

Shapleigh Planning Board
Minutes
Tuesday, November 14, 2023

Members in attendance: Steve Foglio (Chairman), Ann Harris (Vice Chairman), Madge Baker, Maggie Moody, and Norman Baker. Code Enforcement Officer Mike Demers was also in attendance. Thomas Clement 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 pm.

- *The Planning Board Chairman began the regular meeting with The Pledge of Allegiance.*

Steve F. asked members if there were any questions or comments regarding the minutes, were there any concerns or corrections? There were none. Steve stated the minutes were accepted as read.

- **Unfinished Business**

Conditional Use Permit – Earth Moving to Replace Retaining Wall in the SD – Map 17, Lot 44 (167 30th Street) – Carl Beal, PE, Applicant; Paul Muse, Representing; James & Diane Coughenour, Property Owner

Paul Muse was present for the review of the application, along with Mr. Coughenour.

Provided along with the application, was a cover letter from Carl V. Beal, P.E. #5013, dated October 11, 2023, which stated in part the following: Enclosed please find a Conditional Use Permit application for replacement of an existing dilapidated retaining wall on Lower Mousam Lake in Shapleigh, Maine. Mr. Coughenour has retained Acton Excavators (Paul Muse) to install the replacement wall this fall, during the period when Mousam Lake will be lowered to winter level. Construction access to the wall will be through abutting property of Spinney, who is also replacing his retaining wall this November.

Provided were photos of the existing retaining wall along the water’s edge, which depicted the deterioration of the wall. Also provided was a sketch plan, drafted by Carl Beal, of the Existing Retaining Wall, depicting it as being 4.5’ in height, and 2 ½’ deep.

Provided was a sketch plan of the New Retaining wall, drafted by Carl Beal, which depicts the wall as being comprised of (3) courses of 18” x 27” x 48” precast blocks, with crushed stone placed under and behind the new wall. Also on the sketch plan is a 3 foot area directly behind the new wall consisting of conservation mix mulch, and 15 “Bar Harbor” Junipers, spaced 5’ on center. Photos of the blocks to be used were also provided.

Provided was a Site Plan for the Coughenour Family – Located at 167 30th Street, Shapleigh, Maine’, drafted by Steven C. Horne, LLC PLS #2389, dated 10/11/2023. The plan depicts the location of the

Existing Dilapidated Wall, approximately 12” wide by 4’ tall. Also on the plan is the location of the existing camp, porch, patio area, two ramps, and the area to be landscaped per the plan provided. Proposed Improvements listed on the plan are as follows: 1. The old, dilapidated, poured concrete wall is to be removed and replaced with a precast, interlocking, concrete block wall, per attached specs. 2. The new wall is proposed to be placed in the same footprint as the old wall. 3. Construction access will be provided through the Spinney Property.

Provided was a copy of the Permit by Rule Notification Form, dated 10/14/2023. The Brief Project Description on the application is as follows: Replacement of an existing dilapidated concrete retaining wall along the shore of Mousam Lake, with a precast concrete block retaining wall structure. Coughenour has retained Acton Excavators to perform the work in November when the lake will be lowered to winter level.

The application detailed description of the project is as follows: *Replacing a dilapidated retaining wall along the shore of Lower Mousam Lake. Acton Excavators intend to do the work this November, when the lake is lowered.*

Steve F. stated the first item would be for the Conditional Use Permit for earth moving to replace a retaining wall in the Shoreland District. Steve asked Paul Muse if he was addressing the application and he stated that he was. Mr. Muse stated that Mr. Coughenour was also present.

Steve F. stated the board agreed to go do site visits on their own time. He asked members if they were able to go, and those members present stated they did go.

Steve F. stated he was unable to attend the previous meeting, but he believed the board had what they needed for the application. He said there was a replant plan. Madge B. stated she had questions about the bare land that existed on the property. She said she was not a landscape planner but the exposed soil was not good. She added that the land tips down toward the wall and water. Madge said there is nothing between where they park the cars and the existing wall. She thought it might be beyond the scope of the application, she said it was not directly associated with the wall. Madge asked if anyone else went to the site? Norman B. stated, “Yes, I went there and I think what you are referring to is the property between 167 and 171”. Norman said, “The grade from the road goes right down to the lake”. Madge added that there is nothing growing on it. Norman said, “No there isn’t”. Ann said that it was like a water shoot right into the lake. Norman said, “Yes, it is, something needs to be done there. I spoke to the owner of 167, is he here”. Mr. Muse stated that he was. Mr. Spinney said, “I am 171”. Norman stated that he spoke to Mr. Coughenour. Mr. Coughenour said 171 was the hill and he had the committee for the Mousam Lake Region out, because he gave to them. He said he had them down there before the project started and they are going to dig a trough and put stone in it. He said they could have done it last year, but because he was going to do the wall, they said he would ruin the trough. They suggested he do the wall, then when it’s done, he should contact them. He stated that he has already contacted them for a gutter of stone (French drain), and they mentioned blueberry bushes to absorb the water. Madge said that was great. Norman asked, “Who are you referring to, when you say they?” Madge thought it was the Lake Association. Norman asked, “Or the Youth Conservation Commission? Dave something, David Burns?” Mr. Coughenour stated, “Yes, David Burns.” Norman suggested that he contact them as soon as possible to get on the agenda for next year. Mr. Coughenour stated as soon as he knows he is approved for the wall, then he will give Mr. Burns a call.

Steve F. said the board needs to go back to the wall on Lot 44. He asked if there were trees coming down for this wall? The board did not believe so.

Steve F. stated there would be 3 rows of the precast blocks, 18” x 27” x 48”. He said there were no issues regarding engineering, the board can use the engineers stamp provided for the revegetation plan and reconstruction plan. He said the application states they are putting in 15 Bar Harbor Junipers along the

wall, 5 feet on center, 3 feet off the back of the wall. He said there would be a crushed stone base and crushed stone drainage behind the wall. Steve asked the board if they were ok with the revegetation plan. No one commented.

Steve F. reviewed §105-73.G, stating the conditions have been met.

§105-73.G. Standards applicable to conditional uses.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies.
- 3) The use is consistent with the Comprehensive Plan.
- 4) Traffic access to the site is safe.
- 5) The site design is in conformance with all municipal flood hazard protection regulations.
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made.
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed.
- 9) Adequate provisions to control soil erosion and sedimentation have been made.
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes.
- 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.
- 12) All performance standards in this chapter applicable to the proposed use will be met.

He then reviewed §105-73.H, noting that the vegetation had been identified in the revegetation plan, consisting of 15 Junipers. **§105-73.H. Conditions attached to conditional uses.**

- (1) Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required in this chapter, that it finds necessary to further the purposes of this chapter. Violation of any of these conditions shall be a violation of this chapter. Such conditions may include but are not limited to:
 - (a) Specifications for type of vegetation, increased setbacks and yards.
 - (b) Specified sewage disposal and water supply facilities.
 - (c) Landscaping and planting screens.
 - (d) Period of operation.
 - (e) Operational controls.
 - (f) Professional inspection and maintenance.
 - (g) Sureties.
 - (h) Deed restrictions.
 - (i) Restrictive covenants.
 - (j) Locations of piers, docks, parking and signs.
 - (k) Type of construction.
 - (l) Any other conditions necessary to fulfill the purposes of this chapter.

Steve asked what the time frame was for the project? Mr. Muse stated they were waiting for the water to recede, and the weather. He said they planned on starting the project within 2 weeks. Steve said based on this, replanting would happen in the spring. Mr. Muse stated that was correct. Mr. Muse said they may be into January doing the wall, depending on the weather. Steve stated that he understood, the board's goal was to minimize the time that the soil is exposed and under construction. He said you cannot plant in January, so it would take the application into planting season. He asked Mr. Muse if June 30, 2024 would be a fair date of completion. Mr. Muse stated that it was.

Steve F. stated the following conditions of approval:

- 1) **Photographs were received for preconstruction of the shoreline, vegetation and development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. These photos must show both the new structure and revegetation / stabilization of the area.**

- 2) 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.
- 3) Best Management Practices shall be used at all times until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).
- 4) The project including the approved revegetation plan, shall be completed by June 30, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion, otherwise the application shall be null and void.
- 5) All debris from the existing structure shall be removed, taken out of the Town of Shapleigh, and disposed of at the proper facility.

Steve F. stated that no trees are being removed for this project. Mr. Muse stated that he was correct. Norman B. stated that he noticed 3 freshly cut trees in the section between the 2 properties. Madge B. agreed. Ann H. did not think they were his trees. Steve thought it might be for the next application.

Steve F. stated if there are no further conditions he would entertain a motion.

Maggie M. moved for approval of the Conditional Use Permit for earth moving in the Shoreland District to replace the wall on Map 17, Lot 44, with the stated conditions.

Madge B. said that she wanted it clear from the last meeting, when Ann H. said no grass to be planted, unless it is behind the Junipers. Ann agreed, stating the Junipers are going to go around the wall, and if they want grass behind it, that is ok, it just cannot be lawn only. Steve F. stated that they are showing a 3 foot wide row of conservation mix and Junipers behind the wall. Madge said that she just wanted that to be clear.

Madge B. seconded the motion to approve. By a vote of 5 – 0, the motion to approve the application was unanimous.

Nothing further was discussed.

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**Findings of Fact**

- 1. The owner(s) of Shapleigh Tax Map 17, Lot 44 (167 30<sup>th</sup> Street) are Diane T. Coughenour of Portsmouth, New Hampshire; Robert A. Tuttle of Exeter, New Hampshire; and Debra A. Oliver of Kittery, Maine, per Quitclaim Deed with Covenant, BK 19321, PG 202, recorded 9/29/2023 at the York County Registry of Deeds..
- 2. The property is located in the Shoreland District, and according to the Assessor’s office, it contains .09 Acres.
- 3. Provided along with the application, was a cover letter from Carl V. Beal, P.E. #5013, dated October 11, 2023, which stated in part the following: Enclosed please find a Conditional Use Permit application for replacement of an existing dilapidated retaining wall on Lower Mousam Lake in Shapleigh, Maine. Mr. Coughenour has retained Acton Excavators (Paul Muse) to install the replacement wall this fall, during the period when Mousam Lake will be lowered to winter level. Construction access to the wall will be through abutting property of Spinney, who is also replacing his retaining wall this November.

