

SHAPLEIGH PLANNING BOARD MINUTES
January 8, 2002

Page 1 of 12

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Diane Srebnick, Norma Gassett, Madge Baker (alternate) and Barbara Gilbride (alternate/Secretary). Also present was Steven McDonough, CEO.

The Public Hearing began at 7:00 p.m.

- The first order of business was to discuss the proposed amendment to the **Shapleigh Code on Subdivision of Land, 89.15 Submissions**. Roger Allaire read the proposed change to submissions for minor subdivision. There were no objections to the proposed change. Attached to the minutes is the proposed change of what will be presented to the Townspeople on the Warrant slated for Saturday, March 9, 2002.
- **After-the-Fact Amendment to a Conditional Use Permit – Increase the number of allowed boat slips at the Boat Docking Facility – Patrick Hannon – Map 18, Lot 17 (143 Emery Mills Road)**
Roger Allaire opened the discussion by stating that this comes before the Planning Board because Mr. Hannon increased the number of boat slips from 16 to approximately 30 without coming before the Board to amend the Conditional Use Permit. Roger also said that the State of Maine letter dated June 5, 2001, written by Dan Prichard, Submerged Lands Program (SLP), stated that while concerns by lakefront property owners on Lower Mousam “may be valid, they are outside the scope of the Bureau’s statutory authority, and need to be addressed through the municipal zoning and permitting process”. In addition the State SLP approved the application for 16 slips, not 30 boat slips.

Pat Baldwin, a citizen of Shapleigh, spoke for some of the residents regarding water quality of the water bodies in Shapleigh. Ms. Baldwin mentioned to the Planning Board and Mr. Lou Neito, who was representing Mr. Pat Hannon, that she has taken part in measuring water quality in the area. Ms. Baldwin told the Board and Mr. Neito that Mousam Lake and Goose Pond were lakes at risk. Ms. Baldwin asked the Board why the size of the current dock was so large when the Conditional Use Permit was for 16 boats? Ms. Baldwin brought to the Board a drawing of the original docks at what used to be called Lakeside Marina, which had enough slip space for the permitted 16 boats. Ms. Baldwin stated that the permitted dock did not extend into Mousam Lake further than 48 feet. Mr. Hannon's boat dock extends into the lake 125 feet and consists of two legs. As this is a narrow part of the lake to begin with Ms. Baldwin and other townspeople present were very concerned with safety issues. There are no wardens to patrol Mousam Lake presently and this dock interferes with navigation. In addition, Ms. Baldwin said this area of the lake was a favorite for bass fishing tournaments, but now those fishermen have been diverted to the middle of the lake. Madge asked where the fishermen fish for the bass and how often. Ms. Baldwin stated a favorite spot was near the dam and although there was usually someone fishing for bass daily, the tournaments seemed to be going on once a week.

The question was asked to Mr. Neito why the docks were 125 feet in length instead of the original 48 feet. Mr. Neito said that there was no distance stated on the original C.U.P., so Mr. Hannon built a dock that he felt would work.

A resident spoke to tell the Planning Board to be sure they mention the “exact” size of the dock they approve with this permit.

Ms. Baldwin asked why Mr. Neito did not come before the Planning Board before putting a dock in the water as any dock longer than 20 feet or changes greater than 25% has to come before the Planning Board for approval and this dock clearly is longer than 20 feet. Roger Allaire stated that this is why Mr. Neito, representing Pat Hannon was here tonight.

Roger read the letter from the State of Maine, Department of Inland Fisheries and Wildlife, dated December 31, 2001, from Robert J. Williams, Manager, Boat Access Program. The letter, which can be read in it's entirety and is located in the C.U.P. file, stated that the size of the boat dock and it's location being within 100 feet of the State's boat launching site, has the potential to create much greater safety concerns from boat congestion in this relatively small area of water. In addition, water navigation will be greatly reduced, and surface area available for fishing will also be reduced. The letter also expressed concern with refueling of the additional watercraft over the water, whether by pouring gas from a can or pump. Lastly, additional traffic generated on this stretch of Route 109 during peak traffic times could create safety problems.

Pat Baldwin again spoke, and mentioned the fact that there were approximately 700 residents on the lake each having between one and three boats per residents. Adding more boats to the lake, especially in this area puts more pressure on the lake. Ms. Baldwin feels it is the townspeople and the Planning Boards job to improve water quality and be certain to make decisions that reflect this.

John Caramihalis asked Mr. Neito if there was a need for additional boat slips? John was referring to the letter from Robert Williams Manager of the Boat Access Program, which stated "These public opportunities, associated with boating and fishing, should not be diminished or eliminated in favor of exclusive private uses unless there is both a compelling "public need" for the services to be provided (greater than public opportunities already owned by citizens) and no additional "safety issues" of significance are created".

Mr. Neito stated he felt "transient boats" were more apt to bring in algae from other areas, then boats permanently placed on the lake. As far as a need, Mr. Neito stated the other boat fueling facility on Mousam Lake has no permanent docking and no attendant for their boat-fueling pump (Mr. Hannon is also in the process of applying for a gasoline storage tank to fuel boats at the above mentioned dock). Mr. Neito felt this was a more dangerous situation than what Mr. Hannon was proposing.

John C. stated that we needed to determine if the general public needed a place to dock their boats. John asked Mr. Neito, "what is the publics need at this time?". Mr. Neito stated the public does not have a place to dock.

The Planning Board made mention of the boat launching facility that is nearly adjacent to Mr. Hannon's proposal. This gives the public access to Mousam Lake, why is additional access necessary? A citizen asked Mr. Neito what documentation do you have to present to the Planning Board showing why this facility is needed. Also asked of Mr. Neito was how many boats did he have last summer at the dock, did Mr. Neito have a usage report? Mr. Neito stated that he had no documentation. Mr. Hannon had permission from Inland Fisheries and Submerged Lands to put the dock system in and did not see any need for further documentation other than what he had to submit to the State.

Mr. Neito said he felt that malfunctioning septic systems were a major problem on the lake, but where are the codes to stop that problem? Ms. Baldwin said she did agree this was a big problem, that didn't mean the town could overlook other issues that could damage the lake. Ms. Baldwin also spoke to the fact that the lake was not dropped to as low a level in the fall as it was years ago, boats are using the lake longer in the year, and the wakes from these boats are causing erosion problems along the shoreline. This erosion is adding to the septic problems on the lake. Additional boats, causing more erosion can only make matters worse.

John C. asked again, was there a need for 14 additional boat slips on Mousam Lake?

Steve McDonough, CEO told the Board that the State's reason for putting in a boat launching facility was not necessarily because there was a need, it was because the State needed access to Mousam Lake for stocking purposes. Roland Legere and Roger Allaire stated they were at the meeting for the State's boat launching site,

and need was not an issue. The piece of land bought and developed was the only one available for the state to buy. At the meeting for the launch, the state told the town the site was going in, and there was nothing more to say on the matter. There were funds for the project that would not be there at a later date, so the project was commencing. Safety concerns regarding lake traffic or additional vehicle traffic onto Route 109 was not discussed.

Diane Srebnick voiced concern regarding the congestion of boat traffic in this small area. What if a storm blew in and the boats had to get off the water quickly. Could this narrow area handle extra boats trying to dock or get off the lake?

The Board asked Mr. Neito if there would be public access to launch their boats from this site? Mr. Neito said no, this would be for Marina boats only. John C. asked if there would be many boat trailers parked on site, Mr. Neito stated it should be minimal. Roland Legere asked Mr. Neito if the dock would accommodate boat rentals. Mr. Neito stated perhaps 3 or 4 watercraft would be rentals.

John C. voiced concern about increasing traffic onto Route 109. Mr. Neito stated this would not be a problem as this is not a launching site.

Roger asked if there were any more comments or concerns from anyone, there were none, so the Public Hearing on this matter was closed.

• **Amendment to a Conditional Use Permit – Increase the size of the original dock at Goose Pond – Patrick Hannon – Map 7, Lot 3 (938 Shapleigh Corner Road)**

The discussion began as Roger told the townspeople we were here to discuss the dock that was installed the summer of 2001. This dock was larger than what was originally accepted on the Conditional Use Permit.

Roland Legere, of 10 Cilia Road began the discussion. His primary concern was regarding the impact the dock would have on Goose Pond. Mr. Legere feels the increased size of the dock exceeds what Goose Pond can handle. Goose Pond already has a severe algae bloom problem in mid summer, and Mr. Legere felt that by increasing the size of the dock, you would also be increasing access to the pond. The dock put in by Mr. Hannon covers 1100 square feet, certainly not what the Planning Board had discussed and approved. Currently there are over 40 lot owners that have access to this 35-acre pond. There is a potential for 90 people in the Goose Pond Cabins (as stated by Mr. Christian Chandler, Mr. Hannon's attorney), and 20 non-motorized boats. This possible activity puts excessive pressure on this pond that is already on the DEP list of at risk water. And although the boats are non-motorized, as they pass thru the shallow water, they dredge up weeds and degrade water clarity. Mr. Legere asked the Board to consider the size of the project, relative to the size of the pond. Mr. Legere also wanted to note to the Board that Goose Pond is the headwaters of the Mousam Lake Watershed.

Another citizen spoke, and stated that she lived directly across from the dock. She said that last summer she never saw more than five people total on the dock or in the water. She thought that the dock may be a little excessive in size but she did not see a problem with it and she said that she lived across from the dock all summer long.

Mr. Legere stated that this summer was not an indication of the docks potential as Kettle Pond Resort was not fully functional the summer of 2001.

Mr. Neito spoke saying that the size of the dock was created to access the paddleboats and canoes from the dock instead of from the shore. Mr. Hannon felt that this would protect the shoreline much better than having added foot traffic in the area or boats being pulled up onto the shore. The design and size of the dock was with protection of the shoreline in mind.

Ray Michaud, a new citizen to Shapleigh spoke stating he moved to Shapleigh in June of this year and is located on Goose Pond. The reason he chose Goose Pond was because it was a small pond and was not an option for larger motorized boats. When researching a home to buy, he asked the realtor about Kettle Pond Resort, and was assured the dock being placed onto the pond would be small in size. If he had known the size of the dock that would go in, he would not have bought the property he did.

Another citizen spoke to the Board to state that it was actually easier to get in and out of a canoe at the shore, than from a dock. This citizen also stated that he felt more swimmers having access meant more pollution to the pond.

At this time Roger read the following from Shapleigh Zoning Ordinance 105-73.G, standards applicable to conditional uses in order to verify these conditions could be met:

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat.
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies.
- 3) The use is consistent with the Comprehensive Plan.
- 4) Traffic access to the site is safe.

The Board reiterated what was discussed, and thought it is possible activity from the docks could have an adverse affect. It is a very shallow area. Paddleboats to Upper Goose Pond go thru the Lily Pads and habitat. Roland Legere thought this is a very real possibility but he has done no study. There are Blue Heron's, Sun Turtles, and other various wildlife species in the area, but Mr. Legere admitted he had no hard data.

John C. noted the swimming area mapped was 40' X 60'. Mr. Legere said it was the activity tied to the dock, swimming & boating, that the residents were most concerned with, not the dock itself. Mr. Legere stated that just to the left of the dock area historically was a spill-off into Goose Pond. There must be an impact from the dock in this area. Mr. Legere stated again, the size of the dock should reflect the area, this was too big. Also Mr. Legere was concerned with a bathroom facility for the people using the dock, as the pond can handle no pressure in that area.

Another citizen spoke stating that the size needed to be restricted because of the algae bloom problem and that sanitary provisions are certainly needed.

Noted: This matter was taken before the Zoning Board of Appeals and the ZBA referred this matter back to the Planning Board and the best possible size was to be determined by the Planning Board.

John C. asked Mr. Neito if the State gave any formulas for dock size. Mr. Neito said yes but he did not have them with him.

Roger A. made note that he had two calls this week regarding the Public Hearing on the dock; both callers stated they had no problem with the dock, but wished the size of the dock would be reduced.

Larry Robertson, a citizen spoke to the Board to state that "we have a pond in jeopardy, we need to limit the uses on this pond, not expand them." "What about the future?"

Roger asked if there were any other concerns that needed to be voiced, if not the Board would close the Public Hearing on this matter. There were no other concerns at this time so Roger A. closed the Public Hearing.

The Public Hearing was closed at 8:30 p.m.

The Planning Board Meeting started at 8:35 p.m.

The Minutes from Tuesday, December 11, 2001 were read and accepted as amended; page 6, paragraph 4, 3rd sentence, 4th line, change the word to to “too”; “The Board said that was *too* bad”. All else remains the same.

The following agenda items are written in the order they were discussed:

After the Fact – Amendment to a Conditional Use Permit (Increase the number of slips at the Boat Docking Facility – Shoreland District) – Patrick Hannon – Map 18, Lot 17 (143 Emery Mills Road)

The Planning Board reviewed the plans presented by Mr. Lou Neito, representing Mr. Patrick Hannon, to increase the number of boats slips at the boat docking facility from the 16 approved on the original conditional use permit. In addition, the decision upheld by the Zoning Board of Appeals in October of 2001, stated Mr. Hannon must reduce the number of boat cleats, to reflect a maximum of 16-boat capacity, which again was allowed in the CUP given to Mr. Charette, the gentlemen named on the original conditional use permit, in January of 1984.

Mr. Hannon was asked at the December 11, 2001 Planning Board meeting if he had sufficient parking for additional boat trailers and automobiles. He stated he did. Mr. Neito at this meeting also reiterated that there was space for at least 30 vehicles, one for each boat docked, but that he doubted that these spaces would be full as after someone docks their boat they would leave. This isn't a boat launching facility.

Also at the December 11, 2001 meeting Mr. Hannon stated to the Planning Board and Steve McDonough that he would address a buffer zone on the final plan he presented. The Board reviewed the final plan dated January 8, 2001 and although there is mention of a buffer zone “shoreline of Mousam Lake is a combination of lawn area and shrubs”, there is only a 12-foot Weeping Willow depicted on the plan. Neither Madge Baker nor Steve M. felt this was adequate representation of a buffer strip. Mr. Neito felt it was.

John C. asked Mr. Neito about lights for the end of the dock system, as it extends 130' into the lake in a high traffic area. Mr. Neito said there would be low-level lighting on the end of the dock next year when it was placed in the water. Roger A. stated it needed to be depicted on the plan. Mr. Neito said that the Board could approve the plan making this a condition of approval. It was noted by the Board that the Submerged Lands Lease that Mr. Hannon received from the State of Maine, also requested lights be placed at the end of the dock system.

Roger read more from the Submerged lands Lease – Preliminary Finding and Decision, it stated that “the applicant agreed to reduced the length of the float system to approximately 125 feet, which would provide slip space for approximately 20 boats”. John C. commented on the tie-up of the boats on the dock system Mr. Hannon put in place in 2001. John felt the outside of the boat docks were harder to utilize, and this external area could pose a problem if the boats were not tied up correctly. John C. stated he felt comfortable with a maximum of 20 boat slips, but internals tie-ups only.

Steve M. asked the Planning Board if the town should require an independent study be done on the impact of the dock system on this area of Mousam Lake, as well as an impact on Route 109 / Emery Mills Road.

Mr. Neito was adamant that since he had approval for a lease from the State of Maine, no further studies were required. He stated that Mr. Hannon already presented his plan to all required State officials. Roger A. spoke with the Department of Inland Fisheries and Wildlife on this matter and it was their understanding that the Planning Board / Town of Shapleigh would have final approval on this application. In addition Roger reiterated that the Submerged Lands Lease stated clearly, regarding the townspeople of Shapleighs concerns, "they are outside the scope of the Bureau's statutory authority, and need to be addressed through the municipal zoning and permitting process".

John C. spoke of the letter from the Manager of the Boat Access Program, Mr. Robert Williams, regarding the statement regarding public opportunities, "associated with boating and fishing, should not be diminished or eliminated in favor of exclusive private uses unless there is both a compelling "public need" for the services provided (greater than the public opportunities already owned by citizens) and no additional "safety issues" of significance is created".

John asked Mr. Neito if there was a need for this increase in boat docking, as there did not appear to be any additional activity at this dock system last summer. "Boats were not being sold at this dock were they?" John asked Mr. Neito how many boats Mr. Hannon rented there last summer? John asked Mr. Neito if Mr. Hannon were building a place "in hopes" the additional boats would come? John also stated that this boat docking facility could put more boats on the lake in the future, but since there is already public access within 100 feet of this facility, is this facility necessary?

Mr. Neito asked John if he were going to build a store would he need a consultant or study? John stated that he would if it were on the lake.

Diane Srebnick read 105-73.H.(2), which states, "In evaluating each application, the Board may request the assistance of the County Soil and Water Conservation District, a state or federal agency or **consultant** which can provide technical assistance". In addition 105-73.J was noted by the Planning Board regarding Fees. The Planning Board may require the applicant to pay for the hiring of independent consulting services after an estimate has been produced and presented to the applicant. Mr. Neito again stated he did not feel a consultant was necessary as he had State approval, and he did not feel that Mr. Hannon should have to pay for a study.

Roger A. read Shapleigh Zoning Ordinance 105-44.C; Conditions of permit and felt that the State did not feel that this project would unreasonably interfere with navigation or fish and wildlife habitat. Steve M. again presented the fact that the State also said that the town needs to address this issue, the lake has one life and the townspeople are responsible for it.

The Planning Board discussed the States Public Boat Access facility, located within 100 feet of Mr. Hannon's proposed expansion. The question was asked to the townspeople if anyone knew of a study the State did for the location of this facility, including a traffic study in the area. Mr. Roland Legere stated he had attended the meetings regarding the, at that time "proposed" facility, and the State said the reason for the location was this was the only piece of land available to them to buy. Roger A. also attended the same meeting and said the State told the townspeople they were going to put the facility in regardless of the publics concern. The State had resources at that time that would not be available the following year, so the project was going forward. No studies were done by the State. The following year, after the Boat Launch Facility went it, laws were enacted requiring the State to comply with local ordinances as well as State guidelines for any type of project.

Steve M. stated that safety concerns must come first. Mr. Legere stated again that everything that impacts the lake must be taken into account. The more boats on the lake the more concerns.

Diane Srebnick read 105-16.B(2), stating that it would be in the best interest of the town for the Planning Board to require a study, for the present and future use of the lake.

Additional concerns by the board were soil erosion from increased foot traffic, site distances on Route 109, and what would the impact be of the possible 12 additional boats on the lake in this area.

Diane Srebnick made the motion to ***table the application*** until an independent study is done to address the impact of the docks both environmentally and to address safety concerns for increased traffic onto Route 109 and boat traffic to Lower Mousam Lake. John C. seconded it, all were in favor.

The Planning Board told Mr. Neito to be sure lights were represented on the final plan.

Steve M. would contact the State of Maine to inquire names of independent consulting firms for this project. When a list is created, the information will be mailed to Mr. Hannon.

Amendment to a Conditional Use Permit (Increase the size of the original docking system at Goose Pond - Shoreland District) – Patrick Hannon – Map 7, Lot 3 (922 Shapleigh Corner Road)

Roger A. read the letter from the State of Maine SLP to reiterate the State acknowledged lakefront property owners had concerns for the project but that those concerns were outside the scope of the Bureau's authority and these concerns needed to be addressed by the town. Mr. Roland Legere stated that he spoke with Dan Prichard, who is with the Submerged Land Program and wrote the letter from the State Dept. of Conservation, and he told Mr. Legere that environmental issues were up to the town, it was not within his jurisdiction to address them. Mr. Legere told the Planning Board that the size of the docking system Mr. Hannon put into place was a pressing issue as its size is much too large with regard to the size of Goose Pond. It puts undue pressure on the pond by increasing access to the pond.

John C. asked Mr. Neito how close to the dock can a portable toilet be put in. Mr. Neito stated it could be put in right next to the dock.

Diane Srebnick said the size of the dock needed to be addressed. Mr. Legere stated again that he wished the Board would consider the size of the dock relative to the size of the body of water. Mr. Neito stated that by reducing the size of the dock, people would use the shore to access the pond, thus creating an erosion problem, and making more paths along the waters edge. Mr. Neito felt the large size has less impact, due to the fact it protects the shoreline.

Mr. Legere stated it would be difficult in this area to pull boats up onto shore, this wasn't a practical consideration. Mr. Legere feels the number of cabins who have access to this dock drive the size of the dock. There is 1100 square feet of dock space, and a 381 foot sunning area, this attract more people, which puts more pressure on the pond. Mr. Neito stated again, the entire project was done to avoid erosion.

John C. asked Mr. Neito about the impact on water quality. Mr. Legere stated that an increase in people bathing affects the pond, and townspeople have witnessed some guests using the dock for a bathroom facility. Mr. Legere asked if the town wanted to wait five years to see the big picture of the effect of the dock? The original dock permitted was approximately 4 feet X 18 feet in size; the townspeople assumed this is what Mr. Hannon would also put in. Another citizen at the meeting stated that "with every person in the water it adds to diminished water quality in a lake that has little ability to cleanse itself".

Madge B. stated, "We don't seem to have any ability to decrease the size of the dock based on *concrete* environmental impact. The Planning Board also stated that reducing the size of the dock doesn't necessarily change the number of people going to the pond or in the water.

Mr. Neito was asked about the cabin that was nearest to the dock system. Is it going to be used for the sale of food or drink? Mr. Neito stated he did not know what Mr. Hannon planned on doing with the cabin. The Board spoke of putting a limit on the uses of this cabin as food and drink this close to the waters edge could be a concern for this small body of water. Also the ordinance doesn't allow for a restaurant in the Shoreland district.

Mr. Legere stated once again that the facility was intended to accommodate 90 people per Mr. Chandler; this is the reason for this larger dock size. The more you encourage people to be at the dock, the more people *will* be at the dock. I am asking you to downsize it relative to the number of people it will service. You are in a position to make a ruling to scale the dock down in size. What is best for the pond? I would like the Planning Board to consider scaling the size down. Mr. Legere suggested the Board have someone come before them to advise what impact this dock would have on the pond.

Roger A. stated to the Board that he received two telephone calls prior to the meeting requesting the dock be downsized. They felt relative to the size of the pond, it was too large.

After reviewing the material presented to the Planning Board by Mr. Hannon and Mr. Neito, taking into consideration the environmental concerns of the townspeople in regards to the impact of the activities relative to the size of the dock put in place the summer of 2001, John C. made the following motion. The dock system at Kettle Pond Cabins on Goose Pond is ***approved*** with the following condition(s):

- 1) Reductions to the size of the two legs of the dock shall be made from 70' in length to 50' in length, thus eliminating two – 6' X 10' sections on each leg. This was noted on the plan submitted and on file.
- 2) No additional swim platforms shall be added to the above-mentioned permitted dock length of 50' for each horizontal length and the 40' vertical length from the walking deck on shore and no other structures shall be placed in the water.
- 3) Only non-motorized watercraft can be placed at the dock.
- 4) A portable toilet facility, which could accommodate all tenants at Kettle Pond Cabins (that being up to 90 people at any time during peak season) shall be provided. This portable toilet shall be pumped once a week.
- 5) Trash receptacles shall be provided at the picnic area nearest the dock / shoreline and shall be emptied as frequently as needed to assure site safety and cleanliness.
- 6) No vending machines, food concessions or arcades shall be allowed in the existing Benoit camp / existing cabin nearest to the dock.
- 7) Installation and removal of the dock shall be over Patrick Hannon's own land or from having acquired written permission from any landowner from whom he needs access to remove the dock structure at the end of the season.

All existing conditions for the original Conditional Use Permit shall remain.

Diane Srebnick 2nd the motion, all in favor.

Conditional Use Permit - (Application for Driveway – Shoreland District) – Civil Consultants for Tim & Valerie Hardy – Map 32, Lot 6 (49 Dahlia Street)

Mr. Carl Beale, Senior Project Engineer represented Mr. & Mrs. Hardy, who were also present at the meeting. Mr. Beale presented a plan to the Board dated December 14, 2001. Depicted on the plan was the proposed driveway location, grade of land/driveway, and the erosion and sediment controls going to be used during and after construction.

The proposed driveway will be 12 feet in width and approximately 300 feet long beginning at Dogwood Road and ending directly behind the Hardy cabin. The slope of the area is steep, with a 14.7% grade. Mr. Beale stated that since the property is only 50' wide, the location of the driveway is the only area it could be placed. Mr. and Mrs. Hardy presently have no access to their property, as the Dahlia Street access is no longer available.

Mr. Beale spoke of the catch basin that will house the water run-off and it has been designed to be more than adequate for the large amount of runoff in the area during a storm and will accommodate the 25-year storm requirement. There is a riprap ditch on either side of the driveway to encourage water flow to the catch basin.

Steve M. asked Mr. Beale how close the end of the driveway was to the waters edge. The answer was 60 feet. Steve M. read Shapleigh Zoning Ordinance 105-59.C which states that "all new roads and driveways shall be set back a minimum of 100 feet from great ponds, the Mousam River and the Little Ossipee River and 75 feet from other water bodies,.....". "If no alternative exists, a setback reduction to no less than 50 feet may be permitted by the Planning Board upon a clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of water bodies and wetlands." The Planning Board asked about silt fencing during the project, and Mr. Beale stating that silt fencing would be in place and the project done quickly once started as soil erosion is a major concern in this area.

Mr. Beale also stated that a new septic system would be put in place, designed by John Large. Mr. Large designed the leach field and pump-up system, knowing where the driveway would be going, as well as catch basin. In addition a manhole cover would be put in the driveway to access the septic tank, as it will be placed under the driveway.

John C. asked about tree removal, since during the last Public Hearing on this issue it was a concern of the abutters. Mr. Beale as well and Mr. & Mrs. Hardy stated they wanted to save as much vegetation as possible but this is a narrow lot, much of the vegetation would have to be removed, there wasn't any choice.

John C. voiced a concern about winter icing on the driveway as well as the septic pipes freezing, as they are 150 feet in length from tank to cabin. John asked if the tank would be pumped prior to winter? Mr. Hardy stated if the Planning Board wanted this, it would not be a problem. Mr. & Mrs. Hardy do not use the cabin during the winter months, it is not insulated. The Board asked if it weren't best to have at least 4 feet of covering over the pipe to prevent freezing. Mr. Beale stated he would have to have Mr. Large determine what is best, that is his area of expertise.

Steve M. asked Mr. Beale and the Hardy's what percentage of their lot would be covered by impervious material? State law requires that no more than 25% be covered. Mr. Beale did not think this project would exceed that requirement but would have the figures for the next meeting.

John C. asked Mr. Hardy if he planned on doing any renovations to the cabin. Mr. Hardy said no.

Present at the meeting was an abutter from Lot 7, stating concern over the depiction of the property line with respect to the proposed retaining wall. It appears the retaining wall abuts the property line. If this is the case, is Mr. & Mrs. Hardy sure the property line as stated is correct? Has there been a survey done for this project? In addition, is there a setback requirement and if so, what is it? The Board said the side setback requirement on a structure is 20 feet.

The Planning Board stated that a survey could be a condition of approval for this application. Mr. Beale said it would be not problem to have a survey done, Mr. Hardy agreed.

The abutter also had concerns regarding the size of the catch basin, as it is so close to his property. Mr. Beale stated again the size of the catch basin is not only large enough but with its large capacity will not only help the lake but also the neighbors as the water that normally sheds down the hill would leach slowly into the earth and not in large sheets as it does now.

John C. asked Mr. Beale what the pipes do that will run along the driveway? Mr. Beale stated that they direct the water to the catch basin. The location chosen for the pipes is due to the slope of the land.

Another abutter voiced a concern regarding the survey that may take place. He stated that his grandfather put the existing pins in over 50 years ago and he wanted to be sure these pins would not be removed. In addition, he did not want the construction of the driveway to remove the pins.

This same gentlemen was concerned with water runoff. Mr. Beale stated that this project would not increase runoff, but actually take it away and detain it on the Hardy's property, where it would slowly leach in the ground and lake.

Roger A. spoke of the retaining wall and as it is a structure and does not appear to have the 10 feet necessary, it is a concern that must be addressed. The abutter closest to this retaining wall, on Lot 7, stated that if taking out the retaining wall meant changing the design, reducing water retention, he did not want it taken out of the plan. Roger A. told the abutter, Board and Mr. Hardy that if the wall does not meet the 10 foot side setback requirement that a variance was needed from the Zoning Board of Appeals. Roger agreed that as the plan design is presented now is in everyone's best interest.

John C. made a motion to table the application until the variance request is heard. Roger 2nd, all in favor.

Conditional Use Permit Application for Raising Livestock / Alpacas – Robert W. Ferrera, Jr. – Map 10, Lot 22 – 1385 Shapleigh Corner Road (State Route 11)

The Planning Board reviewed an application presented by Mr. & Mrs. Ferrera, requesting permission to raise Registered Livestock Alpacas for breeding and for selling fiber related products made from the clippings of the Alpaca coat (this process causes no injury to the animal). The plan depicted the location of the house, septic and proposed barn. In addition an area of approximately four acres for pasture and another area for a future hay field. There also appeared to be a shed on the far left hand corner of the property.

The Planning Board read Shapleigh Zoning Ordinance 105-56 "Animal breeding or care" and asked Mrs. Ferrera, who was present at the meeting, if there was in fact the 150 foot side setback required from any lot line for the proposed barn/shelter for the animals? The side lot distances were not exactly clear on the plan presented. Mrs. Ferrera said the barn was about 500 feet from the property line. In addition, the Board noted the property exceeds the five-acre minimum requirement, as the property dimensions are approximately 4076 feet wide by 1308 feet deep.

The Planning Board told Mrs. Ferrera a notice would have to be sent to abutters regarding this Conditional Use Permit. This application will be placed back on the agenda on January 22, 2002 for final approval. The Planning Board also told Mrs. Ferrera if any additions or changes to her plan could be foreseen, it would best to present them at the meeting on January 22nd, as changes after that date would have to come back before the Board as an amendment to this Conditional Use permit. Nothing further was discussed at this time.

Conditional Use Permit Application to Open and Operate a Licensed Redemption Center – Steven P. Buttrick Applicant / Sandra L. White Owner – Map 18, Lot 28 (146 Emery Mills Road – State Route 109)

Mr. Buttrick presented the Board with an application to open and operate a licensed Redemption Center. This would include taking in returnable glass, cans, and plastic containers, which contained the State of Maine returnable stamp or seal, from the general public and area stores. These returnables would then be sold back to the major distributors of such products.

In addition to the application Mr. Buttrick presented a lease contract from Sandra White which stated the terms of the lease with Ms. White. Also included with the application was a copy of the approved subsurface wastewater disposal system on site, which Mr. Buttrick used to show which area of the building he would be leasing as well as where he would like to park a storage trailer to house the collected returnables.

Mr. Buttrick would like to house a 40-foot trailer on site, but if the Board does not approve that size, he will use a 20-foot trailer. He would prefer the 40-foot trailer, as this would allow for greater storage for him. In addition to the returnables he will have to house the cardboard containers that the returnables must be stored in. Mr. Buttrick also asked if the trailer would have to be on wheels? He could use either kind of trailer; it was up to the Board.

The Planning Board asked if Mr. Buttrick would require a sign? If so, one of the existing signs present on site would have to be removed to accommodate his sign. Mr. Buttrick stated he only wanted a sign over the door of his business. He did not need or want a sign posted at the edge of the road on Route 109.

The Planning Board will send out a notice to abutters regarding this issue. The Board asked Mr. Buttrick to have the hours of operation for the Planning Board for the next Planning Board meeting which will be held on January 22nd, 2002. Nothing further was discussed.

The 4-Lot Subdivision “Grammar Ridge”, proposed by Grammar Ridge, Inc., Map 11, Lot 10-1 and the Conditional Use Permit application for Driveway, proposed by Andrew Sevigny for John & Mary Hastings, Map 29, Lot 6, were skipped due to the fact there were no representatives present for either agenda item. These items were tabled at an earlier meeting awaiting further information.

GROWTH PERMITS:

Permit #01-02 issued to – William & Eileen MaGeary, Map 5, Lot 18H (21st Street)
Permit #02-02 issued to – Roger Allaire, Map 2, Lot 31 C (Walnut Hill Road)
Permit #03-02 issued to – Darrell & Cindy Remick, Map 6, Lot 12B (Back Road)
Permit #04-02 issued to – Guilford Berube, Map 1, Lot 21 (Deering Ridge Road)
Permit #05-02 issued to – Bernt M. Munson, Map 8, Lot 66 (Ross Corner Road)
Permit #06-02 issued to – Cornelius A. Stewart, Map 7, Lot 18 (Town Farm Road)

Growth Permit Application from Lee F. Dezan, Map 7, Lot 35 required more information. The Planning Board Secretary shall get this information for the next meeting.

Planning Board meeting adjourned at 1:15 a.m. on January 9, 2002.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

SHAPLEIGH PLANNING BOARD MINUTES
January 22, 2002

Page 1 of 5

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Diane Srebnick, Ben Keating, Madge Baker (alternate) and Barbara Gilbride (alternate/Secretary). Also present was Steven McDonough, CEO.

The Public Hearing began at 7:00 p.m.

The first order of business was to review the proposed changes to the **Residential Growth Ordinance**. Roger Allaire read the proposed changes. One change was in Section 1.4(g), which will now read, "Shapleigh's expansion shall be guided so that the annual increase in population and dwelling units shall not exceed the average rate of population and housing growth which occurred within the sub-region between 1980 and **2000. Average Annual Growth was 3.49% based on SMRPC's report dated 11/21/2001. The percentage for the sub-region was population of 3.03% and housing of 3.83% growth.** Blending the two approaches, based on official population and housing statistics, the maximum annual increase in Shapleigh's housing stock shall be 33 units. This annual total shall be subject to the issuance procedure in Section 1.8 below, and to the exceptions noted in 1.5. The number of growth permits to be issued in any one year may be amended only by the town's legislative body."

The other change was in Section 1.15, Review Procedure which will now read, "The ordinance shall be reviewed every five (5) years **by a committee comprised of the Board of Selectmen, the Planning Board and the Code Enforcement Officer.**

After Roger finished reading the above he asked the citizens and Planning Board members in attendance if anyone wanted to make any changes or voice concerns. No concerns were voiced or comments made, so the Public Hearing was closed at approximately 7:10 p.m.

After the Public Hearing and prior to the Planning Board meeting, members discussed if in the future we should have a time limit on the Planning Board meeting. The previous meeting lasted until after 1 a.m. the following day and all members felt it was much too late and that they could not review material properly at that late hour.

Roger A. was worried that if we used this method (a time limit), people at the bottom of the agenda that were from out-of-state would have wasted a long trip by not being heard. Diane S. stated that perhaps if they are out-of-state they could be first on the agenda. Other Board members felt the problem with this idea is that would make it appear out-of-state parties were getting preferential treatment.

Another idea presented was adding a third night to the monthly schedule and have it a "workshop" meeting. This would be to *review* material without the public present and thus be able to contact applicants prior to the public meetings to tell them of additional requirements. This would speed up the process when the agenda is full. Several members liked the idea; John C. stated he would not want to attend another meeting during the month.

Ben Keating thought that perhaps part of the application process could be the secretary would review the application to see if it was complete, saving time for the Board members. Barbara G. (secretary) said that would not be a problem if a checklist were provided for her to follow. Different types of Conditional Use Permits, i.e. for driveway, a new business, etc. each require different plans. She does not, at this time, know all the material required. Barbara suggested the members make a list of requirements or create a new Conditional Use Permit that would work better for the Board and for the Public.

Ben Keating also suggested we put the Growth Permits first, as they take little time and he does not feel the applicants should have to wait for hours to have their permit reviewed. The other Board members agreed.

Nothing was concluded on this issue at this time.

Planning Board Meeting started at 7:30 p.m.

The minutes were read and accepted as written.

Barbara G. asked what was the policy for a “snow date” if it were required. Roger A. stated the meeting would be held the next day, Wednesday at the same time. Roger said this should be put on the agenda for the next few months, during snow season.

The Planning Board also discussed whether or not to start at 7:00 p.m. instead of 7:30 p.m. during the winter months. Nothing was concluded on this matter.

The following agenda items are written in the order they were discussed:

Conditional Use Permit Application to Open and Operate a Licensed Redemption Center – Steven P. Buttrick Applicant / Sandra L. White Owner – Map 18, Lot 28 (146 Emery Mills Road – State Route 109)

Mr. Buttrick presented the Board with an application to open and operate a licensed Redemption Center. This would include taking in returnable glass, cans, and plastic containers, which contained the State of Maine returnable stamp or seal, from the general public and area stores. These returnables would then be sold back to the major distributors of such products.

Mr. Buttrick spoke once again before the Planning Board stating that he was now licensed and incorporated in Portland, Maine. Mr. Buttrick also had for the Board a depiction of the sign that he wished to put over the door of the business. The Board told Mr. Buttrick that at this time he cannot have the sign as there are already two signs on the property and that is all that is allowed per Shapleigh Zoning Ordinance 105-47.A(1) “A maximum area of 32 square feet per sign, *with up to two signs permitted per premises*, shall be permitted.” Steve M. noted that currently there is a sign for the White’s business and the business is no longer there. It should have been removed years ago, again noting Ordinance 105-47.A, Section (11) “Signs advertising defunct businesses or premises shall be removed by the property owner within three months after the advertised activity ceases.

The proposed sign would read: “Mousam Valley
 Redemption Center, Inc.”

The proposed sign would be 26” high by 8 feet long.

The Board told Mr. Buttrick either he will have to incorporate his sign with Mr. Beadle’s, or one of the existing signs must be removed. The Board told Mr. Buttrick he would have to take care of the sign issue with Steve M., the Code Enforcement Officer.

Mr. Buttrick told the Board that his hours of operation would be from 8:00 a.m. thru 8:00 p.m., Tuesdays through Sundays. The business would be closed on Mondays.

John C. asked Mr. Buttrick who would be working at the business. Mr. Buttrick stated that his best friend would be working there and on busy days, Mr. Buttrick would be there also. The Board asked Mr. Buttrick if there were bathroom facilities and if they were handicapped accessible. Mr. Buttrick said yes to both but did say the bathroom would be for employees only. Mr. Buttrick also stated that the water and power are not on at this time so the bathroom was not functioning presently and would not be until his business was in operation.

The Board asked if there would be any changes to the existing building. Mr. Buttrick stated he might be adding a counter but nothing else. There would be no change to the existing electric, plumbing or lighting.

The Board spoke next about the 40-foot storage trailer. The trailer is movable, registered, and rented. Madge B. asked what the exact location of the trailer would be. Mr. Buttrick stated that it would be next to the building, toward the back of the building. Madge and John stated that the trailer must meet all setbacks. After reviewing the drawing the Board could see it did. Madge also wanted to be sure the trailer was not any closer to the road than the existing building.

Mr. Buttrick told the Board he would be willing to put lattice work around the bottom of the trailer to make it look more appealing to the eye. He did state that he would not be able to do this until spring after the snow was gone. Madge asked Mr. Buttrick if all the recyclables would be inside the trailer or the building; she did not want to have them “outside”. Madge would like this to be a condition of the permit. Mr. Buttrick said this would not be a problem.

The Board reviewed the current parking for the business and it is more than adequate. John C. wanted to know if there was a site distance done by Mr. Beadle, the other approved business tenant in the building. The Board reviewed the file and did not see one. Roger A. thought it was in the minutes for Mr. Beadle’s approval but said that we did not have a copy of it in the file. Because of this, we will need to put site distances as a condition for approval for this project. Diane S. noted that this business would probably not create anymore traffic than the previous business did but also agreed we should have the site distances noted for the file. The Board told Mr. Buttrick he would need to have the measurement from the driveway to as far as you can see the oncoming traffic. The minimum requirement for the posted speed of 35 M.P.H. is 350 feet in either direction.

John C. read “Standards applicable to conditional uses”, Shapleigh Zoning Ordinance 105-73.G. With respect to number (4) – Traffic access to the site is safe; the Board determined there must be site distance measurements taken. With respect to number (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, the Board determined the trailer would need lattice work around it to make it more aesthetically pleasing. All other conditions had been met for the initial Conditional Use Permit for the building and are still met today.

John C. made the motion to approve the Conditional Use Permit to Open and Operate a Licensed Redemption Center with the following conditions:

- 1) No material shall be stored or left outside of either the 40-foot storage trailer or the existing building.
- 2) The 40-foot storage trailer must meet all property setbacks, side and back, and it shall be setback at least as far as the existing building from the road, not going beyond the front of the existing building.
- 3) Hours of Operation shall be 8:00 a.m. thru 8:00 p.m., Tuesday through Sunday; it shall be closed on Monday.
- 4) Any alteration or expansion to the existing building must come back before the Planning Board.
- 5) There shall be lattice placed around the bottom of the 40-foot trailer by May 1, 2002.

- 6) The signage shall be in accordance with Shapleigh Zoning Ordinance 105-47 and shall be approved by the Code Enforcement Officer.

Final Approval shall be upon submission of site distances and said conditions. Mr. Buttrick shall give the site distance information to Steve McDonough, CEO. Diane S. 2nd the motion, all in favor.

Conditional Use Permit Application for Raising Livestock / Alpacas – Robert W. Ferrera, Jr. – Map 10, Lot 22 – 1385 Shapleigh Corner Road (State Route 11)

The Planning Board reviewed an application, presented by Mr. & Mrs. Ferrera at the last meeting, requesting permission to raise Registered Livestock Alpacas for breeding and for selling fiber related products made from the clippings of the Alpaca coat (this process causes no injury to the animal). The plan depicted the location of the house, septic and proposed barn. In addition, an area of approximately four acres for pasture and another area for a future hay field. There also appeared to be a shed on the far left hand corner of the property.

Present at this meeting were both Mr. and Mrs. Ferrera. The Planning Board asked them if they were going to have retail space to sell their products on the property and if so where. The Ferrera's answered stating that they were going to build a 12' X 24' room on one end of the new barn, the barn being 24' X 60' in size. The end of the barn closest to the house, would house the retail space on the 1st floor. John C. asked if there was adequate parking. He reviewed the plan presented and stated there is more than enough area.

Steve M. asked Mr. and Mrs. Ferrera if there would be power in the building. They said yes, so Steve told them that they would have to get an electrical inspection by the State of Maine.

The Board told the Ferrera's that there couldn't be a pen closer than 150 feet to any property line/boundary. They stated there would be an electric fence to house the animals within 150 feet of the front boundary (closest to the road) but there would not be a pen.

Roger asked where the location of the well was, as it was not shown on the plan. Mr. Ferrera stated that at this time he did not know as it isn't in yet and he is waiting for the drilling company, who's work is backed up currently. Roger told the Ferrera's it would have to be 300 feet from any manure storage according to Shapleigh Zoning Ordinance, 105-56 "Animal Breeding or Care".

The Board noted that site distance is not an issue at this location, as the site from the driveway will far exceed the 500-foot minimum requirement. (The property is located across from the Recreation Fields, where a site distance study has already been done.)

John C. stated he would like to see a better drawing of the barn and retail area, including the parking area. In addition, the proposed location of the well should be on the plan. Again, the Board reiterated that any pen must be 150 feet from any lot line.

The Board asked if there was going to be water in the barn. Mr. Ferrera said yes, there would be a frost proof hydrant. Mr. Ferrera also said that he did not plan on having any sanitary provisions, although he did consider a portable toilet for the retail space. Mr. and Mrs. Ferrara did not plan on hiring any employees at this time, unless they needed to be away for a week, then someone would have to come to watch the animals.

The Board told Mr. & Mrs. Ferrera that they needed to come back before the Board and present "all" the details of the business, including any projected changes, otherwise they will have to come before the Board at a later date for these changes. In addition, the Board asked what the hours of operations would be, and the Ferrara's stated the hours of operations would be 7:00 a.m. thru 10:00 p.m., seven days a week.

The Board tabled this application, pending more information giving further details for this application. The application will be reviewed again at the next Planning Board meeting on February 12, 2002.

Conditional Use Permit Application for Manufactured Housing Park (Approximately 75 Units) – Patrick Hannon – Map 7, Lot 28 – Shapleigh Corner Road (State Route 11)

Mr. Lou Neito, representing Patrick Hannon, came before the Board to bring a drawn plan to go with the Conditional Use Permit submitted on January 9, 2002 for a Manufactured Housing Park for approximately 75 units. The plan presented this evening depicted 29 units instead of the proposed 75 on the C.U.P. application. Mr. Neito stated that was due to the topography of the area, 29 units were what would work best. There were no specific details on the plan. Mr. Neito stated that there would be details at the next meeting, along with others, to further explain what Mr. Hannon is proposing. Mr. Neito stated that Mr. Hannon would be following the State of Maine's guidelines for Mobile Home Parks for this project.

Ben Keating asked if this housing would require a Growth Permit and Roger stated yes. Steve M. stated that you need a Growth Permit to get a Building Permit.

Madge B. did tell the Planning Board that the State Specifications for Mobile Home Parks supercede the Town's requirements.

As there were no concrete details presented, this matter will be tabled until February 12, 2002. At this time Durwood Parkinson, the Town Attorney, shall be present to be sure the Planning Board does not overlook details associated with the process. Mr. Parkinson has been working with Mr. Hannon's Attorney, Christian Chandler, for another development, at Mr. Hannon's suggestion. The Board of Selectmen felt Mr. Parkinson would also be able to advise the best way to proceed with this project, as the scope of this project is very large and detailed.

Nothing further was discussed on this application. It is tabled until the February 12th meeting.

Conditional Use Permit Application for Manufactured Housing Park (Approximately 40 Units) – Patrick Hannon – Map 7, Lot 3-1 – Shapleigh Corner Road (State Route 11)

Mr. Lou Neito also represented Patrick Hannon on this Conditional Use Permit. Mr. Neito brought a plan to go with the Conditional Use Permit submitted on January 9, 2002 for a Manufactured Housing Park for approximately 40 units. The plan presented this evening depicted 18 units instead of the proposed 40 on the C.U.P. application. Again, Mr. Neito stated that the 18 units were more feasible for the size and terrain of the property.

Both the application for Map 7, Lot 28 and Map 7, Lot 3-1 were discussed at the same time. This application was also tabled. Both will be brought back before the Board on February 12, 2002.

GROWTH PERMIT(S):

Permit #07-02 issued to – Lawrence J. Kinnon, Map 31, Lot 22M (Totte Road)

Permit #08-02 issued to – Lee F. Dezan – Map 7, Part of 35A (Norton Ridge Road)

Planning Board meeting adjourned at 9:15 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

SHAPLEIGH PLANNING BOARD MINUTES
February 12, 2002

Page 1 of 5

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Madge Baker (alternate) and Barbara Gilbride (alternate/Secretary). Also present was Steven McDonough, CEO. Each alternate would be an acting Board member this evening. *In addition Attorney Durwood Parkinson was present to advise the Board regarding the Mobile Home Park proposal.*

The Public Hearing began at 7:10 p.m.

The Public Hearing was to present to the citizens a final plan proposal from **Lee F. & Gail M. Dezan, Map 7, Lot 41, Norton Ridge Road, for a 3-Lot Subdivision.**

Roger Allaire began the hearing asking if there were any questions from the Board or Public regarding the subdivision. Roger himself asked Mr. Dezan if he had the septic/soils information for the test pits that were shown on his presented plan. Mr. Dezan did have those with him and the secretary made a copy for the files.

Roger then asked Mr. Dezan if he had a name for his subdivision. Mr. Dezan did not as this property was going to be for his residence and he had not thought about a name for it. Roger said it would be a help for the files if he did in fact have a name for the Board to refer to. Mr. Dezan said to call it the Dezan Subdivision.

Roger asked Mr. Dezan what waivers, if any, he was requesting for this project. Mr. Dezan said he was requesting a waiver for the stone monuments (Subdivision of Land Ordinance 89-30(A)), instead using steel rebar and survey cap. In addition, he would like a waiver for the underground utilities requirement (Subdivision Ordinance 89-29).

John C. explained to Mr. Dezan that any amendments to his final plan would have to come back before the Board in the future should he make any changes, including putting an additional dwelling on the property. Mr. Dezan said he understood.

Roger asked at this time if there were any further questions and as there were none voiced. The Public Hearing was closed at 7:25 p.m.

Planning Board Meeting started at 7:30 p.m.

The minutes were read and accepted as read.

The following agenda items are written in the order they were discussed:

3-Lot Subdivision – Final Approval – Lee F. & Gail M. Dezan – Map 7, Lot 41 (Norton Ridge Road)

Roger spoke once again about Mr. Dezan's request for waivers regarding underground utilities as well as stone monuments. He asked the Board members if anyone had a problem with respect to these waivers. All members present did not object to these waivers. Roger told Mr. Dezan he must have these two waivers in the "Notes" section of his final plan that he would present to the Board for signature, which is the plan he will record at the York Registry of Deeds. In addition, Roger told Mr. Dezan that he would need the name of his subdivision on the final plan.

The Board discussed whether or not site distances were an issue with respect to the driveway for this third parcel of property he was trying to develop. Madge B., knowing of the road, stated that Norton Ridge Road is currently a dead end road without much traffic so she did not see a need for site distances. The entire Board concurred.

Madge Baker made the motion to approve the plans presented and grant the waivers as requested. John C. 2nd the motion, all in favor.

Mr. Dezan was reminded he needed to have the waivers in the Notes column on his final plan. He would have to bring this final plan to the Planning Board members in attendance this evening, for signature, and register the approved / signed plan with the York County Registry of Deeds. In addition, he would have to return one registered / signed Mylar to be filed with the Assessors Office in the Town Hall, and two signed / registered white copies to the Planning Board to be placed with his application on file. Mr. Dezan has 90 days total to be sure this process takes place. See Shapleigh Subdivision Ordinance 89-20, final approval and filing.

Conditional Use Permit Application for Raising Livestock / Alpacas – Robert W. Ferrera, Jr. – Map 10, Lot 22 – 1385 Shapleigh Corner Road (State Route 11)

The Planning Board reviewed an application, presented by Mr. & Mrs. Ferrera at the last meeting, requesting permission to raise Registered Livestock Alpacas for breeding and for selling fiber related products made from the clippings of the Alpaca coat (this process causes no injury to the animal). The plan depicted the location of the house, septic and proposed barn. In addition, there is an area of approximately four acres for pasture and another area for a future hay field. There also appeared to be a shed on the far left hand corner of the property.

Mr. Ferrera was present at tonight's meeting and brought with him a revised and more detailed plan from that originally submitted. The new plan depicted the current barn proposal which would be 24' x 60' in size. This barn would house a gift shop area on the 1st floor, being approximately 10' X 20' in size, and a gift shop area on the 2nd floor above this area being approximately 20' x 20' in size. Proposed for the future is additional retail shop space of 20' x 20' next to the 10' x 20' initial retail space on the 1st floor. Alpacas are also going to be in part of the lower section of this barn. In addition, shown on the plan was the parking area in front of the barn/retail shop, which is adequate for the amount of square feet the shop encompasses.

The final plan also depicts a "future" barn being 28' x 80' in size, and a future tractor shed being 28' x 80' in size. Two pole barns were also depicted in the future fields for the animals and shown were the areas in which the animal's manure will be piled and composted (for future use on the fields).

There is a large dirt circular driveway going to be put in which will access both the house, barn and retail shop area. There will be a single exit onto Route 11, which has been permitted by the State. The site distances for this driveway are more than adequate. Proposed well & septic locations are well within the required zoning setback dimensions.

Mr. Ferrera also brought to the Board a letter stating the intentions of the Gift Shop, which is to sell Alpaca products, spinning products (for local spinners), antiques, and country crafts. The hours of operation will be from 7:00 a.m. to 10:00 p.m., 7 days a week. The letter also indicated they would work closely with the Code Enforcement Officer to be sure the stairs and railings were to code, and that a future sign would be to the proper specifications. Additionally, they would obtain the necessary state electrical inspection for the gift shop.

The Planning Board asked Mr. Ferrera if he was sure on the dimensions of his proposed gift shop, as any expansion greater than 25% in the future would have to come back before the Board for approval. This 25% is with respect to the "original plan" presented. Even if one expansion was only 15%, then a second was 15%; the total of these two would be 30%, thus requiring another approval. Mr. Ferrera did seem to understand and said he would come back when necessary.

Roger reviewed 105-17, specifically “home occupations”, and the proper Conditional Use Permit was presented. He then reviewed 105-18, “dimensional requirements” and this project meets that criteria as well.

Roger continued to review ordinances 105-21 thru 105-35; again this proposal meets all necessary criteria. With respect to ordinance 105-30, “earth removal and filling”, Mr. Ferrera was told that after March 2002, if approved at the Town Meeting, he would have to come before the Planning Board requesting a Conditional Use Permit if he brings in more than 150 cubic yards of fill, or moves more than 150 cubic yards of earth from his property. The addition or removal of more than 50 but not more than 150 cubic yards would require a permit from the Code Enforcement Officer. (Currently he would need a C.U.P. if he brings in more than 50 cubic yards. Mr. Ferrera did not know this and stated that to date he did not feel he has met that limit.)

Roger once again reviewed ordinance 105-56, “animal breeding or care”, and the proposed plan was well within requirements of raising farm animals for any commercial purpose. Roger lastly reviewed ordinance 105-73(G), “standards applicable to conditional uses”. Mr. & Mrs. Ferrera’s proposal meets all necessary conditions.

The Board did ask once again if Mr. Ferrera was going to have water in the barn. Mr. Ferrera said yes, there would be a frost proof hydrant. Mr. Ferrera was also asked if there would be sanitary provisions in the gift shop, and Mr. Ferrera stated that a portable toilet was being considered for the retail space.

John C. made the motion to accept / ***approve*** the Conditional Use Permit as presented for raising livestock Alpacas and retail space to sell the products outlined in the proposal, with the following conditions:

- 1) Any sign to be approved by the Code Enforcement Officer
- 2) Any and all lighting for parking, or pen areas, to be placed in a position so as not to throw any direct light onto the road, or face oncoming traffic.
- 3) Retail sales to be held inside the depicted shop area, with *no exterior sales* on site.
- 4) The hours of operation for the gift shop will be 7:00 a.m. to 10 p.m., seven days a week.

Madge seconded the motion, all in favor.

4-Lot Subdivision “Grammar Ridge” – (Application for Final Plan Approval) Grammar Ridge, Inc. – Map 11, Lot 10-1, Newfield Road & Abbott Mountain Road

Andrew Nadeau, from Corner Post Land Surveying, Inc. was present representing Grammar Ridge, Inc. Each Planning Board member had received in the mail a copy of the finalized plan for Grammar Ridge, including the following requirements requested at the Planning Board meeting held December 11, 2001 of which Mr. Nadeau attended. These requirements were:

- The signature page for the deed that was missing in the application.
- A revised plan showing driveway locations, and site distances.
- A stormwater runoff plan for the proposed lot(s).
- The date presented on the plan when the lot(s) for this subdivision were transferred to Grammar Ridge, Inc.

Each of these requirements were on the plan presented. The Board members reviewed the plan once again and Roger reviewed the Minor Subdivision Checklist. All provisions requested by the Planning Board had been met. All the criteria for a minor subdivision had been met.

Madge Baker made the motion to accept the proposed 4-lot subdivision by Grammar Ridge, Inc. as presented on the final application plan. The subdivision is to be called Grammar Ridge. John C. seconded the motion, all in favor.

Mr. Nadeau did not have the final plan on Mylar, but he stated he would bring it to the Planning Board secretary so all members in attendance could sign it prior to it being recorded. Roger told Mr. Nadeau that the Assessor's office at the Town Hall would need a signed registered copy on Mylar and the Board would also need two white copies of the registered plan to sign and put into the file. Roger also told Mr. Nadeau that he would have to have the finalized registered plan back to the Town Hall within 90 days or this approved minor subdivision plan would be null and void. Mr. Nadeau stated he understood.

The secretary would call all the members who attended the meeting tonight, when she had the plans at the Town Hall.

GROWTH PERMITS:

- 1) #12-02 - Michael H. Brown – Map 2, Lot 9A – 987 Back Road
 - 2) #11-02 - Carol Levesque – Map 11, Lot 28-8 – Mountain Road / Pine Springs Dev.
 - 3) #10-02 - Carol Levesque – Map 11, Lot 28-7 – Mountain Road / Pine Springs Dev.
 - 4) #09-02 - Jesse Wallingford / Staci Spinney – Map 11, Lot 33-3 – Newfield Road
 - 5) #13-02 - Daniel A. Beaulieu – Map 42, Lot 13-E – Pine Springs Dev. – Squaretail Road
(Resubmitted, Approval #19-01, Not Used in 2001)
 - 6) Roger W. & Beatrice T. Stanley – Map 2, Lot 19 – Back Road – ***DENIED as presented***
Not enough square feet to house two homes. Deed(s) presented totaled only 132,000 sq. ft.
-

The Board reviewed a letter from the Board of Selectmen regarding Map 4, Lot 7K and Lot 7K-1. There appeared to be a split of the property that did not come before the Planning Board for approval. The B.O.S. wanted the Planning Board to be aware of this situation should the any new owner for Lot 7K-1 come for a Growth Permit. At that time the subdivision issue could be resolved. Roger briefed the Board on a call from a lawyer on this issue for the splitting of a lot from an approved subdivision. The lawyer did state that a revised plan would be forthcoming.

The Planning Board had a copy of the Zoning Board of Appeals *denying* Mr. and Mrs. Hardy's appeal (Map 32, Lot 6, 49 Dahlia Street) to put in a retaining wall for a proposed new driveway that does not meet setbacks. Mr. Hardy did not come before the Planning Board this evening to propose any new adjustments to his driveway proposal. Mr. & Mrs. Hardy's request will be tabled until we hear from them regarding this issue.

Planning Board meeting adjourned at 9:00 p.m.

Mr. Lou Neito, who represents Patrick Hannon, came to the Town Hall at approximately 9:10 p.m. The meeting had already adjourned at that time and two of the Board members had left the building. Mr. Neito did not have with him any new proposals or information for the following two items:

Conditional Use Permit Application for Manufactured Housing Park (Approximately 75 Units) – Patrick Hannon – Map 7, Lot 28 – Shapleigh Corner Road (State Route 11)

Conditional Use Permit Application for Manufactured Housing Park (Approximately 40 Units) – Patrick Hannon – Map 7, Lot 3-1 – Shapleigh Corner Road (State Route 11)

Mr. Neito asked Roger what the Planning Board needed to go forward with this project. Roger told Mr. Neito the Mobile Home Parks must be presented as a Major Subdivision, as well as following all of the State of Maine's Revised Statutes regarding Mobile Home Parks (Land Use Regulation 30-A 4358) and Shapleigh Zoning Ordinance 105-41 which parallels the State's statute. The necessary Subdivision Applications will have to be presented in addition to all required fees. The preliminary plans must be mailed to all Board members seven (7) days prior to the Planning Board meeting an applicant wants to attend, to begin discussion on these matters.

Roger told Mr. Neito that these two Conditional Use Permit applications would be tabled until subdivision applications are received or by Mr. Hannon's request to reopen them for questions pertaining to these matters. The secretary will wait to hear from either Mr. Neito or Mr. Hannon before putting these two items back on the Planning Board agenda.

Nothing further was discussed on this matter.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

SHAPLEIGH PLANNING BOARD MINUTES
February 26, 2002

Page 1 of 3

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Diane Srebnick, Norma Gassett and Barbara Gilbride (alternate/Secretary). Also present was Steven McDonough, CEO.

Planning Board Meeting started at 7:30 p.m.

The minutes were read and accepted as amended. The following was added to the minutes: *In addition Attorney Durwood Parkinson was present to advise the Board regarding the Mobile Home Park proposal.*

The following agenda items are written in the order they were discussed:

3-Lot Subdivision – Final Approval – Lee F. & Gail M. Dezan – Map 7, Lot 41 (Norton Ridge Road)

Mr. Dezan was present at the meeting to present his finalized plan to the Board members for signature. All members were present for signature except for Madge Baker. The Planning Board secretary will contact Madge to have her come in to sign the plan.

The Planning Board secretary will send Mr. Dezan a letter reminding him he has 90 days to get the plan to the York County Registry of Deeds and return it to the Town Hall with all the proper signatures / book & page. She will also call Mr. Dezan when Madge has signed the documents.

The final plan met all requirements that were voted on at the February 12, 2002 Planning Board meeting.

Blood & Hughes Land Consultants, Inc., Inquiry Regarding Possible Minor Subdivision

Mr. Blood, who was not on the agenda, spoke to the Board and asked several questions regarding a proposed 4-lot subdivision on Shapleigh Corner Road. Since the agenda was light, the Board had no issue with letting Mr. Blood speak.

Mr. Blood showed the Planning Board a plan, which had four lots depicted on it. Three lots abutted Shapleigh Corner Road and one proposed lot was a back lot. One of the three lots on the road has already been sold. Mr. Blood asked if he sold the two remaining proposed lots that abutted Shapleigh Corner Road and did not sell the remaining back lot at this time, if the back lot would still have to be part of the proposed subdivision. Roger said yes. This back lot is lot number 4 regardless of the time of sale, as it is part of the piece of property as a whole.

The Board also told Mr. Blood that the two lots that abut Shapleigh Corner Road (Route 11) should have one shared driveway to reduce the number of exits onto this busy road. Two driveways could exit onto Route 11 but one would be preferred. Roger also shared with Mr. Blood the fact that after the Town Meeting on March 9, 2002, if the proposed zoning changes for back lots are passed, the road to the back lot will have to be built up to the standards as described in the ordinance standards for minor subdivision. Roger also told Mr. Blood that he would need to have 50 feet of right-of-way road from Shapleigh Corner Road to the back lot, as he needs to create the required 200 feet of road frontage for the proposed lot #4. Mr. Blood asked if the road accessing the backlot had to be a town road or could it be a private right-of-way? Roger stated, "private right-of-way was fine".

Mr. Blood asked if he needed topography, soils for all lots, including the one sold, Roger said "yes". The Board told Mr. Blood that all requirements for a minor subdivision need to be met and ordinance standards could be obtained at the Town Hall.

Also asked by Mr. Blood was what type of markers were required and how many. Roger stated that every corner and all points must be marked and that in the subdivision ordinance granite markers were required. He did state that this ordinance requirement has been waived at times in the past with respect to the granite markers but all points must be marked with rebar and caps at a minimum.

In addition there needed to be a stormwater plan for these proposed properties. Mr. Blood would need to show that he could contain all the stormwater on site. Also, there is a brook on this plan, and that would need to be addressed with respect to a 25-year flood plan. How will he develop that area? As the topography in the area of the brook is an issue, it is likely the Board would require the same details for the stormwater plan as it would request for a major subdivision. Mr. Blood mentioned that a 100-foot protection area would be in place for the brook.

Steve McDonough did ask the Board whether or not the subdivision rule for driveways applies or do we also use the zoning ordinance rules for a driveway? John stated that the road required by the subdivision ordinance applies. The zoning ordinance is for individual lots.

14-Lot Subdivision "Birchfield Place" – Preliminary Sketch Proposal to Review – Corner Post Land Surveyors, Inc. representing Michael T. Morris (Applicant) – Map 10, Lot 10A, Shapleigh Corner Road (State Route 11)

The Board briefly reviewed the submitted sketch plan. There was no one present to speak about the proposal and the item will be put on the next agenda. Mr. Andrew Nadeau from Corner Post was informed he would be on the Planning Board agenda, March 12, 2002 at 7:30 p.m.

The Board did discuss circular turn-arounds vs. hammerhead. Most felt a hammerhead turn-around was best for emergency vehicles as circular turn-arounds are seldom large enough as proposed by the developer. In addition, the Board spoke amongst themselves about water supply for fire protection and the fact that a water tank may be needed on site, as a fire pond would not hold up due to the very porous soil in the area.

The Planning Board will wait to see Mr. Nadeau before any further discussion takes place. This item is tabled.

Map 7, Lot(s) 7K and 7K-1, Fern Drive – Part of Subdivision #41, The Santino Wood Lots

Roger told the Board that at the next meeting there would be an application for a subdivision. Lot 7K is part of a major subdivision and to divide it further, the applicant must meet all criteria for a major subdivision. Looking at this parcel, there appears to be varying right-of-way widths accessing this piece. As the people requesting this split will have to bring the road in up to the road standards of a major subdivision, this appears to be a problem. Roger stated that even though this appears to be possibly difficult, it is the applicant's choice as to whether or not to follow through with the proposal.

Nothing further was discussed.

GROWTH PERMIT(S):

- 1) #15-02 - Ernest M. Johnson – Map 32, Lot 25 – Dogwood Drive
- 2) #16-02 - David R. & Marcia M. Ferguson – Map 4, Part of Lot 19 – Ferguson Road
- 3) #17-02 - Patrick Hammill – Map 43, Lot 17 – 11 Knob Road
- 4) #14-02 - Jamie A. Bshara – Map 3, Lot 9B – Shapleigh Corner Rd. (Rte. 11)
- 5) #18-02 - James & Roberta Hurley – Map 12, Lot 30-2 – Silver Lake Road

There were no other agenda items to discuss. Diane S. then spoke to the Board about the issue of “length of meetings”. Diane read from the Planning Board Manual, which stated that the Planning Board had the right to conclude meetings by 10:00 p.m. In addition, it was the responsibility of the secretary to create the agenda, taking into consideration the length of time required per item placed on that agenda. Roger stated that this manual is a suggestion for Planning Boards to take into consideration while creating their bylaws. At this time, length of meeting is not addressed in our bylaws. Roger also stated that it would take a majority vote to enact the time limit and he would want all regular Planning Board members to be in attendance before a vote took place.

Diane also read the section of the manual that discussed site visits and how they are to be conducted. “If a majority of the Board is going to visit the site of a proposed project, the Board should be aware that such on-site meetings are meetings which must be preceded by public notice and at which the public has a right to be present under the Right to Know Law. Etc.”.... “During a site visit which is not conducted as part of a public meeting covered by Board minutes, the individual Board members have an obligation not to discuss substantive issues about the site or the application either with each other or with the applicant. Etc.”

Roger stated that prior to each site meeting he begins by stating to the owner that this is not a meeting and that no discussion or conclusions will be acted on at the site visit. A more thorough evaluation at the Planning Board meeting would result from having the majority of the members present at the site, hearing the same criteria from applicants.

Another issue discussed was regarding work sessions. John thought that prior to the scheduled meetings, perhaps at 6:00 p.m., we could schedule a work session if it was warranted. The other Board members in attendance also thought this was a good idea. Roger reminded the Board members that nothing in a work session would constitute a meeting.

John also stated he would like the Board to consider starting the Planning Board meetings at 7:00 p.m. with the Public Hearings beginning at 6:30. Again, the other Board members in attendance thought this was a good idea.

Nothing was concluded on the above matters, as Ben Keating was not in attendance.

Lastly, discussed was the fact that there were two workshops being offered. One was sponsored by Maine Municipal and was a basic workshop for Local Planning Boards and Boards of Appeals. The other was sponsored by the National Business Institute and was entitled “Current Issues in Subdivision and Zoning Laws”. Several Board members were interested in both but the latter is very expensive and the secretary was asked if the Town would reimburse members for the cost of the workshop. The secretary said she would ask the Board of Selectmen.

The meeting concluded at 9:00 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

SHAPLEIGH PLANNING BOARD MINUTES

Page 1 of 5

March 12, 2002

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Diane Srebnick, Norma Gassett, Madge Baker (alternate) and Barbara Gilbride (alternate/Secretary). Also present was Steven McDonough, CEO. *Attorney Durwood Parkinson was present to advise the Board regarding the Condominiums and Mobile Home Park proposal.*

Planning Board Meeting started at 7:30 p.m.

The minutes were read and accepted as read.

The following agenda items are written in the order they were discussed:

17-Unit Condominium Complex “Kettle Pond Condominiums” – Sketch Plan Proposal – Patrick Hannon – Map 7, Lot 3 (Shapleigh Corner Road)- Corner Post Land Surveyors, Inc. Presenting the Proposal

Attorney Durwood Parkinson spoke to the Planning Board beginning the discussion, to share with the members what a condominium “can be” so they would have a clearer idea of what Mr. Hannon was proposing. Atty. Parkinson also told the Board that a town couldn’t discriminate against this form of ownership. There is the Maine Condominium Act 33§ 1601-1604, which governs the basic guidelines for condominiums, including the development of an association. Atty. Parkinson also spoke of the three types of property associated with a condo. These being the unit itself, limited common areas and common areas anyone can access.

Mr. Patrick Hannon and one of his representatives, Mr. Lou Neito, were present at the meeting, along with Andrew Nadeau of Corner Post Land Surveyors, Inc. Mr. Hannon addressed the issue of Growth Permits. Each of the condo units *shall* need to have a Growth Permit to convert it from being a seasonal cabin to a condominium / permanent dwelling. Mr. Hannon asked the board if it would be possible to have the perspective buyer come for the Growth Permit instead of Mr. Hannon. Mr. Hannon being the owner/developer would only be able to obtain two Growth Permits a month, whereas if the buyers could apply for the Growth Permit then that limit would be lifted. Atty. Parkinson said it could be a possibility and should be put in the Preliminary Plan for further review. Atty. Parkinson stated that the Growth Permit issue must be in the final plan and “clearly” stated to eliminate any future confusion. Roger noted that the Board would need to discuss how the Growth Permit process would be tracked to assure it would be handled as stated in the final plans.

