

Shapleigh Planning Board
Minutes
Tuesday, February 13, 2024

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.

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.

Public Hearing Began at 6:30 pm

Steve opened up the public hearing, stating he would go over the ordinance changes and then open it up to the public for questions or comments. The proposed ordinance changes are as follows:

Proposed changes are in bold or are crossed out.

§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.**

§105-17. Land uses.

Notes:

~~3~~³~~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).**

§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

§ 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.

§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.**

§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.**

§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 3rd 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? There were none.

Construction of 2 Private Ways – 1 to Access Two Lots, 1 to Access Four Lots – Map 9, Lot(s) 12A-1 & 12A-2 – Joseph Stanley, Representing; Dennis Glover, Property Owner

Mr. Stanley and Mr. Glover were present for the public hearing.

Steve F. asked if anyone was present for the review of the 2 private ways for Dennis Glover? Road Commissioner Darren Stevens stated he was, he wanted to see what Mr. Glover wanted to do and wanted to hear the Planning Boards sentiments on it. Steve invited RC Rogers to review the plan they had for the project. RC Rogers reviewed the plan. Steve noted that this was not a subdivision review, these were 2 private ways for future lots.

Steve F. stated that the ordinance talks about a place for two cars to pass every few hundred feet, the private way is wide enough, so it is a moot point. RC Rogers asked about the construction of the road. Mr. Stanley showed RC Rogers that the details for the road were on the plan. He pointed out the typical cross section showing the road to be 16 feet wide, with 15 inches of compacted gravel and a two inch surface on top. Mr. Stanley said there were 3 foot sides and then a ditch. RC Rogers asked if the requirement changed from 3 inch to 2 inch? Steve asked if he was speaking about 2 inches of crushed gravel? RC Rogers said, yes. Steve showed RC Rogers the chart showing the private way construction requirement for greater than 2 lots. Madge B. said it states 2 inches of crushed gravel on the top. Barbara F. stated this is because it is a private way, not a subdivision. Steve said whether it is 1 lot, or 2 or more, it requires 2 inches on top. RC Rogers said it looked like a good plan.

Steve F. asked if there was any other public comment on the private ways? There was none.

Amendment to a CUP – Add 12’ x 20’ Storage Shed to Property for Mainely Rustic to Utilize – Map 19, Lot 13 (63 Emery Mills Road) – Sharon Tombarelli, Applicant; Roger Berube, Property Owner

Steve F. stated the next item was for the 12’ x 20’ shed for Mainely Rustic. He asked if anyone was present to comment on this application? Mrs. Tombarelli said she was present, along with Mr. Berube.

RC Rogers asked if they were before the board because they had a Conditional Use before for Mainely Rustic? Steve F. stated yes, it is considered an amendment to the Conditional Use, because there is a change to the use.

Madge B. stated that she did not think a shed would create more traffic. Steve F. agreed, it was just a storage shed.

Steve F. asked if there were any other comments? There were none. The public hearing closed at 6:40 pm.

- *The Planning Board meeting started at 7:00 pm.*
- *The Planning Board Chairman began the meeting with the Pledge of Allegiance.*
- *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 read.*

Unfinished Business:

Best Practical Location – Replace Structure / Members to Sign Final Plan for Recording – Map 23, Lot 9 (41 Starboard Lane) – Cass Shumsky, Applicant & Property Owner

Mr. Shumsky was present with the final plans for his replacement structure. He was before the board so members could sign the plan, then it could be recorded.

The Planning Board members reviewed the final plan and noticed the distance from the approved proposed location for the new structure to the high water mark was not on the plan. Barbara F. stated that figure was one of the most important figures to have on the plan. Mr. Shumsky asked if it was on the previous plan that members approved? Steve F. stated that it was on the small plan that was in the file. Mr. Shumsky stated that he just received the final plan on January 15th. Barbara said that the reason the plan has to be recorded is to show the board approved the distance to the water for the new structure. Steve looked to see if it was anywhere else on the plan, but it could not be located.

Ann H. asked if the board could write the figure on the plan? Steve F. and Barbara F. said that the registry would not record it with handwritten figures on the plan. Barbara added that in the past the registry accepted handwritten changes, but that is no longer the case. Barbara showed Mr. Shumsky where the original figures were located on the small plan that was approved. Barbara did not think it would be difficult for Corner Post to add the two dimensions required, they should have all the information in their computer. Mr. Shumsky asked Steve to circle where the dimension(s) were required on the plan. Mr. Shumsky stated he would take a picture and email it to Mr. Libby at Corner Post. He asked when the board met again, and he was told the 27th of February. He asked if it was ok for Corner Post to deliver them, so he would not have to come back for the board’s signatures? Barbara said that would be ok, and she would let him know when the plan was ready to be recorded. She also stated that if Dana Libby had any questions on what the board was looking for, to have him call her.

Steve F. stated that because the plan was missing several dimensions, members will sign the plan at another time. Nothing further was discussed.

Construction of 2 Private Ways – 1 to Access Two Lots, 1 to Access Four Lots – Map 9, Lot 12A-1 (Town Farm Road) – Joseph Stanley, Applicant; Dennis Glover, Property Owner

Mr. Stanley was present for the review of the application, along with property owner Dennis Glover.

Originally provided along with the application, was a Letter of Authorization from Dennis Glover, granting permission for Joe Stanley of LinePro Land Surveying to act as his agent in all aspects in order to obtain any and all permitting necessary from the Town of Shapleigh for his property located at 428 Town Farm Road, Map 9, Lot(s) 12A-1, 12B-1.

Provided was a ‘Sample’ Road & Drainage Maintenance Agreement, which in part grants appropriate easements and rights-of-way for the installation of utilities and for ingress and egress to all lots and land served by the roadway; owners of all lots accessed by the road shall be obligated to maintain, repair, plow, sand and replace the aforementioned road and drainage structures; each lot owner, as spelled out, shall decide on the money to be expended and individual to be employed for work done; each lot owner’s share for reasonable charges shall constitute a debt owed to other lot owners, which may be collected in any court of competent jurisdiction of the State; the lots owners may, by majority vote, elect or appoint an agent or manager to act on behalf of the other lot owners in contracting to have work done and collecting the contribution of each lot owner; protocol for disputes is spelled out; under no condition can the lot

owners close the private road to travel and discontinue its maintenance; and the agreement shall run with the land, and be described in the deeds to all lots on aforesaid plan.

Provided was a 'Plan Showing a Proposed Private Way & Family Division for Dennis Glover, 428 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine', drafted by Joseph L. Stanley, PLS #2453, dated December 20, 2023. One private way, being approximately 520 feet in length and 52.77 feet in width, accessing Proposed Lot A (2.00 Acres) and Proposed Lot B (1.89 Acres). It is also adjacent to existing Tax Map 9, Lot 12B-2 and Map 9, Lot 12A-1. The second private way is approximately 1104+ feet in length and 54.22 feet in width. It accesses Proposed Lot C (1.84 Acres), Proposed Lot D (1.84 Acres), Proposed Lot E (1.90 Acres) and Proposed Lot F (5.54 Acres). This proposed private way is also adjacent to Tax Map 9, Lot 12A-1. The plan depicts adjacent property owners; a Sample of Typical Ditch Turnout & Level Spreader; & Road & Ditch Section, showing the travel way to be 16 feet in width, comprised of 2" of Crushed Gravel 3/4" to 1 1/2" on top of a 15" compacted gravel base (max size 4"); ditching and slope were also depicted. (The adjacent property owners are noted as: Eleanor Moulton Estate, Shapleigh Tax Map 9, Lot 9; 27 Washington School Road Trust A & B, Map 9, Lot 13; Cornelius A. & Diana M. Stewart, portion of Tax Map 9, Lot 12B; & Cornelius A. & Chelcie Dawn Stewart, portion of Map 9, Lot 12B). Note 6 'Private Way Note' states: The proposed Private Ways shown hereon are to remain private roads, 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 ways, as shown hereon, and further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board. Note 7 'Subdivision Definition:', provides the Maine Revised Statute Title 30-A, Section 4401, Definitions, 4. Subdivision.

