

# Shapleigh Planning Board

## Minutes

April 26, 2022

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 meeting was held via Zoom.*

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

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**The minutes from Tuesday, April 12, 2022 were accepted as written.**

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

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### **Unfinished Business**

#### **Conditional Use Permit – Replace Existing Block Retaining Walls with Landscape Timber Walls – Map 40, Lot 38 (19 Osprey Lane) – Kevin & Carol Whooley, Applicants & Property Owners**

Mr. Whooley was in attendance for the review of the application.

In addition to the application provided were the following:

- Photo of the original condition of the retaining walls 1 through 3, and the stairs going down toward the beach.
- Photo of the original walls with the following notations: Wall 1 – 22’ Length x 6” wide x 39” Height; Wall 2 – 22’ Length x 6” Wide x 24” Height; Wall 3 – 22’ Length x 6” Width x 24” Height; 15 steps - 48” Width; Lower Landscape Timber Wall – Remove – Beach returned to Original Condition
- Sketch of existing property depicting the outline of the existing structures, included the retaining walls (sketch was hard to see, the only measurement that could be obtained was a notation that it was 21 feet between Retaining Wall 1 and Wall 3). There was also a notation for the location of the leach field.
- Page entitled ‘Conditional Use Permit Application Project Description’. Information written: Excavate and replace existing cinder block retaining walls with new landscape timber (6” x 6”).
  - 1) Wall 1 22’ Length x 6” Width x 39” Height
  - 2) Wall 2 22’ Length x 6” Width x 24” Height
  - 3) Wall 3 22’ Length x 6” Width x 24” Height
  - 4) Lower Beach Area Returned to Original Condition Grass/Sod Level to Grade

The application detailed description of the project was written as follows: *Replace existing retaining walls (cinderblock) with new landscape timber retaining walls, same height/width. Return lower beach to original.*

Roger A. opened the meeting by asking Mr. Whooley to let anyone in the audience know what his intentions were for the project.

Roger A. noted that members did a site inspection prior to this evenings meeting.

Mr. Whooley stated that the members that did the site inspection and saw the dilapidated walls and stairs on site. He said his goal is to replace them; replace the cinder block walls with landscape timbers and use landscape timbers for the dilapidated steps as well. He said looking at the submittals, he called the walls 1, 2 and 3, and also there is the lower beach area with a retaining wall.

Mr. Whooley stated at the site there were questions about the footings, placing the wall on the original footprint, he said he could correct that issue (the board noted that the walls were not placed in the original location). He stated that he wanted the board to let him know what to do to get the property cleaned up.

Roger A. said that looking at the walls, the board noted the walls were not in the same position as they were originally. He said the new 6" x 6" timbers the contractor is putting down, is in front of the actual original wall location. He said the one on the side of the property is on the outside edge, making less digging for the contractor.

Roger A. said that since the contractor just got his DEP license, he may be unaware of what is required to install these walls correctly. He said the walls have to be placed in the same location as the original walls.

Mr. Whooley stated that he would use the term 'existing footprint of the wall', so if they remove what was started and put the new wall on the existing footprint, they should be able to continue. He thought they could technically use the same footprint or go smaller, although he did not believe they would do that. He said they would put the landscape timbers on top of the footprint of where the cinder blocks were to be in compliance with the original structure.

Steve F. said he thought about where they were now, wondering if they could come up with another solution so that what was in place would not have to be torn down; but his thought is what they do not want is to spend all the money putting in the new walls and have the old wall push on it, having this new wall fail prematurely. He said he believed they were on the same page as to what needs to happen, and he didn't have any further questions.

Roland L. said the question that came to mind at the site visit, was regarding the wall that was already in place, covered by the hay bales, closest to the water. He said there was conversation that when the contractor was doing excavating they found remnants of a wall, but he is hoping for something more concrete as evidence of a wall. He wanted something substantial, such as photo documentation that there was in fact a wall, rather than speculation that they found bits and pieces of a wall which could have been just fill that was brought in when the site was developed.

Steve F. stated that at this point the best the board can do is the best they can do, and he would be happy to allow the applicant to replace the wall if he could come up with documentation that supported that there was a wall there previously. He said based on what he had as photo evidence from years past, the house has been sold a few times, he cannot see any evidence of a wall being down there. He said it makes sense to have one down there, so if the applicant can demonstrate there was one there, he felt the board would accept it.

Mr. Whooley asked how he would find a photograph documenting a wall? He asked if there would be anything in the town records? Steve F. did not believe so, unless there was an old assessing photo, but he didn't think he would find one. Steve thought previous listings (real estate) would be his best bet. CEO Demers stated that looking at the town's property files, those are more focused on the structure that is there, not necessarily the walls. He said that walls are structures but assessing is more interested in the camp. He said he did not have anything on the existing walls.

