. Mr. Rajchel asked if this was true if a comment was made during a meeting by Roland Legere that he shouldn't do anything if the boundary line issue wasn't solved. Roger said that the Board did not say this, a comment from a member does not matter. He stated it was not a requirement from the Planning Board that he wait to start. Roger said there would have to be a vote from the Planning Board stating he was required to wait for it to be valid.

Roger A. said at this time, either the dimension needs to be made on the plan, and signed by the applicant to create the 30 feet or the Board can deny it as presented. He said the Board could also table the application and wait for a new plan. Mr. Rajchel asked which dimension had to be changed?

Madge B. stated she wanted to point out that under §105-73.F it says, under (2) ‘A conditional use permit secured under the provisions of this chapter by vote of the Planning Board shall expire if the work or change involved is not commenced within two years of the date on which the conditional use is authorized.’ Roger said, ok. Madge asked how this jived with the 1 year mentioned. Barbara F. asked if she could say something about this. She said that this application is not a Conditional Use Permit. Madge thanked her and said she was correct.

Roger A. asked how Mr. Rajchel would like to move forward? Mr. Rajchel said he would like to table the application.

**Madge B. moved to table the application, so the applicant can amend his plan as needed. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion to table was approved.**

Mr. Connor, a member of the audience asked what just happened. Roger A. stated that the applicant cannot meet the side setback requirements, so the Board gave him the option to amend his plan now, make the change himself and initial it, or leave and come back with an amended plan. Ann H. said she believed it was in reference to the deck and the setback on that side. Mr. Connor asked if it was just the deck or the whole structure. Roger said it was all one piece. Mr. Connor asked if there would be another meeting. Roger said that yes, if they want to move forward with their plans. Mr. Connor asked what the setbacks were? Roger stated a total of 30 feet in the Shoreland zone. Roger said at present it is a total of 20.92 feet. Ann said that is a total of both sides. Roger said that because the deck is removed, they can shorten the footprint and meet the 30’ setback.

Roger A. asked Mr. Rajchel to let Barbara F. know when he was read to come back before the Board.

Nothing further was discussed.

**Conditional Use Permit – Replace Retaining Wall – Map 26, Lot 21 (265 16<sup>th</sup> Street Loop) – Matt Colton, Jr., Applicant; Barry Pierce, Property Owner**

Mr. Colton was present to review the application. He also is representing the property owner below – both walls are adjacent and will be reviewed simultaneously. See below.

Provided along with the application was an Agent Authorization Letter stating the following: Property Description: Tax Map 026-021, 24 16th Street Loop; The undersigned, registered property owners of the above noted property, do hereby authorize Mainely Barge LLC, to act on our behalf and take all actions necessary for the processing and acceptance of this permit and any and all standard and special conditions attached. Property Owner: Barry Pierce, P.O. Box 246, Springvale ME 04083, 603.651.8525, dated 7/27/21.

Provided was a copy of the Permit by Rule Notification Form for Barry Pierce, Description: Replace existing retaining wall in same location, length and height with Pepin precast Loc-block, dated 7/29/2021.

Provided were pictures of the existing railroad tie retaining wall and stairs to the water. There was extensive vegetation on site. The revegetation plan provided stated: Left side of Pierce property remove 2 – 3 6” trees that

are causing wall to fail, and replace with low lying bushes such as junipers or blueberry bushes. Large pine tree at property line to be removed because extensive root damage will occur with construction of new wall. Replant a tree on each parties property after construction is complete. Churchwell property has heavy ground cover on sloped section, it will be replaced with erosion control and ground cover will grow back through.

Detailed description of the project is as follows: *Replace existing retaining wall with new Pepin precast wall.*

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**Conditional Use Permit – Replace Retaining Wall – Map 26, Lot 22 (256 16<sup>th</sup> Street Loop) – Matt Colton, Jr., Applicant; Deborah Churchwell, Property Owner**

Mr. Colton was present to review the application(s). Mr. Arey was also present from Mainely Barge.

Provided along with the application was a statement from the property owner that stated the following: I give permission for Mainely Barge, LLC to pull permits for a retaining wall at my property located at 256 16<sup>th</sup> Street Loop, Shapleigh Maine. Deborah Churchwell, 1.339.227.5081

Provided was a copy of the Permit by Rule Notification Form for Deborah Churchwell, Description: Replace existing retaining wall in front of camp in the same location, length and height with Pepin precast block, dated 7/29/2021.

Provided were pictures of the retaining wall(s), deck and stairs leading to the deck. The revegetation plan provided stated: Left side of Pierce property remove 2 – 3 6” trees that are causing wall to fail, and replace with low lying bushes such as junipers or blueberry bushes. Large pine tree at property line to be removed because extensive root damage will occur with construction of new wall. Replant a tree on each parties property after construction is complete. Churchwell property has heavy ground cover on sloped section, it will be replaced with erosion control and ground cover will grow back through.

Provided was a sketch plan depicting both the Pierce property and the Churchwell property. On the Pierce property indicated was the location of the existing camp, location of the small trees to be removed, a porch, stairs, a note that says ‘wall steps up 2 feet’ and the measurement at the water of 65’ x 8’ indicating the length of the wall, with a notation ‘stepping up – stepping down’ with arrows. On the Churchwell side indicated was the location of the camp, well house, stairs with a notation ‘12’ stairs to landing’, the measurement of the wall being 66’ x 3’, and the location of 6 stairs toward the water. Also on the plan was the large pine located between the two properties down by the wall that is to be removed.

The detailed description of the project is as follows: *Replace existing retaining wall with Pepin precast wall block.*

*A site inspection was held prior to this evenings meeting for both properties.*

Roger A. began the discussion by stating both walls will be reviewed at the same time because they are adjacent to each other. Roger asked Mr. Colton to let the Board know what he wanted to do for the record.

Mr. Colton stated they would be replacing 2 retaining walls at the properties they walked on earlier. He said they would be the same height and length as the existing. He said one has a wooden deck and platform, which will be removed and replaced after construction of the wall. He said a large pine will be removed and some

vegetation on the Pierce property will be removed as it is causing failure of the wall. He stated it would be replaced with bushes such as junipers and blueberries. He stated erosion control will be in place and they will be replaced when the water goes down.

Barbara F. asked which property had the wooden deck? Mr. Colton stated that they both do. He said Mr. Pierce has a wooden deck with a railing and Ms. Churchwell has stairs to a wooden landing. Ann H. asked if the concrete wall that the landing is butting up to is staying? Mr. Colton stated that Mr. Pierce's is staying, it is stepped back.

Roland L. asked for the record, did Mr. Colton say there would be a clear delineation between the two walls / two projects. Mr. Colton said, correct, so if the property owner decides to change what they have for any reason, the seam will be staggered and at the property line there will be a solid joint and to the naked eye you won't see it but for the property owner you will see where the line is.

Steve F. asked if that line will be set by a surveyor or will he go with what the neighbor's think? Mr. Colton said that was a good question, and it was brought up by Roger A. He said the walls have never been surveyed before, and they have been replacing existing walls the same length and height with no issues. Steve said that he wasn't asking him to get it surveyed, he was just asking who places the line. Roger A. said under 105-4.D(9)(h) 'All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board'. Roger felt it was something the Board has missed on the last few approvals but it should be done. He said they are replacing the wall and it could be on heresy it is on the property line. Steve felt the flavor of the ordinance was for setting structures / buildings, etc. He understood it was in the ordinance, however, it's going to fall back on the property owner not the Planning Board, should those walls be off or the joint be off, whatever.

Mr. Colton stated that it makes sense both ways. He said with Mr. Pierce's it abuts up to an existing neighbors cement wall, if he has it surveyed and if it has to be moved 2 feet, doesn't that create an erosion problem? He said if everyone's wall isn't connected, there will be voids all around the lake. Roland L. said that the Board knows from experience, where people believe their property line is, especially in the Shoreland zoning area, doesn't always work out and sometimes more than just inches. Mr. Colton agreed. Ann H. said if the Board is supposed to protect the water and the walls are not kept continuous, there will be little canals going into the water. Roland agreed and said he was more supportive of coming up to an existing wall to prevent that from happening, as opposed to what might come up as a result of a survey. Mr. Colton added that he was replacing existing. He said he would understand if he was submitting a plan for a new wall, then he could see where a neighbor's boundary could come to be an issue. He thought it should be a case by case issue. Maggie M. thought that if in the future someone found out a survey line is perhaps 2 feet into a wall, they could put a marker there. They wouldn't have to tear the wall down if it is a good wall. Mr. Colton agreed.

Roger A. stated that in multiple locations in §105-4.D 'Nonconforming structures' any structure needs to be approved and a survey is required. He did not feel the Board could arbitrarily choose which walls to have surveyed and which walls do not get surveyed. Ann H. asked if the Planning Board could look at it and waiver. Roger said that the Board cannot in Zoning. He said in Subdivision they can but not in Zoning. Roland L. said that given that, is there anything that prevents the project from going ahead, and after they determine where the survey line is, that it is for the record. Steve F. stated that according to the ordinance it is not to determine where the boundary lines are, it is to determine that the structure is going back where the Board approved it. Roger

agreed. Roland said, so it's not encroaching on the lake anymore, that kind of thing. Roger agreed. Steve said for example, if you come up with a plan to place it 43.7 feet from the high water mark, that is where it needs to set.

