

# Shapleigh Planning Board

## *Minutes*

June 15, 2022

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

*Madge Baker was unable to attend. Ann Harris sat in as a regular member.*

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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, May 24, 2022 were accepted as written.**

**The Planning Board meeting started at 7:00 p.m.**

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### **Amendment to a Conditional Use Permit – 30’ x 150’ Storage Facility and 3,750 sq. ft. Building for Office Space / Business Storage – Shawn Woods, Applicant & Property Owner**

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

Originally provided in January of this year, was a Site Plan which depicted the lot dimensions; the location of Emery Mills Road and the entrance onto the road; the existing 40’ x 116’ building & 30’ x 260’ storage units; septic location; paved area, and location of a proposed 50’ x 70’ structure which was noted as being 70’ from the right lot line. There also was a square area adjacent to the proposed new building which appears to be a future septic location.

This evening provided were the following documents:

D1, drafted by Carl V. Beal, PE 5013, dated May 11, 2022, Sheet Title: Existing Drainage Plan – This plan included the existing structures.

D2, drafted by Carl V. Beal, PE 5013, dated May 11, 2022, Sheet Title: Proposed Drainage Plan – This plan in addition to the drainage details depicts a proposed 30’ x 150’ Storage Building & a 3,750 sq. ft. Building for Woods Construction.

D3, drafted by Carl V. Beal, PE 5013, dated May 11, 2022, Sheet Title: Drainage Details Plan – Details a Stone Level Spreader

C1, drafted by Carl V. Beal, PE 5013, dated May 11, 2022, Sheet Title: Site Plan – Depicts existing & proposed structures, and topography.

The detailed description of the project is as follows: *50’ x 70’ storage facility w/office and shop space for Woods Construction.*

Roger A. began by stating he reviewed the documents Mr. Woods provided and he said he had several issues

he wanted to bring up. The first was there needed to be a new parking plan, and he wanted to know what percentage of the property was covered by structures. Mr. Woods asked if he was asking for what will be there when all the buildings are up? Roger said, yes. Roger noted that there cannot be over 20% lot coverage. Mr. Woods stated he was aware of that. He believed Mr. Beal calculated everything, but he would be sure and get the information to the board. Mr. Woods thought it was roughly 19,000 sq. ft. for lot coverage. Steve F. asked if that included the parking lot? Mr. Woods believed that it did.

Roger A. said he did not believe any additional information would be required. He stated the board would hold a public hearing because of the addition of the buildings. Barbara noted that there had been a public hearing on this application in January and a notice to abutters. Roger said he realized this, but now that there was additional information he felt it was best to hold another. He did not believe an additional notice to abutters would be required.

Mr. Woods stated that the board had the old parking lot calculations, he wanted to know if the board just wanted him to revise that. Roger A. stated that because there were new buildings, and where the new buildings are, some of that area was in the previous parking plan, a new plan would be required. He said those parking places are being lost, so the board needs to know where they will be once the new buildings are in. Mr. Woods said he believed it was in the ordinance what the square footage required would be per parking spot, and how many were required. Roger, reviewing the ordinance (§105-43 ‘Off-street parking and loading’) stated that he would need 200 square feet for each parking space. Roger read (f) ‘One space for each 150 square feet or fraction thereof of floor area of any retail, wholesale or service establishment or office or professional building’. He then read (h) ‘One space for each person employed or anticipated to be employed on the largest shift for all types of commercial, industrial or other permitted uses.’ Mr. Woods said he would have 4 employees. Roger stated that this isn’t just his employees but the other businesses leasing from him. Mr. Woods asked if the parking space would be in the front of the new building? Roger said the original parking plan had spaces in front of all the businesses. He said there were also spaces going from the structure to the road and Beadle had a number of spaces for the amount of boats he could keep on site. He said those parking spaces were off to the side of the lot. Roger said the new buildings will take some of those spaces, so there needs to be a plan that shows where they will now go. Mr. Woods said he understood and would highlight the new areas in a format that makes sense. Roger said the new buildings additional spaces, beyond what was originally required, would have to be added.

