

**Shapleigh Planning Board
Minutes
Wednesday, June 12, 2024**

Members in attendance: 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. Steve Foglio (Chairman) and Norman Baker were unable to attend, therefore Penny Theriault and David Lemaire were voting members 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 Planning Board meeting started at 7:00 pm.***
- ***The Planning Board Vice Chairman began the meeting with the Pledge of Allegiance.***
- ***Penny Theriault made the motion to accept the minutes from the previous meeting. Maggie M. seconded the motion. By a vote of 5 – 0, the minutes were accepted as read.***

Unfinished Business:

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, along with Kalie Daigle of Sebago Technics. Bruce Picard and Debra St. Laurent, the property owners, were also in attendance.

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 \$73,200.

The water supply shall be individual wells. The sewage disposal shall be individual septic tanks. Fire protection – Individual In-home Sprinkler Systems.

Common Land is proposed, estimated acreage to be ±1.2 acres. The applicant requested a waiver from Section 89-29, Utilities. The application proposes to extend overhead utilities from the existing utility pole on site.

A NRPA PBR was submitted to the Maine DEP, and accepted by the DEP on 6/7/2024.

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 is being kept as open space in the subdivision, owned jointly by all homeowners.*

§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.~~ *The utilities will be overhead, per waiver request, and as accepted per vote of the Planning Board.*

§89-30. **Required improvements.**

A. Monuments. All subdivision boundary corner and angle points *must be placed prior to approval.*

- B. The proposed subdivision will have individual wells on each lot. ***Fire protection will be individual sprinkler systems as allowed by the Fire Chief in the letter he provided.***
- 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. A new roadside swale will be constructed to collect runoff from the upgradient areas draining onto the subject project with a 24-inch culvert being installed to convey the collected runoff under the new roadway. Please see the grading, utility, and drainage plan for the proposed ditching, storm drains, easements, and other proposed improvements.

§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 ***\$73,200***. The applicant is a site contractor and will be performing the construction.
- 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 accessible and ***maintained by the homeowners of the subdivision.***
- 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 identified as delineated wetlands 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 *subdivision homeowners*. 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.

§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:

• 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. *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.*
2. *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.*

3. *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; 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; 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.

Ann H. stated the first item on the agenda is for the 5-lot cluster subdivision on Stone Post Road. She asked Mr. Harding to give a brief description of the project. Ann added that if anyone had questions, after she reviewed everything they went over at the previous meeting, they can address the questions to her. Ann also asked Mr. Harding if it would be ok for him to take questions, if they were something that hadn't been talked about before. Mr. Harding said, sure.

Mr. Harding introduced himself, along with Kailey Daigle, Bruce Picard and Debra St. Laurent, the owners and applicants for the project. He said they have not changed any of the drawing since the last meeting; they were waiting to hear back from the Town Attorney as to whether or not the question about the deed references were germane to the Planning Board. He stated that the Town Attorney stated that they weren't, and the Board would focus on the Ordinance and that the plans were in conformance with the Ordinance.

Mr. Harding stated they had received a couple of other items. He said they have received the Fire Chief's approval to sprinkle the buildings in lieu of doing a cistern. He said at one time they were thinking of doing a cistern, but decided to put sprinklers in the homes. He said they also submitted a \$73,000 roadway estimate for the construction, that Bruce prepared; Bruce is a contractor and does have the skills to do that. He said they did have \$145,000 in the original application but he was not sure where that figure came from. He said they have a DEP Permit by Rule, the DEP have jurisdiction in areas near streams. He showed, using the plan, where the stream was located on the property and where it went off-site. He stated they have some activity within 75 feet of the stream, so they had to get approval from the DEP, which they received last Friday.

Mr. Harding stated there was some discussion about drainage. He said what they designed meets the Town standards, which is to design the roadway to be able to withstand a 100-year storm event. He said this is similar to what the DOT will do with their roadways. He said they have about 8 acres off-site that drains onto the property, they are building about 900 feet, if you go all the way around the cul-de-sac, and it is 16 feet wide. He said half of that would be draining back toward the ditch they created / proposed, along the northern side of the road. He said the remaining part of the road would sheet flow across the lots. He noted a ridge using the plan, where the water would flow to. He said they did propose a 30 foot buffer between this property and neighboring properties, and he understood that at present this area has a cleared trail located within the buffer. He said when the lots are created, there will be more of a wooded area. He said the remainder of the drainage that comes from off-site would be collected and go through the long flat swale to an area where there is a 24 inch culvert, which would go into the plunge pool depression with riprap around it; then the water would enter into the stream. He said this is what has been done with respect to the drainage system.

Mr. Harding stated he had been trading some emails with Barbara, so they know they have to have a drainage easement for the Town. He said there is a culvert that goes under Stone Post Road, they propose to have the wetland area around the stream / drainage area easement conveyed to the Town, and they have to provide the language for that. He said they also need to provide a Road Maintenance Agreement for the road and drainage. He said he understood the Road Commissioner was going to review the construction estimate. Barbara F. stated that the Road Commissioner provided a letter of approval just prior to the meeting, he agreed with the estimate for the road. She said she would provide a copy of the letter to them. Mr. Harding stated that he understood that the Selectmen also review it. Barbara stated that she went to the Town Administrator to ask if the Selectmen would want to review the estimate and she stated that they

would just ask the Road Commissioner's opinion because it is for a road, so they did not need to see it, since the Road Commissioner already reviewed it.

Mr. Harding asked if the bond for the road had to be put into place before the Town approves the project, or if it could be made a condition. Barbara F. stated that the bond has to be provided before the Board approves the project.

Mr. Harding stated they asked for a waiver for the underground utilities, and he thought they also had to ask for a waiver for the paving. Ann H. said they will review the Ordinance to see if that is the case. Mr. Harding stated that Barbara mentioned there was a private roadway note that has to be changed on the final plan to be consistent with what is required in the Ordinance. He said there were some other small items that need to be addressed. He said the dimensions on the cul-de-sac for the lots should be referenced in a table. They need to make sure it is clear what those dimensions are. He said with respect to the cluster zoning, you have to have 75 feet along the front setback line, and that needs to be shown on the plan. He thought that was all he had noted. Ann said they may have more questions after they review the Ordinance.

Ann H. stated she wanted to begin by reading the letters into the record from Attorney Shepard (Attorney for the applicants), and the Town's Attorney, Brady. The correspondence read as follows:

Dear members of the Planning Board:

Our office represents Debra A. St. Laurent and Bruce Picard who are the owners of land that is before the Planning Board for a five lot subdivision. At the last meeting, there were two letters from attorneys for some of the abutters, objecting to the Board's continued review of the proposal, on the basis of certain deed covenants in my clients' original deed to this property.

The issue raised in these letters concern a deed covenant that states: "2. One House Only: No more than one principal residential building designed for a single family use shall be maintained on any single lot at any one time."

While I will provide a brief analysis below that addresses the enforceability of this deed covenant, the only issue that is germane to the Planning Board subdivision process, is whether the Board has any authority to consider this covenant in its review of this application, and the obvious answer is no.

The enforceability of a deed covenant is a civil matter and is well beyond the purview of a Planning Board, whose only roles is to consider whether the proposed division of this property satisfies the standard and requirements of their Planning Board regulations.

The Planning Board has no authority to interpret or even consider a deed covenant in its review process. This is not a "right title and interest" issue. My clients own the property and have every right to ask that it be divided in accordance with the Town's zoning ordinance.