Roland L. stated he agreed with the advantages of having a wall there in terms of reducing the likelihood of runoff into the lake. He said he was in total agreement with that. His concern was if the board were to approve the wall without evidence of a wall, wouldn't it set the board up for possible criticism from either the DEP for allowing it to take place or from other applicants, possibly on Granny Kent or on other lakes, saying 'gee you allowed this to happen without adequate documentation, why can't I have that'? He said this isn't just about this project, but we need to think about how is this going to impact us later on.

Steve F. said the only evidence he had when he listed the property in 2014, are some pretty good pictures of the shoreline, and there is a lot of evidence of erosion and possibly some blocks in the water. He said there's nothing that looks like it was any type of a retaining wall.

CEO Demers asked if the area in question would benefit from a low retaining wall 25' feet back from the water? Steve F. said that no, there were already walls there. Roger A. agreed, noting the wall in question is right on the water's edge or right in the water. Steve agreed.

Ann H. said to Roland that she did not believe the board could approve a wall in the water or close to the water, unless the board knows for sure there was an existing wall there previously. Roland said that was the point he made earlier, it's not to be difficult or block the application from proceeding, the board needs to remain within compliance with the DEP. He felt if the board doesn't, he is concerned that it will come back and be a problem for the board either with subsequent applicants or with the State, who may look at it and say that the board went ahead and approved something that wasn't really there, or there was no documentation of it. Steve F. said he agreed 100%.

Roger A. said the only thing the board can do is approve walls #1, 2 and 3, and not approve the wall that is in the water. Mr. Whooley said the wall was not in the water, but it was near the water. He said without the ability to find photographic documentation, he will have to remove the wall. He said because of this there will be direct runoff in the future. Barbara F. asked if there were other ways to mitigate erosion? Mr. Whooley did not believe so, and if he couldn't add the wall, he would not be obligated to take other measures for erosion. Steve F. stated that he would have to stabilize the shoreline. Mr. Whooley asked, "With what?" Steve stated, "With whatever the board wanted, with mulch or.." Roland stated, "Erosion control mulch, adequate plantings." Mr. Whooley stated that he would put the grass back. He said what was there prior was lawn / sod he thought. Roland said that was a problem from the standpoint that 'a lawn needs to be fed, needs to be watered in order to get it to take, you have to have something other than just sand, so you would have to bring in loam or loam and sod'. He said, "All of which contribute to the degradation of the lake." He said that most applicants are in a place where they want to do what is in the best interest of the lake. He said that if Mr. Whooley chooses to do nothing, then what he is doing is contributing to the degradation of the lake. Roland said he would hope that is not where Mr. Whooley is heading.

Mr. Whooley stated with regard to erosion control, he would have a lawn and put up bricks and boulders by hand, like most people do. He asked if he would be obligated for other plantings, or other erosion control measures. He noted he had never been on a lake. He said other than returning the lower beach to grass, and putting in small bricks and stones to prevent runoff, he didn't know what else he would do for erosion control.

Ann H. asked Mr. Whooley if she was correct in hearing that he did not want to put any type of plantings around the edge of his property, at the edge where the water is. She was referring to short bushes, where the roots can hold back the sand. She asked if this wasn't something he would want? Mr. Whooley stated that he leaves the existing structure that he put up, maybe make it smaller, and if he could find documentation he will get it to the board; if the wall has to come out, then he is going to put in sod and small stones. Ann stated that he cannot put stone or anything there. She said he can take rocks from the water and push them up against the edge. Mr. Whooley said that was what he was referring to, pushing rocks up from the water to try to stop the waves from coming in. He said he was not talking about dropping a load of stone. He said the smart thing would be to leave the water in place, maybe lower it. He said if he needs to document a pre-existing wall, he will try to find the evidence.

Ann H. said with respect to the walls he can build, what is going to keep it from them falling over again? She said she knew he had to take out the blocks behind it, but is the new wall engineered where the frost will not push it over. Mr. Whooley stated that it was his understanding that by using a Deadman, that is the anchor for the wall. Ann said, "Ok, I didn't hear that part, so I was just wondering." Mr. Whooley noted one that was run straight into the soil. He said they have not addressed drainage or putting pipes in for the water to run out. CEO Demers stated that crushed stone and proper drainage is essential behind the wall, for the wall to last. He said with the existing wall behind the timbers currently, the wall is going to fail. Steve F. agreed. Ann said the board brought that up at the site visit, that the wall would get pushed over, she didn't know how the timbers were going to be held in place and not get pushed back over again.

Mr. Whooley asked if there was supposed to be a mesh netting and pea stone behind the wall? Steve F. said, "Yes". Roger A. stated that this is what he was mentioning to Mr. Whooley while on site. He said that filter fabric would need to be installed behind the 6 x 6's, and then stone to drain the water. He said that when the fabric gets close to the top of the wall, it needs to be pulled back towards the camp, and more stones added to secure the fabric, to prevent the wall from pushing over. Ann H. wondered if the contractor would learn in the DEP class about this. Steve F. stated that an important component to this was the replant plan, that is when the board will address what is going to happen down at the shoreline. He said that because they are working within the 25 foot setback, there is no way based on the current pictures, that the board could allow any type of wall at the water's edge. Steve said that even though it makes sense to have the wall there, the board has no avenue to allow him to do it.