4. Provided were photos of the existing retaining wall along the water's edge, depicting the deterioration of the wall (these photos meet the preconstruction requirement under §105-3.E of the Ordinance). Also provided was a sketch plan, drafted by Carl Beal, of the Existing Retaining Wall, depicting it as being 4.5' in height, and 2 ½' deep.
5. Provided was a sketch plan of the New Retaining wall, drafted by Carl Beal, which depicts the wall as being comprised of (3) courses of 18" x 27" x 48" precast blocks, with crushed stone placed under and behind the new wall. Also on the sketch plan is a 3 foot area directly behind the new wall consisting of conservation mix mulch, and 15 "Bar Harbor" Junipers, spaced 5' on center. Photos of the blocks to be used were also provided.
6. Provided was a Site Plan for the Coughenour Family – Located at 167 30<sup>th</sup> Street, Shapleigh, Maine', drafted by Steven C. Horne, LLC PLS #2389, dated 10/11/2023. The plan depicts the location of the Existing Dilapidated Wall, approximately 12" wide by 4' tall. Also on the plan is the location of the existing camp, porch, patio area, two ramps, and the area to be landscaped per the plan provided.
7. Proposed Improvements listed on the plan are as follows: 1. The old, dilapidated, poured concrete wall is to be removed and replaced with a precast, interlocking, concrete block wall, per attached specs. 2. The new wall is proposed to be placed in the same footprint as the old wall. 3. Construction access will be provided through the Spinney Property.
8. Provided was a copy of the Permit by Rule Notification Form, dated 10/14/2023. The Brief Project Description on the application is as follows: Replacement of an existing dilapidated concrete retaining wall along the shore of Mousam Lake, with a precast concrete block retaining wall structure. Coughenour has retained Acton Excavators to perform the work in November when the lake will be lowered to winter level.
9. The application detailed description of the project is as follows: *Replacing a dilapidated retaining wall along the shore of Lower Mousam Lake. Acton Excavators intend to do the work this November, when the lake is lowered.*
10. A notice was mailed to all abutters within 500 feet of the property on October 25, 2023. Meetings were held on Tuesday, October 24, 2023, and Tuesday, November 14, 2023. A site inspection was done by members on an individual basis due to light constraints.
11. 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 use is consistent with the Comprehensive Plan which wants to protect the waterbodies from stormwater / erosion, the revegetation plan and wall will help do just that; traffic access to the site is safe for the intended project; the lot is not located within the flood zone; the existing wall will be removed by the applicant & shall be taken out of Shapleigh; the wall will be constructed per the engineered plan drafted by Carl V. Beal, PE #5013 and will help prevent stormwater from entering the lake; erosion control measures during construction 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 June 30, 2024; performance standards will be met with five conditions.
12. The application as presented met the conditions under §105-4.D(5) 'Removal, reconstruction or replacement' of a non-conforming structures, all existing vegetation shall be replaced with native vegetation (Junipers) in accordance with §105-4.D(7)(b), and a licensed surveyor shall place the wall to be sure it does not encroach onto the lake or neighboring properties.
13. 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 contractor shall be licensed by the MDEP in erosion control practices, the Code Enforcement Officer shall make sure best management practices are put into place, and the project shall be completed by June 30, 2024.

14. The application as presented met the conditions under §105-51.3 ‘Revegetation requirements’. The applicant provided a revegetation plan, provided by Carl V. Beal LPE #5013, which included 15 “Bar Harbor” Junipers spaced 5’ on center, along with conservation mix mulch for a minimum distance of 3 feet behind the new retaining wall. There are no trees being removed for this wall, or existing ground cover. Beyond the 3 foot buffer, grass will be allowed to be planted to cover the existing exposed soil on site.
15. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing wall, on Map 17, Lot 44 (167 30<sup>th</sup> Street), per the documents provided and as presented, with five conditions.
16. **The conditions of approval are as follows:**
  - 1) **Photographs were received for preconstruction of the shoreline, vegetation and development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. *These photos must show both the new structure and revegetation / stabilization of the area.***
  - 2) **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.**
  - 3) **Best Management Practices shall be used at all times until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).**
  - 4) **The project including the approved revegetation plan, shall be completed by June 30, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion, otherwise the application shall be null and void.**
  - 5) **All debris from the existing structure shall be removed, taken out of the Town of Shapleigh, and disposed of at the proper facility.**

**Vote & Decision**

By a unanimous vote of 5 – 0, the Conditional Use Permit for earth moving in the Shoreland District in order to replace the existing retaining wall, on Map 17, Lot 44 (167 30<sup>th</sup> Street), per the documents provided and as presented, with five conditions was accepted. In conclusion, the Conditional Use Permit for earth moving in the Shoreland District in order to replace the existing retaining wall, on Map 17, Lot 44 (167 30<sup>th</sup> Street), per the documents provided and as presented, with five conditions was approved.

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**Conditional Use Permit – Earth Moving to Replace Retaining Wall in the SD – Map 17, Lot 43 (171 30<sup>th</sup> Street) – Carl Beal, PE, Applicant; Paul Muse, Representing; David Spinney, Property Owner**

Paul Muse was present for the review of the application, along with Mr. Spinney.

Provided along with the application, was a cover letter from Carl V. Beal, P.E. #5013, dated October 11, 2023, which stated in part the following: Enclosed please find a Conditional Use Permit application for replacement of an existing, dilapidated retaining wall on Lower Mousam Lake in Shapleigh, Maine. Mr. Spinney has retained Acton Excavators to install the replacement wall this fall, during the period when Mousam Lake will be lowered to winter level. The application also includes removal of 7 existing trees, 2 of which will provide construction access to the lake and 5 that are dangerously close to the residence. The remaining trees should provide a point total of 24 or more and therefore not require planting of any additional trees.

Provided were photos of the existing retaining wall along the water's edge, which depicted the deterioration of the wall, along with photos of the trees to be removed. Also provided was a sketch plan, drafted by Carl Beal, of the Existing Retaining Wall, depicting it as being 4.5' in height, and 2 ½' deep.

Provided was a sketch plan of the New Retaining wall, drafted by Carl Beal, which depicts the wall as being comprised of (3) courses of 18" x 27" x 48" precast blocks, with crushed stone placed under and behind the new wall. Also on the sketch plan is a 3 foot area directly behind the new wall consisting of conservation mix mulch, and 15 "Bar Harbor" Junipers, spaced 5' on center. Photos of the blocks to be used were also provided.

Provided was a 'Preliminary Site Plan for the Spinney Family, Located at 171 30<sup>th</sup> Street, Shapleigh, Maine', drafted by Steven C. Horne, LLC, PLS 32389, dated 9/26/2023. The plan depicts the existing camp w/deck; Existing Dilapidated Wall approximately 2.5' wide by 4' tall; Existing Dilapidated Wall is "Normal High Water" line; Existing Poured Concrete Wall to remain undisturbed; existing trees on site (16) and 6 trees to be removed; and a notation stating 'this area to be landscaped per approved specs'. Proposed Improvements notes written as follows: 1. The old, dilapidated, poured concrete wall is to be removed and replaced with a precast, interlocking, concrete block wall, per attached specs. 2. The new wall is proposed to be placed in the same footprint as the old wall. 3. The 7 trees labeled TBR, depicted hereon, have been deemed hazardous, dangerous or damaged and are proposed to be removed, all others are to remain.

Provided was a copy of the Permit by Rule Notification Form, dated 10/6/2023. The Brief Project Description on the application is as follows: Replacement of an existing dilapidated concrete retaining wall along the shore of Mousam Lake, with a precast concrete block retaining wall structure. Spinney has retained Acton Excavators to perform this work and they intend to do it in November 2023 when the lake level will be lowered by the City of Sanford.

The application detailed description of the project is as follows: *Replacing a dilapidated retaining wall along the shore of Lower Mousam Lake. Acton Excavators intend to do the work this November, when the lake is lowered.*

Steve F. began review of the next wall on Map 17, Lot 43. Ann H. said when she went to the site, it did not seem like the first tree, a bit back from the camp, had to come out, unless the conservation people for the lake want it out. She thought because of the wall, the trees on the other side should come out, instead of the big one, because they will interfere with the wall. Madge B. said when she was on site, she didn't know if it was coming out or not. She said the application said it was dead or dying, but she did not think it looked dead or dying. Ann said it was in the area between the 2 camps where water can go into the lake. She thought the roots were helping with stormwater mitigation, unless the conservation group wants the tree out. Mr. Spinney stated that the tree is falling apart, and he has to pick up sticks that are always falling. He added that he was afraid it was a safety hazard for all the camps in the area. He thought it would take out camps and power. Ann said with respect to the wall, she didn't think it had anything to do with the board's review of the wall. Mr. Muse stated that he spoke to CEO Demers about this, and he told CEO Demers that they needed a number of trees removed to accomplish the wall, but the homeowner is concerned with a number of trees on site. He said that if you look up at the tree, a number of branches are dead. Ann agreed, and noted 2 trees that needed to come down for the wall. She said the board can talk about those, as they are in relation to the wall. Mr. Spinney said the trees she was referring to are not near the wall. He said those trees are in front of the camp. Mr. Spinney showed Ann where the wall was going, to the right of the steps going down to the water. Ann said it sounded like the trees she was referring to

were for CEO Demers to deal with. Mr. Muse said that CEO Demers asked him to include the trees on the plan and application, so the Planning Board knows the homeowner wants to remove the trees. Steve said that they appreciated that.