Barbara F. asked about the fact this was being reviewed under earth moving in the Shoreland district, as a Conditional Use Permit, so do we still look at 105-4? She said a wall cannot move from its original location, so it's always been reviewed under earth moving. Steve F. said it was still a structure. CEO Demers asked if it was a structure? He read the definition of 'structure' which read as follows: Anything temporarily or permanently located, built, constructed or erected for the support, shelter or enclosure of persons, animals, goods or property or any kind, or anything constructed or erected on or in the ground. The term includes structures temporarily or permanently located, such as decks, patios and satellite dishes. Structure does not include fences; poles and wiring and other aerial equipment normally associated with service drops, including guy wires and guy anchors; subsurface wastewater disposal systems as defined in Title 30-A, Section 4201, Subsection 5; geothermal heat exchange wells as defined in Title 32, Section 4700-E, Subsection 3-C; or wells or water wells as defined in Title 32, Section 4700-E, Subsection 8. He said retaining walls were not pointed out but a fence is not a structure. Barbara said that in the past when asking the DEP, they stated that it was a structure. Ann H. stated that the definition of retaining wall was: 'A 'structure' that retains (holds back) any material (usually earth) and prevents it from sliding or eroding away.'

Mr. Colton asked about getting a letter from the abutter giving Mr. Pierce permission to abut to their wall, noting on the other side there is no need, because they are not going to the property line. He asked if this would work without having a survey, which is time and money. Steve F. asked if he knew if the property had been surveyed? Mr. Colton did not know. Barbara F. asked if this was one of those cases where the surveyor just states that the structure is where it is supposed to be? She didn't believe it was an actual survey and she asked CEO Demers if this were the case? CEO Demers said that yes, but it's time and money. He said they could come pin the retaining wall stating that it's on their property. Mr. Colton said if the property line goes four feet onto the property, then there is going to be issues. Roland L. stated that he did not believe they were speaking about where it begins and ends, it is where it is in relation to front and back. Mr. Colton asked if it was from the high water mark, and where they are replacing existing off the corners of the house. He asked if they were talking left to right. Roland said if he was understanding correctly, they want it documented from a surveyor that in fact the new wall is where the existing wall is now. Madge B. agreed, it didn't matter where the property line is, it matters where the wall is going. Ann H. said it's to be sure you are not putting it a foot closer to the water.

Mr. Colton asked if it could be as simple as him pulling a tape off the corner of the house to the wall? Steve F. said that was pretty close to what they need, but it is not a survey. Mr. Colton asked if he had to have a surveyor come before and after the project? Steve said he didn't feel right starting now, pinning this on this application. He believed it was something the Planning Board should address but not now. Mr. Colton said when Code comes out they pull a tape to be sure it is where it has always been. Roger A. said that he agreed, but when he was reviewing the ordinance, he read that all the walls should have the survey. He thought the walls should be on the property that they are supposed to be on.

Madge B. asked if Roger A. was looking at the provisions under §105-4.7(c) 'All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board'. Roger said yes, 7(c) and 9.H. Madge said that she did not see anything about a lot line. She said all they need to do is have the surveyor come out and say the wall is in the



same location. Steve F. agreed. Roland L. said that requires 2 visits, they have to pick spots on the wall and measure and then go after the wall is completed. Madge agreed, she was sorry about it but it was what was required. Roland said, "Shame on us for not having pick this up before". Ann H. asked, since the Board didn't pick this up before, can the Board condition that CEO Demers takes measurements before they take it down and then measures afterward? Madge stated that that did not meet the requirements in the ordinance. She said if the Board follows the ordinance, they cannot ask this. Steve said he wouldn't pin this on the applicant.

Mr. Colton stated, if they go to Mr. Pierce's place and a surveyor comes out and GPS's everything, what happens when the neighbor's wall is on his side? Steve F. stated they are not going to know that. Steve said this is not a boundary survey, there is no title work being done. He said they are going to locate the existing wall, period. Mr. Colton stated that Roger said they are going to be sure it is on the property. Steve said that is not what they are doing, they are going to put where the wall is and that is where you are going to put it. Ann H. added that it is not a new wall, it is a replacement. Steve said it will be 2 visits, a before and after. This is where it was, this is where it's going. He said if there is an old survey, great, but it is not the Boards concern. Roger said that should the surveyor find out the wall is not on the property, then the applicant can decide whether or not they want to go forward with it. Mr. Arey asked if there was a grace period, because sometimes the wall has already collapsed. Will it be plus or minus a foot? Steve said the surveyor will have to tell the Board or CEO Demers it is where it was before. Mr. Colton asked if this would be what is done from now on? Ann said, "Yes, in Shapleigh".

Madge B. asked if the Board knew about revegetation? Roger A. stated that they had a revegetation plan. Madge B. asked if the wall was greater than 4 feet high? Roger said it was, that is why they needed the engineered stamp on the plan, which they provided.

Roger A. asked what the start date would be? Mr. Colton stated it would be anytime from now forward and he would have it completed, including revegetation, by June. Roger stated the end date would be June 2022.

**The findings for §105-73.G 'Standards applicable to conditional uses' are as follows:**

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds, or other wildlife habitat. ***It will not, the new retaining wall(s) will help protect fish and aquatic life.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Replacing the failing wall(s) will help to conserve shore cover and access to the lake, by stabilizing the area.***
- 3) The use is consistent with the Comprehensive Plan. ***The Comp Plan is in favor of protecting the health of the lake.***
- 4) Traffic access to the site is safe. ***It is safe for the proposed use.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***The project is not in the flood zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***The existing wall material will be taken out of Shapleigh and disposed of at the proper facility. It will not go to the transfer station.***

- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***The existing creosote railroad ties will be taken out of Shapleigh and disposed of properly.***
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***The new wall(s) will be constructed per Pepin's engineering plans.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best management practices will be in place during the project and until all revegetation is completed.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***N/A for this application.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors, and the like. ***There is existing vegetation, the area behind the wall will be revegetated per the re-vegetation plan. Low bush blueberries & juniper shall be used. The only noise is during the project. There is no glare, fumes, dust and odors associated with this project.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall with conditions.***

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

- 1) **The project, including the revegetation per the plan provided, shall completed by June 2022.**
- 2) **The existing wall material, decks and stairs to be removed, shall be taken out of Shapleigh and brought to the proper facility. Nothing shall be taken to the Shapleigh Transfer Station.**
- 3) **Best Management Practices shall be kept in place until the revegetation is completed.**
- 4) **A survey by a licensed surveyor, placing the existing wall and new wall location shall be provided to the Code Enforcement Officer.**

**Madge B. moved for approval of the Conditional Use Permit to replace the existing retaining wall(s) per the plan provided on Map 26, Lot 21, and Map 26, Lot 22. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.**

Nothing further was discussed.

**Findings of Fact**

1. The owner(s) of Shapleigh Tax Map 26, Lot 21 (264 16<sup>th</sup> St. Loop) are Karen & Barry Pierce, mailing address P.O. Box 246, Springvale, Maine 04083 per YCRD Quitclaim Deed, BK 15647, PG 732, recorded 6/4/2009.
2. Provided was a copy of the Permit by Rule Notification Form for Barry Pierce, Description: Replace existing retaining wall in same location, length and height with Pepin precast Loc-block, dated 7/29/2021.
3. Provided were pictures of the retaining wall(s), deck and stairs leading to the deck. The revegetation plan provided stated: Left side of Pierce property remove 2 – 3 6” trees that are causing wall to fail, and replace with low lying bushes such as junipers or blueberry bushes. Large pine tree at property line to be removed because extensive root damage will occur with construction of new wall. Replant a tree on each parties property after construction is complete. Churchwell property has heavy ground cover on sloped section, it will be replaced with erosion control and ground cover will grow back through.

4. Provided was a sketch plan depicting both the Pierce property and the Churchwell property. On the Pierce property indicated was the location of the existing camp, location of the small trees to be removed, a porch, stairs, a note that says ‘wall steps up 2 feet’ and the measurement at the water of 65’ x 8’ indicating the length of the wall, with a notation ‘stepping up – stepping down’ with arrows. On the Churchwell side indicated was the location of the camp, well house, stairs with a notation ‘12’ stairs to landing’, the measurement of the wall being 66’ x 3’, and the location of 6 stairs toward the water. Also on the plan was the large pine located between the two properties down by the wall that is to be removed.
5. The detailed description of the project is as follows: *Replace existing retaining wall with new Pepin precast wall.*
6. The application as presented met the Standards under §105-4.D ‘Non-conforming structures’ per the documentation provided and as presented with four conditions.
7. The application as presented met the performance standards under §105-73 ‘Conditional Use Permits’ as per the documentation provided and as presented with four conditions.
8. A notice was mailed to all abutters within 500 feet of the property on August 11, 2021. Meetings were held on Tuesday, August 10, 2021 and Tuesday, August 24, 2021. A site inspection was done by members prior to the meeting on August 24th.
9. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing railroad tie retaining walls on Map 26, Lot 21, per the documents provided and as presented with four conditions.
10. **The conditions of approval are as follows:**
  - 1) **The project, including the revegetation per the plan provided, shall be completed by June 2022.**
  - 2) **The existing wall material, decks and stairs to be removed, shall be taken out of Shapleigh and brought to the proper facility. Nothing shall be taken to the Shapleigh Transfer Station.**
  - 3) **Best Management Practices shall be kept in place until the revegetation is completed.**
  - 4) **A survey by a licensed surveyor, placing the existing wall and new wall location shall be provided to the Code Enforcement Officer.**

**Decision:**

**The Conditional Use Permit to replace the existing deck & railroad timber / block wall(s) with precast blocks, per the engineering specification provided by R. Pepin & Sons, the same length and height as the existing, and revegetate the area per the plan, on property known as Tax Map 26, Lot 21 (264 16<sup>th</sup> Street Loop) with four conditions, was approved.**

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**Findings of Fact**

1. The owner(s) of Shapleigh Tax Map 26, Lot 22 (256 16<sup>th</sup> St. Loop) is Deborah L. Churchwell of 95 Salmon Falls Road, Rochester NH 03867 per YCRD Quitclaim Deed, BK 13949, PG 288, recorded 2/19/2004.

