

Shapleigh Planning Board
Minutes
Tuesday, March 26, 2024

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

Madge Baker resigned from the board after close to 30 years as a member. Her legal land use knowledge, as well as love for the environment, and for the people of the Town of Shapleigh, made her invaluable as a member. We want to thank her for her dedication, and she will be greatly missed.

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.

- ***The Planning Board meeting started at 7:00 pm.***
- ***The Planning Board Chairman began the meeting with the Pledge of Allegiance.***
- ***Steve F. asked if there were any questions or changes to the minutes? There were none. The minutes were approved as read.***

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 calculations 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 an 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.

Provided was a ‘Setback Plan Made for Lake Living Consultants, 706 West Shore Drive, Acton Maine 04001 of Property Located on Blaneys Island in Shapleigh, Maine’, drafted by Joseph L. Stanley, PLS #2453, dated 2/27/2024. The plan depicted the proposed 40 x 50’ house, with 8 x 20’ deck. The *proposed* house has setbacks to the high-water-mark set as being 31.6 feet from the northeast corner of the structure; 30.5 feet from the northwest corner of the structure; 36.8 feet from the southwest corner of the structure; and 30.8 feet from the deck to the high-water-mark. Also shown on the plan was a line depicting 29 feet to the high water mark all around the entire island, the existing shed, with covered porch, and several wood decks.

The application detailed description of the project is as follows: *Existing house burnt down from a structure fire. Would like to build a new single family house.*

On Tuesday, February 27, 2024, the board tabled the application to get a legal opinion to be sure they could act on the application, since they had no record of a permit being pulled within 1 year of the destruction of the camp by fire. The permit on record with the town was dated 12/22/2023.

The Planning Board received the following email dated March 6, 2024, sent via Michelle Rumney, Town Administrator, from Patrick Brady from the Bergen and Parkinson Law Firm, it read as follows:

Thank you for sending these minutes along. I have reviewed the minutes and also spoken with Mike Demers. In sum, given that all parties appear to be acting in good faith in this instance and all parties have taken actions consistent with obtaining a permit during the appropriate time periods, we think that the Board can move forward with the application on a permit issued with an effective date that is in compliance with the ordinance despite the fact that because of a clerical error, the physical permit was not produced until December 2023.

Provided this evening was a plan dated March 26, 2024, drafted by Joseph L. Stanley, PLS #2453, entitled ‘Setback Plan Made for Lake Living Consultants, 706 West Shore Drive, Acton, Maine 04001 of Property Located on Blaneys Island in Shapleigh, Maine’. Two (2) plan notes of significance to the best practical location are as follows: *Note 6 ‘Snow Cover:’ Site improvements and other physical survey evidence shown hereon are the results of on-the-ground field survey work performed by LinePro during the month of February, at which time the ground was obscured by snow. Some improvements and other evidence obscured by snow at the time the field work was completed may not be shown. Note 7 ‘Former Camp Location & Dimensions Shown:’ The “Former Camp Location”, as shown hereon, is displayed using the location of concrete sonotubes and concrete blocks located by LinePro on site. It is assumed that the location of the sonotubes and blocks indicated where the building corners were when the camp was standing. The building dimensions shown on the camp were taken from the Shapleigh Online Assessing web page found on jeodonnell.com/cama/Shapleigh, and from an appraisal sketch supplied to us by the client at a recent Planning Board meeting with the Planning Board’s knowledge. An apparently unpermitted deck which is not shown on this plan per the Planning Board request. The setback plan depicts on the NE side a ‘wood deck’; a ‘shed / wood deck / covered porch’ – distance from the high-water-mark (HWM) was not noted; a second ‘shed / wood deck’ – distance from the HWM not noted; ‘Former Camp Location, See Note 7’ – ‘Concrete Sonotubes Found’ – Concrete Pad (Assumed to be Old Chimney Base) – ‘Concrete Blocks Found’. The camp dimensions are noted as follows: 12’ x 16’ bump out on NE side; 20’ x 30’ camp with an attached area being 15’ x 20’ in size. The closest point to the former camp is noted as 33.7 feet to the HWM on the south side; 32.2’ to the high water mark on the north side; 77.2’ on the northeast side, and 164.9’ on the west side at the closest point. There is also a wood deck noted on the north side of the island, near the HWM, but no distance is noted. The plan noted that the high-water-mark was located on 2-20-2024.*

Provided to board members and the applicant, received from the Town Administrator, was the Assessing Card dated 1993 thru 2003, which depicted the permitted structure(s) on the island to be a 20 x 30 foot log cabin, which included a 16 x 12 foot attached bump-out. Provided to board members and the applicant, by the Land Use Secretary, was the current Assessing information, which also showed the existing assessing information as being the same, along with a picture of the assessed cabin. Assessing, John E. O'Donnell & Associates, stated that the picture was taken in 2012.

The board tabled the application on March 12th, requiring additional information, asking the applicant to place the existing structure on the plan, depicting the distance(s) from that structure to the HWM. The board agreed that any variation between the town tax card and the appraisal, the board would defer to the town tax card.

Steve F. stated that the first application was for Don White on Blaneys Island with Tyler Matthews representing, to replace a structure on Blaneys Island. Provided was a new plan depicting the existing structure, with measurements from the structure to the HWM.

Steve F. began by asking if everything was figured out as to what structure(s) were permitted. Mr. Matthews stated that the plan shows the existing footprint to the town assessing card. He stated that he removed the large front deck.

Steve F. stated that from the north side to the front corner shows about 32 feet to the high-water-mark; south side 33.7 feet; those are the two major distances. Steve said turning the structure does not change it very much. Steve asked Mr. Matthews if he had the new septic design. Mr. Matthews stated that he had the design but it was not located on the plan. Steve said he thought it was off to the right of the structure. Mr. Matthews agreed. Steve, looking at the septic design dated 10/10/2022, asked if this was existing or proposed. Mr. Matthews stated, proposed. Steve asked if the design works with the plan provided this evening? Mr. Matthews stated it did. Steve stated that the plan shows the system 46 feet from the HWM at the closest point.

