

*Shapleigh Planning Board*  
*Minutes*  
**Tuesday, December 12, 2023**

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

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

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

**The public hearing began at 6:30 pm**

Steve F. opened the public hearing by stating there were two items on the agenda. One was for Mandy Wheeler, 625 Ross Corner Road, for hosting weddings and events; and the other is for the proposed Zoning Ordinance amendments. Steve asked who was here for one or the other. One citizen stated she was here for the 625 Ross Corner Road application. Another citizen stated they were there for the campground ordinance. Steve decided to begin with the latest proposed revisions of the ordinance.

Steve noted that there were copies of the proposed ordinance changes on the table, the audience was welcome to a copy.

- **Steve read the ordinance changes as follows:** (Proposed revision of the ordinance is in **bold**.)

§105-15. Definitions

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

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

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§105-17. Land uses.

Notes:

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

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§105-19. Notes to Table on Dimensional Requirements

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

Typo

Steve F. stated that Section A of 105-34 will be stricken from the ordinance, because the State regulates Routes 109 and 11. (Section B remains the same.)

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

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

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

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Steve F. stated the board is trying to make the ordinance more in alignment with what the State has.

§105-37. Campgrounds.

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

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

EXISTING:

A. ~~One campsite per lot existing on the effective date of this chapter, or 30,000 square feet of lot area within the shoreland zone, whichever is less, may be permitted.~~

B. ~~When an individual private campsite is proposed on a lot that contains another principal use and/or structure, the lot must contain the minimum lot dimensional requirements for the principal structure and/or use, and the individual private campsite separately.~~

Proposed for clarity and intent:

**A. One individual private campsite is allowed on an existing legal lot of record in the General Purpose District. One campsite is allowed on an existing legal lot of record or 30,000 square feet of lot area, whichever is less, in the Shoreland District.**

**B. When an individual private campsite is proposed on a lot in the General Purpose District, that contains another principal use or structure, the lot shall contain the minimum lot dimensional requirements for the principal structure. When an individual private campsite is proposed on a lot in the Shoreland District that contains another principal use or structure, the lot shall contain the minimum lot dimensional requirements for the principal structure or use and have an additional 30,000 square feet of lot area for the private campsite.**

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§105-51.3. Revegetation requirements.

A. The property owner must submit a revegetation plan, prepared with and signed by a qualified professional **in shoreline stabilization**, that describes revegetation activities and maintenance. The

plan must include a scaled site plan, depicting where vegetation was, or is, to be removed, where existing vegetation is to remain, and where vegetation is to be planted, including a list of all vegetation to be planted.

- C. If part of a permitted activity, revegetation shall occur before the expiration of the permit. If the activity or revegetation is not completed before the expiration of the permit, a new revegetation plan shall be submitted **to the Planning Board for approval.** ~~with any renewal or new permit application.~~ **Upon completion of the revegetation and shoreline stabilization, York County Soils & Water Conservation District (YCS&WCD) shall inspect the site to be certain all stabilization activities are completed as presented and approved, and provide the inspection report to the Code Enforcement Office and Planning Board.**
- F. **Fee.** A fee of \$150 shall be collected at the time of application for the 3<sup>rd</sup> party inspection for all revegetation & shoreline stabilization plans, to be done by YCS&WCD. If subsequent inspections are required, the applicant shall pay YCS&WCD a re-inspection fee at the time of inspection, at a rate to be determined by YCS&WCD, not to exceed \$150.

*Steve F. asked if there were any questions? He said he would take public comment, and he asked that any questions be directed to him.*

**Citizen** – I have a question about individual private campsites. When this goes in, does that mean if there is a lot that's got multiple campsites on it now, is it grandfathered?

**Steve F.** – I don't think there would be any grandfathered status, if there is no permit in place for an existing campground. Steve deferred the question to CEO Demers.

**CEO Demers** – An individual private campsite would need to be renewed each year, so the new ordinance would take affect at the time of the permit.

**Citizen** – Does your ordinance define accessory dwelling unit? Because with the ADU, a two-family dwelling unit, an ordinance that I know of, we restrict to 800 sf and that's the ADU. Should that two-family dwelling spell out not to include an ADU? An ADU can be an attached dwelling with a common wall.

**Steve F.** – We wrestled with that definition, and this is what the board ended on.

**Citizen** – In Acton you need more road frontage, more acreage, their requirements are greater for a two-family than they would be for an ADU.

**Barbara F.** – We changed the requirement for two-family, it no longer requires additional road frontage or acreage. She asked CEO Demers if she was correct?

**CEO Demers** – Right, a two-family dwelling can be placed on a lot with 200 feet of road frontage, and 80,000 sf, and it doesn't require a conditional use, it is just a CEO permit; as well as an ADU. At the time of application, I ask them to declare what it is, an ADU or a two-family dwelling. There is a distinction, based on definition.

**Barbara F.** – There is a new ordinance for accessory dwelling units, which has its own definition, and it states what is and isn't allowed as an ADU.

**CEO Demers** – Right.

**Citizen** – If there is no change in lot size and road frontage, what is the difference between an ADU and a two-family dwelling unit?

**Steve F.** – Size of the structure.

**Barbara F.** – And it can be detached, the ADU can be a detached structure.

**CEO Demers** – An ADU can be attached or detached, detached would be an ADU only. There are different septic considerations.

**Steve F.** – The ADU doesn't have to have a separate entrance.

**CEO Demers** – All the ones I have seen do have a separate entrance.

**Steve F.** – This is a step for the board.

**CEO Demers** – We decided to keep it simple.

Note: The new ADU ordinance does not specifically require a separate entrance as written.

*Steve F. asked if there were any other public comments on the zoning ordinance changes?*

**Norman B.** – On revegetation, 105-51, I got a question on ‘revegetation shall occur before the expiration of the permit’. Now, is that something that starts now? Or is it retroactive for permits in place?