Steve F. asked how the storage units were calculated into the parking plan? Roger A. said there really didn’t need to be additional parking for the storage units, and he did not think any parking was required for the original storage units. He said people are only on site for 5 minutes adding or removing goods. He said the spaces are for the existing businesses, and the new shop / building. Mr. Woods believed there was plenty of space for additional parking spaces. Roger agreed, and noted it isn’t something the board typically does, waive parking space requirements, but because it is a storage facility the board realizes the parking is very temporary.

Steve F. asked which way the doors would face, would they face the property line from the new storage building? Mr. Woods stated they would be facing toward the property. He said the plans provided are not accurate as it shows pavement on the back of the new storage building, which would not be happening. Steve said he was just curious as it looked like the doors were on the property line side.

Ann H. asked if he was going to rent out any storage units to wood working people, where they close the door and do their wood working inside? Mr. Woods stated that no, he was following safe storage protocol, where there is no flea market sales or yard sales, they cannot operate a business out of the unit. He said it is personal storage, come and go only. He said it was in the contract that they cannot do those things.

Steve F. asked if there needed to be any landscaping, any issue with glare or lighting that needed to be addressed? Roger A. said that if there was going to be any lighting, it could not point toward the road and cause glare onto Rte. 109. Mr. Woods said he understood, it would likely be the same low, down lighting, that is on any regular storage building, and it would be on the property side, not on the rear, so the abutter likely will not see it. He said he would be doing some landscaping for curb appeal.

Roger A. said the area being disturbed by the project is not landscaped at this time. Mr. Woods agreed. Steve F. was thinking in terms of glare onto the neighboring property.

Steve F. asked if the storage facility hours were 24 hours a day? Mr. Woods stated that it could be, there would be no gated access. Roger A. thought there was a gate in the front at this time. Mr. Woods stated that they leave it open, and they have had no issues on site. He said at times the Sheriff parks on site.

Roger A. stated that he didn't have anything else.

**Roger A. stated there would be a public hearing on Tuesday, June 28<sup>th</sup> at 6:30 pm. There would be a site inspection at 5:00 pm that same evening.**

Mr. Woods stated he would provide the board members with the new information requested. He added that he would stake the area out where the buildings would be located. Roger said, great.

Nothing more was discussed.

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**Conditional Use Permit – Garage Sale Business – Map 14, Lot 11 (217 Emery Mills Road) – Richard Hagman, Applicant & Property Owner**

Mr. Hagman was present for the review of his application.

Provided along with the application was a copy of the Subsurface Wastewater Disposal System Application for a 3 bedroom single family dwelling, drafted by Brian W. Howard, SE #196, dated 1/8/2005.

The detailed description of the project is as follows: *Conditional Use Garage Sale Business*

Roger A. asked Mr. Hagman to let the board know what he would like to do. Mr. Hagman stated he would like to open the barn and store front as a garage sale business, so he can stay open more days. He said he was clearing two estates, losing his mother and brother, so he had a lot of product to move.

Roger A. asked if he had a parking plan? Mr. Hagman stated he did not have one. Roger stated the board would need one for the next meeting. Mr. Hagman stated the lot, what was there when it was a grocery store and then the lobster sales, it would be the same parking as it was when it was the lobster store. He said he

was using the same amount of space. Roger stated there needed to be enough parking for the proposed business. Steve F. asked if there was anything to give him a rough idea of what he needed for spaces? CEO Demers said it was 200 sq. ft. per vehicle. He said he needed one as the employer and then the square footage of the area being used. Mr. Hagman stated he would be parking out back. CEO Demers stated there were three or four spaces out front. Mr. Hagman said if he could find someone to take the lobster boat there would be another space there. Ann H. stated that the ordinance state ‘one space for each 150 square feet or fraction thereof of floor area’. CEO Demers stated the area to be used is not that big of an area so it would only require a couple of spots. Roger added that the ordinance also states, (2) ‘Adequate spaces shall be provided to accommodate customers, patrons and employees at automobile service stations, drive-in establishments, open-air retail businesses and amusements and other permitted uses not specifically enumerated.’

