

*Shapleigh Planning Board*

*Minutes*

**Wednesday, March 15, 2023**

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

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Minutes are not verbatim unless in quotes “” – If the names of a citizen making a comment was not requested by the Planning Board Chairman, the reference to their name will be known as ‘Citizen’ or ‘Abutter’ depending on who is speaking.

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**Public Hearings Began at 6:30 pm**

**Conditional Use Permit – Rent Former Snowmobile Club Building to a Real Estate Office – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Elias Thomas, Applicant; James Correggio, Property Owner**

Elias Thomas was unable to attend the Public Hearing, therefore his daughter, Heather Beaupre, represented the applicant.

Roger A. asked Ms. Beaupre to let the audience know what they intended to do. Ms. Beaupre stated that they wanted to move Exit Reality from its existing location to the building that was once the snowmobile club. She stated they would not be making any changes to the building, but would be relocating their sign, utilizing the space by the road. She said they would be open 7 days a week from 9 am to 5 pm. There will be no changes to the building, they are leasing it as it is.

Roger A. asked if there were any questions? Holly Brown, representing the Kettle Pond Condo Association stated the association had a concern with parking; would more be required for this business? Ms. Beaupre stated they would be using the existing parking area between the snowmobile club building and what used to be Kelsey Lynn’s. She added that there would not be a lot of vehicle traffic associated with the business, much of the business is done on line or off site. She said there were 3 brokers, a rental associate and an administrator, so a total of 5 people would be there on a regular basis. Roger asked how many spaces there would be near the building; then he noted there was more than enough parking for the last business that was going to use the building. Barbara F. provided the existing parking plan for this location. It appears that the area near the building had enough parking for 40 cars, which was more than adequate.

Ms. Brown stated that the right-of-way, as it comes off of Route 11, is going to have more traffic now, and it has deteriorated and is a mess at this point. She said that it dips down, and the concrete and asphalt is all chewed up. She wanted the board aware of the situation, as well as the applicant. Ms. Beaupre stated they would be using the direct access from the road. Ms. Brown stated this is what she was talking about. Roger A. stated that this was an issue for the MDOT, because he believed the area she was speaking about was part of the right-of-way for Route 11, and it did not belong to the property owner, Mr. Correggio. He said the dip, which is caused by the culvert, is State property. He stated that you would have to know the width of the road, and make sure you are beyond that, before the land owner has to make any changes. He

said the area in question likely belongs to the MDOT, therefore, the association should call the MDOT and have them send out an engineer. Ms. Brown stated that they should call the State and not Mr. Correggio. Roger said, correct. Ms. Brown said that when you get out of the dip, where it flattens out, that belongs to Mr. Correggio. Roger said, right, and told her to call the MDOT, and they will send out an engineer. He said if they feel it is warranted, they may fix the area she is speaking about. Ms. Brown stated that during the melting season, the water comes directly across the road from Route 11 Auto, and it creates a flood zone. Roger stated again that the responsibility may be on the State and not on Mr. Correggio, they should contact the State. Ms. Beaupre stated that if it becomes a problem, she knows someone who would be happy to make phone calls. Ms. Brown stated that the Association has been speaking with Mr. Correggio for at least 5 years about the problem, but he has done nothing to help mitigate the problem. Roger said that it is probably because the town way may be the area that is the problem. He said there likely was a 55 foot right-of-way, with a 24 foot wide travel way. Roger added that most people think they own up to the roadway, but in reality they own quite a bit less, depending on the road.

Ms. Beaupre asked if the area in question was where the sign area is currently, is that part of the roadway? Roger A. stated that it could be, it would have to be measured. He said the Code Officer takes care of signage, the Planning Board does not deal with that. Ms. Beaupre stated that it appeared there was a sign there previously. Roger said the biggest issue will likely be that it doesn't create a blind spot from someone exiting the property.

Roger A. asked if there were any other questions? Ms. Brown stated their questions were about the parking area, and the entranceway. She said again, the entrance has been a problem, and with more traffic coming in, it will be more of a problem.

Roger A. asked if any board members had questions? There were none.

Roger A. stated that because they were no questions he was going to close the public hearing; the regular meeting will start at 7:00 pm. **The public hearing was closed at 6:40 pm.**

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*The Planning Board meeting started at 7:00 pm.*

*The minutes from Wednesday, March 1, were accepted as written.*

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**Unfinished Business:**

**Conditional Use Permit – Rent Former Snowmobile Club Building to a Real Estate Office – Map 7, Lot 3-2 (926 Shapleigh Corner Road) – Elias Thomas, Applicant; James Correggio, Property Owner**

Elias Thomas was unable to attend the final review of the application, therefore his daughter, Heather Beaupre, was present to answer any questions.

Provided along with the application was a ‘Commercial Letter of Intent’ between Exit Key Real Estate / Elias Thomas and property owner James Correggio, Terms of Lease commencing on May 1, 2023.

Provided was an aerial view of the property, printed February 21, 2023, depicting the existing structures on site and parking area, along with the location of State Route 11.

