

Shapleigh Planning Board
Minutes
Tuesday, May 28, 2024

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

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. In addition, the recordings are not always clear due to background noise, therefore accuracy of the names and minutes are as best possible.

The Public Hearing began at 6:30 pm.

Anyone speaking at the public hearing, whose name could not be heard on the recording, will be referred to as ‘Abutter’.

Steve F. opened the public hearing and welcomed those present, and stated that the Board welcomes their comments.

Updated Floodplain Ordinance

Steve F. stated the first item was for the updated Floodplain Ordinance. He asked if anyone was present that wanted to speak on the proposed changes? There was no reply from the audience. Steve stated the only changes to the ordinance were to take some of the permitting from the Planning Board and put it under Code Enforcement. There were no other changes.

There were no comments from the audience.

5-Lot Major Subdivision (Cluster) – Map 7, Lot 16-3 (34 Stone Post Road) – Stephen Harding of Sebago Technics, Inc., Representing; Debra St. Laurent & Bruce Picard, Property Owner(s)

Stephen Harding was present for the public hearing.

Steve F. stated the next item on the agenda was for the 5 Lot Major Subdivision, on 34 Stone Post Road. Steve said that anyone that wanted to speak could speak. He asked that all questions be directed to him, and anything that cannot be answered, the Board will note and get back to them. Steve opened the floor to anyone that wanted to speak either for or against the project.

Debbie Cadotte (abutter on Indian Village Road) – With the new houses being built, me being one of them, the water, the runoff is very powerful and overflowing. We had a flood in our basement, this was in December of 22, this was not like a severe rainstorm, it was from the snow too. There has been damage to the culvert where the road is. They said we have to maintain it, but you can tell the rocks are coming out because of all the water. The water has gone through our front, all the way to our neighbors, and flooded all the way back to their beach. We had to do something with our house; could they put up a retention pond?
Steve F. – To answer your question, water runoff is a concern, especially on a major subdivision, and the applicant does have to demonstrate that they can retain the water on site with a flood management plan. That is in our final review packet. We could certainly give you a copy of that if you like.

Mr. Coady (abutter from Indian Village Road) – I want to carry on to that same issue. I noticed on the preliminary plan that they provided, it had GEO mapping from the Town of Shapleigh and it also had a date, that was 2018; it also had the LIDAR (Laser Imaging Detection and Ranging), which was dated 2013, which shows a forested area and topography as it was in 2013. Absent on that plan were four houses and a forested area, that has changed the topography of the area. The household of Riley’s, we’ve got the Greaves, we’ve got Cadotte’s and Arcand’s, properties that are now in that area. The topography has changed, the runoff has changed, but it was beyond what any of the application shows, other than the preliminary plan. There is no other reference to LIDAR or anything else. I ask that you look beyond what that was. Maybe we have to go further on the assessment of where the water is going and how it travels, because the topography has changed in the area.

Steve – If I hear you right, you are talking about water that is offsite of this project.

Mr. Coady – No, it is part of the wetlands area that overflows. They are affected by it. It’s coming down and it goes through Indian Village, those lots, the culvert and drainage area, and ultimately the lake. It’s of concern. I thought I would bring it to your attention, that what was presented is not necessarily what is there today, as far as topography and runoff.

Mr. Harding – Is that up gradient changes or down gradient changes?

Steve – You are between this subdivision and Indian Village, so downslope of this project. *Steve asked this of Debbie Cadotte. She replied she was.*

Mr. Harding – We are not responsible for correcting things that are done down gradient. *Steve agreed.*

Mr. Coady – But you are in the wetlands area.

Steve – What the applicant has to demonstrate is that they can maintain and not create substantial runoff that would go on to the neighboring property.

Abutter – But their plan only states that they are going to put a culvert that is going to dump onto their property.

Steve – The existing culvert now is going to get replaced, the one going in. Is that what you are talking about?

Kevin Brown (Abutter on Indian Village Road) – They are proposing replacing a culvert on their property with another culvert, that is closer to the actual stream, and that stream is already overflowing downstream. So they are proposing that they are going to redirect water, more water, in to that stream from a flatter area; with less foliage and absorption areas, that is then going into the same place that is already overflowing. And already dumping, you will see in pictures, the silt that is going straight into the lake now. So there is no plan for a silt collection pond or anything like that to settle, before it then goes into Square. So the concern is that we are continuing to dirty Square Pond.

Steve – Understood.

Steve F. asked if anyone else would like to speak on the subdivision?

Ralph Dean (Abutter on Indian Village Road) – We are an abutter of what will be Lot 2. There has been significant gunfire on that property. I want to know if there is going to be any sort of restrictions on that, when there are more houses put in there. This is a pretty regular thing that has gone on throughout the years. So I have concerns about that. And you spoke ever so briefly on the walk, there has to be a 50 foot buffer zone; is it between the properties?

Steve – It is not necessarily a buffer zone, I think you are talking about the rear setback. It would just be the setback from the edge of a structure to the property line.

Ralph Dean – So can that be forested?

Steve – Yup, but these folks are no different than you. Outside of the 250 foot Shoreland Zone you have the right to clear your property. Just like anybody else in the Town of Shapleigh does. As far as the gunfire goes, I can’t speak to that.

Ralph Dean – It is a major concern of ours, because it goes on and on, and I understand this is not actually part of this, unless they are going to have a gun range there. I just wanted to bring up a concern that a number of us have.

Ann H. – There is a noise ordinance in Shapleigh.

Ralph Dean – I did not realize that.

Steve – It has more to do with construction and working at certain times. I don't know if it will fix the gunfire problem.

Janet Iosua (Abutter on Indian Village Road) – I am an abutter near Lot 3 on Indian Village Road. What I am concerned with is buffer between the property lines. Can they go right up to the line to deforest?

Steve – The intent of these cluster subdivisions, I can't speak for the applicant, or the people who potentially buy these lots and build on them; but the intent of the cluster subdivisions is to try to leave the land forested as much as possible and pull the structures – houses in tight to the cul-de-sac. That is the whole reason for doing this. It lessens what you have to build for a road, it doesn't require you now to have to have 200 feet of road frontage. That is specifically the reason for cluster subdivision, it reduces the amount of structure that you have to build. As far as where someone is going to build on their lots, we do have building envelopes that need to be approved. A forested buffer is not outside of the scope of what we could require of this applicant. We did discuss it to date, but nothing has been approved on the plan. It is a possibility to have.

Mr. Coady – They have already cleared about a 20 foot area all the way around the perimeter of the property.

Steve – That was my understanding from the walk-thru.

Mr. Coady – So that distance has shrunk by whatever that clearing is.

Steve – Ok.

Abutter – I was just wondering if the five new houses would be conveyed a right-of-way to the existing swim area.

Steve – That's a very good question. It's been brought to our attention. There are some attorneys for some folks that are here tonight. I don't think that it can be. We are going to look into that before we make any findings on that.

Attorney Alex Pringle – My name is Alex Pringle. I am an attorney from the law firm of Drummond/Woodsum. You've got a copy of a letter that we sent on Friday.

Steve – Yes, thank you.

Atty. Pringle – We are here on the behalf of the Backlot Owners Association, which owns one of the parcels that the applicants claim easement rights over. We have raised concerns in this letter, and we oppose the subdivision for two fundamental reasons. The first is, as I think you are all aware of now, there are deed restrictions in the deed of the applicants that prevent them from building single family residences on these lots. They can on their current lot, but certainly not on any lots in the subdivision. We believe that brings into question if they have right, title, and interest to pursue this application. Separately, and to the easement question that was just raised, we are very concerned that the applicants plan, assuming the subdivision is approved, to attempt to extend the easement rights that they claim over our property, to each one of these lots. In doing so, it would fundamentally over burden the easement on our property by taking it from theoretically one family to six. We have significant concerns about it, as we have raised in the letter. I am here, not as an opportunity to duplicate what I have already told you, but just as an opportunity to answer questions, and walk through the letter if it is at all helpful.

Steve – Thank you, I appreciate you being here tonight, and we did get your letter. At the meeting, when we jump into the formal part of the meeting, we will be addressing that concern.

Kevin Brown – I have some questions about fire protection on the property. 22 years on a Fire Department in Massachusetts. In digging deeper into the NFPA (National Fire Protection Association),

rules and regulations, there were some things I wanted to ask. That is, are they going to do a cistern, what size, or are they planning on doing sprinklers in the houses? If so, are they going to be inspected each year to be sure they are up-to-date? Is the Chief comfortable with the fact, if they only have sprinklers up there, that if he ends up with a system that malfunctions, does he then, without a cistern, have the ability to have enough water to put out or suppress anything that might happen? Whether it be on the ground, woods, or structures.

Steve – That is one of the things we have addressed. The Fire Chief was actually at the preliminary meeting with these folks and did talk about the difference. He was kind of ok, if I remember correctly, with either sprinklers or a cistern. The nice part about the cistern, I agree with you, is that it does get inspected by the Fire Department. So it is something that is maintained. I do not believe, in the Town of Shapleigh, that we have any ordinance that requires any in-home sprinkler systems to be checked, operational, or inspected at any point.

Kevin Brown – Thus my concern. As neighbors, without a cistern there, that they do not have enough water. When you talk about a fire doubling in size every 15 minutes, and that an average fire takes about a thousand gallons per minute, and they have the ability I think to carry about 4,000 gallons.

Steve – Fire Protection is a big concern of the Planning Board, so that is part of the approval process.

Mr. Coady – Steve, I think he quoted a 10,000 gallon cistern, and I think there is some question or reservation if that would be ample enough. I don't know if 10,000 or 20,000 was ample.

Steve – We would normally get, as part of the approval, a letter from the Fire Chief.

Attorney Pringle – As a point of clarification, the letters that we submitted, are those going to be part of the record or will they be entered into the record?

Steve – We will actually read them at the meeting.

Mr. Coady – I have one other question. When we were talking about the utility pole, and I assume when everybody drove in there, they saw the wires hanging low. Darren (Road Commissioner) mentioned that his intent was to lower the height of the road there, if I am not mistaking from the last meeting.

Steve – I do not recall to be honest.

Mr. Coady – My question would be, if they lower the height of the road, that's going to increase the slope for the wetlands water runoff, and everything else. It would seem easier to put another pole in to make a modification, rather than changing the slope of the road.

Steve – As far as CMP goes, that would be outside of our purview; our jurisdiction to require anything. That would be on CMP. The public road isn't part of our consideration here, because as we stated at the last meeting, it really is up to the Road Commissioner.

Mr. Coady – Ok.

Mr. Coady – How do we come up with a figure of \$145,000 for a bond to cover road development, drainage, cistern placement, and the mail boxes?

Steve – That number (cost) for the road, we rely on the Road Commissioner, then it is approved by the Selectmen. A bid would be put forth from whoever the contractor is that is going to do the work for that. It then goes to the Road Commissioner to say yes, this passes, then it goes to the Selectmen for final approval.

Mr. Coady – My concern is if there is a bond, and it is non-conforming, and the Town has to acquire and do the work, \$145,000 doesn't seem like a lot of money to do what they are required to do. It doesn't seem like enough money for materials, a cistern, and so on.

Steve – We rely on other folks to handle that.

Steve asked if anyone else wanted to speak on the application?

Dave Riley (Direct Abutter to the project site) – Is there a time frame for the road? I know sometimes there are deadlines, such as 18 months or a year. Does Shapleigh have a time frame?

Steve – Yes we do. I do not recall off hand.

Dave Riley – I didn't see it, so I was just curious.

Steve – As far as the ordinance goes, I think it says substantial improvement or substantial start. I would have to get back to you on that for an answer.

Abutter – Would the roads have to be all done, before permits go through for the five lots?

Steve – That's correct. Before building permits get issued, the road has to be completed.

Abutter – The road has to be in place before.

Steve – Yup.

Kevin Brown – That brings another question from me. How are you figuring out the size of the cistern, if you do not know the size of the house? It would be based on the biggest house.

