

Shapleigh Planning Board

Minutes

April 13, 2021

This evening's meeting was conducted via Zoom due to Covid-19.

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

Public hearing began at 7:10 pm

Ann Harris was unable to attend the public hearing.

Conditional Use Permit – Gravel Pit (Previously approved in January 2010) – Map 7, Lot 28 (State Rte. 11) – Hissong Development Corporation, Applicant & Property Owner

Steve Patch of Sevee & Maher Engineers was present, along with Chris Pizey of Hissong Development Corp.

Roger A. opened the public hearing by asking Mr. Patch to tell the Board and anyone else on Zoom what they intended to do. Mr. Patch began by thanking the Board and stated they are discussing the gravel pit development for Hissong, the Great Hollow Sand and Gravel Pit, which is located at the intersection of Route 11 and Square Pond Road. He stated there is a plan that has been developed for awhile, and noted it was a relatively small gravel pit, around 7 acres. He said the pit had its permits through MDOT for an entrance permit, IF&W reviewed the plan and they came up with a reclamation plan and a restrictive covenant for use of the property near the wetlands. He apologized to Roger saying that at the last meeting he did not realize he had a typo on the drawing, the setback came over as 75 feet, but it was shown as 25 feet from the wetlands, and he added that he knows that the DEP wants to see a 90% reclamation of grass surfaces. He said it was good to get it clarified, and he believed everything has been corrected.

Mr. Patch stated he sent out a letter talking about noise, hours of operation, and the Declaration of Restrictions. He said the Declaration is updated and Chris Pizey has signed it, it was notarized, and it should be good to go upon approval by the Board. He said he was willing to answer any questions, and Chris Pizey would as well.

Roger A. asked if the temporary stump stockpile would remain on site, get buried, or ground up at a later date? Mr. Patch said that as long as it is from trees that are on site, if it is less than an acre, it could stay. He thought they would chop it up and use it on site, but he noted that they are working on a plan to have a wood waste processing facility at their Lyman location. He said if there was anything that had to go away, they might bring it there. He thought they could bury it or keep it on site, as long as it is under an acre.

Roger A. asked if there were any questions? Roland L. said that it was noted there would not be any traffic by the school during school admission and closing at the end of the day. He said Goose Pond Road, which is near and dear to him, because he lives just off it; he was hoping it would be excluded from any truck traffic. He stated there was a weight restriction, but he said what they were finding, what is happening now is a considerable amount of empty truck traffic. He wanted people aware that there are 3 other active sand pits near where he lives, so he was hoping that there wouldn't be even any empty trucks using Goose Pond Road to circumvent getting around the school situation. Chris Pizey stated that they have no reason to be on Goose Pond

Page 1 of 38

Shapleigh Planning Board Minutes – April 13, 2021 Page 2 of 38

Road. He stated they would be entering and exiting on Route 111 (it is actually Route 11). He said they would go either to the Westbrook plant or Eliot plant. Roland asked Mr. Pizey if he was familiar with Goose Pond Road, stating it connects Route 11 with Route 109, and less than two miles from where the gravel pit will be

located. Mr. Pizey stated he was not really familiar with it, but he would take another look, and said again he didn't believe they would need to use Goose Pond Road. Roland said that he hoped not, and said he may request it be a condition of the permit, so it will be documented for the record. He added that at one point the road is only 26 feet in width. Mr. Pizey said he wouldn't want his trucks going over that. Roland wished everyone felt the same way, he said even though the trucks are empty it does create a safety issue, as well as noise issue. Mr. Pizey stated that he understood.

Roger A. asked if there were any additional questions? Roland L. said he was wondering, pending approval, when they would begin mining the gravel from the site? Mr. Pizey thought they would begin stumping and setting up later in the fall, do clearing over the winter, and get ready to go by spring. Roland asked if the operation was intended to go throughout the year, or would it be a seasonal activity? Mr. Pizey didn't think they would use it in the dead of winter, they would only do preparation work at that time. Roland thanked Mr. Pizey.

Roger A. asked if there would be any rock crushing on site? Mr. Pizey stated there would be no rock crushing, screening only.

Roger A. asked if there were any other questions? Roland L. asked that since there would be no permanent structure, would there be any lighting? Mr. Pizey stated he did not anticipate any lighting, stating there would be no power brought to the site. Roland thanked Mr. Pizey.

Roger A. stated that at one time there was going to be a small shed, he asked if that was still possible? Mr. Pizey stated that there may only be a Conex box on site and he would place it so it wasn't visible from the road.

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

Mr. Pizey stated that he was looking at the map, and said there was no reason for them to use Goose Pond Road.

Roger A. stated since there were no other questions, he would close the public hearing.

The public hearing closed at 7:17 pm.

The minutes from Tuesday, March 23, 2021 were accepted as read.

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

Minutes are not verbatim, unless in quotes "" – If the name of a citizen making a comment was not requested by the Planning Board Chairman, the reference to their name will be known as 'Citizen' or 'Abutter' depending on whom is speaking.

Shapleigh Planning Board Minutes – April 13, 2021 Page 3 of 38

Conditional Use Permit - Earth Moving to Widen Driveway in the SD – Map 30, Lot 61 (86 Treasure Island Rd) – Tyler Matthews, Applicant; Joy Whatley Paules, Property Owner

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

Provided along with the application was an authorization letter stating that Tyler Matthews could represent Whatley Family Trust, Joy Whatley Paules, Trustee, in all aspects in order to obtain a building permit from the Town of Shapleigh.

Provided was a sketch plan of Map 30, Lot 61 which depicted the lot as being 2.51 acres in size; showing the location of the existing main camp, deck and stone patio, 2 sheds, outdoor shower, storage box and fire pit, along with the location of the existing driveway. The driveway is depicted as being 250 ± in length. The plan stated that the original driveway would be made 10 feet wider, and they would be taking out about 50 yards (3 truckloads) of leaves & top soil to grub for the road.

Provided was a second copy of the sketch plan of Map 30, Lot 61. This plan was entitled 'Re-vegetation Plan' and it showed an area alongside the driveway that would have erosion mulch added to stabilize the hill.

Provided was a copy of the Town of Shapleigh Shoreland Septic Systems Registration Form, which appears to be dated June 1, 1995, which states by the owners (Whatley Family Trust) that the steel septic tank is 500 gallons in size, the size of the leach bed was undetermined and is approximately 105 to 110 feet from the water/wetland. There was a sketch attached to the form which depicted the camp as 85 feet from Square Pond, the septic tank 105' to 110' from the lake and noted again that the size of the leach field was undetermined.

The detailed description of the project is as follows: *The driveway to the existing camp is too narrow. Looking to widen about 10' to allow for larger vehicles & in case of an emergency a fire truck.*

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

Roger A. asked Mr. Matthews to brief the Board and anyone who is interested what he would like to do. Mr. Matthews stated they wanted to widen the driveway to make it more accessible for larger vehicles. He stated on the plan he had 16 feet, after the site inspection it looks like it will be closer to 12 feet. He said that however many trees he cuts down, he will have to replant 1 tree per tree.

Roger A. asked if anyone had questions for Mr. Matthews? Madge B. asked if Mr. Matthews was going to come back with a new plan? Mr. Matthews said he hoped not, but he didn't know. Madge didn't think the Board could approve what they had because they didn't know how wide the driveway would be, what trees would be removed or how the bank would be stabilized. Mr. Matthews asked if he could stick to the plan and make it smaller? Madge said that if he sticks to the plan the Board needs to know where about 20 trees were going to go. Mr. Matthews thought he dealt with CEO Demers for that. Roger said the Board approves the location and CEO Demers makes sure if the Board says 15 trees need to be replaced, they are replaced. He said usually the

trees to be removed are flagged, so when he goes on site, he knows which ones are being removed. Mr. Matthews said he could do that, but noted it would be difficult in the area with the steeper slope, because as they cut in, they won't know what tree needs to go until they do it. He said he could mark trees and put stakes where trees will go. Madge said that it should say on the plan how he will stabilize the area. Ann H. said what the Board normally does is get a revegetation plan, an updated plan on file.

Shapleigh Planning Board Minutes – April 13, 2021 Page 4 of 38

Roger A. stated that he would like to see the driveway no wider than 12 feet, this would diminish the impact on the number of trees removed. Madge B. agreed stating that the damage that the proposed width would do is very serious. Ann H. asked if 12 feet was wide enough to get an emergency vehicle such as a fire truck back there. Roger said, yes. Ann said, ok. Madge B. asked why 16 feet was the original request? Mr. Matthews stated he just picked a number. He said he had no issue with 12 feet. Madge said from the Board's perspective, there are good reasons to ask for no wider than 12 feet. Mr. Matthews stated he was happy with 12 feet.

Roger A. asked if he had DEP approval? Mr. Matthews stated that he had DEP approval (Permit by Rule).

Madge B. thought at the site inspection Mr. Matthews stated he would take some fill out and bring some fill in. Mr. Matthews stated they did not plan on bringing in any fill; leaves, loam and some topsoil will have to come out. He said if they can use what they move on the banking and feel comfortable it will not erode, they will use it. Madge noted that on the plan it was written about 50 yards or 3 trucks of leaves and top soil would be moved. Mr. Matthews said, yes. Roger A. stated that on the plan it is noted that erosion mulch would be added to stabilize the hill. Madge asked if they needed the erosion mulch along the whole road or just along the steep bank? Roger thought along the steep bank. Mr. Matthews stated they would stabilize anything that gets disturbed.

Madge B. asked if the Board could approve with the condition that they replace every tree they take out? Roger A. believed so, along with the erosion control mulch added to stabilize the hill and the removal of approximately 50 yards to grub out the area. Also, the driveway can be no wider than 12 feet, and he would like to see the road angled to help prevent the runoff from going into the lake, keeping the travel way higher on the lakeside than on the inland side. He said again this would help keep the stormwater on site, and keep it out of the lake.

Roger A. asked if there was anyone with questions for Mr. Matthews? There were no questions.

Roger A. stated that Best Management Practices would be used during construction. Roland L. asked Mr. Matthews pending approval, when would he start the project? He asked if it would be done prior to summer or would he wait until the fall? Mr. Matthews stated it would be done before summer. Madge B. asked if the Board should state when the trees needed to be planted? Roger said, yes. He said the Board needed a date of completion for the project. Madge asked if October 1st would work? Mr. Matthews stated he would prefer November 1st.

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

- 1) **Best Management Practices shall be kept in place until the project is completed and the area is stabilized, which includes the use of silt fencing or hay bales.**
- 2) **The date of completion for the project, including replacing all trees to be removed, shall be November 1, 2021. If this date cannot be met, the applicants shall come back to the Planning Board to establish a new date of completion.**
- 3) **The width of the driveway shall be no greater than 12 feet to help alleviate the number of trees to be removed. The driveway shall be slanted away from the lake to prevent stormwater runoff from going into the lake.**
- 4) **Erosion control mulch shall be used to stabilize all areas disturbed by the project, as per the plan presented. Rhododendrons that need to be removed shall be replanted and placed closer to the existing structure.**

Shapleigh Planning Board Minutes – April 13, 2021 Page 5 of 38

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

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. **Roger A. stated by using BMP, keeping the driveway tilted away from the water and erosion control mulch to stabilize the area, it will not.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **Roger A. stated it will, by not affecting the area between the existing driveway and the water.**
- 3) The use is consistent with the Comprehensive Plan. **Roger A. stated it is, the Comp Plan wants to protect the lakes and maintain healthful conditions.**
- 4) Traffic access to the site is safe. **Roger A. stated it is safe for the intended project.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **Roger A. stated this project is not in a flood zone per the Flood Hazard Map for the town.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger A. stated this is not applicable, none is being generated.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger A. stated that this is not applicable, none generated by this activity.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **Roger A. stated the area has been in its current state for some time and there are no signs of erosion. He said by keeping the road tilted, with the high side toward the lake, and removing only a small amount of the existing banking, it will keep stormwater on the property and out of the lake.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger A. stated the erosion mulch will help to contain any erosion and sedimentation.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger A. stated this is not applicable 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 A. stated there are no major changes to the existing landscape, most of the existing**

vegetation and natural buffers will remain in place. Noise will be for a minimal period of time. There is no glare, fumes, or odors.

- 12) All performance standards in this chapter applicable to the proposed use will be met. *Roger A. stated they shall with conditions.*

Roger A. if anyone would make a motion for approval?

Madge B. made the motion to approve the Conditional Use Permit to widen the driveway no greater than 12 feet in width, on Map 30, Lot 61, per the plans presented and as discussed this evening, with the stated conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the decision was unanimous.

Nothing further was discussed.

