

Shapleigh Planning Board
Minutes
November 22, 2022

Members in attendance: Roger Allaire (Chairman), Madge Baker, Roland Legere, Maggie Moody, and Alternate Ann Harris. Code Enforcement Officer Mike Demers was also in attendance. Steve Foglio (Vice Chairman) was unable to attend, therefore Ann Harris sat in as a regular member this evening.

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

The Planning Board meeting started at 7:00 pm.

The minutes from Tuesday, November 9, 2022 were accepted as written.

Unfinished Business:

Conditional Use Permit – Replace Retaining Wall – Map 27, Lot 14-3 (6 Burlington Way) – Matt Colton / Mainely Barge, Applicant; Richard Eagleston, Property Owner

The applicant was unable to attend the meeting this evening, therefore, the application will be moved to the next scheduled meeting, which takes place on December 13, 2022.

Other:

Zoning Questionnaire

Roger read the information contained in the three questionnaire’s received as follows:

First received -

1. As a Shapleigh resident, would you support a mixed use area of retail / business / residential in designated areas of town?
Yes ____ No ____ (Left Blank)

2. Would you support Shapleigh Ordinance changes which would facilitate the development of ‘village areas’ to encourage retail / business / residential?
Yes ____ No ____ (Left Blank)

3. Are you interested in participating in a conversation about the development of ‘village areas’ in Shapleigh?
Yes X No ____

- 4. Do you have any thoughts / ideas you'd like to share about a 'village area' concept in Shapleigh at this time?
 Yes _____ No _____ (Left Blank)

If yes, share them here: Would the mixed use include community use for elderly and children as a place to gather?

Share your contact info for future notifications. (Left Blank)

Second received -

- 1. As a Shapleigh resident, would you support a mixed use area of retail / business / residential in designated areas of town?
 Yes X No _____
- 2. Would you support Shapleigh Ordinance changes which would facilitate the development of 'village areas' to encourage retail / business / residential?
 Yes X No _____
- 3. Are you interested in participating in a conversation about the development of 'village areas' in Shapleigh?
 Yes X No _____

- 4. Do you have any thoughts / ideas you'd like to share about a 'village area' concept in Shapleigh at this time?
 Yes X No _____
 If yes, please share them here: Back to villages like we used to have would be great for the town make it a lot cozier and people might actually know your neighbor.

Share your contact info for future notifications. (An email address was shared with the board.)

Third received –

- 1. As a Shapleigh resident, would you support a mixed use area of retail / business / residential in designated areas of town?
 Yes X No _____
- 2. Would you support Shapleigh Ordinance changes which would facilitate the development of 'village areas' to encourage retail / business / residential?
 Yes X No _____
- 3. Are you interested in participating in a conversation about the development of 'village areas' in Shapleigh?
 Yes X No _____

- 4. Do you have any thoughts / ideas you'd like to share about a 'village area' concept in Shapleigh at this time?
 Yes X No _____
 If yes, please share them here: Large meeting room available for multi-use. Can be rented to residents. Committees would have preferential use. Lighting in the Shapleigh Commons. Lighting at Shapleigh fields.

Share your contact info for future notifications. (No contact information was received.)

Board members agreed the comment on this questionnaire was not an area they were speaking about. The comment was something to be taken up with the Board of Selectmen, as this is their domain.

Board members hope to get more input from citizens. Roland L. suggested the board have an article written by Joanne Bargioni of the Waterboro Reporter, perhaps it would get more people involved in what they were trying to accomplish. The questionnaire could be mentioned as well. The board members loved the idea and asked Roland to reach out to her. Madge B. added that if Ms. Bargioni wanted to speak with other board members, they would be happy to participate in a discussion.

Nothing more was discussed.

