

Shapleigh Planning Board

Minutes

October 12, 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.

The minutes from Tuesday, September 14, 2021 were amended as follows:

- **Page 5 of 45 – Changed 1st Street to 21st Street. Best Practical Location – Expand Footprint of the Structure Adding a Foundation – Map 26, Lot 33 (126 21st Street) – Steve & Nancy Nicolucci, Applicant(s); Richard Grant, Property Owner**
- **Page 25 of 45 – Changed first paragraph as follows:** Madge B. moved for approval of the Conditional Use Permit, that the applicant can use the ~~General Purpose District setback in the Shoreland District~~ **Shoreland District setback in the General Purpose District** in order to build a garage with living quarters over,

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

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

Mr. Steven Barrett of Barrett Energy Resources Group LLC was present to represent the applicant.

The following is the detailed project description:

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.

Provided along with the application was a site plan drafted 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.

Provided was a copy of the Town Tax Map and Flood Zones were provided.

Provided were the following regulatory letters:

* 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 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, drafted by Jeffrey Allen, PLE No. 6059, as follows:

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

Permit	Agency	Threshold/Trigger
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:

Project Size (Megawatts DC)	7MW (DC)
<u>Decommissioning Cost – No Salvage Value</u>	
Decommissioning (DC)	\$20,000 /MW
3% Contingency	\$600 /MW
2% Legal Services Estimate	\$400 /MW
Total Decommissioning Cost, No Salvage Value	<u>\$21,000 /MW</u>

Proposed Total Decommissioning Cost for the 7 MW
DC Facility **\$147,000**

Proposed Decommissioning Bond Amount for the
MEVS Brown Solar Project **\$150,000**

Provided for this evenings review was a letter from the Maine Historic Preservation Commission, written by Kirk Mohney, State Historic Preservation Officer, dated August 17, 2021, which stated that based on the information submitted, there will be no historic properties (archaeological or architectural) affected by the proposed undertaking, as defined by Section 106 of the National Historic Preservation Act.

Roger A. reviewed §105-73.G ‘Standards applicable to conditional uses’ findings of fact on September 14, 2021 as follows:

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds, or other wildlife habitat. ***Roger stated he was not certain. He said with 20 acres be cleared, there will be habitat lost, such as nesting for birds, etc. He said there would also be a 7 foot high fence surrounding the area, which could create issues. Roger stated there is a letter from Inland Fisheries and Wildlife and they do not have an issue with the project. Mr. Barrett stated that MDIFW pointed out the Blandings turtle, so they left the 250 foot buffer area around the significant vernal pools, which they consider to be potential habitat.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Roger there are no water bodies, so this is not applicable.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger stated the Comp Plan has not been updated to address solar projects. The applicant noted that the Comp Plan speaks of the quality of lakes, rivers, streams and forests, and protecting significant wetlands to maintain their ability to provide cover and wildlife habitat. Wetlands and vernal pools will be fundamentally undisturbed for the life of the project.***
- 4) Traffic access to the site is safe. ***Roger stated it is. Site distances are met on back road, there will be minimal traffic once construction is completed. A DOT entrance permit will be required for Rte. 109.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger stated it is. This parcel is not located in the flood zone.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Roger stated there is none generated on site, so this is not applicable.***
- 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 he was not certain that this was addressed for the entire 20 acres. Mr. Barrett stated that they provided stormwater calculations, and noted that the solar project did not have much impervious surface, so a stormwater drainage system was not applicable.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger stated the information was provided. A document entitled ‘Inspection and Maintenance for Sediment and Erosion Control Measures’ detailed best management practices that will be taken.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger stated fire issues might come about if the area is extremely dry and the solar project creates heat to help ignite it.***

Roland stated that the area was surrounded by chain link fence. He asked if the Fire Department would be provided with an access key, so if something unfortunate happened they would be able to access the area? Mr. Barrett stated that typically they have a Knox Box with a key to provide access to the Town's emergency services. He said they agree to do that. Roland said that if they are not going to improve the access road often, could a fire truck or rescue vehicle get up there? Roger noted they would use the existing driveway to access the area. Roger said it would have to be upgraded from the driveway to the site. Roland said they were speaking about a pickup truck. Mr. Barrett said they didn't look specifically at the existing driveway and how it could accommodate fire trucks. He said it's a paved driveway, 15 or 20 feet wide. He said there is a curve in it but it is substantial. Roland said he was not concerned with up to the building, he was concerned 'from' that building to the actual site. He said if a fire should start up there, and it wasn't controlled in a reasonable period of time, you have a large forested area that could potentially catch fire. Mr. Barrett said they are showing a 15 foot wide gravel road that is fairly straight as part of the project. He said that is what we show when they ask about fire access. Madge B. thought Roland's concern was a good point. Roland said that where it is remote, if there is a fire, by the time it is identified and vehicles get up there, things could get out of hand. He said this area has been in drought conditions on State maps, and everyone is concerned with the possibility of uncontrolled fires. He said he didn't know what the risk factor was, perhaps a solar array is very low probability of a fire. He said he has sat in on conversations when the Fire Department speaks about budget considerations for equipment, and they are always concerned about access to sites. He said the Board is concerned about those whether it is about a subdivision or individual residence. He said you have to be able to get in and get out. Roland wondered if the road should have a hammerhead turnaround, perhaps that is what the Board needs to consider. Roger added that they needed to ensure the road will be capable of carrying 100,000 pounds. Roland said this is something to consider. Roland asked how wide the gate was? Mr. Barrett stated that it is 20 feet. Roland asked if the fire equipment would have room to travel within the fenced in area if they needed to? Mr. Barrett stated that it was pretty tight, because they tried to minimize the effects. He said there is an inverter field with a road going around it for trucks that are accessing the site, there is a loop around it. He said there is also a setback to the actual solar panels, but he didn't have any more specifics other than what was shown on the plan. He pointed out the access road and the road around the inverter pad, as well as the area cleared around the panels. He said he didn't know if it was designed specifically for any certain size truck. Roland asked if there was any data that would indicate what the risk factor was for fire? He said this is a new technology around here. He said if you do any research about this area, the fire of 1947 took out a good part of this area; we keep getting reminded of that as the climate change builds and things get drier. Mr. Barrett stated that the systems produce electricity and electricity runs on the existing networks. He said the inverters are probably the area where there would be highest concentration of some type of energy. He said the fire trucks could access that area. He said everywhere else there are individual solar panels with small wires, so each individual point is not a concern. He thought they provided for access to the possible area of concern. Roland asked how they would know there was a failure on site? Mr. Barrett stated that everything was monitored remotely through computers, so they know if energy production drops, there may be an issue. He said the inverters produce data, so they know what their performance is. He said if it is not performing properly, then they send out people to check the systems on the ground. He said they would use local contractors to be on call to provide the service. He said they have about 15 solar projects like this one, they have contractors for them. Roland asked if there was a fire there, they would be aware of it? Mr. Barrett said they would know something was wrong and they would send someone out to look into it. Roger A. asked what the contractor response time was? What is in the contract? Mr. Barrett was not sure what they require? Roger said typically under a government contractor you go 2 to 4 hours. He said a lot of things can happen in that amount of time.

On September 14, 2021 the application was tabled so the applicant could speak with the Shapleigh Fire Chief to get his opinion regarding access to the site with respect to fire protection. In addition, Madge B. wanted to look into soils on site of statewide importance, and Mr. Barrett stated he could do some calculations on the project area, as to what percentage of these soils were in the project area.

This evening the Board received an updated copy of the plan entitled Solar Power System Site Layout, Sheet No. SP-1 - Proposed Solar Power Installation – Michael Brown – Back Road, Shapleigh ME 04076 – GPS 43.492804, -70.821016, dated 10/8/2021. The revised plan incorporated turnouts along the entrance off of Back Road in order to accommodate emergency vehicles.

Roger A. asked Mr. Barrett to give a brief description of the project, in case anyone in the audience was interested in the project. Mr. Barrett began by introducing himself, and that he was with Barrett Energy, representing MEVS Brown LLC for a solar project off of Back Road. He stated at the last meeting he provided an overview of the project, which is a 5 megawatt distributed generation solar facility, which will cover close to 20 acres of land on Mike Brown's property. He said the project is a fix tilt solar panel, they don't move, they are fixed, and the power generated by this facility goes out into the grid and greens the grid, it doesn't power any particular location.

Mr. Barrett stated that at the last meeting, he spoke about how he was setback from wetlands and vernal pools. He said the current site is completely forested, they will be cutting down about 20 acres of trees for the solar farm, and after the solar farm is built, it will be seeded with a pollinator mix, so it will be like a meadow habitat in the future. He said this will also control potential long-term erosion, these were standard practice items. He said this was an overview.

Mr. Barrett said at the last meeting they covered most of the topics, but there were still five things he wanted to address this evening. He said the plan he sent to Barbara for the Board was small in size, so he had a larger version for the Board to look at while he spoke about the changes to the plan.

Mr. Barrett stated the first item was that the project had a permanent access from Michael Brown's residence. He said at 987 Back Road any access would be from this location in the future. He stated that during construction, there will be a new temporary access road created off of Route 109, along the utility easement, along the southern end of the property line. He stated there were several reasons for this. He said it was challenging to bring timber harvesting equipment along Mr. Brown's existing roadway with the long trucks, and also as convenience to Mr. Brown to not impact him as much during construction. He said a point at the last meeting was made asking if they had applied for a Maine DOT entrance permit. He said the DOT requires you to stake the entrance location first, which he did for tonight's meeting. He stated the application was prepared and he would submit it tomorrow. He said they have already done five or six driveway access permits, and they have all been straight forward, except for one in Fairfield where there is a limited access highway, where under Federal law they control access, so they had to negotiate some things. He said that he expected with all the permits they obtain in the future, there would be a condition that the DOT permit be obtained, so he hoped the access approval would be a condition of approval.

Mr. Barrett stated the second point was on soils. He said the Board member Madge, had brought up that the State has some guidelines accessing soils related to solar projects. He said this plan shows the different soil types. The yellowish ones are soils that are considered important farmland soils, the orange are considered prime farmland soil. He said he did not know the difference between the two. He said together they are both

important for farming purposes. He said at the last meeting he had mentioned that solar was really good for protecting farmland soils, because there is no farming conducted, and after between 21 and 36 years, depending on the term of the project, they will be removing all the equipment and the land could be farmed in the future. He stated that Madge had mentioned that there was this State guideline that the project couldn't impact more than 10 percent of State important farmland soils. He said the State also asks that you go out and do some field samples of the soils to verify the soil maps. He said the first point is that those guidelines are only for utilities that are large scale projects which are subject to DPU review. He said their project is 20 acres, but there are some much larger projects that are being proposed in Maine and they are not part of the Community Solar Program which theirs is. He said the guidelines and recommendations are for the very large scale solar projects. He stated the soils maps they had are very accurate. If you went out and did some sampling, you would adjust some of the boundaries, but you wouldn't find any of these areas not in yellow or orange as being primary farmland. He said for this discussion, the maps are good. He said where his project is located, there is only one small area where they will impact farmland soils, which is about .6 acres, and that is about 3% of the total project area. He noted that was a small percentage. He said if you take the entire site, 60 or so acres, it is only 1% of the prime lands are affected. He believed it was a good point that the State wants to protect farmland soils, and he feels this project does protect it in the long-term, but even so, they are not having a large impact on the prime soils.

Mr. Barrett stated at the last meeting he learned about the specific requirements of the performance bond and that they have to provide one to the Planning Board within 45 days, and then it has to be approved within 90 days of that approval. He said he verified with the company and they have no problem with that schedule. He said as soon as the project is approved, they will present something to the Planning Board and for Town council. He felt they were confident they could work through any issues that come up, such as language in the performance bond. He said they presented a decommissioning bond for \$150,000, so that is their proposal. He said there are other projects that have been approved in Sanford, Hollis and a number of towns, such as Waterville further north. He said all the projects have performance bonds between 100 and 150,000. He said this one is 150,000. He said the State DEP just issued a requirement for solar projects to have a decommissioning bond, so similar to the access permit, we will actually submit it to the State and they will have to approve it for all of their projects; even the ones where the Towns have already agreed to it. He noted they did not see this as a problem.

Mr. Barrett said the big issue was fire protection and what measures they had taken to protect against any fire. He said to reiterate the first point, this inverter field is the part of the project where if there is any potential for a fire, it would be seen in that area. He said that is where the concentrated load of electricity is. He said it is distributed throughout the panels and concentrates, then feeds out to the main electric grid. Pointing to the plan, he showed the area of main interest. He stated that he did speak with the Fire Chief and he asked for, because the access road was about 800 feet long, if there was a fire truck coming down the road, that there might not be enough room or a way to pass another vehicle, so a pull off was included on either side of the road about midway. He said this facility once constructed will be visited about four times a year by a standard pickup truck for maintenance, so there will not be a lot of traffic. He said this includes mowing during the growing season, so two of the four visits would be for mowing of the solar facility.

Mr. Barrett stated they also included a turnaround before you get to the first solar array, and it is a 48 foot radius, similar to what they designed for the Town of Hollis after talking to the Fire Chief there. He said they did run the road around the end of the first solar array, which wasn't clear on the original design. He said there

is a second turnaround before you enter the second smaller array, so a fire truck could turn around on that location.