**Steve F.** – At this point it is only voted on by members, so it has to be voted on in March.

**Norman B.** – So it does not start immediately.

**Steve F.** – It will apply to any application that is put in after Town Meeting.

**Norman B.** – After Town Meeting, ok.

**Barbara F.** – The part that is in bold starts after Town Meeting. The first line of the ordinance, exists today. Whatever is bold is proposed Norman, and because you read that first line, that exists today.

**Norman B.** – OK, on C.

**Barbara F.** – Correct.

**Steve F.** – We always put the end date on a permit.

**Norman B.** – So we will be voting on that tonight?

**Steve F.** – No, this is just a public hearing.

*Steve F. stated that if there was no further comment on the ordinance changes, the board will go to the next hearing.*

• **Conditional Use Permit – Host Weddings & Events – Map 8, Lot 34 (625 Ross Corner Road) – Amanda Wheeler, Property Owner**

Mandy Wheeler, along with her husband Clayton, were present for the public hearing.

*Steve F. asked Mandy to give a brief explanation of what she intended to do, so the public has the same information that the board has.*

**Mandy** – We purchased the property a year ago and our idea is to have weddings, and events, maybe family gatherings at the property. That’s a basic overview. Do you want me to get more detailed?

**Steve F.** – I think that covers it.

**Mandy** – The one thing that I want to clarify, that I was emailing Barbara about, is when I was filling out the form, I was asked which days of the week, which times are you doing this. I just put every day, and all the time, because I didn’t want to be pigeon-holed into only being able to have an event on a Saturday. I think it’s obvious there won’t be events 24 hours. If we do have a wedding, that would take up the whole week, and most people get married on Saturday’s. So for that week, that would likely be the event, because I can’t even clean or change over quick enough to do multiple weddings in a week. So if one gets taken, then it is just that one for the week. I think that is the one thing that was kind of gray, so Barbara said, ‘you should say that’, the intention is not to have an event every day. It is going to be spread out more than that, I just can’t guarantee which day of the week it will be, which is why I had a broad stroke for time and days of the week.

**Steve F.** – Is there anyone here who would like to comment on this application?

**Pam Thomas** – I would. We’ve lived adjacent to the property since 1986. We had absolutely no idea until we got the certified letter that any plans like that were being made. However, after we did get the letter, we did some research on line, and we saw the website that was setup, and like Miss Wheeler has just said, seeing that it’s from 8 o’clock in the morning until 11 o’clock at night, 7 days a week; I’m glad you clarified that. I also hope that if this goes through, that there is something in writing to say that. The

second thing is, I guess we were really concerned, again after going online and doing the research, that the website is already setup with bookings open for 2024, and I read, Barbara was nice enough to send us a copy of the last meetings minutes, I definitely agree with the problem of parking and traffic. For one reason, for having lived as we have, on that corner, for a long time now. Before cell phones, we were constantly being awakened in the middle of the night by people who had gone off the road, by people who needed the police called, by people who needed an ambulance. It's a very bad corner and if you have people who have been celebrating a family occasion, a wedding, and I do not know if alcohol will be involved, but if it is and people are trying to pull out; I read in the minutes about the 750 feet in the ordinance or 250 yards, or whatever it happened to be. But it's a very dangerous spot and I certainly think it would be tragic for someone to be severely injured trying to come in and out of a celebration. It's really not my business, but it's a concern I have, having lived there for so long. Just the other day the police came up, somebody they had been chasing took the corner too fast, and took out our mailbox, then turned down Pitts Road and were chased all through the field and that area. It's constant. Quite honestly if you even follow the Sheriff or State Police down Ross Corner Road, you won't go 35. That's a wonderful idealistic dream to think, and we would love that. Back when we first moved in and the road wasn't paved, then yes, people would slow down because the rocks would be flying everywhere. The other thing is, we are not right next door. We are adjacent, we have a 400 foot driveway and they do. We knew the previous owners, except for the people Mandy bought from, because they were very reclusive. We can hear, and so I don't care about people going into the house and a family get together, but the idea of, if you have the dance hall or you have an outside venue where a band is going to be playing; I hate to admit this but I go to bed at 10 o'clock. Those are our concerns as neighbors, as neighbors who had never been contacted either.

**Steve F.** – I want to address the first part, about you not knowing about it. The Shapleigh Ordinance calls out, when an applicant comes to us (Planning Board), we have an initial meeting, the board deems it to be a complete application, and it is after that first meeting that we notify the abutters. Anybody within 500 feet gets a letter.

**Pam Thompson** – I understand that now. At the time you get a certified letter, you are like 'what'. Then you find out the place you have been living in for almost 38 years, with the rural area with the deer coming down, is going to have venues 7 days a week, until 11 o'clock at night. I don't even get up until 9 in the morning. I am being really honest. I have no personal vendetta whatsoever.

**Steve F.** – I want to thank you for coming to the meeting and addressing this. The board shares your concerns just as strongly as you do. We are familiar with the area. The board did a site visit the other day. We still have a lot of work to do before we consider approval on this project, but all the items you just listed will be part of that process. It's an ongoing process and it won't end tonight. At our regular meeting we will be taking back up the application to see where we are at, as far as information.

**Pam Thompson** – Obviously not a lot of people care. There are the Sawyers who bought the Cook farm and he's not here, and there are people right next door and new people who built a house way back in. So it's obviously not a big concern to a lot of people. I'm not protesting, I just wanted to express my concerns as a neighbor.