If any abutter believes they have a right to enforce a deed covenant against another property owner who may obtain a Town approval, then that is for a civil judge to adjudicate, and not a Planning Board.

The 2001 source deed to my clients (attached hereto) was from Northwoods Land Company of Maine ("Northwoods"). It was a conveyance of a 12.35 acre parcel that was described by metes and bounds, and not with any reference plan or other lots. In this regard, Northwoods or its successors would have the authority to enforce any of the covenants contained in the deed. There is nothing in the deed to indicate that these covenants were mutual or reciprocal with any other conveyances by Northwoods.

One of the letters submitted to the Board was from a group identifying themselves as the "Back lot owners". There is no indication who these back lot owners are, and whether they have anything in their respective deeds that give them any authority to enforce the deed covenants against the St. Laurent/Picard property.

While it is acknowledged that some of the lots on the “Indian Village Plan” (attached) have similar covenants and restrictions in their deeds, this alone does not establish their rights to enforce. The lots on the Indian Village Plan are small, uniform in nature and as laid out as a “common scheme and development”. It does not follow that an adjacent 12.35 parcel is part of that “common scheme and development”.

Beyond this, the deed covenant in question here does not prevent the dividing of the property, but by its plain terms simply limits the number of houses “on any single lot at one time.”

It should be noted that this 12.34 acre parcel was already divided once in 2019 and the letter from the same firm on behalf of the “back lot owners” (attached), never challenged the division, but rather the use of the lot that these “back owners” purchased from the Town.

There is a history of animosity against my clients from these back owners and this letter to the Board is simply an attempt to muddy the waters. The issue of the use of the lots along the water that is granted in the St. Laurent/Picard deed, is again something that is beyond the scope of the Planning Board review.

There is a lot more that can be said about the unenforceability of these deed covenants, but this is not the time nor the venue to be citing court cases and writing letters with footnotes.

I understand that this letter will be reviewed by the Town attorney, and if any additional information is needed, please let me know.

Yours truly, Aland E. Shepard, Esq.

Hi Michelle,

I am reaching out to provide our guidance with respect to the questions raised by the Planning Board below. After reviewing the letters submitted by Alexander Pringle on behalf of the Back Lot Owner’s Association, LLC, Elliott Teel on behalf of Cedric and Lisa Buettner, and Alan Shepard on behalf of Debra St. Laurent and Bruce Picard, I offer the advice below.

The Planning Board asked two questions:

1. Does the Owner have the right to subdivide the land based on the restrictions cited; and if they are able to do so, do they have the right to give the easement access to all five of the proposed lots?
2. What is the best route for the Shapleigh Planning Board; does the Board continue to review the application based on the ordinance and ignore the deed restrictions and possible litigation; or does the Board consider all the information provided?

With respect to the first question, the Board should not decide whether or not the deed covenants and/or easement claims advanced by the parties objecting to the application are valid or somehow prohibit the ability of the applicant to use their property in the way they petition for permission to use. These are civil matters that should be left to the parties to resolve amongst themselves or those parties who have standing to enforce the deed covenants. The only thing that the Board needs to satisfy itself of is that the applicants have some right, title or interest in the property at issue sufficient to allow them to do what the approval they seek would allow them to do in the eyes of the municipality. It is not up to the Board to decide if there are additional private restrictions that would impede that ability. Those are matters that are outside of the Board’s jurisdiction, authority and expertise. The Board’s authority is limited to the interpretation and application of the ordinance provisions.

With respect to the second question, and for the reasons cited above, the Planning Board should continue to review the application based on the ordinance. Parties who object to the use of the applicant’s property based on covenants and easement issues are free to pursue those claims through the court system.

Please let me know if you would like to discuss further.

Regards, Patrick Brady

Ann H. stated that the Board received the Permit by Rule, but there were no attachments to it. She said the permit states ‘Your Permit-by-Rule Notification Form was received and reviewed by the DEP and was found to be acceptable.’ Ann asked Mr. Harding if he could tell the Board what was submitted, so there is a record of what was approved. Mr. Harding noted where they checked the Section 2, and said the DEP has 19 sections of common activities near protected resources, being significant wetlands, streams, tidal areas. He said under Section 2 is activities within 75 feet of a protected resource, which in this case was the stream area. He said because they need to do some grading and have the roadway closer than 75 feet, but not within 25, they needed a permit. He said you cannot impact a stream within 25 feet. He said they provided the DEP some of the plans out of the plan set, and some documentation that would support the Permit-by-Rule, and there is a one page application. He said he can send the information to Barbara. Barbara said that would be great for the record. Mr. Harding stated that they (DEP) usually send the permit to the Town as well, but he wasn’t sure who gets it. He said they have a copy and will provide it.

Mr. Harding stated that one other thing regarding the drainage that he forgot to mention, was with respect to the discussion about the culvert down on Indian Village Road that overtops. He said he went out and looked at it. He said at Indian Village it is a corrugated metal pipe, that is a pipe arch, that is about 3 ½ feet wide by 2 ½ feet tall. He said the flow goes underneath that, thru the culvert, and then immediately within 5 or 6 feet, there is riprap bowl area, and a 12 inch pipe. He said the 12 inch pipe is supposed to convey the water, that goes to and through the 3 ½ feet wide by 2 ½ feet tall culvert into the lake. He said it is 7 ½ times bigger in cross section, the bigger pipe, so it’s not surprising there is a problem there. He didn’t know who put the pipes in, or which one came first, but he assumed what happens is the larger pipe overwhelms the smaller pipe and it fills up. He said there is no direct path for it to go to the lake, so it has to turn and go across the property where the pipe is and then it goes on the abutter’s property and makes its way to the lake. He said there was a video submitted early on and that is what it is showing. He said that issue is not something they can solve on their site. He said it was not anything the applicants have created or will create. He said it was another problem for someone else to figure out. Ann thanked him for the explanation.

Ann H. stated they did get a letter from the Shapleigh Fire Department, from Chief Steve Guillemette, addressed to Mr. Harding. The letter read as follows:

Stephen,

I understand your client’s plan to install a home sprinkler system in the new homes they plan to build in the 5-unit subdivision off Stone Post Road. I accept the option of using a home sprinkler system for the fire suppression.

The sprinkler must be installed by a licensed sprinkler contractor and follow the State of Maine standard for the design and installation of life-safety sprinkler systems.

Respectfully, Steve Guillemette, Chief Shapleigh Fire Department.

Ann H. stated that Darren Rogers, the Road Commissioner for Stone Post Road, provided a letter that read as follows:

The submitted cost of construction provided by Picard Excavation for the Road build servicing the proposed 5 lot subdivision off of Stone Post Road, will meet the needs for the performance bond.

Respectfully, Darren M. Rogers

Ann stated that the total amount approved was \$73,213.70 (This amount includes: Site Preparation; Erosion Control; Storm Drainage; Landscaping; Utilities (Poles & Overhead); Roadway/Parking)

Ann H. stated she wanted to now review the Ordinance. She noted she would not be reviewing every section, only those that pertain and she will try to summarize.

§89-18. Procedure

Ann stated that the subdivision fees have been paid and a public hearing was held on May 28th. She said the Road Commissioner and Fire Chief were notified, and the Board received a letter from the Fire Chief regarding fire protection and the board received a letter from the Road Commissioner approving the estimated cost for the road improvements. Ann then read Section H as follows: *Before the Board grants approval of the final plan, the subdivider shall meet the performance guaranty requirements contained in Article XII.*

§89-19. Submissions.

