

Shapleigh Planning Board

Minutes

August 9, 2022

Members in attendance: Roger Allaire (Chairman), Steve Foglio (Vice Chairman), Madge Baker, Maggie Moody, Roland Legere, and Alternate Ann Harris.

Code Enforcement Officer Mike Demers 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 7:00 p.m.

The minutes from Tuesday, July 26, 2022 were accepted as written.

Conditional Use Permit – Replace Retaining Wall/Stairs with Pepin Precast Loc-Blocks – Map 24, Lot 27A (49 14th Street) – Matt Colton, Applicant; Shawna Dos Santos, Property Owner

Mr. Colton and Cole Arey were present for the review of the application. *A site inspection was done by board members prior to this evenings meeting.*

Provided along with the application was a letter of authorization, dated 6/27/2022, from Shawna Dos Santos which gave Matt Colton / Mainely Barge permission to act as her agent in all aspects in order to obtain a building permit from the Town of Shapleigh for her property. The permission extends to Mr. Colton being able to answer any and all questions on her behalf and to sign any and all documents pertaining to this project. The authorization does state that the applicant, Shawna Dos Santos, does accept full responsibility to ensure that her project meets all zoning and building code compliance.

Provided was a sketch plan which depicted the location of the house, several large pine trees, the location of the walls to be replaced, patio area, stairs, and fire pit. The walls are noted as being 32’ and 28’ in length. Provided were several pictures of the existing stairs and walls to be replaced.

Provided was a Permit by Rule Notification Form, Brief Project Description: Replace Existing Rock Wall / Retaining Walls with New Precast Wall; permit dated 6/27/2022.

The application detailed description of the project is as follows: *Replace existing retaining wall/stairs with Pepin Precast Lock Block, same height, same length.*

Roger A. asked Mr. Colton to once again brief the board about the project. Mr. Colton stated they are replacing the existing retaining walls, same length, and same height. He said they are also replacing a set of stairs, everything will be similar to what they have.

Roger A. stated the board did a site inspection this evening, and asked if anyone had any questions for Mr. Colton. There were no questions.

Roger A. stated the walls will need engineering, then he stated the board had the information for Pepin blocks from previous applications. Roger said the reason the engineering was needed, was because some of the walls are greater than 4 feet in height. Mr. Colton asked if the board needed a new copy? Barbara F. stated they had a copy.

Roger A. stated there was a question that he wanted to ask Joe Stanley (LinePro Land Surveyors) but he was not present. He said the question was, was it the base of the wall or top of the wall used to mark the location of the wall. Roger said he has always used the base of the wall, due to the fact most of walls lean out toward the lake and not inward, like the one the board viewed this evening. Roger stated that for this application the base will be used.

Madge B. said she thought the question was, had the surveyor pinned the base of the wall. Ann H. agreed, versus the top. Roger A. said that question was for Mr. Stanley and he wasn't present. Steve F. said this was something to look at in the future, but with the case the board is dealing with this evening, the board will have to pick base, top, or median. He thought using the base made the most sense. Madge asked if the assumption was, that was what Mr. Stanley did? Mr. Colton noted that Mr. Stanley had already located both walls for them. He said before he starts the job they will have to figure out if he went off the top or bottom of the wall. He hoped he used the bottom, because that is what they used for the site plan, and that will keep everything correct.

Madge B. said the plan she has doesn't show if they are going to recover with erosion mulch. Mr. Colton stated that the walls will be straight up and down, they won't be on a 45 degree angle, so he wanted to know what surface she was speaking about. Madge said she realized that, and asked if he was putting mulch down anywhere? Mr. Colton stated that on the flat surface it will be the natural sand and gravel that is there. He said they want to be able to walk on it, he didn't think they would want to walk on mulch. Madge asked if behind each wall would be a flat surface? Mr. Colton stated, yes, it will be terraced. He said when you go from the lake there will be the first wall, then a flat spot, then the middle wall, then flat, then the final wall.

Madge B. stated that the plan calls for a patio and after the site inspection the board said he can't have it. Ann H. agreed. She asked if the plan the board had was clear enough? Ann stated the only thing on site now is pine needles and sand on the flat surfaces. Madge agreed but that is not noted on the plan. She asked if based on that, if the plan the board has is acceptable? Steve F. asked if she was asking to strike the patio? Madge said that yes, the patio has got to go. Steve asked if there was any further expansion allowed? Roger A. said no, this would be a new structure and a new structure is not allowed because there is nothing there. Roland L. said there was a sitting area. Roger agreed, on the gravel, but there is no pressure treated wood or blocks. Ann agreed, there were no bricks. Roland thought it could still be called a patio even if it was sand. Barbara F. stated that if they call it a patio, they have to clarify they cannot add stone or wood, etc. Roger agreed, stating you cannot add anything impervious in that area. Steve felt if the wall is a structure, then that establishes the setback. He said if they have expansion, then it should be allowed. He said he was not the code officer, but if they have expansion left on the property, and these walls are structures, then that establishes the setback. He said they cannot encroach any closer to the lake with a new structure, but the

walls are a structure, and in his opinion they could have a patio in the event that they have not used their expansion or they don't meet the 10% lot coverage. Roger stated that the applicant hasn't shown that. Steve felt this was not the board's area, it was Code Officer. Madge said that it needs to be clear that you would count it as part of the 30%. Steve agreed, but added that the Planning Board shouldn't be dealing with this, it's Code Office. Madge felt the record should deal with this. Steve agreed that the board's application should not state that we approve the patio.

Roger A. asked what the completion date would be? Mr. Colton stated they would be starting in a couple of weeks, after they do Thomas Collins, and they will be finished by December when ice comes in. Roger said the board needs a date. Mr. Colton stated December 4, 2022. Roger said that was fine.

Roger A. stated that the wall will be higher than the ground level, so no erosion will be going into the lake. Mr. Colton stated that was correct, and he would be taking the ground level down, so the cap blocks stick up. He said this way the water coming off the house will not go down into the lake, it would go toward the sides. Steve F. stated, "Into the drainage." Mr. Colton agreed and said in time the soils may move, but he didn't want water coming over the wall.