**Steve F.** – That is the reason we wrote you the letter and we appreciate your comments.

**Pam Thompson** – Thank you.

**Bill Thompson** – My concern is a little more on the safety aspect. I've been pulling out of that driveway for 36 years and there is not a line of site anywhere between there, the Pitts Road, their driveway, and where the parking is. The Pitts Road has two exits making it even more dangerous, and from either exit you are crossing into traffic, which will be coming from the Ross Corner area. The line of sight is extremely critical, there has been many a day that I look both ways, started out of my driveway and...

**Pam Thompson** – And people are on you right away.

**Bill Thompson** – It's a challenge.

**Steve F.** – Thank you Bill.

**Mandy** – I am so sorry we did not introduce ourselves (speaking to the Thompson’s). It is embarrassing but we did not know you were there. I met Scott Davis, and he is plowing for us; and Marcy just brought up baked beans the other day (an adjacent neighbor), and we have been out multiple times and I’ve had her over. I felt horrible when I found out, because we would have gone over and introduced ourselves. I don’t know why we didn’t think that driveway was a house, your house is hidden. Afterwards we drove by and realized there is a house there. It’s awkward to meet in this situation. If we knew you were there, we would have come over and introduced ourselves, because I can only imagine being a neighbor, and living there for so many years, and to just get a notice in the mail about your neighbor. I would hate to be told that way. We would have had you over.

**Mandy** – The only other thing to clarify is we do have a website, I want to say for the record, that we have zero bookings. I’ve had a few brides reach out and I have explained to them, that I have started advertising, because when you are running a wedding venue, you do not get things until the next year. All the brides now have already booked for 2024. Unless you get a shotgun wedding, that is fast. A quick wedding. The only inquiries I am getting are for 2025, and I am explaining to everyone, ‘that we are honored to potentially host you but we have not been approved by the board’. I am carrying a financial burden that is heavy for us, so we are trying to get the word out, but also explain to people that we are not legal yet. The only wedding that we have had there is our own, so if you go to the website, the pictures you see are ours, which we were allowed to have on our property. I am using our wedding as advertisement, which was on July 2<sup>nd</sup> of this year. I would like to speak with you (the Thompson’s) more in private, about noise to see if you heard anything from our wedding, because there were 130 friends and family there. I am very concerned with making sure my neighbors are ok.

**Pam Thompson** – The last neighbors were extremely reclusive, and when we saw the man picking up his mail at the end of the driveway, we stopped to say ‘we are the neighbors, the Thompsons’.

**Mr. Thompson** – He just looked the other way and kept walking.

**Pam Thompson** – So I didn’t bring over a pie or anything.

*Steve F. thanked everyone for speaking and noted the board will be taking the application back up at the regular meeting. Madge B. stated that everyone was welcome to stay for the meeting.*

There was no further discussion. *The public hearing was closed at 6:59 pm.*

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

***Steve F. stated the first item was for the reading of the minutes. He asked if there were any questions or comments? There were none. The minutes were approved as written.***

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**• Unfinished Business**

**Conditional Use Permit – Host Weddings & Events – Map 8, Lot 34A (625 Ross Corner Road) & Parking Area on Lot 34B (637 Ross Corner Road) – Amanda Wheeler, Property Owner**

Ms. Wheeler was present for the review of the application, along with her husband, Clayton.

Provided along with the application was a partial GIS photo depicting vegetation on site, along with a structure.

The application detailed description of the project was as follows: *We would like to host weddings and events at our property.*

Provided this evening was a site plan for Lot 34A showing the distance from the main house, dance hall, and reception barn to the lot lines and Ross Corner Road. Also on the site plan was the location of the driveway entrance onto Lot 34B, along with the site distance from the driveway. The site distance in one direction was written as 744 ft., and the other as 560+ ft. (The minimum recommended in the ordinance under §105-21, at 35 mph is 350 ft.)

Provided was a parking plan for Lot 34B, which depicted the driveway location; the area for parking; the general location of 75 parking spaces; and the general area for automobiles to turn around on site.

Members received two emails regarding this application, they are as follows:

1) Steve, I would like to know how the wastewater is going to be disposed of at 625 Ross Corner Road? Portable toilets or subsurface? For 1- 150 people, I think it should be addressed. Thanks Michael Wilcox, 1696 Gore Road, Shapleigh, ME, Map 8 Lot 29.

2) Dear Planning Board Members,  
Last Friday, Bill and I received a certified letter outlining a request from A. Wheeler, a prominent real estate broker and multiple properties owner, to use her property on Ross Corner Rd in Shapleigh to host events 7 days/week from 8am to 11pm. We have some questions and concerns.

First of all, upon Googling Ms. Wheeler, we found that her website for Golden Hearts has already been up and running. It states that she is booking for 2024.

Secondly, she advertised an event she has already had in July of this year. SO, WHY ARE ABUTTERS JUST BEING CONTACTED? It seems that Ms. Wheeler is pretty confident that she'll get her permit since she has already invested in a million dollar property, has a website, has had a wedding function, and is already booking 2024 events.

It just makes no logical sense that Ms. Wheeler would be booking for 2024 if she wasn't completely assured about receiving this approval. ????

Finally, approval for this venue opens the floodgates for approvals all over Shapleigh. What will be allowed in each of your neighborhoods which will increase traffic, cause noise in late evenings, serve alcohol for events, etc?

We are planning to attend Wednesday's meeting, but want each of you to have time to research her website for yourselves and process the information and ramifications.

Sincerely, William and Pamela Thompson  
Abbutters

Steve F. opened the discussion by asking if there was any further information for the board this evening? Mandy stated she had none, she was still working on it. She said she had spoken to multiple people at the State Fire Marshal's office, and there is no getting around the 8 page document that has to be filled out for each building. She said now she is waiting for a callback from her lawyer to help her navigate it, and once she gets that done, she can submit the documents to the State Fire Marshal and they can give her a walkthrough date. She added that she was still working on the business license, so everything is getting figured out. She will email the board when she makes some headway to continue the conversation.