Roland L. stated that Mr. Barrett said they would visit four times a year. He asked if the road would be plowed? Mr. Barrett stated that the road would have to be plowed. Roland said then there would be more than four visits. Mr. Barrett agreed, noting standard maintenance is four times a year, he said plowing was a lot more. Roland asked if it would be plowed in such a way to allow for a large vehicle like a fire truck? Mr. Barrett stated it was a 15 foot wide road and it would be plowed completely to the sides of the road.

Mr. Barrett said the other issue was concern about one access point into the second array and no way out if you needed to pass through it. He said they did include a gate on the other side, so if anyone is inside the gate, they wouldn't be trapped. There will be gates on either side. He said they also included a 15 foot wide defensible area around the outside of the solar array, so from the chain link out for 15 feet they will maintain that area, so there are no trees or bushes growing up to the fence. He said it will not be a road but it can be driven or traveled on by a vehicle around the outside. He said it will be part of the graded part of the site.

Mr. Barrett said that he wanted to speak about the road base. He said the standard road base that they use for the project, is a road base mix about 12 inches thick. He said the base is a rock and soil mixture. He said they have entertained comments from local authorities if they want something else, it wasn't a big issue if they made it a little thicker. He said they are happy to work with the Town on the specifications on the road.

Mr. Barrett stated he wanted to commend whoever does the minutes; he picked up the minutes and read it and he was transported back to the meeting. He said it was terrific to see that the Board advised that he contact the Fire Chief and he stated he would do that. He said he reached out a number of times to the Fire Chief, and also reading about the performance bond issues, he appreciated the information.

Roger A. stated that he thought there was going to be a letter from Inland Fisheries & Wildlife on the different endangered species and their habitats. Mr. Barrett stated there was a letter in the packet. He said the Maine Historic Preservation Commission had submitted a letter after they submitted the application, but he didn't think there was an IF&W letter that they needed. He said the letter they did receive, which was in the application, alerted them to the fact that there may be Blandings turtle habitat, and it recommended 250 foot buffer areas, so they could either go out and monitor for the Blandings turtle and if they didn't find any they could build anywhere on site, or they could just assume there might be Blandings turtle, which is what they did for the purpose of this project.

Roland L. said he couldn't make out the temporary roadway that they are going to use, or the transmission line, on the plan the members had. Mr. Barrett brought the larger plan over, so Roland could see the location.

Madge B. wanted to ask about fencing. She said she has been reading about the guidelines, and one of the guidelines said that the fencing should be a minimum of 5 inches off the ground. She asked if it was something they would consider? Mr. Barrett stated that would not be a problem. He said some towns have asked for it. He said they provided the standard package which doesn't have the five inches and then when towns ask, we will include it. Madge said she would like to ask for the five inches, and one reason is the Blandings turtle. She said she wasn't if they would see the turtles, but said they are in Town and she has seen them. She said if there were turtles, they could crawl under the fence. She said she also like the idea of small animals not having to go all the way around. Mr. Barrett said they would also be coordinating with IF&W's biologist during the construction.

He said they already communicated with them, they commented, they incorporated the buffer zone. He said the other part of IF&W saying they can proceed is because they will coordinate with them on construction.

Roger A. stated that he believed the new standards are going to be no lower than 5 inches from the ground and no higher than 12 inches. Mr. Barrett said it didn't matter to them. The engineers put together a general package and it can be modified. Madge B. agreed they were developing standardized fencing, which would be safer for wildlife, the suggestions she has read was for the possibility for how something that gets in, can get out. She definitely would like to see the 5 inches.

Ann H. asked Fire Chief Guillemette if he had to go to any fire at an installed solar facility in the area? The Fire Chief said he could not answer that, he hadn't been to any fires. He said Sanford had a couple of facilities but he wasn't sure if they were on line. Mr. Barrett thought the one at the airport had been operating for about a year and a half. He said the project at Sanford was a big project, 50 Megawatts, 10 times the size of this project.

Madge B. said with respect to the fencing, did the decommissioning include taking down the fencing? Mr. Barrett said yes, and specifically the decommissioning includes taking down all the solar components, which includes the poles that hold them up, the solar panels, the wire that goes down under the ground, and also the fencing. He said they like to leave the road for the landowner. Roger A. said the State is pushing for a longer decommissioning period, instead of 90 days, pushing it out to 180, because 90 days can be hard to meet. Madge asked if the Board needs to address this. Roger said the Board puts a condition on the approval.

Roland L. said he can't make out on the plan, under module it says Canadian Solar, and he wanted to know if the solar panels come from a Canadian source? Mr. Barrett stated, no, that's the name of the company. He said they have been around for 10 or 15 years, they are an established solar panel company, but the panels are made in China like most of them are. He said 95% of the panels are made in China. Roland said he was hoping they were made in a North American based company.

Steve F. said he had a question. The temporary road from Rte. 109, is that going to remain a road to get the power to the grid, or is the power going out to Back Road? Mr. Barrett said the temporary road does start at the CMP transmission line, but it is a high tension line, which is too powerful for them to connect to. He said the only purpose for the road is during construction, and they will be restoring that to its original state. He said they will be planting the seed mix and allowing it to grow back naturally, it will not be in place in the future. He said the power goes out through the existing road.

Fire Chief Guillemette introduced himself. He said he spoke with Mr. Barrett several weeks ago, and since that time he reached out to some of his colleagues. He said he had a few things he wanted to bring up. He said he would like to ask CEO Demers first, if 12 inches of gravel would be adequate to support their tanker which weighs 44,000 pounds, and two vehicles side by side? He asked if the base was enough to sustain the weight with the width of the road? CEO Demers said the 12 inches of crushed gravel will be the top coat and they will strip away any loam, and there will be a base of gravel with crushed gravel on top. He said it would hold their trucks.

Fire Chief Guillemette asked if there was going to be a building with batteries? Mr. Barrett stated it was called an inverter. The Fire Chief asked if it were a building? Mr. Barrett stated it was like a transformer that you might see in a subdivision but it's larger than that. The Fire Chief said, then based on this, they wouldn't have to deal with any fire protection system because it's not a building. Mr. Barrett agreed.

Fire Chief Guillemette asked if there would be a gravel road going around the property? Mr. Barrett stated no, it would be similar to what they were asked to do in Sanford, which was to put a 15 foot, what is called a defensible area, and have it cleared so it could be accessed in some way but it's not designed to support the truck. The Fire Chief asked if this area would be gravel or grass. Mr. Barrett stated it would be grass, and he added that it would be mowed twice a year, when they mow the array, so no woody vegetation can grow up.

Fire Chief Guillemette said the access road that they are cutting through to the power lines, could that be maintained as a second means of ingress in and then out of that area? Does it have to be put back to a natural state? He asked if they could keep it a road to access the back side of the property? Ann H. asked if he was speaking about the road coming in off of Rte. 109, instead of turning it back into a meadow? She thought it might be up to the property owner. Roger A. said if the Board could show they have to have a second ingress and egress, then the Board could require it. Roger said it would need to be gated off. The Fire Chief said that because it's so remote in the back, that having another way of gaining access into the property wouldn't be a bad idea. Mr. Barrett said their issue with that is that the DEP and environmental rules will kick up the threshold of disturbance. He said if they are just doing a temporary disturbance, then they are ok with the project. But if they create a permanent road, they will have to go through another environmental process that they were not anticipating. Steve F. asked Mr. Barrett about the temporary access through the CMP easement, was it a temporary easement? Mr. Barrett said it will be temporary for their purpose. He said he wouldn't say that it's a barrier to doing what the Chief spoke about, but it's more the environmental issues that come up.

Steve F. asked what the makeup of the panels was, metal, plastic? Mr. Barrett stated they were silicon, glass, all naturally occurring. He said there were some solar panels that have parts that are made with cadmium, which is a metal, and a lot of communities are concerned about them. He said they are not what people typically use, they are for in the desert where you have mirrors and you are shining light on a solar array; it is a different type of solar project. Steve said he was looking for the flammability of the panels, to see if there was a concern. Mr. Barrett said that all the wires from the individual panels get collected and then go into the inverter, which is where it is converted from DC to AC and into the grid. He said this is where the largest amount of power is.

Roland L. said the concern from the previous meeting was the possibility of a fire, the remoteness of the area, and as a Board we are looking at things such as storms, like a once in a hundred year event. He said he was thinking about it in terms of a remote area, that is going to be visited 4 times a year; if a fire does start there, how long before it gets identified as such. He said it was stated that if they reported a decrease in power it could be 2 to 5 hours before someone got out there. He believed it could get out of hand and no one wanted that, and he added that southern Maine is experiencing some really dry conditions. He said his biggest concern has to do with fire prevention. He said he was in favor of the green energy, but he didn't want the forestlands to burn down either. He said he also had to think about the fire fighters involved, if they are going to put their lives on the line, they need to be able to do this safely.

Mr. Barrett said they designed in ways for access. He said since the last meeting he learned the system can be shut down remotely, so the energy can be turned off, so the solar panels are in the sun but not producing electricity. He said he can't answer to the fact it is remote, no one is going to see it, and there could be a fire. He said there is no way to answer that. Ann H. said worse case, if there was a fire in the inverter area, all the trees are going to be cut down with a 15 foot buffer around everything, but there is a bark mulch berm. She asked if perhaps they do not use the bark mulch which is flammable, perhaps they could use gravel until it is decommissioned, which makes it less flammable. She said the only thing left was grass. She asked the Fire Chief if this would work? The Fire Chief agreed it would be a fire break. Ann said if they got rid of the

flammable bark mulch and used something not flammable, it might work. The Fire Chief said a fire could start anyway, it could be lightning, the man in there with a lawn mower, hit a stone with a blade and cause a spark, he said there are all kinds of scenario's that can spawn a fire. Ann thought it would decrease the chance. The Fire Chief agreed by removing the bark mulch it would take the fuel away. She asked Mr. Barrett if this was possible? Mr. Barrett said he could change this. Ann asked if the Fire Department would have access to inside the fenced in area. Mr. Barrett said there would be a Knox Box.

The Fire Chief said he would like the Board to consider keeping the access to Route 109. He said another issue was the long drive from the road to the Browns house, and they are trying to pre-plan how they will get water there, because there is no water on site. He thought where the access point is on the back side of the driveway, he would like the Board to consider having them install a 10,000 gallon cistern. He said not only would it provide water for the solar array, but it would also help the Browns. He said a water source should be on the property. He said you will never get two trucks past the barn and the house, so by putting a water source down there, some of the traffic can be eliminated coming up and down the access way.

The Fire Chief said because it is so remote in the back, there is no space to get around with fire apparatus on the back side, it is going to be a grassed buffer. He said he had been doing some research and he thought as soon as they get the green light to build the solar array, a check for \$50,000 should be cut to the Fire Department to purchase a UTV (Utility Terrain Vehicle) with a skid unit (a complete self-contained firefighting apparatus designed for use on/in commercially available vehicle platforms) and a stokes basket (the stokes basket is a device used to both immobilize as well as transport a victim over terrain), so you can take a victim in and out of the property. He said along with that money they would be able to purchase a trailer to haul the unit up and down the road. He did not think it was unreasonable. He said once inside array, there is no way to get around. Mr. Barrett said there was a 15 foot area between the fence and the end of the array. The Fire Chief said a UTV would get them in and around 360 degrees, where they are not going to be able to get around that with a fire truck. He said he didn't know how you would turn a piece of fire apparatus on a 15 foot wide buffer, you need more than that on the corners. He said with the UTV's they could get around that no problem. He said the reason he asked that they get it up front, as they get ready to start, is so they can get something ordered in time; so when they start the construction, if there is an injury on site, there is a vehicle to be able to go out and get them. He said they do not have that opportunity right now.

A Citizen stated if there was an injury they would need an ambulance. The Fire Chief did not disagree but noted they have to get them out of the woods first. The Citizen stated they might be better off getting an ambulance. The Fire Chief stated there was Shapleigh Rescue.

A Citizen stated that he was asking for a pond. The Fire Chief stated they were asking for a cistern, an underground tank. The Citizen stated the Fire Chief was also asking for \$50,000 from the Browns project for apparatus. He thought the Browns were being a scapegoat, citing all these things they wanted for the Fire Department. The Citizen asked how many fire and rescues they have down in that area? The Fire Chief stated he goes to the Browns once a month, or every other month for fire alarm activation in their barns in the back. The Citizen said they aren't going through the back like he is asking about. The Fire Chief noted there were no solar panels in yet. The Citizen said they could get a lightning strike out there now, and there is nothing there, again stating he did not think this was fair.