Steve F. reviewed §105-4.D.(7) 'Relocation', (b) *In determining whether the building relocation meets the setback to the greatest practical extent, the Planning Board shall consider the size of the lot, the slope of the land, the potential for soil erosion, the location of other structures on the property and on adjacent properties, the location of the septic system and other on-site soils suitable for septic systems and the type and amount of vegetation to be removed to accomplish the relocation. When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with §105-51.3. In addition, the area from which the relocated structure was removed must be replanted with vegetation.*

Steve F. asked the other board members their opinion of the new plans presented. Ann H. spoke about the email from Colin Clark of the DEP, which spoke about the width of the structure being 38 feet. She asked what the width of the structure is now. Steve noted the dimensions on the plan the board just received and that the board is to relocate the existing structure; which is what the board asked them to do at the last meeting. Ann said, ok. Steve said what the applicant came to the board with originally was the enlarged structure, which is what the board had been doing. Steve said the deck in the front was unpermitted. Ann noted that the email from Colin Clark stated that the building is too close to the water on 3 sides, so an expansion in those directions are not allowed. Steve said, right. Ann stated that the only option left is to expand toward the base of the peninsula or to raise the roof to create a second-floor loft. Steve did not think they could do that because they were too close to the water. He said that unless the board wants them to turn the structure to make it more parallel to the island, he did not see any way to

increase its conformity, given that the board is looking at the existing structure. He said that the only option was to turn the structure to increase the distance from the water. Mr. Matthews said if you turn the structure, it will look into the cove instead of onto the lake, which ruins the view.

Steve F. said the objective is to not put it over the septic system, which will be located where the 2” pile of stones is noted on the plan. Mr. Stanley said the existing stones were observed while they were on site. He said he had no representation of the proposed septic system on the plan. Mr. Matthews stated that the septic design was created when there was debris on site, so they put the new system roughly where the existing structure had been.

Steve F. said the board has to relocate the existing structure to the greatest practical extent. Steve said the only thing they can do is turn the existing structure 30 degrees to gain distance on two sides to the water. Ann H. thought that is what the DEP wants to have done. Ann asked Mr. Stanley if he saw the email from the DEP. Mr. Stanley stated he saw some of the conversation, but he was not sure he saw it all. He believed from the first meeting, he thought they were supposed to center it on the island, and after reading the emails, he did not think the DEP felt the same way. He said it sounded like you could not get closer on one side to make it better on a different side. He read it as saying not to get any closer on any of the sides. Ann agreed, she read from the DEP email, *‘Based on the rule the structure cannot get closer to the resource on any side.’* Mr. Stanley said at one point they were trying to shift it over toward the shed, but after reading the email, he did not believe the DEP wanted to see that dimension (77 feet), any less than what is there, so there is no ability to shift the structure.

Steve F. said his only option is to turn it, what would be gained by turning four or six feet. The structure will be in the same spot, because you are dealing with setback on every side. Ann H. asked if it was turned, what would be changed? Steve showed her what moving the structure would do with the setback figures. Maggie M. asked if they could decrease the size of the structure to make it more conforming? Steve did not believe they had to decrease it. He said that they are allowed to put it back on the lot, the existing size that it was, they just cannot make it anymore non-conforming. Steve said that the board does not have to shrink the house, they just have to make it as conforming as possible; the original structure. Maggie said that it sounds like no matter how it’s moved it will not work. Mr. Matthews agreed. Tom C. thought it should remain where it is, that way you are not changing any of the setbacks. Steve said the question is, does it make it closer to the water, and he thought the objective is to make the distance to the water as large as possible. Tom believed that was correct, but the email Ann just read said they cannot change anything. Ann was concerned with the figures on the original plan and what they were seeing today. She wanted to be sure they were not going any wider. Steve did not believe that was the case. Mr. Stanley showed Ann why the current plan had the figures on it that it did, believing a permit was discovered by the Code Officer for the covered deck. He explained why the DEP email had the figures it did, based on what was on the appraisal document, which was what the DEP had to go by. After showing her how the figures were arrived at, Ann understood. Mr. Stanley added that he found sonotubes that matched the dimensions of the cabin on the O’Donnell website.

Steve F. asked what the numbers changed to if the board moved the structure? Mr. Stanley thought perhaps 35ish. Steve said the only thing he believed they could do is turn it, and he didn’t see what would be gained. Steve added that the septic can be part of what the board looks at. Ann thought they would have to design the septic based on what is on the current plan. Steve said they are limited on what they can do. Ann agreed, but they have to use the location of the new structure that the board approves. Steve agreed. Ann asked if the current location was ok with the applicant? Mr. Matthews said that it was.

Ann H. made the motion to approve the location on the plan provided, as well as the dimensions indicated. Maggie M. seconded the motion.

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

- 1) **Photographs were received for preconstruction of the shoreline, vegetation and development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. *These photos must show both the new structure and revegetation / stabilization of the area.***
- 2) **A licensed surveyor shall confirm in writing that the placement of the new structure(s) is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The new structure shall be *no closer than 33.7 feet to the high-water-mark on the south side; 32.2’ to the HWM on the north side; and 77.2’ to the HWM on the northeast side.***
- 3) **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).**

Steve F. asked if there was a revegetation plan? Mr. Matthews said no, there is no revegetation, because there are only pine needles. Steve asked that they write on the final plan that there is no revegetation being done.

- 4) **The project including the approved revegetation plan, shall be completed by December 25, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion.**
- 5) **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.**

Ann H. asked what they were doing with revegetation? Steve F. stated, pine spills. Ann asked if that was going to be signed off by a qualified professional? Maggie M. asked if pine spills count for revegetation. Steve F. said, ‘woody herbaceous natural vegetation’. He said they did not want a lawn out there. Maggie agreed but pine spills do not stay in place. Steve said there is nothing on site now but pine spills, noting that he and Madge had done a site visit with Mr. Matthews a few months ago. He said if they wanted to ask for blueberry bushes, the board can. He said there is nothing there to support growth, because it is a gravel area. He said they do not want them hauling in loam to grow stuff. Maggie asked if that is all there had ever been. Mr. Matthews said the whole time he’s been on the lake it’s been pine spills and there are trees. He said whatever the trees are producing, that is the cover.

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

Steve F. asked for a vote to approve.

Ann H. made the motion to approve the best practical location to replace the existing structure on Map 36, Lot 26, per the plan provided, drafted by Joseph L. Stanley, PLS #2453, dated March 26, 2024, for Map 36, Lot 26, leaving it in the exact same location as the previous structure, with the stated conditions. Maggie M. seconded the motion. By a vote of 4 – 0, the motion to approve the application was unanimous.

Mr. Matthews asked if he had to come back to the board with the proposed structure? Steve F. stated that Mr. Matthews was approved for a best practical location keeping the building in its existing location. He stated that the 30% expansion is through the Code Office.

Nothing further was discussed.

