

Shapleigh Planning Board

Minutes

Tuesday, June 27, 2023

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

At the end of this evenings meeting, Roland Legere stated this would be his last meeting as a member of the Planning Board. The board members are very sorry to see Roland go. His dedication as a member for almost 20 years will be greatly missed, as well as his unwavering dedication to the protection of the lakes and ponds in Shapleigh, in part by trying to educate citizens on how to best utilize their shorefronts for their benefit and that of the water. We have no doubt Roland will continue to serve the community and the waterways he is passionate about in some fashion. Thank you Roland, it was an honor to work with you!

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 Wednesday, June 14, 2023 were accepted as written.

- **The Planning Board Chairman began the regular meeting with The Pledge of Allegiance.**
- **Unfinished 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, along with Tiffany Petzold.

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. stated that at the last meeting the board reviewed the plan. He asked if since that time, did board members come up with any issues or concerns. Roland L. said he wanted to ask Mr. Howard, if he was viewing the site appropriately, noting the vegetation was thick at this time. Mr. Howard did not think there was a lot of vegetation, except in a narrow section. Roland stated he saw one marker with tape attached to it, flagging. He said he assumed that was the start of the roadway, and the road would be heading along the wall. Mr. Howard stated, "I believe so." Roland said that was his only question, and he noted he did not trek through the area because it was wet, and he was concerned about ticks. He just wanted to be sure he saw the right starting point. Mr. Howard said again he believed Roland was in the right location.

An abutter, Mr. Morin, asked where the road was going to start? He asked if Mr. Howard stated it was starting on the property post? Steve F. stated Mr. Morin could look at a copy of the plan that the board had. Mr. Morin came up to the table. Mr. Morin asked if what he was pointing to was his property line? Steve F. stated he was. Mr. Morin asked if that was where the road was starting? Steve said, "Right". Mr. Howard stated, "Actually that is the beginning of the right-of-way. It is 50 feet wide. The road itself is going to be 16 feet wide, and it will be directed down the center of that line, that 50 foot right-of-way." Mr. Morin said if the right-of-way is 50 feet, how wide will the road be? Mr. Howard stated, 16 feet. Steve F. stated that it has to be built according to the road standards, and will have a 16 foot gravel base.

Mr. Morin asked about drainage, he said he already has an issue with water. Mr. Howard stated that they will rectify the water issue. Mr. Morin stated it would have been nice if he would have come to his home, was neighborly and present it to him, instead of him receiving a certified letter. Steve F. stated that the certified letter comes from the Planning Board. Mr. Morin stated that a neighbor should come over and say 'hey, this is what I've got going on', so I am kind of upset about it. Mr. Morin added that where the proposed turn-around is, the area is all wet. Using the plan, Mr. Morin showed areas that are wet. He said he did not know what he could do about this; he didn't know if he had to get a lawyer. He asked if he could put another house here, while pointing at the plan. Steve stated that there would be a total of three lots. Mr. Morin asked if the board was going to do nothing, and he asked if they wanted it in their backyard? Steve said he could not speak to that. Mr. Morin then left and thanked the board for their time.

Steve F. asked if anyone else wanted to speak for or against the project? No one spoke.

Steve F. stated the board had gone through the ordinance, §105-60.1, Private Ways, and unless any Planning Board members have come up with any issue since the last meeting, the plan seems to meet the standards of the ordinance.

Steve F. asked Mr. Howard if he had copies for the board to sign, or did he want to provide them at the next meeting? Mr. Howard stated that he had provided copies at the last meeting, and he thought the board had what they needed. He said if the board needed more, he was unaware. Steve said he would not have to attend the next meeting; Mr. Stanley, who drafted the plans, knows what the board needs and could provide the plans. Steve said the board needs a Mylar for assessing, and typically the Town gets four paper copies to sign as well. Steve said those could be dropped off for the board at any time, unless two weeks from now didn't meet his time frame.

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

- 1) 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.**
- 2) 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.**

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

Madge B moved for approval of the private way 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.