Mandy stated that she was not booking anything until this was taken care of.

Steve F. asked if she was clear on what the board was looking for after the last meeting? Mandy stated she was, and the parking plan is on the back burner right now. She said it is more attainable, but she hasn't expended a lot of energy on that, because she knows she has these other two pieces of information she had to do. She said she needs parking, pictures with lighting, the State Fire Marshal walkthrough and the business license. Steve F. reiterated, Fire Marshal, license for lodging, porta-potties, parking and lighting.

Madge B. stated that she had a question. She asked, "Should they have the Road Commissioner come out and look at the parking entrance?" Steve F. thought if the board wanted help with that, determining if the access to the site is safe, it would be a good idea. Madge said the board has offered opinions, and she noted she had no expertise on it. She thought it would be a good connection for the applicant to know the Road Commissioner. She thought it seemed reasonable, she would recommend it. Steve thought it could aid in creating her parking plan. Madge said the Road Commissioners usually look at entrances. Steve stated the board was not looking at new entrances. Madge agreed, but said the Road Commissioner did not look at how they were going to use the entrance at this time, and they may have some helpful suggestions. Steve agreed. Ann H. thought the Road Commissioner looked at the previous events venue's access and they wanted them to put a sign with a light. Steve said he actually had it in his notes. Ann said the Road Commissioner requested a sign with a light, so people had to come and go in a certain direction. Steve said they have a small sign that they put up at the venue on Emery Mills Road that says 'Event in Progress'. He said it was cautionary and he thought it might have a flasher on it. He said it works pretty well, it gets people paying attention, almost like an 'accident ahead' type of sign. He noted he had it in his notes to speak about it the next time we take up the application. Madge said there is no rush, after reading the minutes she realized the board was giving advice on a topic we care about, but we have no expertise. Mandy thought that was why the code required so many feet of visibility. She said that even if they meet that, the board wants someone to come to confirm it. Madge thought someone should check on the size of the entrance, the culvert. Steve said there were some concerns about the width of the entrance. Mandy said that she understood. Madge said she felt the Road Commissioner had some knowledge. Mandy agreed, and said especially after the neighbor spoke about all the accidents, which was news to her. She said that because her house is set back, she hadn't experienced it, the traffic. She said she agreed with Madge, because if an accident happened she could not live with herself. She wants to do everything possible to make sure the site is safe. Mandy thought she had met the Road Commissioner, while he was fixing a culvert on the road. Mandy and Clayton thought he was a very friendly guy.

Steve F. stated the board can table the application until she has more information. Madge B. stated the board tables for 90 days. She said if that comes to an end, Mandy needs to tell Barbara, and the board can table for another 90 days. Mandy pointed out that they would be out of state for a few months and was not sure she would have the information required before they left. Steve said that if the 90 days terminates, she would have to re-apply and pay another application fee. Mandy understood.

**Madge B. moved to table the application, pending additional information as discussed, for 90 days. Maggie M. seconded the motion. All members were in favor. By a vote of 5 – 0, the motion to table was unanimous.**

Nothing further was discussed.

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**Street) – Daryl Dunbar, Applicant; Lisa Dunbar, Property Owner**

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



Provided along with the application was a letter dated 11/20/23, written by Lisa Dunbar. It stated the following: Town of Shapleigh, regarding the permitting and construction process for Map 17, Lot 27, Daryl Dunbar has permission to act on my behalf.

Provided was a sketch plan of the property, which depicted the area for the Proposed House, and the distance from the proposed house to the lot lines. The distances were noted as follows: 10' to the left lot line from the road; 20' to the right lot line; 100' from Mousam Lake, and 25' to 30<sup>th</sup> Street. Two neighbors were on the sketch plan, Kortney Nedeau and Bob Sirois. A note on the plan stated, 'Location of Septic and Water Supply TBD by Site Evaluator'.

Provided was a drafted plan, dated October 23, 2023, done by Joseph Stanley, PLS #2453 of LinePro Land Surveying LLC of Springvale, Maine. The plan was entitled 'Sketch Showing Apparent Building Setbacks for Daryl Dunbar, 1939 Milton Mills Road, Acton, Maine 04001 of Property Located on 30<sup>th</sup> Street, Shapleigh, Maine'. The plan depicted the Proposed "Conditional Use" Road Setback of 25 feet, along with the structure setbacks to the lot lines and Mousam Lake. Also on the plan were the abutting properties of Kortney & Niki Nedeau, Shapleigh Tax Map 17, Lot 26; Robert Sirois, Shapleigh Tax Map 17, Lot 28, and 104 30<sup>th</sup> Street, LLC, Shapleigh Tax Map 17, Lot 25. 30<sup>th</sup> Street, where it abuts the Dunbar property was also on the plan, along with the 'High-Water-Mark as Located 10-17-2023'. The plan notes that it is 'Conceptual Only, this is NOT a Boundary Survey'.

The application detailed description is as follows: *Build a house, with side lengths approx. 14', 12' 8', and 16', final size determined after survey complete (survey has been ordered).*

Provided this evening was a final plan, dated December 11, 2023, done by Joseph Stanley, PLS #2453 of LinePro Land Surveying LLC of Springvale, Maine. The plan entitled 'Sketch Showing Apparent Building Setbacks for Daryl Dunbar, 1939 Milton Mills Road, Acton, Maine 04001 of Property Located on 30<sup>th</sup> Street, Shapleigh, Maine', depicted the location of the subject property, abutting properties (as noted above), 30<sup>th</sup> Street, and Mousam Lake. The proposed structure was located 10 feet from Map 17, Lot 26; 20 feet from Map 17, Lot 28; 100 feet from the high-water-mark of Mousam Lake; and 25 feet from 30<sup>th</sup> Street. The dimensions of the foot print of the proposed structure are: 14.20' x 6.59' x 18.23' by 14.15'. There is also the Detail Building Envelope Angles noted on the plan.