Roland L. stated for his own clarification, using a photograph they submitted, he noted there was a sitting area. He said he defined that as a patio. Ann H. said if the board calls it a patio, it could become anything. Roland said he was asking the Chairman for clarification. Roger A. stated it was a flat spot of gravel. He said if tomorrow he wanted to put up a screen house over a structure, the screen house would be disallowed because it is a structure. Madge B. added, "Without a permit." Roger did not think it would be allowed even with a permit. Roger said the structure would be encroaching beyond the building toward the lakefront. Roland said that since there is not supposed to be a patio, are we telling this family that they cannot have a sitting area as in the picture. Madge and Roger said, no. Madge said they can put their chairs wherever they want. Roger said they can't have blocks or an impervious surface. Roland said, ok and thanked Roger.

Mr. Colton asked if this was a question for codes and a different permit for the patio? Ann H. and Steve F. said that if they haven't used their percentage of expansion allowed. Mr. Colton was not sure if someone used the expansion before, the current owners just bought the property. Barbara F. noted it was accumulative. Mr. Colton stated that he could tell his customer that the Planning Board said no to the patio, but it was possible to go to codes and try for the patio. Steve F. stated that the CEO has the information on what has been used or not.

Roger A. stated a new patio would be under §105.4.D(3) 'Foundations', (a) Whenever a new, enlarged, or replacement foundation is constructed under a nonconforming structure, the structure and the new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Subsection D(7), Relocation, below. He said the wall is a foundation for holding the ground back, and a patio would be a new structure being placed in the Shoreland closer to the water, than the existing structure. He said he didn't think the Planning Board could approve the patio under a best practical location. He didn't think the CEO could either.

Roger A. stated that under nonconforming structures it stated that for structures located less than 75 feet from the normal high-water line of a water body, tributary stream, or upland edge of a wetland, the maximum combined total footprint for all structures may not be expanded to a size greater than 1,000 square

feet or 30% larger than the footprint that existed on January 1, 1989. He said there cannot be more encroachment toward the lake, and where the patio would be, would encroach on the lake. He did not agree with Steve's rational. Steve didn't think it was up to the board. Madge added that the board doesn't know how far back the house is from the water, or the patio area; the plan doesn't show the board this.

Roger A. said one reason this is before the board is §105-39.D 'Earthmoving in the Shoreland District', which he read as follows: *Any filling, dredging or excavation of land above or below the normal high watermark, except earthmoving of less than 10 cubic yards which shall require a permit from the CEO (except as provided above) to ensure proper erosion and sedimentation, shall require a conditional use permit from the Planning Board.*

Roger A. then read §105-39.D(1) as follows: *When an excavation contractor will perform an activity that requires or results in more than one cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the Maine Department of Environmental Protection. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices or erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.*

Roger A. read / reviewed §105-39.G as follows:

- 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 noted this was why the board asks for a date of completion.**
 - (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.
 - (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 they will be using the gravel, and the appropriate backfill.***
- (6) Fill shall not restrict a floodway, channel or natural drainageway.
- (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.
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out. ***Roger stated there was no existing ground cover.***

Madge B. asked if there were rocks that will be removed? Roger A. said there would be, but didn't know where they would be going? Mr. Colton stated they would be going out of town.

Roger A. reviewed §105-4.D(7)(c) as follows: *All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.*

Roger A. stated the conditions of approval would be as follows:

- 1) **Date of completion for the project shall be December 4, 2022.**
- 2) **Best management practices shall be in place until the project is completed.**
- 3) **The wall cap will be higher than the earth behind the wall to prevent soil and stormwater from going into the lake.**
- 4) **The stone / rocks to be removed shall be taken out of Shapleigh.**
- 5) **The Planning Board does not approve the patio as shown on the plan provided.**

Note: The survey plotting the location of the existing wall has already been completed according to Joseph Stanley of LinePro Land Surveyors, who attended the last meeting.

Steve F. made the motion to approve the conditional use permit for earth moving in the Shoreland District to replace the existing retaining wall / stairs with Pepin Precast Loc-Blocks on Map 24, Lot 27A per the plans provided, and as discussed, with five conditions. Maggie M. 2nd the motion. All members were in favor. By a vote of 5 – 0, the motion to approve was unanimous.

Nothing further was discussed.

§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. ***It will not, it will help to stabilize the area to protect spawning grounds, fish, and aquatic life.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***The use will help to protect shore cover, by stopping erosion. 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.***
- 4) Traffic access to the site is safe. ***This does not pertain to this project. Access is available for the intended project.***
- 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. ***All debris from the existing walls and stairs shall be taken out of Shapleigh.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There will not be any generated.***
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***The wall will be constructed per the engineered plans from R. Pepin company, best management practices shall be kept in place until the project is completed.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best management practices shall be kept in place until the project is completed. Plans to be approved by the Code Enforcement Officer.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***N/A for this project.***
- 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. ***The limited amount of noise is only during construction of the wall and stairs. There is no glare, odors and the like created. Dust will be minimal and only during the construction of the wall & stairs.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They will with five conditions.***

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**Findings of Fact & Approval**

1. The owner(s) of Shapleigh Tax Map 24, Lot 27A (49 14<sup>th</sup> Street) are Michael F. and Shawna K. Dos Santos of 2 Mile Lane, Ipswich, MA 01938, per Warranty Deed, BK 18803, PG 376, recorded 9/15/2021.
2. The property is located in the Shoreland District, and according to the Assessor’s office, it contains .25 Acres.
3. Provided was a sketch plan which depicted the location of the house, several large pine trees, the location of the walls to be replaced, patio area, stairs, and fire pit. The walls are noted as being 32’ and 28’ in length. Provided were several pictures of the existing stairs and walls to be replaced.
4. Provided was a Permit by Rule Notification Form, Brief Project Description: Replace Existing Rock Wall / Retaining Walls with New Precast Wall; permit dated 6/27/2022.
5. The application detailed description of the project is as follows: ***Replace existing retaining wall/stairs with Pepin Precast Lock Block, same height, same length.***