Mr. Whooley asked how much time he would have to be able to document, if he would get lucky and find a picture of an existing wall? Steve F. stated that the board could table the application if he wanted to take a couple of weeks to try to find a picture, and pick the review up at the next meeting. Ann H. asked if he could get approval for the other 3 walls, and skip the lower wall, then if he finds a picture come back later. Roger A. stated that it would not be to his advantage to do that, because he has to be able to come down to the lower wall, moving the soil to reach it. He said once the other walls are in, he can't get to the lower wall.

Roland L. said the fact the front area, the wall closest to the water has been totally disturbed, then a replanting schedule or some erosion control plan needs to be presented. Roger A. agreed. Roger added that Mr. Whooley will need a surveyor to locate the original walls, so when CEO Demers goes to the site, he can determine if the new walls are in the same location as the previous walls, and not to the location of where the 6 x 6 walls are today. He said the surveyor will give the dimensions and locations of the original walls, so CEO Demers has a reference point to measure from.

Steve F. asked Mr. Whooley if he wanted to hold off to try to get info for the front wall, the board could table the application and give him a couple of weeks. Mr. Whooley asked how he would get back on the agenda? Steve said it was just a phone call to Barbara (Land Use Secretary). Mr. Whooley asked if it would be a new application with a new fee? Roger A. said no, not at all. Ann H. stated that he needed to have the replanting information, and the survey before the board can approve what he was presenting now. Madge B. said that especially the replanting plan was required. Mr. Whooley asked, “Back to the planting, am I required to do anything more than what was there? Grass.” Ann said that yes, he would likely have to do more, now that the area has been disturbed. She said he would have to do something to keep anything from washing into the water without a wall. Mr. Whooley thought that sounded like a wall that he isn’t allowed to do. Ann said she understood because her property had the same issues, and she wished she could put a wall in. She noted she has lost 2 feet of property since she moved to the property, so she understood his issue. She said what she started doing was putting plants in, getting information from some of the people who have spoken to the board about erosion control. She said she has placed plants low around the edge, low enough so she can still see the water but the roots are keeping the ground in place better.

Mr. Whooley asked where he could see an example of a replanting plan? Ann H. asked Barbara F. where he could find the information. Barbara stated that some of this information should be in CEO Demer’s office. Ann thought he could ask Mindee Goodrum (York County Soils and Water Conservation). Madge B. thought it would be great for him to ask Mindee. Ann asked if she would charge for the service. Madge thought they might, but not for the initial consultation.

Madge B. added that plants should be placed behind the first wall as well, so water doesn’t run over the wall toward the water. Roger A. agreed that everything that has been disturbed should be addressed with a revegetation plan. Roger noted that this application should have been an after-the-fact application, this project had a stop work order and has continued on. Ann H. asked if some of the replanting plan could include a rain garden to catch the runoff, even from the road. Madge said that Mindee would be able to figure it out. Ann gave Mr. Whooley Ms. Goodrum’s telephone number. (207.324.0888, x208)

Mr. Whooley said he would have the contractor remove the lower wall, he will submit a planting plan, and get a surveyor. Roger A. said the surveyor needs to determine where the original walls were located, and find a place they can be measured from, so when CEO Demers goes to the site, he will be able to determine that the new walls are where the old walls were. Mr. Whooley asked if they could use the remnants of the new wall that is still there as a marker? Roger said that yes you can, but the ordinance requires that all approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct as approved by the board.

Mr. Whooley said he believed he was on pace. He said they would remove the lower wall, come up with a planting plan and hire a surveyor. Steve F. stated that if he wanted more information, outside of CEO

Demers office are engineered drawings for walls over four feet, because any wall in Shapleigh that is over four feet must be engineered. He said he realized his walls were not over four feet in height, but there was good information in those drawings that might be helpful to assist the contractor with proper drainage techniques, etc. Steve said he wasn't saying the contractor didn't know how to do it, but he felt Mr. Whooley could look at the plans. He said the plans were detailed but easy to read, and it could give him some good ideas.

Mr. Whooley stated that he believed he had what he needed, he asked if the board needed more from him? Steve F. said, just the items the board spoke about. Mr. Whooley asked if he would need to mail copies to each board member? Roger A. said he could bring them to the meeting. Ann H said that the next meeting would be in person at the town hall.

Roger A. told Mr. Whooley if he could not make it for any reason on the 10<sup>th</sup>, could he let Barbara F. know and he could be placed on the agenda for the 24<sup>th</sup> of May. Mr. Whooley stated he would communicate with Barbara, he would send an email or call. He thanked the board.

Nothing more was discussed.  
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**Conditional Use Permit – Add (1) Commercial Campsite to the Property – Map 9, Lot 13, (27 Washington School Road) – Elizabeth McDonald, Applicant & Property Owner**

Elizabeth McDonald was present via Zoom for the review of the application.