Ann stated that before approval the Board will need a final plan, and she didn't go into the description, as Mr. Harding knew what the board required.

Ann stated that the name, town and map and lot are on the plan; and the boundary lines are on the plan. Ann asked if the plan she was looking at was the most updated plan? Barbara F. stated the plan she was looking at was the most current revision. Mr. Harding agreed, and that there would be one more updated plan. Ann stated that the acreage is on the plan, and the type of sewerage disposal and water supply has been noted. She said the applicants name is on the plan, along with surveyor, and north point. Driveway, culverts, and drainageways are on the plan, along with the proposed street and common area. She said that a list of construction costs was obtained for improvements, and the cost for those improvements were approved by the Road Commissioner. The property is not located in a flood zone. Ann stated that under section 14, and she did not think the Board received this yet, is that proof needs to be provided that the developer coordinated the mail delivery system per post office specifications. Mr. Harding stated that when they went to speak with the Postmaster the gentleman was on vacation, and they sent them to the Postmaster in Rye, who used to be in Shapleigh. He said they need to follow up on this and get some documentation.

§89-23. Findings: burden of proof.

Ann read, *'In reviewing applications for a subdivision, the Board shall consider the following general standards and make findings that each has been met prior to the approval of a final plan. In all instances the burden of proof shall be upon the applicant'.*

§89-24. Conformance with the comprehensive plan.

Ann stated that the lots shall meet the requirements in the Zoning Ordinance, which reflects the intentions set forth in the Comp Plan, so this has been met.

§89-25. Retention of open spaces and natural or historic features.

Ann stated the application met the requirement for the open space, and there shall be no less than 25 feet of road frontage for access to the open space via the easement on Lot 5.

§89-26. Land not suitable for development.

Ann stated that land not suitable was removed from the calculation for development per Stephen Harding, P.E. of Sebago Technics, noted under Exhibit 7 of the application.

§89-28. Lots

Ann stated that all lots meet the minimum requirement for a Cluster Subdivision under Chapter 105, Zoning, and there are no flag lots. Lots shall be numbered in such a manner as to facilitate mail delivery. The lot numbering shall be reviewed by the Postmaster and his comments considered by the Board. She said the Board is still waiting for this information.

§89-29. Utilities.

Ann stated there is a waiver on the plan for underground utilities. She said she had a question. She said they wanted to go overhead. Mr. Harding stated this was correct. Ann asked how many poles are already on site? Mr. Harding said there was one on the street, and one where the campers are. Ann asked if more needed to be added. Mr. Harding said yes, and he believed they showed two more. He said they will show the plan to CMP and CMP will tell them how they will do it.

§89-30. Required improvements.

Ann read: *The following improvements are required for all subdivision unless waived by the Board in accordance with provisions of these regulations:*

Monuments:

- *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.* Ann asked if all the boundary corners were marked. M. Harding stated it is probably on the plan whether they are in place or to be placed. He said it didn't make sense to put the markers in alongside the road while it is being built, they are hoping to get that waived, so it can be done after the road is in. Ann thought it had to be done according to the ordinance. Mr. Harding asked if it was something that was waivable? Ann wasn't certain, but stated that the Board would have to vote on it. Mr. Harding, looking at the plan, showed members which boundary corners were marked at this time, and which ones were to be marked. Mr. Picard stated some have been moved. He said the open circles on the boundary are in place, the ones that are filled in are the ones to be set. Ann noted that the ordinance says 'shall be' put in place and sometimes that means it cannot be changed.

Water Supply:

Ann stated that there is no public water system, so individual wells will be used. A fire pond is not required, if waived by the Board, if in-home sprinkler systems shall be used. She said if a cistern needs to be done, an easement for the Town to access it will need to be provided. Mr. Harding stated that he hoped that with the Fire Chief's letter, the Board will allow the sprinkler system.

Sewage Disposal:

Ann stated that a private subsurface wastewater disposal systems shall be used meeting State standards on lots 2 – 5, Lot 1 has an existing subsurface wastewater disposal system at this time.

Surface drainage:

Ann stated that a stormwater management plan was provided by Stephen Harding. She said that a drainage easement still needs to be provided, which Mr. Harding noted, and drainage is located on the plan. She said that Mr. Harding stated the following with respect to erosion, drainage and runoff problems: *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. A new roadside swale will be constructed to collect runoff from the upgradient areas draining onto the subject project with a 24-inch culvert being installed to convey the collected runoff under the new roadway. Please see the grading, utility, and drainage plan for the proposed ditching, storm drains, easements, and other proposed improvement.

Ann said that a stormwater plan was provided meeting the 100-year storm criteria in the Zoning Ordinance.

§89-31. Land features.

Ann stated that the application states that topsoil will remain on site, except for surplus from roads and building excavations. There is a grading and excavation plan.

§89-32. Cluster developments

Ann stated that written costs were provided for the improvements. The Road Commissioner approved the estimated cost of the road.

B. Basic requirements.

- (1) All cluster developments shall meet all requirements for a residential subdivision. *Ann said this was met per the plans provided.*
- (2) The minimum area of land in a cluster development shall be ten acres, except where there is public water and public sewer. *Ann said this is met.*
- (3) The plan shall indicate the location of all proposed roads, structures, parking areas, footpaths and common open space. *Ann said these are on the plan.*
- (4) Where a cluster development abuts a waterbody, a portion of the shoreline, as well as reasonable access to it, shall be part of the common land. *Ann said this was not applicable.*
- (5) In no case shall shore frontage be reduced below the minimum shore frontage normally required in the district. *Ann said this was not applicable.*
- (6) Buildings shall be oriented with respect to scenic vistas, natural landscape features, topography, south-facing slopes and natural drainage areas, in accordance with an overall plan for site development and landscaping.
- (7) All common land for recreational or conservation purposes shall be owned jointly or in common by the owners of the building lots, by a trust or association which has as its principal purpose the conservation or preservation of land in essentially its natural condition, or by the municipality. *Ann thought the Board should vote on this to see if it is required.*
- (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. Structures and building accessory to noncommercial recreational or conservation uses may be erected on the common land.
- (9) All dwelling units in a cluster development may be connected to a central water system, at no expense to the municipality. In cluster developments with individual lot sizes of 20,000 square feet or less, all dwelling units shall be connected to a common water supply and distribution system. *Ann said this is not applicable.*
- (10) All structures with required plumbing in a cluster development shall be connected: to a public sanitary sewer system, if available; to a central collection and treatment system in accordance with sanitary provisions of this chapter, and at no expense to the Town; or to individual or shared subsurface waste disposal systems that meet Maine Plumbing Code standards. In cluster developments with individual lot sizes of 20,000 square feet or less, all dwelling units shall be connected to a public sewer system or to a central collection and treatment system. *Ann said this is not applicable.*