2. Provided was a copy of the Permit by Rule Notification Form for Deborah Churchwell, Description: Replace existing retaining wall in front of camp in the same location, length and height with Pepin precast block, dated 7/29/2021.
3. Provided were pictures of the existing railroad tie retaining wall and stairs to the water. There was extensive vegetation on site. The revegetation plan provided stated: Left side of Pierce property remove 2 – 3 6” trees that are causing wall to fail, and replace with low lying bushes such as junipers or blueberry bushes. Large pine tree at property line to be removed because extensive root damage will occur with construction of new wall. Replant a tree on each parties property after construction is complete. Churchwell property has heavy ground cover on sloped section, it will be replaced with erosion control and ground cover will grow back through.
4. Provided was a sketch plan depicting both the Pierce property and the Churchwell property. On the Pierce property indicated was the location of the existing camp, location of the small trees to be removed, a porch, stairs, a note that says ‘wall steps up 2 feet’ and the measurement at the water of 65’ x 8’ indicating the length of the wall, with a notation ‘stepping up – stepping down’ with arrows. On the Churchwell side indicated was the location of the camp, well house, stairs with a notation ‘12’ stairs to landing’, the measurement of the wall being 66’ x 3’, and the location of 6 stairs toward the water. Also on the plan was the large pine located between the two properties down by the wall that is to be removed.
5. The detailed description of the project is as follows: *Replace existing retaining wall with Pepin precast wall block.*
6. The application as presented met the Standards under §105-4.D ‘Non-conforming structures’ per the documentation provided and as presented with four conditions.
7. The application as presented met the performance standards under §105-73 ‘Conditional Use Permits’ as per the documentation provided and as presented with four conditions.
8. A notice was mailed to all abutters within 500 feet of the property on August 11, 2021. Meetings were held on Tuesday, August 10, 2021 and Tuesday, August 24, 2021. A site inspection was done by members prior to the meeting on August 24th.
9. The Planning Board unanimously agreed to approve the Conditional Use Permit to replace the existing railroad tie retaining walls on Map 26, Lot 22, per the documents provided and as presented with four conditions.
10. **The conditions of approval are as follows:**
  - 1) **The project, including the revegetation per the plan provided, shall be completed by June 2022.**
  - 2) **The existing wall material, decks and stairs to be removed, shall be taken out of Shapleigh and brought to the proper facility. Nothing shall be taken to the Shapleigh Transfer Station.**
  - 3) **Best Management Practices shall be kept in place until the revegetation is completed.**
  - 4) **A survey by a licensed surveyor, placing the existing wall and new wall location shall be provided to the Code Enforcement Officer.**

**Decision:**

The Conditional Use Permit to replace the existing deck & railroad timber / block wall(s) with precast blocks, per the engineering specification provided by R. Pepin & Sons, the same length and height as the existing, and revegetate the area per the plan, on property known as Tax Map 26, Lot 22 (256 16<sup>th</sup> Street Loop) with four conditions, was approved.

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**Amendment to a Best Practical Location – Change Approved Location – Moving Farther from the High Water Line – Map 30, Lot 43 (22 Hemlock Rd) – Kevin Sevigny, Applicant & Property Owner**

Mr. Sevigny was present for the review of the application.

Provided along with the application was a sketch plan drafted by Joseph L. Stanley, PLS #2453, of LinePro Land Surveying, which depicted Map 30, Lot 43, showing it as being 35,732 ± Square Feet in size, as well as the location of the existing house, steps & deck; the location of the existing 2 sheds; location of the existing well; and the proposed location of new house with attached garage. Hemlock Road was also on the plan, along with the 17' BPL to the high water mark, the 100' setback to the high water mark, and the 50' setback per the CEO from the corner of the lot. The new structure is noted as being 54.7' from the high water mark at its closest point and 10.9' from the lot line of Map 30, Lot 44.

Provided was a re-vegetation plan which had an arrow pointing to the location of the existing house that said 'revegetated'.

The detailed description of the project is as follows: *Tear down existing camp and build new single family house. Remove storage shed as well.*

This Best Practical Location was previously approved on March 23, 2021, with a 36' x 48' footprint, moving the structure back 17' from the high water mark / existing concrete wall. The conditions of that approval were as follows:

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

Roger A. began by stating to ensure no conflict of interest, he was turning the review of this application over to Vice Chairman Steve F. (Roger is related to Mr. Sevigny.)

Steve F. asked Mr. Sevigny to tell the Board what he wanted to do. Mr. Sevigny stated he was amending the prior best possible location, moving the structure farther back. He stated the existing structure is going to be removed, and it is currently approved to be rebuilt at 17 feet from the retaining wall. He said he would be pushing it back about 55 feet from the water. He stated it allowed him to have a bigger lawn in front of the structure. He said again the existing structure will be moved back about 55 feet, and the area where the existing structure is will be revegetated.

Madge B. stated that because it is a best practical location the Board should do another site inspection.

**Steve F. stated the site inspection will be held on Tuesday, September 14<sup>th</sup> at approximately 5:30 pm. A notice to abutters will be mailed as well.**

Nothing further was discussed.

**Best Practical Location – Expand Footprint of the Structure Adding a Foundation – Map 26, Lot 33 (126 1<sup>st</sup> Street) – Steve & Nancy Nicolucci, Applicant(s); Richard Grant, Property Owner**

Mrs. Nicolucci was present for the review of the application.

Provided along with the application was a sketch depicting the existing house as being 970 sf in size. The sketch showed the distance to the high water mark as being 20' at its closest point. Also shown on this sketch was the location of the septic system and existing 20' x 24' garage.

Provided was a sketch plan of the proposed addition being 235 sf in size which was noted as being less than a 30% expansion. The plan showed a 12' x 15' addition on the north side and a 7' x 5' entry on the side facing the road. A sketch labeled 'Alternate Proposal' for a proposed addition, showed the addition as being 290 sf in size or a 30% expansion. The addition was a 2' x 10' porch on the north side and a 12' x 23' addition on the road side.

Provided this evening was a sketch plan of the 'Existing property'. The plan depicted the lots property line between the adjacent lots, as well as the location of the water. The sketch showed the existing house to be 43' x 23' in size. It was shown to be 93' from the high water mark from the farthest point of land, 34' to the high water mark at the closest point on the north side, and 20' to the high water mark on the south side. The distance from the existing house to the lot line of Map 26, Lot 32 was depicted as 60 feet, the distance from the structure to the road is 82 feet, and the distance to the 20' x 24' garage is 32' 7". The garage was noted as being 20' from the property line of Map 26, Lot 34.

Provided this evening was a sketch plan of the proposed addition to the existing house. The distance to the high water mark from the addition, which is located on the north side, will be 39' at its closest point. The distance from the addition to Map 26, Lot 32 will be 50 feet. The addition is 14' x 15' in size.

The detailed description of the project is as follows: *Add a foundation; expand footprint 200 sf; add ½ bath upstairs; possible addition of dormers on North side; remove an existing fireplace. If raising the house safely is*

not an option (for a foundation), then a complete rebuild may be necessary. Possible addition of a small shed @ 10' x 12'.

Roger A. asked Mrs. Nicolucci to let the Board know what she wanted to do. Mrs. Nicolucci stated that they were looking to put a foundation under the existing structure and adding the allowed 30%, as there have been no changes to the structure since it was built. Mrs. Nicolucci noted that she brought a new sketch this evening, which depicted the distances to the lot lines. The prior sketch did not have those figures.

Roland L. asked if it was the last house on the point? She stated that it was. Roland said he knew the location well. Madge B. stated that the Board needed to do a site inspection.

**Roger A. stated that a site inspection would be held on Tuesday, September 14<sup>th</sup> at 5:00 pm. A notice to abutter will be mailed as well.**

Mrs. Nicolucci stated she would be out of town but her father, the property owner, would attend. Barbara F. stated that he would also need to attend the meeting at 7:30 pm. Mrs. Nicolucci asked the Board if they needed anything further. They stated they did not.

Nothing further was discussed.

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**Conditional Use Permit – Medical Marijuana Caregiver Business – Map 4, Lot 32-2 (118 Cross Road) – Carrie Coull Martel, Applicant; Paul Martel, Property Owner**

Mr. & Mrs. Martel were present for the review of the application.

Provided along with the application was a copy of Carrie A. Coull’s Driver’s License and Medical Caregiver License authorizing her for a Plant Canopy of 500 square feet, dated 10/26/2020, and expiring on 10/25/2021. Provided was Paul R. Martel’s Driver’s License and Medical Caregiver Assistant card, dated issued on 5/19/2021 and expiration date of 5/18/2022. A copy of the MMMP Certification (Maine Medical Marijuana Program) card for Carrie A. Martel was provided, dated issued on 4/30/2021 and a copy of Paul Martel’s MMMP Certification card was dated issued on 4/30/2021, both expire on 4/30/2022.

Provided was a copy of the State of Maine, Office of Marijuana Policy, Maine Medical Marijuana User Individual Caregiver Retail Location Registration, that being Nature’s Gift Medical, 1384 Carl Broggi Hwy, Lebanon, authorized for 6 mature and 2 immature and/ or harvested plants. Also the State of Maine, Maine Revenue Services, Resale Certificate valid through December 31, 2023, Certificate No. 1161820 for Nature’s Gift & Wellness, 1384 Carl Broggi Hwy, 256 Lower Middle Rd, Lebanon, Maine.