Provided this evening was the proposed final plan drafted by Joseph Stanley, PLS #2453, dated February 13, 2024. The final plan entitled 'Plan Showing a Proposed Private Way & Family Division for Dennis Glover, 428 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine', provided the same documentation as the original plan dated December 20, 2023, except all lot dimensions were removed, other than the road frontage along the private way, and the turn-around area. The proposed lot sizes were also still noted on the plan for each of the six lots proposed, which are the same as the originally proposed lot sizes.

Steve F. opened the meeting asking if there were any changes to the plan from the last review? Mr. Stanley began by introducing himself and stating that he was representing Mr. Glover and his family. He stated the plan was very similar to the last one he presented to the board. He said there was discussion at the last meeting in what changes they could make, because they were asking for approval of just the private ways for future family lots. He stated family lots don't come under Planning Board subdivision regulation. He said the concept is, what are the private ways serving, so adjustments were made. He said he lightened what was previously presented, removing a lot of the dimensioning. He said the plan now does not feel like a subdivision plan, as much as the last time. He said otherwise, a couple of grammatical mistakes were corrected that were found at the last meeting. He said other than that, the plan is the same version that was presented at the last review.

Steve F. asked if there were any comments from the board? Madge B. stated that under §105-60.1.A it states, 'The plan shall delineate the proposed way and each of the lots to be served by the private way'. She said that the last conversation went back and forth about that, but the lots have to be on the plan. Steve stated that they were. Mr. Stanley stated that he still showed the lines for the lots, he just removed the survey dimensions. Madge asked, "Why remove them if we have to show them?" Madge said that if the lots get changed they have to come back to the board, as I read the ordinance. Mr. Stanley stated that

he respectfully disagreed. He said that he was here solely for the Planning Board's review and approval of the private ways, and they are showing concepts of what the lots will be. Madge said that she agreed, but we can't get around the plan *shall* delineate these lots. Mr. Stanley said that he felt the lots are delineated on the plan. Madge B. said that the plan shall be recorded, then they are lots. Steve said that the board was not approving the lots. Madge said again they would have to come back if there is a change. Steve said, "Not if they go to family". Madge agreed, stating, and if they do not change the lots.

Madge B. said there also was another question, which was where the house will go on Lot A, because it has to be 200 feet wide. Mr. Stanley stated it would go somewhere within the building envelope. He noted the way the ordinance defines lot width; he then showed on the plan what would be the front and back of the lot, stating the lot is over 450 feet wide. Steve F. stated that the width is parallel to the road, pointing out that he and Ann had just looked at the definition. Ann agreed, and stated she looked at 105-19 (4), because it is at the cul-de-sac, and wondered where the 200 feet required for the distance for the building was, so she then looked at the definition of Lot Width. She said the definition of lot width says 'parallel to the road'. She said if this is the case, they have over 400 feet. Madge stated, "But there is no road". Ann asked if part of the cul-de-sac is the road? Madge said there is not 200 feet on the lot. Steve stated that there was over 60 feet of road frontage. Madge did not see how the definition works, as they are stating there is no road frontage. Steve said there is road frontage. Madge agreed, but the lot is not parallel to a road. Steve thought it was parallel. Madge agreed that it was parallel to a hammerhead. Steve thought it was still the road. Mr. Stanley asked Madge what she thought the front of the lot was? Mr. Stanley, using the plan, showed what he thought was the front and rear of the lot, and he said the ordinance states anything else is the side. Madge said if what he is saying is true, then Lot A should be delineated. Mr. Stanley said he could do that, but the Planning Board is not approving any lots this evening. Madge stated that the board needs to make sure that Lot A is a legal lot. Mr. Stanley said they will all be confirmed as legal when building permits are applied for. Madge did not see how the ordinance was being enforced.

Steve F. said he believed the lots were at least proposed. Madge B. said if everyone else is satisfied, then they did not have to worry about her opinion. Steve felt what the flavor of the ordinance was calling for, was to make sure the proposed lots have the required road frontage. He said if they were going to subdivision review, we would be in a different set of circumstances. Mr. Stanley agreed, stating a lot more goes into a subdivision review including soils mapping, wetlands mapping, etc. He said all the lots being proposed are a family division, which are exempt from the subdivision review. He is only here to try to satisfy the private way ordinance.

Ann. H. said, when looking at this, a private way is really not a road. She said if it was a road, then the definition in the ordinance of the width, would be what we are looking at, but because it is not a road, we are back to looking at 200 feet of road. Mr. Stanley said he understood where she was coming from, but he believed a private way is a type of road, and the construction details for this type of road are found in your road ordinance. He said he did not have the zoning book in front of him, but a private way would be considered a road.

CEO Demers said the definition of private way is 'a category of road not owned or maintained by the Town of Shapleigh or the State of Maine, which provides frontage to a lot or lots'.

Madge B. said she also had a problem with Section H. Steve F. stated that H says that you cannot create anymore lots than what is depicted on the plan. Madge said that is why she wants the lots delineated, but she felt others were obviously satisfied with how they are on the plan. Steve asked her if she did not like what was on the plan? Madge said that it says 'no further lots shall be created', no further lots will be created if the lots are on the plan. She said, how does the board know if the lot lines mean anything?

Mr. Stanley stated that he had that information on the plan at the last meeting, but the only reason he removed it was to satisfy the board being uncomfortable with it looking like a subdivision plan, because it is not one. Madge B. said she understood. Mr. Stanley said in the past there was an issue because lots got sold because it looked like a private way (he may have meant subdivision?), he believed after reading the minutes that this was a solution. He said the lots are still depicted, but it does not look like a subdivision. The minutes from 1/23/2024 being noted are as follows: *CEO Demers asked if the recorded version was going to have the lot configurations? Mr. Stanley stated that he has on the last two he presented. He said it was up to the board. He noted that on a previous private way plan he did, the board did not like not having the lots on the plan, because they could not see what the private way was for. He said now he brings in the concept and the reason for the private way. Steve F. asked CEO Demers what were his concerns. CEO Demers said if this were a subdivision, any change in lot lines would have to be an amendment to the subdivision. He said this is a private way for a family division, and the lots could change. Steve agreed. Mr. Stanley wondered if he should pull the dimensions off the interior lines, giving a rough concept, but not the mathematics to be able to write the deed based on the boards approval of the private ways. Steve thought maybe it looked too 'subdivisiony'. Maggie M. asked if there was a need to have the specific acreage broken out? What if there was just the roads and nothing else? Mr. Stanley said he could just put the roads on the plan, noting that previously he was asked to show the lots being served by the private way, and that was what got recorded.*

Madge B. stated that as long as it is clear that those are lots, and that if anything changes it needs to be reviewed as a private way, not as a subdivision. She said as far as the minutes, they were very clear we were going to discuss this at this meeting. Steve F. agreed. Madge was referring to the following: *Steve F. said the board is going to meet again on this application. So the board can further review the ordinance. He said he had no issue with how the private way was laid out, because it makes the most sense, the hammerhead turn-around for the 2 lots. He said he didn't want to be setting the Town up for anything adverse in the future. Steve F. said the plan can stay as is for now.*

Steve F. felt what Madge was alluding to was the fact that you cannot create any new lots, you cannot add additional lots. Madge agreed, because the road is designed to serve a certain number. Steve agreed. Mr. Stanley said he agreed, and he discussed it with his client, that we cannot access any more than the six lots shown without coming back to see the board. He said this should be made a condition to enforce it. He said he cannot divide a lot in the future without coming back, because for these two private ways you cannot have more than the six lots shown. Madge felt they were on the same page, noting it seemed odd to try to get rid of the lot information. Mr. Stanley said he just turned if from the dark lines to the grey lines and removed the measurements, so it didn't look like a subdivision plan. He said every line is there. Madge said, ok.

