

Shapleigh Planning Board

Minutes

Wednesday, November 9, 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, October 25, 2022 were accepted as written.

Roger A. stated that New Business would go first, as the application should go quickly and that the other application before the board would take more discussion. No one objected.

New Business:

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

Matt Colton and Cole Arey from Mainely Barge were present for the review of the application.

Provided along with the application was a letter dated September 19, 2022 from Richard W. Eagleston, Jr., which read as follows: *My name is Richard W. Eagleston, Jr. and I am the trustee for the 6 Burlington Way Realty Trust for the property located at 6 Burlington Way in Shapleigh, Maine. We have engaged with Mainely Barge, LLC (Mainely Barge) of 285 Goose Pond Road in Acton, Maine to demo and reconstruct an existing retaining wall at the water’s edge. We hereby authorize Mainely Barge and its representatives to work with the local town and state officials on our behalf for this project as it relates to the permitting and approval process. The authorization is solely for this process and does not extend to any other aspects relating to the property at 6 Burlington Way. If there are any questions or if you require additional communications or authorization, you can reach me at the following: (Contact Information Provided)*

Provided was a copy of the Permit by Rule Notification Form, dated 9/22/22. The PBR Brief Project Description states: Replace existing retaining wall in same height, same location with Pepin precast Loc-block.

Provided was a sketch plan depicting stairs and shape of wall; length of wall being 40’ x 3’ and 20’ x 2’, with a set of stairs located approximately mid-way in the 40’ section. Additional notations on the sketch are as follows: 12” of block to be buried; Backfilled with ¾” crushed stone; Top coat surface back to sand. Pictures of the existing wall were also provided.

Application Detailed Description of the Project is as follows: *Replace existing retaining wall with Pepin Precast Loc-Block in same height and location.*

Roger A. asked Mr. Colton to let the board know what they intended to do. Mr. Colton stated they would be replacing the existing wall same length, same height. He stated he would remove the existing block and take it out of Shapleigh. He said they planned to do the job mid to late December and it should only take a week to complete the job, weather permitting. He said they would be using the Pepin blocks.

Roger A. asked if the DEP Permit had been submitted? Mr. Colton stated that it had, and the board should have a copy. He said it had been over 2 weeks since it was submitted, and they haven't heard anything, so they should be good to go.

Ann H. asked if they had to remove any trees? Mr. Colton stated there were no trees or vegetation. Roland asked if they would do it before ice? Mr. Colton stated this was from land, so ice is not an issue. He said they were working on two jobs in Acton, then they were pulling the boat out. Mr. Colton noted that the wall was not failing, the owner just wants it updated and have it last longer.

Ann H. asked if the property was already surveyed? Mr. Colton stated they had a call in to LinePro. Mr. Arey stated he was not certain if LinePro had been out yet. He thought it would be done by the next meeting.

Mr. Colton stated that you could see in the picture he had a dock/patio that will be extended across the front. He said the board will see what he is speaking about when they do the site visit. Mr. Arey stated that the dock sits on top of the wall. Roland L. asked if the new wall would tie into that? Mr. Colton stated they would run the wall from the paddle boat, all the way across and keep going right. He said in the picture he would see the block system.

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

Roger A. stated due to light constraints prior to the meeting, members would do a site inspection on an individual basis. A notice to abutters will be mailed as well. Roger stated the next review would be on Tuesday, November 22nd.

Nothing further was discussed.

Unfinished Business:

Conditional Use Permit – Campground / Rental Cabins & RV's – Map 1, Lot 41 (368 Simon Ricker Road) – Mark & Linda Lawrence, Applicants & Property Owners

Mr. Mark Lawrence was in attendance for the review of the application. His son Trevor also was present.

Originally provided was a sketch plan entitled “#368 Simon Ricker Rd. State #1 of Proposed Campground / Cabin Rentals”. The plan depicted the general location of 4 proposed septic systems and proposed cottages. The plan was an aerial view of the property, where Rte. 109 and the Simon Ricker Road could be seen, along with the following numbers, #322, #344, and #368. Each site appeared to have

existing structures on them, but it could not be determined exactly what those structures are. Most of the lot appears to be wooded.