The Findings of Facts

1. The owner(s) of Shapleigh Tax Map 36, Lot 26 (1 Blaneys Island) are Donald White and Martina White, mailing address is 4 Robie Lane, Atkinson, NH 03811, per Warranty Deed, recorded at the YCRD, BK 18922, PG 432, recorded on 1/10/2022.
2. The property known as Shapleigh Tax Map 36, Lot 26 is located in the Shoreland District and according to the Assessor the property contains .8 acres.
3. Provided were prefire photos of the cabin / property and post fire photos of the debris after the fire, along with the existing trees.
4. 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.
5. Provided was a ‘Setback Plan Made for Lake Living Consultants, 706 West Shore Drive, Acton Maine 04001 of Property Located on Blaneys Island in Shapleigh, Maine’, drafted by Joseph L. Stanley, PLS #2453, dated 2/27/2024. The plan depicted the proposed 40 x 50’ house, with 8 x 20’ deck. The *proposed* house has setbacks to the high-water-mark set as being 31.6 feet from the northeast corner of the structure; 30.5 feet from the northwest corner of the structure; 36.8 feet from the southwest corner of the structure; and 30.8 feet from the deck to the high-water-mark. Also shown on the plan was a line depicting 29 feet to the high water mark all around the entire island, the existing shed, with covered porch, and several wood decks.
6. The application detailed description of the project is as follows: *Existing house burnt down from a structure fire. Would like to build a new single family house.*
7. The Planning Board received the following email dated March 6, 2024, sent via Michelle Rumney, Town Administrator, from Patrick Brady from the Bergen and Parkinson Law Firm, it read as follows: *Thank you for sending these minutes along. I have reviewed the minutes and also spoken with Mike Demers. In sum, given that all parties appear to be acting in good faith in this instance and all parties have taken actions consistent with obtaining a permit during the appropriate time periods, we think that the Board can move forward with the application on a permit issued with an effective date that is in compliance with the ordinance despite the fact that because of a clerical error, the physical permit was not produced until December 2023.*
8. Provided was a plan dated March 26, 2024, drafted by Joseph L. Stanley, PLS #2453, entitled ‘Setback Plan Made for Lake Living Consultants, 706 West Shore Drive, Acton, Maine 04001 of Property Located on Blaneys Island in Shapleigh, Maine’. Two (2) plan notes of significance to the best practical location are as follows: *Note 6 ‘Snow Cover:’ Site improvements and other physical survey evidence shown hereon are the results of on-the-ground field survey work performed by LinePro during the month of February, at which time the ground was obscured by snow. Some improvements and other evidence obscured by snow at the time the field work was completed may not be shown. Note 7 ‘Former Camp Location & Dimensions Shown:’ The “Former Camp Location”, as shown*

hereon, is displayed using the location of concrete sonotubes and concrete blocks located by LinePro on site. It is assumed that the location of the sonotubes and blocks indicated where the building corners were when the camp was standing. The building dimensions shown on the camp were taken from the Shapleigh Online Assessing web page found on jeodonnell.com/cama/Shapleigh, and from an appraisal sketch supplied to us by the client at a recent Planning Board meeting with the Planning Board's knowledge. An apparently unpermitted deck which is not shown on this plan per the Planning Board request. The setback plan depicts on the NE side a 'wood deck'; a 'shed / wood deck / covered porch' – distance from the high-water-mark (HWM) was not noted; a second 'shed / wood deck' – distance from the HWM not noted; 'Former Camp Location, See Note 7' – 'Concrete Sonotubes Found' – Concrete Pad (Assumed to be Old Chimney Base) – 'Concrete Blocks Found'. The camp dimensions are noted as follows: 12' x 16' bump out on NE side of the camp; the 20' x 30' camp with an attached area being 15' x 20' in size. The closest point to the former camp is noted as 33.7 feet to the HWM on the south side; 32.2' to the high water mark on the north side; 77.2' on the northeast side, and 164.9' on the west side at the closest point. There is also a wood deck noted on the north side of the island, near the HWM, but no distance is noted. The plan noted that the high-water-mark was located on 2-20-2024. Joseph Stanley, who drafted the plan, stated on 3/26/24 that the dimensions were taken from the town tax cards, along with the fact the Code Enforcement Officer stated a permit was issued for the addition to the original cabin.

9. Provided to board members and the applicant, received from the Town Administrator, was the Assessing Card dated 1993 thru 2003, which depicted the permitted structure(s) on the island to be a 20 x 30 feet long cabin, which included a 16 x 12 foot attached bump-out. Provided to board members and the applicant, by the Land Use Secretary, was the current Assessing information, which also showed the existing assessing information as being the same, along with a picture of the assessed cabin. Assessing, John E. O'Donnell & Associates, stated that the picture was taken in 2012.
10. The application required Planning Board review as a Best Practical Location under §105-4 'Nonconformance'. The Planning Board members agreed the application as presented, will meet all the criteria in the ordinance with conditions, as the structure shall be no closer than the former cabin to the high-water-mark. The proposed location is best practical as room to move the structure is minimal and would have no benefit to the water, along with the proposed location of the subsurface wastewater disposal system. Space on the island is limited. A Stated approved subsurface wastewater disposal application for a new system was provided. A revegetation plan was not required, as there is no vegetation being removed and the structure shall remain in the same location.
11. In an email dated March 12, 2024, from Colin Clark of the MDEP, the Planning Board were directed to review the existing structure's footprint, not the proposed structure with expansion, to locate the greatest practical extent for the new structure. In an email dated March 14, 2024, from Colin Clark, the Planning Board was reminded that if there were no permits for the decks, then they are an illegal expansion, and could not be included in the distance calculation to the high-water-mark, or for the replacement structure.
12. Planning Board members agreed the requirements under §105-3 – Basic requirements, Section E, Photographic record required was met, as pre-construction photographs were provided, and post-construction photographs shall be provided per the conditions of permit. Section F, which requires a full survey be provided at the time of application, was met, as a full survey was provided.
13. A notice was mailed to abutters within 500 feet of the property on February 14, 2024. Meetings were held on Tuesday, February 14, 2024, Tuesday, February 27, 2024, Tuesday, March 12, 2024, and

Tuesday, March 26, 2024. A site inspection was done by two members prior to the meeting on February 27th.

14. The Planning Board vote was unanimous, 4-0, to approve the setback plan, dated March 26, 2024, drafted by Joseph Stanley, PLS #2453, made for Lake Living Consultants for the best practical location for the replacement of the structure destroyed by fire on Map 36, Lot 26 (1 Blaneys Island), placing the new structure in the exact same location as the previous structure, per the plan provided, with five conditions.
15. **The conditions of approval are as follows:**
 - 1) **Photographs were received for preconstruction of the shoreline, vegetation and development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. *These photos must show both the new structure and revegetation / stabilization of the area.***
 - 2) **A licensed surveyor shall confirm in writing that the placement of the new structure(s) is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The new structure shall be *no closer than 33.7 feet to the high-water-mark on the south side; 32.2’ to the HWM on the north side; and 77.2’ to the HWM on the northeast side.***
 - 3) **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).**
 - 4) **The project including the approved revegetation plan, shall be completed by December 25, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion.**
 - 5) **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.**

Vote & Decision:

By a unanimous vote of 4 – 0, the motion to approve the setback plan, drafted by Joseph Stanley, PLS #2453, made for Lake Living Consultants for the best practical location for the replacement of the structure destroyed by fire on Map 36, Lot 26 (1 Blaneys Island), placing the new structure in the exact same location as the previous structure, per the plan provided, with five conditions, was approved.

