

*Shapleigh Planning Board*

*Minutes*

**Tuesday, May 23, 2023**

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

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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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**The Public Hearing began at 6:30 pm**

**Conditional Use Permit – Mobile Food Trailer – Map 19, Lot 13 (63 Emery Mills Road) – Tiffany Riley, Applicant; Roger Berube, Property Owner**

Mrs. Riley was present for the public hearing, along with her husband David.

Steve F. asked Mrs. Riley to let the audience know what she intended to do for the record. Mrs. Riley stated she and her husband were new owners and operators of a food truck, named Howling Hunger. She said they have started serving at Pine Ridge Campground in Acton on the weekends, they just opened, and they will be there through the entire summer. She said they were also invited to serve at Iron Tails for some of their concerts and activities.

Mrs. Riley stated they live in Shapleigh and have no interest in going far, they thought it would be nice to offer food options to people living in the area, and this application is for one day per week. She said this was a passion project for them, and she wasn’t looking to be working 7 days a week at this location, just one day. She said they thought Monday’s would be a good day because there are not a lot of options on Monday’s, noting that when they want to go out to eat on Monday’s many places are closed. She said this is why they thought Monday would be a good day to offer food options.

Mrs. Riley stated that Roger Berube, who owns the property, has agreed to let them park the food trailer on site, as long as the Planning Board agrees. She said the truck will be parked on site from 11 am to about 7 pm. She stated that the trailer was fully self-contained, there is fresh water tanks and grey water tanks for waste water. She added that she had approval from the Code Officer to use their septic system at home to drain the waste water in the trailer. She stated they have a generator for electricity, and it is a quiet generator, running at approximately 56 decibels.

Mrs. Riley stated that they also selected Mondays because Mainely Rustic is not open on Mondays, so it will not disrupt the flow of traffic coming in for the store. She said it would mainly be traffic coming in from people wanting something to eat.

Mrs. Riley stated that with respect to the type of food offered, they intentionally purchased all the

equipment they could think of so they can have a rotating menu, to see what the public is interested in. She said they want to get feedback from the people at the campground to see what they are interested in. She said some of the things they have served are shaved steak burritos, jerk chicken and rice burritos, cowboy beans, macaroni and cheese, pulled pork, and this weekend they are serving lobster rolls. She said they will also have salads, to provide some healthy food options, and protein and vegetable bowls with different protein options. She said they will see what people want and change as needed. She said this is why they have not intentionally put the names of food on the trailer, because it could change. She added that it was an evolving project.

Roland L. asked if there was going to be one entrance and one exit? Mrs. Riley stated yes, and noted there was already an established parking area and entrance/exit. Ann H. asked if she was going to move the trailer in and out every Monday? Mrs. Riley stated, yes. Mr. Riley stated he would bring it to the site around 10:30 Monday morning, and bring it home in the evening. He said they may not be open until 3 pm, because Local 130 is open until 3 pm.

Steve F. asked about the other locations they park the food trailer at, what are the bathroom facilities or are their picnic tables? Mr. Riley stated that at Iron Tails, where they are hoping to start serving on Sunday, they have outdoor hookups and interior facilities, along with picnic tables outside. He said they will not have sit down service at Berube's location, because they didn't want to have to have a portable toilet. He said it will be strictly grab and go food. He stated that at Pine Ridge Campground, they also have bathroom facilities, and a common office area with a bathroom, along with picnic tables.

Madge B. asked what this was regulated under? Steve F. stated it was under 105-73 'Conditional use permits'. Ann H. stated that they have to look at parking, but if Mainely Rustic is closed, they won't be taking any parking spaces away from what they are required to have. She said this worked out good. Mr. Riley stated that this was their idea, to avoid making it more difficult on the businesses on site. Ann added that people can eat in their car. Mr. Riley said he was hoping to pull in close to the grassy area, and that would leave an area of parking across from where they are parked, available. He said he would remove his truck from the trailer, so there is more space available.

Mr. Riley said they had been looking for a suitable area along Rte. 109, where people could see them and the fact that they were open. He said this location is fairly visible in both directions.

Madge B. asked if they would put out a trash barrel and take it with them? Mrs. Riley stated that yes, they would take it with them at the end of the day. Mr. Riley said it would be a 45 gallon trash can, and he takes the bag with him to the transfer station when he goes with the regular household trash. Madge asked if they were thinking of doing this in colder temperatures, during the winter months? She said her thought was that it gets dark as the days get colder. Mr. Riley said right now it is light until almost 8 pm, and they want to close down at 7 pm and get out within a half hour. Mrs. Riley said that currently they will be operating at Pine Ridge until they close, which is towards the end of October. She said it is temperature dependent. Madge said her concern was more about lighting. Mrs. Riley did not know if there was lighting on site. Ann H. thought that Mainely Rustic was closed in the winter. Mr. Riley stated that there was a light on the exterior of the trailer, over the door, so when they go out they can see. He said it was not bright enough to light up the parking lot.

Roland L. asked if there were any plans for signage at the road? Mr. Riley stated that they are going to get a decal for the trailer this week. He said they have no plan for a physical sign beyond that, but they may have an open flag near the trailer or attached. He said the sign on the trailer is 4' x 4'. Roland asked if the sign can be seen from the road? Mr. Riley stated that they are going to have two signs, one near the serving window, which you will see from the highway if coming from the foot of the lake, and one on the backside of the trailer, which you will be able to see if you are coming from the other direction. Mrs. Riley stated that they were hoping for 'word-of-mouth' advertising. Steve F. stated that if they decide in the future they need something out beside the road for the day, something temporary, that would be through the Code Officer.

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

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**Conditional Use Permit – 3 Year Renewal of Gravel Extraction Permit – Map 5, Lot 44A (Goose Pond Road) – Gloria & Frank Clark, Applicants & Property Owners**

Mr. Clark was present for the public hearing.

Steve F. asked Mr. Clark to let the audience know what he wanted to do for the record. Mr. Clark stated he was before the board to renew his gravel permit, which has to be renewed every 3 years to extract gravel. He said he wanted to keep going, and at this time they are at approximately 4 acres. He said at 5 acres he is supposed to reclaim the area. He said he is before the board to keep removing gravel.

Mr. Clark stated that there are no changes from his original permit approval.

Steve F. stated that the last approval was June 30, 2020. He read the existing conditions of approval, they are as follows:

1. The hours of operation for gravel extraction and processing shall be 7:00 a.m. through 5:00 p.m., Monday thru Friday, 7:00 a.m. thru 12:30 p.m. on Saturday. There shall be no processing of gravel on Saturday. There may be activity on site at 6:00 a.m. Monday thru Friday that does not create noise above 60dB.
2. There shall be no trucks traveling over the Goose Pond Road culvert; all gravel pit traffic shall exit left onto Goose Pond Road and travel to State Route 109.
3. Gravel extraction shall be per the plans provided, no excavation shall be within the 50-foot buffer strip as depicted on the plan provided by Albert Frick and Associates, plan dated 1/27/2015; the depth of excavation shall be no lower than 530 feet to eventually make the property near level.
4. It is the applicant's responsibility to make certain the entrance onto Goose Pond Road is clear of all sand and stone dust to prevent a hazardous situation. A stone apron shall be constructed to remove gravel and dust from the tires of the equipment used for hauling gravel.
5. Dust shall be maintained thru the use of a water truck, watering the area as needed to prevent dust from going onto neighboring properties.
6. Per the plans provided, no more than 5 acres can be excavated at one time or 10 acres cleared of trees. When the first 5 acres have been excavated and proof is provided to the Planning Board Chairman and Code Enforcement Officer that the area has been reclaimed, then the next five acres can be excavated.
7. The applicant / property owner must abide by the noise levels in the Town of Shapleigh Zoning Ordinance §105-22 'Noise'.

8. A surety bond or escrow account shall be established and maintained, payable to the Town of Shapleigh in the amount of \$20,000. This bond or escrow account shall remain in effect until the mineral extraction operation is completed and the area has been reclaimed per the plans provided. The bond or escrow account shall be signed and accepted by the Board of Selectmen. The bond must be established within 60 days of the date on the approval letter.

Steve F. asked if there were any questions for Mr. Clark?

Madge B. asked Mr. Clark if he had any problems with meeting the existing conditions? Mr. Clark stated that as of yet, he has not. He said he has taken most of the material to Berwick. He has sold a small amount to people in town, in the area.

Ann H. asked if there was an updated quote for the cost to reclaim the area, noting the last quote was from 2020 and prices have increased. Mr. Clark stated that he had not, and he added that the escrow account is still sitting in Partners Bank. He said he could obtain a quote if the board wants him to. He said the person that is moving the gravel now wants to stay on site, and that part of their agreement is that he reclaims the area, so if they needed more money to reclaim the area he will do it. He said the money in escrow is in case he leaves the pit. Mr. Clark has no issue with obtaining a new quote if the board wanted one.

Roland L. asked Barbara F. if in the past the Selectmen had input for what the dollar amount should be. Barbara stated that the Selectmen had to approve the quote from Mr. Clark. She believed they asked the Road Commissioner their opinion, and after his opinion, they approved the amount for reclamation in 2020. Madge B. asked if the question Ann has raised, should that amount be revisited? Steve F. stated they can discuss this further during the meeting.

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

The public hearing concluded at 6:55 pm.

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

*The minutes from Tuesday, May 9, 2023 were accepted as written.*

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

• **Unfinished Business**

**Conditional Use Permit – Campground / Rental Cabins & RV’s – Map 1, Lot 41 (368 Simon Ricker Road) – Mark & Linda Lawrence, Applicants & Property Owners**

Mr. Mark Lawrence attended this evening’s review of the application.