Board members received a copy of this email this evening:

Good evening, all -

I'm sorry we couldn't be with you tonight, however I am a member of the Kennebunk Selectboard and have a very important meeting tonight, myself.

Together, my wife Niki and I would like to first express thanks to you all for time you give to the Town of Shapleigh and to all of us as constituents. We have had little, but always pleasant interactions with our neighbors Daryl and Lisa Dunbar who own 110 30th Street.

Some quick background, when we put an offer in on our now home at 108 30th Street, we requested understanding about the lot between us and Mr. Sirois (112 30th) We were told that the lot was non-conforming, unbuildable and simply used as a right of way.

When we closed, and re-reviewed everything, we read it as the same.

We were told that the large piece of "land" between our property and Sirois is from the dugout foundation across the street at Daryl and Lisa's A frame construction. Much of that pile that pours into our driveway right now is from Mr. and Mrs. Dunbars property and has not yet settled.

Having that said, we were quite surprised to receive the Planning Boards letter regarding this request as it was just something we didn't even think was possible. With all of that said, we are not "those neighbors" who feel entitled and don't want folks to have the ability to do what they want with property that they own. In fact we welcome it. The more the merrier to enjoy our paradise.

However - we can't support a project if it will have the potential ability to be a detriment to our property into the future. We'd like to put in writing now, and for the future a plan to safeguard ourselves as the immediate and most impacted abutter (should this go through).

With that, we are happy to support Daryl and Lisa on this project but just have a few concerns we'd like addressed if possible:

1. Right now the map shows a 10' setback from our property, and a 20' setback from Sirois - is there any reason or way to split the difference and make it 15' from both sides?

2. Is there a way your group would be willing to require an engineering report, specifically in regards to the landscaping? Regardless of post and pad, just a pad, or a full foundation, this property is at a higher elevation than ours and the runoff and storm water would without question come our direction if not mitigated properly.

3. If this variance is approved, with whatever plan is made or report is provided, we'd like to request that there be a thorough review of the plans for storm water and runoff to prevent any possibly immediate or future erosion. We'd hope this includes French drains, or a catch basic, rocked culvert, or otherwise. We've requested ballpark numbers for this work should the project create issues for us and we were told in the \$30,000 range for a retaining wall and drainage, which is a huge piece of our concern as that's \$30,000 - or even if it were less, that we don't plan to spend.

4. What can be put in place on the property that protects us should any issues of land movement, erosion or runoff impact our property in the future in a way it currently is not. How do we guarantee this if Daryl and Lisa sell this new home, or if Mike is no longer the Code Enforcement Officer and none of you are on the Planning Board?

I understand that if we don't address this now - this can be viewed as a civil case "down the road" if none of the current players are at the table if and when an issue occurred - but that shouldn't be something any of us have to go through - it should be something we prevent now by taking every step to mitigate the risk and putting it in writing should the risk become reality.

We are good neighbors and love to be neighbors with everyone and anyone. We certainly don't fault anyone for wanting maximize their opportunities and hope the best for Daryl and Lisa on this project. We understand there is process to everything and as we stated before, we wholly support and understand anyone using their property as they wish so long as it's not a detriment to our wallets or minds in the years to come.

Appreciate your consideration and reading this letter to the group.

Thank you very much for your time. Should you have any further questions, please feel free to contact us directly.

Kortney and Niki Nedeau  
Owners of 108 30th Street

Pictures were also forwarded by the Nedeau's to members of the lot being discussed, along with the property owned by Kortney and Niki Nedeau.

Mr. Dunbar explained the photos to members, and he also noted that his property does not slope toward the water. He did not believe that some of the language in the email was correct. He did not believe there was any runoff from his property onto theirs, as indicated. Steve said that since Mr. Dunbar read the email received, he did want his opinion. Mr. Dunbar stated that in his experience, water does not run uphill. He said he would prefer to spend more time with the email, before making further comment. He did add that he was surprised by the email. Steve noted that the board had just received the email this afternoon, which is why they are just reading it. Mr. Dunbar said that he was confused as to why the Nedeau's would not direct their concerns about his property to him, but to someone other than himself. Barbara F. stated that typically, after the notice to abutters goes out, the abutter will comment to the Planning Board. She said this was not anti-Mr. Dunbar, this is what abutters do after receiving notice. Madge B. noted that this is what happened with the previous applicant. Mr. Dunbar said he was referring to the paragraph where they were told the piece of land was non-conforming and unbuildable. He said they did not ask him about it.

Steve F. stated that what they were told is correct, the lot is non-conforming by today's standards, but the unbuildable part is a different story. Barbara F. stated that it was unbuildable until March 2023 Town Meeting. She guessed that they were told this information before Town Meeting, where the ordinance changed. She added that many people still do not know about the 25 foot setback allowance to the road, so most would assume this lot was unbuildable. CEO Demers said that he would like to point something out, in Section 3, where they state 'If this variance is approved', this is not a variance, it is a conditional use as written in the ordinance. Madge B. agreed.

Steve F. said the conditions of the conditional use do address the majority of these concerns. Madge B. stated that she forgot to do the site visit, to which she apologized, and said it sounded like it would have helped.

Steve F. asked if Mr. Dunbar was building this winter? Mr. Dunbar stated the decision had not been made but he would like to begin. Steve reviewed the minutes of the last meeting. He stated the board reviewed §105-19, front yard setbacks; the board reviewed the survey, and the board received an updated copy this evening. Steve asked Mr. Dunbar if there were any changes in the updated survey? Mr. Dunbar stated that the red lettering is removed, (which stated 'Conceptual Only, this is NOT a Boundary Survey').