Provided was a letter from Tim Bragdon of Nature’s Gift Medical, which read as follows:  
*Carrie Martel has been supplying Natures Gift with high-quality marijuana product for the last 8 months. She has supplied all appropriate paperwork and has been up to date when delivering. We hope you will consider her application as we would like to continue her service for the future. She has been donating to our veterans’ program which continues to grow. She is an outstanding individual.*

Provided was a copy Chapter 251, ‘An Act to Make Technical Changes to the Maine Medical Use of Marijuana Act’, approved by the Governor on June 17, 2021.

Provided was an aerial picture of the existing property which includes the existing mobile home with addition, along with the garage to be used; a sketch plan which depicted the 14 x 70 mobile home with 14' x 40' addition, location of the leach field, driveway and 24' x 40' 3 bay garage with 12' x 20' addition; and a sketch of the 'Interior Operations' in the garage, showing areas entitled auto flower, vegetation seedlings, canopy, etc.

The detailed description of the project is as follows: *Carrie Martel is a state licensed medical cannabis caregiver who was licensed in October of 2020 with a 500 square foot canopy license. In November of 2020 she made a substantial donation to Nature's Gift Medical to distribute to veterans suffering with issues such as PTSD which is the leading cause of veteran suicide in this country. This act of kindness founded the veteran's donation program and set an example for other caregivers to do such good deeds. Carrie being a medical patient herself due to a car accident and a boat accident knows what medical patients need, which is relief from pain and inflammation and depression associated with such issues. Carrie would like to simply keep working with Nature's Gift Medical and looks forward to growing in the community and to continue to do the good deeds in the future. As a licensed agent in a highly regulated business our goal is 100% compliance with all local and state agencies which brings us here today.*

*Madge B. stated she would step down from the review of this application, as this was her neighbor.*

Roger A. asked Mrs. Martel to let the Board know what she wanted to do. Mrs. Martel stated she had a caregiver license and was producing product under this license. Roger stated that there was no retail of marijuana or marijuana products in Shapleigh. Mr. Martel stated that they understood, all their products went to Nature's Gift in Lebanon who does the retail sales. He said that they were currently the only customer. Mrs. Martel stated they just do the growing and then they sell it. Mr. Martel said Nature's Gift take care of all the paperwork and the fun stuff.

Ann H. asked them if they were going to build another building on the property. Mr. Martel said, "No, it's just coming time to renew the license." Ann asked if the Board went to their place before? Mr. Martel did not believe so. Roger A. said the Board had never been there. Steve F. stated there was one on Square Pond. Roger noted that that business was no longer in operation.

Ann H. asked where it would be? Mr. Martel said it would be in the garage. Steve F. asked if all the structures were on site now? Mr. Martel said, "Yes". Mrs. Martel said, "There will be no new structure". She said they just turned a 3 bay garage into the grow area.

Roger A. asked how they would dispose of the soil? Mr. Martel said that they recycle it, reusing it every year. Ann H. asked what they did with the stalks? Mr. Martel said, "Compost, there is a compost pile out back". He said that when they do a normal harvest they bag everything up and it goes to the dump. He said if they are cutting plants down and there is an issue with mold or something, then those get composted.

Ann H. asked if there were any filters where they are growing? Mr. Martel said it was a closed loop grow space, so there is no air being transferred from inside to outside. He said there is filtration inside the building to prevent things like mold and mildew, environmental controls such as AC and dehumidifiers.

Steve F. asked if everything would be in one building? Mr. Martel said, "Yes". Ann H. asked if he would have to add more lighting. Mr. Martel stated that everything was LED lighting. Ann asked if there were sprinklers or was there automatic watering? Mr. Martel said that those that are hydro equipped have automatic watering,



which is what they are working on. He said they are trying to make things as least physically demanding as possible, so he can help as much as possible.

Ann H. asked if they have to do an osmosis thing with propane? Mr. Martel said the only thing having to do with osmosis is water, not propane. Ann said she didn't know if it had to be heated? Mr. Martel said they had reverse osmosis set up but it was just filtering water. He said it hasn't been set up yet, and it came with a water softener they purchased. He said with respect to propane, they do use CO2 generators, so when the lights turn on, it's on a timer, it turns on for a second and burns for maybe 30 seconds until the parts per million reaches 1500, then it shuts off. He said as long as the room stays closed, it will stay that way for the duration of that time. Mr. Martel said they use small 30 pound tanks that are very efficient. He said a 30 pound tank lasts them 60 days.

Roland L. said that he could see grow space on the plan but asked if there was there an area designated for when it is harvested. Mr. Martel said it would be in the area of the stairway, because not everything is harvested at once. He said it was a perpetual grown. Roland said, "So it says auto flower here". Mr. Martel said that was a different type of plant. He said there are two types of cannabis plants, an auto flower and photo period plant. He said an auto flower plant, it doesn't matter how much daylight it gets, it's going to start to flower in a certain amount of days and it has a certain life span. He said a photo period plant you can plant it, keep it running under 18 hours of daylight, and grow the thing for 20 years, it will just get bigger and bigger. He said until you change the lights to 12 hours a day, they are never going to start flowering. Roland laughed and noted how things have changed from the 70's. Roland added that the last site inspection done for this type of business he found to be very fascinating.

Steve F. said that a site inspection would be after two others, so he wasn't sure what the time would be. Ann H. stated that she knew the plants were susceptible to mold and parasites, so should the Board wear protective coverings on their shoes. Mr. Martel did not believe so, because that is usually done to prevent micro-contamination between rooms or facilities. Mrs. Martel stated she would be more concerned if they went to another grow facility then came to theirs. Mr. Martel agreed. He said they may get some slip on shoe covers for the Board, noting he doesn't wear his shoes in the garage. Ann said she knew of places where you have to take your shoes off before entering.

**Roger A. stated the site inspection would be on Tuesday, September 14<sup>th</sup> around 6:00 pm. There will be a public hearing at 7:00 pm and a notice to abutters mailed.**

Nothing further was discussed.

**Conditional Use Permit – Solar Power Installation – Map 2, Lot 9 (987 Back Road) – MEVS Brown, LLC, Applicant; Michael Brown, Property Owner**

The applicant provided a very detailed application and was unable to attend this evening, so the Board members reviewed the material.

**Roger A. stated that a site inspection will be held at approximately 6:30 pm, and a public hearing scheduled for Tuesday, September 14<sup>th</sup> after the previous application. A notice to abutters will be mailed as well.**

Provided along with the application were the following:



### **Project Description**

MEVS Brown, LLC (the “Applicant”) is developing a solar photovoltaic (“PV”) project (the “Project”) on land owned by Michael Brown at 987 Back Road in Shapleigh. A site plan showing the project is provided as Attachment A. A tax map with the parcel’s location is provided in Attachment B.

MEVS Brown, LLC has executed a lease option agreement whereby MEVS Brown, LLC has the exclusive right to develop a solar project on specified land over a two-year period. A copy of the redacted lease option agreement is available upon request. If the development activities are successful and the Project is approved by Central Maine Power (“CMP”), MEVS Brown, LLC will construct the Project, and own and operate the facility during a 21-year lease period which may be extended for three additional five-year periods (i.e., 36-year lease).

The proposed Project is a 7.44-megawatt (“MW”) direct current (“DC”)/ 4.98- MW alternative current (“AC”) photovoltaic (“PV”) ground mounted solar facility. The area enclosed by the Project is approximately 19.5 acres. The solar array is comprised of solar PV modules attached to a fixed tilt racking system which is anchored by a series of pile driven posts. The panels will face due south (180°) with a tilt angle of 25°. The height of the solar panels is less than 14 feet above ground level. There is ancillary electrical distribution equipment within the array including inverters that convert the PV generated electricity from DC to AC. The site is enclosed by a chain link fence 7 feet tall. The project site will be accessed from Back Road by a short 15-foot-wide gravel road. The plan also shows a separate electrical conduit along the north parcel line to minimize impacts on the landowner.

Construction will entail various site preparations, including tree removal for the site, and installation of a temporary access road from the southwest corner of the property. The piles to support the racking system can be installed along the existing contours. The vegetation of the developed site will be managed as a field with annual cutting to ensure that vegetation does not grow up and shade the solar panels.

Operations and maintenance of the site is primarily conducted by monitoring performance remotely, conducting site visits to perform corrective maintenance in response to abnormalities in operations, and implementing an annual preventive maintenance protocol to ensure optimum system performance.

MEVS Brown has executed an interconnection agreement with Central Maine Power (CMP) for this Project. The Project will interconnect to the 12.47 kV distribution system along Back Road. A copy of the redacted interconnection agreement with CMP is available upon request. In addition, MEVS Brown LLC has also entered into long term power purchase agreements with prominent Maine commercial and industrial entities that will save significantly on their utility bills once the Project has been constructed and commissioned with no upfront cost to these entities. As of the date of this application, 100% of the power from the MEVS Brown solar project has been subscribed.

There will be little traffic generated by the Project. The construction period will extend for approximately 4-6 months. Construction personnel will assemble at the site daily in the morning and depart the site in the evening. There will be periodic delivery of solar facility equipment from the temporary construction road off Route 109 which can be scheduled to minimize impacts on local traffic. Once constructed, permanent access will be gained from the existing driveway off Back Road. There will be minimal traffic with only periodic inspections and responses to maintenance as necessary.

The Project will participate in Maine's solar program enacted under legislation referred to as LD 1711. The power from the Project will be virtually sold to nearby municipalities and businesses and will help these entities save on their utility bills.

**Standards Applicable to Conditional Uses From § 105-73G**

*Underlined Sentences are taken directly from Shapleigh's code. The Applicant's responses are below.*

1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.