Steve – We rely on the Fire Chief. He is going to tell us what he wants out there. We do not do any figuring as far as what size of the cistern is. I would say you folks are fortunate to have the lake nearby, because they could establish a water supply at that point. I think the cistern may be a starting point, but I can't speak for the Fire Department. I would not expect that to be their only source if they were fighting a serious fire there. I think they would establish a water supply from the lake.

Steve F. asked if anyone else would like to speak on the subdivision, for or against?

Abutter – I just have a question. You mentioned that the subdivision is based on a cluster zoning model. And that model has a presupposition that the land will be forested as much as possible, correct?

Steve – The cluster subdivision allows for less improvements, less road. If we took these lots and had to do 200 feet of road frontage for every lot, we would be building a 1000 feet of road, simple math. The point of the cluster subdivision is to reduce that amount, and put additional open space in the back. And that is what this subdivision has done.

Abutter – And just so I understand, the back is that land that is reserved off to the Town Forest side.

Steve – Correct.

Abutter – That is the reserve.

Steve – Yes.

Abutter – Ok, so that reserve, by what is it insured it will stay a forested piece of land? Because it is not going to be under Town control. So the question is, how do you enforce or ensure that the original intent of this approval is being upheld over the course of time?

Steve – The only thing we can do is put notes on the plan. If there was a violation of that, it would be a civil matter. I don't know that the Town would go after the subdivider, or after these folks, if they go out and cut the trees. I can't speak to that. Our approval is going to state that that open space shall remain that in accordance with our ordinance.

Abutter – So there is no guarantee, it is just what the plan is based on is best case.

Steve – That is the best we can do.

Steve F. asked if there were any other questions or comments? There were none.

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

Mr. Woods was present for the public hearing, along with his partner in the project, Kara Williams.

Steve F. stated the next hearing was for the food trucks, and he asked Mr. Woods to let the audience know what he was going to do.

Mr. Woods introduced himself and stated he owned the property adjacent to Lakeside Marina on Mousam. He said they were trying to have a food court on Friday and Saturday nights, from 4 to 8 pm, on the commercial space. He said he felt there was a need for more entertaining in the area. He said if anyone was familiar with Congdoms after Dark in Wells, it is a thriving community with activity for families, casual dining, and we are looking to do something like that. He said this was his model. He stated it would be nicely furnished and landscaped.

Gary Brown (Abutter 23 1st Street) – I have a couple of questions, based on my reading of the minutes from the May 14th meeting, which I obtained from Barbara today. I believe I just heard him say Friday and Saturdays, the application is for Tuesday thru Sunday. What is the real plan?

Steve – Our hours of operation will be determined by the final approval. Which direction would you be headed Shawn?

Mr. Woods – We were shooting for Friday and Saturday.

Gary Brown – The application says Tuesday thru Sunday, so that would be modified.

Mr. Woods – It would have to be, it would be too much work for us to manage that longer.

Gary Brown – Thanks for the clarification. The sketch I reviewed showed 8 trucks not 10. Is that just a typo?

Mr. Woods – We are approving up to 10, but after measuring, I see 8 being more comfortable, with it being more generous with the lot size per truck. We would like to have approval for up to 10, to give us the option to do so in the future.

Gary Brown – So those two missing from the sketch will be in that circle.

Mr. Woods – Correct.

Gary Brown – We were concerned about noise, we were expecting generators, but I see he is going to be providing power. It doesn't preclude the trucks from having generators. I would like to see a condition that prohibits generator use in that area.

Steve – Excellent.

Gary Brown – And the hours of operation were 4 to 8 on the application. Congdoms does music events and they extend their hours some nights. I would not want that to be the case here.

Steve – Any deviation from what they are allowed, would require them to come back before the Planning Board, another public hearing, another notice to abutters.

Gary Brown – So 4 to 8 is what we can count on.

Steve – Yup.

Gary Brown – Friday and Saturday. Parking is a major concern in that area, and the last meeting, as I read, it's kind of up in the air how many spots he has. In his opinion there are 30, 40, and I believe Ann asked for a sketch for the number of spaces laid out. I did not see that this morning. Do we have that?

Ann H. – We don't have that yet, but that is why we are having the public hearing, and then we can continue with the approval. That was a preliminary meeting.

Gary Brown – My major concern is parking on 109. Overflow parking, or even them coming down 1st Street. I don't want that either. I would like that to be a condition that this venue cannot have parking on 109 or 1st Street. You know very well (speaking to Steve), about pulling out of the Street (1st), I got waived to by someone when pulling out with my trailer today, with 1 finger up. They come through there too fast, and if you don't pull out fast enough, they are on you. If you put a vehicle on the road, you cannot look past. However you want to do it, signage, or however.

Steve – I agree 100%. I have been thinking about this application since we got it and trying to combat that problem. I have not come up with the answer yet, but I think it is a concern Shawn (Woods) shares as well.

Gary Brown – The last thing I have, is trash on site. I see he wants to leave it there through the week, but his Friday-Saturday thing changes my thoughts on that. When it said Tuesday thru Sunday, I thought that was a long time to leave trash on site. If he disposes of it after Saturday night, I don't see a problem.

Steve – Sure.

Gary Brown – I think that's it. Thank you.

Steve – Thank you.

Abutter - I was concerned, we live next door to where this is going to be happening, and in the past, when they put the fishing place in, cars were parking on both sides of the road with their boats, their trailers, everything. They park their trailers and walk off and leave everything there for the day. For the most part we were working the night shift, so we weren't involved with headaches much, most of the time. I lost my mailbox a few times, because they did not know how to steer around it. It is the correct distance from the road, but vehicles keep hitting it. I just wondered, is that going to be allowed? Are they going to be able to park the cars quick, run in, and get something to eat and run back out and leave? Or are they going to be sitting there, and staying to have their lunches?

Mr. Woods – I think if we post signs that 'No Parking' is allowed along the public way, because I want them consolidated within the parking area. Both the motorcycle shop and the bait shop are closed during those operating hours, so the entire property is pretty much free for the parking of the festivity going on. We can have decent signs directing people in and out and if there does need to be more, we will try to manage it as best we can. Everything should be staying within the property itself. I think it would be dangerous to have people on 109.

Abutter – It would be, we've lived there a long time.

Steve – Thank you.

Ms. Haley (Abutter 21 1st Street) – I share the exact same concerns that they have talked about; parking, how it affects the traffic in that area. As it was just mentioned, there are boats and trailers parked along 109 during busy times. Sundays we are taking our life in our hands to get out or stop and get the mail, things like that, so I would want to see that well managed. The noise is a concern, I know a lot of food trucks run on generators. I know power is going to be provided, but I would want to ensure that the food truck can't say 'well I'm all set up with my generator, so we are going to run the generator anyway, because that is how we do it'. The sound of a generator travels.

Steve – I agree.

Ms. Haley – Another concern I have, is that the answers were very vague in the original meeting on the 14th, about whether alcohol is going to be served on the food trucks. I don't want to see us become a mini Iron Tails. I am sure Shapleigh doesn't want to see that either. That is a concern. I really like the idea of it only being 2 nights a week, as opposed to 6 nights a week, but I would love to see that addressed and actually be part of the operating permit.

Steve – Part of our approval are operating hours, it is a very specific part of the approval.

Ms. Haley – It's a big difference between 2 nights a week and 6 nights a week, and the impact on all of us living there.

Steve – I agree.

Ms. Haley – Thank you.

Kassidy Hyde (Abutter Simon Ricker Road) - We are the property directly behind the buildings. My concern would just be parking, because we have a covered porch in our back yard, we want to be sure there would not be any parking behind the storage units or people going back there. Like I said it is just outside our porch. Otherwise, we are for it. Just the parking would be our concern.

Mr. Woods – The storage units, I have to maintain the freedom for folks to go back there, so those areas are off limits. The folks will be parking around the front of the first structure and there is a large grass

area on the other side of the paved area we could use as overflow if we needed to. I am going to try to keep the vehicles on the paved surface. I definitely would not be impeding the access to the storage units.

Kassidy Hyde – Ok, perfect.

Steve – What is your plan for establishing the parking? Is there something you will be putting up and taking down, such as barricades, ropes and ribbons?

Mr. Woods – Traffic cones and signs saying ‘No Parking’, or we may use some posts and nautical rope, to define the main parking area in front of the food court. I will be using small barrels with flowers to help support signs, that we can put in one of the storage facilities after the hours are done. We have the luxury of having some storage to be able to put everything away once it is closed for the night. That is why I want to shoot for 2 nights a week, because there is a lot of shuffling in and out.

Abutter – You are going to provide the tables and chairs, they won’t belong to the people doing the work.

Mr. Woods – We are bringing in some nice decorative wood picnic tables in that area. Those will stay stationary for the duration of the summer months. As far as chairs that people can vandalize or take, we will pack them up overnight, along with all the lighter stuff. The tables will be the only thing you will see sitting throughout the week.

Tiffany Riley (Owner of Howling Hunger Food Truck) – I believe I saw the hours of operation as being June 1st thru Labor Day. Is that accurate?

Mr. Woods – Due to the process of the application, we will probably be open the 3rd week of June, just prior to July 4th. We have landscaping, the power to put in and such to do, to open in June.

Abutter (160 Emery Mills Rd?) – I am on the other side of the bait shop. My concern is I did not see the drawing, so I am trying to grasp in my head, how you are saying you are putting these food trucks and everything around the perimeter. I am just concerned with trespassing, because I have that empty field that abuts your empty field. That is where my septic is, so I don’t want cars pulling in there, thinking it is safe to park there. I just had that kind of concern. I don’t know how the horseshoe is looking, how it is all about in that direction. I am just concerned, and trespassing is a concern.

Mr. Woods – We could easily put up a couple of ‘Private Property – Do Not Enter’ signs along the boundary line.

Abutter – I am not trying to make it hard for you, but I just need to see what it looks like.

Steve – Shawn what would be the distance between the property line and the back of food truck #4, on your plan?

Mr. Woods – I just laid this out two nights ago, I put spray paint on the ground. Between the vegetated buffer and the closest food truck is probably 40 feet. There will be a backstop so the trucks do not go any closer. It will look like a small campground.

Steve – You haven’t submitted your final parking plan, correct?

Mr. Woods – I did forward one to Barbara late last week. *Barbara showed Steve the plan provided.* It was not anything super involved, I did take a measurement of the area.

Steve – We can talk more about this at the final meeting. It sounds like parking concerns are the majority of what we are dealing with.

Dave Riley – Are you having 50 amp hookups?

Mr. Woods – Yes.

Dave Riley – I use a generator, but it is a pain.

Mr. Woods – It is a 400 amp service; there will be 10 - 50 amp services.

Jan Rachel (Abutter 7 1st Street) – I did not hear a definite yes or no on liquor being sold. And if it is not going to be sold, will you allow a BYOB?

Mr. Woods – I am not a fan of having people bring alcohol on the property for liability purposes. I also have the same concern you folks have expressed about drinking and driving, leaving the facility. I am not a fan of it. The Planning Board brought it to my attention, that if we did want to entertain the idea with craft beer trucks, that condition should be approved right now. We have not expressed interest in getting a liquor license, so I think we will probably drop that idea. We think it may bring in the wrong crowd, or it could promote stuff we don't want to see.

Kara Williams – We really want this to be a family environment.

Mr. Woods – They can get alcoholic beverages up the street.

Jan Rachel – That's a concern with BYOB.

Mr. Woods – If someone brings alcohol on the property and they are inebriated and get hurt, it's an issue that could come back on us, so I am going to forget about that. I don't know how I could control someone sneaking alcohol in, but it won't be tolerated if we pick up on it.

Jan Rachel – Do you expect more than 250 people at one time?

Mr. Woods – It is hard to project. We have talked to a couple of places that have done these events, and we are obviously not at the level of Wells, Maine, where the ocean draws tourists in. But I assume we could do 80 to 100 people. It is hard for us to project where this will go.