Provided along with the application was a document entitled 'Supplement B' which was a survey of the property, drafted by Corner Post Land Surveyors in 1991, with superimposed documentation drafted by Dana A. Libby of Corner Post Land Surveyors dated 2/11/2022. The superimposed information depicted the 'proposed campsite' location, 'Parking in loggers clearing. Trash drop off/pick up located here', the fact the property was 48.3± acres, and a property highlighted that appeared to be cut out of Lot 13, which was '80,538 sq. ft.' in size.

Provided was a document entitled 'Supplement "C" Google Earth View', and it depicted the 'parking lot clearing', 'campsite' and 'existing residence'.

Provided was a document entitled 'Supplement "D" Trails from Loggers', which showed the 'Spider web of trails left over from years in the Maine Tree Growth Tax Program'.

Provided was a document entitled 'Supplement "E" Tentr-loo', which described the toilet to be used at the campsite as follows: Toilets: *Every campsite is equipped with a camp toilet (we call it the Tentr Loo). This is a simple wooden box with a toilet seat and a bucket inside. Line the bucket with a CleanWaste bag supplied at the camp (or another appropriate plastic bag) prior to use. Afterwards, simply tie the bag up and place it in a trash bag. The Tentr Loo is totally portable and can be placed anywhere on the campsite...behind a bush, under a tree, and you can even bring it inside the canvas tent at night. We got this idea from bathrooms used on NASA spaceships, and we've used the Tentr Loo countless times ourselves – don't worry!*

Provided was a document(s) entitled ‘Supplement “F” – Welcome to Tentr’. The pages answered questions such as ‘Why become a CampKeeper?’ – and it described earning potential; ‘What makes a great Tentr campsite?’ – and it asked about the proposed campsite location; there is a picture of a campsite set-up; and the following pages discuss set-up, how the program works, how to get started and what Tentr does for their client, client cost, frequently asked questions, the equipment choices, reviews, etc.

Provided was a document(s) entitled ‘Supplement “G” – Signature CampKit. The pages describe the ‘Canvas Wall Tent and Platform’; ‘The Tentr Bed and Side Tables’; ‘Adirondack Chairs and Fire Pit’; ‘The Tentr Table, DryBox and Benches’; ‘Pop-up Tent, Tentr Loo and Privacy Tent’; ‘Durable Goods (propane heater, solar shower, water container)’; ‘The Whole Kit and Kaboodle’; and ‘Additional Equipment (tent floor, poly rain fly, wood stove, IcyBreeze AC/Cooler).

Provided was a document entitled ‘Equipment Rental Agreement’, and it is an agreement between the applicant and ‘The Waterboro Trash Guy’ of 190 West Road, Waterboro, Maine, dated April 1, 2022, for the lease of trash equipment.

Provided was a document entitled ‘General Service Agreement’ between the applicant and ‘The Waterboro Trash Guy’, for the service of weekly trash pickup.

The detailed description of the project was written as follows:

Supplement “A” – Commercial Campsite (a single campsite for income purposes)

Overview of Project:

*We recently discovered a website, tentrr.com, which helps landowners such as ourselves, create a campsite on their property. For a one-time setup fee, they set the homeowner up with all the necessary items needed, and then they offer a platform to book the campsite. The equipment is a step above camping, but not as extensive as the more involved “glamping”. Tentrr.com provides property owners with a 12x12 wood platform, a safari-like tent, a picnic table and benches, a couple chairs, fire pit, a toilet-loo, solar shower bag, and all camping items needed. They scout the property to select the ideal location, and they do not require any land to be cleared or leveled. Their goal is to be minimally invasive, utilize the natural environment, disturb nothing, and leave no footprint. Furthermore, the equipment is portable and can be easily removed.*

*When we discovered Tentrr.com. We immediately saw how this concept could provide extra income without a large financial and time investment. We also saw that it aligns with our goals and what we are trying to achieve with the property.*

*We want to give it a try. We wish to add one Tentr signature camping site to our property. We have selected a sight at the south end of the property. This location is ideal in that it is not adjacent to a residence. Our neighboring lot to the South is over 500 acres and has no residence (it is used for logging only). On the East end of our property is a cemetery. And our main residence is all the way at the other end of the parcel, on the North side. The location of the campsite checks the main box – remote, private, and not near anyone. The site is also 250 feet away from the water.*

*The campsite requires no running water (we only need to provide a 5-gallon container of water for the campers), no septic (the equipment comes with a toilet-loo – see attached), no power (this is camping – you bring your lantern!), no permanent structure (the 12x12 deck is movable, the tent is a canvas tent). It really is an ideal use for the land.*

*When I consider what it means to be a steward of land, preserver of waterways, and how that means we have responsibility to protect our natural resources, I also consider education of appreciation of these resources of paramount importance. There is a balance between preserving something, and using and appreciating it. This campsite, in my opinion, is a way for us to preserve the land, at the same time allowing others to enjoy it, learn about it, and appreciate it.*

Roger A. stated the next item to review would be the application for Elizabeth McDonald. Ms. McDonald apologized for the inconvenience of not being at the last meeting, citing the fact she got the schedule confused. Roger stated that was fine, he asked Ms. McDonald to brief the board on what she intended to do.

