

Shapleigh Planning Board

Minutes

Tuesday, December 13, 2022

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

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.

Public Hearing began at 6:45 pm

There are Amendments being presented to the following:

- **Updated Growth Permit Ordinance**
- **Amendment to Zoning Ordinance §105-18 & §105-19 ‘Front Yard Setback’**

There were no audience members in attendance, only board members. Copies of proposed ordinance changes can be obtained at the Town Hall during regular office hours.

Roger A. began by stating the only changes to the Growth Ordinance were the addition of the cost to taxpayers for education and cost per student, as well as the current census data. He stated the number of growth permits was unchanged at 34 per year, and 2 for Habitat for Humanity.

Roger A. stated that the change the Zoning Ordinance was to Front Yard Setbacks. He said that under §105-18 the distance to the centerline was being removed in its entirety. He stated this was due to the fact that the roads in Shapleigh have varying widths, so to measure from the centerline is not an accurate way to measure. Madge B. agreed and said it was often hard to find the centerline of some roads.

Roger A. stated that under §105-19, Notes to Table on Dimensional Requirements, Section D, the first sentence is being stricken from the section, as it refers to both methods of front yard measurement. He stated that under Section F, the following is being removed, ‘of 50 feet from each right-of-way or 75 feet from each centerline whichever distance is greater’.

Ann H. asked when the ordinance changes would take effect? Roger A. stated that they would be voted on at Town Meeting and if they pass they take effect immediately.

Nothing more was discussed.

The Planning Board meeting started at 7:00 pm.

The minutes of Tuesday, November 22, 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

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.*

Members did a site inspection of this property on an individual basis due to light constraints prior to the meeting.

Roger A. asked Mr. Colton to let the board know what they intended to do. Mr. Colton stated they would be up on Burlington Way to replace the existing retaining wall, the same length and height. He said they would be starting as soon as possible, since there was a nice beach area. He said currently the wall was 80 pound Genest cement blocks, the owner wants to change the looks and so they will be putting in Pepin 2000 pound pre-cast blocks. He said the 80 pound blocks will be hauled out of Shapleigh. He stated there was no vegetation being removed, and they will not be using the barge. He said the project was straight forward and they hope to wrap it up in the next couple of weeks, weather permitting.

Roger A. asked if the stairs would be staying in the same location? Mr. Colton stated they were. He added that he believed LinePro had pinned the existing wall, and will pin it again after completed. He stated they would be doing the same layout and the same steps. He said the existing wood structure that hangs out over the water was being removed. He said the natural retaining wall is being replaced with blocks and he thought next year the owner was going to put in removable aluminum docks.

Roger A. stated he noticed a pallet of flat rocks on site when he did the site inspection, he asked if that was for a patio? Mr. Colton thought it might be a fireplace. Mr. Colton asked to look at a picture, and when he looked at what the board had, he said it was a fireplace. Mr. Arey stated that it was being removed. Mr. Colton thought they were going to put in a propane fireplace or replace it with something similar.

Madge B. asked if the water came up to the existing wall? Mr. Colton stated that he did not believe so, he said he was there in the summer and the water was very far out and it still is. Mr. Colton stated that is why they are thinking of going there now.

Roger A. asked if there were any questions? There were none. Madge B. added that the project appeared to be straight forward. Ann H. agreed, saying there was no vegetation being removed.

Barbara F. reminded the board pictures are required once the project is completed. Mr. Colton asked if that was just to Code Enforcement? Barbara stated that the Planning Board needed a copy of the photos as well for the file.

Barbara F. asked Roger for a date of completion. Mr. Colton stated he could have the project completed by March 1st, 2023. The board had no issue with that date, noting there was no vegetation that needed to be replaced.

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

- 1. Best management practices are to be kept in place until the project is completed.**
- 2. There is no vegetation being removed, therefore there is no revegetation plan required.**
- 3. Pictures of the project must be provided to the Planning Board within 20 days of the completion of the project.**
- 4. The project shall be completed by March 1, 2023.**

Madge B. moved for approval of the conditional use permit for earth moving in the Shoreland District in order to replace the existing retaining wall on Map 27, Lot 14-3 (6 Burlington Way), per the plans provided and as discussed, with the noted conditions. Maggie M. seconded the motion. The motion to approve was 5 – 0, therefore it was unanimous.