Provided was a copy of the Subsurface Wastewater Disposal System Application, drafted by John E. Large, SE #7, dated 1/5/1999 for an Assembly Building, ‘No Meals or Showers’, for the Snowmobile Club.

Placed in the file by the Land Use Secretary was a copy of the existing parking plan for this location that is on file with the Planning Board.

The detailed description of the project is as follows: *Former Snowmobile Club building to be rented for use as a Real Estate office.*

**Roger A. reviewed the Basic Performance Standards with findings as follows:**

- 105-17** – Land uses. *This business requires a conditional use permit.*
- 105-18 & 19** - Dimensional requirements. *The existing structure meets the setback requirements in the ordinance.*
- 105-20** – Applicability of standards; prohibited uses. *Roger read this section in its entirety, noting Section B did not apply as there will be no obnoxious injurious odors, dust, smoke, refuse matter, fumes, noise, vibration or waste material, nor is it dangerous to the health and safety of the community.*
- 105-21** – Traffic. *The Recommended Site Distance is met, there are no changes to the entrance to the building and the curb cut was approved by the MDOT.*
- 105-22** – Noise. *There will be no noise generated above the noise decibels in the ordinance, all activity takes place inside the structure.*
- 105-23** – Dust, fumes, vapors and gases. *There is none generated with this business, so this is N/A.*
- 105-24** – Odors. *There will be no obnoxious odors generated, so this is N/A.*
- 105-25** – Glare. *Roger A. read this section of the ordinance, noting that Mr. Thomas had stated there would be lighting for the sign. He said that there cannot be any lighting directed onto neighboring properties or onto a town way as to impair the vision of a vehicle traveling on the town way.*
- 105-26** – Stormwater runoff. *The building is in existence with no changes being made to the exterior, therefore there will be no stormwater runoff issues created by the business.*
- 105-27** – Erosion control. *The building is in existence with no changes being made to the surrounding landscape, therefore erosion is not an issue with the new business.*
- 105-28** – Setbacks and screening. *The existing structure sets back off the road, there are no changes to the existing vegetation; no additional screening will be required.*
- 105-29** – Explosive materials. *There shall be none on site and none to be generated, therefore this is N/A.*
- 105-30** – Water quality. *There are no changes to the exterior of the building and no outdoor storage of material to affect water quality. There is an existing State approved septic system on site.*
- 105-31** – Preservation of landscape; landscaping of parking and storage areas. *The existing landscape will remain in place; there are no changes to the existing parking.*

- 105-32** - Relation of proposed building to the environment. *The business takes place in the existing approved building that fits in with the surrounding area.*
- 105-33** – Refuse disposal. *There is minimal refuse from the business, which will be taken care of by the applicant.*
- 105-34** – Access Control to Route 109 and 11. *The entrance was previously approved for this location by the MDOT.*
- 105-43** – Off-street parking and loading. *There is approved off-street parking in existence, there is no loading associated with this business.*
- 105-46** – Sanitary provisions. *There is a State approved septic system on site.*
- 105-47** – Signs and billboards. *All signage must be permitted and approved through the Code Enforcement Office.*

**Roger A. then reviewed §105-73.G ‘Standards applicable to conditional uses’ and made findings of fact.**

*Standards applicable to conditional uses. It shall be the responsibility of the applicant to demonstrate that the proposed use meets all of the following criteria. The Board shall approve the application unless it makes written findings that one or more of these criteria have not been met.*

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *Roger A. stated, it will not.*
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *Roger A. stated this is not applicable.*
- 3) The use is consistent with the Comprehensive Plan. *Roger A. stated it is, the Comp Plan wants small businesses in town and along Route 11.*
- 4) Traffic access to the site is safe. *Roger A. stated it is, the entrance to the property was previously permitted by the MDOT.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *Roger A. stated it is, the project is not in the flood zone.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *Roger A. stated a State approved Septic System is on site, and there is minimal solid waste associated with this business, which will be taken care of by the applicant.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *Roger A. stated there is none being generated, therefore this is N/A.*
- 8) A stormwater drainage system capable of handling a fifty-year storm without adverse impact on adjacent properties has been designed. *Roger A. stated the structure for the business is in existence and there was a stormwater design when the structure was originally approved.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *Roger A. stated there are no changes being made to the property to create an erosion issue.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *Roger A. stated there is a 10,000 gallon water storage tank on the adjacent lot.*
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. *Roger A. stated there are no changes being made to the existing vegetation, and the structure sits well off the road.*

- 12) All performance standards in this chapter applicable to the proposed use will be met. **Roger A. stated they shall with one condition.**

Roger A. stated the condition would be the hours of operation, from 9 am to 5 pm, 7 days a week. Roger asked if there would be any other conditions? Steve F. asked about lighting? Roger said that he believed the only additional lighting would be for the sign and that would be through the Code Office. Barbara F. stated that she believed Mr. Thomas also wanted hours by appointment in case he had to be there later or earlier than the stated hours. Ms. Beaupre said she would like that as well, noting that her father can be there at 7 am or at 8 pm with a client. Barbara said she wanted to be sure he was able to be open all the hours he had requested at the last meeting. Roger had no issue with the extended hours.