The Fire Chief said he would like to propose a UTV, the money to come to the Fire Department, so they can purchase the equipment in order to get in and around. He said it would benefit the Town. He said another

colleague has a solar array in their community, and one of the things that was promised to them was that they would get training inside the property. He said it never happened. He suggested that before they get a final permit to switch it on and get on line, that the training be done as part of the final permit process. The Fire Chief asked CEO Demers what kind of permit he gave for this? CEO Demers stated it was a building permit. Ann H. asked Mr. Barrett if there was some type of OSHA training in Maine? Mr. Barrett believed there was some type of training. Ann noted that OSHA hired 72 more people for the State of Maine, but she wasn't sure there was anything specific to solar training. The Fire Chief stated they would like to get some training, as they did not know what they were going in to. He said, "Once the panels start generating electricity, the DC power, and I think we talked about this a little bit on the phone, you say they can shut it off. Does it stop the panel from generating electricity? If you are 20 feet away from the panel and a wire breaks, is that panel still generating electricity?" Mr. Barrett stated, "If you shut it off at the inverter, all these wires feeding the inverter, it's like a dam. So it does shut off. No electricity can be produced through any of those wires." The Fire Chief asked if the panel would still be creating electricity? Mr. Barrett stated, "So they just generate electricity from the sunlight. They will not be able to generate electricity. There will be the chemical charge that creates electricity but you can go out and put your hand on a solar panel in the middle of the day when it's operating, and at its most effectiveness, and it's not something that is a hazard." Roger A. agreed stating that you would not get shocked. Mr. Barratt agreed with Roger. Roger said if you put water on it, it was not going to hurt you. The Fire Chief stated, "Ok".

The Fire Chief stated he believed that was all he had. He said again the training, the UTV, and he would like the Board to consider some sort of water source. He said it was a long haul to get water in and out, and he thought it would be a benefit to the Browns, to have a water source on their property where there isn't one now.

Ann H. asked if anyone knew how much the cost of a cistern was? The Fire Chief did not know. Roger A. stated the nearest place to get water was Stanley's. The Fire Chief agreed there was a small pond, and another on Back Road. He said when they had the drought last year, both ponds were low. He said after that the nearest water source was off of Cross Road, which is a long haul.

Mr. Barrett asked what they did when they don't have a water source? Did they truck up? The Fire Chief stated they have to truck it all in. Mr. Barrett asked if they had one truck? The Fire Chief stated yes, then call in surrounding towns. He said you set up one truck at a water source and then you have another tanker that brings it back and forth. He stated that Shapleigh's tanker holds 1800 gallons of water. He said the supply line, the fire hose is 1000 feet, it's a five inch hose. He said for every foot it takes a gallon of water, so a thousand feet, you've already used more than half of the capacity of the truck just filling the line. He said the other truck only holds 750 gallons, which isn't enough to fill the supply lines. He said again a water source would be good. A Citizen stated that a pond might be cheaper. The Fire Chief asked if you can dig a pond down there, he didn't know?

Steve F. asked the Fire Chief if the existing cisterns in Town were checked? The Fire Chief stated that every year they go and check the cisterns and if they are low they fill them. He said they would also do it with this one. He added that it would be like a dry hydrant, noting they maintain 16 dry hydrants in town.

Roger A. asked if there were any other comments?

Mr. Barrett asked if he should comment on what has been discussed. Ann H. said, yes to see where we are at. She asked what she thought the applicants would do? Mr. Barrett stated with respect to a water source, they haven't been required to do this at any other project. He said they have 10 approved projects of this size in the

State, some of them are close to a water source and some are not. He said, “The cost obviously is a big impact. What happens is, increasing the cost affects the ability for us to compensate the Browns or make the project economical. So you can load a lot of things on to us, it might affect whether or not we can do the project. So that is a consideration.”

Mr. Barrett stated that there are lots of fires out west, and it is dry here and sometimes there are fires, but there are people mowing their lawns all over the place. He said you don’t have that same type of issue. He believed they tried to accommodate the questions and concerns about getting access. He said the additional requests are too big for the project to handle the extra cost. Ann H. asked if it would be less money to put the cistern in, and not make the Rte. 109 access permanent? Mr. Barrett stated that if the Board makes the 109 road permanent, they were not sure they could permit the project. He said the DEP would make them go through a site walk, and other than the Planning Board approval, they are all set with their permits from Central Maine Power. He said it was possible they could dig a hole for a pond, but he said he could not say that would provide a permanent water source, they haven’t done any engineering to look into that.

The Fire Chief asked what the value of the project was? Roger A. stated that the Board does not look at money, the Board is not responsible for looking at economic impact. Roger thought it was around a 3 million dollar project.

Steve F. asked if there was an alternative to a fire pond or cistern? He said reading through the ordinance, he understands there has to be a water supply, so it is a viable point to consider, but is there a different solution? Steve asked if Mr. Barrett had any experience with this? Mr. Barrett stated that they have not with this type of requirement. The Fire Chief stated that at the Sanford site there is quite a bit of water around the property. Mr. Barrett agreed there was a pond right off the property to the north. He said the Fire Chief in Sanford did not bring up how they were going to get water, they just wanted this type of plan design factors included in, and then they signed off on it. The Fire Chief stated they have the UTV and the water source, and their own equipment to get in and out. Mr. Barrett stated there was a huge CMP transmission line right there, and criss crossing the State, and that is a dangerous facility if you were to physically get close to it. He said they maintain it and they are required to be certain something does not go wrong.

The Fire Chief asked how many inverters were on the site? Mr. Barrett stated they are all congregated in the field, and there are 30 inverter units within the field. He said that is a way of collecting the power on the different segments of the solar and then combining them to get them up onto the grid.

Roland L. said he would like to find out how much a cistern would cost, since we don’t know. He asked are we talking \$5000 or \$50,000? He didn’t want this to be the deal breaker. He said that his preference would be, if the Board has to put this on hold until someone has to do some homework to find the feasibility of it, then let’s do it. He said he didn’t want to vote on something and have questions such as this, this is too serious an activity in our Town to not take seriously. He said if it was about the applicants saying they will provide the piece of equipment they are requesting, or no we can’t pay that much, but we can pay a lesser amount, or they find out the cistern isn’t as expensive as you might think it is, then perhaps things can move forward. He felt the application should be tabled pending further information. Mr. Barrett was asking if he wanted to table based on the cost of the cistern? Roland said that whatever factors have been brought up that he feels are a barrier to moving forward, meaning the company saying it’s a deal breaker we can’t do it. Mr. Barrett did not feel he would be able to make that decision. He said everything you add on to a cost will limit whether or not they can

build the project. He stated, “So I would rather you vote for a cistern tonight, so we know where we stand. Or not vote for a cistern, and let things play out. We have lots of other projects that we are building, this just might not be able to be built based on...” Roland stated that this is the only one that Shapleigh has on the books right now. He said that he appreciated the fact they have others going on. Mr. Barrett stated, “Fires don’t know borders, so I think the question is, is fire really a dangerous issue for this project.” He did not believe it was. He felt they incorporated the design considerations that the Fire Chief asked for. He stated that he reached out to him the day after the Planning Board meeting. He said they probably didn’t talk for a week and a half. He said it was not because he wasn’t trying to reach out to him. The Fire Chief agreed with Mr. Barrett. Mr. Barrett stated, “I was under the assumption the Planning Board wanted me to work this out, and I thought it was a great idea. And then here we are a month later, and we have a design that addressed what I thought were his concerns. I understand he may come up with more concerns and he may have more concerns in the future. Those may be your concerns, I understand that. But I can only say that, if you technically think that this is a fire hazard and you need a cistern, I would rather that you vote for it now. Include it and we will see if that is going to happen, for us, if we can do the project.” Roland said, “I am not speaking as a representative of the Board, don’t mistake that. I am telling you my concerns.” He said the Board can go over whatever they want and I will listen to their opinions, and then I will vote accordingly. Mr. Barrett stated that he appreciated that.

Roger A. asked if there were any other questions for Mr. Barrett?

Ann H. said, speaking to the Fire Chief, that she thought it was a great idea for an ATV (UTV), because she knew Shapleigh and the narrow and small areas you have to go in. She thought it was great for Shapleigh to have the cistern, noting that she sold insurance and fire was a big deal. Ann wondered if outside of the Planning Board, if Shapleigh could work on getting an ATV for the Fire Department to be used for everything that is needed around the Town. She didn’t think it should hold this project up, because of the ATV. Ann agreed a water source was important, so perhaps just get the cistern. A Citizen agreed with Ann. She said if this did not pass, the Town should still get one because every surrounding town has a UTV, and she noted she was shocked that Shapleigh did not have one. The Fire Chief stated that he did not have enough forestry hose to put a fire out in the middle of the solar array. He said with a piece of equipment he could get around, that helps that situation. Ann said having said that, there needs to be some way of getting an ATV to Shapleigh quickly without holding up the project. The Fire Chief said it was up to his bosses. Selectman William Mageary and Selectman Scott Cudworth were present and said it would have to go to Town Meeting. It was asked if Sanford had one? The Fire Chief stated that they did. A Citizen stated that most Fire Departments do have one.

The Fire Chief thought that the cistern was a great investments for the Browns to have a water source on their property. He said they have a big farmhouse and barn, a large property in the back, this would benefit more than the solar project. He thought the cistern wasn’t taking money out of their pocket just for the Fire Department, it’s for their benefit. Ann H. stated she agreed with this, and she thought the applicant would go to the Browns and discuss the cost with them, if the Board makes it a condition of the permit that it has to be installed. Ann added that she did not think the DEP would allow the applicant to keep the access road from Rte. 109. The Fire Chief stated that that was just a suggestion.

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

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

§105-54 ‘Solar Considerations’ – Section A.1) When solar energy systems are proposed, which are not attached to a house, they shall be back 10 feet from the side and rear lot lines and 25 feet from the right-of-way (or 50

feet from the centerline) of a road, whichever distance is greater. **Roger stated the application meets this requirement.** 2) In the Shoreland District, a solar energy systems shall be set back 75 feet from the normal high-water elevation. **Roger stated the solar array is not in the Shoreland District.** 3) Timber harvesting and vegetative cutting standards in the Shoreland District shall not be varied by the Board of Appeals unless the applicant can show that additional clearing is necessary to obtain solar access. **Roger stated this is not applicable.** 4) Solar energy systems in the Shoreland District shall be subject to design approval by the Planning Board to ensure the systems are visually compatible with adjacent land uses. **Roger stated this is not applicable, not in the Shoreland District.** 5) Lot coverage requirements of this chapter shall not apply to solar energy systems. Section B ‘Residential developments’ – **Roger stated this is not a residential development.**

Basic Performance Standards:

- §105-21 – Traffic. **Roger stated there will be limited traffic, the property owner, maintenance four times a year, and a vehicle to plow snow. Site distances were supplied, the site distance to the north is 285 feet, and to the south, 586 feet. The minimum site distance at 40 mph is cited in the ordinance as 280 feet minimum and because there is limited traffic, the access is safe.**
- §105-22 – Noise. **Roger stated there would no noise associated with this business, beyond the construction of the facility. Construction activities will not take place after 10 pm or before 7 am according to the application.**
- §105-23 – Dust, fumes, vapors and gases. **Roger stated the only dust is during the construction phase.**
- §105-24 – Odors. **Roger stated there will be no offensive or harmful odors from this project.**
- §105-25 – Glare. **Roger stated there will be no strong dazzling light going onto neighboring properties, the project is surrounded by existing vegetation. Mr. Barrett stated with respect to the solar panels, this has come up for airports but it isn’t an issue for this project. He said for aircraft, when they are arriving two miles out for landing, possible glare has to be addressed.**
- §105-26 – Stormwater runoff. **Roger stated according to the plans provided, stormwater will be held on site. A stormwater report for the project was provided, which stated the project results in a minimal amount of new impervious surface (0.67 acres) primarily from the construction of an extended gravel access road.**
- §105-27 – Erosion control. **Roger stated there will be erosion control measures on site. An erosion control plan was prepared, detailing best management practices for controlling erosion and sedimentation during construction.**
- §105-28 – Setbacks and screening. **Roger stated there was screening around the perimeter of the project.**
- §105-29 – Explosive materials. **Roger stated there is none associated with this project.**
- §105-30 – Water quality. **Roger stated this is not applicable, there is no storage of fuel, chemicals and the like that will affect water quality.**
- §105-31 – Preservation of landscape; landscaping of parking and storage areas. **Roger stated there is no parking and outdoor storage areas. There is a 50 foot buffer around the project.**
- §105-32 – Relation of the building to the environment. **Roger stated there is no building proposed, there are just panels and an inverter.**
- §105-33 – Refuse disposal. **Roger stated there is no refuse associated with this business. All construction waste shall be disposed of properly.**
- §105-34 – Access control on Route 109 – **Roger stated access control on Rte. 109 is temporary and requires an MDOT Access Permit. The applicant will obtain a permit from MDOT prior to construction of the access way.**
- §105-46 – Sanitary provisions. – **Roger stated the only sanitary provisions were for a portable toilet to be used during construction, it will not remain on site after construction.**

Steve F. asked if the road was considered a private way or a driveway. Roger A. thought it was a driveway, it only accesses the house and field. Steve asked CEO Demers if he would require an as-built by an engineer on the road, or what would you require? CEO Demers stated, “Whatever the specs are on the sheets, I would just do a couple inspections, as built”. Roger said if there are any questions on the road, the Road Commissioner can be asked if it is capable of carrying the load of the fire trucks. Steve said it calls for a 12 inch minimum subbase with a 2 inch wearing surface. Roger said if they are going to be taking out logging trucks, he felt the fire trucks could go over it. Roland L. stated that they will not be using the same road for the logging trucks. Roger said they will have the road built up from the Browns. Mr. Barrett stated the harvesting trucks will be using the temporary road and perhaps some parts of the future road, but not the entire road. Roland asked if the Browns existing road support a tank truck? Fire Chief Guillemette stated that it would. He believed the existing road was wider than 15 feet. Roland said he was thinking of base, not just the width. The Fire Chief stated it was pavement from the road to the farmhouse and just beyond the barn. Roger said there was one low spot where there will be a culvert. Mr. Barrett agreed.