Jan Rachel – If there is more than 250, aren't there mass gathering rules?

Steve – Right now Jan, we do not have a specific parking ordinance for this. Our ordinance doesn't show us how many spots we should have for something like this. We could look at a business, or a day care, and we can tell you how many parking spots you need. I think we are going to have to defer to Shawn, as far as his maintaining his parking. So his people that can be there are limited by his parking spaces. With no parking out in the street, and no parking behind the building. When the place fills up, if that number obviously exceeds 250, he would be under mass gathering; with the limited parking that he has, even though it is a fair amount.

Jan Rachel – That is why the concern is about going onto Emery Mills Road, 1st Street.

Steve – Yup.

Jan Rachel – Lighting? Picnic tables. How many picnic tables do you expect for the food trucks?

Mr. Woods – We are only putting in 10. We don't want people to stay for an extended period of time and take up space. We are expecting people to come in for a half hour or 45 minutes and then leave. We think 10 tables is a good number, which will seat 4 each, so that is 40 people at a time, sitting and eating their food. As far as lighting, I would like to put some low lighting, bistro lighting, just so we can put them on around dusk. We are closing at 8, and it is usually still fairly light out at that point, so it may not be worth my efforts to do that.

Abutter – Where the other shiner place is, are they going to be open during the day, while this is happening? (Beadles Bait Shop)

Mr. Woods – Beadles closes at noon, most of the time. Sometimes he extends it to 2 o'clock on weekends. He is an early riser and there at 5.

Jim Connors (Abutter 11 1st Street) – Great idea. I am not asking for a perfect plan, but because the property has been in our family since 1978, back in those days you brought your own food and drink with you, because there was nothing around except Crosby's and White's farm stand. I just would ask, one, are you going to be there when it is open, Friday and Saturday nights?

Mr. Woods – We are, yes. I have two younger daughters, they are teenagers right now. They are going to be apprentices for this, having the responsibility with us for setting this up.

Jim Connors – What I ask, because this is a huge change for us, we live on a nice quiet little road; you have been great neighbors, because you close long before night time, can we please be as specific as possible in our conditions to protect us. It is now Friday – Saturday, can we put that in the conditions?

Steve – Absolutely.

Jim Connors – If they want to have it Thursday or Sunday, are we notified? Will you let us know? If this goes wrong, are we stuck with this for the rest of our lives? Is there a limit on how long we approve this? 1 year, 2 years, 3 years, or is it just one summer? Protection or insurance if you will.

Steve – Once the conditional use is in place, it is in place. If there are violations, they would be through the Code Office. Any violations to our noise ordinance, that kicks in at 10 o’clock at night, we have a pretty specific noise ordinance. 8 o’clock is long before that. As far as the Friday – Saturday thing, if he wanted to come back, saying it’s going great, we want to do Wednesday through Sunday, that would require a notice to abutters, another application. It is an amendment to the conditional use.

Jim Connors – Let me ask one more quick question. Would you be favorable, to protect us all, to say you are not going to do this the rest of your life, to give us a timeline to see how it goes? Just to protect us. My point is, again, happy to meet you, it sounds like a nice idea, but it is different from what we’ve had. How do we protect ourselves and help you do something?

Mr. Woods – If we find we can’t handle this ourselves, we are not going to outsource other faculty to try to manage it. If we find we cannot handle it, we will dissolve it at that point. I will be upfront and honest, that area was already approved for our own construction building. I just haven’t wanted to invest that kind of money into that, so I thought this was a temporary way to make some additional income, and bring something fun into the Town, and promote the storage units. Get a little bit of networking going on with some food truck vendors and locals. This is not something I am trying to create a legacy for, it is not my main priority as a business. It just seemed like it would be something fun to kick off, while we have the open space. Eventually I will be putting my building there, and maybe some additional business space at some point. This is a temporary business.

Jim Connors – If it is temporary, can you think about a time limit? To re-review.

Steve – I can’t think with my time on the board that we have ever set a time frame. We could look into it.

Jim Connors – I am just trying to figure out how we can all protect ourselves, without being obstructionists, or a pain in the neck. Again, he has a great reputation, we want to be a good neighbor, but the last thing Shawn wants or any of us wants, is the circus coming to town. Thank you for your time.

Steve – Sure. Thank you.

Gayle Sprague (10 1st Street) – I haven’t heard anything mentioned about the traffic. The boat launch is right there. Friday nights are crazy out there. There is a lot of traffic there and I am concerned with people trying to take a left. I won’t be taking a left out of my street before 4 pm or after 8 pm.

Steve – I agree with your concern. The access to the site is already approved, and it is a State road, so it is MDOT. It is not the Town of Shapleigh, that entrance permit has already been approved. We have actually removed anything to do with that a year or two ago, because we didn’t have jurisdiction over that. We have to ensure its safe, as far as site distances, but we can’t restrict it.

Steve F. asked if there were any further comments? There were none.

The public hearing was concluded at 7:45 pm.

- **The Planning Board meeting started at 7:46 pm.**
- **The Planning Board Chairman began the meeting with the Pledge of Allegiance.**

5-Lot Major Subdivision (Cluster) – Map 7, Lot 16-3 (34 Stone Post Road) – Stephen Harding of Sebago Technics, Inc., Representing; Debra St. Laurent & Bruce Picard, Property Owner(s)

Stephen Harding was present for the review of the application.

Changes from the original application are bolded & italic.

Provided was the subdivision application, which reads *in part* as follows:

Name of Property Owner

& Applicant: Debra St. Laurent & Bruce Picard

Mailing Address: 9B Dutton Lane, Hollis, NH 03049

Authorized Agent Stephen Harding, PE

& Surveyor: Sebago Technics

75 John Roberts Road, Suite 4A, South Portland, ME 04106

Land Information:

Location of Property: Tax Map 7, Lot(s) 16-3

Zoning: General Purpose

No part of the property is within 250 feet of the high-water-mark of a pond or river.

Acreage to be developed: ROW = ±1.01; Lot Area = ±9.58 Acres; Open Space = ±1.15 Acres

Nature of Restrictive

Covenants: Participation in a maintenance agreement for roadway & drainage.

The land has not been part of a prior subdivision or other division in 5 years.

The land is currently wooded land, with a small campsite, with septic system and well.

The land contains no waterbodies and is not within a flood hazard area identified by FEMA.

Proposed Name of

Development: Picard Subdivision

Number of Lots: 5

Anticipated Date of

Construction: Start in summer of 2024, work on roadway

Anticipated Completion: Fall of 2025

The development currently has a road.

Estimated cost for infrastructure improvements is \$145,000.

Amended cost for infrastructure improvements: \$73,000

The water supply shall be individual wells.

The sewage disposal shall be individual septic tanks.

Fire protection – Input from Fire Chief Guillemette is being sought on fire protection.

After consulting with Chief Guillemette, individual sprinkler systems will be installed in the new homes.

Common Land is proposed, estimated acreage to be ±1.2 acres.

The applicant requests a waiver from Section 89-29, Utilities. The application proposes to extend overhead utilities from the existing utility pole on site.

A NRPA PBR has been submitted to the Maine DEP for review and approval. A copy of the acceptance will be forwarded to the Town of Shapleigh at our earliest convenience.

Provided was a letter from Stephen Harding, P.E. of Sebago Technics, dated May 2024, to CEO Michael Demers, which read in part as follows:

On behalf of Debra St. Laurent & Bruce Picard, we are pleased to submit the following final subdivision application for the Picard Subdivision located at 34 Stone Post Road in Shapleigh, Maine. The project site is identified on the

Town of Shapleigh Tax Map 7, Lot 16-3, and is located in the General Purpose District. The approximate 11.92 acre site consists of mostly undeveloped, wooded land. A small campsite with a corresponding septic system and well exists on the northwestern portion of the property.

Sebago Technics, Inc. delineated the wetlands on the site of April 17 2023. A wetland was found on the western portion of the site and is classified as a seasonally saturated, broad-leaved deciduous, palustrine forested wetland. There is a stream that starts within the wetland that runs southwesterly. The site was also reviewed for vernal pools and no areas that contained sufficient ponding for vernal pool breeding habitat were found.

The proposed project consist of the creation of a five-lot cluster subdivision. The size of each lot varies from approximately 1.34 acres to 3.55 acres. Approximately 1.2 acres of open space will be reserved within the subdivision. A private way is proposed to extend from Stone Post Road to provide access to the lots. All lots will be served by private wells and private septic systems. Power and communication utilities will be extended into the site form the existing utilities located within Stone Post Road. Future homes within the subdivision will be installed with individual sprinkler systems to meet the fire suppression needs.

The proposed site work will result in approximately 0.38 acres (16,600 SF) of new impervious area and 0.98 acres (42,800 SF) of developed area. Surface runoff from the development will generally follow the drainage patterns that exist today. Please see Exhibit 9 for the project's stormwater management plan.

Provided was an agent authorization for Stephen D. Harding, PE, from the owner(s) Debra St. Laurent & Bruce Picard, for Stone Post Road, Map 7, Lot 16-3, dated 4/10/2024.

Provided was a general site location map for 34 Stone Post Road, Tax Map 7, Lot 16-3.

Provided was a copy of the Warranty Deed, showing Debra A. St. Laurent, mailing address of 31 Page Road, Litchfield, NH 03052, and Bruce D. Picard, mailing address of 9 Dutton Lane, Hollis, NH 03049 as property owners. Deed registered at YCRD on 5/25/2021, Book 18678, Page 206.

Provided on Exhibit 4: Water/Sewer, was a copy of 4 Test Pits, dated 3/4/2023, done by Gary M. Fullerton, LSE #355. *(One lot currently holds a state approved septic system – septic design not provided.)* Exhibit 4 stated: Water: The proposed subdivision will be serviced by private individual wells on each lot. Please see the plan set for proposed well locations. Sewer: The proposed subdivision will be serviced by individual septic tanks on each lot. Please see the enclosed soil log demonstrating soil suitability for subsurface sewage disposal. *(4 Test Pits provided – TP-1; TP-2; TP-3; one test pit was not named/numbered.)*

Provided was a copy of the NRCS soil map, dated 2/5/2024, which shows the majority of the site consisting of Colton Gravelly Sandy Loam, 8 to 15 percent slopes, with other soils being noted as Adams Loamy Sand, 0 to 8 percent slopes; Colton Gravelly Sand Loam, 0 to 8 percent slopes; Croghan Loamy Fine Sand, 0 to 8 percent slopes, and Naumburg Sand. The Custom Soil Report was provided describing each soil type in detail.

Provided was a copy of the FEMA Flood Map, dated 2/5/2024; the map indicated the proposed project in zone C identified as an area of minimal flood hazard.

Provided were several of the General Standards from Chapter 89 Subdivision of Land for the Town of Shapleigh. Those noted are as follows:

§89-24. Conformance with Comprehensive Plan

The proposed subdivision conforms with the Comprehensive Plan.

§89-25. Retention of Open Spaces and Natural or Historic Features

10% of the total area or 1.2 acres are proposed as open space. This space may be proposed as being dedicated to the Town of Shapleigh.

§89-26. **Land not Suitable for Development**

Calculations of lot area to meet the requirement of the minimum lot size did not include the following:

- Land which is situated below the normal high-water-mark of any water body, land which is located within the 100 year frequency floodplain as identified by FEMA.
- Land which is part of a right-of-way or easement, including utility easements.
- Land which has a water table within 10 inches of the surface for at least three months of the year as identified by the County Soil Survey.
- Land that has been created by filling or draining a pond or wetland.

§89-27. **Blocks**

The proposed private way does not exceed 1,000 feet between intersections & other streets.

§89-28. **Lots**

All lots meet the requirements of Chapter 105, Zoning, for cluster subdivision in the General Purpose District.

§89-29. **Utilities**

All proposed utilities are underground and will be installed prior to the installation of the final gravel base of the road.