Steve F. asked if there were any other comments? He also asked the board if they were looking for any other changes to the plan, or did they feel comfortable with this plan?

Madge B. said she did not like the hammerhead but the ordinance allows it for a cul-de-sac. Steve F. said, "Let's pretend we require the applicant to build 200 feet of road frontage here, it would make no sense". Madge said she agreed. Steve felt it would be wasted space. Madge said she agreed, but she hoped that everyone understands that when you plow the road you have to leave that 50 feet open. Steve agreed.

Steve F. did not believe there were any other conditions that needed to be on the plan. Madge B. said she liked the condition that they cannot change the number of lots without coming back before the Planning Board. Mr. Stanley said they fully support that.

Steve F. reviewed 105-60.1 once again. In addition to the required plan notes, which are on the plan; the required maintenance agreement (a sample was provided); along with the street standards as noted, the following conditions of the ordinance must be met:

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

Steve F. asked if there was a motion to approve?

Madge B. said, “With the added specific condition if the number of lots serviced by the private way goes above six lots, they must come back before the Planning Board for approval”.

Steve F. said this would be found under 105-61.1 H. Norman B. asked if they could clarify the condition. Steve F. read §105-60.1 H (as noted above). Norman did not comment further.

Madge B. moved for approval of the Private Way Plan as presented with the stated condition. Maggie M. seconded the motion to approve with the stated condition. By a vote of 5 – 0, the motion to approve the private way was unanimous.

Nothing further was discussed.

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**The Findings of Facts**

1. The owner(s) of Shapleigh Tax Map 9, Lot(s) 12A-1 & 12B-1 (Town Farm Road) are Dennis A. Glover and Eileen P. Glover, current address of 428 Town Farm Road, Shapleigh, Maine 04076; recorded at the York County Registry of Deeds as Book 12061, Page 95, dated as recorded 10/15/2002, and Book15342, Page 952, dated as recorded 1/29/2008.
2. The property is located in the General Purpose District. The Town of Shapleigh has the acreage as 20.06 and 2.74 acres. The submitted plan shows a total of 18.93 acres, which does not include the acreage of the private way(s).
3. Provided was a ‘Sample’ Road & Drainage Maintenance Agreement, which in part grants appropriate easements and rights-of-way for the installation of utilities and for ingress and egress to all lots and land served by the roadway; owners of all lots accessed by the road shall be obligated to maintain, repair, plow, sand and replace the aforementioned road and drainage structures; each lot owner, as spelled out, shall decide on the money to be expended and individual to be employed for work done; each lot owner’s share for reasonable charges shall constitute a debt owed to other lot owners, which may be collected in any court of competent jurisdiction of the State; the lots owners may, by majority



vote, elect or appoint an agent or manager to act on behalf of the other lot owners in contracting to have work done and collecting the contribution of each lot owner; protocol for disputes is spelled out; under no condition can the lot owners close the private road to travel and discontinue its maintenance; and the agreement shall run with the land, and be described in the deeds to all lots on aforesaid plan.

4. Provided was a ‘Plan Showing a Proposed Private Way & Family Division for Dennis Glover, 428 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine’, drafted by Joseph L. Stanley, PLS #2453, dated December 20, 2023. One private way, being approximately 520 feet in length and 52.77 feet in width, accessing Proposed Lot A (2.00 Acres) and Proposed Lot B (1.89 Acres). It is also adjacent to existing Tax Map 9, Lot 12B-2 and Map 9, Lot 12A-1. The second private way is approximately 1104+ feet in length and 54.22 feet in width. It accesses Proposed Lot C (1.84 Acres), Proposed Lot D (1.84 Acres), Proposed Lot E (1.90 Acres) and Proposed Lot F (5.54 Acres). This proposed private way is also adjacent to Tax Map 9, Lot 12A-1. The plan depicts adjacent property owners; a Sample of Typical Ditch Turnout & Level Spreader; & Road & Ditch Section, showing the travel way to be 16 feet in width, comprised of 2” of Crushed Gravel 3/4” to 1 ½” on top of a 15” compacted gravel base (max size 4”); ditching and slope were also depicted. (The adjacent property owners are noted as: Eleanor Moulton Estate, Shapleigh Tax Map 9, Lot 9; 27 Washington School Road Trust A & B, Map 9, Lot 13; Cornelius A. & Diana M. Stewart, portion of Tax Map 9, Lot 12B; & Cornelius A. & Chelcie Dawn Stewart, portion of Map 9, Lot 12B). Note 6 ‘Private Way Note’ states: The proposed Private Ways shown hereon are to remain private roads, 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 ways, as shown hereon, and further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board. Note 7 ‘Subdivision Definition:’ provides the Maine Revised Statute Title 30-A, Section 4401, Definitions, 4. Subdivision.
5. Provided was the final plan drafted by Joseph Stanley, PLS #2453, dated February 13, 2024. The final plan entitled ‘Plan Showing a Proposed Private Way & Family Division for Dennis Glover, 428 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine’, provided the same documentation as the original plan dated December 20, 2023, except all lot dimensions were removed, other than the road frontage along the private way, and the turn-around area. The proposed lot sizes were also still noted on the plan for each of the six lots proposed, which are the same as the originally proposed lots.
6. Private Way Note 6 states:  
The proposed Private Ways shown hereon are to remain private roads, 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 ways, as shown hereon, and further lot divisions utilizing the private ways are prohibited without prior approval of the Shapleigh Planning Board.
7. Private Way Note 7 states (in part):  
Subdivision Definition: .....D-4. A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition, unless the intent of the transferor is to avoid the objectives of this subchapter.
8. A notice to abutters within 500 feet of the property was mailed on Friday, January 26, 2024. A public hearing was held on Tuesday, February 13, 2024, prior to the planning board meeting. Meetings were held on Tuesday, January 23, 2024, and Tuesday, February 13, 2024.

9. After review of Zoning Ordinance §105-60.1 ‘Private Way’s’, the Planning Board unanimously voted to approve the construction of two Private Ways to access six lots, per the final plan entitled ‘Plan Showing a Proposed Private Way & Family Division for Dennis Glover, 428 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine’, drafted by Joseph Stanley, PLS #2453, dated February 13, 2024. The two private ways depicted on the plan meet all the requirements in the ordinance, **with the condition that if the number of lots serviced by the private ways goes above six lots, the applicant must come back before the Planning Board for approval.**
10. The applicant has 90 days to register the approved plan with the York County Registry of Deeds and return a Mylar copy, with the book and page number, back to the Planning Board. If a registered copy is not returned to the board, the approved plan shall be null and void.
11. The applicant has one year to begin the project and two years to complete the private way; for the private way permits secured under the provisions of this chapter by vote of the Planning Board, otherwise, the permit becomes null and void.

**Decision:**

**The final plan drafted by Joseph Stanley, PLS #2453, dated February 13, 2024, to construct two Private Ways to access six lots, plan entitled ‘Plan Showing a Proposed Private Way & Family Division for Dennis Glover, 428 Town Farm Road, Shapleigh, Maine 04076 of Property Located on Town Farm Road in Shapleigh, Maine’, was approved.**

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**Amendment to a CUP – Add 12’ x 20’ Storage Shed to Property for Mainely Rustic to Utilize – Map 19, Lot 13 (63 Emery Mills Road) – Sharon Tombarelli, Applicant; Roger Berube, Property Owner**

Ms. Tombarelli was present for the review of the application, along with Mr. Berube.

Provided along with the application was an aerial photograph of part of Lot 13, depicting the existing parking area, the structure used in part for Mainely Rustic, along with a storage building for Berube Builders. The approximate location of the 12’ x 20’ shed was written on the photo.

The application detailed description of the project is as follows: *Placing a 12’ x 20’ shed next to building for storage, 15’ from corner of building to side of shed. 65’ front lot line to beginning of shed, 64’ side shed to side road.*

Steve F. said the review is for Sharon’s shed, adding a 12’ x 20’ shed to Map 19, Lot 13 for Mainely Rustic, located at 63 Emery Mills Road.