The Planning Board began to review the checklist for a major subdivision, as Roger told Mr. Hannon and the other Board members that this project needed to be looked at as a major subdivision. Atty. Parkinson concurred stating that under the Maine Condominium Law it also mentions it needs subdivision review. Roger asked Mr. Hannon if the current road that accesses the cabins was up to major subdivision standards? For a minor roadway the right-of-way must be 50 feet, the pavement 20 feet and 5 feet for a sidewalk. Mr. Neito spoke for Mr. Hannon and stated the pavement was 18 feet wide. Steve M., CEO, said that although the pavement was not currently up to the subdivision standard, the base under it was certainly up to the standard required. Mr. Hannon said the fact that the road was not 20 feet wide would be in the town’s best interest, as they would not be required to maintain it in the future. Madge B. asked if the Planning Board could waive a street requirement. Atty. Parkinson said that this was possible only if this requirement was not also in the zoning ordinance. Nothing in the towns zoning ordinance can be waived!

Mr. Hannon was also asked if he had underground utilities and the answer was “yes”.

On the sketch plan presented to the Planning Board this evening, it shows a total of 18 buildings being on the property. Roger told Mr. Hannon that the subdivision ordinance states that the minimum land requirement for 18 buildings would be 36 acres. Roger asked if Mr. Hannon had 36 acres? Mr. Hannon stated that two of the 18 buildings were accessory buildings, not condominium units and would remain so. These buildings would be part of the common area. Atty. Parkinson stated that this should be clearly stated in future plans presented as well as in the Condo Association documents. Mr. Hannon told the Board that his attorney has reviewed the amount of land required and he does have enough for this project, even if he "excludes" the body of water known as Kettle Pond.

John C. asked Mr. Hannon who would take care of the road maintenance? Mr. Hannon said that road maintenance and grounds would be the Condo Association's responsibility. John, while reviewing the subdivision ordinance, noted that when a major subdivision consists of more than 15 units, two street connections onto a main public street are needed for safety, such as fire protection. Currently there is only one exit onto Route 11. Atty. Parkinson said this could be waived as long as Mr. Hannon showed he also had an emergency exit from the property onto another minor or major road. It could be a gated minor road for emergency use only. Steve M., CEO, reminded the Planning Board that upon approval of this development it was stated that Kettle Pond Cabins would not use Cillie Road (which is a private road). It now seems there is a potential it may be used by a proposed "emergency" exit. Mr. Hannon stated this would not be his first choice. Atty. Parkinson said another possibility is having at the front entrance a median strip where you enter the property on one side and exit on the other. This has been viewed as a safer alternative than having only one exit.

Mr. Hannon spoke to the Planning Board and Atty. Parkinson stating that he created the road as it is for safety reasons. Originally he had it exiting in another area but people were driving too fast so he moved the exit. He did not have an aversion, however, to changing the exit to meet the town's requirements. If he left the exit where it currently exists (on the property belonging to Kelsey Lynn's restaurant), he would obtain an easement and put it in the deed for the condos to be certain this exit would always remain a viable exit. Roger asked about what type of turn-arounds were on the existing roads as this facility will need to be able to have room for a school bus turn-around should there be a handicapped individual who moves in. Mr. Neito stated there were hammerhead turn-arounds, which is often the type preferred by buses, fire departments, etc.

Atty. Parkinson asked Mr. Hannon if there had been D.E.P. approval for the Kettle Pond Cabins. Mr. Hannon said there was prior D.E.P. approval. Atty. Parkinson said the Planning Board would need a letter from the D.E.P. stating that this approval would also cover the proposed condo project. Only a letter would be required, not another application to the D.E.P.

Atty. Parkinson told the Planning Board it was very important that all the findings for this project be clearly written. He suggested to Mr. Hannon that he have his attorney, Chris Chandler, write the findings and present them to the Board.

Atty. Parkinson asked what type of ownership the buyers would have. Andrew Nadeau stated from the outsidings / foundation of the building in. Atty. Parkinson said that this should be on the next set of plans brought to the Board. Also the driveway locations needed to be shown on the plans and how they will be owned. The Planning Board asked if the buyers would be able to put up a garage or outbuilding? Atty. Parkinson and Mr. Hannon said that it would be up to the Condo Association and usually there needed to be 100% approval of all members before this could take place. Atty. Parkinson also stated that it could be a condition of approval of these condos that there be "no additional buildings".

John C. asked Mr. Hannon if the existing roads for the cabins met the setbacks for zoning, which is 50' from the edge of the road or 75' from the centerline of the road (whichever is greater)? Since the road access to the cabins would be considered a minor road, the setback criteria in zoning would apply. Mr. Neito did not think the cabins currently would meet these setbacks, some come within 10 feet of the existing roadway. The Board said this is a concern as these road requirements fall under the Shapleigh Zoning guidelines and Atty. Parkinson had previously stated that anything in zoning could not be waived.

Atty. Parkinson stated that the Planning Board and Mr. Hannon would have to review Zoning Ordinance 105-45, as well as the subdivision ordinance to see if anything can be done with respect to the road issue. If nothing, Mr. Hannon could always go to the Zoning Board of Appeals with respect to road setbacks.

Atty. Parkinson concluded with the following:

- 1) There are currently 18 buildings on the property, please address all 18 buildings with respect to whether or not they are a condominium or accessory building.
- 2) Both limited and common area must be addressed on the Final Plan.
- 3) Please state how the Growth Permit issue will be addressed for this project in the plan as well as in the Condominium Association document.
- 4) It must be clearly shown where the road shall exit onto Route 11 (Shapleigh Corner Road) and if an easement is needed from the adjacent property. This must be made clear in the final documents, which shall include the Condominium Association bylaws and the Deed.
- 5) The Planning Board shall require an updated letter from the D.E.P. stating that this proposed Condo project has previously met all provisions required by the State.
- 6) As both Shapleigh Zoning and Subdivision address required road setbacks, please propose how this project will meet this requirement.
- 7) This project must comply with all criteria for major subdivision.

Nothing further was discussed on this project. The Board will wait to hear from Mr. Hannon as to when he would like this placed back on the agenda. Mr. Hannon was reminded that he must mail the preliminary plans to each Board member seven days prior to the scheduled Planning Board meeting he wishes to be on the agenda.

18-Unit Mfg. Housing Park "Shapleigh Commons" - Preliminary Proposal – Patrick Hannon - Map 7, Lot 3-1 (Shapleigh Corner Road)

This item was tabled by Mr. Hannon at this time. Mr. Hannon will tell the Planning Board when he wishes this item placed back on the agenda.

14-Lot Subdivision "Birchfield Place" – Sketch Plan Proposal – Corner Post Land Surveyors, Inc. representing Michael T. Morris (Applicant) – Map 10, Lot 10A, Shapleigh Corner Road (State Route 11)

Mr. Andrew Nadeau from Corner Post Land Surveyors, Inc and Mr. Michael Morris, builder, were present at the meeting.

Mr. Nadeau began by stating that for adequate fire protection this project would require a water storage tank. He did not know what size it would need however. The Planning Board stated that he should contact Gary Utgard, the Fire Chief, to find out what size the fire department would require.

Roger, after reviewing the sketch plan, told Mr. Morris and Mr. Nadeau that, as presented, this is a 15-lot subdivision not 14, as there are 15 lots shown on sketch. Even though Mr. Morris only plans to build on 14 lots, all lots must be considered. Mr. Nadeau stated they did not want to have 15 lots, as this requires stricter

rules from the state. He would have to discuss with his client prior to submitting the preliminary plan what he wanted to do with respect to this issue.

Shapleigh Planning Board Meeting 3/12/02

Page 4 of 5

The Board next reviewed the turn-around as presented. It did not appear to be very large. Steve M., CEO said that the small circular turn-arounds were very hard for large equipment such as fire trucks to use. He asked if it might not be best to have a hammerhead turn-around? Another suggestion was making the circular turnaround 100' in radius instead of the 50' proposed. John C. asked Mr. Morris and Mr. Nadeau to get feedback from the fire department, as well as the road commissioner, John Burnell. Mr. Morris did state that this project would like the town to maintain the road when the project is finished. Roger reminded the Board that there are times when the town needs to use the Waterboro Tanker Truck, which is larger than what this town uses to fight fires. This must be taken into consideration also.

Mr. Morris asked the Board if he uses a hammerhead turnaround, could he still reduce the frontage on the end lots, as he can with a circular turnaround? The Board would have to discuss this further since there is nothing mentioned in the zoning or subdivision regulations regarding this issue. Madge noted to the secretary that this needs to be addressed prior to next years zoning changes. Madge felt that currently the Zoning Board of Appeals may have to address an answer to this issue.

Mr. Morris told the Board there would be individual wells and septic. Mr. Nadeau said they would like a waiver for underground utilities. In addition, a waiver for the stone monuments would also be requested. Roger said they would also have to address whether or not there would be sidewalks.

The test pits are not in yet Mr. Nadeau said. He will have the engineer address the 25-year storm issue with respect to water run-off when the test pits are placed on the next plan. Mr. Morris said that there would be no Mobile Homes allowed in this development, and that restriction would be in the deed.

Roger made mention to Mr. Morris and Mr. Nadeau that they would need to address a "performance guarantee" on the preliminary plan. Roger also mentioned covenants to the property, such as who would pay the taxes on the proposed "open space"? Would there be an association? Would there be streetlights and, if so, who would pay the electric bill?

John asked Roger if Mr. Morris HAD to have a common area, or is this something the Board could waive? If it is addressed only in subdivision then it appears we could waive this if it is in the best interest of the town.

The following items were repeated for Mr. Nadeau so he could be certain to have them for the next meeting he wished to attend:

- 1) Both the Fire Chief and the Road Commissioner will need to be contacted regarding the proposed turn-around. The Planning Board will need a letter stating whether or not a circular driveway or a hammerhead driveway would be the preference, as well as the size needed.
- 2) A letter will be needed from the Fire Chief addressing fire protection, i.e. the size of the water holding tank required on the property.
- 3) Waivers requested for this project need to be placed on the Preliminary Plan.
- 4) Please make certain to address in the Preliminary Proposal the issue of "performance guarantee", see Shapleigh Subdivision Ordinance 89-42 "types of guaranties".
- 5) This project must comply with all criteria for major subdivision.

The Planning Board will put this item back on the schedule as soon as the preliminary plans are received. Again, Mr. Nadeau was reminded he needed to mail them to each Board member seven days prior to the next scheduled meeting at which he wishes to have the preliminary proposal reviewed.

Wood Acres – Subdivision Application - Corner Post Land Surveying Inc. Representing Mansfield, Boivin & Letourneau - Map 4, Lot 7K & 7K-1 — Fern Drive

Andrew Nadeau spoke briefly to the Planning Board regarding the above subdivision and the above property split that has already taken place prior to coming before the Board. It appears this property at present does not have the appropriate deed addressing the split. In addition, none of the subdivision has addressed the road, which in places does not appear to exist on paper. The Board told Mr. Nadeau to speak with his client to get more information regarding the deed and the road. Also, any preliminary plan would have to address the road issue, perhaps working with others who currently own property in this subdivision.

Nothing further was discussed at this time. This project is tabled until further information is obtained.

GROWTH PERMIT(S):

- 1) #19-02 – Roger & Beatrice Stanley – Map 2, Lot 19 – Back Road
- 2) #20-02 - Carol Levesque – Map 11, Lot 28-6 – Green Ghost Road – Pine Springs Dev.
- 3) #21-02 - Kenneth C. Samuelson – Map 8, Lot 16-2 – Ross Corner Road
- 4) #22-02 - Travis & Laitres – Map 8, Lot 15A – Ross Corner Road

Lastly, the Board members were told that Ben Keating resigned his position. With his busy schedule he has not been able to make the meetings and feels that we need to find someone who will be able to fulfill the duties. The members regret Ben's decision but understand. The Board of Selectmen were notified by Ben of his decision also.

The meeting concluded at 10:15 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

SHAPLEIGH PLANNING BOARD MINUTES
March 26, 2002

Page 1 of 2

Members in attendance: Roger Allaire (Chairman), John Caramihalis, and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, CEO.

Planning Board Meeting started at 7:30 p.m.

The minutes of March 12, 2002, were read and accepted as read.

The following agenda items are written in the order they were discussed:

17-Unit Condominium Complex “Kettle Pond Condominiums” – Sketch Plan Proposal – Patrick Hannon – Map 7, Lot 3 (Shapleigh Corner Road)- Corner Post Land Surveyors, Inc. Presenting the Proposal

Mr. Lou Neito was present at the meeting. Mr. Neito told the Planning Board final plans would be ready for the next Planning Board meeting (April 9th). This evening Mr. Neito wanted to set up a site walk for the proposed Kettle Pond Condominiums. Roger and the Board agreed to meet at Kettle Pond Cabins on April 9th at 6:30 p.m.

Roger reminded Mr. Neito that on the final plan, if the current roadway that exits onto the abutting property was to be used, an easement must be on the final plans. According to the conditions of Kettle Pond Cabins approval, this was to be done. Mr. Neito stated that he understood. John also told Mr. Neito that if there are to be hammerhead turnarounds at the end of the road(s) they needed to be big enough to accommodate fire and rescue equipment, or a school bus (should a handicapped child live at this location).

John also asked Mr. Neito what Mr. Hannon was proposing to do with the road setback issue. (At the last meeting it was discussed that currently the existing roadway does not meet the Shapleigh Zoning Ordinance 105-18 requirement for roads.) Mr. Neito stated that the town of Shapleigh’s attorney and Mr. Hannon’s attorney were discussing this matter currently, he did not have an answer at this time but it would be addressed at the next meeting. Mr. Neito was also asked to consider all information requested on March 12th to be included in the plan.

Nothing further was discussed.

Wood Acres – Amendment to a Major Subdivision - Corner Post Land Surveying Inc. Representing Mansfield, Boivin & Letourneau - Map 4, Lot 7K & 7K-1 — Fern Drive

Present at the meeting to discuss this matter were Dana Libby from Corner Post Land Surveyors, Inc., Attorney Lenkowski and Mr. Steve Mansfield one of the owners of the parcel being divided.

Roger opened the discussion by asking if there was a 50’ right-of-way all the way thru to the end of this subdivision? Atty. Lenkowski said he could not find any specific mention in the deeds or on the plan at the registry for any right-of-way. Atty. Lenkowski did bring to the Planning Board a letter that stated the Planning Board in 1991 deleted the restriction that required this subdivision remain only as “wood lots”. This restriction is not allowed by the State of Maine’s rules for Major Subdivision.

Dana Libby presented a plan showing that in 1996 the Planning Board allowed Lot #6 in this subdivision to be split without imposing any further restrictions. Roger did know about this split as he was on the Board at that time.

Mr. Steve Mansfield spoke to the Planning Board regarding the road that currently exists for Wood Acres. Many of the owners who reside there have spoken with Mr. Goodwin the Road Commissioner and he gave them a set of standards that would have to be met before the town would consider maintaining the road. Mr. Letourneau said that currently not all of the owners would agree to pay for these improvements, so the town of Shapleigh would not be responsible for the road for this subdivision. Although Mr. Mansfield did state that he would like to bring the road up to standards if all the property owners would agree to help with the cost of the project.

John told the people involved in this project that they would need to speak with both the Fire Dept. and Road Commissioner with respect to the size of the turnaround. Atty. Lenkowski said this would not be a problem. John also said that he would like letters from both the Fire Chief and Road Commissioner stating the size they would require for this turnaround, Barbara agreed.

Dana Libby told the Board that in Sanford the typical size of the hammerhead turnaround required by fire department was 50' in size. He will put this on the final plan.

Barbara asked John and Roger if they also need to bring the letters from the Fire Chief and Road Commissioner, Roger said that if the turn around is 50' in size it should be sufficient providing concurrence with Fire Chief and Road Commissioner. It would be a condition of approval that it be 50' in size.

Dana Libby stated the final plan would be ready for the meeting on April 9th.

Roger and John concluded that since this subdivision was approved in 1982 with limited restrictions and Lot #6 was split in 1996 with no additional conditions, this Board would not impose additional conditions for the split of this property. The Board would require a hammerhead turnaround for safety reasons, however.

Nothing further was discussed at this time.

Conditional Use Permit – Open a Family Home Day Care – Jennifer Marcotte, Owner Jamie Cole – Map 4, Lot 10, 651 Back Road

No one was present representing this project. The Board briefly reviewed the application received and it appears to be in order. The Secretary will send out the Notice to Abutters and send a letter to the applicants stating they will be on the agenda April 9th.

GROWTH PERMIT(S):

- 1) #23-02 - James & Lisa Lasante – Map 2, Lot 48 – 48 Walnut Hill Road
- 2) #25-02 - Robert & Diane Laitres – Map 8, Lot 62-1 – Ross Corner Road
- 3) #24-02 - Mira Payer – Map 1, Lot 43 – Route 109
- 4) #26-02 (Seasonal Conversion) – Carol & Roland Legere – Map 31, Lot 6 – Cillie Road
- 5) #27-02 – Dubois Enterprises Inc. – Map 11, Lot 10-1B – Grammar Ridge Subdivision

The meeting concluded at 9:00 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

April 9, 2002

Members in attendance: Roger Allaire (Chairman), John Caramihalis (Vice Chair), Diane Srebnick, Norma Gassett, Madge Baker (Alternate) and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer.

Site Inspection began at 6:30 p.m. – Patrick Hannon – Map 7, Lot 3 (Shapleigh Corner Road) – Kettle Pond Resort - Regarding Subdivision Application to Convert Kettle Pond Cabins to Condominiums

Board members met at site and viewed 16 newly constructed cabins, one older cabin known as the Benoit cabin and one building currently being used for a clubhouse for a local snowmobile club. The Members were able to go inside one cabin to view the layout and construction inside, including the basement. The Members also walked the existing road to see the layout and where existing turnarounds were on site. There were several townspeople at the site walk in addition to the Planning Board.

Planning Board Meeting started at 7:37 p.m.

The minutes of March 26, 2002, were read and accepted as read.

The following agenda items are written in the order they were discussed:

17-Unit Condominium Complex “Kettle Pond Condominiums” – Condominium Memorandum, Declaration, By-Laws & Rules and Regulations – Patrick Hannon – Map 7, Lot 3 (Shapleigh Corner Road)

Present at the meeting representing the Kettle Pond Condominium project was Mr. Patrick Hannon, owner of Square Pond Marina, Inc. and Kettle Pond Resort. Also, Mr. Lou Neito, who works for Mr. Hannon and has represented him at past meetings, was also in attendance. In addition, Attorney Chris Chandler was present representing Mr. Hannon on this project with respect to creating the Memorandum, Declaration, By-Laws and Rules and Regulations for the “Kettle Pond Condominiums”. Lastly, Andrew Nadeau of Corner Post Land Surveyors was present to answer any questions regarding the surveyed plans of the property.

To aid the Shapleigh Planning Board in reviewing this proposal was Attorney Durwood Parkinson, who has knowledge of Condominium Law as written by the State of Maine.

Roger Allaire started the meeting by asking the Board Members and Public if there were any questions regarding the site walk at Kettle Pond Resort. Roland Legere of 10 Cillie Road addressed the Board and Mr. Hannon stating that he had on several occasions tried to review the new plans for this proposed project, but was unable to do so as they were not at the Town Hall in a timely fashion. He asked Mr. Hannon if in the future he would send a copy of proposed plans to the Town Hall so the townspeople would have access to them prior to the meeting. Mr. Hannon said he would do that with the next plan.

The proposed plan shows 18 individual units. One of these buildings is an older building; it is known as the Benoit cabin and is listed on the plan as Unit #18. Roger asked if this unit would be one of the residential units (currently the unit is not being used by renters at the resort)? Atty Chris Chandler said, “Yes it is”. Mr. Hannon later in the evening stated that he was going to keep this unit for himself. Roland Legere asked the Board if Mr. Hannon would need to put in a new septic system as the one with this property was probably very old. Steve M., CEO, said that as long as a septic system has not failed, an owner is not required to replace it, unless the owner expands the size of the building. This would be the same for any resident in town.

The Board asked Atty. Chandler and Mr. Hannon what was the intent of Unit #1, which is listed as commercial/residential. Mr. Hannon said that he is listing it as commercial/residential so that if in the future all the units are sold he would have the option to create a residential unit out of this building. Currently, the

building is being used for the local snowmobile club and as long as Mr. Hannon is part of the Association he wants it to remain this way. The Board had concerns with this Unit remaining listed as commercial, not knowing exactly what it would be used for in the future should the snowmobile club no longer be the sole use.

Atty. Chandler addressed this stating that other uses would possibly be wedding receptions, the Association using it for meetings, or for other clubs wishing to rent it out. Atty. Chandler did not want his client, Mr. Hannon to relinquish the commercial status because he did not want to rule out these types of activities in the future. The Board would like Mr. Hannon to be very specific with respect to its future use on the final plans. The Board does not want to leave this commercial status as an opening for “any” type of commercial business to go into the building.

Atty. Parkinson asked Mr. Hannon where the Association members would go for a key to their building? Mr. Neito stated that currently they would be going to the neighboring property, Kelsey Lynn’s Restaurant (which Mr. Hannon owns at present). If in the future the Restaurant is sold it is possible Unit #1 could be used for the Association office. Atty. Chandler said that Mr. Hannon *does not* intend to have Unit #1 as part of the Common Area. John C. stated that it appears Mr. Hannon could do whatever he wants with it. Mr. Hannon reiterated again that he wishes the local snowmobile club be able to use it, but in the future he may consider another use for it, he owns it.

Madge Baker stated that this building must follow the rules of the Condo Association and Atty. Chandler stated, “yes, not just anything can go into this building”.

The Planning Board asked Atty. Chandler if any changes were to be made within the Kettle Pond Condo Complex, would these changes come back before the Planning Board, as changes are addressed in the Subdivision package as going to the Board of Directors only? Atty. Chandler stated that any changes to the subdivision would have to come back before the Planning Board. Any changes that would normally have to appear before the Planning Board in the town would have to come before the Board with respect to this subdivision. The Board of Directors have to approve such changes before any Unit owner can make a change *in addition* to the town’s approval. Andrew Nadeau, of Corner Post Land Surveyors stated that “nothing more can be added due to the lot coverage requirements”.

Under “Rules and Regulations Applicable to All Unit Owners” Roger asked about #6, noise level volume, would there be a decimal rating? Atty. Chandler stated the Association would determine the noise level. In addition, the Town of Shapleigh has a noise level rating and the Condos would have to follow this rule with respect to the neighboring community. The Association’s rules *do not* replace the town ordinance.

Diane S. noted to Atty. Chandler that under #36 there is a sentence that begins “Further, any” then stops. If there was to be anything additional please have it on the final plan.

John C. asked Mr. Hannon if the turnarounds at the Resort were called Hammerhead turnarounds? Mr. Hannon stated that they were. John did state to the Board that he thought the turnarounds as seen on the site walk were sufficient. The Board told Mr. Hannon that prior to approval they want a letter from the Fire Chief and Road Commissioner stating that they also agree the turnarounds are sufficient. Atty. Chandler said they would get these letters for the Board.

The next item addressed were the Growth Permits. Roger asked Atty. Chandler how the Growth Permits would be addressed. Would Mr. Hannon get two growth permits per month and then use them for whatever unit he sold, or would each Growth Permit be restricted to a particular unit? Mr. Hannon stated they would be for a *specific unit*. Atty. Parkinson added that within a subdivision each owner would have the option to get his/her own Growth Permit to be able to live in their unit year round. The units could not be lived in year

round until the Growth Permit was approved. Atty. Chandler said the units could be *individually* addressed so it would be easier for the Growth Permit process. Roger and John stated they *would be* addressed.

Steve M. stated he felt that the only way to be fair to the townspeople would be if only (2) Growth Permits per month were allocated per subdivision. Atty. Chandler said that if a developer sold all of his properties in one month to individuals they could “individually” pull a permit. John C. said that it was highly unlikely that a developer would sell all his properties in one month.

In order for the units to be occupied year round, they need a Growth Permit. Atty. Parkinson asked what Atty. Chandler’s definition of seasonal use was? Atty. Chandler said that the Association would probably require the unit be closed for a specified amount of time, probably two months of the year, while the unit remains seasonal. Currently, the cabins cannot be rented more than 90 days to maintain their seasonal status as approved by the Planning Board. Atty. Chandler said they proposed that if there were a rental pool on the seasonal units, they would be rented only for the time period allowed by the Association. Atty. Chandler did state that this subdivision proposal requested to have the 90-day restriction that is currently in place removed.

Atty. Parkinson asked Atty. Chandler if someone could rent year to year? Atty. Chandler stated, “Yes, the unit could be sold year to year also”.

John C. asked the question to Mr. Hannon if anyone in these units would be able to operate a home-based business? Mr. Hannon said, “No”. John also asked if there would be any restrictions on multiple families residing in these units or a certain number of people per unit. Atty. Chandler stated this would not be a restriction. Mr. Neito did say that these units were very small and it would be doubtful that multiple families would be able to comfortably reside in a single unit.

Madge Baker posed a question regarding #26, Rules and Regulations. This section refers to Campers, Motor Homes and Boats. There do not appear to be any restrictions with respect to people living in Motor Homes parked on site? Atty. Chandler stated that there was an intent that this not be allowed and, if it were not included in writing, he would make a note to do so. John C. brought to the attention of the Board #37 that addresses temporary structures not to be used as residences, but motor homes are not included. Atty. Chandler again stated they would have the word(s) motor homes added.

Diane S. asked who would be responsible for the septic systems being pumped. Atty. Chandler, “The Association”. John C. asked about who would pay for the gas? Atty. Chandler, “We are still addressing this issue since several cabins currently share one tank”.

John C. asked if they had a letter from the D.E.P. stating their intended change of use from seasonal to year-round was o.k. with the State. (This information from the D.E.P. was requested by the Planning Board at a previous meeting.) Atty. Chandler told the Board that the State told Mr. Hannon that nothing further was required from the State on this issue. Atty. Parkinson reiterated that the Board would like a letter stating that nothing further is required, for the file.

With respect to #13 in Rules and Regulations, Roger asked if any of the cabins would want personal signs? He wanted Mr. Hannon to know that there cannot be more than 2 signs on site per premise, regardless of the size of the subdivision. In addition, these two signs could not be larger than 8 square feet.

With respect to #17 in Rules and Regulations, Roger asked if not allowing explosives on site meant no firearms were allowed on site? Atty. Chandler stated this was not their intent.

John C. asked what Mr. Hannon intended to do about the road exit requirement for subdivisions, i.e. two exits. This proposal only has one existing exit. Mr. Hannon stated he was going to request a waiver for this requirement since he felt it was safer to have only one exit onto Route 11 (Shapleigh Corner Road). John told Mr. Hannon to be sure to put that request on the final plan presented. John also asked, with respect to the road issue, how Mr. Hannon was going to address the need for road setbacks of 75' from the center of the road to the unit? Many of these cabins do not meet this criteria. John also reminded the Board that any zoning requirement cannot be waived, only subdivision requirements.

Atty. Chandler stated that this zoning requirement only pertains to "lots". In a cluster subdivision there are no "lots", everything is owned in common. Atty. Chandler also stated that the Board has the right to alter lot lines as they seem fit in a *cluster* development. "Since there are no lots, there are no setback requirements. This plan is dealing with common ownership; we are not dealing with 2-acre lots. Subdivision Law states that we can have this waived." Atty. Chandler stated that the definition of "Lot" was a parcel of land in single ownership. "There is no land owned by an individual, there is no single ownership, thus no lot. Again we are not dealing with separate lots, so the road requirement does not apply."

The Board asked Atty. Parkinson if this was in fact something we could waive, and Atty. Parkinson stated that he and the Board should have further discussion on this matter. No decision should be made at this time.

Atty. Parkinson asked Atty. Chandler what setback meant? Setback from road centerline? Atty. Chandler stated a setback was from a lot line. In addition, Atty. Chandler stated that these roads are private driveways. Atty. Parkinson stated that when there are 15 units or more in a subdivision, they are called roads.

The question was posed by the Board, "How was the driveway owned? *Limited Common Area*, everything else is Common Area apart from the unit itself", stated Atty. Chandler. Atty. Parkinson asked Atty. Chandler again, what the driveways were, and Atty. Chandler replied they were "roads".

Mr. Hannon spoke to the Board stating that Shapleigh's Zoning Ordinance does not currently deal with "Cluster Development" well, so it comes down to definitions. We (meaning all present representing this project) are using the definitions as written. Subdivision – A division of a tract or parcel of land into three or more lots within any five-year period. Etc.; Setback – The nearest horizontal distance from a lot line to the nearest part of a structure, road, parking space or other regulated object or area.; Lot – A parcel of land in single ownership, described on a deed, plot or similar legal document. "Setback is tied to lot lines. With Condos there are no lot lines. This is not a traditional subdivision. The ordinance is flexible enough to let you deviate from the traditional subdivision." Again Atty. Parkinson told the Board that they needed to discuss the interpretation of what a lot is, so at this time we should not make any decision regarding lot(s) or setback.

Roger told Mr. Hannon the right-of-way / easement for the entrance to Kettle Pond Condo's needs to be on the final plan. In addition, the current Fire Tank also needs an easement from the Kelsey Lynn's property.

John C. asked Mr. Hannon if he would consider striping the driveway of Kelsey Lynn's in the area of where Kettle Pond Condos is going to exit onto Route 11. Currently someone could inadvertently park in an area blocking the entrance to the Condos. Mr. Hannon stated that would not be a problem, he could also have arrows painted if need be.

Roger A. noted the paragraph above Article IV, should state "residential" not "commercial". It was so noted by Atty. Chandler.

Atty. Parkinson asked Mr. Hannon who would have access to the docks at Kettle Pond Condos? Who would control this access? Also, will the current restrictions for the docks, which include no motorized boats, remain the same as approved (on 1/08/02)? Atty. Chandler stated that the docks would be a common area, and the Association has the right to rent the area to members of the Association. Atty. Parkinson stated that everything to do with the docks should be addressed on the final plan. Atty. Chandler concurred.

Roger, after reviewing Article X(b) of the "Declaration", wanted to know again what commercial uses are to be allowed? Roger stated that any commercial use must be consistent with the Condos. Also the use of the word "commercial" is very vague. Can you (Mr. Hannon or Atty. Chandler) define it? Atty. Chandler stated he was reluctant to define it, not wanting to tie the hands of the Condo Association in the future. Atty. Parkinson stated that he felt having a "commercial" building on site seemed inconsistent with the entire community. Atty. Parkinson also stated that for the purposes of this approval, it should be consistent, i.e. "residential" or "uses incidental to the residential community". Atty. Chandler said that Mr. Hannon said he would remove the word commercial. Madge Baker pointed out that in #8 of Rules and Regulations it speaks of "commercial" use for profit, and Madge feels the word commercial should also be removed from there.

This concluded the review and discussion this evening.

There will be a Public Hearing held for the final plan on April 23rd, at 7:00 p.m.

In addition, Roger made the motion to hold an Executive Session of the Planning Board at 6:00 p.m. at the Town Hall, Tuesday April 23, 2002, to discuss with Town Council, Atty. Parkinson, the rights and responsibilities of the Town of Shapleigh regarding the zoning ordinance with reference to Kettle Pond Condominiums. Madge Baker 2nd the motion. All in favor.

Conditional Use Permit – Open a Family Home Day Care – Jennifer Marcotte, Owner Jamie Cole – Map 4, Lot 10, 651 Back Road

Both Jennifer Marcotte and Jamie Cole were present to discuss the proposed Day Care Facility. The Board asked what age the children would be at the day care. Jennifer stated she was licensed for both infants and preschool children by the State of Maine. She intended, however, *to have only preschool age children*. The Board asked if there was to be any new construction to the home for the day care business? Jennifer stated, they would be using only the existing home and garage, no new construction.

John C. asked if there needed to be an annual inspection of this type of facility. Jennifer stated that there is an annual inspection required by the State. John asked if the town would be notified if the facility did not pass inspection. Jennifer said "no", but she would not be able to remain open if she failed the State inspection.

John asked if the yard would be fenced? Jennifer said, not at this time, it is not required. Jennifer also told the Board there would be no employees; she would be the only one taking care of the children. John asked if she would be open year round and she stated "yes". The hours of operations would be Monday through Friday from 6 a.m. until 5 p.m. John asked if she was certain all the children would be gone by 5 p.m.? Jennifer stated that she was certain they would all be gone by 5:00 p.m. She was very adamant with the parents regarding time of pick-up.

Roger read the conditions of a Conditional Use Permit and this facility met all criteria.

The Board specifically asked about outside lighting. Jamie said that the only lighting would be the existing light that is currently on the garage. Jamie did say that they would like to have a sign in front. The Board told them they would have to see the CEO with respect to a sign.

Madge asked about adequate parking. Steve M. stated that there was more than enough area for parking on the property.

The Board asked if there were site distances done. Jamie & Jennifer did not know what site distances were. Steve M. thought that the site distance was adequate but he would be willing to get the site distances for the next meeting.

John asked if the Fire Marshall had inspected the property and if the water quality had been tested. Jennifer stated that both were done, as they are required by the State, all tests passed.

Roger asked how any refuse would be disposed of. Jennifer stated they would be taking care of that. There would not be any diapers since she is *not taking care of infants*.

Roger asked if the septic was sized to the house (number of bedrooms) or for the business. Steve M. stated for three bedrooms.

Roger told Jamie and Jennifer that since this is a home occupation the play yard would need to be fenced in (privacy fence) if they use the yard for the business. In other words, it should not be seen from the road. Jamie asked if it is a problem that there is currently a swing set in the yard. The Board did not feel this constituted a play yard full of toys so it was not a problem.

The Board told Jamie and Jennifer that they would vote on this issue at the meeting on the 23rd after they received site distances from Steve M. All permits appear to be in order and this business meets all criteria required of a Conditional Use Permit.

Wood Acres – Amendment to a Major Subdivision - Corner Post Land Surveying Inc. Representing Mansfield, Boivin & Letourneau - Map 4, Lot 7K & 7K-1 — Fern Drive

Present at the meeting was Dana Libby from Corner Post Land Surveyors, Inc., and Mr. Steve Mansfield one of the owners of the parcel being divided. Dana Libby presented the Final Plan with a 50' Hammerhead turnaround at the end of Fern Drive, as requested at the last meeting by the Planning Board.

Madge Baker made the motion to approve the After-the Fact Subdivision of Lot 7K on Fern Drive in the Wood Acres Subdivision. John 2nd the motion. Diane and Norma were in favor. Barbara abstained, not having been present thru all involved with this subdivision in the past, including problems with road upgrade, she did not feel knowledgeable enough to make an informed decision.

Roger concluded that if any further division comes before the Planning Board regarding this subdivision, whomever presents another property split would have to bring Fern Drive up to town standards, regardless of the cost.

Conditional Use Permit – Sell Farm Produce in Existing Garage – Vinton & Arlene Ridley – Map 6, Lot 28 (9 Nason Road)

Vinton Ridley and his son, Roger Ridley, were present at the meeting to discuss this proposal.

Madge started the discussion by asking Vinton if they were going to use an existing building. Vinton said, "Yes, the garage that is in my yard". It is a studded garage only, there is nothing else inside currently.

Madge asked if there would be anything sold outside of the proposed store area. The Ridley's said, "No, all the produce will be sold inside the building."

Roger R. told the Board that he and Vinton would like the Planning Board to tell them where would be the best location for the driveway. There is currently an exit onto Owl's Nest Road as well as Nason Road. Which road would they prefer the store to use? Or would the Board prefer a circular driveway entering on one road and exiting onto another. There is plenty of room for whatever the Board would like. Roger did state that they would be putting in a new culvert as one part of the current driveway has a water problem and they would address that prior to opening the store. The Board stated that the driveway location was up to the applicant, not the Board to decide where it should be.

The Board asked what they propose to sell. Roger stated that they wanted to sell products produced at the farm. Vegetables at this time, and in the future, possibly milk and cheese (the Ridleys currently contract with Cabot Dairies for milk and cheese). In a year, they were considering their own beef also. Steve told Vinton and Roger that they need to address all the items they wish to sell. The Board cannot give them a blank check to sell anything because the town would not be able to regulate it in the future. The Board stated that it would be best if they make a list of all items they think they would be selling now and in the future.

John told Vinton he would need to draw an outline of how the interior of the store would be set up for the file.

The Board asked if there were any state inspections required. Roger R. said that the produce and water on site (adjoining family farm) is inspected yearly by the State.

The family would be the ones operating the farm, according to Roger R. and the hours of operation would be from 8 a.m. until 9 p.m., seven days a week. The Board asked if there would be any outside stands. The answer was "no".

John told the Ridleys that there would need to be at least four parking spaces provided, according to the square footage of the garage. Steve said they would be allowed (two) 4 X 8' signs on the property. In addition, the Board stated that any outside lighting could not face traffic on the road.

The Board asked if there would be any bathrooms and the answer was "no". There would be no permanent heat at this time or coolers. However, in the near future they would probably have coolers. Steve told the Ridleys that they would have to have the State inspect any electric in the building prior to putting in coolers or opening their business.

The Board told the Ridley's to have for the next meeting the following:

- Driveway Location
- Parking Area
- Description of the Interior Store Layout
- List of all Items to be sold Now and in the Future.

The Board will send out a Notice to Abutters and put this back on the agenda for April 23rd.

Subdivision Application – Northwoods Land Co. of ME, LLC – Craig Higgins Representing – Map 7, Lot 5 (Shapleigh Corner Road)

Mr. Higgins was present and showed the current set of blueprints for the proposed subdivision. This was not a formal application at this time. Craig wanted to get feedback from the Board prior to presenting his plans, since he had not been before the Board since last fall due to health problems.

This project would be an 8-Lot Subdivision, with *limited* future subdivision. Two lots may be divided one more time each in the future. The other lots will remain as is with no further subdivision.

Diane S. voiced concerned regarding the large underground aquifer at this site. She had contacted the State and they stated that the Board could impose 300' setbacks for septic, wells, and building from any property line. In addition, the Board could require the wells be at least 10 feet into bedrock to ensure no contamination of underground water supplies. Roger and John felt that this would be too strict a requirement as this could cause some wells to have to be drilled over 500 feet before they reached bedrock. Diane still feels this aquifer needs to be addressed further.

In addition, the Board voiced concern regarding fertilizer being used at this location. Craig stated that he had no problem putting a restriction that only no phosphorus fertilizer be used, 10-0-10.

Another restriction for the Pond would be for non-motorized boats, with the exception of electric motors. Craig did say that this could be hard to enforce. Another proposal might be no motorized boats within 100' of the shoreline. By doing this boats could not access the waterway.

It appears on the plan that three lots have right-of-way to Square Pond. Steve M. and Diane S. said that this can be a problem due to the fact that access to Square Pond is along a very small access route (25 foot wide strip) leaving residents currently using the area upset with more foot traffic and people entering the water. Craig stated he would think about how to handle this. Access is already granted in the existing deed. Perhaps he can make a change to the new deeds?

On Dogwood Drive there is currently a problem with ATV traffic eroding the road. Can this project address that? Craig stated that he considered grading the road and putting stone down to limit run-off. Roger stated that the Board could require paving all roads affected by this subdivision. Craig did not want to do this because these lots are marketed to people who want things left as natural as possible. Pavement would ruin the natural appeal. Roger felt that for fire protection, pavement was a more viable option.

Craig stated that for this project he would be using underground power where no power exists currently (there is one lot which has nearby power, this one shall have overhead power lines).

John asked about fire protection. Craig did not have a plan currently; he would address this at the next meeting.

Nothing further was discussed at this time. The matter is tabled until the next Planning Board meeting, when Craig will present the Preliminary Plans.

Gerald & Sandra Baptist – *Would like to speak with the Board regarding possibly building a motel complex at Lakeside Marina, 143 Emery Mills Road. They may purchase the property.*

Neither party was present at the meeting but Steve told the Board about the letter dated 4/3/2002, he received posing the above situation, i.e. could they take the existing building on the property and create a "12 to 18 unit motel complex"? "The past land use was commercial. It was used as a marina, boat rental, rental slips, fishing & boating supplies, etc."

Steve M. stated that the Zoning Ordinance does not address "motel".

The Board told Steve that without knowing whether or not the motel would be 12 OR 18 units, they could not say whether or not the proposal would meet the Lot Coverage requirement. In addition the Board would need

more information regarding the exact size/location of the building to know if it meets Setbacks. Parking would need to be addressed and, without knowing the number of units, the Board could not recommend the number of parking slots needed. Thus again, there is no way to tell if there is enough acreage for the parking area, as well as the motel, and still be in compliance with zoning.

Roger told Steve that the Board would not say it could not be done at this time. Without more information the Board could not give a definitive answer.

Nothing further was discussed on this matter.

Steve McDonough – Question regarding Emery Mills Market, Route 109, an apartment currently housed on the commercial property without prior approval. Owners Charles & Joyce Rodrigue, Map14, Lot 15

Steve M. brought to the Board a current situation regarding an existing apartment on the property whereas prior approval for this building was for a bakery. It was brought to Steve's attention through a former tenant. Steve asked the owners of Emery Mills Market to address this current use and wanted to ask the Board if this situation would be handled through the Planning Board or the CEO.

The Board addressed concerns that the new use was residential and for a residential property you need 2 acres. This lot, being split from the original lot, no longer is two acres in size. (The town of Shapleigh approved this split.) Roger quoted Shapleigh Zoning 105-73.B.2; "No changes shall be made in any approved conditional use without approval of change by the Planning Board." This property was originally approved for a Bakery so now it must come before the Board for this new use, which is residential.

Steve will notify Mr. Rodrigue that he must come before the Planning Board to discuss this matter further.

GROWTH PERMIT(S):

- 1) **#28-02 - Susan T. Roberts – Map 4, Lot 22 – Back Road**
- 2) **#29-02 - Robert K. Daigle, Jr. – Map 33, Lot 108 – 108 Treasure Island**
- 3) **#30-02 - Scott R. Martel – Map 5, Lot 5D – 23rd Street Loop**
- 4) **#31-02 - Bernice Connors – Map 2, Lot 47 – Walnut Hill Road**
- 5) ***Denied (Incorrect Deed) - Lee F. Dezan – Map 7, Lot 41 – Norton Ridge Road***
- 6) **#32-02 - Francis A. Winterson – Map 33, Lot 93 – 93 Treasure Island**
- 7) **#33-02 - William D. Bright, Jr. – Map 41, Lot 19 – Block A & B – Jack Scott Road**

The meeting concluded at 12:00 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

Note: The Planning Board, after discussion with Madge Baker, will be meeting next week to review the Comprehensive Plan. The meeting will take place on Tuesday, April 16, 2002 at 6:30 p.m. All Board members will try to attend.

SHAPLEIGH PLANNING BOARD MINUTES
April 23, 2002

Page 1 of 8

Members in attendance: Roger Allaire (Chairman), John Caramihalis (Vice Chair), Diane Srebnick, Norma Gassett, Madge Baker (Alternate) and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer.

Public Hearing began at 7:00 p.m. – Patrick Hannon – Map 7, Lot 3 (Shapleigh Corner Road) – Kettle Pond Resort - Regarding Subdivision Application to Convert Kettle Pond Cabins to Condominiums

Present representing this project was Patrick Hannon, owner of Kettle Pond Resort. Lou Neito, an employee of Mr. Hannon's. Andrew Nadeau, Corner Post Land Surveyors, Inc., who drew up the plans for Kettle Pond Condominiums and Attorney Chris Chandler who is representing Mr. Hannon with respect to this project.

Roger opened the Public Hearing by asking Attorney Chris Chandler to address the public and briefly state what is being proposed. Atty. Chandler began by stating this project proposes to change the nature of ownership of the individual units. Currently, this is a resort owned by Mr. Hannon. The proposal would create individual ownership as condominiums at Kettle Pond Resort. Atty. Chandler said that the market has changed in the area; where people would like to own or partly own a condominium. Condominiums come under subdivision and are owned commonly by an Association. The Condos will be maintained and owned by the Condo Association. The owner(s) will pay a fee to the Association for maintenance of the land owned "in common", whereas the "units" are floating and individually owned. Initially, the units will be seasonal until a Growth Permit is approved by the town for each unit, then they will become year round. While the units are seasonal, they will have to be closed for two months during the year. At this time March and April will be the designated months to be closed.

Russ Barton, a citizen of Shapleigh asked, "Will there be any need for variances and will Mr. Hannon have to prove hardship?" Roger stated this question couldn't be answered at this time. This project needs further review.

Another citizen asked if Mr. Hannon had done a study of the local market to see, if in fact, condominiums are favorable in the area? Atty. Chandler said that nothing has been done officially but the market for neighboring towns has been favorable.

Bill Hayes, a citizen of Shapleigh asked, "Will there be a time share provision?" Atty. Chandler stated, "Currently, there is the ability to time share."

Atty. Chandler went on to explain that even though these units will become Condos, the concept is still that of a resort. Many unit owners want to put their units in partial timeshare. It does not increase usage since there is only one family in the unit at one time.

A question was posed by the public regarding length of time that people are currently allowed to stay in any one unit. Roger stated that currently the length of stay is limited to 90 days per year total.

The issue of Growth Permits was discussed. Roger stated that two Growth Permits per month are allowed by the owner of the Resort currently. However, if individuals purchase the unit, they too would be able to apply for a Growth Permit. If all units are sold in a year, there is the possibility that all units could become year round in a year's time.

A citizen asked if the Town of Shapleigh would be able to approve any change to the Condo by-laws. Atty. Chandler stated, "No, the Association will address any changes to the By-Laws". Atty. Chandler went on to explain that the Association can not do anything illegal, nor can the Association do anything that the Town of

Shapleigh does not allow currently in its ordinance. The Declaration for the resort will be a recorded instrument and it will be very hard for the Association to change that also. There needs to be an agreement of approximately 95% of the members of the Association before any change can be made and, again, these changes must be within the Town of Shapleigh's ordinances.

The question was asked if Cillie Road would become a paved road. Both Mr. Hannon and Atty. Chandler said that Cillie Road is a private road and they have no right to pave or use this road.

Roland Legere of 10 Cillie Road addressed both the Board and Mr. Hannon stating that he had serious concerns for the water quality of Goose Pond. He felt that any development could impact it negatively. Mr. Legere spoke to the Board to be certain they all received and read a letter he had written regarding his concerns for Goose Pond and this project. Mr. Legere's main concerns at this time were the subject(s) of the current dock(s) at Kettle Pond, open fires and the open space at the resort. Mr. Legere wants the Board to review and factor in the above points. Mr. Legere would like the Board to consider prohibiting outside fires. Mr. Hannon said that he did not have a problem with people have a small BBQ pit. Where this is a recreational area, many people enjoy making "s'mores" or sitting around a fire. Mr. Hannon will allow fires. Mr. Legere stated that he would like approval of this project to reflect the fires would be for a BBQ only, not an "open fire", and also mention the fire potential in the area. Atty. Chandler stated that anyone in this resort would need to get a fire permit, just as all citizens of Shapleigh do, in order to burn anything other than having a BBQ. Another citizen asked why a unit owner would need to have an open fire, wouldn't a BBQ grill be sufficient? There was no additional comment.

The next question brought up by a citizen was whether or not there would be any sheds, garages, etc. added to this property? Atty. Chandler and Andrew Nadeau, of Corner Post Land Surveyors, both stated that currently this project was at maximum coverage and nothing more could be added to the parcel. These are second homes and shall be marketed as such. Most people don't need a lot of storage at seasonal homes, but should they need to store items, these homes do have a basement area. Atty. Chandler reiterated that the desire of Mr. Hannon was to make this a Condo *resort*. The rules of the Association shall be written so people will not store unused vehicles or commercial equipment on their property. The property must remain attractive.

The question of how this property would be taxed was brought up, and Atty. Chandler and the Board both stated that this was a question for the Board of Selectmen/Assessors office.

The docks were discussed next and a citizen asked if there would be any motorized boats allowed. The answer was no, there are none allowed now and this would remain a condition. Atty. Chandler stated that the conditions of the docks, as written currently, would remain in place. Roland Legere stated that there is nothing that would prohibit motorboats from coming under Goose Pond Bridge and tying up offshore from the resort. Roger A. stated that the Board could not control watercraft in the area, that was an issue for the State of Maine Inland Fisheries and Wildlife to patrol. The town cannot regulate this. We can only regulate what happens on shore. Mr. Legere asked again if the Association could prohibit offshore tie-offs? The Board did not think so.

Attorney Durwood Parkinson, who is working with the Planning Board on this project, said we could address this in Executive Session. (*Attorney Parkinson arrived at the Planning Board Meeting at 7:25 p.m.*)

The Public Hearing Closed at 7:30 p.m.

Planning Board Meeting started at 7:35 p.m.

The following agenda items are written in the order they were discussed:

18-Unit Condominium Complex “Kettle Pond Condominiums” – Condominium Memorandum, Declaration, By-Laws & Rules and Regulations – Patrick Hannon – Map 7, Lot 3 (Shapleigh Corner Road)

Prior to the Board going into Executive Session, Atty. Chandler wanted to address a previous concern of the Board’s regarding the setback issue with respect to the existing road at the resort. Atty. Parkinson thought this would be advisable so the Board would have all the facts prior to discussion.

Atty. Chandler began by speaking about the Setback Issue. He stated that the setbacks that apply in Shapleigh Zoning Ordinance 105-18; minimum yard dimensions, road, and front setbacks; do not apply in this situation when you read the definition of the words “yard” and “lot area”. Yard (front, side and rear) is the “area of land between the lot line and the nearest part of the principal building”. Lot Area is the “area of land enclosed within the boundary lines of a lot, minus land below the normal high-water line of a water body or upland edge of a wetland and areas beneath roads serving more than two lots”. Atty. Chandler stated, “With the Condo concept, there are no lots.” Further, the whole concept of a cluster development is to reconfigure housing density. These dimensions are defined as lots. There are no front or side lot lines. The point of a cluster subdivision is to place the units in a way to compliment the topography. “Square blocks” would not work in this development or with most Condominiums. It was envisioned with this ordinance that maximum variation of design may be allowed. The Board can vary the design. The one restriction placed on Cluster Developments is “density”. You are able to put these units in a natural configuration as long as the development is not more dense overall.

In Chapter 89-32, Subdivision of Land – Cluster Developments – It further states that the only thing that may NOT be altered is the height limitation. Lot layout and dimensions may be altered. Thus, there is no need for a waiver for the road setbacks, as they do not apply. Atty. Chandler stated, “You have the power to make the decision to approve the development and stay within the ordinance”.

John C. asked Atty. Chandler, “Why do you think we have setbacks (in the ordinance)?” Atty. Chandler, “Setbacks give you unity in a community. A cluster development can be reviewed to see how it fits into this community.” In addition, he stated that the setbacks allow the town to regulate over time how new homes will be placed; you are dealing with a larger picture and different concept than with a cluster development.

John C. asked Atty. Chandler if he thought safety was a reason for setbacks? Atty. Chandler stated that though safety can be a concern, very often, it is aesthetics that lead to the creation of a setback. As you look at “setbacks” in various communities, they differ widely. Some want the home closer to the front lot line than here in Shapleigh. Others want them farther away.

Roland Legere again addressed the issue of water quality and wanted the Board to look at this issue further. He asked if Mr. Hannon would be adhering to the conditions put forth on the docks at Kettle Pond on January 8, 2002? Atty. Chandler said that they would adhere to all the conditions except the issue of a portable toilet near the docks. They did not feel this would look nice there. The Board asked Atty. Chandler where he thought people would go to the bathroom when most of the homes were thousands of feet from the docking system? Atty. Chandler did not know and said he would rethink this issue.

Atty. Parkinson asked Atty. Chandler if he would speak to the Board about recent precedence in court regarding lot requirement issues. Atty. Chandler spoke of one case where the Planning Board in another town had granted a variance for someone wanting to move a building. They waived the lot requirement. The Zoning Board of Appeals had denied this variance previously. Atty. Chandler stated this case was different than Mr. Hannon’s case and did not apply. The second case, which Atty. Chandler called the Perkins case,

made a motion that the Planning Board can grant variances for subdivision, except when the variance is something addressed also in the Zoning Ordinance. Again, Atty. Chandler stated this did not apply here, as Mr. Hannon is not asking to waive anything, there are no lots.

Madge asked Mr. Hannon what the “pedestrian easement” was on the plans presented? The Board also wanted to know how wide this easement was and did this easement get subtracted from the total lot coverage calculated for the units? Andrew Nadeau stated that this is not a “true” easement and is not subtracted. The easement for pedestrians will actually be over the existing roadways, so people will be able to use them to get to the docks. In addition, Mr. Nadeau said that there were potentially three additional building lots owned by Mr. Hannon on Route 11 and this pedestrian easement would allow those people access to the water/docks. The Board said this would have to be clearly marked on the final plan.

John C. noted that the snowmobile club does not appear to have access to the building they use on the Kettle Pond Resort property. The access appears to be through the neighboring property of Kelsey Lynn’s. John stated that the final plan needs to show access to this building somewhere on this property.

At 8:40 p.m. Roger A. made the motion to go into Executive Session with Town Council, Atty. Parkinson, to discuss the Rights and Responsibilities of the Town of Shapleigh regarding the Zoning Ordinance with reference to Kettle Pond Condominiums. John C. 2nd the motion. All in favor.

When the Board returned the meeting resumed with discussion on the condominiums. The Board once again stated that the pedestrian easement needed to be on the final plan, showing it was the paved roadways and not a 25-foot path along the lot line(s). The exact dimensions and conditions for the docks, as approved on January 8, 2002 need to be shown on the final plan, along with all the conditions of these docks listed on the plan.

Roger A. asked Mr. Hannon how the water storage tank for fire protection would be addressed on the final plan. Currently it is a “condition” of Kelsey Lynn’s Restaurant (C.U.P.), but now it is shown as being part of the Condo plan. Roger asked Atty. Parkinson if we need to amend the Conditional Use Permit for Kelsey Lynn’s? Atty. Chandler stated that they could make an easement for a right-of-way for the Kelsey Lynn’s building, along with an easement for the town to service the tank.

The Board reminded Mr. Hannon that it needs a copy of the letter from the D.E.P. stating this new project was reviewed by them and did indeed meet their requirements. Mr. Hannon stated that this letter was being produced now.

Atty. Parkinson asked Atty. Chandler that when the Condo documents were finalized, if he would have any objection to stating that the Association would have to come before the Planning Board prior to making any future changes? Atty. Chandler could agree that any changes to the “Declaration” be brought back before the Board. He did not want the “By-laws” to have to come before the Board as these only deal with the voting of the officers and matters of this nature and it just would not make any sense for the Planning Board to be involved. The Board did not have a problem with that.

The Board stated that it would need to see all the deeds and property transfers for this project prior to final approval. Atty. Chandler stated that this would be done when he knows all that the Board will require of this project; he does not want to do the deeds twice.

One new item with respect to this project was in the Declaration, Article IV “Easements”, Section 4.4 – *Fish Hatchery* and Additional Easements. *“Declarant shall have the right to use the Kettle Pond, so called, to raise and harvest bait and other fish as permitted by any license issued by the State of Maine. Declarant or its*

successors in interest shall have the right to access to said Pond by such means as is necessary to raise and harvest the bait and other fish. The Board asked Mr. Hannon what this referred to. Mr. Hannon said he wants to maintain his right to stock fish and pull bait, for which he currently holds a valid license from the State. Atty. Parkinson asked if anything related to this business would be stored on site and Mr. Hannon answered, "No". The Board stated it would like to see a copy of this license.

Madge B. was very concerned with where a person would park an R.V. on site? The current parking areas are not very large. The Board would not like to have these large vehicles parked on the roadside blocking emergency vehicles. Mr. Hannon stated that nothing could be parked in the roadway. This will be part of the rules of the Association.

John C. wanted to know if there would be any restrictions with respect to fertilizer, where these units are not only close to Goose Pond but also a large underground aquifer? John told Mr. Hannon that in the past the Board asked developers to restrict the usage of fertilizer with respect to phosphates. Mr. Hannon said he would have no problem doing this. Mr. Hannon said he would talk with an engineer on this subject and put something on paper for the final plan.

Steve M., CEO, asked if there was anything to prevent people from tying motorized boats up to the shoreline, away from the docks. Atty. Chandler stated that the original wording for the approval of the resort prevents this from happening.

Steve M. also asked if these units would be used as a timeshare? Atty. Chandler stated that the Declaration provides that this can happen. A unit owner can sublet their unit. Whoever resides in the unit must abide by the Associations rules.

The Board, deciding there still needs to be further discussion on this issue, asked Mr. Hannon and Atty. Chandler if they would agree to attend a workshop, which the public would be invited to attend, to continue this discussion. Both agreed. The workshop was set for Tuesday, April 30th at 7:00 p.m. at the Town Hall. No decisions will be made at this workshop and again the public will be invited to attend.

Conditional Use Permit – Open a Family Home Day Care – Jennifer Marcotte, Owner Jamie Cole – Map 4, Lot 10, 651 Back Road

Jamie Cole was present at the meeting for the final review.

The Board once again reviewed the application, which contained the location of the property and the size of the home and garage that shall be used for the day care. In addition, presented was the State of Maine, Dept. of Human Services Application for Day Care Centers, along with the approval for this facility by the State Fire Marshall. The Code Enforcement Officer, upon request by the Planning Board, presented the site distances on the road and they were 530 feet to the south and 430 feet to the north, these fall well within the guidelines. The minimum required for this road is 315 feet.

After careful consideration and a review of all material presented to the Board and review of Shapleigh Zoning Ordinance 105-73.G, "Standards Applicable to Conditional Uses", the motion was made by Diane S. to **approve** the Conditional Use Permit to open a home-based day care facility with the following condition(s):

- The Hours of Operation Shall be 6:00 a.m. through 5:00 p.m.; Monday through Friday
- A Maximum of 10 Preschool Age Children Shall be Allowed (No Infants)

John C. 2nd the motion, all were in favor.

John C. did tell Mr. Cole that should Jennifer Marcotte wish to expand to more than 10 children she would have to come back before the Planning Board for approval.

Conditional Use Permit – Sell Farm Produce in Existing Garage – Vinton & Arlene Ridley – Map 6, Lot 28 (9 Nason Road)

Vinton Ridley and his son, Roger Ridley, were present at the meeting to discuss this proposal. The Ridley's brought with them a new plan showing the entrance and exit onto the property, as well as showing six parking slots next to the building. Listed below is what the farm store will be selling according to the application:

- Fruits
- Vegetables
- Animal Feeds and Seeds
- Greenhouse Products (seedlings, flowers, plants, etc.)
- Maple Syrup and Maple Products
- Baked Goods
- Ice Cream
- Dairy Products (milk, eggs, cheese, etc.)

In addition, a Mercury Vapor light will be placed to illuminate the parking area. It shall be placed in a position so as to not shine on traffic traveling on Nason or Owl's Nest Road. After careful consideration and a review of all material presented to the Board and review of Shapleigh Zoning Ordinance 105-73.G, "Standards Applicable to Conditional Uses", John made the motion to **approve** the Conditional Use Permit to Open and Operate a Farm Store with the following condition:

- The hours of operations shall be from 8:00 a.m. thru 9 p.m., 7 days a week.

Diane 2nd the motion, all in favor.

Should any changes be proposed to this Conditional Use Permit, the Ridleys were told they would have to come back before the Planning Board to Amend the original application.

Best Possible Location – Rebuild Collapsed Camp with New Cape-Style Home on Existing Footprint w/ 30% Expansion – Albert Fournier – Map 27, Lot 22 (26 Point Road)

Mr. Fournier was present at the meeting. The Board briefly reviewed the application to be certain Mr. Fournier had submitted the necessary information. There did appear to be a description of the project, a sketch plan including setback locations, leachfield and well location, dimensions of the existing camp and proposed 20 X 40' Cape, as well as an application for a new wastewater disposal system.

Mr. Fournier stated he wanted to replace the existing structure, keeping the new home in the same location. He stated the septic system was replaced in 1994 but he did need a new leachfield.

The Board set up a site visit for Tuesday, May 14th at 6:45 p.m. Mr. Fournier asked if he needed to be present at the site walk. The Board told him it was not necessary but he was welcome to attend, as he may be able to answer questions if necessary.

Nothing further was discussed at this time. This item will be scheduled for the next Planning Board meeting on Tuesday, May 14th at 7:30 pm.

Best Possible Location – Replace Existing Building with New Year Round Home w/ 30% Expansion – McKenna Brothers representing Diane & Eric Lofgren – Map 34, Lot 14 (Cedar Drive)

Mr. Steven McKenna was present representing Mr. & Mrs. Lofgren. Mr. McKenna briefly showed the Board his proposal that depicted the old camp with an overlay the size of the new Cape-style home. The new home will actually have a footprint smaller than the old camp. The proposed new home, however, will have an increase in square feet of approximately 11%. In addition, Mr. McKenna had a plan of the new home's interior design.

Mr. McKenna stated that this property would be having a new chambered system put in with a pump-up system, but the exact location would not be known until the Board decides on the Best Possible Location. The current driveway is being reworked also.

The Board set up a site visit on Tuesday, May 14th at 6:15 p.m. Nothing further will be discussed on this issue until the Planning Board meeting at 7:30 also to be held on May 14th.

Amendment to a Conditional Use Permit – Change the Approved Use of Bakery to an Efficiency Apartment for Rent – Charles Rodrigue – Map 14, Lot 15 (191 Emery Mills Rd.)

Mr. Rodrigue was present at the meeting. The Planning Board asked Mr. Rodrigue if there was water currently existing in the building. Mr. Rodrigue stated that there was water in the building and also that it was tied in with the septic system.

Roger stated that he has spoken with Atty. Parkinson after reviewing this application and this proposed apartment would have to be considered a "dwelling unit". A "dwelling unit" as described per Shapleigh Zoning Ordinance 105-15, Definitions, is "a room or group of rooms designed and equipped exclusively for the use as living quarters for only one family, including provisions for living, sleeping, cooking and eating. The term shall include manufactured housing units but shall not include trailer or recreational vehicles."

Roger further stated that under Shapleigh Zoning Ordinance 105-18, Residential Dimensional Requirements, the minimum land area required per *dwelling unit* or principal building must be 80,000 square feet in all districts that building is allowed. According to the information presented, the lot is approximately 31,798 square feet, thus it does not have the required dimensions.

Based on this information Roger made the motion to **deny** the application. John C. 2nd the motion, all in favor.

The Board told Mr. Rodrigue he had the right to go before the Zoning Board of Appeals to further pursue this application.

GROWTH PERMIT(S) – At Present all 33 permits have been issued for the year 2002, which is the maximum allowed per the Shapleigh Growth Ordinance.

The following applications will be kept on file until acceptance or the end of the year, whichever comes first:

- 1) Carroll & Gloria Magaw - Map 4, Portion of Lot 16 – Ferguson Road
- 2) Charles & Joyce Rodrigue – Map 14, Lot 15C – 191 Emery Mills Road
- 3) Lee F. Dezan – Map 7, Part of Lot 41 – Norton Ridge Road
- 4) L. E. Littlefield Corp. – Map 12, Lot 30-3 – Silver Lake Road
- 5) Tracy DesFosses - Map 6, Portion of Lot 7 – Back Road

The minutes of April 9, 2002, were read and accepted as amended.

The meeting concluded at 10:00 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

SHAPLEIGH PLANNING BOARD MINUTES
May 14, 2002

Page 1 of 12

Members in attendance: Roger Allaire (Chairman), John Caramihalis (Vice Chair), Diane Srebnick, Bill Hayes (Alternate), Madge Baker (Alternate) and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer. *Atty. Durwood Parkinson was also present to advise the Board with respect to condominiums.*

Site Inspection began at 6:15 p.m. - Best Possible Location – Replace Existing Building with New Year Round Home w/ 30% Expansion – McKenna Brothers representing Diane & Eric Lofgren – Map 34, Lot 14 (Cedar Drive)

Board members met at site and viewed an existing cabin that had an attached deck on the structure. The owners, Diane & Eric Lofgren were there, along with the builder Steve McKenna. They showed the members where the marked boundary lines were and where the proposed new footprint would be located.

Second Site Inspection began at 6:45 p.m. - Best Possible Location – Rebuild Collapsed Camp with New Cape-Style Home on Existing Blueprint w/ 30% Expansion – Albert Fournier – Map 27, Lot 22 (26 Point Road)

Board members met at the site and viewed an existing cabin that no longer had a roof structure. The entire roof appeared to have collapsed into the building. The owner was present on site and told the Board he had removed most of the roof from the inside of the structure, along with all the furnishings. The members also looked at the attached garage / deck; this structure appears to have safety issues.

Planning Board Meeting started at 7:30 p.m.

The minutes of April 23, 2002, were read and accepted as amended. Page 1 of 8, paragraph three, should read Russ “Batson” instead of Russ Barton. All else remains the same.

The following agenda items are written in the order they were discussed:

17-Unit Condominium Complex “Kettle Pond Condominiums” – Condominium Memorandum, Declaration, By-Laws & Rules and Regulations – Patrick Hannon – Map 7, Lot 3 (Shapleigh Corner Road)

Present at the meeting representing the Kettle Pond Condominium project was Mr. Patrick Hannon, owner of Square Pond Marina, Inc. and Kettle Pond Resort. Also, Mr. Lou Neito, who works for Mr. Hannon and has represented him at past meetings, was also in attendance. In addition, Attorney Chris Chandler was present representing Mr. Hannon on this project with respect to creating the Memorandum, Declaration, By-Laws and Rules and Regulations for the “Kettle Pond Condominiums”. Lastly, Andrew Nadeau of Corner Post Land Surveyors was present to answer any questions regarding the surveyed plans of the property.

To aid the Shapleigh Planning Board in reviewing this proposal was Attorney Durwood Parkinson, who has knowledge of Condominium Law as written by the State of Maine.

Roger Allaire started the meeting by asking Atty. Chris Chandler to discuss with the Board Members and citizens of Shapleigh what had transpired during the workshop held on Tuesday, April 29, 2002. Atty. Chandler stated that they had discussed the following:

- Parking at the condominiums would be in the driveways only. No one would be allowed to park on the road.
- Fertilizer application would be restricted within 100 feet of the water. In addition, Mr. Hannon would be getting information as to what type of fertilizer is recommended to prevent phosphorus from entering the pond *and* water supply.

- The Board wanted a letter from the Dept. of Environmental Protection stating that this new use, condominiums instead of cabins, would not be an issue with respect to the D.E.P. Atty. Chandler stated that the D.E.P. does not issue this type of letter. Mr. Hannon did submit an amendment to his “original” application for Kettle Pond Cabins, sending the new plan to the D.E.P. Atty Chandler would like to submit this application in lieu of the requested letter.
- The vending machine / mini bus stop buildings would be removed, and this could be a condition of final approval.
- The letter from the Fire Chief regarding turnarounds would be forthcoming.
- Pedestrians would have an easement on the existing roads to access the water/docks from the abutting lot that Mr. Hannon currently owns.

Atty. Chandler also read from the revised Findings of Fact that he had presented to the Board, dated May 7, 2002, #8 which stated, “The use of Unit designated a commercial unit shall not be changed from its current use as a snowmobile clubhouse/office/function hall unless the owner of that unit obtains the appropriate Conditional Use Permit for the new use.” Madge Baker was concerned with the use of the term “commercial” for any unit in this development. A cluster subdivision as defined in the zoning ordinance refers to the housing units as “single-family units; they may be clusters of townhouses, or they may be apartments in an apartment complex, or condominium”. She posed the question to both Atty. Chris Chandler as well as Atty. Durwood Parkinson, representing the Town of Shapleigh for this project, “Can we allow commercial use in this development?” Atty. Parkinson stated that this building could be an accessory building to benefit the residents of the development, i.e. used as a place to check-in. Mr. Hannon stated that he wanted to be sure this building would continue to be used by the local Snowmobile Club.

Atty. Parkinson asked Atty. Chandler if this building and the surrounding land were needed on the plan to be able to reach the required land density? Atty. Chandler and Andrew Nadeau of Corner Post Land Surveyors, who did the density calculation, both stated, “no”. Mr. Hannon stated that if this building was a problem he would just remove it from the plan. Atty. Chandler did state, however, his client wanted to reserve the right to expand the plan in the future to include this building, if needed. Atty. Parkinson asked if he was referring to the Association needing it for a condominium office? Atty. Chandler said “yes”, that he would want to have an easement added to the plan to include being able to add this building in the future to use it for the condo office.

Madge asked if, in fact, the Rules and Regulations of the Condo Association could be changed in the future. Madge was concerned with any possible removal of the provision prohibiting parking anywhere other than in the parking areas / driveways. She did not want to have vehicles blocking the road in case fire equipment or rescue should have to use the roadway. Madge asked if the provision, #25, prohibiting vehicles from parking on the road could be added to the final plans. Mr. Hannon agreed that this could be done.

The Board asked Mr. Hannon if he did have a letter from the Fire Chief regarding the road width and turnarounds that are currently in place. Mr. Gary Utgard, the Fire Chief was in attendance. John C. also asked who was maintaining the 20,000 gallon water storage tank that currently exist on the abutting property (Kelsey Lynn’s), for fire protection. Mr. Hannon stated that he was required to put in a 20,000-gallon storage tank and to be certain it was in good working condition. It was his understanding that it was up to the fire department to fill and maintain it. (After looking thru the records for the Kelsey Lynn’s approval, it did not say who would maintain it. The only reference regarding Mr. Hannon’s responsibility was to have the tank itself put in.)

Mr. Utgard stated that for the past three years, to his knowledge, the Fire Dept. has not been checking the water level in the tank. He was not aware the department was to do so. Mr. Utgard told the Board he did not

have a problem with checking the water level and topping off the tank, if Mr. Hannon would turn the water nozzle 90 degrees giving the Fire Department easier access to it. Mr. Hannon stated he did not have a problem with that.