6. A notice was mailed to all abutters within 500 feet of the property on July 27, 2022. Meetings were held on Tuesday, July 26, 2022 and Tuesday, August 9, 2022. A site inspection was done by members prior to the meeting on August 9th.
7. The application as presented met the performance standards under §105-73 ‘Conditional Use Permits’ as per the documentation provided and as presented with five conditions. The proposed new walls and stairs 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 engineered plans from the R. Pepin & Sons and will help prevent stormwater from entering the lake; erosion control measures shall be approved by the Code Enforcement Officer; the project takes place near the lake and fire protection is not a requirement for this project; there is limited noise and dust from the construction of the walls which shall be completed by December 4, 2022; there is no glare, odors and the like produced by this project; all performance standards shall be met with five conditions.
8. The application as presented met the conditions under §105-4 ‘Non-conforming structures’, erosion control measures approved by Code Enforcement shall be put into place, and a licensed surveyor has placed the wall to be sure it does not encroach onto the lake or neighboring properties.
9. The application as presented met the conditions under §105-39 ‘Earth removal and filling for activities other than mineral exploration and extraction’. The extent and type of fill is appropriate for the scope of the project; the project shall be completed by December 4, 2022.
10. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing walls (32’ and 28’ in length) & stairs, on Map 24, Lot 27A (49 14<sup>th</sup> Street), per the documents provided and as presented, with five conditions.
11. **The conditions of approval are as follows:**
  - 1) **Date of completion for the project shall be December 4, 2022.**
  - 2) **Best management practices shall be in place until the project is completed.**
  - 3) **The wall cap will be higher than the earth behind the wall to prevent soil and stormwater from going into the lake.**
  - 4) **The stone / rocks to be removed shall be taken out of Shapleigh.**
  - 5) **The Planning Board does not approve the patio as shown on the plan provided.**

**Decision:**

**The Conditional Use Permit to replace the existing walls (32’ and 28’ in length) & stairs, on Map 24, Lot 27A (49 14<sup>th</sup> Street), per the documents provided and as presented, with five conditions, was approved.**

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**Conditional Use Permit – Replace Retaining Wall with Pepin Precast Loc-Blocks – Map 28, Lot 52 (51 Carpenters Cove) – Matt Colton, Applicant; Thomas Collins, Property Owner**

Mr. Colton was present for the review of the application. *A site inspection by board members was done prior to this evenings meeting.*

In addition to the application, received was a sketch plan which depicted a straight line, and the notations ‘Tree’, ‘Stairs’, and 40’ x 3’. Also received was the DEP Permit by Rule, dated 7/11/22, with a Brief Project Description that stated the following: Replace Existing/Failing Retaining Wall at Water’s Edge. A picture was provided of the front of the property that showed the wall to be replaced.

The application detailed description is as follows: *Replace existing block wall with Pepin Precast LockBlock, same length/height.*

Provided this evening was a copy of the letter of authorization, dated 8/2/2022, which stated that Thomas Collins authorized Mainely Barge to apply for and hold all required permits necessary to build a replacement retaining wall at 51 Carpenters Cove Rd, Shapleigh Maine. Questions or concerns can be addressed by calling Tom Collins, owner of said property.

Roger A. asked Mr. Colton to let the board know for the record what he wanted to do. Mr. Colton stated the board did a site visit, and they were replacing an existing failing wall. He said they were using Loc-Blocks, they would be starting next Monday, and expected to complete it by the end of next week. He said there would be no vegetation disturbed, and the current wall material will be hauled out of town. He added that the job has already been surveyed.

Madge B. asked about ground cover, such as erosion mulch? Mr. Colton stated they would be using erosion control mulch on the back hill, and noted there was not a seating area because it was too steep. Madge said she considered this a requirement of the permit.

**Roger. A stated the conditions of approval would be as follows:**

- 1) The project shall be completed by 9/30/2022, which includes the installation of erosion control mulch.**
- 2) Erosion control mulch shall be placed on all the slopes.**
- 3) All material from the existing wall shall be taken out of Shapleigh.**
- 4) The cap on blocks shall be higher than the earth behind the wall to prevent erosion from stormwater from going into the lake.**
- 5) Best Management Practices shall be kept in place until the project is completed.**

**Steve F. made the motion to approve the conditional use permit for earth moving in the Shoreland District to replace the existing 40’ x 3’ retaining wall with Pepin Precast Loc-Blocks on Map 28, Lot 52 per the plans provided, and as discussed, with five conditions. Maggie M. 2<sup>nd</sup> the motion. All members were in favor. By a vote of 5 – 0, the motion to approve was unanimous.**

Nothing further was discussed.

**§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. ***It will not, it will help to stabilize the area to protect spawning grounds, fish, and aquatic life.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***The use will help to protect shore cover, by stopping erosion. 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.***
- 4) Traffic access to the site is safe. ***This does not pertain to this project. Access is available for the intended project.***
- 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. ***All debris from the existing wall shall be taken out of Shapleigh.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There will not be any generated.***
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. ***The wall will be constructed per the engineered plans from R. Pepin company, best management practices shall be kept in place until the project is completed.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Best management practices shall be kept in place until the project is completed. Plans to be approved by the Code Enforcement Officer.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***N/A for this project.***
- 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. ***The limited amount of noise is only during construction of the wall. There is no glare, odors and the like created. Dust will be minimal and only during the construction of the wall.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They will with five conditions.***

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Findings of Fact & Approval

1. The owner(s) of Shapleigh Tax Map 28, Lot 52 (51 Carpenters Cove Road) are Thomas F. and Carol A. Collins, Trustees of Collins Nominee Trust, address of 3 Patricia Circle, Woburn, MA 01801, per Warranty Deed, BK 114430, PG 839, recorded 4/14/2005.
2. The property is located in the Shoreland District, and according to the Assessor’s office, it contains .42 acres.
3. Provided was a sketch plan which depicted a straight line, and the notations ‘Tree’, ‘Stairs’, and 40’ x 3’.
4. Provided was the DEP Permit by Rule, dated 7/11/22, with a Brief Project Description that stated the following: Replace Existing/Failing Retaining Wall at Water’s Edge. A picture was provided of the front of the property that showed the wall to be replaced.