Madge B. asked why the proposed structure is closer to one side of the lot than the other? Barbara F. & Steve F. stated, 'So you can meet the 100 foot setback' (to the water). Steve said that any pushing over toward the right side reduces the building envelope. Steve said the 10 foot setback on the left, plus the 20 foot on the right, meets the 30 foot requirement. Madge agreed.

Steve F. stated he would read thru **§105-73.G**, and then open it up to discussion by the board. It read as follows:

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

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat.
- 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 a 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 opened it up to comments from the board. Ann H. said from a stormwater / erosion standpoint, if the stormwater / erosion design says that there would be less erosion and runoff if there was a 15 foot side setback, even though it brings it a teensy bit closer to the water, it might be better than to get a true 100 feet from the water. Steve stated, “Let’s remember what the applicant is here for, that is strictly for a conditional use permit for the road setback. Other than that, this is now a conforming building envelope, according to our code, other than the 25 foot setback from the road. That is what we are reviewing.” Ann said, Ok.

Steve F. said, neighbors’ concerns aside, the board has permission to require or allow for, according to the ordinance, buffer strips, on-site landscaping, to protect the neighboring properties from any detrimental features of this development; noise, glare, fumes, dust, odors and the like. He said under **§105-73.H**, we can look at type of vegetation. He said sewage disposal is not applicable as there is no water or sewage at the property. Mr. Dunbar stated, “Not at this time.” Steve said that landscaping and planting screens are an option, periods of operation are not applicable for this application. Steve said the board is looking at §105-73.H (a) & (c), in his opinion. These are as follows:

- (a) Specifications for type of vegetation, increased setbacks and yards.
- (c) Landscaping and planting screens.

Madge B. asked if this was an application for a building, not a dwelling unit? Madge said if it is a dwelling unit it needs a septic system. Barbara F. stated that he did put in for a Growth Permit for a residential dwelling. Ann H. reading from the application description: *Build a house, with side lengths approx. 14’, 12’ 8’, and 16’, final size determined after survey complete.* Madge asked if it would have to have sewage and water? Steve said if it has water it will have to have sewage. CEO Demers said that yes, he cannot give out a building permit until he gets a septic design. Madge said, “Ok, thank you.” Mr. Dunbar stated that his septic plan did arrive in the mail today, but he hasn’t moved forward to the building permit, as he believed this was a sequential process, and right now we are discussing the road setback. Madge B. agreed, but said the board has these conditions, and she thought the board reviewed the conditions, where one of them is the adequate provision for disposal. Madge said she believed they were reviewing according to the standards in G, under which ‘Adequate provision for the disposal of all wastewater and solid waste has been made’. She thought the board asks about this. Steve said he was under the impression this was just going to be a shed style property, not a house. Barbara said the only reason she knew it was going to be a house was because she received the Growth Permit today.

Madge B. asked with things like stormwater, if that was handled by the Code Enforcement Officer? Barbara F. stated, “Not necessarily, the board is in charge of stormwater.” She said the board has to be sure there is adequate stormwater protection, the Code Officer is in charge of enforcing what the board asks for.

Steve F. said that now that the board has the correct information before them, under §105-73.G, we have to condition for #6, to provide an HHE200 (subsurface wastewater disposal application). He said the board has an option to require a stormwater drainage plan. Madge B. said there is going to be a roof and the roof dumps water. She said that CEO Demers says that he takes care of making sure there is adequate drainage. She said if there is adequate drainage around the dwelling unit, it should work. Steve said that

he did not disagree with Mr. Dunbar's comment, and in this situation, the boards concern is with runoff into the lake. He said with this property sloping back toward 30<sup>th</sup> Street, the next concern would be stormwater runoff onto adjacent properties. Madge agreed, and said she thought the drainage around the building needs to be correct. Steve said the board could ask the applicant to provide a drainage plan to show what his plans are for the stormwater management, to keep it on his own property. Mr. Dunbar stated that the pictures submitted by the neighbor is evidence there is a berm in existence, and the property line is on the top of the berm. He said that any berm runoff that they are getting is coming from their own property. Steve said that he did not disagree, and all the board has to do is be certain that they have adequately reviewed this.

Steve F. stated that #9 speaks about 'adequate provisions to control soil erosion and sedimentation'. He said he struggled with this as Mr. Dunbar is outside the 100 foot setback, which is different than what the board usually reviews. Madge B. agreed. Steve asked if the property was cut down by the water (trees)? Mr. Dunbar stated that the photos were not of his property, they are of the neighbor's property, and there are not many trees on their property. He said that his property was well treed. Madge B. asked CEO Demers if they are 100 feet back from the water, do they need to put up any silt fence? CEO Demers stated that BMP (best management practices) will be in place, and it could be as simple as a bark mulch berm, or silt screening and bark mulch berm, or hay bales, some sort of erosion control should be in place. Madge stated, "It would not be out of line to say that there should be erosion control". CEO Demers said that it would not.

Steve F. asked the board how they feel about the proximity of this to the property line? He said he was referring to §105-73.H (c) landscaping and planting screens. Maggie M. didn't see how landscaping would hurt. Mr. Dunbar stated that he believed the setback guideline was a total of 30 feet, with a minimum of 10 feet. He said the numbers 10 and 20 were chosen simply to maximize the building envelope. If it were to be moved closer to the Sirois property, his 6.5 foot wall would shrink. Steve did not think the board had any intention of moving the building, he thought a row of screening in the building area would be adequate in this case. Maggie asked if the screen had to be plantings, could it be a fence? Steve thought it could be a fence. Maggie said if there was concern with brush being too close to the house, a fence would not be up against the house. Steve asked Mr. Dunbar if he had any plans for plantings or some type of screening? Mr. Dunbar stated that it was his opinion that the berm is a wonderful separation. He said the berm, shown in the picture (provided by the neighbor), was in places 5 feet tall. He said in his opinion it provides a barrier between the two properties. Mr. Dunbar said they were quiet, and they did not intend to rent out the property, unlike the neighbor in question. He said that anything he might put in would be for his own protection, rather than theirs. Steve said the board appreciates this, and the boards concern is that it fits in the area and conforms to the ordinance. He asked the board their opinion. Madge B. asked if the berm was totally vegetated? Mr. Dunbar stated that you can see from the photo, it is partially vegetated. He said the top has a mat of grass. He said the berm was created during the construction process for the neighbor's house. He said they ripped the top of the hill off.

