

Shapleigh Planning Board

Minutes

Wednesday, June 14, 2023

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

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.

The Planning Board meeting started at 7:00 pm.

The minutes from Tuesday, May 23, 2023 were accepted as written.

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

• **Unfinished 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, along with his business partner, Cole Arey.

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 1st through August 31st, 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 asking Mr. Colton to give the board a brief description of what he wanted to do. Mr. Colton stated they want to renew their permit, and noted that the location has been working out well. He said they hadn't been there yet this year, but they do have some fall work lined up. He stated that they have applied to the State, and there had been no word, so he assumed they had no issue with renewing the permit.

Steve F. stated that for the record he was going to read an email received by the board regarding this permit. The email read as follows:

To the Shapleigh Planning Board,

I am disappointed that you are considering extending the Mainely Barge use permit. If you do vote to extend the permit, I am asking that you add to the existing conditions that the Barge must be removed from the lake before the lake freezes over. I would also ask that the extension be a one-time extension only, and that the final end date be the last day of October 2024.

Regards, Donald S. Rawnsley
Lot 39 & 40

Steve F. asked if everyone had a copy of the previous findings of facts? Madge B. stated that Barbara sent a copy to members. Steve read the original conditions of approval (see above).

Roland L. asked what dictated the duration of the last permit, August of 2023? Steve F. stated it was provided by the applicant. Mr. Colton stated that they applied for a two year permit, based on the allowed time frame allowed by the State.

Steve F. asked what they were asking for at this time? Mr. Colton stated they wanted another two years.

Steve F. asked board members if they wanted any changes to the existing conditions? There were no replies. Steve asked the Code Officer if there had been any complaints about the road? CEO Demers stated he had no complaints and added that the road has never looked better.

Pam Snowe asked if she could comment, and stated she lived on the private road being used. Steve F. stated she could comment. Ms. Snowe stated that she wanted to begin by stating that the company (Mainely Barge) had been very respectful using the road, driving really slowly, and there have been no incidences with trucks roaring by. She said in spite of this, she wanted to know when the allowed use would end, again saying the company was respectful. She stated that she partially owns the road, and other residents partially own the road, and everyone contributes to the maintenance of the road. She said the money to maintain the road comes out of their pockets, Bob Torno, the Jagger's, etc. She said that Bob Torno stated that Mainely Barge did not add any money to the maintenance of the road. Mr. Colton and Mr. Arey stated that the stone for the sides of the road came from them. Ms. Snowe stated that Mr. Torno did all the maintenance, and the others living on the road give him money to take care of the road. She said that Mr. Torno told her that Mainely Barge hadn't given him a red cent. Mr. Arey stated they had

not given him money but they gave him some stone. Mr. Colton stated that Mr. Torno had spoken with them and seemed perfectly fine with them being there. He felt if Mr. Torno had an issue he would be at the meeting.

Steve F. stated that the permit would be for another two years, which would extend the permit to August of 2025. Ms. Snowe asked if that would be when the permit ends? She wanted to know if this was going to be forever? Steve stated that the applicant would need to come back to the board in two years for another renewal. Ms. Snowe said again that it was a privately owned road, and the board at the last review told them it would be a land use dispute between the existing property owners and the people leasing the land, which leaves the property owners in a bind, because that would be expensive.

Ms. Snowe asked what if Mr. Dumont decides he wants to put in a public boat ramp, or an ice cream shop? Steve F. stated that it would be a conditional use through the Town. He didn't think the ice cream shop would be allowed in the shoreland zone, but the boat ramp would be a different story, that would be handled by the State. He did not believe the board had jurisdiction to permit that. Ms. Snowe asked if a boat ramp would be out of the boards hands? Steve said that they may have to come before the board, but the board would not be the only agency involved.

Ms. Snowe asked who paid for the cleanup of the big oil spill, caused by the barge? Steve F. stated that had nothing to do with the board, he did not know. She asked if the DEP paid for it? Mr. Colton stated that they got a fine. Ms. Snowe stated that the barge needs to be taken out of the water in the winter, that was probably the problem. Mr. Colton stated it was out of the water now, and has been on shore since last December. Ms. Snowe stated this was nothing personal but it is a privately owned road, and if they lived on a privately owned road, that they took care of, and a person at the end of the road said, 'hey, I'm going to let people go up and down the road, a road that I do not own, and I am going to let them have a business on it', I think you would have a small objection to that. She said if they owned the road and they had to take care of it, and she again said this was nothing personal against them, but she still felt this was unfair to the property owners, because this is a private road. Steve thanked her for coming before the board.

Steve F. stated that he felt comfortable, and he believed the applicant would to, with the board putting a condition on requiring the barge to be taken out by the time the ice comes in in the fall. Mr. Colton stated that he was fine with that.