5. The application detailed description is as follows: *Replace existing block wall with Pepin Precast LockBlock, same length/height.*
6. A notice was mailed to all abutters within 500 feet of the property on July 27, 2022. Meetings were held on Tuesday, July 26, 2022 and Tuesday, August 9, 2022. A site inspection was done by members prior to the meeting on August 9th.
7. The application as presented met the performance standards under §105-73 ‘Conditional Use Permits’ as per the documentation provided and as presented with five conditions. The proposed new wall will not have an adverse effect on aquatic life or wildlife; the project will help to conserve shore cover by stopping stormwater from entering the lake; the use is consistent with the Comprehensive Plan which wants to protect the waterbodies from stormwater / erosion; traffic access to the site is safe for the intended project; the lot is not located within the flood zone; the existing block wall will be removed by the applicant & shall be taken out of Shapleigh; there is no hazardous waste associated with the proposed project; the walls will be constructed per the engineered plans from the R. Pepin & Sons and will help prevent stormwater from entering the lake; erosion control measures shall be approved by the Code Enforcement Officer; the project takes place near the lake and fire protection is not a requirement for this project; there is limited noise and dust from the construction of the wall, which shall be completed by September 30, 2022, there is no glare, odors and the like produced by this project; all performance standards shall be met with five conditions.
8. The application as presented met the conditions under §105-4 ‘Non-conforming structures’, erosion control measures approved by Code Enforcement shall be put into place, and a licensed surveyor has placed the wall to be sure it does not encroach onto the lake or neighboring properties.
9. The application as presented met the conditions under §105-39 ‘Earth removal and filling for activities other than mineral exploration and extraction’. The extent and type of fill is appropriate for the scope of the project; the project shall be completed by September 30, 2022.
10. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing 40’ x 3’ wall, located on Map 28, Lot 52 (51 Carpenters Cove Rd), per the documents provided and as presented, with five conditions.
11. **The conditions of approval are as follows:**
 - 1) **The project shall be completed by 9/30/2022, which includes the installation of erosion control mulch.**
 - 2) **Erosion control mulch shall be placed on all the slopes.**
 - 3) **All material from the existing wall shall be taken out of Shapleigh.**
 - 4) **The cap on blocks shall be higher than the earth behind the wall to prevent erosion from stormwater from going into the lake.**
 - 5) **Best Management Practices shall be kept in place until the project is completed.**

Decision:

The conditional use permit for earth moving in the Shoreland District to replace the existing 40’ x 3’ retaining wall with Pepin Precast Loc-Blocks on Map 28, Lot 52 per the plans provided, and as discussed, with five conditions, was approved. By a vote of 5 – 0, the motion to approve was unanimous.

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 unable to attend the review of the application. John Hutchins of J. Winslow Hutchins Drafting & Design was present to answer questions from the board.

The subdivision application for the lot line adjustment between Lots 3-3 & 3-4 contained the following information:

Name of Property Owner: Erica Mrazik & Mike Wallingford
 Mailing Address: 154 Knox Road, Shapleigh Maine 04076
 Name of Applicant: Erica Mrazik & Mike Wallingford
 Mailing Address: 154 Knox Road, Shapleigh Maine 04076
 Name of Authorized Agent
 & Land Surveyor: Joseph Stanley, LinePro Land Surveying, LLC
 Mailing Address: 455 Main Street, Springvale Maine 04083
 Email Address: jstanley@lineprosurveying.com

Land Information:

Location of Property: YCRD Book 17837, 18151 Page 298, 131
 Shapleigh Tax Map 6, Lot(s) 3-3 & 3-4
 Current Zoning: General Purpose District
 The property lies within 250’ of Pump Box Brook.
 Acreage to be Developed: 3,978 sq. ft., .09 acres to be changed.
 Property is part of a prior subdivision, Pump Box Brook Estates.
 Restrictive Covenants: No mobile homes allowed; no junk cars; no further division of lots; lots limited to domestic animals; no ATV’s used on Coley Trafton Road (now Knox Rd); no motor vehicles, snowmobiles, ATV’s, three wheelers, dirt bikes and motorcycles permitted in, on, or through the greenbelt; no activity in the greenbelt which unduly disrupts the wildlife; owners shall have culverts approved by the Shapleigh Road Commissioner; owners will be responsible for erosion prevention when building; any earthwork within 400’ of Pump Box Brook will require siltation barrier of hay bales or fabric fence.
 Other: The parcel does not include a waterbody.
 The parcel is not within a special flood hazard area.
 Number of Lots: (10) Ten
 Development has the following: Existing road access.
 Method of Water

Supply: Individual Wells
Method of Sewer
Disposal: Individual Septic Systems
Method of Fire
Protection: Dry hydrants located on an existing fire pond or water body.

Provided along with the application was a copy of the original conditions of approval for Pump Box Brook Estates, recorded at the YCRD in BK 4552, PG 141, on 9/24/1987; a copy of the Restrictions on Pump Box Brook Estates, recorded at the YCRD in BK 4552, PG144, on 12/8/1987; and a copy of the original Standard Boundary Survey of Final Plan of Pump Box Brook Estates for Robert E. Santino of Lands Lying Within the Town of Shapleigh, County of York, State of Maine, drafted by Robert Yarumian II, RLS #1303, dated 9/15/1987, recorded at the YCRD in BK 163, PG 26 on 12/8/1987.

Provided was a letter of authorization from Jason M. Parnham, granting Joseph Stanley of LinePro Land Surveying to act as his agent in all aspects in order to obtain any and all permits necessary from the Town of Shapleigh for his property located on Map 6, Lot 3-4, as well as agreeing to the boundary line adjustment proposed on “Revision to Plan of Pump Box Brook Estates”, authorization dated 7/22/22.

Provided was a survey plan entitled ‘Revision to Plan of Pump Box Brook Estates, Revising YCRD Plan Book 163 Page 26, Revising Shapleigh Tax Map 6 Lots 3-3 & 3-4 for Mike Wallingford of Property Located on Knox Road, in Shapleigh, Maine’, drafted by Joseph L. Stanley, PLS #2453, plan dated July 14, 2022. The plan depicts surveyed Lot 3-4 & Lot 3-3, along with abutting Lot(s) 3-5 & 3-2, and part of Lot(s) 3-6 & 3-1. The plan lots being amended, Lots 3-4 & 3-3, contain the following information:

- Lot 3-3 depicts the location of the existing house, garage, Shelter Logic tent, and current property line.
- Lot 3-4 depicts the location of the existing house/deck, proposed property line, and existing fence owned by Lot 3-3. The area to be adjusted contains 0.09 acres to be transferred to Lot 3-3.

The plan depicts the proposed size of Lot 3-4 as being 5.25 acres after adjustment.
The plan depicts the proposed size of Lot 3-3 as being 5.39 acres after adjustment.

Provided this evening was a final survey plan entitled ‘Revision to Plan of Pump Box Brook Estates, Revising YCRD Plan Book 163 Page 26, Revising Shapleigh Tax Map 6 Lots 3-3 & 3-4 for Mike Wallingford of Property Located on Knox Road, in Shapleigh, Maine’, drafted by Joseph L. Stanley, PLS #2453, plan dated August 8, 2022. The final plan depicts the proposed size of Lot 3-4 as being 5.44 acres in size, and Lot 3-3 as being 5.56 acres in size. This change in lot size is due to a final recalculation using the correct coordinates per Joseph Stanley.

