

Shapleigh Planning Board

Minutes

November 9, 2021

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

The minutes from Tuesday, October 26, 2021 were accepted as written.

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

The Planning Board meeting started at 6:30 p.m.

Proposed Zoning Changes for Town Meeting 2022

Board members began by noting there was a sign up at an existing business on Route 109, for a new business that did not come before the Board. One member stated that he believed the building had a new owner and was going to come before the Board for an amendment to the existing conditional use. There were 3 approved businesses on site currently, and this would be a fourth. It was an allowed use, but needed a permit now, otherwise this will be an after-the-fact permit. The sign does not go up until the business is approved. One member stated that he believed there was equipment for the business on site and he thought he heard there would be an office. The Chairman stated that because the sign is up, the owner has to come in for a conditional use. The other members agreed. It was noted that a sign cannot go up until a permit is received for the business by the Board. It was also noted this person knows a permit is required and should not have put the sign up.

From this conversation, Steve F. stated that the Town does not have a village zone like other neighboring towns. Madge B. noted that in the past the Board tried to put through zoning, such as a village zone and the Townpeople would not vote for it. Madge said that the reason for not voting in smaller lots was people didn't want to increase the density allowed in a certain area. Steve said at some point things need to be looked at. Barbara F. noted that prior to Covid, Madge had spoken about looking at zoning, and Madge asked her to make copies of what Acton had done and to look at other surrounding towns. Barbara stated that she did make copies of some material, but then Covid hit, and this year the Board has been too busy for additional review until now. She thought after the first of the year it would be good to start looking into zoning, and noted that Southern Maine Regional might be a good source in the future to help as well. Madge agreed. Steve thought if there was more flexibility in certain areas, we could have more of a commercial or village area. Steve noted that Waterboro had a flexible commercial zone with the smallest lot size. Ann said that her office was in the village section. She said at the town meetings, what they wanted to achieve was to have tourists come into one section of town, and things like banks in another, things that don't bring in tourists. The Board agreed this should be looked into for the future of the town. Steve stated that he knew the Board may not get it perfect the first time, but the Board needs to start, and realize that along the way amendments will likely be needed over time. Keep what works, and let go of what doesn't.

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During the workshop on October 19th several definitions were discussed. One was the definition of Condominium, that perhaps it should be in the ordinance for future use. Members were speaking about what a campground was, then the subject of the condominiums on Route 11 were brought up, at which point members wanted to know the difference between a condo and other dwelling units. Accessory dwelling units were also brought up, due to legislation allowing these units on the same lot as a single-family dwelling unit. Madge B. did not believe we needed to define condominium, but multi-family needed to be defined, which is currently in the Zoning Ordinance. *Members agreed the definition of condominium was not currently needed.*

§105-15. Definitions.

Medical Marijuana Caregiver

Cultivating, processing and/or storing of medical marijuana by a qualifying patient at their own residence or a medical marijuana caregiver at their own primary year-round residence for use by a qualifying patient. ~~This use shall be considered an accessory use.~~ *This sentence was removed so the review is done under a CUP, See Note 5 §105-17. Board members agreed to this change.*

CEO Demers suggested a change to the Zoning Ordinance definition of building height.

CEO Demers pointed out that building height was defined in the ordinance in two places. He stated the first place it is defined is under 'Height of Structure' which he stated is the definition he wants. The definition of Height of Structure is as follows: *The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area.*

CEO Demers stated that Building Height is also in the ordinance and is the one he does not want. The definition of Building Height is as follows: The vertical distance between the highest point of the roof and the average grade of ground adjoining the building.

CEO Demers stated that the definition of Height of Structure is also the same definition used in Chapter 1000, the DEP guidelines for Shoreland Zoning.

Steve F. asked how the ordinance referred to building height, was it height of structure or building height. CEO Demers stated that the Board could keep Building Height and have it say 'See Height of Structure'. Maggie M. didn't think that all structures were a building, such as a tower. It was noted that a building was a structure. Steve pointed out the definition talks about 'excluding chimney's, steeples, antennae and similar appurtenances', so it is in the definition. Maggie said, 'Ok'.