Best Practical Location – Replace Structure – Map 34, Lot 44 (49 Chestnut Road) – Joseph Stanley, Applicant; Daniel Allen, Property Owner

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

Provided along with the application was a Letter of Authorization stating that Mr. Daniel Allen grants permission to Joe Stanley to act as his agent in all aspects in order to obtain any and all necessary permitting from the Town of Shapleigh for his property located at Map 34, Lot 44, dated 3/5/2024.

Provided was a copy of a Shoreland Septic Systems Registration Form from 1997, where the then homeowner stated there was a 500 gallon septic tank, that was approximately 58 feet from the water with (2) 3 x 25 foot trenches, approximately 45 feet from the high-water-mark. (This is not a State approved septic design.)

Provided were four pictures of the existing property, which depicted the existing structure, trees on site, and a patio adjacent to the structure. Also on site were metal poles, used for (2) Shelter Logic Buildings in the summer.

Provided was a plan entitled ‘Plan Showing a Proposed Building Location Made for Melissa Allen, 20 Packard Farm Road, North Yarmouth, ME 04097 of Property Located on Chestnut Road in Shapleigh, Maine’, drafted by Joseph L. Stanley PLS #2453, plan dated March 5, 2024. The plan depicts Lot 44, showing the location of the Existing Camp, along with the Building Overhang, Deck and Steps; the location of (2) Shelter-Logic Buildings; a private way off of Chestnut Road going through the property; a Shed to be removed; the approximate location of the Septic; a Storage Bin; and a row of Pine Trees. The plan states the Building Height is 13.2 feet; the distance from the structure to Map 34, Lot 43 at the closest point is 14.1’; the distance from the building to the high-water-mark at its closest point is 37.8’; the distance from the building to Map 34, Lot 44 is 11.5’ at the closest point; and the distance from the building to the edge of the road is 35.2 feet at the closest point. The plan shows the location of three abutting properties: Map 34, Lot 41; Map 34, Lot 42; Map 34, Lot 43; and Map 34, Lot 44. Also on the plan is a Best Management Practices Diagram for the Houselot Development, and the Site Map (which shows the property is on a peninsula). Plan Note 11 states Lot Coverage by Structure is as follows: Existing Lot Coverage by Structure: 894 Square Feet = 9.1%; Proposed Lot Coverage by Structure: 960 Square Feet = 10%.

The application detailed description of the project is as follows: *Tear down & rebuild camp.*

Provided this evening was a copy of a Subsurface Wastewater Disposal System Variance Request and Application, dated 3/22/2024, done by Kenneth Gardner, SE #73 for a 2 bedroom home.

Provided this evening was an updated plan entitled ‘Plan Showing a Proposed Building Location Made for Melissa Allen, 20 Packard Farm Road, North Yarmouth, ME 04097 of Property Located on Chestnut Road in Shapleigh, Maine’, drafted by Joseph L. Stanley PLS #2453, plan dated March 26, 2024. The plan included the ‘Proposed Septic (location) per Recent Ken Gardner Design’.

Steve F. stated the next item on the agenda was for 49 Chestnut Road, Mr. Stanley was the applicant.

A citizen began the conversation stating he was located on Lot 45, directly adjacent to this property and he said it was a great idea. Mr. Stanley showed the gentleman the map. The gentleman stated that this was his wife’s families land. Steve F. asked if they were the Vachon’s? The gentleman stated that was correct, this was the Vachon / Ouellette Estate. Steve asked his name. He stated it was Jamie Fenderson, and he introduced his wife Jennifer. He noted the right-of-way through the property before the board, and also that on Lot 41 a new septic went in. He said their concern was the leach field that is proposed in the right-of-way. He said they were hoping it can be turned and placed parallel to the ROW, similar to the other leachfield that went in. Mr. Stanley showed Mr. Fenderson the existing leachfield location, and the proposed location of the new leachfield. Mr. Fenderson said they were worried about the fill extension. He said if you look at the other lot with the new system, you see the difference in elevation. He said you lose your line of sight, and if there are children in the road, you cannot see.

Steve F. stated that it appeared they proposed an existing row of chambers, 8 feet wide with a 4 foot fill on either side, then a 25 percent slope down. Mr. Fenderson asked if there is a way to bring the system in closer, noting he understood keeping it away from the well. He said they hoped it could be moved in to keep the fill extension out of the ROW. Steve said he understood. Mr. Fenderson said another issue is their place is no longer seasonal, there will be daily traffic, probably six trips in. He wants to be sure they have complete access and the fill extension doesn't interfere with the ROW.

Steve F. stated the only thing he could state is that the board has no say over what the septic designer approves. He said they are looking at the structure on the lot. He said the septic designer, Ken Gardner, has placed this as close to the middle of the two areas as he could. He added that he also has to be 20 feet from the structure, which is probably where he located it. Mr. Stanley added that Mr. Gardner went with the narrowest system that he could. Mr. Fenderson said again he wanted to be sure they had access to their camp. Steve said he understood, but the board cannot over rule what the septic designer presents. He said the only thing the Town requires is that the applicant can demonstrate that they can have a septic system, because they are concerned about the waterbody. He said by having a new system vs an old-style trench system is the right thing to do. Mr. Fenderson said, except for the 3 foot grade elevation, it becomes a problem.

Steve F. asked if it made sense to speak with them about lifting the road base? Mr. Fenderson stated the other thing they were worried about is having the Planning Board make sure there is access to their lot during construction. He said that you cannot shut off one property totally. Ann H. did not believe the Planning Board could control that. Mr. Fenderson asked who did? Ann thought it might be the Code Officer. She said all the board looks at is best practical location, the board makes sure that the new structure is built in the best practical location, with respect to setbacks and the water. Mr. Fenderson asked if this was just the camp and not the leachfield? Ann said, correct. Mr. Fenderson was pleased to see the location of the new septic instead of the 'proposed' location, it was better. He said if they had had the true location, they probably would not be at the meeting.

Mr. Fenderson noted that the other new system is a problem. Steve F. stated again that all the applicants have to do is show they can have a State approved septic system on site, after that it is out of the boards hand. Mrs. Fenderson stated they were trying to protect the ROW for the future generation. Steve said he understand, it is a tight spot. Mr. Fenderson thanked the board for their time.

Mr. Stanley stated that he was before the board to represent the Allen family. He said the plan he brought in this evening was the same, there was no place to move the existing structure. He said the structure is within the 100 feet to the water envelope and they do meet the 10 foot side setback but do not meet the 30 foot combined. He said there is no direction to move it. He said the only thing different on this plan is adding the proposed leachfield that Ken Gardner designed.

