

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, January 14, 2003***

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes, Diane Srebnick, and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was in attendance.

**The meeting was called to order at 6:30 p.m.**

**The Planning Board minutes of Tuesday, December 10, 2002, were read and accepted as written.**

**The following Growth Permits were reviewed in the order received:**

<b><u>Name</u></b>	<b><u>Map &amp; Lot</u></b>	<b><u>Growth Permit #</u></b>
William W. Wawreniak, Jr. and Erin Smith	Map 6, Lot 33 (Nason Road)	01-03
James and Cynthia Hicks	Map 6, Lot 35A (Corner of Nason and Gulf Road)	02-03
Francois A. Padovani	Map 7, lot 3 (Kettle Pond Condominiums, <i>Unit #12</i> )	03-03
Richard and Johannah Currier	Map 32, Lot 19 (14 Daisy Road)	04-03
McKenna Bros. Construction / Eric & Diane Lofgren Owners	Map 34, Lot 14 (150 Cedar Drive)	05-03
Brent and Lisa Cerullo	Map 24, Lot 1B (12 Channel Circle)	06-03
Thomas P. Narciso	Map 6, Lot 50-9 (County Road)	07-03
Jason S. Roy	Map 29, Lot 31 (Goose Pond Road)	08-03
Richard F. and Donna L. Guilfoyle	Map 7, Lot 1C-2 (19 <sup>th</sup> Street)	09-03
Janice L. Emerson and Scott J. Christopher	Map 8, Lot 2B (Owls Nest Road)	10-03
David K. Knapp	Map 5, Lot 18C (21 <sup>st</sup> Street)	11-03
Thomas and Barbara Worster	Map 6, Lot 29 (Owl's Nest Road)	12-03
Curtis and Shirley Moulton	Map 4, Lot 7 (Back Road)	13-03
Dennis G. and Janet M. Capehart	Map 40, Lot 62 (Loon Lane)	14-03
Robert A. and Stella M. Dumont	Map 30, Lot 32B (Dogwood Drive)	15-03
Kettle Pond Development LLC	Map 7, Lot 3 (Kettle Pond Condominiums, <i>Unit #15</i> )	16-03
Kettle Pond Development LLC	Map 7, Lot 3 (Kettle Pond Condominiums, <i>Unit #16</i> )	17-03
John G. and Jacquelyn S. Munro	Map 7, Lot 3 (Kettle Pond Condominiums, <i>Unit #13</i> )	18-03
Charles and Melody Scammon	Map 6, Lot 37 (Gulf Road)	19-03
Susan T. Roberts	Map 3, Lot 41A (Hooper Road)	20-03
Shawn E. Woods	Map 7, Lot 32-3 (Cross Road)	21-03
Tracy DesFosses	Map 6, Lot 7 (Back Road)	*1
Deane and Heather MacBeth	Map 11, Lot 28E (Cold Brook Road)	22-03
Adam Blaikie & Associates / North Country Land, Inc.	Map 8, Lot 41 (Part of) (Garland Road)	23-03
Habitat for Humanity York County	Map 11, Lot 27 (Corner of Gray Road and Newfield Road)	24-03
Jean E. Abbott	Map 6, Lot 25 (Nason Road)	25-03

Growth Permit(s) continued

<u>Name</u>	<u>Map &amp; Lot</u>	<u>Growth Permit #</u>
Adam Blaikie & Associates / North Country Land, Inc.	Map 8, Lot 41 (Part of) (Garland Road)	26-03
Jeremiah F. Goodwin	Map 2, Lot 44, 45 & 46 (Walnut Hill Road)	27-03
Grammar Ridge, Inc. / Michael Dubois	Map 11, Lot 10-1C (Newfield Road, Lot #3)	28-03
Grammar Ridge, Inc. / Michael Dubois	Map 11, Lot 10-1D (Newfield Road, Lot #4)	29-03
Jamie Cole	Map 4, Lot 10 (Part of) (Back Road)	*2

\* Roger addressed the Planning Board with respect to the Growth Permits indicated above.

\*<sup>1</sup> The deed depicts 210± of road frontage. Roger, after contacting Ron Bourque (Town Attorney) would like Ms. Defosses to bring a letter from her attorney or surveyor stating that she does indeed have this amount of road frontage in spite of the fact there is a cemetery that exists on part of the frontage.

\*<sup>2</sup> Mr. Cole does have the necessary land requirement. The Board needs Mr. Cole to depict where the property will be split for this additional home to be certain there is the necessary road frontage of 200 feet for each home.

***(Mr. Cole brought in his land survey on Tuesday, January 20<sup>th</sup>, which depicted his existing home which shall contain over 400 feet of road frontage. On this survey Mr. Cole delineated a split of the property for the proposed new home and this lot shall contain over 1000 feet of road frontage. Meeting all the necessary Growth Permit requirements, Mr. Cole was therefore allocated Growth Permit #30-03.)***

Roger asked the Board members, with respect to both of the above permit applications, if the Board wanted the applicants to wait until the next meeting, to be held on January 28<sup>th</sup>, to receive their Growth Permit or if they meet the criteria prior to that date, would the Board assign them a permit? The Board members voted unanimously to assign a Growth Permit to the above individuals prior to the next meeting if they could bring to the Planning Board Secretary all the necessary information required.

There was no further discussion with respect to Growth Permits.

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

**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. During the Planning Board meeting on December 10, 2002, the Board members after two site reviews determined the plan presented at that time needed additional changes. These changes would be to depict an 8 foot parking area on the plan as well as how Mr. Harris would reclaim the area with respect to the trees he had removed from the property within the Shoreland Zone. The Board also asked Mr. Beal to depict on the plan a 4 to 1 slope as required per Ordinance 105-39.G.(10).

Mr. Beal had requested that the Planning 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." The Board did not agree to this request. There was a large amount of damage down when Mr. Harris removed trees from his property and brought in 126 yards of gravel without the necessary permits. The Board wanted as much of this damage reversed as possible.

Mr. Beal brought to this meeting a revised plan which depicted an 8 foot wide area adjacent to the existing driveway with a 2 foot skirt, along with a 4 to 1 slope to ground level. He stated that loam would be placed on the embankment and ivy used as a ground cover. In addition, Mr. Harris proposed to place six crab apple trees (*Malus 'Donald Wyman'*) as well as four viburnum shrubs (*Viburnum Dentatum*) in the disturbed area as a border to the parking area. Mr. Beal stated that he and his client felt that this constituted a total of 10 trees or shrubs in the area. Mr. Beal then asked the Board if there were any questions with this new plan?

Barbara G. stated that her concern with the plan was the use of crab apple trees. Barbara said that she contacted several local greenhouses (Skillins and Moody Nursery) and asked them if they felt crab apple trees would be best in this area. Both felt that Swamp Red Maple (*Acer rubrum*), would work well. In addition the University of Maine Cooperative Extension along with the Maine Dept. of Agriculture, and Conservation, suggestion Jack Pine, Red Pine, White, Paper and/or Gray Birch, or Green Ash. All of these choices would be better for longevity.

Mr. Beal stated that he chose crab apples because this is what Mr. Harris wanted. Mr. Harris stated that he wanted to have some spring and fall color. Barbara G. stated that perhaps Mr. Harris could plant one or two crab apples and also plant a species of tree that were more indigenous to the area. In addition, Red Maple would give some fall color.

Bill H. asked Steve M., CEO, if the ordinance specified that the trees replaced needed to be indigenous to the area? Steve stated he did not have the ordinance in front of him and he did not know if crab apple was indigenous to the area or not. He stated he was not concerned with what was planted because he would come back one year after the trees were planted to ensure they were still alive and if not, Mr. Harris would have to replace the ones that died.

John C. stated that after reviewing the plan he did not feel there were enough plantings to cover the area properly. He also felt that the plans depiction of the area the trees would cover was larger than what would actually be there. Mr. Beal stated that the plan depicted the tree canopy at maturity, being approximately 16 feet in diameter, not the 4 ½ foot trees that would be planted. Mr. Beal felt that the mature trees would be dense enough.

Bill H. asked if the trees on the plan covered the entire area that had been disturbed by tree cutting and bringing in fill? Mr. Beal stated, "Yes". John concurred, he said the area depicted was accurate but understood the canopy that was lost would not be replaced for years. John also stated he did not feel the type of tree was as important as whether or not it was living in a year.

Barbara G. did not agree. She felt the trees in an area were very important. The State looks for trees indigenous to the area because these plants affect everything around them. Ecosystems depend on certain plants, i.e. animals, insects, as well as other plant life, in order to survive. Barbara stated she was not opposed to having several crab apple trees but did feel the Board needed to require other species more suited to the area as well.

Mr. Beal stated he had used a D.E.P. book to list the plants they would use, and crab apple was listed in this book.

John wanted to be sure there were enough trees to cover the area, as did the other Board members. They did not feel six trees would be adequate referring to the States recommendation of 1 tree per every 80 square feet. Steve M. did a calculation using figures Mr. Beal presented and he came up with a requirement of 30 trees to replace the ones removed. Bill H. felt that the State must have had logic to their replanting calculations; therefore the proposal of 10 plants on the existing plan would not be adequate. Barbara G. and Diane S. agreed. John added that the Board would need to consider the possible death of trees in the future. The town would not be able to monitor this area indefinitely. Again the other Board members agreed. John C. and Bill H. stated that they felt that adding another 10 trees to the proposed plan, all being plants indigenous to the area, would be a reasonable requirement for approval.

John C. asked Mr. Harris if he proposed to pave the parking area as well as his driveway? Mr. Harris stated, "No". John was glad to hear this, fearing that the sheeting action from a heavy rainstorm could damage this area as it will be in a fragile state until the plantings take hold on the embankment.

John C. asked the Board what date the Board would want the plantings in by? The Board agreed to the date of June 15, 2003.

John C. reviewed the Boards final conditions for approval of this permit. The Board would require that Mr. Harris add 10 additional trees indigenous to the area to the proposed six trees and four shrubs already on the plan and they shall be planted by June 15, 2002. Mr. Harris did not have any objection to adding 10 more trees. The proposed parking space shall be no larger than 8 feet wide by 28 feet in length. There would be an additional 14 yards of loam brought to the site to be place on the embankment for planting the required ground cover, trees and shrubs. The other Board members concurred.

John C. asked Mr. Beal if there would be any fill removed from the site to create the required 4 to 1 slope beside the parking area? Mr. Beal did not believe any of the fill would have to be removed. John asked Mr. Beal if he would be the person who ascertained whether or not the slope was indeed 4 to 1 prior to planting trees, shrubs, etc.? Mr. Beal stated that it was up to Mr. Harris. Steve M., CEO, stated that he did not feel he was proficient enough in this area to be able to determine the slope. The Board asked Mr. Beal if it would be a large cost to Mr. Harris to have him check the slope prior to planting? Mr. Beal did not feel this would require a lot of his time. The Board recommended that Mr. Beal review the site prior to Mr. Harris planting to be certain the slope was indeed correct. This would be part of the approval of this plan.

John C. asked the Board if there were any further questions for Mr. Beal or Mr. Harris. There were none.

**John 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, including additional requirements by the Planning Board to prevent erosion with plantings and slope design.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***It will per the plan presented, including additional requirements of plantings by the Planning Board.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comp. Plan addresses Mousam Lake and its vulnerability with respect to erosion. This final plan addresses the issue of stabilizing the soil.***
- 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 per the plan presented.***
- 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 per the plan presented.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are provision per the plan presented, which uses proper slope, soil and vegetative ground cover, as well as Best Management Practices while under construction.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *N/A*
- 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. ***Once plants are in place, this provision will be met.***
- 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 After-the-Fact Conditional Use Permit to Bring Fill into the Shoreland Zone, as well as stabilize the area per the plan submitted, with the following conditions:**

- 1) In addition to six crab apple and four Viburnum shrubs, 10 trees, being species indigenous to this area at a minimum of 4 ½ feet in height, shall be planted on site by June 15, 2003.***
- 2) The parking area created shall be no larger than 8 feet wide by 28 feet long with a 2-foot buffer strip between the parking area and the slope.***
- 3) There shall be approximately 14 yards of loam brought to the site and placed on the slope for the required plantings.***
- 4) Mr. Carl Beal, from Civil Consultants, shall make certain the slope created on site meets the requirements of Shapleigh Zoning Ordinance 105-39.G.(10) Earth Removal and Filling and report this to the Planning Board or Code Enforcement Officer, prior to June 15, 2003.***

**Diane S. 2<sup>nd</sup> the motion. All members were in favor.**

**Conditional Use Permit – Erect Retaining Walls – Map 19, Lot 11 (17 Primrose Lane – Off Emery Mills Road) – Roger Berube**

Roger Berube did not attend this evenings meeting as he is not prepared to present documents from the D.E.P. at this time. This item will be tabled until Mr. Berube contacts the Planning Board to be placed back on the agenda.

Both Roger A. and Barbara G. had a telephone conversation with a neighbor of Mr. Berube's that expressed concern with this project, her name was Frances von Maltitz. Ms. von Maltitz stated that her family had lived near this property for over 30 years and they did not believe there was ever a retaining wall on the property. She also expressed that she did not want to see a retaining wall and steps in this area as it would take away from the beauty, thus disturbing the area. She asked that the Planning Board consider her feelings in this matter, and she expressed her distress that she could not attend this meeting as she is out of state at this time.

In addition, the Planning Board received a letter, January 10, 2002, from Jane L. Ferguson regarding this application. Roger read the following from this letter:

“As an adjacent property owner, I am writing in regard to Mr. Roger J. Berube’s application for a Conditional Use Permit to erect walls and stairs in the Shoreline zone (Map 19, Lot 11, 17 Primrose Lane).

It is my understanding that such a permit would not be granted unless there was evidence of a preexisting wall at this location. My family (the Willards) have owned our acreage which is adjacent to Mr. Berube’s since the ‘30’s and, to the best of my knowledge, there has never been such a wall.

Moreover, the recent snowfalls have made it difficult if not impossible to make direct observations. Would it be possible to put over this matter until later in the spring when such a site visit could be made more fruitfully?

The shoreline of Mousam Lake has suffered greatly, from a visual point of view, from the building of such walls in the past. Now that the Shoreline zone has been established, property owners should not be permitted to build walls in this sensitive zone, and especially in this case where such a wall and stairs are not needed for access to the shore.”

Barbara G. asked Steve M., CEO, what the DEP stated to him on a site inspection of this property. Steve stated that the DEP at that time stated that Mr. Berube could only replace what existed currently. In a picture Steve took at that site visit it appeared there were several granite blocks placed next to the waters edge, no more than 16” in height and approximately 12 feet in width. There were no other walls observed on the property.

***Nothing further was discussed at this time. The Planning Board will wait until Mr. Berube notifies them that he is ready to be place back on the agenda.***

**Conditional Use Permit – Letter requesting an extension of time for the approved Conditional Use Permit – Retaining Walls – Map 23, Lot 10 (23<sup>rd</sup> Street Loop / Starboard Lane)**

A letter, dated December 10, 2002, was received by the Planning Board from Joe Lincourt, one of the owners of the above property. Mr. Lincourt requested the following:

“Mary Hermann, et al, received a permit from the town of Shapleigh to replace the concrete wall along the frontage on their property at Mousam Lake. The project was scheduled to begin in late October of this year and be completed by the first of November. Delays have pushed the project into next year as the window to begin the project this year has closed. I am writing to request that the permit be extended to allow us to complete the work in the fall of 2003....”

Roger reviewed the original approval and one of the conditions was that this project would be completed by June 15, 2003. Roger asked the Board members if they wanted to make a motion, based on the letter received, to extend this deadline to June 15, 2004.

**Bill H. made the motion to grant an extension of time to complete the project until June 15, 2004. Diane S. 2<sup>nd</sup> the motion. All Board members were in favor.**

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**Legislative Bill LD 2199 – Deals specifically with the definition of subdivision. A copy of the Affidavit to be filed with York County Registry of Deeds is attached.**

LD 2119 states in conclusion....”As amended by a majority of the Committee, by January 1, 2006, all municipal subdivision ordinances must mirror the state definition. Any municipality, at the time the bill takes effect, which has adopted a subdivision ordinance that is different from the state definition, must file its conflicting definition with the registry of deeds by June 30, 2003....”

Barbara G. stated that because the State does not count lots of 40 or more acres when reviewing subdivision and the Town of Shapleigh does, our definition must be filed with York County Registry of Deeds by June 30<sup>th</sup>. A copy of the Affidavit that will be filed was given to the Planning Board members to review. Steve

M., CEO, shall bring a notarized copy of this Affidavit to the registry prior to June 30, 2003. The town's definition is as follows:

**"Subdivision – As set forth in 30-A M.R.S.A. §4401. Lots of 40 or more acres shall be counted as lots. [Amended 3-10-1990 ATM by Art. 26]"**

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***Roger A. noted to the Planning Board members that prior to the next meeting there would be a final Public Hearing regarding the proposed zoning changes by the Planning Board. The meeting will take place at 7:00 p.m. on January 28<sup>th</sup>.***

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John C. made mention to the Planning Board that the Comprehensive Plan Committee would be mailing out a new survey to all residents regarding their thoughts on the future of Shapleigh. The Comp. Plan committee was hoping for a larger response than their original survey, which was not mailed out but given out at the town hall during auto registration and also placed on the table for people to pick up when they came to the town office.

Roger A., who was on the Comp. Plan Committee 10 years ago stated that they too sent out a survey but only had approximately 280 responses. The committee hoped for more at that time as these responses are used to develop changes in planning for the future of the town.

Diane S. asked if the committee would be looking at zoning changes such as an area for commercial lots? John C. thought this was one of the areas the current committee was looking at in detail.

Nothing further was discussed. The Comp. Plan Committee does hope to meet with the Planning Board in the near future to discuss this issue and others with the Board.

***The Planning Board meeting ended at 9:15 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

planningboard@shapleigh.net

## **SHAPLEIGH PLANNING BOARD MINUTES**

**Tuesday, January 28, 2003**

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes, Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (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 105-29, 105-47.C(3), 105-45 B(3), B(6) and B(12)**

Roger started the Public Hearing by reading the first proposed change to **Shapleigh's Subdivision Ordinance "Ordinance" § 89-20.B**. The changes are highlighted and are 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 asked if there were any questions and none were presented.

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Roger next read **Subdivision Ordinance § 89-15.A**, the changes are highlighted and are 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 asked if there were any questions. One citizen asked about the time frame, 90 days, what if York County Registry of Deeds lost the plans and they weren't returned on time? Roger stated that the developer knows that these plans, as directed per the Ordinance, must be returned otherwise the



plan becomes null and void. It is their responsibility to see that it does in fact get to the Town Hall within 90 days. This is not only required per Shapleigh's Ordinance but also the State of Maine Subdivision guidelines dictate this as the time frame to follow. Southern Maine Regional Planning Commission aided Shapleigh in creating the Subdivision Ordinance based on the States requirements. The citizen then stated that he felt 90 days seemed to be a fare amount of time to get the plans registered and returned.

There were no further questions on this item.  
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Roger then read the proposed change to Shapleigh Zoning Ordinance § **105-29. Explosive materials**. The changes are highlighted and are as follows:

**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.~~

Roger asked if there were any questions regarding these proposed changes. There were none.  
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Roger then read the proposed change to Ordinance § **105-47.C(3). Signs and billboards**, the changes are highlighted and are as follows:

**C. Nonconforming signs.**

- (1) Continuance. A nonconforming sign, lawfully existing at the time of adoption or amendment of this chapter, may continue although such sign does not conform to the provisions of this section.
- (2) Maintenance. Any lawfully existing sign may be maintained, repaired or repainted, but shall not be enlarged, except in conformance with the provisions of this section.
- (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 on the proposed change, there were none.  
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Roger then read the proposed change to Ordinance § **105-45.B(3) Planned unit development and cluster development**, the changes are highlighted and are as follows:

- (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:

- (a) No building lot shall have an area of less than 20,000 square feet.
- (b) All lots except those abutting a circular turnaround shall have a minimum frontage of 75 feet. The frontage of lots abutting a circular turnaround may be reduced to 50 feet, provided that the minimum lot width at the face of the building shall be 75 feet.

Roger stated to the citizens the reason for this change is to allow the developer more flexibility with respect to the road. It need only be a *proposed* road on the plan in order to proceed with the application, rather than an accepted road. Roger asked if there were any questions. None were presented.

The next proposed change was also to Ordinance § 105-45.B, under **Item (6)**, it is as highlighted below:

<b>Land Which May be Included as "Suitable Land" When Calculating Net Residential Density</b>				
<b>Excessively Drained, Well- Drained, and Moderately Well- Drained<sup>1</sup></b>	<b>Poorly Drained and Somewhat Poorly Drained<sup>1</sup></b>	<b>Very Poorly Drained</b>	<b>Slopes Greater Than <b>33%</b></b>	<b>Borrow Pits</b>

On public sewer:

100%	75%	40%	50%	67%
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Roger stated that the change was to add **33%** under "Slopes Greater Than" as this had been omitted from the previous Zoning book inadvertently. This was to correct this omission.

Roger asked if there were any questions. There were none.

Roger read the last proposed change to Ordinance § 105-45.B, under **Item (12)**, the change is highlighted and reads 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; 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.**

Roger stated that this change is to allow individual septic systems in a cluster subdivision as long as the system meets the States Plumbing Code standards. Roger asked if there were any questions. There were none.

***The Public Hearing on the proposed Ordinance changes was closed at 7:15 p.m.***

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**The Planning Board meeting started at 7:20 p.m.**

**The Planning Board minutes of Tuesday, January 14, 2003, were read and accepted as written.**

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

**Best Possible Location – Replace Existing Structure with New Construction w/ Expansion – Map 43, Lot 1 (135 North Shore Road) Silver Lake – Dina Picanco and Matt Wardle**

Dina Picanco and Matt Wardle were in attendance at the meeting to discuss their application. They stated that the existing camp was in extremely poor shape with the structure having a lot of rotten wood from the leaking roof. They presented the Board with pictures showing both the exterior of the structure as well as the interior. Both appearing to be in poor condition as stated.

The Board asked Ms. Picanco if she owned both Lot 1 and 1A, 1A being located on the other side of North Shore Road. She stated she did own both.

The Board reviewed the plan presented and John asked the applicants if they were requesting that the new building be closer to North Shore Road. They stated that they did want to move closer to the road by 10 or 15 feet but were also going to move the structure back from the high water mark by approximately 15 feet.

The Board asked if they were planning to put in a new septic system? There was concern that lot coverage would be an issue. The Board asked Steve M., CEO, if they would in fact be able to put in a new septic system? Ms. Picanco stated she did have plans attached to her application for a new septic system. Steve stated that they were able to put in a new system as the existing outhouse was considered an existing septic system and could be replaced.

Diane S. reviewed the square foot dimensions for the existing structure as well as the proposed structure. Diane noted that the existing structure contained 766 square feet and the proposed would have 1000 square feet. Diane stated that per Shapleigh Zoning Ordinance 105-4.D(1) "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. ..." Diane calculated that this structure could not be expanded more than 995 square feet. The other Board members agreed. The applicants noted this change and would build within these guidelines. Steve M. stated that he would not approve the building plans or give out a building permit unless the plans conformed to the ordinance.

Roger asked the applicants if they had the volume calculations. They stated they did not at this time. Steve M. stated that again they would have to have these prior to him issuing a building permit. The Board felt comfortable with Steve doing the calculations.

The Board concluded that the review of this application was to determine the Best Possible Location because the applicants were applying to move the building from its existing location. If they were not going to move the building, this would be solely under review of the Code Enforcement Officer.

Roger asked if the Board members had any further questions at this time for the applicants. There were none. ***Roger stated that a Notice to the Abutters would be mailed out prior to the next meeting and a site inspection would be conducted on an individual basis due to the sunlight constraint prior to the next scheduled meeting.*** Nothing further was discussed.

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**GROWTH PERMIT(S) – There are two available Growth Permits. All other applications will be kept on file until acceptance or the end of the year, whichever comes first:**

- 1) ***Approved #32-03*** - Map 10, Lot 10-A (Shapleigh Corner Road) – Michael T. Morris
- 2) ***Approved #33-03*** (seasonal conversion) - Map 17, Lot 15 (28 Old Loop) – Robert Dean Harris, Jr.

Steve M. had a question with respect to a Growth Permit that may come up for review in the future. This Growth Permit, Tax Map 11, Portion of Lot 23I, is located on Gander Drive. Gander Drive is a private road. The question is whether or not a private road constitutes road frontage? The Board stated that how the Growth Ordinance is written, as long as property has “road frontage” and meets all the other requirements, it will be approved. Madge then looked up the definition of road and it read as follows: “A route or track consisting of a bed of exposed mineral soil, gravel, asphalt or other surfacing material constructed for or created by the repeated passage of motorized vehicles”.

Both John C. and Madge B. expressed a concern that currently, by using the existing definition of road, the Board is not in a position to determine if the road is in fact passable. Perhaps the Board needs to request that the Road Commissioners ascertain if a road is passable and should constitute “road frontage”. The entire Board felt that if we had a set of road standards it would be easier to determine what a “road” is. Roger stated that in the past the Board was unable to get the Road Commissioners or townspeople to agree to a written set of “road standards”.

Diane S. asked if a road is “grandfathered” regardless of its condition? If a road is listed on the town map as a road, wouldn’t the Board have to agree it is road frontage? Also, if a “private” road needed to be brought up to town standards, who would pay for this upgrade? What type of cost would it be?

Roger stated that if a road is listed on the town map, the Board must consider it when reviewing road frontage. At this time, without a set of standards to follow, the road needn’t be upgraded.

John C. stated he would like to see a Growth Permit approval based on the road being up to a standard.

Nothing further was discussed at this time.

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#### **INFORMATION:**

1. **Minutes from Three Rivers Land Trust Public Meeting, dated January 8, 2003.**  
These minutes were distributed as requested by Madge Baker as information for the Board and to show the organization is interested in working with local planning boards with respect to “open space” in cluster subdivisions and stricter zoning provisions with respect to the existing Shoreland zoning ordinances. (Three Rivers is currently working with MDIFW to help the Planning Board and developer on the open space issue for the subdivision proposal on Rte. 11 known as Birchfield Place.)
2. **Memo from Phillip deMaynadier of MDIFW regarding Goose Pond Overlook Subdivision, responding to a question by Barbara Gilbride with respect to whether or not his dept. had been contacted by the developer.**  
MDIFW has been contacted by an engineer asking what must take place next with respect to the endangered species (Blandings Turtle) on the property located at Tax Map

7, Lot 5, owned by Northwoods Land Company of Maine, LLC. MDIFW will keep the Planning Board apprised of what develops.

3. **A reminder, please let Barbara know if you are interested in attending the MMA Workshop in Saco on Tuesday, March 4<sup>th</sup>. The information was given to you at the last meeting.**

4. **Memo from MDIFW regarding Birchfield Place / Morris Subdivision application.**  
MDIFW is working with Mr. Morris to possibly obtain the “open space” on this subdivision to be able to ensure the Edward’s Hairstreak butterfly habitat is managed properly now and in the future. Three Rivers Land Trust has also been contacted. *The Board is waiting to receive new plans from Mr. Morris prior to scheduling him for further review.*

5. **Memo from Roger regarding Kettle Pond Condos, i.e. changes within the interior of the cabins. Steve McDonough needs to know if these changes come to the CEO or the Planning Board.**

Steve McDonough was asked by a possible buyer of one of the Kettle Pond Condominiums, if they purchased a condo and wanted to put a set of stairs in to access the basement, would it be allowed and if so would it have to come before the Planning Board for approval? Barbara G. asked Roger A. his thoughts regarding this matter. Roger in a memo to Barbara stated that the original Conditional Use Permit for the cabins was approved per a plan, and that plan could not be altered in any way without coming back before the Planning Board for review. Roger further stated that by making sure the cabins stuck to the plan, the Code Enforcement Officer could ensure the project went according to what the Planning Board approved. Therefore, Roger felt no changes could be made without Planning Board approval.

During the meeting Roger reiterated the above and added that when the original Conditional Use Permit was being reviewed, things such as changes in siding, door locations, etc. had to come before the Planning Board. So in conclusion Roger felt that at this time any changes to the buildings must come before the Planning Board. Roger also stated that Mr. Hannon himself did not want there to be stairs from the first floor in the cabin to access the basement.

Steve M., stated to the Board that he did not have any problem with telling condo owners that they need to come to the Planning Board for review with any proposed changes. He did however want the Board to vote on this decision so it would be clear in the future.

John C. and Bill H. stated that they did not have a problem with condo owners making changes to the interior of the building with the approval of the Code Enforcement Officer, as long as these changes do not affect the footprint of the condo, i.e. anything external. They felt that normal interior modifications could be dealt with by the CEO.

John C. asked if the condominium owner needed to go to the Association prior to making any changes to the condo? Diane S., while reviewing the approval of the condominiums, stated, “Yes”.

Roger read Zoning Ordinance 105-73.B.2, which states, “No changes shall be made in any approved conditional use without approval of the change by the Planning Board”.

Bill H., John C. and Diane S. all agreed that a change to the interior of the condos was a building code issue, not a change to the original plans of the development; therefore, the code enforcement officer could review the proposed changes and approve or deny them.

Roger A. still felt that any changes to the subdivision needed to come before the Board, this gives a “heads up” to what is taking place in the subdivision. Roger still preferred they come to us.

John C. spoke about the covenants of the Association and that the covenants deemed the Assoc. the policing agent for changes within the buildings. He felt that the CEO was then to determine that these changes were to code. John made the motion that “if something is changed as a covenant or association guideline, then it must come before the Planning Board, if there is no change; it goes to the CEO for review”. Bill H. 2<sup>nd</sup> the motion. Vote was pending on more discussion of specifics.

Roger A. stated that the Board would need to be sure that “gray areas” were covered. One condo owner may want stairs, next all condo owners will want stairs. After that, they will all want to change the color the building, etc.

Madge B. stated that we should keep any decision regarding changes to the condos clear and decisive. The other Board members agreed. Madge made the statement “The Planning Board decides that the Planning Board does not need to review interior changes to the Kettle Pond Condominiums”. John agreed and made motion, Bill 2<sup>nd</sup> the motion.

Diane S. asked if something like a garage or shed were to be added to the property, would it come to the Planning Board? The other Board members stated that it would.

Roland Legere was at the meeting and he stated that the Planning Board must be certain that there are safeguards in place; that allowing a set of stairs be added to a condo would not lead to an additional bedroom, bathroom, etc. This additional room would allow more people to live in the condo, thus increasing the impact to the surrounding area having an adverse effect. In his mind, any amount of safeguards is not enough, but the Board needs to be very careful when making decisions on the condominiums. Roger agreed.

The Planning Board reviewed the subdivision approval for the condominiums. Diane S. read **#10 of Specific Findings**, which stated:

“Does 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/ or Code Enforcement Officer regarding all zoning or subdivision issues.***”

Diane and Bill H. stated that they felt this addressed the issue of changes within the buildings and again they both felt comfortable with the CEO addressing changes requiring permits within the existing condominiums.

Madge B. made the statement, **“The Planning Board, having reviewed the Findings of Fact and Approval of Kettle Pond Subdivision Application, have determined the decision does not require the Board to review proposed changes to the interior of the condominiums, these changes may go to the Code Enforcement Officer.”** John C. made the motion and Bill H. 2<sup>nd</sup> the motion. *All in favor.*

Nothing further was discussed.

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John C. shared with the Planning Board that he had spoken with his mother, who is on the Comprehensive Plan Committee, and she stated that the committee is considering small lots, i.e. as small as 20,000 square feet, to be allowed in what would be deemed “the village area”. John stated that he was very concerned about this with respect to housing both a septic system and well on the same property. He said that many areas in Shapleigh have soil that is not suitable to maintain both a well and septic in such a small area. He thought the Planning Board may want to address this with the Comp. Plan Comm. John did say that currently, lots this small are allowed in a cluster subdivision and mobile home park but there is central water and sewer so there is less concern with wells being contaminated. In addition, John stated that if this were put into place, the town may have to develop central sewage which would be extremely costly.

The Board members stated that they would like to meet with the Comp. Plan Committee prior to town meeting. Barbara G. will speak with the Comp. Plan. Comm. to arrange a meeting.

***The Planning Board meeting ended at 8:05 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

planningboard@shapleigh.net

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, February 11, 2003***

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes, Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was in attendance.

### **Planning Board meeting with Comprehensive Plan Committee**

The Comprehensive Plan Committee (C.P.C.) and the Planning Board members met at 6:00 p.m. to discuss proposed changes to the Comp. Plan.

The first item discussed was whether or not the Town should continue to keep seasonal conversions in the Growth Permit system along with new homes. This item has been brought to the attention of the Planning Board on several occasions by townspeople. It was concluded that with the increase in seasonal conversions over time, as more people retire and wish to live at their summer home year round, and with the trend of baby boomers wanting to live in a more rural area, thus converting their parents summer homes into year round residences, the seasonal conversion home should remain as part of the growth count. It was concluded by both Boards that these seasonal conversions have the same impact on town services as do new homes.

John C. brought up one problem with seasonal conversions, that being the fact that many of the camp roads are not up to a standard that allows emergency equipment in easily during the spring and winter months. Should these roads be addressed during the Growth Permit process? If so, the town would need a road standard guideline in the Zoning Ordinance to address this issue. There was much discussion with respect to all new buildings on non-town unmaintained roads. Should these roads have to be brought up to a standard prior to allowing a residence on them. Again citing problems with Fire and Rescue having the ability to safely maneuver in and out of these areas. Steve M., CEO, did not feel the town should make someone on a camp road bring the road to a town standard to get a building permit. He did feel that perhaps the town could require the person to get easements on the road so the town would have the ability to plow the road enabling safer access for fire and rescue vehicles. It was concluded more discussion needs to take place on this issue. In addition, a road standard, approved by the Road Commissioners, will need to be addressed in the near future.

The next issue was the proposal for one half acre lots in the four village areas. These lots would be 100' X 200' in size. Several Planning Board members felt lots this small could pose a serious problem with respect to housing both water and sewer. Should the soil be "just" adequate to house a septic system, and that system should fail, the town may need to step in and correct the problem with town water and/or sewer. Does the town have the ability to handle the cost of a project of this size? Bill H., citing the fact that the State feels half acre lots are an adequate lot size, did not have a problem with these small lots. Bill stated that if the building site did not pass a perc test then it could not be built on regardless. Roger A, John C. and Barbara G. still did not feel allowing lots this small was in the best interest of the town and the town's future. They would feel more comfortable with lots being a minimum of one acre or 200' X 200' in size. This would protect the town as well as the land owners. Madge B. mentioned that many of the lake properties are only a half acre in size currently. Roger stated, "Yes they are and the septic systems are failing creating problems for the lakes and the wells in the area." The question was asked if these small lots, as is the case in many lakefront properties, could have holding tanks instead of a traditional septic system? Steve M. stated that these holding tanks are necessary where there is an existing building and there was a problem with the system. It is not a preferred alternative as these tanks must be pumped on a regular basis. To conclude, half of the Planning Board members still did not feel ½ acres lots should be used in the village areas. The minimum allowed should be 1 acre or 200' X 200'.



Nancy Small, Vice Chair of the Comp. Plan Committee did state that when the C.P.C. was considering the idea of small village lots they were mainly addressing this potential for small businesses, not housing. Although housing would be allowed in the village. Bill H. stated that these small lots could probably accommodate lower income housing nicely. John C. did not feel the village area was the area to put low income housing. Instead this could be addressed better with a cluster subdivision. Roger mentioned that on page 11 of the Comp. Plan it did not differentiate between commercial or housing.

The next issue discussed was the promotion of cluster subdivisions as the preferred alternative to traditional subdivision. This allows an internal road as well as more open space around the subdivision, accommodating wildlife and/or recreation much better. John C. gave several examples of how cluster subdivision is addressed in surrounding towns. John stated that cluster subdivisions are mandatory in certain zones, for example what would be considered rural. In one town any subdivision over four lots must be a cluster subdivision, each lot being less than two acres in size but must count for three acres each, thus a total of 12 acres would be needed. In another town each lot must be less than two acres and must account for five acres, thus a four lot subdivision would need 20 acres total. These are both ideas Shapleigh should consider in the future. John further stated that these lots are usually 40,000 square feet in size or one acre. With this minimum size central water and sewer are not necessary. In addition, developers prefer the cluster subdivision because the road does not need to be as long as in a traditional subdivision requiring 200+ feet of road frontage per building unit. Both Boards concurred that cluster subdivision in the rural areas would be the development of choice and will be further considered while developing zoning overlays of the town. It was mentioned that there is a provision in the subdivision ordinance now that allows developers to create cluster developments and that they prefer not to as seen during past history.

Madge suggested several changes to the proposed plan. These changes are as follows:

## **POLICIES AND RECOMMENDED ACTIONS – LAND-USE GOAL**

### **Policy 1**

#### **Action B**

~~Adopt site plan review provisions requiring~~ *Require review by the Planning Board* of large-scale developments with consideration of the layout and impact of proposed projects.

### **Policy 2**

#### **Action B**

~~Encourage~~ *Consider requiring the* clustering of *subdivisions in rural areas* where they will reduce sprawl and promote efficient use of land; and *require clustering on prime agricultural soils*.

## **POLICIES AND RECOMMENDED ACTIONS – NATURAL RESOURCES**

### **Policy 1**

#### **Action D (Add)**

*Work toward establishing a Land Bank to purchase land with high-yield aquifers.*

### **Policy 2**

#### **Action A**

Apply “net area” provisions to other residential projects besides ~~Planned Unit~~ *Cluster* Developments.

### **Policy 3**

#### **Action I (Add)**

*Consider increasing the protection of lake quality by adding a 75’ buffer strip along all rivers and streams in the Mousam Lake and Square Pond watersheds.*

**Policy 4**

**Action B (Add)**

*Consider instituting a Land Bank to set aside funds to acquire open space.*

**Action C (Add)**

*Support work of the local land trust to preserve and protect open space and critical habitats.*

**Policy 9**

**Action B**

~~*Adopt new*~~ *Keep current* State Shoreland Zoning standards for timber harvesting and removal of vegetation.

**Policy 11**

**Action A**

Continue to identify important scenic vistas *and utilize existing information provided by local land trust.*

**ECONOMIC DEVELOPMENT AND REGIONAL COORDINATION**

**Policy 4**

**RECOMMENDED ACTIONS**

**Action A**

~~*Adopt site plan review provisions and buffering standards (See Action 2B and 2C under Land Use section).*~~ *(We have site review and buffering standards in existence.)*

**Action C**

~~*Exempt bed and breakfast establishments and day care from site plan review. (Conditional Use Permits still required.)*~~

Both the Planning Board members and Comp. Plan Comm. agreed with the above changes after a brief discussion on their merit.

The discussion on the proposed changes to the Comprehensive Plan closed at 7:15 p.m.

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**The Planning Board meeting started at 7:25 p.m.**

**The Planning Board minutes of Tuesday, January 28, 2003, were read and accepted as written.**

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

**Best Possible Location – Replace Existing Structure with New Construction w/ Expansion – Map 43, Lot 1 (135 North Shore Road) Silver Lake – Dina Picanco and Matt Wardle**

Dina Picanco and Matt Wardle were in attendance at the meeting to discuss their application. During the previous meeting the applicants showed pictures of the existing structure which appeared to be in extremely poor shape. During a site visit by the Planning Board the structure did appear to need replacement. In addition, the proposed location as shown on the plan presented did, in fact, appear to be the best possible location for the proposed new structure.

The Board reviewed the plan presented which showed the location of the existing camp, the distance between the existing cabin and North Shore Road, as well as the distance between the camp and Silver Lake.

The plan also showed the proposed new location which placed the new cabin approximately 15 farther back from the high water mark, and also places it 10 feet closer to North Shore Road.

Attached to the plan is a Subsurface Wastewater Disposal System application done by John E. Large, Site Evaluator, dated 7/27/02.

Roger asked the Board members if they had any questions after reviewing the material or from their site inspection. There were no questions.

Roger read a letter received by the Planning Board from abutters, Kenneth and Carol Webb. The letter stated that they were “thrilled to see that someone is going to fix up the structure that is there”.

Roger then reviewed Shapleigh Zoning Ordinance 105-4.D(5) “Removal, reconstruction or replacement” and 105.D(7) “Relocation” noting that the proposed location shall conform to all setback requirements to the greatest practical extent and the proposed septic, put in per the plan presented, shall meet the requirements of state law and the State of Maine Subsurface Wastewater Disposal Rules.

**Bill H. made the motion to grant permission to relocate and replace the existing structure per the plan presented. John C. 2<sup>nd</sup> the motion. All in favor.**

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There was no new business to discuss at this meeting.

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**GROWTH PERMIT(S) – *There are none available at this time, all applications will be kept on file until acceptance or the end of the year, whichever comes first.***

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**INFORMATION:**

- 1. Letter from Patrick Hannon regarding request for information, i.e. copies of all approved Growth Permits for 2003 and Minutes in which they were approved.**  
Roger read the letter received by Patrick Hannon to the Board.
- 2. Letter from Barbara Gilbride to Patrick Hannon stating that the minutes from January 28<sup>th</sup>, 2003 meeting cannot be mailed to him until approved on February 11, 2003. All other information requested has been submitted to Attorney Durwood Parkinson for review prior to mailing.**  
Roger read the letter written by Barbara to the Board.
- 3 Letter from Donald Kale, Bureau of Land and Water Quality, DEP, regarding Town Gravel Pit in the Shapleigh Town Forest.**  
Karl Robinson was present at the meeting to answer any questions the Board may have on this issue. Roger read the letter which concluded with the following statement:

“Based on the facts above the borrow pit does not require a permit under the Site Location of Development Act (38 M.R.S.A. Sections 481-490), the Shoreland Zoning Law (M.R.S.A. Section 483-A (1)) and the Erosion and Sedimentation Law (M.R.S.A. Section 420-C)....”

Mr. Robinson stated that this letter was the result of questions posed to the town by Mr. Patrick Hannon asking why the town was allowed to operate a gravel pit in the Resource Protection Zone. The Town asked Atty. Durwood Parkinson for direction in the matter and the Shapleigh Community Forest Committee (the trustees of the property the gravel pit is located on) contacted the State of Maine to see if they would require an engineering firm to do a study for this project, as suggested by Atty. Parkinson. The States reply, after receiving all the information necessary including the location of the gravel pit, size of the pit, and location of the pit in relation to the nearest water body, was written in the letter from Mr. Kale who works for the DEP (as cited in the above paragraph).

Mr. Robinson also stated that although the Shapleigh Community Forest put the land in Resource Protection, so that it would not be built upon, it does not fall under the state guidelines for Resource Protection so it was of no concern of the state that it was listed by the town as Resource Protection, according to Mr. Kale.

In conclusion, Mr. Robinson stated that as long as the gravel pit is used only for town business and does not exceed five acres in size, it may continue to be used without any state permits. (Mr. Robinson was referring to Title 38, M.R.S.A. Sections 481-490, of the Site Location of Development Act, which states that excavations less than 5 acres do not need a permit by the state.)

Bill H. asked Mr. Robinson if the town was liable if a person drove a four wheeler or dirt bike in the pit and got hurt? Mr. Robinson stated that he was not sure. Bill asked if the Community Forest had thought about putting up no trespassing signs? Mr. Robinsons stated that they did not because when they placed them on another piece of their property they were promptly torn down. Also, when they tried to block the entrance to the community forest with boulders, the dirt bikes and four wheelers made a trail around them. Mr. Robinson said that there did not seem to be any way to keep these vehicles from entering the property. Bill stated that he understood the problem and that it was town wide. *Bill still felt, however, that a sign stating the dangers of using the gravel pit would better protect the town with respect to liability should someone get hurt.*

Nothing further was discussed.

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Steve M., CEO, asked the Board if they were comfortable with the proposed zoning change to Ordinance 105-45.B(12) which would allow the option to have individual septic systems in a cluster subdivision, which could have lots as small as 20,000 square feet? The Board members concurred that they were comfortable as long as the soil is adequate. Also, it was noted that there is still the requirement of a central water supply, which helps to ensure water quality. Steve stated he was worried that a failed system could pose a problem to a neighboring property. Roger A. felt that if the soil in the area of the development was not of a good quality, the developer would still have to put in central sewer. This provision has not been removed from the ordinance.

John C. stated, speaking as a developer, it is easier and more cost effective for a developer to put in a cluster subdivision. If we allow individual septic systems in areas that are suitable, it would further encourage this type of development. John said that it is easier in many instances to find five good acres on a large parcel and cluster than try to put houses every 200 feet, some being in very poor soil, even though they may have two acres of land.

Nothing further was discussed on this subject.

***The Planning Board meeting ended at 8:00 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

planningboard@shapleigh.net

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, March 11, 2003***

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes, and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was in attendance. Attorney Durwood Parkinson was also in attendance.

**The Planning Board meeting started at 7:30 p.m.**

**The Planning Board minutes of Tuesday, February 11, 2003, were read and accepted as written.**

**(The meeting on February 25th was canceled because the Chairman and Vice-Chairman were unable to attend.)**

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

**14-Lot Major Subdivision – Preliminary Plan – Map 10, Lot 10A (State Route 11) – “Birchfield Place” – Michael T. Morris Applicant**

Mr. Michael Morris, the applicant, and Mr. Andrew Nadeau of Corner Post Land Surveying, Inc., acting as the applicant’s agent, were in attendance. Mr. Nadeau had mailed a new plan to all Board members which depicted 17.2 acres of Common/Open Space that was required by the Maine Dept. of Inland Fisheries and Wildlife to protect the endangered species on site known as the Edward’s Hairstreak butterfly. In addition, there is now 13 lots on the remaining acreage to review, ranging in size from 80,161 square feet to 117,712 square feet, instead of the original proposed 14 lots.

Mr. Nadeau stated to the Board that MDIFW had agreed to the open space as represented on this plan, and MDIFW, in conjunction with Three Rivers Land Trust and the Planning Board, is currently drafting language to protect this property. Barbara G. stated that she had a copy of the proposed language to be attached to the deed when the land is conveyed to the MDIFW. She said also that she was told Three Rivers Land Trust would be the entity overseeing the land to be certain it remained in its natural state. The language is currently being reviewed by the attorney’s for MDIFW. As soon as they have rendered a decision the Planning Board will be notified as well as Mr. Morris. Barbara told Mr. Nadeau she would get him a copy of the language that she has received to date. (She gave him a copy of the 1<sup>st</sup> Draft of the Findings of Fact for Birchfield Place which contains the conveyance language to date from MDIFW.)

John C. asked Mr. Morris where he intended to place the house that he received a Growth Permit for, on this piece of property. Would he be using the proposed Lot #13 for this home? John stated that Mr. Morris needed to be certain he placed this home within the area of one of the planned lots. John asked the Board if this home would make the subdivision a 12 lot plan? Roger stated “No, this still would have to be included as part of the subdivision since it is on the “mother” lot”. Steve M. stated that as long as Mr. Morris met setbacks and all building standards he would give Mr. Morris a building permit for this property. Steve felt that it was up to Mr. Morris to make certain the house was placed in the proper location to fit into the subdivision plan as presented.

The Board asked if the water holding tank for fire protection was still going to be placed in the cul-de-sac of the roadway. Mr. Nadeau stated, “Yes”. John C. asked if there would be covenants in the individual deeds for the properties stating that the owners would maintain the holding tank? Mr. Morris stated that he intended the road to become a town road and he expected both the road and tank to be maintained by the town. John C. stated that to become a town road, the townspeople must vote to accept the road. If they do not, then there needs to be something in writing as to who will maintain road and tank until such time the town will take this maintenance over. Bill H. concurred with John citing that in another subdivision the

Association has the responsibility to maintain the tank, but the town maintains the water level in the tank. John C. knew of the subdivision but stated that there was an Association to begin with, this proposed subdivision is not starting out with an Association. John C. still maintained something should be in the deeds stating that until the road is accepted by the town, the landowners would maintain the tank and roadway. This could be addressed in the form of a yearly fee, but that is up to Mr. Morris. Mr. Nadeau asked if the town accepts the road, would it also accept the maintenance of the tank? John C. and Roger A. felt that the town would either vote not to maintain both or accept both, however, they both agreed they could not speak in certainty for the townspeople.

John C. asked Mr. Morris if he was going to place new test pit locations on the final plans, since the existing lots are no longer in the same location in some instances as on the original plan? Mr. Nadeau and Mr. Morris stated they would have new test pit locations on the final plan. John reminded Mr. Morris that he would need a performance guarantee such as a bond or letter of credit for the proposed road.

Mr. Morris asked the Board if they thought he should have a pedestrian easement from the proposed road to access the common space. The Board stated that this would probably be the best way for MDIFW or Three Rivers Land Trust to access this land. Mr. Nadeau asked if the Board thought it would be a good idea to ask for an easement from the neighboring land held by Shapleigh Meadows Trust to access the common land from Route 11, since that is how people currently access this piece of property. Steve M. stated that whatever area is used for a right-of-way to access the common land, Mr. Morris must make certain that lot setbacks will still be in conformance. The setback is 50' from a right-of-way or 75' from the centerline regardless of whether or not it is a roadway. This needs to be taken into account when placing the location of the right-of-way in regards to the building envelope.

John C. asked Mr. Morris if he was going to have any street lighting? If so, the location of the lighting should be placed on the plan. Mr. Morris stated that he had not intended to put lighting in because of the butterfly, MDIFW had advised against it. The Board stated they did not require lighting, but again would only want it on the plan if Mr. Morris intended to have it in place.

Mr. Nadeau asked if the next plan he would present would be the Preliminary Plan. Roger A. stated "Yes". Mr. Nadeau asked the Board if they felt Mr. Morris could now go forward with the engineering of the road as depicted on this plan presented. Mr. Morris did not want to invest in the engineering of the property if the Planning Board felt more changes were necessary to the lot locations or road location. The Board members felt the lots as presented were in compliance with the subdivision and zoning ordinance. Mr. Nadeau stated he would return with the Preliminary Plans once the engineering was completed.

Nothing further was discussed.

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**After-the-Fact Amendment to a Conditional Use Permit – Grocery Store – Patrick Hannon – Map 7, Lot 3-2 (928 Shapleigh Corner Road)**

Mr. Hannon was present at the meeting to discuss his application. Roger A. asked Mr. Hannon to state the reasons for his application. Mr. Hannon stated that he was applying for this application because he got a letter from Steve M., CEO, stating that he was not in compliance with the zoning ordinance because he was selling beer and wine. Mr. Hannon stated that he did not agree with this letter, that in his mind he had a permit to operate a retail store and that he was doing just that. Roger A. stated that Mr. Hannon had a permit to sell boats and motorcycles, etc. at this location initially. Mr. Hannon's selling grocery items was a change in the Conditional Use, therefore, he need an amendment to the original Conditional Use Permit. This is why

Mr. Hannon needed to present this application. Mr. Hannon once again stated that “retail is retail” but that he would comply with what the Board required.

Roger A. asked Mr. Hannon if the store would be open to the general public. Mr. Hannon stated that anyone could purchase items from the store but he would not be advertising the store with a sign.

Roger asked Mr. Hannon what his hours of operations would be. Mr. Hannon stated that whatever was permitted for Kettle Pond Cabins. Barbara G. said that there were no hours for the cabins, they were always open. Mr. Hannon then stated the hours would be 8 a.m. thru 10 p.m., seven days a week.

Steve M. asked Mr. Hannon if there was a sprinkler system in the building? Mr. Hannon stated that there was none because it wasn’t required. The building did not have the square feet necessary for a sprinkler system. Mr. Hannon stated that he thought a sprinkler system would have been too expensive when the building was initially built, but now he has learned the water storage tank he placed on the property was in fact more money than a sprinkler system would have been.

John C. asked Mr. Hannon if the restaurant (Kelsey Lynn’s) would be opening this year? Mr. Hannon stated that it may because someone was interested in leasing the building. This is another reason he wanted this permit to sell beer and wine. Mr. Hannon felt this way people at the restaurant could purchase their beer or wine from the convenience store then drink it in the restaurant.

Bill H. asked Roger A. what ordinance the Planning Board needed to review for this application. Roger and John both stated Zoning Ordinance 105-73 “Conditional Use Permits” as well as the Basic Performance Standards.

The plan presented showed the Convenience Store area to be 16’ X 6’6” in size. Bill H. asked the other Board members if Mr. Hannon would be able to blow the walls out into the recreation area and expand the stores size without coming back before the Planning Board? John C. stated that he could not if the expansion was greater than 25%, noting Zoning Ordinance 105-73.B(1)(a) which reads in part, “floor space increase of 25%” which is referring to having to come before the Board with a substantial expansion. Steve M., reading 105-73.B, then stated that this only pertained to “A conditional use which existed prior to the effective date of this chapter...”. Since this permit was issued after this chapter was written, 105-73.B(2) applies which reads, “No changes shall be made in any approved conditional use without approval of the change by the Planning Board.” Thus no changes may be made to the approved application without approval; this includes a change in the size of a store.

Bill H. asked if an approved use / business was not in use for a period of one year, would the permit expire? Roger A. answered, “Yes”.

***Barbara G. stated that a Notice to Abutters needed to be mailed out. Roger A. further stated that since this was a business the Board would hold a Public Hearing at 7:00 p.m. at the next scheduled meeting on March 25<sup>th</sup>.***

Mr. Hannon asked if he needed to be present for this meeting. Roger A. stated he did not need to be present but there needed to be someone available at the meeting to answer any questions the public may have regarding his application. Mr. Hannon stated he would have his lawyer represent him on the 25<sup>th</sup>.

Nothing further was discussed.

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**Conditional Use Permit – Enlarge Existing Dock – Thomas & Barbara Hove – Map 26, Lot 26 (220 16<sup>th</sup> Street Loop)**

This application was tabled as neither Mr. nor Mrs. Hove was present. This application will be placed on the March 25<sup>th</sup> agenda and a letter will be mailed to the applicants to this fact.

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**OTHER:**

**Planning Board By-laws** – Please review to be certain they continue to reflect the Board's current policies. The Board members reviewed the By-laws as well as a memo received from Karla Bergeron, Secretary for the Board of Selectmen. This memo contained suggestions / questions for possible amendments to the existing By-laws. Ms. Bergeron used Maine Municipal guidelines for her comments. They were as follows:

1. Under 2.1.3 – The word Associate is in place of Alternate. Is it the Boards opinion that Associate should be used instead of Alternate?

***The Planning Board concluded that though both the word alternate and associate were interchangeable in their opinion, the majority of the members present felt the term alternate more adequately described the position. The "alternate" member is not required to attend all meetings; neither can they vote unless asked by the Chairman due to a lack of quorum, etc. The word associate may lead you to believe it is a member in training but also that this member has the same status as a regular member, which is not the case. To conclude the word "Alternate" will be the term of choice.***

2. Under 2.1.6 – Could the Fair Hearing Authority be used when the situation arises for a Planning Board member who needs to be removed? I use the Fair Hearing Authority when there is a grievance regarding General Assistance. The Fair Hearing Authority is comprised of three members who are appointed by the Board of Selectmen.

***The Planning Board concurred with Ms. Bergeron on this issue. They felt that the Fair Hearing Authority would be an impartial body, hearing all issues of the case before them, prior to making a decision of removal. "Currently the member in question could be removed by the Board of Selectmen after an advertised public hearing." The members agreed to adopt the Fair Hearing Authority as the decision making body with respect to removal of a member prior to the expiration of his/her term.***

3. Under 4.2.2 – Agenda should also be mailed to the Road Commissioners North and South and a copy of the agenda is given to the Board of Selectmen for their review. (Should this be added to the By-laws?)

***The Planning Board discussed this issue. Currently the Road Commissioners as well as the Board of Selectmen receive a copy of the Planning Board Agenda as a courtesy. The Board has no intention of stopping this practice. The Board did not feel, however, that this issue needed to become part of the By-laws as written.***

4. Under Meetings - Something that may be considered: Special meeting may be called at the discretion of the Chairman ***or upon the request of a majority of the Board***, provided, however, that notice thereof shall be given to each member and to representatives of the press at least 24 hours in advance and that no business may be conducted other than as specified in said notice.

***The Planning Board discussed this issue and Roger A. stated that since he has been Chairman there has only been one instance that there warranted a special meeting. He did not feel this item needed to be added to the By-laws but he also did not have a problem with adding it if the majority of the members felt it would be of value. The conclusion was, by a majority of the members present, that this item would be added as it gives more leeway with respect to how a special meeting might be called. Roger noted that a special meeting must only be used for discussion for the item it was intended for, however, unlike a workshop meeting the Board can make decisions and vote on that meeting as a scheduled Planning Board meeting.***

The above noted changes shall be made and copies given to each Planning Board member at the scheduled meeting on March 25<sup>th</sup>.

Nothing further was discussed with respect to the Planning Board By-laws.

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John C. asked Barbara G. to contact Mike Morris to be certain he has a valid purchase and sale agreement. The original purchase and sale agreement for the land being reviewed for Birchfield Place has probably expired. Barbara stated that she would contact Mr. Morris and tell him the Board needs a copy for their file.

***The Planning Board meeting ended at 8:50 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

planningboard@shapleigh.net

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, March 25, 2003***

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes, Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was in attendance.

### **PUBLIC HEARING started at 7:04 p.m. - After-the-Fact Amendment to a Conditional Use Permit – Convenience Store – Patrick Hannon – Map 7, Lot 3-2 (928 Shapleigh Corner Road)**

Roger started the hearing by asking Mr. Hannon to state once again why he was before the Board. Mr. Hannon stated that he was here to apply for a permit to run a convenience store in a room next to the Kettle Pond Condominium Administration Office. This store was open last year without a permit and he wishes to correct that. He also stated that he felt that he already had permission to operate a convenience store under a previous permit. He was told he did not in a letter from the Code Enforcement Officer. (Mr. Hannon disagreed with the Code Enforcement Officer's assessment of Shapleigh Zoning Ordinance 105-66 which states "no changes shall be made in any Conditional Use Permit without approval of the Planning Board" and took his grievance to the Zoning Board of Appeals. Mr. Hannon was denied his appeal. The Code Enforcement Officer then fined Mr. Hannon for continuing to operate a convenience store without a permit after being cited. Mr. Hannon appealed to Superior court on this matter. The court system ruled in favor of the Town of Shapleigh and as a result of that decision Mr. Hannon agreed to file a Conditional Use Permit to operate the convenience store in addition to a fine.)

Roger asked him the hours of operation and he stated they would be the same as the Kettle Pond Condo administration office, 8:00 a.m. thru 10:00 p.m., seven days a week.

Madge asked if there would be any changes to the exterior of the building such as more outdoor lighting, etc. Mr. Hannon stated that he did not have any plans to make any changes in that area. Mr. Hannon also stated that he was not going to make any changes to the interior of the building at this time. The convenience store would be located in a 6'6" X 16' long room as depicted on the plan, next to the administration office, opposite the laundry area.

Roger asked if there were any questions at this time. There were none.

The Public Hearing was closed at 7:10 p.m.

**The Planning Board meeting started at 7:30 p.m.**

**The Planning Board minutes of Tuesday, March 11, 2003, were read and accepted as written.**

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

### **After-the-Fact Amendment to a Conditional Use Permit – Convenience Store – Patrick Hannon – Map 7, Lot 3-2 (928 Shapleigh Corner Road)**

Mr. Hannon was present at the meeting to discuss his application.

The Board was reviewing this application because originally Mr. Hannon had a permit to sell boats, snowmobiles, tent campers, 4-wheelers, motorcycles and associated parts, Mr. Hannon's selling grocery items was a change in the Conditional Use, therefore, he needed an amendment to the original Conditional Use Permit. There would be no changes to the interior or exterior of the existing building. The convenience store would be located in an area as described above and shown on the plan submitted with the application.

Roger A. had asked Mr. Hannon during the meeting held March 11<sup>th</sup>, if the store would be open to the general public. Mr. Hannon stated that anyone could purchase items from the store but he would not be advertising the store with a sign.