Maggie M. asked if he wanted paper copies for the board to sign, could they use the copies he provided to members at the last meeting. Steve F. stated he also needed a Mylar. Steve asked Mr. Howard if he wanted the board to sign the paper copies they had? Mr. Howard stated he was under the impression that every copy was stamped and the board could potentially sign them. Board members signed four copies that they received and gave them to Mr. Howard to have the Book / Page / Date from the registrar's office placed on them. He was asked to bring a Mylar to the board with the signatures and registration information as well. Barbara F. explained the process with the Registry of Deeds to the applicant, and she stated that the Mylar and three of the four paper copies come back to the Planning Board. The board members signed four paper copies and gave them to Mr. Howard.

Nothing further was discussed.

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**The Findings of Facts**

- 1. The owner(s) of Shapleigh Tax Map 3, Lot 22B is Tiffany Petzold of Andover, Massachusetts, per YCRD Book 17191, Page 745, dated recorded on 3/1/2016, current mailing address of 185 Hooper Road.

2. The property is located in the General Purpose District, and according to the Assessor's Office the land in total contains 7.96 acres.
3. Provided 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.
4. 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.
5. A notice to abutters within 500 feet of the property was mailed on Thursday, June 15, 2023. Meetings were held on Wednesday, June 14, 2023, and Tuesday, June 27, 2023.
6. After review of Zoning Ordinance §105-60.1 'Private Way's', the Planning Board unanimously agreed to approve the Construction of a Private Way to access two back lots, per the 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; as the private way depicted on the plan met all the requirements in the ordinance.
7. **There are two conditions of approval as follows:**
  - 1) **The plan shall be recorded in the York County Registry of Deeds within ninety (90) days of the date of the Planning Board approval and the requested number of copies returned to the Planning Board. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void.**

- 2) **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.**

Decision:

The Construction of the Private Way plan drafted by Joseph Stanley, PLS #2453, dated May 3, 2023 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’, was unanimously approved.

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

Mr. Colton and Mr. Gaudette were present for the review of the application.

*Board members did a site inspection prior to this evenings meeting.*

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.*

Steve F. asked if the board wanted to review the wall and new structure together or separately? Members felt it would be best to look at them separately.

Steve F. stated that the applicant is before the board because movement of more than 10 cubic yards of earth in the Shoreland District requires a Conditional Use Permit from the Planning Board (§105-39.D ‘Earthmoving in the Shoreland District’). Steve stated that submitted to the board were pre-construction photos and he noted that the board did a site visit this evening.

Steve F. asked if the new wall would be Lego blocks? Mr. Colton stated that yes, they would be precast concrete blocks. He said the walls would be big blocks, both at the water and to replace the telephone pole wall. Steve said in conjunction with this portion of the project, are there any trees being removed? Mr. Colton stated yes, there are a couple on the shoreline. He said there was a big Pine on the corner, and a

Birch that is almost in the water. Ann H. asked exactly what they were replacing? Mr. Colton stated the wall at the water, the telephone pole wall, and the steps going up toward the camp.

Roland L. asked the reasoning for removal of one of the trees, he was using a photo to show Mr. Colton the tree. He asked if it had to do with the roots being damaged? Mr. Colton stated you can see the roots now, and they would be using blocks that are 72 inches deep, because they are always in the water. He noted they have had issues with the smaller blocks shifting with the ice. He added that with using the bigger blocks, the further back they have to excavate. Steve F. stated that the excavation of the steps will mess up the roots on one of the trees. Mr. Colton agreed, and he said there will also be excavation on the side of the hill.

Steve F. stated that it was mentioned at the site walk, that the entire property would be looked at with respect to the point system for the trees to be removed. Mr. Colton stated that the surveyor, Mr. Joe Stanley, was adding all the trees that will be affected for the entire project to the plan, and they will create a grid. He said CEO Demers and Mr. Stanley were trying to come up with a plan for the future to grid the trees for a project. He said that how he interprets the grid system and how Mr. Stanley interprets it is different, for the entire property. He added that if you are only doing a section, then it is fairly easy, but if you are doing the entire property it takes some time to get it accurate.