Steve F. said the plan shows a *proposed location of 37.9 feet to the high-water-mark*, current structure is 37.8 feet to the high-water-mark, side setback 14.1 feet on the north side, 11.5 feet on the south side, *proposed at 12.8 feet*. He said the structure is 35 feet to the road, and the septic design location is on the plan, as well as having the septic design drafted by Ken Gardner.

Steve F. stated the fill is going to be tight to the road, but he did not think it was going to cause an issue, based on the design. He said the board doesn't know how high it will set out of the ground, but it is what it is.

Steve F. asked Ann H. if she had any questions or comments? Ann noted there wasn't much the board could do, because there was water on both sides. She noted she did not care about the Shelter Logic

buildings. Steve said it was fairly centered between the water and the road now. Steve said they increased their setbacks where they could.

Steve F. reviewed §105-4.D(3) ‘Foundations’ as follows: *Whenever a new, enlarged, or replacement foundation is constructed under a non-conforming structure, the structure and the new foundation must be placed such that the setback requirement is met to the greatest practical extent as determined by the Planning Board, basing its decision on the criteria specified in Subsection D(7), Relocation, below.*

Steve F. then reviewed §105-4.D(7)(a) & (b). (a) *A nonconforming structure may be relocated within the boundaries of the parcel on which the structure is located, provided that the site of relocation conforms to all setback requirements to the greatest practical extent as determined by the Planning Board, and provided that the applicant demonstrates that the present subsurface sewage disposal system meets the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules, or that a new system can be installed in compliance with the law and said Rules. In no case shall a structure be relocated in a manner that causes the structure to be more nonconforming.* (for (b) see above).

Steve F. stated that like the last application, no vegetation is being removed. He said with respect to conditions, **typical conditions are as follows:**

Steve noted that he had been to the site.

- 1) **Photographs were received for preconstruction of the shoreline, vegetation and development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. *These photos must show both the new structure and revegetation / stabilization of the area.***
- 2) **A licensed surveyor shall confirm in writing that the placement of the new structure(s) is correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer. The new structure shall be *no closer than 37.9 feet to the high-water-line*, a side setback of 14.1 feet on the north side, and a side setback of 12.8 feet on the south side.**
- 3) **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).**
- 4) **The project shall be completed by December 31, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion.**
- 5) **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.**

Mr. Stanley stated that no vegetation is being removed. He thought they may have to do a replanting for the leachfield, but as far as moving the building, he did not think they would impact any vegetation.

Steve F. stated that they need a signature block on the plan, which can be dropped off to Barbara and brought to the next meeting.

Steve F. stated that if there are no other conditions, he will entertain a motion.

Maggie M. made the motion to approve the best practical location to replace the existing structure on Map 34, Lot 44, per the plan provided, drafted by Joseph Stanley, dated March 26, 2024, placing the new structure in the same location as the existing, with the stated conditions.

Maggie M. asked if the board can get away with not requiring any vegetation? Steve F. stated that the board can, for the same reason as the last application. He read from §105-4.D(b) ‘When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with §105-51.3.’ He said that neither structure is moving an inch. Maggie said that she wanted to be sure that legally we are not making some people do it and other people we are not. Steve said he agreed, but noted both structures are going back in the same spot.

Tom C. seconded the motion. By a vote of 4 – 0, the motion to approve was unanimous.

For the record, two emails were received that were in favor of the project from abutters. One from Jennifer and Fred Bermont, they stated they were in full support of the project; and one from Richard and Sandra Billings, they stated they wanted to express their complete support for the project.

Nothing further was discussed.

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**The Findings of Facts**

1. The owner(s) of Shapleigh Tax Map 34, Lot 44 (49 Chestnut Rd) are David A. Allen of 196 23<sup>rd</sup> Street Loop, Shapleigh, ME 04076, Dawn D. LaFrance, f/k/a Dawn D. Allen of 15 Pine Street, Springvale, Maine 04083, Deborah L. Daney, f/k/a/ Deborah L. Allen of 660 Country Club Road, Sanford, ME 04073, and Daniel E. Allen, of 20 Packard Farm Road, N. Yarmouth, ME 04097, as tenants in common, per Warranty Deed, recorded at the YCRD, BK 17996, PG 51, recorded on 7/16/2019.
2. The property known as Shapleigh Tax Map 34, Lot 44 is located in the Shoreland District and according to the Assessor the property contains .22 acres.
3. Provided were four pictures of the existing property, which depicted the existing structure, trees on site, and a patio adjacent to the structure. Also on site were metal poles, used for (2) Shelter Logic Buildings in the summer.
4. Provided was a copy of a Shoreland Septic Systems Registration Form from 1997, where the then homeowner stated there was a 500 gallon septic tank, that was approximately 58 feet from the water with (2) 3 x 25 foot trenches, approximately 45 feet from the high-water-mark. (This is not a State approved septic design.)
5. Provided was a plan entitled ‘Plan Showing a Proposed Building Location Made for Melissa Allen, 20 Packard Farm Road, North Yarmouth, ME 04097 of Property Located on Chestnut Road in Shapleigh, Maine’, drafted by Joseph L. Stanley PLS #2453, plan dated March 5, 2024. The plan depicts Lot 44, showing the location of the Existing Camp, along with the Building Overhang, Deck and Steps; the location of (2) Shelter-Logic Buildings; a private way off of Chestnut Road going through the property; a Shed to be removed; the approximate location of the Septic; a Storage Bin; and a row of Pine Trees. The plan states the Building Height is 13.2 feet; the distance from the structure to Map 34, Lot 43 at the closest point is 14.1’; the distance from the building to the high-water-mark at its closest point is 37.8’; the distance from the building to Map 34, Lot 44 is 11.5’ at the closest point; and the

distance from the building to the edge of the road is 35.2 feet at the closest point. The plan shows the location of three abutting properties: Map 34, Lot 41; Map 34, Lot 42; Map 34, Lot 43; and Map 34, Lot 44. Also on the plan is a Best Management Practices Diagram for the Houselot Development, and the Site Map (which shows the property is on a peninsula). Plan Note 11 states Lot Coverage by Structure is as follows: Existing Lot Coverage by Structure: 894 Square Feet = 9.1%; Proposed Lot Coverage by Structure: 960 Square Feet = 10%.