Steve F. stated that if the tree comes down for the application, it is a one for one replant. Mr. Muse stated that with respect to the trees coming down for the wall, the board or CEO needs to tell them what they want them to replant and where. Steve said there are 2 trees on the plan that are coming down for the project. Ann H. stated that it shows 3. The board members reviewed the plan. CEO Demers stated that he didn't want the board to approve 2 trees being removed, then someone sees more trees being removed and they don't know why. He said he wanted the applicant to be up front, so everyone knows what is going on.

Steve F. asked if the board knows where they are being replanted? Barbara F. stated that there are only 2 that are being removed to construct the wall, based on the plan. Mr. Muse stated that they were waiting for CEO Demers or the Planning Board to tell them where they need to go. CEO Demers stated the board can take care of the 2 and he can do the third, or they can condition all 3 trees, he was open to either. Barbara F. stated that they have to be no further from the water than the existing, so can't they go back where the existing trees are now. Steve thought that would be best for the 2 being removed for the wall.

Norman B. stated he was concerned with the 3 trees in front of the camp. Barbara F. stated that the board was not reviewing those trees. Norman stated that there were ribbons around the trees. Barbara stated that those trees were for CEO Demers to deal with, not the board. She stated the board was only concerned with the 2 being removed for the replacement of the wall. She asked CEO Demers if she was correct. He stated she was.

Steve F. stated the board will take care of 2 trees that are being removed for the wall. He stated the other trees, that are safety hazards, will be taken care of by CEO Demers. He asked if this made sense to everyone. The board agreed. Barbara F. stated that the trees have to be the same distance from the water.

Steve F. asked Mr. Muse if he was doing this at the same time as the other wall? Mr. Muse stated that he was. Steve said they will use the same date of completion for the wall and plantings of June 30<sup>th</sup> of next year. Mr. Muse agreed.

**Steve F. stated the following conditions of approval:**

- 1) **Photographs were received for preconstruction of the shoreline, vegetation and development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. *These photos must show both the new structure and revegetation / stabilization of the area.***
- 2) **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.**
- 3) **Best Management Practices shall be used at all times until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).**
- 4) **The project including the approved revegetation plan, along with the replacement of the two trees to be removed for the project (placing them in the same location as the existing), shall be completed by June 30, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion, otherwise the application shall be null and void.**

- 5) **All debris from the existing structure shall be removed, taken out of the Town of Shapleigh, and disposed of at the proper facility.**

Steve F. asked if there were any other questions? There were none. Steve stated he would entertain a motion.

Norman B. stated, to clarify on 171, the wall is going to be L-shaped. Mr. Muse stated, correct. Norman asked if they were going to replace the wall in front of the camp, because it was also in bad shape? Mr. Spinney stated they would not be replacing it at this time.

Mr. Muse asked Steve F. concerning 167 30<sup>th</sup> Street (Coughenour), on the plans are a 2 foot strip of crushed stone, then a 3 foot barrier of conservation mix with Juniper; if he would like a lawn where there is now sand in front of the cottage, can they do that? Steve stated the board’s replant plan is the area being disturbed in conjunction with this project. He said if you are moving dirt in the Shoreland Zone outside of this project, that would be a different application, anything greater than 10 yards. Mr. Muse asked if the board could look at this request now? Steve said they could, if he wanted to amend the replant plan. Mr. Muse said he could not do that tonight. Steve thought he could. He said the board already voted on the previous application, so they will have to go back to it. He wanted to finish this application first.

Steve F. stated they have the conditions for 171 30<sup>th</sup> Street, and he is ready to entertain a motion. **Maggie moved to approve the Conditional Use Permit for earth moving in the Shoreland District to replace an existing retaining wall, with the stated conditions. Ann H. seconded the motion. By a vote of 5 – 0, the motion to approve was unanimous.**

Nothing further was discussed.

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Findings of Fact

1. The owner(s) of Shapleigh Tax Map 17, Lot 43 (171 30th Street) are Douglas R. Spinney Jr. of South Berwick, Maine; Dana R. Spinney of Springvale, Maine; and David B. Spinney of North Berwick, Maine, per Deed of Distribution by Personal Representative, BK 17970, PG 181, recorded 6/12/2019 at the York County Registry of Deeds.
2. The property is located in the Shoreland District, and according to the Assessor’s office, it contains .1 Acres.
3. Provided along with the application, was a cover letter from Carl V. Beal, P.E. #5013, dated October 11, 2023, which stated in part the following: Enclosed please find a Conditional Use Permit application for replacement of an existing, dilapidated retaining wall on Lower Mousam Lake in Shapleigh, Maine. Mr. Spinney has retained Acton Excavators to install the replacement wall this fall, during the period when Mousam Lake will be lowered to winter level. The application also includes removal of 7 existing trees, 2 of which will provide construction access to the lake and 5 that are dangerously close to the residence. The remaining trees should provide a point total of 24 or more and therefore not require planting of any additional trees.
4. Provided were photos of the existing retaining wall along the water’s edge, depicting the deterioration of the wall (these photos meet the preconstruction requirement under §105-3.E of the Ordinance), along with photos of the trees to be removed. Also provided was a sketch plan, drafted by Carl Beal, of the Existing Retaining Wall, depicting it as being 4.5’ in height, and 2 ½’ deep.
5. Provided was a sketch plan of the New Retaining wall, drafted by Carl Beal, which depicts the wall as being comprised of (3) courses of 18” x 27” x 48” precast blocks, with crushed stone placed under and behind the new wall. Also on the sketch plan is a 3 foot area directly behind the new wall consisting of conservation mix mulch, and 15 “Bar Harbor” Junipers, spaced 5’ on center. Photos of the blocks to be used were also provided.

6. Provided was a ‘Preliminary Site Plan for the Spinney Family, Located at 171 30th Street, Shapleigh, Maine’, drafted by Steven C. Horne, LLC, PLS 32389, dated 9/26/2023. The plan depicts the existing camp w/deck; Existing Dilapidated Wall approximately 2.5’ wide by 4’ tall; Existing Dilapidated Wall is “Normal High Water” line; Existing Poured Concrete Wall to remain undisturbed; existing trees on site (16) and 6 trees to be removed; and a notation stating ‘this area to be landscaped per approved specs’. Proposed Improvements notes written as follows: 1. The old, dilapidated, poured concrete wall is to be removed and replaced with a precast, interlocking, concrete block wall, per attached specs. 2. The new wall is proposed to be placed in the same footprint as the old wall. 3. The 7 trees labeled TBR, depicted hereon, have been deemed hazardous, dangerous or damaged and are proposed to be removed, all others are to remain.
7. Provided was a copy of the Permit by Rule Notification Form, dated 10/6/2023. The Brief Project Description on the application is as follows: Replacement of an existing dilapidated concrete retaining wall along the shore of Mousam Lake, with a precast concrete block retaining wall structure. Spinney has retained Acton Excavators to perform this work and they intend to do it in November 2023 when the lake level will be lowered by the City of Sanford.
8. The application detailed description of the project is as follows: *Replacing a dilapidated retaining wall along the shore of Lower Mousam Lake. Acton Excavators intend to do the work this November, when the lake is lowered.*
9. A notice was mailed to all abutters within 500 feet of the property on October 25, 2023. Meetings were held on Tuesday, October 24, 2023, and Tuesday, November 14, 2023. A site inspection was done by members on an individual basis due to light constraints.
10. 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 use is consistent with the Comprehensive Plan which wants to protect the waterbodies from stormwater / erosion, the revegetation plan and wall will help do just that; traffic access to the site is safe for the intended project; the lot is not located within the flood zone; the existing wall will be removed by the applicant & shall be taken out of Shapleigh; the wall will be constructed per the engineered plan drafted by Carl V. Beal, PE #5013 and will help prevent stormwater from entering the lake; erosion control measures during construction 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 June 30, 2024; performance standards will be met with five conditions.
12. The application as presented met the conditions under §105-4.D(5) ‘Removal, reconstruction or replacement’ of a non-conforming structures, all existing vegetation shall be replaced with native vegetation in accordance with §105-4.D(7)(b), Junipers will be placed along the wall and 2 native trees shall replace the 2 trees being removed to construct the new wall; a licensed surveyor shall place the wall to be sure it does not encroach onto the lake or neighboring properties.
13. 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 contractor shall be licensed by the MDEP in erosion control practices, the Code Enforcement Officer shall make sure best management practices are put into place, and the project shall be completed by June 30, 2024.
14. The application as presented met the conditions under §105-51.3 ‘Revegetation requirements’. The applicant provided a revegetation plan, provided by Carl V. Beal LPE #5013, which included 15 “Bar Harbor” Junipers spaced 5’ on center, along with conservation mix mulch for a minimum distance of 3 feet behind the new retaining wall. There are two trees being removed to construct the new wall, and they shall be replaced with 2 native trees the same distance from the high water mark as the existing and the same distance from the side lot line.

15. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing wall, on Map 17, Lot 44 (167 30th Street), per the documents provided and as presented, with five conditions.
16. **The conditions of approval are as follows:**
 - 1) **Photographs were received for preconstruction of the shoreline, vegetation and development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. *These photos must show both the new structure and revegetation / stabilization of the area.***
 - 2) **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.**
 - 3) **Best Management Practices shall be used at all times until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).**
 - 4) **The project including the approved revegetation plan, along with the replacement of the two trees to be removed for the project (placing them in the same location as the existing), shall be completed by June 30, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion, otherwise the application shall be null and void.**
 - 5) **All debris from the existing structure shall be removed, taken out of the Town of Shapleigh, and disposed of at the proper facility.**

Vote & Decision

By a unanimous vote of 5 – 0, the Conditional Use Permit for earth moving in the Shoreland District in order to replace the existing retaining wall, leaving it in the same location and the same size as the existing on Map 17, Lot 43 (171 30th Street), per the documents provided and as presented, with five conditions was accepted. In conclusion, the Conditional Use Permit for earth moving in the Shoreland District in order to replace the existing retaining wall, leaving it in the same location and the same size as the existing on Map 17, Lot 43 (171 30th Street), with five conditions was approved.