Madge B. said she was worried about tying the two together, because with 'height of structure' we talk about all kinds of structures. Madge said she would like to leave Building Height and say 'See Height of Structure'. Steve F. agreed because every building is a structure, but not every structure is a building.

The Board agreed it would read as follows:

Height of Structure: The vertical distance between the mean original (prior to construction) grade at the downhill side of the structure and the highest point of the structure, excluding chimneys, steeples, antennas, and similar appurtenances that have no floor area. *(No change to this definition.)*

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Building Height: **See Height of Structure.** ~~The vertical distance between the highest point of the roof and the average grade of ground adjoining the building.~~

New Requirement from the Dept. of Environmental Protection:

Place it under §105-3 – Section E

Photographic record required. An application for a permit for development within the Shoreland District must provide preconstruction photographs and, no later than 20 days after completion of the development, post construction photographs of the shoreline vegetation and development site to the reviewing authority of the permit. If the reviewing authority is both the Planning Board and the Code Enforcement Officer, both shall receive a copy of before and after picture documentation.

Ann asked if after the 20 days, the photo's go to CEO Demers. Steve F. stated that yes, those go to the CEO. He stated the Board gets them pre-construction and noted it was now law. Barbara F. asked if the suggested placement worked for them? She wanted to be sure it was in a section the Board would not miss, putting it under 'Basic requirements'. Steve said it should be in a place where the Board would be using it, such as under §105-73. Roger A. said it would also be used under §105-4 'Nonconformance'. Roger agreed under 'Basic requirements' it would cover both sections. Steve stated that it needed to be placed on the application, and on a checklist for the application review. He said that CEO Demers will be sure that the applicants have this information before it gets to the Board.

Roland L. said he thought it sounded like they didn't have to turn in the photos until after the work was completed, and if so, what good did it do the Planning Board in the reviewing process. Steve F. stated, 'must provide preconstruction photographs and, no later than 20 days after completion of development, post construction photographs'. Barbara F. stated it would be required in the application, Madge agreed. The Board agreed it was not easy to follow, so Steve suggested the following changes:

Photographic record required. An application for a permit for development within the Shoreland District must provide preconstruction photographs **at the time of application**, of the shoreline vegetation and development site to the reviewing authority of the permit, **and post construction photographs no later than 20 days after completion of the development.** If the reviewing authority is both the Planning Board and the Code Enforcement Officer, both shall receive a copy of before and after picture documentation.

Board members agreed this was easier to follow. Barbara F. will give a copy to the DEP for approval.

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- Shoreland District – Members during the workshop agreed there was no reason to prohibit the sale of alcohol in the Shoreland District. Therefore, the following amendment would be made:

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§105-17. Land Uses

Commercial

RP SD GP FD SP

Premises selling alcoholic

Beverages

NO ~~NO~~ **CU** CU NO NO

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- After several applications this year that required MDOT access approval, this was added to the ordinance for clarity. All members agreed to the amendment.

§105-34. Access control on Routes 109 and 11.

- A. Land lying on Routes 109 and 11 may be divided into lots, but all vehicular movements to and from the highway shall be via a common driveway or entranceway serving adjacent lots or premises. All lots of record existing at the time of the ordinance amendment shall be allowed direct access to Routes 109 and 11, provided that minimum safe sight-distance standards can be met.
- B. All lots accessing Route 109 and 11 must obtain an MDOT Entrance Permit. All conditional use permits requiring access, applicant shall provide proof of permit prior to obtaining approval.**

The following definitions were referred to at the workshop held on October 29th. CEO Demers provided them for clarity during the discussion.

Private Right-of-way – A vehicular accessway serving no more than two dwelling units.

Private Way – A category of road not owned or maintained by the Town of Shapleigh or the State of Maine which provides frontage to a lot or lots.

Public Road – A roadway used by the general public, whether or not the same has been laid out as a Town way.

Driveway – A vehicular accessway serving two dwelling units or less.

Barbara F. asked about the definition of Private Right-of-way, she did not understand the limitation of two dwelling units? She stated that a ROW can access multiple properties, it is an easement to travel over a property for access. Madge B. agreed a private ROW can access any number of properties. CEO Demers said this was the current definition. Barbara agreed and asked if it should be changed? Ann H. noted there was no definition in the Zoning Ordinance for Private ROW. Barbara stated she didn't see it, but perhaps it was in a certain section. Steve F. thought they were dealing with land use, and he wanted to know if the Board needed to fix the definition? Barbara said, "Yes".