Also during the meeting on March 11<sup>th</sup>, Zoning Ordinance 105-73.B(2) was reviewed as a reminder to Mr. Hannon, it reads, "No changes shall be made in any approved conditional use without approval of the change by the Planning Board." Thus no changes may be made to the approved application without approval; this includes a change in the size of the store or the items sold.

The Board asked Mr. Hannon if he would be adding any signage to the property. He stated he did not know at this time but would discuss it with Steve M., CEO, if he did.

Steve M. asked the Board if Mr. Hannon had a liquor license to sell beer and wine on the premises. They stated he did. It was good thru June 2003. The State issued it under the premise that Mr. Hannon had already received a permit for a convenience store from the Town of Shapleigh and since this was not the case the State wrote to Mr. Hannon telling him he needed to get an approved permit or his license would not be renewed. This is another reason he is before the Board at this time.

John C. asked if there were any public bathrooms with handicap access near the store location? Mr. Hannon stated, "Yes, there were two".

**Roger 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 per the plan presented, there shall be no change to the interior or exterior of the approved building.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***N/A, the building is not located within the Shoreland Zone.***
- 3) The use is consistent with the Comprehensive Plan. ***It is, the Comp. Plan encourages business to be located along Route 11 (Shapleigh Corner Road).***
- 4) Traffic access to the site is safe. ***It is, per the previously approved plan for this business location.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, per the approved building plan on file.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There are provisions per the previously approved plan at this location.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There is none generated by this activity.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***It has per the plan on file for this building.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are provisions per the previously approved plan for this building.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is per the approved plan for this building, which includes a water storage tank for fire purposes on site.***
- 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 outside of the approved building.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Bill made the motion to approve the After-the-Fact Amendment to a Conditional Use Permit to operate a convenience store with the following condition(s):

- 1) *The hours of operation shall remain the same as the office hours for the Kettle Pond Condominiums office, these being 8:00 a.m. thru 10:00 p.m., seven days a week.*
- 2) *The items to be sold in the convenience store area shall include dry goods, bread, dairy products, beverages (to include soda, beer and wine), and health care products. Any changes to these items shall have to come back for review by the Planning Board.*
- 3) *The convenience store shall be in an area 6'6" X 16' in size, which is located next to the current Kettle Pond Condominiums administration office. Any change in the location or size of store shall have to come back before the Planning Board for review.*

Diane S. 2<sup>nd</sup> the motion. All members were in favor.

Nothing further was discussed.

**Conditional Use Permit – Enlarge Existing Dock – Thomas & Barbara Hoyer – Map 26, Lot 26 (220 16<sup>th</sup> Street Loop)**

Mr. and Mrs. Hoyer were present at the meeting to discuss their application. Their application read as follows: "The primary reason for our application to enlarge our dock is to be able to keep our boat in the water. While water levels were down somewhat this summer (2002), by mid-August our boat, which is only a 16' aluminum boat, was resting on the sand with only the rear half in the water. At the farthest end of our existing 20' dock the water depth was 7.5 inches! It drops down to 47 inches at the 30' mark which would be quite adequate for our existing boat and for anything we would most likely upgrade to in the near future. It would be impossible to dock a larger or heavier boat at our current dock."

The applicants attached a sketch page to their application which showed the location of their lot in relation to Mousam Lake and the abutters, including the location of their dock in Mousam Lake. The sketch also showed in detail the size of the existing dock (4' X 20') as well as the proposed addition to it, being 10' X 12' in size (L-shaped).

The Board asked the applicants if any of their neighbors had a dock nearby? Mr. Hoyer stated there was one on the right side of their property facing the water, about 75' away. The Board asked if his proposed dock would extend farther out into the Lake than his neighbors? Mr. Hoyer stated, "No". The Board asked if this dock would be removed in the fall? The applicants stated, "Yes". Bill H. asked the applicants if this extra 10 feet of dock would impact the flow of traffic on the lake. The applicants stated it would not. Mr. Hoyer stated that the extra 10' would allow him to place a boat "in the water" instead of on a sand bar. Mr. Hoyer said that at about the 18' mark the depth in the water dropped off significantly.

The Board was reviewing this Conditional Use Permit under Zoning Ordinance 105-44.A(3)(a)[1], "Any structure, permanent or floating, shall require a conditional use permit from the Planning Board if it: Extends more than 20 feet from the bank of any lake, pond (and 10 feet from the bank of any river or stream);..."

Diane S. asked if the applicants needed a permit from the DEP? She referred to 105-44.A(1) "No causeway, bridge, marina, wharf, dock or permanent structure shall be constructed in, on, over or abutting on any great pond nor any fill deposited or dredging done therein without a permit from the Department of Environmental Protection." Steve M., CEO, who deals with the DEP with respect to permits required in the Shoreland Zone, stated that the DEP would not need to review this application.

Roger asked if there were any further questions, there were none. ***The Board will send out a Notice to Abutters and have a final review on this application April 8<sup>th</sup>.***

Mr. Hoye asked if he needed to be present at the meeting on the 8<sup>th</sup> and the Board said no, but if there were any questions from Abutters we would not be able to answer them and would have to postpone a final vote until Mr. Hoye could respond. Mr. Hoye stated he understood.

**4-Lot Subdivision – “Tranquil Breezes” – David Dubois & Linda B. Chadbourne – Map 11, Lot 10 (Newfield Road)**

Andrew Nadeau of Corner Post Land Surveyors was at the meeting to represent the applicants.

At this meeting a sketch plan was presented depicting a 4-lot subdivision on the Newfield Road. This division of land abuts a previously approved 4-lot subdivision owned by Grammar Ridge, Inc., of which Mr. Dubois and Ms. Chadbourne are co-owners along with their brother Michael. The entire piece of property was originally owned by Grammar Ridge, Inc. in 1994. At that time Grammar Ridge wanted to place a 10-lot subdivision on this property, but because of the cost of putting in an internal road, Grammar Ridge never pursued this option.

The Board upon initial review noted that both the last approved minor subdivision in 2002 and this subdivision proposal are located on the same lots proposed on the initial application in 1994. Though there was a transfer of property from “Grammar Ridge” to Mr. Dubois and Ms. Chadbourne, the Board felt that this may be a situation that they should review as a major subdivision since the location of property, lots, etc. have not changed from the 1994 application.

Steve M., CEO, also entertained and voiced the idea that it seemed the land transfer was done to circumvent the review under major subdivision by doing two minor subdivisions.

Mr. Nadeau stated, “Let’s put it all on the board, that’s exactly what they are doing but it is all legal.” We know 10 years ago they wanted to do a major subdivision but they couldn’t afford to do it.

Madge B. and Steve M. both stated that yes they could legally circumvent major subdivision *unless* that was their “intent”. Mr. Nadeau again stated that they were not doing anything illegal, they divided this property over eight years ago between Grammar Ridge and David Dubois/Linda Chadbourne.

Steve M. reviewed Shapleigh Subdivision Ordinance 89-13. *Compliance with major subdivision requirements.* which reads, “The Board may require, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision comply with all or any of the submission requirements for a major subdivision.” Steve affirmed this to mean the Board had the ability to require anything on a minor subdivision if it was deemed best for the health and welfare of the community. Madge B. concurred.

Mr. Nadeau said again that he did not feel this should be a major subdivision review. He stated that the applicants could have sold this parcel to someone from Massachusetts and they could be here with a minor subdivision application. Madge B. told Mr. Nadeau that the Board was representing the Town of Shapleigh and if the Board feels this is not a good way to develop this land then it has the authority to impart a more stringent review, i.e. major subdivision guidelines. John C. stated that the Board cannot review “who” is doing the development but what is best in this location.

Mr. Nadeau continued by saying that “we have two different ownerships doing two minor subdivisions that meet the state law requirements, over a five year period.”

John C. asked if Newfield Road was a State road? Roger A. answered, "Yes". John then asked if the applicants would need driveway permits from the State? Again Roger answered, "Yes". Mr. Nadeau stated he did not have the permits yet but when Mr. Michael Dubois was doing the first minor subdivision, he asked the State Highway Engineer if there would be a problem with these proposed driveways and the State said there would not.

Bill H. wanted some clarification on who owned this property and when. Mr. Nadeau stated that prior to his working at Corner Post Land Surveying, Grammar Ridge owned the entire parcel. He was not sure exactly who owned Grammar Ridge at that time. Mr. Nadeau thought that around 1993 they came to the Board with a proposed 10-lot subdivision. The Ordinance in 1993 as well as now requires an interior road to service these lots, so Grammar Ridge scrapped the project. Grammar Ridge then split the parcel between Grammar Ridge Inc. and David Dubois / Linda Chadbourne, and sat on it for 8 years. Two years ago Grammar Ridge (Michael and David Dubois) applied for a 4-lot minor subdivision and it was approved in February 2002. This current 4-lot application is owned by David Dubois and Linda Chadbourne as a separate entity from Grammar Ridge Inc.

Bill H. stated that it did appear that "they" were going to do the major subdivision they originally intended. Roger A. agreed. Roger stated that during the original application, because of the discussion during the review process with the applicant, the Board at that time (which Roger was a part of) thought the applicant would try to do two or three minor subdivisions down the road to avoid the internal road, fire pond, etc.

Mr. Nadeau stated once again that he did not think "they" were circumventing the law. He felt they were within their legal boundaries of subdivision law. Bill H. said that they would be circumventing if their "intent" was to do so. Mr. Nadeau said that he felt the intent of major subdivision was to prevent a major 10-lot subdivision to take place at one time without an internal road. This subdivision hasn't taken place all at one time.

Bill H. asked Mr. Nadeau, "Why do you suppose that that is?" (The requirement of an internal road.) Mr. Nadeau stated, "It's just the way the ordinance is created." Bill felt you create infrastructure so all those driveways won't come out onto a main road. Mr. Nadeau still insisted it had more to do with doing it all at one time than there being a problem with multi-driveways. Mr. Nadeau stated in this case the subdivision was happening over a period of six or seven years (in actuality it is more like two to three years, the first four lots were approved in 2002).

Bill H. speaking to the Board members said, "While working within the law what negative impact will this project have on Shapleigh by doing this project as presented, as opposed to reviewing it as a major subdivision?" This is what we need to look at.

Steve M. said that another issue to consider is when you have all the lots on the road you create back lots that no one can use because there is no access, i.e. no road frontage. Mr. Nadeau stated that there was road frontage on Abbott Mountain Road. The Board members laughed as this road at present can only be accessed with ATV's or snowmobiles.

Mr. Nadeau asked the Board if his client developed one lot every 5 years for 50 years, would they be circumventing the major subdivision ordinance? Barbara G. felt they would not since the return on their investment would be so long in coming it would not be an option for a developer, therefore no one would come to that conclusion. There is a big difference between 10 and fifty years.

Roger brought the Board back to the original subdivision application and how the Board at that time really felt an internal road was necessary. John C. stated that he did not like the ordinance requiring internal roads for over four lots. He felt the point here was whether or not the applicant was doing anything incorrect.

Madge B., "I think that Bill's previous question is good. We need to have a reason to review this as a major subdivision. We need to look at health and safety issues in addition to whether or not subdivision law is being broken."

John C. asked Mr. Nadeau if Mr. Dubois and Ms. Chadbourne would be willing to put a stipulation in their deed that there would be no building on the back lots, or further subdivision beyond this application? Mr. Nadeau said he could not answer for his client, he would have to discuss it with them.

Roger A. noted that there was also access to this lot from Gray Road. John C. stated road access wouldn't matter if the application put a restriction on further division in the deed. Bill H. questioned whether or not the Board could require the applicant to restrict further subdivision of the land in the future. He felt the Board had more legal right to use Ordinance 89-13, which clearly states we do have the authority to designate this as a major subdivision even though it is only being done four lots at a time, especially if they have done this to circumvent the major subdivision requirements. "If we have the authority to review as a major when this is what they are doing, this is the way to go."

John stated that he was not saying the Board add the stipulation for no further division but that the developer should do it. Bill H. stated that he did not see any reason why a developer would choose to do that. Madge B. furthered by saying it was not in the interest of the town to have them do it. The Board does not want to tie up the land. Bill concluded that it would be in the town's best interest to have the applicants do what should have been done initially. Then what they want to do with the rest of the land is up to them.

John C. said another option is to have them minimize curb cuts, i.e. one share driveway for two lots. Mr. Nadeau did not think Mr. Dubois would agree to that idea. Mr. Nadeau also asked how shared driveways related to public safety? Steve M. stated that less curb cuts can save lives because less traffic will be entering onto a main road in multiple locations. We (the Board) must also analyze the purpose of an internal road. One reason would be for safety issues.

Steve M. stated that it would be in the best interest of the town if the Board got legal council on this issue. The Board needs to find out what would be best so in the future the Board won't be told they were in error. The Board concurred to have the town attorney review the application as well as the Boards concerns prior to proceeding with the review of this application.

Mr. Nadeau stated he would have his client come to the next meeting because he could not make any decisions for him.

Roger A. concluded by stating that during the original application in 1994 the Board was going to require an internal road, a fire pond, and the review of the wetlands to be certain there wasn't an endangered species on site (since one has been found nearby in a similar environment). Roger felt that these items were still a concern today.

Barbara G. will send the necessary information to the town attorney. When she receives an answer from the attorney on this matter she will share it with the Board as well as Mr. Nadeau. Nothing further will be done on this application until that time.



Roger A. asked if the latest permit, known as the Maine Construction General Permit (MCGP) applied to this application. The Board concluded it did not because it dealt solely with the Shoreland zone. Barbara G. noted that MDIFW did tell her that the Goose Pond Subdivision may in fact require this permit.

Nothing further was discussed.

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**OTHER:**

**Planning Board By-laws**

The following amendments were added to bring the by-laws in line with what actually takes place presently before and after a meeting, they are as follows:

- 6.4 Notice of any decision, including the findings and conclusions/minutes, shall be sent by mail or hand delivered to the applicant, his representative or agent ***within time limits established within the current Shapleigh Zoning Ordinance and Subdivision of Land Ordinance.***
- 6.5 Decisions of the Board shall be immediately filed in the ***Town Office, shall become part of the Boards permanent record and shall be made public record in compliance with the Right to Know Law.***

***A proposed addition to the by-laws with respect to “reconsidering a decision” was tabled at this time. The Board is going to consider an ordinance for the Planning Board, to be voted on by the townspeople, before adding anything further. Madge B. will contact MMA to get their opinion on adding a “reconsideration” provision.***

The above noted changes shall be made and copies given to each Planning Board member at the scheduled meeting on April 8th.

Nothing further was discussed with respect to the Planning Board By-laws.

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***The Planning Board meeting ended at 8:55 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

planningboard@shapleigh.net

## **SHAPLEIGH PLANNING BOARD MINUTES**

***Tuesday, April 8, 2003***

Members in attendance: Roger Allaire (Chairman), John Caramihalis, Bill Hayes, Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was in attendance.

**The Planning Board meeting started at 7:30 p.m.**

**The Planning Board minutes of Tuesday, March 25, 2003, were read and accepted as written.**

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

### **Conditional Use Permit – Enlarge Existing Dock – Thomas & Barbara Hoyer – Map 26, Lot 26 (220 16<sup>th</sup> Street Loop)**

Mr. and Mrs. Hoyer were not present at the meeting to discuss their application. During the meeting on March 25<sup>th</sup>, Mr. and Mrs. Hoyer explained that their primary reason for their application to enlarge their dock was to be able to keep their boat in the water. When water levels are low in mid summer their small boat is resting on the sand with only the rear half in the water. Also, with the current dock, it would be impossible to place a larger or heavier boat in the water. The applicants wish to extend their current dock by 10 feet. The applicants attached a sketch page to their application which showed the location of their lot in relation to Mousam Lake and the abutters, including the location of the dock in Mousam Lake.

During this meeting Steve M., CEO, asked to see the sketch plan presented. The sketch showed in detail the size of the existing dock (4' X 20') as well as the proposed addition to it, being 10' X 12' in size (L-shaped).

Bill H. stated, after reviewing the sketch plan and the minutes from the previous meeting, he felt the additional 10 feet of dock would not interfere with navigation on Mousam Lake. In addition, there were no abutters present at this evening's meeting (abutters within 500 feet of the applicants property were notified of the applicants intentions and that the review would take place this evening) expressing concerns with this project.

Mr. Hoyer, on March 25<sup>th</sup>, stated that the extra 10' would allow him to place a boat "in the water" instead of on a sand bar. This was the reason for this application.

The Board reviewed this Conditional Use Permit under Zoning Ordinance 105-44.A(3)(a)[1], "Any structure, permanent or floating, shall require a conditional use permit from the Planning Board if it: Extends more than 20 feet from the bank of any lake, pond (and 10 feet from the bank of any river or stream);..." Steve M., CEO, had commented during the meeting on March 25<sup>th</sup> that DEP review was not required since this structure was a non-permanent structure, not attached to the shoreline.

**Roger reviewed Shapleigh Zoning Ordinance 105-44.C "Conditions of permit".**

- 1) The proposed activity shall not interfere with existing recreational and navigational uses, nor unreasonably alter scenic and aesthetic qualities. ***It shall not per the provided plan and information presented by the applicant during the Planning Board meeting on March 25<sup>th</sup>. The dock will be similar to those in the surrounding area.***
- 2) The proposed activity shall not unreasonably interfere with or harm the natural environs of any lake, pond, tributary, stream or river nor harm any fish or wildlife habitat. ***It shall not per the plan provided. In addition, this structure is not a permanent structure attached to the shoreline.***

- 3) The proposed activity shall not cause unreasonable soil erosion nor lower the quality of any waters. ***It shall not; the proposed dock addition shall not make any changes to the shoreline.***
- 4) The proposed activity shall not unreasonably alter the natural flow or storage capacity of any water body. ***It shall not; the proposed dock addition does not extend beyond the size of other docks in the area.***
- 5) The proposed activity shall not create or cause to be created unreasonable noise or traffic of any nature. ***It shall not; this is not to be used for commercial purposes and will not house any boat larger than what is normally found in the surrounding area.***

Roger asked if there were any questions or comments regarding Ordinance 105-44. There were none.

Roger 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 per the plan presented. In addition the dock is not a permanent structure and is similar in size to those in the surrounding area.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***It will per the plan presented. The dock is a non-permanent structure not attached to the shoreline but allows access to Mousam Lake.***
- 3) The use is consistent with the Comprehensive Plan. *N/A*
- 4) Traffic access to the site is safe. ***It is; the dock extension will not interfere with navigation due to the contour of the land and amount of dock length versus the width of the lake at this location.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *N/A, there are no changes being made to the land.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *N/A There are none generated by this activity.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A There is none generated by this activity.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *N/A, there are no changes being made to the land.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *N/A, no changes being made to the land.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *N/A (Dock 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. *N/A; there are no changes being made to the land. This is an extension to the existing dock, not in excess of those in the surrounding area.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

**Bill H. made a motion to approve the Conditional Use Permit to extend the existing dock 10’ X 12’.**  
**John C. 2<sup>nd</sup> the motion. All members were in favor.**

The following condition(s) apply:

- 1) ***The addition to the dock shall not exceed 10’ X 12’ in size.***
- 2) ***The dock shall not be a permanent structure.***

An approval letter shall be mailed to the applicants. Nothing further was discussed on this issue.

**OTHER:**

**Planning Board By-laws**

The Board reviewed the amendments to the Planning Board By-laws. It was decided that the by-laws would contain the following addition:

- 6.6 The Board may reconsider any decision at the same meeting or at a subsequent meeting within 30 days of its original decision, provided, however, that both a vote to reconsider and any action taken pursuant thereto shall occur and be completed within 30 days. Notice of any reconsideration shall be given to all interested parties in a reasonable time in advance of the reconsideration. The Board may conduct additional hearings and receive additional evidence and testimony.**
- 6.6.1 Reconsideration should be used for a record which contains significant factual errors due to fraud or mistake regarding facts upon which the decision was based; or when the Board misinterpreted the ordinance, followed improper procedures, or acted beyond its jurisdiction.**

*Diane S. made the motion to accept the amendments to the Planning Board By-laws as presented during the meeting on March 25<sup>th</sup> (with the above addition), John C. 2<sup>nd</sup> the motion. All members were in favor.* A copy of the By-laws will be given to each Planning Board member and the Board of Selectmen.

**Proposed Planning Board Ordinance**

Members reviewed the 1<sup>st</sup> draft of the proposed Planning Board Ordinance. There will be further discussion at subsequent meetings. Madge B. noted that email may need to be addressed, since this type of correspondence is being used more and more by members. Barbara G. stated that the Planning Board manual does address email and the Right to Know Law. She will reread that section and see where it may be applicable in the proposed ordinance. Madge will also do research in this area. Nothing further was discussed.

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Barbara G. mentioned to the Board that the Birchfield Place subdivision may not be proceeding at this time. Mr. Morris came to the Town Office and stated that unless he finds a partner on this project, it may not be feasible for him to proceed since the Growth Permits are all used up for this year and he would not be able to get a return on his investment in a reasonable time. Mr. Morris has not withdrawn from the project officially at this time however.

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The Board asked Barbara G. if she had heard anything about the Goose Pond subdivision proposal. She stated she had not at this time. About six weeks ago MDIFW had contacted her and told her they had been contacted by someone on this project with respect to the endangered species known as the Blandings Turtle that was located on the property. Since that time, there has been nothing further from either MDIFW or Craig Higgins (the representative for the project).

Roland Legere mentioned that there was quite a large population of Variable Milfoil found in Upper Goose and that this could be a problem if more people were to use the pond. If the Milfoil breaks apart and flows downstream it could eventually affect Goose Pond and Mousam Lake. Roland suggested that this needed to be reviewed if and when the Goose Pond Subdivision application comes back before the Board.

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John C. asked the Board members to review Ordinance 105-44(3)(b), "The Planning Board shall seek comment from the Dept. of Inland Fisheries and Wildlife (MDIFW) in evaluating such application." John asked if this should say "shall" or "may". For non-permanent docks the DEP declines for the most part from the review process, according to Steve M., CEO. So should the Board make it optional to send the review of non-permanent docks to MDIFW? Madge B. suggested the Board have Barbara G. contact MDIFW and see what they suggest regarding this ordinance. Do they in fact want to see all non-commercial non-permanent dock applications? Barbara will contact the dept. Nothing further was discussed.

***The Planning Board meeting ended at 8:25 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

planningboard@shapleigh.net

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, April 22, 2003***

Members in attendance: Roger Allaire (Chairman), Bill Hayes, Diane Srebnick, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was in attendance.

**The Planning Board meeting started at 7:30 p.m.**

**The Planning Board minutes of Tuesday, April 8, 2003, were read and accepted as written.**

**Roger had Madge Baker sit in as a regular member for John Caramihalis who was unable to attend the meeting.**

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

### **4-Lot Subdivision – “Tranquil Breezes” – David Dubois & Linda B. Chadbourne – Map 11, Lot 10 (Newfield Road)**

*The Board members received a letter from Attorney Durwood Parkinson after they requested information as to whether or not the Board has authority to review this minor subdivision as a major subdivision, if they felt it was warranted. Mailed along with their letter of request was a copy of the minutes of March 25<sup>th</sup> in which this subdivision proposal was initially discussed, a copy of the plans for this subdivision, copies of a previously approved four lot subdivision abutting this proposal as well as the initial major subdivision proposal of 10 years ago. (The major subdivision included the approved four lot subdivision of 2001 and the current proposal.)*

Present at this meeting representing the applicants were Mr. Michael Dubois, David & Linda's brother, and Andrew Nadeau of Corner Post Land Surveyors.

Roger A. started the discussion by asking if the members had received a copy of Atty. Parkinson's letter and they had. Barbara G. gave Mr. Nadeau a copy at tonight's meeting. Roger read from the letter the following paragraph:

“In this case, the case can be made that the impact of the two subdivisions, side by side, may involve issues of public health, safety and welfare. Specifically, there may be issues related to traffic, wetlands impact, wildlife habitat and open space preservation which would argue in favor of the more thorough review associated with a major subdivision application. I would recommend that the Board discuss these issues in detail and make a specific finding that public health, safety and welfare issues are involved and that pursuant to Section 89-13, major subdivision review is required.”

Roger stated that the Board would need to make specific findings of fact that major subdivision review was warranted, if the Board wishes to use major subdivision criteria. Mr. Nadeau asked whether or not the attorney ruled on anything specific with respect to a major subdivision review being warranted. The Board stated he did not. That was up to the Board to do. Roger told Mr. Nadeau that the Board did not ask Mr. Parkinson to do that as part of their request. The Board only asked if it was in their right to use major subdivision criteria.

Bill H. read the last paragraph of Atty. Parkinson's letter out loud, it read as follows:

"I would also note that portions of the abutting subdivision may also be considered within the "tract or parcel of land" under Maine Subdivision Law. While this does not mean that the previous subdivision must be reviewed again, it is further justification for considering the new proposal a major subdivision."

After reading this Bill stated that he felt the attorney did in fact recommend we review this as a major subdivision.

Mr. Nadeau asked if the attorney made any specific mention of what public health and safety were involved? Board members stated there were no specifics in the letter.

Barbara G. asked, "Wasn't the bottom line of the Board's question to the attorney, that we ask for an opinion that with any minor subdivision could we use major subdivision criteria, regardless of whose it is or where it is located, if the Board feels it is necessary? We are not just targeting this subdivision." Roger stated, "Right."

Mr. Nadeau read from Attorney Parkinson's letter and stated that the Board needs to make a list of the health and safety issues involved. Roger stated, "Right."

Mr. Dubois noted that the Dept. of Transportation had no issue with these proposed lots exiting onto the Newfield Road, when the question was posed to the DOT while they reviewed the first minor subdivision. Mr. Nadeau stated that the other issues, such as wetland locations, would be dealt with and submitted with the preliminary plan.

The members and Mr. Dubois reviewed the submitted 4-lot plan, which is the part of the same plan as presented 10 years prior. Mr. Dubois stated that during the original review in 1993, the Board was going to require Grammar Ridge to put in a fire pond but the land was such that it would not hold water. In addition, Roger said the Board noted during the site review, a very wet area existed on the property as well as some very steep terrain.

Barbara G. asked Roger and Mr. Dubois, "If with the original plan a fire pond was going to be required, why wouldn't this still be the case?" Mr. Nadeau stated that the soils wouldn't support one.

Mr. Dubois told the Board members that he was down to final plan back in 1993 when Mrs. Pillsbury, one of the Planning Board members, stated that in the major subdivision ordinance, an internal road was required. The Planning Board up until the final site inspection had missed that point. Roger concurred (he was also on the Board at that time). Mr. Dubois said that no major subdivision could have driveways entering onto the Newfield Road, since it is an arterial road. Because of this requirement, Grammar Ridge ceased to continue with the application. Barbara asked how this newly proposed plan differed from the major subdivision plan proposed 10 years ago? "If it's the same, just done in two phases, wouldn't it have the same requirements?" Mr. Dubois stated that Grammar Ridge (Michael Dubois & David Dubois) were doing the original 10 lot subdivision. Grammar Ridge did the first minor subdivision and his brother and sister (David Dubois and Linda Chadbourne) are doing this subdivision. "I guess that is the only difference." Mr. Nadeau said that at the time of the original subdivision proposal, Grammar Ridge was advised to split the entire lot into two ownerships to meet the 5 year subdivision requirements. "We developed the first site after five years and now we are doing this site."

Bill H., "It looks like incrementally this is becoming the plan submitted 10 years ago." Mr. Nadeau stated, "That's right, it's just not happening all at one time." Bill, "But the net affect is the same. So we would look at the subdivision code of 10 years ago as having a valid point or points as to why the Planning Board would require certain things, then we look at this plan as it appears today. This new plan is the same *without* the infrastructure to support it. That is my concern."

Mr. Dubois stated this was the way he was advised to go. The problem 10 years ago was the exits onto the street (Newfield Road). This land does not lend itself to an internal road. It is too steep.

Mr. Nadeau stated, speaking to Bill, "I hear what you are saying, the affect would be the same, 10 lots total. The only difference is it isn't done all at once." Bill said, "As a Planning Board member, what I have to look at is the validity of the infrastructure requirement, is it still true." Mr. Nadeau, "The only validity 10 years ago was that it was required."

Mr. Dubois stated the other requirement at that time was a fire pond. Bill asked, "From a safety perspective, if a fire pond was a good idea for a 10 lot subdivision back then, is it still a good idea for 10 lots today?" Bill furthered by stating that, "If you can't build a road in there and Newfield Road can handle the curb cuts then I don't see an internal road as an issue." Mr. Dubois said that the road issue is still a requirement of major subdivision review. Mr. Nadeau concurred.

Roger also brought up that during the review in 1993 there was the possibility of an endangered orchid on site. The Board reviewed the Map they had called "High Value Plant and Animal Habitats", dated 12/31/01, prepared by The Maine Natural Areas Program and noted both the Autumn Coral-root and Small Whorled Pogonia appear to be within 1000' of this piece of property under review. Roger said that during the review in 1993 there was a lot of skunk cabbage on site and other plants that were species the Board was told are usually found in the same habitat as the Pogonia. Madge stated that a Botanist could clearly indicate if any of these species were on site by looking at the habitat on site. This is how Patton Corporation discovered the endangered species on their property, the Small Whorled Pogonia. By reviewing the habitat, they new they needed to have a Botanist review the area. The Pogonia likes disturbed forest and some sloping land. Mr. Dubois stated that there were definitely slopes on this property.

Roger asked Barbara if MDIFW would normally review this habitat. Barbara stated, "Yes." Roger asked if she would contact them to see if they would do a site review. The Board agreed this would be best. Barbara told Board members that after reviewing this location she had already written to MDIFW and received a contact name if we wanted further review by that dept. She will contact the dept. tomorrow requesting more information.

Roger suggested the Board do a site inspection to determine whether or not a major subdivision review is a viable option. "I would prefer we not decide on a minor or major review until the Board members have more information." It is up to the Board however.

Bill stated, "I am not sure my feelings will change if I see the site. I am in favor of everyone being able to maximize their investment potential but I'm not in favor of incrementally arriving at major subdivision because the major subdivision was denied or not pursued a number of years ago. We have an opportunity to review this critically. Grammar Ridge also owns property on the other side of Abbott Mountain Road making a healthy opportunity for development over there. I think it should be developed, and the economic return should be granted to the owners for this property, but it should be done in a fashion that's consistent with our ordinances. I would be more than willing to make a motion to review this as a major subdivision because of those reasons. Because that is what this is becoming (a major subdivision). I will go and walk on the site but I feel pretty strongly at this point about it."



Madge B. stated, "The only problem I see is if they can't put in a road we may find ourselves in a bit of a bind, so I tend to go along with Roger and say let's go see the site before making a decision."

Roger told board members that the only alternative he could see at this location, to an internal road, was to develop Abbott Mountain Road. "There are multiple lot locations on Abbott Mountain Road that could be developed on this piece of property." Mr. Dubois felt that it would be too costly to develop this road as he did not feel it was even passable at this time. It was never a consideration. Diane S. stated that she has driven on this road with her car quite a ways in with little trouble, but did state the road would need improvement.

Bill asked Mr. Dubois and Mr. Nadeau if any road engineering had ever been done on the original plan 10 years ago, showing whether or not a road would be feasible? Mr. Dubois stated, "No, we didn't know until the last minute that a road would be required." Bill asked Mr. Nadeau how hard it would be to take a look at this from an engineering standpoint for a preliminary determination of whether or not a road could go in? Roger, who had done a site visit on the property in 1993, said that part of the property would not easily support a road. It would be very costly to put one in. It is very wet and has steep slopes. Both Mr. Nadeau and Steve M., CEO, stated that you can build a road anywhere, but you have to look at the cost.

Bill asked if there was an alternative on site that would be feasible, that would still allow an internal road, fitting the requirements? Roger stated that if Abbott Mountain Road were to be developed, even though it would have multiple driveways, it would meet the requirement since this road is not an arterial road like the Newfield Road.

Mr. Dubois stated again that the Abbott Mountain Road is all soft sand and not drivable. Mr. Nadeau concurred. Mr. Dubois asked if the town allowed a road to be a dead end? The Board didn't see why not as long as there was a turnaround at the end for fire and safety equipment.

Bill asked if there was a dirt road behind the existing approved four lot subdivision? Mr. Dubois stated, "No, there is a snowmobile trail." Bill then noted that developing Abbott Mountain Road would not help the lots exiting onto the Newfield Road now. Madge agreed but said that it would allow the developer to get a return on the property by developing lots on Abbott Mountain Road. "There is an advantage to the town to have lots on Abbott Mountain Road versus having them sprawled all along the Newfield Road, which we consider a commuter road."

Mr. Dubois stated that the back part of the parcel of land may be given to MDIFW since it is so steep. He did not like seeing homes on the sides of mountains. Steve stated that it is very possible that sooner or later this entire parcel will be developed. Madge stated, "Yes, but it would be spread out over time. Steve did not believe that certain parts of this parcel would *not* be developed." He felt the Board needed to look at all the possibilities while reviewing this subdivision. The Board agreed.

Bill asked Mr. Nadeau if he felt it would be an undue burden to ask Mr. Dubois to do a feasibility study, doing some engineering regarding the road, as well as reviewing this as a major subdivision? Both Mr. Nadeau and Roger stated that they felt a site review would answer these questions. They stated that putting a road in at this location would be very expensive.

Roger asked the Board members for a motion to either declare this a minor or major subdivision, or a motion to do a site inspection before making any further conclusions. ***Bill H. made the motion to do a site inspection. Diane S. 2<sup>nd</sup> the motion. All were in favor. The site inspection was scheduled for 6:00 p.m. on May 13<sup>th</sup>.***

Madge mentioned again that the Board needed specific findings before concluding on how to review the project. The Board concurred.

Roger also reminded the Board that we will contact MDIFW regarding the possibility of an endangered species on site. Until we have that information from MDIFW we probably won't be able to conclude how this project will be reviewed. The Board does not want the applicant to spend a lot of money on plans only to find they need to be changed. So not only will the Board do a site review prior to making any decision but the Board will wait until they hear from MDIFW. Mr. Dubois agreed with Rogers's summation.

Nothing further was discussed.

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**Conditional Use Permit – Replace Retaining Wall – Alan Durant – Map 44, Lot 31 (208 Silver Lake Road)**

Mr. and Mrs. Durant were present at the meeting. They explained they were before the Board to replace the existing retaining wall which was deteriorating, with a new wall made of stone and mortar. This new wall would be the exact same size and in the same location as the existing. The applicants had spoken with DEP and this was all that was allowed. A Permit by Rule application was filled out by the applicants and a copy mailed from the DEP to Steve M., CEO, but he has misplaced it. Steve concurred. Both Mr. Durant and Steve M., have contacted the DEP to receive another copy but the DEP have not located the file yet.

Mr. Durant asked the Board what type of vegetation he would have to plant behind the wall. Could he have a lawn? The Board stated he could have a lawn, use bark mulch, or Creeping Juniper which the Board feels works well. The applicants just need to be sure they do not use any fertilizer being so close to the water. Sometimes lawn is not a good choice because of its high maintenance and the need for fertilizer. The Board suggested the applicants may want to ask the DEP for their recommendations.

Steve M. asked the applicants if they had a backfill plan to present to the Board. They stated they did not at this time. The person they have hired to do the work hadn't given them anything but an estimated cost to complete the project. They stated they could ask for more information and bring it to the next meeting. Roger agreed that they should get a sketch plan for the project from the contractor for the file. The contractor was named Sol and the company was Affordable Stone Walls. Bill H. stated he knew of their work and it was excellent.

***The Board will do a site inspection between 6:30 and 6:45 p.m. on the May 13<sup>th</sup>. A Notice to Abutters will be mailed.*** Nothing further was discussed.

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**Amendment to a Conditional Use Permit – Pave Parking Lot – Stephen Quartarone – Map 18, Lot 28 (146 Emery Mills Road)**

Mr. Quartarone was present at the meeting. He stated that he was present because after the long winter and plowing up all the crushed stone in his parking area, he has decided he would like to pave part of the parking lot. Mr. Quartarone presented the Board with a sketch plan of the proposed area which included a paved area in front of the existing building as well as a roadway to the previously approved self storage paved area. This roadway will have a curve to it, which Mr. Quartarone hoped would serve to make traffic flow in one direction. In addition, Mr. Quartarone stated that a fence is going to be constructed to the right of the front building to keep traffic away from the propane tank.

Mr. Quartarone made a copy of a computer analysis of storm water runoff for each Board member. This analysis contained the existing lot coverage including buildings, the LP Gas pad, and existing pavement, as well as the proposed additional paved surface area. This documentation stated that the new surface was well within the 100 year storm statistics for York County, Maine.

Barbara G. asked Roger if a Public Hearing was required. He stated it was not because there was not going to be a change in the business conducted on site. A Notice to Abutters will be mailed out.

Diane S. asked Mr. Quartarone if he was selling U-Haul trailers now? She reviewed his Conditional Use Permit file and did not see U-Hauls listed. Mr. Quartarone stated he was renting U-Hauls and did not know he needed a permit to do so. He would apply for this permit. In addition, he stated that he was going to open a sausage vending unit, similar to the approved donut sales unit currently approved on site. He would apply for both the permit to rent U-Haul's along with the sales of sausages. The Board said this was o.k.

Bill H. asked Mr. Quartarone about the temporary sign housing he had on site. Did he have a permit for it, and if not why wasn't it removed? Bill referred the Board to Zoning Ordinance 105-47(12) "Mobile signs, such as those mounted on a movable chassis (with or without wheels), may be displayed for up to 15 days at a time, and no more than two times in any twelve-month period."

Mr. Quartarone stated that he did not have a permit and Steve M., CEO, had already told him to remove the sign. Mr. Quartarone removed all the letters on the sign so it is now a blank structure and he felt no longer a sign. He did plan on getting a temporary sign permit when he used it for advertising again. Steve M. did not have a problem with the structure being in its current location as long as it was not advertising anything (did not contain any lettering). Mr. Quartarone stated the structure was very heavy which is why he left it where it is, since he planned on getting a permit to use it this summer. Bill felt strongly that it was still a sign. Mr. Quartarone stated he would move it to the back of the building while he wasn't using it if the Board wanted him to do so.

Roger, after reviewing the presented Storm Water Analysis plan, said that the plan criteria presented was 4" of rain over a one hour period. Roger stated the Shapleigh area requires a 6" calculation over a 24 hour period as determined by the York County Soil and Conservation criteria. Mr. Quartarone stated that he would have the plan revised. He further stated that he felt that the latter calculation would only prove to go in his favor as it was not as stringent. Roger agreed.

Mr. Quartarone asked if there was anything else the Board felt would be required or that would cause disapproval of his application? He wanted to know if he could move the crushed stone while he had the equipment on site this week. He did not want to do so if the Board foresaw any problems. There were none presented by the Board, but Roger noted that he could not make any conclusions until after any concerned abutters to the property were heard. If Mr. Quartarone prepared his property for paving he was doing so at his own risk. If the application did not get approved he would have to put the gravel back in place. Mr. Quartarone stated he understood.

Nothing further was discussed. ***A Notice to Abutters will be mailed.***

**Possible Zoning Changes for Town Meeting 2004 – Review 105-47. Signs and billboards; and 105-44(3)(b)**

The following changes are presented for review:

**105-47. Signs and billboards.**

- A. General. Billboards are prohibited in the Town of Shapleigh in all zones. The following provisions shall apply to signs in all districts where permitted:
- (1) ~~A maximum area of 32 square feet per sign, with up to two signs permitted per premises, shall be permitted.~~ Double-sided signs with equal and parallel sides would be counted as a single sign, with each face having no more than 32 square feet in area. [Amended 3-12-1994 ATM by Art. 41]
  - (1) **Any non-residential use may display a sign, affixed to the exterior of a building or free standing. However, only one free-standing sign shall be permitted per lot and one sign affixed to the building per use. No free standing sign shall measure larger than 32 square feet in area.** Double sided signs with equal and parallel sides would be counted as a single sign, with each face having no more than 32 square feet in area. . [Amended 3-12-1994 ATM by Art. 41]
  - (2) (Reserved)<sup>5</sup>
  - (2) **There shall be only one sign attached to the building allowed per non-residential use, each sign not to exceed six (6) square feet in area. The combined size of attached signs shall not exceed 25 percent of the total frontal facade area of the building or storefront.**

Barbara G. stated that the above proposal was to allow businesses such as strip malls to be able to carry a small sign for each business. “Currently we only allow two signs per building, which does not work for businesses housing three or more vendors.” Barbara asked each Board member to review the proposed changes and if more changes in verbage are required feel free to bring that up at the next meeting. Madge stated that she would reread the proposed changes and see if she felt any additional changes were required. The other Board members felt the change was a necessary one.

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**105-44(3)(b)**

- (b) The Planning Board ~~shall~~ **may** seek comment from the Department of Inland Fisheries and Wildlife in evaluating such application.

Barbara G. had contacted MDIFW, at the Board’s request, asking whether or not they wished to review all applications for non-permanent docks over 20’ in length. Their reply was:

“The fisheries and wildlife divisions do not feel it is necessary for us to review **all** applications for non-permanent docks over 20’ in length. However, the fisheries division may be concerned about exceptional large or unusual dock systems that might significantly impact navigation. In addition, in the event there is an unusual application where the Town feels they need some additional MDIFW guidance then feel free to contact us at the regional office in Gray.”

The Board concurred with the proposed change. Thus the above change to Ordinance 105-44(3)(b) will be presented to the townspeople in March 2004.

**GROWTH PERMIT(S) – There were two available Growth Permits. *All other applications will be kept on file until acceptance or the end of the year, whichever comes first:***

- 1) ***Approved #24A-03*** (seasonal conversion) - Map 7, Lot 3 (938 Shapleigh Corner Road) – Kettle Pond Condominiums, Unit #1 – Patrick Hannon
  - 2) ***Approved #27A-03*** (seasonal conversion) - Map 7, Lot 3 (938 Shapleigh Corner Road) – Kettle Pond Condominiums, Unit #2 – Patrick Hannon
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**OTHER:**

**Planning Board Ordinance – Discussion regarding email use.**

Madge B. had originally thought the subject of email might be added to the proposed Planning Board Ordinance. After further consideration, Madge thought email might best be addressed in the Planning Board By-laws. The Board agreed.

Madge presented a copy of an email from Maine Municipal Assoc. regarding their thoughts on this subject, to the Board members. Madge stated she would use this information to try to come up with a sentence regarding email for our by-laws. (Barbara gave a copy of this email to the Board of Selectmen for their information as well.)

***The Planning Board meeting ended at 8:50 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

planningboard@shapleigh.net

**SHAPLEIGH PLANNING BOARD MINUTES**  
**Tuesday, May 13, 2003**

Members in attendance: John Caramihalis (Acting Chairman), Bill Hayes, Diane Srebnick, and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was in attendance.

**There were two site inspections prior to the meeting, starting at 6:00 p.m.:**

◆ **4-Lot Subdivision – “Tranquil Breezes” – David Dubois & Linda B. Chadbourne – Map 11, Lot 10 (Newfield Road)**

Members Madge Baker, Bill Hayes, Diane Srebnick, and Barbara Gilbride, as well as Code Enforcement Officer Steve McDonough met on site. Also in attendance was Andrew Nadeau of Corner Post Land Surveyors as well as Mr. Michael Dubois, representing the applicants.

The Board members walked on the proposed Lots #1 and #2, followed the snowmobile trail behind the proposed lots and walked to Abbott Mountain Road. The area was wooded with pine, and the undergrowth consisted of low bush blueberry and other various ground cover you would find in a sandy soil. The back side of these lots was on an incline but did not appear to be extremely steep in nature. The ground was dry on the lots as well as the snowmobile trail. Abbott Mountain Road did have a lot of water, resembling a small stream running on it, which caused some washed out areas.

Madge Baker, who was familiar with the endangered species known as the Small Whorled Pogonia did not see any evidence on site of the species. In addition, the area where the lots were located did not appear to be the type of area that would be favorable for the species. (The species of plant mentioned above has been located on property directly adjoining this property.)

Members Barbara Gilbride, Diane Srebnick and Madge Baker noted that the snowmobile trail was dry and not extremely steep making it a possible location for a roadway to access the back of the proposed lots instead of having the driveways all enter onto the Newfield Road.

Members left the site at approximately 6:45 p.m.

◆ **Conditional Use Permit – Replace Retaining Wall – Alan Durant – Map 44, Lot 31 (208 Silver Lake Road)**

Members Madge Baker, Bill Hayes, Diane Srebnick, and Barbara Gilbride, as well as Code Enforcement Officer Steve McDonough met on site. Mr. and Mrs. Durant were also on location as well as the contractor, Sol, from the company Affordable Stone Walls, who was hired to replace the retaining wall. He was available for any questions the Board members might have.

The members viewed an existing wall which in places were either falling down or had become part of the existing landscape, allowing dirt to wash over the wall and toward the lake. The existing wall was made of stones and mortar, with a narrow set of stairs in the center. Much of the mortar was missing.

The contractor to be used stated that he would be using the existing stones to rebuild the wall, adding new mortar and disturbing as little of the existing vegetation as possible. The Board asked if any of the existing trees would have to be removed and he stated they would not. He would place the new wall where one exist now; behind one of the existing trees on the right (facing the cabin); or place some stones in front of the existing tree to the left (facing the cabin) to support the tree and stop the erosion around it but would not disturb the roots of the tree. The Board asked if there was DEP

approval of this project and Mr. Durant said yes, he had applied for a permit last year and a copy was mailed to the CEO.

The site visit ended at approximately 7:10 p.m.

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**The Planning Board meeting started at 7:30 p.m.**

**The Planning Board minutes of Tuesday, April 22 2003, were read and accepted as written.**

**Roger Allaire was unable to attend, therefore, John Caramihalis was acting Chairman.**

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

**4-Lot Subdivision – “Tranquil Breezes” – David Dubois & Linda B. Chadbourne – Map 11, Lot 10 (Newfield Road)**

*Mr. Dubois and Mr. Nadeau were not prepared to discuss their application further this evening. In light of this, the application was tabled until Tuesday, May 27<sup>th</sup>.*

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**Conditional Use Permit – Replace Retaining Wall – Alan Durant – Map 44, Lot 31 (208 Silver Lake Road)**

Mr. and Mrs. Durant were present at the meeting. Because John C. was unable to attend the site inspection he asked the applicants to briefly explain what they were requesting the Board to approve. They explained they were before the Board to replace the existing stone and mortar retaining wall which was deteriorating, with a new wall made of stone and mortar. This new wall would be the exact same size and in the same location as the existing.

Diane S. asked if their application for a Permit by Rule from the DEP had been found yet? Diane told John that the applicants stated they did apply for the permit and a copy was mailed to Steve M., CEO, but he had misplaced it. Steve concurred. Mrs. Durant stated that they have contacted the DEP three times to request a copy of their permit. They were told they would receive one, but have not to date. John C. stated that he felt the applicants should produce a copy of the Permit by Rule application prior to starting any work on the project. The Board concurred.

John C. asked if there was a plan drawn to the specifications of what the job would entail. The applicants did have a sketch of the wall that is currently in place but did not have a sketch of the proposed wall, i.e. the exact length of the wall, nor any backfill specs. Bill H. stated that he spoke with the contractor on site and felt that the wall would be built correctly and in addition would stop the erosion problem that now exist on site. John still felt that a sketch of the exact size of the proposed wall should be presented to Steve M., prior to work beginning on the project. He felt this should be a condition of approval.

John C. asked what the height of the wall would be. Mr. Durant stated, “3 feet high”. John asked if steps were part of the existing wall and if there would be steps in the new wall. Mr. Durant stated that there were steps there now but they were very narrow and high, making them hard to use for some people. He would like to put in a set of steps that were to code with respect to the rise, as well as wider than what exist currently. Steve M., CEO, stated he could change the steps to make them to code but he could not go any closer to the high water mark than the existing stairs. They could bring the stairs back into the existing embankment farther if they needed to.

Diane asked what type of vegetation, if any, would be placed behind the new wall. Mrs. Durant stated the existing lawn and flower bed would not be disturbed by this project according to the contractor. There would be minimal impact. There may be some lawn that needs to be added or a few flowers. Also there is some concrete in place that holds the existing flower bed in place and that is not going to be disturbed.

**John 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 protect the fish and aquatic life by reducing erosion.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***It will, the new wall will keep the current vegetation in place, which will prevent erosion, and the wall blends well with others in the surrounding area.***
- 3) The use is consistent with the Comprehensive Plan. *N/A*
- 4) Traffic access to the site is safe. *N/A*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *N/A, there are no changes being made to the land.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *N/A, there is none generated by this activity.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A, there is none generated by this activity.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *N/A, there are no changes being made to the land.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are, the applicants shall use the best practices to include silt fencing while work is being done.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *N/A (The property is on Silver 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. *N/A; there are no changes being made to the land. This is a replacement of an existing stone wall, much like those in the surrounding area.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

**Bill H. made a motion to approve the Conditional Use Permit to replace the existing stone wall with the following conditions:**

- 1) **A copy of the DEP Permit by Rule will be presented to the Code Enforcement Officer prior to any work being performed.**
- 2) **A sketch plan depicting exactly what work will be performed on site, to include the size of the new wall, shall be presented to the Code Enforcement Officer as well as a copy given to the Planning Board Secretary for the file, prior to any work being performed.**
- 3) **New vegetation behind the new wall shall be planted by September 1, 2003.**

**Diane S. 2<sup>nd</sup> the motion. All members were in favor.**

**Note: A Notice to Abutters was mailed out.**

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**Amendment to a Conditional Use Permit – Pave Parking Lot – Stephen Quartarone – Map 18, Lot 28 (146 Emery Mills Road)**

John C. stated to the Board members that during review of Mr. Quartarone's previous application for a storage building, he stepped down from the Board review, since he worked for the company that built and sold the storage building. He felt he could be impartial during this review as it was a separate issue but would also step down if the Board members felt it was necessary. Diane S. stated that since this application had nothing to do with the storage facility, she felt John sitting in on this review was not an issue. Barbara G. and Bill H. concurred.

Mr. Quartarone was present at the meeting. A Notice to Abutters was mailed for this application. Presented along with the application is a sketch plan depicting the proposed area to be paved as well as the existing buildings on site and current parking area.

John C., who was not present at the last meeting in which the Board discussed this application, reviewed the material on file. Mr. Quartarone presented the Board with a new computer analysis of storm water runoff to each Board member, which was requested at the last meeting on April 22<sup>nd</sup>. This new analysis depicted a 6" calculation over a 24 hour period, which is the criteria as determined by York County Soil and Conservation Commission. This new calculation showed that the property was within the limits allowed for the area with respect to storm water runoff. John asked where this calculation came from, i.e. the paperwork presented. Mr. Quartarone stated that he used information on the internet from North Carolina State University.

John also looked at the current lot coverage with respect to buildings on site and it was calculated to be 7.6% which is within the limit of 10% (Shapleigh Zoning Ordinance 105-18. Dimensional requirements. Maximum lot coverage (by structure) = 10%). The area to be paved would create an additional 12.6% of lot coverage. John noted that currently under the definition of Lot Coverage, "The percentage of the plot or lot covered by all buildings." the pavement does not have to be considered in the lot coverage calculation.

John asked Mr. Quartarone if the proposed paved area was going to be for parking or just an area to turn around in? Mr. Quartarone stated it was an area to turn around, as well as a roadway to direct traffic to the storage facility. Mr. Quartarone furthered by stating that there would be a curve to the paved roadway hopefully directing traffic in one direction around the storage building so traffic would flow smoothly.

John asked how wide the road would be? Mr. Quartarone stated it would be 12' wide, enough for one vehicle to pass on. Mr. Quartarone said that the surrounding area is dirt and if two vehicles needed to pass one could go onto the dirt without a problem. There was more than enough room.

John asked Mr. Quartarone if he was going to use directional arrows for the self storage building? Mr. Quartarone stated he would place some on the property if the Board requested it.

John asked if there were any questions by the Board members for this application. There were none.

**John C. 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 per the plan presented and it is not in the Shoreland Zone.***
- 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 businesses located along Rte. 109.***

- 4) Traffic access to the site is safe. ***It is, there is a median strip to direct traffic on and off the site. Site distance calculations are within those allowed per the Zoning Ordinance, approved on a previous C.U.P. for this property location.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, the site design was approved on a previous CUP. In addition there have been no issues in the past and the site is lower than the surrounding area, keeping all water on site.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***N/A, there are none generated by this activity.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***N/A, there is none generated by this activity.***
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***An analysis of Storm Water Runoff was presented and shows the site to be within the limits addressed by York County Soil and Water Conservation Standards.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are no changes being made that would create soil erosion.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***N/A (Mousam Lake is located across the road from this property.)***
- 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. ***This project will reduce dust on site and be esthetically pleasing.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

**Diane S. made a motion to approve the Conditional Use Permit to add additional paving on site in front of the existing 4000 sq. foot building as well as a 12' roadway to the storage facility. Bill H. 2<sup>nd</sup> the motion. All members were in favor.**

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**Conditional Use Permit – Replace Retaining Wall – Jason Pohopek representing Barbara McKenney – Map 44, Lot 20 (4 Camp Road)**

Jason Pohopek was present to represent Mrs. McKenney. Along with the application, presented was a detailed plan showing the location of the existing walls as well as the proposed walls. In addition, a copy of the Permit by Rule application, dated 8/20/02 by the DEP, was attached.

Mr. Pohopek spoke to the Board about the proposed plans. He stated that Mrs. McKenney wished to replace the existing 5' wooden retaining wall with a 4' block wall (wall closest to the high water mark), and the existing collapsed 4' wooden retaining wall with a 4' block wall. Mr. Pohopek stated that both these walls needed to be at least 4' high in order to make the 8 foot rise of the land. Site elevations were also shown on the plan.

Mr. Pohopek stated that the soil needed to be removed behind the existing walls, as well as the wooden walls (most of one wall is collapsed). The Board asked if the steps in the diagram would remain where they are. Mr. Pohopek stated they would.

The plan presented for this project showed a cross section of the proposed new wall(s). In this cross section depicted was 4' geosynthetic reinforcement behind the walls, 4" perforated pipe wrapped in filter fabric for drainage, and a brochure depicting Anchor Diamond Pro Retaining Walls to be installed per the installation manual supplied by Genest Concrete. Also shown on the plan was the proposed location of silt fencing to be used during the project.

The Board members had no further questions at this time. ***A site visit was scheduled for Tuesday, May 27<sup>th</sup>, at 6:15 p.m. A Notice to Abutters will be mailed out prior to that meeting.***

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**Question from Steven McDonough, CEO, regarding Cliff Randall Subdivision**

Steve M., CEO, asked the Board if road frontage had to be continuous in order to meet the 200' road frontage requirement? I.E., A parcel that was u-shaped, having it's front lot line divided by a parcel in the middle of the property. The Board, after reviewing the definition of 'frontage, street' "The horizontal distance, measured in a straight line, between the intersections of the side lot lines with the front lot line.", concluded that as long as there was a total of 200' between the side lot lines, it would qualify for road frontage, even though the front lot line was intersected by another lot. A front lot does not need to be continuous as long as the total road frontage between the side lot lines totals 200 feet.

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**Amendment to a Conditional Use Permit – U-Haul Truck Rental & Food Concession Trailer – Stephen Quartarone – Map 18, Lot 28 (146 Emery Mills Road)**

Mr. Quartarone attended the preliminary review.

John C. asked Mr. Quartarone if the U-Haul was an accessory to the approved mini storage facility on site? Mr. Quartarone stated, "Yes". John asked Mr. Quartarone if the concession trailer was going to be operated and owned by an independent contractor? Mr. Quartarone stated, "No, my daughter will be running it and I will own it". John asked if this trailer was similar to the approved concession trailer owned by the donut sales lady on site?" Mr. Quartarone stated, "Yes, this is a mobile unit."

Steve M., CEO, asked if this concession trailer needed State permits? Mr. Quartarone stated that it did and he had already filled out the necessary paperwork. He was told that he would not receive final approval until the trailer was set-up and ready to run. At that time the State sends someone to inspect the facility. In addition, Mr. Quartarone stated that he had to send in a water sample from the water he would be placing in the holding tank of the trailer to the State for testing.

John C. asked if the trailer would be used year round? Mr. Quartarone said he did not think he would be operating it during the winter months. John asked if he would be moving the trailer when it was not in use? Mr. Quartarone stated he would probably leave it in place year round unless the Board felt it needed to be moved. He could park it in another location, perhaps beside the Craft and Stove Shop.

John C. asked Mr. Quartarone how many U-Haul vehicles would be placed on site, and what size they would be? Mr. Quartarone stated that he would have a 17' driving unit and an 8' X 12' trailer. He stated that he was asking for three units to be placed on site because there will be times when a U-Haul will be dropped off at his location until it is picked up the next day by the parent company. John asked where they would be parked on site? Mr. Quartarone stated he wanted to place them to the right of the Craft and Stove Shop.

Diane S. asked John C. if Mr. Quartarone was running out of parking area? Currently there existed a Conditional Use Permit for the Craft and Stove Shop, Beadles Bait and Boat Shop, a Redemption Center, and the Donut Sales Trailer. Diane asked if there was enough room for the additional parking slots needed for the U-Haul's and the parking for the concession trailer? Diane S. said that she was concerned with the parking area. She wanted to be certain there was enough area to accommodate all the businesses. John, while looking at the sketch of the property, told Mr. Quartarone he would need to calculate the square footage of the property, and indicate where the parking spaces would be to accommodate all the approved permits. These parking areas must also include parking slots approved for the boats on site.

Bill H. asked Mr. Quartarone where he would wash the dishes and utensils used in making the food for the concession trailer? Mr. Quartarone stated that he would be doing the dishes in the Craft and Stove Shop building. Mr. Quartarone said that the water in the concession trailer was for hand washing and the occasional washing of a utensil. Bill asked who monitors the concession trailer once it is in business? Mr. Quartarone said he thought the State did, but he was not sure.

John C. was very concerned with the waste water in the concession trailer. He asked Mr. Quartarone where his septic system was on site so that perhaps he could park the trailer near it allowing the waste to be plumbed correctly into the septic system. Mr. Quartarone did not want to do that. He furthered by stating that he did not intend to dump grease into his sinks in the Craft Shop. He did not want to ruin his plumbing in the building. Mr. Quartarone stated that the grease would be placed in containers and a company would come and pick up the used grease. Only gray water would be going into the 5 gallon storage unit under the sink of the trailer. Mr. Quartarone stated that he would get the name of the company that would take the used grease and have that information for the next meeting. John C., after lengthy discussion, was still very concerned with the waste water and what will be done with it. Barbara G. and Bill H. felt that if Mr. Quartarone followed the State's guidelines for disposal of the gray water and grease then it would not be a problem. Steve M., CEO, was also concerned with the disposal of the waste water and grease. Mr. Quartarone stated again that he did not plan on dumping grease into his septic system or onto his property. It was not in his best interest. He would do what the State recommended. He also said that regardless of what restrictions are imposed, if an individual wants to circumvent rules and regulations they could. This was not his intention. He was being truthful and doing what was necessary.

Bill H. speaking to the Board members said that he felt as a Board it was very important to impose the same standards that were imposed when the Board approved the donut sales trailer last year. At that time the Board agreed to let the State license the trailer and mandate the necessary requirements. He did not feel the Board should impose another set of standards for Mr. Quartarone. John and Steve did not totally agree. They felt that perhaps the Board may have been in error when approving the donut trailer not imposing strict standards when it came to the waste water and grease, and if so, the Board should not be remiss in doing so during review of this application. John also said that this concession was different than the donut sales trailer. Barbara G. stated that the donut sales trailer dealt with gray water and grease, and was similar in size. She asked, "How is it different?"

Bill H. listed the issues that he felt the Board would need more information on at the next meeting, they are as follows:

- a) parking
- b) lot coverage
- c) state licensing standards

John C. added:

- d) traffic flow pattern

Steve M. told Mr. Quartarone he would need to bring a new drawing depicting where the new parking slots would be located. Mr. Quartarone asked if three spaces for the U-Haul's and two spaces for the concession trailer would be adequate for those two items? The Board stated that he needed a total of three for the concession trailer, one being for the employee.