The original application detailed description of the project was as follows: *3 Season Rentals. Cabins varying in size between 200 sf & 600 sf w/ a total of 40. Would like to do in phases of 10 – 12 per year. In 1<sup>st</sup> phase would like to build 4 – 6 four season rentals for hunters and snowmobilers. Rentals would be for 3 nights to 2 weeks.*

On November 9, 2022, presented was a sketch plan dated 11/6/2022, drafted by Jeramiah Raitt, PLS #2376 of Little River Land Surveying, Inc., P.O. Box 332, Lisbon Falls, Maine 04252 – 207.841.0056. The sketch depicted abutting property owners as follows: Map 1, Lot 32B – J. Webber; Map 1, Lot 41B – D & C Kelley; Map 1, Lot 42 & 42C – J. Mavrakos; Map 1, Lot 32 – D. Rand; Map 1, Lot 41A – L & M Lawrence (Applicants); and Map 1, Lot 41B – J & K Lawrence (family members). The property housing the campground, Map 1, Lot 41, is depicted as consisting of 57 acres±. Also on plan are the proposed septic site locations – 5 total; the location of 45 buildings; the proposed private road; existing pond, cemetery, well and barn; existing gravel road; and contour elevations of the property are noted for the area where the proposed structures, septic systems, and existing barn are located.

On November 9, 2022, the Planning Board made the decision to obtain a legal opinion as to whether or not the proposed rental cabins could be reviewed as a campground, or did they fall under subdivision review. This was due to the fact that the cabins were a permanent structure with a kitchen, bathroom, etc. and not on wheels; they were a permanent structure, attached to the ground.

The legal opinion, provided by Benjamin T. McCall from Jensen Baird Attorneys at Law in Portland Maine, concluded that “the use of permanent cottages in the Applicants’ current proposal would require subdivision approval from the Planning Board. Alternatively, the use of tiny homes in their place is not permitted by the Code, as tiny homes do not qualify as the type of temporary living quarters allowed within an approved campground”. (The legal opinion in its entirety can be reviewed at the Town Hall, during regular office hours.)

Based on the legal opinion obtained by the Planning Board, a plan was provided by the applicant for an RV Park and it depicted information as follows:

Plan entitled ‘Proposed RV Park Site Overview’ drafted by Jeramiah Raitt, PLS No. 2376 from Little River Land Surveying, Inc., Lisbon Falls, Maine, dated April 11, 2023. Sheet 1 of 3 depicted Map 1, Lot 41, along with several abutting properties, as well as Simon Ricker Road, and State Route 109. On Lot 41 depicted was the proposed layout of the RV Sites; interior road for the campground, along with Existing Gravel Road which enters and exits onto Simon Ricker Road; Proposed Facilities Building & Pool; 5 Proposed Septic Sites; Pond; Cemetery; Proposed Office; Barn and Approximate Subsurface Wastewater Disposal System & Dug Well; and the Soup Shack located on Route 109. One adjoining lot depicts the location of a House; Dug Well; Garage & Approximate Subsurface Wastewater Disposal System. Another adjoining lot depicts a House; Drilled Well; Existing 50’ Wide Easement & Approximate Subsurface Wastewater Disposal System. And part of an adjoining lot depicts a House; Meeting House, and Septic. The sheet notes Municipal Zoning; Campground Area Calculations; General Notes; Plan References and a Legend.

Sheet 2 of 3 of the plan entitled ‘Proposed RV Park Site Overview’ depicts the proposed campground layout, the site elevations for Map 1, Lot 41; the Typical Site Detail of the Parking Spaces for 2 vehicles; the Proposed In Place RV Trailer location; Trash Receptacle; Fire Pit; Picnic Table and Privacy Fencing.

Also shown was the Typical Cross-Section of the 18' road; Grass Lined Ditch & Stone Lined Ditch. Also depicted was a 250 sq. ft. Gravel Pad for Dumpster(s); Proposed Office Building; 25' x 25' Facilities Bldg.; Proposed Facilities Bldg. & Pool; Proposed Septic Site; Dug Well and Pond; and Proposed 18' Wide Road.

Sheet 3 of 3 of the Plan Entitled 'Proposed RV Park Site Overview' depicts the Erosion and Sedimentation Control Notes, showing Riprap Inlet Protection; Stone Check Dam; Silt Fence Filter Barrier; Section Silt Fence; Hay Bale Filter Barrier; and Stabilized Construction Entrance Details, along with detailed notes for each.

This evening the applicant provided amendments to his original set of plans, based on the review of the project on May 9, 2023. The following plans were received:

Plan entitled 'Proposed RV Park Site Overview' drafted by Jeramiah Raitt, PLS No. 2376 from Little River Land Surveying, Inc., Lisbon Falls, Maine, dated Revised May 18, 2023. Sheet 1 of 4 depicted Map 1, Lot 41, along with several abutting properties, as well as Simon Ricker Road, and State Route 109. On Lot 41 depicted was the proposed layout of the RV Sites; interior road for the campground, along with Existing Gravel Road which enters and exits onto Simon Ricker Road, with access to the pond on site and an area to turn around at the pond for fire protection; Proposed Facilities Building & Pool; 5 Proposed Septic Sites; Pond; Cemetery; Proposed Office; Barn and Approximate Subsurface Wastewater Disposal System & Dug Well; and the Soup Shack located on Route 109. One adjoining lot depicts the location of a House; Dug Well; Garage & Approximate Subsurface Wastewater Disposal System. Another adjoining lot depicts a House; Drilled Well; Existing 50' Wide Easement & Approximate Subsurface Wastewater Disposal System. And part of an adjoining lot depicts a House; Meeting House, and Septic. The sheet notes Municipal Zoning; Campground Area Calculations; General Notes; Plan References and a Legend.

Sheet 2 of 4 of the plan, entitled 'Proposed RV Park Site Details Sheet' drafted by Jeramiah Raitt, PLS No. 2376 from Little River Land Surveying, Inc., Lisbon Falls, Maine, dated Revised May 18, 2023, depicts the proposed campground layout, and site elevations for Map 1, Lot 41 along with the Typical Site Detail of the Parking; the Proposed In Place RV Trailer location; Trash Receptacle; Water Hookup; Fire Pit; Picnic Table; Sign and Possible Privacy Fencing. Also shown was the Typical Cross-Section of the 18' road; Grass Lined Ditch & Stone Lined Ditch. Also depicted was a 250 sq. ft. Gravel Pad for Dumpster(s); Proposed Office Building; 25' x 25' Facilities Bldg.; Proposed 25' x 25' Facilities Bldg. & Pool, along with the Conceptual Layout of the Facilities Building, depicting a total of 6 toilets, 2 showers, 1 urinal, 6 bathroom sinks, a storage area, laundry area, location of a Fire Extinguisher, and covered porch; Proposed Septic Site; Dug Well and Pond; and Proposed 18' Wide Road. Site numbers was shown for all 45 sites.

Sheet 3 of 4 of the plan, entitled 'Proposed RV Park Site Details Sheet' drafted by Jeramiah Raitt, PLS No. 2376 from Little River Land Surveying, Inc., Lisbon Falls, Maine, dated Revised May 18, 2023, depicts the proposed campground layout and site elevations for Map 1, Lot 41 along with the proposed numbered campsites; Proposed 18" Wide Road; Proposed Facilities Building & Pool location; and Pond. In addition, depicted is the Proposed Erosion Control Phase 1 running to the right of camp site 7, above campsite 12, down and around the turnaround for the pond, and around the pond under camp sites 14, 16 & 18. Proposed Erosion Control Phase 2 which runs below camp sites 13, 11, 9, 33, 31, 29, 27 & 25.

Proposed Erosion Control Phase 3 which runs on the opposite side of the road from camp sites 39, 40 & 41, above camp site 1 across the road, above camp site 2, and below camp site 24. Proposed Erosion Control Phase 5 which runs alongside the road from the entrance, toward camp site 2, continuing alongside camp sites 4, 6, 8, 10, and 12. *There does not appear to be a Phase 4 on the plan.*

Sheet 4 of 4 of the plan, entitled ‘Proposed RV Park Erosion Control Notes’ drafted by Jeramiah Raitt, PLS No. 2376 from Little River Land Surveying, Inc., Lisbon Falls, Maine, dated Revised May 18, 2023, depicts Riprap Inlet Protection; Elevation / Silt Fence filter Barrier; Hay Bale Filter Barrier; Stone Check Dam; Section Silt Fence; Profile/Plan/Stabilized Construction Entrance Details; along with Erosion and Sedimentation Control Notes.

Steve F. stated that Mr. Lawrence was up first, the Conditional Use Permit for a campground on Map 1, Lot 41. He stated the board received some revised plans, because at the end of the last meeting Mr. Lawrence was asked to provide additional information on the plan. Steve said he would go through each item. *Steve went over the required provisions as follows:*

- 1) 105-37.H – Soil Erosion & Sedimentation Control Plan needs to be presented. **Steve stated the board received this information on the plan. Sheet 3 shows the erosion control during the construction phase.**
- 2) 105-37.I – Plan for the inside the building depicting where the toilets will be located; 5 for each sex, for a total of 10. **Steve stated this information is located on sheet 2 of the plan. Steve noted it said it was a conceptual plan. He stated that according to the Zoning Ordinance, 5 toilets for each sex is required, and the plan provided does not show this. Steve believed the concept works, where it is going to be and what will be provided, it is just inaccurate in what is being showing. Mr. Lawrence stated that he must have misunderstood, he thought he needed a total of 5 toilets. Steve stated that it was 5 for each sex, a total of 10. Mr. Lawrence asked if there could be an exception, because each RV will have its own toilet? He did not think it was a camp site but an RV park. Steve stated that the Town does not have a separate ordinance for RV’s. He said he understood what Mr. Lawrence was saying, that each RV will have its own toilet, but the board has to follow the ordinance. He added that the campground ordinance has not been used a lot and has not been updated. Mr. Lawrence stated that the surveyor made sure the facilities met the State’s standards. Steve agreed, but noted that the State standard and the Town’s standard do vary. He said that was actually noted on the plan. He said he didn’t mind if Mr. Lawrence revised the plan or the board could state as a condition of approval that the bath house plan must be submitted to the Code Officer, with the correct amount of facilities. He said the plan he provided says ‘conceptual’ layout, and he didn’t think the ordinance required the bathroom layout on the plan, but it is nice to have it there.**
- 3) 105-37.M – Show the location of the fire extinguishers in the utility building. **Steve stated this is shown on the plan on Sheet 2.**
- 4) 105-59 – Show the gravel road to the pond for the Fire Department access. **Steve stated the road to the pond and turnaround are on the plan. It can be seen on Sheets 1, 2 & 3.**
- 5) Show the 911 numbers, a detail of how the lot numbers will be addressed. **Steve stated these are on the plan. Sheets 1 & 3 depict the numbering on the lots.**
- 6) 105-73.G(11) – Give the ground cover detail showing that the campers will be hidden from the road. **Steve said this was addressed quite a bit at the last meeting. He said there is something**

added to the plan. There is a line with circle on Sheets 1 & 2, running between the camp sites and the road, with a notation on Sheet 2 which states ‘Possible Privacy Fencing’. Ann H. said it looked like he was going to use a fence. Steve believed Mr. Lawrence was going to use a natural buffer strip. Mr. Lawrence agreed, but if the natural buffer strip was not deemed to be enough, then he will add something additional on site.