Mr. Utgard also stated that he would need to have part of the parking area next to the tank kept clear of vehicles, for an area large enough for the fire truck to access the tank.

The Board asked Mr. Utgard if the roadways were sufficient for his equipment, and he stated they were as long as no vehicles were parked in the road. Atty. Chandler stated he would draft a letter with respect to the water holding tank, stating that Mr. Hannon would be certain the fire department had access to it so the town could be certain there was water in the tank. Mr. Utgard gave the Board a letter stating, "This letter does not indicate that the current paved surfaces in the above referenced proposal meet the standard for subdivision. I find that the width of the road and turnaround areas are sufficient for both fire and EMS vehicle access."

John C. asked if the Association were to change the By-Laws in the future, would it affect the approval plan? Atty. Chandler stated "no". The By-Laws tell the organization how to operate; any changes to the plan would have to come back to the Planning Board. Atty. Parkinson further stated that the By-Laws set up the structure of the officers, terms of office, etc. This has nothing to do with the plan. Roger stated that **any** changes to the final plan would come back to the Planning Board for approval.

Bill Hayes asked about changes to the Declaration, would those also come back before the Board? Atty. Chandler stated that the Declaration can **not** be changed. Bill also asked about changes to the "Rules & Regulations", it appears those can be changed. Atty. Chandler stated that the Rules and Regulations could be changed. Under the Statute of the State of Maine, regarding Condominiums, the Rules and Regulations can be changed as long as 75% of the unit owners, each having one vote being members of the Association, agree the change can occur. After the Association has approved a change, it must come before the Planning Board if it is an issue that will change the approved plan.

John C. asked who would have access to the water / docks. Mr. Hannon stated that the residents and whomever the Association allowed.

Atty. Parkinson spoke to the Planning Board stating that because of a recent decision by the court on a case called the Wide Waters Decision, the Board would need to take each standard individually, discuss it and vote on the standard to approve or not approve. After each standard has been voted on, the Board would then vote on the entire plan as a whole. As the Board walks through each standard, it is important to write detailed findings of fact. The Board can approve the plan without approving each standard or visa versa.

Roger read the findings of fact for review, they are as follows:

1. "Kettle Pond Condominiums **will not** unduly result in undue water or air pollution."
 - There are no physical changes to the property.
 - There is criteria presented with respect to phosphorus runoff.
 - The Board has required a portable toilet to be placed next to the docks.
 - Only backyard BBQ's are allowed on site, open burning shall be regulated by the town Fire Department.

(Roland Legere stated concern with air pollution from open burning on the property. If all the residents were to have a BBQ pit going at the same time, it would create air pollution. Gary Utgard, the Fire Chief, stated that the State Forest Service is looking into *permitting* BBQ pits. Gary further stated that private owners would have to get a permit to have a controlled burn, just like every other

townsperson. Gary further said that the chances were slim that all the permits would be allowed in one small area at the same time. Roland Legere stated that he was not talking about brush fires but open fires for recreation. Gary said the fires need to be 25 feet from the water and, again, the State is going to be regulating this type of fire for all the state's residents. John C. stated that he did not feel this would cause undue air pollution. Madge B. felt this is an issue of BBQ in the backyard and she did not feel it would be a problem. Mr. Hannon stated that he felt homeowners would be more careful than renters with fire, since they owned the property. They would not want it to burn. Roland Legere said that with the possibility of timeshares, it would be the same as renters. Nothing more was discussed.)

Madge Baker made the motion to approve finding #1 stating that Kettle Pond Condominiums will not create undue water or air pollution. John C. 2nd the motion. 5-0 voted to Approve.

2. "Kettle Pond Condominiums **will** have sufficient water available for the foreseeable needs of the subdivision."
 - All the wells on site are in existence and function properly.

(Mr. Hannon stated that there are several wells that put out more than 60 gallons per minute.)

John C. made the motion to approve finding #2 stating that Kettle Pond Condominiums will have sufficient water available for the foreseeable needs of the subdivision. Madge B. 2nd the motion. 5-0 voted to Approve.

3. "Kettle Pond Condominiums **will not** cause an unreasonable burden on the existing water supply."
 - There currently exist a large aquifer beneath the site.

John C. made the motion to approve finding #3 stating that Kettle Pond Condominiums will not cause an unreasonable burden on the existing water supply. Madge B. 2nd the motion. 5-0 voted to Approve.

4. "Kettle Pond Condominiums **will not** cause unreasonable soil erosion or reduction in the capacity of land to hold water so that a dangerous or unhealthy condition results."
 - There has been a new Stormwater Management Application given to the Dept. of Environmental Protection by Square Pond Marina regarding the changed entryway onto Route 11. All else approved to Kettle Pond Cabins remains the same.
 - Madge B. stated that there is currently very little coverage by impervious material and the steepest terrain is paved to reduce erosion. The system was designed to reduce impact to the greatest extent. In addition, the driveways are dirt / gravel.

(The Board received a copy of the above application, dated and approved May 15, 2002 from the D.E.P. by Martha G. Kirkpatrick, Commissioner. The letter stated that Kettle Pond Cabins, including the change in entryway will meet the stormwater standards pursuant to 38 M.R.S.A. Section 420-D, and Chapters 500 and 502.)

John C. made the motion to approve finding # 4 stating Kettle Pond Condominiums will not cause unreasonable soil erosion or reduction in the capacity of land to hold water so that a dangerous or unhealthy condition results. Madge. B. 2nd the motion. 5-0 voted to Approve.

5. “Kettle Pond Condominiums will not cause unreasonable traffic congestion or result in unsafe conditions on existing or proposed roads.”

- The site has been redesigned to have the roadway exit onto Kelsey Lynn’s property to have only one exit for both properties. The exit/entrance shall be marked so no person shall park to block this area.
- The site distances for the entryway are more than adequate in both directions.

John C. told Mr. Hannon that it would be a good idea to have the striping for the driveway listed on the final plan. John C. wanted to be sure Mr. Hannon was in fact going to put entry and exit arrows on the pavement to prevent people from parking where the unit owners will be traveling. Mr. Hannon stated he would be placing the arrows on the pavement. Madge B. did affirm that having the roadway where it was slowed people down from driving too fast onto Route 11. Madge. B. further stated that painted arrows would help prevent unsafe conditions provided “nothing to be parked in the driveway” was enforced.

Madge B. made the motion to approve finding #5, stating that Kettle Pond Condominiums will not cause unreasonable traffic congestion or result in unsafe conditions on existing or proposed roads. John C. 2nd the motion. 5-0 voted to Approve.

6. “Kettle Pond Condominiums will provide adequate sewage waste disposal.”

- These calculations were done and approved by the State for Kettle Pond Cabins in 1998. The new use for these units has not changed with respect to size of unit or number of people per unit.

John C. made the motion to approve finding #6, stating that Kettle Pond Condominiums will provide adequate sewage waste disposal. Madge B. 2nd the motion. 5-0 voted to approve.

7. “Kettle Pond Condominiums will not cause an unreasonable burden on the municipal solid waste disposal.”

- The Condominium Association will be responsible for handling the waste on site.
- There are small residential units subject to the Town’s Growth Ordinance, therefore they will place no undue burden on the municipal facilities.

John C. made the motion to approve finding #7, stating that Kettle Pond Condominiums will not cause unreasonable burden on the municipal solid waste disposal. Madge B. 2nd the motion. 5-0 voted to Approve.

8. “Kettle Pond Condominiums will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.”

- Kettle Pond Cabins were built in such a way as to protect the natural habitat.
- There are no new units being built.
- There is only one cabin in the Shoreland Zone, which has been on the property for many years. No new cabins in the Shoreland Zone.
- Kettle Pond will remain an undisturbed natural area.

John C. made the motion to approve finding #8, stating that Kettle Pond Condominiums will not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas.

9. “Kettle Pond Condominiums **will** conform to local regulations, ordinances, development plan and comprehensive plan.”
- When initially approved prior to being built the development met town requirements.
 - Any and all changes to the approved plan must come to the Planning Board and Code Enforcement Officer regarding all zoning or subdivision issues.

(John C. asked about the roads. The units do not meet setbacks with respect to the roads. Atty. Parkinson stated that there are no separate lots in this “cluster” subdivision. Setbacks refer to “lot line” only, thus the code grants the Board the flexibility with respect to the road setbacks.)

Madge B. made the motion to approve finding #9, stating that Kettle Ponds Condominiums will conform to local regulations, ordinances, development plan and comprehensive plan. Diane S. 2nd the motion. 5-0 voted to Approve.

10. “Kettle Pond Condominiums **will not** adversely affect the quality of surface water or shoreline of ponds, rivers, streams or tidal areas.”
- There is currently an adequate erosion control plan that is in place for Kettle Pond Cabins.
 - There are currently buffer areas in place for Kettle Pond Cabins.
 - There is one ingress and egress from the shoreline using the docking system in place. This prevents erosion of the existing shoreline by limiting its access.
 - There is currently no motor craft access, and this does not change with the new plan.
 - There shall be a portable toilet next to the docking system / shoreline.

Diane S. made the motion to approve finding #10, stating that Kettle Pond Condominiums will not adversely affect the quality of surface water or shoreline of ponds, rivers, streams or tidal areas. Madge B. 2nd the motion. 5-0 voted to Approve.

11. “Kettle Pond Condominiums **will not** alone, or in conjunction with existing activities, adversely affect groundwater quality or quantity.”
- There shall be no other changes to the existing use of the property such as additional units, roadways, etc.

John C. made the motion to approve finding #11, stating that Kettle Pond Condominiums will not alone or in conjunction with existing activities, adversely affect groundwater quality or quantity. Madge B. 2nd the motion. 5-0 voted to Approve.

12. “Kettle Pond Condominiums **will** demonstrate adequate technical and financial capacity to meet the above.”
- The project is developed in its entirety already.

John C. made the motion to approve finding #12, stating that Kettle Pond Condominiums will demonstrate adequate technical and financial capacity to meet the above. Diane S. 2nd the motion. 5-0 voted to Approve.

13. “Kettle Pond Condominiums **will** have all buildings one foot above the base flood elevation.”
- The Condominiums are all in existence and meet the standards.

Madge B. made the motion to approve finding #13, stating that Kettle Pond Condominiums will have all buildings one foot above the base flood elevation. John C. 2nd the motion. 5-0 voted to Approve.

14. “Kettle Pond Condominiums will have freshwater wetlands identified on maps.”
- The wetlands were identified on maps for Kettle Pond Cabins. Nothing has changed.
 - Both Kettle Pond and Goose Pond were identified on the maps for Kettle Pond Cabins.

Madge B. made the motion to approve finding #14; Kettle Pond Condominiums will have freshwater wetlands identified on maps. John C. 2nd the motion. 5-0 voted to Approve.

15. “Kettle Pond Condominiums will have rivers, streams and brooks identified on maps.
- All water bodies were identified on the plans for Kettle Pond Cabins.

Madge B. made the motion to approve finding #15; Kettle Pond Condominiums will have rivers, streams and brooks identified on maps. John C. 2nd the motion. 5-0 voted to Approve.

16. “Kettle Pond Condominiums will provide for adequate stormwater management.”
- This shall be fulfilled when the Board has a copy of the State application for Stormwater Management. (A copy of the application was received May 21, 2002 at the Shapleigh Town Hall. The application was approved on May 15, 2002 and signed by Martha G. Kirkpatrick, Commissioner, Dept. of Environmental Protection.)

John C. made the motion to approve finding #16, Kettle Pond Condominiums will provide for adequate stormwater management. Madge B. 2nd the motion. 5-0 voted to Approve.

17. “Kettle Pond Condominiums will not have spaghetti lots.”

John C. made the motion to approve finding #17; Kettle Pond Condominiums will not have spaghetti lots. Madge B. 2nd the motion. 5-0 voted to Approve.

18. “Kettle Pond Condominiums will not unreasonably increase a great pond’s phosphorous concentration.”
- The Condominium Association shall adopt a fertilizer restriction program developed by a qualified environmental professional which shall reduce or eliminate the use of fertilizer within the portion of the Condominium located within the Shoreland Zone, which shall include any streams, brooks, ponds, etc. on the property.

John C. made the motion to approve finding #18; Kettle Pond Condominiums will not unreasonably increase a great pond’s phosphorous concentration. Diane S. 2nd the motion. 5-0 voted to Approve.

The Planning Board agreed not to vote on the overall plan until the next Planning Board meeting set for Tuesday, May 28, 2002.

The Planning Board reviewed the “Planning Board Action” as written by Square Pond Marina Atty. Chris Chandler. The following comments were made and requested of Mr. Hannon prior to final approval.

- 1) The Applicant shall provide to the Board an Amended Stormwater Management Permit from the Department of Environmental Protection approving the changes to the storm water permit originally submitted.

The Board will need the revised copy of the plan along with a copy of the application. (The application was received May 21, 2002, see above.)

- 2) The Applicant shall provide to the Board a letter from the Fire Chief who served at the time of the initial approval of the Kettle Pond Cabin Resort confirming the approval of the roads and turnaround locations and dimensions received when the Kettle Pond Resort was originally proposed and built. The current Fire Chief shall submit a letter for the turnarounds and tanks.

The Board received a letter from Gary Utgard, May 14, 2002, stating "the width of the road and turn around area's are sufficient for both fire and EMS vehicle access".

- 3) No Unit shall be occupied during the months of March and April until such unit receives from the Planning Board a Growth Permit. Because the Units at the Condominium are currently existing, approval of the Growth Permit shall not be conditioned upon any action other than the submission of a completed Growth Permit application and the availability of Growth Permits for the year in which the application is submitted.

This Action applies to all Units until a Growth Permit is received. The Units shall be individually numbered for the Growth Permit Process. Growth Permits are non-transferable.

- 4) The terms of the January 9, 2002 Conditional Use approval relating to the Dock are hereby adopted and included by reference. This Approval shall supersede the Conditional Use Permit issued by the Planning Board on December 8, 1998. The following conditions from the Conditional Use Permit dated December 8, 1998 are hereby readopted:
 - a) The Condominium shall limit water access to a single dock designed for swimming and non-motorized boat tie-ups.
 - b) The Condominium shall be prohibited from renting any motorized boats, including personal watercraft, on the property or enabling guests to launch motorized boats from the property.
 - c) The Condominium shall not make any alternations to Kettle Pond, or clear any vegetation within 100 feet of the Pond.

The January 9, 2002 Amendment to the Conditional Use Approval for the Docks at Kettle Pond Cabins approval is as follows:

- 1) ***Reductions to the size of the two legs of the dock shall be made from 70' in length to 50' in length, thus eliminating two – 6' X 10' sections on each leg.***
- 2) ***No additional swim platforms shall be added to the above-mentioned permitted dock length of 50' for each horizontal length and the 40' vertical length from the walking deck on shore and no other structures shall be placed in the water.***
- 3) ***Only non-motorized watercraft can be placed at the dock.***
- 4) ***A portable toilet facility, which could accommodate all tenants at Kettle Pond Cabins (that being up to 90 people at any time during peak season) shall be provided. This portable toilet shall be pumped once a week.***
- 5) ***Trash receptacles shall be provided at the picnic area nearest the dock / shoreline and shall be emptied as frequently as needed to assure site safety and cleanliness.***
- 6) ***No vending machines, food concessions or arcades shall be allowed in the existing Benoit camp / existing cabin nearest to the dock.***
- 7) ***Removal of the dock shall be over Patrick Hannon's own land or from having acquired written permission from any landowner from whom he needs access to remove the dock structure at the end of the season.***

5. All conditions and restrictions otherwise noted on the plats and plans attached hereto are incorporated by reference.
6. The Condominium shall adopt a fertilizer restriction program developed by a qualified environmental professional, which shall reduce or eliminate the use of fertilizer within the portion of the Condominium located within the Shoreland Zone. The plan shall be filed with the Code Enforcement Officer upon its completion.

Bill Hayes asked if the Board should have a date when such a plan would be filed with the CEO? Atty. Chandler stated that he felt July 1, 2002 would be a reasonable date. The Board agreed.

7. No Unit shall be converted to a Time Share Condominium Unit unless the Declarant or the Condominium Association shall have received the additional approval of the Planning Board.
8. The use of the Unit designated a commercial unit shall not be changed from its current use as a snowmobile clubhouse/office/function hall unless the owner of that unit obtains the appropriate Conditional Use Permit for the new use.
This item shall be removed, as the commercial unit is going to be removed from the plan.
9. The Declaration attached hereto as Exhibit A governing the Condominium shall not be amended without the prior approval of the Planning Board.

In addition, the Board needs to receive prior to final approval, a letter from Mr. Hannon stating Kettle Pond Condominiums shall keep an area clear next to the nozzle accessing the 20,000 gallon water tank so the Fire Department has easy access to check and fill the fire protection tank, this should be done in the form of an easement. Mr. Hannon shall move the existing nozzle 90 degrees toward the parking area for best access for the Fire Department. Also required is a letter from the Fire Chief stating the Fire Department will maintain the water level in the 20,000-gallon tank for fire protection.

Nothing further was discussed on this issue. The Final Approval of plans presented shall be scheduled for Tuesday, May 28, 2002.

Madge Baker and John Caramihalis both had to leave the meeting at this time. Bill Hayes, an alternate, sat in as a member for the rest of the meeting.

Best Possible Location – Rebuild Collapsed Camp with New Cape-Style Home on Existing Blueprint w/ 30% Expansion – Albert Fournier – Map 27, Lot 22 (26 Point Road)

Roger Allaire spoke to say that this application was being tabled due to the fact that Mr. Fournier was not present at the meeting. In addition, more material was needed before the Board could review this application.

Several of Mr. Fournier's abutters wished to speak further on this issue since they had waited a long time for this application to be heard. The question was asked regarding whether or not Mr. Fournier could in fact rebuild, since one abutter thought it had been over a year since the roof collapsed on this building. This was in reference to Shapleigh Zoning Ordinance 105-4.D.(5).(a), "removal, reconstruction or replacement". "Any nonconforming structure which is removed or damaged or destroyed by more than 50% of its town-assessed value, may be reconstructed or replaced, provided that a permit is obtained within one year of the date of said damage," Roger stated that if Mr. Fournier were to take the Planning Board to court for denying his application, they would rule in favor of Mr. Fournier with respect to rate of return, should he try to sell his property. It now has lost much of its value. (In addition, this application was received approximately one month from the one-year expiration date.)

Roger also told the abutters that Mr. Fournier at the site visit stated he did not know how to calculate the volume of the new and proposed structure. He did not know whether or not to include attic space in his calculation or just “living space”. The Board stated they could send Mr. Fournier the information if he thought he needed it, and this item could be postponed until the next agenda. The Abutters asked the Planning Board if they would be notified if in fact Mr. Fournier would be back on the next agenda, and the Planning Board Secretary said she would do so.

Another abutter asked about elevation calculation: Would Mr. Fournier need to have this information? The Board said “yes”. Another question from an abutter was how high a building can be. The Board told him 35 feet from the lowest ground grade at the foundation. (Mr. Fournier cannot exceed the 30% expansion.) The abutters asked what Mr. Fournier had in mind exactly and Roger stated that at this time the Board did not know, which is why this application was tabled. Nothing further was discussed on this issue.

Best Possible Location – Replace Existing Building with New Year Round Home w/ 30% Expansion – McKenna Brothers representing Diane & Eric Lofgren – Map 34, Lot 14 (Cedar Drive)

Present at the meeting was Mr. & Mrs. Lofgren as well as Steve McKenna from McKenna Brothers Construction, Inc.

The plan as presented showed the location of the existing camp and deck, along with an overlay of the *proposed* camp and deck. The new structure would be moved back from the water 10 feet and the new side lot lines would be closer to compliance. The existing lots lines are 6 feet on one side and 16 feet on the other for a combined total of 22 feet. With the new building plans, the 6-foot line would be increased to 10 feet and the 16-foot line would now be 19 feet for a combined total of 29 feet. Madge referring to Shapleigh Zoning Ordinance 105-4.(D).(5).c, which states “in determining whether the building reconstruction or replacement meets the setback to the greatest practical extent, the Planning Board shall consider, in addition to the criteria in Subsection D(7), below, the physical condition and type of foundation present, if any”, stated that this new plan actually more closely meets the best possible location of the building.

Diane S. asked if there was a new septic design presented. There was not. Mr. McKenna stated that a new septic was not going to be designed until the owners knew they could, in fact, go forward with this project.

This structure is not going to be any more non-conforming than the original. It will be farther from the water than the current structure.

Diane S. made the motion to accept the application to build a new year round home with a 30 % expansion with the condition that an approved septic design be given to the Code Enforcement Officer prior to a building permit being granted. Bill Hayes 2nd the motion. ***4-0 voted to approve with condition.***

Steve McKenna asked the Board if he could rebuild the camp without a Growth Permit? Roger stated, “yes he could rebuild the camp, since it is now seasonal.” “However, prior to Mr.& Mrs. Lofgren moving in, they will need to have a Growth Permit since the new intended use is year round.”

Conditional Use Permit – Convert Existing Middle of Building to Craft and Stove Shop for Retail Sales – Stephen J. Quartarone - Map 18, Lot 28 (Emery Mills Road / State Rte. 109)

Mr. Quartarone came before the Planning Board and stated that he intended to use the existing retail space to have a stove and craft shop. There currently is 1800 square feet and he shall use the entire space. There are no changes to the existing building going to be made. Mr. Quartarone does want to add crushed gravel to the parking area to reduce dust as people drive in. He may also add a small section of pavement close to the building. In the island area next to the road, he wants to do some landscaping.

The application did have the existing approved septic system design attached. There will be a new sign, replacing the existing sign. The Board told Mr. Quartarone he would have to speak with the CEO regarding the sign. He said he understood.

The Planning Board will notify abutters regarding this application. All appeared to be in order with the application. The Board will give final review for this application at the next scheduled Planning Board meeting, Tuesday, May 28, 2002. The Board told Mr. Quartarone the only other thing he would need is his exact hours of operation. Nothing further was discussed.

Amendment to a Conditional Use – Include Service & Sales of Boats at Boat Storage Facility for New Owner – Real Estate 2000 Representing Adam MacDonald & Alberto Medina – Map 7, Lot 3-2A – (938 Shapleigh Corner Road / State Rte. 11

Mr. Tom Worster of Real Estate 2000 was present along with the new owners Adam MacDonald and Alberto Medina. Mr. Worster told the Board that the new owners wish to perform boat service inside one of the buildings and have a limited number of boats for sale in front of the building closest to Route 11. Mr. Worster wanted to know what was currently allowed at the facility and what the Board needed from the new owners to acquire approval for this project.

Roger A. told Mr. Worster that with the prior approval the Fire Department did not want anyone parking next to the buildings or *between* the two buildings so the Fire Department would have access if required. (The P.B. Secretary looked for this in the minutes and prior file folder (Map 7, Lot 3-2A) but could not find the exact requirements from the original approval regarding the Fire Dept.)

Diane S. asked where the new owners were going to park their vehicles, employee vehicles, etc. Mr. Medina stated that they wanted to park between the two buildings. Since this doesn't appear to be allowed, where would the Planning Board like to see the parking? Also how much parking space is required? Diane asked Mr. Medina how many employees there would be? Mr. Medina stated it would be just he and Mr. MacDonald at this time. Diane then stated that he would have to calculate the square footage of the retail/shop area to determine the number of parking spaces required. Mr. Medina stated the building is 100 X 100. There would need to be a minimum of five parking slots to accommodate the building.

Diane asked Mr. Medina where he would be parking the boat trailers. Mr. Hannon, also present at the meeting stated that currently the trailers are parked at the back of the lot (farthest away from Rte. 11). Mr. Medina stated that he would park them there also. The Board told Mr. Medina he would have to show these parking slots, along with the five mentioned above, on his final plan.

The Board asked where the boat repairs are done now. Mr. Hannon stated, "in the parking lot". Bill Hayes asked the Board if there were requirements for the inside of the building? Roger stated it depended on what was being done inside the building. Currently, it is approved to store boats only. There are minimal requirements for that.

Roger asked where the batteries would be stored. He also asked if the gas tanks on the boats are to be kept full to prevent gasoline vapors? Mr. Hannon said that currently they are kept full. This also prevents water condensation.

The Board told the applicants they would need to have a plan for the waste oil, including who they will contract with to remove it from the facility. In addition, if the doors were to be closed during servicing boats, there would need to be a ventilation system added.

The Board asked if there would be any retail sales in the building? Mr. Medina stated “no”; he only wanted to display 3 to 5 boats outside the building in front. Mr. Hannon told Mr. Medina that if he thinks in the future he would want to display more he should say so now.

Mr. Medina asked what is currently approved for these buildings. Roger stated that currently you can store the boats inside the building only. You may also have minor repairs in the parking lot outside the building. The Board told Mr. Worster to be sure to mark on the new plan where everything will be placed inside and outside the buildings. List how many boats they intend to display in the front and where. Show the parking areas for vehicles as well as boat trailers. Show the size of the shop area in the building. List how waste is to be handled and by whom. Hours of operations also need to be listed. It is important that the new owners review Shapleigh Zoning Ordinance 105-73.G to be sure they have all the necessary information for the next meeting.

A notice shall be sent to the abutters of the property. This application is tabled until the next meeting on Tuesday, May 28, 2002. Nothing further was discussed.

Best Possible Location – Enclose Underside of Camp & Existing Patio Area – Alan S. Durant & Gerine E. Ranagan – Map 44, Lot 56 (209 Silver Lake Road)

Mr. Alan Durant was present representing his mother-in-law, Gerine Ranagan. Mr. Durant briefly spoke to the Board stating he wanted to close in the underside of the existing camp, along with the connected patio area. Mrs. Ranagan can no longer easily walk up a flight of stairs, so they are trying to build an area for her to stay in at ground level for the summer.

The Board scheduled a site visit for Tuesday, May 28, 2002 at 6:30 p.m. to review Mrs. Ranagan’s proposal. Nothing further was discussed at this time.

GROWTH PERMIT(S) – There is one available Growth Permit. Application Number (1) will be reviewed this evening. All other applications will be kept on file until acceptance or the end of the year, whichever comes first:

- 1) #12A-02 - Carroll & Gloria Magaw - Map 4, Portion of Lot 16 – Ferguson Road
- 2) Charles & Joyce Rodrigue – Map 14, Lot 15C – 191 Emery Mills Road
- 3) Lee F. Dezan – Map 7, Part of Lot 41 – Norton Ridge Road
- 4) L. E. Littlefield Corp. – Map 12, Lot 30-3 – Silver Lake Road
- 5) Tracy DesFosses - Map 6, Portion of Lot 7 – Back Road
- 6) John & Joanne Chadbourne – Map 8, Lot 2B – Owls Nest Road

The meeting concluded at 10:55 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

This is the amended copy.

SHAPLEIGH PLANNING BOARD MINUTES
May 28, 2002

Page 1 of 11

Members in attendance: Roger Allaire (Chairman), John Caramihalis (Vice Chair), Diane Srebnick, Bill Hayes (Alternate), Madge Baker (Alternate) and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer. *Atty. Durwood Parkinson was also present to advise the Board with respect to condominiums.*

Site Inspection began at 6:30 p.m. - Best Possible Location – Enclose Underside of Camp & Existing Patio Area – Alan S. Durant & Gerine E. Ranagan – Map 44, Lot 56 (209 Silver Lake Road)

Board members met at site and viewed an existing cabin. The structure appeared to be over 100 feet from the water. Mr. & Mrs. Durant were present. (Mrs. Ranagan was not present.) They showed the members approximately where the marked boundary lines were and where the proposed enclosed area would be located.

Planning Board Meeting started at 7:30 p.m.

The minutes of May 14, 2002, were read and accepted as amended.

Madge Baker would be a regular member as she was on the Board at the time Kettle Pond Cabins Resort was approved.

The following agenda items are written in the order they were discussed:

17-Unit Condominium Complex “Kettle Pond Condominiums” – Findings of Fact, Declaration, By-Laws & Rules and Regulations – Patrick Hannon – Map 7, Lot 3 (Shapleigh Corner Road)

Present at the meeting representing the Kettle Pond Condominium project was Mr. Patrick Hannon, owner of Square Pond Marina, Inc. and Kettle Pond Resort. Also, Mr. Lou Neito, who works for Mr. Hannon and has represented him at past meetings, was also in attendance. In addition, Attorney Chris Chandler was present representing Mr. Hannon on this project with respect to creating the Memorandum, Declaration, By-Laws and Rules and Regulations and co-creating the Findings of Fact (along with the Planning Board), for the “Kettle Pond Condominiums”. Lastly, Andrew Nadeau of Corner Post Land Surveyors was present to answer any questions regarding the surveyed plans of the property.

To aid the Shapleigh Planning Board in reviewing this proposal was Attorney Durwood Parkinson, who has knowledge of Condominium Law as written by the State of Maine.

Roger Allaire started the meeting by asking Atty. Chris Chandler and Patrick Hannon if they could explain the “Liquor License” for Kettle Pond Cabins?

Atty. Chandler stated, “Kettle Pond Cabins Administration Office has a store, where they sell catsup, disposable cameras, candy bars, etc. Part of that convenience store has an *off-premise liquor license*. We tried to find the Conditional Use Permit but we weren’t able to find it, but we have a lot of C.U.P.’s so we’re not sure where it is.” Atty. Chandler further stated, “It is my understanding the Board’s concern is they don’t want sales on the premises of the Condominiums but there are separate parcels and when this (Kettle Pond Condos) is approved, they will be owned by separate entities. One will be owned by Pat (Hannon) the other will be owned by Kettle Pond Development Corporation, LLC. There will be no liquor sales on the premises and commercial activities shall be prohibited under the approval. The Office / Administration building is in the General Purpose Zone.” Mr. Hannon stated, “It is a commercial building.”

John C. asked what the Board was talking about? Mr. Hannon said, "There is a little office that sells convenience items." Diane S. asked, "Which building are you talking about?" Mr. Hannon stated, "Kelsey Lynn's building, the check-in office / administration building." John C. asked, "Why are we talking about this?" Barbara stated, "Because the permit / off-premise liquor license is for Kettle Pond Cabins, that is what the question is about."

Atty. Chandler, "We got the license for Kettle Pond Cabins because that is the operator of that side of the building and you couldn't get the license for Kelsey Lynn's, because you can't serve liquor currently in Shapleigh. The State Agency will permit the sale of liquor because there is no common door between Kelsey Lynn's and the administration building."

Bill H. asked, "Since there is no retail operations associated with Kettle Pond Resort, will this be a separate item?" In addition, "will there be a provision that you see for down the line, where liquor will be sold at Kettle Pond Condominiums? The license is issued to Kettle Pond Cabins, it won't be for Kettle Pond Resorts?"

Atty. Chandler, "There will still be a Kettle Pond Resort, which will operate the rental cabins." Barbara asked if they were going to have a store? Atty. Chandler stated, "Yes, a convenience store." Mr. Hannon said that the store "was not very big." Madge B. asked, "Shouldn't this store have a Conditional Use Permit? Isn't this a separate issue?" Diane S. asked, "It is not a store now, it's a check-in office, right?"

Bill H., "You (Mr. Hannon) consider it a retail store, because that is what was required to get a liquor license." Mr. Hannon stated, "Yes, there is about \$1200 worth of merchandise." Diane S. asked, "Wouldn't he (Mr. Hannon) need a Conditional Use Permit for that? He changed the use from an office to a store." Madge B., "I would have thought so."

Atty. Chandler, "Yes, if we don't have one (C.U.P.), we thought we did, but if we don't we will come back and get one." Madge B., "I don't believe you do." Mr. Hannon, "We shouldn't have been able to get the beer & wine license without someone signing off on that." John C. asked who signed off on it? Mr. Hannon stated, "That's the question we have been asking ourselves."

Barbara G. stated, "Actually isn't true, the State of Maine only requires you prove you have a retail store." They assume you have already received the necessary permits from the town. Mr. Hannon said, "At Square Pond Marina we needed to have the Code Enforcement Officer sign off." Barbara G., "Yes, because you were on the water (Shoreland Zone)." Mr. Hannon, "O.K."

Atty. Chandler, "It's a separate issue. We will come back and correct the problem and get a C.U.P. for this." Mr. Hannon, "It's not like we are not willing to do it."

Atty. Parkinson stated, "Can we put a stipulation on the approval that there will be no sale of alcohol at Kettle Pond Condominiums?" Atty. Chandler agreed.

Atty. Parkinson went on to say, "Let's make a statement that sale of liquor is not related to the Condominiums, that it is related to Kelsey Lynn's and you will come back to the Board with more information, and seek approval for it." Mr. Hannon said that it was Kettle Pond Cabins, not Kelsey Lynn's. Atty. Parkinson stated, "Fine, let's just be sure there is no sale of liquor at the Condos." Atty. Chandler, "We can put this in the Findings of Fact."

Barbara G. asked, "Does this mean there is not a Condominium Office in Kelsey Lynn's?" Atty. Chandler replied, "What's in Kelsey Lynn's is for the rental office and store, but it is not part of the Condos, the Condos are separate." This is a common way to rent condominiums.

Atty. Chandler went on to establish that Kettle Pond Development Corporation, LLC, would own the Condos. The office property is owned by Pat Hannon, and operated by Kettle Pond Resorts, Inc.

Madge B., "It would be helpful to us while trying to enforce, to know who owns what." Atty. Chandler stated he would submit a letter addressing this to the Board. Atty. Parkinson said that the letter should say there wouldn't be any sale of liquor, and who the owner is of the property. Madge B. stated in addition, the Board needs to know who the 'contact' person would be.

John C., "They can't sell liquor there now, they don't have a permit to do so." Madge B. and Barbara G. stated, "Yes they do." Steve M., CEO, "He has a state permit but he does not have the town's permission." Barbara G., "He does not have a C.U.P." John C. stated, "He needs one, so he can't sell liquor period, in the town of Shapleigh, until he gets a Conditional Use Permit by the town. He is doing something he is not supposed to be doing, he can't do it anymore. Now he knows it. He is doing it illegally."

Nothing further was discussed regarding the off-premise liquor license for Kettle Pond Cabins.

Roger A. asked Atty. Chandler if he had any questions with respect to the Findings of Fact as changed since the last meeting on Tuesday, May 14, 2002.

Atty. Chandler said the only part we (Mr. Hannon and Atty. Chandler) are not clear on is where it states "no off-shore boat tie-ups at Kettle Pond Condominiums". Is that in reference to the moorings? This is Section 4, Page 5 of 6 currently. "I was under the impression the Board had not adopted the position of no off-shore boat tie-ups at Kettle Pond."

Roger A. replied saying that there has been a lot of discussion as to whether we were going to be allowing off-shore moorings, and the intent was not to have boats tied to the shoreline as well as access in and out of the water through the property, other than through the approved docks. John C. said that there was also an issue of enforcement, who would enforce it? Did the town have jurisdiction?

Atty. Chandler asked if it is currently the town policy, if you are a resident of Shapleigh, could you have a mooring in a lake? Steve M., CEO stated that the town ordinance did not address it. You have to refer to State laws and he did not know if the state law addresses offshore moorings.

John C. said that the Board was looking at a commercial entity with multiple uses by multiple people. The comparison of a personal mooring vs. a mooring for boat rental differs. If Kettle Pond were to rent boats we would have to look further into this. Roger A. noted that if there were offshore moorings, there could be a navigation hazard. Bill Hayes reiterated that we did discuss the subject and that it would be hard to enforce.

Atty. Chandler stated that this was his only question with respect to the Findings as written.

Roger A. asked the Board if they had any questions with the Findings of Facts or Planning Board Action.

With respect to the Planning Board Action, Item #2, Diane S. asked, "Who will maintain the tank itself?" (She was referring to the 20,000-gallon water holding tank on the Kelsey Lynn property.) She further stated that #2 did not clearly address this. Diane S. stated that it was agreed at the last meeting that the Condominium would maintain the physical aspect, the tank itself, and the Fire Dept. would maintain the water level. Atty. Chandler stated that a letter would be drafted by him, addressing the issue of who would maintain the tank and who would maintain the water level. This needs to be clearly stated under this action.

Madge B. had a comment with respect to #7 of the "Specific Findings". The finding is "Does not cause an unreasonable burden on municipal solid waste disposal." Madge B. stated that under this item it should be added for further clarification, "These are small residential units, subject to the town's Growth Ordinance, therefore they place no undue burden." The Board agreed.

Again under Specific Findings, Madge B. thought there should be added to #8, which reads, "Does not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas." the following, "Kettle Pond will remain an undisturbed natural area." The Board agreed.

Under Specific Findings #9, which reads, "Does conform to local regulations, ordinances, development plan and comprehensive plan." Madge B. suggested the Board add, "When initially approved, prior to being built, the development met town requirements." Again the entire Board agreed.

In the paragraph titled "Finding on the Requested Waiver", Madge B. thought the Board should add when referencing both the street design and the issue of no second street connection on Route 11, the following, "both are accepted by the Board, providing, all conditions of approval regarding the use of streets **is fully complied with at all times.**" Madge B. further stated, "We need to make it clear we are not totally happy with this road issue, but we did it so we have to be fierce with respect to the roads, that is **they will be unblocked at all times.**" ***"The entrance must be kept open, otherwise it is not a safe exit."*** The Board concurred.

Steve M. asked if there was an easement for the road entrance (the road entrance is owned by the Kelsey Lynn's building). Atty. Chandler stated the easement was written on the plan presented. "The new company will own what is accepted on the plan." He stated that it would be recorded once the plan was approved. Atty. Parkinson asked if the road striping for the entrance was also on the plan? Atty. Chandler stated, "Yes".

John C. had a comment regarding "Specific Findings" #8, "Does not have an adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites or rare and irreplaceable natural areas". This item speaks of 1) no new units being built, and 2) no new cabins in the Shoreland Zone. John felt this was redundant. It should read instead, "No new units to be built on the property". John wanted to be sure the Condominium lot would not be altered in the future. Atty. Chandler stated that it could not be due to the fact the residential density is already at the maximum allowed. Bill H. asked if there could be more units added if more land was acquired? Atty. Chandler stated, "Yes, but we would have to come back to the Planning Board." It would be easier to create a separate condominium unit.

John C. had a question regarding #18 of the "Specific Findings" which is "Does not unreasonably increase a great pond's phosphorous concentration." Specifically, the statement, "A fertilizer plan reducing phosphorus on the entire site shall be adopted." John C. asked if there was a specific date for this plan? Diane S. referred John to #6, of Planning Board Action, which states the plan must be presented by July 1, 2002 to the Planning Board. Atty. Chandler told the Board Mr. Hannon would like to use the State of Maine's recommendations for fertilizer that they address on their website. The Board did not have a problem with that recommendation.

Roger A. asked Atty. Chandler and Mr. Hannon if they were comfortable with the changes of the Finding of Facts as presented this evening. Both gentlemen said they were in agreement.

John C. asked Mr. Hannon who owns the Condominium land? Mr. Hannon stated that Square Pond Marina owns it but when it is approved it will be owned by the Owners Association (Condo Assoc.). John C. then said that in #4-7, of Planning Board Action, the statement should be changed to read “the Condominium owned land” instead of Patrick Hannon.

Atty. Chandler asked the Board if Mr. Hannon or the Condominiums wants to put the “bus stop” buildings back on the property, would they have to come back to the Planning Board? Mr. Hannon stated that they were portable, so he didn’t believe so. The Planning Board did tell Mr. Hannon he would in fact have to come to the Board prior to placing them back onto the property, as they are not part of the approved plan.

Roger asked the Board if there was a motion to approve the final plan?

John C. made the motion to approve the Final Plan, Findings of Fact as amended this evening, and the Declaration for the Kettle Pond Subdivision. Madge Baker 2nd the motion. All in Favor.

Best Possible Location – Enclose Underside of Camp & Existing Patio Area – Alan S. Durant & Gerine E. Ranagan – Map 44, Lot 56 (209 Silver Lake Road)

Mr. and Mrs. Durant were present at the meeting to answer any questions. Earlier the Planning Board did a site inspection of the property. Roger A. started the discussion asking the Board, as well as any abutters that may be present if there were any questions with respect to this project?

John C. asked Mr. Ranagan how old the septic system is and if there was a design for it in the file. Mr. Ranagan stated he did not give the Planning Board one, but he did receive a copy of the current septic design from the Town Hall and it is a fairly new system. Barbara G., the Planning Board Secretary, concurred that Mr. Durant did receive a copy of the septic plan from the CEO’s files. (The secretary placed a copy of the septic system plan in Mr. Durant’s file after the meeting.)

The Board, after the site visit concurred that the current location of the building was the best possible on site. It is 75 feet back from the roadway, beyond 100’ from the waters edge, and the combined side setbacks could not be improved by moving the structure. Because it is more than 100’ from the water, the 30% expansion, Shapleigh Zoning Ordinance 105-4(D) does not apply.

After careful review of the application and material presented, as well as a site visit, John C. made the motion to ***approve*** the proposed addition to the camp with the condition that all construction shall meet the Shapleigh Building Code. Diane S. 2nd the motion. Madge Baker abstained since she was not present at the site visit. All voting members were in favor. The Board told Mr. Durant, he would have to go to Steve. McDonough, CEO, for his building permit.

Conditional Use Permit – Convert Existing Middle of Building to Craft and Stove Shop for Retail Sales – Stephen J. Quartarone - Map 18, Lot 28 (Emery Mills Road / State Rte. 109)

Mr. Quartarone was present at the meeting and stated that he was here before the Planning Board to present his plans to use the existing retail space to have a stove and craft shop. Mr. Quartarone stated the hours of operations to be 7:00 a.m. thru 9:00 p.m., seven days a week. There would be a total of two employees on the premises. (This item had been reviewed with Mr. Quartarone at the 5/14/02 P.B. meeting.)

Roger A. asked Mr. Quartarone if the only change from the previous business that was located here was the addition of selling wood stoves? Mr. Quartarone stated, "that is the only change".

The Board asked if there was an existing bathroom. Mr. Quartarone stated, "Yes".

Roger A. reviewed the Standards Applicable to a Conditional Use Permit, Shapleigh Zoning Ordinance, 105-73.

The site distances had been calculated previously for this building and are well within the limits. Mr. Quartarone stated there would be no additional lighting added. Since the existing building plan is having no changes made to it, and it previously met all standards, after tonight's review it continues to meet the standards.

John C. asked if there would be any wood stoves used as a working display? Mr. Quartarone stated there would be one wood stove in use. It would be connected to the existing chimney, which has an 8" flu and meets the standards for a wood burning stove.

The Board asked Mr. Quartarone if he had designated parking areas and if so how many? In addition, asked was how many square feet did his section of the building entail? This figure was needed in order to calculate the number of required parking spaces. The Board referred Mr. Quartarone to Shapleigh Zoning Ordinance 105-43.B.(f) which states that there needs to be "One space for each 150 square feet, or fraction thereof, of floor area of any retail, wholesale or service establishment or office or professional building". Mr. Quartarone could not give the exact square footage of the building area he would be using. He did not know the exact square feet of the entire building either.

Mr. Quartarone asked the Planning Board how he would designate parking area on a crushed stone surface? "You cannot paint it?" Steve M., CEO, made the suggestion of using concrete stops up near the building. In addition, you could use concrete stops along the perimeter.

John C. added that you also needed to have a parking space for each employee in addition to the number needed for building area, in this case two extra spaces.

Since Mr. Quartarone did not have this information available, this item was tabled until the next meeting.

Amendment to a Conditional Use – Include Service & Sales of Boats at Boat Storage Facility for New Owner – Real Estate 2000 Representing Adam MacDonald & Alberto Medina – Map 7, Lot 3-2A – (938 Shapleigh Corner Road / State Rte. 11

Mr. Tom Worster of Real Estate 2000 was present along with the new owners, Adam MacDonald and Alberto Medina. Mr. Worster presented the Board with a new plan. This new plan stated that there would be no servicing of boats "inside" the boat storage buildings. There would be limited retail sales and that the boats for sale would be placed outside the building. In addition, Mr. Worster stating that he had spoken with Gary Utgard, the current Fire Chief, and Mr. Utgard stated that the Fire Dept. would like to have access for fire and safety equipment in front of the doors of the buildings and an open driveway. Mr. Utgard would be writing a letter for the Planning Board with respect to this issue.

John C. asked if the access to Kelsey Lynn's was currently still attached to the entryway for the boat storage facility. The answer was "Yes". John C. asked the new owners, Mr. MacDonald and Mr. Medina if they could foresee a problem in the future with allowing Kelsey Lynn's to use their exit? Mr. Hannon, who was in the audience, stated that there would be no problem with sharing this exit. He had an agreement with the

owners. Since this would be more of a problem for Kelsey Lynn's because Kelsey Lynn's does not own the entryway, than a problem for the boat storage facility, and since Mr. Hannon had no future concerns, it was nothing to worry about.

Roger A. stated, that per the State of Maine's new guidelines for State roads, this one exit shared by two businesses would be all that was allowed. Multiple entrances are no longer permitted for abutting properties onto a State road, for safety reasons.

Mr. Worster stated that the required parking is currently on the plan, on site, and marked. There will be up to 10 boats on display outside of the 1st storage building and this is shown on the plan. The Board reviewed the plan and it depicted the boats were at least 100' from Route 11.

There would be no additions to the electric on site. There is currently a telephone. There is no additional lighting proposed. No additional changes from the previously approved Conditional Use Permit for the boat storage facility. The hours of operation are stated to be 7:00 a.m. thru 9:00 p.m., seven days a week.

John C. asked if there would be any servicing of other equipment during the winter months, i.e. ATV's or snowmobiles? The answer was "No". They would be shutting down all servicing during the winter months due to the cold temperatures outside.

Diane S. made the motion to ***approve*** the Amendment to a Conditional Use Permit *with the following conditions*:

- 1) All sales and service of watercraft shall be outside of the building(s).
- 2) There shall be no more than 10 boats displayed at any one time.
- 3) Batteries shall be stored inside the boats and disconnected.
- 4) Hours of Operations shall be from 7:00 a.m. thru 9:00 p.m., seven days a week.
- 5) Empty boat trailer storage shall be behind Building #2.
- 6) A licensed waste management contractor shall remove waste oil and other hazardous material from the site.
- 7) There shall be no greater than 50 gallons of waste oil / hazardous fluids stored on site.
(Anything greater than 50 gallons requires DEP notification and a waste-handling permit, and the plan must be given to the DEP *prior to* accumulation of material).

John C. 2nd the motion. All were in favor.

Final Approval shall be upon submission of a ***letter from the current Fire Chief, Gary Utgard to the Planning Board Secretary regarding required clearance around buildings for fire and safety equipment access.***

14-Lot Major Subdivision Application – "Birchfield Place" – Applicant, Michael T. Morris – Owner, Ethelind Walker - Map 10, Lot 10A – State Route 11

Present at the meeting to review the Preliminary Plan was Mr. Michael Morris, the applicant, and Mr. Andrew Nadeau from Corner Post Land Surveying, Inc. The Preliminary Plan showed the current proposed lot layout. Additionally presented was a copy of the deed, an engineered drainage analysis and a high intensity soil survey.

This project will encompass 45.34 acres in the General Purpose Zone. It is a fairly flat piece of land and is currently classified as a woodlot / field. The proposed name of the subdivision is "Birchfield Place" and shall contain 14 lots / units to be built upon. Each lot will have an individual well and septic system. There shall be no common land. Fire protection is proposed to be an underground storage tank since the soil is much too sandy to hold water in a fire pond. Three waivers are being requested from the Town of Shapleigh Subdivision Ordinance, they are #1) Article 89-25, Retention of open spaces, #2) Article 89-30.A, Stone Monuments, and #3) Article 89-36, Sidewalks.

The Board and Steve M., CEO, asked Mr. Morris how he intended to contain the water for a 25-year storm plan. Mr. Morris stated that they were proposing to put in drainage ditches along the side of the roadway. The soil is very sandy and permeable; the water shall collect in the ditches and leach into the earth. The soil types are in the report presented to the Board.

Steve M. asked the Board if the front lot lines, being less than 200' for the lots around the cul-de-sac, would be considered acceptable as designed under Shapleigh Zoning Ordinance 105-19.B(4) "New building lots located at the end of a cul-de-sac may be designed so that they have 50 feet of street frontage, so long as the width is 200 feet at the location where the principal building is constructed"? Mr. Nadeau stated that where the actual building and setbacks would be beyond where there was 200 feet of frontage. On the plan you can see the delineation of the 200-foot mark. The units around the cul-de-sac will be set much farther back than those that have the 200 feet of road frontage at the road.

John C. had a concern with Lot numbers 2, 8 and 10 as they abut Route 11. "Would they have driveways that enter onto route 11?" Mr. Morris stated "No, all the units shall access Route 11 from the one existing entryway". Roger A. went on to say that Subdivision Ordinance 89-28.C makes it clear that "lots with multiple frontages shall be avoided...".

Mr. Morris asked the Board if it was necessary for him to dig up the roadway and lay down 18" of gravel if he could have an engineer state that the gravel he must remove is of the same quality that he will have to bring in for the project. Mr. Morris felt that the existing gravel bed does not need to be excavated. Steve M., CEO, agreed that it is best to leave earth undisturbed, if possible, if it is gravel. John C. told Mr. Morris that he needs to be certain that the road will be in good condition years from now, especially since Mr. Morris plans to have the town maintain it in the future. Steve M. and the Board didn't have a problem with reducing the amount of gravel to be brought in if a licensed engineer determined that the existing soil would meet the town's road standards. The Board told Mr. Morris that he would have to show on the final plan where the engineer dug the test holes, as well as submit a copy of this report.

Mr. Morris reiterated the waivers being requested; the open space waiver, stone monuments, and sidewalks. Steve M. asked if these were in the subdivision ordinance? Madge B. said, "Yes, these are not dimensional requirements (they can be waived)".

John C. asked if there would be underground power? Mr. Nadeau stated, "Yes, it is on the plan."

Mr. Morris told the Board they would be putting in an underground 20,000-gallon water tank. The Subdivision would maintain the tank, and the Fire Dept. would maintain the water level. Mr. Morris would be speaking with Mr. Utgard to get a letter from him on what he requires with respect to location. Barbara G. stated she had spoken with Mr. Utgard and he would like the tank to be placed in the center of the cul-de-sac, for easy access for the Fire Dept. Mr. Morris would prefer this location himself.

The Board asked Mr. Morris if this becomes a town maintained road, who will maintain the tank? The subdivision won't be maintaining it? The Board asked Mr. Morris to ask Mr. Utgard what type of holding tank he wants put in (fiberglass, steel, concrete, etc.) and to ask if the Fire Dept. is willing to maintain it. In addition, it should be asked if Mr. Utgard feels that we need money up front for future expenses if the town's Fire Dept. will have to maintain it? This needs to be in writing.

John C. asked if the town would have to vote on the "tank" and the road being adopted by the town. Roger stated he thought they would, but to his knowledge this has not been done to date (with respect to the holding tank).

John C. asked if there was going to be a buffer strip of vegetation left between the lots and Route 11? He would like to see that on the plan. A 50' buffer strip if possible. Since we are not asking for open space, a buffer strip for privacy would be something to think about or adding vegetation.

Diane Srebnick had to leave at 9:30 p.m. Bill Hayes will be an active member.

Mr. Worster, who was in the audience, asked what the purpose of adding vegetation would be? It would be a noise buffer for the people in the development from the road noise of Route 11. Mr. Morris stated that he would be keeping the homes as far from Route 11 as possible.

Steve M., stated the Board should review Shapleigh Zoning Ordinance 89-31.B, "Except for normal thinning, landscaping and cutting trees to provide access to direct sunlight, existing vegetation shall be left intact to prevent soil erosion. The Board shall require a developer to take measures to correct and prevent soil erosion in the proposed subdivision." Mr. Morris stated he wanted to disturb as little as possible. He wants the subdivision to be natural. All the septs and lawns shall be in the front yard, leaving the backyards as they are now. Steve M. stated that we cannot predict the future so we need to address this now.

With respect to Subdivision Ordinance 89-12.(12)(a)[1], Roger A. stated that he would request Mr. Morris get a letter from the Superintendent of Schools, currently Fred Bechard, stating that he is aware of this subdivision and that it won't place undue burden on the school system. In addition, 89-20.C which states "If the superintendent of schools indicates that there is less than 20% excess classroom capacity existing in the school(s) which will serve the subdivision, considering previously approved but not built subdivisions, the Board shall require the plan to be divided into sections to prevent classroom overcrowding".

John C. asked if Growth Permits don't cover this issue with respect to fire protection, rescue and schools? Roger A. stated that under "subdivision" it is addressed differently. Roger A. also stated that it is a standard. Mr. Morris asked if the Growth Permits are used up, what difference does this standard make? Bill H. stated that it allows the Board to reduce the impact to the community.

Roger A. further stated that this letter could help the area get more school funding, as it shows the State the subdivision is coming and more class rooms may be required. It shows impending growth. John C. agreed. John C. stated, in the past, when the superintendent was asked why are we adding more trailers to the existing school if we are not over capacity, his statement was he was adding diversity, i.e. different classes such as art, music, etc. Adding more people to Shapleigh would decrease capacity. Roger A. stated that the existing septic system at the Shapleigh School is already on the verge of failing, so the school system needs to know about the possibility of more children being added to the school system.

Mr. Nadeau stated, "Shapleigh will have 33 new homes 'only' regardless of where they come from." "Why do we need this letter?" Roger A. and John C. felt this letter was still necessary.

Roger A. read through the requirements of a major subdivision. Madge B. asked Roger A. about the Subdivision Ordinance 89-25.A, where the town may ask the developer to make a payment in lieu of dedication of land, have we done this? Roger A. did not recall this being done, but one subdivision did donate a fire hose in lieu of a fire pond. Mr. Nadeau stated that Mr. Morris was willing to donate land to the town, but the Board did not believe the town would want land in this location. He did not feel the Board could now ask for money. John C. agreed, as did the other Board members. John C. stated that this should probably be a waiver so it doesn't come up again during the final approval.

John C. asked Mr. Morris and Mr. Nadeau if instead of using 1.9 Acres on Lot #12 and 1.98 Acres on Lot #1, as written on the plan, could he put the square footage so it is understood there are 80,000 square feet as required. Mr. Morris stated that he was going to redesign the plan and each lot would have at least 2 Acres. John C. still would like to see square feet on the plan. Mr. Morris did not have a problem with that.

John C. was concerned with the existing speed limit on Route 11 where this subdivision will exit. Madge B. and Roger A. both stated that this is not a subdivision requirement. This is handled by the State. John C. thought that perhaps the town should write a letter requesting *again* a speed limit reduction in this area.

Roger A. asked Mr. Morris and Mr. Nadeau if they would be ready with tonight's requested additions by the next meeting? Mr. Nadeau did not believe so. He would inform Barbara G., the P.B. Secretary, when he would be ready so she could send out the Notice to Abutters and schedule the Public Hearing. Roger A. told him to be sure it is 10 days in advance of the meeting he wishes to attend.

A site visit will be scheduled for Wednesday, June 12 at 6:30 p.m.

Before concluding John asked what they were going to use for surveying rods. He was concerned if they only use two-foot rods, someone could easily pull them out. Mr. Morris stated he wasn't opposed to concrete post or four foot rods. The Board stated either would work. Nothing further was discussed.

Conditional Use Permit – Craft Brewing Supply Shop (Beer & Wine) in Home – Steven Loignon – Map 1, Lot 11A-1 (37 Grant Road)

Mr. Loignon was present to discuss his plan to sell wine and beer supplies out of his home. He stated that he had been approved previously to do so, but the business never materialized. Roger A. remembered the proposal.

Mr. Loignon stated there would be no liquor sold or consumed on the premises, only the ingredients to make wine and beer would be available. The hours of operations would be 9:00 a.m. thru 1:00 p.m. and by appointment only.

Mr. Loignon had a sketch plan which showed his existing home, the store dimension, which is an area 20 X 26, and where the entrance to the store would be. The driveway was shown along with two parking slots.

John C. asked Mr. Loignon exactly where he was located. Mr. Loignon stated that Grant Road was off of Deering Ridge Road. John C. stated that he would like to see a sketch showing where his driveway was with respect to Grant Road. Roger A. did state that this was a dead end road with very little traffic. The Board did insist however, they would like to see how long the driveway is and where it enters Grant Road. John C. didn't feel site distances would be an issue at this location.

Roger A. told the Board that a brewing permit was granted to Mr. Loignon seven years prior. At that time he met all the requirements for a Conditional Use Permit.

The Board asked Mr. Loignon to bring in his sketch plan with the driveway. The Board did not see anything else with respect to C.U.P. that was necessary for his application. A Notice to Abutters will be sent out and the Board shall vote on this application at the next meeting.

The Board made the following motions with respect to the election of officers:

Madge Baker made the motion to have Roger Allaire continue to be Chairman of the Planning Board, Bill Hayes 2nd the motion, all in favor. Madge Baker made the motion to have John Caramihalis continue to be Vice Chairman of the Planning Board, Bill Hayes 2nd the motion, all in favor. Madge Baker made the motion to have Barbara Gilbride continue to be the Planning Board Secretary, Bill Hayes 2nd the motion, all in favor.

GROWTH PERMIT(S) – There is one available Growth Permit. Application Number (1) will be reviewed this evening. All other applications will be kept on file until acceptance or the end of the year, whichever comes first:

- 1) **Denied** (Insufficient Residential Building Area) - Charles & Joyce Rodrigue – Map 14, Lot 15C – 191 Emery Mills Road
- 2) **Granted #15A-02** - Lee F. Dezan – Map 7, Part of Lot 41 – Norton Ridge Road
- 3) L. E. Littlefield Corp. – Map 12, Lot 30-3 – Silver Lake Road
- 4) Tracy DesFosses - Map 6, Portion of Lot 7 – Back Road
- 5) Henry Gierie & Diana Rose – Map 12, Lot 15 – Newfield Road
- 6) John & Joanne Chadbourne – Map 8, Lot 2B

The meeting concluded at 10:30 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

SHAPLEIGH PLANNING BOARD MINUTES
Wednesday, June 12, 2002

Page 1 of 10

Members in attendance: Roger Allaire (Chairman), John Caramihalis (Vice Chair), Diane Srebnick, Bill Hayes (Alternate), and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer.

Site Inspection began at 6:30 p.m. - 14-Lot Major Subdivision Application – “Birchfield Place” – Michael T. Morris – Map 10, Lot 10A – State Route 11

The Board met at the site and viewed an extremely sandy, relatively flat piece of land. There is little vegetation except for low bush blueberries and small stands of birch trees.

Planning Board Meeting started at 7:30 p.m.

The minutes of May 28, 2002, were read and accepted as written.

The following agenda items are written in the order they were discussed:

17-Unit Condominium Complex “Kettle Pond Condominiums” – Findings of Fact, Declaration, By-Laws & Rules and Regulations – Patrick Hannon – Map 7, Lot 3 (Shapleigh Corner Road)

Present at the meeting on Tuesday, May 28th, in addition to the Planning Board members, were: Atty. Chris Chandler, representing Patrick Hannon; Patrick Hannon; Lou Neito, an employee of Mr. Hannons; and Andrew Nadeau, of Corner Post Land Surveyors, also working for Mr. Hannon. After lengthy discussion the final plan was approved on the 28th along with changes to the Findings of Fact.

At tonight’s meeting there was no one present to represent Mr. Hannon, nor was Mr. Hannon present. His Atty. Chris Chandler stated to Barbara G. today, per a telephone conversation, he would like the Planning Board to review the Findings and send him the signed copies that need to be recorded. The Planning Board reviewed the revised Findings of Fact to be certain all changes agreed upon were made.

Bill Hayes asked the other members how the entrance to the parking lot would be monitored to be certain it would not be blocked in the future from people parking at the Kelsey Lynn’s property. Roger stated it would be an issue for the Code Enforcement Officer to monitor and possibly the Sheriff to enforce. The Board can only be certain provisions for safety are adopted; they cannot enforce it.

All members present signed the *approved* Findings of Fact. Barbara G., Planning Board Secretary, will mail the Findings; along with a letter stating all necessary recorded copies for the Board must be returned within 90 days of approval.

Roland Legere asked if he would be able to read the Findings when they are returned to the Board. Roger told Roland that all Planning Board files are open to the public to review.

Nothing further was discussed on this issue. All plans have been approved and signed by the Planning Board.

Conditional Use Permit – Convert Existing Middle of Building to Craft and Stove Shop for Retail Sales – Stephen J. Quartarone - Map 18, Lot 28 (Emery Mills Road / State Rte. 109)

Mr. Quartarone was present at the meeting to present his parking plans for the proposed retail space to have a stove and craft shop. This information was requested of Mr. Quartarone at the last P.B. meeting on the 28th of May. The Board asked how Mr. Quartarone planned to designate the parking spaces on the gravel parking area? Mr. Quartarone stated he would use numbered stakes. He did not want to use cement barriers, as suggested at the previous P.B. meeting, fearing someone may back into or over one.

John C. asked Mr. Quartarone if he was planning to put any plants between the parking slots and the road. John C. was very concerned with the headlights from parking cars shining onto Route 109, possibly disturbing passing traffic. John C. also asked how far from the road the parking slots would be? In addition, the Board asked if there would be crushed gravel over the entire parking area, or just the area in front of the building?

Mr. Quartarone stated the parking slots were approximately 20 feet from the edge of the road but could be moved farther back if the Board required it. He did not plan on putting any additional plants in on the property, especially in this area, since road salt and sand would kill anything he tried to plant. Also, this area is nothing but gravel, making it a poor area for plants to grow. Mr. Quartarone told the Board he did not intend to add any additional crushed gravel since the entire parking area that exists is gravel and is also relatively flat. He did not see a need to add anything more.

Roger reviewed the following Basic Performance Standards with respect to this project:

- 1) #105-21. • Traffic - The access onto Route 109 is safe and the Sight Distances are well within the limit.
- 2) #105-22. • Noise - There will be no additional noise from this business. The original C.U.P. was also a craft shop. The only addition is selling wood stoves.
- 3) #105-23. • Dust, fumes, vapors and gases. - The only additional gases shall be from one wood stove being use for display. This does not pose a health hazard.
- 4) #105-24. • Odors - No odors will be generated.
- 5) #105-25. • Glare - No additional lighting is being added.
- 6) #105-26. • Stormwater runoff. - The original approved C.U.P. addressed stormwater runoff; nothing has changed.
- 7) #105-27. • Erosion control. - The original approved C.U.P. addressed erosion control; nothing has changed.
- 8) #105-28 • Setbacks and screening. – There is one propane tank on site; it is screened. This proposal does not change the exterior of the building.
- 9) #105-29 • Explosive material. – None is being generated.
- 10) #105-30 • Water quality. – No outdoor storage of hazardous material that could leach into the water supply.
- 11) #105-31 • Preservation of landscape: landscaping of parking and storage areas. – The building and surrounding landscape is not changing from the previous approval.

John C. stated he would like to see something done with respect to a buffer between the property and the adjacent properties.

- 12) #105-32 • Relation of proposed building to environment. – The approved building fits well with other buildings in the surrounding area.
- 13) #105-33 • Refuse disposal. – Mr. Quartarone will handle all refuse.
- 14) #105-34 • Access control on Routes 109 and 11. – There has been an approved D.O.T. permit for this property and site distances are in compliance.

John C. asked Mr. Quartarone if there is a designated entrance and exit? Also, is there a sign designating entrance and exit onto Route 109? Mr. Quartarone stated he did not have signs currently but would place some if required. John C. stated Mr. Quartarone might consider it for safety reasons.

Roger asked if the entrance / exit exceeds 26 feet? This is all that is allowed by the State of Maine for entrance onto a State road. Mr. Quartarone stated the entrance is currently 26 feet and he does not intend to change that.

John C. spoke to the Board stating he would like to see the parking area along Route 109 moved farther back from the road if the Board did not request a buffer zone with trees placed between the parking area and the road. Mr. Quartarone stated he did have room to move the parking area back from the road. He did not object to doing this. Diane S. spoke to the Board and Mr. Quartarone, stating that we did not want to move the parking back so far that cars were backing into each other (there is parking in front of the building also).

The Board asked Mr. Quartarone about the sign he would use. Mr. Quartarone stated he had already spoken with Steve M., CEO, with respect to the sign and presented the plan to him. It has been approved, Steve M. concurred. The sign remains in the same location that the previous sign stood.

Roger read the Standards Applicable to a Conditional Use Permit, 105-73.G:

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat. **There are no spawning grounds on site 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 plan wants businesses along Rte. 109.**
- 4) Traffic access to the site is safe. **It is.**
- 5) The site design is in conformance with all municipal flood hazard protection regulations. **It is.**
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. **There is an approved septic design for the site, and it has been installed.**
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. **None are being generated.**
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. **Previously approved on original C.U.P.**
- 9) Adequate provisions to control soil erosion and sedimentation have been made. **Previously presented and approved on original C.U.P.**
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. **There is access to Lower Mousam Lake across the road. The water supply is adequate for this business.**
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. **There is an existing approved plan. None of the neighbors have shown that they are bothered by the appearance of the existing business nor the business activity itself.**
- 12) All performance standards in this chapter applicable to the proposed use will be met. **They shall.**

Diane S. made the motion to approve the Amendment to a Conditional Use Permit to operate a craft and stove shop with the following condition(s):

- 1) **The hours of operation shall be 7:00 a.m. thru 9:00 p.m., 7 days a week.**
- 1) **There shall be no more than four employees.**
- 2) **There shall be no additional lighting added to the site.**

John C. 2nd the motion. All voting members in favor.

Conditional Use Permit – Craft Brewing Supply Shop (Beer & Wine) in Home – Steven Loignon – Map 1, Lot 11A-1 (37 Grant Road)

Mr. Loignon at the previous meeting on May 28, 2002 presented an application and plan. On this plan it showed the existing home layout at the basement level, the driveway location, proposed shop location, as well as the proposed parking area. It did not show where the driveway exited onto Grant Road, or the location of the nearest neighbor's driveway, if applicable. The Board did request this information.

Mr. Loignon was not present at this meeting, as access to the meeting hall is very difficult for Mr. Loignon's handicap. Barbara G. did receive a plan from Mr. Loignon showing Mr. Loignon's driveway, Grant Road, and the location of his neighbor's driveway (Mr. White). In addition, there was an arrow to show the direction to travel to get to Deering Ridge Road.

Roger stated again that Mr. Loignon was proposing to sell the ingredients to brew beer and wine, but there would be no alcoholic products produced on site. The name of the shop would be "Shapleigh Hops Craft Brewing". The room that will be used for selling the products is 20 X 26 feet in size and is handicapped accessible.

Roger reviewed the Basic Performance Standards:

- 1) Traffic Access to the Site is safe.
- 2) There shall be no noise generated.
- 3) There shall be no dust, fumes, vapors or gases generated (there is no brewing taking place).
- 4) There shall be no offensive or harmful odors.
- 5) There will be no glare on site, as there are no changes to the existing building.
- 6) There are no changes to the site and the existing building has no problems with respect to stormwater runoff.
- 7) There are no changes to the site or existing building; no land is to be disturbed by this project.
- 8) There are no changes to the site or existing building; no additional screening is required.
- 9) There are no explosive materials on site.
- 10) There are no chemicals or hazardous materials on site; water quality shall not be affected.
- 11) Parking area as designated is adequate; current driveway is adequate; there is plenty of vegetation as a buffer on site. Nothing is going to be changed with this C.U.P.
- 12) The home is not changing and is harmonious with the existing homes in the area.
- 13) There is no additional refuse being generated with this business. Personal refuse is taken care of by Mr. Loignon.
- 14) Access control on Routes 109 & 11 - N/A

Roger read the Standards Applicable to a Conditional Use Permit, 105-73.G:

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat. ***There are no spawning grounds on site 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 plan allows home-based businesses.***
- 4) Traffic access to the site is safe. ***It is.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is an approved septic design for the site, and it is installed.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***None are being generated.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***Home meets all code requirements.***

- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The home meets all building code and zoning requirements.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***There is access to a fire hydrant located nearby on Deering Ridge Road. The proposed use does not use additional water.***
- 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. ***The location of the existing home, as well as vegetation surrounding the home will be adequate. There is no noise, glare, fumes, etc. being generated.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Diane S. made the motion to approve the Conditional Use Permit with the following condition(s):

- 1) The hours of operations shall be 9:00 a.m. until 1:00 p.m. on Saturday. All other hours of operation shall be by appointment only.**
- 2) There shall be only one employee.**
- 3) Any sign to be placed on site must be approved by the Code Enforcement Officer.**

John C. 2nd the motion. All voting members were in favor.

Best Possible Location – Rebuild Collapsed Cabin with 30% Expansions – Albert Fournier – Map 27, Lot 22 (26 Point Road)

Mr. Fournier was present at the meeting and brought to the Board *new* plans to replace the existing collapsed cabin, along with volume and square foot calculations for his proposed expansion.

The existing camp has a 20' X 40' footprint, excluding the attached garage. Mr. Fournier told the Board he would like to keep the attached deck & garage if possible. The Board, after doing a site review at this property, May 14, 2002, was not sure the existing garage and overhead cement deck was safe in its current condition. The Board made the decision to have Steve M., CEO, look at the structure and determine if the structure can remain or must be removed, with the option of being rebuilt. Mr. Fournier did not object.

The Board did feel the Best Possible Location for the proposed structure would be in the existing footprint. The Board did not want the building moved any closer to the water; nor closer to the road. Moving the building would not bring the setbacks closer to being in compliance.