John reiterated to the Board that he felt that the Board needed to be certain there were no safety issues created with the new businesses. He thought the Board needed to look at the traffic flow pattern to be certain this area could accommodate the added uses on site.

Bill H. again listed for Mr. Quartarone what would be necessary for him to bring to the next meeting:

- 1) **Footprint of everything now located on site and where all additions will be located.**
- 2) **A traffic flow pattern for the site.**
- 3) **Hours of Operation**
- 4) **Depict any additional lighting that may be added on site.**
- 5) **All parking that exist as well as the parking to be added on site.**
- 6) **Square footage of all buildings and concessions trailers on site to be certain the calculation is within the 10% maximum allowed.**

Bill H. asked Barbara G. if she would type a list of all the approved Conditional Uses on site for this location. She stated she would have the information for members at the next meeting.

Mr. Quartarone stated that he would also have for the Board, at the next meeting, the name of the company he would use to remove the used grease from the concession trailer. He reminded the Board that he probably would not have the approved license for the next meeting because the final State inspection would not have been done by that time. Bill H. asked Mr. Quartarone if he could bring the Board a list of the requirements for a concession trailer as mandated by the State? Mr. Quartarone stated that he would do so.

Bill H. asked Mr. Quartarone if he would be using a garden hose for water? Mr. Quartarone stated he would not. He did not want a hose stretching across the area where cars would travel to the storage facility.

***The Board scheduled a Public Hearing on this issue for 7:00 on May 27<sup>th</sup>. A Notice to Abutters will be mailed prior to the next meeting.*** Nothing further was discussed.

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Roland Legere was in the audience and the Board asked him if he had any questions or concerns for the Board? Roland stated that he was at the meeting in case the Board was going to discuss the letter they received from Development Services Inc., regarding the Goose Pond Subdivision. The Board was not discussing this subdivision this evening. Barbara G. did give Mr. Legere a copy of the letter from Development Services for his information. The letter, written by Craig Higgins, was to inform the Board he was ready to come back before the Planning Board for further review of his project. This application will be reviewed on the next Board meeting on Tuesday, May 27<sup>th</sup>.

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### **Election of Officers**

John C. stated to the Board that he would no longer be able to hold the Vice Chairman position. With his current obligations at work, he did not feel he could attend every meeting this year and felt he should step down from this position. The Board understood and accepted he resignation.

***John C. nominated Roger Allaire for Chairman of the Board, Bill H. 2<sup>nd</sup> the motion. All were in favor.*** (Roger was unable to attend the meeting but stated to Barbara G. that he would accept the position of Chairman if the Board so voted.)

***John C. nominated Diane Srebnick for Vice Chairman.*** He felt that with her experience on the Board she would be able to fulfill the duties of Vice Chairman. Diane accepted the nomination. ***Bill H. 2<sup>nd</sup> the motion. All were in favor.***

**GROWTH PERMIT(S) – There was one available Growth Permits. (All available Growth Permits have been issued for the year 2003.)**

- 1) ***Approved #32A-03*** (seasonal conversion) - Map 7, Lot 3 (938 Shapleigh Corner Road) – Kettle Pond Condominiums, **Unit #4** – Patrick Hannon
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**OTHER:**

**Information:**

1. ***Email from MDIFW regarding Tranquil Breezes, dated April 28, 2003. Mailed to members.***  
MDIFW stated that they did not feel the proposed subdivision would interfere with the endangered species known as the Small Whorled Pogonia, which appeared to be located within 1000' of the proposed subdivision.
  2. ***Copies of description(s) of the Autumn Coral-root and Small Whorled Pogonia, as described by the Maine Dept. of Conservation, Natural Areas Division, to use at the Tranquil Breezes site review. Mailed to members.***  
Used on the site review of Tranquil Breezes. Neither species was located on the property. Madge Baker, who does know what the Small Whorled Pogonia looks like, did not locate any on site or see the typical habitat for this species of plant life.
  3. ***Letter from Development Services, Inc, Craig Higgins, regarding Goose Pond Subdivision, dated May 7, 2003. Mailed to members.***  
Mr. Higgins stated that he was ready for further review of the Goose Pond Subdivision. He will be placed on the Planning Board agenda for Tuesday, May 27<sup>th</sup>.
  4. ***Memo from Barbara Gilbride regarding Birchfield Place Subdivision.***  
Mr. Michael Morris officially announced via telephone conversation with Barbara G. that he will not be going forward with the subdivision application for Birchfield Place on Rte. 11. He stated that it was due to the limited amount of Growth Permits in the Town of Shapleigh and the fact that for the past two years all the Growth Permits were issued within the first six months of the year. He did not feel he would receive a return on his investment in an adequate amount of time.
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John C. spoke to the Board once again of his concerns with the multiple approved Conditional Use Permits for Map 18, Lot 28 on Route 109, currently owned by Mr. Quartarone. He felt the Board needed to try to project into the future with respect to traffic flow, should all these business start to do very well. In addition, he did not feel the storm water analysis presented by Mr. Quartarone was as in depth as it would have been if a licensed engineer had done the calculations. He wanted the Board to think about requiring a licensed engineer to do these calculations on future Conditional Use Permits if the Board feels it was necessary. John reminded the Board that approved Conditional Use Permits run with the land and that even though Mr. Quartarone may abide by all conditions imposed on him by the Board, a future owner may not be as cooperative, so the Board must be very specific when reviewing applications.

Bill H. agreed with John, but he did state that he felt the Board must be certain to treat all applicants in the same manner, using the Ordinance as a guideline to be objective. Bill did not feel the Board should become subjective in their decision making process because this could lead to problems in the future. Like applications should be reviewed in a like manner.

There will likely be more discussion on this subject in the future.

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Diane S. asked the other Board members if the business known as Lakeside Marina on Rte. 109 had permission to sell firearms? She stated that they are currently advertising the sale of firearms and she did not believe they had permission to do so. Barbara G. stated that she would review the files on that property and shall have a list of approved C.U.P.'s for the next meeting. Nothing further was discussed.

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***The Planning Board meeting ended at 9:35 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

**SHAPLEIGH PLANNING BOARD MINUTES**  
**Tuesday, May 27, 2003**

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

**There was one site inspection prior to the meeting, starting at 6:15 p.m.:**

◆ **Conditional Use Permit – Replace Retaining Wall – Jason Pohopek representing Barbara McKenney – Map 44, Lot 20 (4 Camp Road)**

Members Bill Hayes, Diane Srebnick, and Barbara Gilbride, as well as Code Enforcement Officer Steve McDonough met on site. Also in attendance was Jason Pohopek representing the applicant.

The Board members viewed very steep terrain, as well as two wooden retaining walls, both in need of repair. The wall closest to the waters edge was on the verge of collapse. Mr. Pohopek stated that he was not certain at this time if he would replace the entire run of the upper wall. Part of the wall, which had a set of wooden stairs attached, may not be replaced unless it is deemed necessary by the person doing the replacement wall. At this time Mr. Pohopek was soliciting bids for the project and did not know who would be doing the work.

There was also a set of existing stone stairs leading to the waterfront. The Board asked Mr. Pohopek if these would be replaced. He stated they would not at this time. He did not feel there was a need to do so.

**PUBLIC HEARING started at 7:20 p.m. Amendment to a Conditional Use Permit – U-Haul Truck Rental & Food Concession Trailer – Stephen Quartarone – Map 18, Lot 28 (146 Emery Mills Road)**

Diane S. opened the Public Hearing at 7:20 p.m. Mr. Quartarone was not in attendance for the hearing. Diane asked if there was anyone in attendance in the audience to discuss this permit and there was not. The Public Hearing was closed at 7:22 p.m.

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**The Planning Board meeting started at 7:30 p.m.**

**Diane S., acting as Chairman, opened the meeting. She stated the first order of business was to elect Roger Allaire Chairman of the Board. *Because Roger was not sworn in as a member (his term had expired) until two days after the meeting on May 13<sup>th</sup>, he needed to be re-elected to office if the Board so desired.***

**Diane asked for a motion from the Board to elect Roger as Chairman. *Bill H. made the motion to elect Roger Allaire Chairman, Barbara 2<sup>nd</sup> the motion, all members were in favor.* Diane stepped down as Chairman of the meeting.**

**The Planning Board minutes of Tuesday, May 13, 2003, were read and accepted as written.**



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

**Conditional Use Permit – Replace Retaining Wall – Jason Pohopek representing Barbara McKenney – Map 44, Lot 20 (4 Camp Road)**

Jason Pohopek was present to represent Mrs. McKenney. At the previous meeting Mr. Pohopek presented the Board with an application, a copy of the DEP Permit by Rule Notification Form, a plan depicting the replacement of the existing retaining walls (included lot setbacks, grade of land, and existing location of cabin), and a copy of the Anchor Diamond Installation Manual for the proposed locking block retaining wall.

Roger A. was unable to attend the site visit earlier in the evening so he asked the Board members to open the discussion. Bill H. stated that during the site inspection setbacks were noted and discussed with Mr. Pohopek. Bill said that one of the existing walls extended beyond the setback limit. Bill would like to see the new wall comply with the 10' setback requirement if possible. Bill stated that this would mean reducing the current wall by only several feet. John C. agreed with Bill regarding the setback issue. John also wanted to be sure any replacement walls did not encroach closer to the lot lines. Bill asked Barbara G. if the Board received a copy of the DEP Permit by Rule application and she stated, "Yes".

John C. spoke about several of the existing trees on site, i.e. two trees next to the existing walls. One of these, being a pine, was located on the second tiered wall. John felt that the tree roots would be disturbed when the new wall was put in place and would probably die, thus they should probably be removed.

John C. asked Mr. Pohopek if the existing steps would be brought up to code? Mr. Pohopek stated they were not going to be removed/replaced. John asked if the steps on the upper tier would be moved during the project? Mr. Pohopek stated that he thought the steps would remain in place since the final grade will be the same as what exist there now.

John C. agreed that this project was a necessary one since the existing walls were all on the verge of collapse.

Roger A. stated to Mr. Pohopek that the Board had received a letter from an abutter of the property. Mr. and Mrs. Hanscom wrote, "We, Bob and Evelyn Hanscom, have no objection to the granting of this permit to Mrs. McKenney. Anytime anything is done to protect the lake water, we are in favor of it, and retaining walls certainly do help." Mr. Pohopek asked if these were direct abutters to Mrs. McKenney's property since he would like to get permission to pass over the neighbor's property prior to starting the project. The Board did not have an answer for him. They told him he could get that information at the Town Hall during office hours.

Bill H. stated that he had a concern with the 2<sup>nd</sup> wall, i.e. tying it in with the existing wooden structure that is to remain on site. He asked the Board members if the Planning Board could leave Mr. Pohopek the option to extend the new stone wall if necessary, instead of having him come back to the Board at a later date (area to the left of the steps). John C. said that he would like to see the wall all done at one time since the existing wooden wall is rotting. Bill agreed. Mr. Pohopek stated if he replaced the entire wall he would then have to replace the wooden stairs. Bill said that the new stairs would have to be to code. Mr. Pohopek said he understood and would speak with Steve M., CEO, about what was required.

Roger asked if there would be additional fill brought to the site? Mr. Pohopek said there would not. There will need to be some removed from the wall area and placed on the other side of the cabin. It will be kept on site.

John C. asked Mr. Pohopek if the applicant was going to loam and seed the area after the new walls were in place? Mr. Pohopek said that he did not believe this was planned. Currently there exist beach sand and he believed this is what was to remain in place. John said that something should be placed above the walls to prevent erosion. It could be bark mulch if the owner did not want to seed the area. Mr. Pohopek stated that the area will be almost perfectly level when the project was completed, and proper drainage would be behind the new walls. He thought this would stop future erosion. John still felt that some kind of ground cover should be used behind the walls. Roger A. concurred that something was needed to stabilize the area. Mr. Pohopek referred the Board to the plan which shows a cross section of the area behind the proposed wall. There will be perforated pipe in filter fabric which again he said he felt was adequate.

Roger A. reviewed Shapleigh Zoning Ordinance 105-44 "Piers, docks and other Shoreland construction." which indicated this permit warranted review by as a Conditional Use Permit.

**Roger A. 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 protect the fish and aquatic life by reducing erosion.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***It will; the new wall will keep the current vegetation in place, which will prevent erosion, and the wall blends well with others in the surrounding area.***
- 3) The use is consistent with the Comprehensive Plan. *N/A*
- 4) Traffic access to the site is safe. *N/A*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *N/A, there are no changes being made to the land.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *N/A, there is none generated by this activity.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A, there is none generated by this activity.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***Storm water will be taken care of per the plan submitted with the application.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There are, the applicants shall use the best management practices which includes silt fencing while work is being done.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *N/A (The property is located on Silver 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. *N/A; there are no changes being made to the land. This is a replacement of an existing wall; the new wall will be much like those in the surrounding area.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

Roger A. asked what the estimated time frame for completion was? Mr. Pohopek stated that he was currently soliciting bids. He hoped to have someone within a month to start the project. Roger asked if he thought the project would be completed by September? Mr. Pohopek said he hoped it would be finished by that time.

John C. asked Steve M., CEO, if the project would require a fence be placed along the top of the new walls? Steve stated any walking surface over 30" in height requires a fence rail. John asked the Board if they felt this should be a condition of permit, i.e. requiring the fence rail. Roger A. had "no issue" with mandating a

fence rail. Steve felt that the upper tier was a walking surface but he may not make the same conclusion for the lower level. Mr. Pohopek stated that the applicant wanted to use the lower level for a sitting area so it would be a walking surface also. Madge B. and John thought this issue should be reviewed by Steve and that a condition of approval could be placed to have the CEO review the area and make the determination.

Bill H. asked if the Board could also have any replacement stairs conform to code as a condition? Steve M. did not feel this was necessary since he would be inspecting the project and if new stairs were put in they would have to be built to code. Roger A. still felt that it would be a good idea to have it as a written condition.

**John C. made the motion to *approve* the application for two new retaining walls with the following condition(s):**

- 1) Any replacement stairs must be approved by the Code Enforcement Officer.**
- 2) All walls over 30" in height require safety rails if deemed necessary by the Code Enforcement Officer.**
- 3) Erosion control such as loam and seed, bark mulch, etc. shall be put into place behind the new retaining walls by October 1, 2003.**

**Bill H. 2<sup>nd</sup> the motion. All members were in favor.**

**Amendment to a Conditional Use Permit – U-Haul Truck Rental & Food Concession Trailer – Stephen Quartarone – Map 18, Lot 28 (146 Emery Mills Road)**

Mr. Quartarone was present for the meeting. He was not in attendance for the Public Hearing, nor were any townspeople.

At the previous Planning Board meeting on May 13<sup>th</sup>, Mr. Quartarone was asked to bring in a new plan depicting the proposed location of the food concession trailer, U-Haul parking area, and additional parking slots necessary for the additional businesses. Mr. Quartarone did bring in a new plan. On this plan there were 10 additional employee parking spaces behind the existing 4000 sq. ft. building that houses the Craft and Stove Shop, 10 parking slots for boats (Beadles Bait Shop) behind the existing propane tank, and 10 additional parking slots for the U-Haul's and boats in front of the propane tank storage area. This amount of additional parking is more than adequate for the proposed additions to this location. (There already existing 32 parking slots for the existing Craft and Stove Shop building.)

Lot coverage is only being increased by 80 square feet by the food concession trailer. Currently buildings cover 7.6% of the property. This increase in lot coverage does not exceed the 10% maximum allowed by Shapleigh Zoning Ordinance 105-18 "Dimensional Requirements", Commercial and Industrial, Maximum lot coverage in the General Purpose zone is 10%. The lot coverage will now be approximately 8% in total.

John C. reiterated his concern with the number of Conditional Use Permits associated with the property, currently the list includes: Self Storage Building, Craft and Stove Shop, Mobile Unit for Mini Donut Sales, Operate a Redemption Center (this permit expired, the business has been closed for more than one year), and a Bait and Tackle Shop. John is worried about the traffic flow in and out of the property as well as traffic movement between the existing businesses. John told the Board that he has received telephone calls from people complaining about autos and boats being parked along Rte. 109 in this area. John stated that he realized this situation may have nothing to do with Mr. Quartarone's business but it is still a hazard. Mr. Quartarone stated the vehicles parking along the road are not from his business / parking lot, but are from the business located across the road. In addition, patrons of the neighboring business have used his parking area and walked across the street to access this business. Currently Mr. Quartarone does not know what to do

about this problem. John agreed there may be nothing Mr. Quartarone or the Board can do about this situation. Mr. Quartarone did not feel his business should be restricted because of a problem created by another business. The other Board members agreed. John concluded that he wanted to be certain that if all the approved businesses on site did well, the area would be safe for all traffic.

Roger A. stated that the approved self storage building generates very limited traffic. John C. agreed that it was probably only one vehicle a month. Mr. Quartarone stated that the largest volume of traffic was from Beadles Bait and Tackle shop early in the morning. When the Craft and Stove Shop was open the Bait and Tackle traffic was less of a concern. Mr. Quartarone furthered by stating that he hoped his concession trailer did well but did not envision a huge impact on the area. John mentioned that Mr. Quartarone stated earlier there may be a video store being added and that could generate high volumes of traffic during certain times of the day.

Madge B. asked if anyone could look at this site and do a study? John C. stated there were national figures for retail sales depending on the type of business, which could be used for information. Madge asked what the miles per hour were in this area? Roger A. stated 35 mph, and he added that this location had more than adequate site distance in both directions (at 35 mph, the site distance requirement is 350 feet minimum).

Roger A. spoke of the past approval process for the Bait Shop, Craft and Stove Shop, etc. and at that time the amount of estimated traffic to be generated was not a concern. The Board felt the site could handle the traffic flow. He also stated that the new donut shop has not to date added a lot of additional traffic. Diane S. asked if the Board has the ability to limit the amount of "trailer" businesses to a site? John C. stated that he could not find anything in the Ordinance that limits the uses on a property. He said it was a matter of whether or not the property could handle the additional uses from a health and safety perspective. Can people maneuver safely in the parking area?

Bill H., "I certainly understand your concerns for safety issues on site and I did not see anything that allowed us (Planning Board) the latitude of being able to regulate today what might happen tomorrow. If we run into something tomorrow than we need to readdress the Ordinance and look at perhaps adding to the Ordinance or making changes. But when I look at the Ordinance and the property, I see someone who has tried to be very responsible on how they provided both their tenants with the ability to do a good business and tries to operate in as safe a fashion as possible meeting all ordinance and regulations set forth currently. So I have a problem in trying to take a stand today to try to prevent a potential problem tomorrow. This is my thought. I commend Mr. Quartarone on his business, I feel it is a place to be proud of. He has done a good job and I hope *all* the businesses are successful."

Roger A. concurred. He felt that if a safety hazard occurs down the road we could address it at that time. He stated that it was likely the State would address it since they own Rte 109 and the access on and off 109 can be regulated by them. Shapleigh does limit the entrance distance to 26', so we do restrict the area of access. The speed limit is 35 mph, and this is a reduction from 45 mph. This reduction was done because the town requested it due to the congestion in the area, i.e. Emery Mills Village, Lakeside Marina, and the Public Boat Ramp. If the area becomes accident prone, the State will have to review the area and see what additional changes need to be made. Site distances are adequate at the site. Roger also stated that he felt the donut vendor and sausage trailer would probably be temporary and would not always be there. He agreed the Self Storage had a limited amount of traffic and the Bait Shop has most traffic at certain times of the day, i.e. morning and is limited at other hours. Roger concluded that the uses at the present time should not hamper vehicles getting on or off Rte. 109.

Bill H. asked Mr. Quartarone if he had a letter, as requested by Steve M. during the meeting on May 13<sup>th</sup>, regarding disposal of grease generated by the food concession trailer? Mr. Quartarone did not have one at this time because he had just contacted the company he would use today. The company is called Baker Commodities. They drop off a container at your business and when it is three quarters full you call them and they pick it up and drop off a new container. Mr. Quartarone said that his location would have a 55 gallon drum on site. He also said that Baker Commodities serves local restaurants such as Ted's Fried Clams. He stated he would get a letter from the company for Steve M. to review. Roger A. stated that a condition of permit approval would be that the concession trailer could not operate until a letter was received by the Code Enforcement Officer.

John C. asked Mr. Quartarone what the current bathroom facilities were on site? Mr. Quartarone stated that there are two bathrooms in the Craft and Stove Shop building. One of the bathrooms is located by the Bait Shop and the other is located between the Stove Shop and what was the Recycling Center. John asked if they were accessible at all times, even if one of the businesses were closed, so that the employees of the concession trailers could use them? Mr. Quartarone stated, "Yes". Barbara G. told John that the Planning Board had a copy of the layout of the Stove Shop building with a previously approved CUP for this property. This layout shows the exact location of both bathrooms and how they can be accessed. She also stated that they were handicap accessible.

Roger A. asked Mr. Quartarone how he was going to get power to the concession trailer, would he be using a power cord from the existing building? Mr. Quartarone stated that yes, he would run a heavy duty extension cord, not one that you would buy at a local hardware store. It would be a commercial grade. John C. and Roger both asked if it was going to be run across the existing pavement? Mr. Quartarone stated, "Yes". Roger expressed concern that if the cord got worn or damaged and it rained there could be a possible problem / shock hazard if the frayed wire didn't trip the breaker. Steve M., CEO, said that as long as the power cord came off a GFI outlet there would not be an issue. In addition, he said that he did not issue electrical permits; they are issued by the State. Mr. Quartarone said that since his daughter would be running the concession business he would make certain she was safe. He also said that he thought there may be some underground conduit in that area left by the previous business. If he locates it, he will use that instead of running an electric cord above ground. Roger thought this was a good idea and said that he remembers lights in that area so there may be underground wires still in place.

There were no more questions posed. **Roger 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 per the plan presented and is not located near the lake shore..***
- 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 businesses located along Rte. 109.***
- 4) Traffic access to the site is safe. ***It is, there is a median strip to direct traffic on and off the site. Site distance calculations are within those allowed per the Zoning Ordinance, previously approved for this property location.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is per the previously approved permits as well as the storm water calculations presented with this plan.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is, grease will be removed from site and a letter to attest to that will be presented to the CEO.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***N/A, there is none generated by this activity.***

- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There is a computer analysis for storm water runoff presented with the plan and it exceeds the requirements necessary by the York County Soil and Water Conservation Committee.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There will be none generated by the activities approved on this CUP. No changes being made to the land.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the property 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. ***N/A; there are buffers in place, there will be no additional lighting added, and dust will be reduced by the new approved pavement on a previous CUP.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

John C. asked if there would be additional signage? Mr. Quartarone stated, “No”. John asked what the setbacks for the property were? Steve M. stated 25 feet on the side lots lines and 30 feet from the rear. Mr. Quartarone’s trailer and U-Hauls were within these limits.

**Bill H. made the motion to *approve* the Conditional Use Permit to operate a food concession trailer and have a maximum of three U-Haul vehicles on site with the following condition(s):**

- 1) **A letter shall be given to the Code Enforcement Officer from the company used to remove food grease from the property, prior to operation of the concession stand.**
- 2) **A letter shall be given to the Code Enforcement Officer stating that the bathrooms will be accessible by employees during all hours of operation of the food concession trailers.**
- 3) **The hours of operations shall be 11:00 a.m. thru 7:00 p.m., 7 days a week.**

**Diane 2<sup>nd</sup> the motion. All members were in favor.**

Mr. Quartarone asked the Board about additional signage. He understood that his site was at the maximum allowed per the Ordinance. However, if an additional business, i.e. a video rental store were to open, they would not be able to advertise their location. Mr. Quartarone asked if it would be possible to get a variance for an additional sign? Roger A. said that Mr. Quartarone was welcome to go before the ZBA for a variance but the Planning Board and CEO could only allow what was in the current Ordinance. He did tell Mr. Quartarone there was currently a proposal to allow additional signage on strip malls but that would have to be voted on by the townspeople in March, and if voted in, would not be allowed until after that meeting. Bill H. told Mr. Quartarone he could put up a temporary sign for a few weeks per the permitting process. Mr. Quartarone said that he did not feel the person running the video store would like only having a sign for two weeks. Bill H. said he understood but it is all that was allowed at this time and at least it would give notice that the business was open.

Nothing further was discussed.

**4-Lot Subdivision – “Tranquil Breezes” – David Dubois & Linda B. Chadbourne – Map 11, Lot 10 (Newfield Road)**

*Mr. Dubois and Mr. Nadeau were not prepared to discuss their application further this evening. In light of this, the application was tabled until Wednesday, June 11th.*

**Best Possible Location – Expand & Move Existing Garage – Diane & Vincent Srebnick – Map 30, Lot 43 (22 Hemlock Road – Square Pond)**

Diane S. stepped down from the Board for this discussion. Mr. Srebnick gave an overview of what the project entailed. He stated that they wanted to move the garage back from both the location of the septic system and approximately 14' from the water's edge. He said the new location would meet the setback requirements by over 15 feet. The cement pad under the garage would be extended from the garage 2' X 8' in one location as a place to put their fire wood on. In addition, an outside shower would be added, and the garage roof would extend over it to protect it. The shower drain would go into the existing septic system. Mr. Srebnick said that there was an existing inlet to the system not currently being used and that he would have the shower drain tie in to it.

Bill H. asked if the original septic design would be able to handle an additional shower? Mr. Srebnick said that the septic design was a two bedroom design. He was not adding an additional bedroom. He did not feel the one shower would be a problem.

Mr. Srebnick stated that per the plan he presented, and the calculations, the expanding garage would have the additional 30% expansion allowed per the ordinance.

The Board had no questions at this time. A site visit was scheduled for 6:45 p.m. on Wednesday, June 11<sup>th</sup>. A notice will be sent to abutters.

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**6-Lot Subdivision - "Goose Pond Overlook" – Northwoods Land Company of Maine, LLC – Represented by H. Craig Higgins of Development Services, Inc. – Map 7, Lot 5 (State Rte. 11)**

Mr. Craig Higgins was at the meeting to ask the Board how they would like him to proceed with the above project. Mr. Higgins had come before the Board in 2002 and had submitted a preliminary application in April. Due to health problems Mr. Higgins was unable to proceed with this project, so the application was tabled. Mr. Higgins stated he was now ready to go forward and was at the meeting to see what steps he should take next.

Mr. Higgins asked the Board if he could have a copy of the Public Hearing from June 12<sup>th</sup> of 2002 which he was unable to attend. Barbara G. stated she would mail him a copy of those minutes and any others he wished to review. Mr. Higgins wanted to be sure to address all the issues from that meeting to the Board and the townspeople when necessary. He also stated that Lot #7 and #8 on the original plan, were no longer going to be part of the subdivision. These lots were sold to another party. The subdivision is now a 6-lot application.

Mr. Higgins stated that after speaking with Roland Legere he learned that Upper Goose Pond has been documented to have Variable Milfoil. He is concerned that this plant does not get chopped up and sent downstream to endanger Goose Pond or Mousam Lake. He stated that this was the first time he heard that the Milfoil was present so at this time he had no definitive answers on how to address the problem.

Roger A. asked Mr. Higgins how, without a fire hydrant or fire pond, would he get DEP or Army Corp. of Engineer permitting for this project; how would he get the volume of water necessary for protecting the area? Roger felt this could be an issue that needs to be addressed. Mr. Higgins said that they were going to get the water, not from Upper Goose but from the wetland area on site. He stated that he was also considering a water holding tank in lieu of that idea.

Diane S. noted to the Board the memo they received from Maine Dept. of Inland Fisheries and Wildlife regarding the endangered species known as the Blandings Turtle on site. Mr. Higgins stated that he also had a copy of the memo. He also said that he had come up with an alternative plan from the one suggested by MDIFW and his biologist was working with MDIFW, limiting the area of disturbance on each lot. Bill H. asked if he was working with MDIFW for a good compromise for the situation? Mr. Higgins stated, "Yes, we are looking for a win-win situation".

Mr. Higgins returned to the issue of Variable Milfoil and stated that perhaps he may not only limit the watercraft on the water, but also not allow the use of electric motors on site (originally electric trolling motors were going to be allowed on Upper Goose), since they may chop the plant up and also transport it to another location. Mr. Higgins did add however, that even if he does take measures to address the Milfoil it may still infiltrate the surrounding area. Diane S. posed a concern for the neighboring Square Pond and the infiltration of the Milfoil to that location. She wanted to know if Mr. Higgins could post a sign at the deeded right-of-way to Square Pond stating that Milfoil was in Upper Goose and to make certain there is none on any boat before launching it into Square Pond. Mr. Higgins did not see people accessing Square Pond with large boats in this area. Both Steve M. and Diane disagreed. They have witnessed that if there is an access point, people will find a way to use it. Diane asked Mr. Higgins again if he would post the area and he stated that he would not have a problem doing that. He furthered by saying that he had envisioned Upper Goose Pond as a wildlife habitat, and wanted to preserve it as such. He felt that boating limitations and not allowing electric motors would be appropriate.

Mr. Higgins told the Board that as the deed for the property currently reads, all the lots have access to the right-of-way to Square Pond. He did state that he felt that this was going to change. Bill H. told Mr. Higgins that at the June 2002 Public Hearing, one of the biggest concerns was the location of the right-of-way to Square Pond and who had access to it. Mr. Higgins stated he would review the minutes from that meeting so he had better answers for the Board and townspeople.

Diane S. asked if there would be a cleanup of the area, where the loggers had left a lot of slash and the like. She reminded Mr. Higgins that he had stated he would look into having the area cleaned up at a previous meeting. Mr. Higgins said that he had an obligation from the prior owner that he would clean up the log line along Dogwood. He admitted that it hadn't been done yet but that it was a continuing obligation. Bill H. asked Mr. Higgins if the loggers still had a vested interest to do so? Mr. Higgins said they did not have any incentive to do so at this time, but he had reason to believe they would eventually do it.

Roger A. told the Board another issue that will need to be addressed is the roads. Should the Board require them to be paved or remain gravel as requested by Mr. Higgins previously? Mr. Higgins stated that he did want to pave past the lot to be gifted to the Town to eliminate excess maintenance due to it being used by heavy town vehicles. The rest of that road he wanted to remain gravel. Where this road meets Rte. 11 it would be paved.

Diane S. told Mr. Higgins that at the Public Hearing the townspeople stated that the loggers ruined part of Dogwood Road. She said that some parts of that road are paved and the logging trucks tore a lot of the pavement up. She asked if Mr. Higgins could look into it. Mr. Higgins said, "Given the fact that we are the second owner after the timber harvesting, I do not feel responsibility for what they did. But I am entirely comfortable asking them to do a site walk with the locals and asking him what he can do to appease the situation, that being Bob Libby."

Bill H. asked about the canal that abuts the site and is owned by the Town of Sanford; would there be a 100



foot buffer along the Canal as suggested at the initial preliminary meeting? The current plan before the Board shows only a 75 foot buffer. Mr. Higgins stated that the canal isn't covered under the Shoreland Zoning Ordinance. Madge B. concurred. Bill reminded Mr. Higgins that he had agreed to a 100 foot Do Not Disturb zone along the canal. Mr. Higgins said he would review the minutes when he received them and would consider the 100 foot buffer. Madge agreed that 100 feet would be best due to the steep terrain in the area.

Diane S. asked Mr. Higgins about the note on the original plan that referred to "Aaron Hasty Heirs lot claimed by Northwoods Land Company", what does this mean? Mr. Higgins stated that the piece of land she was referring to is a triangular piece of wetland only. He did not know what the statement meant and would have to ask the Attorney, Ron Bourque, to see how the chain of title works.

Diane asked if the indicated wetland to the left of Upper Goose Pond still existed? Madge B. and Mr. Higgins both stated that it did exist. Madge said that it was a kettle hole, and that it actually rest higher than Upper Goose.

Mr. Higgins asked what the next step was after he responds to the Public Hearing questions? Roger A. said that the Board would then be ready to review his final plans. Roger reminded Mr. Higgins that the fire pond issue will need to be addressed. John C. told the Board that in the Town of Sanford they use the NFPA booklet which shows how many gallons of water are required per residence with respect to fire protection. John thought that 5 dwellings required a 10,000 gallon water holding tank. Mr. Higgins stated that he was considering the water holding tank, as it may be easier in the long run. Roger told Mr. Higgins that the Fire Chief would also be someone to speak to, to determine the size required for the water holding tank.

Diane S. stated the MDIFW memo had to be addressed with respect to what Mr. Higgins was going to do about the endangered species on site. Roger A. agreed that Mr. Higgins would have to contact MDIFW and have their recommendations on the final plan.

Diane S. also told Mr. Higgins he needed to put in the deed any restrictions for further lot division and have it when presenting the final plan.

Roger A. read the conditions that Mr. Higgins had put together in 2002. They are as follows:

1. All lots shall be served by drilled wells; dug wells are prohibited.
2. No fertilizer containing phosphorus may be used within 250 feet of any water body (Upper or Lower Goose Pond) or wetland.
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.
4. Use of the existing right-of-way access to Square Pond shall be limited to subdivision Lots #4, 5 and 6.
5. Subdivision Lots #5 and 6 may utilize existing overhead utilities; all other subdivision lots shall have underground utilities.
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. (Road to remain private unless upgraded to town standards)
7. On Lot #5, the vernal pool wetland shall be protected by a 100-foot wide "No Disturbance Buffer".
8. On Lot #4, the westerly offsite boundary shall be encumbered with a 100-foot wide "No Disturbance Buffer".
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.

The discussion concluded that Mr. Higgins will be back on Wednesday, June 11<sup>th</sup> and will have answers for the Planning Board after reading the minutes from 2002 and the other issues brought up during this meeting.

Nothing further was discussed.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

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**OTHER:**

**Information:**

1. Letter regarding Map 44, Lot 20, CUP for Retaining Wall, Barbara McKenney, from Evelyn and Robert Hanscom, dated 5/19/03, received 5/23/03.  
(See minutes above for details.)
2. Growth Permit List for 2003
3. Memo from MDIFW regarding Goose Pond Overlook Subdivision, received 5/23/03.
4. Memo from Phillip deMaynadier regarding Goose Pond Overlook, received 5/23/03.
5. List of all approved CUP's for Tax Map 18, Lot 28 and pertinent information.
6. List of all approved CUP's for Tax Map 18, Lot 17
7. Info. card from Acoustical & Air Quality Consultants
8. Shoreland Zoning News, Volume 16, Issue I
9. Current Planning Board Address and Officer List

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***The Planning Board meeting ended at 9:15 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

**SHAPLEIGH PLANNING BOARD MINUTES**  
**Wednesday, June 11, 2003**

Members in attendance: Roger Allaire (Chairman), Diane Srebnick (Vice Chair), John Caramihalis, Bill Hayes, and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was unable to attend.

**There was one site inspection prior to the meeting, starting at 6:45 p.m.:**

◆ **Best Possible Location – Expand & Move Existing Garage – Diane & Vincent Srebnick – Map 30, Lot 43 (22 Hemlock Road – Square Pond)**

Members Bill Hayes, Barbara Gilbride and Roger Allaire met on site. Diane and Vincent Srebnick were also in attendance.

The members viewed an old garage/shed, much in need of repair. Beside this existing structure was the proposed site for the new garage. The area was marked out with stakes so the members would know the exact location.

Diane and Vincent told members present the existing garage would be removed in its entirety. In addition, one large oak tree would have to be removed along with several small pines, in order to build the new garage. The site has many existing trees so members did not feel this would be a detriment to the area. Members noted that the new garage location would be farther from the waters edge than the existing. This area is also relatively flat and would pose no erosion problems.

The site visit ended at approximately 7:10 p.m.

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**The Planning Board meeting started at 7:30 p.m.**

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

**Best Possible Location – Expand & Move Existing Garage – Diane & Vincent Srebnick – Map 30, Lot 43 (22 Hemlock Road – Square Pond)**

Diane S. stepped down from the Board for this discussion, since she was one of the applicants and would be answering any questions the Board may have. Mr. Srebnick was unable to attend this meeting.

Diane S. repeated to Board members that the new garage location would be approximately 14' further from the water's edge than the existing garage. This new location would meet the setback requirements by over 15 feet. Diane also stated that she had spoken with Steve M., CEO, regarding the outside shower. After considering the possibility of rain water and/or gravel going into the drain and then the septic system, the Srebnick's asked Steve if they could avoid tying the shower water drain into the septic system. Steve contacted the DEP and spoke with Linda Robinson from Health and Engineering. Ms. Robinson said that the Srebnick's did not have to tie the shower drain into the septic; they need only create a four foot bed with crushed rock for easy drainage, with field stone on top. Roger A. asked Diane if the DEP had given Steve a set of standards/specifications for how to build the stone water retention area. Diane stated that they did not. Roger suggested that Diane contact the DEP and get further information. He felt this would be in her best interest should someone question the outside shower in the future. Roger also told Diane to be certain she did not need to fill out a permit.

Roland Legere was present at the meeting. He asked Ms. Srebnick if she was going to use water from the existing well for the outdoor shower? Diane stated, "Yes".

Roger A. reviewed 105-4.D(1) "Expansions" of non-conforming structures. Roger stated that by moving the existing garage further from the water, as well as removing the existing structure, it would be a betterment of the area. He also concluded that the area in which the Srebnick's wanted to place the new garage was the best possible location. The other Board members concurred.

John C. asked Diane if any trees would have to be removed (he was unable to go on the site visit earlier in the evening)? Diane stated that one large oak tree along with several small pine trees would have to be removed. Roger A. told John the pine trees were very small, none being much taller than 9 feet tall and 2 to 3 inches in diameter.

John C. asked Diane what she proposed to do with the existing garage? Diane said that they were going to have it demolished and removed from site. John asked if the old garage had a foundation under it or cement floor? Diane said, "No, it has a dirt floor and sits on the ground." Diane stated that once the old garage is removed this area will be loamed and seeded.

Roger A. reviewed 105-4.D(5) "Removal, reconstruction or replacement" of a non-conforming structure. Roger stated this application would meet all conditions of this section as reviewed during the site inspection. (a) & (b) The existing building has not been destroyed by more than 50%. (c) The replacement of the existing building meets the setback requirement to the greatest practical extent.

Roger A. reviewed 105-4.D(7) "Relocation" of a non-conforming structure. (a) & (b) Again Roger stated that the proposed building location conforms to all setbacks to the greatest practical extent as viewed during the site inspection and the minimal amount of vegetation to be removed from site for this project will not harm the environment.

With respect to Shapleigh Zoning Ordinance 105-4.D(1) "Expansions", Roger A. stated that Steve M., CEO, would have the final say as to whether or not this proposal fell within the allowed 30% maximum expansion requirement. John C. reviewed the calculations presented with the application and it did appear the Srebnick's did not go over the 30% allowed. John also stated that given the size of the lot, the Srebnick's project would not go over the 10% lot coverage allowed on site.

John C. asked Diane S. about the size of the septic system. Diane stated that the system was put in new in 1999. John asked if the size was large enough for the new bathroom that will be housed in the proposed garage? Bill H. and Diane both said that the septic was designed for a two bedroom house. The Srebnick's were not adding another bedroom. The septic system should be adequate.

Roger A. asked the Board and townspeople if there were any more questions. There were none.

**Bill H. made the motion to *approve* the request to permit a new garage on site per the specifications presented to the Board with the application. John C. 2<sup>nd</sup> the motion. All members were in favor.**

Nothing further was discussed.

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**6-Lot Subdivision - "Goose Pond Overlook" – Northwoods Land Company of Maine, LLC – Represented by H. Craig Higgins of Development Services, Inc. – Map 7, Lot 5 (State Rte. 11)**

Mr. Higgins was not present so this item was tabled pending notification that he is ready to resume the application process.

Roland Legere spoke to the Board regarding the fact that Mr. Higgins was not present for the meeting. He stated that he had taken time off from work as well as rearranging a vacation based on the statements made by Mr. Higgins at the last meeting regarding scheduling. He asked the Board if there were any consequences for Mr. Higgins actions, such as not allowing his application to be heard for at least six weeks. John C. told Mr. Legere that the Planning Board has adopted a policy of flexibility with respect to the agenda. The agenda is "not in concrete". The Board not only allows new applications to be reviewed, if the time allows that were not on the scheduled agenda, but does not penalize an applicant if they are unable to attend a meeting.

Roger A. said that had Mr. Higgins been present this evening, the Board would have made no decisions / conclusions on his application since he did not mail the new plan to Board members seven days prior to the meeting as required per the subdivision ordinance. Mr. Legere again stated his unhappiness with Mr. Higgins and stated he would mention it to Mr. Higgins when he saw him next. Diane S. suggested to Mr. Legere that he call Barbara G. (P.B. Secretary), and ask if any new material had been mailed to P.B. members prior to the scheduled meeting.

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**4-Lot Subdivision – "Fort Ridge Woods" – Adam Blaikie & Associates – Represented by Corner Post Land Surveyors, Inc. – Map 8, Lot 41 (Garland Road)**

Mr. Andrew Nadeau was in attendance. John C. stepped down from the Board because he works for PATCO construction which buys property / builds homes on land owned by Adam Blaikie & Associates. PATCO is purchasing / building the homes on the above property.

Mr. Nadeau reviewed the preliminary plan with the Board. The plan depicted four lots on the Garland Road. One lot consisted of 30.58 acres, and the other three were approximately 2 acres in size. Each lot had a minimum of 200 feet of road frontage. Mr. Nadeau stated that Lots #1 and #2 already had a foundation on them, as Adam Blaikie & Assoc. had obtained Growth permits from the Planning Board earlier this year. John Caramihalis, who also knew of this project, said that the 30+ acre parcel, Lot #1, was under contract at this time.

Mr. Nadeau stated that the lot lines for Lot #2 may change as PATCO wants to allow for a garage. The lot will have the necessary frontage and will possibly be deeper in size, having the necessary 80,000 square feet. John C. said that all the lots have more than 200 feet of frontage at this time so the lot lines could be moved yet still would have the necessary frontage. The large lot, consisting of 30+ acres was sold to a person who wanted to have a lot of acreage in order to have horses one day.

Diane S. asked Mr. Nadeau if he was going to give a new map with the correct lot lines to the Planning Board prior to the next meeting? Mr. Nadeau said that he was going to bring a new plan, with more details, including the test pit locations.

Mr. Nadeau was asked if the applicant was going to make any improvements to the Garland Road? John C. stated that this was not part of the plan. There would be culverts added for driveways where necessary but the existing water problem on the Garland Road was across the road from the proposed lots. John felt it was the town's responsibility to correct this problem.

Roger A. asked if there were going to be any deed restrictions and if so reminded Mr. Nadeau that they needed to be presented with the preliminary plan. John C. stated that there would be several deed restrictions and they would have them for the meeting on the 24<sup>th</sup>. John did say that there would be no deed restriction for limiting animals, since the purchasers of Lot #1 wanted to have horses.

Roger A. asked Mr. Nadeau if this was a sketch plan only or did he also have an application for the members? Mr. Nadeau stated that this was only the sketch plan phase. He furthered by stating that he could have the application and preliminary plan ready within a week for Board members. Roger felt that the Board needed the application, which would state ownership, prior to scheduling a site inspection. He stated that since the Board only had a preliminary plan, that could be withdrawn, the Board should not invest a lot of time into the review process. Roger felt the site inspection should be scheduled at the next meeting.

Mr. Nadeau read Subdivision Ordinance 89-9 "Procedure" which states:

- A. Applicant presentation and submission of *sketch plans*.
- B. Question-and-answer period. Board makes specific suggestions to be incorporated by the applicant into subsequent submissions.
- C. ***Scheduling of on-site inspection.***

Mr. Nadeau felt that an on-site inspection could be scheduled for the next meeting according to this ordinance.

John C. said that the pre-application was to set up the site walk so the applicant could decide whether or not he wished to go forward with the project, after the Board makes suggestions and/or changes to the plan after the site visit. An applicant does not want to expend a lot of money if the project will be too costly due to changes required by the town.

Bill H., after reading 89-9, stated "It would make sense (to schedule a site visit) to keep cost down for the applicant."

John C. stated that in other towns, such as Sanford or Gorham, a site inspection is scheduled initially so the developers know what is going to be expected of them. Bill H. concurred that a site inspection scheduled now would give the Board the opportunity to make suggestions to the applicant.

Mr. Nadeau read Ordinance 89-10 "Submission", specifically "The pre-application sketch plan shall show, in simple sketch form, lots and other features...." Mr. Nadeau said that his pre-application was not a "hand sketch on a napkin" which he could have presented. He felt there was enough detail on the pre-application plans presented to use on a site inspection.

***Roger A. agreed that with the sketch plan presented and Ordinance 89-9, the Board could schedule a site visit for Tuesday, June 24<sup>th</sup>. The time agreed upon by Board members was 6:15 p.m.***

Nothing further was discussed.

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**Amendment to a Conditional Use Permit – Move Existing Video Business to a New Location - Denise Boutin – Map 18, Lot 28 (146 Emery Mills Road)**

Ms. Boutin was at the meeting as well as Mr. Stephen Quartarone, co-owner of the property.

Ms. Boutin, owner of The Window Box video rental business, is currently located next to Mr. Quartarone's business. She stated that she has outgrown the current building she is in and wishes to bring her business to Mr. Quartarone's building, giving the business more room for people to walk around. Mr. Quartarone stated that her business would be in the part of the building that was previously the redemption center (it is no longer operating).

Roger A. asked Ms. Boutin if her hours of operations would remain the same? Ms. Boutin said that currently she is approved for 10:00 a.m. thru 10:00 p.m. She felt that 10:00 a.m. was too early in the morning. She would request a change to 11:00 a.m. thru 10:00 p.m.

Roger A. reminded the Board that a Conditional Use Permit expires if not used for a period of one year. John C. asked if the Board approves the video store, could a redemption business also take place? Could Ms. Boutin operate both as the permits are now? Roger A. said "Yes both could operate since the redemption center has not been closed for a period of one year at this time. It would be up to Mr. Quartarone as the C.U.P. goes with the building he owns." Roger further stated that nowhere in the zoning ordinance is there the right to cancel an existing C.U.P. Only non-use for one year cancels the approved permit.

Bill H. asked if Ms. Boutin could just transfer her permit from its existing location to Mr. Quartarone's location? Roger A. said, "No, the permit runs with the land." Bill asked if the Board had to grant a new permit? Roger stated, "Yes".

Diane S. asked if the owner of The Window Box location, Mr. Gallant, could also rent videos since the permit was for that property? Roger again stated "Yes, as long as it is opened within a year of Ms. Boutin's moving."

Roger A. asked Mr. Quartarone and Ms. Boutin what they were going to do about signage? Currently the building has the maximum number of signs allowed. Mr. Quartarone stated that he has not used all the square feet allowed for his sign on the road, and that he would be able to add "The Window Box" to that sign. He would discuss the new sign with Steve M., CEO.

Bill H. asked Roger A. if Mr. Quartarone could get a variance to be able to add one more sign to his building. Bill spoke about the fact that the Planning Board had reviewed the sign ordinance and was going to present to the townspeople an ordinance to allow more than two signs on a strip mall. Roger A. stated that he could try to get a variance. He warned however that even though the Planning Board wanted to change the sign ordinance, in the past the townspeople had not voted proposed sign changes in, so the variance proposal could not be based on what the Planning Board would "like" to have happen.

The Board spoke once again about the existing approved Conditional Use Permits, both for The Window Box and the redemption center. The Board felt that once a new use was added to a specific location the old use should expire. It may be something to discuss for the next town meeting. Mr. Quartarone agreed, since someone using The Window Box location could be unhealthy competition for Ms. Boutin when she moves her business to the Quartarone property, because they are in such close proximity.

Roger A., speaking of the redemption center (which is no longer open), suggested the Board add as a condition of approval of the video sales store, the elimination of the redemption center. Bill H. asked if we could also cancel the video business at the old location when it moves to the new location? John C. stated, "No, we cannot do that. The permit runs with the land, and makes the property more valuable to the current owner. The approval will remain with the property for a period of one year after Ms. Boutin moves out." The CUP will become null and void if unused within 1 year upon Ms. Boutin vacating the premises.

Roger A. reviewed Zoning Ordinance 105-17 "Land uses" and stated this project was in conformance. **Roger then reviewed the Basic Performance Standards as follows:**

**105-20 – Applicability of standards; prohibited uses. *This application is a permitted use.***

**105-21 – Traffic. *The traffic is safe on site as approved on previous C.U.P.'s at this location.***

**105-22 – Noise. *This business will not create excessive noise.***

- 105-23 – Dust, fumes, vapors and gases. *There will be no emissions created by this business.*
- 105-24 – Odors. *There will be no odors emitted from this business.*
- 105-25 – Glare. *There will be no additional lighting added on site.*
- 105-26 – Stormwater runoff. *There has already been an approved stormwater runoff plan submitted for this location on a previously approved C.U.P.*
- 105-27 – Erosion control. *Erosion control was already addressed on a previously approved C.U.P. at this location.*
- 105-28 – Setbacks and screening. *Setbacks and screening have been previously approved for this location. There are no new buildings, lighting, etc. being added to the site.*
- 105-29 – Explosive materials. *There are no explosive materials associated with this business proposal.*
- 105-30 – Water quality. N/A
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There are no changes being made to the site with this application.*
- 105-32 – Relation of proposed building to environment. N/A
- 105-33 – Refuse disposal. *The applicant will remove any waste from the site, which should be minimal with this business.*
- 105-34 – Access control on Routes 109 and 11. *All traffic enters onto the existing site via an approved entrance/exit. There is no change being made.*

Roger also reviewed 105-43 “Off-street parking and loading. This application and location meets all the requirements per the previously approved C.U.P. at this location.

John C. asked how many employees would be present. Ms. Boutin stated, “One, either my fiancé or myself.”

Barbara G. read the application and asked Ms. Boutin if she was going to clean and repair DVD’s and sell popcorn, candy and soda? Ms. Boutin stated that after many customers asked for these items she thought she would add them to her business.

The Board asked if there was a bathroom she could access on site? Mr. Quartarone stated that there was a bathroom located directly adjacent to the area she would be moving in to.

The Board asked Roger A. if there should be a Public Hearing for this application? Roger felt there should, since we have always held a Public Hearing for businesses. If the Board always has, it is best to continue the practice. This avoids problems down the road with singling out certain businesses. That could lead to a lawsuit.

John C. reviewed the Zoning Ordinance 105-73.D, “.....the Planning Board *may* hold a public hearing on the application within 40 days.....” Roger A stated that he still felt it was in the Boards best interest to hold a public hearing for all business applications. Barbara G. agreed.

***Roger A. scheduled the Public Hearing for 7:15 p.m. on June 24<sup>th</sup>.***

Nothing further was discussed.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**



***The Planning Board meeting ended at 8:55 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

**SHAPLEIGH PLANNING BOARD MINUTES**  
**Tuesday, June 24, 2003**

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

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**PUBLIC HEARING started at 7:00 p.m. Amendment to a Conditional Use Permit – Repair Boat Motors – Donald Beadle – Map 18, Lot 28 (146 Emery Mills Road)**

Mr. Beadle was in attendance along with the co-owner of the property, Mr. Stephen Quartarone.

There were no further questions. The Public Hearing ended at 7:22 p.m.

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Page 1 of 8

*Shapleigh Planning Board Meeting, Tuesday, June 24, 2003*

Page 2 of 8

**The Planning Board meeting started at 7:30 p.m.**

**The minutes from Wednesday, June 11, 2003 were accepted as written.**

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

**Conditional Use Permit – Move Existing Video Business to a New Location - Denise Boutin – Map 18, Lot 28 (146 Emery Mills Road)**

Ms. Boutin was in attendance for the final review of the Conditional Use Permit Application to open a video rental business at 146 Emery Mills Road.

Roger A. asked Board member if there were any questions with respect to the application or from the Public Hearing discussion. Members had no further questions.

Roger A. reviewed Zoning Ordinance 105-17 “Land uses” and stated this project was in conformance.

**Roger then reviewed the Basic Performance Standards as follows:**

- 105-20** – Applicability of standards; prohibited uses. *This application is a permitted use.*
- 105-21** – Traffic. *The traffic is safe on site as approved on previous C.U.P.’s at this location.*
- 105-22** – Noise. *This business will not create excessive noise.*
- 105-23** – Dust, fumes, vapors and gases. *There will be no emissions created by this business.*
- 105-24** – Odors. *There will be no odors emitted from this business.*
- 105-25** – Glare. *There will be no additional lighting added on site.*
- 105-26** – Stormwater runoff. *There has already been an approved stormwater runoff plan submitted for this location on a previously approved C.U.P.*
- 105-27** – Erosion control. *Erosion control was already addressed on a previously approved C.U.P. at this location.*
- 105-28** – Setbacks and screening. *Setbacks and screening have been previously approved for this location. There are no new buildings, lighting, etc. being added to the site.*
- 105-29** – Explosive materials. *There are no explosive materials associated with this business proposal.*
- 105-30** – Water quality. N/A

- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *There are no changes being made to the site with this application.*
- 105-32 – Relation of proposed building to environment. *N/A, no change made to the building.*
- 105-33 – Refuse disposal. *The applicant will remove any waste from the site, which should be minimal with this business.*  
(John asked Ms. Boutin if there were any dumpsters on site? Ms. Boutin stated, “No.”)
- 105-34 – Access control on Routes 109 and 11. *All traffic enters onto the existing site via an approved entrance/exit. There is no change being made.*
- 105-43 – Off-street parking and loading. *This application and location meets all the requirements per the previously approved C.U.P. at this location.*
- 105-46 – Sanitary Provisions. *There is a rest room directly adjacent to the area to be used, which is handicap accessible, that can be used to wash hands when necessary.*
- 105-47 – Signs and billboards. *Ms. Boutin shall go to the Code Enforcement Officer, prior to erecting any signs on the premises to advertise her business, to be certain she is able to do so and is in compliance.*

*Shapleigh Planning Board Meeting, Tuesday, June 24, 2003*

Page 3 of 8

**Roger A. 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 per the plan presented and is not located near the lake shore.*
- 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 businesses located along Rte. 109.*
- 4) Traffic access to the site is safe. *It is, there is a median strip to direct traffic on and off the site. Site distance calculations are within those allowed per the Zoning Ordinance, previously approved for this property location.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is per the previously approved permits for this location.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is an adequate wastewater and solid waste system on site, previously approved on a prior C.U.P.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *N/A, there is none generated by this activity.*
- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. *There is a computer analysis for storm water runoff previously presented on an approved C.U.P. for this property location.*
- 9) Adequate provisions to control soil erosion and sedimentation have been made. *There will be none generated by the activities approved on this CUP. No changes being made to the land.*
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *There is, the property 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. *N/A; there are buffers in place, there will be no additional lighting added at this business location.*
- 12) All performance standards in this chapter applicable to the proposed use will be met. *They shall.*

During the Planning Board meeting on Wednesday, June 11<sup>th</sup>, the Board expressed concerns with respect to housing too many approved Conditional Use Permits at this location. Currently, an approved C.U.P. for a recycling center is in existence, since it has not been one year since the business closed. (Shapleigh Zoning

Ordinance 105-73.B.(3) states, "A conditional use which is discontinued for a period of one year shall not be resumed.") The Board did not feel there was enough room, if the video store was approved, to also house a redemption business.

Roger A. stated that as one condition of approval for the video store should be that the approved C.U.P. for a recycling center would be disallowed. The other Board members agreed, as well as the property owner (Mr. Quartarone stated at the P.B. meeting on June 11<sup>th</sup> he did not want the recycling center to continue).

John. C. stated to the Board members that he wanted to be certain that Ms. Boutin listed "exactly" what items would be sold at this location. He did not want to see the location become a variety store. The list of items sold would be a second condition of approval. John asked Ms. Boutin what would be the items sold on site, besides DVD's? Ms. Boutin stated she would like to sell popcorn (in a bag, not made on site), boxed candy (such as in a movie theatre), and soda if room allows. In addition, she would like to place a bubblegum machine on site. The Board had no problems with these items being sold.

Roger A. stated that a third condition of approval would be the hours of operation. Ms. Boutin stated that 11:00 a.m. thru 10:00 p.m., 7 days a week, would cover both summer and winter hours of operation.

***Shapleigh Planning Board Meeting, Tuesday, June 24, 2003***

Page 4 of 8

Roger A. asked if there were anymore comments? There were none.

After the Public Hearing, Notice to Abutters and review of all the material presented with this application as well as other approved permits for this site location, **John C. made the motion to approve the Conditional Use Permit to operate a video rental and sales business with the following conditions:**

- 1) **The previously approved recycling center business is no longer allowed at this site location.**
- 2) **The items to be sold, in addition to DVD's, are: prepackaged popcorn and candy, and soft drinks. In addition, a bubblegum machine may be placed on site.**
- 3) **The hours of operation are from 11:00 a.m. thru 10:00 p.m., seven days a week.**

**Bill H. 2<sup>nd</sup> the motion. All Board members were in favor.**

Nothing further was discussed.

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**4-Lot Subdivision – "Fort Ridge Woods" – Adam Blaikie & Associates – Represented by Corner Post Land Surveyors, Inc. – Map 8, Lot 41 (Garland Road)**

Mr. Andrew Nadeau was not able to attend the meeting. John C. stepped down from the Board to represent the applicant.

Board members did a site review early in the evening. John C. was also at the site review to answer any questions. Details of the site inspection can be read above. In review, on the plan dated 6/20/03, depicted is one lot consisting of 30.58 acres, and three being approximately 2 acres in size. Each lot has more than the minimum requirement of 200 feet of road frontage. Mr. Nadeau stated that Lot #1 has a foundation on it (with an approved Growth Permit in 2003) and Lot #4 has a home under construction, this property is under contract at this time.

Mr. Nadeau gave Barbara G, P.B. Secretary, a Preliminary Plan dated 6/20/03, an application for minor subdivision, and a list of deed restrictions and covenants for the property. John C. asked the Board members if they had any questions. Roger A., after reviewing the items received at this meeting, had a question with respect to the deed restrictions listed. Roger read deed restriction #5, which states, "All residential structures

and accessory outbuildings shall conform to the codes, ordinances and regulations of the Town of Shapleigh, provided however, that the exterior of every dwelling house must be completed, including painting or staining and landscaping, within one (1) year from the date construction is started on the house.” Roger felt this time frame was too stringent. Perhaps the applicant may want to consider 1 ½ years? Bill H. stated that the town itself gives residents two years for their building permit. John said he would discuss this with the applicant.

Roger A. also read deed restriction number 6, which states, “No dead trees or other unsightly growth shall be permitted to remain on any part of the premises, and no refuse pile or unsightly object shall be allowed to be placed or permitted to remain on any part of the premises. Rubbish or waste containers must be enclosed and screened from public view.” Roger said that during the site review, the Board noticed the area itself could be considered unsightly in areas due to the logging that has already taken place on the property. There are likely to be dead trees and the like for quite some time. Roger asked John C. if this restriction would work on this piece of property? John told Roger and the Board that the purpose of this deed restriction was to prohibit people from taking down trees and leaving them on their property. It was not geared toward what has already taken place.

***Shapleigh Planning Board Meeting, Tuesday, June 24, 2003***

Page 5 of 8

Barbara G. asked John C. about deed restriction number 2, which states, “The premises shall be used only for single family residential purposes and without limitation, no commercial, industrial, business, farming or animal husbandry use or enterprise of any nature or description shall be carried on at the premises.”

Barbara’s concern was with respect to the “farming or animal husbandry” since John C. had already stated that the 30 acre parcel has been sold to someone wishing to have horses. Barbara asked John, “What if the new owners want to breed their horses to sell, they would not be permitted to do so with this restriction.” John stated that he would review this item also with the applicant.

Diane S. asked about fire protection. Did the applicant plan on having a fire pond? How far was this property from a fire pond? How far is the property from the fire station? John C. said there were no plans for fire protection on site. He furthered by stating that he had a fire pond on his property which was within a mile from the proposed subdivision. In addition, John said that the Ross Corner Fire Dept. was within two miles of the site location. He did not feel anything further was needed. Diane S. was still concerned that the location was surrounded by woods. John said that unless a house is fully engulfed by flames, a single fire truck has enough water on board to put out the fire. He also added that Ross Corner Fire Dept. had been at his home to put out a fire in his barn, and they were on site within five minutes of his wife placing the call. He felt confident that the site was protected. Diane asked Roger if the Board could require that the Fire Chief be notified so the Board could get his opinion? Roger stated that we could, citing Subdivision Ordinance 89-13 “Compliance with major subdivision requirements”, which reads, “The Board may require, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision comply with all or any of the submission requirements for a major subdivision”. Fire protection would be an item for public safety.

