

Shapleigh Planning Board

Minutes

Tuesday, May 14, 2024

Members in attendance: Ann Harris (Vice Chairman), Maggie Moody, Norman Baker, Thomas Clement, and Alternates Penny Theriault and David Lemaire. Code Enforcement Officer Mike Demers was also in attendance. Steve Foglio (Chairman) was unable to attend, therefore Penny Theriault was a regular member this evening.

The Planning Board would like to welcome a new member, David Lemaire. David is also a Forest Trustee for the Town of Shapleigh. We are grateful he is taking the time to be on the Planning Board as well.

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 Public Hearing began at 6:30 pm.

Proposed Private Way for John Mavrakos – Map 22, Lot 1 (84 Wardens Way) – Joe Stanley, LinePro Land Surveying, Applicant; William P. & Sean P. Dumont, Property Owner(s)

Mr. Stanley was present for the public hearing, as well as Mr. Mavrakos.

Ann H. asked Mr. Stanley to let the Board and the audience members know what he wanted to do. Mr. Stanley began by introducing himself. He stated that the parcel of land is approximately 6 acres in size, and they are proposing to construct a private way to access one lot, to be sold by the Dumonts to Mr. Mavrakos. He said it is a standard project, stating the plan depicts the 100 foot lake setback to the lake, the 75 foot setback from the pond in the back, the private way, and he noted that any future building site will be outside of both of the water setbacks. He said the proposed private way is a slight upgrade to the existing gravel driveway that is already there, and the purpose of the private way is to access the one lot. He said he would be happy to entertain any questions. He said that if anyone was in the audience to review this project, he had some 11 x 17” plans he could provide them with.

Citizen – *I have one question for Mr. Mavrakos. Mr. Mavrakos, what is your intention on that lot? Are you building a house?*

Mr. Mavrakos – *My intention is to build a small, maybe 1800 square foot camp. I am going to make it year round, but I have another residence, so we will probably use it more in the winter. When I am older, I may live there in the summertime.*

Citizen – *This isn’t going to be commercial, it is strictly residential?*

Mr. Mavrakos – *No, not commercial, it is strictly residential. We could not get to the lot, that is why we had to do the road. Definitely residential, no commercial use; it’s just to have a camp on Mousam. Smaller than the last one I had.*

Citizen – *Thank you.*

Ann H. asked Mr. Stanley to point out which gravel drive was the private way (there are several gravel drives shown on the plan)? Mr. Stanley stated that anything shaded in the tan color on the map already exists as a travel way, so there are three already. He said there is one that goes down to a camper site that the owners have now, there is an existing path through the middle, and an existing driveway they are

calling it a walking path. He said it is labeled a walking path, because the Dumont’s have asked to be able to still walk on that driveway to visit the pond, and it will be referenced in the deed. He said this way, if someone is reading the deed, the pathway will be labeled on the plan. He said it doesn’t impact the private way. He said they would have loved to have the private way on the graveled way closest to the water, but it would have been too close to the water, so if they follow the center driveway it works for the setbacks. Ann asked if all three gravel ways on the plan go to the same property? Mr. Stanley stated that they did, and noted they are not making a new gravel drive, they chose the middle one and will upgrade it. He said again it was further from the water.

Ann H. asked if anything was changed on this plan from the first plan presented? Mr. Stanley stated that there is one change, they can use the 16 foot wide surface to get to the turnaround, but then the Ordinance calls out that they need to widen it to 24 feet at the turnaround, to make sure emergency vehicles can turn around. He said they depicted the 24 feet on the plan and then describe it on Note 8, that the turnaround needs to be wider than the rest of the road. He stated that the Road Commissioner will also have to view the turnaround, before the CEO signs off for a building or occupancy permit.

Norman B. asked if the gravel drive was going to be the most used drive? Mr. Mavrakos stated that it would be and is now the one most used. He said the other gravel way goes near the pond. Norman asked if it would be 24 feet wide? Mr. Stanley stated it would be 16 feet wide from Wardens Way down to the turnaround, then per the Ordinance it needs to be widened to 24 feet, as shown on the plan in red. Norman asked if it will be plowed, so Mr. Mavrakos can get in and out in the winter? Mr. Mavrakos stated, yes.

Citizen – *It is a private road, as Mr. Mavrakos will find out, we all share the cost of maintenance.*

Mr. Mavrakos – *That will be fine, is there an association?*

Citizen – *We will make one.*

Citizen – *Bob Torno provided the maintenance but he is not doing well health wise, so we are going to do something else.*

Mr. Mavrakos – *23rd Street gets plowed.*

Citizen – *Yes, 23rd Street gets plowed, but the rest of the road is not done by the Town.*

Ann H. asked if there were any additional questions? There were none.

The public hearing was concluded at 6:40 pm.

- *The Planning Board meeting started at 7:00 pm.*
- *The Planning Board Vice Chairman began the meeting with the Pledge of Allegiance.*
- *Ann H. asked if there were any questions or changes to the minutes? There were none noted. Norman B. made the motion to accept the minutes as written. Tom C. seconded the motion. By a vote of 4 – 0, the motion to approve was unanimous. (Maggie M. was not a voting member this evening.)*

Old Business:

Proposed Private Way for John Mavrakos – Map 22, Lot 1 (84 Wardens Way) – Joe Stanley, LinePro Land Surveying, Applicant; William P. & Sean P. Dumont, Property Owner(s)

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

Provided along with the application, was a Letter of Authorization, William/Sean Dumont grant permission to Joe Stanley of LinePro Land Surveying to act as their agent in all aspects in order to obtain any and all permitting necessary from the Town of Shapleigh for their property located on Map 22, Lot 1 (84 Wardens Way).

Provided was a copy of the Quitclaim Deed, granting Sean F. Dumont and William P. Dumont as Joint Tenants ownership; registered at the YCRD on 9/6/2018, Book 17795, Page 27.

Provided was a copy of a Sample Road & Drainage Maintenance Agreement, which states *in part*: The right is reserved to grant appropriate easements and rights-of-way for the installation of utilities and for ingress and egress to all lots and land; the owners of lots, accessed by said road, shall jointly be obligated to maintain, repair, plow, sand and replace the road and drainage structures; the total money expended, shall be made and decided by the owners of each lot; each lot owners share of the reasonable charges for work undertaken shall constitute a debt owed to the other lot owners which may be collected in any court of competent jurisdiction in the State; the lot owners by majority vote elect or appoint an agent who shall act on behalf of the other lot owners; any lot owner shall have the right to invoke the remedy of arbitration to resolve a dispute arising out of this agreement; under no condition can the lot owners or a majority of them close the private road to travel and discontinue its maintenance unless unanimously approved by all lot owners; this Agreement and the covenants and conditions shall be binding upon the lot owners, their heirs and assigns, and shall be recorded in the York County Registry of Deeds.