The application project description reads as follows: *The application contained herein is simply to revise one Boundary Line on the Subdivision Plan “Standard Boundary Survey of Final Plan of Pump Box Brook Estates”, which was approved on September 15, 1987 for Robert Santino on Knox Road and is recorded at the York County Registry of Deeds in Plan Book 163 Page 26. The purpose of this revision is to correct an occupation issue on neighboring properties. The neighboring properties are shown on Shapleigh Tax Map 6 Lots 3-3 and 3-4 and are further described in the deeds recorded at the York County Registry of Deeds in Book 17837 Page 298 & Book 18151 Page 131. No other changes are proposed, and all other conditions and waivers per the previous approval will be adhered to.*

Roger A. asked Mr. Hutchins to explain what the project entailed for the record. Mr. Hutchins stated this was a line adjustment on an existing subdivision. He said that ever since the abutter bought the property there has been a fence, and he was unaware that the fence was actually on his property. He said the abutter said that he has no problem making the lot line adjustment, so the line (property line) goes around the existing fence. He said the abutter said he didn't know he owned the property anyway. He said the property owners agreed to make the adjustment. He stated Mr. Stanley has surveyed it, produced this plan, and provided the copies for the board to sign.

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

Madge B. moved for approval of the amendment to the subdivision, known as Pump box Brook Estates, which adjust the lot line between Map 6, Lot 3-3 & Lot 3-4, per the survey plan provided. Steve F. seconded the motion. All members were in favor. By a vote of 5 – 0, the motion to approve was unanimous.

The Planning Board acted on the application for an Amendment to a Subdivision, known as Pump Box Brook Estates, dated July 21, 1987, to adjust the lot line between original Lot #3 & Lot #4, as follows:

FINDINGS OF FACT

1. The applicant & owner(s) of the property formerly known as Lot #3 (currently 3-3), are Erica L. Mrazik & Michael G. Wallingford, mailing address of 154 Knox Road, Shapleigh Maine, per Warranty Deed, Book 17837, Page 298, dated 11/5/2018. The owner of property formerly known as Lot #4 (currently 3-4), is Jason M. Parnham, mailing address of 146 Knox Road, Shapleigh Maine, per Warranty Deed, Book 18151, Page 131, dated 1/21/2020.
2. The properties are located at Shapleigh Tax Map 6, Lot(s), 3-3 (154 Knox Road) & 3-4 (146 Knox Road), and are located in the General Purpose District. The properties are within 250' of Pump Box Brook.
3. The applicant proposes to correct an occupation issue on neighboring properties. The neighboring properties are shown on Shapleigh Tax Map 6, Lots 3-3 and 3-4 and are further described in the deeds recorded at the York County Registry of Deeds in Book 17837 Page 298 & Book 18151 Page 131. No other changes are proposed, and all other conditions and waivers per the previous approval will be adhered to.
4. Provided was a letter of authorization from Jason M. Parnham, granting Joseph Stanley of LinePro Land Surveying to act as his agent in all aspects in order to obtain any and all permits necessary from the Town of Shapleigh for his property located on Map 6, Lot 3-4, *as well as agreeing to the boundary line adjustment proposed* on “Revision to Plan of Pump Box Brook Estates”, authorization dated 7/22/22.
5. Provided was a survey plan entitled ‘*Revision to Plan of Pump Box Brook Estates, Revising YCRD Plan Book 163 Page 26, Revising Shapleigh Tax Map 6 Lots 3-3 & 3-4 for Mike Wallingford of Property*

Located on Knox Road, in Shapleigh, Maine, drafted by Joseph L. Stanley, PLS #2453, plan dated July 14, 2022. The plan depicts surveyed Lot 3-4 & Lot 3-3, along with abutting Lot(s) 3-5 & 3-2, and part of Lot(s) 3-6 & 3-1. The plan lots being amended, Lots 3-4 & 3-3, contain the following information:

- Lot 3-3 depicts the location of the existing house, garage, Shelter Logic tent, and current property line.
- Lot 3-4 depicts the location of the existing house/deck, proposed property line, and existing fence owned by Lot 3-3. The area to be adjusted contains 0.09 acres to be transferred to Lot 3-3.

The plan depicts the proposed size of Lot 3-4 as being 5.25 acres after adjustment.

The plan depicts the proposed size of Lot 3-3 as being 5.39 acres after adjustment.

6. Provided this evening was a final survey plan entitled *‘Revision to Plan of Pump Box Brook Estates, Revising YCRD Plan Book 163 Page 26, Revising Shapleigh Tax Map 6 Lots 3-3 & 3-4 for Mike Wallingford of Property Located on Knox Road, in Shapleigh, Maine*, drafted by Joseph L. Stanley, PLS #2453, plan dated August 8, 2022. The final plan depicts the proposed size of Lot 3-4 as being 5.44 acres in size, and Lot 3-3 as being 5.56 acres in size. This change in lot size is due to a final recalculation using the correct coordinates per Joseph Stanley.
7. Provided was a copy of the original conditions of approval for Pump Box Brook Estates, recorded at the YCRD in BK 4552, PG 141, on 9/24/1987; a copy of the Restrictions on Pump Box Brook Estates, recorded at the YCRD in BK 4552, PG144, on 12/8/1987; and a copy of the original Standard Boundary Survey of Final Plan of Pump Box Brook Estates for Robert E. Santino of Lands Lying Within the Town of Shapleigh, County of York, State of Maine, drafted by Robert Yarumian II, RLS #1303, dated 9/15/1987, recorded at the YCRD in BK 163, PG 26 on 12/8/1987.
8. A notice to abutters was mailed on July 27, 2022. Meetings were held on Tuesday, July 26, 2022, and Tuesday, August 9, 2022.
9. There are no changes to the existing restrictive covenants requested, which are as follows:
No mobile homes allowed; no junk cars; no further division of lots; lots limited to domestic animals; no ATV’s used on Coley Trafton Road (now Knox Rd); no motor vehicles, snowmobiles, ATV’s, three wheelers, dirt bikes and motorcycles permitted in, on, or through the greenbelt; no activity in the greenbelt which unduly disrupts the wildlife; owners shall have culverts approved by the Shapleigh Road Commissioner; owners will be responsible for erosion prevention when building; any earthwork within 400’ of Pump Box Brook will require siltation barrier of hay bales or fabric fence.