Wetlands and vernal pools were delineated, and the project has been sited to avoid impacts to these environmentally sensitive areas as shown in Attachment A, Site Plan. An area of less than 4,300 square feet of wetland will be disturbed by vegetation removal, but direct impacts are limited to a smaller area associated with the piles holding up the racking system. There are four seasonal drainage areas within this property and crossings will be accomplished by spanning the drainageways with culverts to allow drainage patterns to be undisturbed.

The applicant has sought input from regulatory agencies with regard to potential impacts and responses are provided in Attachment C. The Maine Department of Inland Fisheries and Wildlife (MDIFW) has identified the property to provide potential habitat for Blanding's Turtle, a species listed under the State Endangered Species Act. To protect turtle habitat in accordance with MDIFW guidance, the project will not disturb the buffer zones of significant vernal pools delineated on the property. The Applicant will continue to coordinate with MDIFW and other agencies to ensure compliance with Maine's environmental statutes. By employing guidance on undisturbed buffer zones, the Project will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.

2) The use will conserve shore cover and visual, as well as actual, access to water bodies.

The visual impact of construction and operation of the Project will be minimal since the parcel is heavily forested. Existing trees, shrubs, and other foliage act as a visual buffer. This buffer will hide most construction activities that occur within the parcel and the Project itself, once finished. The trees along the border of the parcel are tall, thick, and dense. The Project should not be visible from any areas along the northern, eastern, western, or southern borders given the current tree status. No water bodies are accessed through the parcel, and thus the Project will not restrict access to any water bodies. The parcel is not located in a Shoreland Zone as shown in Attachment B.

3) The use is consistent with the Comprehensive Plan.

The proposed Project will facilitate the construction and operation of the solar project, described in detail in Section I of this document. The existing project site is undeveloped land between Back Road and Highway 109.

This Project complies with and promotes the goals and themes of Shapleigh's Comprehensive Plan (the "Comp Plan"). This includes themes such as, but not limited to, promoting an economic environment "based primarily on the quality of lakes, rivers, streams, and forests, [where lakes] and ponds should continue to be a priority" (Section E, Policy 3), and "[protecting] significant wetlands to maintain their ability to provide cover and habitat for wildlife, absorption of phosphorous and other nutrients, as well as other values associated with wetlands" (Section D, Policy 5).

In relation to Shapleigh's economic development goals, Shapleigh's emphasis on lake, river, and stream quality is directly shared with the objectives of the Project. In particular, as shown in the Site Plan (Attachment A), important bodies of water have been avoided. During the life cycle of the Project, direct contact with significant bodies of water will be limited to crossings of the seasonal drainage areas thus preserving the characters and qualities of Shapleigh's bodies of water on-site and downstream.

Furthermore, in relation to the Comp Plan's Policy 5 of Section D, wetlands and vernal pools were delineated, and environmental impacts have been minimized as shown in the Site Plan, Attachment A. The wetlands and vernal pools will fundamentally be undisturbed for the Project's life, thus preserving and protecting natural resources, waters, and habitats.

Moreover, the Comp Plan emphasizes the importance of "[protecting] the quality of surface and groundwater by directing development into areas with adequate soil capacity for waste disposal" (Action F, Page 23). It is in the best interest for the Project to avoid areas with surface or groundwater. As shown in the Project's Site Plan (Attachment A), the Project avoids any development directly on any areas of surface or groundwater; rather, the Project is proposed to be built on areas of land with adequate soil and grounding. Furthermore, in reference to the Stormwater Management and Erosion Plan, the Project does not show to have an adverse impact to surrounding surface or groundwater.

In conclusion, the proposed Project complies with and promotes Shapleigh's Comprehensive Plan by protecting natural resources, natural features, and watersheds, allowing for an economically feasible use of the parcel while preserving existing uses.

4) Traffic access to the site is safe.

There will be little traffic generated by the Project. Construction activity will be greatest during the construction period, which will extend for approximately 6 months. After construction is finished, there will be minimal

traffic with only periodic inspections (estimated to be four times per year) and responses to unplanned maintenance as necessary. The site will be accessed by newly built gravel roads from the east for permanent access and the west for temporary access during construction. No pedestrians will be permitted to circulate within the Project, which will be surrounded and secured by fence.

5) The site design is in conformance with all municipal flood hazard protection regulations.

The parcel is not located in a flood hazard zone as shown in Attachment B.

6) Adequate provision for the disposal of all wastewater and solid waste has been made.

No on-site sewage disposal is proposed. The Applicant's response to Section IV-13 of this document regarding solid waste disposal is incorporated herein.

7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.

The Project will not produce any hazardous waste. Therefore, provisions for the transportation, storage, and disposal of any hazardous materials are not necessary.

8) A stormwater drainage system capable of handling a fifty-year storm without adverse impact on adjacent properties has been designed.

Stormwater calculations are provided in Attachment D. A stormwater drainage system is not appropriate for this type of development given that little new impervious area is proposed. New stormwater from the proposed gravel access road will be managed naturally in protected roadside buffers. Also refer to Section IV-6.

9) Adequate provisions to control soil erosion and sedimentation have been made.

An Erosion Control Plan is provided in Attachment D. The plan has been developed and will be implemented consistent with the State's Guidance on best management practices. Also refer to Section IV-7.

10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes.

A water supply is not necessary for the operation of the Project.

11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like.

Neighboring properties will not be affected by the project given its isolated location surrounded by woodlands. The Project will not emit odors, dust, nor fumes. The Project's height will not exceed 14 feet which will be screened by natural woodlands. The Project will not restrict light or air to neighboring properties given its remote location. The Project will not create a noise nuisance, as the inverter field will not produce more than 45 decibels at the property line. Glare and glint from the Project will be minimal since the modules are designed to absorb light, not reflect it. Vegetation will also shield abutters from possible glare or glint.

12) All performance standards in this chapter applicable to the proposed use will be met.

**Basic Performance Standards from Chapter 105: Zoning**

1) Traffic.

The proposed development shall provide for safe access to and from public and private roads. Safe access shall be assured by locating an adequate number of access points, with respect to sight distances, intersections, schools and other traffic generators. Curb cuts shall be limited to the minimum width necessary for safe entering and exiting. The proposed development shall not have an unreasonable negative impact on the Town road system and shall assure safe interior circulation within its site by separating pedestrian and vehicular traffic and providing adequate parking and loading areas. All exit driveways shall be designed according to the following standards of safe sight distance:

Please see the Applicant's responses regarding traffic access in Section III-4 of this document. All exit driveways are designed in accordance with the county's safe sight distance requirements. The temporary construction access point as shown in the Proposed Conditions Plan provides 315 feet of sight distance to the north and 536 feet of sight distance to the south. Shapleigh's zoning code specifies a minimum of 245 feet of sight distance for access onto a road with a posted speed limit of 35 mph. Please see Attachment E for an overview of the temporary construction access point sight distance.

2) Noise.

Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness or volume. (Please refer to the table below.) The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this chapter shall be established by the time period and type of land use listed below. Sound pressure levels shall be measured on a sound-level meter at all major lot lines of the proposed site, at a height of at least four feet above the ground surface. (Please see Appendix A at the end of this chapter for an explanation of these noise levels.)

During the construction period the noise level will not exceed 60 dB at the major lot lines, and construction activities will not occur after 10 p.m. or before 7 a.m. After the construction period, noise generated by the Project will be minimal and will not exceed 45 dB decibels at the major lot lines.

3) Dust, fumes, vapors and gases.

Emission of dust, fly ash, fumes, vapors or gases which could damage human health, animals, vegetation or property, or which could soil or stain persons or property at any point beyond the lot line of the commercial or industrial establishment creating that emission, shall be prohibited. All such activities shall also comply with applicable federal and state regulations.

The Project will not emit any dust, fly ash, fumes, vapors, or gases that would damage human health, animals, vegetation or property, or soil or stain persons or property at any point beyond the lot line of the commercial or industrial establishment. Additionally, all activities performed during this Project will comply with federal and state regulations.

4) Odors.

No land use or establishment shall be permitted to produce offensive or harmful odors perceptible beyond its lot lines, either at ground or habitable elevation.

This Project will not produce any odors.

5) Glare.

No land use or establishment shall be permitted to produce a strong dazzling light or reflection of that light beyond its own lot lines into neighboring properties, or onto any Town way so as to impair the vision of the driver of any vehicle upon that Town way. All such activities shall also comply with the applicable federal and state regulations.

The solar panels (modules) are designed to absorb light, so light or glare from the Project will be minimal and will not produce a strong dazzling light or reflection of that light. Existing trees and vegetation will serve as a visual buffer and block possible glare or glint from abutting properties as shown in the Site Plan provided in Attachment A.

6) Stormwater runoff.

Surface water runoff shall be minimized and shall be detained on-site if possible and practicable. If it is not possible to detain water on-site, downstream improvements to the channel may be required of the developer to prevent flooding caused by this project. The natural state of watercourses, swales, berms, terraces, wooded areas and floodways or rights-of-way shall be maintained as nearly as possible. The design period is the 100-year storm (the largest storm which would be likely to occur during a 100-year period) Stormwater runoff control systems shall be maintained as necessary to ensure proper functioning.

The stormwater report for the project is provided in Attachment D. It shows that the project results in a minimal amount of new impervious surface (0.67 acres) primarily from the construction of an extended gravel access road. Runoff from the gravel road will be managed per DEP Guidelines through the use of roadside buffers to ensure that surface water runoff is detained on-site. Natural drainage of the site will be maintained further protecting downstream areas from runoff and flooding. Due to the small amount of new impervious area, a complex stormwater management infrastructure and system is not necessary for this project.