Provided was a ‘Plan Showing a Proposed Private Way & Lot Division Made for John Mavrakos, P.O. Box 217, Springvale, Maine 04083’, drafted by Joseph Stanley PLS #2453, dated April 16, 2024. Depicted on the plan was Shapleigh Tax Map 22, Lot 1, divided into two lots, both lots being served by the proposed private way. One lot is depicted as being 4.43 ±Acres, lot to be retained by the current owner(s) William & Sean Dumont. The second lot is being depicted as being 2.34 ±Acres, lot to be transferred to John Mavrakos. The plans shows the existing Gravel Drive, a Camper, Shed, and Proposed 50’ Wide Private Way Along Existing Driveway Named “Twins Way”, and part of the proposed turn-around area on Lot 1; Oak Tree, Gravel Drive, Tree & Gravel Line at Bottom of Bank, along with part of the proposed turn-around area located on Proposed Outsale / second lot. Abutters noted on the plan are: Robert & Celina Torno, Tax Map 22, Lot 1A; Mary Peterson, Tax Map 3, Lot 3; Andrew Townsend, Tax Map 21, Lot(s) 45 & 43A; Kevin Lapierre & David Dorwart, Map 21, Lot 43. A Road & Ditch Section was depicted; Site Map (not to scale); House lot Development / Example Best Management Practices Diagrams, and Sample of Typical Ditch Turnout & Level Spreader. Typical Notes were written, along with Note 6. Private Way Note: *The proposed Private Way shown hereon is to remain a private road, and will be subject to a Road Maintenance Agreement. The Town of Shapleigh will not be responsible for the maintenance, repair, plowing or similar services for the private way, or shown heron, and further lot divisions utilizing the private way are prohibited without prior approval by the Shapleigh Planning Board.*

Provided this evening, was the final plan titled ‘Plan Showing a Proposed Private Way & Lot Division Made For John Mavrakos, P.O. Box 217, Springvale, Maine 04083 of Property Located on Wardens Way in Shapleigh, Maine’, drafted by Joseph L. Stanley, PLS #2453, dated May 14, 2024. The final plan showed the information provided on the preliminary plan, along with the addition of a notation showing the ‘Walking Path’, an area outlined for the ‘24 foot Wide Surface Required at Turnaround’, and Note 8 ‘*Hammer Head: Per Town of Shapleigh Code, Zoning 105-60.1 Private Ways (2) “The hammerhead or T shall have a usable surface area that is a minimum of 24 feet deep and 24 feet wide.”*’

Ann H. asked Mr. Stanley to describe to the audience what they were proposing. Mr. Stanley once again introduced himself, and that he was representing John Mavrakos for a small project just south of Wardens Way on Mousam Lake. He said the entire site is just over 6 acres, what they were proposing is a private way on an existing gravel drive that is already there, for one potential house lot on the easterly corner of the property. He stated it was a flat lot, mostly cleared, primarily a field area. He said the private way meets the 75 foot setback from the pond area, and the 100 foot setback from the lake. He said this was a nice area to construct a cabin on the lake. He felt it was straight forward, they are proposing, per the Town Ordinance, a 16 foot gravel drive from Wardens Way up to where the hammerhead starts; the surface of the hammerhead will be widened to 24 feet to accommodate any emergency vehicles that may need to turn around in the future, which again is per Shapleigh's Ordinance. He said he was happy to take any questions.

Ann H. stated there was a public hearing at 6:30, and no concerns were noted. She asked if there were any other questions or concerns? None were noted.

Ann H. began the review of the pertinent sections of the Ordinance as follows:

§105-18. Dimensional Requirements. *The proposed lot and remaining lot will meet the minimum lot size for the Shoreland District.*

§105-19. Notes to Table on Dimensional Requirements. *The proposed lot is not a flag lot, the hammerhead creates the 200 feet of road frontage for the proposed lot; the proposed lot exceeds the minimum shore frontage requirement; the private way, excluding the hammerhead is beyond the 100 foot setback to the high water mark.*

§105-60.1. Private Ways

The Planning Board shall approve the use of a fifty (50) foot wide private right-of-way to provide frontage and access to individual lots of land in accordance with the following provisions:

- A. A plan showing the private way shall be prepared by a registered land surveyor or licensed engineer. The plan shall be labeled "Plan of Private Way" and shall provide an approval block for the signatures of the Planning Board members. The plan shall delineate the proposed way and each of the lots to be served by the private way. *This requirement is met.*
- B. A street plan, cross section, and drainage plan shall be submitted for each private way. *The Road & Ditch Section; Sample of Typical Ditch Turnout & Level Spreader; and Example of Best Management Practices by the MDEP were noted on the plan provided.*
- C. The plan shall bear notes that the Town of Shapleigh will not be responsible for the maintenance, repair, or plowing of the private way and that further lot divisions utilizing the private way are prohibited without prior approval of the Shapleigh Planning Board. *This is written on the plan as Note 6.*
- D. If the private way is to provide access to two (2) or more lots, a maintenance agreement shall be required by the Planning Board and recorded in the York County Registry of Deeds. The maintenance agreement shall specify the rights and responsibilities of each lot owner with respect to the maintenance, repair and plowing of the private way. *A Sample Maintenance Agreement was provided.*
- E. The construction of private ways shall meet the following minimum standards:

	Number of Lots Served	
	1	2 or more
Minimum Roadway Width	12'	16'
Minimum Subbase (Heavy Road Gravel – max. size 4")	12"	15"
Wearing Surface (Crushed Gravel)	2"	2"
Maximum Length of Dead End	1500'	1500'
Maximum Grade	10%	8%
Minimum Grade	0.5%	0.5%
Turn Around at Dead End	Hammer Head or T	Hammer Head or T

- (1) One turnout to provide space for 2 vehicles to pass shall be provided for every 500 feet of private way.
- (2) The Hammerhead or T shall have a useable surface area that is a minimum of 24 feet deep and 24 feet wide. ***The turnaround is on the plan depicted as 24' x 24'. 16 foot travel way is on the plan. Plan Note 8 further describes the hammerhead requirement.***

- 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. ***Two lots are being created, additional lots will have to come back before the Board for approval.***
- I. The applicant shall pay a Private Way Application fee of \$100, payable to the Town of Shapleigh, prior to review of the Private Way application by the Planning Board. ***Application fee was received on 4/17/2024.***

Ann H. asked Mr. Mavrakos when he was planning to begin the private way? Mr. Mavrakos believed he would be starting within 6 months, likely the end of the summer.

Ann H. asked if anyone obtained photos of the reclamation from when Mainely Barge was using the site? She said there is an issue regarding reclamation of the site; they were supposed to reclaim the area where the barge landing was. She said there was an area dug out. Mr. Mavrakos said there were some wood chips. Mr. Stanley said at the last meeting, he thought someone stated the DEP had reviewed it. CEO Demers stated that was what he was told. Ann said the board hasn't received anything showing reclamation and when they did the site visit, it was not in compliance with the reclamation plan. She said the Board could condition that in a certain amount of time it gets done. She asked if the applicants had spoken with Mainely Barge? She said the Board also needs photos of the reclaimed area. Mr. Stanley asked if it was just reclamation that was missing? Ann said they dug the area down, and it is all sand, and it is going to get washed into the water. She said there were not any trees replanted either. Mr. Stanley said he didn't personally look at the area. Ann said that the Board wasn't aware that it was not completed until they did the site walk. Mr. Stanley said if it was made a condition of approval, that if they can't get Mainely Barge to do it, they can take care of it. Mr. Mavrakos concurred. He said he will do whatever he has to do to stabilize the area. Ann asked what the board has showing that was supposed to take place?

Barbara provided Ann with a copy of the reclamation plan, as well as Mr. Stanley. Barbara stated that the plan shows they were supposed to plant 3 trees, and bring the area back to what it was before they dug the area out. Tom C., using the plan, showed Mr. Stanley where existing trees are about to fall over, because of the area that was excavated. Mr. Mavrakos said he would be responsible for taking care of the situation.