The Board reviewed Mr. Fournier's volume and square footage calculations and since Mr. Fournier still was not 100% sure of what needed to be included for the proposal, the Board asked that Steve M., CEO, go to the site and make certain the plans would not exceed the 30% expansion limit. Steve M. agreed, as did Mr. Fournier.

Bill Hayes asked if the Board had the ability to change the size / dimensions of a proposed building if it would create a better location with respect to setbacks? For example, does Mr. Fournier's proposed building have to be 20 X 40 feet in size. Roger stated that the Board did, in fact, have the ability to change the footprint if it was best.

There were several neighbors present with concerns over appearance of the new home. Mr. Fournier wanted to build a cape-style home over a 20' X 40' foundation. The neighbors felt the roof pitch might not look right.

Roger stated that the Board has the authority for location and size of the structure, not “appearance”. If the home was engineered correctly, meeting the building codes and zoning requirements, Mr. Fournier would have the right to build it.

John C. felt that where the building is now would be the best location because moving it would disturb earth. The land in this area starts to slope down toward the water very quickly and removing the current vegetation would not be in the best interest of the lake. It does appear it would be possible to move the current foundation four feet closer to the existing driveway, toward the Cunningham property. This would not cause undue harm to the area or create a large setback problem. That seems the only option. With this option, the home could possibly be 34 X 24 feet in size, instead of 40 X 20.

Other Board members still preferred the current location and size of the building.

John C. made the motion to approve the application for Best Possible Location with the following condition(s):

- **Steve M., CEO, shall determine the size of the new building and it must not exceed the 30% expansion allowed per Shapleigh Zoning Ordinance, 105-4.D(1).**
- **The building must be built within the original footprint. It cannot go closer to the high water mark (43 feet) nor closer to the road (30 feet). It may, however, encroach four feet toward the *Cunningham property only*, if necessary, and it must meet all other imposed requirements.**
- **The Code Enforcement Officer shall determine the location of the building.**

Diane S. 2nd the motion. All voting members were in favor.

One of the neighbors was concerned about the time frame for rebuilding a structure on the waterfront. Erosion could be a concern. Roger stated that this was a D.E.P. issue and Mr. Fournier would have to follow the management practices as addressed by this department. He would have received the rules when he applied for his Permit by Rule from that department. Mr. Fournier did state he had the rules and would abide by them.

The Board again stated Steve M. would oversee this project and handle the exact location based on the parameters approved.

Conditional Use Permit – Extend Deck for Therapeutic Use of Hot Tub – Roger van Baarle - Map 34, Lot 16 (158 Cedar Drive)

Mr. van Baarle was present at the meeting and spoke to the Board about his reason for this application. Mr. van Baarle stated, “I’ve had one knee replaced and I’m currently looking at having the other one done”. At present he needs to have therapy, but it is not possible to go to therapy daily, and without it he is in a lot of pain. His doctor had suggested a hot tub for its therapeutic benefit.

Mr. van Baarle is asking the Board to be able to expand a deck that currently exist, to accommodate the size of the hot tub, as well as, leaving enough room for the handicap ramp that is currently in place. The proposed expansion is approximately 4’ X 7’ and does not go any closer to the water.

Diane S. asked Mr. van Baarle if this expansion is accepted, will he still be within the 10% limit for lot coverage per Shapleigh Zoning Ordinance 105-18? Mr. van Baarle did think he exceeded this limit by approximately 5%.

Steve M., CEO. asked if the Zoning Ordinance 105-4.D(8), Disability access, could allow Mr. van Baarle to expand the size of this deck, even though the lot coverage issue was already above the maximum allowed? Mr. van Baarle also added that he was not adding to the footprint of the property, just expanding an existing deck. The Board told Mr. van Baarle that this deck still had to be considered with respect to the 10% rule.

Bill Hayes asked Mr. van Baarle if he had an “existing” cement pad at ground level where he could place the hot tub. Mr. van Baarle said there were existing cement pads under the deck but they were not easy to access. Bill H., speaking to the other Board members, addressed a concern with allowing this deck expansion, seeing it as a way for others to come in and claim hardship to circumvent the zoning ordinance requirements. Bill H. did not feel the Board should step outside the ordinance.

Diane S. read S.Z.O. 105-4.D(8)(b), which states, “Permission granted under this subsection is restricted solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability, and such installation or construction must be built according to the BOCA National Building Code and Life Safety Code. The term ‘structures necessary for access to or egress from the property’ is defined to include railing, wall or roof systems necessary for the safety or effectiveness of the structure.” Diane S. felt that this was directly related to items such as wheel chair ramps or chair lifts, as in the town hall; it was not referring to items such as hot tubs.

John C. felt that this addressed two separate issues, and possibly the hot tub would fit within the scope of this description?

Roger stated that any handicap access structure needed to be reviewed every three years. If it was no longer needed, the structure would have to be removed, this includes a deck expansion. Diane S. and Bill H. still concurred that an addition to a deck for a therapeutic hot tub was not within the scope of ordinance 105-4. This ordinance they felt addresses access and egress only. This will be discussed further at the next meeting.

Roger scheduled a site inspection for the following Planning Board meeting on June 25th at 6:30 p.m.

“8-Lot” Major Subdivision “Goose Pond Overlook” – Northwoods Land Company of Maine, LLC, Craig Higgins of Development Services, Inc. Representing – Map 7, Lot 3 (Rte. 11 & Dogwood Rd.)

Mr. Craig Higgins was present to review the preliminary application dated April 16, 2002. A copy of the application was mailed to each Board member prior to this meeting.

In addition to the application, Mr. Higgins passed to each member a letter dated May 15, 2002, which was mailed to Art Ingersoll of the Mousam Lake Snowmobile Club and Square Pond ATV Club. This letter addressed the issue of access for the these clubs over a portion of Tax Map 10, Lots 2, 6A and 7. These clubs may use a section of these lots as long as they “assume safe responsible activities”. This permission may be revoked at any time if the property is damaged. In addition, Northwoods is exempt from any liability. Additionally in this letter, there is a 50’ wide Snowmobile Easement along the northerly side of Hodgdon Road, Tap Map 7, Lot 5. This piece is on 14.47 acres of land that is to be gifted to the Town of Shapleigh. The letter concludes “the use of ATV’s on the property is of concern for both privacy and environmental reasons”; therefore if ATV’s do not use the property responsibly, their rights to pass over this property shall be revoked. The Board had no discussion with respect to this letter at this time.

John C., after reviewing the plan, had a concern regarding the entrances onto Rte. 11, which are within 250’ of the entrance to the Shapleigh Post Office. It may be necessary to have the Post Office use the subdivision road to access Route 11; otherwise, there will be too many entrances onto this State road. Mr. Higgins did

not have a problem with this suggestion. Mr. Higgins did state, however, that he had no right to “make” the Post Office use the subdivision road. This would be something he could propose and he will let the Board know how the Post Office feels about this idea.

Mr. Higgins gave to each Board member a document named “Goose Pond Overlook, Conditions of Approval”. Below are the 10 conditions and what, if anything, was discussed for each condition.

- 1) All lots shall be served by drilled wells; dug wells are prohibited.
- 2) No fertilizer containing phosphorus ~~may~~ shall be used within 250 feet of any water body (Upper or Lower Goose Pond) or wetland. ***Mr. Higgins stated that the only fertilizer accepted that may be used in these areas is 10-0-10. This is a no phosphorus fertilizer. There are marked buffer strips on the presented plan around wetlands, the above-mentioned ponds, as well as the man-made canal on Lot 5. Additionally, these areas shall not have any vegetation removed or building allowed on them. It shall be written in the deed.***
- 3) No motorized watercraft (except those with electric motors) shall be permitted on any property within the 250-foot Shoreland Zone of Upper Goose Pond. ***Mr. Higgins said this was the only way he felt he could ensure that there would be no motorized boats launched from the properties adjacent to Upper Goose Pond.***
- 4) Use of existing right-of-way access to Square Pond shall be limited to subdivision Lots #4, #5 and #6. ***Diane S. and Bill H. had concerns with this, since lots #5 and #6 could be further divided one time in the future, thus allowing more people access to Square Pond. Diane S. asked “why there needed to be access to Square Pond at all from this subdivision”. Mr. Higgins stated it is in the original deed and the owner of this property wants it to remain for these lots because it makes them much more marketable. Steve M., stated that he is constantly receiving telephone calls from people on Square Pond concerned with all the people who “now” have access to the Pond. The weekends see a high volume of people on the lake and current owners are not happy with the “right-of-ways” that currently exist. Again, Mr. Higgins stated that Northwoods would not be willing to remove this right-of-way.***
- 5) Subdivision Lots #5 and #6 may utilize the existing overhead utilities; all other subdivision lots shall have underground utilities. ***The Board members did not have a problem with a waiver for utilities (Subdivision of Land, Chapter 89-29, Utilities) for Lots #5 & #6.***
- 6) The first 200 feet of both Hodgdon Road and Post Office Lane will be constructed and paved to Town standards, with the balance of the roadway having a gravel travel surface 18 feet wide. ***Mr. Higgins stated that these roads are to remain private, unless they are upgraded in the future to town standards. Also, Mr. Higgins stated that there would only be only two homes beyond the 200 foot paved area to be accessed by the roadways. The Board will need to further discuss the roadways at the next meeting. Mr. Higgins also discussed curb cuts. He wanted to make these 28’ in width so any piece of large equipment would not have a problem turning onto Rte. 11. The Board said this would be a great idea, but the State of Maine D.O.T. only allows a maximum of 26 feet currently.***
- 7) On Lot #5, the vernal pool wetland shall be protected by a 100-foot wide “No Disturbance Buffer”. ***Mr. Higgins stated that this area cannot have buildings or removal of vegetation. Even though this is not considered to be in the Shoreland Zone, Northwoods is still willing to keep this area environmentally sound. Bill H. asked Mr. Higgins if he would be willing to put a 100-foot wide “No Disturbance Buffer” around the canal on Lot #5, instead of only 50’ as proposed? This canal is very important to the water quality of Square Pond. Mr. Higgins stated he would consider it.***
- 8) On Lot #4, the westerly offsite boundary shall be encumbered with a 100-foot wide “No Disturbance Buffer”. ***Mr. Higgins stated again that this means this area allows no tree cutting, earth disturbance, etc.***

- 9) The Mousam Lake Snowmobile Club shall be granted a “50-foot wide snowmobile easement that runs along the northerly side of Hodgdon Road”.
- 10) There shall be no further division of any lot created in the subdivision, except that Lots #5 and #6 shall be allowed one (1) further division, subject to review and approval by the Shapleigh Planning Board.

Steve M., CEO, expressed concern with how close this proposed subdivision was to the resource protection area on the Town of Shapleigh resource protection map. He asked Mr. Higgins to show where on the map this property was located to be certain it did not fall within this zone. Mr. Higgins did show him that though it is very near this area; it is not in resource protection. Mr. Higgins also stated that is why there are so many buffer strips, to protect as much of the natural area as possible. Mr. Higgins stated he would be willing to expand the final plan to show where the resource protection area begins.

#10 on the proposed plan presented states “There shall be no more than (1) further subdivision of any lot created within the subdivision, subject to review and approval by the Shapleigh Planning Board”. The Board was concerned with this as earlier it is stated that only Lots #5 and #6 can be further divided one time. Mr. Higgins stated this was the original plan drawn up; the final plan shall be changed to reflect the *approved* conditions of approval.

Bill H. asked how Lot #4 would access Square Pond? Mr. Higgins stated that there would possibly be a right-of-way through Lot #5 to get to Dogwood Road. Again, Steve M. expressed concern with too many people having additional access to Square Pond.

John C. stated he was not in agreement with the road proposal, i.e. only paving 200 feet of the proposed roadways. He mentioned that with all other major subdivisions being reviewed the Board required all roadways to be up to town standards. Mr. Higgins expressed again, these parcels are being marketed as wooded areas for 2nd homes or vacation homes. Northwoods did not feel paved roads fall within this criteria. The Board reiterated it shall discuss this issue further at the next meeting.

John C. reminded Mr. Higgins to be sure the Easement for the Snowmobile Club, as well as, any other easements need to be on the final plan prior to approval. Mr. Higgins did not have a problem with drawing them up prior to final approval and presenting them with the final plan. Diane S stated she would also like to see the conditions on the deed for Lots #5 and #6 stating they could be divided one more time *only*. Again, Mr. Higgins stated he would have these for the Board to review with the final plan.

The Board shall hold a Public Hearing for this project on Tuesday, June 25th at 7:00 p.m. The notice to abutters shall go out prior to this hearing.

Mr. Higgins stated that he would be *unable* to attend the Public Hearing but his Attorney, Anette Dearden would be present to answer any questions the Board or Public may have. Nothing further was discussed.

Conditional Use Permit – Replace Existing Retaining Wall – Jim Cortright – Map 43, Lot 40 (43 Pine Cone Drive)

Mr. Cortright was present at the meeting. He explained the current retaining wall is made of railroad ties and they are failing to hold the banking back to prevent erosion. Mr. Cortright is proposing to replace the railroad ties with interlocking cement blocks. The total height of the replacement wall will be three feet and there will also be a set of steps added to the right of the wall, leading to the water. A Permit by Rule has been applied for through the D.E.P.

John C. asked Mr. Cortright if he would be bringing in any dirt from off-site; the answer was no. The Board asked who would be building the retaining wall? Mr. Cortright stated he would be doing it himself with friends. He had been told that it is very easy to place interlocking blocks.

The Board did **not** have a copy of the Permit by Rule, and told Mr. Cortright he needed to bring a copy with him for the file to the next meeting.

A site inspection is scheduled for 5:30 p.m., on June 25th. A notice to abutters shall be mailed out.

Nothing further was discussed at this meeting.

Conditional Use Permit – Replace Concrete Wall w/Interlocking Block – Jeff & Brenda McKenzie – Map 20, Lot 26 (24th Street Mousam Lake)

Mr. McKenzie was present to discuss his application. He would like to replace the existing concrete wall on the waterfront with interlocking block, as well as extend the length of the wall to stop the erosion taking place on this piece of land. Mr. McKenzie stated that already there has been at least three feet of embankment that has eroded into the lake. Mr. McKenzie has applied for a Permit by Rule from the D.E.P. and a representative from that department was going to come to the site to evaluate. Mr. McKenzie stated that he did expect to be building the wall himself.

Steve M. noted that because Mr. McKenzie possibly would be only adding to the length of the existing wall, required setbacks could be a problem.

The Board scheduled a site visit for the next meeting, June 25th at approximately 6:00 p.m.

There were no Growth Permits available at this time, so no new permits were reviewed.

The meeting concluded at 10:50 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

Tuesday, June 25, 2002**AMENDED COPY as approved 7/9/02.**

Members in attendance: John Caramihalis (Acting Chair), Diane Srebnick, Madge Baker (Alternate) Bill Hayes (Acting Member), and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer. Attorney Durwood Parkinson was in attendance.

Site Inspection(s) began at 5:00 p.m.

- ***Conditional Use Permit – Replace Existing Retaining Wall – Jim Cortright – Map 43, Lot 40 (43 Pine Cone Drive)***

Members in attendance at this site visit were Barbara Gilbride, Bill Hayes, and Diane Srebnick. Also in attendance was Steve McDonough, CEO. At the site the members viewed a railroad tie retaining wall approximately three feet in height from the water level. It appeared to be collapsing. The site was relatively flat with no shrubs or trees at the water level. There was a sandy beach and the water did not go up as far as the retaining wall (even with the high water levels from recent rain).

- ***Conditional Use Permit – Replace Concrete Wall w/Interlocking Block – Jeff & Brenda MacKenzie – Map 20, Lot 26 (24th Street, Mousam Lake)***

Members in attendance were the same as above. At this location members viewed an existing cement wall approximately four feet high from the water line and seven feet long. Additionally, the wall seemed to be at least a foot in depth or more. The wall did have some damage to it, but overall it appeared to be functioning to retain the earth behind it. There was also a cement set of steps that had detached from the bank and now were resting partly in the lake. The surrounding ground did show wear from the rain and it did appear there was erosion taking place. This piece of property along with the surrounding properties have valid concerns for erosion.

- ***Conditional Use Permit – Extend Deck for Therapeutic Use of Hot Tub – Roger van Baarle – Map 34, Lot 16 (158 Cedar Drive)***

John Caramihalis was able to attend this site visit in addition to the above members. At this location the members viewed a rather large deck area that encompassed two sides of the residence. In addition, there was a ramp leading to the deck and a set of stairs leaving the deck to get to the water. Also on site were a garage and two outbuildings. Mr. van Baarle showed members where he would like to extend his deck to make it convenient for his hot tub, without blocking the access ramp or set of stairs. The members also took measurements of another corner of the existing deck to see if this was a possibility to place the hot tub without adding onto this structure. The site already exceeded the lot coverage limit of 10%.

Public Hearing began at 7:00 p.m. – ‘8 –Lot’ Major Subdivision “Goose Pond Overlook” – Northwoods Land Company of Maine, LLC, Craig Higgins Representing – Map 7, Lot 3 (Rte. 11 & Dogwood Rd.)

Representing Craig Higgins this evening was Anette Dearden. The Public Hearing started with Ms. Dearden reading a brief description of the project which went as follows:

- ◆ The development contains approximately 70 acres of land.
- ◆ There are 8 recreational lots, ranging in size from 1.86 acres to somewhat over 28 acres.
- ◆ The average lot density is 8.71 acres.
- ◆ There is a 14.47 acre lot that will be gifted to the town if the townspeople approve.
- ◆ Proposed for these lot(s) are single-family homes. Northwoods is marketing the land; they do not intend to build the homes.
- ◆ Lot(s) 1, 2 and 3 have frontage on Upper Goose Pond of about 300 feet.
- ◆ Lot(s) 5, 6 & 7 have approximately 800 feet on Upper Goose Pond.
- ◆ Lot(s) 4 and 8 do not have frontage on, or access to, the pond.
- ◆ Lot(s) 4, 5 and 6 will have deeded access to Square Pond via a right-of-way.
- ◆ The property has frontage on State Rte. 11, the Hodgdon Road and Dogwood Road.

John C. read a letter the Planning Board received regarding this project to the members and townspeople, it read, "Dear Board; I have a problem with the application for the 8-lot Major subdivision plan. When the company cleared the land and took out the trees they used heavy trucks and were turning around in Dahlia Street. They destroyed the road entrance to Dahlia off Dogwood and the hot top got broken up. I pointed this out to the crew foreman and he said they had a bond with the city and it would be repaired. The repair was never done. I think that the company should not be allowed a permit based on past performance."

Ms. Dearden answered this letter stating that the logger responsible is a 3rd party. The applicant, Northwoods, had no control over the cutting and removal activity. John C. stated that Bob Libby had the rights to the trees. Once those trees were removed his rights are subdued and he no longer has any claim upon the land. Unfortunately Northwoods Company now has to come in and clean up the mess created by the logging company, after-the-fact. The logger and Northwoods are two separate entities. Ms. Dearden agreed that Bob Libby had the rights to the trees and now Northwoods holds the land. Northwoods is not responsible for what Mr. Libby did, but the Board has every right to ask Northwoods to make provisions to try to restore some of what has taken place. John C. also told the townspeople that the town has no provisions in our ordinance to regulate tree removal. It has been brought up in the past at Town Meeting, but the citizens did not want it made into law. The only area the town can control with respect to logging is any area in the Shoreland Zone.

The following are a list of questions and answers that followed:

Citizen – "So now no one is responsible for the cleanup?"

John C. - The Board will look at the clean-up prior to approval. Mr. Higgins company may have to hydro seed, do plantings, etc. We did ask that this be done for a project on Pump Box Brook. We had a forester come in, at Mr. Higgins expense, to review and make recommendations.

Citizen - "What about Dahlia Road?"

John C. - Part of reviewing a subdivision includes erosion control, runoff and roads. The developer must prove he will repair damage to the roads, and prevent stormwater runoff.

Citizen – "Will Dogwood be used by trucks for construction?"

John C. – They can access the road like any other citizen building their home, we can't stop them.

Atty. Parkinson - "Is Dogwood Road a town maintained road?"

John C. – Yes it is.

Citizen - "Doesn't the town have some means to have trucks care for the roads?"

John C. – As far as I know there are no limits on any roads with respect to trucks or truck weight.

Citizen – "There is a 29 ton weight limit on Goose Pond Road."

John C. – That limit was set for the old bridge that existed. There is a new bridge so the weight limit may no longer be in effect.

Citizen – "On the map presented are lots A & B. Why aren't they being talked about?"

Anette D. - Lot(s) A, B, C and D are separate from this subdivision because they are across the street.

John C. - "How it works with subdivision, is if you have one parcel of land on this side of the street and another across the street you will get two separate bills, they being on two separate tax maps. When you do a subdivision you can't divide a parcel more than once in five years, so what he (Mr. Higgins) is doing is taking one lot, which is across a town road, dividing that in half, then taking another lot, which is across another town road and dividing that in half. He has included them on this map for reference only. He doesn't need permission to divide these lots, they are a separate piece of land."

Citizen – "Do these lots have access to any of the lakes?"

John C. – Lot(s) 4, 5 and 6 have a deeded right-of-way, according to Mr. Higgins, to Square Pond. In addition, Lot(s) A & B also appear to have this right-of-way.

Citizen - "Where is this access?"

John C. – "It is supposed to be in the original deed which we do not have a copy of I don't believe." John C. told Anette D. that the Board would need a copy of the "mother" deed.

Citizen - "I believe I own the piece of land that has the deeded access to this property."

John C. – What is your Map and Lot number?

The gentlemen proceeded to look at the town map and it was concluded his map and lot number was, Map 30, Lot 32.

Citizen – "This is one lot with one right-of-way. If this property is subdivided, now you have access for many people. Many more than originally intended?"

John C. – There is a stipulation that only Lot(s) 4, 5 and 6 have access to the lake and that only Lot(s) 5 & 6 can be divided one more time, for a total of possibly five lots having this access.

Anette D. – With a parcel of land this size, it can be assumed in the future it would become more than one lot, so it is likely the courts would rule in favor of multiple access. If you have a deeded right-of-way to a cow path from years ago, it is likely you now have the ability to drive your car over this right-of-way.

Madge B. was also concerned with the number of people who would now be using this right-of-way, thus increasing lake access in a small area.

John C. – First, we have to determine if Northwoods has a legal right to this right-of-way; second, we will need legal advice to determine if we can do anything about it.

Citizen – "What does it take to get a subdivision turned down?"

John C. – At the sketch plan phase, we tell the subdivider what the ordinances are and what they will have to do prior to approval. At that point, some applicants do not come back before the Board for further reviews, not wanting to have to comply with the ordinance.

Madge B. – A subdivision proposal gets turned down if the applicant does not meet local and state ordinance laws. It does help the Board during the review process, if the townspeople raise questions that we may ask the subdivider during the review process. This way we do not overlook anything.

John C. – If something is brought to our attention, like a destroyed access road, we can make a developer put up a bond to improve the road, in an appropriate time frame.

Citizen – "Has there been an impact study done on the increased number of people that are going to be going to the lake or on this piece of land?"

John C. – Not at this time, but that is a good idea.

Citizen – "What about the wetlands on this parcel? Did the State do studies for this?"

Anette D. – The State did not do these studies for the map. A soil scientist did delineate the wetlands for Northwoods.

Citizen – "Yes, this study was done for Northwoods and paid for by Northwoods, how objective is that?"

John C. – The soil scientist determines if a home can be placed on the property. They look at the land with respect to the septic, drainage, etc.

Citizen – "Why are these called 'recreation' sites?"

Anette D. – These are large lots and shall be marketed to those people who are looking for a get-away. Very likely it will be someone from out-of-state to be used as a summer home or 2nd home. Additionally there is a restriction limiting the number of homes on the lot to one, and only two lots can be divided one more time.

John C. – There can only be two more lots added to the 8-lot subdivision, again dividing lot(s) 5 & 6.

Also, prior to these lots being divided, they will have to come back before the Planning Board for approval.

Citizen – "How do you access Lot 6?"

Anette D. – It appears to have access through Evergreen Road.

Both the Board and the townspeople agreed the map presented was hard to follow with respect to abutters, Dogwood Road, etc. They would like to see a map showing more details of the surrounding property. Anette said she would give this information to Mr. Higgins.

Citizen – "Who owns Northwoods Land Company? Where else have they done developments?"

John C. – We do not know who the officers are. On the application it states that Michael Emmons is the owner.

Anette D. – You can get the name of the officers by contacting the State of Maine Attorney General. There are many developments statewide. Anette D. stated that she has been involved, being a realtor also, in other developments Northwoods has done. Again, you can call the state and ask what activity Northwoods Land

Company has in the State of Maine. She also said, that after the meeting she would give her business card to anyone who wanted a copy, as well as Mr. Higgins work number.

Roland LeGere – Roland L. introduced himself and spoke to the townspeople about his concerns for Goose Pond. He stated that he was worried about the water quality of Goose Pond and how its demise could affect the surrounding lakes. He said the pond was only 35 acres in size, so any surrounding activity must be carefully reviewed. Roland L. had deep concerns over an increase of human activity degrading the water quality, especially since electric motors would be allowed on this pond. Roland L. also passed to the Board members a letter from a Laurie Callahan talking about samples of plants they collected recently from Goose Pond. The letter explains that these plants are milfoil but she wasn't sure what type they were as yet. Roland's concern was that the electric motors, which 'chop' weeds, would distribute these plants in such a way that they will overtake the pond. Again, he stated that this is a silty pond and more activity would only harm the fragile environment.

William Roberts of the Board of Selectmen of Sanford, stated he was here because the town of Sanford had water rights to the Goodall Canal. Additionally, Shapleigh, Acton and Sanford work together with respect to the lakes and water supplies "as it is vital to all of us". Mr. Roberts wanted to tell the Planning Board to be sure to protect the canal and water supply.

Bill H. – "At the last meeting Mr. Higgins indicated there would be a 75' buffer strip, called a 'No Disturb Zone' around the canal. In this area there shall be no tree removal or soil disturbance of any kind." I will be cognizant and watchful of what happens in this area as my property directly abuts the canal. It is a big concern for me as well.

Citizen – "What is a legal lot size? What is the required frontage? Can Lot(s) A & B be divided?"

John C. – A lot must be 80,000 square feet, with 200 feet of road frontage.

Lot A cannot be divided due to the limited square feet. Lot B does not appear to have the frontage required.

Citizen – "The town needs to be concerned with sprawl. If you allow this subdivision, many more will follow."

John C. – It is not our job to stop development because we do not want any more people in Shapleigh. It is our job to interpret the ordinance voted on by the townspeople and be certain that any new development follows the criteria required by falling within the guidelines. We are not pro developer or pro conservation.

Madge B. – We can do impact studies, road studies, etc. to determine what is best, but we cannot prevent subdivisions.

John C. – The town has a growth ordinance allowing only 33 building permits / seasonal conversions a year. This is a mechanism the townspeople voted on to slow down development so the town would not be overwhelmed with things such as overcrowded schools, waste disposal, etc. Subdividers are only allowed two building permits per month, again another mechanism to slow growth. Also, there are strict guidelines we follow for subdivision to make things conform to the state and local ordinance.

Citizen – "We must see how this will impact the lake. We are the trustees of the lake?"

John C. – Again, we can ask that studies be done with respect to phosphorus emission, erosion, etc. Perhaps we can do more. The townspeople must bring to the Planning Board ideas to add to the ordinance if they want stricter guidelines.

Citizen – "Can we limit the pond to canoes?"

John C. – We can limit it, but who will enforce it? Enforcement is always the problem on the water.

Citizen – "Back to the deeded right-of-way. It wasn't meant for 20 families to have access over it. Can we do something about this."

John C. – We will need a legal opinion. We will have to review the deeds and see what if anything can be done to limit the access to Square Pond. If someone wants a new right-of-way to a pond, we can request an impact study and make a decision based on that. But if a right-of-way already exists, we can't change what is.

The Board will request a copy of the Deed for our Attorney to review and advise if there is anything we can do to restrict the right-of-way.

Citizen – “I live on a private road and I have a concern that the ATV traffic may increase. Is there any way we can be sure the ATV’s won’t use my road if they no longer have access over Hodgdon Road?”

John C. – There are some rights ATV’s have if they have been using existing roads for a long period of time. One of those roads is Hodgdon Road. Mr. Higgins proposes to allow them to travel over a portion of the development as long as they respect the property owners and follow the right-of-way given to the snowmobile club. Stopping ATV traffic to date appears to be impossible.

Citizen – “They are using private land and are crossing an earthen dam near the canal. Perhaps the town of Sanford can put up a chain?”

Roland LeGere – “They are going over Totte Road and Hodgdon Road, this is a very active trail.”

Madge B. – Mr. Higgins is going to try to limit access to a small area.

Citizen – “I am concerned where they will be pushed to? Will they use other private land?”

John C. – This is an enforcement issue. The Planning Board cannot police the ATV’s. It is something you have to discuss with the local authorities.

Citizen – “I live off of Dogwood and want to know if this road is going to be upgraded? Wouldn’t crushed gravel be better?”

John C. – The Board will have to take a look at this road to determine what needs to happen. We typically do a bond to be sure it is put back to its original condition prior to the development impact.

Citizen – “If they meet all conditions, could Dogwood be paved?”

John C. – At the final application phase, sometimes we ask to have the road paved after the developer is done, so the equipment won’t ruin the newly paved road. We also give a time constraint to the developer to be certain it is finished in a timely manner.

Edward Abbott – “I live on the corner of Elm and Dogwood. Before the road is put back to its original condition, who will maintain it?”

John C. – Since it is a town maintained road, the town will have to maintain it. **(Note to Board members, when there is a Public Easement on a road, the town has permission to maintain the road, but it is not mandatory. Only town owned roads are required to be maintained, according to the State.)**

Madge B. – That is the same with any road. If I, as a citizen, build a home there will be heavy equipment to and from my land. The town will maintain my road. It is no different for a developer.

Citizen – “But that is one house?”

Madge B. – We cannot make a distinction, everyone must be treated the same.

Citizen – “Is Evergreen Road a private road?”

John C. – Yes it is. The townspeople vote to accept a road, but all the landowners must agree to give an easement for the town to pass over their property. Very often property owners are not willing to sign over a part of their land for this easement. If all do agree, the townspeople vote on it, and if it passes it becomes a town maintained road. The Board does, however, make certain the road is wide enough for emergency equipment to pass and a place for it to turn around, when reviewing a subdivision.

Roland LeGere – “Is Northwoods going to be selling land only, and are there deed restrictions?”

Anette D. – Yes, this is land only. There are deed restrictions. I believe there can be no mobile homes and the lots are limited to one single family home.

(Additionally commercial uses are prohibited; and no animals or fowl shall be kept on the premises except ordinary household pets, regularly housed within the home.)

John C. – I am concerned with there possibly being three new accesses onto State Rte. 11. Mr. Higgins will have to get permission for curb cuts from the State. I am hoping the Post Office will choose to access Rte. 11 from Mr. Higgins road, thus reducing the number vehicles turning onto Rte. 11 within a short distance.

The Public Hearing concluded at 8:40 p.m.

The Planning Board Meeting started at 8:50 p.m.

The minutes of Wednesday, June 12, 2002, were read and accepted as amended with one typographical error on page one, 3rd paragraph under Kettle Pond Condominiums, the word Seriff should read Sheriff.

The following agenda items are written in the order they were discussed:

'8-Lot' Major Subdivision "Goose Pond Overlook" – Northwoods Land Company of Maine, LLC, Craig Higgins Representing – Map 7, Lot 3 (Rte. 11 & Dogwood Rd.)

Mr. Higgins was not present this evening. John C. recommended that all members go once again and do a site walk over the property to view all the roads that are part of this subdivision and to look at the land now that the loggers have finished taking the trees off the property. (The Board did a site visit last fall, but at that time the loggers had not finished logging off the property.)

Atty. Parkinson asked Anette D. to put together a package including all the deeds, going back to the "mother" deed, for the Board members as well as himself to review. Diane S. stated that we would need this in order for the Board to respond to the townspeople's concern over deeded access to Square Pond. Steve M. stated again that one lot was given a right-of-way in the past, now this lot will hold multiply families. It probably was not the intention of the owner to give many families access. A citizen spoke of another instance like this that he knew about and the town had a lawyer review the deed to find out what the intent was. Atty. Parkinson told the citizen that the neighbors could also get an attorney to have him or her review the deeds in question. Anette D. said she would inform Mr. Higgins we wanted a copy of all deeds in question, and get a copy to the Board. Barbara G. will send a copy of these deeds to Atty. Parkinson for review to advise the Planning Board, when she received them from Mr. Higgins.

Madge B. went back to the subject of the Goodall Canal. She asked if the 75' buffer strip was adequate to protect the canal since there are such steep bankings surrounding the canal in places. Bill H., an abutter of this property stated that it appeared to be enough. First, all that is required next to a stream is a 75' buffer strip, and also looking at the tall banks, there are still trees on the banks. "They are thin, but they do exist and seem to be holding the bank in place and creating a good buffer."

Atty. Parkinson stated it would be a good idea to have an engineer review the plans presented. The developer will only request the bare minimum. Additionally studies can be requested for natural resources, wildlife / biology, water pollution, traffic as well as fiscal impact. John C. agreed that we need to have studies requested of Mr. Higgins. He asked each Board member to review the plans and bring to the next meeting what they feel 'realistically' needed to be requested.

Roland LeGere again stated to the Board that they needed to view the land from the 'water' side to appreciate the situation. He further stated that he could envision docks going out into this muddy shallow area. He knew it wouldn't be easy but it is the Board's responsibility to protect the water. Bill H. stated that the Board would look into requesting impact studies. Steve M. further stated to Roland LeGere that his concerns were valid "but we cannot stop a development because we just don't think it's a good idea to the environment. If the developer takes us to court for denial, we must have a study to back up our decision."

John C. stated, "The Planning Board has the responsibility to follow the ordinances of the town. We do not have the responsibility to protect the area. If in the ordinance there are things in place to protect, we are more than happy to do that but we cannot be the environmentalists of Shapleigh. We are the Planning Board of Shapleigh and we need to follow ordinances. We do need an impact study done by professionals, not you (Roland) or I, but a professional. They will determine the impact, because as Steve M. said, if we deny this project and go to court based on the 'professionals' opinion, the court will listen. We cannot base it on what you or I 'feel'."

Atty. Parkinson stated that “the impact has to be an ‘unreasonable’ impact. I’m sensing you are talking about the cumulative affect of this development is becoming unacceptable. If that is the case, the way to address that is to pass a moratorium on development. The state law allows that. You can have a 90-day moratorium or a six-month moratorium while you go back and rewrite all your ordinances. *But* you have to do it with the idea of rewriting *all* your ordinances stating things are out of control and that it isn’t one project doing it but all projects. The idea is the town has to regroup.”

John C. stated that we need to make changes soon. He told Roland L. that the Planning Board had a public hearing last year on proposed changes to the ordinance (Barbara G. stated that we had two) and no townspeople showed up. We need townspeople’s input.

Diane S. speaking to Atty. Parkinson, “Under this parcel is a large aquifer. When the town did the Comprehensive Plan they said the town should possibly buy up the land around it or create ordinances to protect it. Would it be possible to table this development until March when the townspeople would have the right to vote whether they want this ordinance?” Atty. Parkinson stated, “The developer is entitled to proceed in the normal course. We cannot table an applicant until an ordinance comes in place, that would be a violation of their property rights.” Diane S., “What if we want the town to purchase the property for the water supply? The townspeople have to vote whether or not to purchase that property. Can we table for that reason?” Atty. Parkinson, “No, you can’t table for that reason. When the property is for sale, the applicant can have their approval and the land can be sold at that time.”

Atty. Parkinson, “But if I’m hearing things are so out of control, it’s not one thing but many things, you need to call a time-out, get a moratorium going, get an outside professional and staff to review. You need to appropriate money for a Planner who comes in and works with you and redoes your ordinances, that’s what a Planner does.” “Many times however, townspeople may not want a moratorium because they want to build now. Others would love a moratorium forever. The State of Maine allows up to 180 days to have a moratorium, but during that time you must do some serious work. It’s an option, but right now the applicant has the right to proceed.”

Atty. Parkinson, “Right now you need to review the criteria. The review can’t be based on subjective emotional reasons; it must be based on scientific data. You just can’t say ‘I don’t like it’. You are allowed to use common sense, however. If many people (as we had here tonight, over 20+) come in citing the same problem or concern, often you do not need a study.”

Jeff MacKenzie, a member of the audience, asked Atty Parkinson, “When is a project grandfathered to the existing ordinance?” Atty. Parkinson stated, essentially at the sketch plan phase it is not grandfathered. “Once the applicant is close to substantant review, which this project appears to be, and if the Planning Board has asked for changes in the plan and the applicant has brought that information to the Board, then you are close to being grandfathered. At what point is the project grandfathered? You have to carefully review how far the project has progressed.”

Nothing further was discussed. John C. at this point stated that this project will be tabled to the next meeting or until new information was presented.

Madge Baker left the meeting at approximately 9:00 p.m.

Conditional Use Permit – Extend Deck for Therapeutic Use of Hot Tub – Roger van Baarle - Map 34, Lot 16 (158 Cedar Drive)

The Planning Board earlier in the evening had conducted a site review of Mr. van Baarle's property. The property had a wrap around deck on two sides of the home, a ramp for access and a set of stairs off the existing deck going toward the lake. Also contained on the property were a garage and two sheds. The total lot coverage, as discussed at the previous meeting, was at least 15% presently, exceeding the 10% allowed by Shapleigh Zoning Ordinance, 105-18 "Dimensional Requirements – Maximum Lot Coverage".

Mr. van Baarle was present at the site review and spoke to the Board members present (Barbara Gilbride, Bill Hayes, Diane Srebnick and John Caramihalis, as well as Steve McDonough, CEO), about his reason for this application, i.e. putting in a therapeutic hot tub for his knees, one having been replaced and the other may possibly have to be also. Additionally, Mr. van Baarle at the site review, using a tape measure, showed the members where he wanted to place the hot tub and where the 4' X 7' addition to the deck would be. Also at the site review the members had Mr. van Baarle, using his tape measure, measure out another area on the deck that could house the hot tub, still allowing a three-foot passage. It appeared there were other locations seen at the site visit. These were discussed with Mr. van Baarle for options.

The Board asked Mr. van Baarle to state once again how much the structures on his property currently exceeded the lot coverage limit, in his opinion. Mr. van Baarle thought it was approximately 15%. Steve M., CEO, thought it was more like 18%.

The Board discussed possibly changing how the existing access ramp currently came onto his deck, creating a landing, then turning toward his home. This would leave an existing area for the hot tub that would not block the ramp. Also, it would not add more to the lot coverage since the turn would be over existing cement. John C. was not sure this idea would work, since the existing deck already did not meet the safety requirements for being handicapped accessible, due to the steep grade. John C. felt that the entire deck would have to be reengineered if any changes were to be made to it.

The Board had discussed Shapleigh Zoning Ordinance 105-4.D(8)(b) "Disability access", which referred to "the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability, and such installation or construction must be built according to the BOCA National Building Code and Life Safety Code." at the last meeting. It was concluded this addition to the deck had nothing to do with access or egress. Additionally, as stated before by John C., the ramp that currently exists is not up to the disability code.

Bill H. stated that Mr. van Baarle appeared to have three options:

- 1) Place the hot tub in the front corner of the deck, placing it such that there is three feet of clearance next to the home for passage.
- 2) Place the hot tub where he wants it, closer to the road in front of the existing gate to the wood pile, still allowing access from the ramp and the stairway to the water.
- 3) Trade some of the existing lot coverage, i.e. remove one of the existing sheds to allow for further expansion of the deck by 28 square feet.

Mr. van Baarle stated that he could not lose any of the existing sheds. The one closest to the water held all of his supplies for the use of the lake. The one closer to the road was full of essentials also. Mr. van Baarle also talked about the existing ramp, stating it was not built for handicapped / wheelchair access, it was built on an incline without steps because this was easier for him to navigate with his knee problems.

Bill H. told Mr. van Baarle that he had agonized over this issue. "If the Board in any way could ease Mr. van Baarle's pain, it was the right thing to do." Bill H. stated he did not make his decision until he went to the site review. At the site there were other options that did not include putting the exceeded lot coverage further out of compliance.

John C. stated that the Board could deny the CUP or table it, go back and look at the ramp and require it be made handicap accessible. "If Mr. van Baarle is going to be in a wheelchair, he needs to take a look at this." Mr. van Baarle did not want to redesign his ramp at this time.

Diane S. felt Mr. van Baarle has several location options for placing his hot tub. She did not feel he was willing to compromise on the location that he had selected, which included the 4' X 7' addition to the existing deck. Therefore, Diane S. made the motion to **deny** the Conditional Use Permit to extend the size of the existing deck by 28 square feet. Bill H. 2nd the motion. All were in favor.

Mr. van Baarle disagreed with the Board's decision. He stated he made every effort to redesign his deck with minimal impact. He spoke with the manufacturers to buy the smallest hot tub that would work for his situation, and he asked their opinion for the best location as well.

John C. stated "if you wish to dispute this decision, you may appeal to the Shapleigh Board of Appeals" pursuant to Section 105-70 "Appeals Procedure" of the Shapleigh Zoning Ordinance. "That is your right."

John C. also reminded Mr. van Baarle that if he puts the hot tub on his deck, he would have to go to the Steve M., CEO, prior to placing it. Steve M. told Mr. van Baarle that if he decides to remove one of his sheds in trade for the addition to his deck, or if he puts the hot tub on the existing deck, he did not have to come back before the Planning Board. He would only need to come to him.

Nothing further was discussed.

Conditional Use Permit – Replace Existing Retaining Wall – Jim Cortright – Map 43, Lot 40 (43 Pine Cone Drive)

The Board did a site inspection prior to the meeting. The members who attended (Barbara Gilbride, Bill Hayes, and Diane Srebnick, as well as Steve M., CEO) viewed an existing railroad tie wall that was in need of repair. The wall sat upon various size rocks that were themselves shifting. The water from the lake did not meet the wall; there was a small beach area. Mr. Cortright stated that usually there is at least 3 feet of beach but with all the rain we have had this year, the water is close to the wall.

Mr. Cortright was present at the meeting. He once again explained the current retaining wall is made of railroad ties and they are failing to hold the banking back to prevent erosion. Mr. Cortright is proposing to replace the railroad ties with interlocking cement blocks. The total height of the replacement wall will be three feet and there will also be a set of steps added to the right of the wall, leading to the water. Mr. Cortright presented the Board with a copy of the Permit by Rule for D.E.P., which was dated June 6, 2002 by the D.E.P.

John C. asked the Board members who attended the site walk if this project seemed necessary and straightforward. All agreed that this project would not be a difficult one, and needed to take place before the entire existing wall collapsed. John C. asked Mr. Cortright what he would be doing with the railroad ties? Mr. Cortright asked if he could bring them to the Shapleigh dump? The Board did not know. He would have to call the town hall to get this information. Mr. Cortright stated that if he could not bring them to the dump, he would use them to make a raised flowerbed next to the house for his wife.

John C. asked Mr. Cortright if he had a drawing depicting the layout of the interlocking blocks and a description of how this wall will be built. Mr. Cortright did not have the plan with him. He stated he would bring a plan to the Board if required. Mr. Cortright stated he would be following the D.E.P. guidelines when building the wall. The wall was going to be the same size as the existing wall and he did not plan on bringing in fill.

Bill H. agreed that this project did not appear to be a difficult one, but he asked Mr. Cortright if there needed to be drainage behind the wall? Also, wouldn't there need to be some crushed gravel to help hold the blocks in place? John C. did not believe this wall could be built without bringing in some back fill. John C. asked

Mr. Cortright to bring in an exact description of how much fill, and more specifics on how the wall will be built. Barbara G. stated that she felt that Mr. Cortright could bring this plan to Steve M., CEO, for final approval and this would be sufficient. The other Board members agreed.

Bill H. made the motion after review of Shapleigh Zoning Ordinance 105-44, "Piers, docks and other shoreland construction", to **approve** the Conditional Use Permit to replace the existing retaining wall with a wall made of interlocking blocks with the following condition(s):

- 1) The proposed wall is to remain the same length as the existing wall and the proposed wall shall be no more than 3 feet in height.
- 2) The final plan is to be reviewed by the Code Enforcement Officer for approval *prior to* commencing work on the project.

Diane S. 2nd the motion. All in favor.

Conditional Use Permit – Replace Concrete Wall w/Interlocking Block – Jeff & Brenda MacKenzie – Map 20, Lot 26 (24th Street Mousam Lake)

The Board did a site inspection prior to the meeting at approximately 6:00 p.m. The members that attended (Barbara Gilbride, Bill Hayes, and Diane Srebnick, as well as Steve M., CEO) viewed an existing concrete wall that was approximately 7 feet long and appeared to be at least one foot deep. Additionally was a concrete set of stairs that have detached from the wall and are now partially in the lake. The area being reviewed was a very narrow strip of land having the lake on two sides of the property. There was some erosion taking place on the property due to foot travel and the high rain load this year.

Mr. MacKenzie was present at the site review and meeting to discuss his application. Mr. MacKenzie stated that the D.E.P. did a site review of his property along with Steve McDonough, CEO. The suggestion by the D.E.P. was to keep the existing concrete wall (which Mr. MacKenzie originally wanted to remove). Other suggestions by the D.E.P. were not clearly understood and he asked Steve M. if he could further explain what was required. Steve M. said he would have to speak with the D.E.P. again for further details but he stated that Mr. MacKenzie could at this time, with the Permit by Rule that he has submitted to the D.E.P., place riprap along the embankment and material such as mulch to prevent further erosion. Steve M. agreed with the D.E.P. that the existing wall should remain because it was holding back much of the bank with the erosion problem and it was in good shape overall.

Mr. MacKenzie was still entertaining the idea of placing interlocking block on top of the existing concrete wall and adding some fill behind the block to help retain the earth. Steve M. stated that you are not allowed to bring in fill within 25 feet of the high water mark with the Permit by Rule application. This type of

activity required a much more in depth review and a more detailed application filed with the State. Again, he stated that the Permit by Rule does cover riprap, which will help with the erosion problem.

John C. asked Mr. MacKenzie what he was now asking the Board to approve. The original application was to replace the existing concrete wall with interlocking block. Now Mr. MacKenzie is leaning toward the D.E.P. suggestion of keeping the existing wall and adding interlocking block on top of it. Diane S. asked again if Mr. MacKenzie would be able to add the interlocking block since it needs backfill and the Permit by Rule does not allow it? John C. was very concerned with the Board approving something that was not allowed under the current permit application. "Mr. MacKenzie could be in trouble with the D.E.P. if the Board is not careful."

The Board suggested to Mr. MacKenzie that he and Steve M. get together and contact the D.E.P. to bring together a plan that would best suit this situation, with the appropriate application(s). Steve M. told Mr. MacKenzie that the Board will need a new written description of the project, pictures for the file, and stated that he would in fact speak to the D.E.P. along with Mr. MacKenzie. The Board tabled making a decision on this item until the next meeting so Mr. MacKenzie can bring a final plan to the Board.

After-the-Fact Amendment to a Conditional Use Permit – Grocery Store - Patrick Hannon – Map 7, Lot 3-2 (938 Shapleigh Corner Road - State Rte. 11)

There was no one at the meeting to represent Mr. Hannon. This item has been tabled.

Best Possible Location – Replace Residence Destroyed by Fire with New Home - Faith Greenleaf – Map 39, Lot 52 (40 Swan Circle)

Faith Greenleaf attended the meeting to explain to the Board that she wants to replace the existing residence that was totally destroyed by fire, with a new home on the existing foundation.

The Planning Board reviewed the application which contained the location of the property and survey of the parcel done by Middle Branch Land Surveyors; the footprint where the destroyed home was located, as well as the well and septic / leach field locations. Additionally was a sketch plan of the proposed new home, including the floor plan. Colored pictures were presented to show the destroyed home and existing foundation.

Steve M. stated to the Board that there is a fairly new septic system behind the current location of the home, and the home is in the best possible location. He has recently been to the site. John C. asked Ms. Greenleaf if the home was totally destroyed and she stated it was. Additionally, she added that the new residence as proposed was actually smaller than the home that burned. The new proposed home is 30' X 36' and the original home was 30' X 47' in size.

John C. asked if this new home would be going any closer to the existing lot lines and Mrs. Greenleaf stated "No". Again, Steve M. stated that where the home is, is the Best Possible Location.

The Board noted the new dimensions presented are within the Shapleigh Zoning Ordinance Requirement 105.4.D(1) for 30% expansion. The current location appears to be the best on site, disturbing no additional earth by using the existing foundation. After careful consideration and a review, Bill H. made the motion to **approve** the Best Possible Location to replace the home destroyed by fire with a new home as per the presented plans, with the following condition(s):

- The new home shall be in the same location as the home that was destroyed, moving no closer to the water or the existing lot lines.
- The new home shall use the existing foundation. If the existing foundation is not used, Faith Greenleaf shall have to come back before the Board for re-review of the Best Possible Location.

Diane S. 2nd the motion. All were in favor.

John C. stated again to Ms. Greenleaf that if the existing foundation is not used she must come back before the Board for another review of the property to determine the best possible location.

Conditional Use Permit – New Driveway – Tim J. & Valerie Hardy, Carl Beal of Civil Consultants Representing – Map 32, Lot 6 (Dogwood Road)

Mr. Carl Beal brought to the meeting a revised driveway proposal plan along with a letter stating what events have taken place with respect to this project. The following is as written in that letter, dated June 19, 2002 from Mr. Beal of Civil Consultants:

- A Conditional Use Application was first filed with the Town on June 2, 2001.
- CIVIL CONSULTANTS was subsequently retained by the Hardy's to design the project and assist them with obtaining a Conditional Use Permit from the Town.
- The Shapleigh Planning Board reviewed the application during their meeting of January 8, 2002. During that meeting the Board determined that the proposed driveway retaining wall did not meet the required side setback for a structure in the Shoreland Zone. They tabled final action on the project and referred Mr. Hardy to the Board of Appeals to obtain a variance.
- The Shapleigh Board of Appeals denied the dimensional variance for the side setbacks during their meeting of February 4, 2002.

Mr. Beal stated that this newly revised plan places the driveway 30' back farther from the water than the original plan, thus eliminating the need for the retaining wall that was the problem issue at the last review. Mr. Beal further stated that the new driveway would meet the side setbacks on both sides. Steve M. asked if the new turnaround area was 100' back from the water, and the answer from Mr. Beal was "Yes". John C. asked how much earth would be removed from the site for this project? Mr. Beal thought it would be approximately 450 cubic yards.

Steve M. asked if Shapleigh Zoning Ordinance 105-61.B applied to this project. (This Ordinance refers to mineral extraction; large amounts are not permitted in the Shoreland Zone.) Mr. Beal's interpretation of this ordinance was that "it pertained to Gravel Pit Operations that removed more than 100 cubic yards of material each year, not to regulate construction of a driveway". John C. after reading the ordinance also agreed it was referring to gravel pits and further refers to the reclamation of these areas once the operation is complete. Steve M. also stated that he did not feel this ordinance applied here but wanted to be sure the Board concurred. The other Board members were also in agreement that this ordinance was not speaking of the actions incidental to putting in a driveway.

John C. asked Mr. Beal what the grade was for this proposed driveway, was it 2 to 1 and is the slope greater than 20%? Mr. Beal stated the slope was approximately 15% at its steepest, and it was not 2 to 1.

John C. asked Steve M. if lot coverage was an issue for this proposal? This will be a large area covered by an impervious surface. Steve M. stated that driveways were not counted with respect to the lot coverage requirement of not more than 10%.

Bill H. who was not present at the previous meeting on this project, asked the other Board members if Mr. Beal and Mr. Hardy corrected the problem with the plan that had caused this project to be tabled? John C. stated, "Yes". "The problem was a retaining wall too close to an abutter's property line; this is no longer the case."

John C. asked the other Board members if they felt the Board needed to notify the abutters once again for this project? Mr. Hardy stated that the only thing that has changed from the previous meeting is the removal of the wall, which did not meet setbacks. This was the reason for the Board not to approve it at that time. John C. spoke to the Board saying that Mr. Beal and Mr. Hardy have tried to design and cooperate with neighbors to put in this driveway. The only issue was the retaining wall. The Board concurred with Mr.

Hardy and John C. All other requirements at the last meeting on January 8, 2002, were met. The abutters were heard and this was the only issue. It was decided by the Board that there did not need to be another meeting on this application.

John C. asked Mr. Beal if there was going to be any problem with the drainage system and the proposed new septic system and piping. On the previous plan it appeared the new piping and drainage system overlapped at one point causing a concern. Mr. Beal stated that with this new plan that problem has been eliminated.

John C. asked Mr. Beal if this new drainage system and plan met the 25-year storm ordinance? Mr. Beal stated it would. John C. stated he would like these calculations placed on the final plan prior to this project commencing. (John C. was in fact referring to Zoning Ordinance 105-26, which refers to stormwater runoff. The ordinance reads as follows: "Surface water runoff shall be minimized and shall be detained on-site if possible and practicable.....The design is the fifty-year storm (the largest storm which would be likely to occur during a fifty-year period.)")

After careful review of all the material presented which included the original application dated June 2, 2001; a copy of the Permit by Rule Notification to the Dept. of Protection dated December 27, 2001; a revised driveway plan from Civil Consultants dated June 19, 2002, and review of Shapleigh Zoning Ordinance 105-59.C, which refers to all new roads and driveways in the Shoreland Zone, Diane S. made the motion to **approve** the Conditional Use Permit for Mr. and Mrs. Hardy to place a new driveway on their property per the submitted plan, with the following condition(s):

- Mr. Carl Beal from Civil Consultants shall bring to the Planning Board a revised plan that contains a note stating the drainage design for the driveway shall meet Shapleigh Zoning Ordinance 105-26, "Stormwater runoff"*. The calculations shall be written on the plan. This revised plan shall be brought to the Shapleigh Town Hall no later than July 9, 2002.

Bill H. 2nd the motion. All in favor.

* The Board incorrectly informed Mr. Beal that the surface water runoff requirement was for a 25-year storm, when in fact it refers to a 50-year storm. *This was noted to Mr. Beal in the approval letter.*

There were no available Growth Permits to review at this meeting.

The meeting concluded at 10:35 p.m.

Respectively submitted,
Barbara Gilbride
Planning Board Secretary

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, July 9, 2002

Page 1 of 8

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Diane Srebnick, Bill Hayes (Acting Member), and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer.

The minutes of Wednesday, June 25, 2002, were read and accepted as amended.

The following agenda items are written in the order they were discussed:

'8-Lot' Major Subdivision "Goose Pond Overlook" – Northwoods Land Company of Maine, LLC, Craig Higgins Representing – Map 7, Lot 3 (Rte. 11 & Dogwood Rd.)

Mr. Higgins was not present at the meeting. Roger asked the Board members who were present at the last Planning Board meeting on June 25th (Roger was not present), if there had been any discussion on the proposed roads? John C. stated that he discussed his concern with how many entrances were proposed onto Route 11. Diane S. also mentioned Dogwood Drive, and that some citizens were concerned with its condition near the proposed subdivision and if the town would require Mr. Higgins to pave this portion of road? Also a citizen asked if the town should allow heavy equipment on Dogwood Drive, as this would surely make the poor condition of the road worse. The Board stated to the townspeople that the town does not have the right to stop developers from traveling over roads to access property. The Board could ask that the developer, when finished with the project, to upgrade the road to repair any damage created by using large equipment over Dogwood Drive.

John C. told Roger that one of the biggest concerns by the townspeople was the deeded access to Square Pond. Steve M. stated there could be potential future problems since this parcel had one deeded right-of-way, and now it could have many deeded use to the right-of-way since the land is being subdivided. In addition, two of the lots with access could be divided and Lots A & B had access. Roger told the Board that because it is in the original deed, the right-of-way will carry through to the new owners on this property; there was nothing the Board could do to change that. John C. told Roger that the Board requested that Mr. Higgins bring in the "mother" deed; to be certain this right-of-way could, in fact, be passed along.

John C. also mentioned his concern with Lots A & B depicted on the map (though they are not part of the subdivision itself), the new owner could build a cabin on them or a duplex, thus opening the door to rental property having access to Square Pond over this right-of-way. Renters can have many people visiting on the weekend, again, as Steve M. has stated, this could cause problems for the existing right-of-way.

The Board told Roger A. they asked Mr. Higgins to bring in a better map depicting Evergreen and Dogwood Roads, as well as the surrounding abutting properties, clearly depicted. The current plan is hard to follow with respect to abutting roads and properties that are not shown.

Roland Legere was present at the meeting and mentioned again his concern for the welfare of Goose Pond. He invited the Board members once again to view the pond from the water side to fully appreciate the possible impact this development could have on the water quality and surrounding area.

Roger A. spoke about ATV's and their current use on the dirt roadways surrounding and going thru this development. Roger A. is very concerned with leaving the roadways dirt since the ATV's are causing severe erosion problems. If the Board asked Mr. Higgins to pave these roads, it would reduce future erosion. Roger A. feels this is a critical problem to review the next time this project is brought before the Board.

Diane wanted the other Board members to be thinking about what impact studies we should request for this project. John C. stated that we definitely needed an impact study done for Goose Pond with respect to wildlife and vegetation, and on Square Pond, because of the right-of-way, a boat traffic study may be necessary.

Roger A. stated that the Board would table this item until more information was brought to the Board.

Conditional Use Permit – Replace Retaining Wall – Paul & Janice O'Donnell – Map 22, Lot 6 (88 Kato's Nose)

The O'Donnell's were not present at the meeting so this application will be tabled until the next Planning Board meeting on July 23rd.

Conditional Use Permit – Replace Concrete Wall w/Interlocking Block – Jeff & Brenda MacKenzie – Map 20, Lot 26 (24th Street Mousam Lake)

Mr. MacKenzie was not present at this meeting. Steve M. stated that Mr. MacKenzie would be going back to the D.E.P. with questions he had regarding his project. Also Steve M. would be contacting Mr. MacKenzie and the D.E.P. to see if he could assist with this project. Steve was under the impression that the project had taken a totally different scope from what was originally proposed.

This application will be tabled until new information is brought to the Board.

Conditional Use Permit – Replace Existing Retaining Wall – Robert Spinney – Map 43, Lot 39 (47 Pine Cone Drive)

Mr. Spinney was at the meeting to answer questions with respect to his application. Roger A. asked Mr. Spinney if he would be bringing in fill for this project. Mr. Spinney stated that there would probably be one truckload of gravel brought to the site to replace the soft sand that is currently existing behind the retaining wall. John C. asked Mr. Spinney how high he would be going with the new wall? Mr. Spinney's said his plan depicted a five-foot retaining wall. John C. asked if he had a licensed engineer review the plans? John C. told Mr. Spinney that according to the CABO One and Two Family Building Code any wall greater than four feet must have a licensed engineer review the plan and stamp the plan that it was reviewed and will meet code. (The code referred to is Table 404.1.1b "Requirements for masonry or concrete foundation walls subjected to no more pressure than would be exerted by backfill having an equivalent fluid weight of 30 pounds per cubic foot located in seismic zone 3 or 4 or subjected to unstable soil condition.")

Mr. Spinney stated that he thought his son who reviewed the plans was a licensed engineer and he would have his son put his stamp on the plan. John C. told Mr. Spinney he could reduce the height of his wall if he was unable to get a stamp. Another option would be making it two tiered; again both walls would have to be below four feet in height. "One wall could be two feet, the other three feet, in height."

The Board members who were present at the site inspection for Mr. Spinney's neighbor, Mr. Cortright, told Roger A. they had seen the location of the wall to be replaced and it seemed very straightforward. John C. asked if the D.E.P. application was with the application and Barbara G. stated it was.

Roger A. set up the site inspection for this application for 6:30 p.m. on Tuesday, July 23rd. Barbara G shall send out a Notice to Abutters.

Prior to concluding on this application John C. asked Mr. Spinney if he was going to have stairs to the water next to this wall. Mr. Spinney stated, "yes". Nothing further was discussed.

Conditional Use Permit – Repair Boat Launch – Owner Percy Cunningham – To be done with the York County Soil and Water Conservation District Recommendations – Map 27, Lot 14 (Point Road)

Mr. Cunningham was present at the meeting along with Deborah St. Pierre of York County Soil & Water Conservation District. Ms. St. Pierre began by showing the Board pictures of the existing paved boat launch, along with the sandy soil on either side of the ramp. The sandy soil is the concern. Much of this soil leaches into the lake when there is heavy rain and the sides of the paved ramp are crumbling from being undermined by the loss of sand. Ms. St. Pierre showed a picture that depicted some natural plantings along the side of the nearby embankment. She stated Mr. Cunningham had recently done this work and it was helping with the erosion problem. A plan was submitted showing the area that would be disturbed for the tri-lock blocks and showed the area that had just been planted to control erosion.

Mr. Cunningham and Ms. St. Pierre described the tri-block system they wanted to lay next to the boat ramp. It consists of interlocking blocks that lie on the sand surface and retain the earth underneath. There are also spaces within the blocks that capture sand that is being washed toward the water. These blocks do shift as needed under the weight of a vehicle or boat trailer but because they are interlocked they remain in place.

Steve M. told the Board that many people, including Weaver Marine, use this boat launch. John C. asked Mr. Cunningham if there were any regulations as to who could or could not use the boat ramp? Were there any signs with respect to liability or any restrictions? Mr. Cunningham stated there were no signs but since he has had a few incidents lately he was thinking of putting some restrictions in place.

John C. asked how the soil is prepped prior to placing the blocks? Ms. St. Pierre stated that approximately 2" of soil is removed and the blocks are placed down. "It is a very easy installation." John C. asked if there was any concrete going into the water from the existing boat ramp? Mr. Cunningham stated that about 2 ½ feet of concrete is going into the water at present. (Attached to Mr. Cunningham's application is an article describing the tri-locking erosion control system, as well as a diagram showing how to lay the block and showing exactly how the block "interlocks".)

The Board discussed what ordinances they needed to review for this project. Roger stated 105-44.C "Conditions of Permit"; 105-44.B "Application for Permit. A conditional use permit shall be made as follows: (1) For any proposed Shoreland construction or alteration requiring a permit from the Department of Environmental Protection."; and 105-44 "Piers, docks and other Shoreland construction.". Steve M. stated that 105-39.D "Earthmoving in the Shoreland District" might also need to be reviewed for this project.

The Board asked if there was to be any sand removed from the site, and the answer from both parties was "no". Ms. St. Pierre stated that one only needs to level the earth. Any sand moved while doing this project is to be kept on site. Mr. Cunningham went further to state that there has been such a large erosion issue that all sand must be kept on site so as not to lose anymore of the land area. John C. asked again if there would be more than 10 cubic yards of material moved and the answer was "no".

John C. felt that he would like the Dept. of Inland Fisheries and Wildlife to comment on this project. Diane S. read ordinance 105-44.C and concluded that this project appeared to meet all the conditions of that ordinance and she stated she felt it also would improve the environment. Other Board members also felt that this project would further protect the area. Mr. Cunningham stated that the D.E.P. also thought this project would help the erosion problem and that he could start as soon as possible. Roger A. told Mr. Cunningham that the ordinance must be followed and that a Notice to Abutters was the next step for this project. He could not start the work until the conditional use process was complete.

Roger A. also commented further with respect to John C.'s comment on Dept. of Inland Fisheries. He stated that the D.E.P. and the Army Corp of Engineers had merged for the State of Maine. Their offices after this

merger was right next door to Inland Fisheries and Wildlife. All applications were reviewed by all of the above, thus the Board knew that if the D.E.P. received a permit the others were also aware of the project and could voice their concerns. Presently, however, these office locations have changed. We no longer know if Inland Fisheries is still reviewing the D.E.P. files. John C. felt that Inland Fisheries might be receiving complaints on a project in an area that the Board would not be aware of unless they contacted the department. Additionally, Inland Fisheries may know of another impact the project would have on the surrounding area beyond the scope of what the Board has to review in the ordinance.

John C. also voiced once again his concern to Mr. Cunningham about there not being any liability signs at the site. John C. stated that this would not be a requirement by the Board but for his own protection Mr. Cunningham should consider these signs.

Roger A. set up a site inspection for Tuesday, July 23rd at 6:00 p.m. Barbara G. will send out a Notice to the Abutter's. Nothing further was discussed.

Conditional Use Permit – Preschool – First Baptist Church, Susan Creteau Representing – Map 45, Lot 4 (600 Shapleigh Corner Road)

Present at the meeting was Ms. Susan Creteau. The Board asked what she was intending to have for hours for the Preschool. Ms. Creteau stated that to start she would be operating two sessions per day, not to exceed 3 ½ hours each, Monday thru Friday. She also stated that the State of Maine has very strict guidelines regarding Preschool hours. She would be working within those hours.

John C. asked what the ages of the children would be? Ms. Creteau said that she is expecting to work with 3 and 4 year olds but she is not limited to that age by the State.

The Board asked how many adults would be working with the children. Ms. Creteau said the State allows 12 children per adult and she is expecting to have 15 children at the maximum. John C. asked how many adults would be working at the facility? Ms. Creteau said that there would be a *minimum* of two adults, but she expected to have three adults. Bill H. asked Ms. Creteau if the State required licensing for the adults who would be working there? Ms. Creteau stated that the requirement is that one adult be licensed, she further stated that the licensed adult would be herself. Other adults working would not be required to be licensed but they may choose to do so.

John C. asked what this project would fall under, a conditional use permit or an amendment to the 1st Baptist Church's original conditional use permit? Roger stated that it would be an amendment. Diane S. asked what the original permit was for? John C. stated that it was to build an attached function hall for the church. Roger stated that it also included having Sunday school classes on site. Roger A. told Ms. Creteau that the Board would need a letter from the church stating that the preschool would be an approved use by the members. Ms. Creteau said that the church had indeed voted on this item and approved it. She would get the letter addressing that vote. She also said she would give the Board a copy of the required water test and Fire Marshall's approval of the building when she had those documents.

Ms. Creteau stated that she thought the building would be ready for occupancy on September 1st. She would like to open the preschool on September 9th. When could the Board review her application again? Roger A. stated that the Board would need to have the necessary paperwork from Ms. Creteau. Bill H. asked if the Board could approve the daycare based on the permits coming in at a later date? John C. stated that the Board could do that but Ms. Creteau could not use the building without an occupancy permit from the CEO, so she will have to wait until September regardless.

The Board asked how many more vehicles would be using the parking lot? Ms. Creteau thought two or three, depending on the number of employees that day. The original conditional use permit showed a parking area that exceeded the necessary amount of parking slots. There will be enough for the employee parking area.

John C. asked Ms. Creteau if the water had been tested? She stated it had not yet, but they would be having it tested by the State or by Demers Laboratory in Sanford. Roger A. told Ms. Creteau that Demers is accredited so she can use Demers and it may be faster for her.

John C. asked where will the preschool be located in the building? Ms. Creteau stated that she would be using the classrooms upstairs as well as using the downstairs for a play area during stormy weather.

Roger A. stated that the Board would notify abutters for the August 13th meeting, and have this item on the agenda to see how far the building progressed as well as the necessary information regarding the water and from the Fire Marshal.

Nothing further was discussed at this time.

Conditional Use Permit – Before and After Care for Children – Sanford/Springvale YMCA Applicant – Map 5, Lot 40 (467 Shapleigh Corner Road – MSAD #57, Shapleigh Elementary School)

A representative from the YMCA was present to discuss the details of the application before the Planning Board. The representative stated the YMCA has gotten permission to use the Shapleigh Elementary School to hold a 'before and after care' service for children. "The hours of operation would be Monday through Friday, 6:00 a.m. thru 9:00 a.m. and 3:00 p.m. thru 6:00 p.m. The YMCA was estimating that there would be approximately 20 children cared for at the school. Parents have signed up 15 children to date. There would be two adults at the school who have met the criteria by the State to care for children, which includes 24 hours of training. There will be no one under 18 years of age allowed to care for the children. The person in charge daily is known as a site leader and will have an assistant. Site leaders very often have had at least 2 years of college and there are several with a bachelors degree in subjects such as psychology and teaching. There will be a light breakfast served and a snack during the afternoon session. Also available to the children will be homework help, which parents have appreciated in other facilities."

Bill H. asked if this care will be managed and insured under the YMCA or does the school have any responsibility. The representative stated that the YMCA holds the insurance for this care and all the responsibility.

John C. asked where the children would be located in the school during both the a.m. and p.m. sessions? The rep. stated the children would be using the gym when it is available, the cafeteria, and during the winter months it is possible they will be using a classroom.

John C. asked what type of food would be available to the children? The rep. said that the breakfast would be items such as breakfast bars, cereal and other light breakfast items. There will not be anything that has to be cooked or heated. The afternoon will also be light snacks. John C. asked if the food would remain at the school or have to be transported back and forth from the YMCA. The rep. stated that they have not discussed that with the school yet. If there is no place to store it, it will be transported each day back and forth by the site leader or assistant.

Roger A. told the rep. that the Board would need a letter from Mr. Bechard to acknowledge that the YMCA has permission from the superintendent to use the Shapleigh Memorial School for this function.

John C. spoke about concern he had with the current parking at the school. He asked other members if in fact the parking lot was paved as required by the last Conditional Use Permit to place a new modular on site. If it has not been enlarged as per the last C.U.P., there would not be enough parking to accommodate this C.U.P. for before and after care.