§89-30. **Required improvements.**

- A. Monuments. All subdivision boundary corner and angle points have been marked.
- B. The proposed subdivision will have individual wells on each lot. Fire protection will be decided after discussed with Shapleigh Fire Chief.
- C. Sewage Disposal. The proposed subdivision will have individual septic tanks on each lot.
- D. Surface Drainage. The proposed subdivision is traversed by a stream. A 30-foot-wide drainage easement is proposed along the existing stream located on the property. The proposed stormwater management system is designed to prevent erosion, drainage, and runoff problems in the subdivision and other properties.

§89-31. **Land Features.**

Topsoil will not be removed from the site except for surplus topsoil from roads, parking areas, and building excavations. Existing vegetation will be left intact outside of the limit of disturbance to prevent soil erosion.

§89-32. **Cluster Developments.**

B.(1)

- a) The attached cost estimate, which will be used as the performance guarantee, for infrastructure improvements totals approximately **\$70,000**. The applicant is a site contractor and will be performing the construction. **(Estimate has not yet been received as of May 28, 2024.)**
- b) The cluster approach allowed the length of the private road to be shorter while still accessing all of the proposed lots. Less land is dedicated to the road infrastructure under this approach, decreasing the amount of developed area and lessening the total tree removal of the project. The proposed subdivision also dedicates approximately 1.15 acres of open space, preserving the natural features of the site. ***Additionally, a 30 foot-wide wooded buffer will be maintained along the property line to the south.***
- c) The cluster approach will have little effect on the financial considerations of the municipality and school district. The cluster approach adds one lot to the proposed subdivision compared to a traditional subdivision approach. The lots are accessed by a private road and served by private water and sewer. Therefore, the financial impact of the cluster project will be incremental.

C. Basic Requirements.

- 1) The proposed cluster development meets all the requirements for a residential subdivision.
- 2) The proposed land is approx. 11.9 acres, meeting the 10 acre minimum.

- 3) Please see the subdivision plan for the location of all roads, structures, footpaths, and open space.
- 4) The proposed cluster development does not abut a waterbody, therefore this requirement does not need to be met.
- 5) The proposed cluster development does not have any shore frontage.
- 6) Buildings are not being proposed as part of this project.
- 7) The proposed common land is proposed to be dedicated to the Town.
- 8) Further subdivision of common land or its use for other than noncommercial recreation or conservation, except for easements for underground utilities, shall be prohibited.
- 9) The proposed lots will be serviced by private individual wells.
- 10) The proposed lots will be serviced by individual subsurface waste disposal systems that meet State of Maine Plumbing Code.
- 11) All proposed lots have a minimum of 75 feet of road frontage along the front setback line in accordance with the Cluster Zoning regulations.
- 12) No soil types classified by the Soil Survey of York County Maine as being poorly or very poorly drained are located on the project site.
- 13) Approximately .2 acres of land was removed from the proposed developable area due to soil types located on the property.
- 14) The proposed subdivision has the maximum number of lots proposed while still meeting the space and bulk criteria. The net residential density is equal to the net residential density in the General Purpose District.

§89-33. Dedication and Maintenance of Common Open Space and Services.

All proposed common land is proposed to be owned by the municipality. Further subdivision of the common land or its use for other than noncommercial recreation or conservation purposes, except for easements of underground utilities, are prohibited. Please see the subdivision plan for the proposed location of the open space and notes indicating that it shall not be used for future building lots and that all of the common space may be dedicated for acceptance by the municipality.

§89-34. Construction in Flood Hazard Areas.

The proposed subdivision is not located in the special flood hazard area as identified by FEMA.

Provided was a Wetland Review Letter, drafted by Gary M. Fullerton, CSS, LSE, Director of Natural Resources, Sebago Technic, Inc., dated June 6, 2023. The letter stated in part the following:

The wetlands contained positive indicators of hydric soil, hydrophytic vegetation, and wetland hydrology. The soils were primarily the poorly drained Naumburg sand based on the York County Soil Survey. The wetland is classified as a seasonally saturated, broad-leaved deciduous, palustrine forested wetland. These wetlands were found on the western portion of the site and are associated with a drainage that enters the property under Stone Post Road through a 15 inch culvert.

There is a stream that starts within the wetland as shown on the plan and runs southwesterly through a steep, narrow gully onto the adjacent parcel. The stream starts in an area that appears to have been an old woods road where a channel was created by placing the stones to form two banks. The Maine DEP has jurisdiction within 75 feet of the stream. Any soil disturbance within this area may require a permit from the Maine DEP.

We also reviewed the site for vernal pools during the same visit and found no areas that contained sufficient ponding for vernal pool breeding habitat. No indicator species egg masses were found, therefore it is our opinion that no vernal pools exist on this property.

Pictures were provided with the letter, of the 15 inch culvert under Stone Post Road, the forested wetland, stream starting point, downslope from the stream, and stream near the property line.

Provided was a Stormwater Management Plan Report, dated April 2024, prepared by Sebago Technics, Inc. Provided were Existing Conditions; Soils; Proposed Site Improvements; Methodology for Hydrologic Analysis (100 Year Storm Frequency – 8.7 inches of Rainfall during a 24-Hr Period). The plan Summary is as follows: *The proposed development has been designed to manage stormwater runoff by generally maintaining existing drainage patterns and preventing the discharge of concentrated flow offsite to manage any potential erosion. Erosion and sedimentation control shall be implemented in accordance with the enclosed plans and narrative.* Appendix 1 – 100-Year Storm (HydroCAD) Summary. Appendix 2 – NRCS Soils

Provided were final subdivision plans as follows: Changes from the preliminary plan are bolded/italic or crossed out.

- Sheet 1 of 7 – Cover of ‘Picard Cluster Subdivision, Stone Post Road, Shapleigh, Maine 04076, for: Debra St. Laurent & Bruce D. Picard, 9 Dutton Lane, Hollis, NH 03049’, drafted by Stephen D. Harding LPE #6633, ***Rev. B dated 5/17/2024.*** *The cover depicts a general view of the proposed subdivision.*

- Sheet 2 of 7 – Notes & Legend for ‘Picard Cluster Subdivision, Stone Post Road, Shapleigh, Maine 04076, for: Debra St. Laurent & Bruce D. Picard, 9 Dutton Lane, Hollis, NH 03049’, drafted by Stephen D. Harding LPE #6633, ***Rev. B dated 5/17/2024.*** *Sheet 2 lists the General Notes; Utility Demolition Notes; Grading & Erosion Notes; Construction Plan; Landscape Notes & Utility Notes.*

- Sheet 3 of 7 – Subdivision Plan for ‘Picard Cluster Subdivision, Stone Post Road, Shapleigh, Maine 04076, for: Debra St. Laurent & Bruce D. Picard, 9 Dutton Lane, Hollis, NH 03049’, drafted by Stephen D. Harding LPE #6633, ***Rev B dated 5/17/2024.*** *The plan depicts a cluster subdivision with a total of 5 lots proposed, sized as follows: Lot 1, 3.63 Acres; Lot 2, 1.47 Acres; Lot 3, 1.61 Acres; Lot 4, 1.43 Acres; and Lot 5, 1.39 Acres in size. Lots 2 through 5 show a test pit location on the property, Lot 1 contains an existing septic system and the approximate location was depicted, along with the existing well. The plan depicts the proposed subdivision road having a 50 foot ROW and a 16 foot travel way, ending in a cul-de-sac serving Lots 3, 4 and 5. Open space is indicated at the rear of the property, being 1.15 Acres in size. A drainage easement is noted adjacent to Lot 1. ***Noted is the location, on Lot 5, '20 Foot Wide Pedestrian Easement along Northern Boundary of Lot 5 for Access to Open Space. A Rustic Path Will Be Constructed Within the Access Easement From the Cul-de-Sac To the Open Space'.*** ***Noted was 'Protected 30-Foot Tree Buffer will be maintained along the Southern Property Boundary. Removal of Diseased, Dead, and Hazard Trees will be allowed within the Buffer, but the Stumps of Removed Trees will Remain.'*** General Notes stated the parcel is approximately 11.91 acres; wetlands are delineated; and space and bulk criteria for a cluster subdivision in the general purpose district are noted. Abutters listed on the plan are as follows: David & Tiffany Riley, Map 7, Lot 16-3A; Raymond T Cadotte, Map 36, Lot 27; Arcand Family Trust of 2018, Map 36, Lot 28; Janet Degener Revoc Living Trust, Map 36, Lot 29; Kevin Brown, Map 36, Lot 30 & Lot 31; Ralph & Susan Dean, Map 36, Lot 32; Janet Iosua, Map 36, Lot 33; Coady Living Trust, Map 36, Lot 33A; Jason & Sandra Brown, Map 36, Lot 34A & Lot 34; Lemaire Family Revocable Trust, Map 36, Lot 35; Thomas Small & Pamela Williams, Map 36, Lot 36, and the Town of Shapleigh, Map 7, Lot 16-4.*

Under General Notes, the following required notes were added:

11. All lots will be serviced by an on-site drilled well for domestic water needs.

12. *Roadway will be a private roadway always maintained as a private roadway by the homeowners association.*
13. *A cluster mailbox will be provided in accordance with U.S. Post Office Standards off the new roadway near the Stone Post Road intersection.*
14. *All homes are to be installed with individual sprinkler systems.*
15. *Waivers – Town of Shapleigh Ordinance Section 89-29 Utilities for the extension of overhead utilities down St. Laurent Way.*

• Sheet 4 of 7 – Private Way Plan for ‘Picard Cluster Subdivision, Stone Post Road, Shapleigh, Maine 04076, for: Debra St. Laurent & Bruce D. Picard, 9 Dutton Lane, Hollis, NH 03049’, drafted by Stephen D. Harding LPE #6633, Rev. B dated 5/17/2024. *The plan shows the private way, elevations, and wetland areas. The plan notes are as follows:*

- ~~1. The original plan of the private way shall be recorded in the York County Registry of Deeds within 30 days of approval by the Planning Board.~~
2. *All construction and site alterations shall be done in accordance with erosion prevention provisions outlined in the ‘Maine erosion and sedimentation control handbook for construction Best Management Practices’. Cumberland County Soil and Water Conservation District, Department of Environmental Protection, latest revision.*
3. *The private way shall be designed and constructed to conform to the standards for private ways as presented in the Town of Shapleigh Land Use and Development Code, Section 105-60.1, latest revision.*
4. *The Town of Shapleigh shall 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.*

Also on the Private Way Plan was the following:

- *15” Hope Culvert under Stone Post Road adjacent to property.*
- *Approximate size and location of cluster mail box post. Postmaster to confirm before construction.*
- *75’ Natural Resource setback. (2)*
- *Mail box pull-off.*
- *Remove existing culvert and revegetate existing driveway with New England Conservation Seed mix.*
- *Stream Centerline*
- *Drainage Easement*
- *Adjacent properties toward the north: John & Susan Hludik, Map 7, Lot 16-1 and Walter & Linda Dahms, Map 7, Lot 16-2.*

• Sheet 5 of 7 – Grading, Utility and Stormwater Plan for ‘Picard Cluster Subdivision, Stone Post Road, Shapleigh, Maine 04076, for: Debra St. Laurent & Bruce D. Picard, 9 Dutton Lane, Hollis, NH 03049’, drafted by Stephen D. Harding LPE #6633, Rev. B dated 5/17/2024. *The plan depicts, in addition to the proposed lots, the site elevations; Stabilized Construction Entrance; Double Row Filter Barrier adjacent to ROW; ~~location for the installation of Erosion Control Blanket at Limits of Disturbance to Restore Existing Gravel Road;~~ Remove existing culvert and revegetate existing driveway with New England Conservation Seed Mix; Install Erosion Control Blanket 2:1 Slopes, Typ; Rustic Trail Located within 20-Foot Access Easement to enter Open Space; Stream Centerline / Stream 25’ Setback / Stream 75’ Setback; Single Row Filter Barrier along ROW; Protected 30-Foot Tree Buffer will be maintained along the Southern property boundary. Removal of diseased, dead, and hazard trees will be allowed within the buffer, but the stumps of removed trees will remain; and a note that CMP to Extend Overhead Utilities Down Private Way. Proposed Well locations are on the plan for Lots 2 thru 5, along with the 100 foot Well Exclusion Zone for those wells. Located between Lots 3 & 4, and Lots 4 & 5 is an ‘Approximate Stump*

Disposal. Stumps to be suitably covered with fill and topsoil, limed, fertilized and seeded by contractor, TYP.'