Barbara F. noted she is posting public hearing notices for the update to the Growth Ordinance, which includes current census information, and cost per student for the town. She stated she received the information for the cost of the students / schools from the current tax bills and from Michelle (Town Administrator). She said there is no change to the number of permits allotted, as discussed previously by the board, and updated last year with the Selectmen. She noted to date there have been 30 of the 34 permits allotted for 2022. The first required public hearing will be held prior to the next meeting on December 13th, at 6:30 pm and there will be another prior to Town Meeting in March.

The revised Growth Permit Ordinance is as follows:

1.1 Title

This ordinance shall be known as the “Residential Growth Ordinance of the town of Shapleigh, Maine” and will be referred to herein as the “ordinance”.

1.2 Legal Authority

This ordinance is adopted pursuant to Home Rule Powers as provided for in Article VIII-A of the Maine Constitution, **Title 30-A M.R.S.A. §2101 et seq., and Title 30-A, M.R.S.A. §4360.**

1.3 Definitions

Growth Permit: a permit to create a new dwelling, issued by the Shapleigh Planning Board after ascertaining that the proposed dwelling would meet all of the relevant requirements of this ordinance.

Dwelling Unit: a room or group of rooms designed and equipped exclusively for use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include manufactured dwelling units but shall not include trailers or recreational vehicles.

Family: one or more persons occupying a premise and living as a single housekeeping unit, as distinguished from a group occupying a boarding house, lodging house or hotel. Such unit shall not exceed five persons not related by blood or marriage.

Manufactured Housing Unit: structures, transportable in one or two sections, which are constructed in a manufacturing facility and are transported to a building site and designed to be used as dwellings when connected to the required utilities, including the plumbing, heating, air conditioning and electrical systems contained therein.

1.4 Purpose

(a) To maintain the predominately rural character of the town.

- (b) To provide for the local housing needs of Shapleigh’s existing residents, while accommodating Shapleigh’s “fair share” of population growth in York County and in the immediate sub-region.
- (c) To ensure fairness in the allocation of Growth Permits.
- (d) To ensure that the Growth Permit issuance system does not unduly increase construction costs by preventing builders from erecting a moderate number of houses at the same time.
- (e) To ensure that the Growth Permit issuance system is not abused by individuals who would obtain Growth Permits when they are otherwise (perhaps financially) not able to commence construction within several months.
- (f) To allow growth of the residential population of the town at a rate which would not impose an undue burden upon the provision of community services (including education, fire protection, road maintenance, waste disposal, health services and welfare) and which would be compatible with the orderly and gradual expansion of said services.
 - (1) During the most current review of the tax base for **2022**, the Education system accounts for **57.69%** of the cost to taxpayers. **Shapleigh represents 10.1% of the total district enrollment, and the portion of the budget for year 2021-2022 was 15.10% of the local tax assessment.** Although the number of children enrolled in the school system is not expected to rise dramatically in the next several years, the cost to Shapleigh taxpayers continues to have a slight increase each year. **The most recent figures of cost increase to taxpayers for the school year 2021-2022 is 2.09%, which is a cost per child of \$15,326.** With this figure it is apparent that any household with even one child would be an impact since there are not enough property taxes derived from the average house to generate enough money to pay for one child’s education. Therefore, the Growth Ordinance system must calculate growth in such a way as to assure the town can fund education at the current levels and those of the future.
- (g) To guide Shapleigh’s expansion so that the annual increase in population and dwelling units shall not exceed the average rate of population and housing growth which occurred within the sub-region. **During this time period, 2010 thru 2020, the census data shows an annual increase in population of .80% which is below the State average of 2.6%. According to the census data, the number of housing units reported increased in the past 10 years by 205. Additionally, the number of Growth Permits given out since the last review has steadily increased from 16 permits in 2018 to 30 permits in 2022. Based on the moderate annual increase in school cost and the fact there is an increase in the number of permitted dwelling units, the current number of Growth Permits of 34 dwelling units should remain unchanged.**
- (h) To guide Shapleigh’s expansion so that the increases in education costs are predictable and manageable.