The application detailed description of the project is as follows: *3 Season Rentals. Cabins varying in size between 200 sf & 600 sf w/ a total of 40. Would like to do in phases of 10 – 12 per year. In 1st phase would like to build 4 – 6 four season rentals for hunters and snowmobilers. Rentals would be for 3 nights to 2 weeks.*

This evening presented was a sketch plan dated 11/6/2022, drafted by Jeramiah Raitt, PLS #2376 of Little River Land Surveying, Inc., P.O. Box 332, Lisbon Falls, Maine 04252 – 207.841.0056. The sketch depicted abutting property owners as follows: Map 1, Lot 32B – J. Webber; Map 1, Lot 41B – D & C Kelley; Map 1, Lot 42 & 42C – J. Mavrakos; Map 1, Lot 32 – D. Rand; Map 1, Lot 41A – L & M Lawrence (Applicants); and Map 1, Lot 41B – J & K Lawrence (family members). The property housing the campground, Map 1, Lot 41, is depicted as consisting of 57 acres±. Also on plan are the proposed septic site locations – 5 total; the location of 45 buildings; the proposed private road; existing pond, cemetery, well and barn; existing gravel road; and contour elevations of the property are noted for the area where the proposed structures, septic systems, and existing barn are located.

Roger A. asked Mr. Lawrence to update the board on what he wanted to do. Mr. Lawrence stated when they left the meeting the last time, the board requested septic plans, and he had those, all five septic systems. He said each septic is designed for up to 9 cottages. He said he had three copies for all five systems. He stated the locations of the systems are on a survey, that Kenneth Gardiner had requested he do prior to him designing the systems. He said he marked where each design would be on the survey map.

Mr. Lawrence stated that because each system is designed for 9 cottages, it upped the number of cottages he wanted to request from 40 to 45 total. He said the septic design is made for up to 1000 gallons a day, noting Mr. Gardiner did not want to max them out, so 9 cabins at 100 gallons per day. He said he needed five systems for the 40 proposed cottages, so he decided to go with 45 cottages total.

Mr. Lawrence said the board had asked him to speak with Steve Guillemette the Fire Chief, and he showed him the plan. He said he like the plan, and requested they do a 16 foot wide road with a way in and a way out. Mr. Lawrence stated that FC Guillemette would prefer to see the road as one way. Mr. Lawrence said he told the Fire Chief he could not do it all at once, he had to do it in stages. He asked if he did one section as a stage, and the road does not go all the way through, could they, before they get occupancy for the group of buildings, create a turn around to get in and out with his approval? FC Guillemette said that would be the best way to do it.

Roger A. stated that the Fire Chief called him and had said the original proposal was for 12 foot wide roads, which he was not in favor of, he wanted 16 feet. Roger said he also noted that he wanted the road one way. Roger said that the Fire Chief said with the number of cabins, once Mr. Lawrence had it half completed, he wanted a 10,000 gallon water tank on site in the ground. Roger said the Fire Chief told him he had mentioned it to Mr. Lawrence. Mr. Lawrence said he did not mention the 10,000 gallon tank to him. Roger stated that the Fire Chief does not feel that the hydrant at Emery Mills at the dam, and the one at the end of Simon Ricker Road would be sufficient, therefore, he wanted a 10,000 gallon tank to draw from. He said again he would only want that at the halfway point. Mr. Lawrence believed that was reasonable. He said there was a man-made pond on site, but there was only a little over a foot of water

during the summer dry season. He said the two months out of the year when it was low, was probably when it was most needed.

Roger A. asked how many other campsites he would have, or would it only be cabins? Mr. Lawrence stated some of the locations on the plan might be a campsite. He said he owned an older Airstream, he may put it on one of the spots. He said he may put half a dozen Airstreams if he can get a good deal. Roland L. asked if that would be a rental unit? Mr. Lawrence stated it would; owned by him and rented out, just like the cabins.