Steve F. asked if the trees where the septic system was going counted or not, toward the point system? CEO Demers stated that a permitted septic system is exempted from replanting in that area. He said you can't plant trees in the disposal area. Steve asked if the trees removed were counted? CEO Demers said they were counting the points ahead of time, what is there today, and then the points after. He said except for the area where the disposal field is, it is taken into consideration that no trees or points will go back there. Steve asked if the trees would count toward what trees are being removed? CEO Demers said they could be, yes. He said this particular lot has quite a few points, and he will wait to see what Mr. Stanley comes back with. He said the disposal field is 85 feet away from the shorefront, so it is getting back toward the 100 foot mark, and trees past the 100 foot mark follow a different rule and point system. Mr. Colton provided the board with a copy of the septic design.

Ann H. asked if the walls had to be surveyed? Steve F. said, yes. Mr. Colton stated that both walls are being surveyed, before and after.

Roland L. asked CEO Demers for clarification; so the trees that are removed for the septic site, do those have to be replanted someplace else on the lot if the situation allows? CEO Demers said that it depends, not seeing any numbers on the plan, he could not answer. He said the trees being taken down for the system have to be considered, but his point was that the area for the disposal field cannot be planted on. Steve F. agreed. Roland agreed as well, and said he knew that. He asked if the number of trees cleared, do those have to be replanted? CEO Demers said they may not have to be. Mr. Colton asked if it was because they were in the 100 foot building envelope? CEO Demers said it was because it is a permitted use in the Shoreland zone, so if you are building a home and you clear an area for the home, those trees don't need to be replaced. He said again that it was because it was a permitted use. Roland asked if he should assume that the septic site is the same, that those trees don't have to be replaced? CEO Demers said that without seeing a tree revegetation plan he was not sure, he said 9 times out of 10 it is a judgement call. Roland said, in his opinion, this is going to be a big deal, because not only are a lot of trees coming down, but they are dropping the level of the land. He said the board saw how much of the hill has to be removed,

and then there is the sloping. He said seeing the septic system location, so no trees there, the site being brought down 5 to 8 feet, and it can't be a shear wall, so it has to go back, which means more and more trees shall be impacted by that above and beyond the physical area that will be occupied by the septic system. He therefore wanted to know if those trees have to be replanted someplace else? CEO Demers said that he believed the applicant would be presenting the tree point system / grid, before and proposed, and the board can put whatever stipulations they want on it, based on the ordinance. He said it gets put on the board with earthmoving and trees, and use the ordinance to guide you as to what will be appropriate. Roland asked if the board would have the points / grid and the revegetation plan, prior to the board voting on application? CEO Demers stated, "Yes, I would imagine so. The plan should show what is there today, and what is proposed." He said there should be some sort of revegetation plan. Steve F. noted that it will be for the next application for the best practical location of the structure. He said at this point, the board does not have a complete application.

Steve F. said the board can move forward with the wall. Madge B. said she had a question regarding the wall. She said the photograph shows vegetation behind the front wall, so she wants a plan showing how that will be revegetated. She said there is some vegetation around the second wall too. She said from having visited the site, the bushes on the right in the photo have been removed. She did not know why, and she said again she wants a vegetation plan for both walls. Steve agreed.

Mr. Colton thought he provided a plan for the board already. (The board received a sketch of the lot, which had an orange line at the water's edge and a line toward the house which represented 'Walls and steps to be replaced'. Also on the sketch were lots of green dots over the entire lot, and a notation which said 'All vegetation that is removed will be replaced with native trees, bushes, and other ground cover.' There were no other specific details of what or where that might be.)

Madge B. stated that Barbara F. had gotten her to read the ordinance and when it came to vegetation and revegetation plans, the ordinance (§105-51.3) states 'The property owner must submit a revegetation plan, prepared with and signed by a qualified professional, that describes revegetation activities and maintenance. The plan must include a scaled site plan, depicting where vegetation was, or is, to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted'. She stated that when we argue about what the plan calls for, it calls for this. She said she agreed that for quite awhile the board has not been requiring a professional plan, but we used to. She said that the board has not recently, so she understands the argument that if we haven't consistently done it, then why do it, but on the other hand she believed if the board has been consistently wrong, it's time to be consistently right. She said that if the board gets more serious about doing it as they should, then this needs to be considered, but she noted it was up to the board. Mr. Colton stated that the board seems to add something more and more at each meeting. Madge agreed. Steve F. added that the board was just getting better. Madge said the board used to require the plan. Mr. Colton stated that they now need a survey, all because the board is deciding to read the ordinance. Madge said that the lake water quality pays taxes, she does not live on the lake water and if the property taxes on the water go down, then her taxes go up, so she cares. She said the Town knows there is now milfoil in Mousam, and phosphorus can have a terrible consequence adding it to the lake. Mr. Colton stated that was a whole other issue. Madge stated that the board is trying to prevent algae in the water, which will lower the water quality. She said if the water quality goes down, then the value of water front property goes down. She said she is trying to protect water quality. Mr. Colton stated that putting vegetation at the water's edge, people are

