

Shapleigh Planning Board

Minutes

August 23, 2022

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

Steve Foglio (Vice Chairman) was unable to attend.

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.

The Planning Board meeting started at 7:05 p.m.

The minutes from Tuesday, August 9, 2022 were accepted as amended. Page 18 of 24, 3rd paragraph, first sentence should read as follows: Roland L. said that the stairs are currently in the wall, he asked if Mr. Gullikson intended to have them inside the wall or will there be a full ~~phase~~ **face** and come from the top of the wall down?

Unfinished Business:

Conditional Use Permit – Earth Moving in the SD to Replace Retaining Wall – Map 28, Lot 46 (33 Carpenters Cove Road) – Michael Gullikson, Applicant; Joyanne Lowe, Property Owner

Mr. Gullikson was present for the review of the application.

Provided on 11/23/2021, along with the application, were the following:

- Email from Joyanne Lowe dated October 18, 2021, stating ‘I, Joyanne Lowe, owner of the property at 33 Carpenters Cove, give authorization to Michael Gullikson to do work on my property. Any further inquiries can be referred to Michael at 207.XXX.XXXX’.
- Copy of the approval from the Planning Board to replace deteriorating retaining wall, dated October 26, 2007. The approval was to replace the existing wall with precast concrete blocks per the engineered plan received and it was to be completed by January 15, 2008.
- Provided was the Modular Block Details, drafted by Civil Consultants, dated 9/24/2007, which were the engineered wall plans for the original replacement wall approval.
- Copy of the MDEP Permit by Rule Notification Form, dated 10/15/2021, for 33 Carpenters Cove Road, which gave a project description as follows: Install 6 ounce erosion fabric behind retaining wall, replace rotting wood wall with stone.

- A copy of the revegetation plan for 33 Carpenters Cove Road, which was written as follows:
From the Maine Erosion and Sediment Control Practices Field Guide for Contractors:
 - The topsoil should be 4 inches deep and be distributed uniformly. Rototilling for a deeper rooting zone on poor quality subsoils (sloping wet sites or with sand and gravels) is recommended.
 - Lightly compact the topsoil to ensure a uniform and firm seedbed (excessive compaction will increase runoff, and prevent seed rooting).
 - The seed bed should be scarified or roughened after topsoil is added to provide a deeper rooting depth for vegetation, traps moisture for the re-establishment of vegetation, and retains water for infiltration. To prevent compaction, rutting or erosion, the surface should be prepared for topsoil and seeding during a dry period and when the soil is not saturated.

The project will be re-vegetated to these standards, utilizing whichever mixture of grass seed is most appropriate for the conditions. Also, any plant life that is impacted by this project will be corrected for under the advice and scrutiny of the Shapleigh CEO.

- Provided was a letter drafted by Mr. Gullikson which read in part as follows: *In looking around, it is easy to imagine the solution as being the manufactured concrete blocks, which are appearing, increasingly, around Mousam and other lakes. At first, we thought this would be the right answer for us, too, but, upon greater consideration, we feel it is not. There are few straight lines in nature; it bends. Natural design standards avoid straight lines. When there were a few manufactured concrete walls along the shore, they seemed like a clean, convenient solution. With each new installation, however, the lake takes on a manufactured appearance, it becomes less naturally beautiful. Taken to the extreme, an overabundance of concrete walls will make any lake look artificial, as though it is a project of man, not nature.*

A second consideration for us is longevity. My father-in-law once thought in terms of 'forever', the way people today likely consider their new concrete walls. If one looks at old concrete, that point of view is less convincing. The bases of many old bridges are yellowed and marred by scaling; it is inevitable, just a question of time. Many sources declare that the useful life of concrete is fifty to one hundred years, depending on use. Even standard 8 inch concrete blocks, having been in use for thirty or forty years are losing their cement to erosion, leaving a grainy aggregate, which will also erode in time. It is natural for people to be hopeful about longevity, but history does not support optimism when building with telephone poles, or concrete.

- Provided was a sketch plan depicting 33 Carpenters Cove Road. The sketch showed the size of the lot, depicted as 100' x 200'; the location of Carpenters Cove Road (ROW); the approximate location of the existing shed & house; and the location of the wall to be replaced. Two abutters were also noted, those being Sean & Karen White, and Dave Sousa & Kathy Otumbre.
- The detailed description of the project on the application read as follows: *Replacement of a dated telephone pole retaining wall along the shore with a structure of natural stone. Erosion fabric to be installed.*

Provided on August 9, 2022, was an engineered plan, entitled 'Wood Retaining Wall Replacement – 33 Carpenters Cove'. The plan described the stacked rock wall system and how it is to be constructed. The plan was drafted by Geoffrey R. Aleva, LPE #9670, of Civil Consultants, South Berwick, Maine, dated 8/4/2022. The plan notes the approximate existing grade; compacted clean gravel / sand – no organics; OSHA compliant excavation limit; rock to be solid angular sections, infill with rock of smaller size to fill voids;

compact base prior to installation, add compacted gravel if soils are clay or organics; slope rock along face; large stacked boulder wall; lake side; Length / 1.5 Height minimum; woven geotextile fabric under wall. The plan states loose laid walls are flexible structures and need routine maintenance. The plan also states that Civil Consultants shall visit the site during the work to review base and soil condition, and Civil Consultants shall visit the site during construction to verify all design assumptions.

Provided for this evening's meeting was a 'Sketch Showing the Location of an Existing Retaining Wall Located at 33 Carpenter Cove Road, Shapleigh, Maine on the Easterly Shore of Mousam Lake', drafted by Brad R. Lodge, PLS #2057, dated 8/10/2022. The sketch depicted the Abutter R.R. Tie Wall / Capped Iron Rod #2190; the foundation location of the existing Cottage; Concrete Slab; foundation corner; inside corner of cement; area of rocks; stairs to Dock; the Old Utility Pole Retaining Wall (dilapidated and leaning); the Top of Wall Elevation = 100.1'; Base of Wall Elevation in Water 90.5±; and distance dimensions from Cottage to existing wall. The sketch did note that the elevations shown hereon are an assumed datum. There was also a Wall Detail: not to scale. (Notes written as depicted on the sketch plan.)

Provided was a Material Removal Plan which read as follows: Gravel material removed from Lot 46 (hash marks on map), of Lot 1D (shaded), which is owned by Michael Gullikson. The estimated amount of material is 405 yards. A copy of the tax map depicted the driveway was also provided.

Roger A. asked Mr. Gullikson to let the board and audience know what he wanted to do. Mr. Gullikson stated since they met the last time, he was met with three requirements from the board. He said they were, what was the disposition of the telephones that are being removed; a plan for the placement of the gravel that is being moved; and the survey of the wall. He said he has provided all three items.

Members looked over what they had received. An abutter, Mr. John Sullivan, Map 28, Lot 49, stated he was at the last meeting, and he understood there was supposed to be an engineered plan provided. Roger A. stated the engineered plan for the wall had been done (he was referring to the plan, entitled 'Wood Retaining Wall Replacement – 33 Carpenters Cove', drafted by Geoffrey R. Aleva, LPE #9670, of Civil Consultants, South Berwick, Maine, dated 8/4/2022). Mr. Sullivan stated what Roger was referring to was not an engineered plan. He stated there were no calculations on it whatsoever. He stated you need to know what the footings will be, how far the footings will be below the frost wall, there is none of that information on the plan. He considered this just a drawing. Roger stated that this was drafted by Geoffrey Aleva of Civil Consultants, who is a professional engineer. He said he was the one who designed the wall. Mr. Sullivan asked how many rocks would be used? Roger said it depended on the size, and noted it did not say. He said the depth of the wall needs to be 1.5 times the height as a minimum. Mr. Sullivan asked if the width of the wall was 18 inches? He said that was on the black sheet of paper he got. Ann H. stated the approximate wall height is 9.0 feet. Mr. Sullivan stated he was talking about the width of the wall. Madge B. thought it was five feet? Mr. Sullivan showed the board the paper he was speaking about which was a sketch drafted by Mr. Gullikson which noted the wall as being 18" thick. Roger said that what he was looking at was not the engineered drawing. Mr. Sullivan stated that was the sketch that was in with the engineered plans which he received in the mail. He said this would be part of the plans, because you have to know the width of the wall. He said it was 18" wide and 9 feet tall, how would that stand? Roger said the area slopes, and because of the depth of the wall it will stand. Mr. Sullivan said that means it is thick at the bottom and narrow at the top, the plan is just showing 18 inches as a profile. Roger agreed, but said this was not the engineered plan. Mr. Sullivan asked why this was given to him; so it was part of the plans, you have to know the width of the wall.

Barbara F. and Roger stated what Mr. Sullivan received was what was presented to the board, and why the board asked for an engineered plan. Ann H. added that was why Mr. Gullikson had to come back before the board a couple of times. Mr. Sullivan asked what the 1.5 is? Roger said at 9 feet it is going to end up being 13.5 feet wide. Mr. Sullivan asked how thick it would be at the base and how narrow at the top. Ann, referring to the original plan, stated the leveling pad would be a minimum thickness of 12 inches, and a minimum of 5 feet thick. Mr. Sullivan asked how far into the ground it would go, noting the plans do not say. He said it would have to go below the frost line. He said it was not stated on the plans and in his opinion the plans are incomplete. He said he deals with engineers every day, he pays the bills for them, his company is in development. Ann reviewing the survey read, ‘base of wall elevation in water = 9.5’.

Mr. Sullivan stated that these are not engineered blocks that you can stack. Roger A. agreed. Ann H. also agreed and stated that was why the applicant has gone through all this. Mr. Sullivan stated the plan does not give a clear indication of what the width will be at the base, what it is going to be at the height. Ann stated that because of the rocks, she did not believe there would be an exact width, they are all different stones. Mr. Sullivan agreed, but they still have to be approximate. He asked how much the earth is going to be moved out in order to build this. He felt there were alternative materials that are less destructive to the environment. He said plenty of people are building walls on the lake. He said he went to a house that he had to pass up, because the retaining walls were in too bad a shape, and the guy that bought it, fixed half of it and turned the other side back to nature. He said there are all kinds of ways to do it, but it needs to be done correctly, and these plans are not precise enough. He believed this was an estimate and we are going to wing it. He said if he remembered right, he read ‘compacted sand’; we have all been at the beach, put your feet in the shoreline, let the waves come over, what’s the first thing it does? He said the water takes away the sand from underneath your feet and your feet start sinking. He stated, “We are going to put 100, 115, 120 tons of rocks, angled on a wall, on a grade that is constantly pushing towards the water, and just have it sink and fall. When those rocks fall into the water, how are they going to get back out of the water? Or are they just going to be left?” Ann said she thought from a Planning Board standpoint, we have the drawings, we are not engineers, so we can’t say if it will or will not work. Mr. Sullivan said, “But those are not complete plans. You asked for complete engineered plans. It’s got missing data.” He said just because there was a stamp on it, it doesn’t make it right. Roger agreed, stating “Which is why at the beginning they were going to use heavy duty concrete blocks”. He said this was the original approval years back, but it was never done, so now they have decided they want to build the wall with rock vs the engineered blocks. Mr. Sullivan stated that engineered plans have calculations, the plan does not have a calculation. He said there is no note to describe the exact footing. Roger stated that the DEP has accepted this plan.

Mr. Sullivan asked what the plan was for getting the material down the hill? Roger A. stated by trolley. Mr. Sullivan said it was his understanding there was a clear-cut path without a permit, cut without permission down to the water, and that said path has now been proven to be partially on someone else’s property. He asked if they were going to allow him to clear-cut even more trees? Roger said that was not up to the Planning Board. He said if it is on the other property, that falls on the CEO for enforcement. He said if it is on another property, and it has been cleared, then it will be a civil infraction, so those people will sue him to make it right.

Mr. Sean White, an abutter from Map 28, Lot 45, spoke up stating he was the person that owns part of the path that has been clear-cut. He said he has had the survey done, since the last time we talked about this. He

said he has survey plans, and he has the area staked out. He said his question for the CEO was, what can happen at this point, now that he can show that part of this path that was cleared is on his land? CEO Demers stated that he can stop someone from coming onto his property. Mr. White stated that he had sent Ms. Lowe as the property owner, and Mr. Gullikson, a note from his lawyers telling him not to trespass onto his property. He asked Mr. Gullikson if he had received it? CEO Demers ask that Mr. White address the Planning Board. Roger A. asked Mr. Gullikson if he had received the note? Mr. Gullikson stated, “I received a letter from Sean’s attorney saying that he was going to have a survey done on his property, after which he was going to sue me for the damages done, and his attorneys and court costs”. He said that yes, he received the message from Sean. Mr. White said his question was for the CEO. CEO Demers said that as a property owner he has the right of exclusion, he can exclude anybody or anything from coming across the property, and it is a civil matter. He said he was not a surveyor, and he cannot tell him where the property starts and ends. He said there are no structures on Mr. White’s property that belong to the neighbors, therefore, he has no jurisdiction over that. Ann H. stated that from a Planning Board standpoint, we don’t get involved in that either.