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***Shapleigh Planning Board Minutes – April 13, 2021 Page 6 of 38***

**The Findings of Facts**

1. The owner(s) of Shapleigh Tax Map 30, Lot 61 (86 Treasure Island Road) are Robert and Kay Whatley, Trustees of Whatley Family Trust, mailing address of 79 Mid Tech Drive, Unit C, W. Yarmouth, MA 02673. Joy Whatley Paules also listed as Trustee, at the above stated address.
2. The property known as Map 30, Lot 61 is located in the Shoreland District and according to the Assessor the property contains 2 acres.
3. The Conditional Use Permit application was presented to widen the existing driveway. The application description reads as follows: *The driveway to the existing camp is too narrow. Looking to widen about 10' to allow for larger vehicles & in case of emergency a fire truck.*
4. Provided was a sketch plan of Map 30, Lot 61 which depicted the lot as being 2.51 acres in size; showing the location of the existing main camp, deck and stone patio, 2 sheds, outdoor shower, storage box and fire pit, along with the location of the existing driveway. The driveway is depicted as being 250 ± in length. The plan stated that the original driveway would be made 10 feet wider, and they would be taking out about 50 yards (3 truckloads) of leaves & top soil to grub for the road.
5. Provided was a second copy of the sketch plan of Map 30, Lot 61. This plan was entitled 'Re-vegetation Plan' and it showed an area alongside the driveway that would have erosion mulch added to stabilize the hill.
6. Provided was a copy of the Town of Shapleigh Shoreland Septic Systems Registration Form, which appears to be dated June 1, 1995, which states by the owners (Whatley Family Trust) that the steel septic tank is 500 gallons in size, the size of the leach bed was undetermined and is approximately 105 to 110 feet from the water/wetland. There was a sketch attached to the form which depicted the camp as 85 feet from Square Pond, the septic tank 105' to 110' from the lake and noted again that the size of the leach field was undetermined.
7. During the site inspection Board members agreed the proposed width of the driveway would cause extreme conditions between the number of trees that would have to be removed and the difficulty in stabilizing the embankment which was close to the waterfront. Members agreed the new driveway could be no greater than 12 feet in width. In addition, creating a downward slope to the driveway away from the water would also help to protect from stormwater runoff.
8. The application as presented met the performance standards under §105-73 'Conditional Use Permits', with conditions.
9. A notice was mailed to all abutters within 500 feet of the property on March 24, 2021. Meetings were held on Tuesday, March 23, 2021, and Tuesday, April 13, 2021 via Zoom due to Covid-19. A site inspection was done by members prior to the meeting on April 13.
10. The Planning Board unanimously agreed to approve the Conditional Use Permit to allow the applicant to widen the existing driveway to no greater than 12 feet as discussed on April 13, 2021 and per the plans presented, on property known as Tax Map 30, Lot 61, with four conditions.

***Shapleigh Planning Board Minutes – April 13, 2021 Page 7 of 38***

**11. The conditions of approval are:**

- 1) **Best Management Practices shall be kept in place until the project is completed and the area is stabilized, which includes the use of silt fencing or hay bales.**

- 2) **The date of completion for the project, including replacing all trees to be removed, shall be November 1, 2021. If this date cannot be met, the applicants shall come back to the Planning Board to establish a new date of completion.**
- 3) **The width of the driveway shall be no greater than 12 feet to help alleviate the number of trees to be removed. The driveway shall be slanted away from the lake to prevent stormwater runoff from going into the lake.**
- 4) **Erosion control mulch shall be used to stabilize all areas disturbed by the project, as per the plan presented. Rhododendrons that need to be removed shall be replanted and placed closer to the existing structure.**

**Decision:**

**The Conditional Use Permit application to widen the existing driveway no greater than 12 feet in width, on Tax Map 30, Lot 61, per the discussion on April 13 and per the plans provided, with four conditions was approved.**

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**Conditional Use Permit – Gravel Pit (Previously approved in January 2010) – Map 7, Lot 28 (State Rte. 11) – Hissong Development Corporation, Applicant & Property Owner**

Steve Patch of Sevee & Maher Engineers was present to represent Chris Pizey of Hissong Development Corp.

Previously provided to the Planning Board in 2009/2010 & 2012, for the approval of the gravel pit were the following required documents:

- A copy of the letter from the Maine Historic Preservation Commission (MHPC), dated 7/27/09, which stated the project location could possibly contain one or more prehistoric archaeological sites so an archaeological survey was required prior to any ground disturbance.
- A copy of the Prehistoric Archaeological Investigation Report, dated October 2009, MHPC File No. 1310-98, prepared by Tetra Tech, Inc. of Portland Maine, which concluded there were no prehistoric archaeological sites recorded within the Project area.
- A copy of the letter from the MHPC, dated 11/16/09 which stated they reviewed the report provided by Tetra Tech Inc. and found the report acceptable as written and they agreed with the conclusions in the report.
- A copy of the letter from the Maine Dept. of Inland Fisheries and Wildlife (MDIFW), dated 8/27/09, which stated the proposed location likely supported one or more endangered species. MDIFW offered three options for the development of the property. Note: Hissong chose the third option which required the western side of the stream be put into a permanent conservation easement or deed restriction, and that the area to be mined be allowed to revert back to a Pitch Pine Scrub Oak community once the mining project is completed. Furthermore, upon completion of the mining the entire parcel would be subject to the same conservation easement/deed restrictions above, the terms of which need to be reviewed and approved by MDIFW.
- A copy of the Declaration of Restrictions drafted to satisfy MDIFW's development plan option three of the above letter. Note: The Declaration of Restrictions was approved by MDIFW & the Planning Board.
- A copy of the approval for the mineral extraction plan by the Maine Dept. of Environmental Protection and a copy of the placard to be placed on site, issued 12/29/09, Permit No. L-724.
- A copy of the Driveway/Entrance Permit by the Maine Dept. of Transportation, dated 11/30/09.

***Shapleigh Planning Board Minutes – April 13, 2021 Page 8 of 38***

- The Survey / Reclamation Plan, dated 1/13/2010, drafted by Stephen Stearns, PE #4437, of Pinkham & Greer, located in Springvale, Maine. The survey plan included in addition to the reclamation plan the following: The calculated net gravel pit volume of 343,200 cubic yards; hours of operation; location of access road and refueling pad; wetland area; setbacks to gravel pit from high water mark, roadway and side lots lines; site distance on Route 11; size of borrow pit (approx. 7.7 acres); plans for dust control and disposition of stumps, brush and boulders; the soils legend; and noted was the requirement to restrict truck travel past the Shapleigh Memorial School during school hours of pick-up and drop-off of the children.
- The Survey / Reclamation Plan amended by MDIFW, dated June 7, 2010, signed by Stephen Stearns, PE #4437, of Pinkham & Greer. The plan satisfies the requirements imposed by MDIFW as stated in the email from Judy Camuso, Wildlife Biologist, MDIFW, dated April 27, 2010 forwarded to the Planning Board on June 7, 2010. (This action satisfied condition #4 of the original conditional use permit approval letter dated 1/15/2010.)

Received on March 23<sup>rd</sup> were the following:

- An email from Christopher Pizey, President of Hissong Ready Mix and Aggregates LLC, to Steve Patch which stated, ‘Steve, please accept this email as Hissong Ready Mix’s authorization to represent us in matters regarding the Great Hollow gravel pit with the Town of Shapleigh’.
- A page taken from Sand & Gravel News, entitled ‘DEP Inspection Report’, which read in part as follows:  
*The Department uses an estimated reclamation cost of about \$3,500 per acre, so if your financial assurance amount is significantly below this, it should be updated to reflect current costs.*
- Reclamation Plan for Hissong Ready-Mix & Aggregates, LLC, drafted by Brian D. Pierce, PE #9609 of Sevee & Maher Engineers of Cumberland, Maine, dated 3/2021. Boundary & Topographic information was provided by Corner Post Land Surveying, Inc., of Springvale, Maine. Wetland boundaries were delineated and located by Joe Noel (Maine CCS #209), of South Berwick, Maine.

Information provided on the reclamation plan:

- Hours of Operation: 7 am to 10 pm, Monday thru Friday; 7 am to 5 pm Saturday; No Sunday or major holiday operation
- Disposition of stumps, brush and boulders: Stumps will be disposed of on site by temporarily stockpiling them to decompose naturally, burial on site in areas designated, or ground with grindings used for slope stabilization and erosion control. Brush chipped or burned. Boulders buried on site or hauled offsite for processing.
- Dust shall be controlled by watering on an as-needed basis.
- Within 75’ of the edge of pavement of Route 11, grade of access road shall not exceed 3%.
- Reclamation: The total area of the borrow pit is 7.7± acres. Within 12 months following the completion of extraction operations, which operations shall be deemed complete when less than 100 cubic yards of minerals are removed in a consecutive twelve month period, ground levels and grades shall be established in accordance with this plan and the reclamation section of this sheet.
- There shall be no traveling past the Shapleigh Memorial School at the time of children drop-off in the morning or pick-up times.
- Site distance determination November 18, 2009: Looking left, Northwesterly, 772+ feet; Looking right, Southwesterly, 571 feet.
- Reclamation Notes:
  1. Grade site to limits shown on plan.
  2. All debris, stumps and similar material shall be buried on site. Only materials generated on-site may be buried or covered on site.
  3. Slopes shall be graded at slopes on 2.5 horizontal to 1 vertical or flatter.

### ***Shapleigh Planning Board Minutes – April 13, 2021 Page 9 of 38***

4. The top layer of soil is mainly comprised of the organic soil horizon and shall be retained to cover disturbed land areas to the greatest extent possible. Add mulch to disturbed areas in accordance with MEDEP Reclamation Best Management Practices.
5. If within 1 year after complete reclamation:
  - a. Native vegetative cover has re-established over 90% of the reclaimed buffer area, no further plantings are recommended, as natural succession is allowed to take place.

- b. Native vegetative cover has not re-established at least 90% of the reclaimed buffer area, plant with native herbaceous seed mix adapted to dry soils for the purpose of soil stabilization. Replant as necessary to achieve at least 90% vegetative cover.
- 6. Remove the access road when no longer in use and reclaim in accordance with reclamation note 5(a). Remove bar gate and place 6-10 large boulders not less than 3 feet in smallest dimension, maintaining a minimum 2 feet clearance between boulders, across the reclaimed area and at least 5 feet inside the property line.
- The plan also depicted the lot area as 21.97 acres. An unnamed stream was shown, the location of the wetland interface and stream centerline as delineated by Joe Noel. A restricted buffer area was noted, the reclaimed buffer area and temporary stump stockpile area of 1 acre maximum. The location of the access road was on the plan, State Route 11, Square Pond Road and Great Hollow Road. Elevations for the entire site were noted, along with the elevation of the reclaimed buffer area. A cross section of the 'Reclamation Section' which depicts the grade and depth of soil, and organic soil horizon; and a Silt Fence depiction with a note stating, 'Contractor's option to use sediment barrier or silt fence for slope protection'.
- Gravel Pit Volume:
  - Total Volume - 349,300 CY;
  - Less Topsoil
  - & Grubbing - 6,200 CY;
  - NET Volume - 343,200 CY

Received for this evening's meetings was a letter from Steven Patch which described the information provided for the meeting. The letter read in part as follows:

Based upon the March 23, 2021 Planning Board meeting discussion regarding the above-referenced project, please accept the following information as part of the record for the Board's consideration:

- Maine Department of Environmental Protection (MEDEP) Guide to the Performance Standards for Excavations and Quarries (Attached).
- Updated Reclamation Plan and revised "Declaration of Restrictions" to reflect current MEDEP requirements for gravel pit reclamation (Attached).
- Access to the gravel pit will be from Route 11. There will be no truck traffic on Great Hollow Road. Access to and from the site will be consistent with the facility's MDOT Driveway/Entrance Permit. Sand and gravel from this pit will be used exclusively by Hissong and will be hauled to other facilities in Lyman, Kennebunkport, and Eliot, for processing.
- The MDOT entranceway to the gravel pit will include a stone entrance pad in accordance with MEDEP Best Management Practices (BMPs) for construction activities;
- Pit operations will be in accordance with MEDEP Site Law Noise Standards:  
55 dBA between 7:00 AM and 7:00 PM  
45 dBA between 7:00 PM and 7:00 AM

***Shapleigh Planning Board Minutes – April 13, 2021 Page 10 of 38***

- Hours of operation:  
7:00 AM and 7:00 PM Monday through Friday  
7:00 AM and 5:00 PM Saturday
- Screening of aggregate may be performed within the limits of the gravel, as conditions warrant, but there will be no rock crushing performed on site; and
- There will be no permanent structures associated with the gravel pit operations. Temporary structures may include a porta-potty and Conex box for tools and equipment.

The detailed description of the project is as follows: *Mineral Extraction – Internally Drained Gravel Pit*

Roger A. asked Mr. Patch to brief the Board on what Hissong would like to do. Mr. Patch stated he had recapped what was discussed earlier in the evening and noted he sent out an additional letter to members to clarify some of the topics that were brought up at the last meeting. He said that he also spoke of an error in the original drawing which led to discussion on the amount of reclamation that would be done in terms of percentage of vegetative cover, he believed this was cleared up. He said there was a Declaration of Restrictions signed and notarized that can be submitted to the Registry of Deeds upon approval as a condition. He said they would make it happen.



Mr. Patch stated that earlier in the evening, comments he noted and that Chris Pizey commented on were that there would not be any traffic on Goose Pond Road, even empty trucks. He stated that Mr. Pizey was willing to have the Board make it a condition of approval. He said the start of mining operations would probably be in this fall, grubbing the site and operations would likely be full swing in the spring of 2022. The operation will not be seasonal, except it may stop in the dead of winter. He said Mr. Pizey did say there would not be any rock crushing, only screening. He said a question was asked about lighting, Mr. Pizey has no intent to run power to the site, therefore lighting will not be an issue. He stated in terms of the noise ordinance and site law that the DEP has, the noise levels have to drop by 10 dB(A) by 7 PM, so it is unlikely he will be out there after 7. The other clarification was if there would be a shed on site, Mr. Pizey mentioned there would probably be a Conex box and he will make sure it isn't visible from the road.

Mr. Patch believed these were the items they touched upon this evening, along with the clarification letter.

Roger A. asked if there were any questions? Roland L. stated that when he was reviewing the minutes, a question was asked about approximately how many truckloads there would be per day. He said he knew it may be difficult to answer but he wanted to know if there was a ballpark figure, 10 trucks, 50, 100 per day, when it's in full operation? Mr. Patch stated that he did not know if that had been clarified, he said Mr. Pizey was adamant that this would be only his trucks going to his other sites. Mr. Pizey said he believed it would be more like 10 trucks, it would not be 50 trucks. Roland said that the second part of his question he answered, which was that it would be only Hissong's vehicles. Mr. Pizey stated that it would be his trucks, but if there was someone local that needed gravel then maybe they would sell them some, but their intent was not to sell to other contractors. Roland thanked Mr. Pizey.