Bill H. asked if minor subdivisions were required to get fire protection? Roger answered, “No, not specifically, but again Ordinance 89-13 allows the Board to pull items of review from major subdivision requirements if they feels it is necessary.

John C. stated that the area would not house a fire pond next to the road. The only area would be at the rear of the property, which would not be suitable. Diane S. stated that they could put in a water holding tank near the road. John again said that the fire company had access to a fire pond within a mile of the subdivision, located on his property. John said he would contact both Gary Utgard, Fire Chief for Shapleigh Fire and

Rescue and Tony Wolfinger, Fire Chief of Ross Corner Fire Company, and see if they required any additional measures be taken for the subdivision.

John C. asked what additional items needed to be presented along with the final plan. Roger A. said that the Planning Board needed a copy of the soils report for the property. Roger also asked John if the applicant planned on putting in a waiver for the stone monuments? At this time the only two waivers presented were for underground utilities and a stormwater management plan. John did not know if the monument waiver was necessary or not. He would ask Andy Nadeau what he wanted to do (the surveyor of the property from Corner Post Land Surveyors). Roger reviewed Subdivision Ordinance 89-30 "Required improvements", specifically A.(2) "Stone monuments shall be set at all corners and angle points of the subdivision boundaries where the interior angle of the subdivision boundaries is 135 degree or less." Roger also read 89-30.A.(3) "Stone monuments shall be a minimum of four inches square at the top and four feet in length, and set in the ground at final grade level. After they are set, drill holes, 112 inches deep, shall locate the point or points described above." After hearing Roger read these, John C. felt it was likely Mr. Nadeau would have the applicant put in a waiver for monuments.

***Shapleigh Planning Board Meeting, Tuesday, June 24, 2003***

Page 6 of 8

Note: John C. called Barbara G. on Wednesday, June 25th to state that the soils for the property are listed on the latest plan presented to the Board. He will make a copy of the descriptions page so the Board will know what the soils symbols stand for that are documented.

Roger A. told John C. that normal contour lines would be adequate on the final plan as opposed to high density lines.

A citizen asked the Board if school buses go down the Garland Road? John C. said that at this time they do not. The parents bring their children to the intersection of Garland and Ross Corner Road and the bus picks them up there. John stated that there are times that the Garland Road is very difficult to pass, and some of the ditching has no protective rails beside it, making the Garland Road less than safe at times.

The Board had no further questions at this time for John.

John C. asked if the above items that needed to be addressed were the only items the Board needed for the final plan review? Roger stated that he could not answer that question, due to the fact that the application and preliminary plan were considered incomplete. The Board would have to wait until the final plan presentation to be able to determine whether or not all necessary items were addressed.

Nothing further was discussed.

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The Board reviewed two possible changes to be presented to the townspeople at Town Meeting, March 2004.

The first was a change to Subdivision Ordinance 89-14.B. The proposed changes are highlighted below:

**§ 89-14. Procedure.**

- A. Within six months after the on-site inspection by the Board, the subdivider shall submit an application for approval of a final plan at least seven days prior to a scheduled meeting of the Board. Failure to do so shall require

resubmission of the sketch plan to the Board. The final plan shall approximate the layout shown on the sketch plan, plus any recommendations made by the Board.

- B. **Upon submission of the application** All applications for final plan approval for minor subdivision, **the applicant shall be accompanied by submit** a nonrefundable application fee of \$100, **plus a fee of \$50 per lot**, payable by check to the Town of Shapleigh.

**(1) Upon submission of the final subdivision plan, the applicant shall submit a nonrefundable fee of \$50 per lot, payable by check to the Town of Shapleigh.**

Roger A. had stated at a previous meeting that he felt the Town should receive the application fee prior to the final review due to the fact that the Town had to expend money to send out a Notice to Abutters as well as scheduling a Public Hearing. If the money is not received until the final review, the applicant may decide to cancel the project and the Town will have expended monies that it cannot recoup.

After reviewing the proposed changes the Board members agreed to address this change for Town Meeting. A Public Hearing on this matter will be held later this year, prior to Town Meeting.

*Shapleigh Planning Board Meeting, Tuesday, June 24, 2003*

Page 7 of 8

The 2<sup>nd</sup> proposed change was to Zoning Ordinance 105-73.B(3). The proposed changes are highlighted below:

- B. Existing conditional use of structure. [Amended 3-13-1993 ATM by Art. 65]

(1) A conditional use which existed prior to the effective date of this chapter may not be changed to another conditional use nor substantially expanded or altered except in conformity with all regulations of this chapter pertaining to conditional uses. Substantial expansion shall be defined as:

(a) Floor space increase of 25% or ;

(b) New materials or processes not previously associated with the existing use.

(2) No changes shall be made in any approved conditional use without approval of the change by the Planning Board.

(3) A conditional use which is discontinue for a period of **one-year 30 days** shall not be resumed, **with the following exceptions:** [Added 3-17-2001 ATM by Art. 12]

**(a) The business is closed due to a documented illness of the current applicant, whereas the applicant and/or an employee is unable to run the business.**

**(b) The business is deemed seasonal at the time of approval of the application.**

The Board members had discussed at the previous meeting, their concern with allowing Conditional Use Permits to be open ended for one year after the business was no longer in use. This could potentially allow a newly approved business at a certain location to also operate under the old permit, thus having two business's at one location.

The Board also had a concern with old permits that did not have strict approval guidelines in the past, still being able to operate. These businesses's may not be environmentally sound, and may lack other criteria that today we would have applied to the business.

John C. agreed that old approvals have posed a problem, but since the Conditional Use Permit goes with the property and not the applicant, disallowing an approved C.U.P. would devalue the property, making it less marketable. John did not feel the Town should do this to a property owner.

Bill H. asked if the Board could instead place a stipulation where the Planning Board could void a prior approval if it posed a problem for the health and welfare of the community, or if there was a new use at the location? Roger stated that in the past similar issues have come up, but again denying a pre-approved use would devalue the property and could create a legal situation for the Town.

John C. thought the Board might propose that a change to the ordinance might be that the current owner of the property request the C.U.P. continues for a period of one year (unoccupied or for non-use), otherwise it would expire after 30 days. This way the owner would have the option to keep the Conditional Use Permit valid for marketing purposes.

Several Board members asked who would monitor whether or not a business has been discontinued for one year? Roger A. stated that the CEO makes certain C.U.P. conditions are met. The problem is, with the CEO's schedule, it is hard to know exactly when a business closes and/or whether or not it reopens within a one year period.

***Shapleigh Planning Board Meeting, Tuesday, June 24, 2003***

Page 8 of 8

After much discussion the Board decided to make no changes to how the C.U.P. expiration is written at this time.

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John C. brought up the subject of subdivision fees. He felt that the current fee schedule was not adequate with respect to minor subdivision. John stated that the Board should consider raising the application fee to \$250. (Currently the fee is \$100.) Barbara G. concurred stating that other towns in the area charge on average \$300 for an application fee.

Roger A. stated that any change to the fee would have to be voted on at Town Meeting. Barbara G. will draft up language for a future Planning Board meeting to discuss this further.

John C. also felt strongly that impact fees were appropriate with respect to new homes and seasonal conversions. John stated that he realized the fee had to be directed to a specific purpose and needed to be used within a five year period. However, as the town grows and new people are added, both the roads and transfer station could use the monies from impact fees within the appropriate time frame. Also, the town needs a town garage to house a salt shed, this could be another area impact fees could be allocated. John thought this needed to be addressed again and brought up to the Comprehensive Plan Committee.

John C. also stated that impact fees were not something that should be directed toward subdivisions alone. He felt that single family homes spread out across town actually impact things such as busing much more than homes clustered in one area.

Nothing further was discussed. This subject will be brought up at another meeting.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

***The Planning Board meeting ended at 8:35 p.m.***



Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, July 22, 2003***

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

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### **PUBLIC HEARING started at 7:00 p.m. *Amendment to a Conditional Use Permit – Repair Boat Motors – Donald Beadle – Map 18, Lot 28 (146 Emery Mills Road)***

Mr. Beadle was in attendance along with the co-owner of the property, Mr. Stephen Quartarone. Roger A. opened the meeting by asking Mr. Beadle to speak to the Board and public about what the intention of his application was.

Mr. Beadle started his conversation by telling the Board he was ready to address the items in question from the previous Planning Board meeting. Mr. Beadle brought with him a letter from Bob Brennan of State Line Auto, RV, and Marine, which stated that he would accept all waste oil produced by Mr. Beadle, to burn in his waste oil burner. Mr. Beadle stated that in addition to the (10) boats allowed on site for sale currently, he would like to house an additional (3) vehicles to be worked on, for a total of 13 items. Mr. Beadle stated that the items to be worked on would be mostly boat motors but he may occasionally work on ATV's and lawnmowers. His hours of operation would be the same as the Beadles Bait and Tackle business, which is 5:00 a.m. thru 7:00 p.m., seven days a week.

Mr. Quartarone had for the Board a sketch depicting the location of the 10' X 14' shed Mr. Beadle would be working in. The building shall be placed 30 feet from the existing propane tank. The repair area shall be the shed and the area immediately surrounding the shed.

John C. asked Mr. Beadle if he would be working on the motors outside? Mr. Beadle replied that he would remove the parts from the boats but would be working on the motors inside the shed. Mr. Beadle stated that he would be testing the motors most often at the public boat launch across the street.

Roger A., after reading the minutes from July 8<sup>th</sup>, noted that the Board had questioned Mr. Beadle as to what he would do with any oil/gasoline left on top of the water located in the 55 gallon drum used for motor testing on site. Roger asked Mr. Beadle what he would be doing with this gas/oil? Mr. Beadle asked what Lakeside Marina does with their contaminated water? Steve M., CEO, stated that he asked Lakeside Marina this question last week and they stated verbally and in writing that the gas/oil is skimmed off the top of the barrel and placed in the containers of waste oil, which are then picked up by the waste oil company they use for removal. Roland Legere, a member of the audience, stated that at the school where he works, they too skim the oil from the top of the water containers and dispose of it properly. He said that more water can then be added to the 55 gallon drums. Mr. Legere said that after about 10 years, the drums are professionally cleaned and filled with new water. Mr. Beadle stated that he would use this method of skimming waste oil/gas when necessary and place it in the waste oil containers he will take to Stateline Auto.

John C. asked Mr. Beadle where he would be storing items that were waiting to be worked on? Mr. Quartarone stated there would be three parking slots next to the repair shed. He also said there was more than enough room available in that area to park boats and/or ATV's, lawnmowers, etc.

John C. asked Steve M., CEO, what the setback from the propane tank needed to be from the repair shed? Steve stated 25' according to the Liquefied Petroleum Gas Code. Steve also told the Board he contacted

several propane companies to be certain the 25' distance was correct for this use and he was told it was.

Roger A. asked Mr. Beadle what he would be doing with any waste antifreeze? Mr. Beadle stated that the antifreeze used in boats was biodegradable therefore not a hazard to the environment. Several Board members told Mr. Beadle if he was intending to work on ATV's he may have to deal with antifreeze disposal. Mr. Beadle still did not feel antifreeze would be an issue but he said that he would dispose of it in the proper container and remove it from site correctly.

Roger A. asked if the Board had any other issues to discuss during the Public Hearing? Steve M. stated that Mr. Beadle would have to put a non-combustible floor in the repair shed. The repair work could not be done on a wooden floor. John C. asked Steve if it could be a wooden floor with ceramic tile on top of it? Roger did not feel it could be ceramic. He stated that should the repair shed shift the ceramic could shift and crack exposing the wood underneath, creating a possible fire hazard. Roger stated that he felt the best solution would be a 4" cement slab for the floor. Steve M. agreed. Steve asked what the size of the repair shed would be? Roger stated Mr. Beadle had a 10' X 14' shed on the plan. Steve and Roger both felt that a cement floor of that size would not be a great expense. Mr. Beadle agreed to put a cement slab in for the floor.

John C. asked Mr. Beadle if there would be any other employees in addition to him? Mr. Beadle said there would be one more mechanic on site. John stated it appeared there was enough parking in existence for the additional employee. The other Board members agreed after looking at the plan.

John C. told Mr. Beadle there was a noise ordinance. John said that when running a boat motor out of water it can be very loud, so Mr. Beadle should not be running the engines prior to 7:00 a.m. in the morning. Roger A. agreed and read Shapleigh Zoning Ordinance 105-22, Noise, "Excessive noise at unreasonable hours shall be required to be muffled so as not to be objectionable due to intermittence, beat frequency, shrillness or volume. The maximum permissible sound pressure level of any continuous, regular or frequent source of sound produced by any activity regulated by this chapter shall be established by the time period and type of land use listed below. Sound pressure levels shall be measured on a sound-level meter at all major lot lines of the proposed site, at a height of at least four feet above the ground surface."

<b>Sound Pressure Level Limit</b>	
<b>Time Period</b>	<b>dB(A)</b>
7 a.m. to 10 p.m.	60
10 p.m. to 7 a.m.	45

Roger read 105-22 (1), "The levels specified may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes in any one day."

Roger then read from Appendix A, Common Equivalencies of Decibel Rating for Noise, to give Mr. Beadle some examples as a guideline. Some examples read were as follows:

<b>Decibels</b>	<b>Common Equivalency</b>
30	Quiet suburban street in the evening, no traffic.
40	Average day/night outdoor noise level in rural residential area.
47	Average outdoor daytime background noise level on a typical suburban street (not including nearby traffic or aircraft).
50	Large transformers at 100 feet.
60	Air conditioner at 100 feet or average city traffic on a shopping street.
70	Vacuum cleaner or traffic noise on a very busy city street.
76	Expressway traffic at 50 feet from pavement.

There were no further questions. The Public Hearing ended at 7:22 p.m.

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The Planning Board meeting started at 7:30 p.m.

The minutes from Tuesday, July 8, 2003 were accepted as written.

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

**Amendment to a Conditional Use Permit – Repair Boat Motors – Donald Beadle – Map 18, Lot 28 (146 Emery Mills Road)**

Mr. Beadle was present for the regular meeting along with Mr. Quartarone, co-owner of the property.

Roger A. asked Board members if there were any questions with respect to the application or from the Public Hearing discussion. Members had no questions at this time.

Roger A. reviewed Zoning Ordinance 105-17 “Land uses” and stated this project was allowed in this location.

Roger then reviewed the Basic Performance Standards as follows:

- 105-20 – Applicability of standards; prohibited uses. *This application is a permitted use.*
- 105-21 – Traffic. *The traffic is safe on site as approved on previous C.U.P.’s at this location.*
- 105-22 – Noise. *This business shall not create excessive noise and no noise shall be generated by this business between the hours of 7:00 p.m. and 7:00 a.m.*
- 105-23 – Dust, fumes, vapors and gases. *There will be no excessive emissions created by this business that would go beyond the lot lines.*
- 105-24 – Odors. *There will be no excessive odors emitted from this business that would go beyond the lots lines.*
- 105-25 – Glare. *There will be no additional lighting added on site.*
- 105-26 – Stormwater runoff. *There has already been an approved stormwater runoff plan submitted for this location on a previously approved C.U.P.*
- 105-27 – Erosion control. *Erosion control was already approved on a previously approved C.U.P. at this location.*
- 105-28 – Setbacks and screening. *Setbacks and screening have been previously approved for this location. There is no additional lighting being added to the site. The additional building will not disturb existing vegetation.*
- 105-29 – Explosive materials. *This business shall not house or store any discarded waste or salvage products outside of the repair building. All gasoline/oil shall be stored in proper containers and disposed of offsite according to the plan.*
- 105-30 – Water quality. *All hazardous materials shall be located inside the repair building on a floor made of impervious material approved by the Code Enforcement Officer.*
- 105-31 – Preservation of landscape; landscaping of parking and storage areas. *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. *The building is compatible with existing buildings on site and in the surrounding area.*
- 105-33 – Refuse disposal. *The applicant shall remove all waste from the site.*

- 105-34 – Access control on Routes 109 and 11. *All traffic enters onto the existing site via an approved entrance/exit. There is no change being made.*
- 105-43 - Off-street parking and loading. *This application and location meets all the requirements per the previously approved C.U.P. at this location as well as the plan presented.*
- 105-47 – Signs and billboards. *Mr. Beadle shall go to the Code Enforcement Officer, prior to making changes in the existing signs on site, to be certain they are in compliance.*

Roger A. repeated the hours of operation as stated during the public hearing, they are 5:00 a.m. thru 7:00 p.m., seven days a week. The items to be repaired were boat motors, ATV's and lawnmowers. There would be three parking slots designated for the items waiting for repair. There currently are 10 boats allowed for sale on site and that shall remain the same. Roger stated that any change in signage shall have to go through the Code Enforcement Office. The new repair building will also have to go through the Code Enforcement Office.

Roger A. read from Ordinance 105-30, Water Quality, "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." Roger stated that Mr. Beadle did need the cement slab for the floor of the repair building and that the waste products must be stored inside the repair building or a containment facility would have to be built. Roger said that Mr. Beadle would remove waste products per the letter received by the Board using proper containment.

John C. asked Mr. Beadle if he was going to have electricity in the repair building and if so how would it be installed? Mr. Quartarone stated that he would be running an electric cord from an outside GFI outlet located on the existing Craft Shop. Mr. Beadle said he did not intend on interior electrical outlets. He may only need to use the power cord for using a power tool occasionally. Roger stated that Steve M., CEO, would need to monitor the building and if he felt a State electrician was required in the future he could take action at that time.

There were no further questions.

**Roger A. 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 per the plan presented and is not located near the lake shore.*
- 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 businesses located along Rte. 109.*
- 4) Traffic access to the site is safe. *It is, there is a median strip to direct traffic on and off the site. Site distance calculations are within those allowed per the Zoning Ordinance, previously approved for this property location.*
- 5) The site design is in conformance with all municipal flood hazard protection regulations. *It is per the previously approved permits for this location.*
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *There is an adequate wastewater and solid waste system on site, previously approved on a prior C.U.P.*
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. *There is per the letter received by the Board.*

- 8) A stormwater drainage system capable of handling twenty-five-year storm without adverse impact on adjacent properties has been designed. ***There is a computer analysis for storm water runoff previously presented on an approved C.U.P. for this property location.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***There will be none generated by the activities approved on this CUP. No detrimental changes being made to the land.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. ***There is, the property 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. ***N/A; there are buffers in place, there will be no additional lighting added at this business location.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

After the Public Hearing, Notice to Abutters and review of all the material presented with this application, **John C. made the motion to approve the Conditional Use Permit to repair boat motors, ATV's and lawnmowers with the following conditions:**

- 1) **The total number of items waiting for repair shall be limited to three. The number of boats for sale on site shall remain ten. The total number of items on site for this business shall be thirteen.**
- 2) **Repair vehicles shall remain in the designated area directly adjacent to the repair building as drawn on the plan.**
- 3) **The items for repair shall be limited to boats, ATV's and lawnmowers.**
- 4) **The hours of operation shall be from 5:00 a.m. thru 7:00 p.m., seven days a week.**
- 5) **No motors shall be run / tested between 7:00 p.m. and 7:00 a.m., seven days a week.**
- 6) **All waste oil, gasoline and antifreeze shall be collected in approved containers. Oil and gasoline shall be disposed of at Stateline Auto, RV & Marine by Mr. Beadle. All antifreeze shall be removed from site by an approved waste collection agency.**

**Diane S. 2<sup>nd</sup> the motion. All Board members were in favor.**

Nothing further was discussed.

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**4-Lot Subdivision – “Fort Ridge Woods” – Adam Blaikie & Associates – Represented by Corner Post Land Surveyors, Inc. – Map 8, Lot 41 (Garland Road)**

Mr. Andrew Nadeau was not able to attend the meeting. John C. stepped down from the Board to represent the applicant.

Gary Utgard, Fire Chief, attended the meeting at the Planning Boards request. The Board requested a professional opinion regarding water supply / fire protection in the area of the proposed subdivision.

Mr. Utgard stated that he did look at the area, including the pond located approximately  $\frac{3}{4}$  of a mile from the subdivision. Mr. Utgard said that even though there is a pond within a mile of the property, the existing road (Garland Road) is a one lane road barely passable by two vehicles, making moving large equipment a problem. Also, the change in elevation from the subdivision to the water source (pond) makes the pond less than ideal. Mr. Utgard felt that it would be in the best interest of the Town to have a cistern put in for fire suppression purposes (size to be determined at a later date).

John C., representing the applicant this evening, asked Mr. Utgard if a fire pond would be an acceptable alternative to a cistern? Mr. Utgard stated that if it was built correctly it could be an alternative.

John C. stated that he had approached the owners of the largest lot of this subdivision and asked if the applicant could place a fire pond on their property but they did not want it. John said that the other three properties were not good locations for a fire pond. The applicant has also thought about approaching the properties located directly across the street from the subdivision to ask if they would allow a fire pond on their property (Kenny Lindsay or Duane and Monique Shapleigh). If either of these properties would allow the fire pond it would protect their homes as well as the new homes in the subdivision.

John C. addressed the fact that he did not feel a fire pond could be located on Lots 1 thru 3 because of the required road easement. There would probably not be enough of a building envelope with an easement for the fire pond included on the property.

Mr. Utgard stated that the Fire Department would require a 20 foot easement to have access to the fire pond as well as for maintenance purposes. He stated that a 28 ton vehicle (fire truck) must be able to access the water easily.

John C. said that the land across the street from the subdivision was higher and more conducive for creating a fire pond. The pond could be located directly adjacent to the Garland Road. John said that if the owner of the property was worried about safety, the applicant could put a fence around the pond.

John C. said to Mr. Utgard that the applicant would put in a suction pipe placed on a well tile so the pipe is not lying on the bottom of the pond. Mr. Utgard stated that if a fire pond were put in, it would have to be to the proper specifications so it would function properly. It needed to be engineered correctly.

John C. stated that even with engineering, a fire pond would be less expensive to put in than a cistern. John also thought that the applicant might be willing to put \$500 in an escrow account in case something needed to be replaced in the future, or for maintenance.

Steve M., CEO, asked John C. if the applicant considered a sprinkler system in the home, as discussed at the previous P.B. meeting? John said that the cost of a sprinkler system in each home would be far greater than a fire pond or a cistern. John received an estimate that it would cost approximately \$7,000 per home. John said that a fire pond is also a better idea since it not only protects the homes in the subdivision but also the other homes in the area.

Mr. Utgard stated that for 1 to 5 homes, 10,000 gallons of water would be necessary. John C. said that he went to watertank.com for prices of different size tanks as well as different types of tanks, fiberglass, resin, etc. Mr. Utgard said that most kinds of tanks would be acceptable except for steel, they were not. Mr. Utgard stated that a concrete cistern would be acceptable, as well as the other materials.

John C. said the vendor he spoke with thought that a 20,000 gallon cistern was excessive for a minor subdivision. Mr. Utgard agreed stating that 10,000 gallons was adequate for this location. Mr. Utgard did state that if another minor subdivision were to go in, another cistern would be necessary.

John C. told the Board that he spoke with Andrew Nadeau, of Corner Post Land Surveyors, and he said that a 75' X 100' X 10' deep pond (with a 4 to 1 slope) would hold approximately 20,000 gallons of water. Mr. Utgard stated to John that the pond created would have to maintain the 20,000 gallons of water even during a drought period (if 20,000 gallons was the amount agreed upon). If the pond dries up, then the contractor would be required to dig further until the required amount of water could be maintained.

Roger A. stated that he was concerned with the idea of a sprinkler system in this area since the homes would be on private wells. He did not think the wells could handle the water capacity necessary. Mr. Utgard said that a sprinkler system had a water holding tank that was under pressure, which would meet the needs of the system. "The sprinkler system is not working off the well but off a stored supply, so it is not a problem." Mr. Utgard said that the only concern with a sprinkler system is whether or not it is maintained properly and he said you can never be certain. He added that even if the system partially failed, there would still be less damage then if one hadn't been installed. Mr. Utgard stated that there is always a greater delay having to bring water from off site. He said that he would never talk anyone out of an individual sprinkler system. "If a sprinkler system isn't an option than a cistern or fire pond is the next best choice in a location as we are reviewing here."

Bill H. speaking to Mr. Utgard stated, "I respect your professional opinion with respect to fighting fire. What I do worry about is setting precedent. Shapleigh has a lot of similar areas that will be developable over the next several years, are we setting a precedent that we will require fire protection in the future for all minor subdivisions? I think we are if we require this in the subdivision on this road. Anything else that comes before us, that is similar in nature, we will have to look at carefully and pass the red-face test. We will have to require it in the future."

Bill H. asked Mr. Utgard what the capacity of the water tanks on the trucks were? Mr. Utgard stated that one truck held 1000 gallons and the other held 750 gallons.

Mr. Utgard, responding to Bill H. stating that he felt the Board would be setting a precedent. Mr. Utgard said, "Should you do this for all small subdivisions? Absolutely. If you agree with that, you are setting a precedent. Though it isn't written in the minor subdivision ordinance, it is something we (the Town of Shapleigh) should be moving toward. If you put three houses in, put in a water holding tank. The cost divided among three homes would not be substantial." Mr. Utgard spoke of several areas that currently should have fire protection ponds or cisterns but do not.

Bill H. asked who would maintain the water holding tanks and ponds in the future? He wanted to know if the Town would have to pick up the cost of this maintenance. Mr. Utgard said that currently the Fire Dept. maintained the fire ponds they put in and several others they have access to. The Fire Dept. keeps the area plowed and does maintenance on the hydrants twice a year. Mr. Utgard told the Board that he could not guarantee that in the future the Town would not require an escrow for maintenance. Mr. Utgard stated that any appliance the Fire Department puts in at this time, they maintain. He said the Fire Department does require an easement for access or they will not put in the hydrant. Mr. Utgard stated that there was no strict policy on fire ponds or cisterns currently with the Fire Dept.

Roger A., addressing Bill's concern with respect to setting precedent, stated that there were many approved subdivisions in Shapleigh that have ponds that were required by the Planning Board. Several Roger recalled were the Santino subdivision, the Wetherall subdivision on Cross Road and Cliff Randall's subdivision near White's Farm on Deering Ridge Road. Roger also said that the Planning Board was not picking on this subdivision; the Board is looking at the location to determine the necessity. Is there water within seeing distance of the subdivision?

Mr. Utgard stated that the problem with being able to "see" water was that the Fire Dept. may not be able to get to that water. He said that if there was a 25 foot lift the Fire Dept. could not access it. Mr. Utgard asked the Board to think about the access to the water to determine whether or not additional fire suppression was necessary when reviewing each location.



Bill H. still felt that the Planning Board needed to establish a definable approach for review of minor subdivision fire suppression requirements. Bill cited the approved Dubois Subdivision on the Newfield Road which currently has no fire protection. Roger A. stated that there was an approved subdivision in the same area that was supposed to have a dry hydrant installed per the approval. The hydrant was never installed. In lieu of this, and with an agreement from the Fire Chief at that time, the developer gave the Fire Dept. a 300' X 6" fire hose as a concession. The Board and the Fire Dept. felt this was adequate. Roger said again that the Board was not doing anything new reviewing fire suppression for this subdivision, it has always been reviewed. Roger said that in addition, we are asking the professional opinion of the Fire Chief with respect to this location and its needs. We are asking him what is warranted.

John C. stated to the Board that the applicant was willing to do something for fire protection. A fire pond would be the first choice with respect to time and money. John thought that in the past the Planning Board had conceded on the fire protection issue at times and from this time forward, in his opinion, it would not happen again. John said he felt the Board would continue to look at fire protection more closely and he did feel a precedent was being set with this thorough review.

John C. asked the Board if they would consider approving the subdivision contingent upon the applicant getting a letter from the Fire Chief stating he approved the Fire Pond. There would be the stipulation that no further building could be done on any of the three lots, including the lot with the foundation on it, until the fire pond is completed. John did not want to have the subdivision review held up for this one issue. John also stated that in the case that the fire pond could not be located near the subdivision because of ledge or that it wouldn't hold water, then the applicant would put in a cistern. Madge B. asked if John was looking for approval with the condition of a fire pond going in prior to construction? John stated that the approval would be contingent upon the Planning Board secretary receiving a letter of approval from the Fire Chief prior to any construction taking place.

Mr. Utgard stated to John C. that he would need an engineered plan / proposal given to him to review. The pond or cistern would need to hold as a minimum 10,000 gallons of water at all times. Mr. Utgard stated that the plan would have to show who was going to maintain the pond or cistern and the Fire Dept. would need a 20' easement for access. Mr. Utgard stated that fencing was not mandatory but was a good idea for future liability issues for the town. John felt that the liability was for the property owner not the Town. Mr. Utgard disagreed stating that people tend to hold those with the most money liable, and in this case it would most probably be the Town. John disagreed since the property owner would own the pond; the Town would only have access to it. John did state that the applicant would consider a fence.

Mr. Utgard said, "As a final comment I believe a cistern would be the easiest to maintain." He said that he also felt that the Town needs to set a standard to provide the most economical safety protection for an area for both houses and the forest.

Bill H. asked Mr. Utgard if the Fire Dept. maintained the fire ponds? Mr. Utgard said that the Fire Dept. did not dredge them, that was up to the owner of the property. He said that if the inlet and outlet for the fire pond was done correctly and if the immediate area was maintained, the pond can sustain itself for a hundred years or more. Mr. Utgard said there has not been a problem with the fire ponds that are currently in existence.

Bill H. asked what was an adequate water supply for 1 to 2 houses? Mr. Utgard stated 10,000 gallons. Mr. Utgard said that fire flow for one minute is calculated as length X width X height of the home divided by 100, this is a per minute flow to extinguish a fully involved building. This flow must be maintained for a

minimum of 10 minutes. Bill stated that with these calculations you could require a fire pond for anyone wanting to build a home. Roger A. stated that the Board does not regulate single family dwellings, the Board reviews subdivision only. Mr. Utgard stated that the Town could regulate each home. If the Town chose to do this, then an individual sprinkler system in each new home would be the best option. Eventually, new fire ponds would not be necessary.

In closing, Mr. Utgard stated that in his opinion, this subdivision needed additional fire suppression, such as a pond or cistern. He came to this conclusion after review of the NFPA guidelines along with his experience with the Fire Dept. Mr. Utgard did say that the State of Maine has not adopted NFPA guidelines but it is what he chooses to use. These guidelines state that 1 thru 5 homes require 10,000 gallons of water for protection, 6 thru 12 homes require 20,000 gallons. More than 12 homes you need to add multiple tanks. Mr. Utgard said it is best to have access to water within 1000' of structures.

The Board thanked Mr. Utgard for his information. There were no more questions on fire suppression. It was concluded by the majority of the Board that either a fire pond or cistern was needed in this location.

John C. asked what was needed by the applicant for the final plan? The following was listed but Roger noted that there could be additional requirements after a Public Hearing is held:

1. Easement for road on plan, referring to Subdivision Ordinance 89-36.F
2. Shift lot lines so all lots have the minimum acreage allowed after placing road easement on properties.
3. List waiver for underground utilities on plan if requested.
4. Add "no dug wells" to plan.
5. Number lots 1 thru 4 on plan. (The plan can note that deed restrictions do not apply to the sold lot. Deed restrictions are a requirement of the applicant not the Board.)

Steve M., CEO, stated that he had talked to Attorney Durwood Parkinson on the subject of whether this was a three or four lot subdivision. Attorney Parkinson stated this was definitely a four lot subdivision citing the fact that any time a lot is divided within a five year period into three or more lots, all lots are considered a part of the subdivision. Attorney Parkinson did state that any deed restrictions imposed did not have to apply to all four lots. The lot that has already been sold can be excluded from restrictions by the applicant. John C. stated that Attorney Ron Bourque agreed, citing Bourque's letter to the Board which stated that the Board could not "impose any conditions or restrictions on a parcel of land not owned by the applicant". Roger said that he had spoken to Attorney Bourque, and he said the 4<sup>th</sup> lot is a part of the subdivision but because the lot has been sold prior to final approval of the subdivision, any deed restrictions placed on the subdivision will not come into play on the sold lot. Diane S. noted that Attorney Bourque could not be used as the attorney on this issue since he works for Adam Blaikie (the applicant). The Board agreed. Madge B. reminded the Board that during the meeting on July 8<sup>th</sup>, she had stated "...the Board would have no issue with certain deed restrictions proposed for three lots and not for the fourth." Madge stated again that she felt this was a four lot subdivision.

John C. said he had misunderstood the Boards intention during the meeting on July 8<sup>th</sup>. John said he had no problem saying this was a four lot subdivision, as long as the fourth lot did not have to adhere to the deed restrictions imposed by the applicant.

It was concluded that this would be reviewed as a four lot subdivision. The Board was waiting for a letter from Attorney Durwood Parkinson for the file.

Nothing further was discussed.

**Possible Subdivision – Larry Robertson – Map 11, Lot 33-9 (Corner of Abbott Mountain and Newfield Road)**

Mr. Robertson was in attendance along with his brother Paul. Mr. Robertson was back before the Board to discuss further what would be necessary to subdivide his property.

Mr. Robertson, having bought a lot that was part of an original major subdivision, was told by Roger A. that he needed to submit more information to the Board to review his division as an amendment to a major subdivision.

Roger A. started the discussion by stating that he reviewed the original subdivision of Map 11, Lot 33, along with two approved amendments to the subdivision, one by Mr. Zoppo and one by Mr. Morris. Roger noted that the original subdivision did not have any restriction on further subdivision of the lots, so Mr. Robertson may in fact further divide his property.

Roger A. told Mr. Robertson that an amendment to a major subdivision would require he bring to the Planning Board a surveyed plan depicting his lot, what he proposed to do on his lot, and the plan needs to reference the original subdivision plan. There would need to be soil test pits done for each proposed new lot on the plan. There would also have to be a road and stormwater management system designed in accordance with town specifications because his lot is part of a major subdivision.

John C. stated that the biggest expense to Mr. Robertson would be putting in the road and the engineering for it. John asked Mr. Robertson to consider trying to buy five feet of property from a neighbor so he would have the necessary road frontage to divide his lot in half. If he did this, it would eliminate the need for the road, since two parcels would have the necessary 200 feet of road frontage. (Mr. Robertson has approximately 396 feet of road frontage.)

Mr. Robertson thanked the Board for their time and stated he would have to think about what he is going to do in light of the fact this project will be very costly because of the road.

Nothing further was discussed.

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**After-the-Fact Conditional Use Permit – Replace Retaining Wall – Scott Sibert – Map 44, Lot 17 (144 Silver Lake Road)**

Mr. Sibert was in attendance at the meeting along with Mr. Slabodnick, a General Contractor and the person who helped Mr. Sibert rebuild the retaining wall.

Mr. Slabodnick stated that he removed an old creosote retaining wall and replaced it with a new concrete Anchor lock-block wall for Mr. Sibert. Mr. Sibert stated that a friend of his that stayed at his home, who worked for the DEP in Massachusetts, and he told him that the existing creosote wall was a hazard to the environment. In addition, Mr. Sibert said that because the wall was leaning, it was no longer preventing soil from washing into the lake. He said that he now knows he should have come to the Planning Board prior to replacing the wall. Mr. Sibert had received a letter from the Steve M., CEO, stating that he was in violation of the Town of Shapleigh's Zoning Ordinance (copy of the letter from the CEO is in the P.B. file).

Mr. Slabodnick stated that the old wall had been removed from the site and brought to a waste disposal site in Braintree Mass. He said that the new wall was 33" in height, which included the 3" cap. Behind the new wall was sand, with loam and grass seed placed on top. Mr. Slabodnick stated that the Anchor wall system

was put in according to the specifications by Anchor. Behind the new wall are drain pipes placed in such a way that water slowly leaches thru the lock-blocks as designed by Anchor.

John C. asked if Mr. Sibert had an approved Permit by Rule from the DEP and what the DEP did, if anything, with respect to an after-the-fact wall replacement? Mr. Sibert stated that he had filed an application with the DEP but had just gotten it back because he had forgotten to sign it. He signed it and put it in the mail to the DEP today (7/22). Mr. Sibert said that the DEP asked for pictures of the old wall and the new wall along with the application. The DEP did not state to Mr. Sibert they would require anything further.

John C. asked Steve M., CEO, if the wall being 33.5" needed a handrail? Steve M. stated that it did not need a handrail unless it was (4) feet in height or more.

John C., after reviewing the pictures Mr. Sibert gave to Steve M. of the old wall as well as pictures Steve took of the new wall, stated that he felt the new wall was at least 10" higher than the old wall. Mr. Slabodnick said that the old wall was leaning and partially buried / decaying into the ground. He said that the new wall was the same height as the old wall when it was new. John C. and Steve M. did not agree. *John C. stated that he wants a letter from the DEP stating that the new wall height was o.k. with them, along with a copy of Mr. Sibert's signed application.*

There were no further questions at this time. Roger A. said that a Notice to Abutters would be mailed prior to final review. Mr. Sibert said that he would not be able to attend the meeting on August 12<sup>th</sup>, so he asked to be placed on the agenda for August 26<sup>th</sup>. The Board agreed. The Notice to Abutters will be mailed to reflect the Planning Board meeting date of August 26<sup>th</sup>.

Nothing further was discussed at this time.

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**Conditional Use Permit – Tree Thinning – Shapleigh Town Forest (Ralph Ridley Representing) – Map 7, Lot(s) 10 & 11 (Town Farm & Square Pond Road)**

There was no one to represent the Town Forest at the meeting so the application was tabled until August 12<sup>th</sup>.

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**OTHER:**

**Question from Steve M., CEO, regarding Shapleigh Zoning Ordinance 105-47(3) "Signs and billboards."**

Steve M. told the Board that a Mr. Mike Allen, owner of Allen's Sheds, asked whether or not he could place a 32 square foot sign on his property, or if he was limited to 8 square feet. Steve read 105-47(3) which reads, "Residential users may display a single sign not over eight square feet in area with their name on it, with information about goods or services rendered on the premises or with information concerning the sale, rental or lease of the premises." Steve asked if this applied to Mr. Allen?

John C. asked if this business was an approved business with a Conditional Use Permit? Steve M answered, "Yes". Roger A. stated that he could have a 32 square foot sign. John agreed.

Steve M. asked what the difference was between Mr. Allen's business (which is located at his home) and a "residential user"? Roger A. stated that at the time the ordinance was created the town had a lot of agriculture. The Board felt that seasonal signs used for selling produce and the like could be used but they

were limited in size to eight square feet. Another example was if you were advertising that you did sheep sheering on site, this sign would have to be eight feet in size.

Steve M. felt the ordinance was not clear as it is written at present and that perhaps it should state that with an approved C.U.P. you could place a 32 square foot sign on the property, otherwise it would have to be eight square feet. The Board agreed that this needed to be addressed. The Board will discuss this again prior to making their final decisions for ordinance changes for the Town Meeting in 2004.

**Letter from Carl Beal, P.E. of Civil Consultants, regarding John and Mary Hastings's Driveway Permit Approval, Map 29, Lot 6**

Barbara G. stated that Steve M. had received a letter from Mr. Beal, it read as follows: "Attached is a copy of the Easement Deed executed by Anita Pitstick for receiving stormwater runoff from the Hastings driveway. The Shapleigh Planning Board requested that the Hastings obtain drainage easements from their abutters at the meeting of July 2002. Following that meeting we had an attorney prepare the deeds and sent them to both abutters in October. Ms. Pitstick has signed the easement but the other abutter, Perry Dooley, has not. We spoke with Mr. Dooley numerous times over the winter and he stated that he was satisfied with the Hastings driveway, but he did not want to sign any deed. He stated that he was going to talk to you about the matter. I am not sure if I need to go back to the Planning Board. Mr. Dooley has stated that he will attend a meeting if needed. The Hastings want to complete the town review process. Please call me at 384-2550 and let me know what happens next." Barbara asked the Board, "How do we address this issue?"

John C. asked if the Board remembered what was required of Mr. Hastings (The meeting was more than six months previous)? Diane S. said that at the meeting the Board reviewed the Hastings's driveway, because of the lay of the land, all water would shed onto the neighbor's property. At that time the Board required Mr. Hastings to get easements for water drainage from both neighbors. John C. added that he thought this driveway application was an after-the-fact; the driveway went in prior to approval by the Board.

Diane S. asked if the Board could require a letter from Mr. Dooley stating that he did not mind the water draining onto his property? John C. said that this could become a problem if Mr. Dooley sold his land. Any new owner may not want the rain water draining from the driveway onto his property and request something be changed. Steve M. asked if the Board could request Mr. Beal to redesign the plan so the water would run onto the property with the easement only? John C. stated that with the plan before the Board and the lay of the land as he remembered it from the site inspection, there were no feasible alternatives for water runoff other than onto the neighbor's properties. Steve M. stated the Board could require the driveway be removed, i.e. plant trees on it that would help to stop the problem.

Bill H. remembered that only one abutter received the water from the driveway because of the lay of the land, he thought the other side was not an issue. He asked which abutter was Mr. Dooley? The Board members did not know because the plan on file did not list the abutter's names. Bill asked if the Town could be liable if they did not receive an easement from both abutters? Steve M. stated that the ordinance states that all stormwater must remain on the property. Steve felt that if easements were not received, because stormwater will not be detained on site, then the Board would not be doing their job.

Diane S. stated that the driveway was already in prior to the Boards approval so how would they be liable? Steve M. said that it was the Boards job to be sure the driveway complies with the ordinance, otherwise the Board should ask that it be removed. Steve did state that he did not want to see this happen but the Board needed to deal with the situation in the best manner possible.

Roger A. stated that even though he sat out of the discussion on this project (due to a possible conflict of interest), "The Planning Board did issue a condition which asked for two easements. They need to have the two easements for approval. If the applicant can't get them they need to work at the situation and see if there is an alternative method the applicant could use." Roger added that any alternative needed to come to the Board for approval.

John C. asked if after-the-fact should be mentioned in the letter to Mr. Beal? Roger A. stated that even though the driveway is an after-the-fact, the Board could not approve something that was in violation of the ordinance. Roger did not think this should be a part of the letter to Mr. Beal. Roger also said that if Mr. Beal could not come up with an easement or alternative, Mr. Hastings would have to get a variance for the driveway.

The Board concluded that Barbara G. would draft a letter to Mr. Beal with the Boards conclusion that either an easement must be produced from Mr. Dooley or an alternative for stormwater runoff must be placed on a new plan for the Boards approval. (During the August 13, 2002 meeting, the P.B. concluded that if the abutters did not agree to an easement ....the driveway would need to be removed and the area replanted.)

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

***The Planning Board meeting ended at 9:25 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, August 12, 2003***

Members in attendance: Roger Allaire (Chairman), Diane Srebnick (Vice Chair), Bill Hayes, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was also in attendance.

**The Planning Board meeting started at 7:30 p.m.**

**The minutes from Tuesday, July 22, 2003 were accepted as written.**

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

### **Conditional Use Permit – In-Home Day Care – Carole Steele – Map 3, Lot 41C (356 Hooper Road)**

Ms. Steele was present at the meeting. Roger A. asked Ms. Steele to give the Board an overview of what her application was for.

Ms. Steele stated that she had been working at an existing licensed day care but the owner of the day care was going to close her business. Ms. Steele would like to open a day care for those children that were affected by the closing. She stated that she would be caring for a maximum of eight children in her home. Ms. Steele said that the State Fire Marshall had been to her home and approved her location. Ms. Steele had a copy of the State's evaluation of her home and she gave a copy to the Board for her file, as well as a copy of a current water evaluation from Demer's Laboratory, collected 6/3/03. The evaluation stated that the water on site was satisfactory for drinking.

Along with her Conditional Use Permit application, Ms. Steele submitted a sketch of the interior set-up of her home, which includes four bedrooms, living room, kitchen/dining area, and bathroom. Another sketch submitted showed the well and septic location in relation to the home. Roger A. asked if there was an area for parking, seeing that none was shown on the sketch plan. Ms. Steele stated that she only had a driveway. Roger asked if there was an area for a car to turn around or would they have to turn around in the roadway? Ms. Steele stated that there was room in the driveway for a car to turn around.

After review of the material presented, Roger A. asked Board members if there were any questions. There were none. At the end of the meeting Steve M., CEO, requested the Board ask Ms. Steele to draw on her plan where the parking area / turn around area was located on her property. Steve M. said he would have the site distance calculations for the Board's next meeting on September 9<sup>th</sup>.

***Roger stated there would be a Public Hearing on Tuesday, September 9<sup>th</sup>, at 7:00 p.m. In addition, a Notice to Abutters shall be mailed out.*** Nothing further was discussed.

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### **Conditional Use Permit – Tree Thinning – Shapleigh Town Forest (Ralph Ridley Representing) – Map 7, Lot(s) 10 & 11 (Town Farm & Square Pond Road)**

Ralph Ridley and Karl Robinson were present to represent the Shapleigh Town Forest Committee.

Mr. Ridley stated that several areas in the town forest needed to be thinned / trees taken before they die. He said that the area they were concentrating on had been planted years ago and now the trees were very tight and starting to die. Mr. Robinson stated that there were pines with a 25 – 30" diameter, that will soon get red heart. Mr. Ridley and Mr. Robinson stated there were two locations that would be thinned. One lot is on the corner of Town Farm and Square Pond Road, it needs to be thinned as soon as possible. The other lot is

between Square Pond Road and Cedar Drive. This second location has a stand of more valuable wood. Mr. Ridley stated that the Town Farm Road parcel has a lot of dead wood left over from the ice storm of '98 and it is a fire hazard. He said that this wood is of little value to a logging company so that is why there will be some logging allowed off Cedar Drive. Mr. Robinson stated that Peter Klachany, a licensed forester, is currently marking the trees to be cut on both properties.

Mr. Ridley and Mr. Robinson both concurred that the revenue from this project was unlikely to exceed \$10,000.

Bill H. asked the gentlemen if they received bids from different logging companies for this project? Mr. Ridley stated that they hired Peter Klachany and this was part of his job. Besides marking the appropriate trees for harvest, Mr. Klachany is also in charge of the bidding process.

Mr. Ridley stated that there were usually restrictions written by Mr. Klachany that the loggers must adhere to, as well as there needed to be proof of insurance by the logging company. One restriction that the Forest Committee was requesting was that the logger would not be allowed to haul the trees out in tree length; they would have to be half logs. By doing this, damage to surrounding trees would be greatly reduced.

The gentlemen stated that the projected date to start the project was October, after the sap stops running. The maximum area to be impacted was 20 acres.

Roger A. asked if the trees had already been marked by Mr. Klachany? Mr. Ridley stated, "Yes, if you go down Square Pond Road you will see trees marked." Roger asked what would be done with the slash? Mr. Ridley stated that some of it would be chipped and some would be cut into pieces no bigger than 3' in length and left on location. This size would quickly break down. Mr. Ridley stated that the dead trees were going to be removed as well as the money trees.

The Board had no further questions. ***Roger A. stated there would be a Public Hearing immediately after Ms. Steele's on Tuesday, September 9<sup>th</sup> at 7:00 p.m. A Notice to Abutters will be mailed out as well.***

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**Conditional Use Permit – Replace Retaining Wall, etc. – Jeffrey P. Beale – Map 5, Lot 3-7-1 (33 Jib Way, 23<sup>rd</sup> Street Loop)**

Mr. Beale was present to discuss his application. Mr. Beale started the discussion by stating his application was to first replant the area because the trees have been damaged by lightning and disease, and second he wanted to replace an existing wall. He said he felt the wall needed to be removed because it was chemically treated and in close proximity to the waters edge.

Mr. Beale submitted to the Board, in addition to his application, a detailed description of his intentions which included the "removal of the existing 24' X 18' landscape timber retaining wall and replacing it with a dry laid native field stonewall"; removing the concrete block steps leading to the retaining wall with a natural Garden Path stone set into the ground; upgrading the parking area next to the house to prevent the erosion that is currently taking place; and adding native plants to create a better buffer zone between the existing cottage and waterfront.



Mr. Beale used a plan to further show the Board his intentions. The plan showed the cottage, the area next to the cottage that would become an upgraded parking area (currently runoff from this area goes under the cottage), the location of the stepping stones, where birch trees will be planted and other plantings, as well as the location of the proposed wall.

Mr. Beale said that there were loose stones on top of the existing stone wall closest to the waters edge. These stones would have mortar added around them so they would not fall into the lake. Mr. Beale had for the file, pictures of the area as it exists presently and it showed both existing walls.

Mr. Beale stated that he has lost six trees on his property due to various reasons, storm damage, etc. He said the area between the cottage and the lake looked like a wasteland of stumps. Mr. Beale proposed to replace the dead trees with clumps of birch trees. In addition, there is an area of dead hemlock that will be replaced with new hemlock. Mr. Beale also listed for the Board the following plants that will be added to the area: Bearberry, Goat's Beard, Canadian Ginger, Whitespire Birch, Ruby Spice Summersweet, Sweetfern, Hay-scented Fern, Fringed Bleeding Heart, Barrenwort, Hosta, Ostrich Fern, Cinnamon Fern, Canadian Hemlock, Lowbush Blueberry, and Linden virburnum.

Mr. Beale stated all plantings would be done under the supervision of Mrs. Murphy of Salmon Falls Nursery, Berwick Maine. (She was in attendance at the meeting.)

Steve M. asked Mr. Beale if the replacement wall would be the same size as the existing? Mr. Beale stated, "Yes, it is identical in size." Steve, after reviewing the plan submitted, asked Mr. Beale if he would add more details with respect to the plantings. Exactly what plants would go where. Mr. Beale said he would have more details for the sandy area on the plan for the next meeting. Mrs. Murphy added that the trees and shrubs would have a warranty by her company for a period of one year.

Steve M. asked Mr. Beale when he intended to replace the existing wall? Mr. Beale stated he would begin work shortly after approval. Steve stated that normally it is best to wait until the lake is drawn down in the fall so the water level would be much below the wall, making it less likely to disturb the lake. Mr. Beale stated that the wall to be replaced is not the wall directly in contact with the water. The only stones to be disturbed on the wall adjacent to the lake were several loose stones on top of the wall. Mr. Beale said that regardless, there would be proper buffers erected between the wall and lake while the work was going on.

Roger A. asked Board members if there were any further questions. There were none. ***Roger stated there would be a site inspection at 6:30 p.m. on Tuesday, September 9<sup>th</sup> by Board members.*** Mr. Beale asked if he and/or Mrs. Murphy should attend. Roger stated that it wasn't necessary but it would be helpful if there were any questions by members during the site visit.

Nothing further was discussed.

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**6-Lot Major Subdivision "Goose Pond Overlook" – Northwoods Land Company of Maine, LLC, Craig Higgins Representing – Map 7, Lot 5 (Rte. 11 & Dogwood Rd.)**

Mr. Craig Higgins was present at the meeting and stated that he had general information for the Board.

During the Planning Board meeting on May 27<sup>th</sup>, the last meeting Mr. Higgins attended, Roland Legere, a citizen of Shapleigh, told Mr. Higgins about Milfoil being present in Upper Goose Pond. Mr. Legere was

very concerned that it may be the invasive species known as Variable milfoil and that it might spread to other nearby locations if the ponds were disturbed. Mr. Higgins stated at this evening's meeting that after hearing about the milfoil, he decided to hire an aquatic biologist to take samples and run test on the milfoil to determine the species to make certain it wasn't an invasive form. He stated that a woman named Laurie Callahan was hired by the biologist to collect samples from Upper and Lower Goose Pond as well as Mousam Lake. These samples were sent to the University of Connecticut for DNA analysis. Mr. Higgins told the Board that a report identifying the species would be available for review at the next Planning Board meeting.

Mr. Higgins stated that the second item of primary importance to the Planning Board at the last meeting was the Blanding's Turtle (a State of Maine recognized endangered species) located on the proposed development site. Mr. Higgins said that at the next meeting he would bring John Lardie, of Woodlot Alternatives, to either agree with the Maine Dept. Inland Fisheries and Wildlife's recommendation of a large buffer zone around the turtle's habitat or he would have another view of what would be required for the protection of the species. (Phillip deMaynadier of MDIFW proposed on 2/10/03, and still proposes as of 8/20/03, that there be a 250 ft. no-disturbance buffer applied to a) Upper Goose Pond, b) the shrub swamp abutting the north end of Upper Goose Pond (south of Hodgdon Rd.), and c) the vernal pool just west of and nearly abutting Upper Goose Pond.)

Mr. Higgins stated the 3<sup>rd</sup> issue of importance expressed by the Planning Board was the impact the development would have on the underground water aquifer on site, as well as the surrounding ponds. Mr. Higgins invited Richard Sweet, Certified Geologist of the State of Maine, to the meeting to discuss the characteristics of water in the underground aquifers and how residential housing could impact the aquifer. Mr. Higgins also submitted to the Board, for the record, a letter from Mr. Sweet which was titled "Hydrogeological Review, Proposed Goose Pond Overlook Subdivision, Route 11, Shapleigh".

Roger A. asked Mr. Higgins if in the future he could submit pertinent material to the Board (7) days prior to the meeting so the Board could review the material and if they had questions they could be addressed. Roger said that submitting information five minutes before a presentation was not enough time for a proper review of new material. Mr. Higgins stated that Mr. Sweet's information was only general information brought to the Board because Diane S. had concern with respect to the underground aquifer. The Board had not formerly requested this information. Mr. Higgins said that Mr. Sweet's comments would be based solely on the information the Board already had received.

Mr. Sweet stated one of the potential contaminants for the underground water, with respect to residential homes, is the septic system (the other being fertilizer). He said that they contain bacteria, viruses, chloride, a small amount of phosphorus (today most detergents are low phosphorus), and nitrogen / nitrates. Mr. Sweet said the DEP became concerned over nitrogen about 15 years ago because nitrates can cause disease in babies. Formula with high nitrates from the water supply has been shown to reduce the amount of oxygen in the bloodstream, and babies have died of oxygen deprivation. Mr. Sweet stated that most of these cases were in the Midwest near stockyards and today this does not happen because of government intervention.

Mr. Sweet stated that nitrates still receive the most interest from the DEP because nitrates do not die off; they collect and go into the groundwater. Bacteria and viruses eventually die off. Nitrates migrate downstream being pulled by gravity. He stated that they do eventually get diluted when they reach a large body of water.

Mr. Sweet stated that the DEP is concerned with subdivisions that have small lots with a large concentration of septic systems. Contamination from septic systems increases with density. Mr. Sweet stated that he looked at the density of the proposed subdivision and what the possibility of water contamination would be.

Diane S. asked how many lots would be safe for this property? Mr. Sweet stated that 25 lots would be safe. He stated that with what was being proposed on this property, he felt that the water supply would not be affected.

Mr. Higgins stated that a cluster subdivision, such as a mobile home park, creates a greater concern for water contamination from septic systems. Usually the developer must put the wells upgradient of the septic system to prevent contamination. Mr. Higgins stated that volume from a single family household would not be an issue in this location. Mr. Higgins asked Steve M., CEO, what the volume would be for a typical three bedroom home? Steve stated that volume is calculated at 90 gallons per bedroom. Mr. Higgins said to the Board that these homes (6 to 8 homes) would average 300 gallons a day, and this 300 gallons would be spread out over 53 acres.

Roger A. stated that there was the possibility of eight homes going into this subdivision and other homes bordered the property. He stated the Board would have to look at the impact of the proposed homes as well as the surrounding area. Mr. Higgins stated that most of the homes in the surrounding area are down gradient of this subdivision therefore would not impact this subdivision by adding to the density of contaminants. In addition, he stated that the lot sizes are large enough that density of homes is not an issue for this project.

Mr. Sweet stated that if the lots continue to be divided in the future the impact on the ground water supply would have to be re-evaluated. Mr. Higgins stated, "We are not allowing further subdivision on lots 1 thru 4, lot 5 can be divided once and it is 28 acres in size. Lot 6 is 11 acres and is allowed one further division. So it's eight potential lots total. If it is important to the Board I think we have agreed to put it in the deeds, no further subdivision, and perhaps on the subdivision plan if they want."

Bill H. asked Mr. Sweet, "You focused on nitrates, are there other pollutants we should be concerned about?" Mr. Sweet said that bacteria generally don't travel more than three to four feet from the septic system. Bacteria are usually concentrated on stones in the leach field and they don't live long. Virus's will travel in water and have a varied life span. If you know how fast the water is moving and have the lifespan of the virus you can estimate the area effected. Mr. Sweet said that virus's are very difficult to track so the DEP does not track them. Diluted in a lot of water they do not pose a large threat. Mr. Sweet said that you do not usually have a large concentration of virus's a great distance from a septic system. But again he noted there was no good way to track a virus.

Bill H. asked Mr. Sweet if there was a possibility of biocontamination of Upper Goose Pond from a septic system? Mr. Sweet stated that he has not seen a problem with contamination of a pond or lake from an approved septic system. Mr. Higgins added that the homeowner would not be able to put a septic system within 100' from the high water mark of the pond. Also, because there was a wetland surrounding the pond, the homeowner would not be able to put in a septic system within 100' of the wetland, so the wetland would act as a buffer for the pond.

Mr. Sweet stated that problems occur along the lakes when there are septic systems consisting of 55 gallons drums, etc., where often there is seepage boiling out of the ground and directly into the lake. Then there are large concentrations of both bacteria and virus's.

Mr. Roland Legere, a citizen of Shapleigh, stated, "Not to imply that Mr. Sweet is less than credible but can the Board require an objective individual go thru a similar evaluation? One not hired by the applicant."

Roger A. stated that the only time the Board would do it, is when the Board obtains money from the applicant for that purpose. Roger said, "Yes, we have the right to ask for another study."

Steve M. told the Board that the septic systems in this location, because of the highly permeable soil, would be required to have a loam liner to slow down the leaching process. This would help protect the water.

Mr. Higgins asked Mr. Sweet what the benefits of a loam liner were? Mr. Sweet stated that the carbon in the loam would bind with the nitrates to denitrify them. Also, the permeability is slower so it is less likely bacteria would leach out into the water supply.

Mr. Higgins stated that as reports were available to him he would provide them to the Board. He said that there were several species of milfoil that the university has not been able to identify yet because of mutations of the "native" milfoil.

Mr. Sweet was done with his discussion at this time.

Diane S. asked about the lot on the plan which is described as "Aaron Hasty Heirs Lot Claimed By Northwoods Land Company", did Mr. Higgins find out anything about this lot? Mr. Higgins stated that there has never been a deed from the Hastings to Lavalley (land owner prior to Northwoods). Mr. Higgins said that State law states when you claim ownership and pay taxes for so many years, you can acquire ownership. This piece of land qualifies. Mr. Higgins said that when the proposed subdivision lot is conveyed that houses this piece of land, the Hastings piece will have a quick claim deed, not a warranty deed. He added that this piece was a marsh which is federally regulated and is not buildable.

Diane S. asked Mr. Higgins if he found the chain of title that gives access to Square Pond from this property? Mr. Higgins stated that the entire lot has deeded access to Square Pond. Mr. Higgins stated that he was proposing to have only two of the subdivision lots have access to Square Pond, lots 5 and 6. (These two lots may eventually become four lots as one division will be allowed.)

Mr. Higgins, speaking again of the milfoil species found in both Upper and Lower Goose Pond, stated that because it was not variable milfoil, the invasive species of milfoil, the applicant would not have to segregate the pond with some type of retention apparatus. He said he had spoken with the State on this issue. Roger A. agreed that if Variable leaf milfoil had been found, Mr. Higgins would be required to work with the State to retain the species on site to prevent it from going downstream. Mr. Higgins stated that samples had been taken from Upper and Lower Goose Pond as well as Lower Mousam Lake. A native species of milfoil had been found in all samples. He would provide an expert to speak on the subject at the next Planning Board meeting.