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

Roger A. once again reviewed §105-73.G ‘Standards applicable to conditional uses, 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 based on the MDIFW letter and the use of the fence, placing it above the ground, this criteria can be met. Wetlands and vernal pools were delineated on the plan provided, and buffers were created to avoid impact to sensitive areas.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Roger stated this is not applicable.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger stated the Comp Plan does not address this type of business.***
- 4) Traffic access to the site is safe. ***Roger stated it is. The minimum site distance requirements can be met on Back Road, an MDOT permit shall be required for Rte. 109.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger stated it is, the area is not on the flood hazard map for Shapleigh. Roger stated the property is high and not located by a lake or stream.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Roger stated this is not applicable. He noted the only solid waste will be for the demolition / decommissioning of the facility.***
- 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 elevation contours are on the plan, there is no flooding in this location. Stormwater calculations were provided showing it would meet the criteria.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger stated all water will be kept on site. There was an erosion control plan provided.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger stated this needs to be addressed. There will be a condition to address fire protection.***

- 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 a buffer strip on site. The project as presented will have a buffer strip of vegetation between the project and surrounding properties that will protect against glare. There is no noise, fumes, dust, odors and the like created by the project.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger stated they shall with conditions.***

§105-73.G ‘Conditions attached to conditional uses.’

- 1) Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required in this chapter, that it finds necessary to further the purposes of this chapter.
 - a) Specifications for type of vegetation, increased setbacks and yards.
 - b) Specified sewage disposal and water supply facilities.
 - c) Landscaping and planting screens.
 - d) Period of operations.
 - e) Operational control.
 - f) Professional inspection and maintenance.
 - g) Sureties.
 - h) Deed restrictions.
 - i) Restrictive covenants.
 - j) Locations of piers, docks, parking and signs.
 - k) Type of construction.
 - l) Any other conditions necessary to fulfill the purposes of this chapter.
- 2) In evaluation each application, the Board may request the assistance of the County Soil and Water Conservation District, a state or federal agency or consultant which can provide technical assistance.

§105-73.I ‘Performance guaranties.’

- (1) At the time of approval of the application for conditional use, the Planning Board may require the applicant to tender either a certified check payable to the Town, an irrevocable letter of credit from a lending institution or a performance bond payable to the Town issued by a surety company in an amount adequate to cover the total costs of all required improvements, taking into account the time span of the bond and the effects of inflation upon costs. The conditions and amount of the certified check or performance bond shall be determined by the Planning Board with advice from the Board of Selectmen. The bond shall be presented to the Planning Board within 45 days of application approval and once approved must be rendered to the Town of Shapleigh no later than 90 days from the date of bond approval or the application shall be null and void.
- (2) Prior to the release of any part of or the entire performance guaranty, the Board shall determine to its satisfaction, in part upon the report of the engineer hired by the Town to inspect the development and whatever other agencies and departments may be involved, that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested. Any interest accumulated on an escrow account shall be returned with any money owed by the Town to the developer after it has been determined that the proposed improvements meet all design and construction requirements.

- (3) If the appointed engineer finds, upon inspection of the improvements performed before release of the guaranty, that any of the required improvements have not been constructed in accordance with the plans and specifications filed by the applicant, he shall so report to the Board and Code Enforcement Officer. The Board shall then notify the applicant, and, if necessary, the bonding company or lending institution, and take all necessary steps to preserve the Town's rights under the guaranty.
- (4) Performance guaranties, when required, shall be tendered for all improvements required under this chapter, including but not limited to sidewalks, drainage facilities, parking areas, lighting, signs, landscaping and buffer areas.

J. Fees. The fee structure shall include for conditional use permit applications the following fees for the Planning Board to use to hire independent consulting services to review the application: The applicant shall pay into a special account the cost to the Town of hiring independent consulting services. The fee shall be determined after the Planning Board has secured an estimate of the cost of the services and the applicant has seen the estimate. If the balance in the special account is drawn down by 75%, the Board shall notify the applicant and require an additional amount. Any balance in the account remaining after a final decision on the application shall be returned to the applicant.

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

- 1) There shall be a MDOT access permit for Rte. 109 applied for and approved, prior to construction of the temporary access for timber harvesting and construction of the solar array.
- 2) A performance bond in the amount of \$150,000 shall be provided per the provision in §105-73.I, which will include a cost of living adjustment (COLA) provision.

Roger A. asked what the Board wanted to do with respect to fire protection. Ann H. stated she would like the cistern installed at the very least. Steve F. said that he saw the Fire Chief's point. He asked the Fire Chief if he would fight a fire at the solar panels with water or foam? The Fire Chief stated that you needed water for foam. He said its 3% foam to water, so you need more water than you need foam. Steve said there were other projects in the area that didn't have cisterns that may be of a deeper concern for the Town. He realized that was not what was before the Board this evening. The Fire Chief stated that when you do a subdivision, when you are within a certain distance, you have to have some sort of water for fire protection. He said he didn't know what the distance was. He said again that he felt it was a good opportunity for the Browns to put a water source on their property, if they were to have a fire, along with having the solar array. Steve asked if the cistern would be handy for other properties in the area? The Fire Chief stated, no, it was too far in off the road. Roger agreed, the cistern would be specific for the project. The Fire Chief reiterated they maintain cisterns in the Town, they are checked in the fall to be sure they are full of water. Steve asked if it would make more sense to have it closer to the road? It would then be more than one use for this specific project. The Fire Chief stated they would not be able to lay enough line, and they would have to have equipment stacked up, the distance is too long. Maggie M. asked if in this case a tanker would make more sense? She thought if you improved the road, making it wider, a tanker could get through. The Fire Chief stated the road was a long haul. Roger stated there were others in the area that are more convenient, the Stanley's, Middle Road, Hooper Road, there are others closer and easier to access.

Steve F. stated they could put it to a vote, for the cistern. Roger A. asked if there was a motion to require a cistern on site for the project?

Madge B. move to require a 10,000 gallon cistern on site for the project. Steve F. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion to require a 10,000 gallon cistern was approved.

Roger continued with the conditions of approval as follows:

- 3) A 10,000 gallon cistern is required near the project area for fire protection.
- 4) The fencing shall be no lower than 5 inches off the ground and no higher than 12 inches from the ground.
- 5) When the project solar arrays are decommissioned, removing posts, panels, underground wiring, inverters, and fencing; they shall have 180 days to complete the decommissioning and revegetate the area per the plan provided.
- 6) The temporary road from Rte. 109 shall be returned to a natural state, per the plans provided, once the construction of the solar array is completed.

Steve F. asked if the mulch was used for erosion control? Mr. Barrett stated that the engineers recommended they use erosion control mulch in areas that are steep, but he noted there were no really steep areas at this site. He added that the engineers thought bark mulch was more effective than hay bales or silt fence. He didn't feel they had to use it on this site. He said at steeper sites, local authorities insist they use it, but he did not feel they needed it in this location.

Roger A. asked if there were any other questions? Fire Chief Guillemette stated he didn't hear anything about tying the permit to some training. He said if he had to put his people in there, he would like some adequate training before it goes on line. Steve F. said he would like the wording on the training to be, 'made available to the Fire Department'. Mr. Barrett stated he had no issue with that request.

Roger added the following to the conditions of approval:

- 7) Erosion control mulch shall not be used as a berm, non-flammable material shall be used instead to control erosion, such as gravel or crushed stone if needed.
- 8) Adequate training shall be made available to the Fire Department prior to the inverters going on line.
- 9) In order to release the performance bond for decommissioning, the Planning Board Chairman and Board of Selectmen must sign a release, prior to the bond being returned to the applicant.

Roger A. asked Mr. Barrett if he was ok with the Board approving the application this evening, noting that the clock starts with the timing of the bond once approved. Mr. Barrett stated he spoke with the attorneys, and they said to go for it, they are comfortable with it being approved this evening. He said because they have been speaking with other towns, it is now more of a boiler plate. He understood the Town would review the document and they had no issues with it. Roger said, ok.

The Fire Chief asked Mr. Barrett if there would be two accesses? Mr. Barrett stated the plan submitted this evening incorporates the other comments by the Fire Chief. He said to reference the plan submitted yesterday.

Roger A. stated the approval will be per the plan presented, dated amended 10/8/2021, entitled Proposed Solar Power Installation – Michael Brown – Back Rd, Shapleigh, ME 04076 – GPS: 43.492804, - 70.821016 / Solar Power System Site Layout; Sheet No. SP-1; Owner, Michael Brown; Project – Solar Installation, along with the following 9 conditions of approval:

- 1) There shall be a MDOT access permit for Rte. 109 applied for and approved, prior to construction of the temporary access for timber harvesting and construction of the solar array.
- 2) A performance bond in the amount of \$150,000 shall be provided per the provision in §105-73.I, which will include a cost of living adjustment (COLA) provision.
- 3) A 10,000 gallon cistern is required near the project area for fire protection. The location shall be coordinated with the Fire Chief for the best location.
- 4) The fencing shall be no lower than 5 inches off the ground and no higher than 12 inches from the ground.
- 5) When the project solar arrays are decommissioned, removing posts, panels, underground wiring, inverters, and fencing; they shall have 180 days to complete the decommissioning and revegetate the area per the plan provided.
- 6) The temporary road from Rte. 109 shall be returned to a natural state, per the plans provided, once the construction of the solar array is completed.
- 7) Erosion control mulch shall not be used as a berm, non-flammable material shall be used instead to control erosion, such as gravel or crushed stone if needed.
- 8) Adequate training shall be made available to the Fire Department prior to the inverters going on line.
- 9) In order to release the performance bond for decommissioning, the Planning Board Chairman and Board of Selectmen must sign a release, prior to the bond being returned to the applicant.

Madge B. moved for approval of the Solar Power Installation on Map 2, Lot 9 (987 Back Road), per the plans provided and with the stated nine conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion to approve passed unanimously.

Mr. Barrett thanked the Board and said he understood their concerns regarding the cistern, and he is hoping it will not be that big a deal. He said he thought it made sense, and that he had to take his position so when people ask him questions he can tell them it is a serious concern for the Town. Ann H. said she looked up the cost of a cistern and it ranged from \$10,000 to \$14,000. Mr. Barrett did not think that would be a deal breaker. Madge B. agreed, she would be surprised if this stopped the project. Again, Mr. Barrett thanked the Board for their time.

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### **Findings of Fact**

1. The owner(s) of Shapleigh Tax Map 2, Lot 9 (987 Back Road) are Michael H. & Barbara E. Brown, of 987 Back Road, Shapleigh, Maine 04076. Proof of ownership via Warranty Deed, Book 17429, Page 800, recorded at the York Country Registry of Deeds on 3/1/2017.
2. The project description is as follows:

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.

3. Provided was a site plan 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 dated 10/8/2021.
4. Provided was a copy of the Town Tax Map and Flood Zones.
5. 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 Statewide Importance. Our review covers only areas mapped as Prime Farmland or Farmland of Statewide 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.
6. 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. *During review it was noted there were important farmland soils, and those considered prime farmland soils. The total acreage containing these soils was calculated as .6 acres or 3% of the total acreage of the project area, which is below the threshold of 10% maximum allowed by the State before mitigation of impact is an issue.*

7. 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.
8. 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.
9. Provided were the Stormwater Calculations and Erosion Control Plan.
  - 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. *Note: The Planning Board conditioned that no bark mulch shall be used – See Condition No. 7 of approval.*

10. 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.
11. Provided was a **Decommissioning Plan and Cost Estimate**. 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.

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

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).

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.

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.

#### **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.

#### **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.

12. The application as presented met the Basic Performance Standards in the Zoning Ordinance. Traffic access is safe with the limited amount of traffic and the site distances meet the minimum requirement; noise standards shall be met; there are no dust, fumes, vapors or gasses; a vegetative buffer surrounds the project

to prevent glare and prevent stormwater runoff onto neighboring properties; stormwater & erosion control was addressed per the plan provided, keeping existing screening and preservation of landscape in the 50 foot buffer; no explosive materials on site; water quality will not be affected, there are no fuel, chemicals, etc. stored on site; solid waste from construction will be taken care of by the applicant in a timely manner, sanitary provisions will be via portable toilets; an MDOT access permit will be obtained for the temporary access road used for timber harvesting and construction.