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

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

***Shapleigh Planning Board Minutes – April 13, 2021 Page 11 of 38***

- 105-21 – Traffic. Roger A. stated access to the site was safe (minimum site distance in this location is 350 feet at 50 mph). Site distances as noted on the plan are NW 772' and SE 571'. There is also MDOT approval, Permit #9703, dated 11/30/09. There is no change from the original entrance location from the original plan approved in 2010, and again in 2012.**
- 105-22 – Noise. Roger A. stated that sound levels from 7 AM to 10 PM are 60 dB(A), 10 PM to 7 AM are 45 dB(A). The levels specified may be exceeded by 10 dB(A) for a single period. The applicant has stated he will be within the noise levels indicated and the operations do not operate after 7 PM.**
- 105-23 – Dust, fumes, vapors and gases. Roger A. stated there are no fumes, vapors or gases, generated by this activity. Dust shall be contained on site by the way the gravel pit is being created, shaped like a bowl and a stone apron will keep the gravel off of Route 11.**
- 105-24 – Odors. N/A - There will be no obnoxious odors generated.**
- 105-25 – Glare. Roger A. stated there shall be no lighting added or power to the site.**
- 105-26 – Stormwater runoff. Roger A. stated stormwater runoff shall be contained on site per the Reclamation Plan drafted by Brian D. Pierce, LPE #9606 of Sevee & Maher Engineers, plan dated 3/2021. The pit will be excavated and graded so that it will be internally drained.**
- 105-27 – Erosion control. Roger A. stated erosion control measures shall be per the Reclamation Plan presented. Best Management Practices will be employed to minimize soil erosion and sedimentation.**
- 105-28 – Setbacks and screening. Roger A. stated setbacks and screening is noted on the plan, which determines how close they can be from abutting properties. There will be no exposed machinery and the Conex box will not be seen from neighboring properties.**
- 105-29 – Explosive materials. Roger A. stated there shall be none on site and none to be generated. There shall be no storage of any fuel on the property.**

**Roger A. reviewed §105-61. 'Mineral exploration and extraction, processing, and removal, including sand and gravel.**

§105-61.B. Mineral extraction may be permitted under the following conditions:

- 1) A reclamation plan shall be filed with and approved by the Planning Board before a permit is granted. ***The current Reclamation Plan, C-101, for Great Hollow Sand & Gravel, Shapleigh, ME***

**- Tax Map 7, Lot 28, drafted by Brian Pierce LPE #9609 of Sevee & Maher Engineers, dated 3/2021 was originally drafted by Stephen Stearns LPE #4437 of Pinkham & Greer, which was revised per MDIFW specification on 6/7/2010 and approved by MDIFW on 6/10/2010. The current plan adheres to the specification requirements by MDIFW and the Planning Board.**

2) No part of any extraction operation including drainage and runoff control features, shall be permitted within 100 feet, horizontal distance, of the normal high-water line of a great pond classified GPA, or a river flowing to a great pond classified GPA, and within 75 feet, horizontal distance, of the normal high-water line of any other water body, tributary stream or the upland edge of a wetland. Extraction operations shall not be permitted within 75 feet, horizontal distance, of any property line without written permission of the owner of such adjacent property. **Per Reclamation Plan, C-101, under General Notes #12, setbacks to the wetland of special significance shall be 75 feet and to the nearest property line or public road shall be 100 feet. The project is not near a great pond or river flowing to a great pond.**

3) Developers of new gravel pits along significant river segments shall demonstrate that no reasonable mining site outside the shoreland zone exists. When gravel pits must be located within the zone, they shall be set back as far as practicable from the normal high-water line and no less than 75 feet and screened from the river by existing vegetation. **This project is not near a great pond or river, is not in the shoreland zone, and the project is 75 feet from the designated wetland.**

**Shapleigh Planning Board Minutes – April 13, 2021 Page 12 of 38**

4) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed. **The area shall be reclaimed per Reclamation Plan, C-101, General Notes #15 which states in part within 12 months following the completion of extraction operations, ground levels and grades shall be established in accordance with the plan and Reclamation Notes 1 thru 6. It was noted that this was a small operation, so it probably would not be open for a long period of time.**

5) Temporary ground cover (such as mulch) and temporary runoff filter (such as hay bales in swales) shall be used as required to prevent stream sedimentation. **This shall be done per Note #11 using ground stumps as erosion control and per the Reclamation Notes on Reclamation Plan C-101, which depicts the use of a sediment barrier or silt fence.**

6) Diversions, silting basins, terraces and other methods to trap sediment shall be used. **Sediment shall be trapped within the borrow pit, then the topsoil that is retained shall cover the disturbed area to the greatest extent possible, see Note #4 of the Reclamation Notes on Reclamation Plan, C-101, as suggested by MDIFW.**

7) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board. **N/A with regard to the fish trap conditions or lagooning. The MDIFW was notified as required.**

8) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used. **This has been addressed on Reclamation Plan, C-101, the fill is being removed, it is gravel and will be approximately 343,000 CY in total.**

9) Fill shall not restrict a floodway, channel or natural drainageway. **This has been addressed on Reclamation Plan, C-101, and it will not.**

10) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications. ***This application is for a borrow pit, the cuts, fills and erosion measures are addressed on Reclamation Plan, C-101, and the plan has been approved by the MDEP.***

11) Where activities carried out under this article require the removal of existing ground cover, revegetation shall be carried out. This is to be carried out per MDIFW standards. ***The revegetation plan is addressed both on Reclamation Plan, C-101 and the Declaration of Restrictions (Restricted Buffer Area and Reclaimed Buffer Area, No Disturbance) which has been approved by both the Planning Board and MDIFW, dated April 5<sup>th</sup>, 2021. The topsoil is being retained and if more is required it will be brought in to help re-establish vegetation upon closure of the gravel pit.***

12) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal. ***Slopes have been addressed in Reclamation Plan, C-101, Reclamation Notes #3 and they can meet the standard. There shall be no excessive slopes after the Reclamation Plan has been completed and no standing water.***

13) No excavation shall be extended below the grade of an adjacent street, except for drainageways, unless 100 feet from the street line. No excavation below the grade of the surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a side or rear lot line if no excavation below the grade of abutter's properties occurs. ***There shall be no excavation being done within 100 feet of any lot line or street line, see General Notes #12, and Reclamation Notes #1, of the Reclamation Plan.***

14) Topsoil or loam shall be retained to cover all disturbed land areas, which shall be reseeded and stabilized with vegetation native to the area. Additional topsoil or loam shall be obtained from off-site sources if necessary, to complete

***Shapleigh Planning Board Minutes – April 13, 2021 Page 13 of 38***

the stabilization project. ***All existing topsoil shall be retained on site for the reclamation of the area, per the plan provided. There shall be 90% of the area covered with vegetation per the plan and as required by the MDEP Standards for Excavation and Quarries. Additionally, the plan has been designed and approved by MDIFW.***

15) Within 12 months following the completion of extraction operations at any extraction site, which operations shall be deemed complete when less than 100 cubic yards of minerals are removed in any consecutive twelve-month period, ground levels and grades shall be established in accordance with the following:

- (a) All debris, stumps and similar material shall be removed for disposal in an approved location or shall be buried on-site. Only materials generated on-site may be buried or covered on-site. (NOTE: The State of Maine Solid Waste Laws, 38 M.R.S.A. §1301, and the solid waste management rules, Chapters 400-419 of the Department of Environmental Protection's regulations may contain other applicable provisions regarding disposal of such materials.)
- (b) The final graded slope shall be 2 1/2 to 1 slope or flatter.
- (c) The Planning Board shall set a specific date by which permanent ground cover shall be planted.

***The area shall be reclaimed per Reclamation Plan, C-101, which was designed and approved by MDIFW and MDEP. See 'Reclamation Notes', #1 thru #6 (see above), and the Declaration of***

### **Restrictions.**

16) No existing rock, gravel or sandpit will be extended or expanded until the operator has complied with the provisions of this chapter and obtained a permit therefore. ***This application shall be valid until May 1, 2024 as long as the conditions of approval are all met. A change to the approved plan or extension of time can only be granted by the Planning Board.***

Roger A. reviewed the optional conditions of permit and made findings of fact as follows:

- C. Optional conditions of permit. The Planning Board may impose other reasonable conditions to safeguard the neighborhood and the municipality, which may include those relating to:
- (1) Methods of removal or processing. ***This has been addressed in the application and shall be conducted as presented in the plan and documentation provided. There shall be no rock crushing on site, gravel screening only.***
  - (2) Days and hours of operation. ***Hours of operation are 7:00 a.m. thru 7:00 p.m., Monday through Friday, 7 a.m. thru 5:00 p.m. on Saturday. In addition, there are restricted hours of transport noted on the plan Note #17 regarding school drop-off and pick-up times so as not to interfere with bus traffic, parents dropping off children and overall safety of the children.***
  - (3) Type and location of temporary structures. ***Temporary structures may include a porta-potty and Conex box for tools and equipment, placed so as not to be seen from Rte. 11 or neighboring properties.***
  - (4) Routes for transporting material. ***State Route 11 to Route 109. No trucks shall use Great Hollow Road per the applicant; Goose Pond Road per the agreement between Chris Pizey and the Planning Board due to the weight limit on the bridge, narrow road width in area, as well as pedestrians using the road, or Back Road which is currently posted for large trucks.***
  - (5) Area and depth of excavations. ***This information is provided on Reclamation Plan, C-101.***
  - (6) Provision of temporary or permanent drainage. ***None is needed for the borrow pit, it is created per the plan to be internally draining and the stream is being protected per the plan provided which was approved by MDIFW.***
  - (7) Cleaning, repair and/or resurfacing of streets used in removal activities which have been adversely affected by said activity. ***The applicant shall make certain Route 11 is clear of all sand and stone dust to prevent a hazardous condition, it shall be done in part by using a stone apron in accordance with MDEP Best Management Practices. Repair & resurfacing of Route 11 will be a matter between the applicant and the State of Maine, as this is a State road.***
  - (8) The need for written approval of soil and erosion and sedimentation plan by a State of Maine licensed civil engineer selected by the applicant for the Planning Board. ***A State of Maine licensed engineer provided the plan; Brian D. Pierce, LPE #9609 of Sevee & Maher Engineers, Plan C-101, entitled 'Reclamation Plan – Hissong Ready-Mix & Aggregates, LLC, 48 York St., Suite 2, Kennebunk, ME 04043 – Great Hollow Sand & Gravel, Shapleigh, ME – Tax Map 7, Lot 28', dated 3/2021.***

***Shapleigh Planning Board Minutes – April 13, 2021 Page 14 of 38***

D. Surety and terms of permit.

- 1) No permit shall be issued without a surety bond or other equivalent security to ensure compliance with such conditions as the Planning Board may impose. The bond or surety

shall be in an amount recommended by the Code Enforcement Officer and approved by the Planning Board, as sufficient to guarantee conformity with the conditions of approval, taking inflation into account. ***The bond amount was set at \$26,950 or \$3500 per acre as suggested by the MDEP, and approved by the Code Enforcement Officer.***

- 2) No permit shall be issued for a period to exceed three years, although such permits may be renewed for additional periods in the same manner.

Roger A. let the applicant know that under §105-73.I ‘Performance guaranties’, *“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.”*

Madge B. stated that under optional condition #7, she realized they would do what they needed to, to not put gravel on the road. She asked if the trucks break the edge of the road, can the Board require them to repair the road? Ann H. asked if it was a Town or State road? Madge stated it was a State road. Steve F. also had a question about the entrance onto Route 11, was the entrance going to be paved or would it just be a stone apron? Mr. Patch stated it would be a stone apron. Mr. Pizey agreed. Ann didn’t think the Board could impose anything if it was a State maintained road. Madge stated she had no answer but it was possible the edge could get broken. Steve stated that in the event the road was damaged, based on the company’s reputation, he felt they would fix it. He said if they didn’t, he assumed the State would step in on their own. Mr. Pizey stated it was in his best interest to not damage the road, so he would have an entrance that was appropriate for the trucks.

Madge B. stated this was not a condition but she wanted to give Mr. Pizey a heads up. She said it seemed gravel pits were very attractive to people who want to shoot, in the past they used the Town pit which the Town was ok with. She said prior to that they were using an area on Square Pond Road that the Town owns where they see the sand and gravel. She thinks the Town has stopped them. She said on Sunday she was in the area and they were shooting across the street. She said it was possible that they may have to get the Sheriff out from time to time. Mr. Pizey stated that the practice was to post the property to stop trespassing, he said mostly for insurance reasons. He said shooting, kids with ATV’s, it happens. Madge agreed signage would help. Mr. Pizey agreed if it becomes a problem, he may have to call the Sheriff.

Roger A. stated the Board received a letter a letter from a citizen in Shapleigh, regarding the proposed project, the letter read as follows:

Dear Roger,

I live less than two miles, straight-line distance, from the site of the sand and gravel extraction operation proposed by Hissong Development Corp. I am concerned with the level of noise that the proposed operation may generate. The sounds of gravel screens and back-up beepers can travel a long way. At present, there is a forested strip approximately 100 feet in width between Route 11 and the cleared area on the site. In order to help reduce the level of noise produced by the gravel operation, I would ask that the applicant be required to maintain a forested buffer strip of at least 100 feet in width around the entire perimeter of the property for the life of the proposed project. I would also ask that the hours of operation be limited to those of a standard work schedule, i.e., 7 AM to 5 PM Monday thru Saturday.

Thank you for your attention to this matter.

Sincerely, Peter Klachany

***Shapleigh Planning Board Minutes – April 13, 2021 Page 15 of 38***

Ann H. noted that they had a 100 foot buffer around the property. Roger A. agreed.

Roger A. asked if there were any other questions? Steve F. asked if it was the applicants wish that we leave this opened for 3 years. He noted that in 15 c) it states the Board has to set a specific date by which permanent ground cover shall be planted. Steve asked Mr. Patch and Mr. Pizey if they thought the pit would be wrapped up prior to then or if 3 years was a good time frame? Mr. Pizey thought 3 years seemed reasonable, and that they would reclaim the pit when they were finished. Mr. Patch asked if they go beyond the 3 years, if they just come back to the Board? Roger said, yes. Steve said that was his only question.