7) Erosion control.

Erosion of soil and sedimentation shall be minimized by employing the following "best management" practices:

Stripping of vegetation, soil removal and regrading or other development shall be accomplished in such a way as to minimize erosion.

The duration of exposure of the disturbed area shall be kept to a practical minimum.

Any exposed ground area shall be temporarily or permanently stabilized within one week from the time it was last actively worked, by use of riprap, sod, seed, and mulch, or other effective measures. In all cases, permanent stabilization shall occur within nine months of the initial date of exposure. In addition: [Amended 6-30-2009 STM]

Where mulch hay is used, it shall be applied at a rate of at least one bale per 500 square feet and shall be maintained until a catch of vegetation is established. Anchoring the mulch with netting, peg and twine or other suitable method maybe required to maintain the mulch cover. Additional measures shall be taken where necessary in order to avoid siltation into the water. Such measures may include the use of staked hay bales and/or silt fences.

Permanent (final) vegetation and mechanical erosion control measures shall be installed as soon as practicable after construction ends.

Until a disturbed area is stabilized, sediment in water runoff shall be trapped by the use of debris basins, sediment basins, silt traps or other acceptable methods as determined by the Planning Board.

The top of a cut or the bottom of a fill section shall not be closer than 10 feet to an adjoining property, unless otherwise specified by the Planning Board. Extraction operations (sandpits, etc.) shall not be permitted within 100 feet of any property line, except as provided for in this chapter.

During grading operations, methods of dust control shall be employed, wherever practicable.

An Erosion Control Plan that has been prepared in compliance with this standard as provided in Attachment D. It details best practices for controlling erosion and sedimentation during construction as specified by Shapleigh's Code of Ordinances.

Specifically, the applicant proposes to use a mulch berm to ensure that potential erosion during construction is contained. Soil disturbance is minimized by avoiding grading as the solar project can follow the existing topography and natural features of the site.

Additionally, areas of the project site temporarily disturbed during construction will be permanently stabilized through native, non-invasive hydroseeding revegetation within 1 week from the time it was actively worked. No other ground cover plants are planned.

#### 8) Setbacks and screening.

Exposed storage areas, exposed machinery installation, sand and gravel extraction operations and areas used for storage or collection of discarded automobiles, auto parts, metal or any other articles of salvage or refuse shall have sufficient setbacks and screening to provide a visual buffer sufficient to minimize their adverse impact on other land uses within the development area and surrounding properties (a dense evergreen hedge, six feet or more in height). All such plantings shall be maintained as an effective visual screen; plants which die shall be replaced within one growing season. Where a potential safety hazard to children would be likely to arise, physical screening sufficient to deter small children from entering the premises shall be provided and be maintained in good condition.

No exposed storage areas, exposed machinery installation, sand and gravel extraction operations and areas used for storage or collection of discarded automobiles, auto parts, metal or any other articles of salvage or refuse on the project site are planned. Existing trees and vegetation will serve as a visual buffer to minimize adverse impacts on surrounding properties. A locked gate and 7-foot fence will secure the Project at all times.

#### 9) Explosive materials.

No propane gas tanks, highly flammable or explosive liquids, solids, or gases are planned.



10) Water quality.

All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes and potentially harmful raw materials shall be completely enclosed by an impervious pavement and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a fifty-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area. Storage tanks for home heating oil and vehicle fuel, not exceeding two five-hundred-fifty-gallon vessels, may be exempted from this requirement, in situations where neither a high seasonal water table (within 15 inches of the surface) nor rapidly permeable sandy soils are involved.

No storage facilities for fuel, chemicals, chemical or industrial wastes and potentially harmful raw materials are planned.

11) Preservation of landscape; landscaping of parking and outdoor storage areas.

The landscape shall be preserved in its natural state, insofar as practical as determined by the PB, by minimizing natural vegetation removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas. Parking lots shall be landscaped to prevent erosion and stormwater runoff onto neighboring properties and streets. An effective visual screen of native vegetation, including evergreens, shall be established and maintained between the parking or storage area and any abutting residential property. The PB may require additional trees planted in and around large parking lots.

All parking or outdoor storage areas shall be separated from any public road by a landscaped buffer strip at least 15 feet wide. The PB may require that within the buffer strip a visual screen of plantings be established and maintained.

The applicant will minimize disturbance of natural areas to the area of the proposed project footprint and the extended access road and utility line. In the future, the footprint of the solar project will be managed as pollinator friendly native meadow habitat. It will be mowed no more than twice per year to keep vegetation from shading the panels. No grading, parking lots, or storage areas are proposed.

12) Relation of proposed building to environment.

Proposed structures shall be related harmoniously to the terrain and to existing buildings in the vicinity that have a visual relationship to the proposed buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features or other buildings. In areas with high concentration of historic properties, the Board may require new construction to utilize exterior building materials which harmonize with surrounding properties, and to be designed so as not to be architecturally incompatible in terms of scale, height, window size and roof pitch.

The building nearest the Project is the parcel owner's residence, located in the northeast corner of the parcel. No other buildings are proximate to the project as shown in the Site Plan, Attachment A. No buildings are proposed. The only historic property on the subject parcel is the landowner's home which originates from the 18th Century. The applicant has preserved a forested buffer between the project and the residence to preserve the landscape aesthetics of the existing home.

13) Refuse disposal.

The Applicant shall provide for the disposal of all solid and liquid wastes on a timely basis and in an environmentally safe manner. The Board shall consider the impact of particular industrial or chemical wastes or by-products upon the Town's disposal method and/or disposal area (in terms of volume, flammability or toxicity) and may require the Applicant to dispose of such wastes elsewhere, in conformance with all the applicable state and federal regulations. The Board may require the Applicant to specify the amount and exact nature of all industrial or chemical wastes to be generated by the proposed operation.

Solid waste produced during the construction of the Project will be disposed of a timely basis and in an environmentally safe manner through an off-site provider. No industrial or chemical wastes or by-products will result from the construction or operation of the Project. After the construction period, no solid waste will be produced, except waste from maintenance or repair, which will be disposed of properly off-site. The Project will not produce any liquid waste or hazardous waste.

14) Access control on Routes 109 and 11.

Land lying on Routes 109 and 11 may be divided into lots, but all vehicular movements to and from the highway shall be via a common driveway or entranceway serving adjacent lots or premises. All lots of record existing at the time of the ordinance amendment shall be allowed direct access to Routes 109 and 11, provided that minimum safe sight distance standards can be met.

As shown in the Proposed Conditions Plan, the temporary construction access point provides 315 feet of sight distance to the north and 536 feet of sight distance to the south.

York County specifies a minimum of 245 feet of sight distance for access onto a road with a posted speed limit of 35 mph. The proposed temporary construction access road's design will facilitate safe access out of the Project onto Highway 109 in compliance with county safe sight-distance standards. The Applicant will consult with MDOT regarding the construction access point onto Route 109. The Applicant is also working with Michael Brown to secure a copy of his easement through parcel 013-009, owned by Donna P Desper, as shown in the Site Plan, Attachment A. The Applicant requests any concerns or requirements from this standard be a condition of approval.

- A site plan was provided by CENERGY entitled Proposed Solar Power Installation – Michael Brown – Back Road, Shapleigh ME 04076 – GPS 43.492804, -70.821016, Sheet No. SP-1, Sheet Title Solar Power System Site Layout, Owner Michael Brown, last revision on sheet 7/21/2021.
- A copy of the Town Tax Map and Flood Zones were provided.

**The following regulatory letters were provided:**

\* Letter dated June 28, 2021 from Becca Settele, Wildlife Biologist, from the State of Maine Department of Inland Fisheries & Wildlife, Re: Information Request – MEVS Brown LLC Project, Shapleigh. The letter stated in part that 'Our Department has not mapped any Essential Habitats that would be directly affected by your project'. There was a highlighted paragraph in the letter that read as follows: *Please note this document does not fulfill the requirements of the Maine Public Utilities Commission's Distributed Generation Project Siting Attributes for solar energy projects. For solar projects seeking MDIFW's determination of potential impacts to Main-listed Endangered or Threatened species or habitats pursuant to the MPUC process, please*

send a separate, clearly labeled request to: [IFWEnvironmentalreview@mail.gov](mailto:IFWEnvironmentalreview@mail.gov) and a separate response will be provided.