Roger A. asked if any tables would be rented out? Mr. Hagman stated, “No, it’s all me.” Roland L. asked if this would be a seasonal activity? Mr. Hagman stated that it would. He said he would probably follow Ted’s protocol, because he gets people who come across from Ted’s (Teds is open 3 seasons with varying hours). Roland said, “You are not seeing this as a one year activity, you would be opening in the spring again.” Mr. Hagman stated, “Yes”.

Roger A. asked what the hours of operation would be? Mr. Hagman stated he would like 10 am to 4 pm. Roger asked if this was 7 days a week? Mr. Hagman stated he did not believe so, he would follow Ted’s, like Thursday through Sunday in the spring. Roger said that when the board asks about hours of operation, they were not trying to limit the hours, they wanted the broadest window that the business would like be open. He said if Mr. Hagman said he would only be open 4 days a week, then he found out things were going great and wanted to be open more, he could be open longer if he said he was going to be open 7 days a week. Roger noted it did not mean he ‘had to’ be open 7 days a week, but he could be. He said if he was not permitted by the board for 7 days a week, and a complaint was sent to the CEO that the business was open on days it was not supposed to be, the CEO would have to shut the business down for those days. Roger said again that if you ask for 7 days, and you are only open for 4 days, that is fine. CEO Demers suggested 9 am to 5 pm, 7 days a week. Mr. Hagman agreed to those hours.

Roger A. stated he did not have any other questions. He said the board would need a parking plan for the next meeting.

**Roger A. stated a public hearing would be held on Tuesday, June 28<sup>th</sup> at 6:30 pm and a site inspection would be held at 4:45 pm, just prior to Mr. Woods. A notice to abutters will be mailed as well.**

Steve F. said the only question he had was regarding the septic system which was plastic infiltrators, he wanted Mr. Hagman to be cognizant of this when working out the parking plan. Mr. Hagman stated the septic system is behind the house to the right. He said there would be no parking in that area.

Steve F. stated they needed a parking plan, and what, if any lighting. Mr. Hagman said he wasn’t adding any lighting. He said the only thing he was going to change at the top of the barn was the dusk to dawn light, he would be removing it. He said he wanted something on a switch. Roger A. stated the concern was there cannot be any glare going out onto Route 109 to blind someone. Mr. Hagman said there was a motion sensor

on the barn, which is where the camera is. He said this is the only lighting he would have. It was noted by a member that he would not be open in the winter. Mr. Hagman agreed because he did not have any heat.

Nothing more was discussed.

**Conditional Use Permit – Replace Walls & Stairs – Map 30, Lot 19 (12 Totte Rd) – Adam Dixey, Applicant & Property Owner**

Adam and Peyton Dixey were present for the review of the application.

Provided along with the application were pictures showing the existing deteriorating walls and stairs; a layout of the footprint of the existing structure; a copy of the town tax map depicting Lot 19 and the surrounding lots; and a copy of the deed, showing Adam B. Dixey as owner, registered at York County Registry of Deeds on 7/16/2021, Book 18737, Page 72. Also provided was the mortgage boundary survey showing the lot dimensions, location of a tree on the property, the location of the retaining walls and stairs to be replaced, and noted on the plan was that one area was 13 feet in width comprised of wall-stairs-wall, and another area to be replaced was 17 feet in width comprised of a retaining wall.

Provided this evening was information from Ideal Concrete Block Company on pavers. One pamphlet was titled ‘Alta Wall’, one ‘Keystone Compac III Straight Split’, and one ‘A Contractor’s Guide to Installing Segmental Retaining Wall Systems’.