Madge B. didn't think the ordinance needed Private Right-of-Way and Private Way. Steve said he liked the definition of Private Way and read it out loud (see above). Maggie M. didn't think we needed private ROW, because it would be defined in people's deeds. Steve agreed, but noted they were just trying to define it.

CEO Demers stated that Private Right-of-Way is defined in the subdivision ordinance. The Board looked at it, and it was listed under 'Street Classification'. Roger A. noted that Chapter 89 is different from Chapter 105, so

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there can be different definitions in each. Madge B. agreed, but asked if the Board wants different definitions in each? The Board thought Private ROW should be changed to Private Way. CEO Demers stated that the Board could, it was their ordinance. Steve F. asked what his alternative was? CEO Demers stated that defining a road with respect to enforcing code, didn't matter to him. He said he only looked at setbacks to that road. He stated with respect to subdivision, the Board should define it however they want.

The Board agreed to the following amendment to the Subdivision Ordinance:

Article III 'Definitions'

Street Classification

Arterial Street

A major thoroughfare which serves as a major traffic way for travel between municipalities and through the municipality.

Collector Street

A street servicing at least 15 lots or dwelling units, or streets which serve as feeders to arterial streets, and collectors of traffic from minor streets.

Industrial or Commercial Street

Streets servicing industrial or commercial uses.

Minor Street

A street servicing fewer than 15 lots or dwelling units.

~~**Private Right-of-Way**~~

~~A vehicular accessway serving no more than two dwelling units.~~

Private Way

A category of road not owned or maintained by the Town of Shapleigh or the State of Maine which provides frontage to a lot or lots.

Steve F. stated that the circuit breaker from a driveway to a private way is the third dwelling unit. Barbara F. thought that was true, but admitted to being confused because private ways can be used for two dwellings as well, she was referring to §105-60.1 'Private ways'. She stated that a private way can be for one lot, or two or more, which is why she was confused with the definition of driveways. Steve stated that the private way creates the road frontage for the back lot. CEO Demers stated that you can fit two dwellings on one conforming lot, but if it goes to three, does it go to the next class of road? Steve thought a private way could service as many lots as you want. Barbara agreed. CEO Demers asked if White Tail Lane was a private way? Roger A. stated that it was a subdivision, two different issues. CEO Demers asked if it was a public road? Roger stated that it was a private way. Madge agreed. Roger said it was a subdivision, serviced by a private way. He said there were two different issues, you can have a private way for something that is not a subdivision, and a private way in a subdivision. Roger noted a past application that was a private way that was not currently a subdivision. Barbara said if someone waits every five years, you could have a private way access but not have a required subdivision. Ann H. asked why does the Board care, if it is always going to be a private way and not town maintained. CEO Demers said in reviewing the definitions, we need to look at how it is used. Roger said you can have a private way for a subdivision, or a private way for something that isn't a subdivision. He said that is why it needs to be in both ordinances.

Steve F. stated that with White Tail Lane he didn't know who owned the land under the private way. Madge B.

asked if there was a landowners association? Steve said there wasn't. Roger A. and Madge both stated that there

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was supposed to be. Steve said there was but the original owner had been paying to maintain it, he hasn't charged anybody anything. He said there was no President, Vice President, anything. Barbara F. said that was on him. Steve said there was a document set up and ready to go, but it hasn't been acted on. Roger noted there were environmental issues that needed to be done to the road every five years, so perhaps he is doing that as well. Steve noted the last house was closed on, so the subdivision is complete. Roger said the Board received the paperwork for the association when it was approved, and he thought it was recorded. Steve thought everything was approved, the market tanked, the property owner just kept plowing it and has always done it.

The Board did not like the definition of driveway, pinning the driveway to dwelling units. Steve F. noted what if someone had a shop, or wood lot, etc. The Board discussed removing 'serving two dwelling units or less' as follows: Driveway – A vehicular accessway ~~**serving two dwelling units or less.**~~

The Board agreed they will talk more about Driveway, as they were not sure this worked.