Mr. Stanley asked if the board wanted to set a time frame? Ann H. stated that the board will condition that it be completed by a certain time, and that there be a photograph provided of the area, showing that it had been completed. She said it needs to be done prior to the private way being installed. Mr. Mavrakos agreed to that time frame.

Ann H. stated the Road Commissioner was at the last meeting and saw no issue, as well as the Fire Chief, who listened to the discussion regarding the size of the hammerhead. Norman B. noted that the Road Commissioner that was present was for the North District, and the one responsible for this area is Jeff Goodwin, for the Southern District. Barbara F. acknowledged that Jeff Goodwin was not present, but both Road Commissioner's receive the agenda and minutes of each meeting and are notified, so they can comment if they feel there is an issue. Norman noted that sometimes RC Rogers speaks for both Road Commissioners, but there is a difference between the two districts. CEO Demers stated that the Road Commissioner has to sign off stating the road is completed as well, prior to the issuance of a building permit.

Ann H. said her other question was, that at the last meeting CEO Demers said Mainely Barge stated that the DEP signed off on the landing, but did he have anything from the DEP? CEO Demers stated that he did not. Ann asked how the Board could get a copy of the DEP approval? She stated that this was a large opening on the lake. Barbara F. thought the Board could ask the DEP. Mr. Stanley stated that they could start by taking care of what is on the reclamation plan, and then submit pictures. He said if they have to go to the DEP they can do that. He said this is a good opportunity to take care of anything that needs to be done.

Ann H. stated the conditions of approval are as follows:

- 1) If the number of lots serviced by the private way goes above two lots, the applicant must come back before the Planning Board for approval.**
- 2) 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.**
- 3) 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.**
- 4) The applicant shall see that the reclamation of the area of the barge landing is completed per the approved plan, replacing the 3 trees that were removed (replaced trees shall be a minimum of 6 feet in height, measured from the base of the trunk to the top of the tree per the Ordinance requirements for revegetation); and placing the disturbed area back to what it was prior to disturbance, as best possible. Photos shall be provided to the Planning Board and Code Enforcement Officer of the completed reclamation. The reclamation shall be completed within 6 months, prior to the construction of the private way.**

Norman B. stated that he wanted to make another comment. He stated that earlier, at the public hearing, on the proposed right-of-way, he was confused about the right-of-way and the road association. He said

this is going to be a right-of-way. Mr. Stanley stated that per the Ordinance, and in the application packet, there is an agreement that needs to be in place between Mr. Mavrakos and the Dumonts for the private way that is being approved this evening. He said it covers from Wardens Way south to Mr. Mavrakos’s property. He said it is a requirement in the Ordinance that we do it and record it at the Registry of Deeds. He said the other discussion was the maintenance of Wardens Way, to get from 23rd Street to here, and this is a different issue. He said the discussion after the public hearing is they are working on formalizing an agreement for Wardens Way, because Mr. Torno used to always take care of it, but he is no longer in a position to do that anymore. He said Mr. Mavrakos and the other residents are going to try to form an association for the maintenance of Wardens Way, which has been more of a handshake prior. He said the private way we are dealing with tonight, will be recorded at the Registry of Deeds per the Ordinance, and the residents on Wardens Way are working on formalizing something for the rest of the camp road. Norman said, ok.

Norman B. said he was good with the explanation. He said he read up on a private way recently, and it is exactly that, it is a private way. He said even the municipality cannot go there without permission, no vehicles are allowed without permission, and no foot traffic is allowed without permission. He said he had no issue with that, it is a private way. He said he had no problem with Mr. Mavrakos, he will do the right thing, noting that he has known him for a long time, and he will do anything required. He said he had no problem with the project, he just wanted to note that a private way and a right-of-way are totally different. Mr. Stanley agreed that they can be similar in function but they can also be different.

Ann H. reviewed the conditions of the permit once again and asked for a motion on the application.

Mr. Mavrakos agreed that the first thing he will do is take care of the boat launch that should have been completed.

Norman B. made the motion to approve the application for a Private Way to serve two lots on Map 22, Lot 1, with the stated conditions. Tom C. seconded the motion. By a vote of 4 – 0, the motion to approve was unanimous.

Nothing further was discussed. Board members signed the approved Private Way plan.

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**The Findings of Facts**

1. The owner(s) of Shapleigh Tax Map 22, Lot 1 are William P. Dumont, of 8 North Street #4, Sanford, Maine 04073, and Sean F. Dumont of 11 Edmund Street, Springvale, ME 04083 per Quitclaim Deed, recorded at the York County Registry of Deeds as Book 17795, Page 27, dated 9/6/2018.
2. The property is located in the General Purpose District, and according to the survey provided by Joseph Stanley, PLS #2453, dated May 14, 2024, the land in total contains 6.77 acres.
3. Provided was a SAMPLE Road & Drainage Maintenance Agreement, which states *in part*: The right is reserved to grant appropriate easements and rights-of-way for the installation of utilities and for ingress and egress to all lots and land; the owners of lots, accessed by said road, shall jointly be obligated to maintain, repair, plow, sand and replace the road and drainage structures; the total money expended, shall be made and decided by the owners of each lot; each lot owners share of the reasonable charges for work undertaken shall constitute a debt owed to the other lot owners which may be collected in any court of competent jurisdiction in the State; the lot owners by majority vote may elect or appoint an agent who shall act on behalf of the other lot owners; any lot owner shall have

the right to invoke the remedy of arbitration to resolve a dispute arising out of this agreement; under no condition can the lot owners or a majority of them close the private road to travel and discontinue its maintenance unless unanimously approved by all lot owners; this Agreement and the covenants and conditions shall be binding upon the lot owners, their heirs and assigns, and shall be recorded in the York County Registry of Deeds.

4. Provided was a 'Plan Showing a Proposed Private Way & Lot Division Made for John Mavrakos, P.O. Box 217, Springvale, Maine 04083', drafted by Joseph Stanley PLS #2453, dated April 16, 2024. Depicted on the plan was Shapleigh Tax Map 22, Lot 1, divided into two lots, both lots being served by the proposed private way. One lot is depicted as being 4.43 ±Acres, lot to be retained by the current owner(s) William & Sean Dumont. The second lot is being depicted as being 2.34 ±Acres, lot to be transferred to John Mavrakos. The plan shows the existing Gravel Drive, a Camper, Shed, and Proposed 50' Wide Private Way Along Existing Driveway Named "Twins Way", and part of the proposed turn-around area on Lot 1; Oak Tree, Gravel Drive, Tree & Gravel Line at Bottom of Bank, along with part of the proposed turn-around area located on Proposed Outsale / second lot. Abutters noted on the plan are: Robert & Celina Torno, Tax Map 22, Lot 1A; Mary Peterson, Tax Map 3, Lot 3; Andrew Townsend, Tax Map 21, Lot(s) 45 & 43A; Kevin Lapierre & David Dorwart, Map 21, Lot 43. A Road & Ditch Section was depicted; Site Map (not to scale); House lot Development / Example Best Management Practices Diagrams, and Sample of Typical Ditch Turnout & Level Spreader. Typical Notes were written, along with Note 6. Private Way Note: *The proposed Private Way shown hereon is to remain a private road, and will be subject to a Road Maintenance Agreement. The Town of Shapleigh will not be responsible for the maintenance, repair, plowing or similar services for the private way, or shown heron, and further lot divisions utilizing the private way are prohibited without prior approval by the Shapleigh Planning Board.*
5. Provided was the final plan titled 'Plan Showing a Proposed Private Way & Lot Division Made For John Mavrakos, P.O. Box 217, Springvale, Maine 04083 of Property Located on Wardens Way in Shapleigh, Maine', drafted by Joseph L. Stanley, PLS #2453, dated May 14, 2024. The final plan showed the information provided on the preliminary plan, along with the addition of a notation showing the 'Walking Path', an area outlined for the '24 foot Wide Surface Required at Turnaround', and Note 8 '*Hammer Head: Per Town of Shapleigh Code, Zoning 105-60.1 Private Ways (2) "The hammerhead or T shall have a usable surface area that is a minimum of 24 feet deep and 24 feet wide."*
6. A notice to abutters within 500 feet of the property was mailed on Wednesday, April 24, 2024. Meetings were held on Tuesday, April 23, 2024, and Tuesday, May 14, 2024. A public hearing was held on Tuesday, May 14th.
7. After review of Zoning Ordinance §105-60.1 'Private Ways', by a vote of 4 – 0, the Planning Board unanimously agreed to approve the Construction of a Private Way to create two lots, per the plan entitled 'Plan Showing a Proposed Private Way & Lot Division Made For John Mavrakos, P.O. Box 217, Springvale, Maine 04083 of Property Located on Wardens Way in Shapleigh, Maine', drafted by Joseph L. Stanley, PLS #2453, dated May 14, 2024; as the private way depicted on the plan met all the requirements in the Ordinance.
8. **The conditions of approval are as follows:**
  - 1) **If the number of lots serviced by the private ways goes above two lots, the applicant must come back before the Planning Board for approval.**