The detailed description of the project is as follows: *Replace existing retaining walls and stairs. Walls and stairs will be replaced with stacking concrete blocks.*

Roger A. asked Mr. Dixey to let the board know what they wanted to do. Mr. Dixey stated he purchased the house approximately a year ago and the retaining wall around the property is decrepit. He said the wall needs to be replaced, noting they come up on the weekend and they have to pick up boulders and put them in a pile. Peyton Dixey stated that in one of the pictures the wall is bulging out. Steve F. thanked the applicant for the pictures. Mrs. Dixey stated that she went through the checklist. Barbara stated F. stated she did very well and thanked her and said it was appreciated.

Roland L. stated the board will remember the site because they had visited a site just down the road recently. He said the wall is seriously in a state of disrepair. Roger A. asked if the wall and stairs were coming out? Mr. Dixey stated yes, and noted they were going to push the stairs all the way to the left, because they currently sit in the middle of the driveway. He said the current stairs, every riser is a different size.

Roger A. asked if there was a DEP notification. CEO Demers stated that it was past the 75 foot requirement, so a Permit by Rule was not required.

Roger A. stated a surveyor would have to place where the wall was actually sitting currently, before it is replaced. Mr. Dixey stated he had several phone calls out now looking for someone. Mrs. Dixey said LinePro lived up the street, and he did get back to her, and he (Joe Stanley) said it would be done before the end of the month.

Roger A. asked if they were replacing the wall themselves? Mr. Dixey stated that they were. Mrs. Dixey stated they had a construction company in Marblehead Massachusetts and they just bought an excavator and backhoe, so they are ready. Ann H. said he didn't have to be DEP certified because he is the homeowner. Roger agreed.

Steve F. asked if the wall was under 4 feet in height. Mr. Dixey stated there were several spots that were over 4 feet. He said the new wall did not necessarily have to be, but it was the way it was now. Ann H. asked if they were going to put it back over 4 feet. CEO Demers stated they were getting engineered blocks. Mrs. Dixey stated they have not decided on which ones yet. Ann asked if they were going to put it back over 4 feet in height? Mr. Dixey thought some of it had to be. Roger A. stated that section of the wall over 4 feet in height has to be engineered. Mr. Dixey said there was a program that showed you what you had to do. He said some of the wall would be 6 feet, and as long as he used the geomat it didn't have to be engineered. Roger said that the ordinance said that anything greater than 4 feet must be engineered. CEO Demers said it was an engineered product that the concrete company sells and there is a pamphlet that shows what to do. Mr. Dixey said it technically is an engineered product. Mrs. Dixey said they do engineer everything but they haven't chosen what they will use yet. Ann asked if they would draw out exactly what they had to do? CEO Demers said they would not do that. He said it's an engineered product that is installed.

CEO Demers asked the applicants if they would be able to determine the product by the next meeting? They said they would. CEO Demers said they could get the pamphlet for the next meeting. He asked if they were using Genest? Mr. Dixey said either them or Ideal Concrete. He said they used to give you the engineering plans along with your purchase but they do not do that as readily now, probably due to liability. Ideal Concrete said that as long as you use the geomat every other course, they would ok it. Steve F. stated that the board has used something from the company providing the blocks to satisfy the engineering requirement in the past. Roger agreed, but looking at the information on the blocks to be used, there was nothing written that would work. There is nothing written or stamped by an engineer. The only thing he read was 'segmental retaining walls under 4 feet high work by the principle of gravity where the combined weight of the wall units resists the weight of the earth being retained. Walls that exceed this height require additional construction techniques such as terracing or the use of geogrid reinforcement and are known as reinforced or engineered wall structures.' Mr. Dixey stated he would get more information. Roger said there was no engineer's stamp on any of the information provided, so if the wall fails, Mr. Dixey is responsible. Mrs. Dixey said that once they decide which wall they will do, they send them pictures, the height, length and depth and then they send the engineers specs. Steve F. said that was what the board needed.