Public Road – A roadway used by the general public, whether or not the same has been laid out as a Town way.

The Board discussed whether or not the above definition gave a clear definition of what a public road was. Easements were discussed, the fact the Town can maintain a road if they had an easement on the road, and townspeople had the right to pass over it. It was concluded the existing definition worked, other definitions may work better, but at present a change was not suggested that worked better.

Proposed change to the Zoning Ordinance by CEO Demers. *Board members agreed to the change.*

Existing Note to table:

105-19. Notes to table on dimensional requirements.

Front yards. Whichever of the two methods for determining front yard setbacks (specified in the table in **§105-18**) yields the greater distance shall apply. When a lot fronts on the shore and on a road or right-of-way, both the Shoreland setback of 100 feet and the front setback as defined in **§105-18** shall be met, or a variance must be obtained. If a legally existing structure which does not meet the required front yard standard is located on the property, any new structure may be set back the same distance from the right-of-way as the existing structure, so long as all other performance and dimensional standards of this chapter are met.

Proposed amendment to Note to table:

105-19. Notes to table on dimensional requirements.

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Registry of Deeds within 90 days of the date of the Planning Board approval. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void.

Retaining Walls – Steve F. stated the Board previously discussed walls, that if the walls were too big it comes to the Planning Board and if it was a small job it goes to the CEO, or does the small wall go to the Planning Board, then the CEO after the first meeting. Maggie M. said she thought they agreed it would go to the Planning Board for the first meeting to see if it was a job that could be handled by the CEO. Roger A. stated that the only reason the walls come before the Board was because of §105-39,

earth moving greater than 10 yards in the Shoreland District to ensure proper erosion and sedimentation measures are taken. Madge B. said she understood that. Roger believed that almost all walls were going to be 10 yards of fill. CEO Demers agreed. CEO Demers said the Board could add the language 'the Planning Board or its designee', so that on cookie cutter retaining walls, if it isn't anything out of the ordinary, that would give the Board the option to kick it down to the CEO. Roger said he had an issue with that, because he thinks it should be all or none, because if you pick and choose you better have a good reason why. He said the minute someone takes the Town to court, and the judge sees the Board picking and choosing who to review, there best be a reason. Steve said there should be a circuit breaker. Roger felt it needs to be all the same. Steve said again there needs to be a definitive circuit breaker as to what the Board looks at and what the CEO looks at. Steve asked if the 10 yards was Chapter 1000 or us. Roger thought it was both. Steve said then it all has to go to the Planning Board. CEO Demers said that is where you can say the Board or its designee, which is also in Chapter 1000. Barbara F. said if the Board chooses to add 'or its designee', CEO Demers will make sure there are good photos to the first meeting, a good sketch and revegetation plan, so the Board will know what is on site, without doing a site inspection. She asked if this was the circuit breaker? Steve said the law was on their side with the photos being required. Barbara agreed, and said if it goes to the CEO, a notice to abutters will not be required. She asked if this would be a problem? Steve said that abutters can be upset about the construction and the possibility of the road being blocked. Barbara said she thought that is one reason for the notice, so they would know what is going on. Maggie thought it could also get others to fix their wall at the same time. Roger said this is why it is a two meeting process. Madge stated that her concern remained the plantings. She said she would rather the Board review the applications until better results were being provided for with the planting plans. She said that is why she suggested York County Soils & Water come in to give the Board some ideas. Barbara F. stated that she received an email today from Mindee Goodrum from YCS&W, stating that she would be happy to speak with the Board about shoreland revegetation. Barbara asked the Board when they could be available? Several afternoons were noted, along with prior to the meeting on the 23rd. Barbara will touch base with Mindee and let the Board know what works best. Madge said she didn't feel like she was ready to let go of the review of the walls until better plantings plans were provided.