watering it and fertilizing it. Ann H. stated that you cannot fertilize near the water. Madge said that is why she keeps speaking about Junipers and Blueberry bushes, because they do not need fertilizer.

Steve F. said the board needs to move forward, so let's look at what we have and what we don't have, and see if the board needs more information. Madge B. agreed. Ann H. asked if there was anything in the ordinance that says, and she noted she was not talking about if there was an existing functioning septic system on site, but if there is not one existing or functioning on site, then all the board does is a best practical location without considering septic location? Madge B. pointed to relocation under §105-4.D(7) 'Relocation', which she read in part under (a) 'A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conform to all setback requirements to the greatest practical extent....and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirement of state law and the State of Maine Subsurface Wastewater Disposal rules...'. Madge said that the board has not decided whether or not they will relocate the structure. Ann stated that when she read it it says 'present' sewage system. Madge said you have to read on. Ann read, '..or that a new system can be installed in compliance with law and said rules.' She said there is not a functioning system currently. Mr. Gaudette stated that there was one on site. Ann said that it was not functioning. Mr. Gaudette stated that was only because there is no running water. Ann said a new system can be installed. Madge B. believed the board has to deal with the location of the new system, and the setback requirements to that system. She said placement does factor in as to whether the board can move the structure or not. Ann said that the septic can be put in a different location and still be compliant. Madge did not know that. Ann asked if the septic system could be put in a different location and still be compliant? CEO Demers said that a site evaluator has drawn up a proposed replacement system with the local variance, that is 85 feet from the high water mark, and if it could have reached 100, he should have place it at the 100. He said it is back as far as it can go. Ann asked what they look at when they place the new system. CEO Demers said they look at a wide variety of factors. Steve said they look at the well location. CEO Demers said they look at soils, the neighbor's wells, other septic systems, the high water mark, and other features on the property. He said the board can't move it. Ann said that was not what she was thinking about. She said when the board is looking at a best practical location and the State wants us to get them away from the water, are there different ways to do septic tanks to be compliant. CEO Demers says the board is going to use the septic plan, and take the current location of the structure and move it if they can. Ann said that if anything came back to the board, the board can say the septic designer said this is the only location the septic design can be, in order for the design to be compliant on this piece of property. CEO Demers said the designer will come up with the best plan, based on multiple factors. Ann said she was thinking the board did not consider septic location when coming up with the best practical location. Madge said the board has to deal with the distance to the tank. Maggie M. said there was a comment made at another meeting, that the board does not worry about anything other than the best practical location, and that everything else gets worried about after. CEO Demers said it is quite clear that the septic system has to be taken into account, the slope of the land, neighboring properties, there are all kinds of considerations; not just take this square and move it back as far as you can.

Steve F. went on to read §105-4.D(7)(b), it read as follows: *In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation. When it*



*is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with §105-51.3. In addition, the area from which the relocated structure was removed must be replanted with vegetation.*

Steve F. stated that all of these things will be considered when looking at the best practical location that the board will be reviewing next. He asked with respect to the current application, which is the retaining wall, what do we need? Ann H. stated that the board needed a revegetation plan. Madge B. agreed. Steve asked if there was anything else for the walls? Madge did not believe so. Steve asked if the board had an issue with the revegetation being for the project in its entirety? Madge said she did not, Ann said the same. Mr. Gaudette said he could do it all on the plan that Mr. Stanley was going to provide.