Steve F. stated that the board has the hours of operation, and the road has been discussed. He stated that other than the boat coming out of the water, he did not believe there was any other changes. He thought the board could ask that the boat come out of the water by December 1st every year, fully out of the water. Mr. Colton asked if they could say 'by visible ice', like the board did before? Mr. Arey stated that they worked until January before, when there is no ice. CEO Demers stated that those days can be valuable when the water is low. Roland L. said that they should strike the word fall, because now even after the calendar says winter, we don't always have ice. He said you can go into January before you have ice. Mr. Colton stated that last year, if there was a skim of ice, they did not go out. Mr. Arey stated that if it thawed, they could work the next week. Roland stated that given the nature of their work, the more time they are able to access low water, it is in the lakes long term best interest.

Steve F. stated that the board can leave condition #2 as is ‘Work shall not be permitted when there is visible ice on the lake’, and add a #7. He said #7 could read that the barge will be completely out of the water by December 31st. Mr. Colton stated, “What if there is no ice then”. He said they will not work when there is ice. Steve said his point was he did not want them taking the boat out of the water every time there is a little bit of ice. Mr. Colton added that it also goes around when the boat hauler can get it out of the water. He said that he scheduled it last year when they finished up all the work, they parked the barge, and then it took a week before the barge could be taken out. He added that it takes more than one truck to pull it out of the water. Steve asked how they get the barge back into the water? Mr. Colton said they use the excavator to push it, the barge is on telephone poles.

Steve F. asked if the condition could be when the ice is permanently in? Ann H. asked how they decide when it’s time to take the boat out? Mr. Arey stated that when it is permanently freezing, they know it’s time to take the boat out. Mr. Colton agreed, that it was when they know the ice is there for good. Steve asked if the board could say, that after a week of permanent ice, they could have the barge out within 7 days of that? CEO Demers said, “As soon as practically possible”. Steve said, “You will have the boat out as soon as practically possible, when there is permanent ice-in”. Mr. Arey stated, “Correct”.

Steve F. said if there were no other changes to the conditions of approval, he will entertain a motion.

Maggie M. moved for approval of the conditional use permit to renew the use of the barge landing located at 84 Wardens Way (Map 22, Lot 1), with the seven conditions. Madge B. seconded the motion. All members were in favor. By a vote of 5 – 0, the vote to approve was unanimous.

Nothing more was discussed.

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**The Findings of Facts**

1. The owner(s) of Shapleigh Tax Map 22, Lot 1 (84 Wardens Way) are Sean F. Dumont of 11 Edmund Street, Springvale, ME 04083, and Willian P. Dumont, of 8 North Street #4, Sanford, ME 04073, Quitclaim Deed recorded at YCRD BK 17795, PG 27, dated 9/6/2018.
2. Originally provided was a revegetation plan, which depicted the vegetation that will remain in place, 3 small Oak trees to be removed in order to create the ramp, and it was noted that they will be replaced after the work is completed; the location of the existing roadway and location of the new ramp. In addition, depicted was the area where vegetation will be removed for the ramp and will be replaced when the ramp is no longer used.
3. Originally provided was a copy of part of Town Tax Map 22, depicting Lot 1. On the map was the general location of the proposed boat ramp, with the notation ‘Proposed Ramp 10’ Wide’.
4. The original detailed description of the project is as follows: *Excavating a temporary ramp 10 feet wide to load and unload barge. Silt fence and erosion control in place.*
5. The current detailed description of the project is as follows: *Renew permit to use barge landing work ramp to access water.*

- 6. The original application as presented met the performance standards under §105-39 ‘Earth removal and filling for activities other than mineral exploration and extraction’ as presented with conditions.
- 7. The application as presented met the performance standards under §105-73 ‘Conditional Use Permits’ as presented with conditions.
- 8. A notice was mailed to all abutters within 500 feet of the property on May 24, 2023. Meetings were held on Tuesday, May 23, 2023 and Wednesday, June 14, 2023.
- 9. The Planning Board unanimously agreed to approve the amendment to the Conditional Use Permit to allow the applicant to continue to use the boat ramp on Map 22, Lot 1 (84 Wardens Way), per the information provided, with seven conditions.
- 10. The conditions of approval 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) The permit date of expiration shall be August 10, 2025.
  - 6) The revegetation of the area per the plan provided, shall be by August 10, 2025.
  - 7) The barge shall be removed from the lake, as soon as practically possible, when there is permanent ice-in.

Decision:

The amendment to the Conditional Use Permit for Mainely Barge to be able to continue to use the existing boat ramp for another 2 years, and revegetate the area upon expiration of the permit, which is August 10, 2025, on property known as Map 22, Lot 1 (84 Wardens Way) with seven conditions, was approved.