**Roger A. stated the condition will be as follows:**

- 1) **The hours of operation will be 9 am thru 5 pm, 7 days a week, and by appointment beyond those hours.**

**Steve F. made the motion to approve the Condition Use Permit to use the existing snowmobile club building for a Real Estate office on Map 7, Lot 3-2, with one condition. Roland L. seconded the motion. All members were in favor. By a vote of 3 – 0, the motion to approve was unanimous.**

Nothing further was discussed.

**The Findings of Facts**

- 1. The owner of Shapleigh Tax Map 7, Lot 3-2 (926 Shapleigh Corner Road) is James Correggio, current mailing address of 6 Chestnut Road, Shapleigh, Maine 04076, per Short Form Warranty Deed - Book 15135, Page 953, dated 4/19/2007, registered at the York County Registry of Deeds.
- 2. The property is located in the General Purpose District, and according to the Assessor’s office, it contains 3.91 acres.
- 3. Provided along with the application was a ‘Commercial Letter of Intent’ between Exit Key Real Estate / Elias Thomas and property owner James Correggio, Terms of Lease commencing on May 1, 2023.
- 4. Provided was an aerial view of the property, printed February 21, 2023, depicting the existing structures on site and parking area, along with the location of State Route 11. Placed in the file by the Land Use Secretary was a copy of the existing parking plan for this location that is on file with the Planning Board.
- 5. Provided was a copy of the Subsurface Wastewater Disposal System Application, drafted by John E. Large, SE #7, dated 1/5/1999 for an Assembly Building, ‘No Meals or Showers’, for the Snowmobile Club.
- 6. The detailed description of the project is as follows: *Former Snowmobile Club building to be rented for use as a Real Estate office.*

- 7. The application as presented met the Basic Performance Standards in the Zoning Ordinance. The board noted for this application, Section 105-25 ‘Glare’ could be an issue with lighting the sign; lighting cannot be directed onto neighboring properties or onto a town way as to impair the vision of a vehicle traveling on the town way. This will be taken care of by the Code Enforcement Officer, during the sign permit process.
- 8. The application as presented met the performance standards under §105-73 ‘Conditional Use Permits’ as per the documentation provided and as presented with one condition. The proposed use shall not have an adverse effect on aquatic life or wildlife; the proposed use is not in the Shoreland District; the use is consistent with the Comprehensive Plan which encourages businesses along State Route 11; traffic access to the site is safe for the intended use, the entrance was previously approved by the MDOT; the lot is not located within the flood zone; there is an existing State approved subsurface wastewater disposal system on site for the snowmobile club building; there is minimal waste associated with this business, which will be disposed of by the applicant; there is no hazardous waste being stored on site; the structure for the business is in existence, which had a previously approved stormwater and erosion control plan, and no changes are being made on site; there is a 10,000 gallon water holding tank for firefighting purposes on the adjoining lot; there is existing vegetation and the structure sits well off the road, there shall be no lighting facing onto the road, and no fumes, dust, odors and the like; and there is no noise associated with this business. All performance standards shall be met with one condition.
- 9. A notice was mailed to all abutters within 500 feet of the property on March 2, 2023. Meetings were held on Wednesday, March 1, 2023 and Wednesday, March 15, 2023 (due to storm cancellations on both Tuesday evenings). A Public Hearing was held on Wednesday, March 15th.
- 10. The Planning Board unanimously agreed to approve the Conditional Use Permit to open a Real Estate office in the former snowmobile club building, on property known as Tax Map 7, Lot 3-2 (926 Shapleigh Corner Road), with one condition.
- 11. The condition(s) of approval is as follows:
  - 1) **The hours of operation shall be 9 am to 5 pm, seven days a week; and by appointment on off-hours.**

**Decision:**

**The Conditional Use Permit to open a Real Estate office in the former snowmobile club building, on property known as Tax Map 7, Lot 3-2 (926 Shapleigh Corner Road), with one condition was approved.**

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**Conditional Use Permit- Replace the Existing Retaining Wall & Stairs in SD – Map 26, Lot 43 (19 Buccaneer’s Way) – Steele Nickel Inc., Applicant: Chris and Donna Kent, Property Owners**

Nate Poissant of Steele Nickel Earthworks was present for the review of the application.

Provided along with the application, was a letter dated August 8, 2022, written by the property owners, which read as follows: This letter will serve as a notice to have Steel Nickel Inc., Nate Poissant and Brad

Nickel represent and act on our behalf, Donna & Chris Kent of 19 Buccaneers Way, Shapleigh Maine regarding a proposed plan for work to be done at the above referenced address.

Provided was a copy of the Town Tax Map, depicting Lot 43. In addition, existing conditions pictures were provided that showed the condition of the existing retaining wall.