- (11) Any lot abutting an accepted public road shall have a frontage and area no less than that normally required in the district. On proposed roads for the cluster development, lot area and road frontage may be reduced, provided that:
- a) All lots except those abutting a circular turn-around shall have a minimum frontage of 75 feet. The frontage of lots abutting a circular turnaround maybe reduced to 50 feet, provided that the minimum lot width at the face of the building shall be 75 feet. ***Ann asked, what is the frontage on Lots 3, 4 & 5 and is it marked on the plan? Mr. Harding said there is a table with the dimensions noted. He said if you look, C1, C2 and C3 are along the right of way. He said these are lots 3, 4 and 5. He said Lot 3 is C1 – 116.43 feet; C2 – 75 feet; and C3 – 90.4 feet. He said they need to show greater than the 50 foot setback on the three lots. He said the other 2 lots are greater than the required dimension.***
- (12) No building shall be constructed on soil types classified by the Soil Survey of York County Maine as being poorly or very poorly drained. ***Ann said this is met.***
- (13) The maximum net residential density (i.e. the number of dwellings per acre, excluding roads) allowable in cluster developments shall be calculated on the basis described in the table below. For example, in developments where sewer service is not being provided, all of the “well-drained” and “moderately well-drained” land may be included in the density calculations, plus half of the “poorly drained” land. ***Ann said the net density is calculated correctly per the plans presented.***
- (14) In order to determine the maximum number of dwelling units permitted on a tract of land, the total acreage allowed to be included in net density calculations (according to the table), less the land needed for the roads (including shoulders and drainage ditches), shall be divided by the minimum lot size required in the district. The extent of soil types in the six categories listed in the table shall be certified by a registered soil scientists licensed in the State of Maine, on a high-intensity soil survey map. ***Ann said this has been met.***

§89-33. Dedication and maintenance of common open space and services.

Ann stated that the common land is indicated on the plan. She asked if the Board needed a copy of the deed showing the common land. Mr. Harding stated that a deed has not been created, they thought it being shown on the plan was sufficient.

- A. All common land shall be owned jointly or in common by the owners of the dwelling units by means of a homeowners’ association, by an association which has as its principal purpose the conservation or preservation of land in essentially its natural condition. ***Ann H. asked if the Board received a set of by-laws for the Homeowners Association? Mr. Harding stated they have not done a Homeowners Association document yet.***
- B. Further subdivision of the common land or its use for other than noncommercial recreation or conservation purposes, except for easements for underground utilities, shall be prohibited.
- C. The common open space shall be shown on the final plan with appropriate notation on the plan to indicate that:
 - (1) It shall not be used for future building lots; and
 - (2) A part or all of the common open space may be dedicated for acceptance by the municipality.
- D. If any or all of the common open space and services are to be reserved for use by the residents, the by-laws of the proposed homeowners association shall specify maintenance responsibilities and shall be submitted to the Board prior to final plan approval.
- E. Covenants for mandatory members in the homeowners association setting forth the owners’ rights, interests and privilege in the association and the common property shall be reviewed by the Board and included in the deed for each lot or dwelling. ***Ann said this is in reference to a deed reference, and it needs to be done.***

- F. The homeowners association shall have the responsibility of maintaining the common property.
- G. The association shall levy annual charges against all owners to defray the expenses connected with the maintenance of common property and tax assessments.
- H. The subdivider shall maintain control of the common property and be responsible for its maintenance until development sufficient to support the association has taken place.

§89-34. Construction in flood hazard areas.

Ann stated this was not applicable.

§89-35. General requirements.

- A. The Board shall not approve any subdivision plan unless proposed street and stormwater management systems are designed in accordance with any local ordinance or the specifications contained in these regulations. Approval of the final plan by the Board shall not be deemed to constitute or be evidence of acceptance by the municipality of any street or easement. *Detailed construction drawings were provided, and a copy was provided to the Road Commissioner.*

§89-36. Street design standards.

Ann did not read the standards. *Ann stated the Board received the 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 meets the design standards in the ordinance. It was reviewed by the Road Commissioner, and he gave his approval of the plan.*

§89-37. Street construction standards.

Ann did not read the standards. *Ann stated that the private way shall be constructed per the plans provided, and noted that the plans were approved by the Road Commissioner.*

§89-38. Stormwater management design standards.

Ann did not read the standards. *Ann stated that a Grading, Utility and Stormwater Plan was provided along with an Erosion Control and Details plan drafted by Stephen Harding. Stormwater Management is also addressed under Exhibit 9 of the application.*

§89-39. Storm drainage construction standards.

Ann did not read the standards. *Ann stated that a Grading, Utility and Stormwater Plan was provided along with an Erosion Control and Details plan drafted by Stephen Harding.*

§89-40. Additional improvements and requirements.

- A. Erosion control. The procedures outlined in the erosion and sedimentation control plan shall be implemented during the site preparation, construction and cleanup stages.
- B. Cleanup. Following street construction, the developer or contractor shall conduct a thorough cleanup of stumps and other debris from the entire street right-of-way. If on-site disposal of the stumps and debris is proposed, the site shall be indicated on the plan and be suitably covered with fill and topsoil, limed, fertilized and seeded. *Ann stated the stump disposal location is on the plan. Mr. Harding stated it is not the subdivision plan but it is located in the plan set, and the plan set showed areas along the setbacks for the disposal of stumps. He added that they noted the conditions that the ordinance requires.*
- C. Street names, signs and lighting. *Ann stated that the street name was assigned – Picard Subdivision, there is no lighting proposed, any signage is through the CEO.*

§89-41. Certification of construction.

Ann stated that the road is to remain private, it will not be a public way.

Article XII – Performance Guaranties.

§89-42. Types of guaranties.

A. With the submittal of the application for final plan approval, the subdivider shall provide one of the following performance guarantees for an amount adequate to cover the total construction costs of all required improvements, taking into account the time span of the construction schedule and inflation rate for construction cost:

- 1) Either a certified check payable to the Town or a savings account or certificate of deposit naming the Town as owner, for the establishment of an escrow account;
- 2) A performance bond payable to the Town issued by a surety company, approved by the municipal officers;
- 3) An irrevocable letter of credit from a financial institution establishing funding for the construction of the subdivision, from which the Town may draw if construction is inadequate, approved by the municipal officers.

Ann asked what type of guaranty does the applicant propose? Mr. Harding stated that they would do a performance bond.

§89-43. Contents of guaranty.

The performance guaranty shall contain a construction schedule, cost estimates for each major phase of construction taking into account inflation, provisions for inspections of each phase of construction, provisions for the release of part or all of the performance guaranty to the developer and a date after which the developer will be in default and the Town shall have access to the fund to finish construction. *Ann stated that the Board knows what the cost estimate is, and the Town will have access to the guarantee.*

§89-49. Release of guaranty.

Prior to the release of any part of the performance guaranty, the Board shall determine to its satisfaction, in part upon the report of the Road Commissioner, Code Enforcement Officer, and Planning Board Chairman that the proposed improvements meet or exceed the design and construction requirements for that portion of the improvements for which the release is requested.

Ann stated that this will be a condition of approval.

§89-50. Default.

The municipal officers shall take any steps necessary to preserve the Town’s rights.

§89-51. Private roads.

Where the subdivision streets are to remain private roads, the following words shall appear on the recorded plan. “All road in this subdivision shall remain private roads to be maintained by the developer or the lot owners and shall not be accepted or maintained by the Town.” *Mr. Harding stated there is a note on the plan, but it is not worded this way, so we will put it on the plan verbatim.*

§89-52. Improvements guaranteed.

Performance guaranties shall be tendered for all improvements required by §89-30 of these regulations, as well as any other improvements required by the Board.

Article XIII – Waivers

§89-53. Waiver of submission requirements or standards.

Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, unless otherwise indicated in the regulations, to permit a more practical and economical development, provided that the public health, safety and welfare are protected.