Ann H. said that based on this lot, where the board was standing on site, if the house got moved to where we were standing, that would hurt the septic system. Mr. Gaudette stated it would push the septic system closer to the Hubbards Cove side and closer to the well on the adjacent property. Steve F. noted he has been through the septic system process and sometimes it takes 15 minutes to find the location and sometimes it is a two hour project, especially on tighter lots and with the well location. Ann asked if there were certain wells where you can put a sleeve, so the septic can get closer to the well. Steve said, ‘Your own well’. Mr. Gaudette stated that was when you drill a well, you use casing. Roland L. stated that he thought with a year round home it had to be a drilled well. Mr. Gaudette stated that they are drilling a well. Roland said there was no mention of where the well would be going on the site. Mr. Gaudette, using the septic design, showed Roland where the well would be located. He said it was approximately 90 feet away from the proposed leachfield, and some extra casing will be put in to get the 100. He said it was the only location to do it.

Steve F. asked if the applicant was clear with what they need for a revegetation plan in accordance with §105-51.3? Mr. Colton stated he was not. Steve stated he would read the ordinance to the applicant. Madge B. noted they were relocating the septic system and house, but not the wall, so you have to look in several locations in the ordinance to find which section or sections of the ordinance apply. Madge, looking under §105-4.D(7) ‘Relocation’ Section (b), she read, ‘When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with §105-51.3’. Steve said 105-4.D(7) kicks the revegetation to §105-51.3. Mr. Colton stated that he just puts on a revegetation plan to replace vegetation with similar stuff. He said as far as the walls go, the property is going to be different. He said Mr. Gaudette wants to plant a row of trees for privacy, and he believed with the trees you can go closer to the water, but not farther away from the location of the existing tree, which he said was fine. He believed the vegetation for the retaining wall would be simple as well. He said he would put whatever ground cover Mr. Gaudette wants down by the walls, and some bushes. Madge stated that what the board used to do was send the applicant to York County Soil and Water Conservation. Mr. Colton stated that he never did that before. Madge said, “We have sent people there, we just haven’t done it for awhile”. She said that they will, at almost no cost, tell you with the soil in that area, what will work in that location. Mr. Colton asked when the last time they asked someone to do that? Madge said she was not sure, she will have to go back through the records, noting it is at least a couple of years. She said this was done in order to meet §105-51.3. Barbara F. thought perhaps it was during the Zoom meetings and Covid, things were not always done the same way. Madge said again that the board sent people to York

County Soil and Water, because they knew what would actually grow in these locations. Mr. Colton stated that they could use native stuff similar to what is around the lake.

Steve F. read from 105-51.3 ‘Revegetation requirements’, Section B as follows: *Revegetation must occur along the same segment of shoreline and in the same area where vegetation was removed and at a density comparable to the preexisting vegetation, except where a shoreline stabilization activity does not allow revegetation to occur in the same area and at a density compared to the preexisting vegetation, in which case revegetation must occur along the same segment of shoreline and as close as possible to the area where vegetation was removed.* Mr. Colton asked if the board could just make this a condition of approval? Steve stated that it was not up to him, it was up to the board. Madge B. stated that the board needs a plan, so that the Code Officer can enforce the plan. She said the board has consistently said this, and in addition now we want photographs, and we can look at the photographs and know that the revegetation is what the board approved. Mr. Colton stated that he could just put that he would revegetate with native vegetation. Madge said that they are not going to work on the bottom wall until the lake goes down. Mr. Colton stated, “Correct”. Madge stated, “So you have time to get a revegetation plan”. Mr. Colton asked what more they wanted? Madge stated that she would like Mr. Colton to go to York County Soil and Water and ask them what they should replant with.

Steve F. stated to Mr. Colton, “This is a big project Matt, and I think that is why it is not just a standard in and out and dropping a tree and rebuilding the wall from the barge. There is going to be a large disturbance here”. Madge B. added that York County Soil and Water will devise a plan for the whole lot. She said they have the expertise. Steve said that once Mr. Colton does this once, it will be easier to do it again in the future.

Steve F. stated this was not up to him but it was up to the entire board. He asked if the board wanted to table the application in order to get a revegetation plan for the entire site? Madge B. said she would like to table this, because this is a serious disturbance on a lot that is on the water. CEO Demers asked if they were tabling for the wall or the best practical location? Steve said right now, the wall. CEO Demers thought the best practical should continue because the replanting schedule could change. The board agreed, but at present they were speaking about the wall.

**Madge B. moved to table the wall application until the board has a revegetation plan that is prepared by someone that has expertise in what is best for that location. Maggie M. seconded the motion. All members voted to table, by a vote of 5 – 0, the vote to table was unanimous.**

Nothing more was discussed.