Roger A. stated the only other issue was for the bond or some type of surety. He said after the Board approves the applicant, the applicant has 45 days to submit it to the Board. (§105-73.I see above) Mr. Pizey believed that was reasonable and he said the bank asked if there was a letter or form that the Town was accustomed to seeing? Roger said they could get that for him. Barbara F. will ask Karla Wilcox, Town Administrator what the Town would like. Mr. Patch asked how much it would be for. Mr. Patch stated the number he threw out was for total reclamation, even though it probably would not be needed until the operation is completed. He asked if there was a standard bond the Town would like? Roger stated that Code Enforcement was supposed to provide a number. Roger asked CEO Demers if the number that Hissong provided from the MDEP of \$3500 per acre would be sufficient? Mr. Patch stated for the 7.7 Acres it would be around \$27,000. (\$26,950) Roger said he thought it was a good figure but asked CEO Demers his thought. CEO Demers thought it sounded reasonable.

Roger began the review of §105-73.G ‘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. ***It will not per the Reclamation Plan provided and by following Option 3 as written in the letter from MDIFW, dated 8/27/09, and as written in the Declaration of Restrictions (Restricted Buffer Area and Reclaimed Area, No Disturbance) dated April 5, 2021.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comprehensive Plan encourages businesses along Rte. 11.***
- 4) Traffic access to the site is safe. ***The entrance to this location has been approved by the MDOT, permit #9703, dated 11/30/09, and site distances are met in both directions, therefore it is safe.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, the site is not in a flood zone recognized on the Flood Hazard Maps for Shapleigh.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is no wastewater being produced, all rocks and tree stumps shall be kept on site. Stumps may be ground up to be converted to mulch either on site or at their Lyman facility.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***N/A - There shall be no hazardous materials stored on site.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***A State of Maine licensed engineer provided the plan; Brian D. Pierce, LPE #9609 of Sevee & Maher Engineers, Plan C-101, entitled ‘Reclamation Plan – Hissong Ready-Mix & Aggregates, LLC, 48 York St., Suite 2, Kennebunk, ME 04043 – Great Hollow Sand & Gravel, Shapleigh, ME – Tax Map 7, Lot 28’, dated 3/2021. All stormwater will drain into the borrow pit.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***A State of Maine licensed engineer provided the plan; Brian D. Pierce, LPE #9609 of Sevee & Maher Engineers, Plan C-101, entitled ‘Reclamation Plan – Hissong Ready-Mix & Aggregates, LLC, 48 York St., Suite 2, Kennebunk, ME 04043 – Great Hollow Sand & Gravel, Shapleigh, ME – Tax Map 7, Lot 28’, dated 3/2021. Erosion control measures are***

***noted on the plan and MDEP Best Management Practices for borrow pits shall be followed.***

***Shapleigh Planning Board Minutes – April 13, 2021 Page 16 of 38***

- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There are provisions not far from this location but there should not be any need for fire protection based on the operations on site.***
- 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. ***The existing vegetation shall be kept in place within 100 feet of all property lines; there is no noise allowed between 10:00 p.m. and 7:00 a.m. seven days a week; there shall be no glare, fumes, or odors created by this business. Any stone dust or gravel on Rte. 11 shall be removed by the applicant to prevent a hazardous condition.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall with the conditions imposed.***

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

- 1) **The gravel operation shall be conducted per the plan provided dated 3/2021, as well as the Declaration of Restrictions dated April 5, 2021.**
- 2) **The hours of operation shall be 7:00 a.m. thru 7:00 p.m. Monday through Friday, 7:00 a.m. thru 5:00 p.m. Saturday, as written in Item 10 of the plan.**
- 3) **There shall be no trucks traveling past the Shapleigh Memorial School at the time of children drop-off in the morning or during children pickup in the afternoon throughout school season operating hours, as written in Item 17 of the plan, as agreed upon between the applicant and Shapleigh Planning Board, for the health and safety of the children. (Drop-off and pick-up times shall be coordinated with Shapleigh Memorial School)**
- 4) **It is the applicant's responsibility to make certain the entrance onto State Rte. 11 is clear of all sand and stone dust to prevent a hazardous situation. Entrance to be designed per MDEP Best Management Practices.**
- 5) **There shall be no trucks traveling on Great Hollow Road, Goose Pond Road and Back Road, per Optional Condition 4 – Routes for transporting material.**
- 6) **A security bond or equivalent security to guaranty the reclamation plan required by the Town of Shapleigh and MDIFW is carried out. The surety bond must be submitted within 45 days of approval. The bond shall be in the amount of \$26,950. The bond shall be rendered within 90 days from the date of bond approval, or the application shall be null and void. There shall be no earth moving on site until an approved bond has been received.**
- 7) **This permit is valid until May 1, 2024, based on the applicant waiting for information from the Town regarding the bond. If the operation goes beyond this date, the applicant must come back before the Board for another 3 year renewal.**

Roland L. wanted it noted that references had been made to Route 11 as Route 111, he wanted it to be known that the road reference should be Route 11.

Steve F. asked if the Board should put a length on the stone apron that needs to be maintained at the entrance? Steve said the access road is 100 feet but he wasn't sure they would have to maintain a stone apron to that length. Mr. Patch thought standard MDOT was 20 feet in length. Mr. Pizey thought it was 30 to 50 feet. Mr. Patch stated the Board could require it to the MDEP Best Management Practices. Steve thought that would work.

Roger A. stated he would entertain a motion if there were no further questions or comments.

***Shapleigh Planning Board Minutes – April 13, 2021 Page 17 of 38***

**Maggie M. made the motion to approve the application for a gravel extraction operation for private use only, on Map 7, Lot 28, per the plans and Town and State approvals provided, as well as the conditions stated. Madge B. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion to approve the application passed unanimously.**

Nothing further was discussed.

### The Findings of Fact

1. The owners of Shapleigh Tax Map 7, Lot 28 is H.D.C. New England, Inc. located at 48 York Street, Suite 2, Kennebunk, 04043. (Hissong Ready-Mix & Aggregates, LLC)
2. The property is located in the General Purpose District and according to the Assessor contains 21.53 acres.
3. The applicants are before the Board for a mineral extraction permit for three years for an internally drained gravel pit.
4. Provided to the Planning Board in 2009/2010 & 2012, for the original approval of the gravel pit were the following required documents:
  - A copy of the letter from the Maine Historic Preservation Commission (MHPC), dated 7/27/09, which stated the project location could possibly contain one or more prehistoric archaeological sites so an archaeological survey was required prior to any ground disturbance.
  - A copy of the Prehistoric Archaeological Investigation Report, dated October 2009, MHPC File No. 1310-98, prepared by Tetra Tech, Inc. of Portland Maine, which concluded there were no prehistoric archaeological sites recorded within the Project area.
  - A copy of the letter from the MHPC, dated 11/16/09 which stated they reviewed the report provided by Tetra Tech Inc. and found the report acceptable as written and they agreed with the conclusions in the report.
  - A copy of the letter from the Maine Dept. of Inland Fisheries and Wildlife (MDIFW), dated 8/27/09, which stated the proposed location likely supported one or more endangered species. MDIFW offered three options for the development of the property. Note: Hissong chose the third option which required the western side of the stream be put into a permanent conservation easement or deed restriction, and that the area to be mined be allowed to revert back to a Pitch Pine Scrub Oak community once the mining project is completed. Furthermore, upon completion of the mining the entire parcel would be subject to the same conservation easement/deed restrictions above, the terms of which need to be reviewed and approved by MDIFW.
  - A copy of the Declaration of Restrictions drafted to satisfy MDIFW's development plan option three of the above letter. Note: The Declaration of Restrictions was approved by MDIFW & the Planning Board.
  - A copy of the approval for the mineral extraction plan by the Maine Dept. of Environmental Protection and a copy of the placard to be placed on site, issued 12/29/09, Permit No. L-724.
    - A copy of the Driveway/Entrance Permit by the Maine Dept. of Transportation, dated 11/30/09.
  - The Survey / Reclamation Plan, dated 1/13/2010, drafted by Stephen Stearns, PE #4437, of Pinkham & Greer, located in Springvale, Maine. The survey plan included in addition to the reclamation plan the following: The calculated net gravel pit volume of 343,200 cubic yards; hours of operation; location of access road and refueling pad; wetland area; setbacks to gravel pit from high water mark, roadway and side lots lines; site distance on Route 11; size of borrow pit (approx. 7.7 acres); plans for dust control and disposition of



stumps, brush and boulders; the soils legend; and noted was the requirement to restrict truck travel past the Shapleigh Memorial School during school hours of pick-up and drop-off of the children.

- The Survey / Reclamation Plan amended by MDIFW, dated June 7, 2010, signed by Stephen Stearns, PE #4437, of Pinkham & Greer. The plan satisfies the requirements imposed by MDIFW as stated in the email from Judy Camuso, Wildlife Biologist, MDIFW, dated April 27, 2010 forwarded to the Planning Board on June 7, 2010. (This action satisfied condition #4 of the original conditional use permit approval letter dated 1/15/2010.)

***Shapleigh Planning Board Minutes – April 13, 2021 Page 18 of 38***

5. Provided along with the application were the following:

- A page taken from Sand & Gravel News, entitled ‘DEP Inspection Report’, which read in part as follows: *The Department uses an estimated reclamation cost of about \$3,500 per acre, so if your financial assurance amount is significantly below this, it should be updated to reflect current costs.*
- Reclamation Plan for Hissong Ready-Mix & Aggregates, LLC, drafted by Brian D. Pierce, PE #9609 of Sevee & Maher Engineers of Cumberland, Maine, dated 3/2021. Boundary & Topographic information was provided by Corner Post Land Surveying, Inc., of Springvale, Maine. Wetland boundaries were delineated and located by Joe Noel (Maine CCS #209), of South Berwick, Maine.

Information provided on the *Reclamation Plan*:

- Hours of Operation: 7 am to 10 pm, Monday thru Friday; 7 am to 5 pm Saturday; No Sunday or major holiday operation
- Disposition of stumps, brush and boulders: Stumps will be disposed of on site by temporarily stockpiling them to decompose naturally, burial on site in areas designated, or ground with grindings used for slope stabilization and erosion control. Brush chipped or burned. Boulders buried on site or hauled offsite for processing.
- Dust shall be controlled by watering on an as-needed basis.
- Within 75’ of the edge of pavement of Route 11, grade of access road shall not exceed 3%.
- Reclamation: The total area of the borrow pit is 7.7± acres. Within 12 months following the completion of extraction operations, which operations shall be deemed complete when less than 100 cubic yards of minerals are removed in a consecutive twelve month period, ground levels and grades shall be established in accordance with this plan and the reclamation section of this sheet.
- There shall be no traveling past the Shapleigh Memorial School at the time of children drop-off in the morning or pick-up times.
- Site distance determination November 18, 2009: Looking left, Northwesterly, 772+ feet; Looking right, Southwesterly, 571 feet.
- *Reclamation Plan Notes*:
  1. Grade site to limits shown on plan.
  2. All debris, stumps and similar material shall be buried on site. Only materials generated on-site may be buried or covered on site.
  3. Slopes shall be graded at slopes on 2.5 horizontal to 1 vertical or flatter.
  4. The top layer of soil is mainly comprised of the organic soil horizon and shall be retained to cover disturbed land areas to the greatest extent possible. Add mulch to disturbed areas in

accordance with MEDEP Reclamation Best Management Practices.

5. If within 1 year after complete reclamation:

- a. Native vegetative cover has re-established over 90% of the reclaimed buffer area, no further plantings are recommended, as natural succession is allowed to take place.
- b. Native vegetative cover has not re-established at least 90% of the reclaimed buffer area, plant with native herbaceous seed mix adapted to dry soils for the purpose of soil stabilization. Replant as necessary to achieve at least 90% vegetative cover.

6. Remove the access road when no longer in use and reclaim in accordance with reclamation note 5(a). Remove bar gate and place 6-10 large boulders not less than 3 feet in smallest dimension, maintaining a minimum 2 feet clearance between boulders, across the reclaimed area and at least 5 feet inside the property line.

- The plan also depicted the lot area as 21.97 acres. An unnamed stream was shown, the location of the wetland interface and stream centerline as delineated by Joe Noel. A restricted buffer area was noted, the reclaimed buffer area and temporary stump stockpile area of 1 acre maximum. The location of the access road was on the plan, State Route 11, Square Pond Road and Great Hollow Road. Elevations for the entire site were noted, along with the elevation of the reclaimed buffer area. A cross section of the 'Reclamation Section' which depicts the grade and depth of soil, and organic soil horizon; and a Silt Fence depiction with a note stating, 'Contractor's option to use sediment barrier or silt fence for slope protection'.