- 2) 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.
- 3) 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.
- 4) The applicant shall see that the reclamation of the area of the barge landing is completed per the approved plan, replacing the 3 trees that were removed (replaced trees shall be a minimum of 6 feet in height, measured from the base of the trunk to the top of the tree per the Ordinance requirements for revegetation); and placing the disturbed area back to what it was prior to disturbance, as best possible. Photos shall be provided to the Planning Board and Code Enforcement Officer of the completed reclamation. The reclamation shall be completed within 6 months, prior to the construction of the private way.

**Decision:**

The Construction of the Private Way plan drafted by Joseph L. Stanley, PLS #2453, dated May 14, 2024, entitled ‘Plan Showing a Proposed Private Way & Lot Division Made For John Mavrakos, P.O. Box 217, Springvale, Maine 04083 of Property Located on Wardens Way in Shapleigh, Maine’, was unanimously approved with four conditions.

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**New Business:**

**After-the-Fact Conditional Use Permit for Earth Moving to Replace Walls, & Stairs – Map 17, Lot 25 (104 30<sup>th</sup> Street) – Matt Phelps, Applicant; Jonathan Raymond, Property Owners**

Mr. Phelps was present, along with the property owners, Jonathan and Tara Raymond.

Provided along with the application, was a time line, which read *in part* as follows:

- 2/24/24 - Met with Matt Phelps, M.P. Hardscaping and Erosion Control to consult on desired landscaping to include updating retaining walls.
- 3/3/24 - Received estimate from M.P. Hardscaping.
- 3/5/24 - DEP Permit was submitted.
- 3/9/24 - Visited the property, major problem with foundation was noted under main building, felt it was an emergency. Several walls were failing.
- 3/11/24 - Shifted construction crew (husband’s) from another job to 30<sup>th</sup> Street. Heavy equipment was needed, rock retaining wall was shored up to safely move equipment into place. Silt fence was put into place and bales of hay for erosion control.
- 3/19/24 - DEP approved permit for wall.
- 3/26/24 - Met with the CEO – explained about the foundation and retaining wall.
- 3/27/24 - Met with CEO on site.
- 3/27/24 - CEO sent email and letter describing what remedial actions needed to take place.
  - \*Stabilize the area with silt screening to prevent erosion (completed).
  - \* By April 30<sup>th</sup> submit application for conditional use to Planning Board (in process with Matt Phelps)Told CEO we would do what was necessary, and reiterated the situation.
- 4/12/24 - CEO emailed second letter regarding remedial action.
  - \*New wall between neighboring property and our property shall be removed.
  - \*Two lower walls shall be reworked to more closely resemble preexisting walls.
  - \*The lowest wall along the water may be replaced after Planning Board review and CEO permits are obtained.

Currently, due to weather issues, still in the process of completing the job. Matt Phelps will help with hardscaping pending correction of present issue and Board approval. Photos and measurements, as well as a survey done in October 2023 will be provided.

Provided were photos of the project area which included:

- Photos showing the originally removed wall, which went to the top step (5<sup>th</sup> from the bottom), and the concrete patio area; along with the lawn, house, and several other walls, and shed.
- Photo showing concrete walkway, stairs, new wall with arrows and X's showing part of wall to be removed, that which is above the top stair.
- Photo showing left side of wall, with an X, the word Removed, and a tape measure showing that 18 inches of the wall will be removed.
- Photo showing left side of new wall as being 40 inches in height.
- 2 Photos showing Right Side of the New Wall, along with a tape measure from the top of the ground to the top of the wall, measurement being 36 inches.
- Photo showing right side of the wall, with an X, the word Removed, and a tape measure showing that 18 inches of the wall will be removed.
- Photo showing right side of new wall as being 38 inches in height.
- Photo showing right side of new wall as being 37 inches in height.
- 3 Photos showing Current Deteriorating Wall at water's edge, made out of stone.
- Photo showing new wall, an area with a red circle with an X in the middle and the word Removed, silt fencing & hay bales for erosion control between the wall and the water, and the existing house.
- Photo of new wall, the word Removed, and a tape measure showing the height of the wall at 48 inches.
- Photo of part of the new wall, with part of a tape measure, indicating a width of 108 inches, with the word Removed written midway down the wall.
- 2 Photos showing the properties pre-existing conditions, including the house; patio area; shed; stone retaining walls; 8 trees; concrete pathways and stairs leading to the water, and fire pit.

Provided was a survey plan of Shapleigh Tax Map 17, Lot 25. Located on the plan was an existing paved area; Propane Tank; Shed; Septic Cover; Concrete area; Camp with deck; Patio; Wood Steps and Ramp; "Jill's Place" (shed); Stone Retaining Wall(s), (2) near the parking area, (1) alongside the patio, (1) along the property line of Lots 25 and 24, (1) between the patio area and the high water mark, and (1) at the water's edge; Stairs; Concrete pathway; and Fire Pit. On the plan highlighted was the Emergency Foundation Repair, and Retaining Wall (newly installed).

Provided was a price Estimate from M.P. Hardscaping and Erosion Control, for Tara Carbine, 104 30<sup>th</sup> St., Shapleigh. Highlighted was the cost to 'Replace 3ft x 77ft retaining wall in front of patio'.

Provided was a handmade sketch plan entitled 'House Drawing'. The sketch plan depicted the 19 x 32' House; 20 x 20 patio area; steps going to the patio area from alongside the house; 42 foot Left Wall and 38 foot Right Wall; Jill's Shed; Steps and walkway toward the water; as well as two sets of steps at the water's edge. The walls were highlighted on the plan.

Provided was the Notice of Violation from the Code Enforcement Officer, dated March 27, 2024. This letter asked the applicant to immediately stabilize the area with silt screening to prevent erosion; and no later than April 30, 2024, submit an application for a Conditional Use to the Planning Board, under Section 105-39, 'Earthmoving in the Shoreland District. Also provided was a second letter from the CEO regarding the Notice of Violation, letter dated April 12, 2024. This letter stated that the new wall between

the neighboring property and the applicants property shall be removed and earth restored to its previous state; the lower two walls shall be reworked to more closely resemble the pre-existing walls, in both length and height; and the lowest wall along the water may be replaced after Planning Board review and CEO permits are obtained.