6. Provided was a copy of a Subsurface Wastewater Disposal System Request and Application, dated 3/22/2024, done by Kenneth Gardner, SE #73 for a 2 bedroom home.
7. Provided was an updated plan entitled ‘Plan Showing a Proposed Building Location Made for Melissa Allen, 20 Packard Farm Road, North Yarmouth, ME 04097 of Property Located on Chestnut Road in Shapleigh, Maine’, drafted by Joseph L. Stanley PLS #2453, plan dated March 26, 2024. The plan included the ‘Proposed Septic (location) per Recent Ken Gardner Design’.
8. The application detailed description of the project is as follows: *Tear down & rebuild camp*.
9. The application required Planning Board review as a Best Practical Location under §105-4 ‘Nonconformance’. The Planning Board members agreed the application as presented, will meet all the criteria in the ordinance with conditions, as the structure shall be no closer than the former cabin to the high-water-mark, side lines or right-of-way. The proposed location is best practical as there is no room to move the structure, it sits between the high-water-mark and right-of-way, almost centered currently. There is also a very limited area to place the new septic system, keeping it away from the right-of-way and meeting State requirements. A Stated approved subsurface wastewater disposal application for a new system was provided. A revegetation plan was not required, as there is no vegetation being removed and the structure shall remain in the same location.
10. Planning Board members agreed the requirements under §105-3 – Basic requirements, Section E, Photographic record required was met, as pre-construction photographs were provided, and post-construction photographs shall be provided per the conditions of permit. Section F, which requires a full survey be provided at the time of application, was met, as a full survey was provided.
11. A notice was mailed to abutters within 500 feet of the property on March 13, 2024. Meetings were held on Tuesday, March 12, 2024, and Tuesday, March 26, 2024. A site inspection was done by several members on an individual basis prior to the meeting.
12. The Planning Board vote was unanimous, 4-0, to approve the proposed building location plan, dated March 26, 2024, drafted by Joseph Stanley, PLS #2453, for Melissa Allen, as the best practical location for the replacement of the existing structure on Map 34, Lot 44 (49 Chestnut Road), placing the new structure in the same location as the existing structure, per the plan provided, with five conditions.
13. **The conditions of approval are as follows:**
  - 1) **Photographs were received for preconstruction of the shoreline, vegetation and development site. Post construction photos shall be required within 20 days of completion of the project, to both the Planning Board and Code Enforcement office. *These photos must show both the new structure and revegetation / stabilization of the area.***
  - 2) **A licensed surveyor shall confirm in writing that the placement of the new structure(s) is correct per the specifications approved by the Planning Board, and provide this information**

to the Code Enforcement Officer. The new structure shall be *no closer than 37.9 feet to the high-water-line*, a side setback of 14.1 feet on the north side, and a side setback of 12.8 feet on the south side.

- 3) **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).**
- 4) **The project shall be completed by December 31, 2024. If this date cannot be met, the applicants shall come back before the board prior to the expiration date to amend the approval and set a new date of completion.**
- 5) **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.**

**Vote & Decision:**

By a unanimous vote of 4 – 0, the motion to approve the best practical location for the proposed building location plan, dated March 26, 2024, drafted by Joseph Stanley, PLS #2453, for Melissa Allen, for the replacement of the existing structure on Map 34, Lot 44 (49 Chestnut Road), placing the new structure in the same location as the existing structure, per the plan provided, with five conditions, was approved.

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**Conditional Use Permit – Renew Mineral Extraction Permit / 3 Yrs. – Map 7, Lot 28 (Corner of Rte. 11 & Square Pond Rd) – Hissong Ready Mix & Aggregates LLC, Applicant; CJP Holdings LLC, Property Owner**

Steve Patch was representing Hissong Ready Mix this evening, he used to work for Sevee & Maher Engineers, which did the Reclamation Plan and original application for the gravel pit. (Chris Pizey of Hissong emailed Barbara F. to state that Mr. Patch would be at the meeting this evening.)

Previously provided for the Mineral Extraction Permit were the following:

Provided to the Planning Board in 2009/2010 & 2012, for the original approval of the gravel pit were the following required documents:

- A copy of the letter from the Maine Historic Preservation Commission (MHPC), dated 7/27/09, which stated the project location could possibly contain one or more prehistoric archaeological sites so an archaeological survey was required prior to any ground disturbance.
- A copy of the Prehistoric Archaeological Investigation Report, dated October 2009, MHPC File No. 1310-98, prepared by Tetra Tech, Inc. of Portland Maine, which concluded there were no prehistoric archaeological sites recorded within the Project area.
- A copy of the letter from the MHPC, dated 11/16/09 which stated they reviewed the report provided by Tetra Tech Inc. and found the report acceptable as written and they agreed with the conclusions in the report.
- A copy of the letter from the Maine Dept. of Inland Fisheries and Wildlife (MDIFW), dated 8/27/09, which stated the proposed location likely supported one or more endangered species. MDIFW offered three options for the development of the property. Note: Hissong chose the third option which required the western side of the stream be put into a permanent conservation easement or deed restriction, and that the area to be mined be allowed to revert back to a Pitch Pine Scrub Oak community once the mining project is completed. Furthermore, upon completion of the mining the entire parcel would be subject to the same conservation easement/deed restrictions above, the terms of which need to be reviewed and approved by MDIFW.
- A copy of the Declaration of Restrictions drafted to satisfy MDIFW's development plan option three of the above letter. Note: The Declaration of Restrictions was approved by MDIFW & the Planning Board.

- A copy of the approval for the mineral extraction plan by the Maine Dept. of Environmental Protection and a copy of the placard to be placed on site, issued 12/29/09, Permit No. L-724.
- A copy of the Driveway/Entrance Permit by the Maine Dept. of Transportation, dated 11/30/09.
- The Survey / Reclamation Plan, dated 1/13/2010, drafted by Stephen Stearns, PE #4437, of Pinkham & Greer, located in Springvale, Maine. The survey plan included in addition to the reclamation plan the following: The calculated net gravel pit volume of 343,200 cubic yards; hours of operation; location of access road and refueling pad; wetland area; setbacks to gravel pit from high water mark, roadway and side lots lines; site distance on Route 11; size of borrow pit (approx. 7.7 acres); plans for dust control and disposition of stumps, brush and boulders; the soils legend; and noted was the requirement to restrict truck travel past the Shapleigh Memorial School during school hours of pick-up and drop-off of the children.
- The Survey / Reclamation Plan amended by MDIFW, dated June 7, 2010, signed by Stephen Stearns, PE #4437, of Pinkham & Greer. The plan satisfies the requirements imposed by MDIFW as stated in the email from Judy Camuso, Wildlife Biologist, MDIFW, dated April 27, 2010 forwarded to the Planning Board on June 7, 2010. (This action satisfied condition #4 of the original conditional use permit approval letter dated 1/15/2010.)
- Reclamation Plan for Hissong Ready-Mix & Aggregates, LLC, drafted by Brian D. Pierce, PE #9609 of Sevee & Maher Engineers of Cumberland, Maine, dated 3/2021. Boundary & Topographic information was provided by Corner Post Land Surveying, Inc., of Springvale, Maine. Wetland boundaries were delineated and located by Joe Noel (Maine CCS #209), of South Berwick, Maine.