***Shapleigh Planning Board Minutes – April 13, 2021 Page 19 of 38***

- Gravel Pit Volume: Total Volume - 349,300 CY;  
     Less Topsoil  
     & Grubbing - 6,200 CY;  
     NET Volume - 343,200 CY

6. Provided on April 13, 2021 was the following information:

- Maine Department of Environmental Protection (MEDEP) Guide to the Performance Standards for Excavations and Quarries.
- Updated Reclamation Plan and revised "Declaration of Restrictions" to reflect current MEDEP requirements for gravel pit reclamation, Declaration dated April 5, 2021.
- Access to the gravel pit will be from Route 11. There will be no truck traffic on Great Hollow Road. Access to and from the site will be consistent with the facility's MDOT Driveway/Entrance Permit. Sand and gravel from this pit will be used exclusively by Hissong and will be hauled to other facilities in Lyman, Kennebunkport, and Eliot, for processing.
- The MDOT entranceway to the gravel pit will include a stone entrance pad in accordance with MEDEP Best Management Practices (BMPs) for construction activities.
- Pit operations will be in accordance with MEDEP Site Law Noise Standards:
  - 55 dBA between 7:00 AM and 7:00 PM
  - 45 dBA between 7:00 PM and 7:00 AM
- Hours of operation:
  - 7:00 AM and 7:00 PM Monday through Friday
  - 7:00 AM and 5:00 PM Saturday
- Screening of aggregate may be performed within the limits of the gravel, as conditions warrant, but there will be no rock crushing performed on site; and

- There will be no permanent structures associated with the gravel pit operations. Temporary structures may include a porta-potty and Conex box for tools and equipment.
7. The application, plan and supporting documentation met the criteria in Article V. Basic Performance Standards.
  8. §105-61. Mineral exploration and extraction, processing, and removal, including sand and gravel was reviewed in its entirety and the application, plan and supporting documentation provided, met the performance standards in the ordinance with conditions. The following optional conditions of permit were applied:
    - (1) Methods of removal or processing. ***Per the plan and documentation provided; there shall be no rock crushing on site, gravel screening only.***
    - (2) Days and hours of operation. ***Hours of operation are 7:00 a.m. thru 7:00 p.m., Monday through Friday, 7 a.m. thru 5:00 p.m. on Saturday. In addition, there are restricted hours of transport noted on the plan Note #17 regarding school drop-off and pick-up times so as not to interfere with bus traffic, parents dropping off children and overall safety of the children.***
    - (3) Type and location of temporary structures. ***Temporary structures may include a porta-potty and Conex box for tools and equipment, placed so as not to be seen from Rte. 11 or neighboring properties.***
    - (4) Routes for transporting material. ***State Route 11 to Route 109. No trucks shall use Great Hollow Road per the applicant; Goose Pond Road per the agreement between Chris Pizey and the Planning Board due to the weight limit on the bridge, narrow road width in area, as well as pedestrians using the road, or Back Road which is currently posted for large trucks.***
    - (5) Area and depth of excavations. ***This information is provided on Reclamation Plan, C-101 and approved by the Planning Board.***
    - (6) Provision of temporary or permanent drainage. ***None is needed for the borrow pit, it is created per the plan to be internally draining and the stream is being protected per the plan provided which was approved by MDIFW.***

***Shapleigh Planning Board Minutes – April 13, 2021 Page 20 of 38***

- (7) Cleaning, repair and/or resurfacing of streets used in removal activities which have been adversely affected by said activity. ***The applicant shall make certain Route 11 is clear of all sand and stone dust to prevent a hazardous condition, it shall be done in part by using a stone apron in accordance with MDEP Best Management Practices. Repair & resurfacing of Route 11 will be a matter between the applicant and the State of Maine, as this is a State road.***
- (8) The need for written approval of soil and erosion and sedimentation plan by a State of Maine licensed civil engineer selected by the applicant for the Planning Board. ***A State of Maine licensed engineer provided the plan; Brian D. Pierce, LPE #9609 of Sevee & Maher Engineers, Plan C-101, entitled ‘Reclamation Plan – Hissong Ready-Mix & Aggregates, LLC, 48 York St., Suite 2, Kennebunk, ME 04043 – Great Hollow Sand & Gravel, Shapleigh, ME – Tax Map 7, Lot 28’, dated 3/2021.***

**D. Surety and terms of permit.**

- 2) No permit shall be issued without a surety bond or other equivalent security to ensure compliance with such conditions as the Planning Board may impose. The bond or surety shall be in an amount recommended by the Code Enforcement Officer and approved by the Planning Board, as sufficient to guarantee conformity with

the conditions of approval, taking inflation into account. ***The bond amount was set at \$26,950 or \$3500 per acre as suggested by the MDEP, and approved by the Code Enforcement Officer.***

8. §105-73.G Standards applicable to conditional uses was reviewed in its entirety, the application, plan and supporting documentation provided met the performance standards in the ordinance with conditions. Standards are as follows:
- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not per the Reclamation Plan provided and by following Option 3 as written in the letter from MDIFW, dated 8/27/09, and as written in the Declaration of Restrictions (Restricted Buffer Area and Reclaimed Area, No Disturbance) dated April 5, 2021.***
  - 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
  - 3) The use is consistent with the Comprehensive Plan. ***It is, the Comprehensive Plan encourages businesses along Rte. 11.***
  - 4) Traffic access to the site is safe. ***The entrance to this location has been approved by the MDOT, permit #9703, dated 11/30/09, and site distances are met in both directions, therefore it is safe.***
  - 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, the site is not in a flood zone recognized on the Flood Hazard Maps for Shapleigh.***
  - 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is no wastewater being produced, all rocks and tree stumps shall be kept on site. Stumps may be ground up to be converted to mulch either on site or at applicant's Lyman facility.***
  - 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A - There shall be no hazardous materials stored on site.*
  - 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***A State of Maine licensed engineer provided the plan; Brian D. Pierce, LPE #9609 of Sevee & Maher Engineers, Plan C-101, entitled 'Reclamation Plan – Hissong Ready-Mix & Aggregates, LLC, 48 York St., Suite 2, Kennebunk, ME 04043 – Great Hollow Sand & Gravel, Shapleigh, ME – Tax Map 7, Lot 28', dated 3/2021. All stormwater will drain into the borrow pit.***
  - 9) Adequate provisions to control soil erosion and sedimentation have been made. ***A State of Maine licensed engineer provided the plan; Brian D. Pierce, LPE #9609 of Sevee & Maher Engineers, Plan C-101, entitled 'Reclamation Plan – Hissong Ready-Mix & Aggregates, LLC, 48 York St., Suite 2, Kennebunk, ME 04043 – Great Hollow Sand & Gravel, Shapleigh, ME – Tax Map 7, Lot 28', dated 3/2021. Erosion control measures are noted on the plan and MDEP Best Management Practices for borrow pits shall be followed.***
  - 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There are provisions to access water not far from this location but there should not be any need for fire protection based on the operations on site.***

***Shapleigh Planning Board Minutes – April 13, 2021 Page 21 of 38***

- 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. ***The existing vegetation shall be kept in place within 100 feet of all property lines; there is no noise allowed between 10:00 p.m. and 7:00 a.m. seven days a week; there shall be no glare, fumes, or odors created by this business.***

***Any stone dust or gravel on Rte. 11 shall be removed by the applicant to prevent a hazardous condition.***

- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall with the conditions imposed.***
9. A notice was mailed to all abutters within 500 feet of the property, on March 24, 2021, and a Public Hearing was held on Tuesday, April 13, 2021 via Zoom (due to Covid-19). Meetings were held on Tuesday, March 23, 2021 and Tuesday, April 13, 2021 also held via Zoom.
10. The Planning Board unanimously agreed to approved the Conditional Use Permit for a gravel extraction operation for private use only on Map 7, Lot 28, per the plans and Town and State approvals provided, and as discussed via Zoom meetings (due to Covid-19) with seven conditions.
11. **The conditions of the permit are as follows:**
- 1) **The gravel operation shall be conducted per the plan provided dated 3/2021, as well as the Declaration of Restrictions dated April 5, 2021.**
  - 2) **The hours of operation shall be 7:00 a.m. thru 7:00 p.m. Monday through Friday, 7:00 a.m. thru 5:00 p.m. Saturday, as written in Item 10 of the plan.**
  - 3) **There shall be no trucks traveling past the Shapleigh Memorial School at the time of children drop-off in the morning or during children pickup in the afternoon throughout school season operating hours, as written in Item 17 of the plan, as agreed upon between the applicant and Shapleigh Planning Board, for the health and safety of the children. (Drop-off and pick-up times shall be coordinated with Shapleigh Memorial School)**
  - 4) **It is the applicant's responsibility to make certain the entrance onto State Rte. 11 is clear of all sand and stone dust to prevent a hazardous situation. Entrance to be designed per MDEP Best Management Practices.**
  - 5) **There shall be no trucks traveling on Great Hollow Road, Goose Pond Road and Back Road, per Optional Condition 4 – Routes for transporting material.**
  - 6) **A security bond or equivalent security to guaranty the reclamation plan required by the Town of Shapleigh and MDIFW is carried out. The surety bond must be submitted within 45 days of approval. The bond shall be in the amount of \$26,950. The bond shall be rendered within 90 days from the date of bond approval, or the application shall be null and void. There shall be no earth moving on site until an approved bond has been received.**
  - 7) **This permit is valid until May 1, 2024, based on the applicant waiting for information from the Town regarding the bond. If the operation goes beyond this date, the applicant must come back before the Board for another 3 year renewal.**

**Decision:**

**The Conditional Use Permit for a gravel extraction operation for private use only on Map 7, Lot 28, per the plans and Town and State approvals provided, and as discussed via Zoom meetings (due to Covid-19), with the above stated seven conditions, valid until May 1, 2024, was approved.**

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***Shapleigh Planning Board Minutes – April 13, 2021 Page 22 of 38***

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

Davis Bartlett of Corner Post Land Surveying was representing the applicants this evening via Zoom.

**The sketch plan application for the 4-lot subdivision contained the following information:**

Name of Property Owner: David P. and Linda B. Chadbourne  
Mailing Address: 80 Sand Pond Road, Sanford, Maine 04073  
Name of Applicant: David P. Dubois and Linda B. Dubois c/o Michael Dubois  
Mailing Address: 1204 Main Street, Sanford, Maine 04073  
Name of Authorized Agent: Davis Bartlett of Corner Post Land Surveying, Inc.  
Mailing Address: 600 Main Street, Springvale, Maine 04083

Name of Land Surveyor: Dana Libby of Corner Post Land Surveying, Inc.; PLS #1350

Email Address: [dana@mainesurveyors.com](mailto:dana@mainesurveyors.com)

**Land Information:**

Location of Property: YCRD Book 7632, Page 212

Shapleigh Tax Map 11, Lot 10

Current Zoning: General Purpose

No part of the property lies within 250 of the high-water mark of a pond or river.

Acreage to be

Developed: 55.46± Acres – *Changed to 34.48 Acres April 2021*

Property is not part of a prior subdivision.

There have been other divisions within 5 years.

Restrictive

Covenants: No dug wells will be allowed.

Existing Use: Wood Lot

The parcel does include a waterbody.

The parcel is not within a special flood hazard area.

Proposed Name of

Development: Grammar Ridge II

Number of Lots: (4) Four

Date of Construction: Spring / Summer 2021

Date of Completion: Unknown

Infrastructure

Required: No

The property currently has possible road access on Grey & Newfield Road.

Method of Water

Supply: Individual Wells

Method of Sewer

Disposal: Individual Septic Systems

Method of Fire

Protection: Sprinklers in individual homes.

There are no Proposed: Streets

Recreation Areas

Common Land

Requested Waiver(s): §89-29 – Utilities *Added April 2021*

§89-30.A – Request waiver to set concrete monuments instead of stone.

***Shapleigh Planning Board Minutes – April 13, 2021 Page 23 of 38***

§89-30.B.2(c) – Request waiver to install individual sprinkler systems instead of a fire pond.

§89-30.D.3 & 4 – Stormwater Drainage Plan *Added April 2021*

Also provided with the application was a copy of the Town's Tax Map 11, depicting the location of Lot 10; a copy of the Warranty Deed between Santo A. and Mary T. Sullo, property owners, to Grammar Ridge, Inc,

Book 6913, Page 074, dated received at YCRD on January 21, 1994; and a copy of a document entitled 'Significant Sand and Gravel Aquifers' and it appears this parcel does not lie over a significant aquifer.

Provided was a copy of the soils map for Lot 10, which depicts AdB adjacent to Grey and Newfield Road which refers to Adams loamy sand, 0 to 8 percent slopes (11.7% of area), as well as HmC along Newfield Road and in a large area in the center of the lot, which refers to Hermon sandy loam, 8 to 15 percent slopes (33.4% of area). Along the upland wetland interface and toward the center and then back of the property lies Na, which refers to Naumburg sand (8.2% of area) and SrC, which refers to Skerry fine sandy loam, 8 to 15 percent slopes, very stony (23% of area). To a lesser extent and along the boundaries of the property depicted is also AdB (see above); CrB, which refers to Croghan loamy fine sand, 0 to 8 percent slopes (1.6% of area); CoB, which refers to Croghan loamy fine sand, 0 to 8 percent slopes, wooded (2.9% of area); BsB, which refers to Brayton and Westbury very stony fine sandy loams, 0 to 8 percent slopes (2.6% of area); HmB, which refers to Hermon sandy loam, 0 to 8 percent slopes, very stony (.4% of the area); LyC, which refers to Lyman-Rock outcrop complex, 8 to 15 percent slopes (1.1% of area); HmC (see above); HnE, which refers to Hermon sandy loam, 15 to 60 percent slopes, extremely stony (3.1% of the area); and LyE, which refers to Lyman-Rock outcrop complex, 15 to 80 percent slopes (12% of the area).