The Board discussed walls further, and concluded that if they received good photos, revegetation plans, etc. the walls could possibly be a one meeting review, but until such time the review will remain as it currently is. The Board agreed to revisit this at the end of next year. Roger A. still did not see how you could get around notifying the abutters. Barbara A. stated that if an application was provided three weeks in advance of the meeting, then she could send the notice out prior to the meeting. She noted this is how the Zoning Board applications are handled. Steve F. asked why the abutters had to be notified. Barbara believed it was State law, and that she had a 10 day requirement, she has to get the notices in the mail 10 days prior to the meeting. CEO Demers asked what the notification was tied to, Planning Board review, the replacement of a structure in the shoreland zone? Roger stated it was tied to the conditional use. CEO Demers stated if it wasn't a conditional use then it would just go to the CEO. CEO Demers noted other towns give it to the CEO. Roger did not know how they were getting around the Chapter 1000. CEO Demers said they probably haven't adopted it. He noted in

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Waterboro they give it to the Code Officer as designee, because they don't go to the Planning Board. Steve asked if it still went to abutters. CEO Demers did not know. Steve thought if it was made that it wasn't a conditional use, then the Board could have the option of a designee. He said the Planning Board would still review it, then

decide from there. CEO Demers suggested it stays as is for the next year, then review it after seeing what pictures are received and revegetation plans, etc.

Madge B. wasn't sure it would work as it has been suggested, with Planning Board giving it to the CEO for final review. CEO Demers stated that Attorney Durward Parkinson stated that anything he wanted to give to the Planning Board he could, even without having a good reason why.

Steve F. stated that he was 100% on Board with telling applicants to not even show up without a complete application. He said this will prevent the Board from looking at insufficient documentation. The other Board members agreed. He said whatever the Board has to do to put that in place, he would like it to happen. Barbara F. noted they are supposed to bring the application to the CEO first, he just has to say if it will or will not work. Maggie M. thought they could give the CEO a checklist. Barbara noted the requirements are in the ordinance. Roger A. added that you cannot create a picture for each application, because each application is different. Barbara believed the Board would know if they are looking at adequate photographs, an adequate plan and an adequate revegetation plan. The Board has received both good and inadequate information in the past.

Barbara F. stated that the Board spoke about the definition of Tiny House and Accessory Dwelling Unit and she wrote the State definition of both. They are as follows:

Tiny House – State definition: "Tiny house" means a dwelling that is less than 400 square feet in floor area, excluding the area of any floor level located above the main floor."

Accessory dwelling unit. – State definition. "Accessory dwelling unit" means a self-contained dwelling unit located within, attached to or detached from a single-family dwelling unit located on the same parcel of land."

Barbara asked if the Board wanted these definitions in the Zoning Ordinance now, or in the future? CEO Demers thought they could be added now.

Ann H. believed the State was coming up with the legislation on both due to the lack of adult living facilities, noting the closures of several nursing homes. Roger A. stated there is a lack of affordable housing. Ann said also, if they make it a house or accessory dwelling unit, it may stop people from buying sheds from Home Depot and putting people in there to live, which is happening now.

Steve F. said his concern was regarding attached or detached, asking if it would mess up what is allowed now. He said to have two on one lot, they need to be together. Roger A. agreed, it's a duplex and two have to be attached. Steve said the definition of accessory dwelling unit is attached or detached. Ann H. added that it didn't have to conform to setbacks either. Roger stated that the town can require them to have their own water supply and sewerage, and he thought this should be done if they are detached. Ann thought it would create a problem in the shoreland district if this was required, noting often there isn't enough room to put a septic. Barbara stated that in the Shoreland District they still have to meet shoreland setbacks to the water of 100 feet for a new structure. Barbara asked CEO Demers if this was correct? Steve stated that he thought the legislation spoke about a conforming lot. CEO Demers thought if a shoreland lot has a single family dwelling unit currently, they could also have the ADU. Roger stated that the lot has to comply with the minimum lots standards. Maggie M.

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thought the legislation stated you could not deny it. Roger agreed, but you can add additional criteria. Maggie thought that when she read it that it said no matter what,

the town can't deny it. CEO Demers thought there were only a couple of things you could restrict. Steve read, "Municipalities shall permit a tiny home to be placed on an individual house lot where single family dwellings are allowed, or as an accessory structure subject to all applicable land use requirements as single family dwellings or as an accessory structure". CEO Demers stated that if you have a vacant lot, 200 feet of road frontage, 80,000 sf, you can have your tiny home no problem. He said the problem is the accessory dwelling unit, that legislation hasn't passed yet. He said the

ADU reads that you could have your summer camp and you could put an accessory structure right behind it. Steve asked if that had passed yet? CEO Demers said, "No".