Conclusion(s)

Upon review of all material presented, the Board concluded the standards of the Town’s Subdivision Ordinance are met with the requested lot line adjustment.

Planning Board ACTION

The Planning Board hereby approves the application for an amendment to the Subdivision known as Pump Box Brook Estates, for the proposed lot line adjustment, with the following conditions:

1. Any subdivision not recorded at the York County Registry of Deeds *within ninety days* of the date upon which the plan is approved and signed by the Planning Board shall become null and void, unless an extension is granted by the Board in writing.
2. Shapleigh Tax Map 6, Lot 3-4 shall be 5.44 acres after adjustment; Tax Map 6, Lot 3-3 shall be 5.56 acres after adjustment, per the final plan drafted on August 8, 2022.
3. Any further division to the subdivision shall have to come back before the Planning Board.
4. No changes, erasures, modifications, or revisions shall be made in any final plan after approval has been given, unless the revised final plan is first submitted to the Planning Board and the Board approves any modifications.

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, and again for this evening, 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.*

This evening 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.

Roger A. asked Mr. Gullikson to state where the project was at. Mr. Gullikson stated he wanted to start the process going again, so he will be in season to begin working on the proposed wall. He said he received the engineered drawings after he sent the paperwork out to members, so he provided members with a copy this evening. Members reviewed the information provided. Roger stated that this would be in lieu of the Loc-block wall that was done with the original application (2007). Mr. Gullikson said, “Yes”.

Steve F. asked if the engineer wants the base of the wall to be 1.5 times the height of the wall? Mr. Gullikson said, “Yes”. Steve asked if the wall was 9 feet high? Mr. Gullikson said it was approximately 9 feet high, he said he measured it to 8 feet but Mr. Aleva drew it to 9. Steve asked what the size of the boulders were, bowling ball size? Roger A. said they were the boulders at the top of the site. Mr. Gullikson said they were big, coffee table size. Steve said he understood. Roger believed the intention is to use all the boulders that are up on top; he asked Mr. Gullikson if that were true. Mr. Gullikson stated that it was. Roger said that when they were on the site inspection this evening (for a nearby lot), all the boulders they saw were what he was going to be using.

Roland L. asked how far it was from the front of the cottage to the front of the wall? Mr. Gullikson said he hadn’t measured it. Roland said that if they do the 9 times 1.5, it is 13 and 1/2 feet that he is going to lose. He was wondering how much there will be left. Mr. Gullikson said there may be 16 feet left. Steve F. noted that there was a sketch that show there was 25 feet from the house to the existing wall.

Roger A. asked where all the gravel will be placed, that will be removed in order to place the stones? Mr. Gullikson said ‘out of town’. He said he wasn’t trying to be funny, it just seems this is the answer to placate everyone. Madge B. said that Roger will tell him that he can’t put it on someone else’s property in town without getting a separate permit for that property. She said if he wanted to talk someone into getting a permit to take the gravel, he could do that. She said this is why other applicants say out of town, because they didn’t find someone in town who will get a permit. Roger said that the existing telephone pole retaining wall needs to go out of town. Mr. Gullikson said that it would. Roger said that Mr. Gullikson will have to tell the Code Officer where it is going when he goes for his permit.

Steve F. asked if the gravel was coming out over the hill by hand? Mr. Gullikson said he built a track, and there is a cart on the track, and the boulders go down in the cart and the gravel comes up. He said he operates a backhoe and there is a trolley. Steve asked if the material goes into a dump truck? Mr. Gullikson said he has a dump trailer and he also owns the adjoining property, so he may put the gravel on his own property. Roger said that any gravel moved from the property, the location of where it is going will need to be approved. He said you cannot have a 25 foot mound of gravel setting on site. He said the Shoreland Zone is 250 feet from the water, so the board needs to know where the gravel will be placed to be sure it will not go into the lake. Roger added that the rocks that were already moved, there should have been a permit to move them. He said that there was more than 250 yards of material moved. He said all the rocks that were moved with respect to area, would be more than 250 yards of material, and a permit was required to move them in the Shoreland District. Roger added that a permit was not obtained. Mr. Gullikson apologized. Roger said this was all part of this project.

Roger A. said that Mr. Gullikson would need to designate where on his property the gravel will be moved to, so the board knows it will not have a detrimental effect on the lake or surrounding area. Mr. Gullikson asked if he could do that on a future date? Roger said that he could.

Ann H. said if someone is doing a wall with boulders, or if they were bringing in Pepin blocks to do the wall, do they need to get a permit? Roger A. said they did, and they need a DEP permit. Ann said if you do a Pepin wall, people have to get a permit to bring in the material. Madge B. said they do not get a separate permit for the blocks. Roger agreed saying it is not a separate permit, it was a permit before the board showing where the blocks will be placed and where other material will be moved. He said it was a combination of both the

material used for the wall and where the material being moved will go. He added that because of all the work involved, they will need to verify that best management practices will be in place the entire time to prevent erosion from going into the lake.

Steve F. asked Mr. Gullikson what he anticipated to be a start date and a date of completion. Mr. Gullikson stated he would like to start in September and be completed by December 15, 2022. Roland L. told Mr. Gullikson that the traditional lake drawdown is Indigenous People's Day (October 10th). Members noted that while on another site inspection they noticed the lake was down now. Roland said this is a historical date that homeowners know the lake will be drawn down, unless the lake is already down to its drawdown level in the fall. He said based on his location, it is not to that level at this time.

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 face and come from the top of the wall down? Mr. Gullikson said it was his intent the stairs will be as they are now, until another date. He said he didn't plan on rebuilding the stairs out of stone. Roland asked how he would retain the sides, will the area be pitched in? Mr. Gullikson agreed it will be pitched in.

Roger A. said that Mr. Gullikson will need a survey showing where the existing wall physically sits on the property. Mr. Gullikson stated that it had been done and they were waiting on what they will provide.

Roger A. asked once the wall is moved back about 15 feet, how will Mr. Gullikson ensure the camp will not be affected? He thought the work may be taking place only 10 feet away. Mr. Gullikson asked him to repeat the question. Roger said, "When you are pulling all this gravel out, your camp will be approximately 10 or 12 feet away. How are you going to assure this will not all fall in and affect the structure?" Mr. Gullikson said, "By not doing it all at once. By doing it in small sections at a time."