Steve F. read the conditions that were part of the original Conditional Use Permit. These standards are still in effect and are as follows:

- 1) The hours of operation shall be 9:00 a.m. thru 7:00 p.m., seven days a week.
- 2) A maximum of 400 square feet shall be used to display outdoor furniture. This furniture is to be taken inside at the close of business in the evening and at no time shall it be displayed/placed in the parking area.
- 3) Signage for the new structure shall be permitted through the Code Enforcement Office.

Steve F. reviewed the minutes of the last meeting, stating they are placing the shed next to building for storage, 15' from corner of building to side of shed. 65' front lot line to beginning of shed, 64' side shed to side road. He said a basic lot calculation was done and this meets the criteria in the ordinance for lot coverage.

Steve F. reviewed the **standards applicable to conditional uses under §105-73.G** in part 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 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.

#### **H. Conditions attached to conditional uses.**

- (1) Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required in this chapter, that it finds necessary to further the purposes of this chapter. Violation of any of these conditions shall be a violation of this chapter. Such conditions may include but are not limited to:
  - (a) Specifications for type of vegetation, increased setbacks and yards.
  - (b) Specified sewage disposal and water supply facilities. *Steve stated this is not applicable.*
  - (c) Landscaping and planting screens.
  - (d) Period of operation.
  - (e) Operational controls.
  - (f) Professional inspection and maintenance.
  - (g) Sureties.
  - (h) Deed restrictions.
  - (i) Restrictive covenants.
  - (j) Locations of piers, docks, parking and signs.
  - (k) Type of construction.
  - (l) Any other conditions necessary to fulfill the purposes of this chapter.

Steve F. stated that his notes from the last time were that there would be no flammable materials allowed to be stored in the shed; the shed has to sit within the building envelope as shown on the plan; and any signage would be approved by the Code Officer.

Madge B. asked if the board asked about lighting? Madge asked the applicant if she was putting any lighting on the building? Ms. Tombarelli stated that she might put a light in there. Steve F. asked if she was speaking about inside the shed. Ms. Tombarelli stated that yes, inside the shed.

Barbara F. noted that CEO Demers at the last meeting asked that the shed only be used for storage. Steve F. asked Ms. Tombarelli if there would be retail space inside? Ms. Tombarelli stated that she did

clearance of items on tables outside, out front, and she thought she might put that into the shed in the summer. She said that would be the only retail. Ann H. asked if clients would be walking into the shed? Ms. Tombarelli stated, yes. Madge B. and Ann stated that this changes things, it is not just storage anymore. Other members agreed. Ms. Tombarelli stated that it would be for storage of the outdoor furniture as well. Madge said if the public is coming into the building, the board will need more details about the building. Ann said there may have to be lighting inside, and lights for the pathway into the building. Ann said it should be drawn on a plan. Madge asked what the flooring would be, noting she understood that the building would be set on gravel. Ms. Tombarelli stated there would be a floor, it is part of the building. Madge asked if steps were needed to get into the building? Ms. Tombarelli thought there was a step up into the building, either 4 or 6 inches high. Madge asked if the board had to worry about square footage of retail space? Steve F. stated it was another 240 square feet of retail. Barbara asked CEO Demers if he had any concerns, as at the last meeting he stated he did not want it retail space. CEO Demers stated that it needed to be at least a 36 inch door going in, there needs to be lighting, perhaps hand rails going in. Ms. Tombarelli stated there would be railings out in the front and there is a standard size door. CEO Demers asked if there was only one or two steps up into it? Ms. Tombarelli thought it was only one. Mr. Berube stated that the board wanted 36 inches and asked her if it had double doors? Ms. Tombarelli stated there were double door in the back, that are four feet wide, in case she had to store larger furniture. Mr. Berube said again, that she needed to make sure the front door is 36 inches.

Steve F. asked Ms. Tombarelli if she had a copy of the plan for the shed? She did and provided a sketch of what she had for Steve to look at. Steve stated that the plan showed 2 x 3 studs on the side, a four foot single door in the center, and what looked like a 2 x 3 window. Ms. Tombarelli agreed, stating it was in the front. Ann H. asked if it was a prefab building which had a porch? Ms. Tombarelli stated, yes. Ann thought the customer would come up onto the porch and look at what is inside. Ms. Tombarelli stated that you would step up onto the porch, then in through the door. Ann stated that they would need exit signs if customers will go into the building. Ann asked what the board does now, do they approve for storage? Steve stated if the board was being asked to approve this not for storage but for retail, more information is needed, more information than what could be just jotted on the plan she had. Steve suggested that the board table the application, and have her add it to the plan.

Madge B. stated that it could change the parking, and she thought there may be enough parking, but the board needs to look at it. Madge stated there needs to be 1 space for every 150 square feet. Steve said that they need to show on the original parking plan two more parking spots. Ann stated they need to also show the lighting available going from the large building to this building. Madge agreed. Ann said they already spoke about plantings, and that they are not necessary, because we don't want to block the entrance.

Steve F. stated that under §105-43 'Off-street parking and loading', is where you find the parking requirement of one space for each 150 square feet or fraction thereof of floor area of any retail, wholesale or service establishment. Steve asked if the board was ok with the screening? The board had no issue. Ann H. believed the only other issue was lighting.

Steve F. stated that under the Basic Performance Standards, §105-21 'Traffic', there was no issue. He said under §105-22 'Noise', there is no change. Steve quickly noted §105-23 'Dust, fumes, vapors and gases'; §105-24 'Odors'; §105-25 'Glare'; §105-26 'Stormwater runoff'; §105-27 'Erosion control', and stated there were no issues. He asked again where the board landed on §105-28, 'Setbacks and screening'? Madge B. stated that the board did not require screening, it will not change the look of the property and the setback is fine. Madge, looking at the plan provided, asked how people will get into the new building? Ms. Tombarelli got up and described to the board what they were looking at, noting the location of the parking area and where she might put several stepping stones from the parking area to the entrance to the

building. She said at this time they haven't even fully decided they were going to use it for retail, originally it was just for storage. Madge and Ann both felt there appeared to be enough parking. Ann asked that she draw where the walkway to enter the building would be, along with the location of lighting. Ms. Tombarelli asked what she speaking about with respect to lighting. Ann stated that if it were dark out and they were walking to the building, where would lighting be located, for safety. Ms. Tombarelli stated there was a large spotlight on the existing building that turns on when it gets dark. She noted several other locations where there were spotlights. The board asked that she place the location of the existing lights on the plan she provides.

Ann H. asked if the board could table this until the next meeting so she can update her plan? Ms. Tombarelli asked what the date would be. Steve F. stated February 27<sup>th</sup>. Madge B. stated that the plan needs to show how this will work. *Steve stated that she needed to show the location of a 36 inch entrance door, the location of two additional parking places, where the lighting on the front of the building will be and how the walkway will be lighted.* Ms. Tombarelli asked if the board wanted a picture? Steve stated a picture or a drawing. Madge thought a drawing would be fine, as long as the board has a record of how this will work and that it will meet the ordinance. Steve asked CEO Demers if he would require additional items after the board approves this? *CEO Demers stated that they would need inside lights, as well as exit lighting, and a minimum of a 36 inch door.* Ms. Tombarelli thought it was a regular size door, but she will check to be sure what the measurement is. CEO Demers added that a sliding barn door will not count. Ms. Tombarelli said it was a regular door that can be locked. Ann asked if she had to do anything for ADA, or a fire extinguisher? CEO Demers did not think so.

Steve F. stated that he would entertain a motion to table until the next meeting.