Note: Current amendment proposed by the MDEP to "An Act to Remove Barriers to Accessory Dwelling Units and Allow Accessory Dwelling Units where Single-family Houses Are Allowed" is as follows:

Sec. 1. 30-A MRSA §3015 is enacted to read:

20 §3015. Accessory dwelling units

A municipality shall allow one accessory dwelling unit, as defined in section 4301,

subsection 1-C, to be located on the same lot as a single-family dwelling unit as long as the

unit complies with minimum shoreland zoning guidelines adopted by the Department of

Environmental Protection, subject to all locally adopted accessory dwelling unit land use

requirements, and either the primary or accessory dwelling is owner-occupied.

A municipality may not adopt an ordinance or regulation that circumvents the provisions of this section.

For purposes of this section, "lot" means acreage sufficient to satisfy the minimum lot

size as required by the municipality's land use or building permit ordinance or regulations

or, in the absence of any municipal minimum lot size requirement, as required by Title 12,

section 4807-A.

This legislation has not been passed at this time.

Madge B. stated that because the legislations hasn't passed yet, then the Board can't amend for that because it will not be effective by Town Meeting. CEO Demers agreed. Madge said that if it were passed in April, it would not be effective for 90 days from that date. Steve F. asked if the Board was just trying to get ahead of it. CEO Demers stated that because the Tiny Home legislation uses some of the language regarding an ADU, he wanted a definition of what an accessory dwelling unit was. Madge asked if the State had a definition of ADU? Barbara stated the current State definition is what she presented. Madge said, "So it is not enacted yet". Barbara said, "No". Ann added that Tiny House is enacted. Madge did not think the ordinance should be changed until the State enacts the legislation, because they can amend the definition and what they are proposing. Barbara asked if they were going to put in the definition of Tiny House? Madge said yes, because it has been enacted. Barbara said, "So we are not putting in accessory dwelling unit"? Madge stated she did not recommend that at this time.

Barbara F. asked CEO Demers if anything else had to be done for Tiny House? CEO Demers asked where they would be allowed? Madge B. stated that they were allowed wherever a single family house was allowed. CEO Demers asked "On a non-conforming lot of record that is vacant"? Madge said, "If you can put any single family dwelling on that property, yes". CEO Demers asked about a non-conforming lot that has a single family dwelling? Madge did not think they could do that. CEO Demers stated, "It can go on a non-conforming lot by itself, or it can go on a single lot open, or a conforming lot with a single family dwelling." He asked if that would be allowed, to have a tiny home detached? Maggie M. asked if that would be like a duplex? CEO Demers

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asked if it was a conditional use? Roger said, yes. CEO Demers said, "Because it is two dwellings". Maggie said if it was a conforming house you could have two families on the lot. Steve F. asked if it needed its own septic? Roger said, "I would say yes". CEO Demers stated that site evaluators have their own rules, so it has to conform to the Maine State Plumbing Code. Steve thought that was a good way to regulate it. Maggie thought that small lots that were not big enough for a big house, you could put a tiny house giving them an opportunity to use the land. Steve said, "Provided they can meet setbacks and it doesn't exceed the lot coverage". CEO Demers said, "Right". Steve added that provided they could get a septic. CEO Demers stated the Maine State minimum lot size is 20,000 sf, which can be reduced down in certain circumstances, but that is up to the site evaluator. Steve asked if you had a 20,000 sf lot on the water, could you put a tiny home? Barbara stated it would have to be 100 feet from the water. CEO Demers agreed. Steve said that you would have to have a septic

and well. Roger said, yes. CEO Demers noted that you could have an easement onto someone else's property for the septic. Madge agreed.

Steve F. had asked about a full blown survey for a best practical location, Barbara F. asked where this requirement should be placed. Steve said he was speaking about a tear down and rebuild. Roger A. said it would be under §105-4.D(7) (b). Barbara said that under that section, under (c) it already says 'All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.' She wanted to know if this could be amended to get what Steve is looking for? Steve said that a survey was technically required in the ordinance. He said if they are going to go out and have the house set by a surveyor, which will require the work to be done anyway, why doesn't the Board get to see it in advance, so the Board is looking at a decent plan. Barbara asked if they could add to section (c) to get the desired results?