Mr. White stated that the point was that the plans don’t say which side material will be moved from, we are talking about a lot of material, there is an area 100 feet by 9 feet high, that is quite a quantity of material. He asked if this was expected to go up the side of the property that adjoins his property? He added that his property has already been trespassed and damaged. Roger A. stated he could not answer that, he asked Mr. Gullikson to answer it. Mr. Gullikson stated that the question was phrased incorrectly, but in a basic answer, yes, there is a right-of-way that has existed since the 1960’s, which is entirely on his mother-in-law’s property (Mrs. Lowe), which Mr. White’s survey reveals. He said that is the pathway that has existed since 1967, which will be used to complete this project.

Mr. White showed the board the path that is in question, noting that it is mostly on Mrs. Lowe’s property but there are several feet for the length of it that are on his property. He said the area has been cleared down the hill entirely. He believed most of it is not on his property but a few feet of it is. Ann H. stated that he just needs to stay on that side of the property line. Mr. White agreed, it was why he was asking, ‘is this the path he is going to be using and what assurances does he have that there won’t be any further damage on my side of the property?’ Ann did not believe the board could give him that assurance. Roger stated that it was not something the board would dictate.

Mr. Sullivan asked what happened to the old plans, and why were they not being used? Roger A. stated those plans were from quite some time ago and there is a time limit on all conditional use permits, so the old permit ran out of time. He said they decided to come back and continue with a different kind of wall, and that is why they started collecting all the rocks. Mr. Sullivan asked if the other wall would have been less invasive to the environment? Roger said that he could not answer that. He said the other wall would have been a precast wall. Mr. Sullivan asked who was building the wall? Roger stated that Mr. Gullikson was. Mr. Sullivan asked if he was certified to work in the shore frontage, noting that his contractor had to get certified. Roger said that the answer from the DEP is as long as there is no money changing hands between the landowner and the contractor building the wall, they do not need certification. Mr. Sullivan found that interesting. Roger added that the board can trump them and say that we want them to be certified to build the wall. He stated that Mr. Gullikson had taken the course, he had to do the best management practice showing erosion won’t go into the lake in order for him to be certified. He said the board requested that he do that.

Mr. Sullivan asked if there was a timeline for when the wall would be completed? Roger A. stated there would be if the board approves it. He said there is a start date and there is an end date. Mr. Sullivan asked what happened if it was not completed in the time frame. Roger said that would be an enforcement issue. He said either they get it done or they have to come back to the board to get the date extended. Mr. Sullivan stated he had a lot of concerns regarding the damage that will be done.

Mr. White said he had another question. He said the one page that had a PE stamp on it, it says loose laid walls are flexible structures and need routine maintenance. He asked what that meant? Roger believed it meant that at times the boulders will move, so they will have to be reset. Mr. White stated that he just had his seawall replaced because of the erosion problems, because whoever is in charge of the dam is leaving the lake too high, so there is ice up the sea walls when the lake freezes. He said there is wave action from the boat traffic all summer long. He said there was nothing in the plan that comments on erosion and how it is going to be a large problem; there are fairly large stones making up this wall and then sand and gravel poured in between the spaces. Mr. Sullivan stated there was a lot of opportunity for water to get in behind and undermine the wall. He said if you put in a block wall, there is a lot less of a chance of the water getting behind and just flushing. Mr. White said there was no comments about drainage or rain runoff or water freezing in the wall. Roger said the way the stones are packed into the wall, that is where the drainage will be, there can't be a solid wall, not with all the boulders that are going in. He said when you speak of the depth being 14 feet deep, by the length of the wall, by 9 feet in height, there are a lot of boulders. Mr. Sullivan said again, with respect to detailed engineering plans, has there been anything taken into account about the structure that is sitting there and the weight of that structure on the ground? He said he understood the house was 25 feet from the water's edge. He said he will be digging in 14 feet, you are getting very close to the house, and it is a lot of weight that can undermine. Ann H. stated that the board spoke about this at the last meeting. Mr. Sullivan asked why there couldn't be a wall designed to be terraced? He said 4 ½ feet, step back, 4 ½ feet. He felt it saved the structure and better protects the lake. He said he has been here for 24 summers and one thing he loves is how people have gone to great lengths to protect this lake. He said kids are checking for milfoil, the Acton group came to his house and did a survey of runoff on his property. He said when he had his house built, he was told to put in 48 blueberry bushes, and he put in more. He said the Planning Board had him move his house 1.5 feet to the right, he didn't have the money, but he did everything he was supposed to, because he wants to protect the lake. He felt from what he has seen, there has been a total disregard for the environment. He said there was a permit years ago, but the property was clear-cut without a permit and without permission, because it is better to ask for forgiveness later. He said there was an erector set going up in front of this property, with no real data. He said he was surprised, because they surveyed his property 3 times over the last 24 years, the individual may have retired, but he was very detail oriented. He said he was shocked at the plan he received for this project. Roger A. stated that Civil Consultants are going to continue to monitor the project as it is being done. He said the board does not know how often they will come, but they will monitor it.

Mr. White asked if Mrs. Lowe's property had been surveyed? He said it was his understanding that the new wall was to be 100 feet wide, and she has 100 feet of lake frontage. He said that presumably she will be up against his property on one side, and right up against another neighbor on the other side. He asked again if there had been a survey. Roger A. stated there had, it was done by Middle Branch (Brad R. Lodge PLS #2057). Mr. White asked if anyone was aware of a wall on Mousam Lake similar in construction. The board did not know of one. Mr. White said, then this was the first wall of its type. Ann H. stated that the board

can't tell someone what material per se. She said the board can't make him use precast blocks, if he wants to use boulders, that is his right, because he owns the property. Mr. White noted that Mrs. Lowe owned the property. Roger agreed and said the board is aware of that.

Mr. Sullivan asked, out of curiosity, is there any insurance policy being held as a contractor to build this structure? Roger A. said the board hasn't done anything with that. Mr. Sullivan said there are many reasons to have one. He gave an example that if his boat went under water, the DEP would fine him. He thought it would be advantageous to see if there is any insurance policy, in case there is damage done to Mr. White's property or if there is environmental impact, that they are liable for, that there would be funds to clean it up. Ann H. thought that was more of a civil matter. Mr. Sullivan said he was just asking, and noted, 'what if someone got hurt'. He said again, that when he showed the plan to the head construction person where he worked, he said that he didn't know what this was, but it was not an engineered plan. He said to build something this large, with so much unknown, is frightening. He said that it could make more of a mess. Roger agreed.

Roger A. asked if there were any additional questions or comments?

Mr. White stated he had a question for the CEO. He said in October he notified CEO Demers that Mr. Gullikson was doing unpermitted work, and CEO Demers went over and told him to cease work. He asked what state the seawall and the property on Mrs. Lowes property was at that time? CEO Demers said he could not remember. He said there was some work done, and he asked Mr. White where this was going? Mr. White said he took a few pictures and asked if the board wanted to see them. He showed CEO Demers a picture of the property line, showing both properties and pointed out an area covered in black fabric. He said he noticed when he was inspecting the survey line, there is nothing there where the fabric is, and a lot of the sand has been removed. He asked if this was the state it was in after the stop work order? CEO Demers said that Mr. Gullikson had to stabilize the area, which is what the silt screen is. He said that this is the way it has to stay until he gets approval from the Planning Board. Mr. White thanked CEO Demers.

Mr. White asked CEO Demers if the property was safe for occupancy with the wall being removed in front of the house? CEO Demers believed the house was fine. He thought that area of the property should be avoided but the house is fine. Mr. White asked what this meant? CEO Demers stated that the area that is disturbed, I wouldn't play near it, but the house is fine to occupy.

Mr. Sullivan stated that when he put a basement under his house 6 or 7 years ago (Best Practical Location), the Code Officer at the time told him to tear down the house. He said when he dug the basement, in that area, the biggest rock they found was small. He said it was all sand. He said the whole area was liquid, if you don't have ground cover, root structure at all, two years down the road it will be in the lake. He said he had to have tons of crushed rock put into his yard after he put in his septic system, because it was quicksand. He said if you start undermining that, that which is already existing and disturb it, it is going to go right into the lake. Roger A. said it's the land that is there. Mr. Sullivan said it was unstable at best, and if you start digging out more of it, it will get more unstable. Roger said that he brought that up at the last meeting, thinking an OSHA dig box would need to be there, in order to continue to work on that wall. He said the board can't dictate that. Madge B. agreed, saying that the board had no authority to ask for that.

Mr. Gullikson said that to address that concern, the plan calls for a geotextile woven fabric to be laid down beneath the wall, and also behind the wall. He said the function of the fabric is to allow water through only, no sand, so there will be no washing out of sand. Mr. Sullivan said that everything biodegrades. Mr. Gullikson said, “So do concrete blocks”.

Roger A. said the board has a plan, and an engineer who is going to be looking at the project as it goes along. He said it is written on the plan that it should be an OSHA compliant excavation limit. Mr. Sullivan asked if it was the CEO’s responsibility to enforce that? He asked who would check up on it and enforce it? Roger said that Civil Consultants is supposed to check up on it. Mr. Sullivan asked if they see something that is non-OSHA compliant, do we contact the CEO? Roger said they can contact the CEO and/or OSHA. Roger noted that the DEP signed off on the wall.

Mr. White said there was a number of trees between the house and the seawall, that he did not see mentioned on the plan provided. He asked if they were staying or being removed? Roger A. said that on the plan they had, there wasn’t any being removed. Mr. Gullikson said they will have to be removed, because they actually sit at the edge of the wall, there is no way they can survive. He said if the existing wall deteriorates, they will fall over, or in the process of doing the job, they will have to be removed. He said there are trees that set right at the edge of the wall. Madge B. said that they need to be on the plan. Mr. Gullikson said that in the application he said he would replant according to the standard laid out, and it would be done to the satisfaction of the CEO, presuming that was sufficient. Mr. White showed a photo of both properties, which showed the trees he was speaking about. Madge said again that the board wants that information on the plan. Mr. Sullivan asked if the need to remove trees was not mentioned to the DEP, would the DEP still have signed off on those plans? He said the DEP is very big at not removing trees. Roger said the board was as well. Mr. Sullivan noted this is the first the board is hearing about the trees being removed. Madge agreed, and said that the board normally requires a replanting plan for the trees. Mr. White asked if the Planning Board had been to the property, noting they came to his home when he was doing his wall last year. Roland L. said he visited the site recently. Other members had not been to the site recently.

Mr. White asked what equipment would be used to execute the project? Mr. Gullikson said it had not been specifically determined yet. He said that he indicated tracks will be laid down and a cart will be used on those tracks, so it won’t contribute to erosion. He said there would be shovels, excavators, and he noted that he owned a backhoe, and will use a dump trailer to move material. Mr. White asked if the backhoe would come down the hill and do the work at the shoreline? Roger A. said no, the cart and track system will be utilized, the backhoe will be used at the top to load the trailer. Mr. White stated that when the unpermitted work was done in October, that he called the CEO about, Mr. Gullikson went down the hill with heavy equipment. He asked again if the backhoe was going down the hill to work at the shoreline? Mr. Sullivan asked how he was going to move a thousand-pound boulder? Mr. Gullikson said the backhoe was not going down the hill. Mr. Sullivan noted that the boulders have to be moved 100 feet across the property and they are thousands of pounds. He said that you would need equipment to move them. Mr. White asked how they were going to be moved? Mr. Gullikson said, “With an excavator”. Mr. Sullivan said that there would be heavy equipment. He said we have gone from just a trolley going down the hill, moving debris, to using an excavator and cutting down some trees. He said there isn’t a clear picture of what is going to happen. He believed that when you take on projects like this, there is a clear plan. He added that when Mr. Gullikson starts cutting down trees, everyone is going to start cutting down trees.

Roger A. asked Mr. Gullikson if he could answer some of the questions that have been asked, could he give a better explanation on how the wall is going to be removed and rebuilt? Mr. Gullikson stated, “Ok, it would be done according to the engineered plans that were requested and provided. Um, specifically an excavator will go down to the bottom of the hill, as has already been done; to move the material, to move the heavy boulders, and to remove the wall that currently exists. The telephone pole wall, that currently exists. The actual process will be to do it in narrow, narrow segments, so as not to increase the likelihood of there being any sort of collapse of the wall. It would be an awful idea to dig it all out, I think; although to that point I will say that what we all recognize as being the wall and what we call land that is being held back by the telephone poles, my father-in-law built the telephone pole walls and then dug out earth from the hill and artificially placed it behind the telephone poles, making a flat surface. Instead of the land being as it is on either side, which is straight down to the water. So there is all around the lake, and certainly where we are located, a natural incline anyway, which for the most part isn’t going to be messed with. Most, a lot of what’s there isn’t natural. A lot of material that is there is unnatural, being removed for the sake of this job, it was not there originally. Um, but in terms of doing this job, which I like to think we are in agreement needs to be done for the health of the lake and everybody’s better enjoyment of the lake, certainly ours. We don’t like having that there, again I don’t think anybody that goes into that cove enjoys seeing it, it is hideous. Um, and to that end I am trying to accomplish this wall. Um, I happen not to be in favor of the concrete blocks, as I have stated to you all before....it’s a challenge, it’s not an easy thing, it is a challenging thing, but it is not overly complicated either. It’s not. You know it doesn’t take a lot of imagination that something will be removed and then will be replaced by the rocks, and the rocks will be placed according, and this isn’t required by the engineer but I’ve done research, and the Federal Transportation Commission / Agency whatever, put out a lengthy document on what they call rockeries, which is the building of naturally stacked stone walls. And I probably should have a copy of that available or an address for that, but if it is done to their parameters, they require a certain what is called batter, which is how far it goes back, or 16%, which it has to go back one unit horizontally for every 6 units vertically. They require placement of the rocks to be made in such a way that the longest side of the rock goes into the hill, as opposed to along the face, which as a contractor you would want to do that, because you get more face coverage, and you would use less material. I won’t do that, I’m going to follow the standards set forth by the, I can’t remember what it is, but it is not hard to find, but anyway, placing the rocks so the long side goes into the hill. Also, every rock has to touch at least 2 rocks beneath it. The rocks, even the batter of the wall that I just described to you, has to be 16%. But in addition to that, each rock has to be tilted back at a 5 degree incline into the hill as well. So that there is no tendency for the rocks to come tumbling out. Um. That’s just off the top of my head, there is a whole long list of the standards that they recommend. There’s an implication of carelessness being made tonight, and it is completely unfounded....first of all, I don’t want the wall to be as it is now, so it needs to be corrected. But I am the person in this room who least wants for there to be any kind of problem in any direction. I have thought a lot about this, and I have done research on this. I’ve complied with what’s been asked, I hope that is sufficient. Um, I’ve been open and honest, not trying to be devious and sneaky at all. I don’t have ulterior motives. It should be clear what I am trying to accomplish.” He said if there are any questions, he will answer them.