- 7) 105-37.A(3) – Depiction that each site will have its own picnic table, trash receptacle, and fire pit. **Steve stated that this is depicted on the plan on Sheet 2.**
- 8) Provide a hose bib with a charged hose for fire protection at each site, note it on the plan. **Madge B. was not sure it was on the plan. She said it noted a water hookup only. Mr. Lawrence stated that he told the surveyor there would be one bib for a hose and one for the RV hookup. He said he didn’t want to have to undo the camper to operate the hose.**

Steve F. stated the only thing he did not see was a stormwater management plan for the campground. Mr. Lawrence noted the proposed location for culverts and check dams, and said they would channel everything toward the pond. He was using Sheet 3 – Erosion Control Plan & Construction Phase to point out what he was speaking about. Steve said what the board will need is his calculations for water flow before and after construction. He said he had a copy of another stormwater management plan, if Mr. Lawrence would like to see it. He said he could have a copy of it, to provide to the surveyor, so he knows what the board is looking for to satisfy the ordinance. He said the plan provided shows how the stormwater will move, but the board needs the calculations of how the plans will work. Barbara F. showed Mr. Lawrence what a typical storm water report looked like, showing how stormwater moved before construction, after construction, and after a rain event. (105-26 ‘Stormwater runoff’, Surface water runoff shall be minimized and shall be detained on-site if possible and practicable....The design period is the 100-year storm – the largest storm which would be likely to occur during a 100-year period. Also required under 105-73.G) She said she could get him a copy of the example report. Steve was not sure if the surveyor was capable of doing the calculations or if an engineer would have to do it. He said the calculations were what are needed to meet the ordinance.

Mr. Lawrence, looking at the plans he provided, wanted to be sure what the board was asking for wasn’t already on the plan. Steve F. stated that the plan showed erosion control notes, for use during construction. He said that is when the check dams and swales come into play. He stated what the board is looking for are the calculations showing the measures are adequate based on a 100 year storm. He said either the surveyor or an engineer will show the numbers used, that say that after so many inches of rainfall, the proposed development will not flood the neighborhood. Ann H. asked if some of what is on the plan is temporary, used while the campground is being built. Steve stated that was correct.

Mr. Lawrence asked if the only two things required now is the correct number of utilities and the stormwater plan. Steve F. stated that at the last meeting it was discussed that a charged fire hose would be at each site and noted on the plan. Steve thought it should show the water hookup and fire hose at each site. He said that was what was discussed at the last meeting. Mr. Lawrence asked if he meant a charged hose used for a fire. Steve said, yes. Steve asked if anyone else had anything?

Roland L. asked if there would be an indication on the plan for stormwater management activity? Steve F. stated it doesn’t have to be on the plan, it is generally a separate plan or pamphlet describing how the stormwater will be mitigated. Roland said, “So we will get some documentation of that”. Steve said,



“Yes”. Roland said the concern is, as mentioned before, all of the excessive runoff is going to be directed to the pond. He said this is great for fire protection purposes. He said if and when the pond should overflow, the water will go someplace, and the ordinance states that the applicant cannot contribute to a situation where it will flood somebody else’s property. He said the board has to have some reasonable assurance this will not be the case. He said the water needs to be contained for its intended use, and someone downstream is not going to be bailing their basement out, or have stormwater washing out their yard. He said the board did see some water in the stream when they walked to the landing. Mr. Lawrence said the water has been coming there for years. Roland said that the difference being, in this case, the activity of building the roads and campground is going to direct the runoff from the hillside to one location, whereas before it was dispersed over a larger area. He said by design, and rightfully so, it will no longer be the case. He said again, that the board cannot allow an applicant to contribute to a problem downstream. He said the board needs to be reasonably assured this will not happen. Mr. Lawrence believed this would require an engineer. Steve thought that the surveyor may have someone to refer Mr. Lawrence to.

**Steve F. stated that the board needed the bathroom updated, a charged hose for fire shown on the plan, and a stormwater management plan.**

Mr. Lawrence said he showed 6 toilets, and he asked if urinals count? Steve F. did not believe so. Mr. Lawrence thought the amount required was excessive because this was an RV park. Steve did not disagree, but the board has to follow the existing ordinance. Steve read the ordinance that pertained to the bathrooms facility requirements as follows: 105-37.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 the 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.*

Mr. Lawrence said he needed 10 toilets, 10 showers and 10 sinks. Steve F. stated that Mr. Lawrence could wait until next March and the board can try to amend the ordinance. Mr. Lawrence understood for a typical campground but not for an RV park, where they will be hooked up to water and sewer. Ann H. asked if there were any campgrounds or RV parks in Shapleigh? The other board members said, no. Ann said the board could amend the ordinance, but it will not happen until March. Steve agreed it seemed excessive for this application. Mr. Lawrence asked if March was the earliest? Madge B. said yes, you can’t just change an ordinance, it has to go to Town vote. Mr. Lawrence asked if he showed it on the plan, what is required, then the board can try to amend the ordinance in March, and could he then reduce the number required? The board agreed this could work. Mr. Lawrence added that this will be a 10 year project, so he didn’t want to have 20 toilets. The board understood and agreed. Madge added that he didn’t have to put in all the toilets in the first phase. Steve asked him to put it on the plan and the board can review the ordinance for March.

Mr. Lawrence said what may take him the longest is the stormwater report. Steve F. noted that the topo has been done, so some of what he would need is already on the plan. Steve said he can use the elevations on the plan, so the engineer may not have to go to the site.

Roland L. noted that if there are other things about the ordinance that he feels have been unreasonable, Mr. Lawrence was welcome to present the information to the board to review it. Roland said the board is

required to hold public hearings, and have discussions. He said if Mr. Lawrence wants other things included in the discussions, to document what it is, and provide it to the board.

Mr. Lawrence stated that the person doing his plans, was also working on another plan for someone further north, and with respect to the cabins, the lawyer for the person came to a different conclusion using the same references. He thought that the RV’s wouldn’t go away, but if he could place some cabins on site as well, he would like that. Madge B. told Mr. Lawrence not to get too optimistic with respect to the cabins, because the Town’s attorney said no, and the board or the town is not going to change attorneys. Mr. Lawrence said that he understood.

**Madge B. moved to table the application for up to 90 days, in order for the applicant to provide the required information. Ann H. seconded the motion. All members were in favor, by a vote of 5 – 0, the motion to table was unanimous.**

Nothing further was discussed.

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**Conditional Use Permit – Mobile Food Trailer – Map 19, Lot 13 (63 Emery Mills Road) – Tiffany Riley, Applicant; Roger Berube, Property Owner**

Mrs. Riley, and her husband David were present for the review of the application.

Provided along with the application was a GIS photo of Map 13, from which could be seen the lot lines, existing vegetation, structures and parking area, abutting properties, and Emery Mills Road.

Provided was a copy of the Town Tax Map 19, depicting Lot 13, and sketched on the lot was the existing structure, parking area, entrance and the proposed location of the food trailer. Notations on the sketch gave the distance from the food trailer to the water to be 350 feet and the distance from the food trailer to the road to be 130 feet.

Provided was a copy of the Onsite Wastewater Disposal System – Local Review and Verification Form, for Howling Hunger Food Truck, physical address of 44 Stone Post Road, Shapleigh, Maine, signed by Code Officer and Plumbing Inspector Mike Demers on 4/27/2023; indicating the site is to be used to park a mobile food trailer and dump grey water in approved septic system / not previously licensed. Also provided was a copy of the Subsurface Wastewater Disposal System Application for Stone Post Road, Shapleigh Maine, drafted by Kenneth Gardner, SE #73, dated 4/6/2023.