Steve F. said on the engineers plan it does state 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. He felt that was good. Roger A. agreed.

Roger A. said what the board needs to know is where the gravel is going to go. He said Geoff Aleva is supposed to stop in to see how everything will progress. He said the board does have the DEP Permit by Rule, and it looked like it was a go without conditions imposed by the DEP.

Ann H. said Mr. Gullikson said he owned the adjoining property. She asked if it was a separate deed. Mr. Gullikson said that it was. She asked if he needed to get a permit to be able to put it on his property. Barbara F. said no, as long as he shows the board where it is going now on a sketch plan. Mr. Gullikson asked if he could lay it down to cover a parking area? Roger A. said he could, the board just needs to know where it is going and how much fill there will be.

Roland L. asked if a property owner can do a Shoreland project without a DEP certification? Roger A. said they can, but the board in the past has said no, they need certification. Roland asked if Mr. Gullikson had certification. He said he did not. Roger added that he doesn't own the property. Roland asked if he needed someone to oversee it? Roger thought Geoffrey Aleva would oversee the project. Roland thought the requirement was to have someone there anytime there was activity, it isn't a drop-in situation. Roland

thought Mr. Aleva will stop in periodically, not on a daily basis. Roger agreed. Maggie M. said the board could add the one word ‘daily’ because Civil Consultants said they would visit the site during construction. Barbara F. did not think an engineer would come out daily to view the project. Ann H. believed it was two separate things, the Civil Consultant will drop in, but the DEP says that the person has to make sure a certified person has to be on site when anything is going on to make sure that BMP is being followed. Roger said that as long as the person working on the property is not getting any money for doing the work, they do not need to be certified. He said that is the DEP criteria. Roland asked if this was the assumption the board was making with this application? Roger said that the board voted at an earlier date, that they wanted to see someone on site that was certified to oversee the project. The board agreed to be more strict than the DEP, which is allowed. Steve F. said, “As long as it is in the ordinance.” Madge B agreed. Roger stated that the Ordinance allows any condition for the health and safety of the individuals, as long as the board makes findings as to why they are imposing the condition. He said in this location, because of the height of the wall, the size of the boulders, and degree of difficulty, he felt it would be warranted. Mr. Gullikson agreed it was a challenging job.

Steve F. asked if the trolley brought the boulders down and the material up, and if there was an excavator at the water. Mr. Gullikson said the excavator would be on the plateau, and take and place the stone down onto the wall. Steve said, “Just within reach of the excavator”. Mr. Gullikson said yes, about 10 feet. He said again it was a challenging undertaking. Roger A. did not think he could get there, he didn’t think there was enough room to swing the excavator. Mr. Gullikson disagreed, he said he measured the area. Roger felt this was a hazardous situation regarding stability of the area. Madge B. said the board cannot tell him he can’t do it. Roger agreed, and noted that the engineered plan states it has to be OSHA compliant for the excavation limit. Roger said that he hoped Mr. Gullikson realized what that entailed, he said that was his point. Steve said he didn’t know what that would be. Roger said it would likely need a dig box. (Trench Box - Though not designed to prevent a trench wall from collapsing, trench boxes protect workers from the pressure and weight of soil in the event of a cave-in. Their walls are held apart by spreaders or panels to the desired width. The soil pressures and depth ratings on a trench box are determined by their designs). Ann noted that OSHA would have to decide that, not the board. Roger agreed, and he also wasn’t sure the project would be completed by December. Madge said that Mr. Gullikson could always get an extension of time. Roger agreed.

Roger A. said this application would need to be tabled, so Mr. Gullikson can show the board where the gravel will be placed once it is removed from the wall area.

Madge B. asked about the DEP certification. Roger A. said the board would require it. Madge asked if he had time to get it? Mr. Gullikson stated that he has taken the course, there is a follow-up site review and he needed to call the DEP to inspect, and he never found the need to do so. He said he didn’t anticipate he would be before the board. Steve F. said they come out to inspect the silt fences, and wondered if he could use this project to get his certification. Ann H. said that once the silt fencing is in place, call the DEP to come inspect it. Mr. Gullikson said that he could do that. Mr. Gullikson mentioned the fact that if a homeowner is doing it there is a differentiation. Roger agreed, stating if the homeowner is doing it or no funds are being exchanged for doing the work, the DEP does not require them to be certified. He said, however, the board may request it as a condition of the permit on this project, due to the degree of difficulty, so he would have to be certified. Madge said Roger wants the board to require Mr. Gullikson to be certified but the board hasn’t

required it yet, but he is suggesting it. Maggie M. thought he would need to do another project in order to get certified. Barbara F. believed he could use this project, mentioning a recent approval that the person was using the current project in order to get his certification, and the board had no issue with that. Roger agreed that it could be done. Roger said that once he gets started, putting all the erosion control in place, he calls the DEP to inspect it and if they approve of what he does, he will get his certification. Maggie asked if he was going to have to contact OSHA. Roger said that he would have to find out what their rules are. Steve F. asked if the board should vote on letting him use this project to get his certification, because he had no issue doing that. All the board members agreed this was a good idea to use this project for his certification. Roland L. stated he would not feel comfortable voting at this time, so he would abstain. Roger said that Roland had no reason to abstain, it can't just be that he is 'uncomfortable'. Roland said he wanted to know more about what the certification was about. He asked if you get the certification after the project is completed or is it the best management practice at the beginning? Roger said it was for BMP at the beginning and they can certify you stating you did a great job. Roland asked if it was 'you did a great job getting ready to do the job'. Ann stated that was all they do. She said you take the class, and you show you can physically keep sediment from going into the lake. She said if they think you did it correctly, then they certify you. Barbara noted again the recently approved project where the applicant was getting his certification at the same time as doing the job, and the board approved it. Roland realized that, but said the scale of these two projects was very different. Barbara said that it was still BMP, regardless of what the job entails. Maggie added that the OSHA side of the project the DEP didn't care about. Roland asked what the vote was on? Roger said whether or not the board would require DEP certification for Mr. Gullikson? Roland asked if the next vote would be on certification during the project and the other things such as OSHA requirements. Madge said that the board was not ready to do the next vote yet. Roger said the next thing the board will have to see is where the gravel is going to be relocated to. He thought that was the only other thing the board would be looking at at the next meeting.