Mr. White said that aside from reading the document that Mr. Gullikson mentioned, the DEP certification, does he have any other qualifications? He asked if he was a professional contractor, a mason, and is he licensed and insured? Ann H. said that he didn’t have to be. Mr. White understood that, he was just asking the question, does he have any qualifications? Roger A. stated that the board didn’t know, they didn’t ask him that.

Mr. Sullivan asked if it should have been presented to the DEP that trees were going to be taken down? Ann H. asked Mr. Gullikson if the DEP had photos with the permit? Mr. Gullikson stated that they did. Mr. Sullivan asked if they would have to know what is being disturbed, and cutting down a tree is being disturbed. Ann stated that the DEP permit requires details. Mr. Sullivan stated that the board didn't realize the trees were being taken down, so it's a safe assumption that the DEP is unaware as well. CEO Demers stated that with any permitted project, trees are exempt from the normal removal process. He said there may be some replanting required by the Planning Board, however, a tree planting shouldn't be within 10 feet of a foundation, and it shouldn't be right on the wall either. He said in this scenario we are limited for space. He said this was something for the Planning Board to recommend or require, the number of trees to be removed and the number of trees to be replaced. Mr. Sullivan stated that they would have to know they were being removed, before they could make a judgement on that. CEO Demers stated that because the wall is coming down, it is implied. Mr. Sullivan stated, if it is allowed, noting he was denied the ability to take a tree down. Ann stated that they have to come down in this situation, because the trees are right up against the wall. Mr. Sullivan stated, "But right up until this point in time, you didn't know he was taking down trees, now you do." He said his point was that this was changing as we are speaking, there is no real legitimate plan. He said he would personally want to know what was going on, being a landowner. He said when he went through the process, everything was to a T, what he could and couldn't do; what he could touch, what he couldn't touch. He said he was told not to touch something, Mr. Gullikson could be told he has to take the wall down and turn it back to nature. He said, "I am very concerned that we are here, and new information is coming to light, that would possibly alter your decision making, which would have been done after you made a decision without your knowledge prior to it, being part of the plan".

Mr. White asked if the board had a copy of the DEP application, as he and Mr. Sullivan would be interested in looking it up. Roger A. said the board did have a copy of the Permit by Rule application. He added that it was granted in 2021. Roger found the copy and stated it was filed on 10/15/2021. Mr. White asked if he could get a copy mailed to him. Barbara F. asked if he wanted a copy of anything else? Mr. White asked if he could have a copy of everything associated with the project. Barbara stated she would do so. Mr. White asked if the board had the attachments to the Permit by Rule, and the answer was, they did not. Mr. White asked if there was a plan to revegetate the hillside after the wall is complete? Roger A. stated the revegetation will only be at the top of the wall where it has been disturbed. Mr. White said he was speaking about the path down the hillside that has been cleared. He said that is where the damage has been done to his property. Roger said that all disturbed land affected to do the wall needs to be revegetated. Madge B. agreed. Roger said he didn't know if Mr. Gullikson would trespass onto his property. Barbara F. asked if the condition would be all disturbed land would be revegetated. The answer was yes.

Mr. Sullivan stated that when he went through this process, in order to do his project, his contractor had to hand the board a specific plan on how many plants, what type of plants were going to be planted, and where they were going to be planted. He said there is nothing here like that. Roger read from the written revegetation plan presented, which read in part as follows: From the Maine Erosion and Sediment Control Practices Field Guide for Contractors. The project will be re-vegetated to these standards, utilizing whichever mixture of grass seed is most appropriate for the conditions. Also, any plant life that is impacted by this project will be corrected for under the advice and scrutiny of the Shapleigh CEO. Mr. Sullivan said, "Then at a later date we will figure that out". Mr. White asked if this was considered a sufficient plan? Mr. Sullivan said again that when he went through the process, he had to present exactly what he was going to do. Madge B. said she agreed with Mr. Sullivan. Mr. Sullivan added that it was either accepted, rejected or

revised, and that is not what the board has here. He said that after going through this process, he would expect the same here. He added that he went above and beyond with his planting. He said the board does not have a detailed plan, and we are finding new information as we go along. He said he would like to know how many trees were being removed. Roger said he could not answer that. CEO Demers said the exact number of trees would be the point system that is outlined in the ordinance. He said they will count points after the project is done and plant accordingly. Mr. Sullivan said, “So basically you can clear-cut and start fresh.” CEO Demers said that was not what he is proposing. Mr. Sullivan said that we do not know what he is proposing, he hasn’t said what trees he is cutting down, so we don’t know. Roger agreed. Mr. Sullivan stated that the board is not presented with anything, so the number of trees is not known. He said if the board was presented with it, they would know whether or not the trees had to come down. He said if they knew what plants, they could say whether or not it could be used. He said his concern is that things are going to happen and then it will be asking for forgiveness later, because there is no clear-cut plan. He said it should be, ‘here are the rules, follow them, and if you don’t we shut you down’. Roger said that there is a problem with setting any new trees, due to the fact that the wall is going to be approximately 10 feet from the camp when the wall is completed. Mr. Sullivan didn’t think there were any trees between the house and the wall, when standing at the lake. Roland L. stated that was not true. Mr. White said there were several trees between the house and the wall. Mr. Sullivan asked if the board knew what other trees would come down besides those? Ann H. stated that the ordinance states, which the CEO monitors, it says you are supposed to save trees and not damage them. She said that everyone knows that each property is different, and when it comes to retaining walls, sometimes the trees can be saved and sometimes they cannot. She said if they cannot be saved, it is up to the CEO to tell them they have to replant and where. She said from the Planning Boards standpoint, we don’t do that. She said there were several things going on, there is Planning Board, CEO, DEP and OSHA. (Note: The Planning Board can require a revegetation plan under §105-4.D(5) & (7).) Mr. Sullivan asked what happens if trees have to be removed in order to get his excavation equipment down the hill? Ann stated, “Then they have to be removed.” Roger added that they would be replanted. Mr. Sullivan was trying to figure out what is being omitted and making sure everything is above board. Ann didn’t think anything was being omitted, she said some things the board can make a decision on but noted the board are not engineers. Barbara F. stated that Mr. Sullivan is correct in that in the past the board has asked for a plan showing what vegetation is being removed and what will be replaced on the property. Madge agreed that Mr. Sullivan is correct.

Roland L. stated that he would like the board to consider tabling this issue, that the board does a site visit, because a lot of the questions that have been raised and the concerns, you will see firsthand at the site visit. Madge B. stated that she agreed and seconded the motion. Roger asked for a vote. He said it was unanimous amongst regular members.

CEO Demers asked a request from the neighbors, that prior to the site walk that they flag their property, so as to benefit the Planning Board as to where the property line is located, since they had it surveyed. Mr. White stated that his property is staked at this time. CEO Demers thanked him. Mr. White added, “At least along the side that is in dispute”.

Mr. White asked if there was a particular time the board would like to do a site visit? He said if he knew ahead of time, he could be there in person in case they have any questions.

Roger A. stated 9/13 at 6:30 pm, prior to the next meeting. He added that it is a Tuesday night. Mr. Gullikson said he was leaving and would not be around. He said he would be out of town until late September. Ann H. asked if he was ok with them going to the site? Madge B. said if he was not, the board could delay it until he can be there. Ann said that would be October. Roger said that in October they start going to individual site visits. Barbara F. thought they could do a Saturday; this is an important visit. Madge agreed the board should go together on this one. Ann said it was up to Mr. Gullikson.

Mr. Gullikson said he would like to make a comment. He said, “I have been married for 30 years now and I have been at the property all of that time. Never had a problem until last year. Last year these two people, since last year they have called the dog catcher on me twice; DEP, EPA, CEO, the forest service, and the Sheriff twice. They popped out of nowhere during a meeting we had on line over the winter, which is their right, and they are here now. But what’s troubling to me is they have used each of these government entities as a weapon against me. Without any effect, except they are really annoying. In this case, as I see it, they have interest, of course, I have interest. And as I said before, my interest I think is pretty high, I have a lot at stake here. Also, your function as a board, you have interest as well. You’ve asked these questions, we had these discussions, and I have complied and done what you wanted. That plan that came from Aleva, I started it in January. Can you get this done, can you get this done, can you get this done, can you get this done...it just got done. The accessibility is awful. Now what you are proposing to do is to go out and do what you were already to have done, is to take a site visit. I guess what I am speaking of is a fairness to me. I am going to be out of town until just about October, when I wanted to come and do this job. And I hope you all appreciate that it’s not a job that you just do with a shovel. I mean there is a lot of work that goes into, beyond this, meaning the job itself. So now if, I was under the impression that if I did as you asked, you would evaluate the information and make a determination, which I would argue on, that I am entitled to, tonight. And I will say flatly, not that they don’t have concerns for the lake, but they are ludicrous, in my opinion, because, and I say this having the Sheriff called on me, the forest department, the DEP, the EPA, and now you guys. There’s an absurdity to this, which I have endured, I don’t really care, except when it’s going to...it’s really going to throw a pickle into my world, which would only please them. They will be very happy about this. The site visits were supposed to have been done, I opened it up and said please go see it. The trees that they are talking about being added on. They are not, because they are implicit, because these trees are growing on the wall, out of the wall. It is implied, I didn’t think it was necessary, nor do I think there is a lengthy discussion that needs to be made about them, because anybody that goes to the site will say, ‘yes, as soon as those telephone poles go, the trees will be floating in air’. Which is not even possible. You may just determine now whether or not I may remove the wall, but if I remove the wall the trees come down too, or they float in space somehow.” Ann H. stated, “Not trying to be negative on the boards side, or with my peers, but the last time he came in, it kinda was supposed to be the last time he was supposed to be here. We were supposed to get what we asked for and that’s all we asked for, and he brought it in, to go forward. So I understand where he is coming from. I understand where everybody is coming from. But just from a time constraint, on what we as a board agreed at the last meeting, that’s kind of the impression I had too.” Madge B. stated, “But we omitted an important thing that we always require, which is a replanting plan.” She said the board was at fault, but on the other hand, how do we approve something knowing we didn’t get what we wanted, what we are required to ask for. Mr. Gullikson stated that he was perfectly willing to, as stated, to plant whatever the board requires. He said with respect to the replanting, noting he was as sensitive to the health of the lake as anyone, right now its dirt / gravel. He said it’s only the replanting of the trees that are stuck on the end of the telephone pole wall, which becomes problematic once the wall is in and there is only a 10-foot buffer between the top of the wall and the cottage. He said he was willing to do

what he needed to do to get his project done. He didn't think it was sensible to plant the trees in the buffer, and he didn't really want them there, because roots get into things. He added that he loved the trees and didn't want them gone, but they have to go when the wall goes. He didn't think it was something the board would have to go see, because the trees have to come down with the wall.

Roger A. stated that when the board approves a permit, they have on the plan where the existing trees are located that are coming down, and where they are going to be replanted, prior to giving the process to the CEO. He said, this gives the CEO the information as to what he needs to look at. He said with respect to revegetation, normally the board receives a plan that states the applicant will restore the disturbed area with bark mulch or juniper bushes or whatever it will be. He said there is also a count for the number of plants, depending on how wide or long the area is. He said typically the board receives a plan specifically stating that, instead of a statement that says you need to stabilize as best you can. He said that did not meet the criteria for what the board looks at. He said it may be ok for the CEO but not for the board. He said the board usually approves what the CEO will be looking for.

CEO Demers said that what he believes Mr. Gullikson is looking for, is that he feels the board has enough information to act on this application; approve it, deny it, or approve it with conditions. Mr. Gullikson agreed.

Madge B. said that the board could condition that before he gets a permit from the CEO, that he submit a plan to the CEO, she noted the board has done this in the past. She said she understood that he gave the board a revegetation plan, but it is not specific. Ann H. agreed the board should have asked for a better one. Madge said the board likes a plot plan, and she agreed it was the boards error not asking for one.