The application detailed description is as follows: *Looking to park a mobile food trailer in the parking lot at 63 Emery Mills Road on Mondays from 11:00 am to 7:00 pm for take-out food service with no seating or bathroom facilities.*

Steve F. stated Mrs. Riley was before the board for a food trailer. He began the review of the ordinance for the proposed use as follows:

**105-21 – Traffic. *Traffic access to the site is safe, it was approved for the previous businesses at this location and meets the minimum requirements.***

- 105-22 – Noise. *The only noise being generated is from the generator which will be at 56 dB maximum.*
- 105-23 – Dust, fumes, vapors and gases. *None being generated.*
- 105-24 – Odors. *The only odors may be food prep, which should be minimal as food is made to order.*
- 105-25 – Glare. *The only additional lighting to the site location is a light on the food trailer over the doorway, no other lighting shall be used. None shall go beyond the lots lines. Madge B. noted that the board is concerned with throwing light off the property. The applicant understood.*
- 105-26 – Stormwater runoff. *There is no stormwater associated with this application, there are no changes being made to the property, all parking is in place.*
- 105-27 – Erosion control. *There is no erosion associated with this application, there are no changes being made to the existing property.*
- 105-28 – Setbacks and screening. *There are no changes being made to what is approved and in place at this location.*
- 105-29 – Explosive materials. *The applicant shall obtain a State permit for the food truck. Ann H. noted that propane will be used for cooking, and it will have to meet State guidelines. Mr. Riley agreed and stated they have a State permit for the food trailer.*
- 105-33 – Refuse disposal. *The applicant stated they will have a 45 gallon trash barrel that will be removed at the end of the day; refuse shall be taken to the transfer station by the applicant. Madge B. thought a condition of approval should be that they leave nothing on the property when they leave at the end of the day. The other board members agreed.*
- 105-46 – Sanitary provisions. *Because of the temporary nature, and the fact it is grab and go, and no picnic tables will be provided, sanitary provisions are not required.*

Steve F. asked the hours of operation. Mrs. Riley stated 11 am to 7 pm. Steve suggested 9 pm in case she was running late in the evening. Mrs. Riley agreed with the 9 pm suggestion.

**Steve F. then reviewed §105-73.G ‘Standards applicable to conditional uses’:**

*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. **This business will have no adverse impact on wildlife, and is not located near a lake, pond, or river. There are no changes being made to the site location.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **This is not applicable.**
- 3) The use is consistent with the Comprehensive Plan. **The Comprehensive Plan encourages businesses along Route 109.**
- 4) Traffic access to the site is safe. **Traffic access to the site is safe, it was previously approved for the other approved businesses on site.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **This location is not in a flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **This business does not require sanitary provisions. Waste water shall be disposed of at another approved location. Documentation was provided for the location.**

- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **There is none generated by this activity.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **There are no changes to the existing landscape, and this application will have no effect on stormwater.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **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. **This location is near the Emery Mills hydrant.**
- 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. **There are no dust, fumes or detrimental odors associated with this business. The noise ordinance will be followed, there is no glare onto neighboring properties. There are limited hours of operation.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **They shall with five conditions.**

Steve F. stated the conditions of approval are as follows:

- 1) **A receptacle for the trash shall be provided and it shall be removed at the end of day from the property.**
- 2) **Hours of operations are 11 am to 9 pm, Monday's only.**
- 3) **Any signage will be approved through the Code Enforcement Office.**
- 4) **There shall be no picnic tables on site provided for customers.**
- 5) **There shall be no glaring lights added to the property, the existing food trailer lights are allowed.**

Steve F. asked if there were any further comments or questions? Roland L. asked that the comments from the public be added to the record.

Comments are as follows:

• A GIS picture of the site was dropped off in Barbara's office which had the following notations added to the page; Basic Performance Standard §105-21 / Concern about traffic, lots of summer traffic on this road, entrance/exit – *As noted above, the access to the site is safe, it meets the minimum site distance requirements*; §105-46 Sanitary provisions / Will there be a porta-john on site? – *None is required, there is no sit down eating, grab and go only*; There seems to be someone living in the last chateau, trees are being cut down, is this allowed under zoning regulations? – *This is a code enforcement question, it is not related to this application*; §105-73.G #6 Disposal of waste water & solid waste – *There are no bathroom facilities required, waste water shall be disposed of off-site per the information provided with the application, solid waste/trash shall be removed by the applicant by the end of the day and taken to the proper facility*; Is there a parking plan and will there be picnic tables? – *There is a parking plan for this location on file, there shall be no picnic tables allowed.* No name was provided.

• I am an owner of property adjacent to the property under the conditional use application, and I thank you for this notice. I am unable to attend the meeting on May 23. I am a co-owner with members of my family of property on 6th Street and also on Cottage Lane. It is my recollection that our 6th Street property abuts the property of Mr. Berube from Emery Mills Road to the lakeshore. The Cottage Lane property is very close. We are quiet and residential. I have no objection to this application with the understood provisions that there will not be access

to the commercial activity from the lake and that take-out customers will not use the lakeshore property and that there will not be trespass on our property.

Constance Willard Barragar

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

**Maggie M. made the motion to approve the mobile food trailer per the information provided with the stated conditions. Madge B. seconded the motion. All members were in favor. By a vote of 5 – 0, the motion to approve was unanimous.**

Nothing further was discussed.

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**The Findings of Facts**

1. The owner(s) of Shapleigh Tax Map 19, Lot 13 (63 Emery Mills Road) is Roger Berube Builders, Inc., mailing address of P.O. Box 14, Springvale, Maine 04083, per Warranty Deed - Book 14288, Page 266, dated 11/15/2004, registered at the York County Registry of Deeds.
2. The property is located in both the General Purpose District and Shoreland District, and according to the Assessor’s office, it contains 3 acres.
3. Provided was a GIS photo of Map 13, from which could be seen the lot lines, existing vegetation, structures and parking area, abutting properties, and Emery Mills Road.
4. Provided was a copy of the Town Tax Map 19, depicting Lot 13, and sketched on the lot was the existing structure, parking area, entrance and the proposed location of the food trailer. Notations on the sketch gave the distance from the food trailer to the water to be 350 feet and the distance from the food trailer to the road to be 130 feet.
5. Provided was a copy of the Onsite Wastewater Disposal System – Local Review and Verification Form, for Howling Hunger Food Truck, for the physical address of 44 Stone Post Road, Shapleigh, Maine, signed by Code Officer and Plumbing Inspector Mike Demers on 4/27/2023; indicating the site is to be used to park a mobile food trailer and dump grey water in approved septic system / not previously licensed. Also provided was a copy of the Subsurface Wastewater Disposal System Application for Stone Post Road, Shapleigh Maine, drafted by Kenneth Gardner, SE #73, dated 4/6/2023.
6. The application detailed description is as follows: *Looking to park a mobile food trailer in the parking lot at 63 Emery Mills Road on Mondays from 11:00 am to 7:00 pm for take-out food service with no seating or bathroom facilities.*
7. The application as presented met the Basic Performance Standards in the Zoning Ordinance. The board noted for this application, most of the standards have already been approved for this site, as other permitted businesses exist at this time. There is a parking plan on file for this location. This is a grab and go food take-out only, therefore no additional facilities are required. All State permits for a mobile food trailer shall be obtained and maintained.

8. The application as presented met the performance standards under §105-73 ‘Conditional Use Permits’ as per the documentation provided and as presented with conditions. 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 109; traffic access to the site is safe for this location, minimum site distances are met in both directions; the lot is not located within the flood zone; there are no facilities required, the food is take-out only, no picnic tables allowed; trash shall be removed by the applicant daily; there are no changes being made to the site location, the parking area is in place, no vegetation is being removed, therefore no stormwater plan was required; the location has been previously approved for fire protection; there is existing vegetation and there shall be no lighting facing onto the road or neighboring properties, and there are no fumes, dust, odors and the like beyond the lot lines; there is no noise associated with this business, there are limited hours of operation. All performance standards shall be met with five conditions.
9. A notice was mailed to all abutters within 500 feet of the property on May 10, 2023. Meetings were held on Tuesday, May 9, 2023, and Tuesday, May 23, 2023. A Public Hearing was held on Tuesday, May 23rd.
10. The Planning Board unanimously agreed to approve the Conditional Use Permit to operate a mobile food trailer on Tax Map 19, Lot 13 (63 Emery Mills Road), with five conditions.
11. **The condition(s) of approval are as follows:**
  - 1) **A receptacle for the trash shall be provided and it shall be removed at the end of day from the property.**
  - 2) **Hours of operations are 11 am to 9 pm, Monday’s only.**
  - 3) **Any signage will be approved through the Code Enforcement Office.**
  - 4) **There shall be no picnic tables on site provided for customers.**
  - 5) **There shall be no glaring lights added to the property, the existing food trailer lights are allowed.**

**Decision:**

**The Conditional Use Permit to allow a mobile food trailer, on property known as Tax Map 19, Lot 13 (63 Emery Mills Road), per the material presented and as discussed, with five conditions, was approved.**

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**Conditional Use Permit – Replace Retaining Wall – Map 30, Lot 9 (23 Totte Road) – Tyler Matthews, Applicant; Ken Kordana, Property Owner**

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

Provided along with the application, was a sketch plan depicting a 45” tall wall from ground level, with a crushed stone base. Also on the sketch was a depiction of the wall being 52 feet in length, with a 4 foot set of stairs located within the 52 feet.

Provided was a sketch that depicted the Totte Road, and located within lot lines was the house, wall & stairs at the water’s edge / Goose Pond, the location of the 52 foot wall & stairs - highlighted in pink, there is a notation stating ‘Loam & Seed & Hay, After Wall is Built’, and the area for this is highlighted in green.

Provided was a copy of the Town Tax Map 30, depicting Lot 9, and on the lot sketched in is the location of the wall and stairs at the water's edge.

The application detailed description is as follows: *Rebuilding new retaining wall at waters edge.*

Provided at the meeting was a copy of photos of existing conditions on the property. The deteriorating wall can be clearly seen, with blocks falling away from the embankment and into the water.

Steve F. asked Mr. Matthews if he had a replant plan? Mr. Mathews stated, "Not really, I just showed that on site for revegetation, loam, seed, and hay." He said this would be behind the wall, and he noted that no trees were being removed.

Ann H. asked if the wall was in the water? Mr. Matthews stated that it depended on the time of the year. Madge noted that some of the wall was no longer there. Roland L. said that the wall was first generation blocks, and they were not intended for emersion, and those that are in the water, the wall breaks down and falls over.