13. The application as presented met the criteria §105-54 ‘Solar Considerations’ – Section A, Section B was not applicable. The solar array shall be back 10 feet from the side and rear lot lines and 25 feet from the right-of-way (or 50 feet from the centerline) of a road, whichever distance is greater – the application meets and exceeds this criteria; the solar array is not located in the Shoreland District, therefore, timber harvesting requires no review.
14. 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 per the MDIFW letter, the use of fencing, placing it above the ground to allow for the possibility of the Blandings turtle to move under it and 12 inches high maximum, so no wildlife will be trapped inside the fenced area - wetlands and vernal pools were delineated on the plan provided, and buffers were created to avoid impact to sensitive areas; traffic access is safe as there is a minimal amount of traffic and minimum site distances can be met - the temporary access road off of Rte. 109 will need a MDOT entrance permit prior to construction; the site is not in a recognized flood zone; waste during construction will be removed from site in a timely manner, portable toilets will be used during construction; there are no hazardous materials associated with the business; there was a stormwater and erosion control plan provided that meets the criteria of the State for Best Management Practices & stormwater control; a 10,000 gallon cistern shall be placed on site for fire protection, located in coordination with the Shapleigh Fire Department; the project as presented will have a 50 foot buffer strip of vegetation between the project and surrounding properties that will protect against glare. There are no noise, fumes, dust, odors and the like created by the project.
15. A notice was mailed to all abutters within 500 feet of the property on August 25, 2021. Meetings were held on Tuesday, August 24, 2021, Tuesday, September 14, 2021, and Tuesday, October 12, 2021. A site inspection was done by members on Tuesday, September 14, 2021 and a public hearing was held on that day as well, prior to the Planning Board meeting.
16. The Planning Board unanimously agreed to approve the Conditional Use Permit to erect a 7.44-megawatt (“MW”) direct current (“DC”)/ 4.98- MW alternative current (“AC”) photovoltaic (“PV”) ground mounted solar facility, on Map 2, Lot 9, with 9 conditions.
17. **The conditions of approval are as follows:**
  - 1) **There shall be a MDOT access permit for Rte. 109 applied for and approved, prior to construction of the temporary access for timber harvesting and construction of the solar array.**
  - 2) **A performance bond in the amount of \$150,000 shall be provided per the provision in §105-73.I, which will include a cost of living adjustment (COLA) provision.**
  - 3) **A 10,000 gallon cistern is required near the project area for fire protection. The location shall be coordinated with the Fire Chief for the best location.**

- 4) The fencing shall be no lower than 5 inches off the ground and no higher than 12 inches from the ground.
- 5) When the project solar arrays are decommissioned, removing posts, panels, underground wiring, inverters, and fencing; they shall have 180 days to complete the decommissioning and revegetate the area per the plan provided.
- 6) The temporary road from Rte. 109 shall be returned to a natural state, per the plans provided, once the construction of the solar array is completed.
- 7) Erosion control mulch shall not be used as a berm, non-flammable material shall be used instead to control erosion, such as gravel or crushed stone if needed.
- 8) Adequate training shall be made available to the Fire Department prior to the inverters going on line.
- 9) In order to release the performance bond for decommissioning, the Planning Board Chairman and Board of Selectmen must sign a release, prior to the bond being returned to the applicant.

**Decision:**

The Conditional Use Permit to erect a 7.44-megawatt (“MW”) direct current (“DC”)/ 4.98- MW alternative current (“AC”) photovoltaic (“PV”) ground mounted solar facility, on Map 2, Lot 9 (987 Back Road) per the plans provided, dated amended 10/8/2021, with nine conditions, was approved.

**Conditional Use Permit – Replace Existing Structure – Matt Colton, Applicant; Alice White, Property Owner**

Mr. Colton was present for the review of the application, along with Mr. Arey who works with him.

Provided along with the application, was a letter of authorization which stated that Alice White granted Mr. Colton permission to act as her agent in all aspects in order to obtain a Building Permit from the Town of Shapleigh, dated August 19, 2021.

Provided was a copy of the Permit by Rule Notification Form, dated 8/31/21, with a Project Description as follows: *Replace Existing Retaining Wall with Pepin Precast Wall Block*. A picture of the existing wall was also provided.

Provided was a sketch plan which showed the location of the existing house, steps, landing, sandy beach area and vegetation that will not be disturbed. Noted on the sketch was the following: 127’ of frontage; 3” birch tree; New 4’ Precast steps into Lake; 3’ Height, 53’ of existing wall to be replaced.

The application detailed description of the property is as follows: *Replace existing / failing retaining wall at water’s edge*.

Roger A. asked Mr. Colton to let the Board know what they wanted to do. Mr. Colton began by introducing himself and his partner Cole Arey, from Mainely Barges. He said they were replacing a failing retaining wall. He said they were doing the applicant’s sons wall at the other end of the lake, so she called them to ask if they could squeeze the project in.

Roland L. asked if it was one course of blocks? Mr. Colton stated it was three. Madge B. agreed it would be more than one. Mr. Colton stated that everything has fallen into the lake; he will maintain the original existing height, which will be three courses with a set of steps in the middle. Steve F. asked if they would be using the same blocks they typically use? Mr. Colton stated that yes, they will be using the same ones. Roger A. asked



what the height of the wall was? Mr. Colton stated the final height was 3' 6", and no vegetation will be disturbed. He said because of this, there will be no revegetation required. He said the demolition would be taken out of Shapleigh. He said they would be starting anytime and they would finish by December 15, 2021.

Roger A. asked if they had their DEP permit? Mr. Colton stated that they had it and it was approved.

Roger A. asked about the survey to place the wall, if it had been done? Mr. Colton stated he was informed by CEO Demers that it was not going to be an issue. He said that he didn't do it but he could. CEO Demers asked if he was speaking about staking the corners and putting it back in the exact same location. Mr. Colton stated it would be the same everything. CEO Demers said the survey became required due to the change in the ordinance, and it was up to the Board whether they wanted to apply it or not. Roger said it was a structure and a survey is required for any structure in the Shoreland District. CEO Demers said that the Board hadn't been doing it on walls up until recently. Roger agreed, that it wasn't until they picked it up that it was required. Roger said it should be continued to be applied, because the Board knows the requirement is there. Roger said just because yesterday the Board didn't see the requirement did not mean they shouldn't apply the requirement in the future. Steve F. said he believed the Board agreed to a Class B survey or a mortgage loan inspection plan would suffice. He did not think the Board required a full blown survey; they need a licensed surveyor to state the location of the new wall is where the old wall was.

Mr. Colton had a concern where the base of the wall is falling in, is there a buffer? He asked if they could be within an inch of the original location, noting if the wall was leaning or crooked, he didn't want to build a crooked wall. Mr. Colton asked how the wall would be set in this instance? Roger A. said it would be from the base up in a straight line. Mr. Colton stated that he had seen bases tip out and people gaining another four or five feet of property. Roger stated that the DEP would not allow someone to encroach toward the lake. Mr. Colton asked if he was replacing to existing, and the wall moved, then could the homeowner have the extra space? Roger said the measurement is to the base. Mr. Colton stated the surveyor is going to pin it from the top of the wall, not the base if it is tipped out. Roger agreed most walls are leaning toward the water, so if you go to the base you are not measuring from the top of the wall. He said the homeowner does not gain anymore property. He added that the DEP does not allow expansion toward the lake.

Ann H. asked about abutters, how it affected them. Mr. Colton stated that was another problem, how to connect to abutters walls and issues with erosion control, if they connect, whereas in the past they got a letter stating they could connect to the neighbors existing wall. He said there is now a concern that there could be an open area creating erosion into the lake.

Mr. Colton stated he had Joe Stanley (LinePro Land Surveying) on board and he would come out, that was not a problem. Mr. Colton stated it just created more time and more money, and he felt it was a grey area where it hadn't been done in years. Mr. Colton stated the surveyor would come out and pin point A & point B as a control point, and then when they are done, he will go off the control point A & B, and if they are the same he will sign it off. Steve F. stated that if the property owner chooses to not do a survey, and they build on their neighbor's property, that is their problem. He said the ordinance says it cannot be any further back or closer to the water than it was originally, and that is what we need to know.

Mr. Arey asked how many points they needed? Steve F. stated it was up to the surveyor, not them; it was up to the surveyor to pin what they needed. Mr. Colton asked why they couldn't set a control point like they do for a leachfield? He asked why they couldn't put a reference point, then at for example have 56 feet to one corner,

then from the reference point 42 feet to the other corner, then Code can pull the tape, instead of using a surveyor. He said that was how it was in other towns. Steve said that for him, he did not feel the Town wanted CEO Demers out there with a tape measure certifying that it is where it was before, anymore than the Town would set a measurement for a foundation for an applicant. CEO Demers said that with a septic plan he can verify it's in the same spot per the plan, per the reference point. Steve agreed, but it was a plan drafted by a septic engineer. He said if it was set in the wrong spot, it is on the engineer. Mr. Colton stated that if he drafted the plan and it was incorrect, then it falls back on him. He asked if this was correct? Roger A. agreed; he then read §105-4.D(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'. He said, "No, ifs, ands, or buts; no grey area". Mr. Colton said, "Ok". Roger said, "Licensed surveyor, period". Mr. Colton said, "Ok". Mr. Arey stated, "Will do". Roger added that it was written in more than one location.

Mr. Arey stated that he did see an issue if you go from a poured wall to a precast wall, or a precast wall to a poured wall, it won't be perfect. He thought as long as you intrude on the land and not the water it would be alright. Roger A. agreed. Mr. Arey said that now they have to have a surveyor tell them where it needs to go. He said it could entail spending a half day with them. Mr. Colton stated with this application the wall is in the lake, so now they have to determine where it should be located. Mr. Arey believed they would tell them where it was going to go. Roger A. said again this is criteria the Board needs to use, so he believed this was discussed enough at this point.

Mr. Colton asked if he needed a survey before he came before the Board, and then have a final inspection? CEO Demers stated that the licensed surveyor will set the control point, then verify it is put back where it is supposed to be. Ann H. stated this can be done after it is approved, so if the approval does not go through, they will not lose money. Mr. Arey asked when the Board wanted to see the survey? Ann H. stated it doesn't come to the Board, it goes to the CEO.

There were no other questions.

**Roger A. then reviewed §105-73.G 'Standards applicable to conditional uses, 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, the wall will help to protect the lake by preventing erosion.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Roger stated it will help to conserve shore cover and access to the water.**
- 3) The use is consistent with the Comprehensive Plan. **Roger stated it is, the Comp Plan wants the lakes and ponds protected from erosion.**
- 4) Traffic access to the site is safe. **Roger stated it is for the purpose of the application.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger stated it is, the area is not on the flood hazard map for Shapleigh.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger stated all materials will be taken out of Shapleigh and disposed of at the proper facility. N/A for wastewater.**

- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger stated any hazardous materials shall be taken out of Shapleigh and disposed of at the property facility.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger stated the wall will help with stormwater, it will be erected per the manufacturer's instructions.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger stated Best Management Practices shall be maintained until the project is completed.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger stated this is N/A for this 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. **Roger stated there is no glare, fumes, dust or odors from this project. There will be no noise once the project is completed, which will be December 15, 2021.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger stated they shall with conditions.**

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

- 1) **The project shall commence after approval and will be completed by December 15, 2021. If this date cannot be met, a new date of completion shall be coordinated with the Code Enforcement Officer.**
- 2) **All demolition debris shall be taken out of Shapleigh and disposed of at the proper facility.**
- 3) **Best Management Practices shall be kept in place until the project is completed and the area is stabilized, which includes the use of silt fencing or hay bales. The contractor must be DEP certified in erosion control methods to work in the Shoreland District.**
- 4) **A licensed surveyor shall confirm in writing to the Code Enforcement Officer the location of the existing wall, and that the placement of the new wall is in the exact location as the existing.**

**Steve F. moved for approval of the Conditional Use Permit for earth moving in the Shoreland District to replace the existing retaining wall, same length and height as existing on Map 20, Lot 14 (10 Spill Way), per the plans provided with the four conditions. Madge B. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion passed unanimously.**

Nothing further was discussed.

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Findings of Fact

1. The owner(s) of Shapleigh Tax Map 20, Lot 14 (10 Spill Way) is Alice E. White, Trustee of Alice E. White Revocable Trust Agreement dated March 2, 2009 per Warranty Deed, BK 16438, PG 763, recorded 10/18/2012.
2. The property is located in the Shoreland District, and according to the Assessor's office, it contains .9 Acres.