Ann H. said currently it has to be approved first, then a licensed surveyor goes out. She said it was the opposite of what Steve was looking for. Steve F. said he did not want to take away from the fact the new house has to be set by the surveyor. Ann agreed. Barbara asked if it could be amended to do both prior to and after approval? Ann was concerned that perhaps the applicant would want to know why they have to get it surveyed. Steve said that was not a concern. Roland L. said that the applicant would have to expend the money, with the hope that it will be approved. Steve asked when was the last tear down and rebuild that the Board denied? Roland said that the Board may want the structure moved. Steve stated that the surveyor did not have to go back to the site to do that, they can do it from their desk. Barbara noted that the Board is only supposed to look at what is existing anyway, then the Board picks a spot to move the existing to. Steve said he was looking for a more consistent and accurate plan. Barbara said she agreed with what he was asking for, she just needed the verbiage for the amendment. Roland said he supported the idea, but he thought the Board would have them go out and look at the site again, but you are saying they would not have to. Roland said if the Board wanted the structure back 15 feet, the

surveyor looks at the plan and moves the structure back 15 feet without going back to the site. Steve said that yes, this could be done. Madge B. agreed that they would not have to go back. Ann thought it would be good to have the survey prior to the Board looking at it, because there was so many issues with boundary lines, the Board would know if it could not be moved, because they would know if it was on someone else's property. Steve agreed, and added that it would be nice to see the current location of the house, what trees were going to come down, etc. He thought what the Board was looking for was in the ordinance, but it wasn't in practice. CEO Demers said, "A best practical location requires a survey, period". Steve asked him if he had an issue with it? CEO Demers said only that it is hard getting a surveyor out. Steve said he understood. Roger said that was a personal problem, not one for the Board. Maggie said that she wouldn't think an applicant would want to build

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a house on someone else's land. Ann noted a house that was on two different properties, the homeowner did not know it, and when he tried to sell it, no one would buy it. Steve said they see it all the time in real estate, and he

thought it was preventable. CEO Demers said that if the reduced front yard requirement gets applied, more people would volunteer a survey to get what they want. Steve agreed. Roland said that this can't happen until after the Town Meeting. Barbara said, "Correct". Roland asked if it could happen immediately after? Barbara said, "Immediately after". Roger agreed, stating that after holding several public hearings, then it goes to Town Meeting, there is no 90 day waiting period, it is in force when voted upon. Steve added that he didn't know any surveyor who would stamp the placement of the survey after, if measurements were not taken. CEO Demers said currently the surveyor has to go out to see that the footings are where the Board approved, and what Steve was asking for was over and above. Steve agreed, what he is asking for is a survey showing the existing building on the lot. Barbara noted that the Board has received plans like this and they were great. CEO Demers asked if they wanted a full survey if the dwelling isn't being moved? Steve said, yes. He said those are the ones

that should be surveyed, how does the Board know the plot plan is accurate? Ann agreed. Steve said the Board might move it depending on where the lot line is located. Roland agreed that it was a great idea.

Barbara F. will draft wording to amend §105-4.D(7)(c) to include a full survey prior to Planning Board review.

Amendments to the Subdivision Ordinance

- *Developer responsible to coordinate mail delivery system per post office specifications.*

Barbara F. stated that she placed the new requirement where she felt it would work best. She said she was open to suggestions by the Board.

89-15. Submissions. (Minor Subdivision)

B. The application for approval of a minor subdivision shall include the following information:

(11) Proof that the developer coordinated the mail delivery system per post office specifications.

89-19. Submissions. (Major)

B. The application for approval of the final plan shall include the following information:

(14) Proof that the developer coordinated the mail delivery system per post office specifications.

- *Remove requirement for stone monuments & sidewalks as they are always waived.*

Barbara F. stated she removed the stone monuments, but she left 'monumentation' in, as it is required. The Board members agreed.

§89-30. Required improvements.