Steve F. reviewed 105-39.D 'Earthmoving in the Shoreland District', stating this is why the applicant is before the board. He then moved to §105-52 'Clearing or removal of vegetation for activities other than timber harvesting', and noted no trees were being removed. He asked, while looking at 105-51.3 'Revegetation requirements', if the board was ok with the revegetation plan? Steve noted Section F 'Revegetation activities must meet the following requirements for ground vegetation and ground cover', which read as follows:

- 1) All ground vegetation and ground cover removed must be replaced with native herbaceous vegetation, in quantities and variety sufficient to prevent erosion and provide for effective infiltration of stormwater;
- 2) Where necessary due to a lack of sufficient ground cover, an area must be supplemented with a minimum four-inch depth of leaf mulch and/or bark mulch to prevent erosion and provide for effective infiltration of stormwater; and
- 3) Survival and functionality of ground vegetation and ground cover must be sufficient to remain in compliance with the standards contained within this chapter for a minimum of five years.

Madge B. said she would like to see bushes added. She said there is grass now, which is inadequate, so she would like to see a better plan than what was submitted. She said the plan was for loam, seed, and hay, which she believed he meant grass. Steve F. agreed. Mr. Matthews stated there was grass in existence now. He asked if there was something that stated he had to put bushes in, even though he isn't taking any trees out? Madge stated that the board has been told by the MDEP multiple times that they should be requiring Juniper or Blueberries, or at least some bushes for stormwater control. She agreed they should not have to walk over bushes to get to the stairs. CEO Demers said that if it is a legally existing cleared opening, they can maintain that space. Madge agreed that it is open and it will stay open. CEO Demers stated it could be maintained. Madge stated that they are removing grass, she didn't think the board had to say that grass was ok if it has been removed. She noted the board just had a workshop with the DEP, and they were told to add native bushes / shrubs. Ann H. said she was looking at the power point of the workshop. Mr. Matthews asked if Madge was speaking about a workshop with the DEP? Madge said yes, and the board was told they should be requiring bushes instead of grass. Madge noted it would be easy to

put a few Juniper or Blueberry bushes right behind the new wall. Mr. Matthews agreed, but did not want to add anything that he did not have to add.

Roland L. stated that his personal preference was a bark mulch, approximately 2 to 3 feet wide, from the wall back, with well dispersed ground junipers. He said this would catch runoff, hold it so it would permeate the soil, and he added that he was not a big fan of grass, because it has to be fertilized. He said people are not being flagrant and using a Scott spreader, but they are using a hose adapter with fertilizer in it, and fertilizing their lawn. He said the bark mulch buffer with interspersed Junipers or Hostas, but his preference was Junipers, because they are year round. Madge B. stated that the advantage to what Roland was suggesting, that when the mulch disintegrates in 5 years, there are still plantings in place for erosion control. Roland agreed. She said the board was instructed at the MDEP workshop that mulch is not preferred.

Mr. Matthews saw no issue with grass, he considered it ground cover that soaks up water. Steve F. said the ordinance is looking for native herbaceous vegetation. Mr. Matthews stated he would use native grass. Steve was not sure grass was herbaceous. Mr. Matthews started to ask about future projects. CEO Demers stated that the board cannot design for the applicant, if the proposed application meets the standard in the ordinance, then the board has to approve it. Roland L. stated he was not saying Mr. Matthews had to do as he suggested. Mr. Matthews understood that Roland would like to see the plantings. Roland said his suggestions were based on the 3 hours session with the MDEP, which was open to the public. He added that the discussion was interesting, and it spoke about what is and what is not allowed.

Roland L. looked up herbaceous plants on the internet and it stated that *they are non-woody plants, such as most ferns and grasses, which either form tiny amounts of hard woody tissue, or none at all. Unlike woody plants, such as trees, these plants don't have a stem that will remain above the ground when their leaves die.* Ann H. noted that grass is ok. Roland thought it would depend on what kind of grass.

**Steve F. then reviewed §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. **The replacement of the fallen wall will help to protect aquatic life and habitat.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **The new wall will help conserve access to the water body.**
- 3) The use is consistent with the Comprehensive Plan. **The Comprehensive Plan wants to protect all water bodies in Shapleigh.**
- 4) Traffic access to the site is safe. **Traffic access to the site is safe for the intended us.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **This location is not in a flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **This is not applicable for this application.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **There is no hazardous waste associated with this activity.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **The new wall will be constructed per the manufacturer's instructions. There was no site/wall specific stormwater plans provided.**



- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Best Management Practices shall be put into place and followed until the wall and revegetation is completed.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **This is not applicable for this application.**
- 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. **There are no dust, fumes, detrimental odors or glare associated with this application. Noise will be limited to construction, which is limited in duration.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **They shall with conditions.**

Steve F. asked Mr. Matthews what type of grass he would be planting? Mr. Matthews stated he would pick it up at the local hardware store and it will be good stuff.

Steve F. asked if there were any other comments or questions?

**Steve F. stated the conditions of approval are as follows:**

- 1) **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).**
- 2) **A licensed surveyor shall confirm in writing that the placement of the new structures is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer.**
- 3) **The project shall be completed by February, 2024. If this date cannot be met, the applicants shall come back before the board to amend the approval and set a new date of completion.**
- 4) **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.**
- 5) **All debris from the existing wall shall be removed, taken out of the Town of Shapleigh, and disposed of properly.**

**Maggie M. made the motion to approve the replacement of the retaining wall per the information provided and with the stated conditions. Ann H. seconded the motion. All members were in favor. By a vote of 5 – 0, the motion was unanimous.**

*Roland L., speaking to Mr. Matthews, stated that if he looked up native grasses of New England it gives native grasses, and he noted it was not mowing grass. Mr. Matthews thanked the board for their time.*

Nothing further was discussed.

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**Findings of Fact**

1. The owner(s) of Shapleigh Tax Map 30, Lot 9 (23 Totte Road) are Kenneth J. and Janis M. Kordana, mailing address of 19 Simmons Brook Drive, Westfield, MA 01085, per Warranty Deed registered at YCRD, BK 18822, PG 361, recorded 10/1/21.
2. The property is located in the Shoreland District, and according to the Assessor's office, it contains .1 Acres.
3. Provided was a sketch plan depicting a 45" tall wall from ground level, with a crushed stone base. Also on the sketch was a depiction of the wall being 52 feet in length, with a 4 foot set of stairs located within the 52 feet.
4. Provided was a sketch that depicted the Totte Road, and located within lot lines was the house, wall & stairs at the water's edge / Goose Pond, the location of the 52 foot wall & stairs - highlighted in pink, there is a notation stating 'Loam & Seed & Hay, After Wall is Built', and the area for this is highlighted in green.
5. Provided was a copy of the Town Tax Map 30, depicting Lot 9, and on the lot sketched in is the location of the wall and stairs at the water's edge. In addition, provided were several pictures of the existing conditions. The deteriorating wall can be clearly seen, with blocks falling away from the embankment and into the water.
6. The application detailed description is as follows: *Rebuilding new retaining wall at water's edge.*
7. A notice was mailed to all abutters within 500 feet of the property on May 10, 2023. Meetings were held on Tuesday, May 9, 2023, and Tuesday, May 23, 2023.
8. The application as presented met the performance standards under §105-73 'Conditional Use permits' as per the documentation provided and as presented with conditions. The proposed new wall will not have an adverse effect on aquatic life or wildlife, Best Management Practices will be in place during construction; the project will help to conserve shore cover by stopping stormwater from entering the lake; the use is consistent with the Comprehensive Plan which wants to protect the waterbodies from stormwater / erosion; traffic access to the site is safe for the intended project; the lot is not located within the flood zone; the existing wall will be removed by the applicant & shall be taken out of Shapleigh; the walls will be constructed per the manufactures plans and when completed will help keep stormwater out of 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; performance standards will be met with five conditions.
9. The application as presented met the conditions under §105-39 'Earth removal and filling for activities other than mineral exploration and extraction'. The extent and type of fill is appropriate for the scope of the project; the project shall be completed by February, 2024.
10. The application as presented met the conditions under §105-52 'Clearing or removal of vegetation for activities other than timber harvesting', as no trees are being removed; and conditions are met under

105-51.3 ‘Revegetation requirements’, as grasses native to Maine shall be placed behind the new retaining wall.

11. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing 52 foot x 45 inch high wall, and stairs, on Map 30, Lot 9 (23 Totte Road), per the documents provided and as presented, with five conditions.
12. **The conditions of approval are as follows:**
  - 1) **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).**
  - 2) **A licensed surveyor shall confirm in writing that the placement of the new structures is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer.**
  - 3) **The project shall be completed by February, 2024. If this date cannot be met, the applicants shall come back before the board to amend the approval and set a new date of completion.**
  - 4) **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.**
  - 5) **All debris from the existing wall shall be removed, taken out of the Town of Shapleigh, and disposed of properly.**

**Decision:**

**The Conditional Use Permit for earth moving in the Shoreland District in order to replace the existing 52 foot x 45 inch high retaining wall, and stairs, on Map 30, Lot 9 (23 Totte Road), per the documents provided and as presented, with five conditions, was approved.**

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**Conditional Use Permit – 3 Year Renewal of Gravel Extraction – Map 5, Lot 44A (Goose Pond Road) – Gloria & Frank Clark, Applicants & Property Owners**

Mr. and Mrs. Clark were present for the review of the application.

Provided along with the application was a copy of the previous Planning Board approval letter for the mineral extraction, dated June 30, 2020. The existing conditions of the permit are as follows:

- 1) The hours of operation for gravel extraction and processing shall be 7:00 a.m. through 5:00 p.m., Monday thru Friday, 7:00 a.m. thru 12:30 p.m. on Saturday. There shall be no processing of gravel on Saturday. There may be activity on site at 6:00 a.m. Monday thru Friday that does not create noise above 60dB.
- 2) There shall be no trucks traveling over the Goose Pond Road culvert; all gravel pit traffic shall exit left onto Goose Pond Road and travel to State Route 109.
- 3) Gravel extraction shall be per the plans provided, no excavation shall be within the 50-foot buffer strip as depicted on the plan provided by Albert Frick and Associates, plan dated 1/27/2015; the depth of excavation shall be no lower than 530 feet to eventually make the property near level.