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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 Mr. Gaudette were present for the review of the application.

Provided along with the application, in additional 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. said the next item to review is the best practical location for the structure on 7 Acorn Way. He stated the board did a site walk this evening to review the application, and he noted preconstruction photos have been submitted.

Madge B. asked if there was any other location that the building could be placed that would be more conforming? Mr. Gaudette stated the whole plan was based on the septic system location, and he was pleased he was able to get a septic system location that conformed. Madge understood and said she just wanted to be sure there is no other location for the structure. Steve F. stated that there would be some heavy lifting at this property due to the septic system, and he agreed with the applicant, that this was the only location for the new structure. He said it might be possible to move the structure a few feet back, and what would be gained? Madge said she agreed, but noted Steve had criticized the board in another instance for a project on Square Pond, on a property almost as bad as this one, where the board did not move the structure, and he had asked why the board didn't move it back further. Steve said he voted against the approval. Madge said again, there was a septic system that was moved back, so it conformed, and then the board only moved the camp back a small distance, but Steve felt there was a place on the property that was more conforming, where the camp should have been moved to in his opinion. She said because of this, she is asking if there is a place the board can move the camp to that is more conforming. She added that they are going to totally disturb the property, so is there a place? Steve said at this point, the applicant has asked not to move it back, because of the septic system location. Madge said that that is the answer, there is no place, but again she wanted to be sure. Steve said the board can ask the applicant to plot the septic system on the plan, which is now designed, and show 20 feet from the bed and 8 feet from the tank, showing any possible areas that the new structure could be located. Mr. Gaudette said it is on the design. Mr. Gaudette showed the septic design to Madge and Steve. Steve said what Madge is asking, is can the house be moved back and still meet the septic rules? Mr. Gaudette stated it could not be moved back, and he said by moving the structure back, it would be closer to Hubbards Cove. Looking at the plan, Steve and Madge looked to see if there was an alternative location. Due to the slope, location of

the septic, and Hubbards Cove, it did appear leaving it where it is now, would be the best location. Steve noted the majority of this project is going to be the septic system. Roland L. noted that it would be helpful to have the elevation on the plan, because what is on site is pretty radical, and for someone who hasn't been there, they could see on the plan what was going on with the site. Mr. Gaudette thought the only thing going on that is radical is the septic system. Roland agreed, but the implications of the septic system and the amount of disturbance that is going to take place, is the only reason he is not hung up on moving the structure, because it would be even more disruptive to the area than leaving it where it is.

Steve F. asked if the board wanted to proceed with what they have? He said he believed the board has discussed the best practical location enough to agree with leaving the structure in its current location. He said what the board needs is the points / grid / trees. Mr. Gaudette asked if that could be a condition and then they give it to CEO Demers or does the board want them back for another meeting? Steve said the result for them would be the same, whether they come back in two weeks and take it all up again in one meeting, or just part of it. He thought it would be best to do it all at once, to be able to look at the project in its entirety. Madge B. thought the board would get a more complete decision if the wall and BPL were done at the same time. Steve asked if there was any further discussion. There was none.

Madge B. moved to table the application for the best practical location at 7 Acorn Way until the next meeting to wait for the tree count. Mr. Colton asked if they could vote on the best practical location and just wait on the wall? Steve F. said, "No". Mr. Colton asked why? Steve said they want to look at the trees, and replant plan. Madge said the board agrees the structure is in the best location. Steve said at this point they can do the tree point system based on the structure being rebuilt where it is.

**Madge B. made the motion to table the application. Steve asked who would second the motion? Maggie M. seconded the motion. The vote to table the best practical location waiting for the trees / points on site and a revegetation plan, by a vote of 5 – 0, was unanimous.**

Steve asked if they would be ready in two weeks? Mr. Colton believed they would be. Steve told Mr. Colton the next meeting would be July 11<sup>th</sup> at 7:00 pm.

Nothing more was discussed.

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**New Business:**

**Conditional Use Permit – 8' x 16' Storage Shed within 25 of the ROW in the Shoreland District – Map 33, Lot 20 (84 Treasure Island Road) – Haskell Kingston, Applicant & Property Owner**

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

Provided along with the application, was a copy of the Subsurface Wastewater Disposal System Application, drafted by John E. Large, SE #7, dated 10/18/1996, for a 2 bedroom single family dwelling.