Ann H. asked if when they put the septic in, are they going to affect the berm? Mr. Dunbar stated, "No. The septic plan calls for a tank on the lot in question, and it will have a pump, and pump to the lot on the opposite side of the road. Which I also own." He apologized for not bringing a copy of the septic plan with him, he thought it would only be needed when he reached the next step. Steve said that was ok.

Norman B. said, to answer Madge's question, he did review the lot and he showed Madge a picture of the property. He said there was a large berm, it goes from the road up, and like he said probably 5 feet. He said it then goes straight down to the water. Madge asked which property the berm was on? Mr. Dunbar stated that the berm was the property line. Madge said, "So it's on both properties." Ann H. said it looks

like someone dumped a bunch of dirt and made a berm. Madge said that runoff from this new house can't possibly go onto the neighbor's property, because there is a berm in between. Ann said her question was whether or not it would be dugout when they were building. Mr. Dunbar said it would not. Steve F. stated that based on this conversation, it sounds like the board is comfortable with the berm meeting §105-73.H(c). Madge said she was.

Steve F. said there was also a section of the ordinance that states you cannot grade within 10 feet of a property line. Barbara F. thought it was you cannot cut or fill within 10 feet of a property line. Ann H. said there was something regarding grade. CEO Demers said he wasn't really changing the grade, he is working with the existing contours of the land. Madge B. asked if there was going to be a cellar? CEO Demers stated there would be a basement, a full foundation. Mr. Dunbar agreed. Steve asked if it would be daylight towards the road? Mr. Dunbar stated that it would.

**Steve F. stated conditions of approval that he has listed are:**

- 1) Best Management Practices shall be used at all times until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).**
- 2) An erosion control plan for stormwater management shall be given to the Code Enforcement Officer for approval prior to construction.**
- 3) A State approved Subsurface Wastewater Disposal System Plan (HHE200) shall be given to the Code Enforcement Officer prior to construction.**
- 4) The berm that exists between the applicant's lot, and Shapleigh Tax Map 17, Lot 26, shall not be disturbed by the applicant, as it helps to protect from stormwater runoff onto the neighboring property.**

Ann H. stated that the board is ok with the 25 foot setback. Steve agreed.

Steve F. asked if there were any additional questions or comments? There were none. Steve asked for a motion on the application.

**Norman B. made the motion to approve the Conditional Use Permit to build a new structure 25 feet from 30<sup>th</sup> Street per the plans provided with the stated conditions. Maggie M. seconded the motion. By a vote of 5 – 0, the motion to approve was unanimous.**

Nothing further was discussed.

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**Findings of Fact**

- 1. The owner(s) of Shapleigh Tax Map 17, Lot 27 (110 30<sup>th</sup> Street) is Lisa M. Dunbar, of 1939 Milton Mills Road, Acton, Maine 04001, per Warranty Deed, BK 18301, PG 192, recorded 7/10/2020 at the York County Registry of Deeds.
- 2. The property is located in the Shoreland District, and according to the Assessor's office, it contains .2 Acres.

3. Provided was a sketch plan of the property, which depicted the area for the Proposed House, and the distance from the proposed house to the lot lines. The distances were noted as follows: 10' to the left lot line from the road; 20' to the right lot line; 100' from Mousam Lake, and 25' to 30<sup>th</sup> Street. Two neighbors were on the sketch plan, Kortney Nedeau and Bob Sirois. A note on the plan stated, 'Location of Septic and Water Supply TBD by Site Evaluator'.
4. Provided was a drafted plan, dated October 23, 2023, done by Joseph Stanley, PLS #2453 of LinePro Land Surveying LLC of Springvale, Maine. The plan was entitled 'Sketch Showing Apparent Building Setbacks for Daryl Dunbar, 1939 Milton Mills Road, Acton, Maine 04001 of Property Located on 30<sup>th</sup> Street, Shapleigh, Maine'. The plan depicted the Proposed "Conditional Use" Road Setback of 25 feet, along with the structure setbacks to the lot lines and Mousam Lake. Also on the plan were the abutting properties of Kortney & Niki Nedeau, Shapleigh Tax Map 17, Lot 26; Robert Sirois, Shapleigh Tax Map 17, Lot 28, and 104 30<sup>th</sup> Street, LLC, Shapleigh Tax Map 17, Lot 25. 30<sup>th</sup> Street, where it abuts the Dunbar property was also on the plan, along with the 'High-Water-Mark as Located 10-17-2023'. The plan notes that it is 'Conceptual Only, this is NOT a Boundary Survey'.
5. Provided was a final plan, dated December 11, 2023, done by Joseph Stanley, PLS #2453 of LinePro Land Surveying LLC of Springvale, Maine. The plan entitled 'Sketch Showing Apparent Building Setbacks for Daryl Dunbar, 1939 Milton Mills Road, Acton, Maine 04001 of Property Located on 30<sup>th</sup> Street, Shapleigh, Maine', depicted the location of the subject property, abutting properties (as noted above), 30<sup>th</sup> Street, and Mousam Lake. The proposed structure was located 10 feet from Map 17, Lot 26; 20 feet from Map 17, Lot 28; 100 feet from the high-water-mark of Mousam Lake; and 25 feet from 30<sup>th</sup> Street. The dimensions of the foot print of the proposed structure are: 14.20' x 6.59' x 18.23' by 14.15'. There is also the Detail Building Envelope Angles noted on the plan.
6. The application detailed description is as follows: *Build a house, with side lengths approx. 14', 12' 8', and 16', final size determined after survey complete (survey has been ordered).*
7. A notice was mailed to all abutters within 500 feet of the property on November 29, 2023. Meetings were held on Tuesday, November 28, 2023, and Tuesday December 12, 2023. A site inspection was done by members on an individual basis.
8. The application as presented met the performance standards under §105-73 'Conditional Use Permits' as per the documentation provided and as presented with four conditions. The proposed new structure will not have an adverse effect on aquatic life or wildlife; Best Management Practices (BMP) shall be used during placement of the structure to prevent runoff onto 30<sup>th</sup> Street and surrounding properties; no vegetation is being removed at the shoreline; the Comprehensive Plan does not directly address this at present but does want safe and healthy growth, the new structure will meet the ordinance standards; there is limited traffic access to this location; the new structure is required to have a State approved septic system prior to occupancy; there are no hazardous materials associated with the application; there shall be no additional stormwater going into the water or onto adjacent properties during placement of the structure or once the project is completed – the applicant shall not remove the existing berm adjacent to Map 17, Lot 26, and required BMP shall be approved by the Code Enforcement Officer; the project takes place near the lake and fire protection was not addressed for this project; the area around the new structure shall be stabilized as soon as possible and erosion control measures shall be approved by the Code Officer; there is no glare, odors and the like produced by this project; all performance standards shall be met with four conditions.
9. The board members reviewed 105-19.D Front yards. When a lot fronts on the shore and on a road or right-of-way, both the shoreland setback of 100 feet and the front setback as defined in § 105-18 shall