Conditional Use Permit – Earth Moving to Replace Retaining Wall in the SD – Map 17, Lot 44 (167 30th Street) – Carl Beal, PE, Applicant; Paul Muse, Representing; James & Diane Coughenour, Property Owner

Steve F. stated they would go back to this application for Mr. Muse.

Madge B. asked if putting in a lawn, would it require moving more than 10 yards of earth? Mr. Muse stated that it would not, adding that it is a very small area. Madge agreed. She asked if the board needed to change anything? Steve F. stated the only reason they are before the board is because they are moving dirt in the Shoreland Zone. Madge agreed. He said if it is less than 10 yards, he suggested they go to the Code Officer. CEO Demers said that was fine. Madge said the only concern she had with the grass they wanted was that it be placed behind the Junipers. Mr. Coughenour stated that if they have to go back beyond 5 feet from the wall, they only have about 12 square feet left. Steve said it was sloped toward the water, perhaps they can do the erosion control project. Steve thought they could do what they wanted to in that area. Mr. Muse thanked them.

Nothing further was discussed.

Former Planning Board Member Roland Legere was in the audience. Steve F. asked if he wanted to speak to the board? Mr. Legere asked that the board give him a few moments to speak. Steve asked if he wanted to speak about the Mainely Barge project? Mr. Legere stated that no, he wanted to speak about the Tyler Matthews project, and he hoped that he would be here. He said it had to do with the Keane project on Totte Road. He stated that a joint project with York County Soil & Water Conservation District (YCS&WCD), Mousam Lake Association, and the Town of Shapleigh did quite a job to ditch and put reclaimed asphalt, and a catch basin area; something that they have been working on for over 10 years. He said he was hoping to talk to Tyler Matthews to make sure he had a plan in place to deal with the additional runoff from the garage that they are proposing. He said it was his understanding that they had input from York County Soils & Water, which he was glad to hear. He said in his absence, he wanted to mention it to the board, that there has been a lot of time and resources put in to fixing that area so that it doesn't run off into the lake. He said he was hoping that Tyler will be able to work along those lines in order to address this. Steve provided Mr. Legere with a copy of an erosion control plan for the garage, provided by YCS&WCD, for him to review. At that time Mr. Matthews arrived, and Mr. Legere told him what he was discussing with the board members. Roland said he hoped his project and the work completed to date will mesh, so there is not excessive runoff, because it has been a tremendous effort to get to where they are now on Totte Road. Mr. Legere thanked the board for their time.

Conditional Use Permit – Earth Moving to Replace Retaining Wall in SD – Map 28, Lot48 (39 Carpenters Cove Road) – Mainely Barge, Applicant; Brendan Hayes, Property Owner

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

Provided along with the application, was a Letter of Authorization, which stated in part that Brendon Hayes grants permission to Mainely Barge LLC to act as his agent in all aspects in order to obtain a permit for the property located at 39 Carpenters Cove Road, Map 28, Lot 48. Mainely Barge is allowed to answer any questions on his behalf, and to sign any document pertaining to this project.

Provided was a sketch which had a square that said 'House', and a block representing the wall, that measured to be 50' long x 18' in height, and 10' long by 8' in height, for a total of 60' in length.

Provided were existing conditions pictures of the property, showing the house, wooden stairs to the water, and vegetation. The applicant stated the wood retaining wall was behind the vegetation shown in the picture.

Provided was a copy of a Permit by Rule Notification Form, dated 10/5/2023. The Brief Project Description was as follows: *Replace Existing / Failing Retaining Wall at 30 Carpenters Cove Road. Wall is at lake front.*

The application detailed description is as follows: *Remove and replace sea wall from 39 Carpenters Cove Road with Pepin Precast Block's per Engineered Design.*

Steve F. began the review of the Mainely Barge application to redo a significant wall located at 39 Carpenters Cove Road. He said the wall was 50 feet in length at the top, dropping, then going another 10 feet, where the wall in 8 feet high. He said there is a total of 18 feet in height. Steve asked members if they went to the site. Madge B. said it was an awful site, the other members agreed. Norman B. said it is difficult to access.

Steve F. stated that the board received preconstruction photos, which really do not show the severity of the project. He said the initial concerns for this project are stabilizing the structure. He said he was

familiar with the structure, and they have already had stabilization issues with the structure. He said the front of the porch has already settled. He said he didn't know what the pilings for the porch look like now, but the last time he was on site, they were drooping and he noted they had been redone not that long ago. Mr. Colton agreed. Mr. Colton stated that since the last meeting he went out to the site again, and it is continuing to get worse.

Steve F. said he cannot speak for the board, but he has severe concerns just over the tackling of the project, without more than just the Genest concrete or Pepin stamp on the block. He said his concern is not the product, it is what is going to happen behind it. He said during construction and what will happen after, noting it was probably the steepest slope he has seen with respect to replacing a wall. Madge B. stated that she felt it was very dangerous. Ann H. stated that she thought the plant roots are holding up the structure, which is already sagging.

Mr. Colton stated that was why he left the revegetation plan vague, because he wanted to see what the board recommended. He said they were unsure what to do, so he wanted the board to have some input. Steve F. stated that he wanted to see the project done. He said this structure will end up in Carpenters Cove if something is not done. He said the issue is, there is a caveat in the ordinance, 'any other conditions necessary to fill the purpose of this chapter' (§105-73.H). He said if he was voting this evening, he would vote against the application in its current state, because he believed this project needs to be engineered. He said the site itself needs to be engineered. Mr. Colton stated that he can relay this to his customer, he was fine with this. Ann H. stated that she knew Mainely Barge would do a good job, but she agreed that a structural engineer needed to look at the project. Madge B. agreed, citing the project was dangerous. She was concerned the applicants could get hurt. Ann said she thought they could do the job, but once the area is compromised, by removing the existing wall, there will be a structural problem. Mr. Colton stated that he felt the only way to get this done is via the barge. He added that a structural engineer could take up to a year, because they had dealt with this before on Lower Mousam, and it is still up in the air. He said they will do what the board recommends. Madge added that with respect to a planting plan, there would be no way to plant anything there. She said the area has to be wall. Steve asked if the steps will come out? Mr. Colton stated that they proposed replacing the wall, then the homeowner will do wooden steps across the face of the wall after the project is completed. He said there is no way they can recess steps for this project.

Steve F. stated he felt the board should table the application, which gives them 90 days to go back to the client and decide what they want to do. He said it is either that or the board could vote to deny the application. Mr. Colton stated he would rather table it.

Steve F. stated he would entertain a motion to table.

Madge B. moved to table the application in order to obtain engineering for the project for 90 days. Norman B. seconded the motion. By a vote of 5 – 0, the motion to table was unanimous.

Mr. Colton asked if they were tabling the project, because the board is recommending a structural engineer to design the wall or support the house? Steve F. stated they need the entire project engineered.

Mr. Colton provided a revegetation plan, which was X's along the wall. He said he knew what vegetation was native.

Nothing further was discussed.

Best Practical Location – Replace Structure – Map 30, Lot 11 (35 Totte Road) – Tyler Matthews, Applicant; Michael & Nancy Keane, Property Owner(s)

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

Originally provided along with the application, was part of a survey plan, which depicted Lot 11, showing the existing house and attached deck, two retaining walls adjacent to the house and deck, and one wall between the house and Totte Road. Also on the plan were stairs from the water toward the deck, and from the house toward Totte Road; the well; septic covers; and two sheds. The distance from the high water mark to the existing deck is noted as being 34.9', and the distance from the house to Totte Road is noted as being 29.1'.

Provided was a second copy of part of a survey plan for Lot 11, which in addition to the above, showed the location of the proposed house, the fact it will be 34.9 feet from the high water mark, and 25' from Totte Road. In addition, there is a notation that states, "All disturbed area gets stabilized with either grass or mulch".

Provided was a copy of the Subsurface Wastewater Disposal System Application, drafted by Kenneth Gardner, SE #73, dated 9/3/1996 for a replacement system for a 2 bedroom home.

Provided were pre-construction pictures of the existing house, deck, retaining walls, stairs, and existing vegetation.

The application detailed description is as follows: *Tear down existing house and build a new house, no closer to the water, & a little closer to the road, 25' instead of 29'.*

Provided this evening was a sketch plan entitled 'Keane – Lakeside lot', which was an erosion control design approved by York County Soil & Water Conservation District. YCS&WCD stated the design was approved based on current conditions and they reserved the right to review the plan for any changes once work was completed on the residence. It was noted that the homeowner took into consideration shoreline stabilization, access, and stormwater runoff concerns. The sketch plan noted the areas adjacent to the proposed house would be restored with grass & ornamental native plantings; the area between the proposed house and water, below the retaining wall will hold two rain gardens / water retention areas – these are located near the side lot lines; there is a mulch path to the water on the plan; a mulch buffer will be added to bare ground alongside the walkway; and there are several vegetative buffers noted between the proposed house and high water mark, along with mulch. A Rain Garden Plant listing, and Buffer Planting list was provided by YCS&WCD, along with an example of Steps and Walkways, for infiltration steps which can infiltrate stormwater runoff.

Steve F. stated the next item was for a best practical location to replace the structure on 35 Totte Road.