Provided this evening were three copies of a sketch drafted by Brad R. Lodge, PLS #2057, dated 10/24/2022, entitled 'Sketch Showing the Location of an Existing Retaining Wall Located at 19 Buccaneers Way, Shapleigh, Maine'. The first copy of the sketch depicts the Gravel Parking Area; Cottage; Foundation Corner; Chimney Corner; Concrete Cinder Block Retaining Wall; Patio & Steps both to the cottage and the beach area. Also depicted is the Rock Covered Slope; ¾" Iron Pipe with a fitting; Beach Area, and a hand written notation that states '& stairs between the retaining wall & the house' written under the page title. The Apparent High Water Line was also on the sketch, but the distance from the existing structures to the HWL were not noted. The lake was hand written as 'Mousam Lake'.

Provided on the second copy of the sketch, in addition to the existing structures was the hand written notation that stated 'Includes Erosion / Sediment Control Plan'. Depicted on the sketch was a notation under Rock Covered Slope that stated 'to be removed as needed', along with 'wall to follow contour of road', and 'erosion/sediment control = 8" straw waddle at beach & silt fence'.

Provided on the third copy of the sketch, in addition to the existing structures was the hand written notation that stated 'Landscape, Buffering, Revegetation Plan'. Depicted on the sketch were the proposed 5 trees to be removed, and the proposed replanting of native vegetation (blueberries, viburnum) at base of the new retaining wall.

Provided was a copy of the 'Specification for Redi-Rock 28" Series Wall System', from the 2011 Design Resource Manual for Redi-Rock.

Provided was a copy of the DEP Permit by Rule Notification, dated 2/9/2023. The Brief Project Description on the notification form read as follows: *Replace a failing retaining wall and stairs. New retaining wall to be built in existing footprint.*

The application detailed description of the project is as follows: *This project is to build a new retaining wall in the footprint of the existing retaining wall.*

Provided was an additional project description as follows: *The current cinderblock and rubble wall is failing at the residence. This is namely due to age, erosion, and root infiltration. We are requesting a conditional use permit so that we can replace the existing wall and stairs with a safer, modern wall, in the same footprint and a new set of stairs. The proposed wall will follow the contour of the road. The stairs to be replaced are located between the retaining wall and the house. All demo debris will be hauled out of town. The proposed wall will help to stop the continued erosion of the road surface and bank into the lake. As part of the project, we will need to remove 5 trees that have contributed to the wall's failure. We plan to plant native vegetation and shrubs at the foot of the new wall, to replace these trees. Thank you for your consideration.*

Roger A. asked Mr. Poissant to let the board know what he wanted to do. Mr. Poissant stated that in general they were looking to replace an existing retaining wall and a set of stairs to try to eliminate further erosion of the bank side and the road. He said that part of the proposal is to remove 5 trees that are impacted by the replacement of the wall. He noted that a sixth tree is flagged out by the water, which is a dead tree. He said he felt this was a separate issue, in which he will deal directly with the Code Officer. Roger said that the 5 trees are near the wall. Mr. Poissant agreed and he also brought up some small pines that will be affected, so they will have to be removed. He said that if they have to be replaced, he will need guidance, because there is not a good location to revegetate with a tree that will have substantial root mass in the future, where it will disturb the wall again in the future.

Mr. Poissant stated that when looking at the sketch with the cottage on the right-hand-side, to the left of the cinder block wall, is a slope that will be covered over with erosion mulch. He stated that the patio does not get expanded; there was a rubble wall that was constructed to try to support the existing retaining wall, which will get removed and the area will be revegetated with mulch and native plants. He said they did not want any additional impervious surfaces.

Roland L. asked with respect to the far left area, where there will be erosion control mulch, it appeared at one time there was driving that took place, he asked if this area was used as access? Mr. Poissant stated this was the owner's access to get below the wall. He said there is crushed stone and weeds, and the septic tank is at the base of the wall, there is a pump station and a line that runs up the slope, and the leach field is located up the road. He said they have an easement on someone else's property. He said the slope was to access the septic system. Roland asked if that area would support some trees. He said there were some nice looking small saplings, and he thought that area could be a place where some tree growth could be established, given the issue of erosion that takes place on site. Roland said he noticed some attempts at mitigating the erosion at the top of the wall, and he said he knew the water ran in the direction of the wall. He wondered if the wall could divert some of the water to the area he was speaking about, which would have erosion control mulch and possibly some tree growth that might serve to stabilize the area, and control some of the water. Mr. Poissant believed the property owners would be agreeable to this, as long as they could still access the septic tank and sewer line; he thought there might be an area, if he used the right species, such as a shrub. He asked if arborvitae or cedar would work? Roland said he was not in the business to come up with something, but he thought Mr. Poissant was in that business and might be able to come up with something. He said that he did like upright arborvitae as they are vigorous, but they do not overwhelm an area, and their roots might help to absorb some of the runoff. He said this was all downhill, and he thought if the wall is higher, the water will be diverted in part to this area. He also noted that the water cannot run off into the neighbor's property. Mr. Poissant agreed.

Steve F. believed they were dealing with an issue that was beyond the scope of this property. He said the water was not just forming at these folks property. Roland agreed, and he said in some places people will form an association to try to work together, but based on his experience on Goose Pond, it is not always easy. Roland agreed they are not creating the problem, but he was seeing a way for them to try to help to mitigate it for themselves and others downstream. Steve said they had spoken about working with the Youth Conservation Corp. at the first meeting. Roland agreed there were a number of things that could be done outside the scope of this project. Roland thought Mr. Poissant could at least mention this to the property owner, that one board member was concerned with the problem, and anything they could do to help would be appreciated.