1.5 Existing Structures

This ordinance shall not apply to the repair, replacement, reconstruction or alteration of any existing building structure as long as no additional dwelling units are created by such construction.

Seasonal conversions are additional dwelling units.

1.6 Exemption

Accessory Dwelling Units are exempt from the Growth Permit requirement, per Title 30-A M.R.S.A. 4364-B ‘Accessory Dwelling Units’.

1.7 General Requirements

All new dwelling units within the Town of Shapleigh, whether permanent or seasonal, shall be in conformity with the provisions of this ordinance and the Zoning Ordinance, no new dwelling unit shall be constructed which fails to meet the requirements of this ordinance and the Zoning Ordinance.

1.8 Administration

The procedure for applicants shall be as follows:

- (a) The Planning Board shall administer the “Growth Permit Selection System” as described in paragraph 1.8 below in the case of all Growth Permit applications.
- (b) The Code Enforcement Officer shall ensure that all of the endorsements on the Growth Permit application form have been completed before issuing any Building Permit.
- ~~(c) Every Growth Permit shall be displayed with the Building Permit in a conspicuous place on the premises under construction, and shall not be removed until all work covered by the permit has been approved.~~

1.9 Growth Permit Selection System

- (a) There will be a \$200 non-refundable application fee for each Growth Permit Application submitted.
- (b) No more than two applications may be submitted per individual, corporation or any other legal entity per month.
- (c) No more than two Growth Permits shall be issued to any one individual, corporation or any other legal entity in one month.
- (d) A maximum number of 34 dwelling units shall be granted Growth Permits in each calendar year, plus 2 additional Growth Permits that shall be for affordable housing constructed by Habitat for Humanity.
- (e) A notarized copy of a signed sales contract, or other evidence acceptable to the Planning Board, shall be required.
- (f) Applications may be submitted, beginning in August 2005, in person, or by certified mail on each day the town office is normally open. Growth Permits will be issued as received at the first Planning Board meeting in January of each year. Applications will be reviewed at each Planning Board meeting thereafter until all permits have been issued for the calendar year. Applications not issued after the yearly quota has been filled and before the new administrative year begins shall be added to a waiting list.
- (g) Applications placed on the waiting list will be reviewed according to the date received on the first-come first-served basis. Applicants who are on the waiting list will be notified December 1st that they have 30 days in which to tell the Planning Board whether or not they wish to remain on the waiting list for the following year. If they do not notify the Planning Board by January 1st of the following year stating they wish to remain on the list, they will be removed from the list.
- (h) All applicants that wish to remain on the waiting list must mail a non-refundable \$50 administration fee for the next calendar year. It must be received by January 1st. If the administration fee is not received by January 1st the application will be removed from the waiting list.

1.10 Appeals

Appeals procedure for this ordinance shall be the same as specified in Section 6.8 of the Town of Shapleigh Zoning ordinance, as revised.

1.11 Expiry of Permits

Growth Permits selected and issued in accordance with this ordinance shall expire after 90 days, unless a building permit has been issued. This time period may be extended by the Code Enforcement Officer if issuance of a building permit is delayed due to a technical problem.

1.12 Non-Transferability

Growth Permits shall be site-specific, and shall be valid for construction only on the lot specified on the application. However, said permits shall be transferable to new owners of the lot, should the property change hands. If a Permit is transferred, the date of issuance remains unchanged.

1.13 Conflict with Other Ordinances

This ordinance shall not repeal, annul, or in any way impair or remove the necessity of compliance with any other rule, regulation, by-law, permit or provision of law and the Zoning Ordinance. Where this ordinance imposes a greater restriction upon the use of land, buildings or structures, the provisions of this ordinance shall prevail.

1.14 Validity and Severability

Should any section or provision of this ordinance be declared by the courts to be invalid, such decision shall not invalidate any other section or provision of this ordinance.

1.15 Effective Date

The effective date of this ordinance is the date of adoption by Town vote.