The application detailed description of the project is as follows: *Install sediment controls silt fencing, coconut rolls, mulch Replace / remove existing fieldstone retaining walls and steps.*

- 1) *Replace 6ft high x 33ft long retaining wall near shed and propane tank.*
- 2) *Replace 3ft high x 30ft long retaining wall in front of driveway.*
- 3) *Replace 2.5 high x 15ft long retaining wall between Jill's Place and the deck.*
- 4) *Replace 2ft high x 29ft long retaining wall in front of Jill's Place.*
- 5) *Replace 3ft high x 77ft long retaining wall in front of patio.*
- 6) *Replace 4ft high x 97ft long retaining wall on the waterline.*
- 7) *Replace 3.5ft high x 9ft long retaining wall on patio.*
- 8) *Replace cement steps with granite.*

*Will be using diamond pro block for walls combined with filter fabric and ¾ inch crushed stone as base and backfill. Equipment to be used, mini skid steer Kubota SVL-75 and mini excavator Cat 303 to remove materials off property. The homeowner has taken it upon themselves to do some retaining walls which require correction/removal in height and possible location, and are currently awaiting new survey from company to determine exact location of new walls that need to be corrected/removed.*

*We will plant a variety of Rose bush, Blueberry high bush, Wintergreen, Dwarf Artic willow, Bog rosemary and SOD/grass for revegetation. Erosion control mulch will also be used on any inclines that need stabilization. Remove sediment controls.*

Ann H. stated the next application was for Matt Phelps for an after-the-fact permit to replace retaining walls and stairs on Map 17, Lot 25. The property owner, Mrs. Raymond, stated she wanted to tell the Board what happened. She provided Board members with the timeline of what took place, and why they need an after-the-fact permit.

Ann H. asked Mrs. Raymond to let the Board know, so it will be recorded. Mrs. Raymond stated that back in February they called Mr. Phelps to redo all the retaining walls. She did that because they wanted to do them as soon as spring arrived, so the yard would not be messed up all summer long. She stated that Mr. Phelps took measurements and did an estimate, he put in for the DEP permit. She stated that when they were on site, either the first or second weekend in March, the basement foundation was caving in. She said her husband owns a construction company, and they are building another house up the street, so they shifted the equipment to this site for the foundation, which they thought was just one wall, which was not the case. She said they started with hand digging, then they had to bring a piece of equipment in; she then pointed to a retaining wall in a photo, which she said was in bad shape, and she added this was the wall that is in violation. She said they put a new retaining wall in to support what they were doing, to get the equipment in. She said they didn't think this was a big to-do. She said that they learned that it clearly is. She said they want to know what the Board wants them to do from here. She said they have a survey, they have measurements, they have pictures showing the sizes of the walls; and the next thing they want to do is have Mr. Phelps finish the retaining walls, replant, and she noted they provided a list of vegetation. She stated that they have not done any stairs and they did not touch any other walls. She said the foundation was bowing in, it had to come out, it is an old camp. She said they want to keep the camp. She once again stated she wanted the Board to tell them what they need to do moving forward, she understood the Board has to do a site review.

Ann H. asked if she was correct, that someone called the Town Hall and was told they need permits? Mrs. Raymond stated that she called, and she sent CEO Demers an email to figure out what they needed to do. She said they got Mr. Phelps in to do the job. She said again that they had to hand dig out for the foundation, they removed the soil and returned it back today. Mrs. Raymond stated that they did not want this to look like they did something shady. Ann stated that the Board just needs to go through the facts. Ann asked if Mr. Phelps was DEP certified? Mr. Phelps stated that he was. Mrs. Raymond stated that she just had her husband take the DEP course.

**Ann H. began review of the Ordinance as follows:**

**§105-3. Basic Requirements**

- A. All buildings or structures hereinafter erected, reconstructed, altered, enlarged or moved, all new building lots, and all uses of premises in the Town of Shapleigh shall be in conformity with the provisions of this chapter.
- B. No building, structure, land or water area shall be used for any purpose or in any manner except as permitted within the district in which each building, structure, land or water area is located.
- C. *Permits must be obtained from the Code Enforcement Officer prior to commencing any activity controlled by this chapter and shall include the erection of signs and the movement in or out of the Town of manufactured housing units.*
- D. *Does not apply.*
- E. Photographic record required. An application for a permit for development within the Shoreland District must provide preconstruction photographs, at the time of application, of the shoreline vegetation and development site to the reviewing authority of the permit, and post-construction photographs no later than 20 days after completion of the development. If the reviewing authority is both the Planning Board and the Code Enforcement Officer, both shall receive a copy of the before-and-after picture documentation. ***Photographs were provided of what exists on site currently, as well as what the site looked like prior to the new wall(s) going in.***

Ann H. asked which picture was before work took place? Mrs. Raymond showed her a picture prior to them purchasing the property. Ann asked her to point out which wall was replaced, which Mrs. Raymond did. Mrs. Raymond noted that the stairs and concrete walking areas are in place. She pointed out, using a photo, where they had to access the basement. She noted that the walls by the lake were not touched. She said they were not sure the area would hold the equipment without replacing the wall to shore the area up. Ann asked Mrs. Raymond to point out the new walls, and what walls still exist. She did so. She also noted that they removed some of the new wall, so it matches the height of the old wall, whereas it was higher than the old wall when they initially built it. She pointed out a section of the wall that was removed entirely, as there was no wall there originally. She said if the Board needed to have the surveyor come back for the height of the walls, they will do so. She also noted that Mr. Phelps had measurements of the walls in his estimate. Using a survey plan, she showed what part of the foundation they repaired and the location of the wall they replaced.

**Ann H. then began review of the Ordinance once again as follows:**

**§105-17. Land uses. *Earth removal, dredging, filling requires a Conditional Use Permit in the Shoreland District.***

**§105-39. Earth removal and filling for activities other than mineral exploration and extraction.**

- D. Earthmoving in Shoreland District. Any filling, dredging or excavation of land above or below the normal high watermark, except earthmoving of less than 10 cubic yards which shall require a permit from the CEO to ensure proper erosion and sedimentation, *shall require a conditional use permit from the Planning Board. Ann stated there was more than 10 cubic yards moved.*
- (1) When an excavation contractor will perform an activity that requires or results in more than one cubic yard of soil disturbance, the person responsible for management of erosion and sedimentation control practices at the site must be certified in erosion control practices by the MDEP. This person must be present at the site each day earthmoving activity occurs for a duration that is sufficient to ensure that proper erosion and sedimentation control practices are followed. This is required until erosion and sedimentation control measures have been installed, which will either stay in place permanently or stay in place until the area is sufficiently covered with vegetation necessary to prevent soil erosion. The name and certification number of the person who will oversee the activity causing or resulting in soil disturbance shall be included on the permit application. This requirement does not apply to a person or firm engaged in agriculture or timber harvesting if best management practices or erosion and sedimentation control are used; and municipal, state and federal employees engaged in projects associated with that employment.
- F. Application for permit. Application for a permit from the Planning Board for excavation, processing and storage of soil, loam, gravel, rock and other mineral deposits shall be accompanied by a plan which shall show:
- (1) The name and current address of the property involved. *Ann looked at the survey plan provided, which provided the name of the property owner, location and deed reference.*
  - (2) The location and boundaries of the lot or lots for which the permit is requested. *Boundary lines are shown on the survey plan.*
  - (3) The location of all proposed access roads and temporary structures. *N/A*
  - (4) The proposed provisions for drainage and erosion control, including drainage calculations. *Photos of existing erosion control measures were provided. Erosion control mulch will be used on any inclines per the application.*
  - (5) Other information necessary to indicate the physical characteristics of the proposed operation, including existing topography and the proposed horizontal and vertical limits of the excavation or filling and proposed reclamation measures (grading, loaming, seeding, mulching, planting, etc.) *A revegetation plant list was provided. Photos were provided. Erosion control mulch will be used on any inclines per the application.*
- G. Conditions of permit.
- (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.
  - (2) Temporary ground cover (such as mulch) and temporary runoff filter (such as hay bales in the swales) shall be used as required to prevent stream sedimentation. The Planning Board shall set a specific date by which permanent ground cover shall be planted.
  - (3) Diversion, silting basins, terraces and other methods to trap sediment shall be used.
  - (4) Lagooning – *N/A*
  - (5) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
  - (6) Fill shall not restrict a floodway, channel or natural drainageway.