Mrs. Dixey asked if she could choose the style she wanted, or is there something the board wanted her to use? Roger A. stated it was entirely up to the homeowner. Mrs. Dixey said, "Great." Roland L. said they have something going for them, because they do not have to wait for the water to recede before they do it. He said many projects on the shoreline have to wait until the lake is drawn down in mid-October.

Roland L. asked what the requirement was with respect to the boulders. He said these were not timbers, but boulders, would they still be required to take them out of town. Roger A. stated that if he moves them to another area in Shapleigh he may need a permit to do so, either from CEO Demers or the board, depending on the amount of yardage. If he is taking them out of town, no permit was required. Mr. Dixey stated they were taking them to Acton. Roland said he didn't want the applicant surprised when at the next meeting they were asked where the boulders would be taken.

**Roger A. stated a site inspection would be at approximately 5:30 pm on Tuesday, June 28<sup>th</sup>. A notice to abutters will be mailed as well.**

Mrs. Dixey stated they would need to bring the product they are choosing and the engineering. Steve F. said the board also wants to know when you are going to do it. Ann H. said they also have to get the survey. CEO Demers said with respect to the time frame for project completion, they need to leave enough of a window to complete it. Roger A. stated that they also need a landscaping plan. He said the board wants to know what is going behind the new wall. Ann H. added that anything disturbed by the excavator needed to be landscaped. Mrs. Dixey said there was a tree at the top, but that was not going to be disturbed.

Mrs. Dixey asked that if they wanted to cut some trees down by the water that were not doing well, who would they see? CEO Demers said they would get a permit from him.

Nothing more was discussed.  
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**Growth Permits**

**Map 7, Part of Lot 34C (Jones Road) – New Home – V. Johnson GP #14-2022**

Roger A. stated there was greater than 200 feet on the road, and the lot exceeds the minimum requirements for a legal lot in the ordinance.

**Map 11, Lot 10-3 (Grammar Ridge II - Newfield Road) – New Home – S. Provencher GP #15-2022**

Roger A. stated this was a lot from Grammar Ridge II that was approved by the board.

**Map 11, Lot 10-4 (Grammar Ridge II - Newfield Road) – New Home – S. Provencher GP #16-2022**

Roger A. stated this was a lot from Grammar Ridge II that was approved by the board.

Steve F. said the builder asked what would have to be done if a mobile home went in a lot in Grammar Ridge. CEO Demers stated they would have to put in sprinklers (it was a requirement of the subdivision) or come in for an amendment to the subdivision approval and perhaps put in a fire pond. CEO Demers stated that he didn't realize that when you turn into Pine Springs there is a dry hydrant, right at the beginning of the road. Roger A. noted that if they wanted to get permission to use this for fire protection, it would still require an amendment to the subdivision. CEO Demers agreed, and with a recommendation from the Fire Chief.

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**Other:**

Roger A. asked the board if they wanted to discuss Zoning, Accessory Dwelling Units or the Growth Ordinance? Members agreed they want to wait until Madge is present to discuss zoning changes, so this will be postponed to another meeting.

CEO Demers wanted to share with the board what he learned today regarding retaining walls at the water. He stated he was in the field with Jeff Kalinich (DEP) doing a site walk and retaining walls were the topic of conversation. He said there was an application in Acton for a new retaining wall on the water due to erosion.

He said Mr. Kalinich educated him on our ordinance, that it does allow for a new retaining wall on the water essentially if it's solving an erosion problem.

CEO Demers stated that what he was pointing to was the low retaining wall language that the town adopted last year, 'low retaining walls in the Shoreland District less than 24 inches in height for erosion control. Retaining walls that are not necessary for erosion control shall meet the structure setback requirement'. He said Mr. Kalinich is taking from that statement that retaining walls *that are necessary for erosion control* don't need to meet the dimensional setback. He said it then goes back to the 24 inch wall, except for walls that are 24 inches and 25 foot back. The wall that is 24 inches and 25 feet back does not have to address erosion control. CEO Demers stated that he read it several times and did not read it that way.