Steve F. said he reviewed the minutes from August 22nd, which required a revegetation plan. Mr. Matthews stated that the board wanted a plan from York County Soil & Water (YCS&WCD). Steve said in case members didn't have the August 22nd meeting, the distance from the existing house to the HWM is 34.9', the distance from the house to Totte Road is 29.1', the proposed house will be 34.9' and 25' from Totte Road. He stated that the board received a septic design for a 2 bedroom home. He said the board agreed keeping the house in the same location made sense. Steve asked Mr. Matthews if the property owner decided if the deck would be the front setback? Mr. Matthews stated that they did not know. Steve asked if the board members had a chance to review the plan from YCS&WCD? Barbara F. stated she provided a copy to members along with their minutes. Steve stated at the meeting on August 22nd, the board tabled the application until they received the erosion control / revegetation plan.

The board members reviewed the plan received. The members liked the plan as presented. Madge B. added that it addressed what Roland Legere was looking for with respect to the proposed garage.

Steve F. reviewed §105.4.D ‘Nonconforming structures’, which included §105-4.D(5) ‘Removal, reconstruction or replacement’ of a non-conforming structures, all existing vegetation shall be replaced with native vegetation in accordance with §105-4.D(7)(b). He also reviewed §105-46 ‘Sanitary provisions’ and stated the board received a septic design for a two bedroom home. Steve asked if there were any trees being removed to replace the structure? Mr. Matthews stated that there were not any trees being removed.

Steve F. then reviewed §105-51.3 - Revegetation requirements. When revegetation is required as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following:

- A. *The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scales site plan, depicting where vegetation was, or is, to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.*
- B. *Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the pre-existing vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density comparable to the pre-existing vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.*
- C. *If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted with any renewal or new permit application.*

Steve F. stated that the applicant provided an erosion control / revegetation plan. He asked the board if the plan submitted meets the requirements in the ordinance. Madge B. stated that it did.

Steve F. stated the following conditions of the permit:

- 1) **Photographs were received for preconstruction of the shoreline, vegetation and development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. These photos must show both the new structure and revegetation / stabilization of the area.**
- 2) **A licensed surveyor shall confirm in writing that the placement of the new structure(s) is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The new structure shall be no closer than 34.9 feet from the high-water-line and no closer than 25 feet to Totte Road.**
- 3) **Best Management Practices shall be used at all times until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).**

Steve F. asked what the date of completion was, and when the project would be starting. Mr. Matthews stated he thought the project would start in the spring. He said he thought the project would be completed in June of 2025. Steve stated this was too far out. He said the point of a completion date is so the site can be opened up for the minimum amount of time, in construction mode, to protect the lake. He said he didn’t care about what was happening inside the structure, but the board wants the landscaping completed and the exterior of the house. He said the rain gardens, etc. Madge B. said the board would like it done by

next year. Steve said they would like it done by next fall. He said if the site is going to be open all summer, it should be revegetated by fall. Mr. Matthews asked if he could start next fall. Barbara F. thought he had to start the project within 90 days of approval for a best practical location. She read from the ordinance and it was 90 days from approval. Steve asked CEO Demers how long he had after he received a building permit. CEO Demers stated he had 1 year to get a substantial start and 2 years to complete the project. Mr. Matthews asked what would happen if he did not finish on the date he gave the board. Barbara stated he would have to come back before the board to give them a new completion date. Mr. Matthews gave a date of December 1st, 2024. Steve stated that if he doesn't come back to the board, his application will be null and void. Barbara noted that the reason for this date, is so the board can be sure the ground is not still open.

- 4) **The project including the approved revegetation plan, shall be completed by December 1, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion, otherwise the application shall be null and void.**
- 5) **All debris from the existing structure shall be removed, taken out of the Town of Shapleigh, and disposed of at the proper facility.**
- 6) **The plan provided shall be recorded within 90 days of the approval date at the York County Registry of Deeds, otherwise the approval becomes null and void. The applicant shall provide the date of recording to the Planning Board, Book & Page, showing the condition is met.**

Steve F. asked board members if they had any other questions or wanted to discuss anything further? There were no comments. Steve stated he would entertain a motion.

Madge B. made the motion to approve the best practical location to replace the existing structure on 35 Totte Road per the plans provided and with the stated conditions. Norman seconded the motion. By a vote of 5 – 0, the motion to approve was unanimous.

Nothing further was discussed.

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**Findings of Fact**

- 1. The owner(s) of Shapleigh Tax Map 30 Lot 11 (35 Totte Road) is Nancy A. Keane, of 3 Doe Run Lane, Stratham, NH 03885, per Warranty Deed, BK 17288, PG 552, recorded 8/1/2016 at the York County Registry of Deeds.
- 2. The property is located in the Shoreland District, and according to the Assessor's office, it contains .17 Acres.
- 3. Provided was part of a survey plan, which depicted Lot 11, showing the existing house and attached deck, two retaining walls adjacent to the house and deck, and one wall between the house and Totte Road. Also on the plan were stairs from the water toward the deck, and from the house toward Totte Road; the well; septic covers; and two sheds. The distance from the high-water-mark to the existing deck is noted as being 34.9', and the distance from the house to Totte Road is noted as being 29.1'.
- 4. Provided was a second copy of part of a survey plan for Lot 11, which in addition to the above, showed the location of the proposed house, the fact it will be 34.9 feet from the high-water-mark, and 25' from Totte Road. In addition, there is a notation that states, "All disturbed area gets stabilized with either grass or mulch".
- 5. Provided was a copy of the Subsurface Wastewater Disposal System Application, drafted by Kenneth Gardner, SE #73, dated 9/3/1996 for a replacement system for a 2 bedroom home.

6. Provided were pre-construction pictures of the existing house, deck, retaining walls, stairs, and existing vegetation. (These pictures meet the preconstruction photo requirement under §105-3.E.)
7. Provided was a sketch plan entitled ‘Keane – Lakeside lot’, which was an erosion control design approved by York County Soil & Water Conservation District. YCS&WCD stated the design was approved based on current conditions and they reserved the right to review the plan for any changes once work was completed on the residence. It was noted that the homeowner took into consideration shoreline stabilization, access, and stormwater runoff concerns. The Keane Plant Schedule noted the areas adjacent to the proposed house would be restored with grass & ornamental native plantings; the area between the proposed house and water, below the retaining wall showed two rain gardens / water retention areas – these are located near the side lot lines; there is a mulch path to the water on the plan; a vegetated buffer will be added to bare ground alongside the walkway, consisting of mulch and ground cover; and existing ground cover is noted between the wall and high-water-mark. Existing trees are noted on the plan and it is stated that they will remain. A Rain Garden Plant listing, and Buffer Planting list was provided by YCS&WCD, along with an example of Steps and Walkways, showing infiltration steps which can infiltrate stormwater runoff.
8. The application detailed description is as follows: *Tear down existing house and build a new house, no closer to the water, & a little closer to the road, 25’ instead of 29’.*
9. Planning Board members agreed the requirements under §105-3 – Basic requirements, Section E, photographic record required was met, as pre-construction photographs were provided, and post-construction photographs shall be provided per the conditions of permit. Section F, which requires a full survey be provided at the time of application, was met, as a full survey was provided.
10. The application required Planning Board review as a Best Practical Location under §105-4 Nonconformance’. The Planning Board members agreed the application as presented, will meet all the criteria in the ordinance with conditions, as the structure shall be no closer than the existing to the high-water-mark and side lot line(s). The proposed location is best practical as there is no room on the lot to move the structure, due to the slope and existing subsurface wastewater disposal system. A revegetation plan was provided and approved by YCS&WCD, as well as all board members.
11. The board members reviewed 105-19.D Front yards. When a lot fronts on the shore and on a road or right-of-way, both the shoreland setback of 100 feet and the front setback as defined in § 105-18 shall be met, except on nonconforming lots of record, in which case the setback may be no less than 25 feet from the property line or road. This reduction shall require a conditional use permit from the Planning Board. All conditional uses approved relating to setbacks shall require confirmation, in writing, by a licensed surveyor that the placement of the structure is correct and the plan shall be recorded in the York County Registry of Deeds within 90 days of the date of the Planning Board approval. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void. *The application as presented met the requirements, placing the structure 25 feet from Totte Road. **The plan must be recorded within 90 days of approval.***
12. The board members concurred the application met the requirements under §105-46 ‘Sanitary provisions’, as the applicant provided a State approved Subsurface Wastewater Disposal System Application for a 2 bedroom home.
13. The application as presented met the conditions under §105-51.3 ‘Revegetation requirements’. The applicant provided a revegetation plan, approved by York County Soil & Water Conservation District, which included several rain gardens, grass and native vegetation, mulch and ground cover. There are no trees being removed for this project.
14. A notice was mailed to all abutters within 500 feet of the property on August 9, 2023. Meetings were held on Tuesday, August 8, 2023, Tuesday, August 22, 2023, and Tuesday November 11, 2023. A site inspection was done by members on August 22<sup>nd</sup> prior to the meeting.

15. The Planning Board vote was unanimous, 5-0, to approve the Best Practical Location for the replacement of the existing structure on Map 30, Lot 11 (35 Totte Road), placing the proposed structure 34.9 feet from the high-water-mark at it closest point, and no closer than 25 feet to Totte Road, with six conditions.
16. **The conditions of approval are as follows:**
  - 1) **Photographs were received for preconstruction of the shoreline, vegetation and development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. *These photos must show both the new structure and revegetation / stabilization of the area.***
  - 2) **A licensed surveyor shall confirm in writing that the placement of the new structure(s) is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The new structure shall be no closer than 34.9 feet from the high-water-line and no closer than 25 feet to Totte Road.**
  - 3) **Best Management Practices shall be used at all times until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).**
  - 4) **The project including the approved revegetation plan, shall be completed by December 1, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion, otherwise the application shall be null and void.**
  - 5) **All debris from the existing structure shall be removed, taken out of the Town of Shapleigh, and disposed of at the proper facility.**
  - 6) **The plan provided shall be recorded within 90 days of the approval date at the York County Registry of Deeds, otherwise the approval becomes null and void. The applicant shall provide the date of recording to the Planning Board, Book & Page, showing the condition is met.**

**Vote & Decision:**

By a unanimous vote of 5 – 0, the motion to approve the Best Practical Location to place the proposed structure the same distance to the high-water-mark as the existing, that being 34.9 feet to the HWM, and no closer than 25 feet to Totte Road, on Map 30, Lot 11 per the plan provided, with six conditions, was accepted. In conclusion, the Best Practical Location to place the proposed structure the same distance to the high-water-mark as the existing, that being 34.9 feet to the HWM, and no closer than 25 feet to Totte Road, on Map 30, Lot 11, per the plan provided, with six conditions was approved.