- \* Letter dated June 17, 2021 from Kristen Puryear, Ecologist, Maine Natural Areas Program, State of Maine, Department of Agriculture, Conservation & Forestry, Re: Rare and exemplary botanical features in proximity to: MEVS Brown LLC, Brown Solar Project, Shapleigh, Maine. The letter stated in part that according to the information currently in our Biological and Conservation Data System files, there are no rare botanical features documented specifically within the project area. This lack of data may indicate minimal survey efforts rather than confirm the absence of rare botanical features. You may want to have the site inventoried by a qualified field biologist to ensure that no undocumented rare features are inadvertently harmed.
- \* Letter dated June 17, 2021 from Nancy McBrady, Director Bureau of Agriculture, Food and Rural Resources, State of Maine, Department of Agriculture, Conservation & Forestry, Bureau of Agriculture, Food & Rural Resources. The letter stated in part: Prime Farmland is land identified with the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and is available for these uses. This land may or may not be active farmland, but it is not currently urban, developed or inundated by water. Farmland of Statewide Importance generally includes areas that nearly meet the requirements for Prime Farmland and economically may produce high yields of crops when treated and managed according to acceptable farming methods. FARMLAND SOIL HIT: According to the information currently in the Farmland Soils Data layer, the project site includes areas with mapped farmland soils. Agricultural siting best practices recommend avoiding conversion of land designated as Prime Farmland or Farmland of State Importance. This project area includes soils mapped as: Prime Farmland; Farmland of State Importance. Our review covers only areas mapped as Prime Farmland or Farmland of State Importance. This finding is not a substitute for on-site surveys. Field Surveys are needed for solar project clearance according to the Maine Public Utilities Commission Procurement Announcement, Appendix A, Project Attribute Criteria #9. As a general statement of policy, the Maine Department of Agriculture, Conservation and Forestry recommends that whenever possible, commercial scale solar projects be sited on non-agricultural lands. If that is not possible, the Department recommends minimizing the footprint of solar development on high value agriculture soils and encourages the development of dual use solar projects.
- Provided was the soil profile. A copy of the Web Soil Survey / National Cooperative Soil Survey by the USDA Natural Resources Conservation Service – Soil Map of York County, Maine was provided. The following soils appear to lay directly underneath or in close proximity to the proposed solar structure: BsB – Brayton and Estbury very stony fine sandy loams, 0 to 8 percent slopes; Ch – Chocorua peat; HeB – Hermon sandy loam, 3 to 8 percent slopes; HeC – Hermon sandy loam, 8 to 15 percent slopes; HeD – Hermon sandy loam, 15 to 25 percent slopes; HmC – Hermon sandy loam, 8 to 15 percent slopes, very stony; HnE – Hermon sandy loam, 15 to 60 percent slopes, extremely stony; LnD – Lyman loam, 15 to 25 percent slopes, rocky; LyC – Lyman-Rock outcrop complex, 8 to 15 percent slopes; LyE – Lyman-Rock outcrop complex, 15 to 80 percent slopes; SrB – Skerry fine sandy loam, 0 to 8 percent slopes, very stony; SrC – Skerry fine sandy loam, 8 to 15 percent slopes, very stony. Soils under or adjacent the proposed access road: LnC – Lyman loam, 8 to 15 percent slopes, rocky & PeB – Peru fine sandy loam, 3 to 8 percent slopes.
- Provided was the HydroCAD Stormwater Model Diagram and Calculations for a Type III 24-hour, 100-year rainfall = 8.70". The summary showed the existing runoff area, runoff volume(s), runoff depth(s) and flow length for four subcatchments, for the existing conditions, along with post development.

- Provided were Pre- and Post-Development Stormwater Drawings, drafted by Jeffrey Allen of A.E.Hodsdon Consulting Engineers. Sheet C1.1 entitled Pre-Development Watershed Plan of Proposed Solar Power Site, Back Road, Shapleigh, Maine for CENERGY, 3176 Lionshead Ave, Carlsbad, CA, dated 8/2/2021. Sheet C1.2 entitled Post Development Watershed Plan of Proposed Solar Power Site, Back Road, Shapleigh, Maine for CENERGY, 3176 Lionshead Ave, Carlsbad, CA, dated 8/2/2021.
- Provided were the **Stormwater Calculations and Erosion Control Plan**  
Shapleigh, ME  
Stormwater and Erosion Control Narrative  
Provided by Jeffrey Allen, PLE No. 6059

## EXECUTIVE SUMMARY

The applicant for this project, Michael Brown, proposes to create a commercial solar array development between Back Road and an existing Central Maine Power Company easement crossing Emery Mills Road. The solar array will be mounted on posts above grass and the only new impervious area will be 29,050 SF where the permanent access road and inverter are located.

This stormwater analysis was done to demonstrate that the Post-Development peak rate of stormwater flow from the site will not exceed the Pre-Development flow rate from the site. Wooded areas will be replaced with thickly grassed meadow under the solar panels. The analysis shows that the proposed changes to the site will have no change in the runoff from the site.

The applicant proposes to install bark mulch berms and silt fencing with ditch turnouts during construction. These and roadside buffers will ensure good stormwater quality. Following construction, the temporary access road will be removed and revegetated.

## PROJECT DESCRIPTION

This solar array site is being built west of Back Road, just south of Hooper Road. Permanent access to the site will be partially via an existing driveway to a home. From near the end of this existing driveway, a 950-ft-long by 15-ft-wide gravel access road will be built westward to the eastern edge of a large array, which is about 800-ft square. From the west side of this array, another 360-ft-long by 15-ft-wide access road will be built westward to access the smaller area of solar panels, approximately 400-ft by 450-ft. In the southeast corner of the larger array, an area of about 9,400 SF will be permanent impervious area. This is the last of the access way and the inverters. The total permanent impervious area will be 29,050 SF (0.67 acres).

During construction, an approximately 3,000-ft-long by 15-ft-wide temporary access road will be built off the Emery Mills Road. It will start from the north side of the road and go north along the edge of a CMP power line easement. It then turns east near the southern property line and extends to the southwest corner of the larger array. Following construction this road will be removed and the area reseeded. The temporary access road will cross four unnamed drainage ways using properly sized culverts. It avoids all mapped vernal pools.

The area under the two proposed arrays is currently wooded. These trees will be removed. This area will become grass meadow beneath the solar panels. The solar panel array will be mounted on posts with minimal ground disturbance. The only permanent impervious area to be created is the access roads and inverter pads at the southeast corner of the larger array. The impervious area will total about 29,050 SF or 0.67 acres.

Wetlands and vernal pools have been delineated for the area and are shown in a separate report. The area proposed for development contains no wetlands and is being constructed to avoid four significant vernal pools by more than a 250-ft radius.

Soils mapping is shown on maps from the Natural Resources Conservation Service, attached later in this section. Soils on-site are comprised of several named classifications including Brayton, Hermon, Lyman, and Skerry. The soils are rated A to D for their ability to absorb and infiltrate stormwater. This is called their Hydrologic Soil Group. Hermon soils are group “A” and are composed of sandy loams which accept rainwater readily. The other soils are very fine sandy loams or rock outcrops which are less able to infiltrate stormwater. They are rated “D”. For stormwater quantity analyses, the Hydrologic Soil Groups are considered to be “D” to be most conservative.

The attached pre- and post-development stormwater plans show the proposed layout of the solar panels, the temporary construction road and the permanent road that will serve them. The site has defined drainage ways on the east and west sides so stormwater flows away from the site in two directions, east and west, to reach streams which flow south. Slopes range up to about 6-8%. No areas on-site are especially vulnerable to erosion, but it is a general concern and will be monitored during and after construction.

Stormwater quality will be managed by the use of roadside buffers as defined by Maine Department of Environmental Protection. The buffers will treat runoff from the area of the inverter. The buffer will treat 100% of the new impervious area on site.

During construction there will be an erosion control bark mulch berm and roadside buffer along the downhill sides of the access road. Double bark mulch berm buffers will protect identified wetland areas. The berm will also be placed around the construction area. Bark mulch berms are preferred because they generally require less maintenance and are more durable than silt fencing. Following construction, the berms may be left in place to provide additional erosion and runoff protection as the vegetation under the solar panels is reestablished.

The site will be developed uniformly with solar panels covering the entirety of the site. There will be no areas of concentrated flow. The pre- and post-development stormwater models both have the same summary points.

Stormwater calculations have been done in the HydroCAD modeling system which is based on the older TR-55 model. The size of drainage subcatchments, area of each land use within the subcatchment and the time of concentration within each subcatchment is shown on both the Pre-Development Plan and the Post-development Plan.

Design Drawings and Calculations: Rainfall Intensity

According to Appendix H of the Maine DEP Stormwater Design Manual, rainfall in York County should be modeled as a Type III Storm. The 24-hour rainfall intensity rates for the 100-year storm in York County is 8.7-inches. This is the required storm analysis for the Town of Shapleigh.

**Pre-Development Conditions**

The site has generally uniform slope from north to southwest. Time of Concentration (Tc) is the estimated time that a drop of water would take to travel the longest length in the subcatchment. This was calculated based on the ground cover and slope. The Tc time in minutes is shown in the following table for the four subcatchments. Each assumes a mixture of sheet flow and shallow concentrated flow patterns.

| Subcatchment | Time of Concentration |
|--------------|-----------------------|
| A            | 47.7 min.             |
| B            | 50.6 min.             |
| C            | 60.5 min.             |
| D            | 41.8 min.             |

The development is a mixture of grass, and woods cover on Hydrologic Soil Groups A, C/D, and D soils. To be conservative, we have called all soils HSG D. The Runoff Curve Number for the Pre-Developed site is 79.

**Post-Development Conditions**

The removal of the wooded area and its replacement with meadow buffer did not change the flow’s Time of Concentration because the longest flow paths are not in the areas being cleared. The change from wooded to meadow and impervious ground cover in the area of the fenced enclosure did not change the weighted Runoff Curve Number from 79. The calculated Post-Development stormwater runoff from the site thus is unchanged. The comparison between Pre- and Post-development runoff flow rate in Cubic Feet per Second (CFS) are summarized in the following table.

| Subcatchment | Predevelopment Flow | Post development Flow |
|--------------|---------------------|-----------------------|
| A            | 29.0 CFS            | 29.0 CFS              |
| B            | 32.8 CFS            | 32.8 CFS              |
| C            | 69.4 CFS            | 69.4 CFS              |
| D            | 50.6 CFS            | 50.6 CFS              |

The calculations from the HydroCAD modeling were provided.

**SCHEDULE OF CONSTRUCTION**

Following approval of this application, the installation of temporary and permanent sediment and erosion control structures will be the first activities done before construction begins. This includes silt fence or bark mulch berms down gradient of any proposed clearing or construction. As work progresses, the locations of these features may be updated and other features added to properly manage the runoff from the site.