**Madge B. moved that the board table the application pending additional information as stated. Ann H. seconded the motion. By a vote of 5 – 0, the motion to table was unanimous.**

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**Conditional Use Permit – Reduce Front Lot Setback for Existing Structure on Non-Conforming Lot of Record – Map 42, Lot 23-1 (39 Royal Coachman Way) – Ted Theriault, Applicant & Property Owner**

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

Provided along with the application was a copy of the town tax map depicting Map 42, Lot 23-1, which bordered on Royal Coachman Way.

Provided was a copy of what is entitled 'As-built Building Sketch of Lot 1, Royal Coachman Way, Shapleigh, Maine for: Waters Edge Land Development, LLC, P.O. Box 62, Shapleigh, ME 04076', drafted by Sebago Technics of South Portland, Maine. The plan depicted the constructed building and proposed septic location. *The setback from the front lot line is written as 48.1 feet on one corner and 50.4 feet on the other.* The setback from the structure to the rear lot line is written as 35.4 feet and 39.8 feet. General Notes: 1. Field work was performed by Sebago Technics, Inc. on January 23, 2024. 2. Boundaries shown hereon are based upon a plan titled 'Pine Springs Development Corp, Shapleigh Maine, West Shores Section 4-W' dated June 17, 1976 by John Large and Recorded at the York County Registry of Deeds in Plan Book 81, Page 31. 3. The purpose of this plan is to show the relationship of the constructed building with the boundary lines of Lot 1. Handwritten on the plan was 'Issue: 48.1 Ft'.

Provided was a copy of the Subsurface Wastewater Disposal System Application, for a 3 bedroom single family house, drafted by Gary M. Fullerton, SE #355, dated 1/11/2021.

The application detailed description is as follows: *Front Lot Line reduction for a non-conforming lot.*

Steve F. stated that the next application was to reduce the front lot setback for an existing structure on a non-conforming lot of record. Steve said this was on Royal Coachman Way and he asked Mr. Theriault to let the board know what happened.

Mr. Theriault stated he brought in a survey company a year ago to flag off the front line, they set the stakes to the foundation from the front line. He stated they dug the hole, put in the foundation, put up the structure. He said the property was resurveyed and he was told they were 2 feet too close to the front boundary line. He said this was a non-conforming lot, and they tried to make the structure conform, and he thought it was.

Madge B. stated that Mr. Theriault applied for a building permit, got the permit to build and then built it. She said sometimes a survey is required to build, but not in this case she assumed.

Steve Foglio read from §105-19 ‘Notes to Table on Dimensional Requirements’, as follows:

- D. Front yards. Whichever of the two methods for determining front yard setbacks (specified in the table in §105-18) yields the greater distance shall apply. 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.

Madge B. asked if this lot was a shoreland lot? The answer was no. Ann H. asked if he was on a corner lot? Mr. Theriault stated that he was.

Madge B. stated that the way she read this section, was the 25 foot setback is only for shoreland lots. She said when she reads it, it says ‘*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*’. She thought this section only applied to shoreland lots where we were trying to move buildings back 100 feet from the water, and if this isn’t a shoreland lot, she did not think it applies. She believed the applicant needed to apply for a variance. She agreed it was a lousy situation but the proper course of action, would be to apply for a variance.

CEO Demers stated that he drafted that ordinance, and it was not intended to be exclusive to the Shoreland Zone. He said it is meant for, ‘*except on a non-conforming lot of record*’. He said this is a non-conforming lot of record. Madge B. stated that she voted for this change, after discussion, she always thought it only applied to the shoreland lots in order to get the 100 foot setback. CEO Demers said it could be for any reason, it’s a tight lot. Madge said that we want, in the shoreland, for the building to be back as far from the water as it can be. CEO Demers agreed that was one of the benefits when considering best practical location. He said again his intention was for non-conforming lots of record. Madge stated that she respectfully disagreed. Ann H. stated that this could be addressed when making amendments in the future. Madge stated that she would like this to only apply to the shoreland. Ann said she understood and they could make that clear. Madge thought as it is written it is clear as written. She said that each member needs to interpret it.

Ann H. asked if Section F came into play on this lot, since it is a corner lot? Steve F. read Section F, which refers to a 50 foot setback requirement to the road(s), stated it did not help in this situation, as there is a setback issue of 1.9 feet. He noted this was in one corner. Ann stated in this case we are back to a variance.

Steve F. stated that he was looking for a way out of this situation, but did not see it. He said he felt like it was semantics. CEO Demers felt it was clear ‘except on non-conforming lots of record’. Steve said if you read the first few sentences and then pause, and then read ‘except on non-conforming lots of record’, the exception does not say ‘except on waterfront non-conforming lots of record’. CEO Demers said the exception was not to bind it to shoreland zoning. He said that there are non-conforming lots all over the place. Steve stated we are in the section on ‘Notes to the table of dimensional requirements’, we are not in the shoreland zoning ordinance. Steve stated he is not a voting member for this application, and he will entertain a motion should the board want to. (Tom C. will therefore be a voting member on this application.)

Steve F. asked Tom C. if this was an after-the-fact conditional use, does it require a variance, what are your thoughts? Tom stated that this was after-the-fact, because it is already done. He said in his opinion it required a variance. Madge B. stated that she agreed the cleaner way to approach this is getting a variance, variances are designed to make changes to dimensional requirements. Ann H. agreed.

Steve F. stated this would require a motion to deny the permit, or a motion to table for more information.

**Madge B. moved that the board deny the permit to reduce the front setback to the property line on the existing structure by 1.9 feet, and send it to the Board of Appeals. Norman B. seconded the motion. By a vote of 5 – 0, the vote to deny the permit was unanimous.**

Steve F. told Mr. Theriault he would need to take his case to the Board of Appeals.

Nothing further was discussed.

**Conditional Use Permit – Storage of Rental Equipment at Residence – Map 10, Lot 2-2-4 (23 White Pine Lane) – Matthew Leck, Applicant & Property Owner**

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

Provided along with the application was a copy of the GIS picture of Map 10, Lot 2-2-4, which showed the lot lines, along with two structures on the property.

The application detailed description is as follows: *Storage location for rental equipment.*

Steve F. stated the next application was for Matthew Leck for the storage of rental equipment at his residence, Map 10, Lot 2-2-4, 23 White Pine Lane. Steve asked Mr. Leck to tell the board what he would like to do. Mr. Leck stated that he had a small rental company, and he uses his shop and behind his shop to store the equipment and they pick it up and deliver it from there.

Steve F. asked if the board had any questions for Mr. Leck? A member of the audience asked if comments or questions from the audience were allowed? Steve said if the board gets through this meeting, they will hold a public hearing, but he would entertain a comment. The citizen stated his name was Scott Corliss and that he was Mr. Leck’s neighbor (11 White Pine Lane). Mr. Corliss stated that there has been a violation of a restrictive covenant of the subdivision for over a year. He stated that Mr. Leck has ignored

his request to sit down and talk. He stated that the covenant states there are no types of commercial enterprises allowed whatsoever. He said it was not just a storage area, Mr. Leck is back and forth with rental equipment, with heavy equipment on a private road, that the residents on the road have to pay for the maintenance of. He stated that the restrictive covenants are pretty clear, where it says no commercial whatsoever, and the word whatsoever is pretty specific. He did not know if Mr. Leck provided a copy of the covenant to the board, but he wanted the board aware, because he has been unwilling to have a conversation. He said the best he has gotten from Mr. Leck was sign language, which is inappropriate for mixed company. Steve stated that he understood. Mr. Corliss stated that this was unfortunate, because he has done his best to try to be patient, and gracious, and work this out as a neighbor, but he has gotten nowhere. He stated that he firmly stands against this request, because the restrictive covenant is specifically clear, and if the board needs more information he will be happy to provide it. He said he could show the numerous times he has tried to reach out to Mr. Leck but got nothing in return. Steve thanked him for his input.

Steve F. asked Mr. Leck if he wanted to respond? Mr. Leck stated that he could have a home occupation, so that is why he was here, for a home occupation.