*Note: Per Shapleigh Zoning Ordinance §105-4.J, ‘Expire of Permits’, permits issued shall expire after 90 days, unless a building permit is issued. This time period may be extended by the Code Enforcement Officer if issuance of a building permit is delayed due to a technical problem.*

**Conditional Use Permit – Build Garage 25’ from Totte Road - Map 30, Lot 11A (Totte Road) Tyler Matthews, Applicant; Michael & Nancy Keane, Property Owner(s)**

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

Originally provided along with the application was a copy of a survey plan for Lot 11A. The plan depicts the lot lines as follows: 70.32 feet adjacent to Totte Road; 67.67 feet at the rear lot line; 67.31 feet on the side lot line on the left facing the lot from Totte Road, and 70 feet along the right side lot line. Sketched on the plan was a 24’ x 22’ proposed garage, 25’ from Totte Road at its closest point.

Provided was a copy of the survey plan drafted by Joseph Stanley of LinePro Land Surveying, of Springvale Maine, dated April 26, 2023, which depicts the existing conditions for Nancy Keane on Totte Road, Shapleigh Maine. The plan depicts both Lot 11 and Lot 11A. Abutting properties for Lot 11 are also depicted as Lot 10, owned by the Jacobs Family Revocable Trust, and Lot 12, owned by Muriel Brown and Gary Smith. Abutting properties for Lot 11A are depicted as, Lot 10A, owned by Gary Marlin; Lot 12 (across the street from Lot 12 which holds an existing structure) owned by Muriel Brown and Gary Smith; and Lot 67 C (behind Lot 11A), owned by Linda Stanley.

The application detailed description is as follows: *Would like to build a garage only 25' off the road.*

Provided this evening was an Erosion Control Plan drafted by Melissa Brandt, of York County Soil & Water Conservation District, located in Springvale, Maine. The plan goal was written as: Prevent runoff from new garage and drive from entering the road. The plan included the roof runoff recommendation to install a rain garden (75sf) to collect rain from roof runoff for ½ roof surface area; and a larger rain garden (147sf) to handle the runoff from the entire roof. There were two other options listed, one being an infiltration trench along the roof dripline; and the other to install a drywell to infiltrate the roof runoff with gutters and downspout. There was also a catch basin suggested to receive water from the culvert and gravel access area; and the retaining wall(s) will be used to stabilize the surrounding slope, which included property drainage behind the wall(s) and vegetation to be planted. The road side will be armored with riprap / stone and water directed to the culvert and catch basin, along with check dams to slow the flow of water. Examples of Erosion Control Mix, Dripline Trench, Rain Gardens, Infiltration Trench, Infiltration Steps and suggested vegetation was provided by YCS&WCD.

Steve F. stated the next item was also for Tyler Matthews for a garage to be built 25 feet from Totte Road.

Steve began review of §105-73.G. Standards applicable to conditional uses.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies.
- 3) The use is consistent with the Comprehensive Plan.
- 4) Traffic access to the site is safe.
- 5) The site design is in conformance with all municipal flood hazard protection regulations.
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made.
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed.
- 9) Adequate provisions to control soil erosion and sedimentation have been made.
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes.
- 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.
- 12) All performance standards in this chapter applicable to the proposed use will be met.

Steve F. stated no waste water system is required for this application, as there will be no plumbing associated with the application. He stated that an erosion control plan has been designed for this location. He said there is a catch basin designed for the driveway runoff and a rain garden designed to collect the rain for the roof runoff on the backside of the garage and an infiltration trench on the right side of the garage. He said they are putting the water up the hill. Madge said if it goes the other way it goes right into Totte Road. Ann H. asked Mr. Matthews if he was going to do the larger rain garden for the roof runoff? She read the options from the plan. Mr. Matthews stated he did not know at this time. Ann asked if the board had to know what choice he would be doing? Madge did not believe so, as long as he did one of the options on the plan.

Steve F. stated that it looked like there would be a new retaining wall going in, he asked CEO Demers if that would be an issue. He asked CEO Demers if he looked at the erosion control plan? CEO Demers stated that he did not look at it in depth. He asked what the issue was? Steve stated that he was not trying to raise an issue, he was asking about the retaining wall on the plan, it goes from the garage to the road. Steve stated that a retaining wall is a structure, so the board is granting a reduced setback of 25 feet, but he wasn't sure they could build a retaining wall within the setback. CEO Demers did not think a landscaping wall was a problem. He said if they were within 100 feet of the water, it would be an issue, but not back this far. Steve asked if it required a setback from the road? CEO Demers said it did not. Steve said that is all he needed to know.

Steve F. asked if there were any other questions? There were none.

Steve stated the conditions of approval would be as follows:

- 1) A photograph was received for preconstruction of the development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. *These photos must show both the new structure and revegetation / stabilization of the area.*
- 2) A licensed surveyor shall confirm in writing that the placement of the new structure(s) is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The new structure shall be no closer than 25 feet to Totte Road, or 10 feet to the side lot line.
- 3) Best Management Practices shall be used at all times until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).

Steve F. asked when this would be completed? Mr. Matthews stated December 25<sup>th</sup>, 2024.

- 4) The project, including the approved revegetation plan, shall be completed by December 25, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion, otherwise the application shall be null and void.
- 5) All debris from the existing structure shall be removed, taken out of the Town of Shapleigh, and disposed of at the proper facility.
- 6) The plan provided shall be recorded within 90 days of the approval date at the York County Registry of Deeds, otherwise the approval becomes null and void. The applicant shall provide the date of recording to the Planning Board, as well as Book & Page, showing the condition is met.

Steve F. asked for a motion, since there were no other comments.

**Madge B. moved for approval of the Conditional Use Permit to place a garage 25 feet from Totte road on Map 30, Lot 11A, with the stated conditions. Maggie M. seconded the motion. By a vote of 5 – 0, the motion to approve was unanimous.**

Nothing further was discussed.

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Findings of Fact

1. The owner(s) of Shapleigh Tax Map 30 Lot 11A (Totte Road) is Nancy A. Keane, of 3 Doe Run Lane, Stratham, NH 03885, per Warranty Deed, BK 17288, PG 552, recorded 8/1/2016 at the York County Registry of Deeds.
2. The property is located in the Shoreland District, and according to the Assessor's office, it contains .11 Acres.
3. Provided was a copy of a survey plan for Lot 11A. The plan depicts the lot lines as follows: 70.32 feet adjacent to Totte Road; 67.67 feet at the rear lot line; 67.31 feet on the side lot line on the left facing the lot toward Totte Road, and 70 feet along the right side lot line. Sketched on the plan was a 24' x 22' proposed garage, 25' from Totte Road at its closest point.
4. Provided was a copy of the survey plan drafted by Joseph Stanley of LinePro Land Surveying, of Springvale Maine, dated April 26, 2023, which depicts the existing conditions for Nancy Keane on Totte Road, Shapleigh Maine. The plan depicts both Lot 11 and Lot 11A. Abutting properties for Lot 11 are also depicted as Lot 10, owned by the Jacobs Family Revocable Trust, and Lot 12, owned by Muriel Brown and Gary Smith. Abutting properties for Lot 11A are depicted as, Lot 10A, owned by Gary Marlin; Lot 12 (across the street from Lot 12 which holds an existing structure) owned by Muriel Brown and Gary Smith; and Lot 67 C (behind Lot 11A), owned by Linda Stanley.
5. Provided was an Erosion Control Plan drafted by Melissa Brandt, of York County Soil & Water Conservation District, located in Springvale, Maine. The plan goal was written as: Prevent runoff from new garage and drive from entering the road. The site conditions were noted as: Wooded lot across road from residence. Septic located to the right of proposed garage. Totte Road is approximately 145' from MHW on Goose Pond. The plan included the roof runoff recommendation to install a rain garden (75sf) to collect rain from roof runoff for ½ roof surface area; and a larger rain garden (147sf) to handle the runoff from the entire roof. There were two other options listed, one being the installation of an infiltration trench along the roof dripline; and the installation of a drywell to infiltrate the roof runoff with gutters and downspout. There was also a catch basin on the plan to receive water from the culvert and gravel access area; and the retaining wall(s) will be used to stabilize the surrounding slope, which included proper drainage behind the wall(s) and vegetation to be planted. The road side will be armored with riprap / stone and water directed to the culvert and catch basin, along with check dams to slow the flow of water. Examples of Erosion Control Mix, Dripline Trench, Rain Gardens, Infiltration Trench, Infiltration Steps and suggested vegetation was provided. *A photo of Totte Road and the front of the lot was provided within the Erosion Control Plan.*
6. The detailed application description of the project is as follows: *Would like to build a garage only 25' off the road.*
7. A notice was mailed to all abutters within 500 feet of the property on August 9, 2023. Meetings were held on Tuesday, August 8, 2023, Tuesday, August 22, 2023, and Tuesday November 11, 2023. A site inspection was done by members on August 22nd prior to the meeting.
8. 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 structure will not have an adverse effect on aquatic life or wildlife; Best Management Practices (BMP) shall be used during placement of the structure to prevent runoff onto Totte Road and surrounding properties; no vegetation is being removed at the shoreline; the Comprehensive Plan does not directly address this at present but does want safe and healthy growth, the new structure will meet the ordinance standards; there is limited traffic access to this location; this is for a garage only, not living quarters, therefore there is no need for a septic system for this structure; there are no hazardous materials associated with the application; there shall be no additional stormwater going into the water or onto adjacent properties during placement of the structure or once the project is completed – the applicant shall implement the Erosion Control Plan provided by York County Soil and Water Conservation District, and required BMP shall be approved by the Code Enforcement Officer; the project takes place near the lake and fire protection was not addressed for this project; the area around the garage will be revegetated using native vegetation as suggested by YCS&WCD; the garage will be completed by December 25, 2024; and there

is no glare, odors and the like produced by this project; all performance standards shall be met with six conditions.