Ms. McDonald stated she wanted to have a campsite on her acreage, and she would be going through the website Tentrr.com, which is like an Airbnb for campsites. She said they provide a tent, platform, and fire pit & picnic table, and book it for you. She said it would just be one of their sites on her property. She stated that she asked CEO Demers about it and he told her she needed a Conditional Use Permit to do it for a campground. She thought that sounded formal for what she was trying to do, because it was just going to be the one Tentrr site, but this is her intention.

Roger A. stated that he noticed in her information there was a standing shower, and in the ordinance in Shapleigh you have to have a septic system. He said for the one shower she would need the proper waste disposal system. He said she would need a system designed by a licensed designer and he added that she had to be sure the campsite was 250 feet away from the water. Roger thought that by the time she had the soil test done and the septic design, she might be waiting for a while for approval.

Ms. McDonald asked, “What about if we eliminate the shower. I understood the shower to be like a bag that you hang on a tree, and they are only bringing water in?” Roger said that it was not allowed, it has to go into a drainage system into a septic system. Roger said it may be allowed in other locations, but in Shapleigh it is not allowed. He said the soapy water from rinsing off cannot go onto the ground, it has to go into a collection area and into a septic tank. She asked if she could eliminate the shower, she did not have to offer that. Roger felt she needed to have the septic design in order to have a bathroom. Ms. McDonald asked if he saw the toilet-loo (Tentrr-loo) design, she asked if it was acceptable? Roger said it was not, it had to be approved by Maine wastewater system permitting. CEO Demers stated that there was a primitive system that is allowed through Maine Subsurface Wastewater Disposal, that could serve the purposes for Ms. McDonald if the board wants to entertain that. He said it was a system that is designed for hand carried water only. Steve F. asked Ms. McDonald if she was going to be providing water to the campsite? Ms. McDonald said there would be 5 gallons of water per stay. Ms. McDonald was asked about the toilet and she said it was a box, with a toilet seat on top of it, and a bag. She said supposedly it is NASA technology that is in the bag that breaks down the waste and turns it into a gel and then you dispose of the bag in the trash. She said she found a trash service company, The Waterboro Guy, who said he could dispose of it, so there wouldn't be any waste left at the campsite, it is all carried out.



Ann H. asked Ms. McDonald if her site would be 250 feet away from the water? Ms. McDonald stated that she hasn't chosen a site yet, and she understood it had to be 250 feet away from the water. She said there were plenty of options on site, the previous owners had it in tree growth and loggers came in cutting down trees and making trails, so there are a lot of areas where you could put a tent. She said the area would be private and secluded, and the people who stay at these sites, that is what they are looking for. She said she did not feel it had to be closer than 250 feet to the water, because the people are coming for nature. She said they could have access to the water, but they can camp away from it. She noted it was a steep cliff to the water from the property.

Steve F. asked CEO Demers if there was a way they could find out if the Loo that is proposed would work? CEO Demers said he could ask a question and get a determination from the State regarding this. He said if they are talking about sanitary needs and not a shower or running water, there are primitive systems that can be designed for that. Madge B. asked if this was something the State codes allow? CEO Demers said that yes, the Dept. of Health & Human Services does allow that. He added that it still needs to be designed by a site evaluator. Ms. McDonald said CEO Demers could talk to the Tentrr Company, because there were Tentrr sites on Maine State parks, so they may have already gone through this process, getting the systems approved by the State of Maine. She said she can find out what Tentrr had to go through for the State.

Roger A. stated that if not going through a waste disposal system the ordinance states, 'other systems for sanitary waste disposal shall be presented and prepared by a registered engineer and shall be subject to review and approval by the Maine Dept. of Environmental Protection and also by the Maine Dept. of Human Services'. He said that was one of Shapleigh's requirements. Steve F. and Madge B. thought perhaps that could be met, based on what Ms. McDonald mentioned. CEO Demers said she would need a site evaluator to design a primitive system for the campsite, which should meet the local ordinance. Ms. McDonald said she understood. Roger added that the DEP would also have to ok the design. Ms. McDonald asked where the information was? Roger said it was in §105-46.C (Sanitary provisions – Other systems). CEO Demers asked Roger if he had a site evaluator design a system, and he forwards it to DEP and has them sign off on it, would the board be satisfied with that? Roger said you need the ok of the Dept. of Health and Human Services. CEO Demers said he understood, the site evaluator would design the system to the standards of the DHHS, the DEP would sign off on it, he would permit it and the board would be satisfied with that. Roger agreed. CEO Demers said, ok.