Mr. Poissant stated that one issue is that on the upside of the road is a 30 to 35% grade, so there is no way to ditch it and handle the water. He said the owners told him that the big problem is when they have downpours, there isn't enough time to absorb into the ground, and it roars through. He agreed this is the location to try to handle the water, to at least slow it down. He believed there had to be a solution. Steve F. said this is a great time to tackle the uphill problem, and if the owners could talk to someone to address this, it would be great. Roland L. said he was not suggesting there be a condition of the approval that they have to speak with someone, but he wanted to bring it up. Steve agreed it was one of the bad spots on the lake. Mr. Poissant added that it was very tight and narrow in this location, the house is right on the road, there isn't any space to do much.

Roger A. stated this was an exact replacement and that a DEP Permit by Rule was sent in on February 9<sup>th</sup>. Roger asked Mr. Poissant if he had heard anything? He stated that he had not. Roger said that it had been beyond 14 days, so there didn't seem to be a concern.

Roland L. asked when he expected to complete the project? Mr. Poissant stated that if they could not get it done this spring, then it would be in the fall. He said there was a concern with the residents at the end of the road, as it is very tight access in this area. He said it will depend on when the snow melts, when the roads are no longer posted, and to accomplish the project before people are occupying their residences. He said if they cannot do it now, they will be doing it after Labor Day. He added that it would be completed this year. Steve F. asked if he would be done by October 31<sup>st</sup>? Mr. Poissant believed they would. He said he wanted to be sure that whatever they plant, that the roots are established before the ground freezes.

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

- 1) Best Management Practices shall be used until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project.**
- 2) 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.**
- 3) A licensed surveyor shall confirm in writing that the placement of the new structures are correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer.**

Steve F. stated that he thought Mr. Poissant wanted to make this a straight wall? Mr. Poissant stated that right now the wall hooks back to the staircase, and it doesn't make contact with the foundation. He said they want to try to have it make contact with the foundation, so it's as strong as it can be. He said it will not be any more non-conforming, it will be no closer to the high-water-mark. He said the stairs are technically the closest point to the water and the wall falls behind the stairs.

Roland L. asked if Mr. Poissant was DEP certified to work in the Shoreland District? Mr. Poissant stated that he was. Roland asked if he was aware that the material he was taking out has to be taken out of Shapleigh? Mr. Poissant said he was aware of that. Roger A. stated that this was answered in the new updated plan.

Roger A. asked what the height of the wall was? Mr. Poissant stated that it was roughly 8 feet tall. Roger said that the board needed engineered certifications. Mr. Poissant stated that he provided the board with the technical plans from the manufacturer, and it will be built to their specifications.

**Additional conditions of approval:**

- 4) **The person doing the project shall be DEP certified in best management practices, and the wall shall be constructed per the manufacturer’s specifications.**
- 5) **The project, including revegetation, shall be completed by October 31, 2023.**
- 6) **All material from the existing retaining wall and stairs being removed, shall be taken out of Shapleigh.**

CEO Demers asked if everything to the left of the wall would be revegetated? Roger A. stated that it was to be revegetated by October 31. Mr. Poissant added that it will be to the left and the base of the wall. He said the top side is gravel, with crushed stone behind the wall to allow water to permeate to the drain. Steve F. asked if there would be a drain coming out of the bottom of the wall? Mr. Poissant stated, generally speaking, on the far side, yes. He said where the drain is located it is 8 feet down, so there will not be a direct flow to erode things. Steve asked if it would be a perforated pipe going up the back of the wall? Mr. Poissant stated it was a horizontal perforated pipe.

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

**Steve F. made the motion to approve the Conditional Use Permit to replace the existing retaining wall, keeping it the same size as the existing wall, and replace the stairs on Map 26, Lot 43, per the plans provided and as discussed, with the stated conditions. Roland L. seconded the motion. All members were in favor. By a vote of 3 – 0, the motion to approve was unanimous.**

Mr. Poissant stated he would like a point of clarification. He said at the last meeting the board stated that they had to leave the roots and stumps in place, but that is not going to work in this situation. He asked if it was ok that the roots and stumps be removed for the five trees indicated? Roger A. agreed that the proximity of the trees to the new wall, it would not be practical to keep the roots in place. Steve F. agreed, adding that the wall would not be able to be installed according to the engineered drawing, which the board cares more about that at this point. He said the wall needs to be safe. Mr. Poissant agreed, and noted that it also holds back the road.

Nothing further was discussed.

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**The Findings of Fact**

- 1. The owner(s) of Shapleigh Tax Map 26, Lot 43 (19 Buccaneer’s Way) are Christopher R. Kent & Donna M. Kent, Trustees of The Donna M. Kent Revocable Trust of 2005, mailing address of 40 Park Street, Brandon VT 05733, per Warranty Deed, BK 16210, PG 693, recorded 11/28/2011.
- 2. The property is located in the Shoreland District, and according to the Assessor’s office, it contains .09 acres.
- 3. Provided was a copy of the Town Tax Map, depicting Lot 43. In addition, existing conditions pictures were provided that showed the condition of the existing retaining wall.