9. The board members reviewed 105-19.D Front yards. When a lot fronts on the shore and on a road or right-of-way, both the shoreland setback of 100 feet and the front setback as defined in § 105-18 shall be met, except on nonconforming lots of record, in which case the setback may be no less than 25 feet from the property line or road. This reduction shall require a conditional use permit from the Planning Board. All conditional uses approved relating to setbacks shall require confirmation, in writing, by a licensed surveyor that the placement of the structure is correct and the plan shall be recorded in the York County Registry of Deeds within 90 days of the date of the Planning Board approval. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void. *The application as presented met the requirements, placing the structure 25 feet from the right-of-way. **The plan must be recorded within 90 days of approval.***
10. The application as presented met the conditions under §105-51.3 ‘Revegetation requirements’. The applicant provided an erosion control / revegetation plan, drafted by York County Soil & Water Conservation District, which included several rain gardens, water infiltration trench, drywell, catch basin, retaining wall, check dams, native vegetation, etc. There are no trees being removed for this project.
11. The Planning Board unanimously agreed to approve the Conditional Use Permit for the 25 foot setback to Totte Road to construct a 22’ x 24’ garage in the Shoreland District, greater than 100 feet from the high water mark, on Map 30, Lot 11A per the plans provided, with six conditions.
12. **The conditions of approval are as follows:**
 - 1) **A photograph was received for preconstruction of the development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. *These photos must show both the new structure and revegetation / stabilization of the area.***
 - 2) **A licensed surveyor shall confirm in writing that the placement of the new structure(s) is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The new structure shall be no closer than 25 feet to Totte Road, or 10 feet to the side lot line.**
 - 3) **Best Management Practices shall be used at all times until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).**
 - 4) **The project, including the approved revegetation plan, shall be completed by December 25, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion, otherwise the application shall be null and void.**
 - 5) **All debris from the existing structure shall be removed, taken out of the Town of Shapleigh, and disposed of at the proper facility.**
 - 6) **The plan provided shall be recorded within 90 days of the approval date at the York County Registry of Deeds, otherwise the approval becomes null and void. The applicant shall provide the date of recording to the Planning Board, as well as Book & Page, showing the condition is met.**

Vote & Decision:

By a unanimous vote of 5 – 0, the motion to approve the 25 foot setback from Totte Road to construct a 22’ x 24’ garage in the Shoreland District, greater than 100 feet from the high-water-mark, on Map 30, Lot 11A per the plan(s) provided, with six conditions, was accepted. In conclusion, the Conditional Use Permit to allow the 25 foot setback from Totte Road to construct a 22’ x 24’ garage in the Shoreland District, greater than 100 feet from the high-water-mark, on Map 30, Lot 11A per the plan(s) provided, with six conditions was approved.

Conditional Use Permit – Earth Moving in Stream Protection for Driveway – Map 4, Lot 1 (Back Road) – Todd Bresett, Applicant & Property Owner

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

Provided along with the application, was an ‘Elevation Design for Crossing Stream’, drafted on 11/1/2023, by Bresett Carpentry of Sanford, Maine. The designed depicted a 5’ Diameter Plastic Culvert 20’ Long. The plan had notations stating the following: ‘Min. 18” from Top of Culvert to Top of Driveway’, ‘Top of Driveway to be 12’ Wide’, ‘3” Minus Fill 12’-16’, ‘2 to 1 Slope’, ‘Erosion Mulch Above Riprap’, ‘Culvert to be Embedded 1’ Below Existing Stream Bottom’, ‘6” – 8” Riprap Along Side of Culvert Upstream & Downstream’, and ‘Upstream and Downstream Silt Fence with Stump Grindings for Erosion Control’.

Provided was a copy of a Preliminary Plan for the Division of Land on Map 4, Parcel 1 (Back Road, Shapleigh, Maine), drafted by Kimball Survey & Design, Inc. of York, Maine, dated October 25, 2023. The plan depicts 2 lots, one named Map 4, Parcel 1, consisting of 6.12 acres, and the second lot, Lot A, consisting of 6 acres.

Provided was a Driveway Permit application for Todd Bresett, Map 4, Lot 1 (Back Road), approved by Jeff Goodwin, Southern Road Commissioner, dated 11/1/2023.

Provided was a DEP Permit by Rule Notification Form, dated accepted on August 15, 2023 for a new driveway across stream. The Brief Project Description on the application is as follows: *New Driveway to cross over small stream with 6’ diameter 20’ length Plastic Culvert, Drive to be 12’ wide with 1’ shoulder for a 15’ flat top area, slopes to be 2:1. 18” of 3” minus over top of culvert. Culvert will be embedded 1’ down into stream bed. Fabric on sides of culvert with 6”-8” riprap with stump grindings upstream/downstream.*

The application detailed description is as follows: *Install Driveway off of Back Road into lot over stream (DEP Permit by Rule Approved).*

Steve F. stated that Mr. Bresett was next, for a Conditional Use Permit for earth moving in Stream Protection for a driveway on Map 4, Lot 1.

Steve F. asked Mr. Bresett to let the board know what he wanted to do. Mr. Bresett stated that he did have the DEP Permit by Rule obtained. He provided an elevation view for a 5 foot culvert. He said there would be a silt fence put up around both sides during the project. He said it was a small stream, that is about 120 feet from the road. Steve said he could not tell on the map provided where the driveway would be. Mr. Bresett showed the board using the plan provided, the approximate location of the new driveway. Steve asked if the driveway was going to serve both lots shown? Mr. Bresett stated that it was.

CEO Demers stated that he thought the standards that apply are located under 105-59. Steve F. reviewed §105-59. ‘Roads, driveways and water crossings’.

- A. The following roads, and/or driveways and water crossing requirements shall apply Townwide. Additional requirements for roads, driveways and water crossings located within the Shoreland Zone are found in Subsections C and D.
- B. The following requirements shall apply to construction and maintenance of roads other than skid roads:

- (1) All cut or fill banks and areas of exposed mineral soil outside the roadbed within 100 feet, horizontal distance, of a flowing or standing body of water shall be revegetated or otherwise stabilized so as to prevent erosion and sedimentation of water bodies.

Steve F. asked Mr. Bresett if he understood that 100 feet either side of the stream needed to be revegetated. Mr. Bresett stated that he did. CEO Demers stated that it needed to be native vegetation. Steve said it had to be something to stabilize the bank. Mr. Bresett asked if he could use riprap close to the culvert? CEO Demers said yes, close to the culvert, but any slopes getting modified leading to the culvert need to be vegetated. He said anything beyond the riprap, except for the driveway. CEO Demers asked Mr. Bresett how he came up with a 5 foot culvert? Mr. Bresett said it was recommended through the DEP. Steve asked at what point the Army Corp had to be involved? Mr. Bresett stated he went with the DEP Permit by Rule, and he used a survey company, who told him what to put down. He said he was surprised by the 5 foot culvert recommended. Steve said that as a condition he will put that between he and CEO Demers verifies that no other permits are required. Mr. Bresett stated that he did have the Road Commissioner go to the site, and he signed off on the project.

- (2) Road and driveway banks shall have a slope no steeper than a slope of two horizontal to one vertical.

Steve F. stated this was on the plan.

- (3) Drainage ditches shall be provided so as to effectively control water entering and leaving the road area. Such drainage ditches will be property stabilized so that the potential for unreasonable erosion does not exist.
- (4) In order to prevent road and driveway surface drainage from directly entering water bodies, tributary streams or wetlands, roads, driveways and their associated drainage ditches shall be located, constructed and maintained so as to provide an unscarified filter strip, of at least the width indicated below, between the exposed mineral soil of the road or driveway and the normal high-water mark of a surface water body. This requirement shall not apply to road approaches to water crossings.

CEO Demers stated that the road approach to the water crossing can be steeper. Steve F. agreed. Steve stated that the Board needs to determine what the width of strip between the exposed mineral soil and normal high-watermark is. Mr. Bresett said it is a very small stream, he said it never came up high in the area he will be crossing. He said he will be 4 feet higher than anything in the area. Steve F. thought they were looking for a filter in the ditch to prevent the road and driveway surface drainage from going into the stream, at least the width indicated. Mr. Bresett thought he needed to put something down to protect the area. Ann H. asked the width of the driveway? Mr. Bresett stated 20 feet. Ann noted it was not a road, so maybe it is not applicable? Steve said it said 'road or driveway'. CEO Demers said he will come off the main road and approach, but any driveway beyond that has to have a buffer strip of 65 feet.

The board continued to discuss what this may be requiring. Steve thought they are looking for filter strips in the ditch, depending on the slope and approach. He said all the road water is going to drain into the ditches and head toward the brook, and this is what they are trying

to avoid. He believed they are looking for a filter strip on each side to stop the sediment. Steve reviewed the chart below. Mr. Bresett thought he could do that using riprap and smaller stone, to make sure the sediment stays out of the stream. Steve thought this was important the first few years, until the vegetation grows back in and does its own filtering. Steve thought he should sit with the CEO to come up with the best method to accomplish this. CEO Demers thought he should have the Road Commissioner come out again once the project is started. Steve added York County Soils and Water perhaps should look at the project. Mr. Bresett stated he would do all he could to stabilize the area.