Madge B. moved that the board require Mr. Gullikson to be DEP certified in erosion control methods, and that he can use this project on Map 28, Lot 46, to meet the DEP requirements. Maggie M. seconded the motion. All members were in favor. By a vote of 5 – 0, the motion to approve was unanimous.

Madge added that this was the only vote the board was taking this evening.

Mr. Gullikson asked if he told the board he was going to spread the gravel along the driveway on his property what would that do? Roger A. asked if that driveway was accessed by the family only? Mr. Gullikson said, "Yes". Roger asked if others have a right-of-way over it? Mr. Gullikson said he was talking about a different driveway. He said the road that the board recognized, there is a driveway off that and he would spread it on that driveway. Barbara F. stated that the board needed a sketch showing the location of that driveway. Madge asked if it was more than 100 feet from the water. Mr. Gullikson stated that it was. Roger said the board needed a sketch depicting the location and how many yards he believed would be moved to that location. He said he could figure that out because it will be 13 feet by 100 feet long.

Roger A. said the board will table the application until the next meeting, waiting for the additional information. Mr. Gullikson asked how he would present it. Roger said create a sketch depicting where it will be going. Barbara F. said that he should add distances from lots lines, and area involved such as 50' x 100', whatever it will be, and how far it is from the high-water-mark. Madge B. said it needs to be located on the

property. Ann H. said you can take measurements from any structure on the property. Roger asked if the property was owned by him or the family? He said he owned the property.

Mr. Gullikson asked if he gathered the information and brought it to the next meeting? Roger A. said the next meeting was two weeks from now, and if he provides the information at the meeting, the board will take a vote on the project. He said he should know where the timbers will be going as well. Mr. Gullikson said he asked because he wanted to know if there would be subsequent meetings. Roger said the board should be able to vote on it at the next meeting if he provided the information.

A notice to abutters will be mailed prior to the next meeting.

Nothing more was discussed.

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 unable to attend the review of the application. John Hutchins of J. Winslow Hutchins Drafting & Design was present 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 owners 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.

Roger A. asked Mr. Hutchins to let the board know about the private way. Mr. Hutchins said this was a private way for a family division of the property. He said he didn’t want to call it a subdivision because it wasn’t a subdivision. Roger stated that it was a family subdivision. Mr. Hutchins stated the private way was what was before the board. Roger asked if any money was being transferred? Mr. Hutchins said, “No”. Mr. Hutchins stated that Mr. Stanley said the last time he was before the board, you wanted to see how the proposed lots were configured even though it was a family division.

The board reviewed the plan and saw that each lot on the private way met the minimum requirement of 200 feet of road frontage. Mr. Hutchins said Mr. Stanley was looking for the board to set up the site visit. He said there was a notation on the plan regarding the road construction, which Mr. Stanley said was what the board had looked for with the last approval he brought before them. Roger A. asked about the contour of the land? Mr. Hutchins said the area was fairly flat without any elevation to speak of. He said there was maybe 2 feet the entire length of the road. Board members knew the area and agreed. Steve F. said the road should be easy to build and maintain.

Roger A. noted that there needed to be a notation on the plan that the road will not be maintained, repaired or plowed by the town. Mr. Hutchins said he understood.

Roger A. said the site inspection will be Tuesday, August 23rd at 6:15 pm. A notice to abutters will be mailed as well.

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.*

Roger A. asked Mr. Mathews to let the board know what he wanted to do. Mr. Mathews stated they have an existing wall that is falling down, looking to tear it down and replace it with regular Genest retaining wall blocks, same size and same location. He said they also have an old patio that they want to replace, same size, and same location. He said there are stairs on the side, which will be moved to the middle, which is the only change to the existing structures.

Roland L. asked what the makeup of the patio was? Mr. Mathews said it was concrete, old small deteriorating pavers.

Roger A. asked if the survey had been done yet? Mr. Mathews stated that it had not been done, but that it would be done. Roger asked how soon it would be done? Mr. Mathews said, “Before I start”.

Ann H. asked where the old stuff would be taken? Mr. Mathews said the landscaper would be taking it but not to the Shapleigh transfer station.

Roger A. asked Mr. Mathews if there was a DEP Permit by Rule? Mr. Mathews stated that yes, it had been filed.

Steve F. stated he would not be at the next meeting, but he wanted to bring up the fact that he wanted to be sure the CEO has the existing patio on record, if the board is going to permit it as part of the project. He said it should be verified. Madge B. agreed, stating that the patio does exist and is on the plan provided.

Roger A. stated a site inspection would be on Tuesday, August 23rd at 6:30 p.m. A notice to abutters will be mailed as well.

Nothing further was discussed.

Best Practical Location – Replace Existing Structure in the SD – Progress Report – Map 21, Lot 35 (83 24th Street) – Tyler Mathews, Applicant; Tiger Picard, Property Owner

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

Mr. Mathews stated he was before the board to have the application tabled as the client is not ready to proceed with the project.

Steve F. made the motion to table the project for 90 days as allowed in the ordinance. Madge B. seconded the motion. All members were in favor. By a vote of 5 – 0 the motion to table was unanimous.

Nothing further was discussed.

Growth Permits

Map 4, Lot 7-O (Coley Trafton Road) – New Home – J. Frechette

GP #21-2022

Roger A. stated the lot met the minimum requirements in the ordinance, having over 400 feet of road frontage and consists of 12.19 acres more or less.

Map 32, Lot 14 (Dogwood Drive) – New Home – D. Deshaies

GP #22-2022

Roger A. stated it was a lot of record. There was a plan provided which showed additional acreage being added to the lot from Map 7, Lot 5C, which was not an issue. Roger noted that even though the lot is a lot of record, any structure will have to meet the setback requirements.

Map 6, Lot 26 (275 Nason Road) – New Home or Duplex? – G. & M. Landry

Upon reviewing the application the board could not tell if they were looking for a new home or a duplex, or if the applicant wanted to split off a new lot. *The board tabled the application and asked Barbara F. to get additional information.*

The Planning Board meeting ended at 8:55 p.m.

The Planning Board now meets the 2nd and 4th Tuesday of each month at 7:00 pm, unless it falls on a holiday or Election Day. Should there be a cancellation due to a storm event, holiday or Election, the meeting will typically be held the following Wednesday, also at 7:00 p.m. Public hearings are held at 6:30 pm, just prior to the meeting.

Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2839, x4.

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