Bill H., addressing Mr. Higgins stated, "On May 27<sup>th</sup> the Board asked you directly about the memo from MDIFW regarding the Blandings Turtle. You stated that you had a copy of the memo from MDIFW and you had come up with an alternative plan. Your biologist was working with MDIFW, limiting the area of disturbance on each lot. I asked if you were working with MDIFW for a good compromise for the situation? You stated, "Yes, we are looking for a win-win situation". Subsequent to that meeting the Planning Board received a memo from MDIFW stating they have had no contact with your biologist (after the initial contact over a year ago).

Mr. Higgins stated that the problem was that he was not dealing with Phillip deMaynadier out of the Bangor office but the regional biologist (Phillip Bozenhard) and has had several meetings with him. He said that Mr. Bozenhard is in the Gray office and he has jurisdiction in this area. Mr. Higgins stated that there was "non-agreement in the department as to what should occur". Mr. Higgins said there was limited information given

to Mr. deMaynadier in Bangor. He did not realize the amount of traffic on the discontinued road (ATV traffic). They (MDIFW) are concerned with incidental kill. Mr. Higgins stated, "Our alternative for the road is going to have less traffic by eliminating the ATV's. And because this is the sole exclusive access to additional land from otherwise land-locked land, and as the town continues to grow, whether MDIFW wants it or not there will be increasing traffic without this development along that road to access the back land."

Bill H. stated to Mr. Higgins, "I thought that the gentlemen from MDIFW (Phillip deMaynadier) had done a polling of the group that was responsible for this area and all I'm saying is that for me it jeopardized your credibility when I found you weren't dealing with the MDIFW biologist. I won't know the long and short of it until we hear more from MDIFW. In the future I would appreciate it if when you say something you clarify who you are working with and try to maintain a good line of credibility. It may have been an oversight as to who you were working with."

Mr. Higgins stated that there was a hierarchy in MDIFW. He said that he met with the regional biologist, Phillip Bozenhard before Phillip deMaynadier ever saw the project (Bangor). Bill H. asked Mr. Higgins if MDIFW would attend the Planning Board meeting on September 9<sup>th</sup>. Mr. Higgins stated that he did not control the department. He said that he suspected some internal decisions would be made prior to the next meeting.

Diane S. asked Mr. Higgins how he would stop the ATV traffic? Mr. Higgins said that in order to use the road they (ATV's) need written permission according to the State ATV law. Mr. Higgins said that the applicant was granting permission and was working with the local ATV club. Diane asked if the current trail would be dissolved? Mr. Higgins said it would in order to protect Upper Goose Pond which already had some erosion issues that needed to be dealt with. Mr. Higgins said that he was working with the ATV club for an alternative to the existing trail.

Roland Legere stated, "I think you are naïve if you think you will be able to control ATV's and dirt bikes. It's not the club members that are the problem. Every weekend many out-of-state users are in the area. I applaud your efforts but this is a statewide problem." Mr. Higgins replied by saying that he thought when there were homes on the property the ATV's would be easier to control. Mr. Legere stated that he currently had problems with ATV's and was unable to stop them.

There were no more questions from the Board for Mr. Higgins at this time. The discussion will resume on Tuesday, September 9<sup>th</sup>.

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**4-Lot Subdivision – "Fort Ridge Woods" – Adam Blaikie & Associates – Represented by Corner Post Land Surveyors, Inc. – Map 8, Lot 41 (Garland Road)**

There was no one to represent the applicant. The application will be tabled until the meeting on September 9<sup>th</sup>.

**Possible Subdivision – Curtis Moulton – Map 4, Lot 7 (Back Road)**

Mr. Moulton did not attend the meeting. The Board will wait to hear from him before he is placed back on the agenda.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

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*The Planning Board meeting ended at 9:20 p.m.*

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, September 9, 2003***

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

### **SITE INSPECTION began at 6:40 p.m. - Conditional Use Permit – *Replace Retaining Wall, etc. – Jeffrey P. Beale – Map 5, Lot 3-7-1 (33 Jib Way, 23<sup>rd</sup> Street Loop)***

Members John Caramihalis, Barbara Gilbride, Bill Hayes, and Diane Srebnick met on site. Also on site to answer any questions was Mrs. Murphy of Salmon Falls Nursery, who will be supervising the new plantings proposed for the site.

Mrs. Murphy pointed out the dead hemlock that would be replaced with new hemlock, the five existing tree stumps that would be ground out, and one large white pine that would be removed because it is dying and also leaning toward the existing camp. Mrs. Murphy also showed members where new vegetation would be planted on site.

The members walked down to the existing stone wall that sits at the waters edge. Members noted there were several loose stones on top of the wall and it made it less than safe to walk to the existing dock. The members also looked at the cement block stairs that the applicant wished to remove along with the landscape timber retaining wall. Members noted the cement block stairs were unsafe to walk on. The site inspection ended at approximately 6:55 p.m.

### **PUBLIC HEARING started at 7:05 p.m - Conditional Use Permit – *In-Home Day Care – Carole Steele – Map 3, Lot 41C (356 Hooper Road)***

Roger A. began the Public Hearing by asking Mrs. Steele to state her intentions. Mrs. Steele stated that she wished to open a family day care for no more than 8 children. Mrs. Steele stated that both the State and Fire Marshall has been to her home and approved her home day care application.

Mr. Robert Cox, Mrs. Steele's closest neighbor, was present at the meeting. He stated that he did not have a problem with Mrs. Steele operating a day care. Mr. Cox furthered by adding that the children would be in an area farthest away from his property so they would in no way disturb him when they were outside. He also stated he would prefer not to have a fence installed between the two properties. John C. asked Mr. Cox what the address of his property was? Mr. Cox stated 350 Hooper Road. Mrs. Steele's address is 356 Hooper Road. (They directly abut each other.)

There were no further questions at this time. The Public Hearing for Mrs. Steele's application was closed at approximately 7:10 p.m.

### **PUBLIC HEARING - Conditional Use Permit – *Tree Thinning – Shapleigh Town Forest (Ralph Ridley Chairman of the Forest Committee Representing) – Map 7, Lot(s) 10 & 11 (Town Farm & Square Pond Road)***

Mr. Karl Robinson was present to represent the Town Forest Committee for the Public Hearing. Mr. Robinson stated for the Board and public that the thinning on the corner of Town Farm and Square Pond Road was being done because it was getting overgrown and also contained a lot of dead trees left over from the ice storm of 1998. The area was a fire hazard in places because of the large number of dead or dying trees. The other area to be cut was between Square Pond Road and Cedar Drive. This area was selected so whoever did the job would make some money on the project. This area did have some large healthy trees, but noted these large trees were at an age that they could also start to die, losing their value for harvesting.

Mr. Robinson stated that the trees to be cut were marked with blue paint so anyone could go to the site and see which trees would be taken down. Mr. Robinson stated that Mr. Peter Klachany, a licensed Forester, had done the work.

Mr. Robinson told the Board that the existing conservation trails would be cleaned up after the project. All debris would be removed. This would be part of the contract with whoever did the project. Mr. Robinson stated that at this time the project had not gone to bid so he did not know who would be doing the work. Mr. Klachany would be in charge of the bidding process.

John C. asked Mr. Robinson if this project would cost the Town of Shapleigh money? Mr. Robinson stated that the Forest Committee should make money on the project. This is why the area next to Cedar Drive was chosen for thinning, along with the Town Farm Road location, which had trees of little value on it.

Mr. Klachany came to the Public Hearing prior to its conclusion. Mr. Klachany reiterated what Mr. Robinson had stated with respect to the area needing thinning due to storm damage and the fact that neither area had been forested for over 20 years. Mr. Klachany stated that along with the fear of this area being a potential fire hazard, the dead trees also pose a threat to those hiking along the trails on site.

Mr. Klachany stated that a lot of the dead wood would be chipped and removed from site for fuel. Roger A. asked Mr. Klachany if the trees would be removed in half lengths instead of full length as he had stated at the last meeting on August 12<sup>th</sup>. Mr. Klachany at that time had told the Planning Board half length logs caused less overall damage during the removal process. Tonight, Mr. Klachany said that most logging companies are set-up for full length tree removal and processing. Mr. Klachany stated that he would leave the length up to the logging company but he and the Forest Committee members would monitor the operation. If they felt that too much damage was taking place he would insist the trees be cut in half for the remainder of the project.

Nothing further was discussed. The Public Hearing was closed at approximately 7:17 p.m.

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**The Planning Board meeting started at 7:30 p.m.**

**The minutes from Tuesday, August 12, 2003 were accepted as written. (The meeting on August 26 was canceled due to lack of Chair and Vice-Chair.)**

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

**After-the-Fact Conditional Use Permit – Replace Retaining Wall – Scott Sibert – Map 44, Lot 17 (144 Silver Lake Road)**

Mr. Sibert was in attendance at the meeting along with Mr. Slabodnick, a General Contractor and the person who helped Mr. Sibert rebuild the retaining wall.

Roger A. asked Mr. Sibert to describe his project / application to the Board members. Mr. Sibert stated he was before the Board for an after-the-fact permit because he replaced his creosote retaining wall with a locking block retaining wall. Mr. Sibert stated that a friend of his, who works for the DEP in Massachusetts, told him that the creosote wall he had was a hazard to the environment. Also the creosote/wood wall had deteriorated, the lower level had disintegrated and additionally the wall was leaning toward the water, no longer being able to retain the earth behind it. Mr. Sibert, with the help of Mr. Slabodnick, replaced the old wall with a new wall. Mr. Sibert stated that he did not know he needed a permit to do so because in Massachusetts he would not have needed a permit to replace the wall.



Mr. Sibert stated that if he had known he needed a permit he would have gotten one. He said he did receive a Notice of Violation letter from Steven McDonough, CEO, along with a fine, which he has paid.

Bill H. asked Mr. Sibert if the new wall was higher than the original wall? It appeared to be higher when looking at the pictures taken by the Code Enforcement Officer. John C. also questioned if the new wall was higher than the old wall. (According to the DEP any replacement wall cannot be higher than the existing.) Roger A. thought the old wall looked like it was 24" in height, adding the height of each railroad tie, and the new wall was 33" inches high according to his application.

Mr. Sibert stated that there were two courses of the original railroad tie wall that had been crushed and were not visible in the picture the Planning Board was viewing. In addition, Mr. Sibert stated that he had told Dawn Buker of the DEP the size of the replaced wall along with the size of the new wall and she did not have an issue with the size of the new wall. Mr. Sibert felt that the old wall was the same size as the new wall when it was originally built. Mr. Slabodnick, the gentlemen who built the new wall and removed the old agreed. Diane S. asked if the old wall was 5 railroad ties high originally? Mr. Sibert stated, "Yes".

Bill H. asked what was behind the new wall? Mr. Sibert stated crushed stone and drainage as specified by the building plans received along with the locking blocks. Mr. Sibert also wanted the Board to know that the new wall was farther back away from the water.

John C. told Mr. Sibert that he would like to see more bushes and vegetation planted along the wall to prevent erosion. Mr. Sibert stated that he had just planted Hostas and several other plants along the walls edge. He said the picture John was looking at was taken prior to these plantings.

Bill H. had a problem with this new wall appearing to be higher than the original. Bill asked Steve M., CEO, what the State required of a replacement retaining wall. Steve stated that the new wall could be no larger than the existing wall. Bill stated that if the new wall was larger he felt the Board must have Mr. Sibert remove the blocks that exceed the original height.

John C. stated that in the past the Board required the replacement wall be the same size unless a different size wall would better retain the earth. There have been times that a larger wall was required to protect the environment. Bill H. asked what the Board would have asked of Mr. Sibert if he had come to the Board prior to building the replacement wall? John stated that they probably would have mandated that the new wall be the same size as the old wall.

Bill H. was also concerned with the vegetation that had been removed to build the new wall. Instead of there being a plant root system to hold the earth back, now there was sand. Mr. Sibert stated that he has put plants in place and would add more if necessary.

Madge B. asked if the DEP had approved the project as it is? Roger A. stated that the Board did have an approved copy of the Permit by Rule. Steve M. stated that the State probably did not come out to look at the new wall. Mr. Sibert stated that he spoke with Dawn Buker of the DEP and told her exactly what he did. He said that she did not have a problem with the new wall.

Bill H. stated that he still felt the new wall should have two courses of stone removed so it would be more closely in compliance with the States rules governing replacement retaining walls. Madge B. asked Steve M. if the Board could request that the DEP come out to the site and recommended what they think is best? Steve stated that he could probably have them on site within three weeks. The Board asked Steve to contact the DEP and set up a sight inspection to review this project. He stated he would.

Roger asked if there were any further questions and there were none. He stated the review of this project fell under Shapleigh Zoning Ordinance 105-4.D "Nonconforming structures", (2) "Patios, steps, decks" as well as (5)(b) "Removal, reconstruction or replacement".

**John C. made the motion to approve the after-the-fact application for a replacement wall with the following condition(s):**

- 1) Mr. Sibert shall be required to remove one tier of blocks from the new wall unless the State DEP states it is not necessary and may stay in tact as is. The Code Enforcement Officer and/or DEP shall notify Mr. Sibert when a decision has been reached.**
- 2) Mr. Sibert shall add additional plantings behind and around the new wall, indigenous to the area, to prevent erosion.**

**Bill H. 2<sup>nd</sup> the motion. All members were in favor.**

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**Conditional Use Permit – In-Home Day Care – Carole Steele – Map 3, Lot 41C (356 Hooper Road)**

Mrs. Steele was present at the meeting.

The Board had requested that Mrs. Steele bring in a parking plan for this meeting. Roger A. asked Mrs. Steele if she had the parking plan. She stated she did not and did not know she needed one. Barbara G. stated she had mailed her a letter requesting the information. Mrs. Steele stated she had not received the letter. Barbara showed her a copy of the letter from her file.

Roger A. told Mrs. Steele that he had done a sight inspection and noted that the parking area was extremely small and directly abutted the children's play area. He asked Mrs. Steele if she planned on putting up a fence between the play area and the parking area for safety reasons. Roger also noted to Board members that there were large concrete blocks along the embankment next to the play area and it looked very dangerous as well. Barbara G., who also did a site inspection, agreed. Mrs. Steele stated that the area with the concrete was going to be filled in with earth if the application was approved. The concrete was being used as fill only.

The Board asked what the site distances were? Barbara G. stated that toward Rte. 109 it was 200' and away from Rte. 109 it was 250'. She had measured them with Steve M., CEO. The Board asked what the minimum allowed was on this road? Roger stated that for 35 mph the minimum required was 245'. John C. stated that he was concerned with the site distance measurements. This was definitely a safety issue with people pulling in and out of the driveway with children. John also said that even though the road was posted at 35 mph, people would probably be going 45 mph; therefore the Board must consider not granting this application.

Bill H. asked if a person pulled out of the driveway instead of backing out onto the road, would this make it safer? Roger A. stated that the driveway was very small and narrow making it very difficult at present for someone to turn around in the driveway. John C. stated again that Mrs. Steele did not have the minimum required site distance and the Board had to be concerned with the safety of the children. If someone got hurt because we allowed an unsafe situation the Town could be liable.

The Board told Mrs. Steele that she had the right to hire an independent qualified individual to calculate the site distances and/or perhaps come up with another area to enter onto the road that would meet the code. Roger stated that at this time we could not approve the application because of the safety issue.

Roger asked the Board if there was a motion to table the application. ***Bill H. made the motion to table the application until Mrs. Steele had more information for the Board. John C. 2<sup>nd</sup> the motion. All members were in favor.***

Nothing further was discussed.

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**Conditional Use Permit – Tree Thinning – Shapleigh Town Forest (Ralph Ridley Chairman of the Forest Committee Representing) – Map 7, Lot(s) 10 & 11 (Town Farm & Square Pond Road)**

Ralph Ridley and Karl Robinson were present to represent the Shapleigh Town Forest Committee. Mr. Peter Klachany was also present, being the licensed Forester in charge of the project.

Roger A. started the discussion by stating that the Shapleigh Forest Committee had a forestry plan filed with the Town of Shapleigh and it was located in the vault in the Town Hall which anyone could review during regular town office hours. Roger asked if there were any question by the Board?

John C. asked if there was a proposed landing location in place for the project? Mr. Klachany stated there was an area off the Town Farm Road beyond the Pine stand, a long straight stretch. Another land will be on the left hand side of Square Pond Road, in an area that had been used previously.

John C. asked if there was a wetlands area on either property? Mr. Klachany stated there was not.

John C. stated that after reviewing the minutes from August 12<sup>th</sup> he noticed the cutting was tentatively scheduled for October. John was concerned that this was during the firearms season. John thought it might be best to wait until after hunting season was over to do the project. Madge B. stated that because the logging company would be an independent contractor the town would not be liable for their safety. Mr. Ridley stated that he too felt that it might be best to wait until after hunting season. Barbara G. agreed.

Roger A. asked Mr. Klachany if they were going to be cutting greater than 40% of the standing timber? Roger was referring to Shapleigh Zoning Ordinance 105-50 "Timber harvesting", B.(1) which states, "Selective cutting of no more than 40% of the total volume of trees four inches or more in diameter measured at 4 ½ feet above ground level on any lot in any ten-year period is permitted". John C. added that this project was in the Resource Protection district.

Mr. Klachany stated that he thought the 40% rule only pertained to the Shoreland Zone. He stated that this project was not in the Shoreland Zone. Madge B. stated that greater than 40% may be allowed by the Planning Board. John C. read Ordinance 105-50.B(2), which pertains to areas outside of the Shoreland Zone, "Timber harvesting operations exceeding the forty-percent limitation in Subsection B(1) above may be allowed by the Planning Board upon a clear showing, including a forest management plan signed by a Maine Licensed Professional Forester, that such an exception is necessary for good forest management and will be carried out in accordance with the purposes of this chapter. The Planning Board shall notify the Commissioner of the Dept. of Environmental Protection of each exception allowed, within 14 days of the Planning Board's decision". Mr. Klachany stated that he could not guarantee that there wouldn't be some areas that were not over the 40%. Madge stated that this would not be a problem; the Board would just have to notify the DEP. Mr. Ridley stated that they would be certain to keep the cutting below 40%.

The Board asked Mr. Klachany if he had already marked all the trees that would be cut. He stated he had. John C. asked if there would be a way to remove some of the markings? Mr. Klachany stated that it would take great effort to do so. John told Mr. Klachany that the 40% pertained to the total volume of the project,

not just one area. He asked Mr. Klachany if the entire project would remove greater than 40% of the volume of trees as they are marked now. Mr. Klachany stated that he did not believe it would.

Roger asked the Board if there were anymore questions? There were none.

Roger A. reviewed Ordinance 105-50, "Timber Harvesting", noting that this application met all criteria presented within the ordinance. **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 and the property is not in the Shoreland Zone.***
- 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.***
- 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 Best Management Practices used at both locations.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. *N/A* ***(Chipped wood shall be removed from site and used as biomass waste at a licensed facility.)***
- 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. Stumps shall remain on site to prevent erosion.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***Stumps will remain on site. Small branches and some woods chips will remain on site. Trails will be cleaned up when project is completed.***
- 10) There is adequate water supply to meet the demands of the proposed use and for fire protection purposes. *N/A*
- 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 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. 2<sup>nd</sup> the motion. All members were in favor.**

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**Conditional Use Permit – Replace Retaining Wall, etc. – Jeffrey P. Beale – Map 5, Lot 3-7-1 (33 Jib Way, 23<sup>rd</sup> Street Loop)**

Mr. Beale was unable to attend the meeting. Mrs. Murphy of Salmon Falls Nursery was present to represent him.

Mr. Beale had submitted to the Board on August 12th, in addition to his application, a detailed description of his intentions which included the “removal of the existing 24’ X 18’ landscape timber retaining wall and replacing it with a dry laid native field stonewall”; removing the concrete block steps leading to the retaining wall with a natural Garden Path stone set into the ground; upgrading the parking area next to the house to prevent the erosion that is currently taking place; and adding native plants to create a better buffer zone between the existing cottage and waterfront.

Roger A. started the conversation by telling those attending the meeting that the Board had received a revised plan, as requested on August 12<sup>th</sup>, which showed where the plantings would be located on site. During the visit meeting, the members who attended were shown by Mrs. Murphy where these plants would be located as well.

John C. noted that the slope of the land was toward the cabin on site, not toward the lake, so sedimentation moving toward the lake was not an issue.

Diane S. was concerned with Mr. Beale’s request to remove the large White Pine from his property. Diane asked Mrs. Murphy if she had proof that the tree was in fact dying. Mrs. Murphy showed Diane S. and other members of the Board an estimate she had from McCann Tree Care which stated that the tree in question was “declining”. Diane stated that they did not say the tree was “dead”. Roger A. stated that a declining tree usually had red heart, which was an area in the center of the tree that had already died. John C. noted that there were holes in the exposed tree roots and a large hole in the tree. He felt it was just a matter of time before the tree completely died and this tree was leaning toward the cabin. Diane stated that if every tree that was leaning toward a cabin was removed there would be no trees around the lake.

Bill H. stated that he felt the plan presented was well thought out. The plantings would be indigenous to the area; the new wall would be much better than the existing to retain the embankment and the stairs definitely need to be replaced.

John C. asked Mrs. Murphy about the loose stones on top of the existing wall that is going to remain on site, would anything be done to stabilize them? She stated that those stones would be mortared in place per the plan presented.

Roger A. asked if there were any further questions and there were none. He stated the review of this project also fell under Shapleigh Zoning Ordinance 105-4.D “Nonconforming structures”, (2) “Patios, steps, decks”, as well as (5)(b) “Removal, reconstruction or replacement”.

**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. ***Wildlife will be protected by removing the existing treated landscape timber retaining wall. In addition, 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 new plantings will prevent shore cover from eroding.***
- 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. ***N/A***

- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***Landscape timbers will be removed from site by Salmon Falls Nursery and stored at their facility.***
- 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 structures that currently exist.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The retaining wall at the water is not being removed. Best Management Practices shall be followed during the replacement of the timber wall and addition of new plants.***
- 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. The existing landscape shall be enhanced by the additional indigenous vegetation.***
- 12) All performance standards in this chapter applicable to the proposed use will be met. ***They shall.***

**Bill H. made the motion to approved the Conditional Use Permit to replace an existing timber retaining wall, add new stairs, walking path, and plantings, per the plan presented to the Board. John C. 2<sup>nd</sup> the motion. All members were in favor.**

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**Conditional Use Permit – Driveway – John & Mary Hastings, Carl Beal Representing – Map 29, Lot 6 (21 Quail Road)**

Mr. Carl Beal, Engineer from Civil Consultants, along with Mr. Hastings, the owner of the property, were in attendance. Mr. Dooley, one of Mr. Hastings neighbors was also at the meeting to endorse the new plans presented to the Board.

Roger A. stepped down from the Board during this review since he has from the beginning of this application process. Mr. Hastings at one time was using a relative of Roger's on this project. Madge B. would be a voting member for this application.

Mr. Beal stated to the Board that he was at this meeting with a new set of plans that redirected water flow from the new driveway away from Mr. Dooley's property. Because Mr. Hastings could not get an easement for water flowing onto Mr. Dooley's property, the Planning Board had requested the water be redirected toward Mrs. Pitstick property, which Mr. Hastings has received an easement for the water to flow over.

Mr. Beal stated that Mrs. Pitstick's property was about 12' below the grade of the Mr. Hastings property and Mr. Dooley's property was approximately 4' below the grade of the driveway. Mr. Beal stated that the majority of the water has always flowed onto Mrs. Pitstick's property. With this new design there will be a 4' high grade between the driveway and Mr. Dooley's property, further preventing water from going in that direction.

Bill H., after reviewing the new plans, felt the issue of stormwater runoff had now been properly addressed. Bill asked Mr. Beal when this project would be completed if approved this evening by the Board. Mr. Hastings stated the project would be completed during the month of October 2003. Bill H. asked Mr. Beal if he would be willing to review the project after it was completed to be certain it was done to the specifications on the new plan. Mr. Beal stated he would if the Board felt it was necessary.

Steve M. asked if the new driveway was in the Shoreland Zone? Mr. Beal stated that it was not. John C. asked what the slopes abutting the neighbors were prior to the driveway being put in? Mr. Hastings stating that the new driveway did not change the slopes that existed. The area sloped toward Mrs. Pitstick property for the most part prior to the driveway being put in. John C. asked what the pitch of the driveway was? Mr. Beal stated that the driveway was relatively flat. Mr. Beal stated that the original plan had a 2% crown in the middle of the driveway so water would runoff on both sides. Now, because Mr. Hastings did not receive an easement for water flow toward Mr. Dooley's property, there will still be a 2% grade but it is on the side closest to the Dooley property so all water will run toward Mrs. Pitstick's land.

The Board had no further questions for Mr. Hastings or Mr. Beal. The revised plans dated 8/15/03 contained the information requested by the Planning Board.

**John C. made the motion to approve the after-the-fact Conditional Use Permit for a driveway, per the amended plans with the following condition(s):**

- 1) **The easement allowing stormwater runoff to flow onto Mrs. Pitstick's property, Map 29, Lot 5, shall be recorded at the York County Registry of Deeds by December 9, 2003.**
- 2) **Mr. Carl Beal of Civil Consultants, and Steven McDonough, CEO, shall do a final inspection of the completed project to be certain it was done per the amended plans, dated 8/15/03.**

**Bill H. 2<sup>nd</sup> the motion. All voting members were in favor.**

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**4-Lot Subdivision – “Fort Ridge Woods” – Adam Blaikie & Associates – Represented by Corner Post Land Surveyors, Inc. – Map 8, Lot 41 (Garland Road)**

John C. stepped down from the Board. He works for PATCO, the company building the homes for this subdivision. He also had information regarding this project for the Board. Andrew Nadeau of Corner Post Land Surveyors represented Adam Blaikie & Associates, the subdivision applicant. Roger A. stated Madge B. was a full member during the review of this application.

Mr. Nadeau presented a revised plan for this project, dated 8/12/03. The plan depicted an easement for the possible widening of the Garland Road in the future as requested by the Board. In addition, the lots were numbered 1 thru 4 for the purpose of this review, and test pits were depicted for all four lots.

Diane S. asked whether or not the applicant had decided to put in a fire pond for fire protection or if they were going to use an underground cistern? John C. stated that he had spoken with Gary Utgard, Fire Chief, and they together discussed what locations would be most suitable for a fire pond. The exact location has not been finalized yet. John stated that one of the conditions of approval for this subdivision could be that no building takes place on Lots 1 thru 3 until the Board / Applicant receives a letter from Gary Utgard which approves the fire protection method chosen, whether it be a fire pond, cistern, or home sprinkler system. The condition would further state that the Code Enforcement Officer could issue no building permit for these properties until this letter is received.

Roger A. asked Mr. Nadeau if the permanent markers had been set for the property lines of all the lots? Mr. Nadeau stated that they had. Mr. Nadeau stated that the markers were rebar. He reminded the Board the applicant had requested a waiver for stone monuments. Steve M. asked how deep the rebar was in the ground? Mr. Nadeau stated that they were three feet into the ground.

Roger A. asked Board members if they had any further questions with respect to the new plan received? There were no questions. ***Roger stated that all requirements that the Board requested up to this time had been met. Roger stated that there would be a Public Hearing on Tuesday, September 23<sup>rd</sup> at 7:00 p.m. A Notice to Abutters will be mailed as well.***

Nothing further was discussed on this application.

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**6-Lot Major Subdivision “Goose Pond Overlook” – Northwoods Land Company of Maine, LLC, Craig Higgins Representing – Map 7, Lot 5 (Rte. 11 & Dogwood Rd.)**

John C. removed himself from this project due to a possible conflict of interest. Madge B. would be a full voting member for this application.

Mr. Craig Higgins was present at the meeting and stated that he had the information for the Board with respect to the milfoil present both in Upper and Lower Goose Pond. Mr. Higgins brought Mr. Scott Williams, a certified Biologist, to discuss in further detail the aquatic growth in the ponds. In addition, Mr. Higgins presented to the Board a copy of notes from Laurie G. Callahan, who is the person responsible for collecting the samples of milfoil and sending them to the University of Connecticut for DNA Analysis.

Mr. Higgins had Mr. Williams address the Board. Mr. Williams began by stating that he was neither here to advocate or dismiss the subdivision project. He was here to share with the Board his knowledge on the subject as a biologist.

Mr. Williams stated that there were three invasive species of milfoil in Maine. In addition, there are six native species in Maine and they are quite common. He stated that they are benign and beneficial to the ecosystem. Mr. Williams stated that the plants needed to flower to be able to determine the distinction between the species. Some milfoil flower every year and others do not. Additionally you need to have the right conditions for the plant to flower. This is the reason why DNA analysis is sometimes necessary to determine exactly what species of milfoil is present. Mr. Williams stated that the plants in Upper and Lower Goose Pond were characteristic of variable leaf milfoil (one of the invasive species) but DNA analysis was necessary to make a determination.

Mr. Williams stated that the results of the DNA analysis were that all the samples taken were a variation of milfoil native to Maine. There were however, some genetic variations of the native species. These variations are very robust and more vigorous but again they are naturally occurring. The mutations (polyploids) of the native species are a process of cell division, making the change not good or bad, it happens in nature.

John C. asked what the difference was between the Variable Leaf milfoil, Eurasian, etc. and the native species? Mr. Williams stated that primarily the non-native species are not indigenous to the area and can be invasive. They grow rapidly and compete with native species of plants. Very often the non-native species become dense and crowd out the native species.

Bill H. asked if the Board needed to be concerned with the native species present in Upper and Lower Goose Pond because it is genetically more aggressive? Mr. Williams stated that it was more robust, not aggressive. He furthered by stating that based on what the biologist have seen with this species, there probably was not a need to be concerned. The Board asked if they should be concerned with its spread into Mousam Lake? Mr. Higgins stated that it was already in Mousam Lake. He said several of the samples taken by Laurie Callahan for review were from Lower Mousam Lake.



Bill H. asked Mr. Williams if the Board should be concerned with containing what is now in Goose Pond and preventing it from further migrating downstream? Bill read from Laurie Callahan's notes, specifically, "He (Mr. Higgins) mentioned that he saw Upper Goose Pond as a "wildlife pond" rather than a recreational use pond and that perhaps recommended boating use would be non-motorized or, if motorized, electric motors. I mentioned to him that with the density of milfoil that I noted in the pond this year that any activity (including paddling, fishing or use of electric motors) could create fragments and that each fragment can potentially result in a new plant. We briefly discussed the option of placing a net at the "old beaver dam" (the construction between Upper and Lower Goose Ponds) and how that would have to be a "permitted" strategy with a maintenance commitment." Bill felt that Ms. Callahan was concerned with any activity on Upper Goose Pond. Mr. Higgins stated that this was written prior to knowing whether or not the milfoil present in Upper and Lower Goose Pond was Variable, Eurasian or a native milfoil.

Mr. Williams stated that there were many plant species that fragment and can move downstream, species such as Bladderwort, Corntail, etc. John C. asked, "Then why is milfoil such an issue?" Roger A. stated that because the Board was reviewing a subdivision, which would bring more people in contact with Upper and Lower Goose Pond, the Board had to be concerned with what impact there would be to the area, including the ponds.

Roland Legere, a citizen of Shapleigh, read from a memo he had, which he stated was written by a colleague of Mr. Williams in August. The memo read "Most of the Maine native plants are great opportunist and will spread enthusiastically given the right conditions. All the milfoil propagate easily from fragmentation so yes additional boat traffic through the area and the subsequent plant fragmentation could result in the spread of this plant in other areas of the lake". Mr. Legere stated that he felt the reason why there is milfoil in Goose Pond now is because water flows downhill and activity in Upper Goose caused fragments to travel downstream.

Bill H. asked the Board, "What can we do about it and do we have any jurisdiction with the native milfoil to be able to do anything?" Roger A. stated that at the present time Mr. Higgins was making the proper recommendation to eliminate problems created by his subdivision, i.e., suggesting to eliminate motorized watercraft.

Mr. Williams stated that regardless of whether or not the species of plant is native or not, it is generally not appropriate to run motors around these plants. Motorized watercraft of any kind in Upper or Lower Goose Pond could cause a potential problem downstream. Mr. Higgins stated that the developer could prohibit any motorized vessels from being in the Shoreland Zone. Mr. Higgins stated that previously he was going to allow electric motors on the ponds but he would support *no motors including electric motors*.

Bill H. asked Mr. Higgins if he would be willing to launch a campaign to make this area a non-motorized area. Bill felt Mr. Higgins was capable of doing so and Bill felt it was worthwhile to pursue. Mr. Higgins stated that he thought there was a petition process established by State law by which residents of the municipality could petition the Commissioner of Inland Fisheries and Wildlife, and the Commissioner would in turn hold a public hearing. At this hearing he would take public comment and make a decision based upon that comment.

Bill H. asked if this would then require further legislative action? Mr. Higgins asked Mr. Williams his opinion and whether or not Jet Ski's required further legislative effort? Mr. Williams stated that a general limitation on motorized watercraft covers everything including electric motors and Jet Ski's. Nothing further is required.

Bill H. asked Mr. Higgins if he would take the initiative to create the petition? Mr. Higgins stated that yes he would but he would need input from people in town. He stated that he was an outsider and he felt he was the least attractive person to have leading the petition. Mr. Higgins said he could work to establish the petition and the Planning Board could take a position on the issue as someone unrelated to the developer. He thought this would be a good 1<sup>st</sup> step. He also thought this should have the support of the Board of Selectmen. Roger A. added that Madge B. as a member of Three Rivers Land Trust would also be a good candidate to work on this issue.

John C. felt the Board would be hard pressed to stop people from using small motors on Upper Goose Pond. How would the town monitor it? Diane asked if this petition would be for Upper Goose Pond only? Roger said, "Yes". Bill H. stated that the land around Upper Goose could be posted. Diane felt that once homes were surrounding the pond, the residents would monitor the access to the pond and help to further enforce the mandate. Other Board members agreed.

Mr. Higgins stated that he was prepared to act on this petition but he also stated that he felt this was an issue separate from the subdivision application. Mr. Higgins said that restricting access to non-motorized watercraft only would enhance the subdivision and the quality of the area and keep in character with what the applicant wants for the area, privacy and tranquility.

Mr. Legere wanted to state to the Board that he felt Mr. Williams was a paid consultant of Mr. Higgins and that if he had any negative comments with respect to this project he would not be at this meeting. Mr. Williams commented stating that his professional opinion *could not* be bought and that he had stood on the opposite side of Mr. Higgins on several occasions.

Mr. Williams stated that native plants provide a habitat for a broad range of 'critters', they protect water quality, and they introduce nutrients. Native plants provide many benefits. Mr. Higgins asked if there were no plants in Upper Goose, what would the water quality be? Mr. Williams stated that aquatic plants are in the pond because the ecosystem has reached equilibrium. Aquatic plants go through succession. In 10 years there will probably be another dominant plant species. Mr. Williams felt that milfoil has gotten a 'bum wrap'. Milfoil is not all bad. Mr. Williams also addressed algal bloom. He stated that this occurs during the process of a pond reaching equilibrium as well.

Nothing further was discussed regarding the milfoil. Mr. Higgins stated that he thought MDIFW would be at the next meeting to discuss the Blandings turtle, along with his consultant.

John C. asked Mr. Higgins if he was still proposing to gift a lot to the town? Mr. Higgins stated that there had been some discussion with the Board of Selectmen over the lot in question. John felt that the lot Mr. Higgins was proposing was not the proper site to build a salt shed since it was over a large aquifer. Roger A. stated that the lot in question was not part of this subdivision and that the Town would have to vote to accept the lot at town meeting. It was not something the Planning Board would have to get involved with.

There were no more questions from the Board for Mr. Higgins at this time. The discussion will resume on Tuesday, September 23rd.

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**Conditional Use Permit – Home Day Care – Wendy Lamontagne – Map 7, Lot 1C-4 (806 Shapleigh Corner Road)**

Wendy Lamontagne was present at the meeting. Roger A. asked her to state to the Board what she was proposing. Ms. Lamontagne stated that she intended to have a home day care with no more than 12 children.

Ms. Lamontagne stated that the State Fire Marshall had been to the site and approved it, as well as the State Licensing and Inspection Unit.

Roger A. asked if there would be any other employees besides Ms. Lamontagne? She stated that she would probably be hiring one other person. Roger asked her if she had a sketch of the parking area and if she knew what the driveway site distances were? Ms. Lamontagne stated she did not have a sketch at this time but could provide one for the next meeting. Roger asked Ms. Lamontagne to bring a parking plan to be submitted to the Board for the next meeting. Steve M., CEO, stated that he would get the site distances for the next meeting.

The Board had no further questions at this time. ***Roger A. stated that there would be a Notice Mailed to Abutters and a Public Hearing scheduled for Tuesday, September 23<sup>rd</sup>.***

Nothing further was discussed.

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**3-Lot Minor Subdivision – Matthew Quinton, Applicant; Represented by Corner Post Land Surveyors – Owner Laura Bicknell – Map 7, Lot 8 (Cedar Drive South)**

Mr. Andrew Nadeau of Corner Post Land Surveyors was present to represent the applicant, Mr. Quinton, was also present at the meeting.

Mr. Nadeau stated that this was a 3-lot subdivision because Ms. Bicknell has already sold a lot from her property in 2001. This would be a second lot sold from her property.

Mr. Nadeau stated that while he was preparing the sketch plan for this division, he could not locate the exact dimensions of Cedar Drive; therefore he is placing an easement for the possible widening of Cedar Drive in the future. This will create a 50' right-of-way. With this easement Mr. Quinton will still be able to meet setbacks for building purposes.

The Board asked if this property was in the Shoreland Zone? Mr. Nadeau stated that it was not and there was no right-of-way to Square Pond deeded to this property.

Mr. Nadeau stated that the property was relatively flat and sparsely vegetated. John C. asked if there was fire protection in the area. Mr. Nadeau did not know at this time. Mr. Nadeau stated that access to Square Pond was within 200' of the property.

Roger A. asked if Mr. Quinton had site distances for the driveway? Had he spoken with the road commissioner to establish the best driveway location? Mr. Nadeau stated he had not.

Mr. Nadeau asked the Board what they would like to see added to the preliminary plans? Roger A. stated that the location of the driveway should be on the plan. The test pit location. Also, what the setbacks would be for the home.

Nothing further was discussed. The Board will wait to receive the Preliminary Plans.

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**Best Possible Location – Replace Mobile Home with Ranch Style Home - Richard & Carol Levesque – Map 32, Lot 21 (3 Daisy Road – Square Pond)**

The applicants were not present so this item was tabled until the next meeting.

**OTHER:**

John C. stated that the company he worked for was considering buying a piece of land on the Nason Road and dividing the property. This piece of property abutted both Nason Road and the Gulf Road. Currently the Gulf Road is not town maintained. John asked if his company could use the Gulf Road as road frontage for one of the house lots? Roger A. stated that John's company may be asked to bring the Gulf Road that abuts the property up to town standards. Steve M., CEO, asked where it was in writing that the Board could require the road to be upgraded? Steve stated that because John was speaking about a two-lot division, this would not fall under subdivision rules.

John C. asked if the Gulf Road could be brought up to a driveway standard instead of a road standard? Roger still felt it should be a road standard since the town would be liable to plow in the winter as well as have adequate access for safety vehicles. Madge B. stated that she felt this should be brought to the Board of Selectmen for an answer with respect to both whether or not the road needed to be upgraded and what exactly was the current status of the Gulf Road, is it discontinued? The Board concurred.

Nothing further was discussed on the issue.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

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***The Planning Board meeting ended at 9:55 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, September 23, 2003***

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

### **PUBLIC HEARING started at 7:00 p.m. – Conditional Use Permit – In-Home Day Care – Wendy Lamontagne – Map 7, Lot 1C-4 (806 Shapleigh Corner Road)**

Roger A. began the Public Hearing by asking Mrs. Lamontagne to state her intentions. Mrs. Lamontagne stated that she wished to open a family day care for up to 12 children in her home.

Roger stated to the people present that the Planning Board had sent out a notice to abutters informing them of Mrs. Lamontagne's intention to have an in-home day care.

Roger asked if there were any questions from anyone present, there were none. The Public Hearing for Mrs. Lamontagne's application was closed at approximately 7:05 p.m.

### **PUBLIC HEARING - 4-Lot Subdivision – “Fort Ridge Woods” – Adam Blaikie & Associates – Represented by Corner Post Land Surveyors, Inc. – Map 8, Lot 41 (Garland Road)**

John C. stepped down from the Board during review of this project due to a conflict of interest, John works for the land developer. Andrew Nadeau of Corner Post Land Surveyors represented the applicant.

Mr. Nadeau had with him the final plans for the 4-Lot subdivision to be located on the Garland Road. Roger A. asked Mr. Nadeau if the proposed location of a water holding tank, if this is the method of fire protection to be used, was located on the final plans? Mr. Nadeau stated it was not; at this time the applicant was intending to place a fire pond on a property across the street from the subdivision. If a water tank is required, it will also go on the property across the street according to John C. John stated that Mr. Lindsey, owner of the property to be used, did not have issue with either a fire pond or water holding tank.

Mr. Nadeau described the project to the people present at the Public Hearing. Mr. Nadeau stated that this was originally one lot and had been divided once prior to coming before the Board for subdivision. The lot currently listed at Lot #1 has a home on it at this time and has already been sold. This lot is 30.58 acres in size. The remaining parcel has been divided into three lots ranging in size from 1.89 acres to the largest lot being 2.39 acres.

Mr. Nadeau stated the applicant was requesting a waiver for the following:

- a) Ordinance 89-30.A.3 Stone Monuments. The applicant wishes to use 5/8" iron rods instead of stone monuments.
- b) Ordinance 89-17.B.19 Drainage Plan. The applicant feels due to the small amount of soil disturbance and minimal effect on the existing drainage patterns, a drainage plan is not necessary.
- c) Ordinance 89-29 Utilities. The applicant wishes to use the overhead utility poles that are already in existence in front of the properties to be developed.

Mr. Nadeau told the members of the audience that the Planning Board had requested the applicant address the issue of the possible need to widen the Garland Road in the future. He stated that currently the Garland Road appears to be two rods (33.00') in width. The applicant therefore has placed on the plan an 8.5 foot wide strip of land, adjacent to the existing sideline of Garland Road, and reserved this area for the possible widening of Garland Road. Lot's 2, 3 and 4, which are being reviewed at this time, will still contain the minimum lot size of 80,000 square feet, even with the addition of the 8.5 foot easement.

An abutter of this project, Mr. Kurt Saltmarsh, stated to the Board and Mr. Nadeau that the width of the road was not a concern to him but the current condition of the road was. He said that the road very often is full of potholes and the addition of more traffic will not make the matter any better. Mr. Saltmarsh asked the Board if the town had a schedule they follow to maintain the Garland Road? Roger A. stated that the town did have a scheduled maintenance of all the roads in town but the Planning Board did not have that information. Mr. Saltmarsh would have to contact John Burnell, the Road Commissioner, for the Garland Road maintenance schedule.

Mr. Nadeau concluded by stating that this subdivision would have minimal impact on the area. He also added that any further division of these lots would have to come back before the Planning Board.

Mr. Saltmarsh asked if the homes to be built on the lots would be similar to the new home on Lot #1 owned by the Mullen's? Mr. Nadeau stated, "Yes".

There were no further questions. The Public Hearing closed at 7:12 p.m.

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**The Planning Board meeting started at 7:30 p.m.**

**The minutes from Tuesday, September 9, 2003 were accepted as written.**

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

**Conditional Use Permit – Home Day Care – Wendy Lamontagne – Map 7, Lot 1C-4 (806 Shapleigh Corner Road)**

Ms. Lamontagne was present to discuss her application. Ms. Lamontagne presented the Board with a sketch plan showing the site distance calculations as well as the proposed area to park or turn-around. Ms. Lamontagne had presented to the Board along with her application, a copy of the MDOT Permit for Entrance for her driveway, dated 9/22/00; a copy of a Subsurface Wastewater Disposal System Application, dated 9/5/00; a copy of the Group Day-Care form filled out by the State's Fire Marshall's office which stated it was o.k. to issue Ms. Lamontagne a day care permit, dated 6/13/03; and a parking plan which included the parking / turn-around area and site distance calculations.

Roger A. stated that he had gone to Ms. Lamontagne's home prior to the meeting to review the existing parking conditions. Roger noted that while he was in the driveway, along with several cars on site, the existing area to turn around was not large enough. Roger was concerned this being the case, parents might try to back onto Rte. 11, causing a dangerous situation. Roger felt that the turn around area should be placed closer to Rte. 11, leaving more area to turn cars around.

Ms. Lamontagne stated that the 40' wide area to turn around had not been created yet. The area Roger was looking at was only about 20' feet in width. In addition, Ms. Lamontagne stated that her car would be parked closer to the house and one of the other cars in the driveway tonight was used by her husband for work, so it would not be there during day care hours. Mr. Lamontagne, who was also at the meeting, voiced concern with moving the turn-around area closer to Rte. 11. He stated there was a telephone pole in this area and he did not want anyone backing into it. He felt that when the area was widened out to the proposed 40 feet, there would be plenty of area to turn around. Steve M., CEO, had been to the site to help the Lamontagne's with the site distance calculations, and he thought the area would be large enough to turn cars around safely. He did not want to see the parking area too close to the utility pole.

Bill H. asked what the site distance calculations were? Roger A. stated per the plan, toward the town hall the distance is 500', toward the hill, the distance is 480'. The area has a posted speed limit of 45 mph. The minimum site distance requirement is 315' in either direction. The recommended is 450'. Roger said the distance in both directions exceeds what is required.

Roger A. stated the review of Ordinance Section 105-17 shows that this project requires a Condition Use Permit review by the Planning Board. Roger reviewed the following Basic Performance Standards that were relevant to this project:

- #105-21      • Traffic - The access onto Route 11 (Shapleigh Corner Rd.) is safe and the sight distances exceed the recommended distance required.
- #105-22      • Noise - There will be no excessive noise from this business.
- #105-24      • Odors - No odors will be generated.
- #105-25      • Glare - No additional lighting is being added.
- #105-26      • Stormwater runoff. - The home is in existence and this business will not change the existing drainage provisions or vegetation.
- #105-27      • Erosion control. - The home is in existence and this business will not change the existing drainage provisions or vegetation.
- #105-28      • Setbacks and screening. – There is a well vegetated yard in existence, there are no changes being made.
- #105-31      • Preservation of landscape: landscaping of parking and storage areas. – The parking area will be a minimal change to the existing landscaping.
- #105-33      • Refuse disposal. – Ms. Lamontagne shall bring all refuse to the transfer station.
- #105-34      • Access control on Routes 109 and 11. – There has been an approved D.O.T. driveway permit for this property and site distances are in compliance.
  
- #105-43      • Off-street parking and loading. – Per the submitted parking plan, there will be an adequate area to turn cars around so they will not back onto Rte. 11.

Roger A. asked the Board if they had any questions. John C. asked if Ms. Lamontagne had the State Fire Marshall approve the site? Roger reviewed the file and stated that yes she did have the required approval for up to 12 children.

Bill H. asked Roger A. why he wanted the turn-around area to be closer to Rte. 11? Roger stated that he did not feel in the current location there was sufficient room to drive up to the residence and turn around a vehicle safely, if there were multiple vehicles there. He stated it would be a very tight area and it would prompt people to back out of the driveway instead of turning around. Ms. Lamontagne stated once again that the turn-around area had not been built and that her car would be parked closer to her home than it was this evening when Roger was on site. Mr. Lamontagne stated that there would be 20' between the turn-around area and where Ms. Lamontagne's car would be parked. In addition, he stated that the turn-around area would be 40' in width. He felt there was ample room for a car to be parked in that area and still have room for another to turn around. Mr. Lamontagne did not want to move this area too close to the utility pole. Bill H. asked Mr. Lamontagne if he was willing to bring the turn-around area to within 10' of the utility pole? This would leave a buffer but leave a large area to turn around. Mr. Lamontagne stated that this would not be a problem.

John C. asked if the applicant had a water test done? Ms. Lamontagne stated she had, it was a requirement of the State's licensing procedure. She said she did not have a copy for the Board but could get one if necessary.

John C. asked Ms. Lamontagne how many employees the State required for up to 12 children in a home day care? Ms. Lamontagne stated that it depended on the age of the children. [According to Chapter 13, State of Maine Rule for Home Day Care Providers – One provider, working alone, may care for: a) 4 infants and toddlers, or b) 8 preschool plus 2 school age children, or c) 12 school-age children, or d) 3 infants and toddlers plus 3 pre-school children, plus 2 school-age children.]

John C. asked if the day care would be on the 1<sup>st</sup> floor of the home only? Ms. Lamontagne stated, “Yes”. John C. asked what the hours of operation would be? Ms. Lamontagne stated, “6:30 a.m. thru 5:00 p.m., five days a week”. John C. asked Ms. Lamontagne what the size of the proposed turn-around was, how many cars could be parked there? Ms. Lamontagne stated that at this time two cars could park in the area and you could still turn around one car. She stated that when the new turn-around was created it would be twice the size. Roger A. stated once again he would still like to see a larger area than what was depicted on the plan presented. Roger wants to be certain no one will back onto Rte. 11. Bill H. stated that if the applicant extends the parking area to within 10’ of the utility there should be adequate room for both turning around and parking.

Roger asked if there were anymore questions. There were none.

**Roger 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, bird or other wildlife habitat. ***This project will not affect the wildlife and it is not in the Shoreland zone.***
- 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 businesses located along Rte. 11.***
- 4) Traffic access to the site is safe. ***It is per the plan presented. The site distances exceed the requirement.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, no changes are being made to existing buildings and landscape.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There are, there is an existing approved wastewater disposal system already in place. A copy of the subsurface disposal system application is on file. Solid waste will be removed per the applicant.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There are none 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 that would change the existing water flow. This location is part of an approved subdivision.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The proposed parking plan shall not cause an erosion problem as presented. The vegetation in the surrounding area is not being disturbed.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***There is, there is a fire pond, tank and hydrant in the nearby area.***
- 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 Conditional Use Permit for an in home licensed day care for up to 12 children with the following conditions:

- 1) The parking / turn-around area on the plan shall be extended to within 10 feet of the existing utility pole.
- 2) The hours of operations shall be 6:30 a.m. thru 5:00 p.m., Monday thru Friday.

John C. 2<sup>nd</sup> the motion. All members were in favor.

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**3-Lot Minor Subdivision – Matthew Quinton, Applicant; Represented by Corner Post Land Surveyors – Owner Laura Bicknell – Map 7, Lot 8 (Cedar Drive South)**

Mr. Nadeau was present to represent Mr. Quinton's interest. Mr. Nadeau presented the Board with a Preliminary Plan which depicted the boundary survey of the 2+ acre parcel Mr. Quinton wishes to purchase. The plan also shows the remaining land of Laura Bicknell, but not all the dimensions of the remaining land.

Roger A. asked if there were any test pits done for the property of Laura Bicknell or the land for Mr. Quinton. Bill H. stated that the Laura Bicknell property had a home on it and probably a septic system. Roger told Mr. Nadeau that there needed to be a test pit location for Mr. Quinton's lot and asked him to place the location of Ms. Bicknell's home located on the remaining land, on the final plan.

Mr. Nadeau stated that the applicant was requesting a waiver from Ordinance 89-30.A.3 Stone Monuments. In lieu of stone the applicant requested 5/8" iron rods be placed in the ground. Also, a waiver was requested for Ordinance 89-15.B.9 Contour Lines. Mr. Nadeau stated that the area was relatively flat in its entirety. Bill H. concurred with this assessment. Roger A. agreed as well. (Roger had walked the lot prior to the meeting.)

Mr. Nadeau stated that a portion of the remaining land owned by Ms. Bicknell was in the Shoreland zone but Mr. Quinton's property was not. On the plan presented, Mr. Nadeau showed the site distance locations for the proposed driveway location. They were 312' toward the North and 346' to the South. Cedar Drive currently has a posted speed limit of 30 mph. These site distances are more than adequate. Roger confirmed the distances were acceptable according to where the stake was placed marking the driveway location.

Bill H. asked about the old location of Cedar Drive. Bill stated that the road had been moved at one time and Ms. Bicknell is claiming to own land on the other side of Cedar Drive in its current location. Bill asked the Board members and Mr. Nadeau if they knew anything about this? He also asked that if it is true, does it affect this subdivision? Mr. Nadeau stated that it would not affect this subdivision. He said it might affect her in some way, but not this surveyed piece of land.

John C. addressed Mr. Nadeau stating that he needed the frontage of the remaining land of Laura Bicknell placed on the final plan. The Board needed to be certain the remaining land was a legitimate lot having the required size, road frontage, etc. Mr. Nadeau stated he would put it on the final plan and it did meet the requirements of a lot.

There were no further questions at this time. ***Roger A. stated that Board members would need to do a site visit prior to the next meeting.*** Because of the lack of daylight, members would need to go to the site during the day or weekend. Bill H., Barbara G., and Diane S. stated they would get together and go to the site. John C. stated he would go when he had time available as well.

**Roger A. scheduled a Public Hearing for Tuesday, October 14 at 7:00 p.m. A Notice to Abutters will be mailed out.** Nothing further was discussed.

**4-Lot Subdivision – “Fort Ridge Woods” – Adam Blaikie & Associates – Represented by Corner Post Land Surveyors, Inc. – Map 8, Lot 41 (Garland Road)**

John C. stepped down from the Board due to a conflict of interest. Madge Baker would be a full member for review of this application.

Mr. Nadeau presented to the Board a Final Plan dated September 15, 2003. The final plan depicted Lots 1 through 4, soils including the soils description, contour lines from the USGS 7.5 minute series topographical map, location of boundary markers, building setback lines, soil test pit locations; and in Notes: Deed References, Road Record, and the Owner of Record (Adam Blaikie & Associates).

In addition, a special notation was added in Notes, #11, which reads, “An 8.5 foot wide strip of land, adjacent to the existing sideline of Garland Road and 25 feet from the centerline, is reserved for possible future widening of Garland Road. Should this widening take place, lots 2, 3 and 4 will still contain the minimum lot size of 80,000 square feet”. (Lot #1 contains over 30 acres.) The plan also list three waivers (see Public Hearing above for details).

Mr. Nadeau stated that the issue of fire protection for this site has not been settled at this time. The applicant understands that there is fire protection required by them for this location but asks the Board to approve this application with the following Condition of Approval (which is listed on the Final Plan):

- Approval is granted with the condition that fire protection will be provided according to the Shapleigh Subdivision Ordinance and Shapleigh Fire Department recommendations. **No building permits for lots 3 and 4 will be issued until this condition is satisfied.**

Roger A. asked Board members if they should ask for a bond or performance guarantee for the fire pond or water tank? Bill H. stated that because no more houses could be built until fire protection, approved by the Fire Chief, was installed, he did not feel a need to ask for a bond. In addition, there is one home built and a building permit for a second home. If only these two homes were put in the area, the Board would not have required fire protection, so again he did not feel a bond was necessary. No additional homes will be placed on the property until the fire protection is in place. Madge B. also stated that she was in agreement with the condition of approval as it is written.

Roger A. stated that he was concerned if new members were on the Board in the future, as well as a new CEO, and they did not know about this condition, a Growth Permit could be approved and a home built on lots 3 and 4. Steve M., CEO, was not concerned as long as he is the CEO, but he did say it was possible if nothing happens with the fire protection for a long time that it might get overlooked. Diane S. had no problem with the condition of approval as written.

Roger A. asked if the Board members had issue with the three requested waivers? The Board members did not. ***A vote was taken to approve the waivers; all members were in favor.*** Roger reviewed the criteria for a minor subdivision and did not feel there were any other issues that needed to be addressed.

***Bill H. made the motion to approve the final plan for a 4-lot subdivision on the Garland Road, with the condition as written on the plan regarding fire protection. Diane S. 2<sup>nd</sup> the motion. All members were in favor.***

Members signed the final plan dated 9/15/03. *Roger A stated the Applicant has 90 days to have the Mylar plan registered at York County Registry of Deeds, and return it to the Town Office; otherwise the plan becomes null and void.*

**6-Lot Major Subdivision “Goose Pond Overlook” – Northwoods Land Company of Maine, LLC; Craig Higgins of Development Svs Inc. Representing – Map 7, Lot 5 (Rte. 11 & Dogwood Rd.)**

John C. removed himself from this project due to a possible conflict of interest. Madge B. would be a full voting member for this application.

Mr. Higgins, of Development Services Inc., was at the meeting to represent Northwoods Land Company. Mr. Higgins gave the Planning Board a copy of the plan that he sent to the Maine Dept. of Inland Fisheries and Wildlife which depicts many changes from the original plan. The new plan shows a 30 acre Do Not Disturb zone adjacent to Upper Goose Pond for the protection of the Blandings Turtle. The new plan also allows for only six building lots total, there will be no further subdivision of any of the lots to be sold. In addition, the plan has established building envelope sites which will be only 40,000 square feet in size maximum, again further protecting the turtle and keeping the area much as it is today.

Along with the new plan was a copy of a letter Mr. Higgins sent to Philip Bozenhard, the Regional Biologist at MDIFW in Gray Maine. The letter further explained the new plan and its modifications from the original.

Mr. Higgins also brought to the Planning Board a petition, as requested by the Board at the last meeting, for the protection of Upper Goose Pond. The petition reads as follows, “We, the undersigned residents of the Town of Shapleigh, York County, hereby petition the commissioner of the Maine Department of Inland Fisheries and Wildlife to prohibit the operation of all motorized watercraft on that water body known as Upper Goose Pond. This action is proposed in the interest of safety based upon the relatively small size (10-12 acres) and shallow depth (less than 5 feet) of the pond, in combination with the high speeds in which watercraft have reportedly been operated on this water body. In addition, the wetland habitat of Upper Goose Pond is rich and valuable, in which a Blanding’s turtle was found, an endangered species under the Maine Endangered Species Act.” Mr. Higgins stated that he was told that 25 signatures were needed and then the town could present the petition to the Commissioner at IFW.

The discussion began by Mr. Higgins stating that the new plan presented today has not been accepted by the MDIFW at present but Mr. Higgins stated that he expected it to be acceptable. The state only received a copy of the plan this week. Mr. Higgins said that he was working closely with Phil Bozenhard, Philip deMaynadier, along with the biologist he hired for this project by the name of John Lortie. (Mr. Lortie was in attendance at this meeting at the request of Mr. Higgins.)

Mr. Higgins stated that MDIFW was very concerned with the wetland area that was adjacent to Upper Goose Pond. Also, the state wants to create a corridor by which the turtle population could navigate between Upper Goose Pond and the Goodall Canal. Mr. Higgins stated the 40,000 square foot building envelope restriction would restrict all building, lawns, septic and driveway to one area, again keeping more open space for all the wildlife including the turtle. Mr. Higgins noted that now the subdivision was for six lots total. There would be no further divisions on any of the properties. Mr. Higgins said that what had been lot #4 was removed in its entirety.

Mr. Higgins stated MDIFW wanted Hodgdon Road to remain gravel for the turtle to navigate on but Mr. Higgins has requested that 200’ be paved in the area of the lot that is proposed to be gifted to the town. By doing this the heavy trucks would not destroy the road while entering or exiting the property. Also dust would be reduced in this area. The MDIFW agreed to this 200’ of pavement only. MDIFW also requested that signage be placed along Hodgdon road with respect to the turtle’s protection. Mr. Higgins stated the applicant had no intention of upgrading or maintaining Evergreen Road past Lot #4.

Mr. Higgins deferred the discussion to John Lortie. Mr. Lortie began by stating that there is a greater awareness with respect to conservation today. Mr. Lortie spoke of the Blandings Turtle stating that Maine was the farthest northern habitat for the turtle. Studies show that 60 to 65% of the time the turtle is in a water body. 20% of the time the turtle is moving to a sandy area for nesting or sunbathing, and 20% of the time it is in that area. He said it is important to maintain a viable habitat using a reasonable approach. Mr. Lortie stated the first thing we must do is minimize development. Mr. Lortie felt that reducing the building envelope, as proposed on the new plan, will help protect the habitat. In addition, the large area of "no disturbance" set aside will further preserve habitat.

Mr. Higgins stated that he thought MDIFW was interested in owning the 30 acre no disturbance zone and perhaps another group, such as the Land Trust could be the steward of the area working in conjunction with MDIFW.