Roger A. said the other issue of concern for the Fire Chief was the possibility of having horse riding for the tenants. Mr. Lawrence stated he misunderstood. He said the Fire Chief asked if there would be any trails on site, and he told him he did not want to create trails for four-wheelers, but he could not guarantee his wife would not take a horse up. He said that would not be part of this plan. Roger said the Fire Chief's concern was with people leasing horses, they go out on the trail, get hurt, and he has no means to get to them at present. Mr. Lawrence stated that the Fire Chief did mention having a four wheeler, and he told him that they do have a four wheeler currently. Mr. Lawrence said he misunderstood, the Fire Chief knew they had horses and he told the Fire Chief that his wife may ride on the property, but none of the tenants would be riding the horses. He said it was a liability issue he did not want to get in to.

Roger A. stated that because the structures are going to be permanent residences.... Mr. Lawrence stated they were not permanent, they were weekly rentals. Roger said it was a permanent structure with a kitchen, bathroom, etc. and it is not on wheels. He said it was a permanent structure, attached to the ground. Mr. Lawrence stated that was correct. Roger believed because of this, the board needed to review this as a subdivision. Roger stated that if Mr. Lawrence wanted to move forward, the board would need legal advice as to whether or not, based on Shapleigh's ordinance, this needed to be reviewed under subdivision. Mr. Lawrence stated that he understood there were a lot of campgrounds in the State of Maine. Roger said they were not in Shapleigh, Shapleigh had different standards. Madge B. agreed that the board should get a legal opinion, as to whether this is or is not a subdivision. She felt the town attorney should answer the question, and whatever he says, the board will go with. Mr. Lawrence thought that every subdivision in Shapleigh, people own it as a primary or secondary residence. Madge stated this was not true. She said that may be his experience, but it is not true. She stated that the subdivision law does not require any ownership. She said it looks at buildings, not ownership. Mr. Lawrence asked if it made a difference if it was seasonal? Madge said she was not going to answer the question, she was recommending the town obtain a legal opinion. Mr. Lawrence stated that he understood.

Roger A. believed if they were on wheels, able to be moved, the board could classify it as a campground. He said what Mr. Lawrence was presenting was a structure permanently set on the ground. He said under Maine Subdivision Law §4401, it states that greater than 3 dwelling units, it doesn't just say 'lots', would create a subdivision, 45 would be a major subdivision. He stated that a 4 unit building for tenants, that creates a subdivision in Shapleigh. Roger stated that because 3 units are the cutoff, having 45 dwelling units creates a subdivision, and if it is a subdivision, all the provisions for a major subdivision would apply. Mr. Lawrence asked what those would be? Roger stated it would regulate the road, and everything else for 45 units. He said fire protection, paved roads, etc. Mr. Lawrence said if it was subject to subdivision rules, it will go back to a campground. Madge B. said she understood, but the board needs to follow the law. Roger said again, this is why the board needs a legal opinion to see if this could be reviewed as a campground under Shapleigh's ordinance.

Roger A. stated that once the board approves a project, there is no deviation from the approved plan without coming back for an amendment to the approval. He said whatever is on the approved plan has to be done as approved, you cannot decide to place structures in a different location. Mr. Lawrence stated that he understood. Roger said that the board will look at the total project, noting that he may be able to phase it in, but what is on the plan is what has to be done.

Mr. Lawrence asked how long it would take for legal to have an opinion? Roger A. stated he could not answer that. Barbara F. stated that the town office was closed Friday due to the holiday, therefore the letter to the Attorney will not get drafted before Tuesday of the following week. She said once the attorney has the information, the board might get an opinion within a week or so. Roger stated once the board has the opinion, they will contact Mr. Lawrence.

Roger A. added with the number of units he is proposing, he will need to show the board that there will be a well that will support them. Mr. Lawrence asked if he was going to have to go spend \$30,000 for wells? Roger said if the project was approved, he would have to say he had enough water flow for the number of structures he was putting in initially. Mr. Lawrence asked if he was saying that if he started with phase 1, 9 units, he could put a well in for those? Roger said yes, but if the well is not sufficient for 45 units, he would need to put in multiple wells eventually. Mr. Lawrence stated he understood, but wanted to be sure the board wasn't asking him to spend the money now for the wells for all 45 units. Roger said the board would need someone to tell them that the well would support the amount of units he intends to put in for phase 1.