Information provided on the 3/2021 *Reclamation Plan*:

- Hours of Operation: 7 am to 10 pm, Monday thru Friday; 7 am to 5 pm Saturday; No Sunday or major holiday operation
- Disposition of stumps, brush and boulders: Stumps will be disposed of on site by temporarily stockpiling them to decompose naturally, burial on site in areas designated, or ground with grindings used for slope stabilization and erosion control. Brush chipped or burned. Boulders buried on site or hauled offsite for processing.
- Dust shall be controlled by watering on an as-needed basis.
- Within 75' of the edge of pavement of Route 11, grade of access road shall not exceed 3%.
- Reclamation: The total area of the borrow pit is 7.7± acres. Within 12 months following the completion of extraction operations, which operations shall be deemed complete when less than 100 cubic yards of minerals are removed in a consecutive twelve month period, ground levels and grades shall be established in accordance with this plan and the reclamation section of this sheet.
- There shall be no traveling past the Shapleigh Memorial School at the time of children drop-off in the morning or pick-up times.
- Site distance determination November 18, 2009: Looking left, Northwesterly, 772+ feet; Looking right, Southwesterly, 571 feet.
- *Reclamation Plan Notes*:
  1. Grade site to limits shown on plan.
  2. All debris, stumps and similar material shall be buried on site. Only materials generated on-site may be buried or covered on site.
  3. Slopes shall be graded at slopes on 2.5 horizontal to 1 vertical or flatter.
  4. The top layer of soil is mainly comprised of the organic soil horizon and shall be retained to cover disturbed land areas to the greatest extent possible. Add mulch to disturbed areas in accordance with MEDEP Reclamation Best Management Practices.
  5. If within 1 year after complete reclamation:
    - a. Native vegetative cover has re-established over 90% of the reclaimed buffer area, no further plantings are recommended, as natural succession is allowed to take place.
    - b. Native vegetative cover has not re-established at least 90% of the reclaimed buffer area, plant with native herbaceous seed mix adapted to dry soils for the purpose of soil stabilization. Replant as necessary to achieve at least 90% vegetative cover.
  6. Remove the access road when no longer in use and reclaim in accordance with reclamation note 5(a). Remove bar gate and place 6-10 large boulders not less than 3 feet in smallest dimension, maintaining a

minimum 2 feet clearance between boulders, across the reclaimed area and at least 5 feet inside the property line.

- The reclamation plan also depicted the lot area as 21.97 acres. An unnamed stream was shown, the location of the wetland interface and stream centerline as delineated by Joe Noel. A restricted buffer area was noted, the reclaimed buffer area and temporary stump stockpile area of 1 acre maximum. The location of the access road was on the plan, State Route 11, Square Pond Road and Great Hollow Road. Elevations for the entire site were noted, along with the elevation of the reclaimed buffer area. A cross section of the ‘Reclamation Section’ which depicts the grade and depth of soil, and organic soil horizon; and a Silt Fence depiction with a note stating, ‘Contractor’s option to use sediment barrier or silt fence for slope protection’.
- Gravel Pit Volume: Total Volume - 349,300 CY;  
                                   Less Topsoil  
                                   & Grubbing - 6,200 CY;  
                                   NET Volume - 343,200 CY

Provided on April 13, 2021 was the following information:

- Maine Department of Environmental Protection (MEDEP) Guide to the Performance Standards for Excavations and Quarries.
- Updated Reclamation Plan and revised “Declaration of Restrictions” to reflect current MEDEP requirements for gravel pit reclamation, Declaration dated April 5, 2021.
- Access to the gravel pit will be from Route 11. There will be no truck traffic on Great Hollow Road. Access to and from the site will be consistent with the facility’s MDOT Driveway/Entrance Permit. Sand and gravel from this pit will be used exclusively by Hissong and will be hauled to other facilities in Lyman, Kennebunkport, and Eliot, for processing.
- The MDOT entranceway to the gravel pit will include a stone entrance pad in accordance with MEDEP Best Management Practices (BMPs) for construction activities.
- Pit operations will be in accordance with MEDEP Site Law Noise Standards:
  - 55 dBA between 7:00 AM and 7:00 PM
  - 45 dBA between 7:00 PM and 7:00 AM
- Hours of operation:
  - 7:00 AM and 7:00 PM Monday through Friday
  - 7:00 AM and 5:00 PM Saturday
  - No Sunday or Holiday Operation
- Screening of aggregate may be performed within the limits of the gravel, as conditions warrant, but there will be no rock crushing performed on site; and
- There will be no permanent structures associated with the gravel pit operations. Temporary structures may include a porta-potty and Conex box for tools and equipment.

Provided this evening was an email dated March 7, 2024, between Chris Pizey, Hissong Ready Mix and Aggregates and Erich Kluck, MDEP – Gravel Pits. Chris Pizey requested an estimated cost of reclamation for gravel pits. Erich Kluck stated that the DEP is using \$4,500 per acre.

Provided this evening was a copy of the revised Reclamation Plan for Hissong Ready-Mix & Aggregates, LLC, drafted by Brian D. Pierce, PE #9609 of Sevee & Maher Engineers of Cumberland, Maine, dated 3/2021. Boundary & Topographic information was provided by Corner Post Land Surveying, Inc., of Springvale, Maine. There were no changes from the plan that was presented 3 years ago.

The detailed description of the project is as follows: *Mineral extraction – internally drained gravel pit.*

Steve F. began the review of the application by asking Mr. Patch if he had any materials for the board? Mr. Patch stated he had what the board received. Mr. Patch stated he went by the site this afternoon to take pictures.



Steve F. stated the reason the applicant is here is because every 3 years the gravel pit extraction permit has to be renewed by the Planning Board. Steve said 350,000 yards is what they are looking to take out from here forward. Mr. Patch stated that number came from the original topo. He said he is not sure what he has taken out, and he noted he did not see any stump piles. He said they did not start taking much out until the end of last year and the first of this year, so they still have a way to go.

Steve F. stated that on the original plan it speaks about a five foot maximum between the seasonal high water table. He asked if that should say minimum? Mr. Patch stated that Steve was correct, it should be minimum. Mr. Patch said the five foot separation is what they will use, even though you can get a variance for up to 2 feet. Steve asked if this was a State rule? Mr. Patch stated it was, and you can get a variance to actually go into the water table, but that would require some monitored wells and water quality testing, therefore, Hissong is happy with the 5 foot separation.