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**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.*

*Board members did a site inspection prior to this evening's meeting.*

Steve F. asked Mr. Colton to speak about Silver Lake Road. Mr. Colton stated that they are going to replace existing patios and railroad tie retaining walls with Genest precast 80 pound blocks, and Windham Ridge permeable pavers, the patios are 14' by 14'. He said that they want to start the project as soon as possible, and that they plan to finish by July 15<sup>th</sup>.

Ann H. asked Mr. Colton if he thought he would be removing 10 yards of gravel? Mr. Colton stated that he believed he would, he would be adding good material under the patio, removing material to replace it with good crushed gravel.

Steve F. stated the board did a site walk this evening and they did not see any particular issues. Madge B. stated that the members were curious when the patios went in. Ann H. agreed, and they were talking about the pavers. Ann asked if the owners pulled a permit to put the patios in? Mr. Colton stated that they looked in the Code Officers file, and there was nothing there. CEO Demers stated that judging on the style of pavers, they look like they are from the mid 80's, so it looks like they could pre-date the zoning ordinance. He said there is no evidence they were put in later than the 80's. Madge said, "No permit was ever issued for them". CEO Demers said, "No, a lot of that stuff is existing decks from the mid 80's or earlier. There is no permits for that stuff." Steve did not think there was any way for the board to know either, the only concern was permitting a patio that was never permitted to begin with.

Ann H. stated that the area is all sand, and she said the board was wondering how to keep the sand from going into the lake. Mr. Colton thought the patio would help, the rain will run through the patio, instead of running down toward the beach. He said the pavers are permeable, they are designed for water to go through them. He said a hard rain would run all the sand into the lake. Roland L. stated that there is a larger problem than the areas that Mr. Colton is trying to retain. Mr. Colton agreed, and said they should go all the way across, but they are not allowed to do that. Ann said if they went all the way across, they could not get their boat in the water. Mr. Colton agreed. Mr. Colton said they have to look at what is better for the lake, and he believed in this situation to go all the way across and level the area would be ideal, so there would not be 100 feet of pure sand. Roland L. noted that had he come to the DEP workshop he may have gotten some information to be able to propose that.

Steve F. read the standards under 105-73.G, Standards application to conditional uses. They are as follows:

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

Steve F. stated that the conditions of the permit are as follows:

- 1) **The project shall start as soon as possible, and the project is to be completed by July 15, 2023.**
- 2) **A licensed surveyor shall confirm in writing that the placement of the new structures are correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The walls and patios are to remain in the exact same location as they exist at this time.**
- 3) **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.**
- 4) **All debris from the existing walls and patios shall be removed, taken out of the Town of Shapleigh, and disposed of properly.**
- 5) **Best Management Practices shall be used at all times until the project is completed. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).**

Steve F. asked if there were any other conditions. There were none noted.

Madge B. stated that the record needs to be clear that as far as the board knows, these two patios pre-existed the zoning ordinance, based on the opinion of the Code Officer, and therefore the board is allowing the placement of the new patios. It is the opinion that they are grandfathered.

Madge B. stated that the board has jurisdiction over the replacement patios, due to the fact movement of greater than 10 cubic yards of material will be moved, §105-39.D.

Madge B. stated that no plantings were mentioned, because there is no vegetation on site at this time. She said in light of this, she did not want to argue that vegetation needs to be replaced, because no vegetation is being removed. Steve F. agreed.

Steve F. stated that he would entertain a motion.

**Maggie M. made the motion to approve the replacement of the walls and patios at 140 Silver Lake Road (Map 44, Lot 16), per the plans provided and with the five conditions. Ann H. 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 44, Lot 16 (140 Silver Lake Road) are Robert D. and Marianne Guy, mailing address of 33 Silver Lake Road, Shapleigh Maine 04076, per Warranty Deed, BK 18588, PG 807, recorded 3/15/2021 at the YCRD.
2. The property is located in the Shoreland District, and according to the Assessor’s office, it contains .13 Acres.
3. Provided were several existing conditions pictures, depicting the patio areas, which appeared to be constructed of timbers and patio blocks.
4. 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 patios, along with the notations ‘No Vegetation Removed for Project’, ‘Project Start Date 6/7/23’, and ‘Project Completion Date 7/4/23’.
5. The application detailed description of the project, is as follows: *Replace existing structures with Genest precast block and pavers.*
6. A notice was mailed to all abutters within 500 feet of the property on May 24, 2023. Meetings were held on Tuesday, May 23, 2023 and Wednesday, June 14, 2023. A site inspection was done by members prior to the meeting on June 14th.
7. The Planning Board did not note any standards that could not be met under §105-73 ‘Conditional Use Permits’ per the documentation provided and as presented, after requiring five conditions.
8. The Planning board has jurisdiction over the replacement patios, due to the fact that greater than 10 cubic yards of material will be moved, §105-39.D. The board concluded the two patios pre-existed the zoning ordinance, based on the opinion of the Code Officer, and therefore the board is allowing the placement of the new patios. It is the opinion of the board that they are grandfathered. Because there is no vegetation on site at this time, the board agreed no vegetation needs to be replaced.