Bill H. thought that the parking area for the schools conditional use permit was a separate issue that the Board should not burden the YMCA with it. "If the parking area was supposed to be paved by the school, it is the school's responsibility to do so, not the YMCA." John C. stated that he felt the Board could not allow this new use without having adequate parking. Bill H. did not feel that we could go to Mr. Bechard and state that the YMCA is coming to the school so pave the parking area. The Board would need to have him pave this area regardless of any new use if in fact that was required on their C.U.P. Bill H. stated that a letter from the Board should be sent to the Mr. Bechard if in fact the parking area was not completed as required. Again this burden is not for the YMCA. Roger obtained the file that contained the approval for the last modular classroom that was permitted and showed the Board that the parking area was on the plan and a condition of approval was to increase the parking area. Roger and John were going to inspect the area to ensure that it complied with the approval condition prior to the next meeting. If it did not comply a letter to Mr. Bechard would be written as well as a copy given to Steve M. for enforcement.

The Board has no other issues with respect to the childcare service being held at the school. ***Roger A. told the rep. that the Board would send out a Notice to Abutters as required. Again Roger A. stated that the YMCA would need to get a letter from Mr. Bechard acknowledging that he is aware the YMCA would be using the school and that the YMCA would be responsible for the children in their care.***

Nothing further was discussed.

GROWTH PERMIT(S) – There are three available Growth Permit. Application(s) #1 thru #3 will be reviewed this evening. All other applications will be kept on file until acceptance or the end of the year, whichever comes first:

Prior to reviewing the Growth Permits, Steve M. asked the Board about Mr. Charles Rodrigue who had been denied an available growth permit on Tuesday, May 28, 2002 for Insufficient Residential Building Area (Map 14, Lot 15C – 191 Emery Mills Road). The Zoning Board of Appeals on June 24, 2002, overturned the Planning Boards decision to deny Mr. Rodrigue the ability to have an apartment in the building where a bakery was once housed. Roger A. asked Steve M. if Mr. Rodrigue was currently using the apartment "without" a Growth Permit? Steve M. stated, "yes". Roger A. told Steve M. that he needed to tell Mr. Rodrigue that he would have to remove any tenant from the building until he received a growth permit. Steve M. asked, since the Board's decision was overturned by the Z.B.A., shouldn't Mr. Rodrigues Growth Permit be re-reviewed?

John C. made the motion to stop Mr. Rodrigue from occupying retail space without a growth permit. Bill H. 2nd the motion. All in favor.

Steve M. stated he felt Mr. Rodrigue would have received his Growth Permit had the Planning Board not denied him previously. Again he stated that he felt Mr. Rodrigue's Growth Permit should be reviewed once again. After discussion the Board felt that in fact they would review Mr. Rodrigue's application. ***After reviewing the Growth Permit and attached documents John C. made the motion to remove the previous action to stop Mr. Rodrigue from using the retail space without a Growth Permit. The Board would grant Mr. Rodrigue a Growth Permit this evening. Bill H. 2nd the motion. All in favor. The next Growth Permit available will be assigned to this application at the next meeting.***

The Board continued to review the next three Growth Permits:

- 1) **Granted # 25A-02** - L. E. Littlefield Corp. – Map 12, Lot 30-3 – Silver Lake Road
- 2) ***Tabled until the next meeting, required more information.*** - Tracy DesFosses - Map 6, Portion of Lot 7 – Back Road
- 3) ***Tabled until the next meeting, required more information.*** Henry Gierie & Diana Rose – Map 12, Lot 15 – Newfield Road

The following will remain on file:

- 4) John & Joanne Chadbourne – Map 8, Lot 2B – Owls Nest Road
- 5) Jeremiah F. Goodwin – Map 2, Lot 44, 45, 46 – Walnut Hill Rd
- 6) McKenna Brothers Constructions, Inc. – Map 34, Lot 14 – 150 Cedar Drive
- 7) Grammar Ridge Inc. – Map 11, Lot 10-1 (Lot 3 of G.R. Subdivision) – Newfield Road

INFORMATION TO REVIEW:

17-Unit Condominium Complex “Kettle Pond Condominiums” – Findings of Fact and Approval – Patrick Hannon – Map 7, Lot 3 (Shapleigh Corner Road)

The Board reviewed the Kettle Pond Condominium Lawn Care Management/Fertilizer Plan received 7/9/02. The plan described grass selection; soil preparation and management, which included soil testing, liming & fertilizing; mowing and watering. The plan, however, did not address a fertilizer restriction program, which was mandatory as addressed in Item #18, Specific Findings, in the Findings of Fact and Approval, as accepted by the Planning Board on May 28, 2002. This Specific Finding was as follows:

- 18) Does not unreasonably increase a great pond’s phosphorous concentration.
 - The Condominium Association shall adopt a fertilizer restriction program developed by a qualified environmental professional which shall reduce or eliminate the use of fertilizer within the portion of the Condominium located within the Shoreland Zone, which shall include any streams, brooks, ponds, etc. on the property.
 - A fertilizer plan reducing phosphorus on the entire site shall be adopted by July 1, 2002.

Additionally, a fertilizer restriction program was addressed under Planning Board Action of the above-mentioned Findings of Fact, Item #6; it reads as follows:

- 6) The Condominiums shall adopt a fertilizer restriction program developed by a qualified environmental professional, which shall reduce or eliminate the use of fertilizer within the portion of the Condominiums located within the Shoreland Zone. In addition, the Condominiums are located over a large underground water aquifer, thus the entire site shall limit fertilizer containing phosphorus; this should be part of the fertilizer plan presented. The plan shall be filed with the Planning Board by July 1, 2002.

The Lawn Care Plan *received on July 9th* was not site specific. There was no mention of the Shoreland Zone within the Condominium or restricting fertilizer in that area nor was there any mention of making any effort to restrict phosphorus on site. Additionally, it speaks of using a ‘high phosphorous content’ fertilizer when new grass growth is anticipated. This totally contradicts the intention of the approval by the Board. In addition, Mr. Hannon had stated the Condominium would be using the Maine State Guidelines and adopt their recommended fertilizer program. There was no mention of the States Guidelines in the lawn care management plan received nor was there any mention of the State of Maine recommended fertilizer products.

After careful discussion the Board made the decision to require Mr. Hannon to submit a new plan, which addresses the above issues no later than Friday, July 26, 2002. Barbara G. will send this letter out by the end of the week.

Conditional Use Permit – New Driveway – Tim J. & Valerie Hardy, Carl Beal of Civil Consultants Representing – Map 32, Lot 6 (Dogwood Road)

The Board received the final plan for the Hardy Driveway with the required note on the plan with respect to the 50-year storm drainage ordinance, 105-26 today 7/9/02. The revised plan shall be filed with the application. Mr. Hardy has met all the requirements of this application.

OTHER:

The Board continued discussion on the approved Conditional Use Permit dated 8/14/01 for Shapleigh Elementary School, Map 5, Lot 40 for an additional portable classroom. Roger read the from the plan which showed a parking lot expansion sketch showing a total of 41 parking spaces. Thirty-nine are to be 10' x 20' in size, two are to be 17' x 20' for handicap access. Diane S. asked if there was a date of completion set for the parking lot completion. There did not appear to be one in the file.

John C. stated he would be willing to go to the site to be certain that the parking area was in fact enlarged and paved. John C. would contact Roger A. to tell him if the parking area was paved and the appropriate size. If it is not Roger will have Barbara draft a letter to Mr. Bechard, the Superintendent of Schools, which will state that the school shall have six weeks to comply with the 41 parking space requirement of the approved conditional use permit. All the Board members agreed to this course of action.

The meeting concluded at 10:30 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

SHAPLEIGH PLANNING BOARD MINUTES
Tuesday, July 23, 2002

Page 1 of 8

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer.

Site Inspection(s) began at 6:00 p.m.

- ***Conditional Use Permit – Repair Boat Launch – Owner Percy Cunningham – To be done with the York County Soil and Water Conservation District Recommendations – Map 27, Lot 14 (Point Road)***
Board members Roger Allaire, John Caramihalis, Bill Hayes and Barbara Gilbride met at the site along with Steve McDonough, CEO. There Mr. Cunningham showed the Board where he and his granddaughter planned to lay the tri-lock blocks to stabilize the earth to prevent more erosion. Mr. Cunningham had already placed a large quantity of pine bark mulch next to the boat ramp along with some plantings to stabilize the area. The width of the area to be covered with the tri-lock blocks appeared to run between 1 ½ feet and three feet at its widest area. The members also walked to Mr. Cunningham's garage to view the tri-lock blocks themselves.
 - ***Conditional Use Permit – Replace Existing Retaining Wall – Robert Spinney – Map 43, Lot 39 (47 Pine Cone Drive)***
The above-mentioned board members, as well as Steve McDonough attended this site inspection. Mr. Spinney was at the site to answer any questions. The wall to be replaced was made of railroad ties, which Mr. Spinney believed to be at least 50+ years old, it did appear to be coming apart in several places. Next to Mr. Spinney's property was Mr. Cortright's property. Mr. Cortright also replaced an existing railroad tie wall, with Planning Board approval, with interlocking cement blocks. The Board viewed these blocks and noted not only did they have a nice appearance but seemed to create a good wall for soil retention. Mr. Spinney stated he would be using the same blocks for his new wall.
-

The Planning Board meeting started at 7:30 p.m.

The Planning Board minutes of Tuesday, July 9, 2002, were read and accepted as written.

The following agenda items are written in the order they were discussed:

Conditional Use Permit – Replace Existing Retaining Wall – Robert Spinney – Map 43, Lot 39 (47 Pine Cone Drive)

Roger A. ("Roger") opened the discussion by asking the Board if they had any questions after going on the site inspection to Mr. Spinney's property? John C. asked Mr. Spinney if he intended to do plantings or reseed the area after the wall was put in? Mr. Spinney stated he would reseed. His neighbor Mr. Cortright reseeded and it looked nice and came in relatively quickly. The Board told Mr. Spinney that he needed to be sure not to fertilize since the area was so close to the water.

Roger reviewed Shapleigh Zoning Ordinance ("Ordinance") 105-17 to state to the Board that Mr. Spinney did indeed need a Conditional Use Permit since there would be moving of fill greater than 10 yards and some gravel may be brought into the area to repair the wall. Roger also stated that Mr. Spinney had filled out the Permit by Rule application with the D.E.P. as required. Roger also reviewed Ordinance 105-26 "Stormwater runoff" as well as 105-27 "Erosion control"; Mr. Spinney would be in compliance with both. Additionally,

Roger felt that this project would assist with erosion control much more efficiently than the existing wall. Also, if this existing wall were to collapse completely there would be a major problem at the site.

Roger asked Mr. Spinney if he would be digging the area out by hand or using a small excavator? Mr. Spinney did not know at this time because his son was doing the work and hadn't given him this detail.

Roger read to Mr. Spinney Ordinance 105-39.D "Earthmoving in the Shoreland District", it read as follows: "Any filling, dredging or excavation of land above or below the normal high watermark, except earthmoving of less than 10 cubic yards which shall require a permit from the CEO (except as provided above) to ensure proper erosion and sedimentation, shall require a conditional use permit from the Planning Board." Roger also reviewed all the "conditions of permit" under 105-39.G. These refer to the various precautions one must take to ensure protection of the lake during the project.

Roger asked Mr. Spinney what he would be doing with the railroad ties after he removed them. Mr. Spinney stated he had spoken with the towns transfer station attendant, and was told that with a Demo Permit he could bring the material to the transfer station.

Roger told Mr. Spinney he needed to be certain that whoever did the project, completed it in the shortest amount of time possible and made sure to use the D.E.P. guidelines to be certain to protect the area as much as possible. Roger then read Ordinance 105-73.G "Standards Applicable to a Conditional Use Permit" to be certain this project would meet all standards. The project will meet all the standards and, in addition, the following were noted:

- The project will help to conserve shore cover.
- The old wall will be brought to the transfer station for proper disposal.
- Provisions for stormwater drainage have been addressed with 4" drain pipe, filter paper and crushed gravel behind the new retaining wall per the submitted plan.
- A silt fence will be put in place while the project is being completed.

Roger asked Mr. Spinney when he intended to start the project? Mr. Spinney stated he thought in the fall. ***John C. made the motion to accept and approve the Conditional Use Permit as submitted with the following condition(s):***

- 1) ***Mr. Spinney shall do everything necessary to protect the shoreline during construction of the new retaining wall.***
- 2) ***Mr. Spinney shall replant the area no later than October 1, 2002.***

Bill H. 2nd the motion. All in favor.

Conditional Use Permit – Repair Boat Launch – Owner Percy Cunningham – To be done with guidance from a York County Soil and Water Conservation District Representative – Map 27, Lot 14 (Point Road)

Roger asked the Board if they had any questions with respect to this project proposed by Mr. Cunningham to prevent erosion along the sides of the existing boat ramp on Mousam Lake? John C. asked Roger why this project needed a permit? Roger addressed the following Ordinances stating they all were relevant to this project. They are as follows:

- 1) 105-17 "Land Uses (and the required permits)"
 - Earth removal, dredging or filling all require a CUP
(Filling = Depositing or dumping *any matter* on or into the ground or water.)

- 2) 105-26 “Stormwater Runoff”
 - Stormwater runoff is addressed by a CUP
- 3) 105-27 “Erosion Control”
 - Erosion control is addressed by a CUP
- 4) 105-39, “Earth Removal and Filling”
 - Both the movement of earth by the project as well as the bark mulch added to the site would fall under this ordinance and require a CUP due to moving in excess of 10 yards.
- 5) 105-73.G, “Standards applicable to conditional uses”
 - These standards assure the shoreline and water are protected during the project as well as making certain the project will not have an adverse effect on spawning grounds, fish, aquatic life, bird or other wildlife habitat.

Deborah St. Pierre of York County Soil & Water Conservation also questioned quite intensely the need for a Conditional Use Permit. John C. stated that again with respect to Ordinance 105-39.B.(1), because more than 10 cubic yards of mulch were placed at the site, this would require a CUP since it is in the Shoreland District. Roger stated that under section D of this same ordinance, “any type of fill” must be considered; it does not have to be soil. It could be pine spills if more than 10 cubic yards are being moved, it requires a CUP.

John C. as well as all the Board members concurred that the project would benefit the area by reducing or eliminating the amount of sand being washed into Mousam Lake. Additionally it will keep the existing boat ramp from further crumbling apart by keeping the automobiles from resting on the edge of the pavement. The tri-lock blocks can be driven on and will be abutted directly next to the pavement.

Roger asked if there were any further questions with respect to Mr. Cunningham’s project. The members were satisfied with all the information provided by Mr. Cunningham, which included a copy of the Permit by Rule mailed to the D.E.P., the specification diagram of the tri-lock block to be used, and an article which described in further detail how and where the blocks have been used in other similar circumstances.

Roger then read Ordinance 105-73.G “Standards Applicable to a Conditional Use Permit” to be certain this project would meet all standards. The project will meet all the standards and in addition the following were noted:

- The project will help to conserve shore cover.
- The work that was done to Point Road will address the stormwater drainage system provision required.
- The plan will control soil erosion and sedimentation on site.
- The plan submitted shall meet all the criteria for a Conditional Use Permit.

John C. made the motion to accept and approve the application as submitted. Bill H. 2nd the motion. All in favor.

(Note: The Board of Selectmen during their meeting on June 23, 2002 voted to waive the Conditional Use Permit fee for this project. For more information you may refer to the minutes from their meeting.)

Conditional Use Permit – Before and After Care for Children – Sanford/Springvale YMCA Applicant – Map 5, Lot 40 (467 Shapleigh Corner Road – MSAD #57, Shapleigh Elementary School)

A representative from the YMCA was present to discuss the details of the application before the Planning Board. The representative brought with her a letter from Fred Bechard, Superintendent of Schools for

MSAD 57. Roger read aloud the letter which stated that Mr. Bechard “supported the YMCA’s efforts to open a before and after school program at the Shapleigh Memorial School, beginning in the fall of 2002.” John C. asked if the hours of operation ran during the time that the school was in operation? Did they also open on days the school was closed, i.e. holidays? The rep. stated that the before and after care opened only on days the school was open. On days the school is closed, the parents have the option of bringing the children to the YMCA facility in Sanford.

The Board asked the rep. to state again what the hours of operation would be. She stated they would be Monday through Friday, 6:00 a.m. thru 9:00 a.m. and then again 3:00 p.m. thru 6:00 p.m.

Roger reviewed the Basic Performance Standards. Roger stated the requested hours of operation would allow the two employees as well as adults dropping their children off; avoid the bus traffic and additional school traffic. Therefore, it will not interfere with the school parking lot arrangement. There will only be a short period of time that the school will be in session when the before and after care will be operating. Roger did not feel this use of the school would have a negative impact on site. The other Board members agreed.

John C. talked about the water having been an issue on site. Mr. William Brockway, the business manager for MSAD 57 was present and he stated that the water problem had been corrected. John C. and Roger both mentioned to the other Board members that the existing septic system at the school was already over taxed, being used by more people than it was originally designed for. The YMCA did not need to address this issue; it was a school system issue. John C. and Roger wanted it noted once again for the record.

Roger asked the members if there were any additional questions? John C. asked the rep. if there was a State license required for this type of use? The rep. stated yes, and she had already filled out the necessary paperwork and has been State approved for the project. John C. asked if the license would be held at the school? The rep. stated, “yes it will”.

Roger then read Ordinance 105-73.G “Standards Applicable to a Conditional Use Permit”. This project will meet all applicable standards.

Bill H. made the motion to accept and approve the Conditional Use Permit as submitted with the following condition(s):

- 1) The hours of operation shall be 6:00 a.m. thru 9:00 a.m. and 3:00 p.m. thru 6:00 p.m., Monday through Friday.***
- 2) The hours of operation shall be only during the days that Shapleigh Memorial Elementary School is normally open for operation. Holidays and other days of closing, the operation shall be held at the YMCA facility in Sanford.***

John C. 2nd the motion. All in favor.

Conditional Use Permit – Remove an Existing Portable Classroom and Replace it with a New Portable Classroom – Map 5, Lot 40 (467 Shapleigh Corner Rd. / Shapleigh Elementary School) – Candace Gooch, MSAD 57

Roger asked Candace Gooch, who was present at the meeting, what exactly they were going to be doing with respect to the new portable classroom. Were they removing the old one and replacing it with a new one, locating it in the same place? Ms. Gooch stated that was exactly what they were going to be doing. Roger told Ms. Gooch, and Mr. Brockway, the business manager, that this being the case, they did not need to come before the Planning Board. They could in fact go to the Code Enforcement Officer with this project as long

as the size of the new modular was not going to be more than 25% larger than the existing one. Nothing further was discussed on this issue.

Amendment to a Conditional Use Permit – Place a Mobile Unit on the Existing Property for Donut Sales – Map 18, Lot 28 (146 Emery Mills Road / Rte. 109) – Jane Perry

The Board reviewed the application and plan presented for a modular unit to be placed on site at the establishment currently known as The Picket Fence, owned by Stephen Quartarone. The plan presented depicted the location of the mobile unit, two picnic tables, and three additional parking places on site.

Roger asked what type of mobile unit this was? Jane Perry, the applicant, stated it was a 1968 Impala Travel Trailer. John C. asked if there was an awning on this trailer? Ms. Perry stated “no”.

Roger asked if this was going to be a year round operation? Ms. Perry stated it would only be from approximately May until October. She did not want to be there when the snow began.

John C. asked if people would be getting the donuts from the window or going inside? Ms. Perry stated, “at the window”.

John C. asked about wastewater disposal. “How will you handle the removal of the water in the holding tank? Ms. Perry stated that there was a 12-gallon tank that held water, and a 12-gallon wastewater-holding tank. She stated that she brings the wastewater tank home and empties the water into the toilet. She washes all the dishes she uses at home. All this information was given to the State during the license process for the state.

John C. asked Ms. Perry if she would be moving the unit? Ms. Perry stated she did go to local fairs. After the fair she also brings the unit home to clean it prior to returning to The Picket Fence location. Ms. Perry told the Board that she rented space from Mr. Quartarone, just as she did at the local fairs.

Both Bill H. and John C. wanted to know how the Board could regulate a mobile unit? Also, how could the Board monitor wastewater disposal? There was no definite answer at this time. The ordinance does not address mobile units.

The Board asked Ms. Perry if she thought about other locations in the area as well? She stated she wanted to park by Mousam Lake but would require a generator and she did not want to make a lot of noise near the Lake.

Roger told Ms. Perry that ***the Board would need to send out a Notice to Abutters.*** This application would be reviewed again at the Planning Board meeting on August 13th. Barbara G. asked Roger if there was anything else Ms. Perry would need to bring to the Board. Roger stated it did not appear so.

Nothing else was discussed at this time.

Best Possible Location – Replace an Existing Shed with a New Shed – Map 17, Lot 33 – (148 30th Street) - Paul D. Brindle Representing Roger Zeghibe

Mr. Brindle was present at the meeting to discuss his application to replace an old 4’ X 8’ shed with a new 6’ X 7’ shed. He stated that the old shed was used for a children’s bathhouse and is no longer needed for that use, the children have grown. The owner would now like to replace this old shed with a new one for storage. Mr. Brindle stated that the Steve M. told him that he could not expand the shed more than 30%. Mr. Brindle stated that his expansion would be 10 square feet larger and that Steve told him he could only expand by 9.6 square feet. Mr. Brindle did not feel this minute difference should make a difference.

Roger stated that the Board would need to see the structure and it's location relative to the water. ***A site inspection was scheduled for 6:00 p.m. on August 13th. In addition, a Notice to Abutters shall be sent out.***

Nothing further was discussed.

Conditional Use Permit – Replace Retaining Wall – Map 22, Lot 6 (88 Kato's Nose) - Paul & Janice O'Donnell

Mr. O'Donnell was present at the meeting to answer any questions regarding his application. Attached to his application was a copy of the DEP Permit by Rule application, pictures depicting the existing leaning wall, and plot plan of the property where the wall exists, and additionally two proposals for replacing the wall.

Mr. O'Donnell stated that he was currently discussing with a contractor, Mr. Cliff Randall, options for this project. Mr. O'Donnell has considered removing the top portion of the wall which is leaning considerably (it is made of concrete blocks) and leaving the base foundation (it is poured concrete) that may be structurally sound if it is shored up.

The pictures presented also depict a porch that is not totally supported. The Board stated that this porch appears to need some work as soon as possible before it sags. Mr. O'Donnell stated that Mr. Randall was going to review the entire project and make recommendations.

Roger asked Mr. O'Donnell if he was going to use an excavator for this project or do it by hand? The wall is extremely close to the high water mark. Mr. O'Donnell stated that this property is very steep, so he is not sure how this project will be done. He did state that his neighbor has given permission to pass over his property to do the project. This neighbor does have a level lot.

Mr. O'Donnell also presented to the Board a letter from Mr. O'Donnell giving Mr. Cliff Randall authorization to act as his legal agent for this project. Mr. O'Donnell lives in Georgia and will not be able to attend the Planning Board meetings.

Roger set up a site inspection to this property for August 13th at 6:30 p.m. A Notice to Abutters shall also be sent out.

Nothing further was discussed.

After-the-Fact Conditional Use Permit – Bring Fill into the Shoreland Zone – Map 17, Lot 15 (28 Old Loop) – Robert & Dean Harris, Jr.

Mr. and Mrs. Harris were present at the meeting to discuss what has already taken place and what further they wished to accomplish. The after-the-fact application is to bring fill into the Shoreland zone. The project appears to be within 100 feet of the high water mark.

John C. asked Mr. Harris if the project is already completed? John C. also asked what type of fill has been brought in? Mr. Harris stated that it is gravel and he would like to bring more in. He said he is trying to make a driveway and a flat area so he can build a garage in the future. He wishes to retire at this location.

John C. asked how much fill has already been brought to the site? Steve M. stated that at least a couple of hundred yards are already on site. Bill H. asked if Mr. Harris is looking for another couple hundred yards of gravel to be brought in? Steve M. stated, "yes".

Steve M. showed the Board pictures of what has already taken place. Steve M. has cited Mr. Harris, as well as the contractor he is using, for a violation in the Shoreland zone.

Mr. Harris told the Board that he was filling in a low spot and there is no way that the fill can cause any harm to the water as it would have to run uphill to get to the lake. Roger and Steve M. told Mr. Harris that the issue here was not runoff but the fact that Mr. Harris had far exceeded what is allowed in the Shoreland zone without a permit.

John C. asked when this had taken place and if there were any trees cut? Mr. Harris told the Board that there were trees cut in May and the fill was brought to the site in June. The project stopped when he got a stop work order from Steve M.

Bill H. asked again if this was within 100 feet of the water? Steve M. stated, "Most of it is". Bill H. asked Roger and Steve M. if you can bring fill within 100' of the water? John C. and Roger both stated you could with the proper permit. John C. further stated that Mr. Harris would have to get a full permit by the DEP. A Permit by Rule would not cover a project this large, he did not believe.

John C. asked Roger if the Board should schedule a site inspection "prior" to Mr. Harris getting DEP approval for this project? Roger stated that we should have a site inspection so we know exactly what has taken place and what will be required. Roger also stated to Mr. Harris that he should contact the State to apply for the full permit, otherwise he could possibly be facing fines imposed by the State. Also, the State may require additional things be done on site for reclamation beyond what the town would require. Mr. Harris needs to get this information.

Roger set a site inspection of the property for 7:00 p.m. on August 13th. A Notice to Abutters shall also be mailed.

Steve M. further noted that the Board needed to review Ordinance 105-59.C which refers to roads and driveways in the Shoreland Zone. This ordinance states that all "new roads and driveways shall be set back a minimum of 100 feet from great ponds, the Mousam River and the Little Ossipee River and 75 feet back from other water bodies". Again, this project is within 100 feet of Lower Mousam Lake.

Nothing further was discussed.

Review of Sign Permit – Steve McDonough, CEO

Steve was presented with an application for a sign that exceeds the current size restrictions for signs. Steve's question to the Board was whether or not an existing sign is "grandfathered" so a replacement can exceed the size allowed?

Roger referred Steve M. to Ordinance 105-47.C.3 "Replacement". "Any new sign of different size and shape replacing a nonconforming sign shall conform to the provisions of this section, and the nonconforming sign shall not thereafter be displayed."

Roger further stated that the owner of the sign can refurbish the existing sign by repainting or maintaining it, but if it is replaced it must conform to the new sign dimensions.

Letter from Richard & Susan Bedell – Request Information Regarding Possible Sale of Piece of Property

A letter was mailed to the Planning Board from Richard & Susan Bedell, Jr. of 425 Owls Nest Road,

which asked the Board whether or not selling a remaining parcel of land they owned, consisting of 17 acres, would constitute a minor subdivision.

The letter from the Bedell's mentioned previously "gifting" land to a son in July of the year 2000. The Board asked Barbara G. to be certain that the gift of property was a gift and that no Transfer Tax had been paid. If a tax was paid, the land to the son was not a gift; therefore another split of the property would constitute a minor subdivision.

(After reviewing the Real Estate Transfer Tax records of that year, it was shown that their son had indeed paid a transfer tax on the property, on July 3, 2000. This constitutes a "sale" of the property rather than a "gift" to a child. This being the case, selling another portion of this property would require an application for minor subdivision. A letter was written to the Bedell's to inform them of the Boards finding.)

GROWTH PERMIT(S) – There are three available Growth Permits. Application(s) #1 thru #3 will be reviewed this evening. All other applications will be kept on file until acceptance or the end of the year, whichever comes first:

- 1) ***Denied – No road frontage.*** - Tracy DesFosses - Map 6, Portion of Lot 7 – Back Road
- 2) ***Approved #30A-02 (apartment)*** – Charles & Joyce Rodrigue – Map 14, Lot 15, Block C
- 3) ***Approved #31A-02*** - Henry Gierie & Diana Rose – Map 12, Lot 15 – Newfield Road
- 4) ***Approved #32A-02*** - John & Joanne Chadbourne – Map 8, Lot 2B – Owls Nest Road

- 5) Jeremiah F. Goodwin – Map 2, Lot 44, 45, 46 – Walnut Hill Rd
- 6) McKenna Brothers Constructions, Inc. – Map 34, Lot 14 – 150 Cedar Drive
- 7) Grammar Ridge Inc. – Map 11, Lot 10-1 (Lot 3 of G.R. Subdivision) – Newfield Road

OTHER:

Letter of Resignation from Norma Gassett received July 10, 2002.

The Board received a letter from Norma stating she had to resign due to her many commitments; thus she is unable to carry on the duties of a Planning Board Member. Bill Hayes was asked to go from Alternate to Member and he accepted this position. The Planning Board will be looking for an alternate.

Letter from Fred Bechard regarding the impact of three subdivisions.

The Board received a letter from Mr. Bechard, Superintendent of Schools for MSAD 57, stating the possible cost of three subdivision(s) over the next 10 years to the school system. They are: the Hannon Condominiums, which have already been approved, the Northwoods 8-Lot subdivision, and the 14-Lot Birchfield Place subdivision. The Board will discuss at future meetings the impact of subdivision and whether or not any "impact fees" are appropriate.

The meeting concluded at 10:00 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

Tuesday, August 13, 2002

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes, Diane Srebnick and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer.

Site Inspection(s) began at 6:00 p.m.

- ***Best Possible Location – Replace Existing Shed with a New Shed – Owner Roger Zeghibe – Applicant Paul D. Brindle – Map 17, Lot 33 (148 30th Street)***
Board members Roger Allaire, John Caramihalis, Bill Hayes, Diane Srebnick and Barbara Gilbride met at the site along with Steve McDonough, CEO. Mr. Brindle, also at the site visit, showed the Board the shed that needed to be replaced. The existing location was reviewed as well as the surrounding area to determine the best possible location for a new shed.
 - ***After-the-Fact Conditional Use Permit – Bring Fill into the Shoreland Zone – Robert Dean Harris, Jr. – Map 17, Lot 15 (28 Old Loop)***
The above-mentioned board members, as well as Steve McDonough attended this site inspection. Mr. Harris was at the site to answer any questions. The members viewed a very large amount of fill that had already been placed on the site. Mr. Harris stated it was 126 yards. The members also looked at the area Mr. Harris wanted to continue to fill as well as noticing that a large amount of trees had been removed recently from the property. The location of the fill appeared to be within 100 feet of the water. The trees taken were definitely within the Shoreland zone.
 - ***Conditional Use Permit – Replace an Existing Retaining Wall – Paul & Janice O'Donnell – Map 22, Lot 6 (88 Kato's Nose)***
The above-mentioned board members, as well as Steve McDonough, attended this site inspection. Mr. Cliff Randall was at the site representing Mr. & Mrs. O'Donnell. The board members looked at the existing retaining wall and could see that both the lower portion of the wall that consisted of poured concrete and the top portion of the wall that was made from concrete blocks, were leaning quite dramatically toward the water. Mr. Randall explained to the board that he was not certain whether or not Mr. O'Donnell would choose to replace the entire wall or just the concrete block portion of the wall. Mr. Randall felt that the existing poured cement wall, though leaning, was still adequate to use as a base to provide support for the existing porch that was above the wall (currently the porch is not tied into the leaning wall, it appears to be self-sustaining).
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The Planning Board meeting started at 7:30 p.m.

The Planning Board minutes of Tuesday, July 9, 2002, were read and accepted as written.

The following agenda items are written in the order they were discussed:

Amendment to a Conditional Use Permit – Place a Mobile Unit on the Existing Property for Donut Sales – Map 18, Lot 28 (146 Emery Mills Road / Rte. 109) – Jane Perry

The Board reviewed the application and plan presented for placing a modular unit on site at the establishment currently known as The Picket Fence, owned by Stephen Quartarone, to sell donuts. The plan presented depicted the location of the mobile unit, two picnic tables, and three additional parking places on site.

A Notice to the Abutters had been mailed out on July 26, 2002. Roger A. ("Roger") started the discussion by asking if there were any abutters in the audience that had questions with respect to this application. There were no questions. Roger also asked Board members if they had any questions for Ms. Perry. John C. asked what the hours of operations were going to be. Ms. Perry stated, "7:00 a.m. thru 6:00 p.m., seven days a week."

Roger asked if there would be any additional lighting and the answer was no. Roger noted the parking was sufficient as drawn on the plan presented. There would be no additional odors or excessive noise from this new establishment. Ms. Perry would handle the refuse. Roger read the Standards Applicable to a Conditional Use, 105-73.G:

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat. ***There are no spawning grounds on site 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 plan wants businesses along Rte. 109.***
- 4) Traffic access to the site is safe. ***It is currently an existing approved business location.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is currently an existing approved business location.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***Ms. Perry will be removing wastewater from the site daily.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***None are being generated.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***Previously approved on original C.U.P.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Previously presented and approved on original C.U.P.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is access to Lower Mousam Lake across the road. The water supply is adequate for this business.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***There is an existing approved plan. None of the neighbors have shown that they are bothered by the appearance of the existing business nor the business activity itself.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

After review of the application and all the information presented, John made the motion to ***approve*** the Conditional Use Permit with the following condition:

- ***The hours of operation shall be from 7:00 a.m. thru 6:00 p.m., 7 days a week.***

Diane S. 2nd the motion. All in favor.

Best Possible Location – Replace an Existing Shed with a New Shed – Map 17, Lot 33 – (148 30th Street) – Paul D. Brindle Representing Roger Zeghibe

Mr. Brindle was present at the meeting to discuss the application to replace an old 4' X 8' shed with a new 6' X 7' shed. The Board members viewed the existing shed at the site inspection and examined the surrounding area in order to be able to establish the best possible location for the proposed new shed.

The Board asked Mr. Brindle if the new shed would be placed on cement blocks? Mr. Brindle stated, "Yes". The Board asked if he proposed to place the new shed closer to the high water mark? Mr. Brindle stated "No".

Roger reviewed Shapleigh Zoning Ordinance 105-4(D) "Nonconforming structures". John C. asked if it would be best to have Steve M., CEO, determine the exact size of the existing shed. Mr. Brindle stated that the building has been measured and the measurement was taken from the edge of the existing roofline. This measurement is 4' X 8'. Steve M. stated that he thought this measurement to be accurate but did not measure it again at the site inspection. The Board members were comfortable, after seeing the building, with Mr. Brindle's measurement of the building.

Diane asked Mr. Brindle if the new shed would be a prefabricated shed, built to Mr. Brindle's specifications? Mr. Brindle stated that the building would be built to whatever size Mr. Zeghibe (owner of the property) asked for. Diane S. then stated that this being the case, there should be no reason that the new shed could not conform to the 30% expansion ordinance. Mr. Brindle agreed.

The proposed shed size of 6' X 7' is four square inches more than allowed by Ordinance 105-4. Diane S. asked Mr. Brindle if he would be willing to reduce the size of the proposed shed. He stated he would do what the Board recommended.

John C. stated that he did not want the new shed going any closer to the high water mark. All the Board members agreed that the current location of the existing shed is the best possible location. Additionally, if the new shed is going to be shorter in length, the Board recommended that the shed be pushed back that much farther from the high water mark, approximately one foot.

Steve M. calculated both the square feet and volume of the existing building and stated to the Board that a building being 6' X 6' in size would comply with the above the ordinance. Diane S. asked if 6' X 6' 6" would comply? Steve M. stated, "Yes". Bill H. asked the other Board members if the Board should require Mr. Brindle to reduce the size of the proposed shed so that it does comply with the ordinance? All members present agreed that this structure should comply.

John C. made the motion to **approve** the Best Possible Location to replace the existing shed with a new shed with the following condition(s):

- *The new shed shall be no larger than 6' X 6' 6" in size, thus keeping the size of the shed in compliance with the 30% expansion allowed per Shapleigh Zoning Ordinance, 105-4.D(1).*
- *The building must be built within the original footprint. It cannot go closer to the high water mark nor closer to the road. It may, however, encroach toward the existing home on the property.*
- *All necessary permits must be received from the CEO prior to doing any work on this project.*

Bill H. 2nd the motion. All in favor.

After-the-Fact Conditional Use Permit – Bring Fill into the Shoreland Zone – Map 17, Lot 15 (28 Old Loop) – Robert Dean Harris, Jr.

Mr. Harris was present at the meeting to discuss what he proposed to do with respect to bringing in additional fill, adding to the more than 100 yards that have already been placed on the property. Mr. Harris stated he is trying to make a driveway and a flat area because his existing driveway is too small for the amount of vehicles his family uses and he would like to build a garage in the future and needs to level the area to do that.

The Board members, at the site inspection, viewed a large amount of earth that has already been placed on the property. Mr. Harris stated that the contractor, Charles Plante, said he has already dumped 126 yards. Mr. Harris told the Board that he would need that much again to fill in the low area as well as to be able to grade it properly. During the site inspection members also noted that there had been trees cut within the Shoreland Zone, which appeared to be within 20 feet of the high water mark. (There was no permit for this activity from the CEO.)

(Roger removed himself from all discussion since he also uses Mr. Plante as a contractor and did not want there to be any conflict of interest.)

John C. asked if the Dept. of Environmental Protection had been notified on this project. Steve M. stated that there was a Permit by Rule filed but that the D.E.P. was only concerned with what takes place within 25' of the high water mark. Additionally, the D.E.P. defers to local zoning ordinances for approval of projects within the Shoreland Zone.

John C. stated that he would like to see the removal of the existing fill beyond what was needed for a turnaround/parking area. In addition, John C. would like to require Mr. Harris to replant the trees he removed in the Shoreland Zone.

John C. asked the Board members to review Shapleigh Zoning Ordinance 105-59 "Roads and water crossings". This ordinance covers "new" driveways in the Shoreland Zone, stating that they shall be set back a minimum of 100 feet from great ponds. This property abuts Mousam Lake.

Bill H. asked, "How far from the water is the new fill?" "How far is the driveway from the water?" The other members present thought that the driveway was greater than 100' from the waters edge but the new fill was within 70 feet of the high water mark.

John C. read from a citation in which Steve M. had cited Mr. Harris and Mr. Plante, with respect to this issue. It read as follows:

On or about July 1, 2002, the Code Enforcement Officer for the Town of Shapleigh inspected the above referenced lot situated on Old Loop Rd., in the Town of Shapleigh, owned by Robert Dean Harris Jr. The Code Officer discovered that a portion of the lot, approximately 4200 sq. ft., (60ft. x 70ft.) had been clear cut to approximately forty (40) feet to the normal high water mark of Lower Mousam Lake, classified as a Great Pond, in violation of the provisions of Article VI Section 105-51 (B) of the Town of Shapleigh Zoning Ordinance. The Code Enforcement Officer further discovered that the defendant filled, or caused to be filled, the above-mentioned area on that lot by depositing thereon approximately 120 Yards of fill in the Shoreland Zone without first obtaining a Conditional Use Permit from the Planning Board, in violation of the provisions of Article IV Section 105-39 (D) of the Town of Shapleigh Zoning Ordinance. The Code Enforcement Officer subsequently provided written notification of these two violations to the Defendant by letter dated July 9, 2002 together with an attached Consent Agreement asking for a penalty of \$2000.00.

John C. asked Mr. Harris who put the silt fence up at the site? Mr. Harris stated he did. John asked, "Not the excavator". Mr. Harris stated, "No".

Bill H. asked Mr. Harris if there were any alternatives to removing the trees next to the water? Also he asked Mr. Harris if there was any other location to expand the driveway? Mr. Harris stated that he did not want to remove the oak trees that were next to his existing driveway and he felt that removing the trees next to the water would not harm the area. All the Board members were very concerned with the number of trees removed and the fact that replanting trees will not make up for the loss of canopy that has taken place.

John C. stated he would like Mr. Harris to bring to the Board a better plan depicting the 100' demarcation from the high water mark. He would also like to see a proposal keeping the expansion of the driveway beyond this 100' radius. Diane S. stated she would like to see a drainage plan from a licensed engineer because of the location of this project.

Diane S. asked what the D.E.P. Permit by Rule application covered? John C. stated it gives information on how to safely do the project and explains that the homeowner will have to follow the town's ordinances.

John C. stated that he would like to see a replanting plan for the trees that were removed within 100 feet of the water. John C. asked Barbara G. to mail Mr. Harris a copy of Shapleigh Zoning Ordinances 105-51 "Clearing of vegetation for development" and Ordinance 105-59.C "which refers to new driveways in the Shoreland Zone.

Nothing further was discussed. Barbara G. will draft a letter for Mr. Harris reviewing what was requested at tonight's meeting. ***This application is tabled until new material is presented.***

Conditional Use Permit – Replace Retaining Wall – Map 22, Lot 6 (88 Kato's Nose) – Paul & Janice O'Donnell

Mr. Cliff Randall was present at the meeting to represent Mr. & Mrs. O'Donnell. The Board members did a site inspection earlier in the evening and viewed a retaining wall that was leaning very noticeably toward the lake. The top portion of the wall was constructed of concrete blocks and the lower portion of poured concrete. In addition, there was an enclosed porch that jutted out from the cabin, which did not appear to have any supporting structure underneath it for at least six feet.

The Board members asked Mr. Randall if this proposed wall replacement would be used to support the overhanging porch. Mr. Randall stated that he would like to tie the structure into the proposed new wall with angle iron. Roger and John C. both stated that they felt the Board would need to address both the retaining wall and the porch situation together, otherwise the Board would be neglecting the future problem of a structure that could collapsed into the water below, which would not be in the homeowner's best interest.

Bill H. asked Mr. Randall exactly what Mr. O'Donnell intended to do at the site. Did he want to replace the entire wall or just the top portion? Also, how would he replace the wall, with poured reinforced concrete? Bill H. did not see a "plan" on file referring to exactly what Mr. O'Donnell would like to do.

Roger agreed with Bill H., on file were several options that Mr. O'Donnell has listed. One option is to replace the existing foundation with a new poured foundation. However, this option does not state the size of the replacement foundation or if this new foundation will support the existing porch. The second option is a generic plan to replace the current foundation with an anchor reinforced retaining wall system. Again, there are no specifics with respect to this project.

Mr. Randall stated that a third option was to leave the existing retaining wall as it is. John C. did not feel this was a safe alternative. The existing top portion of the wall could fall into the water or worse onto someone. And again, there is nothing with this option addressing the porch problem. John C. noted to Mr. Randall that if the porch collapses, aside from possibly hurting someone, the O'Donnell's would not be able to replace the structure because of it's location in the Shoreland Zone. The O'Donnell's can, however, correct the problem now.

Mr. Randall asked if he could place a new retaining wall behind the existing wall? John C. stated, "Yes". Mr. Randall asked if he would have to come before the Planning Board to do this? John C. stated "Yes, because you will be moving earth within the Shoreland Zone."

Mr. Randall stated that he would have to contact Mr. O'Donnell, give him the options presented this evening and then return to the Board with a plan.

Roger told Mr. Randall that if Mr. O'Donnell wants to place a new foundation under the existing structure he would not have to come back before the Board. He would have to go to the Code Enforcement Officer. He did state that because this project is so close to the water, he would need an engineered plan whether he comes back before the Board or to the Code Enforcement Officer.

This application will be tabled until a final plan can be presented to the Board. Nothing further was discussed.

14-Lot Major Subdivision – Final Plan – Map 10, Lot 10A (State Route 11) – “Birchfield Place” – Michael T. Morris, Applicant – Ethelind Walker, Owner of Property

Mr. Morris was present at the meeting along with Andrew Nadeau from Corner Post Land Surveyors, the company that has drawn up the proposed plans for the development.

Roger started the meeting by asking Mr. Morris if the road for the subdivision would be installed prior to any homes being built? Mr. Morris stated, “Yes”. Roger asked Mr. Morris what he would be offering the town to guarantee that this work will be completed. Roger referred Mr. Morris to Shapleigh Subdivision Ordinance 89-42 “Types of guaranties”. Would there be an escrow account set up? Mr. Morris did not have an answer for the Board at this time. Mr. Morris did say he would provide whatever the Board would prefer.

Roger spoke to the Board members and Mr. Morris about the letter received from the Supt. of Schools, Mr. Fred Bechard, addressing the issue of the possible impact that 14 new homes would have on the school system. Mr. Nadeau and Mr. Morris asked Roger why these new homes would have a greater impact than any other new homes in Shapleigh? Both referred to the Growth Ordinance, which allows only 33 new homes per year, regardless of the location. Both felt that this project did not add additional burden since they would not be able to go over the 33 allotted permits. In addition, a contractor can only receive 2 permits per month.

Roger explained that because the new homes would be in one area, this could possibly require an extra bus for this route. Also, this could pose a problem with choosing which children would be bussed to Shapleigh Memorial School and which would then have to go to Line School, also increasing the cost of transportation. When the locations of children in an area are spread over a larger area, it is easier to absorb them into the existing bus routes.

Roger asked Mr. Morris if he would be willing to contribute to this additional transportation cost? Roger also asked Board members to consider an “impact fee” for this project.

Mr. Worster, from Real Estate 2000, asked the Board if the cost of children in the schools is shared among all the towns? “Isn’t Shapleigh a member of SAD 57?” Mr. Worster also asked if the school system received state subsidies? Roger did not know what the state contribution was to the school system. Roger also stated that regardless of being in a school district, having a large number of children in one area has a greater impact on bussing than having children spread out over several bus routes.

Mr. Worster asked why Kettle Pond Condominiums, which were approved by the Board earlier this year, did not get asked to address the possible impact to the school system? “Is there a double set of standards?” Mr. Worster also stated that he felt as Mr. Morris did that the Growth Permit Ordinance would address the impact to the school system. Roger stated that the Condominiums were previously built and approved as rental units. The only change to the plan was to consider them units as Condominiums.

Roger asked Mr. Morris who would be maintaining the 20,000-gallon water holding tank? Mr. Morris stated he thought that the Fire Dept. said they would not mind maintaining it as long as Mr. Morris put it in the location

they requested. Roger asked if Mr. Morris would consider helping with the cost of maintaining the tank? Mr. Morris stated he would speak with the Fire Chief, Gary Utgard, on this issue.

Mr. Morris told the Board that he has applied to the State for his entrance permit onto Route 11 and was told by the State that his application was approved. He should be receiving it shortly. *(This permit arrived at the Town Hall on 8/20/02.)*

John C. asked about the location of the Central Maine Power Electric Pad(s) locations. Did Mr. Morris ask C.M.P. where they should be located? Mr. Nadeau stated that the pad placement was taken directly from what C.M.P. required for underground electric location(s).

Bill H. asked Mr. Morris if it would be possible to designate an undisturbed area on the final plan on those properties that abut Route 11? Mr. Morris stated that was his intention also, and he would not have a problem with showing that on the plan. Bill H. stated that he would like to see that area at least 50 feet wide.

Roger stated that on Note #14 of the plan presented it is written that Lot(s) #1 and #2 would be restricted to entering onto Rte. 11 by Birchfield Drive only. Roger would like to see Lot(s) #8 and #10 added to the plan as discussed at the previous meeting. Mr. Morris agreed stating it was an oversight.

John C. asked Mr. Morris about water retention on the site along the proposed roadway. John C. asked if the proposed retention areas would be large enough to contain the water. John C. was concerned that there would be a lot of sheeting action due to the width of the paved road. Mr. Nadeau referred John C. to the submitted Drainage Plan. Mr. Nadeau stated that he was certain the proposed plan would take care of all rainwater in accordance with the 50-year flood plan requirement.

Prior to final review the Planning Board requests the following information in writing from Mr. Morris:

- 1) What type of performance guarantee shall be made for the town with respect to completion of the roadway and all other improvements to the land prior to completion, see Shapleigh Subdivision Ordinance 89-42 "Types of guaranties".
- 2) An agreement signed between Mr. Morris and the Shapleigh Fire Department stating who shall maintain the tank and associated structures now and in the future. Additionally, it must be noted who will pay for the cost to maintain the structure. (The size and location of the water holding tank/cistern should be noted on the plan.)
- 3) On the final plan it must be noted on Lot #7 where the soil test pits are located. (All other lots depicted the locations of the test pits.)
- 4) On note #14 of the final plan, Lot(s) #8 and #10 must be added, noting that they too, in addition to Lot(s) #1 and #2, will be restricted to entering onto Rte. 11 by Birchfield Drive only.
- 5) The final plan will need to show where a licensed engineer dug test pit holes along the subdivision roadway in addition to stating that it was not necessary for Mr. Morris to remove the existing gravel as required per Shapleigh Zoning Ordinance 89-37.B "Preparation" (Street construction standards), if in fact the existing soil has an adequate road base as stated by Mr. Morris and does not have to be removed prior to construction.
- 6) What, if anything, does Mr. Morris propose to do financially or otherwise, to ease the burden to the MSAD 57 school system, that his project of 14 additional homes may impose?

The Board shall hold a Public Hearing for this subdivision on Tuesday, August 27th at 7:00 p.m.

Nothing further was discussed.

After-the-Fact Conditional Use Permit – Driveway – Map 29, Lot 6 (21 Ouail Road) – John & Mary Hastings – Carl Beal, Civil Engineer Representing

(Roger removed himself from this discussion because the contractor for the project, Andrew Sevigny, is a relative.)

Mr. Carl Beal of Civil Consultants attended the Board meeting to present a site plan, which included the new driveway that has already been placed on the property. The plan lists erosion and sediment control practices that includes minimizing disturbance of the surrounding area; soil erosion devices to be used including silt fencing, hay bales, etc.; as well as using vegetative cover to prevent erosion.

The plan also references the natural retention areas surrounding the property as being sufficient to retain all runoff produced by a 50-year storm event. It was determined by Mr. Beal that the water retention would not be totally on site, it would be also be on the adjacent properties.

The original application was to put in a new driveway accessing Goose Pond Road and to place a new septic system on the property. The Board allowed the Hastings to remove stumps on the property, to provide access to the area where the new approved septic system would be installed. The Board did not approve a new driveway. The following is an exact quote from the Planning Board meeting dated December 11, 2001:

“The plan presented did not have any details or drawings depicting “exactly” what the Hastings would have done. This is what the Board had requested, engineered details, showing land contours / elevations, water flow, including the slope to Goose Pond Road and the end of the driveway behind the new garage. The Planning Board told Mr. Sevigny that he would have to have this information before the driveway would be approved.

In addition to the above details required, the Board wants to know where the silt fences will be located, and this information is needed NOW.”

Mr. Beal explained that there would be mulch placed along both sides of the new driveway to a depth of four to six inches. This mulch would not be the traditional mulch but a heavier mixture that included small chopped stumps. This would stabilize the area, as it will not be dislodged by heavy rainfall.

Mr. Beal spoke of the 50-year storm plan and that the new driveway in place will not affect Square Pond with runoff. He also stated that during the building of the driveway there were silt fences in place and any new work on the driveway will also have silt fencing.

Steve M., while reviewing the new plan, asked Mr. Beal if the neighbor would be further impacted by rainwater because of the addition of this driveway and the fact that the trees had been removed? In addition, the plan shows the bark mulch as being partly on the neighbors land. Did the neighbors give permission for this to take place? The Board had concern with this also and asked Mr. Beal if he would get something in writing stating that the abutting neighbors allowed the placement of mulch on their land.

Mr. Beal stated that the new road did have some impact on the neighbor’s property, but to what extent he did not know.

John C. stated that perhaps the Hastings would need to pull the mulch off the neighbor’s property unless they get permission to leave it there. Mr. Beal stated he would be willing to get a statement from the neighbors with

respect to both the drainage of the water onto their land as well as the aesthetics of the driveway. Steve M. did not feel that this would be adequate since future owners would have to live with whatever got approved. John C. and Diane S. both felt that the damage has already been done; now the Board must assess what would work best with respect to the current abutters.

Bill H. asked if the abutters could grant an easement for wastewater run-off? Mr. Beal stated, "Yes". Steve M. stated that he felt this would be best for future owners since it would be a legal document (recorded at the Registry of Deeds) for any new owners to read before purchasing the property.

Diane S. stated she felt that if the abutters do not agree to an easement or what has been proposed per the plan, the driveway would need to be removed and the area replanted. The other Board members agreed.

Nothing further was discussed. ***The Board would table this application until Mr. Beal can bring an easement for wastewater run-off to the Board.***

3-Lot Minor Subdivision Application – Map 8, Lot 6 (Owl's Nest Road) – Richard & Susan Bedell

Ms. Bedell came to the meeting to ask the Board what was required for information for a minor subdivision. Roger stated that it would be in her best interest to get a copy of the Subdivision of Land ordinance, which listed specifically what is involved when applying for a small subdivision. In addition, Board members listed the following criteria that would be required prior to further review:

- 1) A Name for the Subdivision
- 2) A Survey of the boundary lines, made by a licensed surveyor, of all parcels.
- 3) Location of all approved septic systems that currently exist.
- 4) Test Pit Locations for the New Parcel
- 5) Soil and Erosion Control Plan
- 6) Contour Lines of all Lots on Plan.
- 7) Deeds need to be created for all three parcels.
- 8) A list of any waivers that the Bedells may request, including a waiver for underground utilities or stone monuments, for example.

Ms. Bedell thanked the Board for its time and stated that she would get in touch with the secretary when she had gathered all the necessary information. This application will be tabled.

There will not be a Site Inspection or Notice to Abutters until Ms. Bedell brings in the necessary information.

Nothing further was discussed.

OTHER:

Review Final Submission of Paperwork from Patrick Hannon regarding Kettle Pond Condominiums Fertilizer Plan

Roger asked the Board members if they had any questions with respect to the changes made to the fertilizer plan? Bill H. asked if the only change was that there would be no new grass in the Shoreland Zone other than what is naturally occurring. The following is what was added to the original plan:

“Under A. Grass Selection - A starter fertilizer with a high phosphorous content should only be used in areas where new grass growth is anticipated. For KPD property, new grass growth will

not be allowed within the Shoreland zone. Alternative forms of ground cover, i.e. Cape Cod grass (wood chips) will be substituted.”

“Under 3. Fertilizing – As noted previously, KPD will not plant new grass requiring fertilizer within the Shoreland zone. In addition, fertilizer containing phosphorous (P) will be minimized/eliminated for the remainder of the property. Phosphorous in these areas will only be applied after soil tests are performed and the planning board is consulted.”

The Board members felt this was adequate and addressed what they had required during the approval process. The members accepted this plan.

Copy of Transfer Deeds for Kettle Pond Condominiums.

Roger and Barbara G. will review the deeds to be certain they are as presented to the Planning Board during the approval process. The Board is still waiting for a copy of the recorded plans.

CUP – 190-foot Telecommunications Tower - ATC Realty, LLC Leasing – Map 3, Lot 15

Roger spoke to the Board members stated that the \$18,000 bond that was required prior to approval of the tower has expired or is going to. (This bond had been established to disassemble and remove the tower should it no longer be in use.) ATC Realty contacted Roger to tell him that they were currently looking for another bond or escrow to cover the bond that expired. Roger also noted that if they do not do this, the Board has the ability to ask that the tower be removed. There is a clause in the bond that 30 days prior to expiration the Town would be notified of the expiration. This hasn't been received yet.

Both Steve M. and Roger thought it would probably cost more than \$18,000 to remove the tower. It is therefore important that this bond or account be re-established soon. Roger will keep us updated on this matter.

The Planning Board will request a meeting with the Board of Selectmen to discuss impact fees. It has been tentatively scheduled for 6:30 p.m. on August 27th. Barbara G. will speak with Karla Bergeron, Secretary to the Board of Selectmen, to confirm.

Note: The Board of Selectmen will meet with the Planning Board at 6:00 p.m. on August 27th. They feel there needs to be more than ½ hour to discuss this issue and related issues.

GROWTH PERMIT(S): There are no available Growth Permits at this time.

The meeting concluded at 10:30 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

Meeting with the Board of Selectmen at 6:00 p.m.

The Planning Board met with the Board of Selectmen to discuss the subjects of “impact fees” and the current Growth Ordinance.

Roger A., Planning Board Chairman, began the meeting by addressing the current 14-lot subdivision proposal by Michael Morris, to be called Birchfield Place, located on Rte. 11, Map 10, Lot 10A. Roger felt that because there would be 14 new homes all in one location, it would tax the bus system much more heavily than if they were spread out over various bus routes in Shapleigh. Roger stated that the current subdivision ordinance does allow for the town to address this issue, either by receiving compensation toward a new bus or other monies for the school system.

Steve M. did not feel the ordinance as written allowed the town to impose fees other than the application fees. Ruth Ham, one of the Selectmen did not feel any type of additional fee would work since the town did not have a lot of debt, so there would be no justification to impose an impact fee to the town.

Board members, Bill Hayes, Diane Srebnick and Barbara Gilbride felt that the Growth Ordinance addressed the issue of impact to the town by limiting the number of new homes in the town. Roger A. agreed this was a consideration but again addressed the fact that these new homes would all be located in one area instead of spread out.

Ruth H. asked if perhaps the town should address the Growth Ordinance at town meeting, and possibly allow some permits to go just to developers and then another number to single-family homes? Roger A. stated that this has not worked in the past. Also, the current number of 2 permits to a developer allowed per month, already addressed the problems associated with development.

Roger A. told the Board of Selectmen that this subdivision would bring 14 new homes to that general area and another subdivision along the same road would be bringing a minimum of 8 new homes. Again, this impacts a very small area with respect to bussing. Roger A. told the BOS he was looking for guidance in this area.

Bill H. stated that a developer must put in the subdivision with an infrastructure that was to town specifications and standards. With this subdivision the developer will be putting in a 20,000-gallon water holding tank for fire protection. The tank will be an asset to the town. The development will generate taxes that will go to the town. Bill did not feel that asking the developer for another fee, in excess of the application fee would go over well with the developer and he did not feel he could endorse it.

Ruth H. stated that every house that comes into Shapleigh cost the town money and is an impact to the town. There is not enough revenue generated per home currently to send one child to school.

Bill H. still did not feel we could impose a fee that the developer did not understand. As it stands, many of the Board members do not see exactly where this ability to impose another fee exists in the ordinance. Bill H. said he felt we needed to come up with another plan to dissuade cost.

Steve M. agreed there was an issue here, but did not see where we could do this within our ordinance structure. Steve M. also felt that the way to address the impact to the town for each new home would be a Growth Permit fee. Steve M. also stated that this was something the townspeople would have to vote on. He did not feel that either the Planning Board or Board of Selectmen could make this decision alone. Steve M. read Shapleigh Zoning Ordinance 105-65 “Fees”. Steve M. felt that this ordinance pertained to the fees already in existence, not any new fees. Additionally, since a fee is not addressed currently in the Growth Permit Ordinance, again it would need to be addressed at town meeting and voted on.

Madge Baker agreed that this would need a vote by the majority of the townspeople and it would be very important that the Boards clearly state what this fee is intended to be used for. Otherwise, the townspeople are not apt to vote it in. The town needs to be told the cost each additional new home creates for the town.

Ruth H. stated that she felt that the Boards would need to do a more in depth study on what the town could do with respect to a fee either attached to new subdivision or the Growth Ordinance. What is the impact of new homes, whether scattered throughout Shapleigh or clustered in one area? Ed Wood, a Selectmen, agreed stating that the town would need to prove there were reasons for creating a change to the ordinance.

Madge Baker brought up the subject of the 20,000-gallon water holding tank that is proposed for Birchfield Place subdivision. Madge asked how we were going to be certain there was money set aside to maintain the tank in the future? Bill H. asked if we could assess the cost to maintain the tank possibly yearly, and then have each homeowner in the subdivision pay a portion of that assessment? Could we place this in the deed? Ruth H. thought that we could indeed assess this as a direct cost to the town, and by doing this the town would know that now and in the future the nozzle and tank are adequate as well as full of water when needed. The deeds could read that each homeowner is responsible for 1/14th of the cost to maintain fire protection for the subdivision. Ruth H. thought that this would be a preferable way to handle the issue, that way in the future should a homeowner sell the property and not pay their portion, the town could put a lien on the property so when the property sold the town *would* be paid.

Roger A. further addressed this issue by stating that Subdivision Ordinance 89-43 "Contents of guaranty" includes the cost of the fire protection. It is allowed to ask for a warranty to cover the maintenance of the tank years down the road in case the tank should become faulty. If this is not addressed the town will have to pick up the cost to replace the tank, should it need replacement in the future. Roger A. also stated that it would cover the cost in case the tank was not put in correctly to begin with. Bill H. asked if we could have Steve M, CEO, at the site to be certain it was put in correctly. Roger A. stated we could if Steve M. was comfortable with that, but backfilling this type of tank can be tricky and if not done correctly the tank would implode upon itself.

The meeting concluded with the Planning Board and the Board of Selectmen concluding that we did not at this time have an ordinance that would allow impact fees to this subdivision or any others that are before the Planning Board at this time. The subject of a Growth Permit fee would be discussed further by the Boards and brought to the townspeople for a vote. Barbara G., Planning Board Secretary would inquire of the surrounding towns how they handle their Growth Permits and if in fact they had a fee and how much that fee was. The impact of new homes to the transfer station, schools, roads, etc. needs to be addressed more comprehensively prior to presenting this new fee proposal.

On the subject of the maintenance of the water holding tank for Birchfield Place, the BOS thought the plan to assess the cost to each homeowner of the subdivision equally and have this addressed in the individual deeds is the best way to handle this subject. The Planning Board agreed, stating that the fire protection needs to be addressed now and into the future for the safety of the residents in the subdivision.

The meeting between the Planning Board and Board of Selectmen concluded at 7:00 p.m.

Tuesday, August 27, 2002

Amended copy as of 9/11/02.

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes, Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer.

Meeting with the Board of Selectmen at 6:00 p.m.

The Planning Board met with the Board of Selectmen to discuss the subjects of “impact fees” and the “current Growth Ordinance”.

Roger Allaire, Planning Board Chairman, began the meeting by addressing the current 14-lot subdivision proposed by Michael Morris, to be called Birchfield Place, located on Rte. 11, Map 10, Lot 10A. Roger felt that because there would be 14 new homes all in one location, it would tax the bus system much more heavily than if they were spread out over various bus routes in Shapleigh. Roger stated that the current subdivision ordinance does allow for the town to address this issue, either by receiving compensation toward a new bus or other monies for the school system.

Steve M. did not feel the ordinance as written allowed the town to impose fees other than the application fees. Ruth Ham, one of the Selectmen, did not feel any type of additional fee would work since the town did not have a lot of debt, so there would be no justification to impose an impact fee to the **developer**.

Planning Board members, Bill Hayes, Diane Srebnick and Barbara Gilbride felt that the Growth Ordinance addressed the issue of impact to the town by limiting the number of new homes in the town. Roger A. agreed this was a consideration but again addressed the fact that these new homes would all be located in one area instead of spread out.

Ruth H. asked if perhaps the town should address the Growth Ordinance at town meeting and possibly allow one group of permits to go just to developers and then another number to single-family homes? Roger A. stated that this has not worked in the past. Also, the current number of (2) permits to a developer allowed per month, already addressed the problems associated with development.

Roger A. told the Board of Selectmen that this subdivision would bring 14 new homes to that general area and another subdivision along the same road would be bringing a minimum of 8 new homes. Again, this impacts a very small area with respect to bussing. Roger A. told the BOS he was looking for guidance in this area.

Bill H. stated that a developer must put in the subdivision with an infrastructure that was to town specifications and standards. With this subdivision the developer will be putting in a 20,000-gallon water holding tank for fire protection. The tank will be an asset to the town. The development will generate taxes that will go to the town. Bill did not feel that asking the developer for another fee in excess of the application fee would go over well with the developer and he did not feel he could endorse it.

Ruth H. stated that every house that comes into Shapleigh cost the town money and is an impact to the town. There is not enough tax revenue generated per home currently to send one child to school.

Bill H. still did not feel we could impose a fee that the developer did not understand. As it stands, many of the Board members do not see exactly where this ability to impose another fee exists in the ordinance. Bill H. said he felt we needed to come up with another plan to offset cost.

Steve M felt that the way to address the impact to the town for each new home would be a Growth Permit fee. Steve M. also stated that this was something the townspeople would have to vote on. He did not feel that

either the Planning Board or Board of Selectmen could make this decision alone. Steve M. read Shapleigh Zoning Ordinance 105-65 "Fees". Steve M. felt that this ordinance pertained to the fees already in existence, not any new fees. Additionally, since a fee is not addressed currently in the Growth Permit Ordinance, it would need to be addressed at town meeting and voted on.

Madge Baker, Planning Board member, agreed that this would need a vote by the majority of the townspeople and it would be very important that both Boards clearly state what this fee is intended to be used for, otherwise the townspeople are not apt to vote it in. The town needs to be told the cost each additional new home creates for the town.

Ruth H. stated that she felt that the Boards would need to do a more in depth study on what the town could do with respect to a fee either attached to new subdivision or the Growth Ordinance. What is the impact of new homes, whether scattered throughout Shapleigh or clustered in one area? Ed Wood, a Selectmen, agreed, stating that the town would need to prove there were reasons for creating a change to the ordinance.

Madge B. brought up the subject of the 20,000-gallon water holding tank that is proposed for Birchfield Place subdivision. Madge asked how we were going to be certain there was money set aside to maintain the tank in the future? Bill H. asked the BOS if we could assess the cost to maintain the tank possibly yearly, and then have each homeowner in the subdivision pay a portion of that assessment? Could we place this in the deed? Ruth H. thought that we could indeed assess this as a direct cost to the town, and by doing this the town would know that now and in the future the nozzle and tank are adequate as well as full of water when needed. The deeds could read that each homeowner is responsible for 1/14th of the cost to maintain fire protection for the subdivision. Ruth H. thought that this would be a preferable way to handle the issue; that way, in the future should a homeowner sell the property and not pay their portion, the town could put a lien on the property so when the property sold the town *would* be paid.

Roger A. further addressed this issue by stating that Subdivision Ordinance 89-43 "Contents of guaranty" includes the cost of the fire protection. It is allowed to ask for a warranty to cover the maintenance of the tank years down the road in case the tank should become faulty. If this is not addressed, the town will have to pick up the cost to replace the tank should it need replacement in the future. Roger A. also stated that a performance guaranty would cover the cost in case the tank was not put in correctly to begin with. Bill H. asked if we could have Steve M, CEO, at the site to be certain it was put in correctly. Roger A. stated we could if Steve M. was comfortable with that, but backfilling this type of tank can be tricky and if not done correctly the tank would implode upon itself.

The meeting concluded with the Planning Board and the Board of Selectmen agreeing that we did not at this time have an ordinance that would allow impact fees to this subdivision or any others that are before the Planning Board at this time. The subject of a Growth Permit fee would be discussed further by the Boards and brought to the townspeople for a vote. Barbara G., Planning Board Secretary would inquire of the surrounding towns how they handle their Growth Permits and if in fact they had a fee and how much that fee was. The impact of new homes to the transfer station, schools, roads, etc. needs to be addressed more comprehensively prior to presenting this new fee proposal.

On the subject of the maintenance of the water holding tank for Birchfield Place, the BOS thought the plan to assess the cost to each homeowner of the subdivision equally and have this addressed in the individual deeds is the best way to handle this subject. The Planning Board agreed, stating that the fire protection needs to be addressed now and into the future for the safety of the residents in the subdivision.

The meeting between the Planning Board and Board of Selectmen concluded at 7:00 p.m.

The Public Hearing Began at 7:05 p.m.

- **14-Lot Major Subdivision – Final Plan – Map 10, Lot 10A (State Route 11) – “Birchfield Place” – Michael T. Morris Applicant**

Roger A. (“Roger”) started the Public Hearing by asking if there were any questions from the citizens who attended. Bill Hutchins and Charles Gruber were present and asked to present to the Board a Map labeled “Town of Shapleigh, High Value Plant and Animal Habitats”. The Board welcomed their input. Mr. Hutchins and Mr. Gruber also gave the Board a letter from the Conservation Committee, which listed the rare animals and plants located either on or directly abutting the property. Both gentlemen pointed out that this area was one of the most highly concentrated areas in Shapleigh for field verified plant and wildlife habitat.

The Board asked if these plants and animals were located recently on this site and when this map was last updated. Mr. Hutchins and Mr. Gruber did not know if these plants were located on the proposed site or in the general vicinity. The map itself, however, had been updated in December of 2001. Both felt that perhaps the Board should contact the State to get further details.

Andrew Nadeau of Corner Post Land Surveyors, Inc. was present to represent Michael T. Morris, the Applicant, and he stated that he has worked with the State in the past with respect to endangered species and he knew of no endangered species in this area. He stated he had updated information and did not feel that there was anything to be concerned about in this area. Mr. Nadeau did not feel that this information was conclusive enough to impose restrictions on this property.

Barbara G. asked Mr. Nadeau if he felt Mr. Morris would be willing to add at least a 50 foot buffer/do not disturb area around the entire parcel. This area would leave the area as it currently exists in the buffer with no building allowed or lawns. Mr. Nadeau felt that Mr. Morris would probably agree to do this.

Bob Ferguson was present, representing Ethelind Walker, the current owner of the land of the proposed subdivision, and he stated that he also has acquired studies of rare and endangered species in the area and believes that the area indicated on the map is incorrect. He believes that the area in question is across the street and several hundred feet away. He stated he would give the Board copies of the information he had if they wanted it.

Diane S. read from Subdivision Ordinance 4404 “Review criteria”, line #8, which states:
Aesthetic, cultural and natural values. The proposed subdivision will not have an undue adverse effect on the scenic or natural beauty of the area, aesthetics, historic sites, significant wildlife habitat identified by the Department of Inland Fisheries and Wildlife or the municipality, or rare and irreplaceable natural areas or any public rights for physical or visual access to the shoreline”.
The Board agreed that this issue needed to be reviewed by someone who knew exactly what this map represented and if in fact there needed to be any measures taken to protect the habitats in this area. Barbara G. will contact Inland Fisheries and Wildlife to get further details.

Nothing further was discussed at the Public Hearing, as there were no further questions. The Public Hearing closed at 7:30 p.m.