1.16 Review Procedure

The ordinance shall be reviewed every three (3) years by a committee comprised of the Board of Selectmen, the Planning Board and the Code Enforcement Officer, **to ensure that the annual maximum growth rate has not become inconsistent with the Town's capital improvement capability to establish or enlarge needed public facilities and services, and to be in compliance with Title 30-A M.R.S.A. §4360.**

1.17 Amendment Procedure

An amendment to this ordinance may be initiated by:

- (a) the Planning Board, provided a majority of the Board has so voted,
- (b) request of the municipal officers to the Planning Board, or
- (c) written petition of a number of voters equal to at least 10% of the number of votes cast in the municipality at the last gubernatorial election.

An amendment to this ordinance may be adopted by:

- (a) a majority vote of registered voters present and voting if the proposed amendment is recommended by the Planning Board, or
- (b) a majority vote of registered voters present and voting if the proposed amendment is not recommended by the Planning Board.

1.18 Violations

- (a) A violation of this ordinance shall be deemed to exist when any person, firm or corporation engages in any construction activity directly related to the erection or placement of a dwelling unit upon any land within the Town of Shapleigh without having first obtained a Growth Permit from the Planning Board.
- (b) If a dwelling has been constructed or placed without a Growth Permit, it shall also be deemed a violation for any person, firm or corporation to sell, lease, rent or convey such dwelling, or for any person or family to occupy such dwelling until such permit has been duly issued.

1.19 Penalties

- (a) Any person, firm or corporation being the owner or having control or use of any residential building constructed in violation of any of the provisions of this ordinance, shall be guilty of a misdemeanor, and on conviction shall be fined not less than fifty dollars (\$50.00) for each day such a violation (construction activity) continues after notification by the town or its agents.
- (b) If a dwelling unit has been constructed contrary to the provisions of this ordinance and then sold, leased, rented or conveyed for the residential use, the vendor, lessor, landlord or conveyor shall be guilty of a misdemeanor, and on conviction shall be fined not less than five thousand dollars (\$5,000).
- (c) If a dwelling unit has been constructed contrary to the provisions of this ordinance and is then occupied by the builder or his family, for residential use, the builder shall be guilty of a misdemeanor, and on conviction shall be fined not less than five thousand dollars (\$5,000).

CEO Demers provided information regarding his suggested ordinance change for ‘front yards’ to board members. There was no discussion on the suggested changes this evening. The changes are as follows:

§ 105-18 Dimensional requirements.

Land Uses	Resource Protection District	Shoreland District	General Purpose District	Floodplain District	Stream Protection District
Front setback from right-of-way front property line (feet)	N/A	50(D, F)	50(D, F)	2	50(D, F)
Front setback from road center line (feet)	N/A	75(D, F)	75(D, F)	2	75(D, F)

§ 105-19 Notes to Table on Dimensional Requirements.

- D. 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, except on nonconforming lots of record, in which case the setback may be no less than 25 feet from the property line or road. This reduction shall require a conditional use permit from the Planning Board. All

conditional uses approved relating to setbacks shall require confirmation, in writing, by a licensed surveyor that the placement of the structure is correct and the plan shall be recorded in the York County 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.

E. N/C

F. Corner lot setbacks and visibility. Corner lot yards abutting roads shall have a minimum depth of 50 feet from each right-of-way or 75 feet from each center line whichever distance is greater as outlined in 105-19 D. above. All corner lots shall be kept free from visual obstructions for a distance of 25 feet measured along the intersecting street lines.

Growth Permits

There are growth permits available.

The Planning Board meeting ended at 7:20 p.m.

The Planning Board meets the 2nd and 4th 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 pm. 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.

Also visit www.Shapleigh.net, there is a calendar of events, and you will find Planning Board information there including schedules, the agenda, and minutes of the meetings.

Respectfully submitted,
Barbara Felong, Land Use Secretary
Town of Shapleigh planningboard@shapleigh.net