§89-54. Waiver of required improvements.

Where the Board makes written findings of fact that, due to special circumstances of a particular lot proposed to be subdivided, the provision of certain required improvements is not required to provide for the public health, safety or welfare, or are inappropriate because of inadequate or lacking connecting facilities adjacent to or in proximity of the proposed subdivision, it may waive the requirement for such improvements, subject to appropriate conditions.

- **Ann stated that the applicant requested the waiver for underground utilities. The Board needs to vote to approve, and give a finding why it is not required in this location.**
- **Ann stated that with the use of in-home sprinkler systems, the Board must vote to waive the requirement for a fire pond / dry hydrant which is located under 89-30-B(2)(c).**

§89-55. Conditions.

In granting waivers to any of these regulation in accordance with §89-53 and 89-54, the Board shall require such conditions as will assure the objective of these regulations are met.

Ann H. stated that with the request to waive the requirement, Article 89-29, “Utilities shall be installed underground except as otherwise approved by the Board.”; why does the applicant want the requirement waived to go underground? Mr. Harding stated that underground is going to be more of an expense; the overhead is consistent with what is in the neighborhood.

Ann H. stated that the other is a waiver to use in-home sprinkler systems instead of a cistern. Mr. Picard stated that he thought the Fire Chief said it was the safer of the two options. Ann did not believe he said safer. Mr. Harding said there are two schools of thought; if something catches on fire, the fire department races to the scene and they have to pump water out of the cistern and then they have to fight the fire. He said if there is an in-house sprinkler system, the way they are designed, if there is a fire in a particular room the sprinkler kicks in and puts the fire out in that room, it is immediate. He said if someone is in the house, they don’t have to figure out how to get out of the house, the sprinkler system in theory will put the fire out immediately. He said it may destroy belongings in that room but you would salvage the house and it is immediately safer, vs having to rely on the Fire Department to come, to use the cistern to fight the fire. Mr. Picard said the Fire Chief said it saves lives. Ms. St. Laurent said that the Fire Chief said that people with sprinkler systems don’t die in fires.

Ann H. asked CEO Demers if he makes sure there is enough pressure each year for an in-home system? CEO Demers stated it was up to the property owner to maintain them. Ann said, ok.

Ann H. stated that the Board could vote on the waivers now, so they can be put on the plan. Ann said she would take a motion to waive the requirement for underground utilities.

Maggie M. made the motion to waive the requirement for underground utilities (§89-29 ‘Utilities), and allow for the installation of overhead utilities, due to reasons noted, the expense of underground utilities in this location and the prevalence of overhead utilities in this general area. Penny T. seconded the motion. By a vote of 4 – 0, the vote to approve the waiver was unanimous. (David L. recused him from comment or voting on the application, as he is an abutter.)

Ann H. stated that she would entertain a motion to waive the requirement for a fire pond or cistern (§89-30.B.(2)(c)), and allow for in-home sprinkler systems, as approved by the Fire Chief.

Penny T. made the motion to waive the requirement for a fire pond / cistern requirement (§89-30.B.(2)(c)), in order to allow for an in-home sprinkler systems, as approved by the Fire Chief. Maggie M. seconded the motion. By a vote of 4 – 0, the vote to approve the in-home sprinkler system was unanimous.

Mr. Harding said there is a provision to pave the roadway, so do they need a waiver. Barbara F did not believe so, as it is noted it is at the Board's discretion. Barbara asked if the Board was comfortable with the private way plan as presented, that it is gravel and not going to be paved? Ann agreed it could be waived, and felt a gravel road would help to absorb the water better than pavement.

Mr. Harding asked if there was any leeway for monuments? Barbara stated that the Board has not waived that requirement in the past. Mr. Harding asked if it was the exterior of the lots only? Barbara said it was all the corners of the lots, and she deferred to Mr. Stanley of LinePro who was in the audience. She said usually the lots are pinned. Mr. Stanley said it specifies the angle and corners of the lots. He said he did not think they were asking for a waiver of the monuments, they are asking for the timing of the monuments. What they don't want to do is set the pins along the roadway, just to get this approved, and then when they construct the road, ruin all the pins, and have to reset them. He said they are just trying to adjust the timing of it, so they only have to do it once. Barbara asked how you get around the shall in the ordinance that says they have to be there prior to approval? Barbara agreed that what Joe explained made sense.

Ann H. asked if there were any more questions that the Board has not entertained, any new questions?

Abutter - I would just like clarification on the stump site. In the minutes, it says, '*Approximate Stump Disposal. Stumps to be suitably covered with fill and topsoil, limed, fertilized and seeded by contractor, TYP.*' I don't know what that means. Located between Lots 3 & 4, and Lots 4 & 5. So where between? Like if you build a house and you have property, where would the stumps be buried?

Mr. Harding – What Bruce intends to do, is cut the trees he has to do for the roadway, pull the stumps, and then excavate areas in the setback areas. That is within these 25 foot side setback areas. So you dig a hole there, place the stumps in it. Then we have used the same language in a note, from the ordinance that you just read. How those areas need to be treated. I don't have the plan in front of me, but I believe they are on the side lot lines. And they are about in the mid-point, not too far away from the roadway and they are something that Bruce can access while Bruce constructs the road.

Ann – They will be marked on the plan before final approval too, if that is what you are asking. Does that make sense?

Abutter – Yes.

Abutter – That leads me to one more question.

Ann – OK

Abutter - The monuments. Are the monuments just for the large piece, or for each lot?

Mr. Harding – Actually both. There will be monuments placed where there aren't existing monuments and we are showing monuments, for example, on these two corners (he was showing her using the plan). In those places the monuments exist already. We will place monuments along the outside of the subdivision, along the lot lines, and then the discussion we just had, we will place the monuments along the roadway, where the lots intersect with the right-of-way, and anyplace where there is an angle point on the road itself. And we will also set, the reason we are setting on these two points, to designate where the drainage easement will go. (Again he used the plan to show the points.)

Ann – Does that help? **Abutter** – Yes.

Ann H. stated that at this point, she will take a motion to table pending further information. Barbara F. asked Mr. Harding if he was all set with what the Board needed? Mr. Harding asked if the next meeting would be two weeks from tonight? Barbara said, yes. He asked if they had to submit everything by next Tuesday? (Wednesday is a holiday). Barbara said, yes. Ann agreed, including the bond and road maintenance agreement. Mr. Harding stated that he will have to get back to Barbara on this. Ann said the Board can bring them back on the agenda when he is ready. Ann said they also need the homeowners association and the deed references. Mr. Harding stated he understood and that Barbara’s minutes are very helpful, they are very thorough.

Maggie M. made a motion to table the application to the next meeting or whenever they are ready to return (not to exceed 90 days), pending further information to be provided. Penny T. seconded the motion. By a vote of 4 – 0, the vote to table was unanimous.

Nothing further was discussed.

New Business:

Conditional Use Permit – Whiskey Distillery / Production Only – Map 11, Lot 23A (486 Newfield Road) – Scott Lessard, Applicant & Property Owner

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

Provided along with the application was a document entitled, Attachment A: Proposed for Whiskey Distillery – Shapleigh, ME, (*it is also the application detailed description*), which read as follows:

Proposal to convert an already existing 48’ x 48’ building space into an operating Distillery, to make the following: Whiskey; Rum; Gin & Vodka.