- 4) It is the applicant's responsibility to make certain the entrance onto Goose Pond Road is clear of all sand and stone dust to prevent a hazardous situation. A stone apron shall be constructed to remove gravel and dust from the tires of the equipment used for hauling gravel.
- 5) Dust shall be maintained thru the use of a water truck, watering the area as needed to prevent dust from going onto neighboring properties.
- 6) Per the plans provided, no more than 5 acres can be excavated at one time or 10 acres cleared of trees. When the first 5 acres have been excavated and proof is provided to the Planning Board Chairman and Code Enforcement Officer that the area has been reclaimed, then the next five acres can be excavated.
- 7) The applicant / property owner must abide by the noise levels in the Town of Shapleigh Zoning Ordinance §105-22 'Noise'.
- 8) A surety bond or escrow account shall be established and maintained, payable to the Town of Shapleigh in the amount of \$20,000. This bond or escrow account shall remain in effect until the mineral extraction operation is completed and the area has been reclaimed per the plans provided. The bond or escrow account shall be signed and accepted by the Board of Selectmen. The bond must be established within 60 days of the date on the approval letter.

Provided was a copy of the existing Escrow Agreement with the Town of Shapleigh in the amount of \$20,000, in order for the Town to reclaim 5 acres if the applicant does not meet the conditions of permit. The escrow is in the form of cash, deposited with Partner Bank. The escrow is not to be dispersed until the applicant has reclaimed the permitted area, or the applicant delivers to the Town a substitute bond.

Provided was a cost to reclaim the 5 acres from Mick Construction Corp. of Rollinsford, NH, dated June 22, 2020, which estimated the cost to be \$20,000. Also provided was a Closure Plan, dated March 2020, which gave the details of closure.

Provided was a copy of the Laboratory Test Results of the Test Pit Samples sent to Thomas Harmon, P.E. of Civil Consultants, Inc., letter dated July 16, 2013, done by the firm R.W. Gillespie & Associates, Inc., Geotechnical Engineering – Geohydrology – Materials Testing Services, as well as the Summary of Laboratory Testing Program – Test Pits results & Particle Size Distribution Report. These results showed the amount of topsoil, depth and size of coarse rocky gravel, the fact that no water was seen on site, along with the type of sand and gravel.

Provided was a copy of a letter received, dated March 20, 2015, from the Dept. of Inland Fisheries & Wildlife, stating in part, 'Our information indicates no locations of Endangered, Threatened, or Special Concern species within this project area. Additionally, our Department has not mapped any Essential Habitats or Fisheries Habitats that would be directly affected by your project'. Also received was a copy of a map provided by MDIF&W showing the location of the proposed mineral extraction site, the map entitled Environmental Review of Fish and Wildlife Observations and Priority Habitats, noted no indication of Essential Habitats.

Provided was a copy of A Notice of Intent to Comply – Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt (For Use with 38 MRSA Section 490-C) that was applied for to the Maine Dept. of Environmental Protection, Division of Land Use Regulation. Approval was received on August 6, 2015, Permit Number L-860. An email confirmation from Michael Clark, Mining Coordinator, Bureau of Land Resources, Land Division MDEP, dated June 22, 2020, confirmed that the proposed gravel pit is still licensed by the department.

On file for this location is the site plan drafted by Albert Frick Associates, Inc., Environmental Consultants, Gorham, Maine, dated 1/27/15; entitled ‘Proposed Mineral Extraction Site Plan prepared for Frank Clark, Goose Pond Road (Map 5, Lot 44), Shapleigh, Maine’.

The application detailed description of the project is as follows: *Materials on-site to be excavated to elevation 530 and trucked off-site. This is to occur in 5 acre increments, so that no more than 5 acres are active.*

Steve F. stated that as noted in the public hearing, he read through the conditions of the existing permit. Madge B. stated that he could read through the list again. He read the conditions once again for the record (*see above*).

Steve F. asked how the board knows how deep the gravel pit is, and how big it is currently? He said the board needs to confirm that not more than 5 acres has been excavated and that he is not below 530 feet. He said the operation is clean, and it appears things are running smoothly. He said that to the best of his knowledge, there have been no complaints from abutters. He asked CEO Demers if he had any comments? CEO Demers asked Mr. Clark if he had a DEP Permit? Mr. Clark said he just received a new permit. CEO Demers asked if they regulate the area and depth of operation? Mr. Clark was not sure, but noted they make sure the berms are there, so you do not drive a vehicle down into the pit. He said there was also cones required. He said the area is clean and there was no oil on the ground. CEO Demers believed that the MDEP oversaw open pits, so that they maintain the allowed open area. He said that they could not be at all of them all the time, but they do spot check them. He said if it is part of the conditions, he was not qualified to measure the area, and if he did, he felt it would be unnecessary, because it would be done twice, where the MDEP also does it. Steve asked if the board could get a letter from the MDEP stating they are ok with it, as a condition? CEO Demers stated that if they are giving Mr. Clark a permit, then it is safe to assume they are ok with it. Steve said the board would just need a copy of the permit. Mr. Clark stated that he received the permit within the last month. Steve stated he wanted to be sure the board didn’t go against their own approval, and he noted that he had no idea what 5 acres of excavation looks like. Mr. Clark understood. Madge B. thought that as long as the board gets a copy of the MDEP permit, it shows he has State approval. Steve asked if Mr. Clark if he had it with him. He did not, but said he could get the board a copy. He said he could have his wife take a picture of it and send it to his phone.

Ann H. said she wanted to make sure that the amount to reclaim the area was still valid. She wasn’t sure if \$20,000 would be enough with today’s pricing. She asked if Mr. Clark could get another quote? Mr. Clark said he could look into it. Ann said if there was a difference then he could provide the difference, if it was a bond it could be adjusted.

Steve F. stated that there was a closure plan on file. Madge B. asked when the gravel permit expired? Steve stated June 30<sup>th</sup>. Madge said the board could wait one more meeting if the board wants an update for the escrow account. Barbara F. noted the escrow account remains in effect until Mr. Clark ends the excavation and reclaims the area, or if the Town has to do it. Madge said that she was not saying it was not enough, but Ann is concerned. She said she was ok, as long as he provides the certificate from the MDEP for renewal. Steve said that the board could make it a condition of approval that the board receives the MDEP Permit prior to June 30<sup>th</sup>. Madge said that she thought it was important that they Town hasn’t heard any complaints from abutters. Steve agreed. She thought it was a good indicator they are following the rules.

Steve F. asked if under the 8 conditions, were there any the board wanted to amend or modify, other than potentially number 8.

Mr. Clark showed the board a copy of the new MDEP permit on his phone. Barbara F. asked Mr. Clark if he would email it to her. He stated that he would. (Note: Barbara received the emailed permit and placed a copy in the file.)

Steve F. stated that he believed the findings are the same as the original approval. Barbara F. agreed.

Roland L. stated that at the site visit Mr. Clark noted that by the end of summer the five acres would be processed. He said at the last meeting Mr. Clark hinted at another plan other than revegetating the area. Mr. Clark stated that was correct. He said they will start reclaiming the slopes as the five acres are completed. He said he has an idea for a business to put in the flat area, so he wants to come back to the Town and show a footprint of what they want to do in that area, rather than revegetate and then dig it up when they start the new project. Steve F. thought it would be an amendment to the Conditional Use. Mr. Clark stated that he did not know Roger Allaire (former Chairman of the Planning Board) had resigned. He said he had called him about the application and Roger had talked about an extension, so he could move forward. Mr. Clark stated he wasn't sure what Roger meant. Steve believed this is what Mr. Clark was doing this evening, renewing the permit until he hits the five acres or you go three more years. Barbara F. stated that when he gets to 5 acres he has to come back before the board. Mr. Clark stated that at the time he will have measurements for the board.

Roland L. asked if you can have multiple activities going on, on the same site? Madge B. said that you can have 2 conditional uses going on, on a single site, as long as you have the acreage. Matt Colton stated, "You just did that for the food truck". Steve F. said the answer is yes.

**Madge B. moved for approval for renewal of the gravel extraction permit for up to 3 years, with the existing conditions and with the additional condition that we obtain a copy of the MDEP permit by June 30, 2023. Maggie M. seconded the motion. All members were in favor. By a vote of 5 – 0, the vote to approve the renewal was unanimous.**

Nothing further was discussed.

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**The Findings of Fact**

1. The owners of Shapleigh Tax Map 5, Lot 44A are Frank W. Clark and Gloria S. Clark, of 90 Hubbard's Cove Road, Shapleigh, ME 04076.
2. The property is located in the General Purpose District and according to the Quickclaim Deed, dated June 24, 2015, registered at the YCRD Book 17043, Page763, contains 20 Acres, more or less.
3. The applicants are before the board to extend the existing mineral extraction permit for three years to excavate to an elevation no lower than 530 feet and truck the gravel off-site. This is to occur in 5-acre increments, so no more than 5 acres are active or up to 10 acres are open / cleared. Originally provided were 14 Test Pit results taken on site along with a map depicting the approximate Test Pit locations, which showed approximately 330,000 cubic yards were of quality material over a 13 acre + or – area on site. Information provided by George Chobanian of Civil Consultants, South Berwick, Maine on July 26, 2013.