Mr. White stated, "If there is some contention here, it is because Mr. Gullikson drove heavy equipment across my property. I've been at that property since 1997, never had a problem with anybody, but if someone is going to drive an excavator across my property, I have a problem with that. I haven't heard anything yet that says how my property gets restored. I haven't heard anything in this plan that makes me feel good that it is not going to get further damaged from this work. That's why I am here asking a lot of questions, because when I complained to the CEO, he said 'that's a civil matter'. It's criminal trespass, you have to get a lawyer, you have to get a survey. I've spent thousands of dollars." He said that he called the forest ranger when the CEO said there was nothing he could do, so I asked the forest ranger what he could do. He stated, "When the CEO told Mr. Gullikson to stop on October 15th and on October 17th he resumed work, then I called the CEO again and I called the Sheriff." He said that as far as animal control, a dog charged me on Father's Day when I was sitting on my deck, I didn't know it was Mr. Gullikson's dog. He said he called animal control saying there was a loose dog in the neighborhood. He said that all the contention has to do with his property being damaged. Mr. Sullivan stated with the same dog, he had to call animal control, because it attacked his dogs three times, was off leash, and one of the times it was on his front steps.

Mr. Sullivan said his concern was that he went through a process, he had to give specific plans and specific details, and he had to follow them. Ann H. said, "He's going to do the same thing." She added that the board did not have the information in front of them now, and said they should have asked for it when they first got the application months ago. She said the board was trying to get more consistent as a board to make sure everyone did it. Mr. Sullivan ask if as abutters they would get a copy of it. Barbara F. stated that the board won't get a copy of the revegetation plan, it goes to the CEO, so they will have to ask him for a copy. Mr.

Gullikson gave the board a copy of a sketch plan with the location of the five trees on the wall that will be removed. He said he would put back whatever the board wanted him to do. Ann said it would be up to the CEO what needed to go back in. Mr. Gullikson said he had no objection to that. Roland L. asked if the sketch included the two large red pines? Mr. Gullikson said he didn't intend to remove those, he didn't want them gone. He said he was going to try hard not to disturb anything, the trees he was speaking of were on the wall. Roland asked if he was speaking of the white birch and white pine that is growing into the wall? Mr. Gullikson said, "Yes".

Roger A. said there was a motion made, seconded and voted on and Mr. Gullikson said he wanted to know when the board would actually see it. He believed the board wanted to take a second look at it, and that would be on 9/13 at 6:30 pm. He said at that time the application would be brought back up to the board. Roger realized Mr. Gullikson would not be there.

Mr. Gullikson stated, "There is planning that has to go into this job, which I am preparing for now. It's based on what this body requires of me. I came with the expectation of there being a vote. I was told if I provide this information, there would be a vote. Based on that I'm lining up what I need in order to perform the job, presuming, hopefully getting a successful vote. Now if this gets put off to some later date, maybe that would be the final date, but then at that point I have to start accumulating what I need. And I might need a months lead time or more depending on the circumstances to get what I need to do the job. So you might be forcing me into late October, before I can begin the job, on the basis of assertions about changing plans and trees not being mentioned. It's a hard thing for me to accept. I'll repeat, I think I deserve, having satisfied what was required of me; I think I deserve what I was told I would get, which is a vote. And if you guys vote you don't want the thing done, I am getting close to the point of not wanting to do it. This is a tremendous nuisance to me; I hope you can see that. This is not at all fun. I am not going to bicker with them, it is senseless. But I have an engineered plan, I had a survey done placing the wall on the earth, I've given you everything you asked for. Going forward I intend to tell you, I told you I will be subject to what you want for replanting, that has not changed. So, on September 13th if you go and you say 'I'm going to want hydrangea bushes' or whatever, fine, I'll put them in. Please give me my vote tonight, and put as a condition that I will plant whatever you want me to plant."

Roland L. said, "For me Mike I tried to make that point when I wanted to abstain at the last meeting, if you recall, I wanted to abstain from voting, because I just didn't feel comfortable with it. And after visiting today, I have safety concerns. I really, really do. I don't know what your trans system is, but what I saw today was a 4 wheeled cart, if you will, with a massive cable tied to it. I don't know if that is what you are going to be lowering down the hill to drop the blocks off or bring them back." Mr. Gullikson stated he had a photo, anticipating this, a photo of the tracks in place. He said, yes, the cart is what he would be using, and he showed the tracks he will be using, noting he pulled them up for the winter. Roland looked at the picture and verified what he was looking at. He said it was the cart, with a cable attached to it, and he said he presumed it was attached to a piece of equipment. Mr. Gullikson agreed. Roland asked if something failed, what kept the cart from ending up in the water, or as the point was made, possibly veering off course and hitting one of the neighbor's structures or people? Mr. Gullikson said, "That would be undesirable in any case, and to answer your questions, that cable is massive as you said, its 20,000 pounds. And it's secured to the trailer. Um, so you can generate a hypothetical for a lot of scenarios, you know, but the cable is sufficient to hold the weight and it is attached to a backhoe, which his sufficient to hold the weight. And the trailer is sufficient to hold the weight." Roland said that the distance down is huge, as he continued to look at a photo.

He pointed out the trees to Ann in the photos. Roland still was not sure that the 2 trees Mr. Gullikson said would not be removed will survive the project. Roland said that his concern, and he checked with the Chairman, is we are not supposed to be in the worrying business. He said he still worried about what will happen if something fails. Mr. Gullikson stated that he cared about that as much as Roland, and said that that question will never be satisfied. He said that you would never go to the site and say, ‘nothing can go wrong’. He said if that is the criteria, then everyone is wasting their time. He said again that he put in a 20,000-pound cable, he has heavy equipment that can manage the weight, the trailer can manage the weight, and he has a plan and system. He said he had engineered plans and he has answered the board’s questions. He said there was no way the board will look at the sight and feel comfortable that here is no risk involved.

Roger A. asked Mr. Gullikson when he was leaving? Mr. Gullikson stated he was leaving this weekend. Roger did not believe the board could get out there before he left. CEO Demers stated that Mr. Gullikson did not request that his application be tabled. Roger said that to table an application did not have to come from the applicant, if the board needs more information or needs further review, it’s the board prerogative to table if warranted. CEO Demers said they could deny if they don’t have enough information, he thought this was what Mr. Gullikson was asking, to either approve or deny it. Mr. Gullikson said, “Ya, ya I am. Um, cause if you...I mean no disrespect from what I am about to say, but we’ve been going a long, long, long, long time. And to now, tonight, say we have to now go back and look at it, I believe I should be afforded the consideration of you having looked as much as you needed to look, ask the questions that you needed to ask, and then give me the answer that I came here tonight, that I was told I would get. So disapprove it or approve it, but I mean there is a limit.” Roger said he was the one at the last meeting that said Geoffrey (the engineer), has asked for OSHA compliant excavation limits, and I wasn’t feeling comfortable with the site, because of the height and depth of the wall. He said he felt like a dig box would be needed or required to be able to do the project. He said it was only his opinion and due to safety. Mr. Gullikson said he did recall that. Roger said the other issue he had was stopping the stones from being a runaway down the hill into the lake. He said that was his viewpoint, not the board. He said the board’s job is to ensure that it’s not a health issue and will benefit the community, and also to consider the safety of the community. He thought this was why Roland wanted to table it this evening, to ensure the board was comfortable with the project, to gather more information. He said the board has it written that Civil Consultants is going to continue to monitor the project to ensure it is being done according to Mr. Aleva’s plan. He said the board realizes the DEP Permit is a Permit by Rule, which they didn’t respond to, which means it’s a go from their standpoint. Mr. Gullikson stated, “In fairness to me, we are calling this a steep hill, calling this a challenging environment. What definition do you have? None of you are engineers I presume....but by what parameters are you making this determination? Um, if somebody’s hill is 3 degrees less steep, then that is ok. I guess this is starting down the wrong conversation path.” He said again that he was making the argument that he was entitled to a response from the board, having done everything he was asked to do by the best of his ability, on timelines set by the board, and promised an answer. He said with all due respect, if the board didn’t have time to look at the project, he was sensitive to that, but he didn’t feel it meant that his life should be messed up by adding another 3 or 4 weeks onto this, so the board may become comfortable. He said it was likely the board would not become comfortable with it, and admitted he wasn’t entirely comfortable with it, and had concerns with things not going right, he said that he thought about that even more. He didn’t think anyone doing this job would feel comfortable with it. He again said he believed he was entitled to a response and did not want to wait until September, he had to rent equipment and didn’t want to sit on his hands, because he would not be guaranteed the equipment would be available. He said if he had to wait until November, he would not be able

to do the project. He said the possible delay is due to an uncertainty, which may never be solved. He concluded that he was not going to beg to do the job.

Roger. A. did not think he should feel that way. Roger said that there was a board member that went to the job site and was very concerned with what he saw, and the issue was brought up. Roger said the board also did not give adequate directions with respect to the landscaping plan. He said we are trying to correct that issue. Roger believed the board was trying to work with Mr. Gullikson, even though he did not agree. Roger felt the board was asking to look at the site, to see there were no further issues, then we could proceed. Roger said he would prefer to table the application, vs saying ‘no, you can’t do the project’. Mr. Gullikson said the board asked for information for tonight, what happens if September rolls around, and someone has a misgiving about something else. He said he had no confidence that someone will look at the site and say ‘oh, now I have seen the site and I feel good about it’. He did not feel any board member would feel comfortable and admitted he didn’t feel comfortable with it. He said it was not a comfortable scenario, but life doesn’t always give us those things that we would like. He said we have to proceed, because going forward expecting peace of mind about safety, he felt was unfair based on what has been stated and what he has gone through.

Mr. White stated that there seemed to be a lot of pressure to make a decision this evening, but from his point of view, he only heard about this a few days ago. He said he had just gotten notified. He said last time Ms. Lowes permit had been turned down a few months ago, this was the first he heard there was a new application. He said he didn’t attend every meeting unless he is notified and there is something that concerns him. He said that this evening was the first time he heard any of the discussions about the project. Mr. White said he didn’t know about months and months of discussion and the abutters are just hearing about it today, the day Mr. Gullikson wants a decision made. (Previous meetings were held on 11/23/2021, where the application was tabled pending further information; 2/8/2022, via Zoom, a meeting in which Mr. White attended, the application was pulled by Mr. Gullikson until he could provide engineering for the project; 8/9/2022, Mr. Gullikson updated the board where he was at and provided the engineering for the wall, therefore, notices went out to abutters within 500’ of the property; 8/23/2022, additional information was provided, included the survey showing the location of the existing wall.)

Roger A. stated that the last time Mr. Gullikson was reviewed by the board he decided to pull his application (2/8/2022). Roger said once he got more information, then he came back before the board. He said at the last meeting the board reviewed the information, and requested additional information for this meeting, which was provided this evening. He said this is the reason abutters were notified it is before the board. Mr. White said he believed that when one of the abutters applies for a permit that is when he would get notified to ask the questions. Barbara F. stated abutters were not notified because the board did not have the information to review. She said the abutters are not notified until there is information to review, the board did not have that. She said Mr. Gullikson pulled his application, pending being able to gather information. She said once Mr. Gullikson provided the information, the board notified abutters providing the information they received, which is what you (Mr. White) received. She said that is how it works. She added that the board doesn’t have abutters come in if there isn’t anything to review, because that wouldn’t make sense. Roger said it would be hard to have anyone come in without information. Barbara said the board couldn’t answer questions without having the information, once it’s received, we notify you.

Mr. Sullivan stated that he had a few comments. He said that number 1, there was a barge on the lake for a reason, for these steep properties. He stated, “And two, as far as being inconvenienced, I spent thousands and thousands of dollars to move my house.” Roger stated, “We are not looking at that.” Mr. Sullivan stated, “I was told to mash up my house and start fresh, at the bewitching hour. Move the house over to put in the basement, Code Enforcement Officer said no, Mr. Sullivan you will start fresh. You want to talk about inconvenience, come up with \$300,000 on the fly. But I did everything I was supposed to, everything I presented was accurate. My contractor was completely certified, and everything was done by the book. And I am just looking for the same.” Roger said, “Right, and we are too.” Roger said that the board wants to have everyone reviewed the same way.

Roger A. stated that a motion has been made, and a vote was taken, and it was unanimous. He said it was a vote to table. He told Mr. Gullikson he had the option of accepting the tabling or canceling the project. He said he was asking to look at the site on 9/13, and he said he had no issue with looking at it even if Mr. Gullikson isn't going to be around. Madge B. said, “And make a decision.” Roger agreed the decision could be made on that day, whether Mr. Gullikson was here or not. He said normally the board will not make a decision without the applicant present. Mr. Gullikson said this was considerate, but said if he wanted to start the work, and noted he spoke with the equipment company, and he didn't reserve the equipment, because he knew he was going to be getting an answer tonight, a yes or no. He stated that a yes would allow him to start October 1st, if everything worked out this evening. He said going into September, it is uncertain as to whether or not he would be able to get the equipment to do the job. He felt this was unfair to him. He said it might possibility be the very thing that destroys the possibility of doing this job. He said what the board was seeking to do was to go and become comfortable with something, and it isn't likely this will make one comfortable. He asked if he could get a yes or no vote from the board? He didn't want to wait until September 16th or 17th, when he won't return until the 20th, and then he would have to start scrambling for the equipment to do the job, which could put him doing the job in November. He did not think this was fair.