CEO Demers stated that the DEP has a mechanism to allow a new wall on the water if you are curing an erosion problem, and it is not a DEP Permit by Rule. He said the issue they are seeing more of is the wakeboard boats throwing up a huge wake and it undermines the shoreline. He said it is an individual DEP application and a different permit process.

CEO Demers stated he would look at some of these issues as they come in and review it to see if this would be a good application for the new wall or not. He said the DEP tries to steer them toward riprap if possible, but it only works if it is a 30 degree slope, but with a vertical slope it doesn't work. The board members thought this was great for those locations that are deteriorating, and to date, there has been nothing that could be done. CEO Demers stated that the wall is the last resort, the DEP wants to try to deploy other methods before the wall gets approved, which is why it is a different application process. Roland L. asked who determines what will be allowed, riprap or a wall? CEO Demers said in Acton it is CEO review, in this instance in Shapleigh, because of earth moving it would be Planning Board. He said before it even gets to the Planning Board, it needs to be determined which route they will take, because they will apply to the DEP first and get approved or denied for what they are applying for. Steve F. asked what else there was besides riprap and the wall? CEO Demers said that you could use complete revegetation. He said if you have a medium grade, the whole area could be taken back and revegetated. Roger A. stated his issue with that is that you slant it back and the erosion is not coming from the land, it is coming from the water. CEO Demers said they could slant it back to employ the riprap.

Ann H. stated she had the perfect example. She said she had 100 feet of waterfront, she has planted plants, a new tree, plus pushing rocks up against the edge that are already in the water. She said none of this worked, all the plants, which included bushes with thick roots, all the roots are exposed and all the plants are dead.

Roger A. spoke about going out with the DEP on a past application where there were huge trees, and half the property was undermined, and everyone thought if the wall continued it would eliminate the erosion issue. The DEP said no. All the board members again thought this was a good idea in those areas that nothing else is working and land is being lost.

CEO Demers stated that the wall would not be allowed if the erosion was coming from the land toward the lake, and/or if it was caused by the property owner.



Steve F. thought the new wall would not have to be surveyed. CEO Demers stated the board might want the survey to document the exact location, and the length of the wall. Steve thought the DEP would require that.

CEO Demers said they only require pictures. Barbara F. thought that the board also required pictures now. CEO Demers said if there was a survey in the file, 50 years from now someone would know for example, that it was 8 inches from the high water mark, and 50 feet in length, etc. It would be good for the record.

Maggie M. stated that the board needs to be more strict with plantings. She said they have had people come through that didn't want plants because they block their view, she felt the board should push bushes. Steve F. said if the problem is coming from the lake he didn't see this as an issue. Maggie noted some applicants have come before the board where the problem comes from the property and they do not want to plant behind the wall. She felt it was up to the board to ask for a replanting of vegetation.

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Roland L. commented that Barbara F. had done a good job to try to find information about insecticide and pesticide regulations. He said his concern was not limited to those. He said his concern was also fertilizer and hydro seeding. He said he was visiting his grandsons in Brookline NH and they were hydro seeding a property at the shoreline. Barbara asked if he had seen what is taking place in the lakes in NH, many are green and full of grass. Roger said he has seen the hydro seeding at the water's edge in Acton. Roland said he was seeing more of these things taking place this year than ever. Roger said there was something in the ordinance that cannot be enforced. CEO Demers said that he was speaking of the 100 foot buffer and no fertilizer. Roger said that someone would have to call while it is happening and have CEO Demers go out there. He didn't see this happening. CEO Demers asked what would he do, test it for phosphate? Roger did not know how it would be monitored.

Maggie M. asked about posting things like this on the website, highlighting an ordinance, noting you cannot fertilize within 100 feet of the water. She thought it was an idea. She thought there were people that may not know it is not allowed or what it can do to the lake quality.

Nothing more was discussed.

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**The Planning Board meeting ended at 8:15 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)