Provided was wetland information from Chris Coppi CWS, LSE, Independent Wetland Scientist from Albert Frick Associates, Inc. The letter was entitled 'Wetland Delineation, Newfield Road, Shapleigh'. The letter read as follows:

*On October 12, 2020, I completed a wetland delineation at the above-mentioned property. The investigation area contains a DEP stream that traverses west to east and a forested wetland. Wetlands (blue flagging), the DEP stream (pink flagging) and drainage (pink flagging) were labeled alphanumerically and were located by Corner Post Land Surveying, Inc. The water course, shown as a Blue-Line stream according to the USGS map, was inspected in its entirety. As shown on my attached sketch, a portion of this blue-line stream in the area between the wetland and Newfield road, did not*

*exhibit a scoured mineral. As such, I flagged these areas in pink and labeled them "Drainage". No vernal pools were observed within the investigation area.*

*The DEP stream starts west of the investigation area and then proceeds easterly across the investigation area. The stream exhibited a scoured mineral between a defined bank and contained aquatic vegetation (aquatic mosses). Shortly after the existing pedestrian crossing and forested wetland, the stream appears to dissipate, and becomes a seasonal drainage all the way to the Newfield Road culvert. At that point, the drainage did not exhibit a scoured mineral and channel. It is my opinion that the stream becomes more of a sheet flow-type drainage after depositing sediment in the forested wetland. Afterwards, the blue-line stream is essentially intermittent flow and is not persistent enough to scour a channel consistent with the DEP stream definition under the Natural Resources Protection Act. As such, the drainage section of the blue-line stream does not meet the DEP stream definition because it does not have a scoured mineral.*

*Per your survey, you have showed the entire water course as a stream. If development is affected by this resource designation as a stream all the way to Newfield Road, then perhaps this warrants a reclassification of the drainage portion of the blue-line stream as a possible non-jurisdictional water course for DEP purposes. The blue-line stream designation also has ramifications for subsurface wastewater disposal as the state plumbing code requires a 100 foot*

***Shapleigh Planning Board Minutes – April 13, 2021 Page 24 of 38***

*setback from a blue-line stream to a disposal field. A reclassification of this water course in the drainage areas discussed above may require state concurrence of these findings with both DEP and if necessary, DHHS (Subsurface Wastewater Group).*

*Wetland impacts on the property will require a DEP and Army Corps wetland permit in accordance with the Natural Resources Protection Act (NRPA) and Maine General Permit (Maine GP) respectively. Wetland impacts located within 25 feet of a DEP stream, do not qualify for the normal Tier review process and therefore, would require an Individual NRPA permit; Individual permits are not a guaranteed approval. However, if the wetland impact occurs only within 25' of the stream and is associated with a stream crossing (e.g., driveway or utility crossing), then the activity would qualify for a Permit by Rule (PBR) under that process. The PBR program is a 14-day review process.*

*A DEP-regulated stream requires a 75-foot setback to an activity, such as clearing of vegetation, filling or soil disturbance. A DEP permit is necessary if that activity encroaches into the 75-foot setback. However, the activity may be eligible for the Permit by Rule process provided the activity maintains at least a 25' setback to the DEP stream and is justified within the 75' foot setback.*

*According to Shapleigh WEB GIS, the property does not contain a shoreland zone.*

Provided for the initial review was a 'Boundary Survey for David P. Dubois & Linda B. Chadbourne for Property Located on Newfield Road & Grey Road in Shapleigh, Maine', drafted by Dana Libby, PLS 1350, dated November 30, 2020, labeled Sheet 1. This survey contained the location of the proposed lots, abutting properties, location of Grey and Newfield Road, overhead utility lines and poles, existing stone walls on the property, building setback lines for each property, approximate upland/wetland interface; soils boundary and type; contour lines (both 2' and 10' intervals), and survey markers found.

Provided for the initial review was a sketch plan showing 'Grammar Ridge II, a 4 Lot Subdivision by David P. Dubois & Linda B. Chadbourne of 80 Sand Pond Road, Sanford, Maine 04073 of Property Located on Newfield Road, Grey Road & Abbott Mountain Road in Shapleigh, Maine', drafted by Dana Libby, PLS 1350, dated November 30, 2020, labeled Sheet 2. This sketch plan depicted the entire parcel consisting of 55.46 acres. Proposed lot areas are depicted as follows: Lot #1 = 2.40 acres with 318' of road frontage on Grey and Newfield Road; Lot #2 = 49.38 acres; Lot #3 is 1.84 acres; and Lot #4 is 1.84 acres in size. Also depicted on the plan were contour intervals, stream delineation, wetland area, building envelope, soils, and abutting properties.

Provided this evening was a new plan entitled 'Plan Showing a Boundary Survey for David P. Dubois & Linda B. Chadbourne, 80 Sand Pond Road, Sanford, Maine 04073 – Property Located on Newfield Road and Grey Road in Shapleigh, Maine' drafted by Dana A. Libby PLS #1350, dated 4-6-2021, labeled Sheet 1. The plan depicted the area to be developed as 34.48 Acres Total with 21 Acres as an Exempt Lot, as a proposed gift to Abutter (State of Maine). The plan also depicted the 1<sup>st</sup> lot sold from the property as an Exempt Lot and it depicted the previous lots sold from the parent lot. The plan listed the proposed waivers requested as noted above. Also shown are the survey markers; abutters lines; soil information taken from the "Soil Survey of York County Maine" Prepared by the US Dept. of Agriculture, Soil Conservation Service; the wetland/upland interface mapped by Albert Frick Associates and it was noted that 'No wetlands depicted shall be disturbed or filled.'. The plan also noted the following: The minimum lot size requirements for the Town of Shapleigh will be met; on site sewerage disposal and water supply to be utilized; no part of the premises are in the Flood Hazard Zone; no dug wells shall be allowed; no further division of Lot 2 without Planning Board approval; Lot 1 to be accessed from Grey Road; all houses will have individual fire suppression sprinkler systems; and soil

### ***Shapleigh Planning Board Minutes – April 13, 2021 Page 25 of 38***

test pits to be performed by Chris Coppi of Albert Frick Associates before submission of Final Plan. The traffic trip calculation stated that 4 single-family residential lots will generate 40 trips per weekday, 4 trips in the peak AM hour and 5 trips in the peak PM hour.

Provided this evening was a new plan entitled 'Preliminary Plan Showing Grammar Ridge II – A 4 Lot Subdivision by David P. Dubois & Linda B. Chadbourne, 80 Sand Pond Road, Sanford, Maine 04073 of Property Located on Newfield Road, Grey Road & Abbott Mountain Road in Shapleigh, Maine', dated 4-6-2021, labeled Sheet 2. The plan depicts 4 lots for development, (1) 2.40 Acres; (1) 28.41 Acres; and (2) 1.84



Acres in size. The plan shows the contour intervals, soils, and wetland delineation showing the 75 foot setback and it also includes a 30' foot drainage easement, most of the easement on Lot 10-1, with a small portion on Lot 10-2. There is a note on Lot 10-1 that states of the 2.40 acres, 2.32 acres are outside of the wetland. Site distance for the proposed lots are as follows: Lot 10-1, 253' / 180' on the Grey Road; Lot 10-2, 750' / 684' on the Newfield Road; Lot 10-3, 989' / 650' on the Newfield Road; and Lot 10-4, 790' / 713' on the Newfield Road. Speed Limit on the Newfield Road is listed as 35 mph. The waivers are also listed on this plan for §89-30.A, §89-30.B.2.c, §89-D.3 & 4, and §89-89-29. A note for typical erosion control measures for a building site is indicated on the plan.

Provided this evening was additional information regarding Article X, General Standards, where the applicated referenced how each Section's requirements either are not required or how they can be met noting where on the information can be found on the plans provided.

Provided this evening was a letter dated February 8, 2021 written by Becca Settele, Wildlife Biologist from the State of Maine Dept. of Inland Fisheries & Wildlife. The letters stated that the department did not map any Essential Habitats that would be directly affected by the project. Listed are two endangered, threatened, or special concern species, those being bat species and the Blandings turtles. The agency did not believe there would be significant impact to the bats or turtles because of this project. A mapped Significant Vernal Pool occurs within the project review, and it was suggested if formal surveys were not conducted by a qualified wetland scientist, they should be conducted prior to final project design and these surveys submitted to IF&W for review. Direction was given in the letter for any streams or stream crossings, including the time frame for any instream work.

Provided this evening was a letter dated January 15, 2021 written by Kristen Puryear, Ecologist for the Maine Natural Areas Program, State of Maine Dept. of Agriculture, Conservation & Forestry. The letter is in reference

to the presence of rare or unique botanical features documented in the project area. The letter states that currently in their Biological and Conservation Data System files, there are no rare botanical features documented, but this may be due to minimal survey efforts rather than confirmation of the absence of rare

botanical features. MNAP recommends that the site be surveyed by a qualified biologist to ensure that no undocumented rare features are inadvertently harmed. MNAP recommends that the survey be conducted for the Small Whorled Pogonia and Autumn Coral-root during the growing season of June 15 through September 30. Both species are in close proximity to the project site. The letter states MNAP is available to conduct this survey and it gives contact information. The letter includes information on both species of plant noted. Also

provided was a list of Rare and Exemplary Botanical Features within 4 miles of the project, which includes the State status, State rank, Global rank, Date Last Observed, Occurrence Number and Habitat.

Provided this evening was a site plan which showed well data in the area. Gallons per minutes and depth of well was noted. Gallons per minute ranged from .5 to 25 gallons per minute, averaging 9+ gallons per minute.

### ***Shapleigh Planning Board Minutes – April 13, 2021 Page 26 of 38***

Roger A. asked Mr. Davis to brief the Board on where they were at with the project.

Mr. Davis stated that for anyone who wanted a refresher, they are proposing a 4 lot subdivision. He said they have made some changes since the last plans. He stated the most noticeable would be the 21 acre gift to the State of Maine. He said he realized he didn't have test pits on the plan but he did get a call from Chris Coppi today, and the test pits are finished but Mr. Coppi didn't have time to get a report to them. He said that all the test pits past and he understood that the Board would need to see the information as well. He said as soon as he received the report, he will get a copy to the Board.

Mr. Davis stated that the State of Maine issued a letter to David and Linda Dubois stating that they do intend to accept the 21 acre gift, but there is paperwork that needs to be finalized before the property changes hands. Roger A. stated the Board would need to have a copy of the information showing the State will accept the property. Mr. Davis noted he just received the information regarding this today.

Mr. Davis stated that he added information that should have been provided initially. He said he would answer any questions the Board may have.

Roland L. said that he and another Planning Board member did a site visit, if he remembered correctly, on Lot #2 it appeared there was a stream running that went under the road. He asked if he was correct? Mr. Davis said, "Yes and no. There is a stream along the backside of the property which we do show on the plan. But it ends in Lot 1 in the wetland and Chris Coppi and Albert Frick had determined from that wetland out to the road is simply drainage and not an actual stream." Roland said, ok. Roland said it appeared like a stream bed that continued from Lot 1 into Lot 2 and then there was a culvert going under the road. Mr. Davis agreed there was a culvert. Roland asked, that to access Lot 2 is the plan to have a culvert under the road, because you will have to build that up to transition from Newfield Road onto that site? Mr. Davis said he may be correct; he hadn't been to the site in quite awhile. He said on Sheet 2 of the new plan set, they added a drainage easement covering the drainageway, so any driveway that got constructed over that easement would have to provide for drainage, culverts, or whatever is necessary to keep the drainage flowing smoothly. Madge B. stated she was with Roland, and they couldn't see how they could put a driveway in. Mr. Davis stated he was not a construction guy. Roland stated, "But it's your understanding that the driveway would be constructed with whatever is necessary to control water, even if it is just excess water on Lot 1". Mr. Davis stated they would not block off any drainage.

Madge B. stated that part of the trouble is that it is a fairly wide runoff area. Ann H. stated that she lives in that area and understood what Madge was talking about. She said there were a few places on that road, especially in

the winter when the snow starts melting, where the water goes onto the road and she noted there have been accidents due to the ice. Madge believed it was a challenging place to put a safe driveway that functions to keep things like drainage off the road. She thought there would have to be a lot of fill brought in because the driveway has to cross the drainage without dropping down then up, because otherwise you will have a steep entrance onto Newfield Road. Ann thought instead of each driveway being in the center of the lot they were

going to try to put them next to each other like in Lot 2 and 3, so it would be a better view. Keeping the driveways close but each on its own property. Mr. Davis said they have discussed combining driveways for Lots 2 and 3. He said he wanted to show they can put a driveway on each lot, he didn't want to imply they couldn't get the site distances but there has been discussion about coming into Lot 2 from Lot 3 to avoid the drainage entirely. Madge thought that would be better. Ann noted that the location of the driveway on Grey Road was placed well. Madge felt Lot 2 was the problem. Mr. Davis said if they were to combine them, they would put them along the boundary line on Lot 3, so both lots would come in along the same place which would

### ***Shapleigh Planning Board Minutes – April 13, 2021 Page 27 of 38***

eliminate one entrance onto Newfield Road. He noted shared driveways can be a hard sell. Ann said she understood, so her idea was keeping the boundary separation but keeping them side by side. She felt from a site distance standpoint and keeping the ice off the road, this would work best. Mr. Davis was not opposed to her idea. Steve F. agreed, that if the driveways were pinned together at the lot line, instead of a shared driveway, keep them on separate lots it would avoid any easements. Ann agreed. Mr. Davis said they would be happy to do that.

Roger A. stated that the submission from MIF&W spoke about a Significant Vernal Pool, that it occurs within the project area and it was unclear if formal surveys for vernal pools were conducted for the project area. He asked if that had been done? Mr. Davis stated that Chris Coppi went out and mapped all the wetlands. Roger asked if IF&W had received the information to give an approval for the project? Mr. Davis stated that if they have not, he will pass it along to them. Roger said, "Ok, that is on their letter from February 8, 2021".

Roger A. stated that the other letter was from the Dept. of Agriculture, Conservation & Forestry, which stated they were speaking about the Small Whorled Pogonia and the Autumn Coral-root, both endangered species. He said Kristen Puryear stated the growing season was between June 15 and September 30. She states that both species occur in close proximity to the project site. She also states that she could conduct the survey. Mr. Davis stated they hoped to have moved on by then, but he said they could request it if it is a requirement. He said that the letters state they don't have any information showing there is rare species on the property.