Amanda Debuigne, a neighbor from 18 White Pine Lane, stated that she had copies of the restrictive covenants if the board would like a copy. She read the covenant as follows: *COMMERCIAL USES PROHIBITED: No lot shall be used for any commercial purpose whatsoever, but solely for private residential purposes. This restriction shall not be construed to prevent rental or any home on said lot for private residential purposes, or to prevent the conduct of professions, craft work, artistic endeavors and similar home occupations, but only when conducted from within a private residence, solely by individuals regularly living therein.*

Ms. Debuigne stated that this is a private road, about a 10<sup>th</sup> of a mile long, and there are 4 residences. She said they are all subject to these covenants. She stated that individuals from the public are regularly coming up and down the road, daily, Sunday thru Saturday, hours can be before 6 am and she has been on her deck at 8:30 on a Sunday night, and here comes a trailer rattling up the road, then the equipment backs up with a beep, beep, beep, coming off the trailer. She said these covenants were established for the purchasers 'to have the benefit and enjoyment of said land in accordance with a harmonious plan'. She stated that they do not have the benefit of the enjoyment. She said this is a commercial enterprise that does bring in people from the public to our neighborhood regularly; the equipment is not just stored there, it's retrieved and returned by anybody renting it. Mr. Corliss added that his website shows it as a rental location, it is not just for storage.

Steve F. stated that it does allow for a Home Occupation, and I will read the definition in Shapleigh's ordinance. Home Occupation – *An occupation or profession which is customarily carried on in a dwelling unit or in a building or other structure accessory to a dwelling unit; carried on by a member of the family residing in the dwelling unit; clearly incidental and secondary to the use of the dwelling unit for residential purposes. This shall not be interpreted to include telecommuting.*

Mr. Leck stated that everything he owns he keeps indoors. Mr. Corliss stated that that was not true. He said there was a man-lift behind the shop, there is an excavator. Steve F. stated that at this point he didn't want to waste anyone's time if there is a deed restriction against this. Madge B. noted that the board does not enforce deed restrictions. Madge said he was here for a conditional use permit for what. Barbara F. stated, storage of rental equipment at his residence. Madge said that the board can review under the ordinance whether he meets the conditional use permit. Barbara agreed, but noted the board also has to look at the restrictive covenants if you look under Section H, of §105-73. Madge said again the board



does not enforce them. Barbara agreed, but the board has to look at them, so why? Steve F. said it was under §105-73.H. and he read as follows:

- (1) Upon consideration of the factors listed above, the Planning Board may attach such conditions, in addition to those required in this chapter, that it finds necessary to further the purposes of this chapter. Violation of any of these conditions shall be a violation of this chapter. Such conditions may include but are not limited to:
  - (a) Specifications for type of vegetation, increased setbacks and yards.
  - (b) Specified sewage disposal and water supply facilities.
  - (c) Landscaping and planting screens.
  - (d) Period of operation.
  - (e) Operational controls.
  - (f) Professional inspection and maintenance.
  - (g) Sureties.
  - (h) *Deed restrictions.*
  - (i) *Restrictive covenants.*
  - (j) Locations of piers, docks, parking and signs.
  - (k) Type of construction.
- (l) Any other conditions necessary to fulfill the purposes of this chapter.

Madge B. stated that restrictive covenants are not town enforced. Steve agreed. Madge thought as a conditional use we review it, and put whatever restrictions on it that we feel are required as a conditional use. Mr. Corliss thought if the restrictive covenant is reviewed it violates the piece Steve just read, which makes the use null and void. Madge stated that she was surprised. Ann H. asked if the board could review the application, and add the condition that the business has to follow the deed restriction covenant, then somebody else has to enforce it?

Mr. Leck asked if he wasn't in that subdivision, could he have the home occupation with what he is doing? Steve F. and Madge B. did not believe he would fall under home occupation. He said he did not do any business there, everything is done on line. He said contracts and payments are on line, and all he does is store equipment there, and people come and pick it up and drop it off.

Steve F. stated that the Planning Board can do a site visit, so the board can see firsthand what he is doing. Steve said again, in his opinion, this is not a home occupation, without question. He said that he is not parking an excavator in his house. Mr. Leck stated that he had a 40' x 80' shop, with a 62' x 22' lean-to off the back. He said everything can stay inside. Madge B. stated that he had a business. Mr. Leck stated that if you look on the State of Maine for the definition of a home occupation, it is 20 vehicles per day, 6 vehicles per hour, employees, signage. Madge stated that is not Shapleigh's definition. Steve agreed. Ann H. added that Shapleigh is more restrictive. Steve said at this point it is not a no, the board will schedule a site visit for a time that works.

Steve F. asked if the board wanted to do it prior to the next meeting? **Members agreed to meet on site at 5:45 pm, followed by the public hearing at 6:30 pm on February 27<sup>th</sup>, and a notice to abutters.**

***Note: Mr. Leck pulled the application, therefore the site inspection and public hearing is cancelled.***

Ms. Debuigne asked that the board consider the full scope of the business, because it is not just the equipment sitting, and being stored in a building. She said it is all the activity that takes place, which is a problem for all the people in the neighborhood. Steve F. thanked her and Mr. Corliss for attending, and stated they were welcome to come back in two weeks.

Nothing further was discussed.

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**5-Lot Cluster Subdivision – Concept Review / Pre-Application – Map 7, Lot 16-3 (Stone Post Road) – Sebago Technics, Representing; Debra St. Laurent & Bruce Picard, Property Owners**

Stephen Harding of Sebago Technics was present for the review of the subdivision concept. Debra St. Laurent and Bruce Picard were also present.

Provided for this evening was a cluster subdivision plan concept drafted by Stephen Harding, PE #6633, of Sebago Technics, South Portland, Maine, dated 1/4/2024. The concept plan, entitled ‘Cluster Subdivision Concept, Tax Map 7, Lot 16-3, Stone Post Road, Shapleigh, Maine for: Debra A. St. Laurent & Bruce D. Picard, 9 Dutton Lane, Hollis, NH 03049’, depicts 5 lots, a 20’ wide road into the lots, along with the 50 foot right-of-way, and a round cul-de-sac at the end of the private road. It was noted that there will be a minimum of 75 feet of road frontage for all lots. The lots are depicted as follows: Lot 1 – 3.55 Acres; Lot 2 - 1.52 Acres; Lot 3 – 1.59 Acres; Lot 4 – 1.5 Acres; and Lot 5 – 1.34 Acres. There is 52,000 SF of Open Space at the rear of the property, adjacent to Lots 4 and 5. There is a stream and wetland located on Lot 1, and the 75’ setback to the building envelope for Lot 1 is shown on the plan. The Net Residential Calculation was written on the plan as follows: Gross Area = 11.9 Acres; Unsuitable Soils = - 0.2 Acres; Right of Way = -1.2 Acres; Developable = 10.5 Acres; New Residential Density = 10.5 Acres / 80,000 sf / 5.7 or 5 Lots.

Steve F. asked them to let the board know what they wanted to do. Mr. Harding introduced himself, along with the property owners, Ms. St. Laurent and her son, Bruce Picard.

Mr. Harding stated that Bruce and Deborah would like to subdivide the property, it’s about 11.9 acres, and after looking at it several different ways, they came up with a cluster subdivision after talking with CEO Demers. He said he wanted to show it to the board members, to see if there are any comments, and then they will return with a more refined design.

Mr. Harding stated that they started working with Mr. Picard about a year ago, mapped the wetlands, looked for vernal pools, and did not find any vernal pools. He said there is a culvert that crosses under Stone Post Road, that goes into a wetland and that turns into a stream, then curls and goes off site. He stated there was an existing driveway that meanders in, gets close to the stream and then comes to an area where there are a couple of trailers, a septic system and a well. He said Lot 1 is particularly bigger to try to capture the features of the wetland and the stream. He said they are showing a roadway that is about 850 feet long. He said with a cluster subdivision they can make the roadway shorter, and the lots smaller, with less frontage, going from a 200 foot frontage to a 75 foot frontage. He said the minimum lot frontage allowed is 20,000 sf, but these lots are between 1.3 acres and 1.5 acres, so they are good size lots (Lot 1 is 3.55 acres). He said the trade-off with the cluster division is you have to provide at least 10 percent of open space. He said this is shown on the plan, and he believed the lot to the East was owned by the Town. He noted again that the road is 850 feet long with frontage on the cul-de-sac of 75 feet. He stated that each of the new lots would have a septic system and well, as part of the lot development. He said he wanted to get the board’s feedback.