Ann H. asked if the board was only going to the site for safety reasons? Roger said, “No.” CEO Demers said, “Performance standards.” Roger agreed. He said the board also wanted to see the trees on site. Madge B. said she wanted a revegetation plan that includes figuring out how all the sand would be treated. She said if it is all sand, then we need to put erosion control mulch down. She said she was sorry that she paid so much attention to the wall, that she forgot about the replanting plan.

Roger A. said that if Mr. Gullikson wanted a vote this evening, he asked Roland L. if he wanted to pull back his motion to table? Madge B. said it was ok if the board wanted to vote, but she wanted a replant plan. She said as long as there is a condition for a plan. Ann H. said she would vote to take a vote with the replant plant as a condition. Maggie M. asked if there was any way the board could go to the site sooner, within the next couple of days? Roger said they could go take a look at it, but he is leaving this weekend. Madge added that the board cannot make a decision, except at a regular meeting. Madge thought he could go ahead and order the equipment. Maggie agreed, if it is approved with the condition. Ann said she was fine with doing that. Maggie noted he would then have to go to the CEO for a permit before he begins. Ann said she understood the safety issue, but said it could happen anywhere, even two feet up, something could happen. Madge asked if the wall was at the water's edge or is it back from the water? Roland said it wasn't at the water's edge until the last rainfall, where the water has come up substantially. Madge thought one of the advantages to not starting until October was the lake would be down. Roland said that the board had that conversation, because it is in the minutes, that the traditional lake drawdown begins on Indigenous People's Day, which is in

October. He said that we had unusually low conditions, so it was possible that someone could start earlier, but that is somewhat diminished now, because the water level has come up considerably over night. Madge thought based on this, nothing would happen for a few weeks. Roland said he cannot predict whether we are going to get more precipitation. He said he had received a letter from the City of Sanford, regarding the dam, and out of consideration for property owners they were closing the dam completely to hold the water back, because it was 14 inches below the normal level at this time of year.

Roland L. said he was struggling with the issue of whether it is the boards responsibility to be concerned about safety and how it affects not just the site, but abutting property owners, or whether he should be disregarding that all together and looking at the project, simply based on the work that is going to be done. He said again he was struggling with that. CEO Demers stated that was where you go down the performance standards and take them one by one, and say whether or not it would meet the standard. Ann said he also had to meet OSHA standards. Madge B. said she was unaware the board dealt with safety. Roland said that he asked the Chairman that for clarification and his piece of mind. He thought the board should visit the site. He said he goes by there regularly by boat, and sometime on the hill walking. He said it was an unusual site in terms of accomplishing a task of this nature. He said he admired Mr. Gullikson for his ambition for wanting to do this, but noted he had safety concerns for Mr. Gullikson's wellbeing, abutting property owners, and the lake.

Roger A. read from the Zoning Ordinance as follows: §105-2. 'Purpose.'; A. *The purpose of this chapter is to further the maintenance of the safe and healthful conditions and the general welfare, prevent and control water pollution, protect spawning grounds, fish, aquatic life, bird and other wildlife habitat, control building sites, placement of structures and land uses and conserve shore cover, visual as well as actual points of access to inland and coastal waters and natural beauty, and to encourage the preservation of farmland.* B. *This chapter does not grant any property rights; it does not authorize any person to trespass, infringe upon or injure the property of another; it does not excuse any person of necessity of complying with other applicable laws and regulation.*

Mr. White asked Roger A. to read the first part, he thought being safe was in there. Roger read §105-2.A again. Mr. Sullivan thought in light of this, it would require a site visit. Roger agreed a site visit was to ensure this was taken care of.

Ann H. said the board was back to the decision of approving, disapproving, or approving with conditions. Roger A. stated that at this time there is a vote to table, and until that gets removed, that is the vote. Ann said she was ok with doing a condition. Roger said at present that did not matter, because a vote had been taken.

Roland L. stated that he would ask that his motion to table be rescinded. Madge B. seconded the motion to rescind. All members voted to rescind the table. By a vote of 5 – 0, the motion passed unanimously.

Mr. Sullivan asked if he could ask a question. Roger A. stated no, the discussion is closed.

Ann H. made the motion to approve the application to replace the existing retaining wall with conditions.

The conditions of approval are as follows:

- 1) **Provided shall be a revegetation plan depicting the location of the trees to be removed and the location of the trees that will replace them.**
- 2) **The revegetation plan shall spell out how all disturbed areas are going to be repaired.**
- 3) **Mr. Gullikson is to be DEP certified in erosion control methods in order to do this project, and he can use this project on Map 28, Lot 46, to meet the DEP requirements.**
- 4) **Best management practices shall be kept in place until the project is completed, including any required revegetation and stabilization of the area.**
- 5) **Photographs are required preconstruction of the shoreline, vegetation and development site, and post construction, to both the Planning Board and Code Enforcement office.**
- 6) **The project has a start date of October 1, 2022, a date of completion for the wall of December 15, 2022, and all revegetation and stabilization shall be completed by June 15, 2023.**

Mr. White stated that he had a question, and he needed some clarification; he hadn't heard anything that stated that Mr. Gullikson's project will stay off his property; which he has already come on. Roger A. stated this was a civil matter. Mr. White stated that if the board was going to approve the plan, he would like to be clear on the plan that he isn't going to be driving heavy equipment on his property. Roger said he cannot tell someone to stay on or off someone's property. Mr. White stated that his lawyer has told him to stay off his property. He asked if this plan would work if he can't be a couple of feet on his property, on that trail? Madge B. stated that she had no idea. Ann H. agreed she didn't know if it would work or not. Mr. White didn't understand how they can approve a plan they didn't know. Roger said they could, but if there was a civil matter, it was between them. Ann said that they can approve with conditions, but they can't control him from going onto someone else's property. Mr. White said that his lawyer has instructed him not to go onto his property. Roger felt it was between them.

Barbara F. stated that when the board does walls, we ask them to have a survey to be sure they will not be on the neighboring properties? Madge B. stated that was correct. Barbara asked if that was all the board looks at? Roger A. stated that it was.

Roger A. began the review of §105-73.G 'Standards applicable to conditional uses', findings of fact are as follows:

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds, or other wildlife habitat. ***Roger stated that it will not, provided that all the parameters of the best management practices are used.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***Roger stated that is what the applicant is trying to do with the proposed project. BMP shall be used until the project is completed.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comp Plan wants to protect the Shoreland District, keeping the water safe and clean.***
- 4) Traffic access to the site is safe. ***Roger stated that the traffic is only going up and down the hill, there is no other traffic.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***The project is not in the flood zone.***

- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **Roger stated that all the poles from the existing wall are going to Simpsons in Sanford, and we have a notice stating that.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **Roger did not comment.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. *Mr. Sullivan asked if there was a design? Roger stated the wall design is from Civil Consultants. Mr. Sullivan asked where it was on the plan? Roger said the plans states what will take place and they will monitor it. Mr. Sullivan noted there was no design stating where the drainage was going. Mr. Sullivan said that has to be designed like a septic system. He said you need a plan like that. Roger did not comment.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Roger stated that it is being monitored by Civil Consultants.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **Roger stated there was.**
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors, and the like. **Roger said that is Civil Consultants. Mr. Sullivan said there should be a plan for this. Roger would take no further comment.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **They will with six conditions.**

Roland asked about the start date of October 1st, is that pending a low enough water level? Roger A. said it was. Roland asked, on the performance standards for earth removal and filling and other activities other than mineral exploration and extraction, the standards under §105-39.G, do they apply at all? Roger stated that they did.

Roger reviewed the following §105-39 :

- G. Conditions of permit. The Planning Board may issue a permit, provided that the following conditions shall be met:
 - (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed. **Roger stated it was 12/15/2022.**
 - (2) Temporary ground cover (such as mulch) and temporary runoff filter (such as hay bales in swales) shall be used as required to prevent stream sedimentation. The Planning Board shall set a specific date by which permanent ground cover shall be planted. **Roger stated the date was 12/15/2022. He stated BMP will be used throughout. Madge B. stated the plantings shall be completed by June 15th 2023.**
 - (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used. **Roger stated this was part of best management practices.**
 - (4) Lagooning shall be conducted in such a manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board. **Roger said this was not applicable in this location.**

- (5) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used. **Roger said it will be the large rocks.**
- (6) Fill shall not restrict a floodway, channel or natural drainageway. **Roger stated not applicable.**
- (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications. **Roger said it was being rebuilt to the same as it is today.**
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out. **Roger stated plantings will be completed by 6/15/2023.**
- (9) (Reserved)
- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal. **Roger stated that at the completion of operations it will not be any steeper than what exists today.**
- (11) No excavation shall be extended below the grade of an adjacent street, except for drainageways, unless 100 feet from the street line. No excavation below the grade of the surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a side or rear lot line if no excavation below the grade of abutters' properties occurs. **Roger stated this was not applicable.**
- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions. **Roger stated there was not enough in existence to cover the area, so more will have to be brought in from outside.**
- (13) No existing rock, gravel or sandpit will be extended or expanded until the operator has complied with the provisions of this chapter and obtained a permit therefor. **Roger stated this is not applicable.**

Roger A. stated with the six conditions and review, he would entertain a motion.

Madge B. moved for approve of the conditional use permit for earth moving in the Shoreland District in order to replace the existing telephone pole retaining wall with natural stone on Map 28, Lot 46, 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.

The conditions of approval are as follows:

- 1) Provided shall be a revegetation plan depicting the location of the trees to be removed and the location of the trees that will replace them.**
- 2) The revegetation plan shall spell out how all disturbed areas are going to be repaired.**
- 3) Mr. Gullikson is to be DEP certified in erosion control methods in order to do this project, and he can use this project on Map 28, Lot 46, to meet the DEP requirements.**
- 4) Best management practices shall be kept in place until the project is completed, including any required revegetation and stabilization of the area.**
- 5) Photographs are required preconstruction of the shoreline, vegetation and development site, and post construction, to both the Planning Board and Code Enforcement office.**
- 6) The project has a start date of October 1, 2022, a date of completion for the wall of December 15, 2022, and all revegetation and stabilization shall be completed by June 15, 2023.**

Roger A. told Mr. Gullikson that he would now need a permit from CEO Demers, and that he would need to notify Geoffrey Aleva that he was starting the project, so that he could monitor it.

Nothing further was discussed.

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**Findings of Fact**

1. The owner(s) of Shapleigh Tax Map 28, Lot 46 (33 Carpenters Cove Road) is Joyanne Lowe, as Trustee of Lowe Family Nominee Trust, address of 16 Charlotte Drive, Andover, MA 01810, per Warranty Deed, BK 17039, PG 581, recorded 6/19/2015.
2. The property is located in the Shoreland District, and according to the Assessor’s office, it contains .46 acres.
3. Provided was a copy of the MDEP Permit by Rule Notification Form, dated 10/15/2021, for 33 Carpenters Cove Road, which gave a project description as follows: Install 6 ounce erosion fabric behind retaining wall, replace rotting wood wall with stone.
4. Provided was a copy of the revegetation plan for 33 Carpenters Cove Road, which was written as follows:  
 From the Maine Erosion and Sediment Control Practices Field Guide for Contractors:
  - The topsoil should be 4 inches deep and be distributed uniformly. Rototilling for a deeper rooting zone on poor quality subsoils (sloping wet sites or with sand and gravels) is recommended.
  - Lightly compact the topsoil to ensure a uniform and firm seedbed (excessive compaction will increase runoff, and prevent seed rooting).
  - The seed bed should be scarified or roughened after topsoil is added to provide a deeper rooting depth for vegetation, traps moisture for the re-establishment of vegetation, and retains water for infiltration. To prevent compaction, rutting or erosion, the surface should be prepared for topsoil and seeding during a dry period and when the soil is not saturated.
  - The project will be re-vegetated to these standards, utilizing whichever mixture of grass seed is most appropriate for the conditions. Also, any plant life that is impacted by this project will be corrected for under the advice and scrutiny of the Shapleigh CEO.
5. Provided was a sketch plan depicting 33 Carpenters Cove Road. The sketch showed the size of the lot, depicted as 100’ x 200’; the location of Carpenters Cove Road (ROW); the approximate location of the existing shed & house; and the location of the wall to be replaced. Two abutters were also noted, those being Sean & Karen White, and Dave Sousa & Kathy Otumbre.
6. Provided was an engineered plan, entitled ‘Wood Retaining Wall Replacement – 33 Carpenters Cove’. The plan described the stacked rock wall system and how it is to be constructed. The plan was drafted by Geoffrey R. Aleva, LPE #9670, of Civil Consultants, South Berwick, Maine, dated 8/4/2022. The plan notes the approximate existing grade; compacted clean gravel / sand – no organics; OSHA compliant excavation limit; rock to be solid angular sections, infill with rock or smaller size to fill voids; compact

base prior to installation, add compacted gravel if soils are clay or organics; slope rock along face; large stacked boulder wall; lake side; Length / 1.5 Height minimum; woven geotextile fabric under wall. The plan states loose laid walls are flexible structures and need routine maintenance. The plan also states that Civil Consultants shall visit the site during the work to review base and soil condition, and Civil Consultants shall visit the site during construction to verify all design assumptions.