Roger A. read from the letter the following: MNAP recommends that you survey the project area for Small Whorled Pogonia and Autumn Coral-root during the growing season of June 15 through September 30. Mr. Davis said this was standard on all their letters, and that they would like them to survey everything. He said if

it is a requirement by the Board that is one thing but they were just making sure they didn't have any information that showed they had anything on their site. He believed this is what was required. Ann read '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.' Mr. Davis stated that was what he was referencing, that they didn't find anything on the site. He did add that they would like to survey the site before they do anything with it but noted it was a standard paragraph that they put on most of the letters they send out. Roger read from the same paragraph as follows, 'MNAP recommends that you have the site surveyed by a qualified field biologist to ensure that no undocumented rare features are inadvertently harmed.' Ann said, "I see that, so they want to survey between June and September to see if something is growing on there". Mr. Davis said they would like to,

they aren't saying they believe its there, they just want to look. Roger agreed because the site is in very close proximity to an area where it has been found.

Steve F. asked Mr. Davis if he thought the potential build site is down along Newfield Road or would it be back up on the hill. Mr. Davis thought it would depend on how much they wanted to spend on a driveway. He thought if it was a builder putting in a spec house, they would probably put it in along the road; if someone private buys it, they may want it on the hill. Steve said the reason he asked was that if the likelihood of anyone building on the hill would be reduced, it would lessen the chance of running into the Small Whirled Begonia. Steve thought instead of waiting for approval for a survey to be done, if the building envelope were to be reduced it might make things go quicker. He said he felt based on what he has seen of the site, the back was a gnarly site to get to. Mr. Davis agreed but said he would have to discuss it with his clients before he agreed to it. He thought it would be a reasonable compromise if it came to that.

#### *Shapleigh Planning Board Minutes – April 13, 2021 Page 28 of 38*

Madge B. thought the land being given to the State would help to protect rare species if there are any. Mr. Davis agreed stating it was 21 acres that no one would touch.

Roger A. began to go through the checklist for a minor subdivision.

Sketch Plan submission.

Sketch Plan (recommended drawn on copy of Tax Map) **The Board had received it, plan dated 11/30/2020**

Lot and street layout. **The lot and street layout are on the plan.**

Significant natural features: ponds, streams, wetlands, etc. **Natural features have been mapped on the plan.**

Supporting data:

Application form completed. **The application has been completed and submitted.**

Copy of U.S.G.S. Topographical Map indicating development area. **Topo is on the submitted plan.**

Planning Board comments:

Assign file number to application. **Shapleigh Subdivision #93**

Conformity with Zoning and Comprehensive Plan. **Currently under review to see it meets all requirements.**

General observations.

Site inspection. **Site inspection scheduled for April 27<sup>th</sup> at 5:00 pm.**

Subdivision classification and contour determination:

Planning Board classifies plan as major or minor subdivision. **Planning Board classifies this as a minor subdivision.**

Planning Board determines contour elevation intervals to be used. **Contour intervals on the plan presented are adequate.**

Roger stated he would go over the final plan review just so the applicant will have an idea of what is expected. They are as follows:

Final plan and documents (mailed 7 days prior to the meeting)

Two original recording plans and 3 paper copies of subdivision plan.

Subdivision name; municipality; Tax Map and Lot numbers. **These have been provided.**

Perimeter survey; monumentation; bearings and distances; surveyor's or engineer's seal. **There is a waiver request for monuments, the other information here has been provided.**

Scale: written and graphic; date, North point. **Provided on the plan.**

Owner and applicants' names and addresses; abutters. **These have been provided.**

Lot lines, numbers and sizes; building setback lines. **Provided on the plan.**

Contour elevation; soil test pit locations. **Soil test pit locations and information need to be provided.**

Base flood elevation. **Mr. Davis noted there is no flood map for this area. Roger A. agreed and stated the elevation is noted on the plan, with all areas being 488 feet plus, which is above flood stage.**

Supporting documentation:

Copy of deed from which survey based; deed restrictions; easements or other encumbrances. **The deed was provided; there are no deed restrictions; easements are noted on the plan.**

Soils report from licensed site evaluator on test pits or statement from local sewer district. **Soils reports will be provided.**

*Shapleigh Planning Board Minutes – April 13, 2021 Page 29 of 38*

Statement of water supply suitability from local water district. **There is no water district, water will be supplied by individual wells.**

Copy of County Soil Survey. **This has been provided.**

Verification of ownership or legal interest. **This has been provided.**

Application fee. **Preliminary application fee has been provided.**

Dated receipt issued to applicant. **Receipt was provided for the prelim application fee.**

Determination whether submission complete. **Preliminary Application letter to be provided.**

Notification to applicant of completeness of submission. **Currently there are outstanding items.**

Public hearing scheduled within 30 days of complete submission.

Mr. Davis stated that Chris Coppi told him he would have everything from him by May 1<sup>st</sup>. He thought it may be sooner, and as soon as he has it, he will provide it to the Board.

Mr. Davis said he added a fourth waiver request and that is asking that the utilities be above ground. He said the requirements ask that they be placed on the plan, but he is requesting that they let Central Maine Power place them where they feel they are appropriate for the buildings.

Roger A. reviewed Article X - General Standards as follows:

§89-24 – Conformance with the comprehensive plan – *The Board will be reviewing that the subdivision is in conformity with the Comprehensive Plan and all pertinent state and local codes and ordinances.*

§89-25 – Retention of open spaces and natural or historic features – *With the land given to the State of Maine this requirement is met, keeping the subdivision less than 35 acres.*

§89-26 – Land not suitable for development – *Land not suitable for development was depicted on Lot #1 and it has been subtracted from the calculations of lot area.*

§89-27 – Blocks – N/A

§89-28 – Lots – *The lots meet the minimum requirements in Chapter 105 Zoning. There are no flag or odd-shaped lots.*

§89-29 – Utilities – *There was a waiver requested for underground utilities, to use overhead power.*

§89-30 – Required improvements:

Stone monuments – *There was a waiver requested for stone monuments.*

Water Supply – *There shall be no dug wells. The Board will need a letter from the Shapleigh Fire Department stating they will accept individual in-home sprinkler systems.*

Sewage disposal – *State approved individual septic systems will be installed. Soil test pits shall be provided prior to Planning Board approval. Surface drainage easements are provided on the plan.*

Surface Drainage – *Applicant requested a waiver; no streets are proposed.*

§89-31 – Land features – *Topsoil shall remain on site except for surplus from roads and building excavation; soil erosion measures shall be taken to prevent soil erosion in the proposed development.*

§89-36 – Street design standards – *There are no streets within the subdivision. Drainage easement is on the plan, a waiver has been put in for sidewalks.*

§89-38 – Stormwater management design systems – *Adequate provision shall be made for the disposal of all stormwater generated within the subdivision and any drained groundwater through a management system of swales, culverts, underdrain and storm drains. Stormwater management system shall be designed to meet the criteria of a twenty-five-year storm based on rainfall data for Portland, Maine.*

§89-40 – Additional improvements and requirements –

Erosion control – *The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction and cleanup stages.*

**Shapleigh Planning Board Minutes – April 13, 2021 Page 30 of 38**

Article XII – Performance Guaranties –

§89-42 – Types of guaranties - *Roger A. stated that should the Board decide a performance guaranty was required there are options such as certified check, performance bond, irrevocable letter of credit, or a conditional approval agreement.*

- §89-53 – Waiver of submission requirements or standards – *Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical and economical development, provided that the public health, safety and welfare are protected, and provided that the waivers do not have the effect of nullifying the intent and purpose of the Official Map, the Comprehensive Plan, Chapter 105, Zoning, or these regulations.*
- §89-54 – Waiver of required improvements – *Where the Board makes written findings of fact that, due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not requisite to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.*

Roger A. stated several things still need to be addressed. Mr. Davis stated that what needed to be addressed was the test pits and the statement from the State of Maine. Roger said, “Yes, IF&W and the Dept. of Agriculture”. Roger said once the Board receives those, they can see if the application is complete. Mr. Davis asked what they needed from the Dept. of Agriculture? Roger said contact Kristen Puryear, to see if she would be mapping for the Pogonia and the Autumn Coral-root. Mr. Davis said that was only if they request it, and that is only if the Board requests it. Roger asked the Board if they want them to get the letter or waiver that requirement? Mr. Davis stated that they have the letter saying it is not on the site. Steve F. said he was comfortable with what the letter said, but noted he was only one Board member. Roger read the following from the letter received, ‘The Grammar Ridge Subdivision site appears to have the correct landform, forest cover type, and lack of disturbance history appropriate for both species. MNAP recommends that you have the site surveyed by a qualified field biologist to ensure that no undocumented rare features are inadvertently harmed.’ Mr. Davis stated that it also says, ‘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.’ He said they are saying they don’t know of anything that is there but they would like to look if you will let them. He said they are not saying its there but there is a possibility and if you want us to look, we would love to do that.

Ann H. said she had a generic question. She asked if someone finds these, what do we do with it? She said that the neighbors can go pick the flowers, no one will know. She was sure they got run over by 4-wheelers, she said

she wouldn’t know what a Pogonia was. She asked what do you do, do you put a fence around the flower? Mr. Davis believed the State would have recommendations, which would probably amount to them restricting development, put buffers on the plan, things like that. He noted they were not planning on developing a massive area. Ann stated that the property that was donated to Maine, perhaps they grow there. Roger A. said it was possible, but the Board doesn’t know that. He said most of these occur near intermittent streamlets or where a hardpan impedes water percolation into the soil. He felt they could be on Lot 2. Roger said if they did find the plants, they would put measures in place to prevent the disturbance of the plants. Ann said that they would not know that the plant was there until June. Roger agreed. Ann pointed out there had already been tree harvesting, so if there was anything there, wouldn’t it already be gone? Mr. Davis said the property was harvested before they applied for the permit. Ann said that since last year, there had been large equipment in there. Roger agreed but noted a lot of time the seeds will already be in the ground, and the plants will come back up after they have

### ***Shapleigh Planning Board Minutes – April 13, 2021 Page 31 of 38***

been disturbed. Ann said she was just curious as to what would happen if it was found to be there. Roger said they would put a mitigation plan in place.

Madge B. stated that Ann H. asked a perfectly reasonable question. Madge said she knew probably a little more than other Board members about Isotria (Small Whorled Pogonia). She said they did not believe that they withstand disturbance, except that now we have learned to keep them going, we have to disturb around them because they like disturbance. She stated that this was discovered after the 1947 fire. She said the Land Trust goes out now and kills trees around them to keep them growing. She said her reaction to this is that she didn’t think the Board was in a position, and she noted she loves saving the plants, to protect them unless they are growing in the back area of the property where they can be managed. She said that because, unfortunately, now they know there is a need to manage the habitat. She said the Land Trust is learning how

to manage their property, so as much as she likes the plant, she did not believe it was realistic for the Board to get involved in this issue. Madge said again that they came in after a disturbance, the fire of 47, and because there hasn't been a disturbance, the Land Trust and others are trying to kill trees to protect them, letting more light in, but she noted they do not go in with heavy equipment to do it. She said they are complicated plants, which is why they are rare. She said they are valuable because they are an orchid, they do not grow very tall, and she said it was exciting to find them. She said there were some stands in Shapleigh, as well as on the Land Trust property that they are managing. She said the Nature Conservancy also owns land in Shapleigh and it is to protect the Isotria.

Roland L. stated that based on what Madge B. shared, who he considers to be an authority on these matters, he did not think the Board should expect the developer to pursue this, in this case. He said given all the circumstances of what he heard, he said he would prefer to defer this requirement. Steve F. seconded this. All members were in agreement not to require the applicant to have to survey the project area for the Small Whorled Pogonia or the Autumn Coral-root as recommended in the letter from Kristen Puryear, dated January 14, 2021.

Madge B. noted the Board still needed the test pits on the plan. Mr. Davis stated he understood. Madge said once the Board does a site inspection, the Board will see why she and Roland have concerns about Lot 2.

**Roger A. stated a site inspection would be conducted on April 17<sup>th</sup> at 5:00 p.m. The Board will not conduct the public hearing until all information that is required is on the final plan.**

Nothing further was discussed.

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

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

Provided along with the application was a plan entitled 'Plan Showing a Proposed Site Plan for Caleb Chessie, 776 Shapleigh Corner Road, Shapleigh Maine 04076 – Of Property Located on State Route #11 (Shapleigh Corner Road) in Shapleigh, Maine', drafted by LinePro Land Surveying, LLC of Springvale, Maine, dated March 30, 2021. The plan depicted 2.86 acres owned by Caleb C. & Abigail M. Chessie, YCRD Book 17962,

Page 15, as well as property recently purchased by Caleb & Abigail Chessie, consisting of 4.22 acres, YCRD Book 18225, Page 549, creating a total lot area of 7.08 acres. The plan also depicted the location of the existing house, garage, parking area, & lawn area; a possible 50' x 100' future addition to the existing garage; a

***Shapleigh Planning Board Minutes – April 13, 2021 Page 32 of 38***

proposed buffer area – trees to remain; proposed driveway; proposed 12' x 12' fuel storage location; proposed overflow parking & material storage area; and a proposed berm to help provide buffer for the neighbor.

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

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

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

Roger A. asked about the location on the plan that speaks about fuel storage, because it is hazardous, he wanted to know if it would be enclosed and how many gallons he expected? Mr. Chessie stated he hadn't figured out how large the fuel tank would be, but it would be enclosed in case it ever leaked. Ann H. asked if it had to be on concrete or something impervious? Mr. Chessie said, "Correct". Mr. Chessie stated that he had started building it but he didn't have fuel there yet. Steve F. asked if there would be a roof over it, so it would

be enclosed completely, or will it be open and exposed? Mr. Chessie stated that he was planning on having a roof over it, so it doesn't fill up with rainwater.