4. Provided were three copies of a sketch drafted by Brad R. Lodge, PLS #2057, dated 10/24/2022, entitled ‘Sketch Showing the Location of an Existing Retaining Wall Located at 19 Buccaneers Way, Shapleigh, Maine’. The first copy of the sketch depicts the Gravel Parking Area; Cottage; Foundation Corner; Chimney Corner; Concrete Cinder Block Retaining Wall; Patio & Steps both to the cottage and the beach area. Also depicted is the Rock Covered Slope; ¾” Iron Pipe with a fitting; Beach Area, and a hand written notation that states ‘& stairs between the retaining wall & the house’ written under the page title. The Apparent High Water Line was also on the sketch, but the distance from the existing structures to the HWL were not noted. The lake was hand written as ‘Mousam Lake’. The second copy of the sketch has the hand written notation that stated ‘Includes Erosion / Sediment Control Plan’. Depicted on the sketch was a notation under Rock Covered Slope that stated ‘to be removed as needed’, along with ‘wall to follow contour of road’, and ‘erosion/sediment control = 8” straw waddle at beach & silt fence’. The third copy of the sketch has the hand written notation that stated ‘Landscape, Buffering, Revegetation Plan’. Depicted on the sketch were the proposed 5 trees to be removed, and the proposed replanting of native vegetation (blueberries, viburnum) at base of the new retaining wall with a mulch covering.
5. Provided was a copy of the ‘Specification for Redi-Rock 28” Series Wall System’, from the 2011 Design Resource Manual for Redi-Rock.
6. Provided was a copy of the DEP Permit by Rule Notification Form, dated 2/9/2023. The Brief Description was as follows: *Replace failing retaining wall and stairs. New Retaining wall to be built in existing footprint.*
7. The revised application detailed description of the project is as follows: *This project is to build a new retaining wall in the footprint of the existing retaining wall. The current cinderblock and rubble wall is failing at the residence. This is namely due to age, erosion, and root infiltration. We are requesting a conditional use permit so that we can replace the existing wall and stairs with a safer, modern wall, in the same footprint and a new set of stairs. The proposed wall will help to stop the continued erosion of the road surface and bank into the lake. The proposed wall will follow the contour of the road. The stairs to be replaced are located between the retaining wall and the house. All demo debris will be hauled out of town. As part of this project, we will need to remove 5 trees that have contributed to the wall’s failure. We plan to plant native vegetation and shrubs at the foot of the new wall, to replace these trees.*
8. A notice was mailed to all abutters within 500 feet of the property on February 17, 2023. Meetings were held on Tuesday, January 24, 2023 and Wednesday, March 15, 2023. A site inspection was done by members on an individual basis due to light constraints prior to the meeting.
9. The application as presented met the performance standards under §105-73 ‘Conditional Use Permits’ as per the documentation provided and as presented with six conditions. The proposed new wall will not have an adverse effect on aquatic life or wildlife, it will help with stormwater runoff that is taking place currently; the project will help to conserve shore cover by stopping stormwater from entering the lake, along with additional vegetation and mulch being placed along the side and bottom of the wall; the use is consistent with the Comprehensive Plan which wants to protect the waterbodies from stormwater / erosion; traffic access to the site is safe for the intended project, being done in the off season time frame, allowing abutting property owners access to their properties; the lot is not located

within the flood zone; the existing wall will be removed & shall be taken out of Shapleigh; there is no hazardous waste associated with the proposed project; the wall will be constructed per the engineered plans from Redi-Rock, 2011 Design Resource Manual and will help prevent stormwater from entering the lake; erosion control measures shall be approved by the Code Enforcement Officer; the project takes place near the lake and fire protection is not a requirement for this project; there is limited noise and dust from the construction of the wall, which shall be completed by October 31, 2023, there is no glare, odors and the like produced by this project; all performance standards shall be met with six conditions.

10. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing retaining wall, as well as replace a set of stairs located near the existing structure, located on Map 26 Lot 43 (19 Buccaneers Way), per the documents provided and as presented, with six conditions.

11. **The conditions of approval are as follows:**

- 1) **Best Management Practices shall be used until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project.**
- 2) **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.**
- 3) **A licensed surveyor shall confirm in writing that the placement of the new structures are correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer.**
- 4) **The person doing the project shall be DEP certified in best management practices, and the wall shall be constructed per the manufacturer’s specifications.**
- 5) **The project, including revegetation, shall be completed by October 31, 2023.**
- 6) **All material from the existing retaining wall and stairs being removed, shall be taken out of Shapleigh.**

**Decision:**

The conditional use permit for earth moving in the Shoreland District to replace the existing retaining wall and stairs with precast Loc-blocks on Map 26, Lot 43, per the plans provided, and as discussed, with six conditions, was approved. By a vote of 3 – 0, the vote to approve was unanimous.