9. The Planning Board unanimously agreed to approve the Conditional Use Permit for earth moving in the Shoreland District to replace the existing two 14’ x 14’ patio areas and surrounding timber walls on Map 44, Lot 16 (140 Silver Lake Road), per the documents provided, with five conditions.

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

- 1) **The project shall start as soon as possible, and the project is to be completed by July 15, 2023.**
- 2) **A licensed surveyor shall confirm in writing that the placement of the new structures are correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The walls and patios are to remain in the exact same location as they exist at this time.**
- 3) **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.**
- 4) **All debris from the existing walls and patios shall be removed, taken out of the Town of Shapleigh, and disposed of properly.**
- 5) **Best Management Practices shall be used at all times until the project is completed. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).**

Decision:

The Conditional Use Permit to replace the two existing 14’ x 14’ patio areas and surrounding timber walls with Genest concrete block and permeable pavers, on Map 44, Lot 16 (140 Silver Lake Road), per the documents provided, with five conditions, was approved.

New Business:

Construct Private Way – Map 3, Part of Lot 22B (185 Hooper Road) – James Howard, Applicant; Tiffany Petzold, Property Owner

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

Provided along with the application, was a sample Road & Drainage Maintenance Agreement, which stated in part that owners of the lots, which are accessed by the road, are obligated to maintain, repair, plow, sand and replace road and drainage structures; the owners shall have one vote per lot for monies to be expended and choosing the entity to be employed for maintenance; the lots owners may elect or appoint an agenda by majority vote; how reasonable charges and disputes will be remediated; the private road cannot be closed nor can maintenance be discontinued; and the fact the agreement runs with the land.

Provided was a survey plan entitled, ‘Plan Showing a Proposed Private Way Made for James Howard & Tiffany Petzold, 185 Hooper Road, Shapleigh, ME 04076 of Property Located on Hooper Road in Shapleigh, Maine’ provided by Joseph L. Stanley, MPLS #2453, dated May 3, 2023. The plan depicts four abutting property owners: Linda G. & Robert H. Thomas, YCRD Book 12060, Page 223, Shapleigh Tax Map 3, Lot 22; Adrian L. Knox, YCRD Book 16885, Page 349, Shapleigh Tax Map 3, Lot 24; Frank

P. Medico & Jennifer M. Hubbard, YCRD Book 16848, Page 950, Shapleigh Tax Map 3, Lot 23; & Ronald J. Morin, YCRD Book 18204, Page 40, Shapleigh Tax Map 3, Lot 22A. The plan also showed Proposed Lot A, consisting of 2.33 acres and Proposed Lot B, consisting of 2.48 acres, both to be accessed by the proposed ROW. The ROW is also adjacent to the lot of Ronald J. Morin, and the Remaining Land of Tiffany Petzold, Portion of YCRD Book 17191, Page 745, Portion of Shapleigh Tax Map 3, Lot 22B, consisting of 3.15 acres. The ROW is 486'± in length and 50 feet in width. The Road & Ditch Section was placed on the plan, along with a sample of a typical ditch turnout & level spreader. Under Notes, Plan Note 6 'Private Way Note', states the following: The proposed Private Way shown hereon is to remain a private road, and will be subject to a Road Maintenance Agreement. The Town of Shapleigh will not be responsible for the maintenance, repair, plowing or similar services for the private way, as shown hereon, and further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board.

Steve F. asked Mr. Howard to make a brief statement of what he would like to do. Mr. Howard stated that he wants to install a private way, in order to break off two lots at the rear of the property. The board began review of the plan provided.

Steve F. asked if the property was marked out? Mr. Howard stated that it was a field, using the plan, he showed where the field was located, then noted an area that was sparsely wooded, and then the rest is field again.

Steve stated that members have the option of doing a site visit, which they typically have done in the past. He asked members if they wanted to go to the site? Roland L. asked Mr. Howard if there were markings showing the lots? Mr. Howard stated that it has been surveyed, and there were stakes, but now there are only corner markings. Madge B. asked if the board drives along Hooper Road, would they be able to tell where the entrance is? Mr. Howard said you would have to look for the corner markers, then go over 50 feet.

Mr. Howard noted that they did not plan on conveying the lots any time soon. He said he is going to put up a garage, and they wanted to do what makes sense for the future. Roland L. asked if they get approval from the board, if they would be putting the road in right away. Mr. Howard said, "Yes, it's been in the works for a few years, and I put it off because of the whole Covid thing. I figured better off not to put any money out at that point". He thought now he was in a comfortable spot to get it completed.