**Roger A. stated there would be a site inspection at 6:00 p.m. on April 27<sup>th</sup>, and a Notice to Abutters will be mailed. Roger stated there would be a Public Hearing at 7:00 pm.**

Madge B. stated she had a question. She said that the Board likes to have photographs on file, so the Board knows what is on site currently. She asked if the Board takes the photographs, or does the Code Enforcement Officer take them? She said the Board doesn't specifically require them but they are very helpful to document what is there for an application. Roger asked again what she was asking? Madge stated she liked for the record photographs for an application like this, especially a site that didn't have many buildings, but has a fair amount of activity. She asked if the Board wanted her to bring a camera? She asked if she was the only one who liked photographs for the record? Maggie M. noted that she liked them as well. Steve F. stated that looking at the plan, the Board was being asked to approve what he has now and a 50' x 100' building. Roger A. said he was looking for a business permit for the site. Madge said, correct. Steve said again, that he was also looking for a 50' x 100' addition per the plan. Madge said she would like photographs because they are a good way to

document what is currently on site. Steve asked Mr. Chessie if he had any issues with Madge taking pictures of the property? Mr. Chessie said, "No". Ann H. stated that she likes photos, noting she has to take photos all the time with her business. She added that Steve probably does as well. Roger said it was fine, Madge could take photos for the record.

Nothing further was discussed.

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

***Shapleigh Planning Board Minutes – April 13, 2021 Page 33 of 38***

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

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

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

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

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

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



lot line adjacent the road is .63'. The plan depicts the 50 foot setback to the road and the 100 foot setback to the water.

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

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

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

### ***Shapleigh Planning Board Minutes – April 13, 2021 Page 34 of 38***

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

Roger A. asked Brad or Brigitte Davis to let the Board know what they intended to do. Mr. Davis began by stating he spent summers at his grandparent's camp on Wilson Lake, so there are fond memories and he eventually introduced his wife to the area. He said that in 2003 they bought the existing camp and last summer they decided to move from California to Maine permanently. He said their current camp doesn't work well as a full time home, so they would like to build something both comfortable and efficient. Mr. Davis then asked his wife to introduce the team working with them to the Board.

Mrs. Davis stated that she found the people they are working with in Portland, Maine. She stated she had been doing research for some time, and they have hired Russ Tyson as one of the architects, and Roo Collins is the other architect. She said there is also Soren (DeNiord) who is the landscape architect. She added that they want to be sure they are doing everything by the book, and they also hired Soren to beautify the property, and to landscape with plants that are best for the lake. She said the lake is the number one priority. She said everyone is on line to answer questions.

Roo Collins began by introducing himself, and noted he worked with Russ Tyson at Whitten Architects in Portland. He stated the site was a tight and constraining site but they were enjoying designing the home. He also thanked CEO Demers for his feedback on the project.

Mr. Collins stated the project will include the tear down of the existing home and separate garage, and the construction of a new home with an attached garage which will be further from the road. He said there will be a new driveway, fence and landscaping, with a mix of native plantings and flowering perennials. There will be a new septic system located below the new driveway, further from the lake and neighboring wells, than the current septic location.

Mr. Collins began by reviewing the drawings provided. He said the first sheet, AS102, is the existing site survey provided by LinePro Land Surveying. He stated it depicted the existing lot lines, the proximity to the lake and several non-conforming structures. He stated the dimension from the high water line to the edge of the deck, that dimension is 63'6" currently. The northern lot line, the house is 7'3" from that line, which is within

the 10 foot setback requirement. The southern part of the building, the entry port to the house is 3'7" from the lot line. The eastern part of the lot, the garage is less than a foot from the eastern most lot line. He noted the existing septic they are proposing to move further from the eastern lot line and the lake. He stated the grey

legend on the bottom right of the page, Item 5 shows the lot coverage by structure which is currently 2,340± sf = 23.17% coverage. He said this figure drives the design to try to keep below that. Mr. Collins asked if there were any questions? There were none.

Mr. Collins stated on the next page were existing site photos. He said on the top left you see the current location of the garage and its proximity to Indian Village Road. He stated the plan was to move it a lot further back. He said the picture on the top right is the side entry porch to the basement, which is 7'6" from the northern lot line. The bottom left you can see the edge of the deck which is beyond the 75 foot setback. He pointed out you could

### ***Shapleigh Planning Board Minutes – April 13, 2021 Page 35 of 38***

also see in the picture the entryway to the house which was only 3'7" from the side yard setback. The existing chimney also is shown in the picture. He stated there were a lot of non-conforming things shown in the pictures. He said as they started to design the project with Brad and Brigitte it became clear that they would be introducing a non-conforming structure, but the challenge they set up and one they set for themselves was to make it less non-conforming. He said this has driven the design the whole way through. He stated they want to design a better home for Brad and Brigitte, but also a better home for the neighbors, and a better home for the Town of Shapleigh for such a prime location.

Mr. Collins stated the next page to go to is AS104, which is the proposed site diagrams. He said the bold red outline is the existing building, the bold black is the proposed new house, garage, and deck. He stated the whole of the structure is further from lake, away from the 75 foot setback. He said there would be no retaining walls beyond the new deck, so everything is beyond 75 feet from the lake. He said the north and south walls of the house will be outside of the 10 foot setbacks on either side yard. He stated the new garage is attached to the home and has been moved back from the front yard. The new proposed septic field has moved about 50 feet further from the lake. He said the site section at the top of the diagram shows that the whole of the new home is lower than the 25' height limit and is set beyond 75 feet from the lake. The existing home is also shown in the diagram. The plan also depicts the new structures are less than the existing lot coverage (by .02%).

Mr. Collins stated they provided a landscape plan, Sheet L1.0, and he asked Soren to speak on this plan. Soren said the site plan includes the new footprint, showing how the structure has been shifted, showing the lake front and side yard setbacks, as well as the street edge. He said graphically the light green circles are an added layer of shrubs and perennials they would like to propose at the street edge creating a welcoming entry garden that provides a bit of screening from the road. He said the driveway has been reduced in width to be a single lane to the garage entrance to minimize lot coverage, impervious coverage, so they are working with every square inch, while still maintaining safe and clear access. He stated they are still developing the plant list but the goal is to develop a baseline of native plantings, which includes trees, shrubs and perennials. He stated on the south edge they created a pathway that interfaces with the steps off the proposed deck, then descends down a slope to an existing lawn and then to the lake edge. He stated that it was a beautiful property, that they don't want to do too much with it, but want to heel in the new structure and enhance the existing beautiful qualities. He stated they provided an erosion control detail on the plan, the goal is to encapsulate the whole perimeter of the property, to make sure during construction there is no erosion, so no sediment washes into the lake. He asked if there were any questions?

Ann H. asked with the large trees, would the roots interfere with the septic? Soren thought they would be contained. He said graphically on the plan they may look larger than they actually would be and the tree being

used doesn't have large water seeking roots like willows or maples. Roland L. applauded the detail provided and the thought. He said he noticed a lot of lawn mentioned and his personal experience, particularly on shoreland property, lawns that look like a lawn need to be maintained with fertilizer which ends up in the lake.

He said a small amount may not matter but as it extends it could be an issue. He asked if the lawn would be a golf course grade or more rustic? Soren stated his goal for creating lawns was to use a blend of seeds created for this area, to create not a golf course, but something to create the most practical and economical ground cover. He said he would advocate for an organic lawn, and one that uses very little fertilizer. He said it is a

conversation he hasn't fully had with Brigitte, but as a curator of the project he would shoot for a blend of grasses suitable for the area. Roland said at the site visit the Board would get a better indication of possible runoff. He said when the Board recommends vegetation for an area along the water, they recommend staying away from grasses because for them to look like a lawn you have to put supplements to them, and we are trying

***Shapleigh Planning Board Minutes – April 13, 2021 Page 36 of 38***

to maintain water quality as best possible. Soren stated that he understood and he welcomed a conversation if there were alternatives to suggest, he did believe the site visit would be revealing and they hoped to keep the disturbance line as small as possible.

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

**Roger A. stated they would do the site inspection on April 27<sup>th</sup> at 6:30 p.m. and a Notice to Abutters will be mailed as well.**

Mrs. Davis asked if Mr. Davis could attend the site inspection? She asked if she could be there as well on the telephone. Roger A. said that was no problem having them both there.

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**Growth Permit(s)**

**Map 7 Lot 8-1 (133 Cedar Drive) – New Home GP #07-2021**

Madge B. asked if the application was for the whole 2.56 acres? Roger A. stated it was. He said there was greater than 2 acres and more than 200 feet of road frontage, so the lot will meet the criteria for a lot per the ordinance.

**Map 5, Lot 26A (Owls Nest Road) – New Home GP #08-2021**

Madge B. asked if it was split off from a larger lot? Roger said that it was. Roger stated there was 200 feet of road frontage and it consists of 1.84 acres, therefore, it meets the criteria in the ordinance.

Ann H. said she thought you had to have 200 feet of road frontage and 2 acres. Roger stated you do have to have 200 feet of road frontage but you only need 80,000sf or 1.84 acres. He said in Shapleigh you need 200 x 200, where a normal acre is 208' x 208'.

**Map 7, Lot 30-2 (Shapleigh Corner Road) – New Home GP #09-2021**

Madge B. asked if it was on the east side of Shapleigh Corner Road. Maggie M. said it was a couple lots beyond the Transfer Station. Madge asked what this was split out of? Steve F. said it was split quite a few years ago when the house was built. He said this was the remainder part. He said there was a house built there five years ago or so, and it was sold, this was the Lot B to that. Steve said the lot was split right down the middle.

The lot is 7.58 acres in size and has 319.9 feet of road frontage, so it meets the requirements in the ordinance.

**Map 5, Lot 20-10 (White Tail Lane) – New Home GP #10-2021**

Roger A. stated this was a lot in an approved subdivision. Steve F. added it was the last lot.

**Map 35, Lot 4 (14 Cranberry Road) – Seasonal Conversion GP #11-2021**

Steve F. asked if the Board had to go through the criteria for a seasonal conversion or will CEO Demers do it? Roger A. said if it were up to him, he would ask that the septic design be included with the Growth Permit,

because when the Board issues the permit, the structure should be ready to go, having a septic design that meets the criteria of the State standards, otherwise the Board is issuing a seasonal conversion for something that doesn't have an approved system. CEO Demers said they wouldn't get a design for a seasonal conversion if they don't get a Growth Permit, so it is a chicken or the egg scenario. He said the seasonal conversion is

***Shapleigh Planning Board Minutes – April 13, 2021 Page 37 of 38***

handled through the LPI (Licensed Plumbing Inspector), so the Board is just looking at it saying it's a lot of record and they convert it to a year-round dwelling, then the LPI, which is him, will handle the septic. Steve asked CEO Demers if he issues a permit? CEO Demers said they have to get a site evaluator to determine what is in the ground and whether it will function properly for year round, if not, then they need to make the necessary upgrades. Roger asked if the upgrades had to be completed or was it just a form that needed to be registered at the Registry in case it fails? CEO Demers said that Roger was correct, they could get a system designed and record it and then use it at any time in the future as long as it meets the standards today. Madge B. asked how that meets the goal of making sure there was a working septic? CEO Demers stated that it shows one can be built on the property and recording it at the Registry holds that right to build the system. Madge asked if at this time the system is working? CEO Demers said, "Correct, and you can't make anyone upgrade their system unless they do improve the structure in which case, I will be doing that". He said if they want to get a Growth Permit now and use the camp however, they see fit, they can do that. He said until they upgrade the building, he cannot make them upgrade the septic system.

Roland L. asked if they get a Growth Permit and decide to sell it, at that point would they be required to upgrade the system? CEO Demers said no, not if the building hasn't changed. Roland said, ok. CEO Demers said in this case, he believed they were going to do the upgrade, redo the building, everything.

### **Map 8, Part of Lot 61 – Subdivision Lot 2 (Gulf Road) – New Home GP #12-2021**

Roger A. stated this was part of a subdivision that the Board approved last year on the Gulf Road, Lot 2. It met all the criteria.

### **Map 2, Lot 47D (Walnut Hill Road) – New Home GP #13-2021**

Roger A. said because there was a conflict of interest for him, he wanted to turn the review over to Steve F.

CEO Demers said he emailed Dana Libby to verify the distance on the road, due to an arc distance he wanted clarification. CEO Demers was supplied with a copy of the deed which depicts a distance of 37.92', 12.40' and 163.39 feet for a distance of 213.71'. He said the property meets the dimensions for area, so he feels it is a viable lot. Madge asked if it was shaped the way it was to get the road frontage. CEO Demers thought it was a leftover piece of land. Steve lost connection for a few moments. When he returned CEO Demers showed him what he had shown the other Board members with respect to road frontage and area. Steve said he would go to the town hall to sign it as approved.

Nothing further was discussed.

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**The Planning Board meeting ended at 10:15 p.m.**

**[The next Planning Board meeting scheduled will be via Zoom on Tuesday April 27, 2021 at 7:30 p.m. See the Town website, \[www.shapleigh.net\]\(http://www.shapleigh.net\) to obtain the link details, or use the information below.](#)**

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

*Shapleigh Planning Board Minutes – April 13, 2021 Page 38 of 38*

**• Join Zoom Meeting**

<https://us02web.zoom.us/j/88005967573?pwd=OWxLdWM5eTZ5V28yL05VdWdVSmFjQT09>

**• If calling in:** Find your local number: <https://us02web.zoom.us/j/88005967573?pwd=OWxLdWM5eTZ5V28yL05VdWdVSmFjQT09>

**Zoom Meeting ID: 880 0596 7573 Passcode: 860338 (For all links)**

- You may send an email by noon on the day of the meeting to [planningBoard@shapleigh.net](mailto:planningBoard@shapleigh.net) and the link to the meeting will be emailed to you, or you can find that link on [www.shapleigh.net](http://www.shapleigh.net) under Planning Board

**NOTE: The summer hours are in effect through October 30th; the meetings will begin at 7:30 p.m. and any scheduled public hearing begins at 7:00 p.m.**

The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month unless it falls on a holiday or Election Day. Should there be a cancellation due to a storm event, holiday or Election, the meeting will typically

be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2839, x4.

Respectfully submitted,

Barbara Felong, Land Use Secretary

Town of Shapleigh

[planningBoard@shapleigh.net](mailto:planningBoard@shapleigh.net)