**3-Lot Minor Subdivision (2 Lot Division with Remaining Land) – Map 11, Part of Lot 23F (Little Poverty Pond Road) – Bhret Luscombe, Applicant & Property Owner; Joe Stanley of LinePro Land Surveying, Representing**

Mr. Luscombe was present, along with Joe Stanley of LinePro Land Surveying, representing the applicant.

**Applicant Information:**

Name of Property  
Owner & Applicant: Bhret Luscombe  
33 Triangle Street  
Acton, ME 04001 [Bhret@yahoo.com](mailto:Bhret@yahoo.com)

Name of Property

Surveyor: LinePro Land Surveying  
Joseph Stanley, PLS #2453  
455 Main Street  
Springvale, ME 04083 [Jstanley@lineprosurveying.com](mailto:Jstanley@lineprosurveying.com)

**Land Information:**

Legal Interest: Quitclaim Deed  
YCRD, Book 19103, Page 178  
Dated 8/30/2022

Property Location: Map 11, Lot 23F (part of)  
Little Poverty Pond Road & Newfield Road

Property is not within 250 of a high-water-mark of a pond or river.

Acreage being

Developed: Creating (1) Lot 2.00 Acres  
(1) Lot 3.00 Acres  
Remaining Land Belongs to Abutting Property Owner

Restrictive Covenants: None Listed

Property is not part of a prior approved subdivision. There have been other divisions within the past 5 years. Existing use of land is a wood lot. There are no waterbodies on the property, nor is it in a special flood hazard area as identified by the Federal Emergency Management Agency.

Proposed Name of Subdivision: *Old School Farms*

The lots being developed have frontage on Little Poverty Pond Road.

There are no existing sidewalks, sewer lines, storm drainage, waterlines, or fire protection.

There is no estimated cost of infrastructure.

The water supply will be individual wells.

The sewage disposal will be individual septic tanks.

There are no public streets, recreation areas, or common lands proposed.

Provided was a copy of the Soil Map – York County, Maine – Depicting the map of the area involved, along with the Map Legend & Map Unit Legend. Proposed Lot 1 consists of Ad/C soil – Adams Loamy Sand 8 – 15% slopes and Lot #2 consist of Ad/B – Adams Loamy Sand 0 – 8% slopes along with Ad/C.

Provided was a copy of the Subsurface Wastewater Disposal System Application Test Pits, drafted by Kenneth Gardner, SE #73, dated 1/30/2023, which noted both Lots #1 & #2, had suitable soils for a septic system.

**On March 1, 2023, waivers were accepted for the following:**

§89-36.I – Design Standards According to Street Classification – Pavement Requirement

§89-36 thru 37, and 39 thru 41 - Street and Storm Drainage Design & Construction Standards

§89-29A - Underground Utilities

§89-30D - Stormwater Drainage Plan – Stormwater Plan for Surface Water

This evening provided was a copy of the final survey plan drafted by Joseph L. Stanley, MPLS #2453, dated March 3, 2023, entitled ‘Plan Showing a Proposed Minor Subdivision “Old School Farms” for Bhret Luscombe, 33 Triangle Street, Acton ME 04001 of Property Located on Little Poverty Pond Road in Shapleigh, Maine’. The final plan depicts the two proposed lots shown as ‘Proposed Lot #1 - 2.00 Acres, Portion of Shapleigh Tax Map 11, Lot 23F, and Proposed Lot #2 - 3.00 Acres, Portion of Shapleigh Tax Map 11, Lot 23F’, along with the remaining land, ‘Glenn B. Cook Estate, Portion of Shapleigh Tax Map 11, Lot 23F’. The soils were noted on all proposed lots; the 2-ft LIDOR contour lines from the Maine Office of GIS website, were on the plan, along with Test Pit locations for Lot #1 & Lot #2. Iron Rod Set with Plastic Survey Cap Marked “LINEPRO PLS2453” locations were indicated for the corners of all three lots. The plan depicted 2 50’ wide Right-of-Way & Utilities Easements to Benefit the Proposed Lots Shown; and the Best Management Practices Diagram from “Maine Erosion and Sediment Control Practices” Booklet by the MDEP. Also provided on the survey plan were the following abutting properties: James & Diane Frasier, Shapleigh Tax Map 11, Lot 23L; Elizabeth A. & Paul M. Rankin, Shapleigh Tax Map 11, Lot 23-8.

**Mr. Stanley added the following to the final plan after the Planning Board voted to approve the plan on March 1, 2023, with condition(s):**

**Note 11.** Private Road Note: Little Poverty Pond Road is to remain a private road. The Town of Shapleigh will not be responsible for the maintenance, repair, plowing or similar services for the Little Poverty Pond Road.

**Note 12.** Road Maintenance Agreement: The 2 lots shown hereon will be subject to a Road Maintenance Agreement to be recorded at the York County Registry of Deeds along with this plan. *In addition, the actual Road Maintenance Agreement was provided to the board this evening.*

**Note 13.** Fire Protection: Sprinkler systems compliant with the National Fire Protection Association standards shall be installed in all dwelling units constructed on the 2 lots shown hereon.