7. Provided was a ‘Sketch Showing the Location of an Existing Retaining Wall Located at 33 Carpenter Cove Road, Shapleigh, Maine on the Easterly Shore of Mousam Lake’, drafted by Brad R. Lodge, PLS #2057, dated 8/10/2022. The sketch depicted the Abutter R.R. Tie Wall / Capped Iron Rod #2190; the foundation location of the existing Cottage; Concrete Slab; foundation corner; inside corner of cement; area of rocks; stairs to Dock; the Old Utility Pole Retaining Wall (dilapidated and leaning); the Top of Wall Elevation = 100.1’; Base of Wall Elevation in Water 90.5±; and distance dimensions from Cottage to existing wall. The sketch did note that the elevations shown hereon are an assumed datum. There was also a Wall Detail: not to scale.
8. Provided was a Pole Disposition Plan, which read as follows: The poles removed from 33 Carpenters Cove Road during the Lowe/Gullikson wall project will be disposed of at JA Simpson, in Sanford, Maine.
9. Provided was a Material Removal Plan which read as follows: Gravel material removed from Lot 46 (hash marks on map), during Lowe/Gullikson wall project at 33 Carpenters Cove Road, is to be deposited on the driveway (drawn onto tax map) of Lot 1D (shaded), which is owned by Michael Gullikson. The estimated amount of material is 405 yards. A copy of the tax map depicting the driveway was also provided.
10. The detailed description of the project on the application read as follows: *Replacement of a dated telephone pole retaining wall along the shore with a structure of natural stone. Erosion fabric to be installed.*
11. A notice was mailed to all abutters within 500 feet of the property on August 10, 2022. Meetings were held on Tuesday, November 23, 2021, Tuesday, February 8, 2022, Tuesday, August 9, 2022 and Tuesday, August 23, 2022.
12. The application as presented met the performance standards under §105-73 ‘Conditional Use Permits’ as per the documentation provided and as presented with six conditions. The proposed new wall will not have an adverse effect on aquatic life or wildlife, as BMP shall be used; the project will help to conserve shore cover by stopping stormwater from entering the lake once the wall is completed; 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, there is no additional traffic caused by the project; the lot is not located within the flood zone; the existing telephone pole wall will be removed by the applicant & shall be taken to JA Simpsons in Sanford; there is no hazardous waste associated with the proposed project other than the existing telephone pole wall which his being removed; the wall will be constructed per the engineered plans from Geoffrey R. Aleva, PLS #9679 of Civil Consultants; erosion control measures shall be approved by the Dept. of Environmental Protection during the BMP certification process and enforced by the Code Enforcement Officer; the project takes place near the

lake and fire protection is not a requirement for this project; noise is for a limited period of time during the construction of the wall, as is dust, the project shall be completed by June 15, 2023, there is no glare, odors and the like produced by this project, the wall is to be built per Civil Consultants specifications; all performance standards shall be met with six conditions.

- 13. The application as presented met the conditions under §105-39 ‘Earth removal and filling for activities other than mineral exploration and extraction’. There shall be bare ground for the shortest possible time; BMP shall be used during the project; The extent and type of fill is appropriate for the scope of the project, that being large rocks, and will be as dictated by Civil Consultants; the wall shall be completed by December 15, 2022, the revegetation and stabilization shall be completed by June 15, 2023.
- 14. The Planning Board voted unanimously to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing telephone pole wall with stones, located on Map 28 Lot 46 (33 Carpenters Cove Rd), per the documents provided and as presented, with six conditions.
- 15. **The conditions of approval are as follows:**
  - 1) **Provided shall be a revegetation plan depicting the location of the trees to be removed and the location of the trees that will replace them.**
  - 2) **The revegetation plan shall spell out how all disturbed areas are going to be repaired.**
  - 3) **Mr. Gullikson is to be DEP certified in erosion control methods in order to do this project, and he can use this project on Map 28, Lot 46, to meet the DEP requirements.**
  - 4) **Best management practices shall be kept in place until the project is completed, including any required revegetation and stabilization of the area.**
  - 5) **Photographs are required preconstruction of the shoreline, vegetation and development site, and post construction, to both the Planning Board and Code Enforcement office.**
  - 6) **The project has a start date of October 1, 2022, a date of completion for the wall of December 15, 2022, and all revegetation and stabilization shall be completed by June 15, 2023.**

**Decision:**

**The conditional use permit for earth moving in the Shoreland District to replace the existing telephone pole retaining wall with natural stone on Map 28, Lot 52 per the plans engineered plans provided, and as discussed, with six conditions, was approved.**

**Private Way Application to Access Family Lot Division – Map 9, Lot 12B (Town Farm Road) – Cornelius Stewart, Applicant / Property Owner; Joseph Stanley, LinePro Land Surveying, Representing**

Mr. Joseph Stanley was in attendance for the review of the application.

Provided along with the application was a Letter of Authorization from Cornelius Stewart, dated 7/19/2022, which stated that Joe Stanley of LinePro Land Surveying could act as the owner’s agent in all aspects in order to obtain any and all permitting necessary from the Town of Shapleigh for his property location at 368 Town Farm Road, Shapleigh.



Provided was an example of a Road & Drainage Maintenance Agreement, which grants appropriate easements and rights-of-way for the installation of utilities; owners shall be obligated to maintain, repair, plow, sand and replace road and drainage structures; lots owners shall decide the amount of money to be expended for any work to be done and be liable for amount owed; owners may elect or appoint an agent or manager to collect monies for work; any disputes regarding the agreements shall go to a resolution arbitrator, whose services are utilized by the State of Maine Courts, cost shall be born ½ by the lot owner or owners proposing and ½ by lot owners opposed; under no conditions can the lot owners or a majority of them close the private road to travel and discontinue its maintenance, unless previously approved by all lot owners; the agreement runs with the land and is binding upon the lot owners, their heirs and assigns and shall be recorded in the York County Registry of Deeds.

Provided was a ‘Plan Showing a Proposed Private Way & Family Division for Cornelius A. Stewart, 368 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine’, plan dated August 1, 2022, drafted by Joseph L. Stanley, PLS #2453 of LinePro Land Surveying, LLC of 455 Main Street, Springvale, ME 04083. The plan depicts 5 lots. Proposed Lot “A” is comprised of 80,100 sq. ft. or 1.84 acres; Proposed Lot ‘B’ is comprised of 80,202 sq. ft. or 1.84 acres; Proposed Lot ‘C’ is comprised of 2.54 acres; Proposed Lot ‘D’ is comprised of 2.55 acres; and the Proposed Remaining Home Lot is comprised of 8.69 acres and holds a house, garage and shed on the property currently. There are notations that each lot is a proposed gift to a family member, and the remaining home lot was purchased on 3/28/2006, and has been a residence since 2019. The proposed Private Way is approximately 724+ feet in length and contains 52.79 feet on Town Farm Road. The access provides road frontage for lots ‘B’, ‘C’, and ‘D’. Lot ‘A’ has 200 feet of road frontage on Town Farm Road. The existing home contains 600 feet on Town Farm Road. The plan also shows a road & ditch section depicting the construction of the proposed private way, along with a sample of a typical ditch turnout and level spreader. Direct property abutters are also noted, those being David Moulton, Map 9, Lot 10; Eleanor Moulton Estate, Map 9, Lot 9; Dennis A Glover, Map 9, Lot 12B-1, and Martin Glynn, Map 9, Lot 12B-2.

Provided this evening was a ‘Plan Showing a Proposed Private Way & Family Division for Cornelius A. Stewart, 368 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine’, plan dated August 23, 2022, drafted by Joseph L. Stanley, PLS #2453 of LinePro Land Surveying, LLC of 455 Main Street, Springvale, ME 04083. The plan lots and private way are as stated in the plan dated August 1, 2022, with the following exception, two plan notes have been added as follows: Note 6. Private Way Note: The proposed Private Way shown hereon is to remain a private road and will be subject to a Road Maintenance Agreement. The Town of Shapleigh will not be responsible for the maintenance, repair, plowing or similar services for the private way, as shown hereon, and further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board. Note 7. Subdivision Definition: Per Maine Revised Statutes Title 30-A, Section 4401. Definitions, 4. Subdivision. “Subdivision” means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term “Subdivision” also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period...D-4. A division accomplished by gift to a person related to

the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. “Person related to the donor” means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than ½ the assessed value of the real estate.” Based on these definitions the future conveyance of these lots to family members will not meet the definition of subdivision per the Shapleigh Subdivision ordinance, and therefore will not require subdivision review, as long as the above conditions are met.

*Members did a site visit prior to this evening’s meeting.*

Roger A. asked Mr. Stanley to let the board know what he wanted to do. Mr. Stanley began by introducing himself and the fact he was representing Cornelius Stewart, on Town Farm Road. He said he was proposing a private way as shown on the plan. He said mostly to access some future gift lots to family members. He said as a follow-up to the site visit, the road was straight forward, slightly sloped and about as flat a surface as you can find in the area. He said the road they were proposing was about 600 feet long, with a hammerhead at the end.

Mr. Stanley stated that based on a discussion with John Hutchins (who represented him at the last meeting), reading the minutes, and a phone call to Barbara, he added Note #6, which is the standard notation that the town will be in no way responsible for maintenance of the road. He said that it also said that no other lots, other than the ones shown on the plan could use the private way for access without coming back to the board. He said that based on a prior experience we all had with a family subdivision, he added Note #7, which further emphasizes that with respect to the gift lots, people who are given the gift lots have to retain them for a period of five years for this not to fall under the Maine state definition of subdivision. He said if they don’t keep the lots for five years, they need to potentially have to come back for further subdivision approval from the board.

Mr. Stanley said there were no other changes on the plan, other than those two notes.

Roger A. did not see any issues with the additional items added to the plan. There were no other questions from the board.

**Madge B. moved for approval of the Private Way plan on Map 9, Lot 12B, dated August 23, 2022. Maggie M. seconded the motion. All members were in favor. By a vote of 5 – 0, the vote was unanimous.**

*Roger A. stated that the plan needed to be recorded at the York County Registry of Deeds, and a copy brought back to the Planning Board within 90 days, or the approval would be null and void.*

Nothing further was discussed.

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The Findings of Facts

1. The current owner(s) of Shapleigh Tax Map 9, Lot 12B are Cornelius A. & Diana M. Stewart, of 368 Town Farm Road, Shapleigh ME, per YCRD Book 14791, Page 149, dated recorded on 3/28/2006.
2. The property, is located in the General-Purpose District, and according to the Assessor's Office the land in total contains 20.3 acres.
3. Provided was an example of the Road & Drainage Maintenance Agreement, which grants appropriate easements and rights-of-way for the installation of utilities; owners shall be obligated to maintain, repair, plow, sand and replace road and drainage structures; lots owners shall decide the amount of money to be expended for any work to be done and be liable for amount owed; owners may elect or appoint an agent or manager to collect monies for work; any disputes regarding the agreements shall go to a resolution arbitrator, whose services are utilized by the State of Maine Courts, cost shall be born ½ by the lot owner or owners proposing and ½ by lot owners opposed; under no conditions can the lot owners or a majority of them close the private road to travel and discontinue its maintenance, unless previously approved by all lot owners; the agreement runs with the land and is binding upon the lot owners, their heirs and assigns and shall be recorded in the York County Registry of Deeds.
4. Provided was a 'Plan Showing a Proposed Private Way & Family Division for Cornelius A. Stewart, 368 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine', plan dated August 1, 2022, drafted by Joseph L. Stanley, PLS #2453 of LinePro Land Surveying, LLC of 455 Main Street, Springvale, ME 04083. The plan depicts 5 lots. Proposed Lot "A" is comprised of 80,100 sq. ft. or 1.84 acres; Proposed Lot 'B' is comprised of 80,202 sq. ft. or 1.84 acres; Proposed Lot 'C' is comprised of 2.54 acres; Proposed Lot 'D' is comprised of 2.55 acres; and the Proposed Remaining Home Lot is comprised of 8.69 acres and holds a house, garage and shed on the property currently. There are notations that each lot is a proposed gift to a family member, and the remaining home lot was purchased on 3/28/2006, and has been a residence since 2019. The proposed Private Way is approximately 724+ feet in length, and contains 52.79 feet on Town Farm Road. The access provides road frontage for lots 'B', 'C', and 'D'. Lot 'A' has 200 feet of road frontage on Town Farm Road. The existing home contains 600 feet on Town Farm Road. The plan also shows a road & ditch section depicting the construction of the proposed private way, along with a sample of a typical ditch turnout and level spreader. Direct property abutters are also noted, those being David Moulton, Map 9, Lot 10; Eleanor Moulton Estate, Map 9, Lot 9; Dennis A Glover, Map 9, Lot 12B-1, and Martin Glynn, Map 9, Lot 12B-2.
5. Provided was a 'Plan Showing a Proposed Private Way & Family Division for Cornelius A. Stewart, 368 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine', plan dated August 23, 2022, drafted by Joseph L. Stanley, PLS #2453 of LinePro Land Surveying, LLC of 455 Main Street, Springvale, ME 04083. The plan lots and private way are as stated in the plan dated August 1, 2022, with the following exception, two plan notes have been added as follows: Note 6. Private Way Note: The proposed Private Way shown hereon is to remain a private road, and will be subject to a Road Maintenance Agreement. The Town of Shapleigh will not be responsible for the maintenance, repair, plowing or similar services for the private way, as shown hereon, and further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning

Board. Note 7. Subdivision Definition: Per Maine Revised Statutes Title 30-A, Section 4401. Definitions, 4. Subdivision. “Subdivision” means the division of a tract or parcel of land into 3 or more lots within any 5-year period that begins on or after September 23, 1971. This definition applies whether the division is accomplished by sale, lease, development, buildings or otherwise. The term “Subdivision” also includes the division of a new structure or structures on a tract or parcel of land into 3 or more dwelling units within a 5-year period, the construction or placement of 3 or more dwelling units on a single tract or parcel of land and the division of an existing structure or structures previously used for commercial or industrial use into 3 or more dwelling units within a 5-year period...D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter. If the real estate exempt under this paragraph is transferred within 5 years to another person not related to the donor of the exempt real estate as provided in this paragraph, then the previously exempt division creates a lot or lots for the purposes of this subsection. “Person related to the donor” means a spouse, parent, grandparent, brother, sister, child or grandchild related by blood, marriage or adoption. A gift under this paragraph cannot be given for consideration that is more than ½ the assessed value of the real estate.” Based on these definitions the future conveyance of these lots to family members will not meet the definition of subdivision per the Shapleigh Subdivision ordinance, and therefore will not require subdivision review, as long as the above conditions are met.