3. Provided was a copy of the Permit by Rule Notification Form, dated 8/31/21, with a Project Description as follows: *Replace Existing Retaining Wall with Pepin Precast Wall Block*. A picture of the existing wall was also provided.
4. Provided was a sketch plan which showed the location of the existing house, steps, landing, sandy beach area and vegetation that will not be disturbed. Noted on the sketch was the following: 127’ of frontage; 3” birch tree; New 4’ Precast steps into Lake; 3’ Height, 53’ of existing wall to be replaced.
5. The application detailed description of the property is as follows: *Replace existing / failing retaining wall at water’s edge*.
6. 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.
7. A notice was mailed to all abutters within 500 feet of the property on September 15, 2021. Meetings were held on Tuesday, September 14, 2021 and Tuesday, October 12, 2021. A site inspection was done by members on an individual basis prior to the meeting.
8. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing railroad tie retaining wall on Map 20, Lot 14, per the documents provided and as presented, with four conditions.
9. **The conditions of approval are as follows:**
 - 1) **The project shall commence after approval and will be completed by December 15, 2021. If this date cannot be met, a new date of completion shall be coordinated with the Code Enforcement Officer.**
 - 2) **All demolition debris shall be taken out of Shapleigh and disposed of at the proper facility.**
 - 3) **Best Management Practices shall be kept in place until the project is completed and the area is stabilized, which includes the use of silt fencing or hay bales. The contractor must be DEP certified in erosion control methods to work in the Shoreland District.**
 - 4) **A licensed surveyor shall confirm in writing to the Code Enforcement Officer the location of the existing wall, and that the placement of the new wall is in the exact location as the existing.**

Decision:

The Conditional Use Permit for earth moving in the Shoreland District to replace the existing retaining wall, same length and height as existing on Map 20, Lot 14 (10 Spill Way), per the plans provided with four conditions, was approved.

Best Practical Location – Replace Structure – Map 34, Lot 42 (41 Chestnut Street) – Frederick & Jennifer Bermont, Applicant and Property Owner(s); Kevin Couture, Contractor

Mr. Kevin Couture was present for the review of the application, representing the applicants.

Provided along with the application was a copy of the Building Permit application, dated 9/2/2021, to demo the camp and add a new foundation and build a new camp.

Provided was a sketch plan of Map 34, Lot 42. The plan depicted the existing structure, showing it as being 8 ½ feet from Map 34, Lot 43 at its closest point; 21 feet from Map 34, Lot 41 at its closest point; 40 feet from the high-water-mark on the NW side of the lot at the closest point; 32 feet from the high-water-mark on the SE side of the lot at the closest point. There is also a storage shed on the property and right-of-way. The location of the 2000 gallon holding tank sits between the existing structure and the ROW. The structure is 22.5 feet x 20.5 feet in size with a 17 foot x 8.5 foot addition on the SW side.

The application detailed description of the project is as follows: *Demo of existing structure, new foundation and rebuild of new structure to match existing square footage.*

Roger A. stated the applicants are Frederick & Jennifer Bermont and Mr. Couture is representing them this evening. He asked Mr. Couture to explain what the applicants were doing for audience members.

Mr. Couture began by stating the applicants had a cape on 41 Chestnut, and it was determined there was no foundation underneath the structure. He said they wanted to do renovations and he didn't feel comfortable doing the renovations. He suggested to the applicants that they tear down the structure and put a new structure on a foundation. He said the new structure will be the same size or slightly smaller, on four foot footings.

Roger A. asked if there would be any changes to the septic system? Mr. Couture said, "No". Roger asked if there would be any trees removed? Mr. Couture said there was one tree adjacent to the house that has to come down, and possibly two others. He said as long as he didn't damage the roots they would remain, if they were damaged they would need to be removed. Madge B. thought 3 would have to be removed. Mr. Couture said again if the roots don't get compromised they will stay. Madge asked about the foundation, what it would be? Mr. Couture said they would dig 57" down and then put in 2 foot footings with a 4 foot frost wall on top of it. He said there is nothing under the structure now. She asked again how far down they were going? Mr. Couture said, "Four or five feet". Mr. Couture said he was concerned about the existing structure being able to withstand any remodeling the way it is. Steve F. asked if there would be a crawl space? Mr. Couture stated they would take out 2 or 3 feet, fill it in with a slab and then there would be a crawl space under.

Roland L. asked if there was a holding tank only? Mr. Couture thought it was a 1000 gallon holding tank only. He didn't think there was a place to put a septic system. Roland asked CEO Demers if there was a distance required from the structure to the holding tank? Steve F. thought this was a relatively new system. CEO Demers stated the setback would be 8 feet, but he felt the structure was right up to the tank. Mr. Couture stated the house was going exactly where it is now. Roland asked if they got an exemption? CEO Demers thought that was good question. He asked Mr. Couture if they were replacing the holding tank? Mr. Couture said, "No". CEO Demers said as long as they don't touch the tank, they don't need an exemption. He said as long as the structure wasn't going closer to the water. Roland said he just wanted to know what the situation was, because he observed it and it is being used as a parking area, so he assumed it was designed to support the weight of a vehicle. Mr. Couture stated that it was. Roland just wondered how stable it would be if construction was going on around it. Mr. Couture wasn't concerned. Roland asked what about the concrete truck? Mr. Couture stated it was not close to where the concrete truck would be placed. He said you just have to use common sense. Steve said it was shown as being 5 feet off the road. An Abutter stated that it was not five feet off the road. An Abutter thought it was a 2000 gallon tank. Steve said he was stating what the septic design showed.

Abutter, Linda Vachon, spoke about pictures she had emailed the Planning Board, she said the pictures showed the holding tank right against the right-of-way and that is where the applicants part. She said if you look at the

pictures of the vehicle parked, it is right along the right-of-way. She said the drawing provided was not correct. Another Abutter spoke of having to drive over the Applicant's father's septic tank, which is in the right-of-way, noting their boat trailer drags going over it. An Abutter stated that when you drive over the fathers septic, you cannot see until you get over it. The Abutter said you can't see a child or a dog walking in the right-of-way until you get level with the house, and then it could be too late. She said they were in attendance because they were concerned about this. Her husband said they thought they were going to put in another septic system.

An Abutter asked what the time frame was for the project? Mr. Couture stated that from start to finish he believed it would be three months. She asked when they would be starting? Mr. Couture stated either tomorrow or Thursday. She asked what happens to camps beyond the project, specifically access to the camps? Mr. Couture stated, "We are not going to block the right-of-way". She said they were closing up their camp. Mr. Couture said he would like to talk to everyone in the camps to get a better idea of when everyone would be out, because he did not want to block anyone.

An Abutter stated he was the last camp and he was concerned with construction vehicles blocking the right-of-way, so he could not get in or out. Mr. Couture said that he would not. He said he was the only one on the end with a turnaround, which he discontinued because boats were using his boat launch without him there. He said he was concerned with milfoil and didn't want boats going in and out. He told Mr. Couture he would need to find another way to turnaround. Again he said he wanted access to his camp and not have to worry about a construction vehicle blocking access, and he added his septic tank was there and didn't want to have to worry about that, another reason he put the gate up.

Madge B. stated, based on what she was hearing and what she saw, she didn't know how a cement truck would get in. Roger A. agreed that they would have a hard time.

Abutter Linda Vachon stated that the Board received pictures of a U-Haul that was blocking the right-of-way. She said that they cannot say they will have access, because they have been struggling with access to their camp for years. She said it was due to the Billings and Bermonts. She said if the Board looks at the pictures she sent, their right-of-way was impeded constantly, so she did not believe them when they said it would not with this project. She added that they were excited about the project, and added that they might like to do a project like this one day. She noted that before Code Enforcement came to the site there were zip lines across the right-of-way, that were hitting their truck mirrors. She understood that these camps were built years ago, now the trucks are bigger. She said she didn't know how the Billings chamber and leach field got put in last fall, they were not told. She wanted to know going forward who was culpable if someone is injured in the right-of-way? She said they bring their dog and string him across, they bring their kids and do ring toss all in the ROW, and the U-Haul you saw. She wondered what the Billings and Bermonts would do if they were told they cannot get to their camps for 10 minutes over and over again. She said it happens to them over and over again. Mr. Couture said that he did not believe this had anything to do with him. She said she understood. She said with respect to construction vehicles, how can they say the concrete truck will not affect the ROW? She asked how are they doing this, roll out containers for taking the camp down? Mr. Couture stated they put everything in a dump trailer hooked up to a truck. Mrs. Vachon asked if this would be parked in the road? Mr. Couture stated it would be parked in the driveway and hauled out any time he needed to. He did not believe it would be an inconvenience at all.

Ann H. stated that the Planning Board is only in charge of the taking down and putting up the building, nothing more. Mrs. Vachon asked about the condition regarding access to the ROW? Roger A. stated that that was a

civil matter. Ann said that whoever hits someone, that goes with whoever is driving the vehicle. Mr. Couture stated that it would be done with respect to all the landowners. He knew it would be an inconvenience. Ann asked if the camps were seasonal? An Abutter stated they go up all winter to check on the camps. Steve F. said the Board will address the concerns to the extent they have the power to do so, but they could not fix what sounds like an ongoing issue. Mrs. Vachon stated that her father had a stroke there, her daughter has a severe bee allergy, her mother has fallen on site, and thankfully each time there were no cars in the way. Mr. Couture said he would not be doing the job if he thought he was going to be inconveniencing anyone.

Fire Chief Guillemette asked what the address was? Roger A. stated 41 Chestnut. The Fire Chief asked where this was located? The Board and abutters explained the location. Madge B. also showed him.

Roger A. asked Mr. Couture if he had a DEP Permit by rule to remove the structure? Mr. Couture stated that he did. Roger asked if Best Management Practices would be used? Mr. Couture stated that yes, silt fencing would be used. Ann H. asked if a person certified by the DEP in erosion control would be on site? Mr. Couture said that he was not but the excavation company would be. Roger stated that someone certified would have to be on site during the project.

An Abutter asked about the tree to be removed, along with the bushes that have been removed in the front by the water? He asked if they would be replaced? Mr. Couture stated that they were replacing the tree and all that. Roger A. stated that the replacement trees need to be 6 feet in height from the base at ground level. Mr. Couture asked if they have to be 2 inches in diameter. Roger said, just 6 feet high.

Steve F. asked if the Board had a replanting plan? The Board did not have one.

An Abutter asked about the excavation company having a DEP person, where were they from? Mr. Couture stated they were out of Lebanon. Roger A. stated that the CEO will check to see if they are certified. Mr. Couture stated he would make sure they were. Roger said the person certified has to be there every day work is being done.

Madge B. said the Board doesn't have a replanting plan, could Mr. Couture make one for us? He said the project will affect the trees. Roger A. said the Board should have a plan. Madge wasn't sure where they will put them, because one side of the camp is so close to the boundary. Steve F. asked if the Board should center the camp on the lot, which would make more room for trees? An Abutter noted the father of the applicant was next door. Madge thought the problem with centering the camp was the location of the holding tank, otherwise she would like it centered.

Mrs. Vachon asked if the existing storage shed would get bigger? Mr. Couture stated it was being removed. She asked if an outdoor shower was in the works? Mr. Couture stated, "No, you can't have one". Ann H. said, "So the existing storage shed will be gone". The answer was yes. It was noted the shed was in between 2 trees. Madge again thought centering it was a good idea. Maggie M. noted that that side of the house was the only place to park, besides at the road. She thought if the shed was gone, they could also park on the side of the camp. Ann agreed if it was centered there would be no other place to park. Mrs. Vachon noted that when they do park, they angle out into the road which is an issue, so they have to ask them to move. After additional discussion it was decided the camp was in the best possible location due to the water, ROW, and possibility to park alongside the camp when the shed was removed.

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

- (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.

- [a] Trees removed in order to relocate a structure must be replanted with at least one native tree, six feet in height, measured from the base of the trunk to the top of the tree, for every tree removed. If more than five trees are planted, no one species of tree shall make up more than 50% of the number of trees planted. Replaced trees must be planted no further from the water or wetland than the trees that were removed. Trees shall be planted greater than five feet from side lot lines, and shall create a well-distributed stand of trees.
- [b] Other woody and herbaceous vegetation, and ground cover, that are removed or destroyed in order to relocate a structure must be re-established. An area at least the same size as the area where vegetation and/or ground cover was disturbed, damaged, or removed must be established within the setback area. The vegetation and/or ground cover must consist of similar native vegetation and/or ground cover that was disturbed, destroyed or removed.

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

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

Roger A. stated that it was determined that the structure, where it sits presently, is in the best practical location on site due to the location of the water, proximity to the septic tank, and the parking issue.

An Abutter asked Mr. Couture when he said he was shrinking the size of the structure, how high was it going? Mr. Couture stated he was shrinking it a couple of inches. The Abutter asked if there was a maximum building height in Shapleigh? Roger A. stated there was. The Abutter asked if it was 20 feet? Mr. Couture stated, “Yup”. Roger added that when the Board looks at the building they look at it from the bird’s eye view looking down, it isn’t measured along the side. He said it cannot exceed that size. Mr. Couture stated that

from the ground to the ridge was 16 ½ feet. He said they were only gaining 3 ½ feet. He said they were notching out the foundation to accept the new floor, so they could gain as much height as possible.

Roger A. stated they need a revegetation / replanting plan. Ann H. and Maggie M. stated they need it sketched on the plan. Ann added that when CEO Demers goes on site, he will be able to look at the plan and know what is supposed to be there.

Roger A. asked if the Board wanted to table until they receive a revegetation plan? Madge B. said she wanted the plan.

Madge B. moved that the Board table the application until they have a written revegetation plan. Steve F. 2nd the motion.

Roland L. asked if he could discuss this first. He said he was hearing the concerns of the abutters, and for them there is urgency with getting it started as soon as possible, so it will be taken care of before a hard frost. He thought by delaying it, it prevents Mr. Couture from moving ahead. Madge said she misunderstood. Mr. Couture said he was trying to get the project started to get it done, and get out. Roland suggested approval with the permit issued pending a revegetation plan being given to the CEO. Roland said, showing what is going to be removed and where it will be replaced on the lot. Roland thought this would get the project moving.