Bill H. asked Mr. Higgins what would prevent property owners from removing vegetation down to the waters edge and putting in grass seed? Would there be covenants to protect the area? Mr. Higgins stated that these lots were in the Shoreland zone and the only thing that could be created is a 6' wide winding path to the waters edge. Vegetation cannot be removed per DEP regulations and Shapleigh's Zoning Ordinance. In addition, there would be deed restrictions and the surveyor is going to clearly mark where the setbacks are from the waters edge and where the No Disturbance zone is located.

Madge B. asked Mr. Lortie what were the dangers to the turtle population? Mr. Lortie stated the #1 danger was motorized boats. Madge asked where the turtle lays its eggs? Mr. Lortie stated that it lays approximately 7 to 12 eggs in gravel, anywhere it can dig a hole. It can be along the road, or on a ledge. He added that the turtle itself can be very long lived, anywhere from 20 to 90 years. Mr. Lortie stated that this is in the turtle's favor since it does not have many eggs and is easily disturbed, so it doesn't reproduce well. In addition, there are many natural predators of the eggs such as skunks and raccoons. Bobcats, fisher cats, and coyote also can prey on the turtle. Roger A. asked what the gestation period was? Mr. Lortie stated 60 to 90 days. He asked Mr. Lortie when the eggs usually hatch? Mr. Lortie stated that they hatch in September or October.

Mr. Higgins had the Board look at the new plan and he pointed out that several of the building envelopes go thru what are now ATV roads. He felt that when the homes are there the ATV traffic will be reduced and this will also help the turtle population. The Board agreed.

Diane S. asked Mr. Higgins if Lots #4, #5, and #6 would have access to Square Pond? Mr. Higgins stated, "Yes". Diane asked if there would be any further division to any of these lots? Mr. Higgins stated there would be no further division with this new plan and it would be in the deed restrictions.

Steve M. asked Mr. Lortie what the movement patterns were for the turtle? Mr. Lortie stated that they wintered in the wetlands. In the spring, May and June, they moved to their nesting sites. In mid summer there was little movement. In late summer they move back into the water bodies for winter protection.

Bill H. asked if the Board had to wait for MDIFW to approve this new plan? Roger A. stated, "Yes".

Bill H. asked where Hodgdon Road goes after it leaves this proposed development? Mr. Higgins stated it went to back lots that are currently not developed.

Steve M. asked if Mr. Higgins was going to improve Evergreen Road? Mr. Higgins stated, "No". Steve asked what the condition of Evergreen was? Diane S. stated that it would be very difficult to get to Lot #6 in a vehicle. Steve asked if emergency vehicles could get down Evergreen Road? Diane stated, "No".

Roland Legere asked if Lots #5 or #6 would be accessed through Totte Road? Mr. Higgins stated you could access both lots through either Totte or Evergreen. Mr. Higgins added that the building envelopes were near the roads so the lots would have the shortest driveways possible to again reduce the disturbance to the wildlife. Roland stated that it appeared Lot #5 had a building envelope within 200' of Upper Goose and Lot #6 was within 300' of Goose. Roland also wanted to point out that on the plan Mr. Higgins has shown an Upper Goose Pond and Lower Goose Pond, there is no "Lower" Goose Pond. It is called Goose Pond.

Mr. Higgins had no further comments for this evening. The Board had no further questions.

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**Conditional Use Permit – Auto Body Repair Business – Adrian Knox – Map 3, Lot 4 (359 Shapleigh Corner Road)**

Adrian Knox was present at the meeting along with the owners of the property, Mr. & Mrs. Leon Knox. Adrian Knox presented an application to open an auto body repair facility, on a part time basis, until the workload becomes such that full time operation is necessary. Also with his application the Board received a list of abutters; a page stating that explosive materials such as paint, lacquer, and thinner would be stored on site in an explosion proof cabinet; waste material such as oil and gasoline would be taken care of by United Oil Recovery, Inc.; and non-hazardous waste would be disposed of on site in a dumpster. Also submitted was a sketch of the site showing the road setbacks to the proposed garage (150'), location of the existing sap house on site, existing home, well and proposed septic system. Mr. Knox had a sketch of his proposed paint spray booth which contained the location of the exhaust fans, door, mixing room and explosion proof cabinet. Lastly, there were two pages showing the plans of the entire proposed garage including foundation to be used, office area, storage, spray booth, shop, compressor room and two bathrooms.

Roger A. asked Mr. Knox what type of repairs he would be doing on site? Mr. Knox stated he would be doing auto body work including painting. Roger asked what type of foundation would be installed? Mr. Knox stated a floating slab with three rows of concrete blocks (this is depicted in one of his sketch plans). Roger asked if the fans would have filters on them? Mr. Knox stated yes, the fans would filter both incoming and outgoing air.

The Board reviewed the information above and concluded the following information needed to be addressed prior to the next review, it is as follows:

- 1) **A site plan depicting the location of the proposed structure, the location of the proposed septic system, driveway location, parking area for customers as well as storage area for vehicles being worked on, and any other structures to be stored on site in connection with this business.**
- 2) **A letter from the company to be used to remove hazardous waste from the site, stating they will remove the material. A copy of State Permits required for Hazardous Waste generation. Also, list what type of containers will be used to store hazardous waste while it is stored on site.**
- 3) **State in writing how explosive materials shall be handled if applicable.**
- 4) **Bring a copy of DOT approval for curb cut / driveway location for the business and site distance calculations.**
- 5) **Submit an *engineered* stormwater runoff plan showing all stormwater shall be retained on site. This plan needs to show prevention of contamination to the water aquifer or water bodies in the vicinity.**

- 6) List what type of screening shall be used to provide a visual buffer from automobiles, auto parts, etc.
- 7) List the maximum number of vehicles to be worked on and stored on site.
- 8) List the hours of operations and days open for operation.
- 9) Bring in specific details of what type of spray booth shall be used, and exhaust fans for painting area. Also, bring copies of submittals to the State Fire Marshall's office as well as their approval of this project.

Steve reviewed the map that contains what areas are in the stream protection and noted to the Board that this property appears to be within 250' of a stream protection zone.

John C. discussed noise with Mr. Knox and told him that between the hours of 10:00 p.m. and 7:00 a.m. noise would have to be limited. He also stated that during daylight hours noise should not be excessive for long periods of time. Shapleigh Zoning Ordinance 105-22 Noise (1) The levels specified may be exceeded by 10 dB(A) for a single period, no longer than 15 minutes in any one day.

The Board told Mr. Knox until he was able to address the above items his application would be tabled. He is to contact the Planning Board Secretary when he is ready to be placed back on the agenda. Nothing further was discussed.

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**Conditional Use Permit – Earth Moving – Frank McNulty – Map 31, Lot 21 (119 Totte Road)**

Mr. Al White was at the meeting to represent Mr. McNulty. Mr. White stated that the applicant wanted to upgrade part of Totte Road as well as bring fill onto his existing driveway. Mr. White stated that both Totte Road and the driveway had deep ruts and were almost impossible to pass over. Mr. White stated that he would bring in crushed gravel for both locations.

John C. asked how far the driveway was from the waters edge? Was it greater than 150'? Mr. White did not know but he thought it was at least greater than 100' from the waters edge. John stated that the Board would need this information.

John C. asked how much material would be brought to the site? Mr. White did not have an exact figure. He stated enough to be able to pave the driveway. John C. and Steve M. were concerned with creating more of an erosion problem if the driveway was paved, there would be more sheeting action. Mr. White stated that without the pavement any gravel brought to the site would not last for any length of time and it would wash toward the lake due to the steep pitch of the land. John stated that the Board would need a plan of exactly what would be taking place and how erosion would be addressed. Steve M. stated that there should be a drainage ditch designed to control water on the property.

Roger A. stated that the Board would need a site plan, how many yard of material would be used, and how stormwater runoff would be addressed. Diane S. asked if the applicant would need to contact the road commissioner? Steve M. stated no, because this was not a new road. Any improvement would help the area.

Roger A. asked if there were any other questions and there were none. **Roger stated that the Board would send out a Notice to Abutters and a site visit would be in order. Members would go on an individual basis due to light constraints prior to the Planning Board meetings.**

**Conditional Use Permit – Storage Facility for Antique Autos and Tires – John & Donna Johnson – Map 7, Lot 34B (Shapleigh Corner Road –Next to Boonies, Different Lot)**

John and Donna Johnson were present at the meeting. The applicants presented to the Board along with their application, a copy of their tax bill showing they owned the property, a sketch showing the dimensions of the foundation / slab, a sketch showing the size of the proposed building and a list of the materials to be used for the buildings construction. Setbacks were also listed on a sketch with relationship to both Shapleigh Corner Road and the Jones Road. A list of abutters was received.

Mrs. Johnson stated they were going to place a storage building on top of an existing foundation. The foundation originally was to be used for a home for their son but he has since built in another location. The storage building will be used to house tires (that they sell at Boonies) and antique automobiles, which are not for sale. Mrs. Johnson stated that there would be no electricity or heat in the building.

Roger A. asked if they intended to place the new building on a floating slab? (The sketch submitted showed a 32' wide existing foundation along with a 42' wide floating slab.) Mrs. John stated, "Yes". Steve M., CEO, stated that you cannot place part of a structure on a foundation and part on a floating slab. The Johnson's would need a 4' frost wall under the entire structure, or have two separate buildings. One using the existing foundation, another on the floating slab. Mrs. Johnson stated they would build the structure to whatever codes Mr. McDonough states are required.

Mrs. Johnson stated that this would be a solid building with no windows or electricity. There will be no access to the second floor from the outside of the building, to prevent possible break-ins.

Roger A. asked if there were anymore questions? There were none. Roger stated that this application was being reviewed as a Conditional Use Permit because it was on another lot separate from the lot Boonies, Inc. was housed on. If this building were on the same lot it would have been an amendment to a C.U.P.

***Roger A. stated that there would be a Public Hearing on Tuesday, October 14<sup>th</sup> at 7:00 p.m. In addition, a Notice to Abutters shall be mailed.***

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**Conditional Use Permit – Replace Existing Deck and Retaining Wall – Janet Williams – Map 26, Lot 27 (208 16<sup>th</sup> Street Loop)**

Julia and Jeffrey Pelkey were present at the meeting to represent Ms. Williams. The Pelkey's had a letter for the Board that stated they had permission to represent the owners of the property (Ms. Williams and Ms. Reed). In addition to the application, the Board received a copy of the DEP Permit by Rule, ACC Date 9/16/03, and a sketch depicting the existing retaining wall that will remain in place as well as the proposed new deck and retaining wall. A list of abutters was also received.

Mr. Pelkey showed the Board recent pictures of the existing deck and retaining walls. Mr. Pelkey explained the proposed project will consist of a new lock block retaining wall, and a new deck that will rest between the lock block wall and on the remaining cement retaining wall. The new deck will be the same size as the existing, which is 9' wide X 35' long.

The Board asked Mr. Pelkey how high the wall is that is going to be replaced? He stated it was 4 ½' feet high. He said the new wall will be the exact same height. John C. asked if there would be railings on the new deck? Mr. Pelkey stated there would be. Bill H. asked if the existing stairs would remain or would they be replaced? Mr. Pelkey stated they would remain since they are in good condition.

The Board, after reviewing the pictures, were concerned that when the existing cement deck was removed and a new deck put in its place, there could possibly be an erosion problem that does not currently exist. With the new deck, water will be able to flow behind the existing retaining wall (that is at the waters edge), and possible undermine it. Mr. Pelkey stated that behind the replacement wall there would be a drainage system put in. He felt this would help to divert water better than what exist now because there is no drainage system at this time. The Board understood and felt more drainage was still warranted. The existing slab kept water from going behind the largest retaining wall and without the slab water could accumulate. Steve M. thought that the Board might require an engineer look at the wall and slope to determine if any additional measures need to take place to prevent erosion. Steve stated that the new wall does not require engineering per the Ordinance but because there are a lot of changes taking place behind the remaining wall it might be in the applicant's best interest to be certain the remaining wall won't be affected by the changes above it. Roger A. agreed.

Roger A. asked the Board if they had any further questions. There were none. **Roger stated that the Board members would do a site inspection individually. Roger stated that the Board request that Mr. Pelkey have the applicant get an engineer look over the plans to determine if the plans as presented are adequate or if more must be done to prevent soil erosion and the undermining of the existing retaining wall at the waters edge. The entire Board agreed with Roger's request.**

The Board will table this application until they are notified by the applicants that they are ready to proceed.

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**Best Possible Location – Replace Mobile Home with Ranch Style Home - Richard & Carol Levesque – Map 32, Lot 21 (3 Daisy Road – Square Pond)**

Mr. and Mrs. Levesque were present at the meeting. Along with their application, they presented a copy of their lot dimensions which showed the proposed location of a new ranch style home, location of a new well, proposed location of a new septic system, and new driveway. Setbacks were included on the plans presented of both the existing mobile home and the new home. A copy of the Subsurface Wastewater Disposal System Application, dated 8/27/03 was presented. Steve M., CEO, gave the Planning Board his copy of the proposed new home building plans along with the Building Permit Application.

Mr. Levesque noted to the Board that the new septic system would be placed 100 feet from the new well. He stated that they were before the Board because they could not meet the setbacks to the right-of-way that exists on the property. Mr. Levesque said that the right-of-way was owned by him but gave access to several other lots. The Levesque's would like the Board to review the proposed location to see if they feel it is the best location on their property.

Roger A. asked the Board members if they had any questions at this time. There were none. **Roger stated the members would do a site inspection on an individual basis and a Notice to Abutters would be mailed out prior to the next meeting.** Nothing further was discussed.

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**OTHER:**

**Discussion Regarding Growth Permit Ordinance**

Roger A. stated that there was a discussion at the quarterly committee meeting regarding the current Growth Permit Ordinance. The question was asked as to whether or not the Planning Board felt the current number of Growth Permits (33) was valid. Roger stated that he told the people present that the town uses the recommended number received from Southern Maine Regional Planning Commission and makes a



determination from that number to set the number of Growth Permits available. Roger furthered by adding that SMRPC uses a formula to postulate the number and they came up with 31 permits as being valid. The Planning Board chose to stay with the current number of 33 permits. (SMRPC uses information from the population census of a "region" and estimates the average annual regional growth rate. It takes into consideration population, year round dwellings, and number of people per dwelling. This calculation is done every five years currently.)

Roger A. said that many were concerned with the fact that in 2003 the Growth Permits were all assigned by the end of January. Roger stated that it happened for several reasons, in part because Mr. Hannon's development took some for seasonal conversions, several went to developers, and there is a concern from citizens that the Growth Permits will go rapidly so instead of coming in during the summer months as is usually the case, people are lining up in January worrying they won't receive one.

John C. stated that several communities are looking into exempting individuals 55 and older from the Growth Permit process since there is no impact on the school system. Several members also questioned whether the town should look at seasonal conversions separately from new homes.

Bill H. stated that he felt Kettle Pond Condominiums were not as big an impact as Roger stated. Bill felt that growth is taking place at a more rapid rate in the area and perhaps the Board needed to add to the number of permits allowed. Bill asked the Board members what the town was looking to achieve by the Growth Permit Ordinance? Is it for infrastructure development?

Madge B. and Roger A. both felt the Growth Ordinance was put into place so the town could successfully manage the growth of a community with respect to the services required per household, the impact to the local school systems, and roads. Barbara G. stated that each new household (taxes) does not begin to cover the burden added to the school system. The town needs a way to be able to raise the funds necessary to sustain itself without overburdening each tax payer.

Roger A. stated that if the town were to substantially raise the number of Growth Permits, he would be in favor of a substantial impact fee per new home. This fee could go toward the transfer station, road maintenance, etc. All are affected by rapid growth in a negative way.

Roger A. stated that one last question was whether or not the Ordinance should separate developer from someone putting in a single home. Have X amount of permits for developers and X amount for individuals. The Board came to no conclusions.

Barbara G. stated that the Growth Ordinance now has to be reviewed once every three years instead of five years. The Board would be reviewing the number of permits again at the end of next year and voting on it at the March 2005 meeting. Madge B. stated that if the Board increases the number of permits, it will not be by a substantial number. The Growth Ordinance is to make the increase in population of a town manageable in all facets.

Nothing further was discussed.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

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***The Planning Board meeting ended at 10:15 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, October 14, 2003***

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

### **PUBLIC HEARING started at 7:00 p.m - 3-Lot Minor Subdivision – Matthew Quinton, Applicant, Represented by Andrew Nadeau, Corner Post Land Surveyors – Map 7, Lot 8 (Cedar Drive South)**

Roger A. began the Public Hearing by asking Mr. Nadeau to state what the applicant, Mr. Quinton, was trying to do. Mr. Nadeau presented a final plan depicting the lot Mr. Quinton wanted to purchase from Ms. Bicknell the owner of the parent lot. (Ms. Bicknell was in attendance as well.)

Mr. Nadeau explained this application was being reviewed as a subdivision because in the year 2000 a lot was sold from the parent lot and today Mr. Quinton wishes to purchase a lot from the parent lot, thus making this a 3 lot division within 5 years. This creates a minor subdivision.

Mr. Nadeau stated that this lot was approximately 2 acres in size and is located in the northeast corner of the parent lot. It abuts Cedar Drive, the town forest and the remainder of Laura Bicknell's property.

Bill H. asked, "Does this plan represent a full and complete survey of the full three lot subdivision?" Mr. Nadeau stated that the plan did not show all the dimensions around the lots that were conveyed out previously. He said he could show this if the Board required it. He stated that there have been different surveys on the lots and some are recorded plans. He added that the existing lots along the road are lots of record.

Bill H said, "I am asking because at one time, prior to the road being called Cedar Drive, it was called the Eugene Giles Camp Road and it went on a slightly different route. It was more curved at the bend in the road." Mr. Nadeau agreed. Bill continued, "I know there is a dispute over that portion of the road. The existing road was abandoned by the town of Shapleigh and relocated. I know that Mrs. Bicknell drives on that, what would have been the old road, once or twice a week to maintain her ownership or sense of right to it. Before this is completed as a subdivision, I would like to see this resolved."

Mr. Nadeau stated that this does not pertain to what Mr. Quinton is doing now. "I understand there is a portion of land that Mrs. Bicknell still owns between the old road and the new road. The records that the town has of Cedar Drive are vague. It is basically just an acceptance of the road. I think it was in 1973. There is no width to it, no defined definition to how the road is layed out." Mr. Nadeau added that he had been approached by an abutter across the road from Mrs. Bicknell's property and they had intentions of purchasing another piece of this lot. If that happens the area in question will be surveyed as well. Mr. Nadeau stated again that he did not feel this piece that Bill was addressing had anything to do with this project before the Board because it is on the other side of the road. It does not affect the Quinton property.

Bill H. asked Roger if in fact it did affect this 3-lot subdivision? Roger did not answer the question at this time. Bill said that he did not question the ownership of the land on the other side of Cedar Drive but he did question which part of it was old road, which part was an easement for the old road, and what remains as Mrs. Bicknell's land. This remaining portion of land may be smaller than what Mrs. Bicknell anticipates. Mr. Nadeau agreed.

Ms. Bicknell stated that she had asked Ruth Ham, Selectman, who owns the old road or what the status of the old road was? Ruth said she would look into it. Ms. Bicknell said that Ruth was never able to find out

anything about the old road. Ms. Bicknell said that she understood from people who live on the other side of her land that the old road is still a right-of-way beyond where her land ends. She added that she just did not know for sure.

Bill H. told the Board that this has been an ongoing conflict. "If there is a way of resolving it in conjunction with approving this 3-lot subdivision, I certainly think it would behoove all parties. Now if you (Mr. Nadeau) are saying it legally has no relevance here, fine." Mr. Nadeau said his issue is it is not Mr. Quinton's burden to bear. Bill said that he agreed. He continued by adding, "This is why I asked if this is an accurate representation of what is being proposed with this 3-lot subdivision. Aren't we looking at this whole parcel?"

Roger A. said that we are looking at a three lot subdivision. Addressing what Mr. Nadeau had said earlier, Roger said another issue was that if another party proposes to cut another lot on this subdivision, the Board would have to look at fire protection for this area. Roger wanted everyone to think about who would pay for that fire protection? Roger wanted Ms. Bicknell and Mr. Nadeau aware of what could be required in the future. Ms. Bicknell noted that there was a big pond (Square Pond) across the street. Roger stated that the Fire Department needed access to Square Pond or it did the area no good. John C. told Ms. Bicknell that if her lot could not hold a fire pond, she may need to use a water holding tank. Mr. Nadeau said the area was all gravel; it would not be able to hold a fire pond.

Ms. Bicknell was confused as to why the Board was calling this project a 3-lot subdivision. She was not aware the parent lot was counted as one of the lots. Mr. Quinton stated he would explain it to her after the meeting. He understood why he needed to apply for subdivision.

Bill H. felt that the Board had an opportunity to address the road problem now or would have to in the future. Mr. Nadeau asked if the Board had the authority to address it with this application? Barbara G. asked Roger A. if this was an issue since the property in question was across the road from the project? Roger did not think it was an issue that affected this subdivision.

Mr. Quinton asked the Board if the Town would have information regarding the location of Cedar Drive and any land they took for it? Bill H. thought someone should have that information. Bill asked Roger A. if the Board needed a complete survey (including all land owned by Ms. Bicknell on both sides of Cedar Drive) for this subdivision? Bill stated that he knew the town could not judiciate between conflicts regarding the property but could the Board request a full and complete survey? Bill also asked if the Board should address fire protection now or wait until another lot was subdivided from this piece and that person would have the burden?

John C. said that he thought the board should address these issues during the regular Planning Board meeting.

Ms. Bicknell stated to the Board that she was not to be addressed as "Mrs." Bicknell, she was Laura or Laura Bicknell, she has never been married.

There were no further questions for this application. Public Hearing was closed.

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**PUBLIC HEARING - Conditional Use Permit – Storage Facility for Antique Autos and Tires – John & Donna Johnson – Map 7, Lot 34B (Shapleigh Corner Road –Next to Boonies, Different Lot)**

Mr. and Mrs. Johnson attended. Mrs. Johnson addressed the Board.

Mrs. Johnson told the Board and audience members that they wanted to put up a storage building. She said that they did not want to be limited on what would go into the building. Mrs. Johnson said that it was being advertised that the application was for tires and antique cars. She said that she did not want to advertise what was going into the building because they did not want anyone to break into it. In addition, Mrs. Johnson said there would be nothing available for sale *from* the building. There would be no customers allowed into the building. Mrs. Johnson said she did not know if in fact they needed a Conditional Use Permit, but stated that the Code Enforcement Officer had advised her that they needed to go before the Planning Board because they would be using the building for some items that were sold from the business (Boonies, Inc.). She said that this is why they were before the Board this evening.

Roger A. stated that if this building was going to be used for a business, they needed a C.U.P. Mrs. Johnson said that it was not for a business, it was for storage. Bill H. added to her statement, "Storage for the business." Mrs. Johnson said it is to store everything, both personal items and some store items so they have more room in the store. She said that no customers would be able to look at the items in the building; it is not going to be open to the public. John asked if it was only for warehousing extra items? Mrs. Johnson said, "Yes".

John C. asked where the building was located? Mrs. Johnson said that there is an existing foundation on the lot behind the store. They are going to use that foundation, add to it, and place the building on it. The building will have only one door for access. "It is again, only for storage but it will look better than a storage trailer."

Mrs. Johnson said they did not want to be limited to the contents in the building; this is why they did not want to list what would be inside for safety issues. Roger A. stated that the reason the Planning Board stated this building was for tires and antique autos is that is what the application states. Mrs. Johnson said that the application asks for a description of the project. She was told that if she did not fill that out, the application might be denied. The first thing that she thought of was they needed more storage for tires and two antique autos they owned. She said there will also be other items stored, but at this time she doesn't know exactly what they will be.

Roger A. told the Johnson's that the Board asking for what items would be stored is not unique to them. The Planning Board needs to ask what items will be stored when it comes to a business.

There were no other questions at this time. The Public Hearing was closed at 7:25 p.m.

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**The Planning Board meeting started at 7:30 p.m.**

**The minutes from Tuesday, September 23, 2003 were accepted as written.**

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

**3-Lot Minor Subdivision – Matthew Quinton, Applicant; Represented by Corner Post Land Surveyors – Owner Laura Bicknell – Map 7, Lot 8 (Cedar Drive South)**

Ms. Bicknell did not attend the meeting. Mr. Quinton was in attendance along with Mr. Nadeau of Corner Post Land Surveyors.

John C. asked about the road issue, he was late to the Public Hearing. He asked if the old road, Eugene Giles Camp Road, was moved in the 70's? Bill H. showed John an old survey which showed the camp road as

well as how the lots looked at that time. They then compared that map with today's map showing Cedar Drive as it is now. Bill told John that Ms. Bicknell continues to drive on the old road several times a week and the land she believes she owns she has tried to sell to abutters. Bill thought that much of the land in question is old road more than her land. Mr. Nadeau stated that there is land in between Cedar Drive and the old camp road and it may be hers.

John C. asked if the town had differentiated between what is road and what is Ms. Bicknell's land? Bill H. said that Ms. Bicknell had gone to Ruth Ham (Selectman) and asked her for a definitive answer to this question. Bill said that supposedly Ruth did not get back to her. Barbara G. stated that she did not believe the information Laura was looking for existed. Mr. Nadeau agreed, he said he did not believe there was anything in writing. Ruth told him that in 1973 the town accepted Cedar Drive at Town Meeting and that was it. There is no definition.

Bill H. stated that Laura maintains the town took the property. Mr. Nadeau stated that they probably did but that it is legal. Mr. Nadeau feels the problem is a title issue. He said he can show where the old road was on the plan but he did not know who owns it, it could be Mr. Giles. Mr. Nadeau added that it was never a town road to begin with (the camp road). Bill said, "It is not our job to judiciate conflicting interest. I just thought if there was a chance to address it at the time we are looking at the subdivision, it would be a good idea."

John C. said, "In my opinion, this plan should reflect the deed of the parcel we are reviewing. If the deed continually shows the land going up to that old road (Eugene Giles Camp Road), it should be referenced on the plan. If the deed was never changed, we should be consistent with what the deed states." Mr. Nadeau said that he could show the location of the road on the plan. He said he would show the physical location of it but he did not know who has title to it.

Bill H. asked if the parcel we are talking about is across the street from the now existing town road, does it get included in the subdivision? John C. said it did not, it is not a buildable lot and it was created by the town. Bill added that because it was across the street it was not part of the subdivision, correct? Roger said, "Correct". John agreed. John stated again that the plan should reflect the deed as it is written.

Mr. Quinton asked if he had to address the fire protection issue at this time? The Board concluded fire protection would not be addressed at this time. It will be addressed in the future should another division occur on this property.

John C. asked if the driveway location was on the plan? Mr. Quinton stated the driveway would be located where the site distances were listed on the plan. Roger A. stated there was a stake located on the property where the driveway was going to be, and there was good visibility in both directions.

Roger A. asked if there were any further questions. There were none. Roger asked Mr. Nadeau to place the following amendments on the final plan:

- a) Location of where the driveway shall be.*
- b) Amend the Survey so it is consistent with the deed description.*

Mr. Quinton asked if all that was necessary for approval was an amended set of plans with the above changes? The Board said yes. Roger A. stated that he would have no problem granting approval of the minor subdivision with the condition that the above changes take place on the plan. He said the Board members could sign the plan when it was completed by Mr. Nadeau. This would save Mr. Quinton some time and he could avoid another meeting. The other Board members concurred.

John C. made the motion to approve the 3-lot subdivision with the condition the final plan be amended with the following additions:

- a) *Location of driveway shall be placed on the plan.*
- b) *Amend the plan so it is consistent with the deed description, showing the location of the old camp road known as the Eugene Giles Camp Road, if appropriate.*

Roger asked the Board members if they would also vote to approve the following waivers:

- 1) *Article 89-30.A.3 Stone Monuments. Requesting use of 5/8" iron rods instead of stone monuments.*
- 2) *Article 89-15.B.9 Contour Lines. The land is relatively flat with little change in elevation.*

The members voted to approve the waivers.

Diane S. 2<sup>nd</sup> the motion to approve the 3-lot subdivision. All members were in favor.

Mr. Nadeau will bring the final plan to the Town Hall, during regular town office hours. Barbara G. will notify members so they can come in to sign the plan. Nothing further was discussed.

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**Conditional Use Permit – Storage Facility for Antique Autos and Tires – John & Donna Johnson – Map 7, Lot 34B (Shapleigh Corner Road –Next to Boonies, Different Lot)**

John and Donna Johnson were present at the meeting.

Roger A. began by stating that he felt because there were going to be no lights or windows in the building the applicants would be hampering themselves in this dark building. He said that they could use a flashlight but he wanted the applicants to be aware this could be a problem for them. Mrs. Johnson said that she was aware of this but they do not need electricity in the building, it is just for storage.

Roger A. asked the Johnson's if they knew how many tires would be stored in the building? Mr. Johnson said, "No, we may not even store tires in the building. We just want a barn. Would you go through this much trouble for a barn? It's just storage." Mrs. Johnson stated again that she only listed tires because they *might* be stored there.

Roger A. asked if there would be storage of anything pertaining to the store (Boonies), to be held in that building? Mr. Johnson said, "We don't want to say that." Mrs. Johnson said that they didn't want to tell people what is in the building. Roger said that it makes a difference as to whether or not this issue needs to be reviewed by the Planning Board. Mrs. Johnson said that they wanted the opportunity to put anything they were going to need to, in the building. She said there may be items for the store. Roger said, "What I am actually asking, now listen carefully, is that nothing in that building will be associated with the business?" Mrs. Johnson said, "Not to sell *from* the building." Tires will be sold at Boonies. Roger said, "So you do need a C.U.P. and I would like to know how many tires will be stored there before we approve it. If we put a limit on how many tires, if you store more than that limit, you will have to come back before the Board."

Bill H. asked why they needed to list an amount? Roger said that this is a building associated with a business. In addition, what is put in the building could be an issue. For example, fertilizer could be a fire

hazard depending on the amount stored. Roger said that the Fire Dept. needs to know what is in the building should a fire occur. Also, if there are combustible materials stored, there may be a sprinkler system required. Roger said that when the Board looks at other businesses, they ask the same questions of them. Roger stated that the Board could not give an open checkbook to a business to put anything they wanted into a building.

Bill H. asked how the Johnson's should phrase their application request, should it say storage of general non-perishable items for storage? Mrs. Johnson added "non-hazardous" items. Bill stated he could see their dilemma by not knowing exactly what would be in the building. It would change from time to time. Roger agreed but also wanted to be sure the Board wasn't permitting something that would be in violation of the building code and zoning ordinance. Roger said that the Board needed to address the issue of hazardous materials.

Bill H. asked, "What if we address it as non-hazardous, non-perishable items for retail, as well as personal items. Would that meet the criteria?" Roger said, "Probably". Madge stated that the Fire Department would want to know what was in the building so they know how to deal with a fire should it occur.

Steve M., CEO, stated that just about everything they would place in that building would be classified as a *moderate* hazard. Tires, paper goods, etc.

John C. asked the Johnson's if batteries would be stored in the building? Mr. Johnson said, "No". Mrs. Johnson said they have someone who comes and picks them up. John asked if the items would just be overflow items for the business? Mrs. Johnson said, "Yes, if we get a good deal on 100 tires, or a large lot of goods, we need room for them."

Roger told the Board another aspect they needed to look at was the fact that a C.U.P. runs with the land. If the land gets sold the new owner could do what they wanted to with no restrictions. John C. explained to the Johnson's that the Board needed the ability to control future use of the building, as well as what it is being used for now. Mrs. Johnson said, "I just can't give you exact figures on items since it is always changing."

Bill H. asked if a building with moderately hazardous material would need a sprinkler system? Steve M. stated he would have to look into it, but it was possible. Bill asked if the Planning Board needed to deal with that issue? Roger A. stated, "No, that was for the CEO."

Roger A. stated that the Board needed to narrow down what will be stored, so the future owners would be restricted from storing high hazard material. Mrs. Johnson stated they were not going to store any highly hazardous material. They do not want them near where they live.

John C. asked Mrs. Johnson if this building would be accessed from the Jones Road? She stated, "Yes". John told the Johnson's they would have to speak with the Road Commissioner to get a curb cut onto the Jones Road.

It was noted by Roger A. that the land this building is on is currently a separate lot from the land Boonies Inc. is located on; therefore this application is being reviewed as a C.U.P. as opposed to an amendment to the C.U.P. Boonies was approved on.

There were no more questions. Roger went through the following basic performance standards:



- #105-21 • Traffic - The access onto the Jones Road is safe and this entrance will have limited traffic.
- #105-22 • Noise – There will be no noise produced from this building.
- #105-23 • Dust, fumes, vapors and gases. – There will be none generated.
- #105-24 • Odors - No odors will be generated.
- #105-25 • Glare – No electricity (thus no lighting) is being added to this building.
- #105-26 • Stormwater runoff. - The foundation is in existence and this building will not change the existing drainage provisions or vegetation.
- #105-27 • Erosion control. - The foundation is in existence and this building will not change the existing drainage provisions or vegetation.
- #105-28 • Setbacks and screening. – There are no changes being made to the area.
- #105-29 • Explosive materials. – There shall be no explosive materials stored inside the building.
- #105-30 • Water quality. – There shall be no hazardous waste stored inside or outside the building, including heating oil and vehicle fuel.
- #105-31 • Preservation of landscape: landscaping of parking and storage areas. – There is no additional parking area required.
- #105-33 • Refuse disposal. – The Johnson's shall bring all refuse to the transfer station.
- #105-43 • Off-street parking and loading. – As a warehouse no additional parking is necessary.

Roger 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, bird or other wildlife habitat. ***This project will not affect the wildlife and it is not in the Shoreland zone.***
- 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.***
- 4) Traffic access to the site is safe. ***It is per the plan presented.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, the existing foundation is being used and there are no changes to the landscape.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is no septic system required. Solid waste will be removed per the applicant.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There are none being generated or stored in the building.***
- 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 that would change the existing water flow. This building is using an existing foundation.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The vegetation in the surrounding area is not being disturbed. The existing foundation has adequate provisions.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***There is; there is a water holding tank and hydrant in the nearby area.***
- 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 Conditional Use Permit to erect a storage building on site using the existing foundation and adding to it, for the purpose of storing personal as well as non-perishable, non-high hazardous items for potential retail sale at the adjacent business known as Boonies, Inc. John 2<sup>nd</sup> the motion. All Members were in favor.

*Building plans must be approved by the Code Enforcement Officer, and a building permit must be obtained from the Code Enforcement Officer prior to construction.*

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**Best Possible Location – Replace Mobile Home with Ranch Style Home - Richard & Carol Levesque – Map 32, Lot 21 (3 Daisy Road – Square Pond)**

Mr. and Mrs. Levesque were present at the meeting. In review, at the last meeting held on September 23<sup>rd</sup>, along with their application, they presented a copy of the lot dimensions which showed the proposed location of a new ranch style home, location of a new well, proposed location of a new septic system, and driveway. Setbacks were included on the plans presented of both the existing mobile home and the new home. A copy of the Subsurface Wastewater Disposal System Application, dated 8/27/03 was presented. Steve M., CEO, gave the Planning Board his copy of the proposed new home building plans along with the Building Permit Application for their review.

John C. began the discussion by asking Mr. & Mrs. Levesque if they were going to cut into the banking behind the existing mobile home when placing the new home on site? Mr. Levesque said they would not but they would be cutting several of the trees in that area so they wouldn't be too close to the home. John C. asked if they would be putting in a full foundation. Mr. Levesque answered, "Yes". John C. asked if there was an existing septic system? Mr. Levesque stated there was but they would be putting in a new system, per the plan presented to the Planning Board.

Mr. Don Morton of Morton Real Estate Trust, who stated he owned property abutting on Dogwood (Trustee for Spino, Gianpiero, Map 32, Lot 23), asked the Board where the new septic system would leach, where will the field be located and how big would it be? Barbara G. gave Mr. Morton a copy of the plan presented to the Board. The plan showed the system to be designed for a 3 bedroom home. The plans were done by Mark Truman, SE #121, on 8/28/03.

Mr. Morton asked what the distance was from the leach field to the water (Square Pond)? Bill stated that per the plan, it appeared to be approximately 300 feet. Mr. Morton stated that in the future he may want to do something with the back of lot 23 and he wanted to be sure there wouldn't be any septic drainage in that area.

Mr. Morton asked what the location of the new building would be? The Board showed Mr. Morton the plans received. The Board members noted that the proposed location of the new home will be farther from Mr. Morton's lot line than the existing mobile home.

John C. added that the new leach field would be downhill from Mr. Morton's property. Mr. Levesque stated that the new leach field will be where the existing leach field is currently.

Mr. Morton asked what the size of the new leach field would be? John C. stated, after looking at the plan, 20' X 40'. Mr. Morton asked for the distance of the new building from the lots lines? John C. stated 20' on one end and 28' on the other. Mr. Morton asked for the distance from leach field to the side lot line? The plan showed 10' from the side lot line and 34' from Mr. Morton's lot line. Mr. Morton asked how far the new septic system would be from the neighbors well (lot 20)? The Board did not have that information. Mr. Morton said he was concerned with the proximity to the neighbors well, since the neighbor could not be here to ask the question himself.

John C. asked Steve M., CEO, what the rules were for a new septic system location? Steve stated that a new system cannot get any closer to a lot line than the existing system. Steve added that a new system would be better than what exist now because it would be up to the State's standards.

Mr. Morton was concerned that the new system is larger than the existing system. Steve M. said that the theory behind a replacement system is that you are getting a brand new upgraded system that is a State approved designed system, versus an old trench where it can drain anywhere it wants, which Steve added, the Levesque's still have the right to use. Mr. Morton maintained his concern that the new system was in very close proximity to the boundary lines. Steve M. stated the code states a septic system must have a 10' setback from a lot line, even with a new system. This system will meet code. Steve added that there wasn't a variance requested for this new system which also means it meets code.

Mr. Morton asked what the distance needed to be from a neighbors well? Roger A. stated that when a new system is designed, the engineer has to take into account the location of all nearby wells, as well as soil type in the area, etc. Roger said that even though the Board does not have the information regarding the neighbor's property, the Board relies on the fact that a licensed engineer designed the plan. "We rely on his expertise. The Site Evaluator must use the State's standards." John C. added that Steve, as CEO, will go to the site to verify that the system is put in to the States standards per the plan. If Steve notes a problem on site, he will address it during this process.

Steve M. stated that it was the Site Evaluators job to locate wells when designing the system and take them into consideration. Mr. Morton was still concerned the neighbor's well location wasn't on the plan. Steve stated that it is probably because the well is over 100 feet from the new system.

Bill H. said that after the site inspection, he felt this proposed location was the best on site for the new home. Mr. Morton said he had no concern with the location of the building. He was concerned with the septic system and its proximity to the drinking water of his neighbor. The Board maintained that the new septic design was done by a licensed professional who used the State's criteria for the location of a replacement system. The Board had no issue with the location of the new system as presented.

Roger asked if there were any further questions. There were none.

***Diane S. made the motion to approve the Best Possible Location as presented on the plan. Bill H. 2<sup>nd</sup> the motion. All members were in favor.***

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**6-Lot Major Subdivision "Goose Pond Overlook" – Northwoods Land Company of Maine, LLC; Craig Higgins of Development Svs Inc. Representing – Map 7, Lot 5 (Rte. 11 & Dogwood Rd.)**

H. Craig Higgins was at the meeting to represent the applicant.

Mr. Higgins started the meeting by stating that prior to the meeting he spoke with several members of the Conservation Commission, Michael Roux, Charles Gruber and Bill Hutchins, with respect to the 29+ Acres that will be designated as Open Green Space, No Disturbance. The committee has expressed some interest in being the overseers or title holders of this property. There will be further talk, along with the Board of Selectmen and Three Rivers Land Trust. Mr. Higgins said that hopefully a viable conclusion can be made within the next several weeks.

Mr. Higgins told the Board members that tonight he would discuss the issue of the right-of-way access to Square Pond. Mr. Higgins had Dana Libby, of Corner Post Land Surveyors, come to the meeting to discuss the chain of title for the right-of-way, as well as Atty. Anette Dearden. Mr. Higgins brought a Memo from Attorney Dearden, entitled "Proposed Goose Pond Overlook Subdivision, Easement to Square Pond".

Mr. Libby began his discussion by passing out a sketch which depicted the chain of title which gave Albert R. LaValley, Inc. the use of the right-of-way to Square Pond for his entire parcel of land. This parcel, Tax Map 7, Lot 5, continues to hold this right-of-way access now that it is owned by the applicant, Northwoods Land Company of Maine, L.L.C.

The Planning Board had asked Mr. Higgins the exact location of the right-of-way to Square Pond. Mr. Libby highlighted the lot with the easement across it on a copy of a tax map. In addition he noted the deed reads as follows, "There is also conveyed by the grantor herein the use of the shore lot on Square Lake which was reserved for bathing and boating privileges. (Said shore lot being located at the starting point of the above described parcels)" per deed into Albert R. LaValley, Inc. recorded in book 1870, page 877".

Atty. Dearden describes this parcel in her memo as, "The location of the easement across the parcels is described in the deeds and also shown on the Town of Shapleigh Tax Maps 30 and 32. The double-dashed lines clearly show the path or right of way to that leads to the shore lot (Map 30, Lot 32)." Atty. Dearden continues in her memo by stating, "The chain of title unambiguously demonstrates that the entire parcel proposed to be developed (the parcel) is benefited by the easement".

Mr. Higgins pointed out that Atty. Dearden's Memo shows that the applicant has the right to convey the easement to all lots in the subdivision for access and use of the shore lot on Square Pond for bathing and boating, but the applicant is choosing to restrict this access to lots 4, 5 and 6 only.

Roger A. asked Mr. Higgins if lots A and B (which are not part of this subdivision but adjacent to it) also have access to Square Pond through this easement? Mr. Higgins stated that they did. Bill H. asked Mr. Higgins if there was a limit to the number of people who have access to this lot (lot with r-o-w)? Mr. Higgins stated that there was not. Diane S. asked who owned the lot with the easement? Mr. Libby stated, "Roger Emard & Antonio Troiano".

While looking at the tax map presented which shows the easement, John C. asked how Andrew Sevigny received rights to the lot (he does not own the lot, nor does he own any of the Farrar, now LaValley land)? Mr. Libby stated that a person can convey the right to use a piece of land without selling the land to that person. Mr. Sevigny only has the right to use the land. John C. asked if this was a common practice? Mr. Libby stated that around a lake, for access, it is. Mr. Hutchins, of the Conservation Comm., asked if the right for access would be passed onto the heirs of those having a right-of-way? Mr. Libby stated, "Yes".

Bill H. stated that the plan for Goose Pond Subdivision would restrict the lineage of those able to access Square Pond. Bill asked, "Lots 1, 2 & 3 would no longer have access?" Mr. Higgins stated, "Correct".

Roger A. asked Mr. Higgins if lot C on the plan (which is not part of this subdivision because it is across the road) would have access to this easement to Square Pond? Roger also asked if the Open Green Space, No Disturbance Area lot would have access to the right of way? Mr. Higgins stated that lot C would probably have access. The No Disturbance Area, gifted to the town, would not. Mr. Higgins added that of lots 4, 5 and 6, it is likely lot 4 would use the right of way. Lot 4 has no frontage on water, whereas lots 5 and 6 have frontage on Upper Goose Pond.

Diane S. asked Mr. Higgins if he knew about a trailer and dump truck on what appeared to be one of the lots of this subdivision. She stated that while walking down Evergreen to do a site inspection on another property, she, Bill H. and Barbara G. saw an unregistered trailer in which it appears someone is living, along with an unregistered dump truck. Mr. Higgins had no knowledge of a trailer on the property. A member of the audience stated that this property in question was the property that was sold. Mr. Higgins stated that it must be lot A or B, and not part of the subdivision property.

Bill H. stated that there were old rusted oil type barrels on this property as well. Bill asked Mr. Higgins if he knew anything about these? The same audience member that answered above stated that these barrels had been on this property for many years, possibly 30 or more. No one knew who placed them there or what had been inside them.

Mr. Higgins stated that he felt that he has now addressed the significant issues posed by the Board and the townspeople from the last Public Hearing from a year ago. He felt that he has done his best to address all issues of this subdivision and he was ready to go forward with a final plan.

Roger A. asked Mr. Higgins what he proposed to do about fire protection? Mr. Higgins stated that this subdivision was comprised of two pods of lots, both being around a water source. Mr. Higgins stated that he would like to use the pond as the water source. Roger told Mr. Higgins that he would have to clear it with the Fire Chief. Roland Legere stated that given the nature of the shoreline he felt you would need a floating dock mechanism to access the water. He stated the shoreline was thick with vegetation and was swamp like, and you would need to walk 20 or 30 yards to have access to the water. Mr. Legere felt that in reality he did not feel Mr. Higgins could access the water easily and that certainly the Fire Dept. would have a hard time to do so. Mr. Legere invited the Board members to take a boat ride with him to view the project from the water side (Board members have walked on the property during their site inspection).

Mr. Higgins agreed that the area was thick but thought the water was accessible. He stated that he could put a dock in for access if necessary. Steve M. asked Mr. Higgins if he could put in a dry hydrant? Mr. Higgins stated that he has done so on other projects with the help of the DEP and the Army Corp. of Engineers. Mr. Higgins added that a dry hydrant may only work on one side of the subdivision because of the elevation of the land. On one side you would have to pump water up a steep elevation. Bill H. asked if Mr. Higgins would need a fire plan approved by Gary Utgard? Roger stated, "Yes".

Roland Legere asked the Board if they would consider limiting the number of docks allowed along the shoreline of Upper Goose Pond. He wanted the Board to consider possibly having one common dock on each side, or even one dock for Goose Pond and one for Upper Goose. Mr. Legere was very concerned with limiting the amount of disturbance along what he feels is a very fragile shoreline. Mr. Higgins stated that he has done everything possible to limit the disturbance to Upper Goose Pond. He has worked with the State to create a large area of No Disturbance for the Blandings turtle as well limiting the size of the building envelopes on each property to a maximum of 40,000 square feet. Mr. Higgins did not feel he should limit the amount of docks, especially given the fact that the amount of frontage on these lots was quite significant as compared to other ponds and lakes in the area. This is not a dense development. He did not want property owners to have to walk great distances to have access to the water. Also, Steve M. and Mr. Higgins pointed out that there were rules in place governing the size of the docks in the Shoreland zone already in place, so the homeowners would be limited in what they could do. Bill H. and Roger A. agreed stating that there was a 20' size limitation in place. Mr. Legere asked if that was the length of dock only or did it include the walkway? Steve M. stated it is a total of 20 feet from the normal high water line. Diane S. reminded Mr. Legere that even though the resident had access to the water there were no motorboats going to be allowed on Upper Goose. Mr. Legere asked if the issue would be discussed at the Public Hearing or at the next meeting? The Board members did not feel they would agree to limit the number of docks on site.

They did tell Mr. Legere he was welcome to bring it up at the Public Hearing. Mr. Legere noted to Board members that they did put a restriction on the dock size for Kettle Pond Cabins. Roger A. stated that this was a business, not single family homes. Roger concluded that yes the Board could put a restriction on the developer but both he and Bill H. felt the developer had gone the extra mile to protect the area. The other Board members agreed.

Diane S. asked Mr. Higgins how lots 4, 5 and 6 would be accessed, would it be through Evergreen Rd., and if so did Mr. Higgins plan on improving that road up to the town standards of 18' for a minor roadway, along with adding a turnaround for fire and safety equipment? Mr. Higgins stated that access to these lots would come off Totte Road to Evergreen and that he would bring these roads up to the minimum standard of an 18' gravel road.

Roland Legere asked if Mr. Higgins was going to discontinue the existing snowmobile / ATV trails that run through this subdivision? Mr. Higgins stated yes, on three lots, 1, 2 and 5, the current snowmobile / ATV trail runs through the designated building envelope. Mr. Higgins stated that once a home was there, the snowmobile / ATV traffic would no longer be able to travel through. Mr. Legere asked about the snowmobile trails as well, would they be rerouted? Mr. Higgins stated that he had mailed a copy of the subdivision plans to a Mr. Gingrass of the local Snowmobile Club to show where the new trails would be designated.

Charles Gruber of the Conservation Committee asked who would own the Open Green Space / No Disturbance property? Mr. Higgins stated that he had spoken with Phillip deMaynadier of MDIFW and Mr. deMaynadier said that the department would rather not actively manage a tract of land that small. Mr. deMaynadier suggested having MDIFW own the land and have a 3<sup>rd</sup> party oversee the area to be certain it is being preserved in accordance with the plan for the area. Madge B. stated that the Land Trust did not favor this idea because if the MDIFW was short on funds, they would not have the manpower to oversee it.

Mr. Higgins suggested that another idea, which is least desirable, would be that all six of the lot owners of the subdivision, thru an association, could own the land and manage it. The entire Planning Board did not agree to this idea. The Board stated that they felt it should be owned by either the town or Conservation Committee and Three Rivers Land Trust should be involved as well. The Board stated that it would be best if all parties concerned would get together and speak on the issue to try to come up with a viable solution. Madge B., who is on the Three Rivers Land Trust agreed. She stated that there is an example of this going on now where the where the Town of Acton will own the land and Three Rivers will manage it. She said that this type of partnership seems to work well. Mr. Gruber stated that perhaps the Town Forest Committee would be interested in owning the land with Three Rivers managing it? The Board stated that the Forest Committee would not be able to cut any of the trees; this area must be left in its natural state. Mr. Higgins concurred. Roger A. did state that the Forest Committee isn't able to do any cutting without approval of the Planning Board, and at that time the Board would not approve any cutting in this area.

Charles Gruber, a member of the Conservation Committee, stated that if the Town Selectmen agree to the idea of owning this land, then we go to Town Meeting and hope it is accepted. "I highly recommend an easement be placed on this property prior to the Town accepting it. If the Town accepts it 1<sup>st</sup>, then an easement has to be written. Between the Town and the local Land Trust there may not be a problem but you have to go back to the people again and you have a hundred people with different ideas about how it should be worded." Mr. Higgins stated, "The offering would come with the strings preattached and so I have to work with MDIFW for the approved language."

Roger A. asked members if there was anything else that Mr. Higgins needed for the next meeting? The members concluded they would need a letter from Gary Utgard, Fire Chief, stating what he feels is necessary for fire protection for this subdivision. Mr. Higgins stated that he would contact MDIFW to see what words would be necessary for the conveyance of the conservation land on site.

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**Conditional Use Permit – Earth Moving – Frank McNulty – Map 31, Lot 21 (119 Totte Road)**

Mr. Al White was at the meeting to represent Mr. McNulty. The applicant proposes to upgrade part of Totte Road as well as bring fill onto his existing driveway. The Board, at their last meeting, told Mr. White the applicant would need a plan of exactly what would be taking place and how erosion would be addressed.

Board members did a site visit and noted the driveway was extremely steep and a lot of erosion had taken place. Also noted was the fact there was nothing to stop the rainwater from going directly into the lake because there was little vegetation along the shoreline. Totte road had deep gullies from erosion as well.

The question was asked at the last meeting of Mr. White as to what the depth of the property was. Mr. White stated at this evenings meeting that the property was only 100 feet deep so it was entirely in the Shoreland zone. Mr. White stated that he spoke with John Burnell, Shapleigh Road Commissioner for this area, and Mr. Burnell suggested putting in a drainage system using well tiles on either side of the driveway to divert the water that comes down the hill and redirect it to the side of the property slowing down the water on its way to the lake.

Bill H. stated that even though this property was entirely in the Shoreland zone, the property owner has poor access now. He said that others in the Shoreland zone have improved their driveways and he feels Mr. McNulty should be able to do the same, especially where there is no erosion control on site now and all the runoff is heading straight for the lake. Bill asked the Board, "How do we give him proper access to his property and get the correct erosion protection?" John C. stated that a licensed engineer could create a plan showing what would work at this location.

Diane S. asked if Mr. McNulty would be allowed to pave his driveway in this area? Steve M., CEO, stated that because this is an existing access he could pave the driveway but he would need to have a plan for erosion control.

Mr. White stated that Mr. Burnell had suggested he contact Debbie St. Pierre of York County Soil and Water District. Ms. St. Pierre has worked with homeowners along the ponds and lakes and has helped to create plantings and systems to prevent erosion of their properties. The Board agreed that Ms. St. Pierre would be a good contact. If she is not able to create a plan for this project, she may be able to give Mr. McNulty a name of the proper contact to create the erosion plan he needs to proceed.

There were no further questions at this time. ***The Board tabled this application until they receive more information from either Mr. McNulty or Mr. White.***

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**OTHER:**

**Ordinance Changes for Town Meeting March 2004**

The Board reviewed the ordinance change proposals discussed to date. See Attached. (Note: There will be a Public Hearing on all proposed changes prior to the end of the year.)

In addition, one new ordinance was proposed addressing adult entertainment. See attached. Madge B. asked Barbara G. to see if the State had a Statute with respect to this issue. The Board will review this ordinance again prior to the Public Hearing.

Steve M., CEO, proposed a change to Zoning Ordinance 105-72, adding a Section L, which may read as follows: "All variances granted relating to setbacks shall require exact placement of the structure to be located on site by a licensed surveyor." The Planning Board agreed with this change.

Steve M. added that he would like to see this requirement added to the Ordinance for Best Possible Location as well. The Board agreed, it will be reviewed prior to the Public Hearing.

The last addition proposed to date, is to add an article which "Establishes the Planning Board". See attached. *Note: This article, if not adopted by the town, would not change the status of the Planning Board or their current by-laws. Should the article not be adopted, the Planning Board would continue under current statutes.*

**Letter from Steve McDonough, CEO, regarding Stop Work Order for Dennis and Frances Lonergan's garage located at 169 23<sup>rd</sup> Street Loop**

Steve M. told Board members that the Lonergan's past history includes *knowingly* purchasing a property which had multiple violations regarding new decks and other setback issues; and coming before the Planning Board in 2001 regarding replacement of a garage on site which had been destroyed by more than 50%. This garage was destroyed in 1995, far exceeding the time limit of one year as written in Section 105-4D(5). Therefore, the Planning Board in 2001 denied Mr. Lonergan the ability to replace the garage on site. In addition, because of the multiple decks in existence, the garage put the lot coverage by structure over the 10% allowed per the ordinance. Consequently, *Steve M. has placed a stop work order on Mr. Lonergan's garage, in which construction has already begun prior to receiving a permit from Steve M. or approval for BPL from the Planning Board.*

Nothing more was discussed. The violation shall be handled through the Code Enforcement Office.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

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***The Planning Board meeting ended at 9:50 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)



## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, October 14, 2003***

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

### **PUBLIC HEARING started at 7:00 p.m - 3-Lot Minor Subdivision – Matthew Quinton, Applicant, Represented by Andrew Nadeau, Corner Post Land Surveyors – Map 7, Lot 8 (Cedar Drive South)**

Roger A. began the Public Hearing by asking Mr. Nadeau to state what the applicant, Mr. Quinton, was trying to do. Mr. Nadeau presented a final plan depicting the lot Mr. Quinton wanted to purchase from Ms. Bicknell the owner of the parent lot. (Ms. Bicknell was in attendance as well.)

Mr. Nadeau explained this application was being reviewed as a subdivision because in the year 2000 a lot was sold from the parent lot and today Mr. Quinton wishes to purchase a lot from the parent lot, thus making this a 3 lot division within 5 years. This creates a minor subdivision.

Mr. Nadeau stated that this lot was approximately 2 acres in size and is located in the northeast corner of the parent lot. It abuts Cedar Drive, the town forest and the remainder of Laura Bicknell's property.

Bill H. asked, "Does this plan represent a full and complete survey of the full three lot subdivision?" Mr. Nadeau stated that the plan did not show all the dimensions around the lots that were conveyed out previously. He said he could show this if the Board required it. He stated that there have been different surveys on the lots and some are recorded plans. He added that the existing lots along the road are lots of record.

Bill H said, "I am asking because at one time, prior to the road being called Cedar Drive, it was called the Eugene Giles Camp Road and it went on a slightly different route. It was more curved at the bend in the road." Mr. Nadeau agreed. Bill continued, "I know there is a dispute over that portion of the road. The existing road was abandoned by the town of Shapleigh and relocated. I know that Mrs. Bicknell drives on that, what would have been the old road, once or twice a week to maintain her ownership or sense of right to it. Before this is completed as a subdivision, I would like to see this resolved."

Mr. Nadeau stated that this does not pertain to what Mr. Quinton is doing now. "I understand there is a portion of land that Mrs. Bicknell still owns between the old road and the new road. The records that the town has of Cedar Drive are vague. It is basically just an acceptance of the road. I think it was in 1973. There is no width to it, no defined definition to how the road is layed out." Mr. Nadeau added that he had been approached by an abutter across the road from Mrs. Bicknell's property and they had intentions of purchasing another piece of this lot. If that happens the area in question will be surveyed as well. Mr. Nadeau stated again that he did not feel this piece that Bill was addressing had anything to do with this project before the Board because it is on the other side of the road. It does not affect the Quinton property.

Bill H. asked Roger if in fact it did affect this 3-lot subdivision? Roger did not answer the question at this time. Bill said that he did not question the ownership of the land on the other side of Cedar Drive but he did question which part of it was old road, which part was an easement for the old road, and what remains as Mrs. Bicknell's land. This remaining portion of land may be smaller than what Mrs. Bicknell anticipates. Mr. Nadeau agreed.

Ms. Bicknell stated that she had asked Ruth Ham, Selectman, who owns the old road or what the status of the old road was? Ruth said she would look into it. Ms. Bicknell said that Ruth was never able to find out

anything about the old road. Ms. Bicknell said that she understood from people who live on the other side of her land that the old road is still a right-of-way beyond where her land ends. She added that she just did not know for sure.

Bill H. told the Board that this has been an ongoing conflict. "If there is a way of resolving it in conjunction with approving this 3-lot subdivision, I certainly think it would behoove all parties. Now if you (Mr. Nadeau) are saying it legally has no relevance here, fine." Mr. Nadeau said his issue is it is not Mr. Quinton's burden to bear. Bill said that he agreed. He continued by adding, "This is why I asked if this is an accurate representation of what is being proposed with this 3-lot subdivision. Aren't we looking at this whole parcel?"

Roger A. said that we are looking at a three lot subdivision. Addressing what Mr. Nadeau had said earlier, Roger said another issue was that if another party proposes to cut another lot on this subdivision, the Board would have to look at fire protection for this area. Roger wanted everyone to think about who would pay for that fire protection? Roger wanted Ms. Bicknell and Mr. Nadeau aware of what could be required in the future. Ms. Bicknell noted that there was a big pond (Square Pond) across the street. Roger stated that the Fire Department needed access to Square Pond or it did the area no good. John C. told Ms. Bicknell that if her lot could not hold a fire pond, she may need to use a water holding tank. Mr. Nadeau said the area was all gravel; it would not be able to hold a fire pond.

Ms. Bicknell was confused as to why the Board was calling this project a 3-lot subdivision. She was not aware the parent lot was counted as one of the lots. Mr. Quinton stated he would explain it to her after the meeting. He understood why he needed to apply for subdivision.

Bill H. felt that the Board had an opportunity to address the road problem now or would have to in the future. Mr. Nadeau asked if the Board had the authority to address it with this application? Barbara G. asked Roger A. if this was an issue since the property in question was across the road from the project? Roger did not think it was an issue that affected this subdivision.

Mr. Quinton asked the Board if the Town would have information regarding the location of Cedar Drive and any land they took for it? Bill H. thought someone should have that information. Bill asked Roger A. if the Board needed a complete survey (including all land owned by Ms. Bicknell on both sides of Cedar Drive) for this subdivision? Bill stated that he knew the town could not judiciate between conflicts regarding the property but could the Board request a full and complete survey? Bill also asked if the Board should address fire protection now or wait until another lot was subdivided from this piece and that person would have the burden?

John C. said that he thought the board should address these issues during the regular Planning Board meeting.