Madge B. asked if they get any road drawings? She noted there was a cross section on the plan. Steve F. reviewed the entire private way section in the ordinance, §105-60.1, to be sure they had a complete plan, as follows:

The Planning Board shall approve the use of a fifty-foot wide private right-of-way to provide frontage and access to individual lots of land in accordance with the following provisions:

- A. A plan showing the private way shall be prepared by a registered land surveyor or licensed engineer. The plan shall be labeled "Plan of Private Way" and shall provide an approval block for the signatures of the Planning Board members. The plan shall delineate the proposed way and each of the lots to be

served by the private way. **Steve F. noted it was completed by a registered land surveyor, the plan is labeled correctly, there is a signature block, and the private way and lots are on the plan.**

- B. A street plan, cross section, and drainage plan shall be submitted for each private way. **Steve stated it was shown on the current plan.**
- C. The plan shall bear notes that the Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and that further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board. **Steve stated this was on the plan (Plan Note 6).**
- D. If the private way is to provide access to two (2) or more lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way. **Steve stated a maintenance agreement was submitted.**
- E. The construction of private ways shall meet the following minimum standards:

Standard	Number of Lots Served	
	1	2 or more
Minimum roadway width (feet)	12	16
Minimum subbase (heavy road gravel, maximum size 4 inches) (inches)	12	15
Wearing surface (crushed gravel) (inches)	2	2
Maximum length of dead end (feet)	1,500	1,500
Maximum grade	10%	8%
Minimum grade	0.5%	0.5%
Turnaround at dead end	Hammerhead or T	Hammerhead or T

- (1) One turnout to provide space for 2 vehicles to pass shall be provided for every 500 feet of private way.
- (2) The Hammerhead or T shall have a useable surface area that is a minimum of 24 feet deep and 24 feet wide.

Steve stated 1 turnout is sufficient, and it is on the plan, it is 50 feet in width.

- F. The plan shall be recorded in the York County Registry of Deeds within ninety (90) days of the date of the Planning Board approval. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void.
- G. When the private way permit has been secured under the provisions of this chapter by vote of the Planning Board, the applicant has one year to begin the project and two years to complete the private way, otherwise the permit becomes null and void.
- H. After a private way has been approved by the Planning Board to provide access to a lot or lots, no further lots shall be created which are to be provided access by means of the private way without the prior approval of the use of the private way for access to such lots by the Planning Board.

- I. The applicant shall pay a Private Way Application fee of \$100, payable to the Town of Shapleigh, prior to review of the Private Way Application by the Planning Board.

Roland L. asked if they name a Private Way? Barbara F. stated it would get named and thought CEO Demers would take care of that. CEO Demers agreed, stating it would get named.

Madge B. believed the plan was ok as presented. Steve F. agreed.

Madge B. did not think the board needs to see it. Steve F. stated the only issue is site distance in both directions. Roland L. said he would take a ride down. Mr. Howard stated with respect to line-of-site, he believed it was hundreds of feet in both directions. Steve stated that board members can drive by if they choose to do so. Roland asked what the speed on the road was? Mr. Howard thought it was 35 mph. Roland stated that in the ordinance it states the required site distance based on the speed limit. Ann H. noted that at 35 mph the site distance recommended is 350 feet. Mr. Howard believed they had it in both directions.

Steve F. stated a notice to abutters will be mailed, and the next review is Tuesday, June 27th.

Nothing further was discussed.

Conditional Use Permit – Replace Retaining Walls – Map 24, Lot 24 (7 Acorn Way) – Matt Colton, Applicant; Jeff Gaudette, Property Owner

Mr. Colton and his business partner Cole Arey were present for the review of the application.

Provided along with the application, was a Letter of Authorization, which stated in part, that Jeff Gaudette grants permission to Matthew Colton to act as his agent in all aspects in order to obtain a building permit from the Town of Shapleigh, for property located at 7 Acorn Way, Map 24, Lot 24, dated 6/6/2023.

Provided was a copy of the Permit by Rule Notification Form, dated 6/2/2023, with the Brief Project Description as follows: *Replace existing / failing retaining walls along shoreline and rebuild house.*

Provided was a sketch plan which depicted the lot, existing house, and highlighted in orange, ‘Walls and Steps to be Replaced’; highlighted in green, ‘Vegetation - All vegetation that is Removed will be Replaced with Native Trees, Bushes, and other Ground Cover’.

Provided were existing conditions pictures of the property, showing the house, wood retaining wall and stones at the water’s edge.

The detailed application description is as follows: *Failing camp / retaining walls / dead trees and replace with new camp, walls and vegetating. 30% increase on house and existing location on walls and camp.*

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Best Practical Location – Replace Structure – Map 24, Lot 24 (7 Acorn Way) – Matt Colton, Applicant; Jeff Gaudette, Property Owner

Mr. Colton and his business partner Cole Arey were present for the review of the application.