Roger A. asked what the date of completion would be? Mr. Couture stated 2 to 3 months from now. Mrs. Vachon stated they were not out of there yet, and they still have people coming in and out closing up camps. She was fine with waiting for a revegetation plan. Madge B. said that is what she thought. Mrs. Vachon thanked Madge for listening, and she realizes access is going to be limited once the project starts. She said they were not ready this week. She would rather wait until the camps were shut down. Mrs. Vachon said Mr. Couture is saying they will not be blocked, but she did not believe this would be the case.

The Board still agreed they could leave the revegetation plan to the CEO. Mrs. Vachon thought maybe the licensed surveyor would take a bit of time.

Roger A. stated the conditions of approval would be as follows:

- 1) A revegetation plan must be submitted to the Code Enforcement Officer prior to getting a demolition permit and deconstruction on site.**
- 2) The project shall be completed by June 1, 2022, including revegetation. If this date cannot be met, a new date of completion must be established.**
- 3) All demolition debris shall be taken out of Shapleigh and disposed of at the proper facility.**
- 4) 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. There must be a contractor on site certified by the DEP in erosion control methods to work in the Shoreland District on site any time work is being done.**
- 5) A licensed surveyor shall confirm in writing to the Code Enforcement Officer that the location of the new structure is in the same location as the existing.**

Barbara F. asked if the Board wanted to make a condition that there will be no blocking of the ROW during construction? Mr. Couture stated that whether it was him or it would be someone else, it would have to be addressed at the time. Roland L. stated he would like the contractor to acknowledge he would make every

effort possible not to block the right-of-way. Mr. Couture stated, “I already told everybody I wouldn’t”. Roland said he would like to hear it, and for him to be sincere when he said it. Mr. Couture stated, “I am very sincere. You can ask anyone I’ve done work for, they will tell you that when I say something I mean it.”

An Abutter stated that they would just like to make sure there wasn’t something like a dumpster or truck that will be in the road over the weekend. Someone saying they just need it there until Monday. She said they need access to their camps, and if nothing else, what if they catch on fire and the Fire Department has to get out there. She said it was a very very narrow road. Mr. Couture stated that was why he was going to use a dump trailer that will be hooked up and pulled out. The Abutter asked where this would all be parked?

Roger A. began reviewed of §105-73, ‘Standards applicable to conditional uses’ as follows:

- 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, best management practices shall be kept in place during the project.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Roger stated access to the water body will not be affected, there will be a revegetation plan provided.***
- 3) The use is consistent with the Comprehensive Plan. ***Roger stated it is, the Comp Plan wants structures along the lakes and ponds to be constructed properly.***
- 4) Traffic access to the site is safe. ***Roger stated it is as safe as it can be for the existing conditions. The Applicant will work with the neighbors to keep the access open per the conversation with abutters this evening.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***Roger stated it is, the area is not on the flood hazard map for Shapleigh.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Roger stated all materials will be taken out of Shapleigh and disposed of at the proper facility. There is an existing State approved subsurface wastewater disposal system on site.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***Roger stated there should be no hazardous materials associated with the project.***
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***Roger stated the only changes are the new foundation, the structure shall be no larger than the existing and everything else is on site currently.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Roger stated Best Management Practices shall be maintained until the project is completed.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***Roger stated it is located near the lake.***
- 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 no, glare, fumes, or odors from this project. There will be no noise or dust once the project is completed, which will be June 1, 2022.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***Roger stated they shall with conditions.***

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

- 1) A revegetation plan must be submitted to the Code Enforcement Officer prior to getting a permit to remove the structure and prior to deconstruction on site.
- 2) The project shall be completed by June 1, 2022, including revegetation. If this date cannot be met, a new date of completion must be established with the Code Enforcement Officer.

- 3) All demolition debris shall be taken out of Shapleigh and disposed of at the proper facility.
- 4) 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. There must be a contractor on site certified by the DEP in erosion control methods to work in the Shoreland District on site any time work is being done.
- 5) A licensed surveyor shall confirm in writing to the Code Enforcement Officer that the location of the new structure is in the same location as the existing.

Roland L. made the motion to approve the Best Practical Location, keeping the structure in the existing location on Map 34, Lot 42 (41 Chestnut Road), per the plans presented with 5 conditions. Steve F. 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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**The Findings of Facts**

1. The owner(s) of Shapleigh Tax Map 34, Lot 42 (41 Chestnut Road) is Frederick D. & Jennifer Bermont, of 197 East Street, Lexington, MA 02420, per Warranty Deed, recorded at the YCRD BK 18456 PG 441, recorded on 11/19/2020.
2. The property known as Map 34, Lot 42 is located in the Shoreland District and according to the Assessor the property contains .1 acres.
3. The Best Practical Location application was presented to replace the existing structure with a new structure and foundation, same size as existing.
4. The detailed description of the project is as follows: *Demo of existing structure, new foundation and rebuild of new structure to match existing square footage.*
5. Provided along with the application was a copy of the Building Permit application, dated 9/2/2021, to demo the camp and add a new foundation and build a new camp.
6. Provided was a sketch plan of Map 34, Lot 42. The plan depicted the existing structure, showing it as being 8 ½ feet from Map 34, Lot 43 at its closest point; 21 feet from Map 34, Lot 41 at its closest point; 40 feet from the high-water-mark on the NW side of the lot at the closest point; 32 feet from the high-water-mark on the SE side of the lot at the closest point. There is also a storage shed on the property and right-of-way. The location of the 2000 gallon holding tank sits between the existing structure and the ROW. The structure is 22.5 feet x 20.5 feet in size with a 17 foot x 8.5 foot addition on the SW side.
7. The application required Planning Board review as a Best Practical Location under §105-4 'Nonconformance'. The Planning Board members agreed the application as presented, will meet all the criteria in the ordinance with conditions, and the proposed location of the new structure, keeping the new structure where the existing is located is the best practical location, due to the location of the existing septic tank, proximity to the water, and side lot lines.

8. The contractor for the project, Mr. Kevin Couture, during the review on October 12, 2021, stated he would not block Chestnut Road during construction for any length of time and would coordinate with the abutters to keep the disturbance on Chestnut Road to a minimum.
9. A notice was mailed to all abutters within 500 feet of the property on September 15, 2021. Meetings were held on Tuesday, September 14, 2021, and Tuesday, October 12, 2021. A site inspection was done by members on an individual basis prior to the meeting.
10. The Planning Board unanimously agreed to approve the Best Practical Location for the replacement of the existing structure(s) on Map 34, Lot 42 (41 Chestnut Road), keeping the new structure in the same location, not to exceed the existing square footage, and add a new foundation, with five conditions.
11. **The conditions of approval are as follows:**
  - 1) **A revegetation plan must be submitted to the Code Enforcement Officer prior to getting a permit to remove the structure and prior to deconstruction on site.**
  - 2) **The project shall be completed by June 1, 2022, including revegetation. If this date cannot be met, a new date of completion must be established.**
  - 3) **All demolition debris shall be taken out of Shapleigh and disposed of at the proper facility.**
  - 4) **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. There must be a contractor on site certified by the DEP in erosion control methods to work in the Shoreland District on site any time work is being done.**
  - 5) **A licensed surveyor shall confirm in writing to the Code Enforcement Officer that the location of the new structure is in the same location as the existing.**

**Decision:**

**The Best Practical Location application to replace the existing structure on Map 34, Lot 42 (41 Chestnut Road), keeping the new structure in the same location, not to exceed the existing square footage, and add a new foundation, with five conditions, was approved.**

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**Conditional Use Permit – Replace Retaining Wall – Map 31, Lot 4 (4 Cillie Road) – Levesque Excavation, Applicant / Contractor; Elizabeth Schatzel-Murphy, Property Owner**

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

Provided along with the application, was the DEP Permit by Rule, dated 8/23/2021, which had a project description on the application stating ‘retaining wall replacement, same size, same location’. In addition, the following was attached: Maine DEP Permit by Rule Explanation ~ The activity that we are proposing to perform is the replacement of a rock retaining wall that has failed and smaller block walls on Goose Pond in Shapleigh, ME. The new walls are proposed to be built out of precast concrete blocks manufactured by Genest Concrete Works of Sanford, ME. The new walls are to be constructed in the same location and to the same dimensions as the existing. The walls are located at 4 Cillie Road, Shapleigh, ME, Map 31, Lot 4. All required permits will be in place through the Town of Shapleigh prior to construction, and all BMP’s will be used during the construction phase. Pictures of the existing conditions were attached as well.

Provided was an engineered plan, drafted by Steven R. Grant, LPE #6825, of SRG Engineering, Inc. Structural Engineers, located in Gray, Maine, dated 8/31/2021, entitled ‘Proposed Segmental Retaining Walls, 4 Cillie Road – Goose Pond, Shapleigh, Maine’. The plan includes Sheet W1 – Title Sheet; W3 – Wall Elevations; W4, W5, W6 – Wall Details; W7 – Wall Details & Sections. The plan depicts Anchor Diamond Pro Retaining Wall Units, Geosynthetic Reinforcement, Leveling Pad Base, Drainage, Reinforced Fill Details & other construction details.

The application detailed description of the project is as follows: *Replacement of existing retaining wall. Same location, same size.*

Roger A. asked Mr. Levesque to let the Board know what he wanted to do. Mr. Levesque introduced himself, and stated that he was going to do a retaining wall replacement on Goose Pond; the wall slightly exceeds 4 feet in height, therefore, he provided a set of engineered plan drafted by Steve Grant. He stated a few trees will need to be taken and replanted. He asked with respect to the survey, if it was a Class D survey that was required for the wall replacement, to certify the structures are on the property? Steve F. stated the surveyor will give him a tie point to where the structure is located now. Mr. Levesque asked if he was looking for two survey’s, existing conditions and after the project is complete. He thought this was something other than a Class D. Steve stated it was two Class D’s, one before, one after. Steve said Joe Stanley, Livingston Hughes, Dana Libby, he said they all know what the Board is looking for.

Ann H. asked about the walls on the plan, she thought one was going to stay. Mr. Levesque stated that 3 walls would be replaced. He said the reason was the lake wall has failed, the other two have to be taken out to reconstruct the failed wall. Ann asked if both needed to go back in. Mr. Levesque stated he spoke with the owners and they said that the middle wall they possibly could live without, but he told them because the wall is there, it can be replaced, and that would be the wise decision to keep it. He said in the end, it was up to the owner whether or not all three walls would be replaced. Ann asked if the Board needed to know before the work started? Roger A. stated that it would be permitted, then if they decide not to do it, it’s up to them.

Mr. Lévesque said the only other part of the application is a wooden set of stairs coming from the deck, down over the top of the wall. He said those would be taken out and reconstructed by the property owners, which is separate from what he would be doing. He said the new stairs will be in the same location and the same size.

Roland L. asked if they would be accessing from both sides? Mr. Levesque said, no, just one side. Roland asked what side. Mr. Levesque told him. Roland asked if he knew about the septic system. Mr. Levesque stated that he did and would be avoiding the system, drainage pipe, etc.

Steve F. said that the only amendment he saw was that Shapleigh’s code changed to a 6 foot tree requirement, not a 5 foot tree. He said that needed to be amended. Mr. Levesque said he would do so.

**Roger A. stated a site visit would be done on an individual basis, and a notice to abutters will be mailed as well. He stated the next meeting to review the application would be Tuesday, October 26<sup>th</sup>.**

Nothing further was discussed.

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**Conditional Use Permit – Earth Moving in the SD – Map 21, Lot 42 (17 Hollon Way) – Gallo Construction, Applicant / Contractor; Hollon Way LLC (c/o Kevin LaPierre), Property Owner**

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

Provided along with the application, was a document dated May 13, 2021, from Kevin LaPierre and David Dorwart, owners of the property, that stated the following in part: Hollon Way LLC (Kevin LaPierre and David Dorwart) authorizes Michael Gallo to act on our behalf for the purpose of obtaining the necessary permits and approvals for the retaining walls, additions, tree cutting, septic system and assorted site work.

Provided was a copy of the DEP Permit by Rule, dated July 20, 2021. The application Brief Project Description is as follows: Remove stone retaining walls & replace with Loc-blocks.

Provided was a copy of the Subsurface Wastewater Disposal System Application, drafted by Hope Hampton, SE #427, dated 8/19/21 for a replacement system for a single family dwelling unit for up to 4 bedrooms.