Ms. Bicknell stated to the Board that she was not to be addressed as "Mrs." Bicknell, she was Laura or Laura Bicknell, she has never been married.

There were no further questions for this application. Public Hearing was closed.

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**PUBLIC HEARING - Conditional Use Permit – Storage Facility for Antique Autos and Tires – John & Donna Johnson – Map 7, Lot 34B (Shapleigh Corner Road –Next to Boonies, Different Lot)**

Mr. and Mrs. Johnson attended. Mrs. Johnson addressed the Board.

Mrs. Johnson told the Board and audience members that they wanted to put up a storage building. She said that they did not want to be limited on what would go into the building. Mrs. Johnson said that it was being advertised that the application was for tires and antique cars. She said that she did not want to advertise what was going into the building because they did not want anyone to break into it. In addition, Mrs. Johnson said there would be nothing available for sale *from* the building. There would be no customers allowed into the building. Mrs. Johnson said she did not know if in fact they needed a Conditional Use Permit, but stated that the Code Enforcement Officer had advised her that they needed to go before the Planning Board because they would be using the building for some items that were sold from the business (Boonies, Inc.). She said that this is why they were before the Board this evening.

Roger A. stated that if this building was going to be used for a business, they needed a C.U.P. Mrs. Johnson said that it was not for a business, it was for storage. Bill H. added to her statement, "Storage for the business." Mrs. Johnson said it is to store everything, both personal items and some store items so they have more room in the store. She said that no customers would be able to look at the items in the building; it is not going to be open to the public. John asked if it was only for warehousing extra items? Mrs. Johnson said, "Yes".

John C. asked where the building was located? Mrs. Johnson said that there is an existing foundation on the lot behind the store. They are going to use that foundation, add to it, and place the building there. The building will have only one door for access. It is again, only for storage but it will look better than a storage trailer.

Mrs. Johnson said that they did not want to be limited to the contents in the building; this is why they did not want to list what would be inside for safety issues. Roger A. stated that the reason the Planning Board stated this building was for tires and antique autos is that is what the application states. Mrs. Johnson said that the application asks for a description of the project. She was told that if she did not fill that out, the application might be denied. The first thing that she thought of was they needed more storage for tires and two antique autos they owned. She said there will also be other items stored but at this time she doesn't know exactly what they will be.

Roger A. told the Johnson's that the Board asking for what items would be stored is not unique to them. The Planning Board needs to ask what items will be stored when it comes to a business.

There were no other questions at this time. The Public Hearing was closed at 7:25 p.m.

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**The Planning Board meeting started at 7:30 p.m.**

**The minutes from Tuesday, September 23, 2003 were accepted as written.**

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

**3-Lot Minor Subdivision – Matthew Quinton, Applicant; Represented by Corner Post Land Surveyors – Owner Laura Bicknell – Map 7, Lot 8 (Cedar Drive South)**

Ms. Bicknell did not attend the meeting. Mr. Quinton was in attendance along with Mr. Nadeau of Corner Post Land Surveyors.

John C. asked about the road issue, he was late to the Public Hearing. He asked if the old road, Eugene Giles Camp Road, was moved in the 70's? Bill H. showed John an old survey which showed the camp road as

well as how the lots looked at that time. They then compared that map with the new map showing Cedar Drive as it is now. Bill told John that Ms. Bicknell continues to drive on the old road several times a week and the land she believes she owns she has tried to sell to abutters. Bill thought that much of the land in question is old road more than her land. Mr. Nadeau stated that there is land in between Cedar Drive and the old camp road and it may be hers.

John C. asked if the town had differentiated between what is road and what is Ms. Bicknell's land? Bill H. said that she had gone to Ruth Ham (Selectman) and asked her for a definitive answer to this question. Bill said that supposedly Ruth did not get back to her. Barbara G. stated that she did not believe the information Laura was looking for existed. Mr. Nadeau agreed, he said he did not believe there was anything in writing. Ruth told him that in 1973 the town accepted Cedar Drive at Town Meeting and that was it. There is no definition.

Bill H. stated that Laura maintains the town took the property. Mr. Nadeau stated that they probably did but that it is legal. Mr. Nadeau feels the problem is a title issue. He said he can show where the old road was on the plan but he did not know who owns it, it could be Mr. Giles. Mr. Nadeau added that it was never a town road to begin with (the camp road). Bill said, "It is not our job to judicate conflicting interest. I just thought if there was a chance to address it at the time we are looking at the subdivision, it would be a good idea."

John C. said, "In my opinion, this plan should reflect the deed of the parcel we are reviewing. If the deed continually shows the land going up to that old road (Eugene Giles Camp Road), it should be referenced on the plan. If the deed was never changed, we should be consistent with what the deed states." Mr. Nadeau said that he could show the location of the road on the plan. He said he would show the physical location of it but he did not know who has title to it.

Bill H. asked if the parcel we are talking about is across the street from the now existing town road, does it get included in the subdivision? John C. said it did not, it is not a buildable lot and it was created by the town. Bill added that because it was across the street it was not part of the subdivision, correct? Roger said, "Correct". John agreed. John stated again that the plan should reflect the deed as it is written.

Mr. Quinton asked if he had to address the fire protection issue at this time? The Board concluded fire protection would not be addressed at this time. It will be addressed in the future should another division occur on this property.

John C. asked if the driveway location was on the plan? Mr. Quinton stated the driveway would be located where the site distances were listed on the plan. Roger A. stated there was a stake located on the property where the driveway was going to be, and there was good visibility in both directions.

Roger A. asked if there were any further questions. There were none. Roger asked Mr. Nadeau to place the following amendments on the final plan:

- a) Location of driveway*
- b) Amend the Survey so it is consistent with the deed description.*

Mr. Quinton asked if all that was necessary for approval was an amended set of plans with the above changes? The Board said yes. Roger A. stated that he would have no problem granting approval of the minor subdivision with the condition that the above changes take place on the plan. He said the Board members could sign the plan when it was completed by Mr. Nadeau. This would save Mr. Quinton some time and he could avoid another meeting. The other Board members concurred.

John C. made the motion to approve the 3-lot subdivision with the condition the final plan be amended with the following additions:

- a) *Location of driveway placed on the plan.*
- b) *Amend the plan so it is consistent with the deed description, showing the location of the old camp road known as the Eugene Giles Camp Road, if appropriate.*

Roger asked the Board members if they would also vote to approve the following waivers:

- 1) *Article 89-30.A.3 Stone Monuments. Requesting use of 5/8" iron rods instead of stone monuments.*
- 2) *Article 89-15.B.9 Contour Lines. The land is relatively flat with little change in elevation.*

The members voted to approve the waivers.

Diane S. 2<sup>nd</sup> the motion to approve the 3-lot subdivision. All members were in favor.

Mr. Nadeau will bring the final plan to the Town Hall, during regular town office hours. Barbara G. will notify members so they can come in to sign the plan. Nothing further was discussed.

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**Conditional Use Permit – Storage Facility for Antique Autos and Tires – John & Donna Johnson – Map 7, Lot 34B (Shapleigh Corner Road –Next to Boonies, Different Lot)**  
John and Donna Johnson were present at the meeting.

Roger A. began by stating that he felt because there were going to be no lights or windows in the building the applicants would be hampering themselves in this dark building. He said that they could use a flashlight but he wanted the applicants to be aware this could be a problem for them. Mrs. Johnson said that she was aware of this but they do not need electricity in the building, it is just for storage.

Roger A. asked the Johnson's if they knew how many tires would be stored in the building? Mr. Johnson said, "No, we may not even store tires in the building. We just want a barn. Would you go through this much trouble for a barn? It's just storage." Mrs. Johnson stated again that she only listed tires because they *might* be stored there.

Roger A. asked if there would be storage of anything pertaining to the store (Boonies), to be held in that building? Mr. Johnson said, "We don't want to say that." Mrs. Johnson said that they didn't want to tell people what is in the building. Roger said that it makes a difference as to whether or not this issue needs to be reviewed by the Planning Board. Mrs. Johnson said that they wanted the opportunity to put anything they were going to need to, in the building. She said there may be items for the store. Roger said, "What I am actually asking, now listen carefully, is that nothing in that building will be associated with that business?" Mrs. Johnson said, "Not to sell *from* the building." Tires will be sold at Boonies. Roger said, "So you do need a C.U.P. and I would like to know how many tires will be stored there before we approve it. If we put a limit on how many tires, if you store more than that limit, you will have to come back before the Board."

Bill H. asked why they needed to list an amount? Roger said that this is a building associated with a business. In addition, what is put in the building could be an issue. For example, fertilizer could be a fire

Hazard depending on the amount stored. Roger said that the Fire Dept. needs to know what is in the building should a fire occur. Also, if there are combustible materials stored, there may be a sprinkler system required. Roger said that when the Board looks at other businesses, they ask the same questions of them. Roger stated that the Board could not give an open checkbook to a business to put anything they wanted into a building.

Bill H. asked how the Johnson's should phrase their application request, should it say storage of general non-perishable items for storage? Mrs. Johnson added "non-hazardous" items. Bill stated he could see their dilemma by not knowing exactly what would be in the building. It would change from time to time. Roger agreed but also wanted to be sure the Board wasn't permitting something that would be in violation of the building code and zoning ordinance. Roger said that the Board needed to address the issue of hazardous materials.

Bill H. asked, "What if we address it as non-hazardous, non-perishable items for retail, as well as personal items. Would that meet the criteria?" Roger said, "Probably". Madge stated that the Fire Department would want to know what was in the building so they know how to deal with a fire should it occur.

Steve M., CEO, stated that just about everything they would place in that building would be classified as a *moderate* hazard. Tires, paper goods, etc.

John C. asked the Johnson's if batteries would be stored in the building? Mr. Johnson said, "No". Mrs. Johnson said they have someone who comes and picks them up. John asked if the items would just be overflow items for the business? Mrs. Johnson said, "Yes, if we get a good deal on 100 tires, or a large lot of goods, we need room for them."

Roger told the Board another aspect they needed to look at was the fact that a C.U.P. runs with the land. If the land gets sold the new owner could do what they wanted to with no restrictions. John C. explained to the Johnson's that the Board needed the ability to control future use of the building, as well as what it is being used for now. Mrs. Johnson said, "I just can't give you exact figures on items since it is always changing."

Bill H. asked if a building with moderately hazardous material would need a sprinkler system? Steve M. stated he would have to look into it, but it was possible. Bill asked if the Planning Board needed to deal with that issue? Roger A. stated, "No, that was for the CEO."

Roger A. stated that the Board needed to narrow down what will be stored so the future owners would be restricted from storing high hazard material. Mrs. Johnson stated that they were not going to store any highly hazardous material. They do not want that near where they live.

John C. asked Mrs. Johnson if this building would be accessed from the Jones Road? She stated, "Yes". John told the Johnson's they would have to speak with the Road Commissioner to get a curb cut onto the Jones Road.

It was noted that the land this building is on is currently a separate lot from the land Boonies Inc. is located on; therefore this application is being reviewed as a C.U.P. as opposed to an amendment to the C.U.P. Boonies was approved on.

There were no more questions so Roger went thru the basic performance standards. They are listed on the next page.

- #105-21 • Traffic - The access onto the Jones Road is safe and this entrance will have limited traffic.
- #105-22 • Noise – There will be no noise produced from this building.
- #105-23 • Dust, fumes, vapors and gases. – There will be none generated.
- #105-24 • Odors - No odors will be generated.
- #105-25 • Glare – No electricity (thus no lighting) is being added to this building.
- #105-26 • Stormwater runoff. - The foundation is in existence and this building will not change the existing drainage provisions or vegetation.
- #105-27 • Erosion control. - The foundation is in existence and this building will not change the existing drainage provisions or vegetation.
- #105-28 • Setbacks and screening. – There are no changes being made to the area.
- #105-29 • Explosive materials. – There shall be no explosive materials stored inside the building.
- #105-30 • Water quality. – There shall be no hazardous waste stored inside or outside the building, including heating oil and vehicle fuel.
- #105-31 • Preservation of landscape: landscaping of parking and storage areas. – There is no additional parking area required.
- #105-33 • Refuse disposal. – The Johnson's shall bring all refuse to the transfer station.
- #105-43 • Off-street parking and loading. – As a warehouse no additional parking is necessary.

Roger 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, bird or other wildlife habitat. ***This project will not affect the wildlife and it is not in the Shoreland zone.***
- 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.***
- 4) Traffic access to the site is safe. ***It is per the plan presented.***
- 5) The site design is in conformance with all municipal flood hazard protection regulations. ***It is, the existing foundation is being used and there are no changes to the landscape.***
- 6) Adequate provision for the disposal of all wastewater and solid waste has been made. ***There is no septic system required. Solid waste will be removed per the applicant.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There are none being generated or stored in the building.***
- 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 that would change the existing water flow. This building is using an existing foundation.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The vegetation in the surrounding area is not being disturbed. The existing foundation has adequate provisions.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***There is, there is a water holding tank and hydrant in the nearby area.***
- 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 Conditional Use Permit to erect a storage building on site using the existing foundation and adding to it, for the purpose of storing personal as well as non-perishable, non-high hazardous items for potential retail sale at the adjacent business known as Boonies, Inc. John 2<sup>nd</sup> the motion. All Members were in favor.**

***Building plans must be approved by the Code Enforcement Officer, and a building permit must be obtained from the Code Enforcement Officer prior to construction.***

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**Best Possible Location – Replace Mobile Home with Ranch Style Home - Richard & Carol Levesque – Map 32, Lot 21 (3 Daisy Road – Square Pond)**

Mr. and Mrs. Levesque were present at the meeting. In review, at the last meeting held on September 23<sup>rd</sup>, along with their application, they presented a copy of their lot dimensions which showed the proposed location of a new ranch style home, location of a new well, proposed location of a new septic system, and new driveway. Setbacks were included on the plans presented of both the existing mobile home and the new home. A copy of the Subsurface Wastewater Disposal System Application, dated 8/27/03 was presented. Steve M., CEO, gave the Planning Board his copy of the proposed new home building plans along with the Building Permit Application.

John C. began the discussion by asking Mr. & Mrs. Levesque if they were going to cut into the banking behind the existing mobile home when placing the new home on site? Mr. Levesque said they would not but they would be cutting several of the trees in that area so they wouldn't be too close to the home. John C. asked if they would be putting in a full foundation. Mr. Levesque answered, "Yes". John C. asked if there was an existing septic system? Mr. Levesque stated there was but they would be putting in a new system, per the plan presented to the Planning Board.

Mr. Don Morton of Morton Real Estate Trust, who stated he owned property abutting on Dogwood (Trustee for Spino, Gianpiero, Map 32, Lot 23), asked the Board where the new septic system would leach, where will the field be located and how big would it be? Barbara G. gave Mr. Morton a copy of the plan presented to the Board. The plan shows the system to be designed for a 3 bedroom home. The plans were done by Mark Truman, SE #121, on 8/28/03.

Mr. Morton asked what the distance was from the leach field to the water? Bill stated that per the plan, it appeared to be approximately 300 feet. Mr. Morton stated that in the future he may want to do something with the back of lot 23 and he wanted to be sure there wouldn't be any septic drainage in that area.

Mr. Morton asked what the location of the new building would be? The Board showed Mr. Morton the plans received. The Board members noted that the proposed location of the new home will actually be farther from Mr. Morton's lot line than the existing mobile home.

John C. added that the new leach field would be downhill from Mr. Morton's property. Mr. Levesque stated that the new leach field will be where the existing leach field is currently.

Mr. Morton asked what the size of the new leach field would be? John stated, after looking at the plan, 20' X 40'. Mr. Morton asked for the distance of the new building from the lots lines? John C. stated 20' on one end and 28' on the other. Mr. Morton asked for the distance from leach field to the side lot line? The plan showed 10' from the side lot line and 34' from Mr. Morton's lot line. Mr. Morton asked how far the new system would be from the neighbors well (lot 20)? The Board did not have that information. Mr. Morton said he was concerned with the proximity to the neighbors well since the neighbor could not be here to ask the question himself.



John C. asked Steve M., CEO, what the rules were for a new septic system location? Steve stated that a new system cannot get any closer to a lot line than the existing system. Steve added that a new system would be better than what exist now since it would be up to the State's standards.

Mr. Morton was concerned that the new system is larger than the existing system. Steve M. said that the theory behind a replacement system is that you are getting a brand new upgraded system that is a State approved designed system versus an old trench where it can drain anywhere it wants, which Steve added the Levesque's still have the right to use. Mr. Morton was maintained his concern that the new system was in very close proximity to the boundary lines. Steve M. stated the code is a septic system must have a 10' setback, even with a new system. This system will meet code. Steve added that there wasn't a variance requested for this new system which also means it meets code.

Mr. Morton asked what the distance needed to be to a neighbors well? Roger A. stated that when a new system is designed, the engineer has to take into account the location of all nearby wells, as well as soil type in the area, etc. Roger said that even though the Board does not have the information regarding the neighbor's property, the Board relies on the fact that a licensed engineer designed the plan. We rely on his expertise. The Site Evaluator must use the State's standards. John C. added that Steve, as CEO, will go to the site to verify that the system is put in to the States standards per the plan. If Steve notes a problem on site, he will address it during this process.

Steve M. stated that it was the Site Evaluators job to locate wells when designing the system and take them into consideration. Mr. Morton was still concerned the neighbor's well location wasn't on the plan. Steve stated that it is probably because the well is over 100 feet from the new system.

Bill H. stated that after the site inspection, he felt this proposed location was the best on site for the new home. Mr. Morton stated he had no concern with the location of the building. He was concerned with the septic system and its proximity to the drinking water for his neighbor. The Board maintained that the new septic design was done by a licensed professional who used the State's criteria for the location of the replacement system. The Board had no issue with the location of the new system as presented.

Roger asked if there were any further questions. There were none.

***Diane S. made the motion to approve the Best Possible Location as presented on the plan. Bill H. 2<sup>nd</sup> the motion. All members were in favor.***

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**6-Lot Major Subdivision "Goose Pond Overlook" – Northwoods Land Company of Maine, LLC; Craig Higgins of Development Svs Inc. Representing – Map 7, Lot 5 (Rte. 11 & Dogwood Rd.)**

H. Craig Higgins was at the meeting to represent the applicant.

Mr. Higgins started the meeting by stating that prior to the meeting he spoke with several members of the Conservation Commission, Michael Roux, Charles Gruber and Bill Hutchins, with respect to the 29+ Acres that will be designated as Open Green Space, No Disturbance. The committee has expressed some interest in being the overseers or title holders of this property. There will be further talk, along with the Board of Selectmen and Three Rivers Land Trust. Hopefully a viable conclusion can be made within the next several weeks.

Mr. Higgins told the Board members that he would discuss the issue of the right-of-way access to Square Pond. Mr. Higgins had Dana Libby, of Corner Post Land Surveyors come to the meeting to discuss the chain of title, as well as Atty. Anette Dearden. Mr. Higgins brought a Memo from Attorney Dearden, entitled "Proposed Goose Pond Overlook Subdivision, Easement to Square Pond".

Mr. Libby began by passing out a sketch which depicted the chain of title which gives Albert R. LaValley, Inc. the use of the right-of-way to Square Pond for his entire parcel of land. This parcel, Tax Map 7, Lot 5, continues to hold this right-of-way access, now that it is owned by the applicant, Northwoods Land Company of Maine, L.L.C.

The Planning Board had asked Mr. Higgins the exact location of the right-of-way to Square Pond. Mr. Libby highlighted the lot with the easement across it on the sketch plan. In addition he noted the deed reads as follows, "There is also conveyed by the grantor herein the use of the sore lot on square Lake which was reserved for bathing and boating privileges. (Said shore lot being located at the starting point of the above described parcels)" per deed into Albert R. LaValley, Inc recorded in book 1870, page 877".

Atty. Dearden describes this parcel in her memo as, "The location of the easement across the parcels is described in the deeds and also shown on the Town of Shapleigh Tax Maps 30 and 32. The double-dashed lines clearly show the path or right of way to that leads to the shore lot (Map 30, Lot 32)." Atty. Dearden continues in her memo by stating, "The chain of title unambiguously demonstrates that the entire parcel proposed to be developed (the parcel) is benefited by the easement".

Mr. Higgins pointed out that Atty. Dearden's Memo shows that the applicant has the right to convey the easement to all lots on the property for access and use of the shore lot on Square Pond for bathing and boating, but the applicant is choosing to restrict this access to lots 4, 5 and 6 only.

Roger A. asked Mr. Higgins if lots a and b (which are not part of this subdivision) also have access to Square Pond through this easement? Mr. Higgins stated that they did. Bill H. asked Mr. Higgins if there was a limit to the number of people who have access to this lot? Mr. Higgins stated that there was not. Diane S. asked who owned the lot with the easement? Mr. Libby stated, "Roger Emard & Antonio Troiano".

When looking at the sketch plan for the easement John C. asked how Andrew Sevigny received rights to the lot (he does not own the lot, nor own any of the Farrar, now LaValley land)? Mr. Libby stated that a person can convey the right to use a piece of land without selling the land to that person. Mr. Sevigny only has the right to use the land. John C. asked if this was a common practice? Mr. Libby stated that around a lake, for access, it is. Mr. Hutchins asked if the right for access would be passed onto the heirs of those having a right-of-way? Mr. Libby stated, "Yes".

Bill H. stated that the plan for Goose Pond would restrict the lineage of those able to access Square Pond. Bill asked, "Lots 1, 2 & 3 would not longer have access? Mr. Higgins stated, "Correct".

Roger A. asked Mr. Higgins if lot C on the plan (which is not part of this subdivision as it is across the road) would have access to this easement to Square Pond? Roger also asked if the Open Green Space, No Disturbance Area lot would have access to the right of way? Mr. Higgins stated that lot C would probably have access. The No Disturbance Area, gifted to the town, would not. Mr. Higgins added that of lots 4, 5 and 6, it is likely lot 4 would use the right of way. Lot 4 has no frontage on water, whereas lots 5 and 6 have frontage on Upper Goose Pond.

Diane S. asked Mr. Higgins if he knew about a trailer and dump truck on what appeared to be one of the lots of this subdivision. She stated that while walking down Evergreen to do a site inspection on another property, she, Bill H. and Barbara G. noted a trailer in which it appears someone is living, along with an unregistered dump truck. Mr. Higgins had no knowledge of a trailer on the property. A member of the audience stated that this property in question was the property that was sold. Mr. Higgins stated that it must be lot A, and not part of the subdivision property.

Bill H. stated that there were old rusted oil type barrels on this property as well. He asked Mr. Higgins if he knew anything about these? The same audience member that answered above stated that these barrels had been on this property for many years, possibly 30 or more. No one knew who placed them there or what had been inside them.

Mr. Higgins stated that he felt that he has now addressed the significant issues posed by the Board and the townspeople from the last Public Hearing from a year ago. He felt that he has done his best to address all issues of this subdivision and he was ready to go forward with a final plan.

Roger A. asked Mr. Higgins what he proposed to do about fire protection? Mr. Higgins stated that this subdivision was comprised of two pods of lots, both being around a water source. Mr. Higgins stated that he would like to use the pond as the water source. Roland Legere stated that given the nature of the shoreline he felt you would need a floating dock mechanism to access the water. He stated the shoreline was thick with vegetation and was swamp like. He felt that in reality he did not feel Mr. Higgins could access the water easily and that certainly the Fire Dept. would have a hard time to do so.

Mr. Higgins agreed that the area was thick but still felt the water was accessible. Mr. Steve asked Mr. Higgins if he could put in a dry hydrant? Mr. Higgins stated that he has done so on other projects with the help of the DEP and the Army Corp. of Engineers Approval. Mr. Higgins added that a dry hydrant may only be necessary on one side of the subdivision because of the contour of the land is such that you would not be able to easily access the hydrant.

Roland Legere asked the Board if they would consider limiting the number of docks allowed along the shoreline of Upper Goose Pond. He wanted the Board to consider possibly having one common dock on each side, or even one dock for Goose Pond and one for Upper Goose. Mr. Legere was very concerned with limiting the amount of disturbance along what he feels is a very fragile shoreline. Mr. Higgins stated that he has done everything possible to limit the disturbance to Upper and Goose Pond. He has worked with the state to create a large area of No Disturbance for the Blandings turtle as well limiting the size of the building envelopes on each property to a maximum of 40,000 square feet. Mr. Higgins did not feel he should limit the amount of docks, especially given the fact that the amount of frontage on these lots was quite significant as compared to other ponds and lakes in the area. This is not a dense development. He did not want property owners to have to walk great distances to have access to the water. Also, Steve M. and Mr. Higgins pointed out that there were rules in place governing the size of the docks in the Shoreland zone already in place so the homeowners would be limited in what they could do. Bill H. and Roger A. agreed stating that there was a 20' size limitation in place. Mr. Legere asked if that was the length of dock and did it include the walkway? Steve M. stated it was from the normal high water line. Diane S. reminded Mr. Legere again that even though the resident had access to the water there were no motorboats going to be allowed on Upper Goose. Mr. Legere asked if the issue would be discussed at the Public Hearing or at the next meeting? The Board members did not feel they would agree to limit the number of docks on site. They did tell Mr. Legere he was welcome to bring it up at the Public Hearing. Mr. Legere noted to Board members that they did put a restriction on the dock size for Kettle Pond Cabins. Roger A. stated that this was business, not single family homes. Roger concluded that yes the Board could put a restriction on the developer but both he and Bill H. felt the developer has gone the extra mile to protect the area. The other Board members agreed.

Diane S. asked Mr. Higgins how lots 4, 5 and 6 would be accessed, would it be through Evergreen Rd., and if so did Mr. Higgins plan on improving that road up to the town standards of 18' for a minor roadway along with a turnaround for fire and safety equipment? Mr. Higgins stated that access to these lots would come off Totte Road to Evergreen and that he would bring these roads up to the minimum standard of an 18' gravel road.

Roland Legere asked if Mr. Higgins was going to discontinue to existing ATV trails that run through this subdivision? Mr. Higgins stated that yes, on three lots, 1, 2 and 5, the current ATV trail runs through the designated building envelope. Mr. Higgins stated that once a home was there, the ATV traffic would not longer be able to travel through. Mr. Legere asked about the snowmobile trails as well, would they be rerouted? Mr. Higgins stated that he had mailed a copy of the subdivision plans to a Mr. Gingrass of the local Snowmobile Club to show where the new trails would be designated.

Charles Gruber of the Conservation Committee asked who would own the Open Green Space / No Disturbance property? Mr. Higgins stated that he had spoken with Phillip deMaynadier of MDIFW and he stated that the department would rather not own a tract of land that small. Mr. deMaynadier suggested having the local conservation committee own the land and/or the town, and having a 3<sup>rd</sup> party oversee the area to be certain it is being preserved in accordance with the plan for the area.

Mr. Higgins suggested that another idea would be that all six of the lot owners of the subdivision could own the land and manage it. The entire Planning Board did not agree to this idea. The Board stated that they felt it should be either the town or conservation committee and Three Rivers Land Trust should be involved as well. The Board stated that it would be best all parties concerned should get together and speak on the issue to try to come up with a viable solution. Madge B., who is on the Three Rivers Land Trust agreed. She stated that there is an example in Acton where the town owns the land and Three Rivers manages it. She said that it seems to work well. Mr. Gruber stated that perhaps the Town Forest Committee would be interested in owning the land with Three Rivers managing it? The Board stated that the Forest Committee would not be able to cut any of the trees; this area must be left in its natural state. Mr. Higgins concurred.

Roger A. asked members if there was anything else that Mr. Higgins needed for the next meeting? The members concluded they would need a letter from Gary Utgard, Fire Chief, stating what he feels is necessary for fire protection for this subdivision. Mr. Higgins stated that he would contact MDIFW to see what words would be necessary for the conveyance of the conservation land on site.

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**Conditional Use Permit – *Earth Moving* – Frank McNulty – Map 31, Lot 21 (119 Totte Road)**

Mr. Al White was at the meeting to represent Mr. McNulty. The applicant proposes to upgrade part of Totte Road as well as bring fill onto his existing driveway. The Board, at their last meeting, told Mr. White The applicant would need a plan of exactly what would be taking place and how erosion would be addressed.

Board members did a site visit and noted the driveway was extremely steep and a lot of erosion had taken place. Also noted was the fact there was nothing to stop the rainwater from going directly into the lake because there was little vegetation along the shoreline. Totte road had deep gullies from erosion as well.

The question was asked at the last meeting of Mr. White as to what the depth of the property was. Mr. White stated that this evenings meeting the property was only 100 feet deep so it was entirely in the Shoreland

Zone. Mr. White stated that he spoke with John Burnell, Shapleigh Road Commissioner for this area, and Mr. Burnell suggested putting in a drainage system using a well tiles on either side of the driveway to divert the water that comes down the hill and redirect it to the side of the property slowing down the water on its way to the lake.

Bill H. stated that even though this property was entirely in the Shoreland zone, the property owner has poor access now. He said that others in the Shoreland zone have improved their driveways and he feels Mr. McNulty should be able to do the same, especially where there is no erosion control on site now and all the runoff is heading straight for the lake. Bill asked the Board, "How do we give him proper access to his property and get the correct erosion protection?" John C. stated that a licensed engineer could create a plan showing what would work at this location.

Diane S. asked if Mr. McNulty would be allowed to pave his driveway in this area? Steve M., CEO, stated that because this is an existing access he could pave the driveway but he would need to have a plan for erosion control.

Mr. White stated that Mr. Burnell had suggested he contact Debbie St. Pierre of York County Soil and Water District. Ms. St. Pierre has worked with homeowners along the ponds and lakes and helped to create plantings and systems to prevent erosion of their properties. The Board agreed that Ms. St. Pierre would be a good contact. If she is not able to create a plan for this project, she may be able to give Mr. McNulty a name of the proper contact to create the erosion plan he needs to proceed.

There were no further questions at this time. The Board tabled this application until they receive more information from either Mr. McNulty or Mr. White.

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**OTHER:**

**Ordinance Changes for Town Meeting March 2004**

The Board reviewed the ordinance change proposals to date. See Attached.

In addition, one new ordinance was proposed addressing adult entertainment. Also attached. Madge B. asked Barbara G. to see if the State had a Statute with respect to this issue. The Board will review this ordinance again prior to a Public Hearing for all ordinance proposals prior to the end of the year.

Steve M., CEO, proposed a change to Zoning Ordinance 105-72, adding a Section L, which would read as follows: "All variances granted relating to setbacks shall require exact placement of the structure to be located on site by a licensed surveyor."

Steve M. added that he would like to see this requirement added to the Ordinance for Best Possible Location as well. Several Board members agreed and the Board as a whole agreed to review this change prior to the Public Hearing.

The last addition proposed to date is adding an article which "Establishes the Planning Board". See Attached. This article, if not adopted by the town, would not change the status of the Planning Board or their current by-laws. Should the article not be adopted, the Planning Board would continue under current statutes.

**Letter from Steve McDonough, CEO, regarding Stop Work Order for Dennis and Frances Lonergan's garage located at 169 23<sup>rd</sup> Street Loop**

Steve M. told Board members that the Lonergan's past history includes *knowingly* purchasing a property which had multiple violations regarding new decks and other setback issues; and coming before the Planning Board in 2001 regarding replacement of a garage on site which had been destroyed by more than 50%. This garage was destroyed in 1995, far exceeding the time limit of one year as written in Section 105-4D(5). The Planning Board denied Mr. Lonergan the ability to replace the garage on site. In addition, because of the multiple decks in existence, the garage put the lot coverage by structure over the 10% allowed per the ordinance. Therefore, Steve M. has placed a stop work order on Mr. Lonergan's garage, in which construction has already begun prior to receiving a permit from Steve M. or approval for BPL from the Planning Board.

Nothing more was discussed. The violation shall be handled through the Code Enforcement Office.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

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***The Planning Board meeting ended at 9:50 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, October 28, 2003***

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

**PUBLIC HEARING started at 7:10 p.m - 6-Lot Major Subdivision “Goose Pond Overlook” – Northwoods Land Company of Maine, LLC; H. Craig Higgins of Development Svs Inc. Representing – Map 7, Lot 5 (Rte. 11 & Dogwood Rd.)**

Mr. Higgins was in attendance for the Public Hearing to represent the applicant. Mr. Higgins began by showing the citizens of Shapleigh the current subdivision plan that was before the Planning Board. The plan highlights the Open Green Space, consisting of approximately 30 acres to be designated as a conservation area; six buildable lots with specifically designated building envelopes not to exceed 40,000 square feet; abutting roadways which are Rte. 11, Hodgdon Road, Dogwood Road, Evergreen Road, Totte Road, and an unnamed road which accesses lots 4, 5 and 6. Mr. Higgins said that he has proposed a hammerhead turnaround on the Hodgdon Road between lots 2 and 3.

In addition, all wetland areas were highlighted as well as Upper Goose Pond itself. Mr. Higgins noted that on the plan Lower Goose Pond is listed. Mr. Higgins stated he understood there is no “Lower” Goose Pond but to easily differentiate between the two ponds abutting the subdivision Goose Pond is listed as Lower Goose, to separate it from Upper Goose.

Mr. Higgins went on to explain that most lots in this subdivision have frontage on Upper Goose Pond. Lots 4, 5 and 6 will have a deeded right-of-way to a lot that gives access to Square Pond. Mr. Higgins feels lot 4 is most likely to use this right-of-way since it does not have any water frontage.

Mr. Higgins explained to the citizens that an endangered species recognized by the State of Maine, known as the Blanding’s turtle, had been seen on site by the MDIFW back in the early 1990’s. Mr. Higgins said that subsequently, after he was advised of this, he began working with MDIFW to help preserve an area for the Blandings turtle. This area is the Open Green Space depicted on the plan.

Mr. Higgins addressed the numerous ATV trails and the erosion they are creating on site. He stated that several trails shall be eliminated simply because they run directly through what will be the building envelope on lots 2, 3 and 5. Also, one trail exists in the Open Green Space and that trail needs to be discontinued as well. Mr. Higgins admitted that it may be difficult to do so in that area since there will be no one to monitor the area on a daily basis, such as in the areas where homes will be built. Mr. Higgins stated that Hodgdon Road can continue to be used as a snowmobile / ATV trail, and he has contacted the local snowmobile club in Sanford to apprise them of the subdivision plans. Mr. Higgins stated that there would be a 50’ r-o-w alongside the Hodgdon Road for the snowmobile trail. Mr. Higgins added that in several areas, where the buildable lots are, the area eroded by ATV traffic will be reclaimed and planted with grass to prevent further erosion.

Mr. Higgins asked the citizens in the audience if they had any questions. The response was as follows:

***Citizen*** – I live on Totte Road, where is it on the plan?

Mr. Higgins pointed out where it should be. It is not depicted on the plan.

***Citizen*** – Does the developer plan on upgrading Evergreen Road? (It abuts the subdivision.)

Mr. Higgins stated, “No”.

**Citizen** – Will Evergreen and Totte be blocked off from the subdivision road that accesses lots 4, 5 and 6? Mr. Higgins stated that the developer has no right to do so. Mr. Higgins stated that no one can block off access to an established roadway, such as Totte Road.

**Citizen** – Will lots 4, 5 and 6 be able to use Evergreen and Totte Road?

Mr. Higgins stated, “Yes”.

**Citizen** – Are lots A and B part of the subdivision? (They are depicted on the plan.)

Mr. Higgins stated, “No”.

**Citizen** – Were these ever part of the subdivision plan?

Mr. Higgins stated, “No, they are across the road from the subdivision.”

**Citizen** – What would be the main access roads for lots 4, 5 and 6?

Mr. Higgins stated that they could either use Dogwood, which is a better quality road, or they could access through Totte and Evergreen Road. Mr. Higgins stated that if the Board wanted him to designate a preference he would consider it.

**Bill H.** asked Mr. Higgins if fire and safety equipment would be able to access the building lots by way of Totte and Evergreen?

Mr. Higgins assumed they could if they had to. He pointed out that homes currently exist on Totte and Evergreen, and that fire and safety equipment would have to serve them if necessary. He concluded, that to the extent the equipment could get in now, would be the same with the addition of these new house lots.

**Bob Ferguson** asked what type of vegetation existed on this property prior to the logging that has taken place, and what exist there now?

Mr. Higgins stated that there was a large stand of White Pine that was harvested. He said that the LaValley’s (the prior owners of the property) had not logged the area and there were many very large trees on the property.

**Mr. Ferguson** asked if there was scrub oak on the property and if the endangered species, known as the Edward’s Hairstreak butterfly, was on site? Mr. Ferguson stated that he had the butterfly on his property, which abuts this piece of property.

Mr. Higgins stated that there was some scrub oak in an area that has already been designated as unbuildable. Mr. Higgins said that MDIFW has been on site and has approved this plan. Mr. Higgins stated that there were no sightings by MDIFW of the butterfly habitat on the buildable lots.

**Mr. Ferguson** also asked about the large underground aquifer that is under this site and if this subdivision would affect it?

Mr. Higgins stated that at a previous meeting he had a State of Maine certified licensed geologist (Richard Sweet of Sweet Associates) speak to the Board with respect to the underground aquifer and the proposed development. Mr. Higgins stated that Mr. Sweet stated with the soil conditions, a safe lot size would be one acre to maintain high quality groundwater. Mr. Higgins pointed out that the smallest lot in this subdivision would be 3.85 acres. The Board concurred with Mr. Higgins assessment for the safety of the underground water supply.

**Citizen** – Only three lots have access to Square Pond?

Mr. Higgins stated that yes, three lots will have a deeded right-of-way to Square Pond. Mr. Higgins stated that at the last Planning Board meeting a chain of title had been established by Dana Libby of Corner Post Land Surveyors, as well as Attorney Anette Dearden. Mr. Higgins stated that a tax map had also been presented showing the *location* of the lot giving access to Square Pond (Map 30, Lot 32).

**Citizen** – What is the frontage of this lot on Square Pond?

Diane S. showed the gentleman a copy of the tax map that she had received from Mr. Higgins at the previous meeting. It appeared the lot frontage was approximately 120 feet.

**Citizen** – Is there a dock on site and are boats allowed?

Diane S stated that yes there was a dock and boats could be launched from this location.



**Citizen** – What road connects the lower three lots of the subdivision (lots 4, 5 & 6)? Is there any sequence to how these lots will be developed? Will the road be upgraded before construction on the lots or after? Where will the equipment be coming in from, Totte Road or Dogwood?

Mr. Higgins answered by saying that the lower three lots were connected by an unnamed established road that has been in existence for years. Mr. Higgins stated that this road connects with Dogwood road at lot 4 and the corner of Evergreen and Totte at lot 6. Mr. Higgins stated that Northwoods would be selling the lots so construction on site would be limited. Therefore, the road would be upgraded prior to construction. Mr. Higgins added that because of the sandy soil in the area, not much gravel would need to be brought in. This would limit the amount of heavy trucks traveling in the area.

**Citizen** – Can Dogwood sustain heavy equipment, such as gravel trucks, cement trucks, etc?

Mr. Higgins stated that vehicles could use either Dogwood Road or Totte Road, depending on suggestions from the public and the Planning Board. Mr. Higgins felt Dogwood would be the best choice. The Planning Board agreed.

**Citizen** – Will the snowmobile trails be eliminated due to the location of the building sites?

Mr. Higgins stated that several would be eliminated due to the location of the building envelopes. He said that they are very specific and several of the trails go directly through the building envelopes. Mr. Higgins said that in the State of Maine you need to obtain a property owners permission to travel over their property. Mr. Higgins added that he knew this change would be difficult but it is not impossible. Mr. Higgins noted that Hodgdon Road will have deeded access for snowmobiles; they will have a right-of-way to continue to use it.

**Citizen** – Again, where would lots 4, 5 and 6 access their property? Would they use Dogwood or Totte Road? The citizen added that Totte Road has no town maintenance and would be greatly disrupted by heavy equipment, making this a burden to those that live on Totte currently.

Mr. Higgins stated that he felt it would be best to use Dogwood.

**Citizen** – How do lots 4, 5 and 6 access Square Pond?

Diane S. stated that access would be over Dogwood, to Elm Street, which accesses the lot with the right of way access.

**Roland Legere** asked how far Hodgdon Road would be improved?

Mr. Higgins stated that the first 200 feet would be paved to the town's standards. After that the road will remain gravel, as requested by MDIFW for the protection of the turtle, for a distance to create the necessary 200 feet of road frontage for lot 3. Mr. Higgins stated that MDIFW also requested the applicant place signs along Hodgdon road to slow people down to again protect the Blanding's turtle.

**Roland Legere** asked if there would be a physical barrier at the end of Hodgdon Road where this development ends?

Mr. Higgins stated that Northwoods has no right to block off an established road. Mr. Higgins stated that even though they are going to improve part of the road, they cannot stop traffic over it, including ATV's. Mr. Higgins said that they could put up a barrier and if no one complained it could stay but in reality they did not have the right to do so and did not plan to do so.

**Roland Legere** asked Mr. Higgins who would maintain the roads?

Mr. Higgins stated that lots 1, 2 and 3 would have a road maintenance agreement for the Hodgdon Road. Lots 4, 5 and 6 would have an agreement for the subdivision road, yet to be named.

Mr. Higgins added that typically you pave the first 80 feet of a road that connects onto a main thoroughfare, such as Rte. 11, but because we (Northwoods) may gift an adjoining lot to the town, we will pave the first 200 feet of Hodgdon Road for easy access to this lot. (Mr. Higgins stated that the town would have to accept this lot at town meeting.)

**Citizen** – I live on the Totte Road. With more people moving in, it will mean more traffic; the road condition will only get worse. We (people living on Totte) approached the town for more services for the road and we found out we have to go through several loopholes to accomplish this. The selectmen said that in an emergency they would send a plow /sand truck, then fire and safety equipment. I am concerned that more people using this road would create a bigger problem.

Mr. Higgins stated that he thought there was a Maine statute whereas you could get all homeowners on a road to collect monies for a private road to be sure it was maintained.

**Citizen** – I would like to know what this statute is. There are hurdles that we (people on Totte) have to work through now. Having more people use the Totte Road is not going to make it better.

Mr. Higgins did not feel that three new homes would change the condition of Totte Road. Mr. Higgins added that these new lots could use Dogwood to access their property and would probably choose to do so, because of the condition of Dogwood versus Totte Road. Dogwood is a better road.

**Citizen** – Will the unnamed subdivision road be brought up to the 18 foot town standard?

Mr. Higgins stated that yes, whatever the standards are, that is what the applicant will use for road construction.

Roger A. asked if there were any further questions. There were none. The public hearing closed at 7:40 p.m.

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**The Planning Board meeting started at 7:45 p.m.**

**The minutes from Tuesday, October 14, 2003 were accepted as written.**

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

**6-Lot Major Subdivision “Goose Pond Overlook” – Northwoods Land Company of Maine, LLC;  
H. Craig Higgins of Development Svs Inc. Representing – Map 7, Lot 5 (Rte. 11 & Dogwood Rd.)**

John C. sat out of this discussion; Madge B. was a full member.

H. Craig Higgins was at the meeting to represent the applicant. Mr. Higgins stated that he did not have the information regarding the wording for the conservation easement from MDIFW. He said he had mailed them some language which he created by taking some information for an easement from Barbara G. and made it fit this situation. Mr. Higgins stated that unless the Board had something more, he would like to move further review to the next meeting. The Planning Board stated that they had several issues they wanted to discuss this evening. Mr. Higgins stated he would be glad to stay.

Roger A. began by pointing out to Mr. Higgins that in fact this was a 7 lot subdivision, not a 6 lot subdivision. The 7<sup>th</sup> lot is the lot to be designated as Open Green Space. Mr. Higgins agreed that this is a 7 lot subdivision.

The Board stated that lots 4 and 6 needed to have test pit locations on the final plan. Mr. Higgins stated that they had been recently done and would be on the final plan.

Roger A. asked Mr. Higgins if he needed a MCGP (Maine Construction General Permit)? This permit refers to any project that involves 1 or more acres of disturbance at any given time including grading, grubbing, excavating and filling with soil and earthen materials. Mr. Higgins stated that he would call the DEP, after he has calculated the amount of land to be cleared, to see if in fact he needs this permit.

The Board asked if there were any deed restrictions for these properties? Mr. Higgins listed the following:

- 1) Commercial Uses are Prohibited
- 2) One principal single family residence per lot.
- 3) No mobile homes are allowed.
- 4) Only ordinary household pets, regularly housed within the home shall be allowed.
- 5) Travel trailers are allowed for a maximum of 120 days.

Roger A. asked what waivers Northwoods was requesting. Were they requesting the use of rebar versus granite monuments (Ordinance 89-30 Required Improvements (A) Monuments)? Roger stated that the Board could grant this waiver but the rebar needed to be deep enough into the ground to prevent it from being pulled up. In addition, it was the practice of the Planning Board to want all corners and angles of the subdivision marked prior to approving the final plan. Mr. Higgins stated that he thought they would be able to mark the lots within the week.

Barbara G. asked Mr. Higgins if he wanted to waive the requirement for sidewalks (89-36 Street design standards (M) Sidewalks)? Mr. Higgins stated that yes, he was sure the applicant would not want sidewalks in this subdivision.

Mr. Higgins stated that he would better prepare for the final plan, and would have what was requested for waivers. Barbara G. told Mr. Higgins the requested waivers needed to be placed on the final plan.

Diane S. asked Mr. Higgins if he was going to give a stormwater management plan for the Board to review? Mr. Higgins stated that because he was not building on the lots, creating impervious surface, he did not feel one was necessary per the DEP guidelines. The builder would have to present a plan with his building plans.

Barbara G. asked Madge B. what had been discussed prior to the Planning Board meeting, between the selectmen, forest committee, and herself (a member of Three Rivers Land Trust), regarding the ownership and stewardship of the proposed conservation land (Open Green Space)? Madge stated that the preference agreed upon for ownership would be that the Town of Shapleigh's Forest Committee would own the land and Three Rivers Land Trust would hold an easement to it, in order to manage the property. Madge added that the Forest Committee has agreed that they would like to purchase lot C, which abuts this subdivision, to create a larger wildlife corridor as well as to have a piece of land to access the underground aquifer for the future needs of the town's water supply. Madge stated that the Forest Committee understands that the Open Green Space area cannot be logged, it needs to stay untouched. Madge asked Mr. Higgins if he would speak to Northwoods as well as the Board of Selectman with respect to these issues.

Mr. Higgins was in favor of gifting the area on lot C, which is designated as unbuildable, to the town as well as the Open Green Space. Mr. Higgins felt Northwoods would be in favor of this after he explained what the Forest Committee and the town was trying to accomplish. Mr. Higgins felt that lot C was a prime spot to put a house and did not know if Northwoods would be willing to 'give' it to the town. Madge stated the town wanted to "buy" lot C at fair market value. She again asked Mr. Higgins to speak with the Selectmen. He stated he would.

Madge B. told the Board that it was her opinion that MDIFW was not interested in owning this property, nor managing it. But, Madge stated that MDIFW would need to be involved with Three Rivers Land Trust, which would include having easement over the property, so they could be sure the area was being managed properly. Madge stated that Three Rivers would need input because they were not experts in the management of the Blanding's turtle. She did think that the best thing for the turtle was to leave the area as is, with as little disturbance as possible.

Roland Legere stated that at the last meeting Mr. Higgins expressed urgency with respect to getting the final plans for this project approved. Mr. Legere was under the impression final approval would be at this evening's meeting. Mr. Legere wanted to know why this application wasn't being voted on this evening?

Roger A. told Mr. Legere that not all the criteria for the subdivision had been met. There were still items that had to be addressed, such as approval from MDIFW for the conservation easement. Mr. Higgins added that MDIFW had a copy of the words for the easement but he has not received a response to date. Barbara G. agreed that this process can take a few weeks.

Roger A. asked if there were anymore questions?

*Citizen* – How many residents will be in this subdivision?

Mr. Higgins stated that there would be one house on each lot with no further division allowed. There are a total of six building lots.

*Citizen* – How will residents of these lots access the lake (Upper Goose and Goose Pond)?

Mr. Higgins stated that lots 1, 2, 3, and 5 have frontage on Upper Goose. Lot 6 has frontage on Goose Pond. (The citizen seemed to be confused by the subdivision plan. Mr. Higgins tried to explain it to him.)

Mr. Higgins stated to the Board he would contact MDIFW to see if they have reviewed the easement. He will ask MDIFW if they want an easement to the property and if they agree that the Town of Shapleigh should own it with Three Rivers Land Trust having the easement as overseers of the property.

Nothing further was discussed on this application.

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Roger A. asked John C., for the purposes of record, why he stepped down from the discussion of Goose Pond Overlook Subdivision. John C. stated that the company he works for has done business with Development Services, the company Mr. Higgins works for. John did not want anyone to state that he approved this subdivision because of a work relationship he may or may not have with Mr. Higgins. Roger stated that he understood.

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**Conditional Use Permit – *Earth Moving* – Frank McNulty – Map 31, Lot 21 (119 Totte Road)**

Steve M., CEO, stated that Mr. White, representing Frank McNulty, said that Mr. McNulty does not wish to pursue this matter further due to financial reasons.

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**OTHER:**

**Ordinance Changes for Town Meeting March 2004**

The following additions and/or changes were reviewed and agreed upon by all Board members. There will be a Public Hearing prior to the end of the year for townspeople to review the changes as well.

105-72. Appeal procedures.

- L. All variances granted relating to setbacks shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the variance.**
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105-27. Erosion Control

Erosion of soil and sedimentation of watercourses and water bodies shall be minimized by employing the following “best management” practices:

*Isn't Erosion Control in this section referring to all erosion control, not just near water sources? If so, this should read:*

**Erosion of soil and sedimentation shall be minimized by employing the following “best management” practices:**

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105-4(7). Relocation.

- (c) All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.**
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89-18. Procedure

- B. All applications for final plan approval for major subdivision shall be accompanied by a nonrefundable application fee of ~~\$100~~ \$200 per lot or dwelling unit payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee may be required to cover the costs of advertising and postal notification.**
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In addition, to the above changes, Diane S. suggested the following change to the proposed Adult Business Ordinance:

- (1) No Adult business shall be located in any location where the ~~customer entrance to the adult business~~ would be closer than 1,000 feet, measured in a straight line without regard to intervening structure or objects, to the nearest point on the boundary of any property which is:
- (1) No Adult business shall be located in any location where the **building footprint** would be closer than 1,000 feet, measured in a straight line without regard to intervening structure or objects, to the nearest point on the boundary of any property which is:

Diane S. cited the fact that if the “customer entrance” was on one end of a 1,000 foot building, the building could be located closer than 1000 feet to the nearest residence, school, park, playground, religious institution or public building. Using the words building footprint gives greater distance between the business and surrounding properties. All members agreed with this change.

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Roger A. asked members if they agreed with the proposal by Mr. Higgins with respect to his plans for the Hodgdon Road and the unnamed subdivision road, and the fact that Totte and Evergreen will not have any work done to them by the developer? Bill H. stated that he did not see anywhere in the ordinance where a developer would have to upgrade either Totte or Evergreen. Roger agreed, but he stated that the Planning Board could require all access to the subdivision be through Dogwood and the subdivision road, instead of Totte and Evergreen. Diane S. agreed all access should be through Dogwood.

Bill H. expressed his concern with fire protection and safety for this development with the poor condition of Totte and Evergreen roads. Bill wanted to be sure that lots 4, 5 and 6 would have the same quality of access as the lots along Hodgdon Road. John C. stated that there should be a hammerhead turnaround somewhere on the subdivision road. This would allow fire and safety equipment to travel along Dogwood, and have a place to turnaround within the development.

Barbara G. asked Mr. Higgins if he would like to join in on the conversation, since he had not left the meeting room and this discussion affected his client. Bill H. asked the Board if a fire truck could get down Totte Road in the condition it is currently in? Roger A. did not feel you could access the subdivision from Totte Road with equipment; it would have to come down Dogwood for access. Roger and John both felt that if a hammerhead turnaround was placed on the subdivision road, there would be adequate area for fire and safety to get in and out easily.

Mr. Higgins felt that because the subdivision road is interconnected to both Dogwood and Totte, that this was sufficient. Bill H. stated, “If it was real connectivity, but if you honestly think and if Gary Utgard the Fire Chief thinks he can use these roads (Totte and Evergreen) as ingress and egress out of that area, fine, but from what the board saw during their site inspection, I wouldn’t take my vehicle down Totte, much less a fire truck.” Mr. Higgins said, “I hear ya, but there is an obligation for them (fire dept.) to respond along that road. We (Northwoods) are not changing an already deficient situation there.” Bill, “But we (P.B.) are looking at a subdivision, and in looking at the subdivision ordinance our first purview is public safety.”

Bill said, “When you said we are not going to do anything with those roads (Totte & Evergreen) that stands sideways with me because that is contrary to what our first purview is, that being public safety. If in fact we all agree there is ingress and egress through those other roads that safety equipment could use, than I wouldn’t have a problem. Safety vehicles need to get in and out for those three lots (4, 5 & 6). Mr. Higgins replied, “There is no question they (fire and safety equipment) will be able to access the 3 lots with the improvements we are making. On the other hand, I think you are going beyond. I can make the subdivision safe with the internal road networks. What obligation do we have to improve preexisting roads?” Bill answered, “I don’t think you have any obligation. Don’t worry about Totte or Evergreen.”

John C. told Mr. Higgins that he just needed a turnaround near lot 6, so equipment can come in off from Dogwood to the subdivision road, then turnaround. John said that the Board did not want the developer to improve Totte, they want a place where equipment can turn around, so they don’t have to use Totte. Mr. Higgins stated that he would have no problem placing a hammerhead turnaround on lot 6. Bill H. added that he would like to see Mr. Higgins designate Dogwood as the main access to lots 4, 5 and 6 on the final plan.

John C. said that normally you don't want the turnaround to be part of the driveway because snowplows will have to push the snow from the road all the way up to the end of the driveway. Mr. Higgins said that this is a private way and it should (the plowing) be done correctly. Plus, Mr. Higgins felt by having the turnaround part of the driveway, it would be sure to get plowed out.

Roger A. asked what would happen if this location was a summer residence only? There would be no need to plow this area by the homeowner. Mr. Higgins added that if no one was there, usually fire was less of an issue. This situation is no different than the camp roads. Roger agreed, he just wanted the Board to be aware this could be an issue with neighbors, it could create a problem.

There was nothing further discussed on the Goose Pond Subdivision.

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Diane S. submitted a page of signatures for the petition to bar motorized watercraft from Upper Goose Pond. Roland Legere is also collecting signatures. They will be notarized by the town clerk when all necessary signatures have been collected.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

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***The Planning Board meeting ended at 8:45 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Wednesday, November 12, 2003***

Members in attendance: Roger Allaire (Chairman), Diane Srebnick (Vice Chair), and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was unable to attend.

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**The Planning Board meeting started at 7:35 p.m.**

**The minutes from Tuesday, October 28, 2003 were accepted as written.**

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

**6-Lot Major Subdivision “Goose Pond Overlook” – Northwoods Land Company of Maine, LLC; H. Craig Higgins of Development Svs Inc. Representing – Map 7, Lot 5 (Rte. 11 & Dogwood Rd.)**

Mr. Higgins was unable to attend the meeting this evening so this item was tabled until November 25<sup>th</sup>.

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**4-Lot Subdivision – “Tranquil Breezes” – David Dubois & Linda B. Chadbourne – Map 11, Lot 10 (Newfield Road)**

Mr. Dubois was in attendance along with Mr. Andrew Nadeau of Corner Post Land Surveyors.

The Board received copies of the Permit for Entrance from the Maine Dept. of Transportation, for proposed lots numbered 2, 3 and 4. These permits are for the proposed driveways of these lots. Mr. Dubois stated that he wanted to know if the Planning Board would accept the plan to use individual driveways for the lots, since they have State approval, or was the Board still requesting an internal road. Roger stated that because several of the Board members, which were very interested in the road discussion, were not available at this evenings meeting, he would like to review the driveway issue at the next scheduled meeting if Barbara G. and Diane S. agreed. Both Barbara and Diane did not have a problem discussing the driveway at a later date. Roger asked Mr. Dubois if he would wait until the next meeting to get the full Board’s comment on the road issue. Roger felt that with 5 members present, and knowing the impact of their decision on this issue, that a vote on the road by all the Board members would be best. Mr. Dubois agreed to wait.

Mr. Dubois stated that the Board had spoken about reviewing this project using Major Subdivision criteria. Part of this criteria was having an internal road. If the Board made an internal road mandatory, he would not go forth with the project at this time. Mr. Dubois asked if the Board could state this evening whether or not this project would be reviewed under minor or major subdivision. Roger A. stated that regardless of which criteria the Board chooses, all subdivisions can be reviewed with major subdivision criteria if the Board feels it is necessary. Roger was referring to Subdivision Ordinance 89-13. “Compliance with major subdivision requirements.”, which reads as follows: “The Board may require, where it deems it necessary for the protection of public health, safety and welfare, that a minor subdivision comply with all or any of the submission requirements for a major subdivision.”

Roger A. told Mr. Dubois and Mr. Nadeau that the Board would be looking closely at fire protection for this subdivision. Mr. Dubois stated that a fire pond would not be feasible in this area. 10 years ago when this subdivision was initially reviewed it was deemed that the soils were such they would not hold water. Roger agreed, as he was also in on the initial review process. Mr. Nadeau also concurred. Roger cited the fact that the subdivision known as Green Acres, which is in the vicinity of this project, also could not maintain a fire pond. In lieu of this, they offered to donate fire hose to the fire department and the Planning Board accepted it at that time with the concurrence of the Fire Department.



Barbara G. stated that she had spoken with the Fire Chief, Gary Utgard, with respect to this subdivision proposal and he recommended a water holding tank. Barbara would contact Gary again and ask him to give his official recommendation to either Mr. Nadeau or Mr. Dubois. Mr. Nadeau asked Barbara to have Gary email him. Mr. Dubois asked what the cost of a water holding tank would be? Diane S. and Barbara stated that an estimate the Board received was that a 10,000 gallon tank would be approximately \$10,000, not including installation.

Mr. Dubois did not want to go any further until a decision was made as to whether or not an internal road would be required. Roger A. stated he would bring this item back up at the next meeting, when more Board members would be able to attend. Nothing further was discussed.

**Conditional Use Permit – Replace Existing Deck and Retaining Wall – Janet Williams – Map 26, Lot 27 (208 16<sup>th</sup> Street Loop)**

Julia and Jeffrey Pelkey were in attendance to represent Ms. Williams's application.

The Board had required the applicant to have an engineer look at the sketch plans presented to the Board, to be certain these plans were adequate to protect both the embankment and the retaining wall closest to the water, which is not going to be removed. The Board received a letter from Geoffrey R. Aleve, PE, a Structural Engineer with Civil Consultants. The letter read in part as follows:

"The sketches you provided indicate a solution that removes the block wall and concrete slab. The new system involves extension of the concrete wall approximately 12 inches and the placement of a new modular block wall. A new timber deck will be installed to bridge the gap between the two walls.

The existing concrete wall appears to be in good condition and will be sufficient to support the new wood framed decking.

It is important that new construction include provisions to alleviate stormwater and groundwater flows around the walls. Both the existing concrete and new block walls should incorporate new drainage systems. The modular block wall should incorporate a geotextile reinforcing fabric to strengthen the wall. Although this is not typical for low height walls, the steep land slope behind the new modular block wall requires its use."

Diane S. asked the Pelkey's if they also had an engineered *plan* for their proposal? They stated they did not as the Board did not require they get one. The Board only required they have an engineer look at their plans to determine if they were adequate. Diane reviewed the minutes from September 23<sup>rd</sup> and the Pelkey's were correct. They did in fact supply what the Board had requested. Diane did state that she would feel more comfortable with an engineered plan, but if the other Board members did not feel it was necessary she would not push the issue.

Roger A. asked the Pelkey's about the new drainage that they would be putting in. Would it have water flow directly into the lake, or would there be crushed gravel used to diffuse the water before it hit the lake? Roger stated that he would like to see on the plan presented, exactly where the drain pipes will be located along with any crushed stone or filter fabric. Roger stated that the plan the Board approves will be what is used by the Code Enforcement Officer, so he will know exactly what should take place. If the drain pipes are not on the plan, he will not know whether or not the project is being done as approved. He needs an exact plan for reference. Roger stated that they could draw it on the plan this evening if they chose to do so.