Madge B. asked about under §105-37.M, (Campgrounds), 'Fire extinguishers capable of dealing with both electrical and wood fires shall be kept in all service buildings. A suitable ingress and egress shall be provided so that every campground may be readily serviced in emergency situations. Twenty-four-hour emergency communication service (e.g. telephones) shall be provided.' She said with respect to 'fire extinguishers and suitable ingress and egress shall be provided and may be readily serviced by emergency vehicles', she thought the board should address this. Roger agreed and stated she would need a fire permit from the fire chief in order to have the fire pit. Ms. McDonald said she wondered about that.

Steve F. asked if this was just one site? The answer was yes. Steve noted that the definition of campground required 2 or more sites. Ms. McDonald said she wondered about that. Ann H. thought it wasn't a campground but just one site. Steve agreed with Madge that fire should be considered but he didn't feel the entire section for a campground was required. Roger A. said this would fall under §105-38 (Individual private campsites not associated with campgrounds). Madge noted this section talks about 100 feet from the

water, not 250 feet. Roger said that because this location is in the Saco River Watershed, the special recommendation is to keep it at 250 feet. Steve asked if they were outside the 250 feet, then they are outside the Saco River jurisdiction? Madge said that was correct. Madge said in light of this it is just a permit from the Fire Chief. Madge asked if you could get the fire permit on line? Steve said they were not required if you have them in a fire pit, but he still felt it should be addressed, because it's not a place that the town or the applicant would want a fire unattended. He said the board may want to consider this as part of the approval. Ann H. asked if this doesn't fall under 105-38, was the shower requirement eliminated? Roger said, no. Steve said that it says it just has to be approved by the CEO. CEO Demers said that was true, but because this is an income generating proposal, this requires Planning Board review. Steve said that he was speaking about the septic design, it just said it required approval by the local plumbing inspector. Steve said that he felt they were dealing with an individual campsite but also all the standards for a Conditional Use. Madge agreed. Steve said that even though Section F under 105-38 said CEO approval of the system, he felt the board would still require the approval of DHHS. Roger stated that this also falls under Section G, which states in part 'all requirements for a residential structure shall be met, including the installation of a subsurface sewage disposal system in compliance with the State of Maine Subsurface Wastewater Disposal Rules'. Madge and Steve agreed.

Roger A. asked Ms. McDonald if she wanted to continue? Ms. McDonald stated that she did.

**Roger A. stated that there would be a public hearing on Tuesday, May 10<sup>th</sup> at 6:30 pm. A notice to abutters will be mailed as well.**

CEO Demers asked what documentation would be required? Roger A. stated she needed to meet the subsurface wastewater disposal rules, she needed a plan to meet those, and a plan for access so emergency vehicles can get on site if needed.

Maggie M. asked if there would be a site visit before the public hearing? Roger A. stated that they could.

Madge B. asked about the condition of the parking area. She asked if it needed safe access? Roger A. said the board would find out if it did on the site visit. Roger did not think the site would be accessed by a lot of vehicles. He thought perhaps 1 or 2 vehicles for the site. Madge felt there should be enough space for a fire truck. Cristina Brow (co-owner) stated there would be a large area cleared on the property and a cleared path to walk to the campsite.

Madge B. asked if the board would require the construction of a fire pit? Steve F. thought it was something to consider. Steve asked if the board should go through 105-73 to see if the applicant would need any other documentation in two weeks? Roger A. did not see anything further, other than what was discussed. Roger thought after the site inspection, if there were questions, the board can ask them.

**Roger A. stated the site inspection would be at 5:30 pm. on May 10<sup>th</sup>. Members will meet at the schoolhouse.**

Madge B. asked if the board should speak with the fire department? Ms. McDonald stated that she would, because she was worried about that as well.

Nothing further was discussed.

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**Question Regarding Road Frontage on Norton Ridge Road That is Not Currently Maintained – Cheyenne Sullivan – Map 7, Lot 39 (45 Acres)**

Ms. Sullivan was not present to ask the question.

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**Best Practical Location – Replace Existing Structure in the Shoreland District – Map 21, Lot 35 (83 24<sup>th</sup> Street) – Tyler Mathews, Applicant; Tiger Picard, Property Owner**

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

Provided along with the application was an existing conditions survey drafted by PLS Joseph Stanley of LinePro Land Surveying LLC, dated 2/8/2022, which depicted Map 21, Lot 35. On the survey it listed as owner Raymond Picard, Map 21, Lot 35, YCRD Book 17715, P351, and depicted the location of the existing camp / covered porch, garage, bath/deck and several retaining walls.

Provided was an enlarged copy of the existing conditions of the survey drafted by PLS Joseph Stanley, which handwritten on the document, placed the existing camp as being 95' from the high water mark on the side of the camp closest to Map 21, Lot 34; and 25.7 feet to the lake at it closest point to the high water mark on the opposite side of the camp.