Provided along with the application, in addition to the above information, was a plan drafted by Joseph L. Stanley, PLS #2453, dated June 13, 2023, entitled ‘Plan Showing a Boundary Survey & Existing Conditions Made for Jeff Gaudette, 39 Sandy Pond Road, North Wakefield, NH 03872 of Property Located On Acorn Way in Shapleigh Maine’. The plan depicted the following abutters: David B. Folsom, YCRD Book 17466, Page 322, Shapleigh Tax Map 14, Lot 26; & James E. & Barbara A. Bates, YCRD Book 15471, Page 350, Shapleigh Tax Map 24, Lot 25. The plan depicts the applicants lot, registered at the YCRD Book 19248, Page 213, Shapleigh Tax Map 24, Lot 24, consisting of 24,834± sq. ft.; the location of Acorn Way (Gravel) in relation to the lot; the existing gravel driveway; the existence of 10 trees over 13 inches in diameter; a pump house; the location of the existing structure, which sets 27.8’ from the high-water-mark to the foundation and 21 feet to the high-water-mark at the closest point on the deck; and 20.1 feet from the deck to the lot line of Map 24, Lot 25. Also noted on the plan is the 100 foot setback to the HWM, the 10’ setback location to Map 24, Lot 25, and the 50’ setback to what appears to be the centerline of Acorn Way. There are typical notes on the plan which include Deed References, Plan References, Basis of Bearings, Underground Utilities, Zoning Information, along with Road Record, and a note regarding the high-water mark to Mousam Lake, and that property ownership is to the low-water mark.

Provided were existing conditions pictures of the property, showing the house, wood retaining wall and stones at the water’s edge.

The detailed description on the application is as follows: *Replace existing camp with new foundation and septic.*

Steve F. stated the board was looking at two separate items for 7 Acorn Way, replacing walls and the tear down and replacement of the existing structure.

Roland L., looking at the plan provided, asked if the large white pines noted on the plan were going to be removed? Mr. Colton stated Joe Stanley did not note every tree on site, but he did do the largest ones. Roland asked again if they were going to be taken down? Mr. Colton believed they would be coming down, because there is a large knoll between the structure and the building envelope, it was a steep slope. He said they want to take most of the knoll out and do a gravity leachfield, so many of the trees will go. He said they will replant the trees alongside the property line for privacy.

Madge B. asked if they will remove the house and try to level the area? Mr. Colton stated, yes. He said the new house would still have a walkout basement. Roland asked about what appeared to be a building envelope on the plan that was 100 feet from the water. Mr. Colton stated the building envelope was 544 sq. ft. Steve F. said it looked like they were going to put the new structure where the existing one is. Mr. Colton, introduced the owner of the property, and stated they were going to keep it in the same location.

Ann H. asked if the house was already 100 feet from the water? Steve F. said no, it was around 20 feet from the water. Madge B. said the only legal building envelope is on the plan. Mr. Colton agreed, but said it was only 544 sq. ft. and it is at the top of the hill.

Steve F. said they can look at the grades when they go on site. Roland L. encouraged members to do a site visit. Ann H. said they may have to push the structure back away from the water.

Steve F. scheduled the site visit for the wall and the house for 6:00 pm, on Tuesday, June 27th. A notice to abutters will be mailed as well.

Madge B. noted the board also needs to look at the trees coming out. Roland L. said they wanted to take the trees out, but the board should go to the site. Mr. Colton said they were going to take the trees out.

Roland L. asked Mr. Gaudette if he had owned the property long? Mr. Gaudette stated that he just bought it. Mr. Colton stated they closed on it last week. Roland said he thought there was tree cutting already. Mr. Colton did not believe so, and they will see that on the site inspection. Mr. Colton stated that he told Mr. Gaudette not to touch anything until after the board goes to the site, noting they will not find any stumps.

Mr. Colton asked if they need to do a tree count? CEO Demers asked if the board wanted documentation of the points that are there today? Steve F. thought that was only true if the trees being taken are inside of the 100 feet from the water. CEO Demers said that the board can request the grid of the points that are there today, and then with approval you can see what the numbers will be after that. CEO Demers asked where the new septic would go. Mr. Colton stated that the site evaluator would be coming tomorrow and Mr. Gaudette wants to use gravity and chambers. Mr. Colton feels this is why the hill has to come out. Roland L. asked why he couldn't go toward the back side, toward Acorn Way? Mr. Colton, using the plan, showed Roland where they wanted the septic to go and stated that is why they would be removing the knoll. Roland didn't understand, noting the building envelope that can meet the 100 feet. Mr. Colton stated that he does not want to move it there, he wants to replace it at the existing location. Ann H. said the board may have to push it back. Steve F. stated the board needs to do the site visit, so they know what they are looking at. Madge B. said the board needs the existing grid, so they know what trees are there now. CEO Demers agreed.