- 6. A notice to abutters within 500 feet of the property was mailed on Wednesday August 10, 2022. Meetings were held on Tuesday, August 9, 2022, and Tuesday, August 23, 2022.
- 7. After review of Zoning Ordinance §105-60.1 ‘Private Way’s’, the Planning Board unanimously agreed to approve the Construction of a Private Way to access three lots, per the plan drafted by Joseph Stanley, PLS #2453, dated August 23, 2022, entitled ‘Plan Showing a Proposed Private Way & Family Division for Cornelius A. Stewart, 368 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine’, as the private way depicted on the plan met all the requirements in the ordinance.
- 8. The applicant has 90 days to register the approved plan with the York County Registry of Deeds and return a Mylar copy, with the book and page number, back to the Planning Board. If a registered copy is not returned to the board, the approved plan shall be null and void.

Decision

The Construction of the Private Way plan drafted by Joseph Stanley, PLS #2453, dated August 23, 2022, entitled ‘Plan Showing a Proposed Private Way & Family Division for Cornelius A. Stewart, 368 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine’, was approved.

Amendment to a Subdivision – Pump Box Brook Estates – Adjust Lot line between Lot 3-3 & Lot 3-4 – Map 6, Lot(s) 3-3 & 3-4 (Knox Road) – Joseph Stanley, LinePro Land Surveying, Representing; Erica Mrazik & Mike Wallingford, Property Owners Lot 3-3, Applicants

Mr. Joseph Stanley was present to discuss the approved plan.

Mr. Stanley stated he had brought the plan back to the board that was approved on August 9, 2022, for two reasons. He said the first reason was due to a question Barbara had regarding the final plan, and second an omission was noted by the Registry of Deeds. He said in order for a plan to be registered, the clients mailing address must be on the plan, and the previous version they had left it off. He stated that on this plan, the client’s mailing address is on the plan.

Mr. Stanley said it also seems prudent to mention, after discussions with Barbara, the first version of this plan had slightly smaller lots sizes under the proposed lot size. He said it was due to the area sizes being calculated incorrectly in the CAD program. He said the first areas they recorded were to tie lines, but there are strips between the tie lines and the brook, which he caught in his final review, before the Mylar’s were printed out. He said he made the change for the last version of the plan, but it wasn’t brought to the board’s attention when John Hutchins was at the last meeting. He said for the record he wanted to put that change on the plan, to adjust the lot sizes for the area they found in their final check. He said he hoped the board would vote to approve the changes on the plan.

Madge B. moved to vote for approval of the revised plan, dated August 23, 2023, as stated by Mr. Stanley, for the amendment to a subdivision for the lot line adjustment between Map 6, Lots 3-3 & Lot 3-4. Maggie M. seconded the motion. All members were in favor. By a vote of 4 – 0, the motion to approve was unanimous. (Ann H. did not vote for the original approval, therefore she did not cast her vote this evening.)

Roger A. reminded Mr. Stanley that he had 90 days to record the plan, or it would become null and void.

Nothing further was discussed.

Conditional Use Permit – Earth Moving in the SD to Replace Retaining Wall & Patio – Map 34, Lot 28 (294 Indian Village Road) – Tyler Mathews, Applicant; Gary Bracy, Property Owner

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

Provided along with the application was a sketch plan depicting the size of the lot, location of the existing house and patio, existing wall and stairs. It was noted the wall is 60’ in width, the stairs are 4’, and there will be a new lawn / seed placed behind the new wall after the work is done. Another notation states the wall will be built in the same location & same size, and it appears the wall is 25’, 10” from the NHWM.

Provided was a plan showing how the 4’ granite steps will be placed, using crushed stone & a gravel base beneath them. The plan depicts the wall, comprised of 6” Genest retaining wall blocks, with stone, filter fabric, and a 4” drainage pipe behind it. The plan also depicts the patio, showing 2 ½” pavers, with existing crushed base under. A notation states, ‘lifting existing pavers putting new ones on same base’.

The application detailed description is as follows: *Replacing existing retaining wall & patio & building new same location & size.*

Members did a site visit prior to this evening's meeting.

Roger A. asked Mr. Matthews to let the board know what he wanted to do. Mr. Matthews stated that they had a wall that was falling down, they wanted to replace it the same size and in the same location. He said they would replace the patio, which was deteriorating, dropping it down 6" to try to keep the rain from going into the basement of the existing cottage.

Roger A. asked Mr. Matthews if he had a start date and a date of completion? Mr. Matthews stated a start date of September 1st and a date of completion of December 24th. He said he would have the plantings in by the end of June 2023.

Ann H. stated there was one question at the last meeting, about whether or not the existing patio was on record. Maggie M. stated that the patio was existing now. Madge B. said the board didn't have that answer. (Steve F. at the meeting on August 9th, asked if the patio had been permitted, and he wanted the board to find out if there was a record of the patio on file.) Roger A. asked if the patio was permitted? CEO Demers said he would look into it; he didn't have the answer. CEO Demers looked in his file and found no record.

Madge B. stated that the board also needed photographs of before and after the project. Mr. Matthews stated that was no problem. Mr. Matthews asked if that was on the application for a conditional use? Madge stated it was a State requirement. Roger A. said it was in the ordinance now. Barbara F. stated she believed the photographic requirement was on the application, which is on the website. Mr. Matthews thought he might have an older permit. Barbara asked him to go online for any new permits, noting CEO Demers put the latest applications on the website.

CEO Demers said that even though he had no permit for the patio, it could have been there pre-1989. He said for that he would rely on photographic evidence, or he could look to see if the 30% has been taken. He asked if the patio was off to the side of the camp? Roger A. stated that it was right in front, toward the lake side. Ann H. stated that it goes from the top of the wall to the door. CEO Demers said he would need to go with photographic evidence. Mr. Matthews said it worked for him. Roger added that it has been there for awhile, but they don't think it was permitted. CEO Demers said it depends on how long it's been there, if it pre-dates 1989, and there is photographic evidence of that, it can be replaced. Ann asked if this was just for patios? CEO Demers said it was for patios, decks, retaining walls.

Roger A. asked about the trees being taken down, would the roots be removed? Mr. Matthews stated that they would have to be. CEO Demers asked if this was behind the retaining wall? Mr. Matthews said, no they are into the wall. Mr. Matthews stated that the board noted a little one that probably should go. Madge B. said that would be three trees. Roger thought there was 4 that had to go. He said that as you look at the camp, on the right-hand side, the big tree, the roots will come into the little one by the time you take the stump out. Maggie M. asked if it was by the steps. Roger said yes, by the steps. Mr. Matthews asked which one he was referring to. Roger said the one towards the lake. He thought that when you take the stump out for the big tree, the one towards the lake will not survive. Mr. Matthews thought they could take just half the stump, because the goal was to not take that tree.

Madge B. said the board did not have an adequate planting plan. She said it did not show the trees, she said he would have to prove the patio existing prior to 1989, or it won't be allowed. She said if the board doesn't

allow the patio, then the plan needs to show how that area will be stabilized. Mr. Mathews said it would go back to loam & seed / grass, to how it was. He said the trees were not on the plan, because the tree permit has been pulled for awhile, they could already be down. He said if he knew they should be on there, they would. He said again that they could already be down. Madge asked how the board was going to decide on the patio issue? She asked if the board approves it without the patio and if he proves it was there, then the board revises the approval? Mr. Matthews asked if they could just condition the approval. Roger said they could condition that the patio needs proof that it was permitted, otherwise it is not allowed. Madge said if it is not allowed, then it should state what the ground cover is going to be. She said she wanted it in the record.

Ann H. asked if it was put in 1990 without a permit, if the wall is coming out, they have to take the patio out too, because it is not supposed to be there? Madge B. said they have to take some of it out to put the new wall in. CEO Demers stated that they should take it out; if it is an illegal structure, then it should come out. He said, then they will have to stabilize the area with something else, either bark mulch or grass. Ann asked if they didn't do the 30%, could they get a permit to put it in? CEO Demers said they couldn't do it towards the water. Ann said, that was because it was within 100 feet of the water, ok.

Madge B. said she continued to worry about the fact that the ground is higher than the wall. She asked what can be done to reduce that situation? She said they also talked about how bad it is over on the left side of the house, if looking at the lake. Ann said if they dig it down lower, where the patio is, if it is dug 6 to 8 inches lower than the retaining wall, that would keep the water runoff from going toward the lake. Madge said, "Or down into the gravel." Roger said that if he ditched in front of the wall, that prevent some of the runoff from going up and over the wall. Maggie M. said that they could add bushes long the top of the wall. Madge agreed, that blueberry bushes would help along the wall. CEO Demers thought if the wall had the proper backfill of crushed stone that it would drain. Madge said you don't want the earth above the wall. CEO Demers thought it would still drain. Mr. Matthews said the problem is when you get the downpours we get several times a year, it doesn't matter what you have in place, you are going to have problems. He said he agreed with the board, with the right drainage and if the wall could be a smidge higher, it would help. He said that is what he wanted to do, so he had no issue with what Madge was asking. Ann asked how the board could say it for the record? Madge said, "We apparently don't." Mr. Matthews said, "I just do it right." Madge stated that the erosion on this property is upsetting.

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

- 1) The project shall begin on 9/1/2022, and the wall will be completed by 12/24/2022.**
- 2) The revegetation and stabilization of all disturbed area shall be completed by 6/30/2023.**
- 3) Best Management Practices shall be used until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project.**
- 4) Photographs are required preconstruction of the shoreline, vegetation and development site, and post construction, to both the Planning Board and Code Enforcement office.**
- 5) A licensed surveyor shall confirm in writing that the placement of the new structure is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The height of the wall will also be indicated by the surveyor.**
- 6) There needs to be proof the patio was permitted, otherwise it is not allowed to be replaced. If not replaced, the area has to be stabilized with vegetation and/or bark mulch. Plans to be approved by the Code Enforcement Officer.**

Madge B. stated that the way the plan is shown, the stairs come out in front of the wall, but in fact that doesn't happen. Madge asked if the stairs are allowed closer, then she said, 'stairs are not a structure'. CEO Demers said, "Correct". Mr. Matthews added that you are allowed a path to the water. Madge said she just remembered that, and thanked him. Maggie M. asked about the steps they walked down on the side? Mr. Matthews stated they were removing those.

Madge B. asked how high the wall was? She asked if it was in the record? The board did not see the height noted. Roger A. asked Mr. Matthews the height? Mr. Matthews stated that it must have only been in the DEP permit, but noted he could have Joe Stanley do the height, along with the distance from the water, when he certifies the location of the wall.

Madge B. asked if the application dealt with the material being removed? Roger A. stated the material was all concrete, there was no wood. Roland L. said, "Except for the stairs on the far right". Roger asked where the wood and concrete were going? Mr. Matthews stated, "Out of town."

Roger A. stated that condition #7 would be – All existing material from the patio, retaining wall and stairs being removed shall be taken out of Shapleigh.

Roland L. made the motion to approve the conditional use permit for earth moving in the Shoreland District, to replace the existing retaining wall and patio on Map 37, Lot 28, per the plans presented, as discussed, and with the 7 stated conditions. Maggie M. seconded the motion. All members were in favor. By a vote of 5 – 0, the motion to approve was unanimous.

The conditions are as follows:

- 1) The project shall begin on 9/1/2022, and the wall will be completed by 12/24/2022.**
- 2) The revegetation and stabilization of all disturbed area shall be completed by 6/30/2023.**
- 3) Best Management Practices shall be used until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project.**
- 4) Photographs are required preconstruction of the shoreline, vegetation and development site, and post construction, to both the Planning Board and Code Enforcement office.**
- 5) A licensed surveyor shall confirm in writing that the placement of the new structure is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The height of the wall will also be indicated by the surveyor.**
- 6) There needs to be proof the patio was permitted, otherwise it is not allowed to be replaced. If not replaced, the area has to be stabilized with vegetation and/or bark mulch. Plans to be approved by the Code Enforcement Officer.**
- 7) All existing material from the patio, retaining wall, and stairs being removed shall be taken out of Shapleigh.**

Nothing further was discussed.