Roger A. asked if he would have another septic dumping station for travel trailers coming in? Roger said he was referring to the Airstream that Mr. Lawrence said he might place on site. Mr. Lawrence stated that anything they put on site, whether cabin or trailer, would be tied into the septic. Trevor Lawrence asked if going forward, if there was a lack of water, and they were going to put in camping trailers that were self-contained, bringing in their own water and they haul out the grey water and septic, how would that go? Roger said that typically at a campground, there is an office, and not far from the office is a dumping station. Trevor stated that not all campgrounds have this but most do. Roger stated that he had 2 campers, and every campground he has been to had a dumping station. Trevor stated that they are cheap to put in.

Roger A. asked if they would have someone living on site, or have a small store? Mr. Lawrence stated at this point he did not want to do a store, he said it has to start generating money before he can do more. Roland L. asked if one unit would be designated as the office, or where do people check in? Mr. Lawrence stated that they could probably check in with his wife. Roland said that none of the 45 units depicted would be an office space. Mr. Lawrence said, not as it stands as cabins. He stated if he turned it into a campground, where people bring in their own units, then he might need to make a unit for office space. Roland said he was speaking about what was depicted on the site plan. Trevor stated the reason why they didn't need an office, because if you go to Airbnb, you don't check in at an office, you receive a code on your phone, and put a pin number in. He said they would need a place to put in extra sheets, paper products that you need to replace. He said they may store them in the barn. He said with this setup you will receive a code to check in and the place will be all ready for you.

Mr. Lawrence stated that from here we get a legal opinion, then decide how to proceed. He said he did not waste money on a design, because if what he is proposing does not work, he will still put in a campground. Roger spoke about if they create a campground they should consider electric hookups, and

should show how that will be accomplished. He stated if they do the cabins, they will be heated, so they will need power as well, what will he be using needs to be considered. Roger asked if the cabins would be open year round? Mr. Lawrence said most will be shut down for the winter, except for a few for snowmobilers and hunters.

Madge B. asked if the State had regulations for campgrounds? Roger A. stated that they do, but he thought Shapleigh was more stringent. Madge said that friends of hers in Acton put in a campground, and they told her there were a lot of State hoops to go through. She said she never asked for specifics. Roger said the State would require water tests. Ann H. stated that Mr. Lawrence could speak to the gentlemen in Lebanon that opened a campground within the past 2 years, and he could probably tell him what he went through. Roger thought she was talking about Cole's Mine on Route 202. Trevor stated he lived in Arundel and had a neighbor, Red Apple Campground, he could ask him. Roger stated, that with Shapleigh's definition of campground, he did not believe the cabins were allowed.

Mr. Lawrence stated they will wait to hear from the town attorney, and then see if they will proceed with a campground or cabins. Ann H. said, "Subdivision or campground". Mr. Lawrence said to put in a subdivision, you have to put all that money into it, then get a quick return to pay for it. He said he wouldn't be selling the buildings, like you would with homes, and he wasn't sure if the cabins would be well received.

Roger A. noted there wasn't enough land for a subdivision with 45 dwelling units. He said you need 2 acres times 45 units, so they would need 90 acres. He said even if the units were clustered, you still need the 90 acres in total. Madge B. noted that Mr. Lawrence stated that if it was a subdivision, he would not be doing it, so it doesn't matter. Mr. Lawrence agreed, it would go back to a campground.

Barbara F. told Mr. Lawrence she would get back to him when she had information from the attorney.

Mr. Lawrence asked if he had tiny homes on wheels, what would it be? Roger A. thought it would be a campground as they were mobile. Roland L. asked if they had to be registered if they were mobile? CEO Demers said he never heard of that. Ann H. said when she insures tiny homes, she has to ask if it is on wheels or permanent, and they need a trailer plate to drive it down the road, but that is all. Ann thought you only need the plate to move it down the road.