The Distillery will be utilized for production only and the property will be fully secured – Gated and fenced around the perimeter. This will not be a site for visiting customers.

The site will have its own power supply, well water, septic, fire suppression, hydrants, heat, etc. and will have a designated address (to be assigned), separate from the main address – 486 Newfield Road.

The traffic to the site will be minimal, as the deliveries will be limited due to the grain silos located on the back of the building.

Noise will be minimal, as the building will be fully insulated, and the distillation process will run on electricity, cooling jackets and steam.

There will be a small amount of livestock sharing the outside paddock space with zero access to the inside of the building: up to 25 sheep and 5 highland cattle.

- *This has been approved to work with a distillery by the TTB and the State of Maine Agricultural Dept.*

Provided along with the application was a document entitled, Attachment 3: Official Decisions. The document read as follows:

The process for applying for a whiskey distillery goes as follows, in order as listed below:

1. *Gain approval from Town / Municipality*
 - a. *In process – Planning Board Meeting targeted for 11, June 2024.*
2. *Gain approval from State of Maine*
 - a. *We have had several preliminary discussions with the State Liquor Commission (Trish Wiggin), and the outlook is positive. Waiting on Town approval.*
3. *Gain approval from State of Maine Agricultural Department*
 - a. *Discussed the plan with Benjamin Metcalf from the Maine Department of Agriculture. We ran through the details that he listed and there are no foreseen obstacles.*
 - b. *Maine Ag will need to visit the site before approval by the State Liquor Commission.*
4. *Apply for Distiller permit & gain approval from Federal Government – TTB*
 - a. *This process is fully understood and has been reviewed by our attorneys. We will take it to the next step once we've gained approval from the Town of Shapleigh and in parallel with the State process.*

Provided was a document entitled, Attachment 4: Regenerative Plan. The document read as follows:

- a. *We have cleared 75% of the natural woodland (scrub oak, white and red pine, maple and oak) leaving natural coverage and shaded areas to build the building.*
- b. *In parallel with the build and upon completion of the building structure and infrastructure, we will be planting pasture area, and a perimeter 4 board fence; ultimately improving the property.*

Provided was a plan entitled 'Scott Lessard Conditional Use Site Plan for Ancient Souls Distillery, 486 Newfield Road, Shapleigh, Maine', drafted by Stephen Everett, PLS 2161, of Waterboro Maine, document dated May 19, 2024. The plan depicts the travel access off of the Newfield Road, the location of a generator shed; propane tank; and well associated with an existing home. Also depicted is the location of the 'Distillery'; well & standard leach field for the distillery. Distance measurements for the road or lot size could not be read, as the plan was minimized to 8 ½ x 11. Also noted on the plan were several abutters, Bruce & Pen Wakita, Roger Roy, and David and Christine Morrison.

Provided was a copy of the Subsurface Wastewater Disposal System Application for a 2 bedroom single family dwelling unit and winery on 1.49 acres, drafted by Justin Gardner, SE #404, dated 3/21/2024.

Ann H. stated that the next item on the agenda was for a whiskey distillery on Newfield Road. She asked the applicant to introduce himself and let the Board know what he wanted to do. Mr. Lessard introduced himself and stated he was a Shapleigh resident. He said he had an existing building, and wanted to build a distillery on an existing property, adjacent to 486 Newfield Road. He provided pictures of the existing barn to show the board. He stated it was a 48' x 48' building, and this will be operation only, it will be gated, so there will be no traffic coming in and out. He wanted to eliminate the liability of people drinking on site. He said there is limited traffic and limited deliveries.

Mr. Lessard stated that the plan is to have a pad on the ground for grain silos (he used the photos to show the general area), so we can hold a lot of grain. He said this way there will not be trucks coming in every week delivering grain. He said with respect to noise, it is fairly quiet. He said if anyone had been in a small brewery, it would be about the same, the building is fully insulated. He pointed out the access to his house, and the access to Newfield Road. He said where the brewery was would be a separate address, with direct access to the structure. Again, using the photos, he pointed out how delivery trucks would enter the property, where a gate would be located, and where supplies would be delivered. He said there was a separate well on site, and a separate septic.

Ann H. stated that she could ride her 4 wheeler behind his building, so she knew the area well, but she wanted to know which driveway was used to access the barn? She said she knew where Bruce and Penny Wakita lived, until they moved. Ann said she knew the building was on top of the hill, but was not sure how to access it. Mr. Lessard said that coming from Ross Corner, it would be the first entrance on the left (he used the plan to show the location). He also pointed out the location of Wakita Electric. He stated that Bruce Wakita's old house is on the same property as the structure for the distillery. Ann asked if the barn is on the same property as Bruce Wakita's old house? Mr. Stanley stated that Mr. Lessard purchased Bruce Wakita's old house. Ann said she was asking, because she wanted to know if there would be a separate entrance for the barn? Mr. Lessard said it would be a separate entrance, and he pointed out the location of gates that would be put up, using the photos. Mr. Lessard stated that right now they could go up his driveway to go to the business.

David L. asked what the volume would be that Mr. Lessard was expecting to produce? Mr. Lessard stated in bottles it is 75,000 to 150,000, which is on the micro scale. He said it was the equivalent of 150 barrels a year. David asked Mr. Lessard if he was aware of, and if so, how would he mitigate whiskey fungus, if it becomes a problem? Mr. Lessard they are not pumping millions of gallons of whiskey, so he did not believe it was a concern, but it was something to note. He said he would look into it. David agreed it was likely to do with high volume distilleries. Ann H. asked what he was speaking about? David stated that the residue that is created by the distilling process creates a fungus that clings to buildings. Ann asked if it was airborne? David said, yes.

Mr. Lessard said he provided pictures, because the plan provided was a satellite view, which was wooded. Ann H. said she noticed the barn and thought they were bringing in horses. Mr. Lessard stated that he did make a note on the application, that they are doing some sheep and Highland cattle. He showed where they would be located, using the photos. He said the animals do not have access to the building. He said he did look into having the animals with the Federal Government and the State of Maine Agricultural Dept. and they all said it was fine. Ann asked if he would have to put in a concrete manure pit? She said that most farms that she has insured, if they have cows, have to have one, so it doesn't seep into the groundwater. Mr. Lessard asked if she was speaking in terms of having a distillery? Ann said, no, just in terms of having cattle. Mr. Lessard stated that he had not been told that. Ann said it was just a question, and it is likely based on the number of head of animals on the property. Mr. Lessard said he is only starting with one Highland bull. Ann said it was likely up to the State.