be met, except on nonconforming lots of record, in which case the setback may be no less than 25 feet from the property line or road. This reduction shall require a conditional use permit from the Planning Board. All conditional uses approved relating to setbacks shall require confirmation, in writing, by a licensed surveyor that the placement of the structure is correct and the plan shall be recorded in the York County Registry of Deeds within 90 days of the date of the Planning Board approval. If the plan is not recorded within this time period, the approval of the Planning Board shall be null and void. *The application as presented met the requirements, placing the structure 25 feet from 30<sup>th</sup> Street. **The plan must be recorded within 90 days of approval.***

- 10. The Planning Board unanimously agreed to approve the Conditional Use Permit for the 25 foot setback to 30<sup>th</sup> Street for a new structure in the Shoreland District, greater than 100 feet from the high water mark, on Map 17, Lot 27 per the plan drafted by Joseph Stanley, PLS #2453, with four conditions.
- 11. **The conditions of approval are as follows:**
  - 1) **Best Management Practices shall be used at all times until the project is completed, which includes the revegetation and stabilization of all areas disturbed by the project. The person doing the project shall be DEP certified in best management practices (unless the homeowner does the project in its entirety).**
  - 2) **An erosion control plan for stormwater management shall be given to the Code Enforcement Officer for approval prior to construction.**
  - 3) **A State approved Subsurface Wastewater Disposal System Plan (HHE200) shall be given to the Code Enforcement Officer prior to construction.**
  - 4) **The berm that exists between the applicant’s lot, and Shapleigh Tax Map 17, Lot 26, shall not be disturbed by the applicant, as it helps to protect from stormwater runoff onto the neighboring property.**
- Per Shapleigh Zoning Ordinance §105-3.E, Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. *These photos must show both the new structure and revegetation / stabilization of the area.*
- Per Shapleigh Zoning Ordinance §105-19.D, the plan provided shall be recorded within 90 days of the approval date at the York County Registry of Deeds, otherwise the approval becomes null and void. The applicant shall provide the date of recording to the Planning Board, as well as Book & Page, showing the condition is met.

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**Other:**

Steve F. stated there will be no meeting on Tuesday, December 26<sup>th</sup>. The next Planning Board meeting will be held on Tuesday, January 9, 2024.

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CEO Demers stated that Mainely Barge will be leaving the Dumont property (Map 22, Lot 1), as they no longer have jobs on Mousam Lake. CEO Demers stated they will clean up the area, so it will look like they were never there. Steve F. stated that the board has a reclamation plan on file.



Mr. Dunbar stated that the board stipulated that the berm is to remain, and he wanted to remind the board it is a shared berm. He said the berm is his friend, and he wants it to stay. He asked what about if the abutters want to remove it? He said he was not in control of the berm. CEO Demers said the neighbor expressed the intention of removing half of the berm and replacing it with a retaining wall. He said he told them it would require earth moving in the Shoreland Zone and would require a Conditional Use Permit. He said if it happens the board will see it. Ann H. said there is something in the ordinance that states an abutter cannot go down a certain amount against another abutter’s property.

Board members found the reference to a cut or fill under §105-27 ‘Erosion control’, Section F. It states: *The top of a cut or the bottom of a fill section shall not be closer than 10 feet to an adjoining property, unless otherwise specified by the Planning Board.* Extraction operations (sandpits, etc.) shall not be permitted within 100 feet of any property line, except as provided for in this chapter.

Nothing further was discussed.

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**Growth Permits**

**Map 17, Lot 27 (110 30<sup>th</sup> Street) – New Home – Dunbar, Applicant** **GP #25-2023**

This lot was reviewed this evening, and there is a plan provided showing that the structure will meet the setback requirements. The structure will be built per the approved plan, drafted by Joseph Stanley, PLS #2453 of LinePro Land Surveying LLC of Springvale, Maine, dated December 11, 2023.

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**The Planning Board meeting adjourned at 7:55 pm.**

The Planning Board 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)