Mr. Stanley provided the board members with the final subdivision plans, letting board members know he added the 3 notes that were brought up at the last meeting. They included the Private Road Note (11), that Shapleigh is not responsible for maintenance, repair or plowing of Little Poverty Pond Road; and that fire protection will be via sprinklers, Note 13. He said after speaking with the current Fire Chief, it was agreed that this was a better option. Mr. Stanley also passed out a copy of the Road Maintenance Agreement, which is also noted on the plan as Note 12.

Roger asked about how they would fire up the sprinklers? He was concerned with how a sprinkler system would be powered if there was no electric on site. Mr. Luscombe stated that he would be using a solar system. Roger asked if that would hold enough power to run the water pump and the sprinkler system for the amount of time needed? Mr. Luscombe stated that there would be battery storage and it would run more power than he needed on site, for both 120V and 240V and it is upgradable. He added that he decided to use solar when he found out how much it would cost to hook up to electricity, and the fact solar would provide him with more than he needed. Roger said that was fine, that was his only concern. Mr. Stanley added that John Hutchins hooked up a system for one of the Knox’s, and he was surprised at how well it worked, which included running the well pump. Mr. Luscombe said that they would also have a generator backup. Mr. Luscombe stated they would not be building a house any time soon, currently they had a trailer. He said they planned on building a yurt, and wasn’t sure what they needed for permits. Roger said that would be totally through the Code Office.

Roger had no further questions. Members signed the subdivision plans, and the Findings of Fact. Roger reminded Mr. Stanley he had 90 days to get the plans recorded. Note: *The subdivision & Findings of Fact were approved at the previous meeting on Wednesday, March 1<sup>st</sup>. You can review those minutes for further information.*

Nothing further was discussed.

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**Other:**

Roland L. said that at the end of the last meeting, he had talked about the location where Mr. Thomas is going to be moving his business to. He had asked the question as to whether or not James Correggio has a permit to have the boat storage on site; there is a fenced in area with boat storage. He said he also has two storage containers with a roof area. Roland asked CEO Demers if he had permission to be doing the storage as part of the conditional use he got for the flea market? CEO Demers asked if he was speaking about what was Kelsey Lynn's, the fenced in area? Roland said that was the area he was speaking of. CEO Demers said he didn't issue any permits to that location. Roger stated that he only had a permit for the flea market and expanded flea market hours, he needs an amendment to his conditional use permit. Roland felt he was expanding what he was permitted to do, noting there are several dozen items he is storing in the fenced in area. He said there is also more land clearing going on.

Roland L. added that the neighboring property had leveled a huge area in the back and they have outside storage going on behind the storage building. He said that they clear cut an area across the established walking trail to go from Kettle Pond to Boonies and beyond. He said he didn't know if this was an allowed use in this location or not. CEO Demers asked if he felt it was an expanded use? Roland believed both locations are an expanded use. CEO Demers asked if cutting trees is an expanded use? Roland said that cutting the trees is not, but using it for a storage area may be. CEO Demers said that he wasn't concerned about the tree cutting, just the expanded storage area. Roland said that he did not believe there was any shoreline area there, so he wasn't concerned about the trees. He said it seems some businesses, once they get established, they start to grow, which is ok to a degree. He said with the expansion there is a cost to services, whether it be to the transfer station, eventually fire protection, etc. He felt there may need to be additional review. He said these two businesses he noticed, because he drives by there all the time.

CEO Demers asked what the conditional use was for now? Roger A. stated it was for a flea market currently. CEO Demers asked what the conditions were? Barbara F. stated she would have to pull the file. Roger said there were hours of operation and everything was to be inside the building. Roger said now it looks like he is storing other people's boats and RV's, and there are container type buildings there that are not permitted. Roger said that he was approved to level the area behind the building, for erosion control and to keep the water from going toward Kettle Pond. He said there was a plan for that whole area to contain the water on site. Steve F. remembered them coming to the board around the same time the furniture store was going to go in. Roger agreed. Roger said there was an approved plan for erosion control, but he had to leave a bank on the left hand side, so the water would not travel toward Kettle Pond Cabins, it would go toward the back of the property.

CEO Demers stated that the boat storage place asked about cutting trees and he said that was not a problem. He said they didn't speak about expanding the parking area or outside storage. He asked if the

board was looking at an amendment to his conditional use? Roger agreed. CEO Demers asked if there needed to be an amendment to the flea market as well? Roger said, yes. Roland L. stated that he understood that at the flea market he was renting space on one side of the building for storage with the flea market on the other. He added that he fenced in the area in the back for more storage, and then he added the container units with a roof between them. CEO Demers stated that he would send him a note. Roland thanked him.

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**There are Growth Permits available.**

**The Planning Board meeting ended at 7:50p.m.**

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

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

Also visit [www.Shapleigh.net](http://www.Shapleigh.net), there is a calendar of events, and you will find Planning Board information there including schedules, the agenda, and minutes of the meetings.

Respectfully submitted,  
Barbara Felong, Land Use Secretary  
Town of Shapleigh [planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)