A. Monuments:

- ~~(1) Stone monuments shall be set at all street intersections and points of curvature, but no further than 750 feet apart along street lines without curves or intersections.~~
- ~~(2) Stone monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135° or less.~~

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- ~~(3) Stone monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes, 12 inches deep, shall locate the point or points described above.~~
- ~~(4) All other subdivision boundary corners and angle points, as well as all lot boundary corners and angle points, shall be marked by suitable monumentation.~~

A. Monumentation.

- (1) All subdivision boundary corners and angle points, as well as all lot boundary corners and angle points, shall be marked by suitable monumentation prior to approval.**

Barbara F. stated she removed the sidewalk requirement. The Board noted that Private Right-of-Way was changed to Private Way, so that would need to be amended here.

§89-36. Street design standards.

I. The following design standards apply to street classification:

Description	Arterial	Collector	Minor	Private Way	Industrial/Commercial
Sidewalk Width	5	5	5	N/A	8

§89-36. Street design standards.

M. Sidewalks:

~~(1) Bituminous sidewalks.~~

- ~~(a) The gravel aggregate subbase course shall be no less than 12 inches thick.~~
- ~~(b) The crushed aggregate base course shall be no less than two inches thick.~~
- ~~(c) The hot bituminous pavement surface course shall be no less than two inches after compaction.~~

~~(2) Portland cement concrete sidewalks.~~

- ~~(a) The sand base shall be no less than six inches thick.~~
- ~~(b) The Portland cement concrete shall be reinforced with six-inch square, Number 10 wire mesh and shall be no less than four inches thick.~~

- *Minor Subdivision - Pavement 'may' be required instead of shall.*

Barbara F. stated that she copied what was already in the ordinance for private right-of-way, that pavement may be required, and made a similar notation for a Minor street. She said she was open for suggestions if something might work better.

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§89-36. General requirements.

I. The following design standards apply to street classification:

Description

Arterial Collector Minor **Private Way** Industrial/Commercial

Min Pavement 44 24 **20²** 12¹ 44

¹Pavement requirement for a ~~private right-of-way~~ **private way** in a minor subdivision may be at the Board’s discretion.

²Pavement requirement for a minor subdivision street may be at the Board’s discretion.

§89-37. Street construction standards.

A. Minimum thickness of material after compaction shall be as follows:

Street

Arterial Collector Minor Private Way Industrial/Commercial

Hot bituminous Pavement (inches)

Total Thickness	3 ¼	2 ½	2 ½ ¹	3
Surface course	1 ½	¾	¾ ¹	1 ¼
Base course	1 ¾	1 ¾	1 ¾ ¹	1 ¾

Note: **¹Pavement requirement for a minor subdivision street may be at the Board’s discretion.**

Steve F. asked about the two sections that didn’t match up, that was brought up by Joe Stanley (LinePro Land Surveyors). Barbara F. stated these are the two sections he was speaking about. She noted there were actually three sections that refer to subdivision streets, but these two sections spoke about requiring the pavement for a minor street, it is the private right-of-way that is in question. She stated she changed the requirement for a minor subdivision street, as the Board had spoken about, that the Board ‘may’ require pavement, instead of shall be required. Barbara noted the Board has seen that in some circumstances with a minor subdivision gravel is perfectly suitable. Steve said there wasn’t anything under private right-of-way. Barbara agreed but what the Board was reviewing were two different sections.

The Board members agreed to meet with Mindee Goodrum of York County Soil & Water Conservation District prior to the Planning Board meeting at 5:00 pm on November 23rd. Barbara F. will contact her.

Nothing more was discussed.

Growth Permits

There are still several Growth Permits available.

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The Planning Board meeting ended at 8:20 p.m.

The next Planning Board meeting scheduled will be November 23, 2021 and the meeting will be held IN PERSON at the Town Hall.

NOTE: The winter hours are in effect through March 30th; the meetings will begin at 6:30 p.m. and any scheduled public hearing begins at 6:00 p.m.

The Planning Board meets the 2nd and 4th Tuesday of each month unless it falls on a holiday or Election Day. Should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:30 p.m. Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2839, x4.

Respectfully submitted,

Barbara Felong, Land Use Secretary

Town of Shapleigh

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