Steve F. stated he would read the previous conditions of approval from the last time, they are as follows:

- 1) The gravel operation shall be conducted per the plan provided dated 3/2021, as well as the Declaration of Restrictions dated April 5, 2021.
- 2) The hours of operation shall be 7:00 a.m. thru 7:00 p.m. Monday through Friday, 7:00 a.m. thru 5:00 p.m. Saturday, as written in Item 10 of the plan.
- 3) There shall be no trucks traveling past the Shapleigh Memorial School at the time of children drop-off in the morning or during children pickup in the afternoon throughout school season operating hours, as written in Item 17 of the plan, as agreed upon between the applicant and Shapleigh Planning Board, for the health and safety of the children. (Drop-off and pick-up times shall be coordinated with Shapleigh Memorial School)
- 4) It is the applicant's responsibility to make certain the entrance onto State Rte. 11 is clear of all sand and stone dust to prevent a hazardous situation. Entrance to be designed per MDEP Best Management Practices for construction activities.
- 5) There shall be no trucks traveling on Great Hollow Road, Goose Pond Road and Back Road, per Optional Condition 4 – Routes for transporting material.
- 6) A security bond or equivalent security to guaranty the reclamation plan required by the Town of Shapleigh and MDIFW is carried out. The surety bond must be submitted within 45 days of approval. The bond shall be in the amount of \$26,950. The bond shall be rendered within 90 days from the date of bond approval, or the application shall be null and void. There shall be no earth moving on site until an approved bond has been received.
- 7) This permit is valid until May 1, 2024, based on the applicant waiting for information from the Town regarding the bond. If the operation goes beyond this date, the applicant must come back before the Board for another 3 year renewal.

Ann H. asked if they needed to provide a bond? Steve F. stated that they did need a surety bond. Ann asked if they needed a copy before it is approved or is it just a condition? Steve stated it can be a condition of approval.

Steve F. stated that he did read the email attached to the application, between Chris Pizey and Erik Kluck, stating what the State would require, so the board will follow that. Steve believed the Selectmen get to decide. Ann H. said that made sense, because if the Town has to reclaim it, it would go through the Select Board. Steve agreed.

**Steve F. said the board could do a walkthrough, either together or on your own, during off-business hours. He stated a public hearing will be held as well, in two weeks on April 9th.**

Steve F. asked if anyone had any questions? There were none.

Mr. Patch asked if the board needed anyone to be there for their site review? Steve stated that the members would go when no one was working. Mr. Patch noted that everything was internally drained, and the berms look well-constructed.

Mr. Patch asked if the board needed to hold a public hearing for a renewal? Steve F. stated that they did, and asked if they had any complaints. Mr. Patch was not aware of any. Mr. Stanley stated the town forest abutted the property on two sides and they have not had any issues with the project. Mr. Patch stated that they did screen gravel, but there was no rock crushing.

Nothing further was discussed.  
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**Other:**

Steve F. mentioned the workshop notes, and asked if everyone received them? Members stated that they did.

Ann H. stated she had a question regarding revegetation. She said she wanted the board to be on the same page with everyone. She stated that just because something is not there, it does not mean that they do not have to get someone to the site to improve the site. She asked if that is something the board should do? She said if there was just sand on site, and there is a professional way to make it better, so that it doesn't go into the water, if there is a new building going in or relocation of a building, even though there is currently no vegetation on site, should the board say they need someone professional to make sure there is nothing that can be done to make it better?

Steve F. said he spoke about the revegetation, and he wanted to read the ordinance again, because it is a good thing to talk about. Ann H. wanted to be sure the board was being fair to everyone. Steve read from §105-4.D(b) as follows: *When it is necessary to remove vegetation within the water or wetland setback area in order to relocate a structure, the Planning Board shall require replanting of native vegetation to compensate for the destroyed vegetation in accordance with §105-51.3.* He said that the ordinance is telling us that if we are destroying vegetation to move it, it is required.

Steve F. stated that then you go to revegetation requirements, it says under §105-51.3, *When revegetation is required as a mechanism to allow for development that may otherwise not be permissible due to the vegetation standards, including removal of vegetation in conjunction with a shoreline stabilization project, the revegetation must comply with the following requirements.* He said that is when we go in to what is required.

Ann H. said if the board is only looking at best practical location, and there is no vegetation on site, is the board not allowed to say there are other things you can do to improve the site, because there is only sand, and we are going to require it. Steve F. asked if they were destroying vegetation to remove it? Ann said, even if they are not, it's just dirt, but the board is trying to make things better for the water. Steve said that often the board requires it when we are dealing with walls and camps. He said with the walls, it's more important, because we are dealing with the wall section and we are back digging. Ann said if the board has them do something better, if there is no vegetation, is that allowed. Steve said if she could find it in the ordinance they will do it. Ann asked if the board should be doing it? Steve said both of the structures they looked at this evening, went right back where they were. Maggie M. said she was also wanting to make sure the board was correct, when she questioned it earlier. Steve said they were not destroying

vegetation to locate a building. Maggie said that is why it is important that the board receives before and after pictures.

Ann H. asked if the board had the right, as a Planning Board, to make things better? Steve F. said he was not saying that the board did not or should not, but the two applicants this evening did not move their structures; they did not relocated them to a different part and destroy vegetation doing it. Ann said she understood that.

Ann H. noted that Granny Kent is one of the worst water bodies in the area, and if people would plant, it might make it better, but the board can't enforce that, because nobody is before the board. She asked if they happen to rebuild a structure, and there is only dirt there, why can't the board do anything to make it better for the water? She noted that two members left in part, because the board is not doing anything about revegetation or trees in the shoreland.

Mr. Stanley said if you strictly read your ordinance, it says the areas you are disturbing or the area where the camp use to be, is where it says you definitely are supposed to enforce something. He said 90% of the time you are moving the structure; tonight are two odd locations, where you have an island or a peninsula. He said if the Planning Boards request for his client was too outlandish, he would fight back and say 'show me in the ordinance where that is', but often it is phrased to us that it would be better for the lake or for erosion from the roof, if there was some planting out front. He said it is a request and not a demand. Ann said she didn't want the board to require it of one person and not another. Ann said again that she knows there are many properties with poor soils, what can the board do to make it better, so it will stop hurting the water?

CEO Demers said he had no issue with treating each property differently, because every property is unique and every application is different. He said you simply open the ordinance and follow what is written. He said there is no wrong answer, and if you educate them, it's a win. He said if vegetation has been removed than this section of the ordinance applies; if there is no vegetation removed, because the structure is staying in the same spot, then it does not apply.

Steve F. said the board was dealing with two barren sites this evening, and if the board tried to revegetate on the island, we are bringing in fill; these are sand and pine needle locations, then is the board really helping lake. He said that is why he goes back to what is written.

Steve F. said if there should be another layer to this process, it should be something for the town to come up with and vote on. Mr. Stanley noted in the past the board suggested to an applicant that they go to York County Soils and Water, and they did that, and it came to a comfortable end. He felt the board should not be afraid to ask for these things, just understand it's not a requirement. He believed most of his clients might plant some Hosta's or plants, if the board suggest it and tells them why.

Ann H. said that Mr. Stanley is open to the board's suggestions, but not all applicants are. CEO Demers suggested the board table the application until the applicant provides a complete application. Ann understood, but was tired of always having to fight for information.

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 8:10 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