- Sheet 6 of 7 – Erosion Control Notes for 'Picard Cluster Subdivision, Stone Post Road, Shapleigh, Maine 04076, for: Debra St. Laurent & Bruce D. Picard, 9 Dutton Lane, Hollis, NH 03049', drafted by Stephen D. Harding LPE #6633, **Rev. B dated 5/17/2024**. *Erosion Control Measures are listed for the Pre-Construction Phase, Construction and Post-Construction Phase. Also noted are the Erosion Applications & Measures; Dust Control; Temporary Vegetation; Permanent Vegetation; Seedbed Preparation; Application of Seed; Sodding; Standards for Timely Stabilization; Standard for the Timely Stabilization of Disturbed Slopes; Standard for the Timely Stabilization of Disturbed Soils; & Housekeeping. Winter Erosion Control Measures are also noted on the plan.*
- Sheet 7 of 7 – Details for 'Picard Cluster Subdivision, Stone Post Road, Shapleigh, Maine 04076, for: Debra St. Laurent & Bruce D. Picard, 9 Dutton Lane, Hollis, NH 03049', drafted by Stephen D. Harding LPE #6633, **Rev. B dated 5/17/2024**. *Included on the details page are the following: Filter Barrier; Loam & Seed Section; Erosion Control Mix Berm; Stabilized Construction Entrance; Riprap Apron; Stone Lined Plunge Pool; Stone Check Dam; Erosion Control Blanket and Gravel Road Section.*
- Sheet 1 of 1 – Existing Conditions Plan of Parcel on Stone Post Road, 34 Stone Post Road, Shapleigh, Maine for recorded owner: Bruce Picard, 9B Dutton Lane, Hollis, NH 03049, drafted by Jacob Bartlett, PLS #2513, Rev. A dated 4/9/2024. The plan lists the same General Notes as on Sheet 3 of 7 – Subdivision Plan for 'Picard Cluster Subdivision, Stone Post Road, Shapleigh, Maine 04076, for: Debra St. Laurent & Bruce D. Picard, 9 Dutton Lane, Hollis, NH 03049', drafted by Stephen D. Harding LPE #6633, Rev B dated 5/17/2024. *The existing conditions plan shows the existing trees along what will be the private way, which will need to be removed. The stream is also located on the plan, along with abutting property owners. A dozen iron pipe survey pins were shown between the proposed subdivision property and several lots, including Map 36, Lot(s) 27, 28, 29, and 30.*

Steve F. stated that the first item up was for a 5-Lot subdivision on Stone Post Road, Mr. Harding is presenting, he is from Sebago Technics. Steve stated Mr. Harding could feel free to address any concerns he heard at the public hearing.

Mr. Harding began by introducing himself and Kailey Daigle, who also works at Sebago Technique. He said this was a 5-lot cluster subdivision off of Stone Post Road. He said the road was shortened, the road from what would have been required in a typical subdivision, and there is reserved open space / common land. He said one change from the preliminary meeting, originally they were considering dedicating the common space to the Town, they backed off from that, they felt it would be better just to have it as part of the subdivision, as it seemed there were more complications to getting approvals from the Town. He said it will be common open space, with a pedestrian access easement to access the common land.

Mr. Harding stated they have a gravel surfaced road proposed, overhead utilities, and they added the waiver request for the overhead utilities. He said they were not proposing to pave the road, He asked if this needs to be a waiver request as well or can they just show it as gravel (on the plan).

Mr. Harding stated they did add a community mailbox space near the front, near the road. He said they tried to talk to the Postmaster, who is on vacation. He said they sent them to the Postmaster in Rye NH, who was the former Postmaster; they will circle back and speak with the Postmaster. There is a pullout area proposed for it, wider than the regulations, but because it is a 16 foot wide road, they wanted that area more pronounced.

Mr. Harding stated that the Fire Chief had offered the cistern as one option and he also accepted sprinkler systems for the new homes, so that is the route we have chosen. He said they will follow whatever the Town requirements are for that as well.

Mr. Harding stated they added some stump disposal areas along some property borders, and they added some notes to say how the stumps would be treated. They added a note about the road being a private road, as well.

Mr. Harding stated they also added a 30 foot wooded buffer, that had been spoken about at the last review, an informal buffer, that the Board had suggested. He said they thought 30 feet at the rear setback would be sufficient. He said they did see at the site walk that there is a trail that goes through that area (a cleared area along the property line), so he didn't know if that was a complication. He didn't know if the Town had any more formal requirements for that.

Mr. Harding stated they added a note that the private wells will be drilled wells. He said they also provided an updated construction cost, around \$75,000. He said they had taken out the cost of the cistern. He said they provided an engineer's estimate for this. (*No detailed estimate was provided.*) He noted that the property owner was an excavator, and he could build the roadway himself. He said the Board had requested an estimate, therefore they submitted it, so the Road Commissioner can take a look at it. (*No estimate was submitted.*)

Mr. Harding stated they submitted a Permit by Rule application; there is a provision if you are within 75 feet of a stream, there is a Permit by Rule you have to apply for that keeps you 25 feet off the stream. He said this was done for the roadway; it is a 14 day review process, it was applied for at about the same time the Board's material was sent out, so it is probably about 7 days before it is accepted.

Mr. Harding said he noticed the lots have to be pinned before the approval, it was something he hadn't seen before, he asked if this was something that can be conditioned, especially for the road, so they do not impact the pins. He said they could have the back lot pins placed. Steve said they can reread that section of the ordinance and see exactly how it reads to determine if they have any flexibility on that. He said he did not disagree with him from a construction standpoint, it didn't make sense to set front pins while building the road. (§89-30.A Monuments. (1) *All subdivision boundary corners and angle points as well as all lot boundary corners and angle points, shall be marked by suitable monumentation prior to approval.*)

Mr. Harding said the road escrow itself, is it something that has to be in place before the approval or can it be a condition, before the roadway construction begins, that it is in place. Steve F. stated that if the Board gives a preliminary approval to the final plan, then it would go to the Road Commissioner and then to the Selectmen for their approval, then you can record your plan at that point. Mr. Harding asked if the amount can be agreed upon for that, or does the actual performance guarantee have to be in place? Steve said that it hinges on the applicant being able to start construction, or obtain building permits, or permits to build the road. He said he believed the Board has allowed the approval, then the submittance of the bond. Steve asked the CEO and Barbara if the Board could set a time frame. Barbara suggested the Board look at the Ordinance. (§89-42. Types of guaranties.) Steve said they will look at the Ordinance. Mr. Harding thought the Board said he had 90 days to secure the bond. Steve said they will look into it.

Mr. Harding stated that there is a stormwater easement that would go to the Town, the area around the wetland and along the stream, and that is for the culvert that goes under Stone Post Road. He said there is some language for an area about 30 feet wide; using the plan, he showed the area and said they would incorporate the area into an easement. He asked the Board if they have a stormwater template that they have

used before? Steve was not sure, but he said the Board could have it reviewed if he wanted to provide one. Mr. Harding said, ok.

Mr. Harding said there was a comment in the minutes about Lot 1, where there is an existing septic system that was approved by the Code Enforcement officer, and there was a question about providing the documentation for that. He said he understood the septic system to be approved, so they didn't look for that. Steve F. asked if this septic system was going to be used for Lot 1. Mr. Harding said he assumed so, and if it wasn't, he could see where the Town would want a copy. Steve asked if it served the campers now? Steve said that any building permit, the CEO would require that. He said if there is an approved septic system there now, it meets the requirement to prove you can have one there. (*Barbara F. placed a copy of the septic design in the file.*)

Mr. Harding said some of the comments, with respect to stormwater, where it was stated that for drainage pipes and ditches, it had to be a 50 or 100 year storm. He said this is what they did. He said it was mentioned there were other provisions that come with the development, he asked that Steve point to that section. He said he wanted to know what the drainage standards are. Mr. Harding stated with respect to stormwater down gradient, where the uses have changed, it is not the land owner's responsibility to correct those. Steve F. stated the street design standards are under §89-35. Mr. Harding said that he read it was about the culvert size, which is why they have a larger culvert. He said they have offsite drainage coming onto the property, and they are bringing it to that culvert. Steve said the concern of the residents downhill of this was new impervious surface, what is lot clearing going to do to an existing problem. He said the question would be, do we have the option to fix that on site, correct the issue on site, without having it impact the neighbor's property. Mr. Harding felt it would be unfortunate to ask the applicants to fix something that they did not create. Steve said he did not disagree. Mr. Harding said it was not often to have someone fix something that was down gradient. Steve agreed.

Mr. Harding said there was a comment about the lots, an attorney made a comment, and he wasn't sure this was the venue to discuss it.

Attorney Shepard (Applicants Attorney?) – I think this was the whole question about the easement in the deeds and the title of interest. I don't believe there is anything the Board has to consider or should consider. This is easements, it is very confusing how these easements were created. If there is a limitation on Bruce and Deborah's ability to divide their lot and it's in a deed, they can enforce that in court. This is not the courtroom. Reading that letter with all the citations, I don't think is necessary. My opinion is it does not impede their ability to divide the lot. There is a question about the provision in the deed about using the lakefront property. They only own one of the lots, so again this isn't anything I think the Board needs to enforce or consider.

Steve F. said that as a matter of procedure any letters or emails that the Board receives, regarding a subject do get read, which he will do when Mr. Harding is done with his presentation, and enter them into the public record. Attorney Shepard said they have a right to submit them. He said in terms of what we need to address, he didn't feel it was part of the subdivision review. Steve said he will get a legal opinion on that, no one on the Board is an attorney, so the Board will take the time to have the issue looked at for the deed restriction, and is it the intent of the subdivider and does he have the right to issue the right to use the waterfront for all the lots in the subdivision. Attorney Shepard stated he understood their right to have the Town attorney look at it, but it wasn't up to the Board to look at deed restrictions and whether or not they were enforceable. Attorney Pringle, acting on behalf of the Back Lot Owner's Association, asked if this was the right time to discuss this issue? Steve said he will read the letters they received and then if he would like to speak, he will provide the time. A citizen asked if the public hearing was closed? Steve stated it was, but noted that the Board still will listen to comments during the regular meeting, no different than with other applications.

Mr. Harding stated that he realized there were a lot of people who were interested in what was going on. He said the applicants just want to enjoy the land, the 12 acres; they have had the ability since early in this century to go there and camp with their family, and this is their goal. He said they looked at a number of different options to see what they could do to maintain the integrity of the land, and try to meet the Town's requirements. He said they landed on this, and they know it is upsetting to some people; this is more than what they would like to do. He said they would be perfectly happy to do something less burdensome, than spreading out the campers on these lots; but it is something that the Town could entertain. He said this was the least onerous way to meet the Town's standards, to do what they want to do.

Abutter – Mr. Harding explained that they just want to be happy and this is the least onerous way to do this. They have 3 or 4 little camper trailers up there. Was that citation taken care of? Wasn't there a citation about having all those trailers?

Steve – If there was, I do not know, that would be through the Code Enforcement Office.

Abutter – So is he the Code Enforcement Officer? (She was looking at CEO Demers.)

CEO Demers – Did you want to ask me a question?

Abutter – Was it taken care of?

CEO Demers – I will take a question from the Board. Direct your comments to them, they can ask me.

Steve – Was there a citation issued?