Provided was an enlarged copy of the proposed conditions of the survey drafted by PLS Joseph Stanley, which handwritten on the document, placed the proposed camp as being 95' from the high water mark on the side of the camp closest to Map 21, Lot 34; and 26 feet to the lake at it closest point to the high water mark on the opposite side of the camp.

The detailed description of the project is as follows: *Tear down existing house & build new house. Leave both other buildings.*

Roger A. asked Mr. Mathews to let the board know what he wanted to do. Mr. Mathews stated they were looking to tear down the existing camp. He said he had it surveyed by Joe Stanley at LinePro. He said the closest point to the high water mark is 25 foot, 7 inches. He said they were looking to build the same size house in the same location, noting it was non-conforming in every direction.

Roger A. asked if he was keeping the structure in the same spot? Mr. Mathews stated that he moved the proposed back to 26 feet even, just so it was a little further from the water. He said the camp was non-conforming in all directions, plus he had a garage that was staying, which was right behind the camp. He did not see where he could go anywhere.

Steve F. noted there was a big retaining wall, he asked if he knew how tall it was? Mr. Mathews thought that wall was around 5 feet in height closest to the water, and the smaller wall on the side of the Lamontagne's (Lot 34) was around a foot tall. Steve said, ok.

**Roger A. said a site visit would be scheduled for 5:00 pm on Tuesday, May 10<sup>th</sup>. A notice to abutters will be mailed as well.**

Nothing further was discussed.

**Other:**

Roger A. stated with respect to the question regarding the road for Cheyenne Sullivan, he was approached by the Road Commissioner today asking if the board was going to be talking about the Norton Ridge Road where it wasn't maintained by the town. Roger said the Road Commissioner did not want to put upgrading the non-maintained part of the road into his budget in order to bring the road up to town standards. He said the Road Commissioner did not want to expend the money for one lot. He said that the Road Commissioner stated that there have been other town roads not being used, personal money has gone into those roads, so people could have access to their property, and they had to sign off that they would not look for the town to reimburse them for their expenses. Roger said the Road Commissioner also said that if the property owner upgrades the road, the town was not going to maintain the road. He said if they upgrade the road, it was up to them to maintain it. Roger thought this was the question CEO Demers brought up at the last meeting. Roger felt the town needs to make some decisions regarding these town roads that are not up to a standard and maintained. He said if the town abandons the road they have to give half the road to the property owner on each side of the road, but this can be complicated if there are other lots beyond that may need road access.

CEO Demers stated that the town cannot abandon a section of road that would make an existing lot non-conforming. He said today the lot in question has access via a town way and we cannot take that away. He felt that the Planning Board in his opinion would have no option except to approve a Growth Permit for the lot in question. He said the property owner could improve the road, without any obligation from the town, but at some point the town will have to, if enough development occurs on the road, the town will have to assume improvements of that section of road.

Steve F. said he ran into this more often than he would like to (real estate), he believed it was around 2016 that the State came in, like a clearing house and said to all the towns, there are a bunch of roads out here (non-maintained) that the towns have until the end of next year to determine the status of those roads. He said the State said that whatever the town determined the status to be, that is how it is going to be. He said at that point the town had the option to discontinue it, or to discontinue it with no easement through there, or you could discontinue it and let it go to the abutters. He said he saw no evidence anywhere in any town where it happened. CEO Demers said no action happened so it stayed within the town's responsibility, therefore it is a town way, period. He said without action of the Selectmen, that is a town way. Steve agreed, because it wasn't voted on at town meeting, so the roads have access. He said he could see the point of Road Commissioner Burnell, not wanting to add on a bunch of maintenance, he just did not believe the board had the grounds to deny anything on a town road. He thought perhaps this was a question for the town attorney.

Maggie M. stated that the piece of land in question borders her land, and she owns both sides of the road in one small spot. She said she thought that would be odd if half the road went to each person, because it would look like she owned the whole road at that point. She said that she was told years ago that they declared that road abandoned, but not officially or legally. She thought it was just because they did not want to maintain it,

because no one was living up there. CEO Demers stated that this is an instance where documentation beats conversation, he said you have to look at what is in writing. He said the Selectmen never took action on it, which means it is a town way. Maggie noted that the small piece she owned on the other side of the road used to be Map 7, Lot 38 and then a number of years ago the number 38 on the map disappeared, even though the spot still shows on the map with an arrow, the number 38 is gone. She said at that time, it is when she learned about the so-called abandonment. She said she was told because the lot was on the other side of the road, with lots like that, they combined them. Ann H. asked if the smaller lot was on a separate deed? Maggie did not believe so, but she did come across a separate tax bill for the lot from years ago. Steve F. felt this was a legal issue. He did not believe as a board they could make a call on this. He said he didn't want to hold people up on using the lot, and there may be a legal opinion required. Maggie said that it was not hard to access the lot and when she had logging done, they put a culvert in near where the end of the maintained road is, to help the logging trucks get thru. She said a vehicle can get in there, and didn't see a reason why anyone couldn't get to the property to build.