Ann H. stated they could go through the basic performance standards quickly. She began as follows:

§105-20. Applicability of standards; prohibited uses. Ann read the chapter as follows:

- A. *These standards shall apply to all new or expanded uses or land and buildings which are listed as permitted or conditional uses in Article IV of this chapter.*
- B. *Prohibited uses include all uses which would be obnoxious or injurious because of odor, dust, smoke, refuse mater, fumes, noise, vibration or waste material, or which would be dangerous to the health and safety of the community or which would disturb or annoy the community, notwithstanding any other provision of this chapter and applicable state and federal laws and regulations.*
- C. *Plans for the effective control and/or elimination of the same shall be presented to the Planning Board for approval. When the effects of a use are uncertain, the Code Enforcement Officer, after prior notification to and at the expense of the applicant, shall employ such independent recognized consultant as necessary to ensure compliance with all requirements of this Code specifically related to the public health, safety and welfare and the abatement of nuisances. The estimated costs of such studies shall be deposited with the Town Clerk prior to their undertaking.*

- §105-21. Traffic. *Ann stated the Board will look at the separate driveway, and she asked if there was a State permit for the new entrance? Mr. Lessard stated that was not, it is something that CEO Demers brought to his attention. He said he needed to submit the application to the State. Ann said this is required, and the Board will also look to see if a fire truck can get to the structure and turnaround on site. Ann asked him if he would put the width of the road on a plan for the next meeting. Ann said this was not a driveway to a home, but a driveway to a business. Mr. Lessard stated that there have been plenty of construction vehicles up and down with no problem.*
- §105-22. Noise. *Ann did not believe there would be an issue with noise.*
- §105-23. Dust, fumes, vapors and gases. *Ann did not think there were any, but noted that David had mentioned something airborne. She asked if there was a collection system, and asked Mr. Lessard to provide more information.*
- §105-24. Odors. *Ann did not believe there would be any odors. Mr. Lessard agreed.*
- §105-25. Glare. *Ann asked if he was doing anything with lighting? Mr. Lessard stated there would be security lights that come on. He said he was not looking to light up the area.*
- §105-26. Stormwater runoff. *Mr. Lessard stated that there is about 8 to 10 feet of sand, water does not run off, it is like a sand and gravel pit. He said the operation is minimal in terms of waste. He said they make a mash of grain and water, fermented with yeast. You collect the grains, which he will feed to the livestock. He said what would be left is the wash, which will go down the drain. He said it was not toxic, it is like pouring beer down the drain, it is like beer with no alcohol. Ann H. asked if this would run into a septic system? Mr. Lessard said yes, and showed her where the system would be located. He said that Wild Bevy Distillery in Wells, Maine, has a similar sized distillery, so he spoke to them about the requirements from the State; the Wild Bevy is using a regular 3 bedroom septic system. He said there are not massive amounts of stuff going down a drain. He said there are other measures you can take, but it didn't do anything to protect what is going in, it just extends the life of the system. Ann said that she did not believe there were any streams in that area either.*
- §105-27. Erosion control. *The structure is already in place and has the required permitting.*
- §105-28. Setbacks and screening. *Ann stated it was well off the road.*
- §105-29. Explosive materials. *Ann did not believe this was applicable.*
- §105-30. Water quality. *Ann asked about water, did they need a lot of water to do whiskey? Mr. Lessard stated it would come from the well. He said they will have some high water tanks inside the building, so they are not drawing directly from the well, while they are operating.*
- §105-31. Preservation of landscape. *Mr. Lessard said that once the building is finished there will be loam and pasture on both sides, so it will look like a barn on top of the hill.*
- §105-32. Relation of proposed building to environment. *Ann H. said that it looks like a barn.*

§105-33. Refuse disposal. *Ann asked if there will be any trash? Mr. Lessard said the grain will go to the animals. He said the grain will come from the silos, so there will be no bags or totes. He said there will be a lab to test PH, but there isn't much waste at all. David L. asked if he would be doing on-site bottling? Mr. Lessard said, no. He said at least for now, unless he purchases more land, then maybe in the future. He said he really didn't see it as something he would want to do, it is expensive and too much. He said it may save some money per bottle, but not worth it.*

§105-43. Off-street parking and loading. *Ann asked if there would be any employees, and was there a parking area? Mr. Lessard stated there would be no employees now. He said you could fit 20 to 50 cars on site, using the pictures he pointed out the area. He said it would just be himself to begin, and maybe down the road his children. He said 2 or 3 people at the most.*

§105-46. Sanitary provisions. *Ann said that she believed there would be a bathroom. Mr. Lessard agreed and said it was already plumbed in. The Subsurface Wastewater Disposal System application for the system was provided.*

§105-52. Water quality protection. *Ann read the provisions, and stated this was not near any ponds or rivers or wildlife. Mr. Lessard stated that there was not anything produced that would cause harm.*

Ann H. stated next was the review of §105-73, 'Conditional use permits', Section G. She read and reviewed it 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 State roads.*
- 4) Traffic access to the site is safe. *Ann stated the applicant will work on getting the State approved entrance permit.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *Ann stated the location is not in a flood hazard zone on the FEMA Flood Hazard map.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *Ann H. stated that it has, there will be a State approved septic system; grain will be fed to the livestock, wash water will go into the septic system.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *Ann H. stated there are no hazardous materials associated with the application.*
- 8) A stormwater drainage system capable of handling a 100-year storm without adverse impact on adjacent properties has been designed. *Ann H. stated this is not an issue.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There is nothing being done on site to create an erosion issue.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *Ann H. asked if there was a good well? Mr. Lessard stated that it was over 500 feet deep. He said there will be fire suppression tied into the water tanks. He said there will be a chilled water and hot water tank, and it will be tied into the cold water tank. Barbara F. asked if he was stating there will be fire protection inside the building? Mr. Lessard stated yes, there will be fire suppression.*
- 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. *Ann H. said the neighboring property is the applicant's house.*

12) All performance standards in this chapter applicable to the proposed use will be met.

Ann H. said that we will do a notice to abutters for the meeting in two weeks. Mr. Lessard said that he believed he would be away. Barbara F. stated that would give him time to get the entrance permit, if he wanted to wait until July.

Ann H. stated a notice to abutters will be mailed, and a public hearing will be held on Tuesday, July 9th at 6:30 pm. Ann said the site inspection will be at 5:30 pm prior to the meeting on July 9th.

Nothing further was discussed.

Minor Subdivision – Create of 2 New Lots – Map 5, Lot 25C (114 Owls Nest Road) – Joe Stanley of LinePro Land Surveying, Representing; Daniel Shaw, Property Owner

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

Provided along with the application was a Letter of Authorization, stating that Daniel Shaw grants permission to LinePro Land Surveying LLC to act as his agent in all aspects in order to obtain any and all permitting necessary from the Town of Shapleigh for his property located at 114 Owls Nest Road or Map 5, Lot 25C, letter dated 5/28/2024.

Applicant Information for a Minor Subdivision

Name of Applicant &

Property Owner with

Mailing Address: Daniel Shaw
114 Owls Nest Road
Shapleigh, Maine 04076

Name of Authorized

Agent & Surveyor: LinePro Land Surveying LLC
Joseph Stanley, PLS #2453
460 Main Street, Suite 2
Springvale, Maine 04083

Land Information:

Location of Property: Map 5, Lot 25C

Deed Reference: Book 19072, Page 507 – *Copy of the Deed was provided.*

Property is not in the Shoreland District; not within 250 feet of a high-water mark of a pond or river.

Area to be developed: 4.66 Acres

No restrictive covenants.

Land is not part of a prior approved subdivision.

There were other divisions within the past 5 years.

The existing use is forest.

The parcel does not include any waterbodies.

The parcel is not within a special flood hazard area identified by FEMA.

Proposed name of development: Shaw Twin Acres

Number of lots: 2

Anticipated Date of Construction: Summer / Fall 2024
Anticipated Date of Completion: Summer / Fall 2025

The property does not require infrastructure.
The property is to be supplied by individual wells.
The property is to have individual septic tanks.
Fire protection is to be determined.
There are no public streets to be created, it exists on a Town road at this time.
There are no requested waivers.

Provided was a copy of a Subsurface Wastewater Disposal System Application for a 3 bedroom home, for the new lot, Lot 2, drafted by James Gardner, SE #404, dated 4/15/2024. There is an existing approved system on proposed Lot 1, which has an existing home on it.