Average Slope of Land Between Exposed Mineral Soil and Normal High-Water Mark (percent)	Width of Strip Between Exposed Mineral Soil and Normal High-Water Mark (feet along surface of ground)
0	25
10	45
20	65
30	85
40	105
50	125
60	145
70	165

- (5) Drainage ditches for roads and driveways approaching a water crossing shall be designed, constructed and maintained to empty into an unscarified filter strip of at least the width indicated on the table set forth in Subsection B(4) above between the outflow point of the ditch and the normal high-water mark of the water. Where such filter strip is impracticable, appropriate techniques shall be used to reasonably avoid sedimentation of the water body. Such techniques may include the installation of sump holes or settling basins, and/or the effective use of additional ditch relief culverts and ditch water turnouts placed so as to reasonably avoid sedimentation of the water body.

Steve F. stated this was not applicable.

- (6) Ditch relief (cross drainage) culverts, drainage dips and water turnouts will be installed in a manner effective in directing drainage onto unscarified filter strips before the flow gains sufficient volume or head to erode the road, driveway or ditch.

Steve F. asked if there was any other cross drainage going into the road. Mr. Bresett stated, no.

- (a) Drainage dips may be used in place of ditch relief culverts only where the grade is 10% or less.
- (b) On sections having slopes greater than 10%, ditch relief culverts shall be placed at approximately an angle of 30° down slope from a line perpendicular to the center line of the road or driveway.

- (c) Ditch relief culverts, drainage dips and water turnouts shall direct drainage onto unscarified filter strips as required in Subsection B(4) and (5) above.
- (d) Ditch relief culverts shall be sufficiently sized and properly installed in order to allow for effective functioning, and their inlet and outlet ends shall be stabilized with appropriate materials.
- (e) Ditch relief culverts, drainage dips and associated water turnouts shall be spaced along the road or driveway at intervals no greater than indicated in the following table:

Grade (percent)	Spacing (feet)
0 to 2	250
3 to 5	200 to 135
6 to 10	100 to 80
11 to 15	80 to 60
16 to 20	60 to 45
21+	40

- (f) Ditch relief culverts, drainage dips and associated water turnouts and other storm water runoff control installations associated with roads and driveways shall be maintained on a regular basis to assure effective functioning.

C. Within the Shoreland Zone, all new roads and driveways shall be set back a minimum of 100 feet, horizontal distance, from the normal high water line of a great pond, the Mousam River and the Little Ossipee River and 75 feet, horizontal distance, from the normal high water line of other water bodies, tributary streams or the upland edge of a wetland, unless no reasonable alternative exists as determined by the Planning Board. If no reasonable alternative exists, the road and/or driveway setback reduction shall be no less than 50 feet, horizontal distance, and may be permitted by the Planning Board upon a clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of water bodies, tributary streams or wetlands. Such techniques may include, but are not limited to, the installation of settling basins and/or the effective use of additional ditch relief culverts and turnouts placed so as to avoid sedimentation of the water body, tributary stream or wetland.

Steve F. stated this section was not applicable.

On slopes of greater than 20%, the road and/or driveway setback shall be increased by 10 feet, horizontal distance, for each five-percent increase in slope above 20%.

This subsection does not apply to approaches to water crossings or to roads or driveways that provide access to permitted structures and facilities located nearer to the shoreline, or tributary stream due to an operational necessity, excluding temporary docks for recreational uses. Road and driveways providing access to permitted structures within the setback area shall comply fully with the requirements of this section except for that portion of the road or driveway necessary for direct access to the structure.

D. In a Resource Protection District new roads and driveways are prohibited except that the Planning Board may grant a permit to construct a road or driveway to provide access to permitted uses within the district. A road or driveway may also be approved by the Planning Board in a Resource Protection District, upon a finding that no reasonable alternative route or location is available outside the district. When a road or driveway is permitted in a Resource Protection District the road and/or driveway shall be set back as far as practicable from the normal high-water line of a water body, tributary stream or upland edge of an inland wetland.

Steve F. stated they are not in the Resource Protection District.

Steve F. stated a notice to abutters will be mailed. Members decided a site inspection was not necessary, based on the information provided. Steve did state if members choose to go, they will do it on their own.

Mr. Bresett asked if there was a time frame for him to complete the project? Barbara F. stated the applicant had a year to begin the project under a Conditional Use Permit. CEO Demers stated that with a permit from his office, he had to start within a year, and he would have two years to complete the project.

Nothing further was discussed.

Proposed Ordinance Amendments:

The following are the proposed ordinance amendments by the Planning Board.

- The amended definition under §105-15 ‘Definitions’ of *Dwelling, Two Family* was proposed for clarity, after a recent application, whereby the Planning Board had to obtain a legal opinion in part due to the current definition.
- Under §105-17, ‘Land use’, the board members had to amend based on the current State legislation for *accessory dwelling units*.
- Under §105-19, ‘Notes to Table’, the CEO found a typo that he asked be corrected.
- Under §105-34, ‘Access control on Route 109 and 11’, the board members agreed the regulation of State roads should be through the State.
- Under §105-37, ‘Campgrounds’, the board members believed, based on current State campground regulations, and a recent review of a proposed campground, that the current ordinance section was not in alignment with what was currently necessary to be required, therefore an amendment was made.
- Under §105-38, ‘Individual private campsites not associated with campgrounds’, the board members amended sections A & B, as there was some confusion on interpretation, which also required a legal opinion. The board members agreed on the intent of the section, and thereby amended the sections accordingly.
- Under §105-51.3, ‘Revegetation requirements’, the board members agreed that it was best to obtain someone qualified in erosion control and revegetation measures in the Shoreland District to make certain final stabilization / revegetation measures put into place during projects requiring earth moving in the SD were adequate and done as approved. YCS&WCD agreed to do the final inspections, and asked for a fee

for travel, any required re-inspection for projects not done correctly, as well as any additional technical information they may need to provide.

§105-15. Definitions

Dwelling, Two-Family – ~~A single building containing two dwelling units, with a separate entrance for each. May also be referred to as a ‘duplex’.~~

Dwelling, Two Family – **A two-family dwelling unit, for occupation by not more than two families, is one building with two units that are either stacked vertically or side-by-side, sharing a common wall with living space on each side, having a separate entrance for each unit.**

§105-17. Land uses.

Notes:

~~3~~³~~Additional~~ Detached dwelling units in excess of one on a single lot shall require review and approval by the Planning Board. A site plan certified by a registered land surveyor, licensed in the State of Maine, showing all existing and proposed structures, and other pertinent information relating to the possible division of land, shall be submitted to the Planning Board. The Planning Board shall determine that the property and all structures can meet the current zoning and setback requirements if the property were to be divided. **This does not apply to accessory dwelling units (ADU’s).**

§105-19. Notes to Table on Dimensional Requirements

A. Each lot on which is located a principal structure or use, unless in compliance with §105-40.2 or ~~105.42~~ **105-42** of this chapter, shall meet all the dimensional standards set forth in §105-18.

Typo

§ 105-34. Access control on Routes 109 and 11.

~~A. Land lying on Routes 109 and 11 may be divided into lots, but all vehicular movements to and from the highway shall be via a common driveway or entranceway serving adjacent lots or premises. All lots of record existing at the time of the ordinance amendment shall be allowed direct access to Routes 109 and 11, provided that minimum safe sight distance standards can be met.~~

B. All lots accessing Routes 109 and 11 must obtain an MDOT entrance permit. For all conditional use permits requiring access, the applicant shall provide proof of an MDOT entrance permit prior to obtaining approval.

§105-37. Campgrounds.

I. A campground shall provide water and sewerage systems, sanitary stations and convenience facilities in accordance with the regulations of the State Plumbing Code and State of Maine Department of Human Services. ~~In no case shall less than one toilet, lavatory and shower be provided for each sex for every 10 camping and tent sites.~~ **In no case shall there be less than one toilet, and lavatory for every 20 sites, and one shower for every 30 sites for each sex provided for all camping sites, which includes RV Sites.**

§105-38. Individual private campsites not associated with campgrounds.

EXISTING:

- A. ~~One campsite per lot existing on the effective date of this chapter, or 30,000 square feet of lot area within the shoreland zone, whichever is less, may be permitted.~~
- B. ~~When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.~~

Proposed for clarity and intent:

- A. **One individual private campsite is allowed on an existing legal lot of record in the General Purpose District. One campsite is allowed on an existing legal lot of record or 30,000 square feet of lot area, whichever is less, in the Shoreland District.**
- B. **When an individual private campsite is proposed on a lot in the general purpose district, that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure. When the individual private campsite is proposed on a lot in the Shoreland District, that contains another principal use and/or structure, the lot must have the minimum lot dimensional requirements for a principal structure and/or use and 30,000 square feet of lot area for the individual private campsite.**

§105-51.3. Revegetation requirements.

- A. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional **in shoreline stabilization**, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is, to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.
- C. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted **to the Planning Board for approval.** ~~with any renewal or new permit application.~~ **Upon completion of the revegetation and shoreline stabilization, York County Soils & Water Conservation District (YCS&WCD) shall inspect the site to be certain all stabilization activities are completed as presented and approved, and provide the inspection report to the Code Enforcement Office and Planning Board.**
- F. **Fee. A fee of \$150 shall be collected at the time of application for the 3rd party inspection for all revegetation & shoreline stabilization plans, to be done by YCS&WCD. If subsequent inspections are required, the applicant shall pay YCS&WCD a re-inspection at the time of inspection, at a rate to be determined by YCS&WCD, not to exceed \$150.**

Nothing further was discussed.

Growth Permits

Map 1, Lot 41 (268 Simon Ricker Road) – Duplex – Lawrence, Applicant GP #22 & 23-2023

The Planning Board meeting adjourned at 8:45 pm.

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

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

Also visit www.Shapleigh.net, there is a calendar of events, and you will find Planning Board information there, including schedules, the agenda, and minutes of the meetings.

Respectfully submitted,
Barbara Felong, Land Use Secretary
Town of Shapleigh
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