Roger A. said the other thing the Road Commissioner was concerned about was if the people improve the road, that they would gate it. He said that is something that cannot be done. Maggie M. agreed.

Roger A. thought the board needed the attorney to look at this to see if the board can allow someone to build on these abandoned roads. Steve F. said that Karla (former Town Administrator) used to have a list of abandoned roads, because he used to have to go to her with questions. He said he didn't know what the status of this list was nor if it was ever taken up by the Selectmen or the town. Maggie M. agreed, saying she was told there were a few spots that were abandoned. Ann H. asked if the attorney would have to do the research and determine if the town legally has to maintain it? She asked if the town didn't do the abandonment thing that Steve was talking about, then the attorney would document that they have to maintain the road because no action was taken. CEO Demers stated that the Road Commissioner runs his own budget. Roger said the Road Commissioner will not do any work on the abandon roads, he feels it's a waste of the taxpayer's money. Ann said she understood that, but if it is not an abandoned road and if it is still classified as a town road, she asked if this would answer the question. Steve thought it would be nice to get an attorney's opinion. Ann asked if the attorney would do the research? Roger did not believe so, they would make a blanket policy. Ann asked if the attorney would do the research to find out the answer as to whether or not this road is still in the possession of the town? CEO Demers stated that the road was not abandoned unless the Selectmen act on it. He said it takes an action to abandon a road. Ann asked about them not acting on it years ago. CEO Demers said that in this case, not acting on it, doing nothing is making a decision. He said where they decided not to take action, that means the road is still in the town's purview. Ann said, ok.

Madge B. did not think the board had to do anything. CEO Demers agreed that the Planning Board does not have to do anything. He said the Planning Board, in his opinion, should make a recommendation to the Selectmen to identify the sections of road that could be abandoned or not. He said the Selectmen cannot abandon a section of road that would make an existing lot non-conforming. He said if an existing lot has 200 feet of road frontage, the town cannot abandon that section of 200 feet.

Ann H. said that Ms. Sullivan can get a Growth Permit to build a house, because she has the road frontage. The other members agreed.

Steve F. stated that he was going to pose a question. He said if he had a backlot and he had a 50 foot ROW, he would have to have his 200 feet of road frontage up to some sort of standard, is that correct? So why would the board not require the applicant to do the same here? CEO Demers stated that it is because it has legally existing road frontage. He said if you are creating a new lot, it doesn't have the existing road frontage, so yes you have to bring it up to a spec. He said if you are creating a new lot, you have to create the road frontage to go with it. He said you can't take the road frontage away from a property owner. Steve did not disagree. Madge B. asked if there was any objection to what CEO Demers asked the board to do, and that is to ask the Selectmen? Steve said his concern is getting a fire truck in there. He said the board was just talking to an applicant about a tent site and now we are talking about someone's home. He said what if the Planning Board approved the Growth Permit and CEO Demers approved the building permit because he has to, and we can't get services out there. Roger A. stated there was a similar situation on Break Neck Hill Road, the town has never done anything to the road and it is only wide enough for one vehicle. He said if someone's property is on that road, would you allow a Growth Permit, he would say no. Maggie M. said that logging trucks had no issue getting in and out of the road in question, so she felt a fire truck could get in there. Roger said that that was not the case on all roads. Ann H. asked if part of approving a Growth Permit, was one of the requirements to make sure a fire truck can get to the lot? Roger said, no. Ann said then it doesn't matter the condition of the road. Roger said it needs 200 feet of road frontage. CEO Demers added that or it has to be a legally existing non-conforming lot. Ann said that it doesn't matter if they can get a fire truck in to the property or not, it is their problem. Steve said that he was in favor of the Growth Permit. Madge said she was also in favor of the Growth Permit but she still felt it was a good idea to present the problem to the Selectmen.

Steve F. wondered if a separate road committee should be gathered to look at these sections of road. He said he could try to find the old mandate, but he didn't know if there was any funding to even push the mandate at the time, or who was made aware of it. Roger A. noted that LD 2003 passed, and the town has until 2023 to remove the Growth Ordinance. Steve said that will take the pressure off the board to deal with the road, CEO Demers can do it. CEO Demers said that was why he wanted to get it solved before then ☺

Nothing more was discussed.

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**Growth Permits**

**Map 3, Lot 24 (Hooper Road) – New Home – A. Knox**

**GP #09-2022**

Roger A. stated it was a large lot, with approximately 300 feet of road frontage, exceeding the minimum requirements for a legal lot in the ordinance.

**Map 40, Lot 1 (246 Granny Kent Pond Road) – Seasonal Conversion – E. & J. Picard GP #10-2022**

Roger A. stated it was a legally existing lot. CEO Demers added that they are in the process of putting in a new septic system.

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**The Planning Board meeting ended at 7:55 p.m.**

The Planning Board now meets the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month at 7:00 pm, 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 7:00 p.m. Public hearings are held at 6:30 pm, just prior to the meeting.

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)