CEO Demers – There is no open violation on that property on this date.

Steve – Thank you. He asked the citizen if this worked?

Abutter – No.

Steve F. – You have the right to speak to the Code Officer at any point.

Abutter – No thank you.

Steve read the following letters and emails received by the Board regarding this application in the past two weeks. They read in part as follows:

Dear Chair Foglio:

This office represents the Back Lot Owner's Association, LLC (the "Association"), which owns land on Square Pond in Shapleigh, Maine, specifically, Lot 9 as appears on the 1942 and 1972 plans for "The Indian Village" subdivision (the "Association's Lot").¹

I am writing to you today to express our opposition to the preliminary subdivision application submitted to the Town of Shapleigh Planning Board (the "Board") by Debra St. Laurent and Bruce Picard (the "Applicants") on April 12, 2024, (the "Application") for Tax Map 7, Lot 16-3 (the "Property"). It is our understanding that the Application calls for subdividing the Property into a five-lot cluster subdivision, which would create five new buildable lots. We oppose this application for two reasons: first, because the Applicants lack sufficient right, title, and interest to pursue the Application, and second, because the splitting of the Property into five separate buildable lots, all of which would claim access to easement rights over the Association's Lot, would overburden the easement.

The Association has performed title research that demonstrates that Northwoods Land Company of Maine, LLC ("Northwoods") owned the Association's Lot when it conveyed title to various parcels in Shapleigh, including those appearing on Tax Map 7 as Lots 16A, 16B, 16-1, 16-2, and the Property.² In each of those conveyances, Northwoods restricted construction on the conveyed lots, specifying that that only one single-family residential home could be developed on each of those tax parcels.³ The conveyances further granted the right to use the Association's Lot for the following limited purposes: picnicking, sunbathing and swimming in Square Pond.⁴ The

Association previously informed Code Enforcement Officer Mike Demers, Bruce Picard, and Debra St. Laurent of the results of our title research in separate letters sent on December 8, 2020.⁵

*The Applicants lack right, title, and interest to pursue the Application because the Property is subject to a deed restriction which limits development to one single-family residence. In order to demonstrate some right, title, or interest in a property, an applicant must provide evidence that they have a legally cognizable expectation that they have the power to use the property in the manner they propose to if their application were approved. The Maine Supreme Judicial Court has stated that to establish standing to apply for a municipal approval, an applicant must demonstrate that he or she "has an independently existing relationship to [the] regulated land in the nature of a 'title, right or interest' in it which confers lawful power to use it, or control its use." *Walsh v. City of Brewer*, 315 A.2d 200, 207 (Me. 1974). Said differently, the applicant must "have the kind of relationship to the site that gives him [or her] a legally cognizable expectation of having the power to use that site in the ways that would be authorized by the permit or license he [or she] seeks." *Murray v. Inhabitants of the Town of Lincolnville*, 462 A.2d 40, 43 (Me. 1983). In order to receive approval of the Application, Ms. St. Laurent and Mr. Picard must provide evidence that they have the legal right to subdivide the Property into five separate buildable lots. As we have detailed above, the Property is subject to a deed restriction that expressly bars the construction of more than one single-family residential home on the Property. This language is clear and unambiguous, and clearly bars creation of further buildable lots by subdivision of the Property.⁶*

We further oppose the Application because the proposed subdivision would result in a splitting of the access easement over the Association's Lot, overburdening the easement. The limited easement rights regarding the use of the Association's Lot that were granted to the Property are non-divisible, and only one single family may be entitled to use of the easement over the Association's Lot. It is clear that Northwoods' intention in conveying the Property to Ms. St. Laurent and Mr. Picard was to limit the use of the easement rights to a single family. Allowing the further subdivision of the Property, when deeded with identical restrictions, would result in a multiplication of easement users.

This overburdening is not theoretical; indeed, it has already begun. A portion of Tax Map 7, Lot 16-3 has already been subdivided, with Lot 16-3A conveyed to John and Paula Berg on March 26, 2019.⁷ Both conveyances purported to grant easement rights over the Association's Lot, thus doubling the number of families claiming the right to utilize the easement rights over the Association's Lot. It is clear that Mr. Picard and Ms. St. Laurent intend to repeat this process again as part of their proposal to further subdivide the Property. The terms of the easement clearly do not allow this, and such a multiplication of users would constitute an overburdening of the easement which may be prohibited by an action filed in a court of law.

Thank you for your attention to this matter. Please feel free to contact me should you have any questions.

*Sincerely,
Alexander B. Pringle
Drummond/Woodsum Attorneys at Law*

Attorney Pringle wanted it noted that there were several footnotes in the letter that were not read. He wanted it noted for the record. Steve F. stated it would be submitted into the minutes as written.

¹ The Back Lot Owner's Association, LLC purchased the Association's Lot on August 22, 2017, from the Town of Shapleigh, as recorded on September 5, 2017, in the York County Registry of Deeds in Book 17554, Page 38.

² Bruce Picard and Debra St. Laurent purchased the Property on June 13, 2001, from Northwoods, as recorded on Jun 26, 2001, in the York County Registry of Deeds in Book 10745, Page 149.

³ The restrictive language contained in the deeds states: "One House Only: No more than one principal residential building designed for single family use shall be maintained on any single lot at any one time". A separate restriction states "Mobile Home: There shall be no mobile homes placed or stored on any lot."

⁴ No additional access to the Association's Lot has been provided to these lots since the original conveyances.

⁵ A letter was also sent to John and Paula Berg, the then -owners of Tax Map 7, Lot 16-3A.

⁶ The deed separately contains a restriction that bars the presence of any mobile homes on the Property.

⁷ The Bergs conveyed the property to David and Tiffany Riley on June 18, 2021.

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Dear Mr. Foglio,

*I represent Cedric and Lisa Buettner in the matter of their property at 356 Indian Village Road in Shapleigh (Tax Map 37, Lots 23 & 24). Their parcel includes Lots 36, 37, and 38 as shown on the Plan Showing Additional Lots to the Indian Village, North Shapleigh, Maine (the "Additional Lots Plan").<sup>1</sup> As shown on the Additional Lots Plan, Lot 36 is burdened by a right-of-way easement for the benefit of certain other lots shown on the Plan.*

*The property owners / applicants of the 5-lot subdivision, Debra St. Laurent and Bruce Picard, have claimed the right to use the right-of-way over Lot 36 pursuant to their deed and a survey that suggests that they own Lot 62A on the Additional Lots Plan.<sup>2</sup>*

*Any right to use the Lot 36 right-of-way based on ownership of Lot 62A cannot extend to the new lots subdivided out of the current 12-acre St. Laurent and Picard parcel, unless the lot encompasses the Lot 62A land.<sup>3</sup> The reason for this is that under Maine law the rights to use the Lot 36 Right-of-Way are appurtenant only to the Lot 62A land, and do not extend to the entire 12 acres that St. Laurent and Picard own.<sup>4</sup> Therefore the right to use the Lot 36 Right-of-Way cannot be extended to all of the new lots to be created by the new subdivision because that would be an impermissible overburdening of the right-of-way easement.<sup>5</sup>*

*St. Laurent and Picard previously conveyed a parcel from their original 14-acre parcel to John and Paula Berg, and that improperly included the right to use the Lot 36 Right-of-Way.<sup>6</sup>*

*We are requesting that approval of the subdivision expressly state that the right to use the Lot 36 Right-of-Way is not applicable to all the newly created lots. If the Planning Board were to expressly state a right over Lot 36 for all the newly created lots, that would require an appeal to address the issue as outlined above.*

Sincerely,  
Elliott R. Teel  
Teel Law Office, Limited Liability Company

<sup>1</sup> York County Registry of Deeds (YCRD) Plan Book 59, Page 12 (Aug. 1972). The original Indian Village subdivision was established in 1942, YCRD Plan Book 13, Page 49.

<sup>2</sup> YCRD Book 10745, Page 151 (June 10, 2021); YCRD Plan Book 303, Page 36 (Feb. 13, 2005). The Buettners do not concede that S. Laurent and Picard hold title to the land that makes up Lot 62A, or that it includes rights over Lot 36.

<sup>3</sup> Not all lots shown on the Plan were granted the right to use the Lot 36 right-of-way. Further deed research will be needed to confirm if in fact Lot 62A was benefited by the Lot 36 right-of-way.

<sup>4</sup> Anchors v. Manter, 714 A.2d 134 (Me. 1998).

<sup>5</sup> Flaherty v Muther, 2011 ME 32 ¶ 74.

<sup>6</sup> YCRD Book 17917, Page 302. Tax Map 7, Lot 16-3A, now owned by David and Tiffany Riley.