- (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specification.
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.
- (9) Reserved
- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at slope not steeper than one foot vertical to four feet horizontal.
- (11) No excavation shall be extended below the grade of an adjacent street, except for drainageways, unless 100 feet from the street line. No excavation below the grade of the surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a side or rear lot line if no excavation below the grade of abutter's properties occurs.
- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.
- (13) N/A

Mrs. Raymond stated that they provided information from Mr. Phelps for revegetation. Ann H. stated that the Board needs a detailed plan showing the revegetation, where it will be going, so when CEO Demers goes to the site he knows what is supposed to be done on site. Mrs. Raymond said they need to know what to do from here, and she noted Mr. Phelps is DEP certified.

**§105-73.G**, 'Standards applicable to conditional uses'. 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. ***This property is not in a flood hazard zone per the FEMA Flood Hazard map for the Town.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made.
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made.
- 8) A stormwater drainage system capable of handling a fifty-year storm without adverse impact on adjacent properties has been designed.
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There is silt fencing and hay bales on site currently. Mr. Phelps stated that he will be adding more, when he replaces additional walls. Mrs. Raymond stated that they will be doing revegetation and mulch shortly.***
- 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.

Ann H. stated some of the standards do not apply. She asked the applicants if they were removing any of the materials from the site? Mr. Phelps stated some of the old walls will be removed. Ann asked where they will be taking the material? Mr. Raymond stated they will be taking it to their other property, which is about a mile away, on Lebanon Road.

Ann H. stated that the Town sent out a Notice of Violation on March 27<sup>th</sup>, at which time there was to be immediate stabilization of the area with silt screening to prevent erosion. Mrs. Raymond stated that they did put that up. Mr. Raymond stated it is still up now. Ann stated that they were to submit an application no later than April 30<sup>th</sup> to the Planning Board for a conditional use. CEO Demers stated that he extended that date to the applicants verbally.

Ann H. stated a second letter was sent from the Town, which stated the new wall between the neighboring property and the applicant's property shall be removed and earth restored to its previous state. She said it states that the lower two walls shall be reworked to more closely resemble the pre-existing walls; the new walls must match old walls in both length and height and may not be expanded. Mrs. Raymond stated that she pointed out that this was done using the photos. She said if they need someone to come out to professionally measure this, they will. She said the photos and diagram do say 'homeowner measurements', so if they need to get someone else to take measurements they will hire someone. Ann believed the Board needed a plan on file of the existing measurements of the length and height of the existing walls. Ann asked Mr. Phelps if he measured the walls? Mr. Phelps said, yes. Ann said that those numbers need to be on a plan. CEO Demers said that he felt the top step in the photo was a benchmark, which was the top of the old wall. He felt if their new plan shows that the new wall is not higher than that it would be fine. Ann asked how they determine the length; is there a landmark in the photo they can use? Ann said the Board needs measurements of the wall on a plan. She stated a surveyor has to come back out, do the measurements of the new wall, and they need to match those of the old wall. Mrs. Raymond stated they can hire Joe Stanley to come back out to do the plan. Mrs. Raymond once again was showing the pictures of the old wall. Ann stated that doesn't matter, the Board needs in writing what those measurements are. Mrs. Raymond stated that the measurements done by Mr. Phelps show the length of the wall, less the stairs. She said the measurement is 3 ft. x 77 ft. Ann asked if the Board just uses the property line? CEO Demers said that Joe Stanley has been on the property, the Board could have him go back to mark where each wall started and ended. Ann asked if the Board should have him go out to do the preconstruction measurement, and then after the wall is done, the post construction measurements? Ann said the letter talks about two walls, but she only sees one. Mrs. Raymond stated that it was confusing, because there are two lower walls, the one they are talking about is one wall that is separated by stairs. She said there is one wall down by the water that hasn't been touched, and all the other walls are up by the driveway. Ann asked CEO Demers if his letter was referring to the lower wall too, or just the walls that were replaced? CEO Demers said there were two walls, one was down by the water. Ann stated the letter talks about the lower wall, so there are three walls. Mrs. Raymond thought CEO Demers was talking about the replaced wall, and calling it two walls, because of the stairs, but it is really one wall. CEO Demers said Mrs. Raymond was right, he was likely talking about the one wall and calling it two walls. Ann stated that the letter, when it speaks about 'the lower two walls' it is talking about the wall to the left and right of the steps. CEO Demers said, yes.

Ann H. continued to review the letter from the Town, which stated that the lowest wall along the water may be replaced after the Planning Board review and CEO permits are obtained. Ann said that we are not doing anything with that wall, just the upper wall? Mrs. Raymond stated that they are trying to get that permit at the same time.

Ann H. asked if there were any questions? There were none.

**Ann H. stated a notice to abutters will be mailed. Ann stated a site inspection will be held on Tuesday, May 28<sup>th</sup> at 4:00 p.m. Ann stated that she wanted the Board to meet as a group on site. (A site inspection is also scheduled at 5:00 pm for the subdivision on 34 Stone Post Road.)**

**Ann H. stated the Board will need measurements in writing for the walls. She said a revegetation plan needs to be clear for the Board and the CEO to follow.**

Nothing more was discussed.

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**Conditional Use Permit – Host Food Truck Vendors (up to 10) June 1 to Labor Day – Map 18, Lot 28 (146 Emery Mills Road) – Shawn Woods, Applicant & Property Owner**

Mr. Woods was present for the review of his application, along with a partner in the project, Kara Williams.

Provided along with the application, was a Proposed Site Plan. The plan depicted the lot, including side lot lines and distance on the Emery Mills Road. Also on the plan was the approximate locations of the existing 30' x 200' Storage Units; existing Commercial Building, Paved Parking Area (number of parking spaces were not noted); Paved Area around the storage units; Gravel Area; location of Restrooms (2 portable toilets); Proposed Food Truck Court, showing food vendors parked in a circular fashion, around a Grass Court Yard with Picnic Tables and Lighting Overhead.

The application detailed description of the project is as follows: *Hosting food truck vendors (up to 10 per night) from June 1<sup>st</sup> to Labor day, Tuesday – Sunday, 4 – 8 pm, restrooms (portable) on site, power supplied, food waste dumpster management.*

Ann H. stated the next application is for Shawn Woods to host some food truck vendors on Map 18, Lot 28, Emery Mills Road. She asked him to give a rundown of what he wanted to do.