The Planning Board minutes of Tuesday, August 13, 2002 were read and accepted as written.

The following agenda items are written in the order they were discussed:

After-the-Fact Conditional Use Permit – Handicap Walkway – Map 33, Lot 35 (Treasure Island) – John H. Dingle, III

Mr. Dingle was present at the meeting to explain to the Board the reason for the Handicap Walkway. He stated the purpose was to give his grandmother, who spends much of the summer at the cottage, easier access to the rear of the cottage, the area closest to the waterfront. He stated the terrain, prior to the installation of the walkway was very difficult, it included stumps and rocks. He further stated that his grandmother currently used a walker and could not navigate the area without a lot of help prior to construction of the walkway. Mr. Dingle attached to his application a copy of a letter from Robert H. Brew, M.D. stating that Beatrice Smith, Mr. Dingle's grandmother, had multiple medical problems and required a walker for safe ambulation. The letter also stated that she required a permanent handicap ramp for access to the camp.

Mr. Dingle stated that he realized now he should have obtained a permit prior to the installation of the walkway but thought that the contractor he used for the project would take care of all necessary permits. He showed the Board the copy of the bill from the contractor to show that he had indeed hired someone to do the work; he did not do the work himself.

The Board asked what the size of the walkway was? Mr. Dingle stated it was 18 ½ feet long, 10 feet wide at its widest and 4 ½ feet wide at the narrowest point. He showed the Board a picture of the walkway, which was attached to his application.

The Board asked how far the walkway was from the high water mark? Mr. Dingle stated that he thought it was approximately 55 feet to the waters edge from the end of the walkway.

John C. noted that there were steps that the grandmother would have to use prior to getting to the walkway, wouldn't she need help with those stairs? Mr. Dingle stated that she could navigate the stairs alone, using the rail on one side, but if someone was there they did help her down the stairs until she reached the ramp. She did not have trouble on the ramp. John C. asked if the ramp met code for handicap accessibility? Mr. Dingle did not know. He stated that if it did not meet code, he would in fact bring it up to code, if necessary.

Roger told Mr. Dingle that if the Board approved this ramp, its necessity would have to be reviewed every three years and if it were deemed by the CEO to be no longer necessary it would have to be removed. The ramp would have to be removed prior to the 3-year allowance if there was no longer a need for the grandmother. Mr. Dingle stated he understood.

Mr. Dingle said that he had a deadline of August 30th from the Code Enforcement Officer to remove the ramp. Would the Board be able to view the ramp prior to that deadline and approve or disapprove it? Steve M., CEO, stated that he would not ask Mr. Dingle to remove the ramp until after the Board had time to make its decision.

Roger set the time for a Site Inspection for 6:30 p.m. (the members will meet at Diane Srebnick's dock) on September 10th, prior to the Planning Board meeting. A Notice to Abutters shall be mailed out.

Nothing further was discussed at this time.

14-Lot Major Subdivision – Final Plan – Map 10, Lot 10A (State Route 11) – “Birchfield Place” – Michael T. Morris Applicant

Andrew Nadeau of Corner Post Land Surveyors, Inc. was present to represent the applicant, Michael T. Morris. Mr. Morris was unable to attend the meeting due to a death in the family.

Mr. Nadeau stated that he still needed a letter from Gary Utgard, the Fire Chief, with respect to the 20,000 water-holding tank. Mr. Nadeau stated that he had fulfilled all other requests by the Board from the last review of this application.

Diane S. stated that after the discussion during the Public Hearing she wanted to be sure that the Board contacted the State to get further information on what the impact this subdivision would have on the wildlife in the area. Madge B. gave Barbara G. the name of Mr. deMaynadier of Inland Fisheries and Wildlife as a contact on this issue. The entire Board felt they needed to know if this area was significant or not and, if so, what type of restrictions may be required to protect the area.

Madge B. stated that Inland Fisheries and Wildlife told her that the worse thing for the endangered moths was excessive lighting. Perhaps the Board could restrict backyard lighting? Mr. Nadeau did not feel that this was necessary or that his client would be willing to add this restriction. Mr. Nadeau did say that there would be no streetlights. The Board felt this was a big plus.

Bill H. stated that if this area is significant, the code stated that the subdivision can not have an adverse effect on the wildlife habitat. He felt strongly that we definitely needed to contact Inland Fisheries and Wildlife.

Roger stated the Board would need to contact the MDIFW and Mr. Morris would have to bring the following to the next meeting prior to the Board being able to take a final vote:

- 1) The estimated cost to build the infrastructure.***
- 2) A Bond or Escrow account large enough to cover this cost until the project is complete.***
- 3) A letter from the Fire Chief, with respect to the 20,000 gallon holding tank, stating the Fire Department will or will not maintain it and shall have access to it at all times.***
- 4) A representative Deed stating that the homeowners will take care of the cost of the maintenance of the water holding tank and any future repairs to the tank.***

Barbara G. will contact Inland Fisheries and Wildlife and report to the Board at the next meeting the results of that conversation. **

Nothing further was discussed at this time.

Conditional Use Permit – Replace Retaining Wall – Sandra & Karen Joy – Map 16, Lot 15 (200 31st Street)

Sandra and Karen Joy were present at the meeting to discuss their application. Karen Joy spoke to the Board stating that they would like to replace the current retaining wall with a wall four feet in height. The existing wall is deteriorating. Ms. Joy also brought pictures of the existing wall, a sketch of the proposed wall, an estimate of cost from a contractor of \$8,340 and a copy of the Permit by Rule to the DEP.

The proposed wall would be made from interlocking blocks. In addition, they would like a small cement ramp area to be able to walk to the water easily. This area would be approximately 4 feet in width. When the home loses electric power they use the water from the lake and it is too difficult to carry it up stairs or over the embankment.

The Board after reviewing the application and pictures had no further questions at this time.

Roger set the time for a Site Inspection for 6:00 p.m. on September 10th, prior to the Planning Board meeting. A Notice to Abutters shall be mailed out.

Denied Growth Permit – Request Information from Planning Board for Requirements Needed to Obtain a Growth Permit - Map 6, Portion of Lot 7 – Tracy Desfosses

Tracy Desfosses was present at the meeting along with an Attorney, Peter Faulkner, representing her interest. The Attorney began by asking why the Growth Permit had been denied. Roger stated that this piece of property was a back lot with no road frontage. There is a requirement of 200 feet of road frontage per Shapleigh Zoning Ordinance 105-18 “Dimensional Requirements”.

The Attorney asked the Board if Ms. Desfosses created a road to town standards if in fact this would suffice to create the necessary road frontage. The Board stated that this would take care of the road frontage requirement but currently Ms. Desfosses showed the right-of-way to her property as being 30 feet in width, to meet town standards this right-of-way would have to be 50 feet in width.

The Attorney stated to the Board that Ms. Desfosses could acquire the extra 20 feet necessary for the right-of-way from the abutting property. The Board asked about the current right-of-way as depicted on the plan she presented. It appeared this right-of-way came out of Map 6, Lot 9, which is a non-conforming lot. The Board stated that a person cannot make a lot more non-conforming. The Attorney stated that this lot had been grandfathered, in existence prior to the ordinance, as had the 30-foot right-of-way that currently exists.

The Attorney asked the Board if Ms. Desfosses puts in the required street to the towns standards would she be guaranteed a Growth Permit? Barbara G. stated there were no available Growth Permits this year. Ms. Desfosses could reapply in January 2003. If the roadway were put in and up to town standards, then she would be re-reviewed at that time and be accepted if there was a Growth Permit available. The Growth Permits are on a first come first served basis after the 1st of the year and applicants are reviewed in the order they are received.

The Attorney seemed concerned that if Ms. Desfosses put all the effort and expense into this town approved street, why shouldn't she be guaranteed a Growth Permit? The Board reiterated that each individual is reviewed in the order in which the permits are received. If at the time of review all the criteria for a buildable lot is met then the Growth Permit is accepted. If it is not, then it is denied. Ms. Desfosses at this time does not meet the criteria, having no street frontage.

Nothing further was discussed.

Escrow Agreement to replace Expired Bond for \$18,000 - CUP – Map 3, Lot 15 – 190-foot Telecommunications Tower - ATC Realty, LLC Leasing

The Board has been notified by RLI Insurance Company that the \$18,000 Bond set up for Spectrum Resources Towers, L.P., shall expire on 9/18/02. The telecommunications tower facility must have a bond or escrow account to replace this expired bond.

Roger reviewed a letter from Spectrum Towers, which stated that they would be setting up an escrow agreement in the amount of \$18,000 to replace the expiring bond. The letter further states that Spectrum Towers would like to designate an escrow agent, a.k.a. a third party with respect to this escrow account. Roger did not feel this was in the best interest of the town. Roger will bring a copy of the letter and agreement to Atty. Ron Bourque, the Town Attorney, to be certain the town's interests are fully met.

Roger will report back to the Planning Board and Board of Selectmen when he has further information. This item must be taken care of prior to the expiration of the original bond.

Possible Ordinances Changes – Open for Discussion

Attached to these minutes are the possible ordinance changes as discussed over the past eight months. Nothing has been concluded. There will be more discussion over the next several months.

GROWTH PERMIT(S) – There are no Growth Permits available.

The meeting concluded at 9:30 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

planningboard@shapleigh.net or strawman04076@yahoo.com

***** Attached is a reply from Philip DeMaynadier of MDIFW received 8/30/02 with respect to the Birchfield Subdivision proposal and the existing wildlife habitat value that currently exists. Please read the letter prior to the meeting. This may need some in depth discussion.***

8/2002

POSSIBLE CHANGES TO ORDINANCE(S):

MAJOR SUBDIVISION

89-20. Final approval and filing.

- B. Upon findings of fact and determination that all standards in 30-A M.R.S.A. §4404 and these regulations have been met and upon voting to approve the subdivision, the Board shall sign the final plan. The Board shall specify, in writing, its findings of fact and reasons for any conditions or denial. One copy of the signed plan shall be retained by the Board as part of its permanent records. One copy of the signed plan shall be forwarded to the Tax Assessor. One copy of the signed plan shall be forwarded to the Code Enforcement Officer. Any subdivision not recorded in the registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board shall become null and void.
- B. Upon findings of fact and determination that all standards in 30-A M.R.S.A. §4404 and these regulations have been met and upon voting to approve the subdivision, the Board shall sign the final plan(s). *The Board shall specify, in writing, its findings of fact and reasons for any conditions or denial. There shall be a total of four copies of the final plan presented to the Board for signature. The signed plan(s) shall be recorded at the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board and three copies returned to the Town Hall within those 90 days or the plan shall become null and void. One registered copy of the signed plan shall be returned to the Planning Board and become part of its permanent records. One copy of the registered signed plan shall be forwarded to the Tax Assessor. One copy of the registered signed plan shall be forwarded to the Code Enforcement Officer. The fourth remains at the York County Registry of Deeds.*

MINOR SUBDIVISION

89-13. Compliance with major subdivision requirements.

Remove this sentence and list the requirements necessary for minor subdivision or list the ordinance numbers that pertain to this statement, or refer the applicant to "General Standards". There is much confusion with respect to this requirement being so vague. Can we make it more clear to the reader?

Board did not want to move this item or change it in any way – 8/27/02

89-15. Submissions

- A. The final submission plan for a minor subdivision shall consist of two reproducible, stable-based transparent originals, one to be recorded at the registry of Deeds, the other to be filed at the municipal offices, and three copies of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 75 acres may be drawn at a scale of not more than 200 feet to the inch, provided that all necessary detail can easily be read. Plans shall be no larger than 24 inches by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, including alternate members, no less than seven days prior to the meeting.

8/2002

POSSIBLE CHANGES TO ORDINANCE(S):

- A. The final submission plan for a minor subdivision shall consist of two reproducible, stable-based transparent originals, both to be recorded at the registry of Deeds ***within 90 days of final approval by the Board, one of the above registered copies shall be returned to the Planning Board within 90 days of final approval***, and three copies of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 75 acres may be drawn at a scale of not more than 200 feet to the inch, provided that all necessary detail can easily be read. Plans shall be no larger than 24 inches by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and a one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, including alternate members, no less than seven days prior to the meeting.
-

Under Zoning, 105-15 “Definitions”

Hotel / Motel - Needs to be addressed. _____
If the Comp. Plan addresses this item, there needs to be a definition in the Zoning book, and refer to it under commercial uses. _____

Lot of Record – Needs further clarification. _____
The Board members need to review and come together with a more comprehensive description. _____

Hammerhead Turnaround – Needs to be addressed. _____ **Need to have Gary Utgard address this issue.**
Also Road Commissioners need to comment. _____

Vendor and/or Vendor’s License - Needs to be addressed here and elsewhere in the Zoning ordinance?
The Board feels the Board of Selectmen need to address this issue. Perhaps they should contact MMA. _____

Retaining Wall – Needs to be addressed here and elsewhere in the Zoning Ordinance? _____
The Board needs to review where this would be listed. _____

Street Standards – Should we have something for street standards in zoning as there are many questions from residents with respect to this item. Possibly the statement could be made under this section referring the reader to Shapleigh Subdivision of Land Ordinance 89-37 “Street construction standards.”

The P. Board felt that perhaps Street Standards need to be set apart from both the Subdivision Ordinance and the Zoning Ordinance. Both can refer to the Street Standards description that is set apart? Roger did not feel the Road Commissioners would agree to this. _____

8/2002

POSSIBLE CHANGES TO ORDINANCE(S):

105-19.B.4 “Street Frontage”

- (4) New building lots located at the end of a cul-de-sac may be designed so that they have 50 feet of street frontage, so long as the width is 200 feet at the location where the principal building is constructed.

Need to add Hammerhead Turnaround either under (4) or add a (5) to this section.

The P. Board agreed this needed to be added. The exact wording will be discussed further.

- Currently all Abutter Notification(s) are mailed Certified mail at a cost of \$2.67. These go to all abutters within 500 feet of the applicant’s property.

Would it be feasible to mail the abutters within 100 feet of the applicant Certified and those within the remaining 400 feet regular mail?

The P. Board felt that this would be fine. Madge stated she would make certain that there isn’t a State requirement for Certified mail for all the abutters within 500 feet.

Tuesday, September 10, 2002

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer.

Site Inspection(s) began at 6:00 p.m.

◆ ***Conditional Use Permit – Replace Retaining Wall – Map 16, Lot 15 (200 31st Street) – Sandra & Karen Joy***

Board members, Roger Allaire, John Caramihalis, Diane Srebnick, Madge Baker and Barbara Gilbride attended, along with Steve McDonough, CEO, as well as the applicants, Sandra and Karen Joy. At the site the members viewed an existing wall that was in need of repair or replacement. The wall ranged in height from approximately four feet down to one foot. There was a set of stairs attached to the existing wall. Beach front existed in front of the wall. The wall was not in a straight line, in the middle of the wall it jogged in toward the home for a length of approximately 16 feet. Karen Joy showed the Board members an area at the end of the wall where they would like to attach a four foot cement pad to make it easier to pull their paddle boat to shore as well as being able to access the lake without going down the stairs. At this time there is vegetation along the top of the wall.

◆ ***After-the-Fact Conditional Use Permit – Handicap Walkway – Map 33, Lot 35 (Treasure Island) – John Dingle, III***

The above Board members attended this site review. At the site members saw an existing ramp approximately 18 ½ feet in length and ranging from 3 feet in width to 10 feet at the location closest to the water. The ramp appeared to have a slope that was greater than 1" to 1', but not overly so. At the bottom of the ramp was one step that was wide enough for a person to stand on with a walker. The applicant was also on site and he stated that the step was due to the fact that previously where the ramp ended it was too high for his grandmother to step up safely with her walker. He therefore asked the contractor to reduce the height by adding one wide step, which is the one there now. The end of the ramp appeared to be at least 60 feet from the waters edge. It stopped at the walkway used by the public who live on the island. Mr. Dingle stated he did not want to place the ramp over the walkway as it might disturb those walking by.

The Planning Board meeting started at 7:30 p.m.

The Planning Board minutes of Tuesday, August 27, 2002, were read and accepted as amended.

The following agenda items are written in the order they were discussed:

Conditional Use Permit – Replace Retaining Wall – Map 16, Lot 15 (200 31st Street) – Sandra & Karen Joy

Sandra and Karen Joy brought to the Planning Board, in addition to a Conditional Use Permit Application, a sketch of the existing wall, including measurements of size and showing where the existing steps exist. Also on the sketch plan is an area where they would like a concrete ramp to pull their paddle boat from shore onto the embankment. Pictures of the existing wall were submitted, as well as a sketch of the proposed wall and the proposal from R. Day Masonry Company showing the cost and materials to be used for the project. A Permit by Rule notification to the CEO was received by the Board and was placed in the file.

Roger Allaire ("Roger") asked the Board members if they had any questions with respect to this application or the site visit earlier in the evening. John C. asked about the ramp that the Joys were requesting to add to the

wall. What was going to be the exact size requested? John C. did not want to see a large boat launch added to the location. Karen Joy stated that they only required four feet, which should be enough area to bring their paddle boat up on to the banking. Currently they have to lift the boat one foot, over the existing wall, and it was getting to be too hard for them to do.

Roger stated that they needed to have an exact size for the ramp placed on their plan. Karen Joy stated that four feet by four feet should be large enough. Roger sketched that size in on the plan that they had already presented and Karen Joy initialized the change. He did again reiterate that before they got a permit to do the work, a plan must be given to the Board or Steve M., CEO, with the exact location written on the plan.

John C. then asked the applicants if they were replacing the steps? Karen stated, "Yes". He told them that if they did, they would have to be certain they were to code, and they could speak with Steve M. to get the exact dimensions required. Karen Joy said she understood and would speak with Steve.

Roger stated that he would like to see the wall to the right, facing the water, straightened out and moved back toward the house away from the water approximately two feet where the existing cement property marker exists. This would keep the wall more in line with the other side and also moves it farther away from the waters edge. The Joy's were willing to incorporate this idea into the plan. Roger stated that they would need to add this to the revised plan also showing this change and give it to Steve M., CEO, prior to starting the project.

Roger reviewed the following ordinances with respect to this project:

- 105-17, Land Uses, stating that this project did require a Conditional Use Permit.
- 105-26, Stormwater Runoff, stating that this project will help to reduce stormwater from entering the lake and also will prevent erosion of the shoreline.
- 105-27, Erosion control, stating that the replanting of vegetation along the wall will aid in reducing erosion along with the backfill and drainage used for this project.
- 105-39, Earth removal and filling, stating that this project requires a Conditional Use Permit under this code provision as well.
- 105-44, Piers, docks, and other Shoreland construction, reading (1) "No causeway, bridge, marina, wharf, dock or permanent structure shall be constructed in, on, over or abutting any great pond nor any fill deposited or dredging done therein without a permit from the Department of Environmental Protection." Roger stated that the Applicants did submit a Permit by Rule Application to the DEP and there is a copy on file.

Roger asked the Board members if there were any further questions after reviewing the application and plan presented, as well as anything seen at the site inspection. All members felt the project as presented, after making the above changes requested, needed no further explanation.

Roger then read Shapleigh Zoning Ordinance 105-73.G "Standards applicable to conditional uses".

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***There will not, silt fencing will be used during the project and the new wall and plantings will prevent runoff from going into the water in the future.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***It will.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comp. Plan wants to preserve the water quality of the lakes and prevent dirt and silt from washing into the lake as well as degradation of the shoreline.***
- 4) Traffic access to the site is safe. ***N/A***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***

- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***All material from the old wall shall be hauled off-site.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***None are being generated.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made to the area, only replacing what currently exists.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There shall be silt fencing during the project and replanting along the wall when it is finished.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***There is, the project is located on the lake.***
- 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. ***Landscaping is in existence and there isn't anything detrimental being generated.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

John C. asked if there was a requirement to put a railing along the top of the new wall? Steve M. and Roger stated there was no such requirement.

John C. made the motion to accept the Conditional Use Permit to replace the existing retaining wall, per the plan with the following conditions:

- ***There shall be a new plan presented to the CEO and a copy for the Planning Board showing the following changes from the original plan:***
 - 1) ***The boat launch area shall be 4' X 4' in size.***
 - 2) ***The wall closest to the granite marker shall be lined up with that marker, moving the new wall approximately two feet away from the lake.***
- ***The new wall shall be no more than four feet in height.***
- ***The applicant shall use silt fencing during the project.***
- ***The applicant shall replant the area above the new wall by June 1, 2003, with plants indigenous to this area, such as junipers, to prevent erosion.***

Madge B. 2nd the motion. All in favor.

After-the-Fact Conditional Use Permit – Handicap Walkway – Map 33, Lot 35 (Treasure Island) – John Dingle, III

Attached to Mr. Dingle's application was a sketch page showing the approximate location of the existing ramp and its size. In addition, Mr. Dingle attached pictures showing the ramp from several angles and what the property looked like prior to the installation of the ramp. Mr. Dingle also attached a letter from Dr. Robert H. Brew, which stated that Mr. Dingle's grandmother, Beatrice Smith had multiple medical problems, which would require a handicap ramp for access to the camp. One letter from an abutter and one telephone call came to the Planning Board, both stating they felt the walkway was necessary and did not hinder anyone walking on the pathway around Treasure Island.

Roger asked Board members if they had any questions after the site inspection. John C. asked how the Board could approve this project? Diane S. read Shapleigh Zoning Ordinance 105-4.D(8) Disability access, (a). "Nothing in this chapter shall prevent a property owner from making that property accessible to a person with a disability even if such installation or constructions results in a violation of or further encroachment into any setback or other dimensional requirement....." John C. and Roger both noted 105-4.D(8) (b), which states

that "Permission granted under this subsection is restricted solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability, and such installation or construction must be built according to the BOCA National Building Code and Life Safety Code." John C. and Roger felt that both (a) and (b) must be addressed.

Roger further addressed the existing ramp stating that this structure is for the handicap access of a person using a walker not a wheelchair. At the bottom of the ramp exists a step, which would not be allowed for a wheelchair ramp, but this ramp is not to be used by a wheelchair. In addition, the step was created to accommodate Mr. Dingle's grandmother; otherwise the step to the ground would have been too high for her, being approximately one foot off the ground. In addition, Roger added that he would feel comfortable adding an additional step, if needed, as long as it was wide enough to accommodate both Mr. Dingle's grandmother and her walker. The addition of another step would remove the need to add a 90 degree angle to the existing ramp, so it would meet the BOCA code with respect to slope of ramp.

Steve M., CEO, agreed with Roger stating that this access is not for a person in a wheelchair. The ramp and stair must meet code for a person who can still walk. The Board agreed that the type of handicap must be taken into consideration when applying which type of ramp would be necessary.

The Board reviewed Ordinance 105-4.D(8) (c), "the property owner must obtain a permit from the CEO before such installation or construction is begun and allow such equipment or structure to be inspected and approved by the CEO before its use...."

Madge B. addressed the fact that the ramp was in existence and moving or changing it would further disturb the earth in the area. The purpose here is to have a structure that worked for the handicapped person as well as minimal impact in the Shoreland zone. Madge B. did tell Mr. Dingle that when his grandmother no longer needed the ramp, the structure would have to be removed. Mr. Dingle agreed.

John C. made the motion to accept the after-the-fact Conditional Use Permit for a handicap ramp for access, based on Section 105-4.D(8) (c), stating that the disability use permit will expire after three years unless renewed by the CEO. The property owner must prove to the CEO there is still a need for the structure, and if not the structure must be removed within 90 days. Madge B. 2nd the motion. All in favor.

John C. told Mr. Dingle he would have to get a letter to the CEO every three years addressing the fact that the need was still there for the handicap access ramp.

Amendment to a Conditional Use Permit – Repair Two Retaining Walls – Map 23, Lot 10 (23rd Street Loop / Starboard Lane) – Mary Hermann Representing

The Board members had reviewed an application dated October 5, 2001, which was an amendment to the original application, to repair two retaining walls. The original application was to spray Gunnite onto the existing walls. This amended application is to replace the existing walls, due to the extensive repair that is required.

Present at the meeting was Mary Hermann. Also attending the meeting was Mr. Lincourt, one of the co-owners of the property.

The Board had instructed Ms. Hermann previously to bring a letter signed by all the people who had interest in the property, stating that she could act on their behalf. In addition, by letter dated October 30, 2001 from the Planning Board to Mary Hermann, it was requested that Ms. Hermann bring a new DEP, Permit by Rule Application, for this project (since they are no longer using Gunnite spray to repair the wall), as well as a statement by her contractor to the amount of fill to be brought to the site.

Roger asked Ms. Hermann and Mr. Lincourt where they would be placing the remnants of the old wall? Mr. Lincourt stated that they had 13 acres behind the waterfront property and they intended to use the demolished wall to possibly create a stonewall on that part of the property.

Ms. Hermann presented a new plan created by Robert Gore, Jr., P.E., of Acton Maine, a Consulting Engineer. This plan showed the engineering of the new 140-foot long wall. The new wall would be no closer to the high water mark than the current wall which is approximately one foot beneath the high water mark. The new wall would be more environmentally sound than the one that currently exists.

All members, after reviewing the pictures given to the Board by Ms. Hermann, agreed this wall needed to be repaired soon, otherwise it would be falling into the lake and the embankment would erode into the water. The current wall is being undermined by wave action.

The existing wall as well as the proposed wall would be seven (7) feet in height. The Board told Ms. Hermann she would need to bring a stamped engineered plan back to the Planning Board prior to approval by the Board since the wall would be over four feet in height. Also, John C. told the applicants that they would need to get from the contractor approximately how many yards of fill would be brought to the site. Mr. Lincourt stated that the contractor said no fill would be brought in. John C., after reviewing the plan presented, stated that the plan shows crushed gravel behind the new wall, 2 feet in depth by 140' in length. Currently at the site is sand, there definitely would be material brought in. Mr. Lincourt concurred that this seemed to be the case and he would get this information.

Steve M., CEO, stated that his biggest concern with the new wall is that landscaping be done as soon as possible when it is finished to prevent erosion of sand over the top of the wall into the lake. The Board members agreed.

As there were no more comments or concerns at this time, Roger told Mary Hermann that this application would be put on the September 24th agenda and she would need to bring the following to the Board:

- 1) *A copy of the DEP Permit by Rule for replacement of the existing wall.*
- 2) *Copy of the plan for the new wall, stamped by a licensed Engineer.*

Nothing further was discussed.

Conditional Use Permit – Replace Concrete Retaining Wall – Map 20, Lot 26 (24th Street, Mousam Lake) - Jeff & Brenda MacKenzie

On June 25, 2002, the Planning Board did a site inspection for Mr. MacKenzie's application to replace the existing concrete retaining wall. The Board members viewed an existing concrete wall that was approximately 7 feet long and appeared to be at least one foot deep. Additionally was a concrete set of stairs that had detached from the wall and was now partially in the lake. The area being reviewed was a very narrow strip of land having the lake on two sides of the property. There was some erosion taking place on the property due to foot travel and the high rain load this year. During this meeting the Board suggested to Mr. MacKenzie that he and Steve M. get together and contact the D.E.P. to bring together a plan that would best suit this situation, with the appropriate application(s).

At tonight's meeting Mr. MacKenzie brought a new sketch plan and copies of product specifications from the company that makes the lock block system for retaining walls. Mr. MacKenzie stated that he had decided he would replace the existing wall with the lock block system, to the specifications of the company. These specifications meet current code according to the engineer Mr. MacKenzie spoke with at the company that makes the blocks. There would be a new set of stairs incorporated into the new wall and they would be to

Shapleigh Code. On the top of the new wall and along the sides ground cover would be planted, preferably Junipers.

Roger asked Mr. MacKenzie when he planned on starting this project? Mr. MacKenzie stated around Columbus Day. John C. proposed the Board ask that the plantings be in by June 1, 2003.

John C. asked Mr. MacKenzie who would be the contractor on the project. Mr. MacKenzie stated he would be as he is a general contractor by trade. John C. and Steve M. both told Mr. MacKenzie that it was imperative that he uses silt fencing during the project.

Roger asked if there were any other questions by the Board. There were none. The members had discussed this in depth on June 25th of this year.

Roger then read Shapleigh Zoning Ordinance 105-73.G "Standards applicable to conditional uses".

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat. ***There will not, silt fencing will be used during the project and the new wall and plantings will prevent runoff from going into the water in the future.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***The retaining wall will prevent shore cover from eroding once in place.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comp. Plan wants to preserve the water quality of the lakes and prevent dirt and silt from washing into the lake as well as degradation of the shoreline.***
- 4) Traffic access to the site is safe. ***N/A***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***All material from the old wall shall be hauled off-site.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***None are being generated.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made to the area, only replacing what currently exists.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There shall be silt fencing during the project and replanting along the wall when it is finished.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***There is, the project is located on the lake.***
- 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. ***Landscaping is in existence and there isn't anything detrimental being generated.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger then reviewed Shapleigh Zoning Ordinance 105-44.C (1), Conditions of Permit with respect to piers, docks and other Shoreland construction:

- 1) Unreasonably interfere with existing recreational and navigational uses, nor unreasonably alter scenic and aesthetic qualities. ***It will not.***
- 2) Unreasonably interfere with or harm the natural environs of any lake, pond, tributary, stream or river nor harm any fish or wildlife habitat. ***It will not, there will be silt fencing used during the project, and help to protect erosion once completed.***
- 3) Cause unreasonable soil erosion nor lower the quality of any waters. ***It will not, it will prevent soil erosion when completed and the new plantings are established.***
- 4) Unreasonably alter the natural flow or storage capacity of any water body. ***It will not.***

- 5) Create or cause to be created unreasonable noise or traffic of any nature. ***It will not.***

Diane S. made the motion to approve the Conditional Use Permit to replace the existing retaining wall with a wall made from interlocking block, with the following conditions:

- ***The new wall is to be no more than four feet in height. Should the new wall design become greater than four feet in height by necessity, prior to beginning the project, there shall be a new plan presented to the Board, created by a licensed engineer.***
- ***There shall be new plantings put in by June 1, 2003, using plants indigenous to the area such as Juniper to prevent erosion.***
- ***There shall be silt fence in place during the project.***

John C. 2nd the motion. All in favor.

Escrow Agreement to replace Expired Bond for \$18,000 - CUP – Map 3, Lot 15 – 190-foot Telecommunications Tower - ATC Realty, LLC Leasing

At the last meeting the Board has been notified by RLI Insurance Company that the \$18,000 Bond set up for Spectrum Resources Towers, L.P. would expire on 9/18/02. The telecommunications tower facility must have a bond or escrow account to replace this expired bond. Roger reviewed a letter from Spectrum Towers, which stated that they would be setting up an escrow agreement in the amount of \$18,000 to replace the expiring bond. The letter further states that Spectrum Towers would like to designate an escrow agent, a.k.a. a third party with respect to this escrow account. Roger did not feel this was in the best interest of the town. Roger will bring a copy of the letter and agreement to Atty. Ron Bourque, the town attorney, to be certain the town's interests are fully met.

Roger did speak with Atty. Ron Bourque and Atty. Bourque stated that the town should be holding the escrow not a third party. Roger made changes in the contract faxed to the Town Hall. These changes stipulate the town be the escrow agent. Barbara will fax these changes to Spectrum Resources Towers, L.P.

Amendment to a Conditional Use Permit – Self Storage Buildings – Map 18, Lot 28 – Stephen Quartarone

Mr. Quartarone was present at the meeting to discuss his proposal to put a self-storage building on the rear of the property, which currently houses a recycling center, a craft & stove shop known as "The Picket Fence", and a bait and tackle shop. The existing approved building is 40' X 110' in size. This new proposal is to construct a new building, 30' X 330' in size. The plan presented showed the existing lot size, the existing building, proposed area for the new building, a dotted line showing set-back requirements and the fact that the building and proposed parking area will fall within the Shapleigh Ordinance 105-18 "Dimensional Requirements" of 25 feet. In addition, under the same Ordinance the maximum lot coverage allowed is 10%. This proposal falls within that limit. The total lot acreage is 156,816. The current building covers 4,400 square feet and the proposed building shall be no larger than 9,900 square feet, for a total of 14,300 square feet. The total allowable on this property is 15,682 square feet.

Mr. Quartarone told the Board that he might reduce the length of the building to 260 feet. He needs to speak with Trachte Mini Storage and see what they recommend.

John C. stated he would be removing himself from any decisions on the application as the company he works for deals with Trachte Mini Storage. He did not want there to be any conflict of interest.

Mr. Quartarone showed the Planning Board the copy of the product description from Trachte as well as design load certification, which is designed to meet BOCA. Mr. Quartarone stated to the Board that he did have site stormwater runoff measured on the site and he meets the criteria for the Town of Shapleigh. He has copies of all information for the Board should they need it for the file.

Roger asked Mr. Quartarone if he would be putting up lighting. Mr. Quartarone stated, "Yes, low level lighting". John C. stated that at some facilities the lighting is such that it doesn't interfere with the surrounding area by having shields placed over it.

Diane S. asked if the current location of the trailer, used by the recycling center, would block traffic or cause problems in that area? Mr. Quartarone stated that if this building is approved, and when it is functional, the trailer will no longer be on site, the recycled cans and bottles would be housed in two bays of the new storage facility. Diane asked if vehicles would be able to access the building from both sides? She was concerned that on the other corner of the property is a propane tank. Mr. Quartarone stated that he could put a protective fence around the tank, as he did want traffic to flow from either side of the building.

Roger told Mr. Quartarone to bring to the next meeting the exact size of the building he wished to have erected as well as the exact size of the parking area.

There will be a Notice sent to Abutters as well as a Public Hearing Notice posted. The Public Hearing will be held at 7:00 p.m. prior to the next scheduled Planning Board meeting on September 24th.

There were no further questions for Mr. Quartarone at this time. This application will be on the next agenda.

OTHER:

John C. brought up the suggestion to the Board that the Board ask for seven copies of all information required of applicants so each member can review it the same time while seated rather than having to get up and gather around one member. The other Board members thought this would be a good idea, as it is required for subdivision applications now, perhaps it could be added to Conditional Use Permits and Best Possible Location applications requirement.

John C. also brought to the attention of the Board the fact that Southern Maine Regional Planning Commission has a staff that could review final plans for subdivision prior to our approval, thus making certain all requirements are met and the Findings of Fact are as they should be. There is a fee for this service but it may be worth the fee for large subdivisions, such as the proposal(s) before the Board now on Route 11, Birchfield Place and Goose Pond.

Nothing further was discussed.

GROWTH PERMIT(S) – There are no Growth Permits available.

The meeting concluded at 9:30 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary
planningboard@shapleigh.net or strawman04076@yahoo.com

Tuesday, September 10, 2002

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer.

Site Inspection(s) began at 6:00 p.m.

◆ ***Conditional Use Permit – Replace Retaining Wall – Map 16, Lot 15 (200 31st Street) – Sandra & Karen Joy***

Board members, Roger Allaire, John Caramihalis, Diane Srebnick, Madge Baker and Barbara Gilbride attended, along with Steve McDonough, CEO, as well as the applicants, Sandra and Karen Joy. At the site the members viewed an existing wall that was in need of repair or replacement. The wall ranged in height from approximately four feet down to one foot. There was a set of stairs attached to the existing wall. Beach front existed in front of the wall. The wall was not in a straight line, in the middle of the wall it jogged in toward the home for a length of approximately 16 feet. Karen Joy showed the Board members an area at the end of the wall where they would like to attach a four foot cement pad to make it easier to pull their paddle boat to shore as well as being able to access the lake without going down the stairs. At this time there is vegetation along the top of the wall.

◆ ***After-the-Fact Conditional Use Permit – Handicap Walkway – Map 33, Lot 35 (Treasure Island) – John Dingle, III***

The above Board members attended this site review. At the site members saw an existing ramp approximately 18 ½ feet in length and ranging from 3 feet in width to 10 feet at the location closest to the water. The ramp appeared to have a slope that was greater than 1" to 1', but not overly so. At the bottom of the ramp was one step that was wide enough for a person to stand on with a walker. The applicant was also on site and he stated that the step was due to the fact that previously where the ramp ended it was too high for his grandmother to step up safely with her walker. He therefore asked the contractor to reduce the height by adding one wide step, which is the one there now. The end of the ramp appeared to be at least 60 feet from the waters edge. It stopped at the walkway used by the public who live on the island. Mr. Dingle stated he did not want to place the ramp over the walkway as it might disturb those walking by.

The Planning Board meeting started at 7:30 p.m.

The Planning Board minutes of Tuesday, August 27, 2002, were read and accepted as amended.

The following agenda items are written in the order they were discussed:

Conditional Use Permit – Replace Retaining Wall – Map 16, Lot 15 (200 31st Street) – Sandra & Karen Joy

Sandra and Karen Joy brought to the Planning Board, in addition to a Conditional Use Permit Application, a sketch of the existing wall, including measurements of size and showing where the existing steps exist. Also on the sketch plan is an area where they would like a concrete ramp to pull their paddle boat from shore onto the embankment. Pictures of the existing wall were submitted, as well as a sketch of the proposed wall and the proposal from R. Day Masonry Company showing the cost and materials to be used for the project. A Permit by Rule notification to the CEO was received by the Board and was placed in the file.

Roger Allaire ("Roger") asked the Board members if they had any questions with respect to this application or the site visit earlier in the evening. John C. asked about the ramp that the Joys were requesting to add to the

wall. What was going to be the exact size requested? John C. did not want to see a large boat launch added to the location. Karen Joy stated that they only required four feet, which should be enough area to bring their paddle boat up on to the banking. Currently they have to lift the boat one foot, over the existing wall, and it was getting to be too hard for them to do.

Roger stated that they needed to have an exact size for the ramp placed on their plan. Karen Joy stated that four feet by four feet should be large enough. Roger sketched that size in on the plan that they had already presented and Karen Joy initialized the change. He did again reiterate that before they got a permit to do the work, a plan must be given to the Board or Steve M., CEO, with the exact location written on the plan.

John C. then asked the applicants if they were replacing the steps? Karen stated, "Yes". He told them that if they did, they would have to be certain they were to code, and they could speak with Steve M. to get the exact dimensions required. Karen Joy said she understood and would speak with Steve.

Roger stated that he would like to see the wall to the right, facing the water, straightened out and moved back toward the house away from the water approximately two feet where the existing cement property marker exists. This would keep the wall more in line with the other side and also moves it farther away from the waters edge. The Joy's were willing to incorporate this idea into the plan. Roger stated that they would need to add this to the revised plan also showing this change and give it to Steve M., CEO, prior to starting the project.

Roger reviewed the following ordinances with respect to this project:

- 105-17, Land Uses, stating that this project did require a Conditional Use Permit.
- 105-26, Stormwater Runoff, stating that this project will help to reduce stormwater from entering the lake and also will prevent erosion of the shoreline.
- 105-27, Erosion control, stating that the replanting of vegetation along the wall will aid in reducing erosion along with the backfill and drainage used for this project.
- 105-39, Earth removal and filling, stating that this project requires a Conditional Use Permit under this code provision as well.
- 105-44, Piers, docks, and other Shoreland construction, reading (1) "No causeway, bridge, marina, wharf, dock or permanent structure shall be constructed in, on, over or abutting any great pond nor any fill deposited or dredging done therein without a permit from the Department of Environmental Protection." Roger stated that the Applicants did submit a Permit by Rule Application to the DEP and there is a copy on file.

Roger asked the Board members if there were any further questions after reviewing the application and plan presented, as well as anything seen at the site inspection. All members felt the project as presented, after making the above changes requested, needed no further explanation.

Roger then read Shapleigh Zoning Ordinance 105-73.G "Standards applicable to conditional uses".

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***There will not, silt fencing will be used during the project and the new wall and plantings will prevent runoff from going into the water in the future.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***It will.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comp. Plan wants to preserve the water quality of the lakes and prevent dirt and silt from washing into the lake as well as degradation of the shoreline.***
- 4) Traffic access to the site is safe. ***N/A***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***

- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***All material from the old wall shall be hauled off-site.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***None are being generated.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made to the area, only replacing what currently exists.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There shall be silt fencing during the project and replanting along the wall when it is finished.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***There is, the project is located on the lake.***
- 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. ***Landscaping is in existence and there isn't anything detrimental being generated.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

John C. asked if there was a requirement to put a railing along the top of the new wall? Steve M. and Roger stated there was no such requirement.

John C. made the motion to accept the Conditional Use Permit to replace the existing retaining wall, per the plan with the following conditions:

- ***There shall be a new plan presented to the CEO and a copy for the Planning Board showing the following changes from the original plan:***
 - 1) ***The boat launch area shall be 4' X 4' in size.***
 - 2) ***The wall closest to the granite marker shall be lined up with that marker, moving the new wall approximately two feet away from the lake.***
- ***The new wall shall be no more than four feet in height.***
- ***The applicant shall use silt fencing during the project.***
- ***The applicant shall replant the area above the new wall by June 1, 2003, with plants indigenous to this area, such as junipers, to prevent erosion.***

Madge B. 2nd the motion. All in favor.

After-the-Fact Conditional Use Permit – Handicap Walkway – Map 33, Lot 35 (Treasure Island) – John Dingle, III

Attached to Mr. Dingle's application was a sketch page showing the approximate location of the existing ramp and its size. In addition, Mr. Dingle attached pictures showing the ramp from several angles and what the property looked like prior to the installation of the ramp. Mr. Dingle also attached a letter from Dr. Robert H. Brew, which stated that Mr. Dingle's grandmother, Beatrice Smith had multiple medical problems, which would require a handicap ramp for access to the camp. One letter from an abutter and one telephone call came to the Planning Board, both stating they felt the walkway was necessary and did not hinder anyone walking on the pathway around Treasure Island.

Roger asked Board members if they had any questions after the site inspection. John C. asked how the Board could approve this project? Diane S. read Shapleigh Zoning Ordinance 105-4.D(8) Disability access, (a). "Nothing in this chapter shall prevent a property owner from making that property accessible to a person with a disability even if such installation or constructions results in a violation of or further encroachment into any setback or other dimensional requirement....." John C. and Roger both noted 105-4.D(8) (b), which states

that "Permission granted under this subsection is restricted solely to the installation of equipment or the construction of structures necessary for access to or egress from the property by the person with the disability, and such installation or construction must be built according to the BOCA National Building Code and Life Safety Code." John C. and Roger felt that both (a) and (b) must be addressed.

Roger further addressed the existing ramp stating that this structure is for the handicap access of a person using a walker not a wheelchair. At the bottom of the ramp exists a step, which would not be allowed for a wheelchair ramp, but this ramp is not to be used by a wheelchair. In addition, the step was created to accommodate Mr. Dingle's grandmother; otherwise the step to the ground would have been too high for her, being approximately one foot off the ground. In addition, Roger added that he would feel comfortable adding an additional step, if needed, as long as it was wide enough to accommodate both Mr. Dingle's grandmother and her walker. The addition of another step would remove the need to add a 90 degree angle to the existing ramp, so it would meet the BOCA code with respect to slope of ramp.

Steve M., CEO, agreed with Roger stating that this access is not for a person in a wheelchair. The ramp and stair must meet code for a person who can still walk. The Board agreed that the type of handicap must be taken into consideration when applying which type of ramp would be necessary.

The Board reviewed Ordinance 105-4.D(8) (c), "the property owner must obtain a permit from the CEO before such installation or construction is begun and allow such equipment or structure to be inspected and approved by the CEO before its use...."

Madge B. addressed the fact that the ramp was in existence and moving or changing it would further disturb the earth in the area. The purpose here is to have a structure that worked for the handicapped person as well as minimal impact in the Shoreland zone. Madge B. did tell Mr. Dingle that when his grandmother no longer needed the ramp, the structure would have to be removed. Mr. Dingle agreed.

John C. made the motion to accept the after-the-fact Conditional Use Permit for a handicap ramp for access, based on Section 105-4.D(8) (c), stating that the disability use permit will expire after three years unless renewed by the CEO. The property owner must prove to the CEO there is still a need for the structure, and if not the structure must be removed within 90 days. Madge B. 2nd the motion. All in favor.

John C. told Mr. Dingle he would have to get a letter to the CEO every three years addressing the fact that the need was still there for the handicap access ramp.

Amendment to a Conditional Use Permit – Repair Two Retaining Walls – Map 23, Lot 10 (23rd Street Loop / Starboard Lane) – Mary Hermann Representing

The Board members had reviewed an application dated October 5, 2001, which was an amendment to the original application, to repair two retaining walls. The original application was to spray Gunnite onto the existing walls. This amended application is to replace the existing walls, due to the extensive repair that is required.

Present at the meeting was Mary Hermann. Also attending the meeting was Mr. Lincourt, one of the co-owners of the property.

The Board had instructed Ms. Hermann previously to bring a letter signed by all the people who had interest in the property, stating that she could act on their behalf. In addition, by letter dated October 30, 2001 from the Planning Board to Mary Hermann, it was requested that Ms. Hermann bring a new DEP, Permit by Rule Application, for this project (since they are no longer using Gunnite spray to repair the wall), as well as a statement by her contractor to the amount of fill to be brought to the site.

Roger asked Ms. Hermann and Mr. Lincourt where they would be placing the remnants of the old wall? Mr. Lincourt stated that they had 13 acres behind the waterfront property and they intended to use the demolished wall to possibly create a stonewall on that part of the property.

Ms. Hermann presented a new plan created by Robert Gore, Jr., P.E., of Acton Maine, a Consulting Engineer. This plan showed the engineering of the new 140-foot long wall. The new wall would be no closer to the high water mark than the current wall which is approximately one foot beneath the high water mark. The new wall would be more environmentally sound than the one that currently exists.

All members, after reviewing the pictures given to the Board by Ms. Hermann, agreed this wall needed to be repaired soon, otherwise it would be falling into the lake and the embankment would erode into the water. The current wall is being undermined by wave action.

The existing wall as well as the proposed wall would be seven (7) feet in height. The Board told Ms. Hermann she would need to bring a stamped engineered plan back to the Planning Board prior to approval by the Board since the wall would be over four feet in height. Also, John C. told the applicants that they would need to get from the contractor approximately how many yards of fill would be brought to the site. Mr. Lincourt stated that the contractor said no fill would be brought in. John C., after reviewing the plan presented, stated that the plan shows crushed gravel behind the new wall, 2 feet in depth by 140' in length. Currently at the site is sand, there definitely would be material brought in. Mr. Lincourt concurred that this seemed to be the case and he would get this information.

Steve M., CEO, stated that his biggest concern with the new wall is that landscaping be done as soon as possible when it is finished to prevent erosion of sand over the top of the wall into the lake. The Board members agreed.

As there were no more comments or concerns at this time, Roger told Mary Hermann that this application would be put on the September 24th agenda and she would need to bring the following to the Board:

- 1) *A copy of the DEP Permit by Rule for replacement of the existing wall.*
- 2) *Copy of the plan for the new wall, stamped by a licensed Engineer.*

Nothing further was discussed.

Conditional Use Permit – Replace Concrete Retaining Wall – Map 20, Lot 26 (24th Street, Mousam Lake) - Jeff & Brenda MacKenzie

On June 25, 2002, the Planning Board did a site inspection for Mr. MacKenzie's application to replace the existing concrete retaining wall. The Board members viewed an existing concrete wall that was approximately 7 feet long and appeared to be at least one foot deep. Additionally was a concrete set of stairs that had detached from the wall and was now partially in the lake. The area being reviewed was a very narrow strip of land having the lake on two sides of the property. There was some erosion taking place on the property due to foot travel and the high rain load this year. During this meeting the Board suggested to Mr. MacKenzie that he and Steve M. get together and contact the D.E.P. to bring together a plan that would best suit this situation, with the appropriate application(s).

At tonight's meeting Mr. MacKenzie brought a new sketch plan and copies of product specifications from the company that makes the lock block system for retaining walls. Mr. MacKenzie stated that he had decided he would replace the existing wall with the lock block system, to the specifications of the company. These specifications meet current code according to the engineer Mr. MacKenzie spoke with at the company that makes the blocks. There would be a new set of stairs incorporated into the new wall and they would be to

Shapleigh Code. On the top of the new wall and along the sides ground cover would be planted, preferably Junipers.

Roger asked Mr. MacKenzie when he planned on starting this project? Mr. MacKenzie stated around Columbus Day. John C. proposed the Board ask that the plantings be in by June 1, 2003.

John C. asked Mr. MacKenzie who would be the contractor on the project. Mr. MacKenzie stated he would be as he is a general contractor by trade. John C. and Steve M. both told Mr. MacKenzie that it was imperative that he uses silt fencing during the project.

Roger asked if there were any other questions by the Board. There were none. The members had discussed this in depth on June 25th of this year.

Roger then read Shapleigh Zoning Ordinance 105-73.G "Standards applicable to conditional uses".

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, bird or other wildlife habitat. ***There will not, silt fencing will be used during the project and the new wall and plantings will prevent runoff from going into the water in the future.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***The retaining wall will prevent shore cover from eroding once in place.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comp. Plan wants to preserve the water quality of the lakes and prevent dirt and silt from washing into the lake as well as degradation of the shoreline.***
- 4) Traffic access to the site is safe. ***N/A***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***All material from the old wall shall be hauled off-site.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***None are being generated.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made to the area, only replacing what currently exists.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There shall be silt fencing during the project and replanting along the wall when it is finished.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***There is, the project is located on the lake.***
- 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. ***Landscaping is in existence and there isn't anything detrimental being generated.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger then reviewed Shapleigh Zoning Ordinance 105-44.C (1), Conditions of Permit with respect to piers, docks and other Shoreland construction:

- 1) Unreasonably interfere with existing recreational and navigational uses, nor unreasonably alter scenic and aesthetic qualities. ***It will not.***
- 2) Unreasonably interfere with or harm the natural environs of any lake, pond, tributary, stream or river nor harm any fish or wildlife habitat. ***It will not, there will be silt fencing used during the project, and help to protect erosion once completed.***
- 3) Cause unreasonable soil erosion nor lower the quality of any waters. ***It will not, it will prevent soil erosion when completed and the new plantings are established.***
- 4) Unreasonably alter the natural flow or storage capacity of any water body. ***It will not.***

- 5) Create or cause to be created unreasonable noise or traffic of any nature. ***It will not.***

Diane S. made the motion to approve the Conditional Use Permit to replace the existing retaining wall with a wall made from interlocking block, with the following conditions:

- ***The new wall is to be no more than four feet in height. Should the new wall design become greater than four feet in height by necessity, prior to beginning the project, there shall be a new plan presented to the Board, created by a licensed engineer.***
- ***There shall be new plantings put in by June 1, 2003, using plants indigenous to the area such as Juniper to prevent erosion.***
- ***There shall be silt fence in place during the project.***

John C. 2nd the motion. All in favor.

Escrow Agreement to replace Expired Bond for \$18,000 - CUP – Map 3, Lot 15 – 190-foot Telecommunications Tower - ATC Realty, LLC Leasing

At the last meeting the Board has been notified by RLI Insurance Company that the \$18,000 Bond set up for Spectrum Resources Towers, L.P. would expire on 9/18/02. The telecommunications tower facility must have a bond or escrow account to replace this expired bond. Roger reviewed a letter from Spectrum Towers, which stated that they would be setting up an escrow agreement in the amount of \$18,000 to replace the expiring bond. The letter further states that Spectrum Towers would like to designate an escrow agent, a.k.a. a third party with respect to this escrow account. Roger did not feel this was in the best interest of the town. Roger will bring a copy of the letter and agreement to Atty. Ron Bourque, the town attorney, to be certain the town's interests are fully met.

Roger did speak with Atty. Ron Bourque and Atty. Bourque stated that the town should be holding the escrow not a third party. Roger made changes in the contract faxed to the Town Hall. These changes stipulate the town be the escrow agent. Barbara will fax these changes to Spectrum Resources Towers, L.P.

Amendment to a Conditional Use Permit – Self Storage Buildings – Map 18, Lot 28 – Stephen Quartarone

Mr. Quartarone was present at the meeting to discuss his proposal to put a self-storage building on the rear of the property, which currently houses a recycling center, a craft & stove shop known as "The Picket Fence", and a bait and tackle shop. The existing approved building is 40' X 110' in size. This new proposal is to construct a new building, 30' X 330' in size. The plan presented showed the existing lot size, the existing building, proposed area for the new building, a dotted line showing set-back requirements and the fact that the building and proposed parking area will fall within the Shapleigh Ordinance 105-18 "Dimensional Requirements" of 25 feet. In addition, under the same Ordinance the maximum lot coverage allowed is 10%. This proposal falls within that limit. The total lot acreage is 156,816. The current building covers 4,400 square feet and the proposed building shall be no larger than 9,900 square feet, for a total of 14,300 square feet. The total allowable on this property is 15,682 square feet.

Mr. Quartarone told the Board that he might reduce the length of the building to 260 feet. He needs to speak with Trachte Mini Storage and see what they recommend.

John C. stated he would be removing himself from any decisions on the application as the company he works for deals with Trachte Mini Storage. He did not want there to be any conflict of interest.

Mr. Quartarone showed the Planning Board the copy of the product description from Trachte as well as design load certification, which is designed to meet BOCA. Mr. Quartarone stated to the Board that he did have site stormwater runoff measured on the site and he meets the criteria for the Town of Shapleigh. He has copies of all information for the Board should they need it for the file.

Roger asked Mr. Quartarone if he would be putting up lighting. Mr. Quartarone stated, "Yes, low level lighting". John C. stated that at some facilities the lighting is such that it doesn't interfere with the surrounding area by having shields placed over it.

Diane S. asked if the current location of the trailer, used by the recycling center, would block traffic or cause problems in that area? Mr. Quartarone stated that if this building is approved, and when it is functional, the trailer will no longer be on site, the recycled cans and bottles would be housed in two bays of the new storage facility. Diane asked if vehicles would be able to access the building from both sides? She was concerned that on the other corner of the property is a propane tank. Mr. Quartarone stated that he could put a protective fence around the tank, as he did want traffic to flow from either side of the building.

Roger told Mr. Quartarone to bring to the next meeting the exact size of the building he wished to have erected as well as the exact size of the parking area.

There will be a Notice sent to Abutters as well as a Public Hearing Notice posted. The Public Hearing will be held at 7:00 p.m. prior to the next scheduled Planning Board meeting on September 24th.

There were no further questions for Mr. Quartarone at this time. This application will be on the next agenda.

OTHER:

John C. brought up the suggestion to the Board that the Board ask for seven copies of all information required of applicants so each member can review it the same time while seated rather than having to get up and gather around one member. The other Board members thought this would be a good idea, as it is required for subdivision applications now, perhaps it could be added to Conditional Use Permits and Best Possible Location applications requirement.

John C. also brought to the attention of the Board the fact that Southern Maine Regional Planning Commission has a staff that could review final plans for subdivision prior to our approval, thus making certain all requirements are met and the Findings of Fact are as they should be. There is a fee for this service but it may be worth the fee for large subdivisions, such as the proposal(s) before the Board now on Route 11, Birchfield Place and Goose Pond.

Nothing further was discussed.

GROWTH PERMIT(S) – There are no Growth Permits available.

The meeting concluded at 9:30 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary
planningboard@shapleigh.net or strawman04076@yahoo.com

Tuesday, September 24, 2002

Amended per P.B. meeting on 10/8/02.

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Diane Srebnick, Bill Hayes, Madge Baker (Alternate) and Barbara Gilbride (Member/Secretary). Also present was Steven McDonough, Code Enforcement Officer.

Public Hearing began at 7:20 p.m.

◆ **Amendment to a Conditional Use Permit – Self Storage Buildings – Map 18, Lot 28 – Stephen Quartarone**

The Public Hearing began at 7:20 p.m. due to the fact that the applicant was not present until that time. Roger Allaire (“Roger”) asked Mr. Quartarone to address the townspeople in attendance, stating exactly what he was applying to do. Mr. Quartarone stated that he wanted to put up a Trachte Low Profile Self-Storage Unit. This building would be 30 feet by 260 feet in size. Originally he was applying for a building 330 feet in length but he felt that for the area, 260 feet was adequate. Mr. Quartarone stated that this new building would be directly behind the existing building. He stated that on one end this new building may not show, on the other end, when looking at the right side facing the existing building, you would see the structure. The building would have low level lighting on all corners as well as toward the center of the building. Mr. Quartarone stated that because of the trees behind the building and on both sides he did not feel this lighting would bother any neighbors.

John C. did not participate in this discussion as he has had business dealings with Trachte Building Systems, Inc.

A citizen asked if Mr. Quartarone had a plot plan? Mr. Quartarone showed the original plan that was given to the Planning Board on Tuesday, September 10th. This plan showed the building as 330 feet in length, but again he stated he was now proposing 260 feet. The same citizen asked about the appearance of the building, what did it look like? Mr. Quartarone showed a colored brochure from Trachte. On this brochure was pictured a steel building that was white with a blue roof. Mr. Quartarone stated he chose the color called Evergreen for the roof with cream beige siding.

Madge B. asked how Mr. Quartarone would advertise his rental space, would he have a sign? Mr. Quartarone stated he planned on taking out an ad in the local newspapers and he believed that word-of-mouth would also suffice as advertisement.

A citizen asked if a lot of traffic would be generated by the self storage units? Roger, Bill H. and Mr. Quartarone all addressed this issue. Roger stated that he had been monitoring traffic at the self storage units located at the Sanford airport and over a two week period as he traveled by, he only saw one vehicle at the unit. Bill H. stated that his **step brother** has one located next to his home and he also has never seen very much activity on the grounds. Mr. Quartarone uses a self storage unit and he stated that he does not frequent it very often. He said that once you have your items stored, you don’t usually spend any time at the unit.

Roger asked Mr. Quartarone if he had a plan showing the size and thickness of the slab to be placed under the building. Mr. Quartarone stated he did not have one at the moment as he was waiting for an estimate for the project. He expected this estimate to be back to him within the week and would bring that to the Planning Board. He also stated that the slab would be to code and have to be approved by Steve M., CEO, prior to pouring it. At present he was getting estimates for a 6” slab with a 12” rim around the exterior.

The Board asked Mr. Quartarone exactly what type of lighting would be placed on the building. Mr. Quartarone stated that again it would be low level light placed at a 45 degree angle facing the ground. A citizen asked if the lights would be on all night? Mr. Quartarone stated, "Yes, but with the treeline buffer and low level lighting, it should not cause a problem." Roger stated that the exact location of the lights should be placed on the final plan as well as the intensity of those lights.

Diane S. asked Mr. Quartarone if he would show a traffic pattern on his final plan, showing which way the vehicles would be entering and exiting. The Board was very concerned with the propane tank on the right side of the property. Mr. Quartarone stated that he had decided to have all traffic go around the left side of the existing building, thus not going near the propane tank.

A citizen asked if the storage units would be heated, and the answer from Mr. Quartarone was "No".

Roger asked if there were any further questions and since there were none the Public Hearing closed at 7:35 p.m.

The Planning Board meeting started at 7:40 p.m.

The Planning Board minutes of Tuesday, September 10, 2002, were read and accepted as written.

The following agenda items are written in the order they were discussed:

Amendment to a Conditional Use Permit – Repair Two Retaining Walls – Map 23, Lot 10 (23rd Street Loop / Starboard Lane) – Mary Hermann Representing

Present at the meeting was Mary Hermann, representing all the owners of the property. The Board had instructed Ms. Hermann previously to bring a letter signed by all the people who had interest in the property, stating that she could act on their behalf. She presented this letter with the appropriate signatures, dated October 20, 2001. Additionally, the Board requested a copy of the DEP Permit by Rule for replacement of the existing wall and a copy of the plan for the new wall, stamped by a licensed Engineer. The DEP faxed a copy of the Permit by Rule to the Planning Board on September 17th; it was dated by the DEP, 11/06/01. In addition, Ms. Hermann presented a 'stamped' engineered plan of the proposed retaining wall, by Robert T. Gore, Jr. P.E., Consulting Structural Engineer of Acton Maine, and it was dated 9/11/02.

Ms. Hermann once again briefly explained the project to the Board. She stated that during the project a coffer dam would be created keeping the water away from the project area, as well as preventing soil from going into the lake. She stated that the new wall would be no higher than the existing wall, and it would be partially underwater when finished. Ms. Hermann said that the engineer who created the plans for the project stated the existing wall did not deteriorate from the wave action but from the freezing and thawing of water taking place behind the existing wall. It is cracking from behind and from the top down.

John C. spoke to the Board stating his concern for the appearance of such a large wall of concrete being placed along the water. The wall would be 140 feet in length and seven feet high. John was referring to Shapleigh Zoning Ordinance 105-44.C(1) "...The proposed activity shall not: Unreasonably interfere with existing recreational and navigational uses, *nor unreasonably alter scenic and aesthetic qualities.*" John reviewed the plans and asked if the entire seven feet would be above the water line. Madge B. said that if the new wall is not going to be any higher than the existing then some of the wall must be below the water line. Ms. Hermann stated that the current wall was approximately four feet above water level. John upon hearing this did not feel the appearance would be objectionable.

John asked Ms. Hermann what was going to happen to the fill behind the existing wall and the old wall itself. Ms. Hermann had stated at the last meeting on September 10th that the wall would be remaining on site. The entire Board wanted to know where on site, below or above ground, and did she plan on covering it with loam and seeding over it? Ms. Hermann was not sure exactly where on site it would be placed. She stated that they owned land across the road also, and she believed they planned on placing the fill there. She stated there was a depression in the earth from sand removal from years prior. She thought they would possibly place it there. Ms. Hermann stated she would place it wherever the Board felt it was best.

Madge B. asked if this area Ms. Hermann was speaking of was within the 250 feet of the lake? Ms. Hermann was not sure, but possibly it was. John C. reviewed the town's map of the land and it appeared this area being talked about was approximately 160 feet from the lake.

John C. asked if this would be considered a separate parcel of land even though it is owned by the same individuals since it is bisected by a road. Ms. Hermann stated this road was a private road. Roger stated that a parcel bisected by a road, created two parcels, thus removing the fill from the first parcel and bringing it across the street to the second would be construed as moving fill offsite. John C. concurred with Roger.

Bill H. read Zoning Ordinance 105-39.B(2) under "Earth moving not requiring a conditional use permit", "The removal or filling of material incidental to construction, alteration or repair of a building, or in the grading and landscaping incidental thereto." Bill asked if this pertained to this situation? Madge B. stated that she felt this item pertained to construction incidental to "building(s)", not a retaining wall. Steve M. felt that this statement pertained to **any** construction requiring earth moving, reiterating "material incidental to construction, alteration or repair of a building, **or** in grading...", the word **or** being the key. Bill H. agreed. Madge B. continued to maintain this ordinance was related to a 'building' only.

Steve M., stated that his biggest concern with the removal of fill and wall from the area was that if it were placed on the remaining 12 acres of property, that it should be buried not mounded up and there should be loam placed over it. In addition, Steve would like to see it reseeded. The Board members agreed.

Roger stated that he would be comfortable with asking Steve M. to go to the site and deem whether or not there is an area adequate to place the removed material. If there is an adequate area where the material can be placed in the ground, it can stay on site and be loamed and seeded. If no such area exists, the material must be removed from site by the contractor doing the project. Ms. Hermann agreed with Roger's statement, as did the other Board members. Steve M. also concurred.

Roger asked if there were any other issues with respect to this project. All members were satisfied with the plans and pertinent material presented. Roger then reviewed Shapleigh Zoning Ordinance 105-73.G "Standards applicable to conditional uses".

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not, a coffer dam will be used during the project, and the new wall and plantings will prevent runoff from going into the water in the future if the plan presented is followed.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***It will, it is to be placed in the exact location as the existing wall and it will be the same size.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comp. Plan wants to preserve the water quality of the lakes and prevent dirt and silt from washing into the lake as well as degradation of the shoreline.***
- 4) Traffic access to the site is safe. ***N/A***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, and the drainage plan for the new wall should prevent runoff from going into the lake.***

- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *All material from the old wall shall be buried on site, loamed over and reseeded, unless the CEO finds this provision will not protect the environment, then it will be removed from the site.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *None are being generated.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *There are no changes being made to the area, only replacing what currently exists, the plan contains an adequate drainage plan.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are, there shall be a coffer dam during the project and replanting along the wall when it is finished, in addition, an adequate drainage plan for behind the new wall has been presented by a licensed engineer.*
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. *There is, the project is located on the lake.*
- 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. *Landscaping is in existence and there isn't anything detrimental being generated.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

Bill H. made the motion to accept the Conditional Use Permit to replace the existing retaining wall, per the plan with the following conditions:

- *The Code Enforcement Officer shall ascertain if there is an area on the applicant's property adequate to place the material to be removed, which includes the fill behind the existing wall and the wall itself. If there is such an area, the fill shall be placed so that when finished the land remains ground level. The area shall be loamed and seeded by June 15, 2003. If there is not an area that is adequate, the material shall be removed from the site.*
- *The applicant shall use a coffer dam and silt fencing if necessary, during the project.*
- *The applicant shall replant the area above the new wall by June 15, 2003, with plants indigenous to this area, to prevent erosion.*

John C. 2nd the motion. All in favor.

Amendment to a Conditional Use Permit – Self Storage Buildings – Map 18, Lot 28 – Stephen Quartarone

Mr. Quartarone was present at the meeting to discuss his proposal to put a self-storage building on the rear of the property, which currently houses a recycling center, a craft & stove shop known as “The Picket Fence”, and a bait and tackle shop. The existing approved building is 40’ X 110’ in size. During the Public Hearing Mr. Quartarone stated that he was amending his proposal to construct a new building 30’ X 330’ in size, instead the new building would be 30’ X 260’. Under Shapleigh Zoning Ordinance 105-18 “Dimensional Requirements” the maximum lot coverage allowed is 10%. The total lot acreage is 156,816. The current building covers 4,400 square feet and these new dimensions for the proposed building shall be 7,800 square feet, for a total of 12,200 square feet. The total allowable on this property is 15,682 square feet, thus this proposal meets that ordinance.

John C. sat out of the discussion on this item as he has done business with Trachte Buildings, Inc. Bill H. also sat out of the discussion as there were enough other members to make quorum, he also has had some dealings with Trachte but *did think* he could be objective should the Board need his opinion, he would leave the decision up to the Roger, the Chairman. Roger stated he felt Bill could be objective, but it was entirely his decision.

Roger stated to Mr. Quartarone that the Board would need a new plan showing the exact size of the proposed building, the existing building, the exact size of the parking area, where the lights will be located on the self storage building, and a traffic flow design for the entire site. In addition, the Board needs to receive a plan for the slab to be placed under the building, showing the depth of concrete, fill to be placed under the slab and any reinforcement to be used in the slab.

Roger asked the Board if there were any further questions, there were none. ***This application will be placed back on the agenda for the next Planning Board meeting that is scheduled for October 8th.*** Nothing further was discussed.

Amendment to a Conditional Use Permit – Preschool – Map 45, Lot 4 – 1st Baptist Church – Susan Creteau

Susan Creteau was present at the meeting to discuss the final review of her application. During the Planning Board meeting on July 9, 2002, Ms. Creteau stated that she would be operating a preschool for two sessions per day, not to exceed 3 ½ hours each, Monday thru Friday. Ms. Creteau said that she was expecting to work with 3 and 4 year olds but she is not limited to that age by the State. Ms. Creteau at that same meeting said that the State allowed 12 children per adult and she was expecting to have 15 children. John C. asked how many adults would be working at the preschool? Ms. Creteau said that there would be a *minimum* of two adults, but she expected to have three adults. Ms. Creteau would be the adult on the premises licensed by the State.

Ms. Creteau brought to this meeting two items the Board had requested on July 9th. The first item was a letter, dated September 16, 2002, from the Board of Trustees of First Baptist Church stating that she had permission to use their facility for the preschool. The second item was approval by the State of Maine for the license to operate a preschool. Ms. Creteau did not have the actual license at this time but she did have a copy of the Inspection form from the Dept. of Public Safety Licensing and Inspections, dated September 17, 2002. Ms. Creteau stated that she had received permission to use the existing “Holdsworth Room” of the church at present. The State could not give her a license to use the new addition until it was completed and had an occupancy permit from the town.

On the inspection form from the State it was written that 20 children were the maximum allowable for the facility. Ms. Creteau stated that at this time she was only planning to have 15 children. The Board told Ms. Creteau that she could have up to 20 children as allowed per the State so perhaps that is what she should apply for otherwise she would have to come back before the Board in the future should she want to care for additional children. Ms. Creteau agreed to the 20 children.

Roger asked if the hours of operation were going to be the same as presented on July 9th. Ms. Creteau stated “Yes, the days would be the same as the days the school system was open, Monday thru Friday, 8:00 a.m. through 5:00 p.m., having two three hour sessions as allowed by the State of Maine.”

Madge B. asked if the parking was adequate. Roger stated that on July 9th parking had been reviewed and it was more than adequate for up to three employees. John C. told Madge, who was not present at that meeting that the Board also discussed the current entrance and exit from the church, reviewing it to see what the best option for vehicle access was. It was deemed by the Board, because of the location of the church, there is nothing that can be changed at present that would make the area safer.

John C. asked Ms. Creteau if the fire alarms were working in the new building? Ms. Creteau stated that she did not know, the Fire Marshall inspected and gave permission to use the Holdsworth Room which is in the existing older building, the new building is not completed yet so they did not inspect that. It may be completed in two weeks. John C. asked Steve M. if he checked the fire alarms in the new building? Steve stated that he would not do this until they are ready for their occupancy permit.

John C. told the Board that he felt the State Fire Marshall's office only checked to see if there were smoke detectors and fire extinguishers, they do not check to see if the building is to code. "The State simply says that the building is big enough, it has an access or egress, he doesn't know or determine if the fire system works." "The Fire Marshall only states that "if" the smoke detectors work and "if" the fire extinguishers work, then the building is fine."