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Morning,

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

~~~~~  
Good Evening,

My name is Deborah Cadotte and I live at 248 Indian Village rd in Shapleigh. Please view the attachment for my concern of future building on Stone Post Rd.

Thank you for your time,  
Debbie Cadotte

To whom this concerns,

My name is Debbie Cadotte and I live at 248 Indian Village rd. in Shapleigh. I am writing to you for my concern of future building on Stone Post rd. We have a culvert that runs directly through our lot and under our driveway, and as there have been 2 new builds behind us that use this culvert, our house as well as neighbors have been flooded twice with damage to our house and yard. This culvert gets clogged with debris and rocks and as we try our best to keep the water flowing, we maintain this culvert often to make sure of no overflow of water into our yard. With that being said, I would oppose the building of new lots if they use this culvert. If the building on these lots were to occur, then they should self regulate or contain their water themselves, or have the water run some place else as we already have had more water drainage than this culvert can contain. This concerns the state of my house that I would not like more water drainage into the runoff due to a higher risk in the future of flooding.

Thank you,  
The Cadotte's

Steve F. stated that given the information received, and the fact the Board is not an attorney, we are asking for some time. He suggested to the Board that he would entertain a motion to table the application for a few weeks to look into these issues and to review the final submission. He added, also to make sure the Board has checked everything they need to. to address concerns.

**Ann H. made the motion to table the application, to send the letters received to the Town’s attorney, to get a legal opinion to address the deed restrictions cited. Tom C. seconded the motion. By a vote of 5 – 0, the vote to table was unanimous.**

Steve F. stated the application is tabled and the next meeting to review the application will be **Wednesday, June 12<sup>th</sup>**, due to voting on the 11<sup>th</sup>.

Attorney Pringle stated that he wanted to make some additional comments to address Attorney Shepard’s concerns. He asked if it would be possible for the Board to reopen the public hearing for the brief purpose to address him, and so there is no objections from Mr. Shepard. Steve F. asked if there were any objections, and noted he was not a judge. Attorney Shepard had not objection, but he said that he believed the Town attorney would guide them on what you should do. He said he felt the Board would not be talking about it at all, but if he was wrong, then all should have an opportunity to address the Board. Steve said they just want to do it right. Steve said he would like to hear any comments that Attorney Pringle had.

Attorney Pringle stated that the letter was read into the record. He wanted to point out that Mr. Shepard was making note that right title interest doesn’t include the deed restrictions, and in some cases it would be correct. Attorney Pringle stated that in this case, you have a very expressed deed restriction that is unambiguous, that makes it quite clear that this type of development is not allowed. And at least in recent court cases, it indicates that Board’s do have the discretion to consider if the applicant has the overall right and ability to make such a project.

Steve F. stated, just so he was clear, for the record, the intent of the applicant is or is not to provide access to the right-of-way for all 5 lots. Attorney Shepard stated that he did not believe it had been discussed. He said it was not really an issue, there were other ways to get to the pond besides these 2 little places, so if someone gets a house built, they may have to go somewhere else. He said this has nothing to do with their ability to divide the lot into 5 pieces. Steve said it was just a question.

Nothing further was discussed.

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

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.*

Provided this evening was a photograph showing what the lot looked like prior to the current applicant's purchasing it. Most of the original walls could be seen, patio, stairs, the existing vegetation at the time of the photo, cottage and shed.

Steve F. stepped down for the review of the next two applications, due to a conflict of interest as an abutter, therefore Ann H. was the acting Chairman. Penny Theriault was a regular voting member.

Ann H. stated the next item on the agenda was for the after-the-fact Conditional Use Permit for the replacement of wall(s) and to replace a set of stairs. She stated the Board members did a site walk prior to the meeting. Ann asked if anyone had any questions on what the members viewed? David L. stated that he noticed the height of the wall is different from the pictures provided. He said in the pictures it was level with the second step; the existing wall is higher than that, it is level with the top step. Mrs. Raymond stated that he was right, she said if they remove one block it will be less than what it was before. She said that she had the survey from LinePro Land Surveyors, showing the heights of the walls. She said she was discussing

with Mr. Phelps that the heights of all the walls are different, so how do they use that. Mrs. Raymond showed the board the survey plan depicting the wall heights, done by Surveyor Joe Stanley.

Ann H. stated what the Board was trying to accomplish best possible was to make the previous height of the wall to be matched to the new wall. Mrs. Raymond understood, but all the wall heights are different; some sections are 3.92', others 3.17', how do you maintain that and have it look correct? Ann said, because it wasn't surveyed, we don't know the actual height of the previous wall that was there. Mrs. Raymond said that when the walls were surveyed in October, they didn't put the height. She asked the Board how to proceed. She said they would also have this problem down by the water, which is the most important retaining wall. She asked Mr. Phelps how he dealt with this? He stated he never dealt with such various heights like this before, where there is a 2 or 3 foot difference.

Ann H. stated that from the last meeting the Board reviewed §105-39, Earth removal and filling for activities other than mineral exploration and extraction, for activities in the Shoreland District, She said the Board received photographs for the preconstruction at the shoreline, and we have photos showing what is there now of the new wall. She said Joe Stanley came out and measured what is there now existing. Mr. Phelps stated that the survey was of the pre-existing wall. Mrs. Raymond concurred. She said they went back today and measured the existing walls for the height. She used the plan to show the heights. CEO Demers said the Board has dealt with this before, especially with varying heights on the water, you aren't going to build a crooked wall. He said each wall has a varying height, you can take the highest measurement if you want, and use that figure, you don't have to go up and down.

Ann H. stated that based on the second step (for the wall that was replaced), the original wall 3.13 feet at the highest. She said the wall can be kept at that. CEO Demers agreed, especially where the steps exist today, you construct the wall at that level all the way across. Ann agreed, but wanted others opinion. Mrs. Raymond said if they can do it to the highest, 3.13, but down here is higher (she was using a photo to help explain), what does the Board want. She thought it would look funky if the wall went down to 3 feet, where it was supposed to be 4 feet. Ann said she was seeing 1.75 at the lowest point. Mrs. Raymond said they weren't even doing that area, she showed where it would stop. Ann said that there was a lot of disturbance on the ground and a lot of excavating as well. She said because of the situation, and we don't have anything exact, she felt 3.13 should be the highest point of the entire wall.

Ann H. asked if there was a revegetation plan? Ann asked if it was the plan showing the trees? Mr. Phelps said, yes. Ann said it didn't show any revegetation behind the wall, unless she was reading it incorrectly. Mr. Phelps pointed out the plan he was speaking of. The plan highlighted the foundation that was repaired, and behind it were trees to be removed, and it stated 'Mulch and Native Plants to be Planted for Revegetation'; there were circles showing the area. Behind the after-the-fact wall, and wall at the water, it stated 'Sand/Grass to be Installed'. Mr. Phelps stated they would use sod. Ann asked what would be behind the replaced after-the-fact wall? Mr. Phelps did not think there was anything there. Mrs. Raymond agreed, maybe some crab grass. Mr. Phelps stated they could do plantings if the Board wanted them to.

Ann H. asked if there was anything from DEP? CEO Demers stated that the DEP Permit by Rule was submitted and the 14 day period had lapsed, so it was automatically approved. He said it was proof without review.

Mrs. Raymond stated they would use the stair and just go straight across with the wall. Ann H. had no issue with that, but said she was only one member. Maggie M. stated that she agreed with that, but with respect to revegetation, there should be planting behind the new wall, because if there is a lot of rain, it will go right over the wall. She said if there were plantings behind the wall, it would absorb the rain. Mrs. Raymond asked if they should put blueberry bushes there. Maggie said they could use lowbush, to have something

behind the wall, to keep the stormwater from going over the wall. Ann said there is just dirt, then the wall, and if the new wall goes down a little bit, everything is going to go over the wall. Mr. Phelps said they were going to put sod right up to the wall. Mrs. Raymond asked if they could do that? Maggie stated that if it rains hard enough it will still go over the grass and into the lake. David L. asked if there was a pre-defined type of planting, like a certain type of grass, that is suitable for erosion? Ann said yes, and there are different types of plants. She said York County Soil and Water Conservation is a good source to determine what would grow and works best in that type of soil conditions. She said the Board can condition that, that they go to York County. Steve F. said that the word they are looking for is Native plants. Ann agreed. David said that the Board would not define what those plants are, just define it by stating Native Plants should be used. Ann said that it should be written that it will be behind the wall, so that when CEO Demers looks at the site he will know.

Ann H. said the after-the-fact permit is because of the top wall, not the wall at the water. She said the Board does not know what the DEP has said about that wall, the rocks against the water. Mrs. Raymond and Mr. Phelps stated it (DEP Permit) was for all walls. Mrs. Raymond said the only reason they did one wall was for the foundation of the house. CEO Demers said they submitted a Permit by Rule to replace all the walls on the property.

Ann H. did not think the rocks at the water's edge looked like a wall. She felt it just looked like rip-rap or rocks in the water. Maggie M. agreed. Mrs. Raymond said it was a deteriorating wall. Ann asked what they planned on doing with the rocks in the water? Mr. Phelps stated they would remove them off-site and bring them to their other property. Ann asked what they would put in its place? Mr. Phelps stated they would use the same material as the other walls. Ann asked if the wall will be in the water? Mr. Phelps stated, yes. Maggie M. believed the DEP was discouraging them from removing rocks in the water. Ann agreed. CEO Demers said if the rocks along the water were ever a wall, then they would have to be in place and functioning as a wall, within the past 2 year in order to be replaced, as a wall. CEO Demers stated it was up to the Board to determine whether it constitutes a wall or if it is just rip-rap. Maggie thought it was just rocks in the dirt. Ann agreed and added, instead of a wall. Maggie wondered why the DEP wasn't more specific with their approvals, where they said they were discouraging walls along the water. CEO Demers said it was approved without review, so the 14 day time frame lapsed, so they did not even look at it. Maggie said she had a problem with that. Ann agreed and said she felt there needed to be more DEP involvement on the rocks at the water's edge. CEO Demers said the Board was entitled to get an opinion.

**Maggie M. made the motion to contact the DEP and request guidance and a ruling on the rocks at the water's edge; provide an opinion, and then the Board will move forward. Penny Theriault seconded the motion. By a vote of 5 – 0, the vote to obtain a DEP opinion was unanimous.**

Mrs. Raymond said they were not in a rush for that wall. She stated they wanted to correct the wall they put in. Maggie M. said the wall is too vague for the Board to make a determination. Ann agreed.

Ann H. asked the Board what they wanted to do for revegetation? Mrs. Raymond asked if they could put in the plants now, while waiting on the ruling for the lower wall? Ann asked when she thought it would be completed, with the revegetation of Native plants? Mr. Phelps said they would order the plants. Ann asked if it would be done by September? Mrs. Raymond said, yes. Mr. Raymond asked if they could do all the other walls as well? He said there were walls back toward the house they wanted to do.

**Ann H reviewed the walls to be replaced at this time, starting at the wall closest to the road. The heights agreed upon are as follows:**

#1 (between the house and road) – **3.5 feet**

#2 (adjacent to house) – **2 feet**

- #3 (adjacent to Jill’s Place) – **2.25 feet**
- #4 (ATF Wall) – **3.13 feet**, or as close as possible.

Ann H. asked if there were any additional questions regarding the revegetation or walls?

Mr. Phelps stated there was another wall that had not been mentioned. Mrs. Raymond said it was where the phlox was. David L. said it was two circles, he said it was between the railing and the steps. Ann H. said there were no measurements for it. Ann said they would call it a patio wall and it can be no higher than the step.

**Ann H. said she would take a motion to approve the after-the-fact Conditional Use Permit with the following conditions:**

- 1) **The revegetation and approved wall(s) shall be completed by September 30, 2024. There shall be native plants used for revegetation behind all walls. If this date cannot be met, the applicant shall come back before the Planning Board to set a new date of completion.**
- 2) **The height measurements shall be as follows, starting on the road side of the house: Wall #1 – 3.5 feet; Wall #2 – 2 feet; Wall #3 – 2.25 feet; and Wall #4 (ATF Walls) – 3.13 feet. Patio wall(s) to be no higher than the step.**
- 3) **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.**
- 4) **A licensed surveyor shall confirm in writing that the placement of the new structures are correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer.**
- 5) **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).**

The Board agreed again to ask the DEP for guidance for the rocks at the water’s edge, prior to making a motion on that wall.

**Penny Theriault made the motion to approve the after-the-fact permit to replace the retaining walls noted on Shapleigh Tax Map 17, Lot 25, excluding the wall at the water’s edge, with the stated conditions. Maggie M. seconded the motion. By a vote of 5 – 0, the vote to approve was unanimous.**

Nothing further was discussed.  
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Findings of Fact

1. The owner(s) of Shapleigh Tax Map 17, Lot 25 (104 30th Street) is 104 30th Street LLC, having a mailing address of 38 Lancaster Street, Haverhill, MA 01830, per Warranty Deed, BK 18813, PG 636, recorded at the York County Registry of Deeds on 9/23/2021.
2. The property is located in the Shoreland District, and according to the Assessor’s office, it contains .23 Acres.

3. Provided were photos of the project area which included:
 - Photos showing the originally removed wall, which went to the top step (5th 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.
4. Provided was a photograph showing what the lot looked like prior to the current applicant's purchasing it. Most of the original walls could be seen, patio, stairs, the existing vegetation at the time of the photo, cottage and shed.