Provided was a soils map and Map Unit Legend. The majority of the site was comprised of LnC, Lyman loam, 8 to 15 percent slopes, rocky; LnB, Lyman Loam, 3 to 8 percent slopes, rocky; with some BcB, Becket fine sandy loam, 3 to 8 percent slopes.

Provided was a Narrative, which read as follows:

This application is for a proposed 2 lot minor subdivision of a 4.66 acres lot owned by Daniel and Randalyn Shaw. Subject property is Tax Map 5, Lot 25C in the Town of Shapleigh. The Shaw's intention is to split the property into 2 lots, both new lots will be 2.33 acres each. Mr. Shaw has been in communication with Road Commissioner Darren Rogers in regards to proposed new driveway location.

The property was purchased July 14, 2022 from Stephen Foglio, Jr. and was part of a larger parcel that Mr. Foglio owned. The deed is recorded at the York County Registry of Deeds in Alfred, Maine at Book 19072, page 507, dated July 14, 2022 and recorded July 18, 2022.

Provided was a survey plan entitled, 'Plan Showing a Proposed 2 Lot Minor Subdivision "Shaw Twin Acres", Made for Dan Shaw, 114 Owl's Nest Road, Shapleigh, ME 04076, of Property Located on Owls Nest Road in Shapleigh, Maine', drafted by Joseph L. Stanley, PLS #2453, plan dated May 29, 2024. The plan depicts 2 lots. Proposed Lot 1, shows an existing House; Fenced in Area; Gravel Driveway; Approximate Location of Existing Leach Field; along with the notation 'Portion of YCRD Book 19072 Page 507 – Portion of Shapleigh Tax Map 5 lot 25C – 2.33 Acres'. Proposed Lot 2 depicts a 'Temporary Benchmark Nail in 9" Maple'; Proposed Septic; Proposed Entrance; a stone wall running along the roadside of the property and the southern boundary line. Lot 2 also contains the notation 'Portion of YCRD Book 19072 Page 507 – Portion of Shapleigh Tax Map 5 lot 25C – 2.33 Acres'. The Site Map (Not to Scale) and Owls Nest Road is on the plan. The following abutting properties are noted: Ruth S. Ham Revocable Real Estate Trust, Map 5, Lot 24; Curtis Moulton II & Briana Moulton, Map 5, Lot 25A; and Shirley Moulton, Map 5, Lot 25B. Notes include: Deed References; Plan References; Basis of Bearings; Underground Utilities (No attempt has been made to locate existing underground utility structures.); Owls Nest Road (No road record was found. For the purposes of this plan, road width 3 rods (49.5 feet) was assumed.); Zoning Information for the General Purpose District.

Ann H. asked Mr. Stanley to let the Board know what he wanted to do. Mr. Stanley introduced himself and that he was representing Dan Shaw and his family. He said the applicant currently lives in the home on Owls Nest Road; when they purchased it, it was 4.66 acres with over 400 feet of road frontage. He said what they hope to do is create one house lot out of the existing parcel, creating two 2.33 acre parcels. He said it is straight forward. He said there is a steady elevation change with a slight to moderate slope; it is a dry area with no wetlands found on the 4 acres. He said there is a full septic design for the new lot, which

was provided, which proves the soils on the new lot. He said they are proposing private wells, private septic systems. He noted he had not spoken with the Road Commissioner, Darren Rogers, directly, but Mr. Shaw stated that he did meet on site with him to discuss the proposed driveway entrance. He said there is a bit of a turn and hill, but a site was found that RC Rogers was happy with, but he had no documentation of that fact currently. He will work on getting something for the file for the next meeting. He could not think of anything that would be out of the ordinary or noteworthy, the lot is fairly cleared.

CEO Demers asked Mr. Stanley to tell the Board why this is a subdivision, when it is only 2 lots. Mr. Stanley stated that a lot was broken off from the parent lot in the past five year. He showed, using the map the lot with the home that was sold. He said because you can only break one lot off, without going to subdivision, within a five year period, this division triggers the 5 year time clock, which triggered subdivision. He set this up, so if in the future the homeowner wanted to divide it, they could without going to the Planning Board, however Mr. Shaw is leaving the area, so it is being sold within the 5 year time frame. Ann H. said that because it was divided within 5 years, it becomes a subdivision. Mr. Stanley stated correct, the homeowner was able to convey 2 parcels out, but with this lot being divided it triggers subdivision.

Ann H. began the review of the ordinance as follows:

§89-13. Compliance with major subdivision requirements. Ann read the section as follows: *The Board may require, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision comply with all or any of the submission requirements for a major subdivision.*

§89-14. Procedure. Ann stated that Mr. Stanley has done many of these, he knows what needs to be presented. She said the application was paid, a public hearing will be held prior to the next meeting.

§89-15. Submissions. The subdivision name is on the plan; boundary lines; a copy of the deed was provided; there are no deed restrictions, date is on the plan, North point, name and address of property owner, subdivider, and abutting property owners.

§89-28. Lots. The lots meet the dimensional standards in the Zoning Ordinance, they are perpendicular to the street; there are no flag lots.

§89-30. Required improvements. All boundaries are marked; water is to be supplied by private wells; individual septic systems, one State approved system is on site, and a Subsurface Wastewater Disposal System Application was provided for the new lot; there are no surface drainage requirements for the division of these two lots.

Ann H. stated that she did not think a site inspection was required, as most members knew where the lot(s) were located. Tom C. noted that the Board approved a daycare at that location not that long ago.

Ann stated that a notice to abutters would be mailed, and a public hearing held at 6:30 pm on Tuesday, June 25th.

Ann H. asked if anyone had any other questions? David L. said that Mr. Stanley pointed out that he wasn't sure about the driveway, but it was noted on the plan. Mr. Stanley stated that he did not go to the meeting with the Road Commissioner, and he doesn't want to say that he was sure of the location, where he did not hear it himself. He said that he does trust Mr. Shaw, and he will try to have some sort of documentation for the next meeting.

Mr. Stanley said he would be adding several notes to the plan. He said that normally he would bring the final plan to the meeting, he asked the Board if he needed to submit it 7 days in advance? Ann H. did not believe so, as this was a minor subdivision, with a single lot being divided. The other Board members agreed, adding that there was no road involved either. Mr. Stanley said there were no major changes, only several notes to add.

Nothing further was discussed.

Election of Officers

Barbara F. wanted to begin by stating that Steve F. said he no longer wanted to be Chairman, as he is currently too busy. She said he also mentioned dropping down to an alternate position. She said that the Board needs to vote on officers from regular members.

Tom C. stated that he would like to nominate Ann H. as Chairman. Penny T., seconded the motion. Ann accepted the position. By a vote of 4 – 0, the vote to elect Ann was unanimous. (Ann did not vote.)

Tom C. stated that he would like to nominate Maggie M. as Vice Chairman. Penny T, seconded the motion. Maggie accepted the position. By a vote of 4 – 0, the vote to elect Maggie was unanimous. (Maggie did not vote.)

Tom C. asked if someone had to move up to regular member. Barbara F. stated that she needed to hear from Steve first and go from there.

Nothing further was discussed.

Growth Permits

There are growth permits available.

The Planning Board meeting adjourned at 9:00 pm.

The Planning Board meets the 2nd and 4th 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, 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