4. A Notice of Intent to Comply – Performance Standards for Excavations for Borrow, Clay, Topsoil or Silt (For Use with 38 MRS Section 490-C) was applied for to the Maine Dept. of Environmental Protection, Division of Land Use Regulation. Approval was received on August 6, 2015, Permit Number L-860. *The board received an updated copy of the excavation permit from the MDEP, Permit Number GPID#:860, dated 2023, on 5/24/2023.*
5. On file is a copy of a letter, dated March 20, 2015, from the Dept. of Inland Fisheries & Wildlife, stating in part, ‘Our information indicates no locations of Endangered, Threatened, or Special Concern species within this project area. Additionally, our Department has not mapped any Essential Habitats or Fisheries Habitats that would be directly affected by your project’. Also received was a copy of a map provided by MDIF&W showing the location of the proposed mineral extraction site, the map entitled Environmental Review of Fish and Wildlife Observations and Priority Habitats, noted no indication of Essential Habitats.
6. On file is a copy of the gravel extraction Closure Plan, dated March 2020. A cost estimate to reclaim 5 acres of land, including spreading the existing loam and seeding, was provided by William Tobey, President of Mick Construction Corp. of Rollinsford, New Hampshire. The cost was estimated at \$20,000 on June 22, 2020.
7. On file is a scaled sketch of Map 5, Lot 44A, which depicted the location of the 20’ x 150’ entrance onto the property and the dimensions of the initial 5-acre section to be excavated.
8. On file is a copy of Shapleigh Tax Map 5, Lot 44A, which listed the requested conditions of approval.
9. Additional information provided by the applicant, during the approval process in 2015, and remaining on file for this location, were as follows:
  - A) A copy of the Laboratory Test Results of the Test Pit Samples sent to Thomas Harmon, P.E. of Civil Consultants, Inc., letter dated July 16, 2013, done by the firm R.W. Gillespie & Associates, Inc., Geotechnical Engineering – Geohydrology – Materials Testing Services, as well as the Summary of Laboratory Testing Program – Test Pits results & Particle Size Distribution Report. These results showed the amount of topsoil, depth and size of course rocky gravel, the fact that no water was seen on site, along with the type of sand and gravel.
  - B) A copy of the approved curb cut onto Goose Pond by Road Commissioner John Burnell, dated 8/7/2015.
  - C) A site plan drafted by Albert Frick Associates, Inc., Environmental Consultants, Gorham, Maine, dated 1/27/15; entitled Proposed Mineral Extraction Site Plan prepared for Frank Clark, Goose Pond Road (Map 5, Lot 44), Shapleigh, Maine. Details on the site plan drafted by Albert Frick Associates, Inc., dated 1/27/15 include:
    - 1) Cross Section View depicting limits of Mineral Extraction / Regrading of Slopes, which includes areas for control of internal drainage / runoff, existing grades, areas for extraction and limits of mineral extraction / regrading of slopes.
    - 2) Location of the 20-acre parcel is depicted within the larger parcel owned by Mr. & Mrs. Clark, now known as Map 5, Lot 44A. Within the 20-acre parcel depicted is:
      - The location of the proposed site access.
      - The site distances from the site access location, those being 1005’ toward Acton and 964’ toward State Route 11.
      - Proposed location of a future office building.

- Proposed location of a watertight enclosure for fuel storage.
  - Location of (2) five-acre extraction locations / restoration-reclamation area.
  - Location of (1) 7.89 acre for future removal once previous 10-acre area is completely restored-reclaimed.
  - Stump storage and future stump areas.
  - 50-foot area/setback for regrading to match surrounding existing slopes (only around extraction area).
  - Location of stockpiled/stabilized loamy surface materials (to be seeded & mulched).
- 3) Information box stating: Proposed mineral extraction area (as depicted): 779,288+/- Sq. Ft. (18 +/- AC). Proposed bottom elevation of extraction: 530' +/- (See Cross-Section Diagram).
- 4) Notes box stating: No wetlands or vernal pools exist on the proposed extraction site. All drainage/runoff from the extraction area will remain subsurface or will drain internally on-site. No water table exists within 5' of the ground surface in the proposed extraction area. Clear/Stump 10 acres at a time, as shown. Once materials are removed and ground surface is leveled/smoothed, reclaim in 5 acre increments as shown. Reclaimed slopes not to exceed 4:1. No more than 5 acres of area may be active for mineral extraction at any one time.
10. Meetings were held on Tuesday, May 9, 2023, and May 23, 2023. A notice was mailed to all abutters within 500 feet of the property, on May 10, 2023. A site inspection and public hearing took place prior to the meeting on May 23<sup>rd</sup>.
11. The Planning Board unanimously agreed to approve the Conditional Use Permit for mineral extraction and processing for 3 years, expiring on June 30, 2026, or until 5 acres has been extracted, on Map 5, Lot 44A per the plans provided and as discussed, with nine conditions.
12. **The conditions of the permit are as follows:**
- 1. The hours of operation for gravel extraction and processing shall be 7:00 a.m. through 5:00 p.m., Monday thru Friday, 7:00 a.m. thru 12:30 p.m. on Saturday. There shall be no processing of gravel on Saturday. There may be activity on site at 6:00 a.m. Monday thru Friday that does not create noise above 60dB.**
  - 2. There shall be no trucks traveling over the Goose Pond Road culvert; all gravel pit traffic shall exit left onto Goose Pond Road and travel to State Route 109.**
  - 3. Gravel extraction shall be per the plans provided, no excavation shall be within the 50-foot buffer strip as depicted on the plan provided by Albert Frick and Associates, plan dated 1/27/2015; the depth of excavation shall be no lower than 530 feet to eventually make the property near level.**
  - 4. It is the applicant's responsibility to make certain the entrance onto Goose Pond Road is clear of all sand and stone dust to prevent a hazardous situation. A stone apron shall be constructed to remove gravel and dust from the tires of the equipment used for hauling gravel.**
  - 5. Dust shall be maintained thru the use of a water truck, watering the area as needed to prevent dust from going onto neighboring properties.**
  - 6. Per the plans provided, no more than 5 acres can be excavated at one time or 10 acres cleared of trees. When the first 5 acres have been excavated and proof is provided to the Planning Board Chairman and Code Enforcement Officer that the area has been reclaimed, then the next five acres can be excavated.**
  - 7. The applicant / property owner must abide by the noise levels in the Town of Shapleigh Zoning Ordinance §105-22 'Noise'.**



- 8. **A surety bond or escrow account shall be established and maintained, payable to the Town of Shapleigh in the amount of \$20,000. This bond or escrow account shall remain in effect until the mineral extraction operation is completed and the area has been reclaimed per the plans provided.** *The approved escrow account is currently held with the Town of Shapleigh in the amount of \$20,000, and funds shall not be released until the Selectmen and Planning Board Chairman sign to release the funds, once all excavated areas have been reclaimed.*
- 9. **A copy of the MDEP gravel extraction permit shall be received by June 30, 2023.**

**Decision:**

**The Conditional Use Permit for mineral extraction, on Map 5, Lot 44A, per the plans and information provided in 2015, 2020, and 2023 with the above stated nine (9) conditions through June 30, 2026, or until 5 acres has been extracted, was approved.**

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**Conditional Use Permit – Replace Retaining Wall – Map 17, Lot 18 (38 Old Loop Road) – Matt Colton, Applicant; Steven Spinney, Property Owner**

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

Presented along with the application was a letter which stated the following in part: Please accept this letter authorizing Mainely Barge LLC to pull all necessary permits on behalf of Steven O. and Sharon M. Spinney regarding replacing the wall on the lake side of 38 Old Loop, Shapleigh Maine 04076.

Provided was a copy of the Permit by Rule Notification Form, dated 3/23/23. The Brief Project Description is as follows: *Replace existing sea wall with large precast block, same height/length.* In addition, a sketch was attached to the permit, which depicted the wall to be 85’ x 4’, along with 4’ steps to the water. Noted on the sketch was ‘Replanting of veg after walls completed’ with the vegetation location noted along the wall in green, also shown was the general location of the house.

Provided were several pictures of the existing conditions.

The application detailed description of the project is as follows: *Replace existing retaining wall in same height and location using precast block.*

Mr. Colton provided the board with a revised revegetation plan this evening, which added the following notations to the sketch plan:

- 1) Soft woods replaced with similar native species, in same location. Trees to stay.
- 2) Blueberry Bushes and Juniper.
- 3) 6 soft woods to go.

Mr. Colton stated the applicants planted what he thought was Spruce or evergreens. Roland L. stated they were Hemlocks. Madge B. agreed. Mr. Colton stated that the applicant planted those years ago, and noted that they don’t need a permit to plant them. He said that they can plant them with no issue or permit, but they cannot remove them. The board said this was correct. Mr. Colton stated that you can plant and not remove, so they have to be there forever. Roland said they can be removed with a permit. Mr. Colton stated that the trees have to come out to do the wall, but his customer was fine with doing Blueberry bushes and Junipers, for the privacy. He said if she didn’t want the privacy, he thought she should be able

to cut any tree she wants, because she planted them. CEO Demers said if you have an established tree, then it requires a permit to be removed. Mr. Colton stated that he planned on replacing the trees that are being removed with similar trees. CEO Demers began reading, ‘Fields and other cleared openings which have reverted to primary shrubs, trees, or other woody vegetation shall be regulated under the provisions of 105-51’. He said if it is established they need a permit from him. Mr. Colton stated he was trying to get more knowledge for the future. Steve F. noted you only need a permit if it is in the shoreland zone.

Madge B. thought the board reviewed the ordinance for this application, they were only waiting for the revegetation plan.

**§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. **The replacement of the wall will help to protect aquatic life and habitat.**
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. **The new wall will help conserve access to the water body.**
- 3) The use is consistent with the Comprehensive Plan. **The Comprehensive Plan wants to protect all water bodies in Shapleigh**
- 4) Traffic access to the site is safe. **Traffic access to the site is safe for the intended use.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **This location is not in a flood zone.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **This is not applicable for this application.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **The existing wall will be taken out of Shapleigh and brought to the proper facility.**
- 8) A stormwater drainage system capable of handling fifty-year storm without adverse impact on adjacent properties has been designed. **The new wall will be constructed per the manufacturer’s instructions. There was no site/wall specific stormwater plans provided.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Best Management Practices shall be put into place and followed until the wall and revegetation is completed.**
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. **This is not applicable for this application.**
- 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. **There are no dust, fumes, detrimental odors or glare associated with this application. Noise will be limited to construction, which is limited in duration.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **They shall with conditions.**

Steve F. stated the conditions of approval would be as follows:

- 1) **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).**
- 2) **A licensed surveyor shall confirm in writing that the placement of the new structures is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer.**

- 3) The project including the revegetation plan as provided, shall be completed by December 24, 2023. If this date cannot be met, the applicants shall come back before the board to amend the approval and set a new date of completion.
- 4) 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.
- 5) All debris from the existing wall shall be removed, taken out of the Town of Shapleigh, and disposed of properly.