5. 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).
6. Provided was a price Estimate from M.P. Hardscaping and Erosion Control, for Tara Carbine, 104 30th St., Shapleigh. Highlighted was the cost to 'Replace 3ft x 77ft retaining wall in front of patio'.
7. 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.
8. 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.

9. 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.

10. The Planning Board, after the site review and discussion held on May 28, 2024, voted to seek MDEP guidance on the request to replace the wall at the water’s edge, as Board members could not agree that it was, in fact, a wall. In addition, if it can be classified as a wall, what should be allowed as a replacement, based on what exists at this time?
11. A notice was mailed to all abutters within 500 feet of the property on May 15, 2024. Meetings were held on Tuesday, May 14, 2024, and Tuesday, May 28, 2024. A site inspection was done by members on May 28th, prior to the meeting.
12. The application as presented met the performance standards under §105-73 ‘Conditional Use permits’ as per the documentation provided and as presented with five conditions. The proposed new walls will not have an adverse effect on aquatic life or wildlife, once in place and revegetation is completed; the project will help to conserve shore cover by stopping stormwater from entering the lake; the use is consistent with the Comprehensive Plan which wants to protect the waterbodies from stormwater / erosion; traffic access to the site is safe for the intended project; the lot is not located within the flood zone; the existing stone walls will be removed by the applicant & shall be taken to another property they own; erosion control measures shall be approved by the Code Enforcement Officer; the project takes place near the lake and fire protection is not a requirement for this project; there is time limited noise and dust from the construction of the walls, which shall be completed by September 30, 2024; performance standards will be met with five conditions.
13. The application as presented met the conditions under §105-4.D(5) ‘Removal, reconstruction or replacement’ of a non-conforming structures, all existing vegetation shall be replaced with native vegetation in accordance with §105-4.D(7)(b), and a licensed surveyor shall place the wall to be sure it does not encroach onto the lake or neighboring properties.

14. The application as presented met the conditions under §105-39 ‘Earth removal and filling for activities other than mineral exploration and extraction’. The extent and type of fill is appropriate for the scope of the project; the contractor shall be licensed by the MDEP in erosion control practices, the Code Enforcement Officer shall make sure best management practices are put into place, and the project shall be completed by September 30, 2024.

15. The Planning Board unanimously agreed to approve the *after-the-fact* Conditional Use Permit for earth moving in the Shoreland District to replace all the existing walls, except the wall at the water’s edge, on Map 17, Lot 25 (104 30th Street), per the documents provided and as presented, with five conditions.

16. **The conditions of approval are as follows:**
 - 1) **The revegetation and approved wall(s) shall be completed by September 30, 2024. There shall be native plants used for revegetation behind all walls. If this date cannot be met, the applicant shall come back before the Planning Board to set a new date of completion.**
 - 2) **The height measurements shall be as follows, starting on the road side of the house: Wall #1 – 3.5 feet; Wall #2 – 2 feet; Wall #3 – 2.25 feet; and Wall #4 (ATF Walls) – 3.13 feet. Patio wall(s) to be no higher than the step.**
 - 3) **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.**
 - 4) **A licensed surveyor shall confirm in writing that the placement of the new structures are correct per the specifications approved by the Planning Board, and provide this information to the Code Enforcement Officer.**
 - 5) **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).**

Vote & Decision

By a unanimous vote of 5 – 0, the *after-the-fact* Conditional Use Permit for earth moving in the Shoreland District in order to replace the existing retaining wall(s), excluding the wall at the water’s edge, leaving the walls in the same location, at the same length, and the height(s) stated, on Shapleigh Tax Map 17, Lot 25 (104 30th Street), per the documents provided, with five conditions was approved.

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 1st to Labor day, Tuesday – Sunday, 4 – 8 pm, restrooms (portable) on site, power supplied, food waste dumpster management.*

Provided for this evening was a general parking plan. The plan depicts a circle on the right hand side (looking from the road), with 8 Food Trucks and a center with Tables / Chairs. Noted to the left of the vendor parking is a ‘Gravel Parking area, 2500 sq. ft., adjacent to the food truck court; distance measurement of 100 feet x 30 feet. Also shown is the entrance and exit locations onto Emery Mills Road, and the Paved Area (parking), which had measurements of 100’ x 100’.

Ann H. stated the next review was for Shawn Woods, for food truck vendors. She asked if after the public hearing, Mr. Woods wanted to make any changes for the record? Mr. Wood stated that they are going to release the condition of trying to go for a food truck liquor license. He said they didn’t want to go there. He said they will set the hours for Friday and Saturday, with the understanding if they want any additional they will have to come back before the Board. Ann asked if they were going to do up to 8 pm. Mr. Woods said yes, they will stick with Friday and Saturday.

Ann H. said that he submitted a new parking plan. Mr. Woods said that he just did some measurements of the existing pavement, along with the extension of crushed gravel that he will be doing in front of the food truck area.

Ann H. said they do not do anything with signage, which would be done between Mr. Woods and CEO Demers. Ann said that she understood that a lot of people are concerned with parking, which she agreed is hard to control, where it is a State road. Ann asked if Mr. Woods wanted to speak about generators vs electric. Mr. Woods stated that he did not want generators, he is putting in a 400 amp service with 5 pedestals, serving 2 trucks per. He said they will not be able to run generators. He said he didn’t want to hear them and others do not either. He noted that Dave, who owns a food truck, stated that it would be nice to have electricity.

Ann H. asked the Board members if they have any questions? Steve F. took notes and provided them to Ann.

Mr. Woods brought up the abutter that was concerned with trespassers. He wasn’t sure where she was located, as he wasn’t aware of a field next to him. Steve F. stated it was right across from 1st Street, he said it isn’t lawn at present, it is hay. Mr. Woods stated that he will put up a couple of ‘No Trespassing’ signs, strategically placed in the general area, so people are aware. He thought anyone would be hard pressed to get through that area, as it is pretty heavily vegetated.

Ann H. said they reviewed the ordinances that pertained at the last meeting, so she didn’t think they have to go back over them. She did review §105-73 ‘Conditional Use Permits’, Section G as follows:

- 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. ***Ann stated traffic access is safe, if people do what they are supposed to do. She said the applicant will speak with CEO Demers about signage.***
- 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. Ann said there were no new structures being added, only temporary food trucks.***

- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Portable toilets shall be provided. Ann said trash will be removed weekly, and the applicant will have a dumpster per contract. Mr. Woods stated that they will be on site starting June 17th.***
- 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. Ann stated that the food trucks all have their own fire extinguishers. Ann asked if there was anything else available for fire protection. Mr. Woods said there was water available within the structure, which is only 60 feet from the food trucks. He added that they did not want any smoking on site, so there will be No Smoking signs. He said he didn't want the trash or the risk of fire.***
- 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. Ann said there would be cones on sight to manage people.***
- 12) All performance standards in this chapter applicable to the proposed use will be met.

Ann H. stated there is a new parking plan, and there is an overflow parking area noted.

Ann H. said she would entertain a motion to approve with the following conditions of approval:

- 1) The hours of operations shall be 4 pm to 8 pm, Friday and Saturday only.**
- 2) There shall be up to 10 food trucks allowed at any one time.**
- 3) There shall be no generators used on site for the food trucks.**
- 4) There shall be no parking along Route 109.**
- 5) Any signage will be approved through the Code Enforcement Office.**
- 6) Trash shall be contracted with the use of a dumpster, emptied weekly.**
- 7) Tables will stay in place until the end of the season, then they shall be removed and stored.**
- 8) There shall be no liquor allowed or BYOB.**
- 9) There shall be a minimum of 2 portable toilets on site.**
- 10) There shall be no parking around or behind the storage units.**
- 11) There shall be no glaring lights added to the property that would shine onto Route 109 or neighboring properties.**

Maggie M. made the motion to approve the Conditional Use Permit for up to 10 Food Truck Vendors, on Shapleigh Tax Map 18, Lot 28, with the stated conditions. Penny Theriault seconded the motion. By a vote of 5 – 0, the vote to approve was unanimous.

Nothing further was discussed.

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**The Findings of Facts**

1. The owner(s) of Shapleigh Tax Map 18, Lot 28 (146 Emery Mills Road) is Woods Properties, LLC, mailing address of P.O. Box 1806, Sanford, Maine 04073, per Maine Statutory Short Form Quitclaim Deed - Book 18777, Page 485, registered at the York County Registry of Deeds on 8/23/2021.
2. The property is located in the General Purpose District, and according to the Assessor's office, it contains 3.6 Acres.
3. Provided 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.
4. Provided was a general parking plan. The plan depicts a circle on the right hand side (looking from the road), with 8 Food Trucks and a center with Tables / Chairs. Noted to the left of the vendor parking is a 'Gravel Parking area, 2500 sq. ft., adjacent to the food truck court; distance measurement of 100 feet x 30 feet. Also shown is the entrance and exit locations onto Emery Mills Road, and the Paved Area (parking), which had measurements of 100' x 100'.
5. 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.*
6. The application as presented met the Basic Performance Standards in the Zoning Ordinance, Article V; traffic access is safe, there is a Maine DOT entrance permit for this location; there is minimal noise, no dust, the only odors are from food; no lights shall shine onto Rte. 109 or neighboring properties; there are no changes on site to create a stormwater issue or the requirement of erosion control; existing screening shall remain in place; there is no outdoor storage of materials to affect water quality; a dumpster shall be used for trash and removed weekly; there is enough on-site parking, no parking shall be allowed on Route 109; and a minimum of 2 portable toilets shall be on site.
7. The application as presented shall meet the performance standards under §105-73 'Conditional Use Permits' with conditions. The food truck vendors will not affect birds or other wildlife; it is not in the Shoreland District; the Comprehensive Plan encourages business along Route 109; traffic access to the site is safe per the MDOT entrance permit, site distances can be met in both directions, and there is no parking allowed on Route 109; the property is not located in the flood zone mapped by FEMA; there shall be a minimum of 2 portable toilets on site, and trash will be located in a dumpster and removed weekly from site; there are no hazardous materials associated with this application; there are no changes being made to affect stormwater or require the necessity of erosion control; the property has existing fire protection approval, and each food vendor shall have a fire extinguisher on board; and the existing landscaping / buffer strips shall remain in place.
8. A notice was mailed to all abutters within 500 feet of the property on May 15, 2024. Meetings were held on Tuesday, May 14, 2024 and Tuesday, May 28, 2024. A Public Hearing was held on Tuesday, May 28<sup>th</sup>, and a site inspection was done on an individual basis.
9. The Planning Board unanimously approved the Conditional Use Permit for up to 10 Food Truck Vendors, on property known as Shapleigh Tax Map 18, Lot 28, with eleven conditions.

10. The condition(s) of approval are as follows:

- 1) The hours of operations shall be 4 pm to 8 pm, Friday and Saturday only.
- 2) There shall be up to 10 food trucks allowed at any one time.
- 3) There shall be no generators used on site for the food trucks.
- 4) There shall be no parking along Route 109.
- 5) Any signage will be approved through the Code Enforcement Office.
- 6) Trash shall be contracted with the use of a dumpster, emptied weekly.
- 7) Tables will stay in place until the end of the season, then they shall be removed and stored.
- 8) There shall be no liquor allowed or BYOB.
- 9) There shall be a minimum of 2 portable toilets on site.
- 10) There shall be no parking around or behind the storage units.
- 11) There shall be no glaring lights added to the property that would shine onto Route 109 or neighboring properties.

**Decision & Vote:**

By a unanimous vote of 5 – 0, the Conditional Use Permit for up to 10 Food Truck Vendors, per the plans presented and as discussed, on property known as Shapleigh Tax Map 18, Lot 28, with eleven conditions, was approved.

**Other:**

Maggie M. asked if there was anything the Board could do to make that area along Route 109 a no parking area? She said, the area next to the boat launch. Steve F. agreed it was horrible and a safety hazard. Tom C. said, when they park a car and a boat, it is an issue. All members agreed the area was dangerous with the cars parked on Route 109.

CEO Demers said they could call the Sheriff’s office. Steve F. stated that Barbara mentioned that as a Planning Board we could draft a letter to MDOT, stating the concerns. He said it should take care of both sides of the road, and it would help Mr. Woods. The last thing anyone wants is someone to get hurt. All members agreed something should be done.

Steve F. stated he would like to table the Election of Officers to the next meeting in two weeks.

**Tom C. made the motion to table the Election of Officers. Penny T. seconded the motion. By a vote of 5 – 0, the vote to table the Election of Officers was unanimous.**

Nothing further was discussed.

*Steve said he unintentionally skipped the approval of the minutes from the previous meeting of May 14th. He asked if there were any changes? None were noted. Ann H. made the motion to accept the minutes as read. Maggie M. seconded the motion. By a vote of 5 – 0, the vote to approve was unanimous.*

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**Growth Permits**

**There are growth permits available.**

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**The Planning Board meeting adjourned at 8:55 pm.**

The Planning Board meets the 2<sup>nd</sup> and 4<sup>th</sup> Tuesday of each month at 7:00 pm, unless it falls on a holiday or Election Day. Should there be a cancellation due to a storm event, holiday, or Election, the meeting will typically be held the following Wednesday, also at 7:00 p.m. Public hearings are held at 6:30 pm, just prior to the meeting.

Please contact the Land Use Secretary if there is a question in scheduling, 207-636-2839, x4.

Also visit [www.Shapleigh.net](http://www.Shapleigh.net), there is a calendar of events, and you will find Planning Board information there, including schedules, the agenda, and minutes of the meetings.

Respectfully submitted,  
Barbara Felong  
Land Use Secretary  
Town of Shapleigh