CEO Demers said the septic system is more important than moving the location of the new structure beyond the 100 foot mark. Roland L. stated this was why they created pump up systems. CEO Demers said the viable 100 foot setback is not that big, and the existing structure cannot fit within that footprint. He said therefore, the structure is not going to get pushed back to the 100 foot mark, and so you look at the best practical location, bearing in mind the land has to be reserved for a viable septic system. He said the 100 foot setback is more important for the septic vs. the structure. Roland said he was confused. Barbara F. thought perhaps questions might be answered by the site inspection.

Mr. Colton asked if he should have the current grid of what is existing for trees and the perk test for the next meeting. The board members agreed he should. Roland L. asked who did the grid? CEO Demers said anyone with a tape measure can do a grid, you square off a 25 x 25 foot area, count the number of trees, and the points that are in the grid. Roland asked if the applicant or contractor can do that? CEO Demers said, yes, anybody can do it. Roland asked CEO Demers, as he is an agent for the Town, did he go to the site to confirm that their grid is correct? CEO Demers stated that he did not. He said that he will look at the application and believe that they can do simple math and figure it out. He said if the before and after do not match, then there will be an issue. He said, "If someone tells me they are going to build an 8 by 10 shed, then I expect they are going to build an 8 by 10 shed. I'm not going to do their math for them."

Steve F. asked if Mr. Colton would provide the grid for the board, so when they do their site inspection they will have it. Mr. Colton stated that he would. Steve asked Mr. Colton if he would meet the board on site? Mr. Colton said, yes. Steve asked that he bring it to the site visit, he did not have to mail it to members. Mr. Colton said he would also bring the septic design. Mr. Gaudette stated that he would have all four corners staked for the proposed system. CEO Demers asked Mr. Gaudette if he planned on using the property as a year round residence? Mr. Gaudette stated that yes, he planned to do so. CEO Demers stated that based on this, the 100 foot setback is where the septic should go. Mr. Gaudette stated that there is an existing septic in the driveway. CEO Demers stated that he understood, but if the septic is 75 feet from the water it cannot be a year round dwelling. CEO Demers said they will have to get at least 80 feet from the water. Mr. Gaudette said he believed that was possible, which is why he wants to use cement chambers. Steve stated that replacement system rules are different than for a new system. CEO Demers stated that year round vs seasonal is different too.

Steve F. stated the site visit will be prior to the next meeting, June 27th at 6:00 pm. A notice to abutters will be mailed as well.

Nothing more was discussed.

Other:

Board members received project ‘after’ photos for the following:

- Kern – BPL / Move Structure – 107 North Shore Road
- Eagleston – CUP / Wall – 6 Burlington Way
- Indingaro – CUP / Wall – 90 Treasure Island

Barbara F. stated that Ms. Kern stated she would be sending more photos once the vegetation is put in.

Ann H. noted that Indingaro’s did not show the replacement plantings of Junipers and several trees, looking at the revegetation plan on file. Steve F. agreed that the after photos for Indingaro were insufficient as they did not show the vegetation. He asked Barbara to send a notice to the applicant. CEO Demers asked which one they were speaking about. Steve stated the application for 90 Treasure Island.

Ann H. didn’t understand why the board had to look at retaining walls. Madge B. agreed that the board did not add anything except to push for revegetation / plantings. Steve F. said maybe the board can look at them after they are built. CEO Demers said, “I’ll take the walls and you take the trees.”

Madge B. said the planting issue bothers her. She said she keeps saying that she does not live on the lake, so why should it bother her, but she does care. She said that she cares because the quality of the water in the lakes is really important for the Town, and as a taxpayer. She added that every training that the board has gone to, or has been exposed to, says that we need plantings. She stated, “And yet we get into these arguments, and it was well recorded by Barbara the last time, I argued and you suggested. I got into an argument with Matt (Mr. Colton), he said he doesn’t want to do it, how we can’t make him do it. I keep saying we should be able to make him do it, because otherwise we are not protecting the quality of these lakes.” She said that she thought the board needed to be tougher, but unless the whole board agrees, you leave Roland and me pushing, and we don’t hear much from the rest of you.

Maggie M. thought part of the problem the last time is we were trying to get them to not plant grass. She said that apparently we cannot force them. Madge B. stated that arguably we can force them, because we are the ones who say we are protecting the quality of the water. She stated, “That is our job”.

Ann H. stated that we can tell them, but who enforces it? Ann asked what happens if they don’t do it? Madge stated, “That’s up to the town”. Maggie M. stated that she thought the whole problem, and the reason she proposed approval, I know everybody was staring at me, but we had the whole argument about the fact that you can’t force them to do it. She said if we can’t legally force them to do it, then I don’t think we should require it. CEO Demers stated that he felt it was a good education opportunity, asking if they have thought about blueberry bushes or something else. He said, “But the DEP doesn’t have any issue against grasses per se. You can’t do any fertilizer and phosphorus within 100 feet. I have a lawn in front of my camp and we don’t fertilize and there is still a lawn.” Roland L. stated that they went to a site visit today that was the poster child of runoff and what was right beside the cottage, a miracle grow hose attachment.