Ms. Creteau stated that the church had a company come in to the existing building to check the fire extinguishers the day prior to the inspection by the State. This company placed several new extinguishers in the building and stating the building was safe. The company shall return to do the new section when it is completed.

Bill H. asked if it was part of the licensing procedure for the State to inspect the facility annually? John C. stated "Yes, they are supposed to."

John C. asked Ms. Creteau if there was fire protection around the cook stove in the old building or in the new building? Ms. Creteau stated she did not know about the old building and that the addition would not have a cook stove. In addition, she stated that she would not be using the cook stove. Roger said that he did not believe there was anything for fire suppression around the existing cook stove.

John C. stated to the Board that he would be more comfortable regarding safety, if Steve M. inspected the fire equipment in addition to the State. The Board agreed that Steve would need to inspect the addition, but Ms. Creteau was not going to be in the addition at present. Prior to her using the new building, Steve will have to issue an occupancy permit, inspecting that building. Ms. Creteau again stated to the Board that the company hired by the church would also be inspecting the building prior to occupancy.

Bill H. wanted to clarify what was being reviewed tonight by stating "A conditional use permit to start a preschool facility upon the receipt of their license from the State to do so and they will not move the preschool from the existing building to the new building until a certificate of occupancy has been received for the new building, is this correct?" Roger stated, "Correct".

Bill H. asked what are we to be looking for at this facility? John C. stated we needed to review parking, lighting, and all other conditions that are relevant. Roger stated that those were reviewed at the previous meeting (on July 9th). Tonights' meeting is to review the occupancy permit, the permit from the State, and the requested letter from the Board of Trustees of the church. At the previous meeting the Board did not know how many children would be allowed at this facility. The license review from the State showed the license quantity to be 20 children, and there are no violations at the site, as per the Fire Marshall, dated 9/17/02.

The Board had no further questions. ***Bill H. made the motion to grant the Conditional Use Permit starting from the time the license is received from the State to use the Holdsworth Room and no movement is made to the new addition of the building until the final certificate of occupancy is signed off by the CEO and the State, along with the following conditions:***

- 1) The hours of operation shall be between 8:00 a.m. and 5:00 p.m., Monday thru Friday, consisting of two sessions a day, to be held during normal scheduled school days.***
- 2) There shall be no more than 20 children at one time at the preschool.***

Diane S. 2nd. the motion. All in favor.

Roland Legere arrived at the conclusion of the meeting and requested a copy of the letter received by the Planning Board by Phillip deMaynadier of the Dept. of Inland Fisheries and Wildlife regarding the subdivision proposal on Rte. 11 called Birchfield Place. Barbara G. gave Roland her copy to read. She also told Roland that several Planning Board members, the applicant Mike Morris, and Phillip deMaynadier would be meeting at the site on Wednesday 9/25 at 10:00 a.m. Nothing further was discussed.

OTHER:

Madge B. at this time wished to discuss the idea of a performance guaranty for large projects being approved on Conditional Use Permits, Shapleigh Zoning Ordinance 105-73.I(1-4). Ordinance I(1) states that "at the time of approval of the application for conditional use, the Planning Board may require the applicant to tender either a certified check payable to the town, an irrevocable letter of credit from a lending institution or a performance bond payable to the town issued by a surety company in an amount adequate to cover the total costs of all required improvements, taking into account the time span of the bond and the effects of inflation upon costs. The conditions and amount of the certified check or performance bond shall be determined by the Board with advice from the Board of Selectmen."

Madge B. feels strongly that the Board needs to consider this for large projects in the future to be certain they are completed, just as we do for large subdivisions. An example Madge gave was the large retaining wall that the Board approved this evening. The approximate cost to put up this wall is \$35,000. "What if the applicant starts it but never finishes it, leaving a problem for the town because of what will happen to the lake?" Madge asked the Board if they felt we needed to discuss this with the Board of Selectmen to get their input. The Board felt it was a good idea. Another question was what size project would trigger this requirement? A project over \$10,000?

Roger felt there was language currently in existence in the ordinance (above) to impose the performance guarantee if the Board wanted to "now". Madge and John felt a dollar figure would be easier to set as a guideline than just having the ordinance in place.

Bill H. asked what percent would the Board ask for? "A percentage of the project to be returned upon successful completion of the project and signed off by the CEO?" John C. stated if we required a percentage, it would have to be larger 10% as he didn't feel that would be enough.

Roger stated it was not a percentage that the Board would ask for but the entire cost of the project. He referred the Board to the Ordinance, saying again "it states an amount to cover the total cost of all required improvements". Bill H. and Barbara G. thought this amount could be excessive for the average homeowner wanting to improve his property. Bill H. asked if for example a project cost \$30,000 to complete, would the Board then ask for \$30,000, thus the total cost to the homeowner up front could be \$60,000? Roger stated, "Yes". Bill H. asked if the homeowner could pay the contractors out of the escrow account? Roger stated that it was not up to the Board to worry about how the contractors got paid, "our concern was whether or not the project was completed". John C. also had concerns about a homeowner getting a bank to agree to loan a large amount of money.

Roger said he understood the concerns but he still preferred the Town receive an escrow account in an amount enough to cover the project. He stated that currently "He, Barbara and Atty. Ron Bourque have been dealing with the escrow for the tower and because of the problems we have had, I am 100% sold on an escrow account, *being held by the town.*"

Roger further stated that a bond expires at a certain time and once it has expired the Town cannot collect from it. "For example, if the Bond company raises their fee for the bond from \$100 to \$700, the holder can let it become null and void, we would not necessarily be notified about it, and now the applicant may not be able to get an escrow. The town would be out of luck."

Bill H. agreed that a project that had no clear end date should be required to hold an escrow, but for a job with a definite beginning and end date, he felt a bond would suffice.

Madge B. further reviewed the ordinance once again and stated that "we (the Board)" need to determine the cost of the project at "their" expense. The Board would take in the money and release it in increments to the contractor so it isn't as if they would need twice the cost of the project. Steve M. asked if The Board was going to release it in increments, who was going to do it and exactly what amount would be released? Diane S. stated that it sounded like the Planning Board would become a bank. Diane asked who would have to be in charge of doling out the money. Madge B. stated that an engineer would be hired by the town to review the status of the project. When he or she felt the project was complete then the money would be released. Diane stated that the Planning Board would need to discuss this with the Board of Selectmen to determine who would handle this account and how it would be handled.

The Board concluded that Barbara G. would contact Southern Maine Regional Planning Commission and ask if they knew of any other towns that required an escrow for a large project that came under a Conditional Use Permit to see how they handled this issue. There will be further discussion on this subject at future meetings.

GROWTH PERMIT(S) – There are no Growth Permits available.

The meeting concluded at 9:15 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary
planningboard@shapleigh.net or strawman04076@yahoo.com

Tuesday, October 8, 2002

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes, and Barbara Gilbride (Member/Secretary).

The Planning Board meeting started at 7:30 p.m.

The Planning Board minutes of Tuesday, September 24, 2002, were read and accepted as amended.

The following agenda items are written in the order they were discussed:

Amendment to a Conditional Use Permit – Self Storage Buildings – Map 18, Lot 28 – Stephen Quartarone

John C. sat out of the discussion or any decision made with respect to this project as he has done work with Trachte Buildings, Inc. Bill H. did participate in this discussion so the Board would have quorum. He did feel that he could be impartial toward the project and any decisions made.

On Tuesday, September 24th the Board held a Public Hearing for the proposed Self Storage Units. At this hearing Mr. Quartarone stated this building would be 30 feet by 260 feet in size proposed it to be placed directly behind the existing building which currently houses a recycling center, a craft & stove shop known as “The Picket Fence”, and a bait and tackle shop. Mr. Quartarone also noted that under Shapleigh Zoning Ordinance 105-18 “Dimensional Requirements” the maximum lot coverage allowed is 10%. The total lot size is 156,816 sq. ft. The current building covers 4,400 square feet and these new dimensions for the proposed building shall be 7,800 square feet, for a total of 12,200 square feet. The total allowable on this property is 15,682 square feet, thus this proposal meets that ordinance.

During the meeting of September 24th that followed the public hearing, which was attended by Mr. Quartarone, the Board requested further information be presented for the final review process. This material is as follows:

- *A new plan showing the exact size of the proposed building, the existing building, the exact size of the parking area, where the lights will be located on the self storage building, and a traffic flow design for the entire site.*
- *A plan depicting the slab that is to be placed under the new building, showing the depth of concrete, fill to be placed under the slab and any reinforcement to be used in the slab.*
- *A copy of the stormwater runoff calculations specific to this site location.*

Mr. Charles Slattery, Mr. Quartarone’s partner in this project, brought to the meeting the information requested, in the form of several drawn plans. Each plan covered a specific item, they included, traffic flow, lighting, parking area, as well as a detailed depiction of a floating slab to be placed under the building, and a site specific stormwater runoff plan.

The Board asked about the lighting plan, would the lights be wall mounted or on a pole? Mr. Slattery stated they would be wall mounted and set so they face the ground so as not to disturb incoming traffic.

Mr. Slattery also had depicted on a plan a parking area around the storage units. He stated he was not sure if in the ordinance a storage building required a certain amount of parking but wanted to show it would be there if necessary. Roger read the provisions for off-street parking or loading, Shapleigh Zoning Ordinance 105-43, stating that (F) pertained to this business which states “Parking areas shall be adequately sized for the proposed use and shall be designed to prevent stormwater runoff from flowing directly into a water body and,

where feasible, to retain all runoff on-site”. Roger stated that this project does meet that requirement per the plans presented.

Bill H. asked Mr. Slattery what the term “Bollards at Corners” meant, as depicted on the lighting plan? Mr. Slattery stated that Bollards were 6” in diameter steel post filled with concrete, to be placed on all four corners to protect the building from someone backing into it.

Roger reviewed the following Ordinances that pertained to this project:

- 105-17, Land Uses, stating that this project did require a Conditional Use Permit.
- 105-18, Dimensional Requirements, stating this project will meet the criteria.
- 105-20, Prohibited Uses, stating there would be no prohibited uses conducted on site as stated per the applicant(s).
- 105-21, Traffic, stating the project shall provide for safe access to and from Rte. 109 as per the traffic flow plan.
- 105-22, Noise, stating there shall be no excessive noise at unreasonable hours as long as the building is used as presented on the application.
- 105-23, Dust, Fumes, Vapors and Gases, stating there shall be none generated.
- 105-24, Odors, stating there shall be none generated.
- 105-25, Glare, stating there is an adequate lighting plan presented and if followed this ordinance shall be satisfied. In addition, the trees surrounding the property should keep light within the lot lines.
- 105-26, Stormwater Runoff, stating there is a stormwater runoff plan showing this site can minimize runoff and detain water over the design period of fifty years.
- 105-27, Erosion Control, stating the stormwater runoff plan presented addresses erosion control and is adequate.
- 105-28, Setbacks and Screening, stating there are trees surrounding the property on three sides which adequately screen the project from abutting properties
- 105-29, Explosive Materials, stating there is no explosive material to be stored on site now or in the future per the owners/applicants of the property.
- 105-30, Water Quality, stating there shall be no harmful waste stored on site.
- 105-31, Preservation of Landscape; Landscaping of Parking and Storage Areas, stating there shall be no additional parking required on site, therefore no additional landscaping will be required.
- 105-32, Relation of Proposed Building to Environment, stating the new building shall be behind the existing building, being partially shielded from site, and it will be of a color that will blend well with the environment (Evergreen and beige).
- 105-33, Refuse Disposal, stating there shall be no refuse generated on site, or brought to the site.
- 105-34, Access Control on Routes 109 and 11, stating the current access to the site is safe and the new use on site shall not generate any high traffic volume.
- 105-39, Earth Removal and Filling, stating that the only earth to be removed shall be what is needed to be removed for the footings of the concrete slab. This earth shall remain on site.
- 105-43, Off-street Parking and Loading, stating that all the basic requirements are met per the plan presented, including minimum parking area, and landscaping.
- 105-47, Signs and Billboards, stating that this new building shall not have a sign on the building or elsewhere on site at present because the existing signs are the maximum allowed per the ordinance. Should the applicant wish to have a sign change in the future he shall need to change what exist or apply for a variance.
- 105-52, Water Quality Protection, stating there shall be nothing harmful to the water supply, human, animal or aquatic life brought to and/or stored on site per the applicant.

Roger asked the applicant if “yard sales” would be allowed on site. Roger has seen yard sales at storage facilities in the area; presumably the tenants are trying to liquidate what they had stored. Mr. Slattery stated yard sales would not be allowed.

Roger asked if the storage trailer, which is currently being used by Steve Buttrick (a tenant of the existing building) for the recycling center on site, would be removed when the storage facility was in place. Roger stated that Mr. Quartarone had told the Board this was a possibility he had discussed with Mr. Buttrick and Mr. Buttrick was seriously considering this option. Mr. Slattery stated he could not speak for Mr. Buttrick. If the Board required the storage trailer be removed as a condition of approval; he would do so, but did not feel he could ask his tenant, who had approval for a storage trailer, to remove it otherwise. Mr. Slattery did state that he would make the rent in the new storage building favorable for Mr. Buttrick, but again he stated the Planning Board would have to make the final decision, he did not want to do so.

Bill H. asked if the Planning Board could in fact revoke part of an approved Conditional Use Permit, i.e. the trailer? Roger stated that a Conditional Use Permit runs with the land and any modifications to a Conditional Use Permit can result in modifications to conditions of approval, so it is not Mr. Buttrick’s permit but belongs to the owner of the property. This being the case the Board could make changes to the permit. Bill H. asked Mr. Slattery if he felt it would take the pressure off of him if the Board required the trailer be removed upon completion of the self storage building? Bill H. also asked Mr. Slattery if it would be inconvenient for Mr. Buttrick to store his recycling in the new building? Mr. Slattery stated that “No, it would be more convenient for him to use the new building since he would not have to go up a ramp to store the bottles and cans as he does now”. Mr. Slattery did ask the Board that they make this condition, to remove the storage trailer, “upon completion of the storage building”. The Board agreed.

Roger asked if there were any more questions with respect to this application, and there were none.

Roger then read Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses”.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not.***
- 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. ***It is, the Comp. Plan wants to see businesses located along Routes 109 and 11, and in Emery Mill Center.***
- 4) Traffic access to the site is safe. ***It is, studies have been conducted for this site location on previous Conditional Use Permit Applications and those are on file.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***None shall be generated by this amendment to the original Conditional Use.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***None are being generated and there are none allowed per the by-laws for the storage unit.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made to the area, and there is an adequate stormwater runoff plan presented for this new building.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are per the stormwater runoff plan, and this is a relatively flat lot.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***There is, the project is located across the street from Lower Mousam Lake.***
- 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. ***Landscaping is in existence and there isn’t anything detrimental being generated.***

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

Bill H. made the motion to approve the Amendment to a Conditional Use Permit to place a self storage unit on site, with the following condition(s):

- **Once alternative storage is available in the new self storage building, the storage trailer currently on site and being used by Mr. Buttrick for the recycling center shall be removed from site and all recycling materials shall be stored in the new building.**

Barbara G. 2nd the motion. All members were in favor.

Best Possible Location – Foundation under Existing Cabin – Map 22, Lot 5 (103 Wardens Way) – Richard Jagger

Mr. Jagger attended the meeting to answer any questions the Board might have with respect to his application. Roger asked Mr. Jagger to explain why he was before the Board. Mr. Jagger stated that the existing camp was sitting on 4" X 4" pressure treated post that rest on granite. Mr. Jagger said that with each season, during the freeze and thaw period, the building shifts and moves to the point where you cannot open doors or open and close windows. The family has to jack up the corners of the camp to square it. Mr. Jagger stated also that he would like to be able to insulate under the existing floor, protect the plumbing from freezing and prevent the underside from rotting. These are the biggest reasons why he would like to put a foundation under the building.

Mr. Jagger stated that he was proposing to support the building on concrete block piers, and the walls between the piers would be concrete blocks. During this project Mr. Jagger felt that approximately 40 square yards of earth would need to be removed. Mr. Jagger wanted to create a space that was approximately 6 feet in height.

Bill H. asked Mr. Jagger if he intended on pouring a concrete floor? Mr. Jagger stated, "No, this is not going to be living space". He did say that he may store items in this area, and place pea stone on the floor as a base.

Roger asked how far the camp was from the waters edge. Mr. Jagger stated it was approximately 60 feet from the high water mark. He supplied the Planning Board with a diagram with his application showing the approximate location of the cabin with respect to the Mousam Lake, lot lines and abutting neighbors.

Roger asked the Board members if they knew the location of the cabin and if they wished to do a site inspection as a group or individually. John C. stated he remembered the cabin from the site inspection for the O'Donnell's which are located next door. Roger also stated he knew where the cabin was located. Bill H. stated he would have Barbara G. get in contact with Diane S. so they could go to the site for a review together.

Roger and John C. both stated that the hillside behind the existing cabin was very steep and it was likely that the Best Possible Location for this cabin was where it exists currently.

Roger told Mr. Jagger that there would be a Notice to Abutters mailed out and this item would be on the agenda at the next meeting to be held on October 22nd. Nothing further was discussed.

Amendment to a Conditional Use Permit – Repair Service on Premises - Map 18, Lot 17 143 Emery Mills Road) – Scott Cudworth & Kim Cote

Scott Cudworth and Kim Cote were present at the meeting to discuss their application. Roger asked Mr. Cudworth to brief the Board members on what he and Ms. Cote wanted to do.

Mr. Cudworth stated that presently in the basement of the existing building are several work benches. He spoke with Mr. Sevigny, son of a previous owner, who stated that his father had used these benches years ago to do repair work, but Mr. Cudworth said that he did not see anything in the existing Conditional Use Permits that spoke of boat repair. Roger stated, "What happens is any use that has not been done for greater than one year becomes null and void, so you have to start from square one".

Mr. Cudworth said that he has received many calls from people who had boats that needed to be towed from the Public Boat Launch (which is located next door to his business), so he felt that it was good business sense to open a shop for boat repair. Since this is a seasonal business, they thought that they would also take in ATV's and snowmobiles for the off season.

Mr. Cudworth stated that they are proposing to finish the existing 26' X 32' cellar with a cement slab, fire doors, an explosion proof electrical box, and any other safety measures the Board feels are necessary. In addition, there will be a rolling steel door to replace the existing double doors to the outside.

John C. asked Mr. Cudworth if the mechanic on duty would be working on the engines inside the building but starting them outside? "Otherwise we have to worry about fumes." Mr. Cudworth said, "No, we will start the engines outside".

John C. asked how they would get the motor from the lake to the building to work on it? Mr. Cudworth stated they expected in most cases to keep the boat on the trailer and back it into the work area. "Weather permitting much of the work will be done outside."

Mr. Cudworth stated that he wanted to do ATV and snowmobile repair and he planned on working on only one item at a time since there is not a large amount of area.

Mr. Cudworth said that parking for the business was adequate as there was a large area between the existing building and the boat launch area. Mr. Cudworth felt there was enough room to park the boats he was working on as well as several ATV's and/or snowmobiles.

John C. asked how far from the waters edge the building was? Roger thought the building was approximately 225 feet at the closest point. "Some of the building exists in the Shoreland Zone (within 250'); some of it is outside of this distance.

John C. stated he felt that the Board needed to know exactly where the mechanics would be working on the motors, as there is a concern for oil and/or gas spillage. Mr. Cudworth said, "This is why we are going to pour a slab, so nothing goes into the ground. The boats will be backed into the building on the trailer."

Bill H. asked Mr. Cudworth when he was talking about parking, was he talking about the Rte. 109 side of the building or the area between the building and the water? Mr. Cudworth showed the area on the existing plan from a previous C.U.P. for the property. "The parking is between the building and the water."

John voiced his concern with the fact that the business was probably going to grow faster than the applicants expected, and that they needed to be certain they planned the working area and any storage for the "future" use. John also was concerned that if the boats, ATV's, etc. that are being worked on fill the parking area, where would the clients using the boat launch park their boat trailers? Mr. Cudworth stated that people renting boat slips cannot leave their trailers on site. After they put their boat in the water, the trailer must be removed; otherwise there would not be enough parking for all those who rent slips.

John C. asked if any day people used the boat launch (those not renting slips)? Mr. Cudworth stated, “No, you have to rent a slip to use the boat launch”.

Roger made mention of a past concern of Board members at this location with respect to a buffer strip along the waters edge. The Board members wanted to be certain there was enough of a buffer of vegetation between the parking area and the water. Roger stated that Mr. Cudworth needed to keep this in mind for the final review. “Is there adequate ground cover between the parking area and the water? What is the distance left undisturbed?”

Mr. Cudworth told the Board that there was a large area currently that was grown over since the last owner owned the property. Mr. Cudworth said he did not intend to remove this vegetation. Roger told Mr. Cudworth that in the Shoreland Zone it is best not to remove any cover unless you first discuss it with the CEO. Roger also mentioned the fact that currently there is grass in the parking area, but if there is a large amount of vehicular traffic in the area, the grass will die back exposing the underlying gravel bed that exist there. Roger stated there would then be a concern with sand going into the lake during a large rain storm. Again, this is why it is important to keep the buffer area along the water intact.

One last item the Board wanted Mr. Cudworth and Ms. Cote to be aware of was the noise level ordinance. It was important that they did not run motors for long periods of time disturbing the neighbors; otherwise they may be asked to put up something to block the noise. Mr. Cudworth stated he understood.

The Board did not have any further questions at this time. ***Roger stated a Notice to Abutters would be mailed out.*** Most Board members have been to the site recently for a previous Conditional Use Permit at this location. Bill H. will go to the site after the site inspection for Mr. Jagger’s inspection. Nothing further was discussed on this issue at this time.

OTHER:

Copy of instructions by the MDIFW regarding “Incidental Taking of Endangered and Threatened Species and the Incidental Take Permitting Process”.

These instructions were received by Barbara G. at the site inspection for the Birchfield Place Subdivision proposal with was conducted by MDIFW’s representative Phillip deMaynadier. Also in attendance was Mike Morris the applicant, Andrew Nadeau from Corner Post Land Surveyors working with Mr. Morris, John Ford, representing Ethelind Walker the property owner, Madge Baker, as well as several members of the Conservation Committee. The permitting instructions were given as a courtesy to everyone present. The instructions explain the process of being able to build near an endangered species. Mr. deMaynadier did state that the Department of MDIFW does walk the applicant thru the process step by step.

This application with respect to the Planning Board’s involvement is currently tabled until Mr. Morris and the State of Maine can reach a conclusion for the best possible design to protect the endangered species on site.

Steve M., CEO, had a question with respect to a Conditional Use Permit Requirement.

Steve asked Barbara G. to bring the following question to the Board members since he was unable to be present at tonight’s meeting. Steve M. asked whether or not an existing business, being operated on land owned by Vinton Ridley, located on the Nason Road, was a grandfathered business or a “new” business? Steve was told that in the past a machine shop was operated at the location in question by Mr. Ridley. This machine shop has been closed for many years according to the town’s records as well as Mr. Ridley himself. Recently it was brought to Steve’s attention that there is now a repair shop for ATV’s, snowmobiles and other

small engines being operated in the existing building by Mr. Ridley's grandson. In addition, this business is currently being advertised in various local newspapers.

Steve would like to know if this new business received an approval for a Conditional Use Permit? If not, does it require a new Conditional Use Permit?

Roger spoke saying that this new business does in fact require a Conditional Use Permit. Small engine repair is not related to the pre-existing machine shop. In addition, the machine shop has been closed for a period longer than one year. John C. asked since this new business is "already" in existence, does it require an after-the-fact Conditional Use Permit? Roger stated, "Yes".

Barbara will inform the CEO what was discussed with respect to this issue.

John C. asked Barbara G. to ask the Board of Selectmen if it would be possible to have an exterminator come in to kill the wasp, flies, and other flying insects that buzz around the Board during the meeting. In addition the lights are full of dead bugs, which is very distracting and unhealthy. Barbara G. stated she would mention this to Karla B., Secretary to the BOS.

GROWTH PERMIT(S) – There are no Growth Permits available.

The meeting concluded at 9:00 p.m.

Respectively submitted,

Barbara Gilbride
Planning Board Secretary

planningboard@shapleigh.net or strawman04076@yahoo.com

NOTE TO PLANNING BOARD MEMBERS: There will be a Public Hearing for Scott Cudworth and Kim Cote's application for an Amendment to a Conditional Use Permit for boat repair on October 22nd @ 7:00 p.m.

SHAPLEIGH PLANNING BOARD MINUTES

Page 1 of 11

Tuesday, October 22, 2002

Members in attendance: John Caramihalis (Acting Chairman), Diane Srebnick, Bill Hayes, and Barbara Gilbride (Member/Secretary). (Madge Baker was unable to attend the Public Hearing but did attend the Planning Board meeting.) Code Enforcement Officer, Steven McDonough was also present.

The following Site Inspection(s) were done on an individual basis prior to this evenings meeting due to time constraints with the loss of daylight hours prior to the meeting:

- a) Best Possible Location – Foundation under Existing Cabin – Map 22, Lot 5 (103 Wardens Way) – Richard Jagger*
- b) Amendment to a Conditional Use Permit – Boat Repair Service to Include Snowmobile(s) and ATV' – Map 18, Lot 17 (143 Emery Mills Road) – Scott Cudworth and Kim Cote*

Public Hearing began at 7:00 p.m.

◆ **Amendment to a Conditional Use Permit – Boat Repair Service to Include Snowmobile(s) and ATV's – Map 18, Lot 17 (143 Emery Mills Road) – Scott Cudworth and Kim Cote**

The Public Hearing began by John C. "John" asking if Scott Cudworth could give the citizens in attendance a brief overview of what he was proposing to do at Lakeside Sport and Marine with respect to his application. Scott Cudworth "Scott" stated that he was requesting to do changes to the existing building to bring it up to code in order to be able to do small engine repair on the premises. The changes would include pouring a cement slab in the basement/work area, adding the required amount of 5/8 sheetrock to make the area fireproof, adding fireproof doors, an explosion proof electrical box, and any other safety measures the Board feels are necessary. Also where there currently exists double doors in the walkout basement, there would be a rolling steel door. Scott further stated that he would be repairing boat motors, snowmobile motors and ATV's on a limited basis both inside and outside of the building. He would be the mechanic on duty and did not want to do a large volume. Scott said he expected to have only two or three items on site at one time to repair.

John told Scott that he would need to have to check with the Code Enforcement Officer with respect to all the code requirements including the thickness of the sheetrock required for fire safety. Scott stated that he has already spoken with Steve McDonough and will do so again before starting the project.

Roy Trafton, of the Acton-Shapleigh Historical Society asked Scott if he planned on displaying anything in the front of the existing building? Scott stated that he currently has permission in the existing Conditional Use Permit to display up to (6) boats on the property, but he has no intention of displaying ATV's or Snowmobiles. His intention is simply to repair them and get them off site as soon as possible when finished. Scott stated that he had a limited area to store items so he did not want to stockpile, which again is why he was going to do this work on a limited basis. Scott also added that he did not plan to store batteries on site; he would require the owner(s) to take the old batteries with them.

John reiterated to those present that at the last meeting Scott had mentioned that the boat launch at Lakeside Sport and Marine was NOT used as a public boat launch, only those who rented the boat slips could use the launch area. Scott stated this was correct.

Pat Baldwin was present speaking for herself as well as representing several of the surrounding neighbors. Ms. Baldwin asked Scott if he had any thoughts on changing the configuration of the existing docking facility, so it would not protrude as far out into Mousam Lake? Ms. Baldwin realized that currently there were 16 boats allowed on the dock, but there was room for many more. If the length was reduced you could still house 16 boats but without as great an impact on boat traffic in the area. Scott answered by stating that at this time he had not considered changing anything about the docking system. He would like to, in the future, apply for an allowance for more boats to dock there. He would think about possibly changing the configuration in the future, as long as it did not reduce the number of boats that would be able to tie up at the facility. Karen Cudworth, Scott's wife stated that she did not feel this was the time to discuss the boat dock, they were here to discuss boat repair only. Scott asked Ms. Baldwin if reducing the size of the boat dock was a concern of the Mousam Lake Association or her concern? Ms. Baldwin stated it was her concern and that of several neighbors.

Ms. Baldwin asked Scott if he was going to repair Jet Ski's? If so, did he plan on docking them at the existing dock? She also told Scott that if they were launched from his dock it was his responsibility to inform the owners that they were not to rev up their engines and speed in the cove, there were noise level restrictions. Scott stated that he was not sure whether or not he would be working on Jet Ski's.

Ms. Baldwin asked if Scott was planning on pumping gas? Scott stated, "No".

Ms. Baldwin wanted to remind both the Planning Board and Scott that in this area it is extremely important gas and oil is taken care of properly, as it could easily run into the lake.

John asked Ms. Baldwin exactly what she was asking of Scott? What point did she want to make at the Public Hearing? Ms. Baldwin stated that the original dock at Lakeside Sport and Marine was not as long and large as it is now, and there was room for the allowed 16 boats to docks. She and the surrounding neighbors would like to see the existing dock not go out into the lake as far as it does now. John stated, "So you are talking about your concern about the length of the docks. Do you have any other concerns with respect to this application?" Ms. Baldwin stated, "No, otherwise this permit application seems fine".

John reviewed the application and asked Scott if he was asking that only small jobs be done on site, "quick fixes", not a full fledged marina repair service center. Scott stated that this was correct.

Bill H. stated that he would like to compliment the applicants on the condition of the existing property. During the site visit he noted the current condition of the property was an asset to the Lake.

There were no further questions from the audience or the Board members; therefore the Public Hearing was closed at 7:20 p.m.

The Planning Board meeting started at 7:25 p.m.

The Planning Board minutes of Tuesday, October 8, 2002, were read and accepted as written.

The following agenda items are written in the order they were discussed:

Amendment to a Conditional Use Permit – Repair Service on Premises - Map 18, Lot 17 (143 Emery Mills Road) – Scott Cudworth & Kim Cote

Scott Cudworth and Kim Cote were present at the meeting to discuss their application.

John started the discussion by asking Scott how he planned on retaining the stormwater on site? John stated that it was important to have an adequate buffer between the area where vehicles are parked and the water, so there is no chance for erosion of sand to make it to the lake. John referred the Board to Shapleigh Zoning Ordinance "Ordinance" 105-26, "Stormwater runoff", which states that a stormwater plan must be designed for the largest storm which would be likely to occur during a fifty-year period. Scott stated that currently there is a grass buffer between the lake and the parking area. Also in the work area there are rock walls which have vegetation along them which he thought would help to retain water in that area. John felt that Scott needed to further address this issue. "At this time there are not a lot of vehicles parked in this area waiting to be worked on, but if there is more traffic in the future it could diminish the amount of grass on site causing an erosion problem." John asked Scott and the Board to consider requiring only a certain number of vehicles to be parked on site at one time, i.e. the items waiting to be worked on.

Another item that John wanted to have addressed is site distances, is the site going to be safe with an increase in traffic? Scott stated that there would not be a large increase in traffic since he was not going to take in a large volume of work.

Steve M., CEO, asked Scott how many vehicles ("vehicles" is used to include boat motors, snowmobiles and all terrain vehicles) he felt would be parked outside waiting to be worked on or picked up by the customer? Steve also asked Scott if he would mind the Board limiting the amount of vehicles he could have on site, or have a designated area for the vehicles to be parked on away from the water? Scott stated that he did not have a problem with a designated area or a limit on the number of vehicles he could have in for repair. John said that he would feel more comfortable with having a designated area.

John stated another concern he had was with respect to the docks and the number of tie-ups at the dock. Currently 16 "boats" were allowed, but nothing is mentioned in the existing approval regarding "watercraft". John did not want to see 16 boats at the docks plus 5 Jet Ski's. There would be room to house them. Bill H. said that Scott had previously stated his interest in increasing the size of the docks in the future. Bill asked, "Do we need to address this now or down the road?" John once again stated that the Board needed to be sure not more than 16 "watercraft" were at the dock at any one time, "this isn't about the size of the dock". Bill stated that he felt it would be best if the Board put a limit on the number of vehicles awaiting repair, instead of an area where they could be located, he felt Scott could use his best judgment on the location that would work best. Karen Cudworth once again stated that she felt the dock was not an issue at this time, only where the repair area would be, the dock should be left out of the decisions. John stated that the docks were an issue only to the extent that the Board needed to be certain there would not be more than 16 "watercraft" docked at any one time, including boats being repaired.

Diane S. asked Scott what he planned on doing with the waste oil and gas, or any other hazardous materials? Scott stated that he would have a 250 gallon tank on site sitting on a cement slab to house the waste oil. There would be a visible fill gauge so it could be emptied at the appropriate time. Scott said that he would then contact a company to haul it off site. Steve M. asked what he was going to do with the waste gasoline? Scott did not feel he would have any waste gasoline. Steve M. stated that when dealing with gasoline engines there may be times he would have to drain the tank so he would probably need to address it. Steve M. felt that part of the condition of approval should be that Scott get a waste disposal company to remove the waste gas and oil on site. Bill H. asked if a letter from a waste disposal company stating that they would haul it off site would suffice? The Board agreed with Bill's proposal.

Steve M. asked how many vehicles did the Board feel they would allow to be housed on site for repair? He asked if the Board and Scott felt comfortable with limiting the number to six? He further clarified by adding it would be the total number of anything, any combination of types of vehicles in repair. The Board members

and Scott agreed to this number. In addition, Steve stated that he felt the vehicles should be housed behind the building as far from the waters edge as possible.

Bill asked that since Scott would need to return to the Board with a letter from a waste management company, could we request he also bring a sketch showing a designated area for the vehicles in repair? The Board agreed we should have this sketch for the file.

In addition, on the sketch Steve M. would like the requirement that there be additional vegetation or wood chips placed by the waters edge to prevent erosion during heavy rain written on the plan. Scott stated that he would add wood chips if the Board required it.

Madge B. asked Scott if there would be a change of lighting to the existing building? Scott stated that there is currently a light by the entryway, and that will remain. "It is required by code to have an entrance way to a business lighted." Madge asked Scott if he would show where the lights were on the building on the sketch plan he is to bring to the next meeting. He stated he would.

Bill H. asked what was going to be done so that there is no chance oil or gas will spill onto the ground outside? Scott stated that all repairs that would have the possibility of spillage will be done inside on the concrete floor with adequate provisions made to protect the environment. John referred the Board members to Ordinance 105-30, "Water quality", which states that "All outdoor storage facilities for fuel, chemicals, chemical or industrial wastes and potentially harmful raw materials shall be completely enclosed by an impervious pavement and shall be completely enclosed by an impervious dike which shall be high enough to contain the total volume of liquid kept within the storage area, plus the rain falling into this storage area during a fifty-year storm, so that such liquid shall not be able to spill onto or seep into the ground surrounding the paved storage area." Steve M. asked if Scott could place a roof over the holding area to prevent rainwater buildup? John stated, "Yes". Steve told Scott that by doing this the enclosure would not have to be as high surrounding the oil storage tank.

The Board asked what the hours of operation would be. Scott stated that presently the approved hours of operation are 6:00 a.m. thru 10 p.m. for Lakeside Sport and Marine, and those remain the same. The hours of operation for the repair service shall be 9:00 a.m. thru 5:00 p.m.

John asked if there were any further questions? There were none. He then listed the items Scott would need to bring to the Board prior to final approval. They were as follows:

- ◆ Letter of intent for waste oil and gas removal, or any other hazardous material, from a waste management company.
- ◆ On plan show location of waste oil storage tank and housing, including size of tank.
- ◆ On plan show where bark mulch will be placed, next to waters edge.
- ◆ On plan show the location of the lighting on building.
- ◆ On plan show where the vehicles to be serviced will be parked.
- ◆ Have a plan depicting where old parts will be stored and how they will be disposed of.

John further stated to Scott that the Board would require the following conditions upon approval:

- 1) No more than 16 "watercraft" could be placed at the current dock / boat slips.
- 2) The number of vehicles to be repaired, which includes boats, Jet Ski's, snowmobiles and all terrain vehicles, would be limited to a maximum of six at any given time.

- 3) The 275 gallon oil storage tank would be placed on a cement slab, enclosed with a cement wall, and contained under a roof, thus maintaining a safe area in the case of spillage, in accordance with Shapleigh Zoning Ordinance, 105-30, "Water Quality".

There was no further discussion on this application, thus it was tabled to be heard again on Tuesday, November 12th.

Best Possible Location – Foundation under Existing Cabin – Map 22, Lot 5 (103 Wardens Way) – Richard Jagger

Mr. Jagger attended the meeting to answer any questions the Board might have with respect to his application. John asked Mr. Jagger to once again state to the Board members the intention of his application. Mr. Jagger stated that the existing camp was sitting on 4" X 4" pressure treated post that rest on granite. Mr. Jagger stated he wanted to protect the plumbing from freezing and prevent the underside from rotting. In order to do this he needed to excavate under the building to a head height of approximately six feet and then add concrete blocks between the existing concrete pillars. He stated that he did not plan on moving the building in any manner because of the attached chimney; it would have to be removed if the building were moved.

Madge B. asked Mr. Jagger if this new space was to be living space. Mr. Jagger stated, "Not at this time."

Bill H. asked if the concrete blocks were going to be placed under the existing building and under the existing deck also? Mr. Jagger stated under the building only. Bill told Mr. Jagger that he felt he would have to be very careful in the area of the chimney when excavating otherwise he would undermine the chimney. Mr. Jagger stated he understood.

John stated that he did not view this application as being an expansion, since no living space was involved. The other Board members concurred. John stated that Mr. Jagger was not elevating or moving the building. All Board members concurred that at the site inspection, it was noted that the current location of the building was the Best Possible Location.

Bill H. made the motion to approve the Best Possible Location, stating the cabin is in the best possible location on site. Madge B. 2nd the motion. All in favor.

Bill H. told Mr. Jagger to be certain to go to Steve M., CEO for all applicable permits prior to construction.

Best Possible Location – Full Foundation, 7'6" X 20'6" Addition and New Septic System – Map 39, Lot 54 (46 Swan Circle) – Daniel G. Payeur

Mr. Payeur was present to answer any questions regarding his application. Mr. Payeur presented a plan showing the existing cabin which currently sets approximately 50 feet back from Granny Kent Pond. The side setbacks are currently 10' to Lot 53, owned by D. Cram and 16'6" to Lot 55, owned by R. April. Mr. Payeur is asking to build a 7'6" addition to the back of the cabin, which would be 73'6" from the edge of the existing road, should the cabin remain in its current location. It was noted that this addition does not make the cabin more non-conforming. Madge stated that it appeared the Board could move the structure back 10 feet toward the road and still meet current setback requirements.

Mr. Payeur told the Board he would be using a chamber system so the leach field and tanks could be driven on and used as parking area, and he presented a plan for this system dated 9/30/02, filled out by Brian W. Howard, Maine Site Evaluator #196. He also stated that his application was to put a full foundation under the existing structure and to raise the cabin two feet in height.

There were no questions by the Board at this time. Each member agreed to do an individual site inspection of the property prior to the next scheduled meeting (with the time change it is not feasible to try to do site inspections prior to the meetings as it is dark outside).

John stated that a Notice to Abutters shall be mailed out. This item will be back on the agenda on November 12th.

Conditional Use Permit – Video Rental Store – Map 1, Lot 41 (184 Emery Mills Road) – Denise Boutin, Applicant – Robert Gallant, Owner of Property

Denise Boutin was present at the meeting. John asked Ms. Boutin to state exactly what she was applying for. Ms. Boutin said that it was her intention to rent video's and DVD's, and she would be gearing her rentals mostly toward DVD's. There would also be games available as well as the equipment to use them. Ms. Boutin stated in addition she would have DVD players to rent. John asked if she was going to be selling DVD's? Ms. Boutin stated, "Only the old outdated DVD's would be sold."

The Board asked if there would be any changes to the outside of the building? Ms. Boutin stated that she would be keeping the same sign that currently exists. She would be adding an open flag to the outside during business hours and perhaps a neon open sign in the window in the future. John stated that prior to any additional signs on the building, Ms. Boutin would need to go to the CEO for proper permits.

John asked what the hours of operation would be? Ms. Boutin stated, "Monday through Thursday, 10:00 a.m. thru 8:00 p.m., Friday and Saturday, 10:00 a.m. thru 10:00 p.m., and Sunday 11:00 a.m. to 7:00 p.m."

Steve M. asked if there were going to be any snacks sold or anything else? Ms. Boutin stated there would be nothing else sold at this time except the DVD's.

John asked if there would be any additional employees? Mr. Boutin stated there would be none, she would be the only employee.

Bill H. asked how big the building was? Mr. Gallant, the owner of the property who was also present at the meeting, stated the building is 20' X 20'. Bill H. asked if there was enough room for parking? Approximately three parking spaces would be needed for a building of this size. Diane S. added that an additional space would be needed for Ms. Boutin. John told Ms. Boutin that these spaces would need to be 10 X 20 feet in size. John asked Ms. Boutin and Mr. Gallant, how large the parking area was? Ms. Boutin stated she measured the area and it was 30 feet by 75 feet on the side of the building she would have the customers park. On the other side of the building was an area for her to park.

John stated that he felt it was important Ms. Boutin clearly designate the parking spaces since this could be a difficult place to turn around. John did not want patrons backing onto Rte. 109 when pulling out. It would be important for traffic to flow in such a way as not to create a traffic hazard. Bill H. referred Ms. Boutin to Ordinance 105-43.A, agreeing with John that the vehicles should be able to turn around within the parking area and should not be able to back onto Rte. 109.

Both John and Bill felt that Ms. Boutin should bring to the Board a plan showing the parking area and a traffic flow pattern. In addition, Ms. Boutin would need to bring the site distances from both directions since there did not seem to be any listed on file for the previous CUP for this property. The posted speed limit in this area is 35 mph, so the requirement would be 350 feet in either direction. Steve M. stated he would meet with Ms. Boutin to help her get the site distance measurement if she needed him to. Steve told Ms. Boutin to call and make an appointment and he would meet her on site. She stated she would.

Roland Legere was present at the meeting and asked Ms. Boutin if there would be a video drop box? Ms. Boutin stated there would be.

John asked if there would be any additional lighting? Ms. Boutin stated there are currently two lights pointing on the building and a security light in the parking lot. Ms. Boutin did not plan on adding any additional lighting.

There were no more questions at this time. John stated that Ms. Boutin would need to bring the following to the next meeting:

- ◆ Parking Area and Traffic Flow Plan
- ◆ Site Distances

A Notice to Abutters will be mailed out and a Public Hearing held on Tuesday, November 12th at 7:00 p.m.
This item is tabled until the 12th.

Best Possible Location – Rebuild Home Destroyed by Fire – Map 39, Lot 53 (44 Swan Circle) – Francine & Dennis Cram

Francine Cram was present to answer any questions with respect to the plans for the new home to replace their home destroyed by fire. The original home was 30' X 30' with a 10 X 25' bump out. There was a full daylight basement under the entire house. In addition was a 20 X 20' patio and 4 X 8' porch on the side of the previous home. The original setbacks were 52 feet to the water, 11 feet from the Payeur property line, and 39 feet from the Greenleaf property. A new septic system and Leach field was installed in August of this year and is approximately 22 feet from the back of home (area closest to the road).

The proposed home will be 28 X 36' with a full daylight basement. There is a proposed 11 X 14' sunroom on the front of the home, closest to the water, as well as deck and stairs to the beach. There will be a 20 X 20' covered patio as they had before, and a mudroom approximately 8 X 15' on the side of the home.

Ms. Cram had the volume calculation with her plans for the new home, including finished attic space, deck and mudroom. The new home will be only 5% greater by volume than the original home. Ms. Cram did not have the square foot calculation with her; she will bring it to the next meeting.

The new home will be moved back 10 feet toward the back of the property but, because of its dimensions, it shall be only three feet further back from the water than the original home. The new home will meet the side setback requirements, being 14 feet from the Payeur lot line and 36 feet from the Greenleaf property.

Ms. Cram did not have the septic system application with her but Steve M. stated he would get a copy, which he has on file, to Barbara G. prior to the next meeting.

This application will be further reviewed by the Board as per Ordinance 105-4.5.a "Removal, reconstruction or replacement", ...any non-conforming structure... damaged or destroyed by more than 50% of its town-assessed value....must be in compliance with all setback requirements to the greatest practical extent as determined by the Planning Board in accordance with the purposes of this chapter.

There were no further questions at this time. *John stated site inspections would be done on an individual basis, and there would be a Notice to Abutters mailed out.* This item will be tabled until the meeting to be held on Tuesday, November 12th.

Proposed Change to “The Declaration” for Kettle Pond Condominiums – Map 7, Lot 3-2 (State Rte. 11)
– Christian Chandler Representing Patrick Hannon

Christian Chandler was present to explain the following proposed changes to the Declaration, they are as follows:

- 1) Added the following sentence to end of Section 12.3, it reads, “***The decision by the Board to exercise the option must be unanimous***”.
- 2) Added to Section 12.9, “The Board of Directors shall not exercise any option herein above set forth to purchase or lease any Unit without the prior approval of ~~a majority in interest~~ **all** of the Unit Owners.

Atty. Chandler stated that basically these changes are so the Condominium Association can not take ownership of any Unit without all members / all unit owners in agreement.

Steve asked, “Isn’t this the way they have it now?” Atty. Chandler replied, “No, they want to make it more difficult for the Association to purchase a unit.” The Board asked why they would want to do that? Atty. Chandler stated he did not know why.

John C. asked if there were any owners in the condos yet? Atty. Chandler stated they had four possible buyers but only if this change took place. Atty. Chandler said, “I’ve done a number of these things (Condo Declarations) and this has never come up before.”

Bill H. stated, “For clarification, the way it is now, if a unit comes up for sale, the association has first right of refusal on that property and a majority vote could purchase it.” Atty. Chandler, “This is the way it is now, the seller has to give the Association 30 days notice and the Association has first right of refusal.” Bill H. asked, “At the purchase and sale price?” Atty. Chandler, “Yes.”

Bill H. asked why the Association would want to buy it. Diane S. stated, “To rent it.” Atty. Chandler concurred. Atty. Chandler, “In situations where you have a resort type condo, which originally this was intended to be, this is what you would do. The Association would buy several units; rent them out, reducing or eliminating the condo association fee.” Atty. Chandler stated that this works quite well when you have a large number of condos. In this situation, there are only 17 units. “So the owners do not want to have to purchase a unit, let’s say the unit cost is \$160,000, divide that by 16, they would have to pay \$10,000 each.” Atty. Chandler stated, “Right now a majority of unit owners make the decision, with this change all must agree to buy or it won’t happen”.

Diane S. made note that it is possible that a unit owner would not want renters in the unit next to theirs. This could be another reason to want the option to vote no and stop the purchase.

Madge B. stated, “I don’t see where the Board has any basis to deny the change.” The Board concurred.

Madge B. made the motion to approve the change to the Declaration, Diane S. 2nd the motion. All members were in favor.

Atty. Chandler stated he would like a copy of the approved minutes when available. Barbara G. stated they would be available after approved at the next meeting. Barbara told Atty. Chandler that the Board would mail a letter stating approval of these two items within a week.

Conditional Use Permit – Small Engine Repair – Map 6, Lot 31 (38 Nason Rd.) - Roger Ridley, Jr.

This item was tabled as Mr. Ridley was not present at the meeting to discuss the application. It will be placed back on the agenda for Tuesday, November 12th.

OTHER:

Question from a Realtor representing James and Lori Mitchell – Tax Map 2, Lot 34 A-3

A Realtor came before the Board to state that he had listed several properties on Walnut Hill Road and wanted to know if these properties would be able to obtain a building permit. John C., after looking at the town map, stated the problem with these properties is there was a 40' right of way; the ordinance states you need a 50' right of way. Steve asked the Realtor (Steve had had a brief discussion with the Realtor prior to the Planning Board meeting) "did you (Realtor) go to the Registry of Deeds to see if it (the subdivision) was recorded?" The Realtor responded with "there was nothing there". Steve M., "So it is not a town approved subdivision." Realtor, "I believe it was a family subdivision, Savarese split up the property amongst family members."

John stated that the first problem is the right of way needs to be 50 feet in width. Steve M. asked the Realtor when the property division was created? Realtor, "August of 1993 to his daughter." Steve stated the right of way requirement in 1993 was 30 feet. Madge B. asked if there was a building put on the property? Realtor, "No, it is not developed." Madge stated that normally a person has to invest money into the lot for it to be grandfathered. Since no one pulled a permit as yet, it is not certain that they are entitled to operate under anything other than today's ordinance.

John asked the other Board members and Steve M. if Shapleigh had a "sunset" provision? John thought it was a state law, which pertained to subdivision. If a lot didn't have any change or improvement made to it for five years, the lot reverts back to the original lot. John stated that many towns have this provision and he thought that it was a state land use provision. Neither the Board members present nor Steve knew the answer to this question.

The Realtor stated the following lots all had deeded access to the 40 foot right of way:

- Map 2, Lot 34 A, owned by Vicki Savarese
- Map 2, Lot 34 A-2, owned by Stephen Savarese
- Map 2, Lot 34 A-3, owned by Debra Savarese
- Map 2, Lot 34 B-1, owned by Mary Lyn (Savarese) Lindell

The Realtor also noted that the back lot, Map 2, Lot 29 was owned by a gentlemen from Florida, and it had no deeded access to the right of way.

John stated that since there were no improvements to these lots, and even though they were all deeded to a relative, it is possible when sold these lots would become a subdivision. The Realtor reiterated that the lots in question had a deeded 40 foot right of way so why are they not buildable lots?

John asked, "They did not have to be approved lots to sell them?" Madge B., "No, you can sell your land. It does not mean someone would be able to build on it. It is a buyer's risk."

John stated, "I think this question is a Ron Bourque question (the town attorney)." Madge agreed.

Madge stated, "Normally, if there are no improvements the current law applies, that is my understanding." The Realtor asked if the right of way could be considered an improvement? Madge replied, "Only if it is a road up to town standards." John agreed. (The current r.o.w. is not up to town standards.)

Steve asked the Board if the land owners could get an additional 10 feet for the right of way and brought it up to town standards, would they become buildable lots? John felt that since these lots were being sold, they would also have to go through subdivision. The Realtor noted that the owners had owned these lots for over five years so they were exempt from the subdivision rule. The other Board members were not sure that these would be considered a subdivision.

The Board agreed the lots are not currently legal lots in the Town of Shapleigh, as they do not have the necessary road frontage, they are however legal transfers of property from parent to children. Steve added that they were a legal exemption from subdivision but they are not buildable lots.

The Realtor asked what needed to happen to make them buildable.

John, "The question is whether or not they have to go through subdivision. I think they do but I am not sure." Bill H. and Madge B. did not feel this would be considered a subdivision; the lots only need the necessary road frontage.

Steve M. asked the Board if they felt at this time these were not buildable lots? The Board concluded that at this time they would not be able to issue a Growth Permit for these lots and "no" they were not legally buildable lots.

Madge concluded that the Board was being asked only for information at this time, there is no application before the Board, and therefore she did not feel that the Planning Board should create a legal bill for the benefit of another party. The Board agreed with this and furthered it by stating that until there is an application they would not pursue this issue further. Should this issue come back before the Board, a land use attorney would be used to answer any and all questions.

Nothing further was discussed on this subject.

Question relative to Shapleigh Zoning Ordinance 105-29 posed by Steve McDonough, CEO.

Steve M. read the above ordinance which currently reads, "No highly flammable or explosive liquids, solids or gases, shall be stored in bulk above ground, unless they are located in anchored tanks at least 75 feet from any lot line, town way or interior roadway, or 40 feet from a lot line for underground tanks; plus all relevant federal and state regulations shall also be met. Propane gas tanks in one-hundred-pound cylinders (or smaller) shall be exempt from these regulations.

Steve stated, "Propane tanks have to be 40 feet from a lot line "under" ground or 75 feet "above" ground. Do you know how many properties in the Shoreland Zone are only 50 feet in width total? This ordinance only exempts 100 pound cylinders. What do we do? When a propane company places a propane tank, they do not call me prior to installation to ask where they are going to place it. The State standard is 10 feet from the property line."

The Board had received a copy of the propane gas code as written by the National Fire Protection Agency. Table 3.2.2.2 "Separation Distances Between Containers, Important Buildings, and Other Properties", it list the minimum distance of an aboveground container 500 lbs. or under to be 10 feet.

Bill H. asked the other Board members how the town could adopt this change? Madge stated that first the Board would propose an amendment to the ordinance, have a Public Hearing on the proposed change, then bring it to the townspeople at town meeting. John stated, "Then they (townspeople) vote on the change".

John, after rereading the ordinance, stated that it not only referred to propane tanks but also other flammable liquids. Therefore, the Board may need to address propane tanks separately stating “all propane tanks need to comply with the NFPA standards”. Bill H. agreed, “This way there is no confusion when addressing the issue of propane tanks in the future”.

The Board agreed that the following change would be made to Ordinance 105-29:

~~Propane gas tanks in one hundred-pound cylinders (or smaller) shall be exempt from these regulations.~~

All residential propane gas tanks shall comply with NFPA 58, Liquefied Petroleum Gas Code, 2001 Edition.

Nothing further was discussed on this issue.

The Board then discussed Shapleigh Zoning Ordinance 105-47.C(3), it reads, “Replacement. Any new sign of different size and shape replacing a nonconforming sign shall conform to the provisions of this section, and the nonconforming sign shall not thereafter be displayed.

It was noted during a ZBA appeals process the words “different size and shape” caused confusion on the part of the applicant and several Board members. Therefore, the Planning Board will propose striking these words from the ordinance. **The ordinance shall be amended to read:**

Replacement. Any new sign ~~of different size and shape~~ replacing a nonconforming sign shall conform to the provisions of this section, and the nonconforming sign shall not thereafter be displayed.

Nothing further was discussed on this issue.

Madge B. showed Planning Board members several maps received by the Three Rivers Land Trust, depicting wetlands, open areas, etc in the Town of Shapleigh. She stated these maps may be a useful tool for the Planning Board in the future. Madge also gave a handout to the Board members entitled “Local Strategies and Tools for Conserving Open Space”; it is currently in the draft stage. The handout addresses protecting land through ownership or easement, which includes landowners donating land, conservation easements or the possibility of the Land Trust purchasing property to protect it. Madge noted the handout addressed other ways the town can come up with strategies to protect open areas. Madge hoped that this information would also be helpful for the Comprehensive Plan Committee so they could map out areas that would be best suited for development and those that should remain residential. In addition, perhaps the town would want to purchase land in critical habitat areas.

GROWTH PERMIT(S) – There are no Growth Permits available.

The meeting concluded at 9:45 p.m.

Respectively submitted,
Barbara Gilbride
Planning Board Secretary

planningboard@shapleigh.net

Tuesday, November 12, 2002

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Diane Srebnick, Bill Hayes, and Barbara Gilbride (Member/Secretary). (John Caramihalis was unable to attend the Public Hearing.) Code Enforcement Officer, Steven McDonough was also present.

The following Site Inspection(s) were done on an individual basis prior to this evenings meeting due to time constraints with the loss of daylight hours prior to the meeting:

- a) *Best Possible Location – Full Foundation, 7’6” X 20’6” Addition and New Septic System – Map 39, Lot 54 (46 Swan Circle) – Daniel Payeur*
- b) *Best Possible Location – Rebuild Home Destroyed by Fire – Map 39, Lot 53 (44 Swan Circle) – Francine & Dennis Cram*

Public Hearing began at 7:00 p.m.

- ◆ **Conditional Use Permit – Video Rental Store – Map 1, Lot 41 (184 Emery Mills Road) – Denise Boutin, Applicant – Richard Gallant, Owner of Property**

The Public Hearing began by Roger A. “Roger” asking Denise Boutin if she could give the citizens in attendance a brief overview of what she was proposing to do. Ms. Boutin stated that she intended to open a video rental store in the building that was formerly a craft store known as “The Window Box”. She further stated that at the last meeting the Planning Board asked her to bring to the meeting the site distances on the road for the property as well as how she would designate parking. Ms. Boutin stated that she reviewed site distances along with Steve M., CEO, and it was determined the site distance heading South was 375 feet, and the site distance heading North was 600+ feet. (Per Shapleigh Zoning Ordinance 105-21 “Traffic”, the minimum required in this location would be 245 feet.) With respect to the parking area, Ms. Boutin, after conferring with Steve M., decided to place railroad ties to designate where patrons would park. There was enough room for three parking spaces to the left of the building, along with one parking space to the right for her vehicle. Ms. Boutin will be the only employee. (Mr. Gallant, the owner of the property was present at the previous meeting and stated the building was 20’ X 20’. A total of four parking spaces would be sufficient for this area according to Shapleigh Zoning Ordinance 105-43 “Off-street parking and loading”.)

Roger asked Ms. Boutin if she had a letter from Mr. Gallant that stated she could use the property for this business? Ms. Boutin stated that Mr. Gallant was at the last meeting and told the Planning Board that he was giving Ms. Boutin permission to use the building. (Roger was not aware of this as he was not present during the October 22nd meeting.) The other Board members in attendance concurred with Ms. Boutin.

Roger asked if there were any further questions. There were none from the Board or the townspeople present at the meeting.

The Public Hearing closed at 7:08 p.m.

The Planning Board meeting started at 7:30 p.m.

The Planning Board minutes of Tuesday, October 22, 2002, were read and accepted as written.

The following agenda items are written in the order they were discussed:

Conditional Use Permit – Video Rental Store – Map 1, Lot 41 (184 Emery Mills Road) – Denise Boutin, Applicant – Richard Gallant, Owner of Property

Roger started the meeting by asking if there was anything further the Planning Board required of Ms. Boutin prior to a final review? The Board members felt that Ms. Boutin has sufficiently answered all questions they had asked.

At the previous meeting Ms. Boutin stated that her intention was to rent videos and DVD's, and she would be gearing her rentals mostly toward DVD's. There would also be games available as well as the equipment to use them. Ms. Boutin stated in addition she would have DVD players to rent and would be selling the outdated DVD's. Ms. Boutin said her intended hours of operation would be, "Monday through Thursday, 10:00 a.m. thru 8:00 p.m., Friday and Saturday, 10:00 a.m. thru 10:00 p.m., and Sunday 11:00 a.m. thru 7:00 p.m."

Roger asked Ms. Boutin if she felt that her hours of operation would cover all the hours she intended to be open, now and in the future. Ms. Boutin stated she would like longer hours during the summer months. Roger suggested having the approved hours of operation from 10:00 a.m. thru 10:00 p.m., seven days a week. Ms. Boutin agreed these hours would be more appropriate. Diane S. also agreed these longer hours would be best for the longer days during the summer.

Roger reviewed the following Ordinances that pertained to this project:

- 105-17, Land Uses, stating that this project did require a Conditional Use Permit.
- 105-21, Traffic, stating the project shall provide for safe access to and from Rte. 109 as per site distance calculations submitted and there is a sufficient area to turn vehicles around on site.
- 105-22, Noise, stating there shall be no noise generated outside of the building and no excessive noise inside the building associated with this business.
- 105-23, Dust, Fumes, Vapors and Gases, stating there shall be none generated.
- 105-24, Odors, stating there shall be none generated.
- 105-25, Glare, stating there is existing lighting plan and there shall be no additional lighting added to the property.
- 105-26, Stormwater Runoff, stating this building has been in existence for many years and there has never been a runoff issue at this location. There is no disturbance to the land as proposed.
- 105-27, Erosion Control, stating again this building has been in existence for many years with no erosion created on site. There is no disturbance to the land as proposed.
- 105-28, Setbacks and Screening, stating this business shall not house or store any discarded waste or salvage products, nor shall any refuse be stored outside. In addition, there shall be nothing hazardous that needs to be screened from children.
- 105-29, Explosive Materials, stating there is no explosive material to be stored on site now or in the future. Note: The Building is heated with K-1 Kerosene and a monitor heating system.
- 105-31, Preservation of Landscape; Landscaping of Parking and Storage Areas, stating the parking has been in existence for many years and is sufficient. No additional parking is required.
- 105-32, Relation of Proposed Building to Environment, stating the existing building shall have no exterior changes made to it. It is compatible with the other buildings in the area.
- 105-33, Refuse Disposal, stating all refuse shall be removed by Ms. Boutin from the site and disposed of properly.
- 105-34, Access Control on Routes 109 and 11, stating the current access to the site is safe, the applicant showed there was adequate site distance in both directions and the new use of the building shall not generate more traffic than the area can handle adequately.

- 105-43, Off-street parking and loading, stating there is adequate parking area for a total of four spaces as required per the ordinance, three per the square foot calculation [refer to section (f)], one for the employee [section (h)], as well as an area to turn around.
- 105-47, Signs and Billboards, stating that any changes in signage shall have to be done through the Code Enforcement Office.

Roger then read Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses”.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not.***
- 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. ***It is, the Comp. Plan wants to see businesses located along Routes 109 and 11, and in Emery Mill Center.***
- 4) Traffic access to the site is safe. ***It is, site distances are more than adequate in both directions.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***In existence.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***None are being generated.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There are no changes being made to the area and there is an adequate stormwater runoff at the existing building.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are no changes being made to the area, or the existing building and this is a relatively flat lot.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the project is located across the street from Lower Mousam Lake.***
- 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. ***Landscaping is in existence and there isn't anything detrimental being generated.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Diane made the motion to accept the Conditional Use Permit to operate a Video Rental Store with the following condition(s):

- 1) ***The hours of operation shall be 10:00 a.m. thru 10:00 p.m., seven days a week.***
- 2) ***There shall be railroad ties placed in front of each designated parking space on site, with a minimum of four spaces total.***
- 3) ***If any additional signs are added on site, the applicant must go through the Code Enforcement Officer.***

Bill H. 2nd the motion. All members were in favor.

Ms. Boutin was told that any changes to the approved Conditional Use Permit must come back before the Planning Board for review.

Amendment to a Conditional Use Permit – Repair Service on Premises - Map 18, Lot 17 (143 Emery Mills Road) – Scott Cudworth & Kim Cote

Scott Cudworth and Kim Cote were at the meeting to present the following information that was requested at the previous meeting on October 22nd.

- ◆ Letter of intent for waste oil and gas removal, or any other hazardous material, from a waste management company.
- ◆ On plan, show location of waste oil storage tank and housing, including size of tank.
- ◆ On plan, show where bark mulch will be placed, next to waters edge.
- ◆ On plan, show the location of the lighting on building.
- ◆ On plan, show where the vehicles to be serviced will be parked.
- ◆ Have a plan depicting where old parts will be stored and how they will be disposed of.

Scott Cudworth brought to the meeting a copy of the Waste Characterization Report for the Michigan Disposal Waste Treatment Plant, which depicted the waste products the company will be removing from site. These products include antifreeze, used motor oil, hydraulic oil, and gasoline. The company stated that the business would only generate enough waste oil and gas to require a 55 gallon drum, and the antifreeze would only require a 35 gallon drum. Both of these containers will be stored inside of the building instead of in an outside containment as previously planned. The Board members preferred the inside storage but did question if the 55 gallon drum would be large enough? Scott stated that the hazardous waste company did the calculations based on the largest volume of motors he could work on at one time and the company stated that a 55 gallon drum would be more than adequate.

Scott and Kim also presented to the Board a plan depicting mulch placed close to the water to prevent erosion during heavy rain. On this plan there is also a designated area behind the existing building where the items to be worked on will be placed. It is as far from the water as possible and can not be seen from the road. In addition, they presented a plan showing the existing lighting on the building and a new light fixture over the entrance to the shop. This light will be pointing toward the ground to light the area but will not shine onto the surrounding property nor the road.

Roger asked what the hours of operation would be for the service area. Scott stated, 9 a.m. thru 5:00 p.m., seven days a week. Roger read the provisions requested at the previous planning board meeting:

- 1) ***No more than 16 "watercraft" could be placed at the current dock / boat slips.***
- 2) ***The number of vehicles to be repaired, which includes boats, Jet Ski's, snowmobiles and all terrain vehicles, would be limited to a maximum of six at any given time.***

Roger asked Scott and Kim if they had agreed to these provisions. They stated that they did both agree.

Roger reviewed the following Ordinances that pertained to this project:

- 105-17, Land Uses, stating that this project did require a Conditional Use Permit.
- 105-21, Traffic, stating the project shall provide for safe access to and from Rte. 109 as per site distance calculations submitted on a previous CUP for the existing business.
- 105-22, Noise, stating there shall be no noise generated outside of the building after 5:00 p.m. and the applicant(s) have been informed that if noise levels become excessive they will have to build a containment area to reduce noise generated.
- 105-23, Dust, Fumes, Vapors and Gases, stating there has been a plan presented to reduce and/or contain hazardous dust, fumes, vapors or gases.
- 105-24, Odors, stating there has been a plan presented to house hazardous waste that may contain offensive odors.
- 105-25, Glare, stating there is an adequate lighting plan in existence and there shall be only one additional light added to the property per the plan.
- 105-26, Stormwater Runoff, stating there has been a plan presented showing a mulch berm added close to the waters edge to protect the lake from any excessive water runoff during a storm. The current vegetation will not be disturbed, which will also protect the area from runoff.

- 105-27, Erosion Control, stating there has been a plan presented showing a mulch berm added close to the waters edge to protect the lake from any excessive water runoff during a storm, that could cause erosion.
- 105-28, Setbacks and Screening, stating this business shall not house or store any discarded waste or salvage products outside of the building. There shall be an area designated, per the plan, for storage of items waiting to be worked on, located away from the waters edge and behind the building so as not to be in site of Rte. 109.
- 105-29, Explosive Materials, stating there is a plan to remove explosive materials, which include waste gas and oil, from the site per a licensed waste management company.
- 105-31, Preservation of Landscape; Landscaping of Parking and Storage Areas, stating the landscape is in existence and shall not be disturbed by the new business activity. There shall not be a large increase in parking area required for this business.
- 105-32, Relation of Proposed Building to Environment, stating the existing building shall have no exterior changes made to it. It is compatible with the other buildings in the area.
- 105-33, Refuse Disposal, stating all hazardous refuse shall be removed by a waste management company; other refuse shall be placed in a dumpster and hauled off site when necessary.
- 105-34, Access Control on Routes 109 and 11, stating the current access to the site is safe, the previous application for the existing business showed there was adequate site distance in both directions and the new use of the building shall not generate more traffic than the area can handle adequately.
- 105-43, Off-street parking and loading, stating there is adequate parking area for the additional five spaces as required per the ordinance, four per the square foot calculation [refer to section (f)], one for the employee [section (h)], as well as an area to turn around.
- 105-47, Signs and Billboards, stating that any changes in signage shall have to be done through the Code Enforcement Office.

Roger then read Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses”.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not, as the work area is enclosed and provisions have been made for hazardous waste removal.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***It will per the plan provided. There is no exterior construction being done.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comp. Plan wants to see businesses located along Routes 109 and 11, and in Emery Mill Center.***
- 4) Traffic access to the site is safe. ***It is, site distances are adequate in both directions.***
- 7) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***
- 8) Adequate provision for the disposal of all wastewater and solid waste has been made. ***No additional wastewater or solid waste is being generated.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There is a plan presented to control soil erosion and sedimentation on site.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***There is, the project is located adjacent to Lower Mousam Lake.***
- 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. ***Landscaping is in existence and there isn’t anything detrimental being generated.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Bill H. made the motion to accept the Amendment to a Conditional Use Permit with the following conditions:

- 1) The hours of operations shall be 9:00 a.m. thru 5:00 p.m., 7 days a week.*
- 2) No more than 16 "watercraft" shall be placed at the current dock / boat slips, including those that are being worked on in the service area.*
- 3) The number of vehicles to be repaired, which includes boats, Jet Ski's, snowmobiles and all terrain vehicles, shall be limited to a maximum of six at any given time.*
- 4) All hazardous material shall be contained on site in the proper containment and shall be removed by a licensed hazardous waste company.*
- 5) Bark mulch shall be placed next to the waters edge to prevent possible erosion.*
- 6) There shall be no excessive noise created for extended periods of time. If there is, a containment area shall be constructed to baffle the sound.*

Diane S. 2nd the motion. All members were in favor.

Scott and Kim were told that any additional changes to the approved CUP would have to come back before the Board for review.

Best Possible Location – Full Foundation, 7'6" X 20'6" Addition and New Septic System – Map 39, Lot 54 (46 Swan Circle) – Daniel G. Payeur

At the previous meeting on October 22nd, Mr. Payeur presented a plan showing the existing cabin which currently sets approximately 50 feet back from Granny Kent Pond. The side setbacks are currently 10' to Lot 53, owned by D. Cram and 16'6" to Lot 55, owned by R. April. Mr. Payeur is asking to build a 7'6" addition to the back of the cabin, which would be 73'6" from the edge of the existing road, should the cabin remain in its current location. In addition, Mr. Payeur would be placing a new septic system on site. He also stated that his application was to put a full foundation under the existing structure and to raise the cabin two feet in height.

Members had done a site inspection for this property on an individual basis prior to the meeting. At this meeting the members observed an older cabin with an attached porch. Under this porch was an area that had been excavated to place chairs for a sitting area.