Nothing further was discussed.

Findings of Fact

1. The owner(s) of Shapleigh Tax Map 27, Lot 14-3 (6 Burlington Way) is Richard W. Eagleston, Jr., Trustee of the 6 Burlington Way Realty Trust, mailing address of 51 Cross Street, Reading, MA 01867 per Warranty Deed, BK 16147, PG 349, recorded 8/17/2011.
2. The property is located in the Shoreland District, and according to the Assessor's office, it contains 2 acres.

3. 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.
4. 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.
5. Application Detailed Description of the Project is as follows: *Replace existing retaining wall with Pepin Precast Loc-Block in same height and location.*
6. A notice was mailed to all abutters within 500 feet of the property on November 10, 2022. Meetings were held on Wednesday, November 9, 2022 and Tuesday, December 13, 2022. A site inspection was done by members on an individual basis due to light constraints prior to the meeting
7. The application as presented met the performance standards under §105-73 'Conditional Use Permits' as per the documentation provided and as presented with four conditions. The proposed new wall will not have an adverse effect on aquatic life or wildlife; the project will help to conserve shore cover by stopping stormwater from entering the lake; the use is consistent with the Comprehensive Plan which wants to protect the waterbodies from stormwater / erosion; traffic access to the site is safe for the intended project; the lot is not located within the flood zone; the existing block wall will be removed by the applicant & shall be taken out of Shapleigh; there is no hazardous waste associated with the proposed project; the wall will be constructed per the engineered plans from R. Pepin & Sons and will help prevent stormwater from entering the lake; erosion control measures shall be approved by the Code Enforcement Officer; the project takes place near the lake and fire protection is not a requirement for this project; there is limited noise and dust from the construction of the walls which shall be completed by March 1, 2023, there is no glare, odors and the like produced by this project; all performance standards shall be met with four conditions.
8. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing walls (40' Long x 3' High & 20' Long x 2' High), on Map 27, Lot 14-3 (6 Burlington Way), per the documents provided and as presented, with four conditions.
9. **The conditions of approval are as follows:**
 1. **Best management practices are to be kept in place until the project is completed.**
 2. **There is no vegetation being removed, therefore there is no revegetation plan required.**
 3. **Pictures of the project must be provided to the Planning Board within 20 days of the completion of the project.**
 4. **The project shall be completed by March 1, 2023.**

Decision:

The Conditional Use Permit to replace the existing wall (40' Long x 3' High & 20' Long x 2' High), on Map 27, Lot 14-3 (6 Burlington Way), per the documents provided and as presented, with four conditions was approved.

Other:

Roland L. showed board members pictures of the completed ‘stone’ wall on Map 28, Lot 46 (33 Carpenters Cove). He stated that although the wall looked better at a distance than up close, it did appear to be completed, noting what a large undertaking it was. The applicant did what he said he was going to do. He also told board members that the replacement vegetation was sod.

Roland L. showed board member pictures of a recent tree cutting along the water’s edge on Mousam Lake, where large trees were removed that were not hazard trees, they were leaning toward the water. CEO Demers had told him that it was going to take place and why it was allowed. He did not understand how this could be a permitted undertaking under the ordinance. He said the trees were right at the water’s edge, again stating ‘how could this be allowed?’ Board members looked at the pictures and were also disheartened at what took place. There will be further discussion in the future as to what measures could be taken to be sure something like this doesn’t continue to happen, noting there were other areas in town that the vegetation was removed in a dramatic fashion that did not make sense, nor was it good for the lake. Roland concluded that if this is allowed, the current ordinance is flawed.

Growth Permits

Map 1, Lot 19 (26 Tattle Street) – G. Berube

#31-2022

Roger A. stated a copy of the deed was provided, showing the lot was 1.9 acres in size with over 200 feet of frontage on Tattle Street.

The Planning Board meeting ended at 7:30 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