**Inspection and Maintenance for Sediment and Erosion Control Measures.**

Sediment and erosion control measures requiring maintenance is just the silt fencing or bark mulch berms. The location of these are shown on the Post-Development Stormwater plan. These measures must be maintained in an operational condition and in place until the site is stabilized with vegetation growth. Bark mulch berms may be left in place following construction to provide additional treatment for erosion until the vegetation under the panels is well established. This is highly recommended.

The Contractor must inspect the silt fencing and bark mulch berms weekly or following any significant rain to ensure that they continue to function properly and have not accumulated sediment more than half their height above the ground or been washed out in any areas. If required, the contractor will repair, replace or relocate the silt fencing/bark mulch berm to ensure continuous operation. Once vegetation is established, and all up-gradient areas stabilized, the silt fencing must be removed. Bark mulch berms may be left in place or raked down.

The annual maintenance requirements are summarized in the following edited list from the latest edition of Maine DEP’s Best Management Practices manual.

Inspection and Maintenance requirements for Stormwater Management Structures are listed here.

**DITCHES, SWALES AND OPEN STORMWATER CHANNELS**

Inspect annually in the spring and late fall and after heavy rains

- Remove obstructions, sediments or debris from ditches, swales and other open channels.
- Repair any erosion of the ditch lining.

- Mow vegetated ditches.
- Repair any slumping side slopes.

### **ROADWAYS AND YARD AREAS**

Inspect annually in the spring or as needed

- Grade gravel roads and gravel shoulders.
- Ensure that stormwater runoff is not impeded by false ditches of sediment in the shoulder.
- Provided was a **Construction Access Point Distance Overview**. The overview showed there to be 285 feet of sight distance to the North and 586 feet of site distance to the South.
- Provided was a **Decommissioning Plan and Cost Estimate**. It read as follows:

### **Proposed Decommissioning Surety Memorandum**

#### **Introduction**

MEVS Brown LLC has prepared this Decommissioning Plan (the “Plan”) for the MEVS Brown LLC Photovoltaic Facility (the “Facility”) to be constructed on land owned by Michael Brown in the Town of Shapleigh, Maine, located off of Back Road with parcel ID 002-009. This Plan was prepared to provide the Town with a decommissioning overview and surety. It assumes that the Facility will be constructed in accordance with permits and conditions issued by the Town of Shapleigh, Maine.

#### **Facility Description**

The proposed solar system Facility will consist of a new approximately **7.44 Megawatt MW (DC)/4.98 Megawatt MW (AC)** capacity solar power-generating operation secured within a fence surrounding the solar panels and equipment and accessed via a locked gate. The Facility will include the following site features:

- An approximately less than 20 -acre array of photovoltaic (PV) modules (panels) and mounting system;
- Screw driven piles supporting the photovoltaic modules;
- Up to two (2) transformers;
- Underground conduit;
- A seven (7)-foot security fence;
- Underground conduit and wires;
- Up to six (6) aboveground wooden utility poles;
- Overhead wires; and,
- A gravel access road.

#### **Decommissioning Plan**

The Facility will be decommissioned by completing the following major steps: Dismantlement and Demolition, Disposal or Recycle, and Site Stabilization as further described below.

#### **Dismantlement, Demolition, and Disposal or Recycle**

A significant amount of the components of the photovoltaic system at the Facility will include recyclable or re-saleable components, including copper, aluminum, galvanized steel, and modules. Due to their re-sale monetary value, these components will be dismantled and disassembled rather than being demolished and disposed of.

Following coordination with Central Maine Power Company regarding timing and required procedures for disconnecting the Facility from the private utility, all electrical connections to the system will be disconnected and all connections will be tested locally to confirm that no electric current is running through them before

proceeding. All electrical connections to the panels will be cut at the panel and then removed from their framework by cutting or dismantling the connections to the supports. Each panel will be individually lifted from its support (likely using a small crane and synthetic rigging straps), wrapped in sheet plastic and taped before being removed. They will then be stacked and cushioned on pallets, plastic wrapped, and transferred to a flat-bed truck for transfer to the purchaser or recycler. The exterior glass of the solar panels is commercial-grade and tempered, designed to significantly reduce a complete fracture. However, in the event of a total fracture, the interior materials are silicon-based and are not considered to be hazardous materials. Disposal of these materials at a landfill will be permissible.

The PV mounting system framework will be dismantled and recycled. The metal screw piles will be removed from their approximated depth of eight feet and recycled for salvage value.

Finally, all associated structures will be demolished and removed from the site for recycling or disposal as required by the Town of Shapleigh. This will include the site fence and gates, which will likely be reclaimed or recycled. Grade slabs will be broken and removed to a depth of one foot below grade, and clean concrete will be crushed and disposed of off-site or recycled (reused either on- or off-site).

Sanitary facilities will be provided on-site for the workers conducting the decommissioning of the Facility.

Aboveground utility poles owned by MEVS Brown LLC will be completely removed and disposed of off-site in accordance with utility best practices. Overhead wires will be removed from the area of the solar modules and terminated at the utility-owned utility poles located on Back Road. The access road will remain in place and Central Maine Power Company will be responsible for dismantling those overhead wires and poles under its ownership.

Coordination with Central Maine Power Company personnel will be conducted to facilitate Central Maine Power Company's removal of their aboveground poles and overhead wires located on the site.

A final site walkthrough will be conducted to remove debris and/or trash generated within the site during the decommissioning process and will include removal and proper disposal of any debris that may have been wind-blown to areas outside the immediate footprint of the facility being removed.

### **Site Stabilization**

The areas of the Facility that are disturbed (during decommissioning) will be stabilized with the ground treatment approved by the Planning Board during the Special Permit Review process, including application of a drought-tolerant grass seed mix to surfaces disturbed during the decommissioning process. The gravel access road from the property owner's driveway, including the portion within the perimeter fence surrounding the photovoltaic modules, will remain intact and shall not be removed.

### **Permitting Requirements**

Given the size and location of the Facility, several approvals are required prior to initiation of ground-disturbing activity. Table 1 provides a summary of the expected approvals if the decommissioning were to take place in July, 2021. Noting, however, that because the decommissioning is expected to occur at a later date, the permitting requirements listed in the table below will be reviewed and updated based on current local, state, and federal regulations at the time.



**Schedule and Cost**

The decommissioning process is estimated to take approximately six to eight (6-8) weeks (but no longer than six (6) months) and is intended to occur outside of the winter season.

**Table 1. Current Permitting Requirements for Decommissioning**

| <b>Permit</b>                                                                                                    | <b>Agency</b>                          | <b>Threshold/Trigger</b>                                                                                                                                                                                |
|------------------------------------------------------------------------------------------------------------------|----------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| National Pollutant Discharge Elimination System (NPDES) General Permit for Discharges from Construction Activity | U.S. Environmental Protection Agency   | Ground disturbance of greater than 1 acre with discharge to wetlands or water bodies. Requires preparation of a Stormwater Pollution Prevention Plan, including erosion And sedimentation controls.     |
| Non-Ministerial Permit if Applicable                                                                             | Town of Shapleigh Planning Board       | Anticipated decommissioning requirements listed in the [Non-ministerial permit if applicable] conditions of approval.                                                                                   |
| Building Permit                                                                                                  | Town of Shapleigh Building Departments | A building permit is required to construct the facility. A building permit must also be obtained for any construction, alteration, repair, demolition, or change to the use or occupancy of a building. |

**Permitting Requirement Assumptions:**

1. The access road will remain in place throughout the Facility.
2. All ground disturbance, including temporary laydown areas will obtain the appropriate approval from the Town of Shapleigh and State of Maine, if required.

**Surety Proposal/ Decommissioning Cost Estimate**

Consistent with the approach it has taken in surrounding communities, MEVS Brown LLC, or the parent company of MEVS Brown LLC, proposes to provide a decommissioning surety bond, to be posted prior to the beginning of operations (COD) and the final Town of Shapleigh Certificate of Compliance, in the amount of **\$150,000**, for decommissioning in the unlikely event that MEVS Brown LLC is unable to meet its contractual obligations for solar project removal and restoration.

In developing the decommissioning surety bond, MEVS Brown LLC collected decommissioning cost data based on the assumption of recycling the solar modules, racking and associated project components as raw materials. In addition to the decommissioning cost, a 5% contingency and allowance for associated legal costs was included.

**Below is a summary of the analysis:**

|                                                                       |                            |
|-----------------------------------------------------------------------|----------------------------|
| <b>Project Size (Megawatts DC)</b>                                    | <b>7MW (DC)</b>            |
| <b><u>Decommissioning Cost – No Salvage Value</u></b>                 |                            |
| Decommissioning (DC)                                                  | \$20,000 /MW               |
| 3% Contingency                                                        | \$600 /MW                  |
| 2% Legal Services Estimate                                            | \$400 /MW                  |
| Total Decommissioning Cost, No Salvage Value                          | <b><u>\$21,000 /MW</u></b> |
| Proposed Total Decommissioning Cost for the 7 MW DC Facility          | <b><u>\$147,000</u></b>    |
| Proposed Decommissioning Bond Amount for the MEVS Brown Solar Project | <b><u>\$150,000</u></b>    |

\*\*\*\*\*

**Growth Permits**

**Map 36, Lot 1A (58 Indian Village Road) – New Home** **GP #24-2021**

This is a recently approved Best Practical Location for a new structure.

**Map 32, Lot 23 (9 Daffodil Road) – Seasonal Conversion** **GP #25-2021**

This is an existing structure. Any issues with the subsurface wastewater disposal shall be handled by Code Enforcement.

**The Planning Board meeting ended at 9:30 p.m.**

**The next Planning Board meeting scheduled will be September 14, 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)