Steve F. stated that the biggest thing with the applications that is so difficult, is it is not square peg, square hole. He said his biggest argument for anything that we do is going to be consistency. He said that he knows every site is unique, but at the same time, if we want to have something in our ordinance that is tougher than what the DEP requires, then we need to look at the ordinance and put the teeth in it. He said that he has made it very clear he does not want to look at the retaining walls. He did not feel the board adds anything to the process. Madge B. stated, “Except the vegetation. Because we are the only ones arguing for vegetation”. Steve said, “Then I think that is where we start. If we are going to be dealing with this, maybe we start from scratch; instead of just calling these walls and patios, let them be structures.” He said if we want to change the ordinance it has to go to DEP, because he wants to have something that he can read, and the applicant before he shows up here, can read, and know this is what the Town of Shapleigh wants. Madge agreed.

Roland L. stated that the board adds conditions, the time frame of when it is going to be completed, etc. He said if the board puts in there that the applicants are required to put in plantings, whether they want to or not, isn’t that the boards prerogative, as board members. He asked if the ordinance allows the board to do that? Madge B. stated, “Yes”. CEO Demers said it is directly contrary to what the ordinance says. He said that if a legally existing opening exists it can be maintained. Roland stated that he is not talking about closing off an opening. He said most of the time what the board is talking about is a ground cover of some sort. CEO Demers said that he has a legally existing lawn in front of his camp, so he can keep it and maintain it. Roland stated, “If you were having an erosion problem, and you came before the board, I think we would, if there was a wall...” CEO Demers, “If there is a problem we should fix it. You are assuming that because there are no plantings and there is grass, then there is a problem.”

Steve F. stated that this evening the case was very clear that there was a dramatic erosion problem. CEO Demers asked if it was behind the retaining wall? Steve stated it was on the entire property. Ann H. agreed, stating the entire property was sand. Steve said he did not think that the board could hold the applicant accountable to fix that at the time of the application, with the current ordinance. He stated, “I’m saying this and putting it on record, I don’t want to look at all the retaining walls.” He said if there is something that the board can do to supplement, to make things better for the lake, or make your (CEO Demers) job easier, then I am willing to do that”. He said, “But as far as a rubber stamp for every wall we go look at, best management practices, when are you going to start, when are you going to stop; I feel like

it is laborious to the applicant and the board.” Barbara F. stated that may be, but if the applicant does not follow conditions, you have a leg to stand on if you require conditions. She said if you do not put conditions, then there are no requirements, and then they can do what they want, when they want; there are no deadlines or any protection.

Madge B. stated that the ordinance does direct the board, she said she was looking at 105-39, Section D, Earthmoving in the Shoreland District. She looked at Section (1) which speaks about sedimentation control practices. She said in the middle of the section it states: This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered *with vegetation necessary to prevent soil erosion*. She stated, “That is what we are doing”. Barbara F. noted that she had provided the board with a list of sections to review for the wall and this was one of the sections, along with Section G. Madge said that if the board needs to add language to the ordinance, this may be the section to add it to. She said perhaps we can add something more specific than just adding vegetation, this might meet Steve’s concerns. Steve said he wants to make it fluid, because we are constantly having to ask the applicants for changes. Madge said she was not arguing with him. Steve said he felt like consistency is the key, if on the first meeting the board could look at the photos, and the replant plan, and determine the application isn’t complete, the board doesn’t go do a site inspection; the application gets tabled for the next meeting. He did not feel it was necessary to act on an incomplete application. Madge stated that she agreed with him. Steve said the board is not looking at the wall for the walls, it is for the earth moving. Madge said she agreed, but she feels the board needs to deal with vegetation necessary to prevent erosion. Steve said the ordinance does allow for grasses. Madge asked where that was in the ordinance. Barbara noted that you can keep grass in the ordinance, but perhaps have it at the board’s discretion.

CEO Demers stated that he had talked about a site plan review, where you are not worried about earth moving, but maybe in troubled spots, where applicants have a property that is compromised, maybe that could be subject to Planning Board site plan review. Steve F. stated that he felt everyone wanted the same thing. Madge B. stated that we want to control erosion into the lake, because erosion causes phosphorus, phosphorus ends up in the lake. She added that there may now be a milfoil in Mousam, so the last thing we need is more phosphorous. Steve agreed, and perhaps the board needs a workshop.

Nothing more was discussed.

Growth Permits

Map 12, Lot 3-7 (Mann Road) – New Home – C. Normandeau / D. Emmons GP #13-2023

This lot meets the requirements for a buildable lot with 300 feet of road frontage and it is over 90,000 sq. ft. in size.

The meeting adjourned at 8:35 pm.

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

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

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

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