Madge B. asked, using the plan, what was the building envelope? Mr. Harding showed Madge the building envelope, noting the red lines were the property lines. He also showed her where the setbacks were located. He stated that they showed the concept of the roadway, and needed to go out and survey the existing roadway to see if they can follow that for a distance. He stated they will need a MDEP permit, because they will be closer than 75 feet to the stream. He said the DEP allows a Permit by Rule, so you can get between 25 feet and 75 feet, through the Permit by Rule process. He said when the next plan comes back, the road will be shown to be more meandering.

Steve F. said that it is interesting that the Town owns the abutting property. CEO Demers thought it was Tom Small. Ms. St. Laurent agreed that she thought there was an owner adjacent to them, then the Town Forest. Steve said he mentioned it, because if you keep the open space you have to have the association deal with it, but you also have the option in the ordinance, to donate it to the municipality. He said then it is off their hands, which seemed like a good out, if the Town was an abutter.

Madge B. asked if they walked through the woods to look at it, what is the board looking for? Terrain? Steve F. stated that it was too soon to do a site visit.

Steve F. stated that if the lot does abut Town property, it might make more sense to donate the land to the Town Forest, rather than have to deal with it. He referred members to §89-33 ‘Dedication and maintenance of common open space and services’. Steve read section C (1) ‘It shall not be used for further building lots; and (2) A part or all of the common open space may be dedicated for acceptance by the municipality’.

Madge B. said that you have to get the Town to accept it and she believed it required a Town vote. Steve F. agreed, thinking the Town has to vote to allow them to accept land or dispose of it. Madge agreed. Steve said he had no issues with what was presented; he asked the other members if they had any issues. There were no comments. Mr. Harding said he believed he had to present a preliminary plan, and then a final. Steve said he was a correct. Mr. Harding asked about a public hearing. Barbara F. stated that typically they hold a public hearing after they receive and review the preliminary plan. Steve told Mr. Harding to be sure any requested waivers are on the plan. Board members mentioned the waiver for stone posts, underground utilities, etc. Madge asked if there would be elevations and soils? Steve stated that it needed to be on the plan. Mr. Harding stated that the gentleman who did the wetlands was also a soil scientist, so he can confirm the soils.

Nothing more was discussed.

**Best Practical Location – Place New Foundation Under Existing Structure or Place a New Foundation and Replace the Existing Structure – Map 43, Lot 43 (29 Pine Cone Drive) – Tyler Matthews, Application; Steve Smith, Property Owner**

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

Provided along with the application, was part of a survey plan, which depicted the ‘Existing & Proposed’ house. The plan showed a deck attached to the house, two concrete pads, chimney and steps. The measurement from the deck to the high-water-mark was written as 29.1 feet, the measurement from the foundation to the high-water-mark was written as 35.8 feet. The building overhang was noted on the plan, and there was a blue highlight along the overhang, with a notation that stated ‘gutters or dripline trench @ rooflines’. The distance to the side lot lines and rear lot line was also noted as follows: distance to Map 43, Lot 42 is written as 11 feet at the closest point; distance to Map 44, Lot 1 is written as 5.1 feet at the closest point; and the distance to the rear lot line is written as 14.1 feet.

Provided was a copy of part of a survey plan, which was entitled ‘Tree’. On the plan it showed the general location of 4 trees in relation to the existing structure that are to be removed, and the general location of where 4 trees will be planted.

Provided was a copy of the Subsurface Wastewater Disposal System Application, drafted by Mark A. Truman, SE #121, dated 5/5/2010, which was the revised plan of the plan dated 5/5/2007. The system

appears to be for 4 bedrooms and serves *two camps*, although only Map 44, Lot 1 is noted on the application.

Provided was a letter of authorization, which stated that Tyler Matthews, DBA Lake Living Consultants, could act on behalf of Steven A. Smith, for permits and building, for property located at 27 and 29 Pine Cone Drive, dated 1/22/2024.

Pictures of the existing structure were provided at the meeting held on Tuesday, February 13, 2024.

The application detailed description of the project was as follows: *Plan to lift the house & put it back down on a new foundation, but if rot & mold are present we may have to just tear it down.*

Steve F. stated the next review is for a best practical location to place a new foundation under an existing structure. Steve said this was on Pine Cone Drive, Silver Lake.

Steve F. stated that the applicant provided preconstruction photos. Board members reviewed the photos. Mr. Tyler stated the camp was non-conforming in all directions. Steve said there were 4 trees being removed and replaced.

Steve F. asked Mr. Matthews if he would be utilizing the existing septic system? Mr. Matthews stated that they would.

Steve asked if the plan was to lift the house and put it back down on a new foundation? Mr. Matthews stated that was the plan. Steve went on to read that if rot and mold are present, they will tear it down. Mr. Matthews stated that he added that to the permit, in case he had to remove the structure.

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**Conditional Use Permit – Replace Structure Placing it 100’ from High Water Line and 25’ from Pine Cone Drive – Map 44, Lot 1 (27 Pine Cone Dr.)-Tyler Matthews, Applicant; Steve Smith, Property Owner**

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

Provided was part of a survey plan, hand written on it ‘Existing’. The plan depicted the existing house, building overhang, chimney, and steps. The distance from the high-water-mark to the existing structure is written as 34’. The 100 foot setback to the high-water-mark was also noted on the plan, along with a shed that is also beyond the 100 foot setback.

Provided was part of a survey plan, hand written on it ‘Proposed’. The proposed location of the new structure is beyond the 100 foot setback to the high-water-mark, and approximately 25 feet at its closest point to Whippoorwill Lane and Pine Cone Drive. The plan also notes the ‘Dripline trenches @ all roof driplines’. The plan depicts that where the old house is located the area will be revegetated. *The type of vegetation is not noted.*

Provided was part of a survey plan, hand written on it ‘Trees’. The plan depicts the existing structure that will be replaced, along with the existing shed. The plan notes there will be one dead tree removed and one tree will be planted.

Provided was a letter of authorization, which stated that Tyler Matthews, DBA Lake Living Consultants, could act on behalf of Steven A. Smith, for permits and building for property located at 27 and 29 Pine Cone Drive, dated 1/22/2024.

Provided was a copy of the Subsurface Wastewater Disposal System Application, drafted by Mark A. Truman, SE #121, dated 5/5/2010, which was the revised plan of the plan dated 5-5-2007. The system appears to be for 4 bedrooms and *serves two camps*, although only Map 44, Lot 1 is noted on the application.

Steve F. asked if the yellow camp was similar? Mr. Matthews stated it was a tear down, but he talked the homeowner into getting beyond the 100 foot setback; but to get that, he needs a variance on the road setback. It was noted the board did not give a variance. Steve said he needed a setback reduction. He said the board can look at this at the same time as the other camp. Mr. Matthews noted the board will not see the yellow camp on a site, it has been torn down. Steve asked how long ago? Mr. Matthews stated about 3 weeks.

Steve F. said that he wants to move it way back. Mr. Matthews stated that there was a building envelope that would meet setbacks, but there are power lines going through the middle of it. He said they wanted to go behind the power lines, if they can get the setback reduction. Madge B. noted this was the perfect time to use the setback reduction. She said this is what it is designed for. Steve agreed.

Steve F. asked if the board had any questions for Mr. Matthews? There were no questions.

**Steve F. stated the board would do a site inspection on their own. He said the board will review once again in two weeks, February 27th. A notice to abutters will be mailed as well.**

Nothing more was discussed.