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**Findings of Fact**



1. The owner(s) of Shapleigh Tax Map 27, Lot 28 (294 Indian Village Road) are Kari M. Bracy & Gary R. Bracy of 17 Cal Vista Drive, Dayton, ME 04005, per Warranty Deed, BK 17086, PG 294, recorded 8/27/2015.
2. The property is located in the Shoreland District, and according to the Assessor's office, it contains .52 acres.
3. Provided along with the application was a sketch plan depicting the size of the lot, location of the existing house and patio, existing wall and stairs. It was noted the wall is 60' in width, the stairs are 4', and there will be a new lawn / seed placed behind the new wall after the work is done. Another notation states the wall will be built in the same location & same size, and it appears the wall is 25', 10" from the NHWM.
4. Provided was a plan showing how the 4' granite steps will be placed, using crushed stone & a gravel base beneath them. The plan depicts the wall, comprised of 6" Genest retaining wall blocks, with stone, filter fabric, and a 4" drainage pipe behind it. The plan also depicts the patio, showing 2 ½" pavers, with existing crushed base under. A notation states, 'lifting existing pavers putting new ones on same base'.
5. The application detailed description is as follows: *Replacing existing retaining wall & patio & building new same location & size.*
6. A notice was mailed to all abutters within 500 feet of the property on August 10, 2022. Meetings were held on Tuesday, August 9, 2022 and Tuesday, August 23, 2022. A site inspection was done by members prior to the meeting on August 23rd.
7. The application as presented met the performance standards under §105-73 'Conditional Use Permits' as per the documentation provided and as presented with seven conditions. The proposed new wall & patio 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 walls will be constructed per the plans provided 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 wall, which shall be completed by December 24, 2022, there is no glare, odors and the like produced by this project; all performance standards shall be met with seven conditions.
8. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing 60' wall & 22' x 18' patio, located on Map 37, Lot 28 (294 Indian Village Road), per the documents provided and as presented, with seven conditions.
9. **The conditions of approval are as follows:**
  - 1) **The project shall begin on 9/1/2022, and the wall will be completed by 12/24/2022.**

- 2) The revegetation and stabilization of all disturbed area shall be completed by 6/30/2023.
- 3) Best Management Practices shall be used until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project.
- 4) Photographs are required preconstruction of the shoreline, vegetation and development site, and post construction, to both the Planning Board and Code Enforcement office.
- 5) A licensed surveyor shall confirm in writing that the placement of the new structure is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The height of the wall will also be indicated by the surveyor.
- 6) There needs to be proof the patio was permitted, otherwise it is not allowed to be replaced. If not replaced, the area has to be stabilized with vegetation and/or bark mulch. Plans to be approved by the Code Enforcement Officer.
- 7) All existing material from the patio, retaining wall, and stairs being removed shall be taken out of Shapleigh.

**Decision:**

The conditional use permit for earth moving in the Shoreland District to replace the existing 60’ retaining wall & 18’ x 22’ patio on Map 37, Lot 28 per the plans provided, and as discussed, with seven conditions, was approved. By a vote of 5 – 0, the motion to approve was unanimous.

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**New Business:**

**Conditional Use Permit – Rental Cabins – Map 1, Lot 41 (368 Simon Ricker Road) – Mark & Linda Lawrence, Applicants & Property Owner**

Mr. Lawrence was present for the review of the application.

Provided along with the application, 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 1<sup>st</sup> phase would like to build 4 – 6 four season rentals for hunters and snowmobilers. Rentals would be for 3 nights to 2 weeks.*

Roger A. began by asking if this was a campground? Mr. Lawrence stated it would be like a campground, only with little cabins. Roger said if it was cabins, then it would be a subdivision. He said the board would need to know about the roads, how the septic systems would be taken care of, and asked if he stills wanted to proceed, then the board will continue the review.

CEO Demers said he reviewed the definition of campground. Roger said it allows for RV’s, trailers, tents. Roger said no cottages. Mr. Lawrence said the campground definition includes structures.

Roger A. read from §105-37. ‘Campgrounds’ as follows: Campgrounds shall conform to the minimum requirements imposed under the state licensing procedures and the following: A. Recreational vehicles and tenting areas shall contain approved water-carried sewage facilities and shall meet the following criteria:

(1) Each recreation vehicle, tent or shelter site shall contain a minimum of 5,000 square feet, not including roads and driveways.

Roger A. said it went on to speak about the parking areas, wilderness recreational areas, no manufactured housing units shall be allowed to be installed in a campground, no campgrounds less than 5 acres

CEO Demers read the definition of campground under §105-15 as follows: *Any area or tract of land to accommodate two or more parties in temporary living quarters, including but not limited to tents, recreational vehicles, or other shelters, and for which a fee is charged.* Ann H. thought the board needed a definition of shelter.

Roger A. noted §105-38, individual private campsites. He said it allows for the same thing, RV’s, tents, shelters. Madge B. stated that what was being proposed was a dwelling unit. She didn’t think they were shelters. Roger A. read the definition of Dwelling Unit as follows: *A single unit providing complete independent living facilities for one or more persons, including permanent provisions for living, sleeping, eating, cooking, and sanitation. The term shall include manufactured housing units but shall not include trailers or recreational vehicles.*

CEO Demers asked if you minus any one of those ingredients it is not a dwelling unit. Barbara F. noted the board might want to review the legal definition of a dwelling unit, which is different from the boards. She added that they may want to look at the State definition as well.

CEO Demers said these are not permanent, they are seasonal. Mr. Lawrence agreed. Barbara F. said, “So you can move them.” Roger A. stated that they are a permanent structure. CEO Demers said, “So is a shed, and that is not a dwelling.” Roger agreed, it needs to have living, sleeping, eating, cooking and sanitation. CEO Demers said it is a permanent structure, but it is not a dwelling unit. Roger agreed, saying it did not have the criteria stated. CEO Demers stated, “Correct, so if he is proposing a shelter, minus one of those ingredients, or more, then it is not a dwelling. By definition.” He said he can have structures, or a shelter, a permanent structure, but not being a year-round dwelling. Madge B. said that was correct, so the question is, ‘what is going to be in these structures’. She said she did not know the answer. CEO Demers agreed.

CEO Demers said they were here to find out what is and is not allowed. He asked if the board would agree that a seasonal structure is not a dwelling, minus one of those ingredients. Madge B. said she was not ready to say that. Madge said she wants to know what is in the structure. CEO Demers asked, “What if there is no bathroom in the structure.” Maggie M. asked if they would have a separate building, such as a bath house? CEO Demers said that they could. Madge said that if there were no bathrooms, it would sound much more like it was a campground.

CEO Demers said this was a conceptual illustration of what he was proposing, and they are trying to find what the limits of what the ordinance are. He said in review of the definition of campground, he felt it was permitted to have shelters as proposed, and have them not be dwellings. Madge B. said again that it depended on what was in the structure. CEO Demers agreed, and said it was not yes or no, it was it depends on what is in the shelter. Madge agreed.

CEO Demers asked Mr. Lawrence to describe the cabins. Mr. Lawrence stated that he wanted to keep them small. Madge B. asked how small they would be. Mr. Lawrence said he did not want anyone to get too comfortable in them. Madge asked about the square footage, and is it one room, etc. Mr. Lawrence stated that some would be one room, and he wanted to have a small sink, toilet, and it could be a composting toilet. Roger A. stated that with 40 units he would ask for a complete septic system, he said the board has to look at the maximum number allowed, even if it is being phased in.

Ann H. asked if there would be a kitchen? Mr. Lawrence stated he wanted a place to prepare food but no oven. Roger A. stated it was a dwelling unit. Ann H. said that because there was a kitchen and a bathroom. CEO Demers added that it had sleeping quarters. Ann said it would be a dwelling unit. CEO Demers stated that Mr. Lawrence was working his way from campground to subdivision with a dwelling unit. He said he would have to make them a little more primitive. Ann said if they don't have a bathroom inside them, but you could have a building with toilets and showers, separate from the cabins. Mr. Lawrence asked, "What if there is a bed in them?" Ann stated that was ok. Mr. Lawrence asked what else he was allowed besides a bed. Ann said that he would have to take out either the eating area / kitchen or the bathroom to keep it a campground.

Madge B. stated that it would be hard to have a kitchen without plumbing. She said it would be whether or not they have plumbing. Ann H. said that if they have a sink, then they would have to have plumbing. Mr. Lawrence stated that he did propose putting septic systems in, but before he spends the money for the designs, he wanted to know if he was risking his money. Mr. Lawrence asked what he was allowed to do? Roger said with what he is suggesting it looks like it will be a subdivision. Mr. Lawrence stated, "Unless I have a bathroom outside of it." He said if he had bathroom rooms, like in a campground, because originally that was where he was heading. He said he was a builder and instead of people bringing their vehicles to him, he thought why doesn't he put up shelters. He said, "I can have a bathroom and a bedroom, but I cannot have a place to prep food." He said, "Or I can have a place to prep food, and a bedroom, but no bathroom." Ann said that was correct, not in the cottage. Madge stated that she still worried about the plumbing. Maggie M. thought it would be cheaper to have the bathroom and shower rooms, because the plumbing would be all centrally located. Mr. Lawrence stated that no matter what he did he would need septic systems and he knew that going in, whether it was a campground or shelters. Roger added that the septic design has to be for the 40 units, not the 10 units per year. Ann asked if he could put 40 units in there? Roger said he had no idea. Ann asked if with a campground, was there a certain distance they have to be between each other? CEO Demers stated that each site is allowed so many square feet. Ann asked if he had to put in a building for the showers / bathroom, would that count against the square footage? CEO Demers said no, because that is not a campsite. He said it would need its own space. He said we were getting ahead of ourselves; Mr. Lawrence knew this was rudimentary. He said he was before the board to see if it is an allowed use, and he plans on presenting a more detailed plan.

Mr. Lawrence said, "To make it just a little more complicated, well I don't know if it complicates really. I would like to have some vintage campers of our own on site that we rent." He believed that would fall under the campground. He said they have a sink in them and a bathroom. Ann H. said that was not a structure. Barbara F. added that it was not a 'permanent' structure. Mr. Lawrence asked if he was allowed to do that. Roger A. stated that yes, he could, because the wheels stay on the camper. CEO Demers stated that perhaps he should make the structure rudimentary, such as a door, windows and a roof. He said keep those as that, a hunting cabin. He said the campers could be the campground units. Roger said he will have to propose the

bath houses, and the leachfield to accommodate all of that. He said they also need to see the roads that will interconnect all of them. He said once he gets to that point, Mr. Lawrence will need the fire departments approval. Mr. Lawrence asked what was involved in that. Roger said they will need to make sure they can get through the roads. Barbara added that the Fire Department has to approve what will be used for fire protection. Roger agreed. Roger stated that the Fire Department will need to be able to run a fire truck on the roads, the road will need to be stable, and wide enough so that they can turn around as needed.

CEO Demers stated this was the introduction. He said they will get some feedback from the Fire Chief, and come up with some more detailed plans. Mr. Lawrence asked if he understood correctly, if he provides a septic plan for the 40 units, and he gets the fire departments approval, then this would be something the board would consider? Roger A. said the board would have to look at the information, but yes. Roger said the size of the area around each shelter, and where the campers will be parked. He said Mr. Lawrence will have to show where power will be coming in.

Roland L. said when he read the description of the project, the first line says ‘3 season rentals’, towards the end it says ‘first phase would like to build 4 – 6 four season rentals for hunters and snowmobilers’. He asked Mr. Lawrence if it was going to be a 3 season, or was it going to be year-round? Mr. Lawrence said the intent would be, just for the 4 to 6 units, would be for us to be able to rent those year-round. He said people like to snowmobile, snowshoe. Roland said, “So some will be 3 season, these obviously would be built to different specs, they’ve got to be winterized.” Mr. Lawrence said, “Right”. He said they would have to meet the new energy code. Roger asked about the bath houses, would that have to be heated if they are being used 4 seasons. CEO Demers stated they would have to work on that. Ann H. asked if the location was ok for an approved campground. CEO Demers said it was general purpose, so it is allowed.

Mr. Lawrence thanked the board for their time. He noted the board’s patience.

Nothing further was discussed.  
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**Growth Permits**

**Map 6, Lot 26 (275 Nason Road) – New Home – G. & M. Landry** **GP #23-2022**

Roger A. stated the lot exceeded the minimum requirements in the ordinance, meeting the road requirement and having 49.7 acres.

**Map 1, Part of Lot 1 (Tattle Street) – New Home – M. Carmichael** **GP #24-2022**

Roger A. stated it meets the minimum requirement in the ordinance for a lot, being 1.84 acres in size and has 200 feet of road frontage.

**Map 7, Lot 5-3 (Hodgdon Road) – New Home – A. Ward** **GP #25-2022**

CEO Demers stated that this lot was part of an approved subdivision in 2004, it was in the Shoreland District, but has been reclassified as Resource Protection. He noted there was an approved building site on the lot, but the board was taking into consideration shoreland zoning at the time. He asked Roger A. if it was a building lot or not. Roger said it was, but there was a footprint where they have to be. He said they were limited where they can build and what they can do on the lot. Roger said again that it was an approved subdivision lot, so they are able to build on the envelope that was approved.

**The Planning Board meeting ended at 10:25 p.m.**

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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.

Also visit [www.Shapleigh.net](http://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](mailto:planningboard@shapleigh.net)