**Madge B. moved for approval of the application to replace the existing retaining wall per the plans provided and with the stated conditions. Maggie M. seconded the motion. All members were in favor. By a vote of 5 – 0, the motion to approve was unanimous.**

Nothing more was discussed.

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**Findings of Fact**

- 1. The owner(s) of Shapleigh Tax Map 17, Lot 18 (38 Old Loop Road) are Steven H. Spinney and Sharon M. Spinney, current mailing address of 281 Islington Street, Portsmouth NH 03801, per Warranty Deed, BK 14617, PG 659, recorded 9/29/2005.
- 2. The property is located in the Shoreland District, and according to the Assessor’s office, it contains .22 Acres.
- 3. Provided was a copy of the Permit by Rule Notification Form, dated 3/23/23. The Brief Project Description is as follows: *Replace existing sea wall with large precast block, same height/length.* In addition, a sketch was attached to the permit, which depicted the wall to be 85’ x 4’, along with 4’ steps to the water. Noted on the sketch was ‘Replanting of veg after walls completed’ with the vegetation location noted along the wall in green, also shown was the general location of the house.
- 4. Provided was a revised revegetation plan, which added the following notations to the sketch plan:
  - 4) Soft woods replaced with similar native species, in same location. Trees to stay.
  - 5) Blueberry Bushes and Juniper.
  - 6) 6 soft woods to go.
- 5. Provided were several pictures of the existing conditions.
- 6. The application detailed description of the project is as follows: *Replace existing retaining wall in same height and location using precast block.*
- 7. A notice was mailed to all abutters within 500 feet of the property on April 12, 2023. Meetings were held on Tuesday, April 11, 2023, Tuesday, April 25, 2023, and Tuesday May 23, 2023. A site inspection was done by members prior to the meeting on April 25th.

8. The application as presented met the performance standards under §105-73 ‘Conditional Use permits’ as per the documentation provided and as presented with five conditions. The proposed new wall will not have an adverse effect on aquatic life or wildlife; the project will help to conserve shore cover by stopping stormwater from entering the lake; the use is consistent with the Comprehensive Plan which wants to protect the waterbodies from stormwater / erosion; traffic access to the site is safe for the intended project; the lot is not located within the flood zone; the existing timber wall will be removed by the applicant & shall be taken out of Shapleigh; the walls will be constructed per the engineered plans from R. Pepin & Sons and will help prevent stormwater from entering the lake; erosion control measures shall be approved by the Code Enforcement Officer; the project takes place near the lake and fire protection is not a requirement for this project; there is limited noise and dust from the construction of the walls which shall be completed by December 24, 2023; performance standards will be met with five conditions.
9. The application as presented met the conditions under §105-4 ‘Non-conforming structures’, erosion control measures approved by Code Enforcement shall be put into place, and a licensed surveyor shall place the wall to be sure it does not encroach onto the lake or neighboring properties.
10. The application as presented met the conditions under §105-39 ‘Earth removal and filling for activities other than mineral exploration and extraction’. The extent and type of fill is appropriate for the scope of the project; the project shall be completed by December 24, 2023.
11. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing wall (85’ long x 4’ high) & stairs, on Map 17, Lot 18 (38 Old Loop), per the documents provided and as presented, with five conditions.
12. **The conditions of approval are as follows:**
  - 1) **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).**
  - 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.**
  - 3) **The project including the revegetation plan as provided, shall be completed by December 24, 2023. If this date cannot be met, the applicants shall come back before the board to amend the approval and set a new date of completion.**
  - 4) **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.**
  - 5) **All debris from the existing wall shall be removed, taken out of the Town of Shapleigh, and disposed of properly.**

**Decision:**

**The Conditional Use Permit for earth moving in the Shoreland District in order to replace the existing retaining wall (85’ long x 4’ high) & stairs, on Map 17, Lot 18 (38 Old Loop Road), per the documents provided and as presented, with five conditions, was approved.**

• **New Business:**

**Conditional Use Permit – Renew Permit to Use Barge Landing – Map 22, Lot 1 (84 Wardens Way) – Mainly Barge LLC, Applicant; Sean Dumont, Property Owner**

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

Provided along with the application was a Letter of Authorization, which stated that Sean Dumont granted permission to Mainly Barge LLC to act as his agent in all aspects in order to obtain a Building Permit from the Town of Shapleigh for Map 22, Lot 1, dated 5/16/23.

The application detailed description is as follows: *Renew permit to use barge landing work ramp to water.*

The existing conditions of approval to place a temporary ramp for a period of 2 years, and revegetate the area upon expiration of the permit, which is August 10, 2023 on property known as Map 22, Lot 1 (84 Wardens Way) are as follows:

- 1) Hours of operation 7:30 am to 5:00 pm, Monday through Friday. Saturday hours 7:30 am to noon, excluding July 1<sup>st</sup> through August 31<sup>st</sup>, where there shall be no hours of operation on Saturday.
- 2) Work shall not be permitted when there is visible ice on the lake.
- 3) The need for ongoing maintenance of the private right-of-way by Mr. Colton, shall be at the discretion of the Code Enforcement Officer.
- 4) Best Management Practices shall be kept in place until the project is completed, which includes revegetation and complete stabilization of the area. There must be a person certified by the MDEP in erosion control practices on site during the project, and the person's MDEP certification number shall be given to the CEO during the permitting process.
- 5) Start date of the permit shall be upon approval. The permit date of expiration shall be August 10, 2023.
- 6) The revegetation of the area per the plan provided, shall be by August 10, 2023.

Steve F. opened the review by stating this was an application for Mainly Barge to be able to continue to use the boat ramp on 84 Wardens Way. Madge B. asked if the board was going to be seeing people concerned about the traffic again? Mr. Colton stated that he did not believe so. He said the boat was up on shore now, because they have not used it yet this year. He said they have only been on site to check on material and may have driven down the road a total of 5 times. He stated that Bob Torno paved last year, and they gave him material for the road. He said he didn't think there would be a road issue. He said there have been no noise complaints. He added that when Bob Torno paved, he asked them to stop deliveries for a month, which they did. He said they understood why Mr. Torno requested it.

Steve F. asked CEO Demers if he had any complaints? CEO Demers stated that he did not. Madge B. asked if they needed a public hearing. Barbara F. stated they needed a notice to abutters. Steve asked members if they wanted to do a site visit. Madge said that some of the board remembered the location well. Madge said she can go again if anyone wanted to go. Mr. Colton stated the area has not changed, there is just a big boat in the field now. Mr. Colton stated that it is wide open if anyone wants to go see it.

Steve F. asked if the board wanted to hold a public hearing? Madge B. stated that because there were no complaints about traffic, she did not see a reason to hold one.

Roland L. asked how long the renewal was for? The answer was 2 years. Roland asked if that was placed on the applicant by the board? Barbara F. stated that it was, so when they are finished the place will be reclaimed. Roland asked if the applicant wanted longer than 2 years, if he could have it? Steve F. did not see why not? Mr. Colton stated that he believed they could only have the 2 years because of the State permit. He said it keeps it easier for him to have the dates the same for renewal. He said that eventually he will not need to have the boat on Mousam, there are not that many more big jobs.

Steve F. stated a notice to abutters will be mailed. Members can do a site inspection on their own if they wish to go.

Barbara F. wanted members and the applicant to know that the next meeting will be on Wednesday, due to voting for the school budget on Tuesday. She said it would be Wednesday, June 14<sup>th</sup>.

Nothing more was discussed.

**Conditional Use Permit – Replace Existing Structure(s) with Precast Blocks – map 44, Lot 16 (140 Silver Lake Road) – Matt Colton, Applicant; Robert Guy, Property Owner**

Mr. Colton was present for review of the application.

Provided along with the application was a Letter of Authorization, stating Robert Guy grants permission to Mainely Barge LLC to act as his agent in all aspects in order to obtain a Building permit from the Town of Shapleigh for property located at 140 Silver Lake Road, dated 5/16/23.

Provided were several existing conditions pictures, depicting the patio areas, which appeared to be constructed of timbers and patio blocks.

Provided was a sketch depicting two 14’ x 14’ patios, along with the high water mark, location of where the silt fence will be installed, retaining walls for elevated patio’s, along with the notations ‘No Vegetation Removed for Project’, ‘Project Start Date 6/7/23’, and ‘Project Completion Date 7/4/23’.

The application detailed description of the project, is as follows: *Replace existing structures with Genest precast block and pavers.*

Mr. Colton gave the board members a copy of the sketch plan for the project. Mr. Colton stated they would replace the 14’ x 14’ walls, and replace the pavers. He said they would be using precast blocks to replace the railroad ties, and permeable pavers to replace what is there now. Steve F. asked if the patios were permitted? Mr. Colton did not know, but knew they were in place for a long time. The board asked the Code Officer, and he said he could look into it.

Roland asked if Steve was concerned about the pavers or the walls. Steve said he could believe the walls have been there a lot longer than potentially the pavers. Mr. Colton stated if the pavers come out, he believed there would be a lot more erosion, then if they replaced them. Ann H. agreed.

**Steve F. stated a site visit would be at 6:15 pm on Wednesday, June 14th. A notice to abutters will be mailed as well.**

Nothing more was discussed.

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**Growth Permits**

**Map 25, Lot 5 (155 14<sup>th</sup> Street) – New Home – D. McBrearty**

**GP #12-2023**

This is an existing lot of record.

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**The meeting adjourned at 8:35 pm.**

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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)