Provided was a plan entitled, 'Site Plan Land of Haskell C. & Cynthia A. Kingston, 84 Treasure Island Road, Square Pond, Shapleigh, York County, Maine', drafted by Christen B. Wilber, PLS #2351, dated 4/30/2023. The plan depicted the existing 1 story camp, lot dimensions, location of Square Pond and Treasure Island Road, and distance calculations for the proposed 8 x 16 shed. The shed was shown as

being 25 feet from the side lot line and front lot line adjacent to Treasure Island Road, and 100+ feet from the high water mark.

The detailed application description of the project is as follows: *16 x 8 Shed for Storage*

Steve F. stated the applicant wanted to put a shed on his property. Steve said he wanted to be clear as to whether he was on the mainland or the island. Mr. Kingston stated he was on the island. Steve said he wants to build an 8' x 16' shed, 25 feet from the property line and 25 feet from Treasure Island Road. Mr. Kingston said that was correct, adding it was 100 feet from the water and 25 feet from the back line. Mr. Kingston stated he did not want anything else, no electric or water. Steve said that it was just a shed. Mr. Kingston said he would be putting solar lights on it, but that was it.

Maggie M. thought you could only have an 8 x 10' shed? CEO Demers said that is only if it is within 100 feet of the water, and it is beyond the 100 feet. Steve stated it was under §105-19.D, and he read from the ordinance: *When a lot fronts on the shore and on a road or right-of-way, both the shoreland setback of 100 feet and the front setback as defined in §105-18 shall be met, except on nonconforming lots of record, in which case the setback may be no less than 25 feet from the property line or road. This reduction shall require a conditional use permit from the Planning Board. All conditional uses approved relating to setbacks shall require confirmation, in writing, by a licensed surveyor that the placement of the structure is correct and the plan shall be recorded in the York County Registry of Deeds within 90 days of the date of the Planning Board approval. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void.*

Steve F. said the conditions attached to this application will be under §105-73, 'Conditional use permits'. Steve asked members if they wanted to do a site visit? Ann H. asked Mr. Kingston if he was taking down any trees? Mr. Kingston said there was 1 tree on the property that was dead and leaning, so for the safety of the grandkids, they are taking that tree down. Madge B. did not think that was because of the shed. Mr. Kingston said it was close to the shed, but it is already at a 45 degree angle. Madge added that it was 100 feet back from the water. Mr. Kingston agreed. Steve said this was outside of the board's purview. Ann and Madge both stated they did not need to go to the site.

**Steve F. stated they would send out a notice to abutters, and take this back up under 105-73 at the next meeting on July 11th. No site inspection will take place.**

Mr. Kingston asked if once the shed is built he would have to get the surveyor back to the site. Steve F. stated that the surveyor will have to show on the plan that the shed is built where the setback is, and it will have to be recorded. Steve said when he comes back to the next meeting, bring 4 copies of the plan for the board to sign, on a plan that is large enough to sign.

Nothing more was discussed.

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**Release the Bond for the Brown Solar Project – Map 2, Lot 9 (987 Back Road)**

Steve F. stated that the board received a request from MEVS Brown to cancel the bond. Ann H. asked why? Steve stated the board didn't really know, we only had the email stating they had interconnection constraints and other issues.

This is the email from Stephen Barrett to the Planning Board:

Dear Planning Board – MEVS Brown, LLC is unable to proceed with the development of the Brown Solar Project in Shapleigh due to interconnection constraints and other issues. Therefore, we will not be proceeding with the Town's requirements for issuing a decommissioning bond for the dismantling of the project after its useful life and that the bond will be cancelled. Please acknowledge receipt of this communication. Thank you.

**STEPHEN BARRETT, LEED-AP**  
Barrett Energy Resources Group, LLC

Steve F. signed a letter drafted by Barbara F. releasing the bond. Barbara will give the letter to Michelle (Town Administrator) to give to the Selectmen for their signature, and then mail it to the appropriate parties.

Nothing further was discussed.

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**Growth Permits**

**There are growth permits available.**

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**The meeting adjourned at 8:15 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)