Mr. Woods stated he had commercial space, where currently there is Beadles Bait Shop and SR Cycle. He said there is a large greenery area on the right hand side, if you are facing the location from the street. He said Kara Williams manages the storage units on site, and will actually be managing the day to day activity, and coordinating all the social media. He said they thought it was a great idea, short term, for the summer months. He felt there was a lack of eateries in the area after 3 o'clock for families. He also wanted to make some income on the property while this is a vacant space, until they decide to build Woods Construction building, which has been approved by the Board. He said this is a temporary idea to make people happy and create a little bit of a footprint for dining. He did not think they would be serving alcohol. He said they were modeling after Congdon's After Dark in Wells Maine. (Congdon's After Dark – located in the parking lot of Congdon's Donuts). He said he had been there when it first opened, and he saw the influx of people. So he wanted to approach the Board with the idea.

Mr. Woods stated he wanted to create nicer landscaping in the area for the food truck vendors, and they are going to run power service out to pedestals, like a low-key campground, with 30 amps service; they do not want generators making noise. He said they will have portable toilets, which they will conceal. He said they have enough space to conceal items that you do not want to see.



Mr. Woods stated it would be open from 4 pm to 8 pm, because it should be still daylight in the summer. He didn't want to worry about additional lighting, to bother the abutters. He also didn't want additional traffic going in and out, having headlights going across the street toward the neighbors. He thought it would be low impact to the neighbors during this time frame.

**Ann H. began review of the Ordinance as follows:**

**§105-3**, Sections A, B and C. (See above).

**§105-17**. Land Uses. *Commercial eating establishments require a conditional use in the General Purpose District.*

Ann H. asked if they were serving alcoholic beverages? Mr. Woods said there are some cantina trucks that go to venues and weddings, that he even noticed at apple picking venues. He asked would it be possible to serve alcohol, knowing they would have to hold a liquor license? Ann said it was a conditional use, and he might have to come back before the Board, because we don't have a request for this. Barbara F. thought they could add it this evening. She said they would have to obtain a liquor license, and they may need permission from the Select Board. Mr. Woods said he wasn't sure if they wanted to go there or not. Ann said if they get a Conditional Use Permit for it, they probably could do it. Mr. Woods said he could come back for that. CEO Demers stated that they should apply for it now. Mr. Woods asked what he needed to do? Barbara stated that he needs to tell the Board that he wants to add it to what he was requesting. Mr. Woods stated that they might as well go for the permit now, even if they don't exercise it now. Ann asked if he wanted beer and wine, or also hard liquor? Ms. Williams thought it might just be beer and wine, such as a beer truck with pizza. Mr. Woods agreed beer trucks or brewery trucks might be popular. Ann asked about wine and hard seltzer? Mr. Woods agreed to those. Ann asked if they would be the same time frame for opening? Mr. Woods said yes, 4 pm to 8 pm. Norman B. said he would not be the vendor for the alcohol, it would be the food trucks. Mr. Woods said this was correct. Ann said the liquor license would have to be with the food truck. Norman asked Mr. Woods how he would derive his income, by selling spots? Mr. Woods stated that based on his research, they charge a flat rate per night per truck. He said during peak season, per week day or week end, the rates vary. He said these places usually do up to 10 trucks per night, and he felt more than this, it would be too congested.

**105-20** – Applicability of standards; prohibited uses. *There are no prohibited uses being conducted on or proposed for this location. Ann H. asked about portable toilets. Mr. Woods stated they will have portable toilets on site, and they will be bringing in a food dumpster, so the waste will be disposed of properly. He said it will be removed by the end of the weekend, so it does not sit there during the week to cause odor or bring in animals.*

**105-21** – Traffic. *This location has an existing curb cut that was previously approved on the original CUP for the commercial use, the site curb cut is approved by the MDOT. Site distances can be met in both directions. There is no change to the existing entrance or exit for this new use. Mr. Woods noted that there is an in and out that works well. Penny T. stated that she had a concern, because there will be 10 vendors, that could be 10 customers. She said if you get a lot of people all at once, where will they put all the parking? Barbara F. stated they need to show it on a parking plan. Mr. Woods stated that SR Cycle is not open on the weekends, they close at 5 pm on Friday. He said this would only be a 1 hour overlap of his business being active and the vendors starting. He said that Beadles Bait Shop is closed at noon every day. He said there is no traffic with his business. He said that they were just trading off the volume, and there is ample parking space in existence. He said if the paved area is filled, there is the grassed area to the left side that could be used for parking. He said he planned on striping or*

*Fencing it off if it gets crazy, but he wasn't sure it would. Ann asked if Mr. Woods knew if there was a certain amount of approved parking spaces? Mr. Woods stated there are, but he didn't have the number with him. He said he thought there were 30 or 40.*

105-22 – Noise. *The vendors will not be using generators, power will be provided for each unit. Ann H. noted they will be stopping before 10 pm, where there is a lower threshold for noise allowed. The Code Officer or York County Sheriff can enforce the noise standards.*

105-23 – Dust, fumes, vapors and gases. *Ann said she believed all the vending trucks have proper exhaust, so they can get their certification. Mr. Woods agreed, but noted there is one vendor that has wood fired pizza, where there might be wood smoke. Ms. Williams thought all vending trucks have to get a permit from the Town, so she assumed they would have to comply with whatever the Town of Shapleigh requires of them. She asked the CEO if this was correct? CEO Demers said the Board approved a food truck recently, for a couple of different sites. He said this one is a location for multiple food trucks. He said there could be a condition that for each new food truck, the CEO could be the permitting authority. He said it was up to the Board. Penny T. said she was a former lunch lady, she wanted to know if they know if the food vendors serve food safely. She was concerned. Ann believed they have to have a permit from the State. Ann said she knew of an area where vendors were throwing grease out on the grass. Mr. Woods stated that he would not allow that. Mr. Woods stated that at Congdon's there was a strict interview process, to see that there was a year of service, that they were permitted by State and Town, and there was a social media presence with positive reviews. He said they wanted to enforce this as well. Penny stated that if you do not handle food properly, you can make people sick and they could die. Mr. Woods said they are going to create a structure that they have to work by. Ann thought the Board should have that for the file. Mr. Lemaire said that the applicant had a plan for 7 trucks, should we say not to exceed a certain number of trucks. Ms. Williams agreed, stating they want it to look nice. Ann asked what the number is that they would like? Ms. Williams said they will cap it at 10, Mr. Woods agreed. Mr. Woods said that he did some recent measurements of the area, where food trucks average 16' x 10', and there is adequate space.*

105-24 – Odors. *There can be no harmful or offensive odors beyond the lot lines.*

105-25 – Glare. *There is no lighting going beyond the lot lines.*

105-26 – Stormwater runoff. *There is no changes to the site that will create a stormwater issue. No permanent structures are being erected.*

105-27 – Erosion control. *Ann H. asked if any trees would be removed, or any major changes to the ground? Mr. Woods stated that no trees will be removed, but he will place a horseshoe area, with recycled asphalt for the trucks to stage on. He said the center of it will be conservation mulch for the picnic tables and it will be easy to walk on. Ann asked if he knew how many yards of asphalt are being brought in? Mr. Woods thought 40 to 60 yards. Ann asked CEO Demers if this was an issue, on a commercial property? CEO Demers did not believe so, it is a permeable surface.*