Mr. Lawrence asked if they could also ask the attorney if they are on sauna tubes, they are permanent, so it is a subdivision, but if they have wheels and are a tiny home, if it is a campground? Madge B. thought it was a good idea. Mr. Lawrence thanked the board for their time.

Roger A. reminded Mr. Lawrence that the board will need the road details for the project, so the Fire Chief can look at it to be sure it will be sufficient for the fire trucks, including the details for the corners, as the Fire Chief was concerned. Mr. Lawrence agreed that the Fire Chief was concerned with wide enough radiuses, and he said the Fire Chief can have the final say before they rent the 9 units.

Barbara F. stated she would draft a letter, and asked if the board wanted an in person meeting as well? She said they need something in writing as a minimum. Roger A. said he would like it if Durward Parkinson could come in, perhaps at 6:00 pm. Barbara was not sure if he would do that, or do a Zoom meeting, but she would ask and let the board know.

Nothing more was discussed.

Other:
Zoning Changes

Roger A. asked board members if there were any ordinance changes that were going to town meeting in March? He stated at present the only thing he had was for the Growth Ordinance to update the information regarding the cost of education. He said the number of permits was staying the same.

Barbara F. stated that Michelle (Town Administrator) asked if the board was adding anything to the warrant, which was why Roger was asking. She said she knew the board was not ready to do anything with village areas yet, and it was agreed the board would not do anything with accessory dwelling units until they looked at what, if any, modifications would be made to the current legislation. She agreed with Roger that the Growth Ordinance had to be updated. Maggie M. thought that by July of next year there needed to be a change to the ordinance, based on the new legislation. Roger said Shapleigh’s ordinance meets the current criteria for accessory dwelling units.

CEO Demers said there is one portion of the ordinance that he feels is troubling from time to time, and that is the front yard setback and how it is worded. He said, “Meaning the 50 feet from the property line, and the 75 feet from the centerline of the right-of-way or road, whichever is greater.” He said there were instances where either the road is not known, and he just goes with 50, but there are instances where the road is less than 50 feet. He said, “So if it’s less than 50 feet, let’s say it is a 20 foot road, then you’ve got 75 feet; you have a 65 foot setback from the property line, which doesn’t seem like that’s the intent of the ordinance.” He said he was wondering if it could be reworded. He said we have to figure out the intent first, then reword it so that it doesn’t become troublesome in the future.

Roger A. believed it would be troublesome forever. Madge B. agreed. He said often you can’t tell the width of the road, was it two rods or was it like the Back Road, 80 feet in width. He said, where does the property start on the Back Road, you have to get it surveyed to find out where the town owns and where the person’s property begins. He said once you figure that out, you can come back 50 feet. He said if you measure from the center of the road, you may or may not be on your property.

CEO Demers said the first thing he needs is what the intent is, then he could propose something. He believed the intent was to get the structure 50 feet off the road. He thought he could add one sentence to clarify it, so in the unknown situations, the 50 foot could be the rule. He said Joe Stanley (LinePro Land Surveying) brought it up to him, that a lot of the banks are doing surveys when there is a refinance, and they are seeing that it was approved, but it doesn’t meet the setback. He said it’s not a huge issue because it is approved, but if it is something the board wants to take a look at, he can work on some verbiage. Roger agreed the intent was to keep the house off the road. Madge B. added that it was so the road could be widened. CEO Demers said the issue happens when it is a narrow road. Roger agreed. CEO Demers said he would like the 50 feet to be more clear. Barbara F. asked if he would have it for the next meeting? CEO Demers stated that he would.

Nothing more was discussed.

Growth Permits

Map 9, Part of Lot 12B (Town Farm Road) – C. Stewart

#29 & #30-2022

The application was for two permits, for a duplex. A copy of the deed was provided. It was noted that the Private Way for this property had been recently approved. The lots were for a family subdivision. The minimum requirements for a duplex were met.

The Planning Board meeting ended at 8:00 p.m.

The Planning Board now 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 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.

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