Bill H. asked Mr. Payeur if he intended to put a full foundation under the entire cabin, including the porch? Mr. Payeur stated, "Yes". Bill H. asked Mr. Payeur if it would be possible for him to move the structure back from the water another 10 feet? (The structure currently sits 50 feet from the high water mark.) Mr. Payeur stated that taking into consideration the location of the proposed septic system, and the fact that each of his neighbors homes would then be closer to the water, blocking his full view of the lake, he did not want to move the cabin from its current location. Mr. Payeur also added that by moving the cabin, the angle of the pipe to the proposed septic tank would not be adequate. Steve M., CEO, stated that the septic tanks location could conceivably be moved to accommodate a proposed move of the home. Mr. Payeur stated he did not know this.

John C. said that a move back of 10 feet would then create another problem; the home would not meet the road setbacks of 75 feet to the centerline. Bill H. stated he felt the issue here was whether or not moving the cabin back would help the lake? The cabin is currently 50 feet from the lake, so a move of 10 feet in this case would not be substantial. If the home was 20 feet from the waters edge, it would be a big difference. Both John and Bill concurred that moving the cabin from its current location would also be disturbing more soil than leaving it where it was; soil disturbance is a major issue in the Shoreland zone.

Roger reviewed Shapleigh Zoning Ordinance, 105-4.D(1) "Nonconforming structures – Expansions", "If any portion of a structure is less than the required setback from the normal high-water line of a water body or upland edge of a wetland that portion of a structure shall not be expanded in floor area or volume by 30% or more during the lifetime of the structure." Mr. Payeur's plan showed the expansion in terms of square feet would increase the building by 25.4%, volume – 27.9%, and the new home will cover 9.8% of the property. All calculations are within the limits of the ordinance.

All Board members concurred that moving the cabin would not benefit the area. The proposed expansion appears to be within the ordinance requirements for a nonconforming structure. The proposed septic system was designed by a licensed Site Evaluator, Brian Howard, SE#196 on 9/30/02.

Bill H. made the motion to approve the Best Possible Location, stating the cabin is in the best possible location on site. John C. 2nd the motion. All members were in favor.

Best Possible Location – Rebuild Home Destroyed by Fire – Map 39, Lot 53 (44 Swan Circle) – Francine & Dennis Cram

At the previous meeting a plan was presented with the following information:

- The original home was 30' X 30' with a 10 X 25' bump out.
- There was a full daylight basement under the entire house.
- In addition, there was a 20 X 20' patio and 4 X 8' porch was on the side of the previous home.
- The original setbacks were 52 feet to the water, 11 feet from the Payeur property line, and 39 feet from the Greenleaf property.
- A new septic system and leach field was installed in August of this year and is approximately 22 feet from the back of home (area closest to the road).
- ***The proposed home will be 28 X 36' with a full daylight basement.***
- ***There is a proposed 11 X 14' sunroom on the front of the home, closest to the water, as well as deck and stairs to the beach.***
- ***There will be a 20 X 20' covered patio, as they had before, and a mudroom approximately 8 X 15' on the side of the home.***

Ms. Cram had the volume calculation with her plans for the new home, including finished attic space, deck and mudroom. The new home will be only 5% greater by volume than the original home. Ms. Cram did not have the square foot calculation with her; she will bring it to the next meeting. The new home will be moved back 10 feet toward the back of the property but, because of its dimensions, it shall be only three feet further back from the water than the original home. The new home will meet the side setback requirements, being 14 feet from the Payeur lot line and 36 feet from the Greenleaf property.

Barbara G. made a copy of the new septic system for the file. The system was designed by John E. Large, SE#7, on 5/21/02.

The Board members did a site inspection of this property on an individual basis. Currently, there is no home to view on the site as the debris had been removed. It was noted that two big pine trees had been cut down between the foundation location and the water. Diane S. asked Mrs. Cram why these trees were removed? Mrs. Cram stated that they both had been burned during the fire and would not have survived.

The Board asked how far from the proposed homesite is the new septic system? Mrs. Cram stated the new home would be 12 feet from the septic tank. John asked if the septic system was a pump-up system. Mrs. Cram stated, "Yes".

The Board noted that even though Mr. & Mrs. Cram were moving the new home back toward the septic system 10 feet, the current design only actually moves the new home three feet back from the high water mark, due to the fact the new home is six feet longer.

John asked the other Board members how we would calculate the volume since the home is no longer in existence? (The Board received the volume dimensions from Mrs. Cram with the application but were unable to see the home while it was standing.) Mrs. Cram said that she could get this information from the insurance company if the Board needed it. John asked Mrs. Cram what year the home was built? Mrs. Cram stated, "1961".

Roger stated that Steve M. could address the calculations when Mrs. Cram goes through the Building Permit process. Steve concurred that at that time he would make certain the new home met the criteria of Ordinance 105-4.D(1).

Roger asked if there were any further questions with respect to this application for a Best Possible Location? There were none. The Board members felt that there would be nothing gained by moving this new home to another location on site. The proposed moving back of 3' from the original location was acceptable.

John C. made the motion to approve the Best Possible Location, stating the new home will be in the best possible location per the plan presented. Bill H. 2nd the motion. All members were in favor.

After-the-Fact Conditional Use Permit – Bring Fill into the Shoreland Zone – Map 17, Lot 15 (28 Old Loop) – Robert Dean Harris, Jr., Carl Beal, from Civil Consultants Representing

[Roger removed himself from all discussion since he also uses Mr. Plante as a contractor (Mr. Plante is Mr. Harris's contractor on this project) and did not want there to be any conflict of interest.]

Mr. Harris, at a previous Planning Board meeting in August 2002, stated he proposed to bring in additional fill, adding to the more than 100 yards that have already been placed on the property (without a permit). Mr. Harris stated he is trying to make a driveway and a flat area because his existing driveway is too small for the amount of vehicles his family uses. Also, he would like to build a garage in the future and needs to level the area to do that.

The Board members, at the site inspection in August, viewed a large amount of earth that has already been placed on the property. Mr. Harris stated that the contractor, Charles Plante, said he has already dumped 126 yards. Mr. Harris told the Board that he would need that much again to fill in the low area as well as to be able to grade it properly. During the site inspection, members also noted that there had been trees cut within the Shoreland Zone, which appeared to be within 20 feet of the high water mark.

At the August meeting John C. read from a citation in which Steve M., CEO, had cited Mr. Harris and Mr. Plante, with respect to this issue. It read as follows:

On or about July 1, 2002, the Code Enforcement Officer for the Town of Shapleigh inspected the above referenced lot situated on Old Loop Rd., in the Town of Shapleigh, owned by Robert Dean Harris Jr. The Code Officer discovered that a portion of the lot, approximately 4200 sq. ft., (60ft. x 70ft.) had been clear cut to approximately forty (40) feet to the normal high water mark of Lower Mousam Lake, classified as a Great Pond, in violation of the provisions of Article VI Section 105-51 (B) of the Town of Shapleigh Zoning Ordinance. The Code Enforcement Officer further discovered that the defendant filled, or caused to be filled, the above-mentioned area on that lot by depositing thereon approximately 120 Yards of fill in the Shoreland Zone without first obtaining a Conditional Use Permit from the Planning Board, in violation of the provisions of Article IV Section 105-39 (D) of the Town of Shapleigh Zoning Ordinance. The Code Enforcement Officer subsequently provided written notification of these two violations to the Defendant by letter dated July 9, 2002 together with an attached Consent Agreement asking for a penalty of \$2000.00.

The Planning Board during the August meeting asked Mr. Harris to bring in the following information prior to further discussion:

- *A plan depicting exactly where the 100' delineation is from the high water mark on the property where the fill is to be placed (or has already been placed).*
- *An engineered drainage plan for the entire project.*
- *A plan to replant trees that were cut in the Shoreland Zone, in the area that will not be filled.*

Mr. Beal presented to the Board a plan depicting the 100-foot setback from the normal high water of Mousam Lake. Also included on the plan was a 50-foot setback line. The plan shows that most of the soil brought onto the site lies between the 50 and 100' mark, this includes gradually grading the soil to prevent future erosion.

Also presented by Mr. Beal were the stormwater calculations for a 50-year storm event which modeled existing peak flow at 0.74 cfs and post-construction peak flow at 0.85 cfs. Mr. Beal further stated that this small increase in flow would have no impact on the water quality of Mousam Lake in his opinion.

Mr. Beal stated that Mr. Harris did not intend to plant any new trees in this area. Instead, there would be a heavy layer of mulch placed on the slope to prevent erosion. Mr. Beal felt that would be adequate. Mr. Beal stated that the proposed slope would be a 3' to 1' slope within the 50' setback. Diane S. read Ordinance 105-39(10) which states that a slope shall not be steeper than one foot vertical to four feet horizontal. Mr. Beal said he could change the plan to meet this ordinance.

Bill H. reviewed Shapleigh Zoning Ordinance 105-59.C, which states that "all new roads and driveways shall be set back a minimum of 100 feet from great ponds, the Mousam River and the Little Ossipee River and 75 feet from other water bodies, tributary streams or the upland edge of a wetland, unless no reasonable alternative exists as determined by the Planning Board. Bill H. felt that the Board has not been shown that there is no reasonable alternative to relocate the driveway. Diane S. and Barbara G. agreed.

Mr. Beal noted the following sentence which reads, "If no alternative exists, a setback reduction to no less than 50 feet may be permitted by the Planning Board upon a clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of water bodies and wetlands. The Board again stated that it had not been proven "no alternative exists".

Steve M. asked Mr. Beal what the size of the existing driveway was prior to bringing in additional fill? Mr. Beal stated 15 X 60 feet. Steve referred the Board to Ordinance 105-43 "Off-street parking and loading" (1)(a) "Two spaces per dwelling unit". The original driveway was 900 square feet, Steve M. and Bill H. felt this is more than adequate to meet the minimum requirement per the ordinance. (200 sq. ft are required per vehicle parking space.)

Also noted was 105-43.E "Parking areas shall meet the shoreline setback requirements for structures for the district in which such areas are located."

John C. stated he felt that the Board was not looking at where else additional parking should go; the damage has been done to the area. The Board needs to see how to create a minimal impact while still taking in account the needs of the homeowner.

Bill H. asked if Mr. Harris intended to bring in more fill to the area? Mr. Beal stated that more fill would probably be needed to create the proper slope. Mr. Harris stated that he felt another 100 yards would be needed; Mr. Beal did not feel that much was necessary. Bill did not want to see any additional fill brought to the area; he felt that Mr. Harris should use the existing fill on the existing slope. Diane S. and Barbara G. agreed. Bill felt that there had already been too much fill damage done.

John C. after reviewing the plan presented asked Mr. Beal if it were possible to meet the 100' setback by relocating the driveway to the right of the existing driveway? Mr. Beal felt that by doing this more damage would be done since more trees would be removed from the area. In addition, a retaining wall would have to be created after digging into the existing banking. Mr. Beal did not know if a retaining wall would meet the setbacks. Steve stated the setback was only 10 feet; this may be possible to meet? Steve asked John if he felt another site inspection was in order?

John C. asked if the other Board members would agree to do a site walk to see if there were any other alternatives to this proposal? John stated he would like to see the gravel that was placed here removed, and the trees replanted to try to recreate what existed prior to the tree cutting. The other Board members agreed a site walk would be best to review the area once again.

Diane S. asked Mr. Beal why he proposed bark mulch on the embankment instead of juniper or other greenery, which she felt would work out best for the long term. Mr. Beal still felt that the bark mulch did a good job to prevent erosion. John stated that in addition he wanted to see trees planted. John asked Steve how many trees had been removed? Steve stated between 15 and 20 trees total.

Mr. Harris stated that in the area he placed the fill it was originally an open area and depression; this is why he placed the fill there. He did not feel the area would be disturbed by using this location. He also said that the trees he cut down already had new shoots coming from the stumps that were not buried. Mr. Harris concluded that this project had not caused a lot of harm to the area.

John still felt the parking area could be redesigned so it is not within 100' of the high water mark. Bill H. and Diane S. both would like to see the area replanted next to the original driveway. Bill asked Steve how many trees would Mr. Harris be required to plant to replace what was lost? Steve referred Bill to Ordinance 105-51(B)(1)(b), stating the number of trees replanted is based on a point system. In this case he would recommend as a minimum one tree every 80 square feet, 4 ½ feet in height as a minimum.

The discussion concluded that there would be a site visit coordinated by Barbara G to gain more information with respect to a possible alternate parking location. She would contact Mr. Beal so he could attend the site visit also. This item was tabled.

During the site inspection on Wednesday, November 20th, Mr. Beal and Mr. Harris agreed to postpone the discussion of this application until Tuesday, December 10th. John C. is unable to attend the November 26th meeting and Roger A. asked to be excluded from this review as stated previously.

Conditional Use Permit – Small Engine Repair – Map 6, Lot 31 (38 Nason Rd.) - Roger Ridley, Jr.

Roger T. Ridley Sr. and Roger T., Jr. were in attendance to discuss the application. The application is to use an existing building on the property to repair and service recreational vehicles and other small combustion engines, as well as selling accessories for recreational sports.

The building that will house the shop is 30 X 60 feet in size, the shop will use approximately 30 X 30 feet of the building space. Roger Sr. stated the other half of the building is used by him for farm equipment.

John C. asked what the size of the lot was? Roger Sr. stated "1.10 acres". John asked how close the building was to the road? Roger Sr. stated that it was close, probably 28 feet to the road maximum. John asked if there was an area for parking? Roger Sr. stated that you could park along the side of the building and there was an area cleared away from the building that could house all the traffic necessary for the business. Upon doing the calculations it was noted the necessary amount of parking required is six spaces including the employee, Roger, Jr. Roger Jr. stated there was room for six cars currently. The Board stated that he needed to bring

in a plan designating the parking area.

Roger A. asked what the hours of operation were going to be. Roger Jr. stated he intended to start with 8:00 a.m. thru 5:00 p.m. He said that he wanted to extend those hours as worked picked up. Roger A. asked if he would prefer 7:00 a.m. thru 10:00 p.m., seven days a week. Roger Jr. stated that was fine. Steve M. added that these hours would keep him in compliance with Shapleigh's Zoning Ordinance 105-22 "Noise".

The Board asked Roger Sr. about the site distances. Roger stated that in one direction it was more than adequate but in the other he was not sure due to the steep hill. Steve M. stated he would check the site distances prior to the next meeting. (The posted speed limit in this location is 25 m.p.h., per Ordinance 105-21, the required site distance is 175 feet minimum.)

The Board asked Roger Jr. what type of hazardous waste would be generated and what he would do with this waste? Roger Jr. stated he would have used motor oil and gas and both were going to be taken off site to a gentlemen that uses these products to burn in his furnace. The Board asked if he would have used batteries on site? Roger Jr. stated he would not store old batteries on site, they would be taken by the owner of the item being fixed.

Roger A. asked Roger Jr. and Sr. if there would be any additional lighting added to the building? They both stated, "No".

John C. asked if there would be any work done outside of the building? Roger Jr. stated, "No, all the work will be done inside". John asked if there would be any automobiles worked on? Roger Jr. stated there would not, only small engines.

Steve stated to Roger Jr. and Sr. that they should designate an area on the plan where items waiting to be worked on may be stored. Roger Jr. stated everything would be kept inside the building but both Steve and the Board felt that there are times items may end up outside and they should be kept all in one area. Roger Sr. stated that he had an area on his land that could be used for storage. This area could not be seen from the road so it wouldn't be an "eye sore".

Roger asked if there were any more questions. There were none at this time. ***Roger then listed the items that would need to be brought back to the Board during the final review process. They were as follows:***

- 1) Put in writing what will be done with the used batteries.***
- 2) Bring in a letter stating exactly what will be done with the used motor oil and gasoline.***
- 3) On the plan show where the parking will be located, there will be seven parking spaces needed per Shapleigh Zoning Ordinance 105-43.***
- 4) On the plan show where items to be worked on may be stored, including any area off-site.***

Nothing further was discussed at this time. ***A Notice to Abutters will be mailed out and a Public Hearing set for Tuesday, November 26th at 7:00 p.m.***

Conditional Use Permit – Showroom Addition Measuring 30' X 80' and Move Approximately 200 Yards of Gravel – Map 3, Lot 16A (86 Emery Mills Road) – Mark A. Parker

Mark Parker and the secretary, Jill Richards were present.

The application is to add an addition measuring 30' X 80' to the site to be able to store boats inside and make more room outside for parking. In addition, there is an area behind the existing building that the applicant wants to add more fill to, in order to have room for trailer storage. The applicant estimates it may take 200 yards of gravel.

Mr. Parker has with his application a purchase and sale agreement to be able to purchase an additional 22,400 square feet from the abutting property, owned by Mr. Richard Gallant, in order to have enough land so as not to exceed the 10% maximum lot coverage allowed per Shapleigh Zoning Ordinance 105-18 "Dimensional Requirements". This purchase was made contingent upon Mr. Parker getting an approved CUP for this project. Roger stated that the CUP may be approved contingent upon Mr. Parker purchasing the property. The approval would have this as one of the "conditions".

John C. asked if there was adequate parking on the plan? He stated that he has been to Parker's and found it very hard to find a parking area. Roger referred John to a plot plan which had numbers depicting parking areas and the number of vehicles that can be parked in that area. It appears a total of 31 parking slots are depicted on the plan. John asked Ms. Richards how many employees there were? She stated, "Two". She further said that she did not park on site but at the neighboring home. She asked if this was a problem? Roger said it was not a problem as long as she showed this on the plan.

Roger returned to the subject of the land that would be purchased by Mr. Parker if this permit was approved. It appeared to have as a provision that the current owner, Mr. Richard Gallant, would retain a 50 right-of-way to be able to access his property. Roger felt that with this provision, Mr. Parker would need an additional 50 feet more than proposed, in order to have enough land for this project. Bill H. disagreed. Bill stated that he had a right-of-way on his property for the Town of Sanford, yet he owned the land and paid taxes on the entire piece. This right-of-way does not take away from the size of his lot. Diane S. agreed with Bill.

There were no further questions at this time. ***Roger stated there would be a Public Hearing on Tuesday, November 26th at 7:00 p.m. for this application. In addition, the Board would do a site inspection prior to the next meeting. A Notice to the Abutters shall be mailed out.***

Nothing further was discussed at this time.

Conditional Use Permit – Timber Harvesting – Map 5, Lot 19 (State Rte. 11) – Daniel Townsend et al Owner, represented by Peter Klachany, L.P.F. #320

Peter Klachany was present at the meeting. Peter started by reading the memo he had written for the Planning Board in its entirety. In brief it stated that the subject property contained a total of 53 acres and is bounded to the east by State Rte. 11, to the south by 21st Street and to the west by Mousam Lake. The current owners wish to improve productivity of their woodland by selective thinning and cutting. The lot was cut 20 years ago and it has been determined it is time for another cut.

Peter stated that since there will be selective harvesting of timber within 250 feet of Mousam Lake and the adjacent wetlands, there will be a light level of cutting within the 250 feet. Peter further stated that a heavy cut near the water would create a severe hazard with respect to wind-throw or blowdown in the residual stand. There will be no logging debris left within 50 feet of the Lake.

The logging will be conducted when the ground is frozen, "so there will be minimal disturbance of the soil". Peter stated that the acreage was expected to yield 125,000 board feet of sawtimber and 100 cords of pulpwood. The operation would take approximately three weeks to complete.

Lastly, Peter stated that the Youth Conservation Corp. had installed erosion control devices on the woods road that runs in a westerly direction from the field to the Lake on the property. "In order to protect these devices from damage by the logging machinery, the woods road will not be used as a main skid trail."

Roger asked if there would be any clear cutting? Peter stated there would not. Peter reiterated that there would be a very light cut within 250 feet of the lake and wetlands.

Diane S. asked if Peter would be cutting within 75 of the water as she did not believe he would be able to do so in accordance with Shapleigh Zoning Ordinance 105-51.A which states "Within a Shoreland area zoned for resource protection abutting a great pond, there shall be no cutting of vegetation within the strip of land extending 75 feet, horizontal distance, inland from the normal high-water line,...." Peter stated he would be cutting within 50 feet and believed he was able to do so. Steve M. concurred with Peter stating that this area was zoned "Shoreland" but not "Resource Protection", which is what this section refers to.

Bill H. asked the members to read Ordinance 105-50.B(7) which read in part "...skid trails and other sites where the operation of machinery used in timber harvesting result in the exposure of mineral soil shall be located such that an unscarified strip of vegetation of at least 75 feet in width for slopes up to 10% shall be retained between the exposed mineral soil and the normal high-water line of a water body..." Bill asked if this Ordinance needed to be used for this project. Peter stated that this project was going to take place after the soil was frozen so as not to disturb the land. There would be no scarring of the ground by using this practice.

Since there were no further questions at this time, there was no further discussion. ***Roger stated the Board would send out a Notice to Abutters and have a final review of this application on Tuesday, November 26th.***

OTHER:

Letter received by Sue Bergamo, Realtor from Coldwell Banker, Portsmouth Office - Ms. Bergamo requested the following information with respect to the property known as Tax Map 11, Lot 33-4

- How many acres are required per building lot?
- Is this property sub-dividable?
- Are there any provisions active to introduce power or a road to this area?

The Board reviewed the Map and Lot as listed on the town map. It appears this lot is already part of a previous subdivision, as such it would require anyone wanting to make changes to the lot to come back before the Planning Board as an ***amendment to a subdivision***. With respect to whether or not the "Town of Shapleigh" intended to run power or put a road into this area, the answer is no. The applicant would have to accomplish this and present a plan to do so as part of the application process.

Barbara G. will send Ms. Bergamo a letter stating what the Planning Board concluded. She will also make a copy of the page of the ordinance which states Shapleigh's building lot size requirement.

Question from a prospective buyer for one of the Kettle Pond Condominiums – Jean Proach of Moody Maine would like to know if she were to buy the Condo Unit known as the former Benoit Cabin, would she have to come to the Planning Board if she wishes to make any changes to the cabin?

Roger stated and the entire Board agreed that "any changes" to any unit must come back before the Board as per the approved Findings of Fact and Declaration. Bill H. asked if the Board would be more stringent with this unit as it is within 100 feet of the water? Roger stated that it would have to follow all the rules that pertain

to structures within 100 feet of a water body. Diane stated that this structure could not be expanded more than 30%. All members agreed. In conclusion, any changes to any unit in the Kettle Pond Condo complex must come back before the Planning Board for review. Roland Legere, who was present at the meeting, asked if the Benoit cabin has any changes, wouldn't those changes have to be approved by the Condominium Association? Diane S. stated "Yes, the Condo Association must review any changes within the units prior to obtaining approval from the Planning Board." The entire Board concurred.

The question was asked if a Growth Permit would be needed for this cabin to be used year round? The answer was yes, it is one of the stipulations in the approval of the Condos.

There was no further discussion on this subject.

Roland Legere asked the Board if lighting from a soda machine, reflecting on the lake, could be considered "offensive" lighting? The Board and the CEO stated, "Yes".

GROWTH PERMIT(S) – There are no Growth Permits available.

The meeting concluded at 10:30 p.m.

Respectively submitted,
Barbara Gilbride
Planning Board Secretary

planningboard@shapleigh.net

Tuesday, November 26, 2002

Members in attendance: Roger Allaire (Chairman), Diane Srebnick, Bill Hayes, and Barbara Gilbride (Member/Secretary). Code Enforcement Officer, Steven McDonough was unable to attend.

The following Site Inspection(s) were done on an individual basis prior to this evenings meeting due to time constraints with the loss of daylight hours prior to the meeting:

- a) *After-the-Fact Conditional Use Permit – Bring Fill into the Shoreland Zone – Map 17, Lot 15 (28 Old Loop) – Robert Dean Harris, Jr. (This item will be discussed on Tuesday, December 10, 2002.)*
- b) *Conditional Use Permit – Showroom Addition Measuring 30' X 80' and Move Approximately 200 Yards of Gravel onto Site – Map 3, Lot 16A (86 Emery Mills Road) - Mark A. Parker*

Public Hearing began at 7:00 p.m.

- ◆ **Conditional Use Permit – Showroom Addition Measuring 30' X 80' and Move Approximately 200 Yards of Gravel – Map 3, Lot 16A (86 Emery Mills Road) – Mark A. Parker**
Mr. Parker was present at the meeting as well as Jill Richards.

The Public Hearing began by Roger A. “Roger” asking Board members if there were any questions for Mr. Parker since there were no townspeople in attendance. The Board asked Mr. Parker if he brought in the requested amendment to the original plan showing the location of parking areas on site. After reviewing Zoning Ordinance 105-43 “Off-street parking and loading” during the planning board meeting on November 12th, it was agreed the total number of parking slots required would be 31, and would total 6200 square feet. On the new plan presented, the total area depicted for parking was 5300 square feet. The Board members asked Mr. Parker and Ms. Richards if there was an area that could be extended to increase the parking area? Both parties agreed that the area where currently there are boats parked could be additional parking. This area is not paved as the other parking slots are, so Mr. Parker and Ms. Richards asked if it would be a problem designating this as additional parking? The Board did not have a problem with this area being used for overflow parking. With this additional area, the total square feet for parking will be exactly 6200 square feet.

Roger reviewed the final plan and noted the existence of a proposed truck entrance for deliveries. Roger told both the Board members and the applicant(s) that this entrance would not be able to be used and must be struck from the plan. Currently the Dept. of Transportation does not allow two entrances from any lot onto a State highway. The State is trying to limit the number of entrances including driveways onto busy roads to reduce the possible number of accidents. The applicant agreed to this change.

Barbara G. asked the applicants if there were going to be any changes to the ditches that handled the stormwater flow behind the existing structures in the area that they proposed to place the gravel? Steve M., CEO, was very concerned that any changes to the water flow not only could create a water problem to the existing buildings but also could increase silt running toward Mousam Lake, which is not far from this property. Mr. Parker stated that there would be no change to the stormwater ditches and the existing culverts would remain in place.

There were no further questions for the applicants.

- ◆ **Conditional Use Permit – Small Engine Repair – Map 6, Lot 31 (38 Nason Rd.) - Roger Ridley, Jr.** *Roger Ridley Jr. was present for the Public Hearing.* There were no townspeople present for this Public Hearing.

During the planning board meeting on November 12th the Board requested the following information from the applicant:

- ♣ *A letter stating exactly what shall be done with the used motor oil and gasoline.*
- ♣ *On the plan show where the parking will be located, there shall be seven parking spaces required (1400 square feet) per Shapleigh Zoning Ordinance 105-43.*
- ♣ *On the plan show where items to be work on and accessories shall be stored, including any area off-site.*
- ♣ *Put in writing what will be done with the used batteries.*

Roger Jr. presented to the Board the following:

- A signed letter from Richard Tetreau, the owner of Kallis Garage, stating that the waste gasoline would be brought to his garage for disposal.
- A memo letter from Doug Foglio, of Foglio Inc., which states that his business accepts waste oil from many sources and uses it as a primary source of heat for their maintenance building.
- A letter from Roger T. Ridley, Jr. stating the “disposal of all used batteries will be taken to Industrial Metal Recycling, Route 1, Arundel Maine”.
- On the new plan depicted is 1680 square feet of parking in front of the existing building and 696 square feet of parking beside the existing building.
- On the new plan depicted is an existing storage unit placed behind the existing building, 8’ X 45’ in size, to be used for storage of parts and accessories.

The Board Members reviewed the material presented and had no questions at this time.

The Public Hearing session closed at 7:10 p.m.

The Planning Board meeting started at 7:30 p.m.

The Planning Board minutes of Tuesday, November 12, 2002, were read and accepted as written.

The following agenda items are written in the order they were discussed:

Conditional Use Permit – Small Engine Repair – Map 6, Lot 31 (38 Nason Rd.) - Roger Ridley, Jr.

The application is to repair and service recreational vehicles, small engines and custom machine work (small engines only). In addition, the applicant requests the ability to sell accessories for recreational sports.

The plan presented to the Board depicts an existing building, 30 X 60’ in size, formerly used as a machine shop by Vinton Ridley. The area to be utilized for the small engine repair shop would 30 X 30’ in size. The remaining portion of the building is and shall be used for storage of materials and equipment for the adjacent farm.

The Board reviewed the plans presented at the Public Hearing as well as the letters received. Diane S. asked if the parking area depicted was adequate for the size of this business? Roger stated per Shapleigh Zoning Ordinance 105-43 "Off-street parking and loading", the amount required is six parking slots, plus one for the employee, for a total of 1400 square feet. The final plan presented depicts a total of 2376 square feet of parking area; it is adequate.

Roger A. asked if there were any other questions by the Board. There were none presented.

Roger reviewed the following Ordinances that pertained to this project:

- 105-17, Land Uses, stating that this project did require a Conditional Use Permit.
- 105-21, Traffic, stating the project shall provide for safe access to and from Nason Road and there is a sufficient area to turn vehicles around on site.
- 105-22, Noise, stating there shall be no noise generated outside of the building between 10 p.m. and 7 a.m. in excess of 60 dB(A) for any longer than 15 minutes in any one day.
- 105-23, Dust, Fumes, Vapors and Gases, stating there shall be none generated that extend beyond the lot line the building is housed on.
- 105-24, Odors, stating there shall be none generated beyond the lot line.
- 105-25, Glare, stating there shall be no additional lighting added to the property.
- 105-26, Stormwater Runoff, stating this building has been in existence for many years and there has never been a runoff issue at this location. There are no changes being made to the existing building.
- 105-27, Erosion Control, stating again this building has been in existence for many years with no erosion created on site. There is no disturbance to the land as proposed.
- 105-28, Setbacks and Screening, stating this business shall not house or store any discarded waste or salvage products, nor shall any refuse be stored outside. In addition, there shall be nothing hazardous that needs to be screened from children.
- 105-29, Explosive Materials, stating there is a plan proposed to house and store waste oil and gasoline in the proper containment within the building.
- 105-30, Water Quality, all hazardous materials will be stored in the proper containment within the existing building, on a paved storage area.
- 105-31, Preservation of Landscape; Landscaping of Parking and Storage Areas, stating the landscaping is in existence and shall not be disturbed by the parking area and there shall be no outside storage. The plan provides for a storage trailer that exists behind the existing building.
- 105-32, Relation of Proposed Building to Environment, stating the existing building shall have no exterior changes made to it. It is compatible with the other buildings in the area.
- 105-33, Refuse Disposal, stating all refuse shall be removed by Mr. Ridley from the site and disposed of properly.
- 105-43, Off-street parking and loading, stating there is adequate parking area for a total of seven spaces as required per the ordinance, six per the square foot calculation [refer to section (f)], one for the employee [section (h)], as well as an area to turn around.
- 105-47, Signs and Billboards, stating that any changes in signage shall have to be done through the Code Enforcement Office.

Roger then read Shapleigh Zoning Ordinance 105-73.G "Standards applicable to conditional uses".

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not.***
- 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. *It is, the Comp. Plan wants to see small businesses located on secondary roads.*
- 4) Traffic access to the site is safe. *It is, site distances are adequate in both directions.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is, the building is in existence and there are no changes being made.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is no wastewater and solid waste has letters attesting to the availability of disposal. Any changes to this shall be brought to the CEO.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There is a plan presented to store and transport waste gasoline and oil. Any changes to this plan shall be brought to the CEO.*
- 8) A stormwater drainage system capable of handling a twenty-five-year storm without adverse impact on adjacent properties has been designed. *There are no changes being made to the area and there is adequate stormwater runoff at the existing building.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There are no changes being made to the area or the existing building.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is, the building is located near a fire pond.*
- 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. *Landscaping is in existence and there are no changes proposed outside of the building.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

Bill H. made the motion to accept the Conditional Use Permit to operate a Small Engine Repair Shop with Sales of Associated Items with the following condition(s):

- 1) *The hours of operation shall be 7:00 a.m. thru 10:00 p.m., seven days a week.*
- 2) *Any changes made to the disposal of hazardous waste shall be brought to the attention of the Code Enforcement Officer.*

Diane S. 2nd the motion. All members were in favor.

Conditional Use Permit – Showroom Addition Measuring 30' X 80' and Move Approximately 200 Yards of Gravel – Map 3, Lot 16A (86 Emery Mills Road) – Mark A. Parker

At the planning board meeting on November 12th the applicant presented a plan to add an addition measuring 30' X 80' to the site to be able to store boats inside and make more room outside for parking. In addition, in an area behind the existing building the applicant wants to add more fill in order to have room for boat trailer storage. The applicant estimated the gravel required would be approximately 200 yards.

Also attached to Mr. Parker's application was a purchase and sale agreement to be able to purchase an additional 22,400 square feet from the abutting property, owned by Mr. Richard Gallant, in order to have enough land so as not to exceed the 10% maximum lot coverage allowed per Shapleigh Zoning Ordinance 105-18 "Dimensional Requirements". This purchase was made contingent upon Mr. Parker getting an approved CUP for this project. The purchase and sale agreement also stipulates that "if the Town of Shapleigh changes its requirements of 10% building coverage the buyer agrees to return ownership of the 6' strip". Roger felt that prior to the land reverting back to the original owner, this applicant should have to come back before the Planning Board to amend the application. The other Board members agreed.

Board members did a site inspection to view where the gravel would be placed, the areas to be designated for parking, and exactly where the new building would be located.

During the Public Hearing, Mr. Parker presented to the Board an adequate parking plan.

Roger asked if there were any further questions from the Planning Board members after reviewing all material presented? There were none.

Roger reviewed the following Ordinances that pertained to this project:

- 105-17, Land Uses, stating that this project did require a Conditional Use Permit.
- 105-21, Traffic, stating the project shall provide for safe access to and from Rte 109 and the site distance requirements were approved on the previous CUP.
- 105-22, Noise, stating there shall be no new noise generated due to this being a showroom addition.
- 105-23, Dust, Fumes, Vapors and Gases, stating there shall be none generated for this project.
- 105-24, Odors, stating there shall be none generated for this project.
- 105-25, Glare, stating there shall be no additional lighting added to the property.
- 105-26, Stormwater Runoff, stating this building shall be constructed to utilize the existing stormwater drainage ditches. The graveled area shall not change the existing swales and watercourses currently in existence.
- 105-27, Erosion Control, stating this project shall be done in such a way as to disturb a minimal amount of area on site and use best management practice.
- 105-28, Setbacks and Screening, stating setbacks and screenings are in existence.
- 105-29, Explosive Materials, stating there are no explosive materials being added to the site.
- 105-30, Water Quality, there are no changes being made to the site to harm the water quality.
- 105-31, Preservation of Landscape; Landscaping of Parking and Storage Areas, stating the landscaping is in existence and shall not be disturbed by the parking area and there shall be no additional outside storage added with this amendment.
- 105-32, Relation of Proposed Building to Environment, stating the new building shall be attached to the existing building, and have the same exterior which is compatible with the other buildings in the area.
- 105-33, Refuse Disposal, stating all refuse shall be removed by Mr. Parker from the site and disposed of properly.
- 105-34, Access control on Routes 109 and 11, there shall be only one entrance/exit onto Rte. 109. The delivery entrance shall be removed from the proposed plan.
- 105-43, Off-street parking and loading, stating there is adequate parking area for a total of thirty-one spaces as required per the ordinance, 30 per the square foot calculation [refer to section (f)], one for the employee [section (h)], as well as an area to turn around.
- 105-47, Signs and Billboards, stating that any changes in signage shall have to be done through the Code Enforcement Office.

Roger then read Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses”.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not.***
- 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. ***It is, the Comp. Plan wants to see large businesses located along Rte. 109 and Rte. 11.***
- 4) Traffic access to the site is safe. ***It is, site distances are adequate in both directions and were approved on the previous CUP.***

- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***A plan is in existence per the original CUP.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***A plan is in existence per the original CUP.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There is in existence an adequate plan for the existing buildings. The new building shall be attached to the existing using the same drainage system. The earth filling will be done using Best Management Practices.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***All additional earth shall be brought in using Best Management Practices toward the environment, leaving existing ditches and swales in place for run-off.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, and this location is near Lower Mousam Lake and Mousam Lake.***
- 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. ***Landscaping is in existence.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Diane S. made the motion to accept the Conditional Use Permit to add a 30 X 80' addition to the existing showroom and bring in approximately 200 yards of gravel to the site with the following conditions:

- 1) The Conditional Use Permit shall be valid upon the recording of the new deed at the York County Registry of Deeds within 30 days from approval on November 26, 2002. A copy of the recorded deed shall be brought to the Town Hall and given to the Code Enforcement Officer to be placed in the file.***
- 2) No construction shall commence on site until the recorded deed is brought to the Town Hall and given to the Code Enforcement Officer.***
- 3) All conditions of the existing showroom remain in effect including hours of operation.***

Bill H. 2nd the motion. All members were in favor.

In addition, prior to any future exchange of land between Mr. Parker and Mr. Gallant in relationship to this Amendment, the applicant will have to come back before the Planning Board for approval of the exchange.

Conditional Use Permit – Timber Harvesting – Map 5, Lot 19 (State Rte. 11) – Daniel Townsend et al Owner, represented by Peter Klachany, L.P.F. #320

Peter Klachany was present at the meeting to represent Daniel Townsend. At the board meeting on November 12th Peter stated that the subject property contained a total of 53 acres and is bounded to the east by State Rte. 11, to the south by 21st Street and to the west by Mousam Lake. The current owner(s) wish to improve productivity of their woodland by selective thinning and cutting. The lot was cut 20 years ago and it has been determined it is time for another cut. There would be selective harvesting of timber within 250 feet of Mousam Lake and the adjacent wetlands; there will be a light level of cutting within the 250 feet. Peter stated there would not be a heavy cut near the water to prevent blowdowns in the residual stand. There will be no logging debris left within 50 feet of the Lake. The logging would be conducted when the ground is frozen, “so there will be minimal disturbance of the soil”. Peter stated that the acreage was expected to yield 125,000 board feet of sawtimber and 100 cords of pulpwood. The operation would take approximately three weeks to complete.

Roger A. read a letter received from an abutter to this property. The letter, written by William J. Mageary, clearly stated that he had no objection to this project as proposed as long as the cutting is "selective". In addition, Mr. Mageary stated that if the project had the support of the CEO, Steve McDonough, he felt it would be done with the best interest of the Town of Shapleigh since he believed Mr. McDonough was a man of "great integrity". There were no townspeople present at the meeting to discuss this application.

Roger A. reviewed Ordinance 105-50, "Timber Harvesting", noting that this application met all criteria presented within the ordinance. Mr. Klachany stated that the project would conform to 105-50. Roger then read sections 105-50 (B) sections (1) thru (7). The Board concluded that this plan, if followed as presented, would meet all the requirements.

Mr. Klachany reiterated that this project would take place on "frozen" ground to disturb the ground as little as possible and stream beds would not be used. At the previous meeting on November 12th, Mr. Klachany stated that the Youth Conservation Corp. had installed erosion control devices on the woods road that runs in a westerly direction from the field to the Lake on the property. "In order to protect these devices from damage by the logging machinery, the woods road will not be used as a main skid trail."

The Planning Board had no further questions with respect to this application.

Roger then read Shapleigh Zoning Ordinance 105-73.G "Standards applicable to conditional uses".

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not per the plan presented. Selective cutting practices can enhance the environment for the existing wildlife.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***It will per the plan presented. Selective cutting shall be done and all cutting shall be done in accordance with Zoning Ordinance 105-50.***
- 3) The use is consistent with the Comprehensive Plan. ***It is.***
- 4) Traffic access to the site is safe. ***It is.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, there shall be good management of the area provided per the plan.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***N/A***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***N/A***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***It is not required; there is no excavation to be done on site.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are adequate provisions made per the plan.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, as this property is adjacent to the lake.***
- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***There shall be limited hours of operation, being 7:00 a.m. thru 7:00 p.m. to reduce noise which would be the only detriment during this project.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Bill H. made the motion to approve the Conditional Use Permit to harvest timber in the Shoreland zone with the following condition:

- 1) *The hours of operation shall be between 7:00 a.m. and 7 p.m., seven days a week, until the project is completed.*

Diane S. 2nd the motion. All members were in favor.

Amendment to a Conditional Use Permit – Bottle Redemption Business – Map 14, Lot 15C (State Rte. 11) – Robert Berube Applicant – Charles and Joyce Rodrigue, Owners

Charles Rodrigue and the applicant Robert Berube were in attendance. Mr. Rodrigue explained to the Board that the building/barn to be used for this business has been used to house the returned bottles for Emery Mills Market. There is enough room to house many more for this proposed business. Mr. Rodrigue stated that the redemption center up the road is now closed and many people in the area are looking for a place to return their bottles and cans. Trucks that currently take the returnables from Emery Mills Market would also pick up the returnables for Mr. Berube's business. The storage of these bottles and cans would probably take up the entire 2nd floor of the barn and $\frac{3}{4}$ of the 1st floor. The expected hours of operation would be the same as Emery Mills Market which is 6:00 a.m. thru 9:00 p.m., seven days a week.

The Board reviewed the application and stated that since this application was for "storage space only", there would not be any additional parking spaces required.

There were no further questions at this time from the Planning Board. *Roger stated that a Notice to the Abutters will be mailed out and a Public Hearing for this application will be held on Tuesday, December 10th at 7:00 p.m.*

Conditional Use Permit – Erect Retaining Walls – Map 19, Lot 11 (17 Primrose Lane – Off Emery Mills Road) – Roger Berube

No one was present to discuss this application so it was tabled until the next meeting.

Question Regarding Map 1, Lot 1, Owned by Sophie Hurd

This parcel of land is 1.66 acres in size with 300 feet of road frontage on the Shapleigh side. In addition, another 1.66 acres is attached in Springvale for a total of three acres. *Can the owner build on this property?*

Roger stated that this was a lot of record so it is a grandfathered lot and could be built on as long as the owner of the property can meet all the setbacks required by the town. In addition, there is 300 feet of frontage on the road. Bill H. and Diane S. agreed this was a buildable lot. Barbara G. had no comment since she is a friend of the property owner.

Roland Legere was present at the meeting and asked members if they were aware of the logging operation going on near 16th Street Loop. Did they know who was doing it, is it going to be a building lot, and is it taking place in Shapleigh? The Board members knew nothing about the logging beyond the fact that Diane S. and Bill H. had also seen the logging equipment in the area. Roger A. did not know of any CUP for logging in that area. Barbara G. will ask Steve M., CEO, if he knows anything about it. **Steve stated he was aware of the logging and that he believed this logging operation was taking place in Acton, not in Shapleigh.**

Mr. Legere also stated he wanted to voice his concern with the 40% cut allowed within 50 feet of a water body. He felt that after this takes place, and we have a hard winter, the amount of damage can be as high as 60% canopy reduction in an area. The neighboring trees cannot support heavy wind, ice, etc. The Planning Board members agreed this can be a problem and would discuss this further at another time.

Diane S. asked Barbara G. if she had heard anything from Craig Higgins regarding the Goose Pond Subdivision? Barbara stated that she had spoken with Ruth Ham, BOS, regarding this matter because a realtor for Northwoods Land Company had contacted Mrs. Ham with respect to this property recently. The Realtor told Mrs. Ham that this subdivision is on hold at this time and the property may be sold in its entirety without pursuing the current subdivision application.

Diane S. asked if the town could possibly purchase this property because of the large underground aquifer beneath it. Barbara stated that this question had been posed to Northwoods in the past as well as the previous owner of the property and at that time they did not want to sell a “part” of it to the town. In addition, the townspeople have been reluctant in the past to purchase property. Barbara suggested the Board as a whole may want to speak with the Board of Selectmen regarding this matter at a later date.

NOTE: There will be a Public Hearing to review all Zoning changes that will be voted on at the town meeting in March 2003, on Tuesday, December 10th.

GROWTH PERMIT(S) – There are no Growth Permits available.

The meeting concluded at 9:30 p.m.

Respectively submitted,
Barbara Gilbride
Planning Board Secretary

planningboard@shapleigh.net

Tuesday, December 10, 2002

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes, Madge Baker (Alternate) and Barbara Gilbride (Member/Secretary). Code Enforcement Officer, Steven McDonough was in attendance.

Public Hearing began at 7:00 p.m.

◆ **Changes to Subdivision Ordinance 89-20.B & 89-15.A - Zoning Ordinance 105-15, 105-18, 105-29, 105-45 B(3), B(12) and & 105-47.C(3)**

Roger started the Public Hearing by reading the first proposed change to Shapleigh's Subdivision Ordinance "Ordinance" **105-15. Definitions**. The proposal is to add the following definition:

NET PRINCIPAL BUILDING DENSITY – The number of principal buildings per net principal building density.

Madge B., who created the addition, stated that she was not sure it was necessary nor did she feel the wording was appropriate. She did state that the addition as written would do no harm being in the ordinance.

Roger asked if there were any questions. There were none.

Roger read the next proposed change; it was to Ordinance **105-18. Dimensional requirements**. The change read as follows:

Commercial and Industrial Dimensional Requirements (A)					
Land Uses	Resource Protection District	Shoreland District	General Purpose District	Floodplain District	Stream Protection District
Minimum land area per principal building	NA ¹	80,000 ⁴	80,000	²	80,000 ⁴

NOTES:

4 Lots lying within this district may require larger than the minimum land area required when the following percentage of land that may be included as land suitable for locating structures, is as follows:

Poorly Drained and Somewhat Poorly Drained¹

50%

Very Poorly Drained

0%

Slopes Greater Than 33%

0%

¹Soil classification by the U.S. Soil Conservation Service.

Barbara G. stated she was unsure of exactly what was being proposed by this change? Madge stated the change, as written, did not accurately state what she intended. Madge said her thought was to propose that a commercial and industrial use requested in the Shoreland or Stream Protection District would only be allowed to count land toward the density requirement of two acres if the soil was well drained. If the land is poorly drained you could count only 50% of it, and if very poorly or on slopes greater than 33% you would need twice the land requirement of two acres.

John C. asked Madge if for poorly drained or somewhat poorly drained land you would have to have four acres to meet the requirement? Madge stated that if the land was somewhat poorly drained you would need "3" acres since you could count 50%. John asked if you would need 4 acres for the other two categories? Madge said, "Yes".

Madge stated to the other Board members that her major concern is the areas that have steep slopes in the Shoreland District.

John C. asked Madge if this change would affect small lots in the Shoreland Zone. He felt that you want the buildings to be as far from the Shore as possible but what if with this requirement you could not move the structure to the back of the lot? Madge did not feel this was an issue since this is dealing with commercial or industrial applications, not residential. If you have a small lot you may be able to place a house on it, but not if this was a commercial or industrial proposal.

Madge B. further stated that she would like this Ordinance change to cover all structures proposed including parking areas, not just the primary building.

Additionally, Madge thought the Board should consider placing a larger lot requirement on land that is over an aquifer. Madge and John both stated that another Board member, Diane Srebnick, who was not able to attend this meeting, also had concerns with the land in town over the existing water aquifer.

Roger asked if there were any additional questions? There were none at this time.

Roger read Ordinance **105-29. Explosive materials.** The ordinance with change read as follows:

No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are located in anchored tanks at least 75 feet from any lot line, town way or interior roadway, or 40 feet from a lot line for underground tanks; plus all relevant federal and state regulations shall also be met. **~~Propane gas tanks in one hundred pound cylinders (or smaller) shall be exempt from these regulations.~~ All residential propane gas tanks shall comply with NFPA 58, Liquefied Petroleum Gas Code, 2001 Edition.**

Steve M., CEO, who had suggested this change, stated he wanted the change for residential propane tanks. According to NFPA 58, a propane tank under 500 pounds can be placed up to 10 feet from a property line. As it is now written, the setback is 75 feet for all tanks over 100 pounds. Steve stated that many lots in the Shoreland zone are only 50 feet wide and would not be able to meet this requirement if using a 250 pound tank which is often the case for heating purposes. He stated that lots that are 100 feet wide would not be able to meet this requirement either.

John C., "We are removing the statement that smaller cylinders are exempt from this regulation. Why are we striking this? We are taking away an exemption and adding a requirement, why?"

Bill H., "Because the change will encompass all propane cylinders, including 100 pound cylinders." Steve M. stated, "Correct".

John C. asked the Board if we wanted to do this? Barbara G. stated, "Yes, this would give more leeway doing this because it covers all propane cylinders," allowing cylinders larger than 100 lbs to be closer to a lot line. Steve M. concurred stating that NFPA 58 covers all propane cylinders including 100 lbs. Currently, in the ordinance as written, the 100 lb. propane cylinders have to comply with NFPA. This change does **not** make the ordinance more stringent.

John C. asked, "Are we not going to address the 75' setback as written?" Madge B. stated that the 75' setback refers to bulk storage of any flammable or explosive material, not just propane. Madge and John asked the other Board members if the Board should strike out the 75 foot requirement? Roger A. and Barbara G. stated "no" because the 75 foot requirement covered all other hazardous explosive material and those materials would have to comply with the ordinance as written.

Madge B. and John C. asked if a definition of bulk storage was needed? They also asked if 'residential' should be written when referring to the propane storage change? The entire Board did agree that NFPA 58 addressed all propane cylinders, not just residential.

The Board, because of the confusion felt that this ordinance should be in two parts. Part (A) to address hazardous materials other than propane and part (B) to address the propane tank storage.

There were several townspeople at the meeting who expressed concern with the change and how it would affect residential homes. After explaining the proposal and how it would be less strict than what currently exist for large tanks used for heating purposes (typically 250 gallons in size), there were no objections to the change.

Barbara will make a copy of the chart that addresses propane storage in the NFPA 58 book, in case there are further questions at Town Meeting.

Roger asked if there were any further questions and one citizen asked why this ordinance was made more strict than the federal rules when originally written? Bill H. stated that when this code was written there was no NFPA 58 standard available, so whoever was instrumental in writing the code tried to put good judgment in what would be reasonable setbacks. Steve M. stated that a town has the right to make the ordinance more strict. He further stated that this was not what was being done at this time; the change will be less strict than what currently exist. The gentlemen seemed satisfied with the explanation.

Roger wanted the townspeople to know that the reason this ordinance will retain the 75 foot setback in part is because it is not strictly relating to propane but "also" to harmful gases, gasoline tanks, and other hazardous chemicals that are ignitable. The only thing the Board is changing is the reference to propane tanks. In addition, the sentence in the ordinance that states "plus all relevant federal and state regulations shall also be met", may require a hazardous material to be more than 75 feet from any lot line. The federal or state guidelines if more strict will override the town's ordinance.

A question was asked by a citizen if the 75 foot setback referred to residential property or commercial? Roger stated it could pertain to either if referring to any gas other than propane. "This is why this ordinance will be broken down into two parts, (A) and (B), one pertaining to propane, the other all other gases, etc.

The Board, after hearing the confusion on the part of the citizens, made the following change:

- A. No highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are located in anchored tanks at least 75 feet from any lot line, town way or interior roadway, or 40 feet from a lot line for underground tanks; plus all relevant federal and state regulations shall also be met.
- B. All residential propane gas tanks shall comply with NFPA 58, Liquefied Petroleum Gas Code, 2001 Edition.

Bill H. asked Steve M. if NFPA referred to both residential and commercial propane storage? Steve M. stated it covered both. Bill asked "Why then would the Board want to refer only to 'residential' tanks, why not omit the word residential and apply the code to all propane tanks?"

Madge's only concern with this change overall is there would now be the ability to house a propane tank within 10 feet of a major road like Rte. 109. Steve M. did not have the book with him to refer to, but thought that this would be addressed in the federal guidelines. Bill H. stated he felt comfortable allowing a federal guideline to dictate both residential and commercial tanks as spelled out in NFPA 58.

The final change to the Ordinance was agreed to by the Board members as follows:

§ 105-29. Explosive materials.

A. All propane gas tanks shall comply with NFPA 58, Liquefied Petroleum Gas Code, 2001 Edition.

B. All other highly flammable or explosive liquids, solids or gases shall be stored in bulk above ground, unless they are located in anchored tanks at least 75 feet from any lot line, town way or interior roadway, or 40 feet from a lot line for underground tanks; plus all relevant federal and state regulations shall also be met. **-Propane gas tanks in one hundred pound cylinders (or smaller) shall be exempt from these regulations.**

The next Ordinance Roger reviewed was **105-45. Planned unit development and cluster development, under Item B.** It read as follows, including the changes:

- (3) Any lot abutting an accepted road shall have a frontage and area no less than that normally required in the district. **On other accepted proposed roads for the planned unit development or cluster development,** lot area and road frontage may be reduced by not more than 30% of the requirements of the district in which the proposed development is located, provided that:

Roger explained that this change would allow a developer to bring in a "proposed" road plan for the Board to view, not having to have an accepted road, giving them the ability to reduce frontage requirements for their development just by having a proposed road on the plan. Presently there would have to be an "accepted" road on the plan in order to get the reduced road frontage.

There were no questions with respect to this item.

Another change to **Ordinance 105-45** was to add 33% to the document under the column reading "Slopes Greater than" which was omitted during the printing process. It should have read as follows:

**Land Which May be Included as "Suitable Land"
When Calculating Net Residential Density**

Excessively Drained, Well- Drained, and Moderately Well- Drained ¹	Poorly Drained and Somewhat Poorly Drained ¹	Very Poorly Drained	Slopes Greater Than 33%	Borrow Pits
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One last proposed change to Ordinance 105-45, under Item B would read as follows:

- (12) All structures with required plumbing in a planned unit development or cluster development shall be connected to a public sanitary sewer system, if available, or 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.**

Steve M. stated that currently in the ordinance you need a central collection system. This change would allow individual septic systems in a cluster subdivision. Steve was concerned with the reduction in lot size; housing septic systems could be a problem with respect to individual wells. Madge B. stated that there is currently a provision in the Ordinance that requires a central water system. Item #11 states that "All dwelling units in a planned unit development or cluster development shall be connected to a central water system, at no expense to the municipality". Madge asked the Board if they thought this should also be modified? No one felt it was necessary at this time and it addressed Steve's concern regarding water quality.

A citizen asked if perhaps several wells on the property, for example two sources of water, could feed the subdivision? John C. stated that a central water system could be "several" wells that feed the entire subdivision. It does not necessarily mean there should only one well. Madge B. concurred.

There were no other questions or changes to this Ordinance.

Roger read the following change to Ordinance **105-47. Signs and billboards:**

C. Nonconforming signs.

- (3) Replacement. Any new sign **of different size and shape** replacing a nonconforming sign shall conform to the provisions of this section, and the nonconforming sign shall not thereafter be displayed.

Roger asked if there were any questions? A citizen asked if someone were to "repair" an existing sign, one section at a time, hence totally replacing it in effect, with a sign looking the same as the pre-existing sign, could this be done? Steve M. stated "Yes, you can repair an existing non-conforming sign." The Board stated that you could not put up a "new" sign that was "nonconforming" according to the Ordinance.

There were no further questions.

Roger read changes to Ordinance **89.20. Final approval and filing**, it read as follows:

- B. Upon findings of fact and determination that all standards in 30-A M.R.S.A. §4404 and these regulations have been met and upon voting to approve the subdivision, the Board shall sign the final plan(s). **The Board shall specify, in writing, its findings of fact and reasons for any conditions or denial. There shall be a total of four copies of the final plan presented to the Board for signature, two of which shall be reproducible, stable-based transparent originals. The signed plan(s) shall be recorded at the Registry of Deeds within 90 days of the date upon which the plan is approved and signed by the Board and three copies, one being a transparent stable-**

based transparent original, returned to the Town Hall within those 90 days or the plan shall become null and void. One registered copy of the signed plan shall be returned to the Planning Board and become part of its permanent records. One copy, of the registered signed plan shall be forwarded to the Tax Assessor. One copy of the registered signed plans shall be forwarded to the Code Enforcement Officer. The fourth remains at the York County Registry of Deeds.

Roger stated these changes were made to make the Ordinance more clear with what needed to be done with respect to the approved plans. There were no questions regarding the changes.

The last Ordinance change was to **Subdivision Ordinance 89-15. Submissions**, it read as follows:

- A. The final submission plan for a minor subdivision shall consist of two reproducible, stable-based transparent originals, ***both to be recorded at the Registry of Deeds within 90 days of final approval by the Board. One of the above registered copies shall be returned to the Planning Board within 90 days of final approval,*** and three copies of one or more maps or drawings drawn to a scale of not more than 100 feet to the inch. Plans for subdivisions containing more than 75 acres may be drawn at a scale of not more than 200 feet to the inch, provided that all necessary detail can easily be read. Plans shall be no larger than 24 inches by 36 inches in size and shall have a margin of two inches outside of the border lines on the left side for binding and one-inch margin outside the border along the remaining sides. Space shall be provided for endorsement by the Board. In addition, one copy of the final plan, reduced to a size of 8 ½ inches by 11 inches, and all accompanying information shall be mailed to each Board member, including alternate members, no less than seven days prior to the meeting.

Roger stated that the only change to this Ordinance is “both” copies are to be recorded and one returned to the Planning Board. This has always been the case that both be recorded but now it is clearly stated in the Ordinance so it is easier for applicants to understand the requirement.

There were no questions regarding this ordinance. The discussion over proposed Ordinance changes ended at 7:58 p.m. *Another public hearing will be held prior to Town Meeting in March 2003.*

◆ ***Amendment to a Conditional Use Permit – Bottle Redemption Business – Map 14, Lot 15C (State Rte. 109) Robert Berube Applicant – Charles and Joyce Rodrigue, Owners***

Charles Rodrigue and the applicant Robert Berube were in attendance. Mr. Rodrigue explained to the Citizens of Shapleigh that the building/barn to be used for this business has been used to house the returned bottles for Emery Mills Market. This redemption business would be an expansion of what currently takes place for the store. Robert Berube is the applicant that will be running the business. The Dept. of Agriculture oversees this type of business and Mr. Berube has applied and received the necessary permits. The storage of these bottles and cans would probably take up the entire 2nd floor of the barn and ¾ of the 1st floor. The expected hours of operation would be the same as Emery Mills Market which is 6:00 a.m. thru 9:00 p.m., seven days a week.

Roger asked if there were any questions regarding this business. A Mr. John Granfield and Ms. Julie Carlson were present representing the Town of Sanford, which has property abutting Mr. Rodrigue. Mr. Granfield stated that the Town of Sanford currently owns property abutting Mr. Rodrigue that goes all the way to the river. Mr. Granfield stated that there is a dock on this property currently being used by Mr. Rodrigue, as well as others who frequent his store. In addition, Mr. Rodrigue has made improvements to this dock without the permission of the Town of Sanford. Mr. Granfield stated that

Mr. Rodrigue was to provide a copy of an easement showing that he could use this abutting property but has not to date.

Mr. Rodrigue stated that this dock has been in existence for over 30 years and has always been used by adjacent property owners. He has in fact made improvements to the dock, repairing it, so no one would get hurt using the dock. Pat Baldwin, an abutter in attendance, concurred with Mr. Rodrigue to the existence of this dock and the public's use of it.

Mr. Rodrigue stated that there has always been a trail from the water to the store. Bill H. asked if people tie up to the dock to get to the store? Mr. Rodrigue stated, "Yes".

Mr. Granfield stated that if there was a document supporting Mr. Rodrigue's claim that he has an easement to use the trail and dock he should produce it and it should be recorded. There needs to be a document stating specifically who owns and has use of the area.

John C. asked who maintains the dock? Mr. Rodrigue stated that the previous owner of his property built the dock and he (Mr. Rodrigue) maintains it.

Mr. Granfield stated that the Town of Sanford has a huge liability issue with respect to the use of the dock. The town feels they need a document to protect the municipality from any possible lawsuits. The Town of Sanford wants to be "held harmless", so if there is an easement for others to use this land, it should be recorded.

John C. asked Mr. Granfield if the document is not available, what does the Town of Sanford want Mr. Rodrigue to do? Mr. Granfield stated that if one does not exist, one could be created and recorded, thus protecting the Town of Sanford.

Bill H. asked Mr. Granfield if his intent was to protect the Town of Sanford and *not* stop the traffic to the lake? Mr. Granfield stated once again, he wanted a document to limit the liability of the town.

Another citizen, an abutter to this piece of property owned by the Town of Sanford stated that he had an easement in his deed allowing him use of the property. He will gladly share this information with both parties.

John C. asked if this was an issue of non-conformance? A Citizen of Shapleigh stated that he did not see the relevance of these questions to this application to open a recycling center. Mr. Rodrigue stated that he did feel the Town of Sanford needed to converse further on this subject apparently, but since he was not aware there was a problem (he had spoken with other officials with the Town of Sanford previously and was led to believe this matter had been cleared up) he felt that this discussion should be done at a later date. Steve M. felt this was a civil matter and did not fall under the jurisdiction of the Planning Board. Mr. Granfield stated he was not asking for action by the Planning Board, but wanted to bring this forth as an abutter to this property.

A citizen who said he lived at 195 Emery Mills Road, wanted to tell the Planning Board that Mr. Rodrigue did show a lot of respect for the property Mr. Granfield was speaking about and had done a good job at maintaining the dock on site.

Roger asked if there were any further questions regarding this application. There were none. The Public Hearing was closed at 8:15 p.m. *Madge B. left after the Public Hearing.*

The Planning Board meeting started at 8:20 p.m.

The Planning Board minutes of Tuesday, November 26, 2002, were read and accepted as written.

The following agenda items are written in the order they were discussed:

Amendment to a Conditional Use Permit – Bottle Redemption Business – Map 14, Lot 15C (State Rte. 109) – Robert Berube Applicant – Charles and Joyce Rodrigue, Owners

Charles Rodrigue and the applicant Robert Berube were in attendance to review the application.

Roger reviewed what had been previously discussed during the Public Hearing and at the previous meeting that being that the building/barn to be used for this business has been used to house the returned bottles for Emery Mills Market. This application is an amendment to the original application for Emery Mills Market. The expected hours of operation would be the same as Emery Mills Market which are 6:00 a.m. thru 9:00 p.m., seven days a week. The Board during the meeting on November 26th established that since this application was for “storage space only”, there would not be any additional parking spaces required.

John C. asked Mr. Rodrigue and Mr. Berube if they would be dealing with returnable bottles and cans only or would they be doing recycling as well? Both stated that this was for returnables only.

John C. stated that any change in signage would have to be done through the Steve M., CEO. Mr. Rodrigue stated that he did not intend to add an additional sign other than a small note over the door of the market stating the store was a redemption center. Steve M. stated that he would need to discuss with Mr. Rodrigue exactly what he would be using as a sign prior to posting it.

Roger asked if there were any further questions, and there were not.

Roger then read Shapleigh Zoning Ordinance 105-73.G “Standards applicable to conditional uses”.

- 1) The use will not have an adverse impact on spawning grounds, fish, aquatic life, birds or other wildlife habitat. ***It will not per the plan presented, there are no changes to the building.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***N/A, there are no changes to the building or surrounding area.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the plan wants businesses located along Route 109.***
- 4) Traffic access to the site is safe. ***It is, this amendment will not significantly increase traffic on site.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, the building is in existence and no changes are being made.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***It is in existence and no changes are being made.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***N/A***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***It is in existence and no changes are being made to the building or surrounding area.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are adequate provisions in existence and no changes are being made.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, as this property is adjacent to the lake.***

- 11) The provisions for buffer strips and on-site landscaping provide adequate protection to neighboring properties from detrimental features of the development, such as noise, glare, fumes, dust, odors and the like. ***There are no changes being made to the site, all are in existence.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

John C. made the motion to approve the Amendment to a Conditional Use Permit to Open a Bottle Redemption Center with the following condition:

- 1) ***Any change in signage shall be done in accordance with Shapleigh Zoning Ordinance 105-47 and under the direction of the Code Enforcement Officer.***

Bill H. 2nd the motion. All members were in favor.

After the Fact Conditional Use Permit – Bring Fill into the Shoreland Zone – Map 17 Lot 15 (28 Old Loop) – Robert Dean Harris, Jr., Carl Beal, from Civil Consultants Representing

Roger A. abstained from this discussion.

Mr. Beal and Mr. Harris were present at the meeting. The Planning Board had a second site review in November to refresh their mind exactly what had taken place on the property with respect to fill being brought in, as well as to determine whether or not there was another location that would be best suited for parking outside of the 100 foot mark in the Shoreland Zone.

The Board members at the 2nd site inspection viewed a large amount of earth that has already been placed on the property, approximately 126 yards. Mr. Harris had told the Board at a meeting in August of 2002 that he would need that much again to fill in the low area as well as to be able to grade it properly. The Board also noted during the site inspection the area in which trees had been removed within the Shoreland Zone.

Mr. Beal brought to this meeting a copy of the plan he presented to the Board on November 12th which depicted both the 100' delineation as well as the 50' delineation from the high water mark. Also on the plan was an erosion control plan but there was no a plan to replant the trees that had been removed prior to bringing the fill on site.

Mr. Beal stated he and Mr. Harris were here now to get direction as to what the Board would like to see done with respect to reclamation of the area and they would like to have the Board relax the 50' setback requirement per Shapleigh Zoning Ordinance 105-59.C which states, ".....If no alternative exists, a setback reduction to no less than 50 feet may be permitted by the Planning Board upon a clear showing by the applicant that appropriate techniques will be used to prevent sedimentation of water bodies and wetlands."

Mr. Beal stated also that during the site review the Planning Board did mention that there did not appear to be an alternative area to create parking without further disturbing the land in a harmful way, causing an erosion problem by having to remove more trees on site.

Bill H. asked Mr. Beal if the slope on his plan was a 4 to 1 slope as required per Ordinance 105-39.G.(10)? Mr. Beal stated as per the plan it is 3 to 1, but could be redesigned to 4 to 1. Bill stated that at the site review he felt the current parking area was adequate to meet the needs of the existing residents per Ordinance 105-43 "Off-street parking and loading". The alternative to expanding the area for parking would be to use the existing driveway. Bill felt that the Board could possibly allow in addition to the driveway, which per the Ordinance is adequate, an additional 8 feet of earth for parking or a turn-around area, with an additional 2 feet to protect the embankment. In addition, he would like to see reclamation of the trees on site per the recommendation of the CEO of what would be best and possible on site. Bill stated he would like to see any

dirt not used for the 10 foot area total to be used for an adequate slope and the rest removed from site if not needed.

John C. agreed that any further excavation to the site would be detrimental to the area. He agreed with Bill H. that allowing a minimal 8 foot parking area with a 2 foot skirt, and creating a 4 to 1 slope beyond this would be the most he would like to see at the site. John also said that perhaps Mr. Harris could speak with Debbie St. Pierre or someone else with York County Soil and Water Conservation to come up with the proper reclamation plan for the site.

John C. asked Mr. Beal if he thought some of the existing soil would be removed from the site or would it be necessary to create the slope? Mr. Beal stated he was not sure if any would be removed but he noted that no more would be necessary to create the 10 foot flat area. Bill H. stated that he would want any soil not used to create the 4 to 1 grade or parking area to be removed from site.

Bill H. stated that he would like to have a driveway line established by Steve M., CEO, to be able to determine where the additional parking area would begin and end. Steve stated that during the site review, the edge of the driveway was where the tree was on the left side of the driveway (while facing the water).

Bill H. asked Steve what he felt would be an adequate replanting requirement for the trees previously removed on site? Steve stated that planting a 4 ½ foot tree every 80 square feet would be what the State would recommend and felt this would be adequate. Bill agreed also.

The Board stated they would like to see vegetation such as junipers on the embankment, along with other plants indigenous to the area. They preferred this to heavy mulching stating it worked best as a long term solution to erosion.

There were no further questions by the Board at this time. John C. thanked Mr. Harris for coming before the Board and told Mr. Beal the Board would need a plan showing a 4 to 1 slope, the 10 foot total area for additional parking, a reclamation plan and timetable for this plan, as well as the amount of soil to be removed if any. Nothing further was discussed. ***This item is tabled until a final plan is presented.***

Conditional Use Permit – Erect Retaining Walls – Map 19, Lot 11 (17 Primrose Lane – Off Emery Mills Road) – Roger Berube

Roger Berube was present at the meeting. Mr. Berube brought with him a sketch plan of the retaining walls and stairs he wishes to place on site, as well as a materials list for the proposed project, a brochure showing the Anchor Wall System, and a plan depicting the location of his property. Mr. Berube stated he currently had an erosion problem on site and wished to stop that by building retaining walls.

The Board asked Mr. Berube if there currently existed a retaining wall on site? Mr. Berube stated there were pieces of a concrete wall that were broken up. He did not know the exact size of these pieces, nor did Mr. Berube have any pictures to show the Board members. The Board also asked Mr. Berube if he had applied for a DEP Permit by Rule for this project as it was required? Mr. Berube had not applied and would do so prior to the next scheduled planning board meeting.

The Board did not have any further questions at this time. ***A site inspection will be done on an individual basis to view the site and a Notice to Abutters will be mailed out prior to the next scheduled meeting on January 14th, 2003.***

Mr. Berube wanted the Planning Board to be aware that the street sign for 5th street is missing. Barbara G. stated she would tell the BOS Secretary.

The Planning Board received a memo regarding the Subdivision Proposal from Mike Morris “Birchfield Place Subdivision” to the MDIFW. Mr. Morris is still working with the state with respect to what type of plan would work best in this area. Mr. Morris is now considering a “cluster” subdivision proposal. The Board requested that Barbara G. mail Mr. Morris a copy of Zoning Ordinance 105-45. “*Planned unit development and cluster development*” to advise Mr. Morris of the requirements spelled out in this chapter.

Mr. Morris also expressed a concern over who would maintain a “conservation area” in the development. The Planning Board thought that perhaps Mr. Morris should contact Audubon, Nature Conservancy, Three Rivers Land Trust, etc. to see if they in fact would like to make certain this area is maintained for the betterment of the endangered species housed on it.

Nothing further was discussed at this time.

GROWTH PERMIT(S) – There are no Growth Permits available.

The meeting concluded at 9:15 p.m.

Respectively submitted,
Barbara Gilbride
Planning Board Secretary

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