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**Best Practical Location – Replace Structure Destroyed by Fire – Map 36, Lot 26 (1 Blaneys Island) – Tyler Matthews, Applicant; Don White, Property Owner**

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

Provided along with the application, was a Letter of Authorization which stated that Tyler Matthews of Lake Living Consultants could act on behalf of Don White for property located at 1 Blaneys Island, for planning, permits and building; it was dated 1/10/2024.

Provided was part of a plan that provided the dimensions of existing structures on Map 36, Lot 26. The plan depicted a 12’ x 16’ shed, and hand written from the shed were calculation to the high-water-mark of 54 feet, and 23 feet. The plan also depicts the dimensions of what was a camp, those dimensions are 30’ x 20’ with a 16’ x 12’ bump-out for a bedroom. There is also an attached 16’ x 20’ covered porch and a 18’ x 30’ uncovered deck, with a 16’ x 6’ uncovered deck bump-out. Measurements handwritten from the high-water-mark to the bedroom bump-out are 46 feet (Note the camp is 4 feet closer to the high-water-mark but it is not noted on the plan). The distance from the uncovered deck to the high-water-mark is hand written as 29 feet to the high-water-mark. *Note, this is only on the side of the deck, the distance to the camp on the rear to the high-water-mark is approximately 42 feet.* Also handwritten on the plan is ‘Proposed = 29’; Existing (pre-fire) = 29’.

Provided were lot coverage calculations. They are noted as follows: Shed = 192 sf; House 792 sf; Covered Deck = 320 sf; Uncovered Deck = 636 sf; Total 1940.  $1940 / 34, 848 = 5.5\%$

Provided was the subsurface Wastewater Disposal System Variance Request, drafted by Kenneth Gardener, it was not dated. Attached was the Subsurface Wastewater Disposal System Variance Application, drafted by Kenneth Garner, SE #73, dated 10/10/2022, for a 2 bedroom house.

Provided at the meeting were pictures of the camp and deck, prior to the fire. Also provided were pictures post fire of the area.

Steve F. stated the next item was for a best practical location to replace a structure destroyed by fire on Blaney Island, Square Pond. Steve stated the board needs to talk about this, because the property burned down a long time ago. He said the ordinance states that if there is no permit pulled within a year, there is an issue. He stated there was a permit pulled to demolish remains from a fire site and a rebuild, back in July 2022. He stated the question to the board, does that count in your opinion. He said the ordinance does not say our permit.

Steve was referring to §105-4(d)(5), where it states ‘Any nonconforming structure which is removed or damaged or destroyed, regardless of the cause, by more than 50% of its Town-assessed value before such damage, destruction or removal, may be reconstructed or replaced, provided that a permit is obtained within one year of date of said damage, destruction or removal and provided that such reconstruction or replacement must be in compliance with all water body, tributary stream or wetland setback requirements to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this chapter’.

CEO Demers added that there was an insurance claim, there was an issue with logistics, and he noted the property owner was in his office the next day. Steve F. asked Mr. Matthews what was there now. Mr. Matthews stated that he has not been out to see it, but there is a shed on site that the property owner has turned into a gazebo and has been camping in, while he works on site. Steve asked if they ever determined what caused the fire? Mr. Matthews thought it was a camp fire that blew in.

Steve F. asked what the date of the fire was? Road Commissioner Stevens said he had pictures of the fire date stamped in his telephone. Steve said he just wanted it for the record. Mr. Matthews said it was June 2022. Steve said he was getting a permit 10 days later on July 1, 2022. Ann H. asked what the permit was issued for. Steve stated it was issued for ‘Demo remains from fire site, prep for rebuild, other permits required, PBR, septic plan, planning board, no permit fees due to fire’.

Ann H. asked if the reasons he has taken so long is due to insurance? CEO Demers said it was because he is on an island. Ann asked if the board should request a document from the insurance carrier of when they settled the claim, and see what that date is? Steve said it does not require that in the ordinance, it just says they need to get a permit. CEO Demers said the ordinance is designed so someone doesn’t come back 50 years from now and says that their grandfather had a camp here, I want to rebuild it. Ann said she understood. CEO Demers said he went to a shoreland zoning seminar that said, what is the difference between a year and a year and a day, nothing. Ann said she was trying to document some of the circumstances, and this is a non-conforming lot. Madge B. agreed that is why there is a limitation. Steve said that CEO Demers permit is good for one year to start, and two years to complete. He said that technically he felt this permit is valid until July 2024. He thought it met the definition. Madge agreed that it did not say what kind of permit, just that it needs a permit.

Steve F. asked how the board was getting to the island? Mr. Matthews thought the board could get to the island over the ice.

Ann H. asked why they were before the board? Steve F. stated they were before the board for a best practical location. Madge B. said that the board needs to see the location.

Steve F. asked what the time frame was for the project? Mr. Matthews said that the owner is ready to design the structure, but was waiting for the Planning Board ok. He believed they want to start building in the spring.

Steve F. said the board has a sketch plan showing some rough dimensions, but we don't have any way to determine what was there. Steve asked who did the dimensions for the building. Mr. Matthews thought it was from the mortgage company, he was not certain. Steve said that he has never seen hand written dimensions from a mortgage company.

Ann H. asked how far from the water can the structure be built? She said that no matter what the client wants. Madge B. said it could be pushed farther, this is a best practical location. Madge said it will be non-conforming no matter where it is placed. Steve F. asked if there was any foundation? Mr. Matthews did not know. Steve asked what their plan was for a foundation? Mr. Matthews stated that it will have to be on frost posts or sauna tubes. Steve said that if the board permits for the same that is there, 29 on one side and 40 something on the other (the hand written dimension at the closest point on the other side of the structure appears to be 42 feet – 46 feet to the bedroom minus 4 feet).

Mr. Matthews thought it would be a dug well, or they will pull from the lake. Mr. Matthews was asked if he had a square footage proposal. He did not. Steve F. stated that it appeared there was 792 square feet of living area. CEO Demers stated that Mr. Matthews needed to provide the board with the expansion, so they can place the new footprint to the greatest practical extent.

Barbara F. thought they needed a survey, because the placement gets recorded. Steve F. agreed. Steve asked Mr. Matthews if the applicant wants to enlarge the structure or keep it the same size? CEO Demers stated the applicant needs to provide the board with a plan. It was noted again, that he also needs a survey.

Mr. Matthews said if the board wants to see it, he felt they could go over the ice. **The board agreed to go see the site on Thursday, at 1 pm. A notice to abutters will be mailed as well.** (There is only one abutter.)

Steve F. said the board needs to know what he wants to build and the setbacks to the water. Steve also noted that if the board approves to a certain distance, and once built, if the survey shows it doesn't meet that setback, he will have to come back to the board. Mr. Matthews stated that they needed the proposed structure, with the setbacks to the water. Steve added that it had to be done by a surveyor. Steve stated that the board can table the application if he will not be ready for the next meeting.

Mr. Matthews asked if he needed the survey only after the foundation is in, and they certify the location. Steve F. stated that no, the board needs a survey that they will sign and that will be recorded. Steve asked him if he wanted the board to table it? Mr. Matthews stated, no.

Nothing further was discussed.  
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**Other:**

Barbara F. stated that she had spoken with North Star and they are willing to do a one hour workshop, so they can let the board know what they can offer, and speak about what the State is looking for with respect to the Comprehensive Plan. She said they will try to schedule something, likely it will not be until April.

Barbara stated that North Star will give the board an estimated cost of the workshop, so we can see if we have it in the budget. She said she spoke with Michelle (Town Administrator / Treasurer) and she felt there was likely enough in the budget for the one meeting to start.

Barbara stated that North Star said that in the future that they could work on a small scale or larger, depending on what the town is looking for. Barbara felt the cost may be a factor in that decision.

Nothing further was discussed.

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**Growth Permits**

**There are Growth Permits available.**

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**The Planning Board meeting adjourned at 8:50 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