Provided was a plan 8/26/2021, drafted by Jo-Ann Cropley Cavanaugh, Licensed Architect from J.C. Cavanaugh Architecture LLC, located in Springvale, Maine. The plan is entitled ‘Renovations and Additions at 17 Hollon Way, Shapleigh, ME for Kevin LaPierre, 1611 Wood Song Court, Sugar Land, TX 77479’. The plan depicts the location of direct abutters, located on Map 21, Lot 44, Map 21, Lot 43A & Map 21, Lot 40. It also depicts the existing house, along with the proposed addition. The plan shows the 75 foot setback to the normal high water line and the 100 foot setback to the normal high water line. The addition is almost entirely outside of the 100 foot setback. The following notes are on the plan: 1) Remove Ex. Stone Retaining Wall; Proposed 3.5’ Retaining Wall; New 6’ Wide Stair w/ 6- 14” Treads. Center on House; Proposed 3.5’ H. Retaining Wall; Remove Ex. Conc. Stair; Remove Ex. Shed; Replace Ex. Deck & Stairs; Relocated Ex. Shed Out of Setback; Proposed 4’ H. Retaining Wall; Proposed Location New Septic Field, Existing Leach Field to be Replaced w/20’ x 35’ Chamber Bed for 4 Bedrooms; Existing Septic Tank to be Replaced w/ 1000 Gal. Heavy Duty Conc. Tank. Other notations include the existing driveway location and relocation, boundary markers, and wetland area.

Also on the plan provided are the following calculations:

Existing Building Footprint = 725 SF

Existing Porch = 302.5 SF

Existing Entry Deck = 64 SF

Total Footprint Ex. Structure within Shoreland Setback = 1091.5 SF

30% Expansion = 327.45 SF

New Entry Deck = 115 SF

New Addition = 369 SF (Portion of new addition in Shoreland setback = 69.4 SF)

Total New Structure Footprint within Setback = 184.4 SF

Total New Structure Footprint = 484 SF

Lot Coverage 10% of 29.493 SF = 2,949.3 SF

Lot Coverage Ex. & New Structure = 1.575.5 SF

The application detailed project description is as follows: *Earth moving in the Shoreland Zone*

Roger A. asked Mr. Gallo to let the Board know what he intended to do. Mr. Gallo stated he was before the Board to get permission to remove 1000 yards of gravel in the Resource Protection area. He stated he was going to use the gravel to rebuild the back of the house, which shows a septic tank. He said not knowing what the leach bed is, he is pulling out the tank and putting in a new tank, new septic system and rebuilding the road that comes into the camp with the fill that he pulls out of the banking. He said in order to make the banking work, because it is so steep, he is putting in 2 retaining walls. He said the lower longer one is to make a 20 foot wide parking platform, which is now a hill; and the upper one is to take the curve out of all he is removing, and to keep the upper hill from moving. He said the walls are to stabilize what they are not digging.

Mr. Gallo stated he will then have a level area, he noted the trees to be removed, in an area 25 feet from the house to the road. He said the septic tank will be built up about 2 feet from the existing ground, and the water will go down the road that he is rebuilding, towards the lowest area. He said currently it goes into the neighbor's yard. He noted where there will be a higher banking to come out, he said that the person was a relative of this family, and he showed using the plan how the grade would pitch slightly.

Roger A. asked if there was a DEP permit? Mr. Gallo noted he did not need one beyond 100 feet for much of the work, but he did obtain a permit for the wall along the water. Roger asked about gravel removal in the Shoreland District? Mr. Gallo said there was no removal, he was just taking out a wall and putting in a new one with precast blocks. He said a copy of the DEP approval was in the Boards' packet.

Roland asked if there was any flagging on site to indicate where the walls will be? Mr. Gallo said, "No". Roland asked if there could be? Mr. Gallo said there could be, but the Board will have to walk to them. He said he could put in the four corners where the walls will be. He added that he doesn't like to flag the trees until he goes before the Board, as it gets the neighbors asking what is going on. Roland said he wants to be able to know where it's going. Mr. Gallo said he would put blue flags in the trees. He showed the Board on the plan what he would flag.

**Roger A. said a site inspection would be done on an individual basis, a notice to abutters will be mailed as well. The next meeting to review the application will be Tuesday, October 26<sup>th</sup>.**

Nothing further was discussed.

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**Conditional Use Permit – Replace Retaining Wall – Map 43, Lot 27 (109 Pine Cone Drive) – Paul Litchfield, Applicant & Property Owner**

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

Provided along with the application, was a copy of an email from the Maine Dept. of Environmental Protection, showing payment on May 4, 2021 for a Permit by Rule project located on 109 Pinecone Drive, by Lisa Conti, along with an email stating the DEP Permit by Rule had been received. (A copy of the actual Permit by Rule was not provided.)

Provided was a sketch plan depicting Lot 27, the existing 1196 SF house, the distance from the house to the side lot lines, and the approximate location of the existing concrete wall to be removed. A notation on the plan stated 'Approximately 28 linear feet of wall to be replaced', and it noted part of the existing wall was concrete and part was made from railroad ties. The location of a tree next to the existing wall was also depicted on the plan.

Abutter's noted were Thomas Pratt (115 Pine Cone Drive) & Robert Sullivan (105 Pine Cone Drive). The location of the lake and Pine Cone Drive were also on the plan.

The application detailed description of the project was as follows: *Remove and replace existing failed retaining wall.*

Roger A. asked Mr. Litchfield to let the Board know what he wanted to do. Mr. Litchfield stated he had an existing retaining wall, that he wanted to remove and replace, where it is located. He said in the pictures you can see where the wall is gone. He said his only concern was, and he knew it could not be moved closer to the water, but there is a huge tree on site that he doesn't want to remove. He said he would like to come out about 8" so he isn't cutting into the roots of the tree. He said when they go to the site visit, they will see where the wall is rotted. He said he wants to come out the width of the block, again, so he doesn't have to cut any roots. Ann H. asked if this was 20 feet from the water? Mr. Litchfield stated that it was about 10 feet from the water.

Roger A. asked what the height of the wall would be? Mr. Litchfield said it would be about 28 inches, because there will be a course buried in the ground, then it will be 8" blocks and it will have 3 courses, which will be 24 inches. Ann H. asked if he was removing the tree? Mr. Litchfield said that is not what he wants to do, he is trying to save the tree. Mr. Litchfield said the railroad tie walls are totally rotted, the Board will see this on the site visit. He wasn't sure the length the Board would allow, based on what they see on site. He said again, he wanted to save the tree, so he wanted to come out whatever distance that was to be able to do that.

Roger A. asked if he had his DEP Permit? Mr. Litchfield stated that he did. Roger said BMP will be used during the project, all railroad ties will be taken out of Shapleigh. Mr. Litchfield said yes, and all the concrete will be taken to Simpson's as well.

**Roger A. stated a site inspection will be done on an individual basis, a notice to abutters will be mailed, and the next meeting to review the application would be Tuesday, October 26<sup>th</sup>.**

Nothing further was discussed.

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**Conditional Use Permit – Replace Retaining Wall(s) & Stairs – Map 26, Lot 24 (236 16<sup>th</sup> Street Loop) – Tyler Matthews, Applicant; Ben Welch, Property Owner**

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

Provided along with the application, was a copy of the Town Tax Map depicting Lot 24, with a house, stairs, patio, stairs & wall sketched on the lot.

Also provided was a sketch plan which showed where mulch will be placed between the house and the patio area. The stairs from the house to the patio were depicted with a notation that stated 'Concrete stairs uneven & difficult to walk on, replace w/even stairs made w/stone & pavers'. There is a small wall just above the patio area depicted, which is 2 feet in height and having 6' to the left of the stairs, and 18' on the right of the stairs. A notation states, 'Small retaining wall to be replaced'. The patio area had a notation that states, 'Remove old patio, install permeable patio'. From the patio area was another set of stairs toward the water, which had a notation that stated, 'Replace rotted stairs w/stone stairs'. The wall along the water to be replace was depicted as 4' in height for a distance of 22' in length to the left of the stairs facing the house from the water, 4' in height



for a distance of 16’ to the right of the stairs facing the house, and 2’ in height for a distance of 36’. A 4 foot set of stairs from the patio area, between the 2 four foot sections of wall was also on the plan.

The application detailed description of the project was as follows: *Replacing RR tie retaining wall near water w/concrete wall. Replacing stairs from camp down to the water & two small walls built into hill. Replacing flat area w/pavers.*

Roger A. asked Mr. Matthews to let the Board what he wanted to do. Mr. Matthews stated they are redoing the wall by the water, so while they are redoing the wall the owners want to do the patio. He stated the stairs from the house to the wall are bad, pitching down. He said one of the owners has issues with walking, so the stairs are not good for her and he noted even for him walking on them they were not a good situation.

Steve F. asked why they wanted a permeable patio? Mr. Matthews stated that he did not believe he could put a patio in after speaking with CEO Demers. He said it is a flat area now, with a dock on it. He said he will keep it flat with bark mulch on top. Ann H. asked if there was a patio there now or just a dock. Mr. Matthews said it was a dock, but there could have been a patio. Ann asked if they had pictures of a patio? Mr. Matthews stated they did not. Mr. Matthews said he was replacing the existing structures.

Roger A. asked if any trees were being removed? Mr. Matthews said, “No”. Roger asked if the wall was greater than 4 feet in height. Mr. Matthews stated that it was not now and it would not be when finished. He said the wall would be the same size and placed in the same location when finished. Roger said on the plan it stated the wall was 4 feet in height, so he wanted to know that it would not be over that.

Steve F. asked what the wall was made out of now? Mr. Matthews stated it was made out of railroad ties.

CEO Demers asked if there was anything else he needed? Steve F. asked if they could have a plan that did not have a patio on it. Mr. Matthews said he could get one. Steve said it should have wall at the water, steps, small wall in the back. He said that is all that should be on the plan, whatever he was replacing. Mr. Matthews said, “Ok”.

**Roger A. stated a site inspection will be done on an individual basis, a notice to abutters will be mailed, and the next meeting to review the application would be Tuesday, October 26<sup>th</sup>.**

Nothing further was discussed.  
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**Other:**

Steve F. stated that he received a call from Attorney Brad Morin, regarding the Brian White Private Way approval. He said he learned that when he purchase a lot you have to hold it for five years before you can even gift it to a relative. He said after five years, you can gift to whatever child you want to. He said he did not know this. He assumed if someone sold him a lot, from day 1, he could dole out lots to his children without setting foot at the Planning Board. Steve said Brad read him the definition and it said the grantor, which is the Dad, has to have the property for five years. He said the Whites did not know that, he only had it for 4 years and several months, before he deeded the lots out to his two children. He said at this point the time has passed, it’s not a big deal, but the Title Insurance Company is now giving Brian White a no, that he cannot buy the house back from the builder, Roger Berube. He said because of what it says on the Private Way Plan, Condition No. 7, that was

placed on the plan by the surveyor. He said the simple fix is a letter drafted by the Planning Board stating the Board understands what took place and is ok with it. He said he tried to convince Brad that because the five years have passed already, it's a moot point. Attorney Joe Lenkowski is also going to state this (which is Mr. Foglio's attorney). He said even though there was an error committed, the time is passed, so it should not be an issue. He said in order to take care of the problem, it means nothing to the town because it is not a subdivision issue, Mr. White is still going to need a letter from the Board. He said potentially the Selectmen will have to sign as well, he was not sure. Barbara F. asked that the attorney draft a letter. Steve said they are asking Lenkowski to draft the letter, and he thinks it may have to come before the Planning Board, he was not sure.

Roger A. asked if any money was transferred? Steve F. stated zero dollars have been transferred. Steve said it was a family subdivision and it should be exempt, but the Title Insurance Company is giving them a hard time, stating that the grantor did not hold the lot for five years. Ann H. asked if someone should have picked it up when it was recorded? Steve said no, it is just recorded. Maggie M. asked if in the future the Board should look at that, because it had to have come for a Growth Permit. Should they ask if the parent lot was held for five years, prior to being divided? Steve said it was a title issue, not a subdivision issue. He said again the five years have passed, but the deed stamp sets the date. He added that it was not even built on until after the five years had passed. CEO Demers said this was not even a subdivision before the Board, it was the construction of a private way. Steve agreed but on the plan Note 7, it talks about that this is not a subdivision because it is exempt under the subdivision law. Because that is on the plan, that is why they are giving them a hard time. He said it is the Title Insurance Company that is having the issue. He wanted the Board aware in case it come before the Board to fix the problem. He said he asked the attorney's to come up with a way to fix it, and let him know what to do.

The Board will wait to hear from Mr. White if something more needs to be done.  
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Barbara F. asked when the Board wanted to hold a workshop on possible amendments to the ordinance. Members agreed to hold a workshop on Friday, October 15 at 2:00 pm. Barbara will post it as required. She asked that members bring their ideas with them to the meeting.

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**Growth Permits**

**Map 34, Lot 30 (248 Cedar Drive)**

**Growth Permit #28-2021**

This permit is for a seasonal conversion of an existing structure. CEO Demers stated the septic system has been updated already.

**Map 36, Lot 27 (Indian Village Road)**

**Growth Permit #29-2021**

This property was approved for a garage with living quarters over by the Planning Board in 2021.

**Map 3, Lot 19A & 17F (169 Simon Ricker Road)**

**Growth Permit #30-2021**

These properties are being combined into one lot, where all the minimum requirements can be met including road frontage and lot size.

**Map 30, Lot 31 (19 Elm Street)**

**Growth Permit #31-2021**

This permit is for a seasonal conversion of an existing structure. Any required improvements will be permitted through the Code Enforcement Office.

The Planning Board meeting ended at 10:35 p.m.

**The next Planning Board meeting scheduled will be October 26, 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)