105-28 – Setbacks and screening. *Ann H. asked if he was putting up any buffers? Mr. Woods stated the trucks would surround the edges and the center will be the courtyard. He said they may bring in some barrels for flowers for ambiance. He said they may put in some small post lights, or a string of bistro lights.*

105-29 – Explosive materials. *Ann H. stated there will be flammable substances on site, the propane tanks on the trucks.*

105-30 – Water quality. *There is no waste or hazardous material generated by this activity and no outdoor storage of fuel or chemicals to affect water quality. Ann H. asked if he was providing water? Mr. Woods stated no, they should have water in the food trucks and they will likely provide bottled water.*

- 105-31** – Preservation of landscape; landscaping of parking and storage areas. *Ann H. said there are no changes being made on site to the landscape, other than mulch around the picnic area. Mr. Woods noted that trash barrels will be removed every night for theft purposes. He said they will use the storage units to store accessories in the evening. He said the only thing left out at night would be the picnic tables when it is not in operation. Ann asked what exists now for vegetation? Mr. Woods stated that he planned on doing berms along the side lot lines eventually, but there was only scrubby vegetation there now. He said he wanted to add arborvitaes to create a security fence for the storage units. He said that was down the road. Ann asked the Board members if they need any buffer on the road? No one stated that they did. Ann said she was ok with what was there at this time.*
- 105-32** - Relation of proposed building to the environment. *There are no new buildings being added, vending trucks only.*
- 105-33** – Refuse disposal. *Ann H. asked Mr. Woods if he was going to have a company pick up the trash, instead of taking it to the Shapleigh dump? Mr. Woods stated it was more convenient to have someone pick up the trash and use a dumpster.*
- 105-34** – Access Control to Route 109 and 11. *There is an approved entrance onto Route 109 from the MDOT for this location.*
- 105-43** – Off-street parking and loading. *Ann H. stated there needed to be 200 sf per automobile. She asked Board members how to calculate for the vendors? Mr. Woods asked if they could use 2 spaces per food truck. CEO Demers stated, that based on the square footage, that they should have enough parking for 50 cars. Mr. Woods stated that there was also space in the back. CEO Demers asked if the trucks would be on the paved area? Mr. Woods stated that they would not. CEO Demers stated that the Board can use common sense and say that the parking meets or exceeds the estimated amount of traffic. Ann read Section (g) as follows: One space for each three seats, permanent or otherwise, for patron use for restaurants and other places serving food or beverages and for theaters, auditoriums and other places of amusement or assembly. Ann said the vending trucks may be pulled in with a truck. Tom C. stated that many are one unit and drivable. Mr. Woods agreed that a lot of them are self-propelled. He said that was why he was doing a cul-de-sac, so they can back in. Tom thought they could use the restaurant example, and use the number of picnic tables, having 4 people per table. Penny T. said that unless you have a bus pulling in, most people are in one vehicle and will use one table. Maggie M. added that some may just stop in, and eat the food at home. Mr. Woods stated that they plan on a total of 10 tables. Ann said that there are more than 10 parking spots. Mr. Woods said he would provide the information for the number of parking spaces.*
- 105-46** – Sanitary provisions. *Ann H. stated that the number of portable toilets is not specified in the Ordinance. Mr. Woods stated that he was going to start with 2, but will have the space for 3. Ann said that they could make it a condition to have 3 portable toilets on site. Mr. Woods had no issue with that.*

**§105-73.G ‘Standards applicable to conditional uses’, Section G:**

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. *The use is not near a water body and will not affect birds or wildlife habitat.*
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. *N/A*
- 3) The use is consistent with the Comprehensive Plan. *The Comprehensive Plan encourages small businesses along Route 109.*
- 4) Traffic access to the site is safe. *There is a State approved entrance and the site can meet site distances in both direction.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *The location is not in a flood hazard zone on the FEMA Flood Hazard map.*

- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Portable toilets shall be provided. Food and other solid waste will be placed in a dumpster and removed on a regular basis.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There are no hazardous materials associated with the application.***
- 8) A stormwater drainage system capable of handling a fifty-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made on site that require a stormwater management plan.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are no changes being made on site that will create an erosion issue on site.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***This was previously approved for this location. It is not far from the Emery Mills fire hydrant.***
- 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. ***There will not be any excessive noise; there shall be no lights directed toward Route 109; there shall be no dust created; the only odors shall be from food.***
- 12) All performance standards in this chapter applicable to the proposed use will be met.

**Ann H. stated a public hearing will be held on Tuesday, May 28<sup>th</sup> at 6:30 pm. A notice to abutters will be mailed as well. Board members can do a site inspection on their own.**

**Ann H. said Mr. Woods needs to confirm the parking spaces. Barbara F. asked him to put them on a sketch plan for the record, along with the number of spaces. Mr. Woods stated he would do so.**

He asked about signage. The Board told him that it was through the CEO. Mr. Woods said he will spray out the area where the vendors will be parked. He said it will be done by the weekend.

Nothing further was discussed.

**Other:**

Ann H. stated the Board received two emails, both having to do with the Cluster Subdivision before the board, she read them as follows:

My main concern for the 5 lot Subdivision is the environmental impacts on the watershed and preexisting wells. It seems we have a lot of building and logging in one area, Town has logged Square Pond Rd and by the town Beach and plans to do more in the fall, within the last two - four years 5 new builds near our house, subdivision off of Town Farm Rd, and Apple Road. Anything up to a mile away can impact the watershed (run off) of Square Pond. I have heard that Acton had some issues.

My concern for the preexisting wells is by having lot more wells drilled in one area affect the water table or open and close veins depending on the type of well? I have a drilled well 250 feet with 2.25 gallons per minute last check 2022 when I had to replace pump, withholding tank and water filter. It was stated at the planning board meeting a 10,000 gallons of water needed for fire safety.

Are the lots seasonal or year round? Will the public hearing be on Zoom?

Thank you for your time,  
Barbara Fuessel

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A recent situation presented itself in the form of notifications to abutters for a public hearing on an application before the board. It appears the 500 foot radius certified mailings taken from the AXIS-GIS data base do not match current tax mailing data base which resulted in some people not getting the notification via certified mail. In one case the abutter moved on approx. 12/2022 and has been getting tax bills but did not get the certified notification for hearing. It is reasonable to assume that land transactions or change of addresses of current property owners has not been updated / uploaded to AXIS-GIS data base for mailing.

While visiting town hall last Friday I brought this to the attention of Barbra Felong and Michelle Rumney.

Thank you, Patrick Coady

Barbara F. asked Town Administrator, Michelle Rumney, if there was another place to find mailing addresses, as she uses the GIS, as well as TRIO. Michelle replied as follows: *GIS is only updated annually with address changes. TRIO (Real Estate) is updated as soon as a change is requested by the homeowner. But if they don't tell us to update their address on file, we have no way of knowing.* Barbara noted that there were 4 mailings returned. Mr. Coady was one of them, but he did stop into the office for further information.

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Ann H. stated that Hissong did provide another Letter of Credit for the Gravel Pit, in the amount required by the Board, that being \$34,650.00. The Letter of Credit will remain in effect until April 27, 2027. Note: The Town Administrator did state the letter was adequate as written.  
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Barbara F. reminded Board members they will have the Election of Officers at the next meeting.

Barbara stated that the first meeting in June will be held on Wednesday, June 12<sup>th</sup>, due to the Town voting on June 11<sup>th</sup>.

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**Growth Permits**

**There are growth permits available.**

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**The Planning Board meeting adjourned at 9:00 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