Diane S. asked if there was a time issue involved with this project? If the project was not going to take place this fall, then couldn't the Board have an engineered plan drawn up? The Pelkey's said that they wanted to begin the project within the next few weeks.

Roger A. stated that the Pelkey's could make the necessary changes to the plan. The Pelkey's placed drain pipes, crushed stone, and filter fabric on the sketch plan. The Board reviewed it and it appeared to be acceptable when used in conjunction with the letter from Civil Engineering.

**Roger 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, bird or other wildlife habitat. ***This project will not have an adverse affect on fish or other wildlife. The retaining wall closest to the waters edge is not going to be removed and proper drainage is going to be placed to prevent erosion.***
- 2) The use will conserve shore cover and visual, as well as actual, access to water bodies. ***The existing retaining wall closest to the water is not going to be removed. Shore cover is not going to be changed in the area surrounding the project.***
- 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. ***Solid waste will be removed per the applicant.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There are none 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 structures that currently exist.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The vegetation in the surrounding area is not being disturbed. New drainage system is designed to prevent soil erosion.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***N/A, as a note 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.***

***Diane S. made the motion to approve the Conditional Use Permit to replace the existing concrete deck with a deck of the same size, 9' wide X 35' long, and an existing retaining wall with a new lock block wall the same length and height of the existing wall, per the sketch plan presented and approved by Geoffrey Aleva of Civil Consultants. Barbara G. 2<sup>nd</sup> the motion. All members were in favor.***

Nothing further was discussed.

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**3-Lot Subdivision – Thomas & Barbara Worster – Map 6, Lot 29 (Owl's Nest Road)**

Mr. Worster was in attendance to review his application.

Mr. Worster showed the Board a plan which depicts the mother lot being 151.54 acres in size. This lot is where Mr. Worster has his residence. The second lot on the plan is approx. 3.32 acres in size and is also owned by Mr. Worster. Currently a relative lives in the house on this lot. The third lot, and the reason Mr. Worster is before the Board this evening, will be approx. 3.77 acres in size, and will be gifted to Mr. Worster's son.

Mr. Worster stated that he was told by his lawyer that he needed to come before the Planning Board for subdivision review because he has owned the parent lot for less than five years, prior to creating lots 2 and 3. Mr. Worster stated that Barbara G. thought, because these lots were being gifted and not sold, Mr. Worster did not need subdivision review. Roger A. agreed. Mr. Worster stated that the lawyer he spoke with said there had been some changes in the State's Subdivision Ordinance, which is why he needed subdivision review. Roger A. asked Mr. Worster to ask his lawyer once again, why he needed this review. Mr. Worster stated he would and would get in touch with Barbara or Roger to let them know what he found out. Mr. Worster did not have a problem with going through the review for minor subdivision but did not want to take up the Planning Boards time if it was not necessary.

Nothing further was discussed. This item will be tabled until the Board hears from Mr. Worster.

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**OTHER**

**Memo / Question from CEO regarding Dennis Merrow, Map 2, Lot 47B**

Steve M. asked the Board to review a proposed project by Dennis Merrow. Mr. Merrow would like to put an addition onto his existing garage. This garage is currently an approved body shop. Steve would like to know if this addition is an amendment to a Conditional Use Permit or if he need only go to Steve as a CEO for a building permit?

Roger A. told Barbara G. and Diane S. that this gentleman was a neighbor and he did not feel he could make a decision on this question. Roger wanted both Barbara and Diane to know that this application, when approved had strict guidelines with respect to the number of vehicles on site and what could take place on site. Roger stated that the Board should review the file on this application as well as the minutes from the meeting prior to making a recommendation.

Because there would not be quorum with respect to a decision on the matter, this question will be presented to the Board at the next Planning Board meeting. Nothing further was discussed.

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**Memo / Question from Andrew Nadeau regarding Laura Bicknell property.**

Mr. Nadeau was present and asked the Board the following question:

“If Laura Bicknell cuts another lot from her property, could fire protection be a sprinkler system in the home of that lot, or would a water holding tank be required on the property?”

Roger A. stated that another lot separated from this property would require minor subdivision review. Roger stated that a sprinkler system for one home would not be sufficient because it would not take into consideration the other homes within the subdivision.

Roger A. said that in his opinion this subdivision would need to have a water holding tank. Diane S. said that she thought that since other people have discussed the possibility of buying property from Ms. Bicknell, in addition to the lots that have already been sold, she felt that fire protection was necessary. Diane told Mr. Nadeau that possibly Ms. Bicknell could give an easement to the Fire Department to pass over her property to access Square Pond. Diane added that the Fire Dept. would have to approve this. Diane said that if more lots were divided out of the 12 acres, more than one water holding tank would probably be required for the area. Mr. Nadeau stated that he felt an easement would be a hard sell to both Ms. Bicknell and the Fire Dept.

Mr. Nadeau stated that one of the people interested in purchasing a lot from Ms. Bicknell did not plan on building on this lot for at least 5 years. Diane S. said, "That could change." Mr. Nadeau replied, "This is true, however, by requiring this one person to provide fire protection for everyone in the subdivision creates an undue burden. Why should she have to provide fire protection for everyone else?"

Roger said, "She (Ms. Bicknell) is circumventing subdivision by creating lots one at a time instead of all at once." Diane S. added, "Ms. Bicknell is selling the land, the burden of fire protection is on her, not the person buying the lot. She is developer." Mr. Nadeau asked, "Right now there is no fire protection, why should another lot have to provide fire protection for everyone else?" Barbara G. answered, "Because this lot triggers subdivision review."

Mr. Nadeau said again that he felt this was an undue burden. He said he got the impression at the last meeting (Mathew Quinton's lot review, which was part of Ms. Bicknell's property) that the Board was going to require fire protection for any additional lots and he was under the assumption that this could mean a sprinkler system would work. Barbara G. replied, "If a subdivision comes before us and if that developer wants to put a sprinkler system in the proposed houses, we would consider that. But if there are already houses built on existing lots, we cannot require those houses to add a sprinkler system. So in this case it isn't an option."

Mr. Nadeau asked, "A sprinkler system is an alternative method correct (to fire protection)?" Roger stated, "True." Mr. Nadeau asked why this new proposed lot could not have a sprinkler system? Roger answered that it could, provided that Mr. Quinton (already an approved lot in this subdivision) gets a sprinkler system as well, since the house hasn't been built. Roger said that Mr. Quinton's lot was part of this subdivision as well.

Mr. Nadeau stated that he could not see the logic in this reasoning. Roger answered, "The logic is that Mathew Quinton was approved a month ago. At that time we mentioned during the approval process that it would be approved but the Board was reluctant to do so because of the lack of fire protection in the area." Barbara G. and Roger added that it was stated that if there was another division of the property, the Board would impose a requirement for fire protection. Diane S. said to Mr. Nadeau, "You agreed to this and we said it would be the problem of the future applicant, and you said yes it would." Mr. Nadeau said that he thought it would only be a problem for the single lot, and it could be addressed with a sprinkler system. Barbara and Diane both said it was the entire subdivision that needed to be protected, not just the one lot. Roger added that there needed to be a water holding tank in the area.

Mr. Nadeau told the Board that he did not think a water tank was a viable alternative. He felt that in 20 years there would be tanks all over the town that would be failing and he asked who would maintain them? Mr. Nadeau felt the town was "going down a bad road". Roger replied that if the ground would support a pond, that would be an alternative, but in this case it would not so a tank is the best alternative at this time in this area. Diane added that this area was next to the town forest and if there was a fire these homes would need protection.

Mr. Nadeau asked when the last time a home was burned down and destroyed in Shapleigh? Diane S. and Roger A. stated that last year at least two homes were destroyed by fire. Mr. Nadeau asked if these homes were year round residences? Barbara G. replied, "Yes".

Mr. Nadeau asked, "Any further lots divided on this property are going to have to provide fire protection?" Barbara G. answered, "Correct, for the subdivision. The owner of the parent lot, in this case Ms. Bicknell, the seller, must provide the fire protection. She is creating the subdivision."

Mr. Nadeau asked, "What if three more lots came to the Board from a developer of this property, could those lots use a sprinkler system?" Barbara G. answered, "In this case the subdivision is bigger than those three lots, and it would become a major subdivision." Mr. Nadeau stated that it would be a modification of an existing subdivision. Roger A. agreed. Barbara stated that there could be more than one tank required to protect all the lots.

Mr. Nadeau stated that the Quinton and Jones lots were not protected by fire protection. Barbara G. said that the Board could not go back on approved lots and add requirements. The Board could only review what was before it today and look forward. Roger A. said that they did not have fire protection at this time and would not unless a water holding tank was required for future subdivisions in the area.

Mr. Nadeau asked, "So I can come forward with this one new lot with a sprinkler system?" Barbara G. replied, "No, because you are creating a larger subdivision. We only approved the Quinton lot on the basis that with any further division of the Bicknell property, fire protection would have to be addressed for the entire subdivision." Barbara added that basically the Board should have required the tank for Quinton but they didn't. She said, the Board did state at that time that the burden of fire protection would be triggered with any additional division and the burden would fall on the applicant or developer. Mr. Nadeau stated, "Correct." He asked how was one more residence going to affect the entire subdivision? Barbara replied, "A fire protection tank or pond is going to be required so this one lot will protect the others in the subdivision. This additional lot increases the density of homes in the area."

Mr. Nadeau asked, "So if I came to you with a sprinkler system for this lot that would work?" Barbara answered, "If there were no other houses on the lots and you were going to put in 4 houses, the Board could consider a sprinkler system for all the houses of the subdivision." Mr. Nadeau said, "I'm talking about the Bicknell situation. If I come in with two or three more house lots, will a fire pond be required?" Barbara answered, "Correct." Diane S. added that a tank would be required for three or four lots, but if additional lots were to go in, more tanks could be required or larger tanks.

Mr. Nadeau asked the Board what gave the residents in the area the right to benefit from a tank the developer put in? Roger A. replied that the tank was for the health and safety of the neighborhood. Fire protection benefits all those that live on the street. Diane S. asked Mr. Nadeau why wouldn't a person want others to benefit from fire protection? Diane asked, "Would you want to watch someone's house burn down?" Mr. Nadeau replied, "No, they should benefit."

Mr. Nadeau said that he felt the Board was shifting the burden of the cost from the town to the resident. Diane stated, "No, to the developer." Mr. Nadeau replied, "Or individuals, in this case Ms. Bicknell." Barbara G. stated, "We cannot determine who is affected, for example that it will be only developers. The criteria needs to be the same for everyone based on the subdivision ordinance. It isn't based on who is selling the property." Mr. Nadeau still felt the town was shifting the burden. Diane replied, "Ms. Bicknell could have sold all the land to a developer and gotten all her money up front and then the developer would have the burden of the requirements." Diane added that it was Ms. Bicknell's choice in this matter that puts her in this situation.

Mr. Nadeau told the Board that each town seems to have their own ideas on subdivision. In Berwick its sprinkler systems because they have someone on the Board that runs a sprinkler system company. Barbara G. replied, "We don't sell water holding tanks, and we don't sell sprinkler systems."

Roger A. stated that all the small towns are trying to regulate development. The Comprehensive Plan is geared around this. Impact fees are also a consideration to shift the burden that goes along with large development such as the impact to the school systems and services. Roger said that the Board is required to review fire protection and impacts to the schools and has done so for quite some time. He added that it was part of the subdivision ordinance.

Mr. Nadeau stated that this has increased the cost of land in Shapleigh and the surrounding towns. Barbara G. replied that it hasn't stopped development, people keep coming.

The Board reiterated what they had stated earlier in the evening, if this parcel of land is divided again, fire protection will need to be addressed for the entire subdivision. Mr. Nadeau thanked the Board for their time.

**Question from Barbara Gilbride regarding a proposed Growth Permit application from Sandra Sullivan, Map 25, Lot 9A**

Ms. Sullivan spoke with Barbara G. and stated that she owned a piece of property along with her husband, brother and his wife. Ms. Sullivan wanted to apply for a Growth Permit in January 2004. She asked if she could apply for the G.P. along with her husband only? She also asked if she needed a letter from her brother and his wife stating that she and her husband had permission to apply for a Growth / Building permit for this property?

Roger A. and Diane S. both stated that it did not matter who applied for the Growth Permit as long as their name is on the deed. Roger added that should there be an issue it would become a civil matter. Roger did say that it would be good for the record if the Sullivan's were to get a letter stating the other two people on the deed knew about the Sullivan's intent. This could be a benefit to the Sullivan's if there was a dispute in the future.

**Question from Barbara Gilbride regarding a call she received regarding a possible split on a single lot.**

Barbara G. stated that she received a call from a property owner asking if she could divide her property in half. The lot in question is six acres in size with approximately 200 feet of road frontage. The owner would like to divide the property in half. The owner realizes she would have to put in a 50 foot right-of-way to create the necessary frontage for the two lots, and an 18' wide gravel road would have to be created that was up to town standards.

The questions posed were:

- 1) Can this back lot be created if the land is surveyed and a 50 foot right of way is placed on the survey / and written in the deed, and as long as the right of way extends 200 feet into the back lot?
- 2) Does the 18' gravel road have to be put in right away or can the owner wait until he/she is ready to develop the property?

Roger A. stated that the two lots can be created by survey, showing the 50 foot right of way, as long as the survey and deeds are recorded at York County Registry of Deeds. In addition, Roger added that prior to obtaining a Growth Permit or Building Permit, the applicant would have to have the 18' gravel road in and it needed to be approved by the town. Diane S. agreed.

Barbara will contact the lot owner with the Boards opinion.

There were several questions at the end of the meeting with respect to the Goose Pond Subdivision. One citizen asked how the developer, Mr. Higgins, was able to sell lots A & B, as well as the original lots 1 and 2, prior to receiving Planning Board approval for this subdivision.

The original lots 1 and 2 were sold as one lot prior to approval. You can sell one lot, from the parent lot, without going through the subdivision process. This lot can however still be reviewed as part of the original parcel during the review process.

Roger A. told the gentleman that lots A & B were not part of the subdivision because a road divided them from the parent lot. Roger stated that this was part of the subdivision ordinance, that these lots did not have to be counted as part of the subdivision because of that road.

The citizen wanted to know “what was this roadway”? He stated that he has lived in that area since 1974 and was unaware that any road existed as stated by Mr. Higgins on shown on his plan. Barbara G. and Diane S. also questioned Mr. Higgins at a previous meeting as to what this road was called. Initially Mr. Higgins had stated it was Evergreen, but when Diane S. pointed out the fact it was not, Mr. Higgins did not have an answer for the Board.

Roger A. reviewed the deed for the parcel of property. After reviewing the deed, using the description in the deed along with the plan presented to the Board, Roger stated that this road was referenced in the deed and known as Camp Road. Roger said that because this road is referenced in a recorded deed, the Board will use that as fact that this indeed is a road, even though it may not be a town road.

Nothing further was discussed. The Board will review the Goose Pond Subdivision again on Tuesday, November 25<sup>th</sup>.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

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***The Planning Board meeting ended at 9:00 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, November 25, 2003***

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

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**The Planning Board meeting started at 7:35 p.m.**

**The minutes from Wednesday, November 12, 2003 were accepted as written.**

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

### **4-Lot Subdivision – “Tranquil Breezes” – David Dubois & Linda B. Chadbourne – Map 11, Lot 10 (Newfield Road)**

Mr. Andrew Nadeau of Corner Post Land Surveyors contacted Barbara Gilbride at approximately 4:30 p.m. today and stated that at this time Mr. Dubois has decided not to go forward with the subdivision application. The Board will keep the information received to date on file should Mr. Dubois pursue this option in the future.

### **Conditional Use Permit – In-Home Day Care – Carole Steele – Map 3, Lot 41C (356 Hooper Road)**

Ms. Steele was present at the meeting to discuss her application for an in-home day care for up to 8 children. Ms. Steele had previously been before the Planning Board in September of this year. During the meeting in September the Planning Board noted that Ms. Steele could not meet the minimum site distance requirement for her existing driveway. The Board was very concerned that parents dropping off or picking up their children could get into a serious accident. Therefore, the Board suggested Ms. Steele hire an independent qualified individual to calculate the site distances and / or come up with another location for the driveway that would meet code. The item was tabled until more information was brought before the Board.

In October of this year, the Code Enforcement Officer, Steven McDonough, was informed that Ms. Steele was in fact operating the in-home day care without an approved Conditional Use Permit. Steve sent a Notice of Violation and Order to Correct Violation to Ms. Steele on October 21, 2003. The order stated that Ms. Steele had to cease operation and comply with the requirements of a Conditional Use Permit.

Ms. Steele presented a letter from Andrew Nadeau of Corner Post Land Surveyors, Inc. which stated the following:

“We have measured the site distances at your property located on the Hooper Road. The measurements were made near the top of the hill, where you are considering placing a new driveway entrance to connect to the existing driveway located further down the hill. The site distances obtained from this location were as follows: Northerly, 423 feet more or less, Southerly, 343 feet, more or less. The site distance in the southerly direction is subject to the removal of two oak trees located adjacent to your lot frontage.”

Ms. Steele gave the Board a sketch which depicted the new driveway as described in the letter from Mr. Nadeau. Ms. Steele stated that she would use directional arrows to make certain automobiles pulled into the parking area from the lower end of the driveway, which may not meet the site distance criteria, and exit out of the driveway at the upper end of the driveway, which will meet the criteria. (The minimum site distance requirement at 35 mph is 245 feet per the ordinance.)



Ms. Steele told the Board she had contacted the State Dept. of Transportation with respect to possibly lowering the speed limit on the Hooper Road to 25 m.p.h. Ms. Steele said that the State was reviewing her request but they did not say what their decision would be.

Roger A. asked Ms. Steele about the steep embankment on her property, what was she going to do to protect children from getting hurt on the existing cement / rock fill in this area? Barbara G. expressed concern with the proximity of the play area to the parking area.

Ms. Steele gave the Board pictures showing a fence that she has put up which will keep children from both the parking area and the embankment. The fence was made of a wire mesh attached to steel rods, and is marked with pink survey tape to make it more visible. The Board felt the fence was adequate.

Barbara G. asked Ms. Steele what her hours of operation would be. Ms. Steele stated, 6:30 a.m. thru 5:30 p.m., Monday thru Friday.

Roger A. asked the Board if there were any further questions from the Board and there were none. As a note, Ms. Steele's home has been approved and permitted by the State.

**Roger 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, bird or other wildlife habitat. ***This project will not have an adverse affect on fish or other wildlife. Very little area has been disturbed on site.***
- 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 promotes home businesses in Shapleigh.***
- 4) Traffic access to the site is safe. ***The access will be safe once the measures are taken as written by Corner Post Land Surveyors, i.e. driveway location will be expanded to include an exit area, two oak trees will be removed.***
- 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. ***Solid waste will be removed per the applicant. There is an existing approved septic system on site.***
- 7) Adequate provision for the transportation, storage and disposal of any hazardous materials has been made. ***There are none 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, the home is in existence.***
- 9) Adequate provisions to control soil erosion and sedimentation have been made. ***The vegetation in the surrounding area is not being disturbed. Any fill added to the site will be loamed and reseeded. The home is in existence.***
- 10) There is adequate water supply to meet the demands of the proposed use, and for fire protection purposes. ***The site has been approved by the State as having an adequate water supply and adequate fire protection. There is a fire pond in near proximity.***
- 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. The neighbors stated they had no objection with the location of the children's play area.***
- 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 open an in-home day care with a maximum of eight children, with the stipulation no children shall be cared for until all provisions have been implemented, which includes the following:**

- 1) *The driveway shall be extended and exit near the top of the hill as indicated in the letter received by Corner Post Land Surveyors, Inc. dated 11/4/03.*
- 2) *The two oak trees located adjacent to the lot frontage, which currently block part of the site distance, must be removed.*
- 3) *There shall be signs placed to direct traffic in one direction, entering onto the lower half of the driveway and exiting at the top of the hill. Signs to be approved by the Code Enforcement Officer.*
- 4) *The hours of operation shall be 6:30 a.m. thru 5:30 p.m., Monday thru Friday.*
- 5) *The fence to protect the children from the parking area and steep embankment shall remain in place at all times for the protection of the children.*

**John C. 2<sup>nd</sup> the motion. All members were in favor.**

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**Best Possible Location – Robert F. & JoAnn E. Conlon – Map 25, Lot 25 (187 23<sup>rd</sup> Street Loop)**

Mr. and Mrs. Conlon were in attendance. Mr. Conlon told the Planning Board they were present because they wanted to complete the foundation under the existing house as well as add two additions to the home. One addition will be 4' X 35' along the rear of the home, facing the road. The second is an 8' X 8' addition to the kitchen. This addition is on the side of the home and is approximately 150 feet from the side lot line.

The Conlon's had pictures for the Planning Board to review which showed the existing foundation is only under half the home. In addition to the pictures, the Board received a letter which stated that Mr. Murray Greenleaf had been the contractor who updated their septic system when they purchased the property in 1983. The Conlon's at this time could not locate the septic design they had received. In addition, a copy of the original purchase and sale agreement was received which stated that the "buyer shall have the ability to obtain, at its expense, all necessary permits to install a new septic system". A copy of the paid plumbing permit slip from 8/4/83 was also received.

The sketch presented showed the back of the existing building to be no more than 36' from the septic / parking area. It did not show how far the back of the building was from the road. The Planning Board told the Conlon's that if this building did not meeting the current setback requirement of either 75 feet from the center of the road or 50 feet from the side of the road, whichever is greater, the Board would not be able to allow the proposed 4' X 35' addition they were requesting. John C. stated that the Planning Board could not make a lot more "non-conforming". Mr. Conlon thought that the building was less than 75 feet from the side of the road but he would remeasure and have that information for the Board's next meeting.

Mr. and Mrs. Conlon asked if they would be able to get a variance if in fact the back of the proposed addition could not meet setbacks. John C. said, "Yes, you could try." Roger A. agreed but stated that a variance was granted on the basis of a "hardship" and he did not think that their wanting to add onto their home for more space would be considered a hardship. He wanted them aware of that criteria. Bill H. asked Roger if the Board had any authority to grant a variance? Roger stated the Board did not. Madge B. concurred with Roger.

John C. asked the other Planning Board members what their interpretation was of the following ordinance:

- 105-4(3)      “Construction or enlargement of a foundation beneath the existing structure shall not be considered an expansion of the structure, provided that:
  - (b)      The completed foundation does not extend beyond the exterior dimensions of the structure; and”

Steve M., CEO, stated that the purpose of this ordinance was to disfavor subterranean garages and/or homes. If the Board allowed foundations to be extended, people would use this to circumvent the 30% expansion rule. Steve felt that you would see “living space” in these expanded areas.

John C. asked Mr. Conlon how high the existing foundation was? Mr. Conlon stated that it varied in height due to the slope of the land. He stated that John might be able to get an idea if he looked at the pictures provided.

John C. asked if the proposed addition to the foundation would be a poured concrete foundation. Mr. Conlon stated, “Yes”. Bill H. asked if the new foundation would be full height? Mr. Conlon stated that it would. John asked if there would need to be some excavation under the home. Mr. Conlon said, “Yes”.

The Planning Board told the Conlon’s that the proposed 8’ X 8’ structure would probably be allowed but until they knew the exact distance between the road and the proposed rear addition, the Board could not make a decision on the 4’ X 35’ addition.

Roger A. asked the Planning Board members if they wanted to do individual site inspections or go as a group? Barbara G., Diane S. and Bill H. stated they would go during the daylight together. Roger stated that all others could go on an individual basis due to the light constraints this time of the year.

This item will be placed on the December 9<sup>th</sup> agenda. A Notice to Abutters will be mailed.

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**3-Lot Subdivision – Thomas & Barbara Worster – Map 6, Lot 29 (Owl’s Nest Road)**

Mr. and Mrs. Worster were in attendance to review their application.

Mr. Worster showed the Planning Board a plan which depicts the mother lot as being 151.54 acres in size. This lot is where Mr. Worster has his residence. The second lot on the plan is approx. 3.32 acres in size and is also owned by Mr. Worster. Currently a relative lives in the house on this lot. The third lot, and the reason Mr. Worster is before the Board this evening, will be approx. 3.77 acres in size, and will be gifted to the Worster’s son.

At the previous meeting in which this application was discussed the Planning Board members were uncertain as to whether or not this was in fact a 3-lot subdivision, due to the fact that the applicants were going to gift the third lot to their son. Mr. Worster, after consulting with his attorney, faxed the Planning Board a copy of the current subdivision rule which reads as follows:

“D-4 A division accomplished by gift to a person related to the donor of an interest in property held by the donor for a continuous period of 5 years prior to the division by gift does not create a lot or lots for the purposes of this definition,....”

This being the case, both Mr. Worster and the Planning Board agreed this was indeed a 3-lot subdivision and must be reviewed as such by the Board because the Worster's have owned the parent lot less than 5 years.

Mr. Worster stated to the Planning Board that the third lot had already been pinned with rebar by the surveyor. Mr. Worster also said that the test pit was scheduled to be done, and its location along with the soils report would be given to the Board at the next review.

Mr. Worster spoke of plans to create a fourth lot in the future. He asked Planning Board members how this lot would be reviewed? Roger A. replied that it would be an amendment to a subdivision. Mr. Worster asked if the lots approved at this time would be grandfathered should the minimum lot size requirement be increased in the future? (Currently the minimum size lot allowed is 80,000 square feet. The applicant's lots all exceed this minimum.) The Board stated that yes these lots would be grandfathered. Roger told Mr. Worster that the town at this time has not proposed a minimum lot size increase. That would not take place until a new Comprehensive Plan was voted on and approved by the town. Also, the voters would have to approve a change in the minimum lot size requirement.

Roger A. stated that the Planning Board would need the septic / soils information for the existing lots. Barbara G. stated she would get that information from the CEO's file.

John C. asked Mr. Worster if he would place the proposed driveway location on the final plan. Steve M., CEO, stated that Mr. Worster should probably discuss this with the Road Commissioner prior to making the decision; otherwise he may have to move the driveway. Mr. Worster agreed stating that had already happened to him when putting in his home.

Roger A. asked about fire protection for these lots. Mr. Worster stated that he was in close proximity to the dry hydrant in the town pond. The Planning Board suggested he ask Gary Utgard, the Fire Chief, to get his opinion on this matter. Mr. Worster did state that when he further divided this property he was going to put in a fire pond since there was already a very wet area on his lot and it would sustain a pond easily. Many of the Board members knew the property and agreed that a fire pond would probably work in this location.

Mr. Worster asked for the following waivers:

- 1) 89-29. Underground utilities. There are existing poles at the roadside that can be easily accessed by this additional lot.
- 2) 89-30. Stone monuments. There is already rebar in place marking the boundary of the proposed third lot and existing lots.

Mr. Worster asked what he needed to bring to the next meeting. The following is a list of items:

- 1) Test Pit location must be placed on the final plan for the proposed third lot.
- 2) Soils / septic report for the third lot.
- 3) Septic / Leachfield location must be placed on the final plan for the applicants existing home.
- 4) Deed restrictions must appear on the final plan if the applicant wishes the Town of Shapleigh to enforce the restrictions.
- 5) Proposed location of driveway for the third lot must be placed on the final plan. The Board suggests the applicant contact John Burnell, Road Commissioner, to ascertain the best location for the driveway.
- 6) Copy of deed for the property.

(The above items may not be all inclusive. The Board will review Subdivision of Land, Chapter 89, for the Town of Shapleigh, and they may require further information prior to final approval.)

Roger A. reminded Mr. Worster that the final plan needed to be mailed to all Planning Board members seven days in advance of the meeting he wished to attend. Mrs. Worster suggested the Planning Board schedule the next review for Tuesday, December 23<sup>rd</sup>, so they could be sure to have all the necessary information for the Board mailed in time. The Board members agreed.

The Public Hearing and Notice to Abutters will not take place until the Planning Board is certain they have a completed application.

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**7-Lot Major Subdivision - "Goose Pond Overlook" – Northwoods Land Company of Maine, LLC, Craig Higgins Representing – Map 7, Lot 5 (Hodgdon Rd., Rte. 11 & Dogwood Rd.)**

John C. was not a voting member on this project, due to the fact that the company he works for has done business with Mr. Higgins in the past. Madge B. is a voting member for this discussion.

Mr. Higgins was present and presented the Board members with a package which consisted of a new plan showing test pit locations for lots 5 and 6, along with the soils information. Also presented was a letter from Three Rivers Land Trust to Mr. Higgins along with a sample copy of the proposed Conservation Easement for the lot to be donated for the protection of the Blanding's turtle.

Mr. Higgins had a copy of preliminary plans for both Hodgdon Road and the subdivision road to be named on his plans "Totte Lane Extension" (spelled on the plan Toddy), which included topography, for all members as well.

Mr. Higgins stated that he realized the Planning Board had not had time to review this material so there could be no decisions made as to whether or not the application was complete, but Mr. Higgins did want to do a brief overview. The Board allowed Mr. Higgins to continue.

First, Mr. Higgins spoke of the Conservation Easement, drafted by Madge Baker of the Three Rivers Land Trust. He stated that the MDIFW did not want to hold title to the land, nor be responsible for the oversight of the area. He said that MDIFW had suggested the Town of Shapleigh and Three Rivers take ownership and both be responsible for the monitoring of the area. In addition, he stated that Three Rivers was asking for a donation of \$3,000 as part of their Stewardship Fund. This money can be used in the future for either needed work on the property, cost associated with monitoring of the property, or possible legal cost associated with defense of the easement. Mr. Higgins stated he did not see a problem with this donation and felt the applicant would be willing to make this contribution.

Mr. Higgins then discussed the Plan and Profile for both Hodgdon Road and the subdivision road, currently named on the plan as "Toddy Lane Extension". Mr. Higgins explained that on the plan the gray dashed line was the location of the existing roads and the red line would be the constructed road profile. In addition, the plan shows the proposed location of culverts that will be placed on site. Mr. Higgins explained the size of the culverts would accommodate a 100 year storm management plan, vs. the required 25 year storm. In other words, the culverts will be larger than what the minimum requirement is for the Town of Shapleigh.

Mr. Higgins pointed out that each subdivision road will have one hammerhead turnaround. The location of the turnaround on the Hodgdon Road is going to be on Lot 2, and the turnaround on Toddy Lane Extension is going to be on Lot 5. The Board asked why these turnarounds were not at the end of the subdivision roads? Mr. Higgins stated that on the Hodgdon Road, it was a matter of suitable topography. On Toddy the turnaround was placed at the property line. Mr. Higgins also added that snow plowing could stop prior to the end of the established roadways, just after the last driveway. By placing the turnarounds prior to that last driveway, he felt they were more likely to be plowed out. The Board agreed.

Mr. Higgins told the Board that the applicant would be requesting a waiver for Stone Monuments (Article 89-10) and Sidewalks (Article 89-36.M). None of the members thought there would be a problem with either waiver. The Board did stress the markers needed to be deep enough into the earth that vandals could not easily remove them.

Mr. Higgins stated that the length of road to be improved on the Hodgdon Road was 1,155 feet and Toddy Lane Ext. was 940 feet. Both roads will be upgraded to the gravel standard as laid out in the Subdivision Ordinance and he added that Hodgdon Road will be paved for the first 200 feet. Mr. Higgins was proposing a performance guarantee of \$60,000 for infrastructure improvements to be made payable to the Town of Shapleigh. Mr. Higgins stated that because of the existing soils on the road, he felt that he would be able to make the necessary improvements for approximately \$25 a linear foot. Mr. Higgins would like to be able to incrementally withdraw part of this money as roadwork progresses for the project. Roger A. asked Barbara G. to pose Mr. Higgins proposal to the Board of Selectmen to get their opinion. Roger would also like a Board member be required to sign for release of any monies, after conferring with the Road Commissioner (in this case John Burnell at present) to be certain the road is in fact up to town standards, prior to releasing any funds.

Roger A. asked Mr. Higgins how fire protection would be addressed? Roger stated to the Board that lots 1, 2 and 3 should not have a problem, as they are in close proximity to the water holding tank located at Kettle Pond Resort. Bill H. asked Roger if the tank at Kettle Ponds belonged to the Town of Shapleigh? Roger stated the town did not own the tank but had an easement to use it and had to maintain it. Roger told Mr. Higgins he should speak with the Fire Chief to determine what would work best for lots 4, 5 and 6. Barbara G. stated she would give Mr. Higgins the Fire Chief's phone numbers if he did not have them.

Madge B. discussed the Memo from Phillip deMaynadier dated 11/19/03 regarding the Conservation Easement proposed by Three Rivers Land Trust as well as the Findings of Fact for the Subdivision. The memo states that MDIFW "prefers not to hold title to or easement for the 30-acres open space reserve". The memo also states that MDIFW "cannot commit to monitoring responsibilities for the Blanding's Turtles...due to staff and financial constraints". Madge stated that Three Rivers was discussing that perhaps there is a way that both the Town and Three Rivers can come up with a system to monitor the area? Madge said that Three Rivers is currently in discussion with the Town over all the issues surrounding the Conservation Easement.

In the memo MDIFW "recommends the Town establish a formal means for monitoring and enforcing compliance with terms of the subdivision permit as they pertain to areas outside of the 30-acre open space reserve – mainly ensuring a) the unimproved condition of Hodgdon Road, b) that building envelopes (house, drive, yard, septic, etc.) remain less than 40,000 square feet, c) that 100 ft. riparian buffers are maintained, and d) that no fertilizer containing phosphorus be used within 250 feet of any water body or wetland. Consider who will enforce compliance on these matters and whether current penalties provide sufficient incentive for compliance".

There was much discussion as to who and how this area is to be monitored. John C. stated that after the final plan is submitted, showing exactly what area can be cleared and what cannot, the Code Enforcement Officer could be the one to monitor the building site. Steve M., CEO, stated that if he is in office he would know that this development needed careful monitoring but what if there was a new CEO? This could be overlooked. In addition, unless the building envelope is clearly marked on site, Steve himself may not know *exactly* where it is located. Bill H. was also concerned with after-the-fact clearing. Bill stated that it was very possible a land owner could clear an 80,000 square foot area prior to obtaining a building permit. Mr. Higgins stated that when someone buys a lot, they will be given a clear idea of the building restrictions on the lot. Mr. Higgins also added that five of these lots are in the Shoreland zone so the CEO should have an

idea that there are restrictions already in place just by way of the zoning. Steve did agree, that as a CEO he does monitor the Shoreland area to be certain no cutting is taking place within the buffer zone without a permit.

The Planning Board asked Mr. Higgins if he would put the deed restriction, with respect to the building envelope, in the final deeds? The Board felt that during the Growth Permit process the Board could remind the applicant of the restrictions, as well as remind the CEO of the building restrictions. Barbara G. reminded the Board that at times they had only the Purchase and Sale Agreement to review, not the deed. Mr. Higgins stated that he has been working with deed restrictions for years and there is no perfect way to monitor or be certain all people abide by them. Mr. Higgins stated that the hope was that 4 out of 5 would do as written on the plan and/or deed, etc.

The Planning Board asked Madge B. if she thought Three Rivers Land Trust would be able to monitor the area closely and she stated that they did not have the time or staff numbers to do so.

John C., as a member of the audience, spoke to the Planning Board about possibly having the plan, which included the deed restrictions, placed with the town's maps. For example, Map 7, Lot 5, could say see "Map 7A". The next page could be "Map 7A Lot 5" and it would show all lots as approved on the final plan of the subdivision. On this map you would see the building envelopes. This would at least give both the Planning Board and Code Enforcement Officer the information necessary for a proper review. Board members and Mr. Higgins thought this would give greater access to the information for each approved subdivision from this time forward. This is something that can be discussed with the Assessor, Ruth Ham, to see if she felt this was possible. John stated that other towns are doing this and it seems to work well.

With respect to the issue of fertilizer, neither members nor Mr. Higgins knew of a way to be able to monitor that aspect of the restrictions. No one can be on site 24 / 7. Several members thought this would probably be monitored by abutters complaints.

The last item discussed from Mr. deMaynadier's memo was, "...for the purposes of aiding landowner compliance and town enforcement of items c and d above, MDIFW recommends that the developer mark trees (paint or small signs) at the 100 and 250 foot contours. Also consider whose responsibility it will be to maintain such marks in perpetuity". Mr. Higgins stated that the applicant planned to clearly mark the buffer areas. Mr. Higgins stated that any trees would probably be slashed and painted with orange paint. Roger A. stated that the paint would probably dissipate within a few years and other Board members noted the lack of trees in the area. Mr. Higgins stated that there would be pins placed in the ground at the 100 foot mark. Steve M. was concerned that people would remove these pins and place them closer to the waters edge. Mr. Higgins stated that this was possible but because of the many pins on lot corners, measurements could be taken to ascertain if any of the buffer zone pins had been moved. John C. also added that the new pins are very often placed six feet into the ground and are not easily removed.

The Planning Board asked Mr. Higgins if he could produce a copy of the proposed deeds for these lots and he stated he would.

Madge B. asked Barbara G. if the issue of turtle road signage was added to the Specific Findings as requested in the memo from MDIFW? Barbara stated that the addition had been made. The memo also spoke of the "appropriate language" for the signs as well as the exact number of signs and locations. Mr. Higgins stated he would speak with Mr. deMaynadier about the signage.

Nothing else was discussed at this time. This item will be placed on the next agenda for Tuesday, December 9<sup>th</sup>.

**OTHER**

**Memo / Question from CEO regarding Dennis Merrow, Map 2, Lot 47B**

Steve M. asked the Planning Board to review a proposed project by Dennis Merrow. Mr. Merrow would like to put an addition onto his existing garage. This garage is currently an approved body shop. Steve would like to know if this addition is an amendment to a Conditional Use Permit or if he need only go to Steve as a CEO for a building permit? Steve noted that Mr. Merrow stated this addition would be for personal use.

At the previous P. B. meeting, Roger A. told Barbara G. and Diane S. that this gentleman was a neighbor and he did not feel he could make a decision on this question. Roger wanted both Barbara and Diane to know that this application when approved, had strict guidelines with respect to the number of vehicles on site and what could take place on site. Roger stated that the Board should review the file on this application as well as the minutes from the meeting, prior to making a recommendation. Madge B. at this evenings meeting agreed with Roger stating the Board had placed a lot of restrictions / conditions on the approval of this permit. Barbara G. pulled the file for members to review.

While members were reviewing the file, Roger A. told the members that there had been a land discrepancy with this lot. Mr. Merrow had bought the property from PATCO and thought he had purchased 80,000 square feet. When a neighbor did his boundary survey, it was discovered at that time Mr. Merrow had less than 80,000 square feet per the survey. Roger stated that if this is still the case the Board shouldn't allow more buildings on site due to the fact this would be a non-conforming lot.

The Board looked at Mr. Merrow's building plans and noted that the addition would not be to his personal garage, but an addition to the body shop per the plan submitted. The Board therefore felt that this would require an application for an amendment to a Conditional Use Permit.

In addition, the Board decided that if Mr. Merrow comes back before the Board he would have to bring a copy of his deed as well as a copy of a certified plan showing that he did indeed have the necessary 80,000 square feet necessary to be a conforming lot. Madge B. asked Barbara G. to have a copy of all minutes regarding Mr. Merrow's application for members to view, should he come back before the Board. (Barbara made a copy of all minutes and they are in his C.U.P. file.)

In conclusion, it is the Board opinion the addition to the body shop, per the plan presented, would require an application for an amendment to a Conditional Use Permit. Nothing further was discussed.

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**Memo from Barbara G. regarding the Town's Gravel Pit**

Karla Bergeron, the Executive Secretary for the Board of Selectmen, asked the following of the Planning Board:

- 1) Did the Planning Board intend that the gravel from the pit be used only for town owned property such as the town maintained roads, town office parking lot, gravel pit entrance and/or roadway for the transfer station; or was it the Board's intention to make certain general contractors do not use the gravel from the pit for business purposes?
- 2) The Baptist Church would like to use the gravel from the pit to sand their parking lots. The Board of Selectmen want to know if the Church would be able to use the gravel (a small donation would be made to the Town) or would this be considered a commercial use?
- 3) What specific uses of the town's gravel pit would trigger the need for a Conditional Use Permit?
- 4) What type of information, in addition to the Conditional Use Permit application itself, would the Town have to supply to obtain approval for a permit?



Roger A. began by giving the Planning Board members a brief background on the gravel pit. In the past the decision was made to have Conditional Use Permits for gravel pits in effect for three years (Ordinance 105-39.J). At the end of the three years the person owning the gravel pit could come before the Planning Board for renewal of the existing permit. If the permit was not renewed within one year, the owner would have to reapply for a Conditional Use Permit, with all the requirements of that permit process. The town's gravel pit did not get renewed at the appropriate time and thus the site can only be used in this case for "the removal and filling or transfer of material incidental to construction, alteration or repair of a public road or essential services". Roger added that at that time the road commissioners did not think it was necessary to renew the permit because the gravel was only being used for town roads. Roger stated that it would be in the Town's best interest to maintain the C.U. permit so that any use of the gravel pit would be allowed, including the sale of gravel.

Bill H. asked what had precipitated the questions regarding the gravel pit? Barbara G. and Diane S. stated that last year Mr. Hannon had asked if the gravel pit was being used for commercial purposes and if so didn't they need a C.U.P.? At that time Roger A. wrote a letter to the Board of Selectmen stating that if "all gravel removed from this location is used for public roads or essential services, no Conditional Use Permit is required". Barbara G. stated that the Board of Selectmen want the Planning Board to once again state the intentions of the gravel ordinance and what can and cannot be done with gravel from the pit.

Roger A. read to the Planning Board members Shapleigh Zoning Ordinance 105-39.F and G in their entirety. This clearly laid out the application process as well as what the applicant, in this case the Town of Shapleigh, would need if they decide to pursue a C.U.P. It reads as follows:

- F. Application for permit. Application for a permit from the Planning Board for excavation, processing and storage of soil, loam, gravel, rock and other mineral deposits shall be accompanied by a plan which shall show:
  - (1) The name and current address of the property involved.
  - (2) The location and the boundaries of the lot or lots for which the permit is requested.
  - (3) The location of all proposed access roads and temporary structures, and the sight distances from all entrances and exits.
  - (4) The proposed provisions for drainage and erosion control. Including drainage calculations.
  - (5) Other information necessary to indicate the physical characteristics of the proposed operation, including existing topography and the proposed horizontal and vertical limits of the excavation or filling and proposed reclamation measure (grading, loaming, seeding, mulching, planting, etc.)
- G. Conditions of permit. The Planning Board may issue a permit, provided that the following conditions shall be met:
  - (1) The smallest amount of bare ground shall be exposed for the shortest time feasible. The Planning Board shall set a specific date after which bare ground shall not be exposed.
  - (2) Temporary ground cover (such as mulch) and temporary runoff filter (such as hay bales in swales) shall be used as required to prevent stream sedimentation. The Planning Board shall set a specific date by which permanent ground cover shall be planted.
  - (3) Diversions, silting basins, terraces and other methods to trap sediment shall be used.
  - (4) Lagooning shall be conducted in such manner as to avoid creation of fish trap conditions. The applicant shall submit written approval from the Department of Marine Resources or Department of Inland Fisheries and Wildlife, as applicable, prior to consideration by the Planning Board.

- (5) The extent and type of fill shall be appropriate to the use intended. The applicant shall specify the type and amount of fill to be used.
- (6) Fill shall not restrict a floodway, channel or natural drainageway.
- (7) The sides and bottom of cuts, fills, channels and artificial watercourses shall be constructed and stabilized to prevent erosion or failure. Such structures are to be designed and built according to the Maine Soil and Water Conservation Commission, Technical Guide, Standards and Specifications.
- (8) Where activities carried out under this article require the removal of existing ground cover, revegetation should be carried out.
- (9) (Reserved)<sup>12</sup>
- (10) Specific plans are established to avoid hazards from excessive slopes or standing water. Where embankment must be left upon the completion of operations, it shall be at a slope not steeper than one foot vertical to four feet horizontal.
- (11) No excavation shall be extended below the grade of an adjacent street, except for drainageways, unless 100 feet from the street line. No excavation below the grade surrounding land shall be allowed within 100 feet of any side or rear lot line. However, removal of earth material deposits from hills or knolls may be allowed within 50 feet of a site or rear lot line if no excavation below the grade of abutters' properties occurs.
- (12) Sufficient topsoil or loam shall be retained to cover all areas, so that they may be seeded and restored to natural conditions.
- (13) No existing rock gravel or sandpit will be extended or expanded until the operator has complied with the provisions of this chapter and obtained a permit therefore.

Barbara G. asked the Planning Board if they felt it would be in the town's best interest to get a Conditional Use Permit? She felt it was in the towns best interest because the town could make money from the site, and they could use the gravel in any manner they felt necessary. The Planning Board agreed. John C. asked who would set the price of gravel from the site if it was sold? Roger A. stated the Board of Selectmen.

Bill H. had stated in the past and this evening that he was very concerned with the slope of the land in the gravel pit and its instability. His fear was that one day an ATV user, which are frequently in the pit area, will get hurt and the town will be liable. Bill also spoke of the necessity of signs stating something like "use at your own risk" or "keep-out, town property" as a minimum. Bill said that without the signs he feels the town is opening themselves up to the possibility of law suits. He added that it currently is a dangerous area. John C. agreed. John also stated that the entrance/exit to the pit was dangerous. The pit is higher than the road and when the trucks leave the area, a lot of the sand exits onto the road, making a dangerous situation.

The Board concluded with the following:

- 1) For any use of the gravel pit other than the "alteration or repair of public roads or essential services" there will be a Conditional Use Permit required.
- 2) The sanding of the Baptist Church parking area would be considered a commercial use (the church is not an essential service), regardless of monies involved, therefore, it is not allowed without an approved C.U.P. for the gravel pit.
- 3) The information necessary for a Conditional Use Permit is spelled out in Ordinance 105-39 "Earth removal and filling".
- 4) Any local engineering firm could create the necessary plan and gather the necessary information for the permitting process. State permits are not necessary due to the small size of the area involved. (Per the letter received by Carl Robinson from Donald Kale, DEP, dated 2/5/03, stating due to the size and location of the borrow pit, it does not require a permit under the Site Location of Development Act (38 M.R.S.A. Sections 481-490), the Shoreland Zoning Law (M.R.S.A. Section 483-A (1)) and the Erosion and Sedimentation Law (M.R.S.A. Section 420-C).)

Nothing further was discussed.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

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*The Planning Board meeting ended at 9:50 p.m.*

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

[planningboard@shapleigh.net](mailto:planningboard@shapleigh.net)

# **SHAPLEIGH PLANNING BOARD MINUTES**

**Tuesday, December 9, 2003**

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

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**The Public Hearing Began at approximately 7:10 p.m. The following items were reviewed:**

**Proposed Changes to the following Ordinances:**

## **89-14. Procedure**

B. *Upon submission of the application* All applications for final plan approval for minor subdivision, *the applicant* shall be accompanied by *submit* a nonrefundable application fee of \$200, plus a fee of \$50 per lot, payable by check to the Town of Shapleigh.

(1) *Upon submission of the final subdivision plan, the applicant shall submit a nonrefundable fee of \$50 per lot, payable by check to the Town of Shapleigh.*

Roger explained to the Townspeople in attendance that this change to the ordinance for "Minor Subdivision" was taking place in order to divide the monies collected between the initial application fee and a fee payable upon submission of the final plan. Currently all monies are collected upon submission of the final plan. John C. explained that if the applicant, after initial review, did not pursue the application process, the town would have expended money without receiving any monies from the applicant. Thus the town was incurring cost during the preliminary application phase of the project and there was no way to recoup this money. With the proposed change in the ordinance there will be money given to the town up front to defray the initial cost that goes along with review of the application.

There were no questions from the audience.

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## **89-18. Procedure**

B. All applications for final plan approval for major subdivision shall be accompanied by a nonrefundable application fee of \$100 \$200 per lot or dwelling unit payable by check to the municipality. If a public hearing is deemed necessary by the Board, an additional fee may be required to cover the costs of advertising and postal notification.

Roger explained to the Townspeople that the increase cost in postage and time incurred by the Secretary, etc. for major subdivision was the reason for the increase in the application fee for "major subdivision" review.

There were no questions from the audience.

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## **105-4. Nonconformance**

*(c) All approved plans shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the Planning Board.*

Roger A. explained that this section was added to "Nonconforming" lots, because in many instances, while

reviewing an existing structure in the Shoreland zone, the applicant is either unsure of the exact boundary line location, or pins depicting boundaries have been moved. The Board has no way of knowing, when trying to decide the best possible location for a structure, where the boundaries are or if the Board has received correct information. This addition will not only protect the Planning Board by assuring action taken is proper based on the applicant's plans, but it will protect the applicant in the future should a neighbor disagree with the Board's decision. Steve M., CEO, agreed stating that this should help limit errors with property lines and setback issues.

One Citizen felt that asking an applicant to do this was "over-kill", and an unnecessary expense to the applicant.

John C. explained that very often deeds do not show meets and bounds (exact measurements and locations of property lines); only names of abutters at the time the deed was drawn are mentioned. This makes it very hard for the Planning Board or the applicant to know exactly where the boundary lines are. John also stated that in order to find the centerline or edge of an existing road can be difficult on many of the gravel roads. Charles Gruber, a member of the audience, agreed stating that the contour of a road and the centerline of the road can change over time from where it was originally located.

Steve M. stated that this item deals with the relocation of non-conforming structures only. It does not apply to all building setbacks. If an applicant can easily meet the current setbacks, this item would not be an issue. It only applies when there is an issue where setbacks cannot be met or it is questionable.

Bill H. asked the Board to clarify that a site survey would be required if the Planning Board wants to relocate a non-conforming house. Roger A. stated, "Exactly".

Steve M. added that with respect to the Planning Board review process, nothing was going to change with this addition to the ordinance. What this addition does, is when the CEO issues a building permit, he/she will know exactly where the structure will be located and that it is per the approved plan.

There were no further questions.  
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#### **105-72. Appeal procedures.**

- L. All variances granted relating to setbacks shall require confirmation in writing by a licensed surveyor that the placement of the structure is correct per the specifications approved by the variance.*

Roger A. explained this addition was for the same reason as for a non-conforming structure. Roger asked if there were any questions. There were none.  
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#### **105-27. Erosion control.**

Erosion of soil and sedimentation ~~of watercourses and water bodies~~ shall be minimized by employing the following "best management" practices:

Roger A. stated this change was just to further clarify the ordinance. Best Management Practices "BMP" are always required in locations where erosion could be an issue, not just in areas where a water body is located. Roger asked if there were any questions. There were none.

§ 105-44. Piers, docks and other shoreland construction.

- (a) The Planning Board ~~shall~~ **may** seek comment from the Department of Inland Fisheries and Wildlife in evaluating such application.

Roger A. explained that this change was made in concurrence with the MDIFW. The Planning Board contacted them and asked if they wanted to review “all” Conditional Use Permits for Shoreland construction. MDIFW stated that they only needed to do a review if the Planning Board felt it was warranted that MDIFW aid the Planning Board in the review process.

Roger asked if there were any questions. There were none.

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§ 105-47. Signs and billboards.

A. General. Billboards are prohibited in the Town of Shapleigh in all zones. The following provisions shall apply to signs in all districts where permitted:

- (1) ***With an approved Conditional Use Permit, a maximum area of 32 square feet per sign, with up to two signs permitted per premises, shall be permitted. one free standing sign shall be permitted per lot.*** The free standing sign may not exceed 32 square feet in area. The sign may be double-sided with equal and parallel sides which would be counted as a single sign, with each face having no more than 32 square feet in area. [Amended 3-12-1994 ATM by Art. 41]
- (2) ~~(Reserved)~~<sup>2</sup> ***There shall be one sign attached to the building allowed per approved Conditional Use, each sign not to exceed six (6) square feet in area. The combined size of all attached signs shall not exceed 25 percent of the total frontal façade area of the building or storefront.***
- (3) ~~Residential users~~ ***Home occupations exempt from a Conditional Use Permit*** may display a single sign not over eight square feet in area with their name on it, with information about goods or services rendered on the premises or with information concerning the sale, rental or lease of the premises. [Amended 3-12-1994 ATM by Art. 41; 3-17-2001 ATM by Art. 14]
- (14) ***One temporary sign, attached to the building or free standing, may be erected to announce a new business or a relocated business provided such sign shall be limited to eight (8) square feet and be removed within thirty (30) days from the time of issuance. A permit is required for a temporary business sign.***

Roger A. explained mini malls / strip malls would be allowed to place a small sign advertising their business on the building. Presently only two signs are allowed per premise. If there are three businesses located in a building, there cannot be a separate sign for each business.

There was a question posed as to what item (3) pertained to. Steve M. and Roger A. explained that farmers are allowed to place seasonal signs at their property (or off-site) with respect to the selling of their produce, without a Conditional Use Permit. The change made to number three was just to clarify what a “residential user” was, any home occupation exempt from a C.U.P.

Roger A. asked if there were anymore questions. There were none.

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**Under 105-15. Definitions**

**Adult Business - Any business in any use category, a substantial or significant portion of which consist of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials or devices of any kind which appeal to prurient interest and which depict or describe specified sexual activities.**

**105-?? LOCATION OF ADULT BUSINESS**

**A. Definitions:**

- (1) “Adult business” means any business in any use category, a substantial or significant portion of which consist of selling, renting, leasing, exhibiting, displaying, or otherwise dealing in materials or devices of any kind which appeal to prurient interest and which depict or describe specified sexual activities.**
- (2) “Specified sexual activities” means: human genitals in a state of sexual stimulation or arousal; acts of human masturbation, sexual intercourse or sodomy; fondling or other erotic touching of human genitals, pubic region, buttocks or female breast.**
- (3) “Public building” means a building owned, operated or funded in whole or in part by the Town of Shapleigh in which members of the general public have occasion to visit, either regularly or occasionally, such as, but not limited to, the Town Hall, The Public Library, and the Fire Station.**
- (4) “Viewing Booth” means any booth, cubicle, room or stall within the premises of an adult business used to display, by audio or visual reproduction, projection or other means, any of the materials described in subparagraph (1) above.**

**B. Location of Adult Business Restricted**

- (1) No Adult business shall be located where the building footprint would be closer than 1,000 feet, measured in a straight line without regard to intervening structure or objects, to the nearest point of the boundary of any property which is:**
  - a) Occupied by a residence, school, park, playground, religious institution or public building.**
  - b) Occupied by another adult business.**

**C. Outside Displays Prohibited**

- (1) No material or devices displaying or exhibiting specified sexual activities or prurient interest shall be visible from the exterior of the building in which the adult business is located.**

**D. Design of Viewing Booths.**

- (1) Viewing booths shall be designed, located and lighted so that the interior of each viewing booth is clearly visible from the interior common areas of the premises and visibility into the viewing booths shall not be blocked or obscured by any doors, curtains, partitions, drapes or any other visual barriers.**

After Roger A. read the proposed ordinance a citizen asked what the definition of prurient was? The Planning Board did not have a dictionary, so they could not give a definition. They will have the answer for the next Public Hearing for final review of the ordinance proposals. **(Definition of Prurient = Arousing or experiencing lustful feelings.)**

A citizen stated that he had an issue with the location having to be 1000 feet from the boundary of a "residence". John C. agreed that because of the way the ordinance was written, the business may need more than 1000 feet of road frontage between it and a residence. Bill H. stated that if the business was going in next to his home, he would feel more comfortable with the ordinance the way it is written. Barbara G. agreed. No other members felt a need to change or remove the word residence from the boundary restrictions. (The citizen has no problem with the restrictions for all other items listed. i.e. school, park, playground, religious institution or public building.)

Steve M. stated that this item needed to be added to 105-17 "Land uses". The Planning Board agreed and will make the addition for the final review.

Roger asked if there were any other questions or concerns. There were none.

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#### **Establishment of Shapleigh Planning Board**

See attached to read ordinance.

Roger A. asked everyone present to read the proposed ordinance and then asked if there were any questions. The only question was from Steve M., CEO. Steve asked if the Planning Board had a set of by-laws that they followed? He stated that he recently observed another municipality that does not have any rules established, nor do they follow Roberts Rule of Order. Steve wanted to make it clear he did not feel this Planning Board had any problems with protocol.

The Board members stated they did have a set of by-laws they followed and Steve was welcome to a copy for his reference.

Roger asked if there were any other questions or concerns. There were none.

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**The Public Hearing ended at 7:55 p.m.**

**The Planning Board meeting started at 8:00 p.m.**

**The minutes from Wednesday, November 25, 2003 were accepted as written.**

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

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**Best Possible Location – Robert F. & JoAnn E. Conlon – Map 25, Lot 25 (187 23<sup>rd</sup> Street Loop)**

Mr. and Mrs. Conlon were in attendance. The Conlon's applied to the Planning Board to be able to complete the foundation under the existing house as well as add two additions to the home. One addition will be 4' X 35' along the rear of the home, facing the road. The second is an 8' X 8' addition to the kitchen. This addition is on the side of the home and is approximately 150 feet from the side lot line.

On November 25<sup>th</sup>, the Planning Board received pictures to review which showed the existing foundation is only under half the home. In addition to the pictures, the Board received a letter which stated that Mr. Murray Greenleaf had been the contractor who updated their septic system when they purchased the property in 1983. The Conlon's at this time could not locate the septic design they had received. In addition, a copy of the original purchase and sales agreement was received which stated that the "buyer shall have the ability to obtain, at its expense, all necessary permits to install a new septic system". A copy of the paid exterior plumbing permit slip from 8/4/83 was also received.

The sketch presented on November 25<sup>th</sup> showed the back of the existing building to be no more than 36' from the septic / parking area. It did not show how far the back of the building was from the road. Several Planning Board members during their site inspection noted that the existing building appeared to be 80' from the back of the existing home. A tape measure was used from the building to what appeared to be the end of their parking area. The Board received a facsimile from Mr. Conlon and on this new sketch the distance from the rear of the building to the edge of the road was written to be 70 feet. Diane S. pointed out that even if there was a slight discrepancy, the Conlon's still would be able to meet the 50 foot minimum required from the edge of the road, with the new addition that will be 4 feet closer to the edge of the road than the existing home.

Diane S. asked the Conlon's if they were going to remove the existing outside chimney that is located in the area where the 8' X 8' addition is proposed? Mr. Conlon stated that he was planning to build the addition around it. John C. asked if the chimney was on a foundation or is it on the ground? Mr. Conlon thought it was built on the ground. John stated that whoever did the excavation for the new foundation would have to be certain to stabilize the area while doing any earth moving, otherwise the chimney could shift. John pointed out that it can be very difficult to do this to an existing chimney so John cautioned the Conlon's to be certain whomever their contractor was, that he/she knew what they were doing.

Bill H. asked if the house was going to be stabilized in the rear portion, earth removed, chimney and existing foundation shored up, and a new foundation poured; how can all this be accomplished without jacking up the existing home? John C. and Steve M. both stated that a good contractor could either jack up the home, pour the foundation and then set the home back on the foundation, or dig out under the home, pour the foundation and put a block wall on the poured foundation to make up the difference. Mr. Conlon stated that after all the work was done, the home would be the same height as it is now according to the contractor.

Bill H. stated that after doing a site inspection with other members, he felt the existing home was in the Best Possible Location on site. Barbara G. and Diane S. agreed. Diane S. asked the Conlon's if the slate patio area next to the home would remain in place? They stated it would. Diane agreed it should since it stabilizes the soil in that area, in addition to looking very nice.

The Planning Board reviewed the sketch again and noted that the proposed rear addition would bring the home 3 feet closer to the side lot line. It currently is 6 feet from the lot line at the rear of the house. Steve M. pointed out that the home is 6" from the side lot line currently near the waterfront, so the addition exceeds the reference point when reviewing a non-conforming structure not meeting setbacks. The front of the existing home appears to be 20 feet from the high water mark. The addition to the side of the home will

be approximately 35 feet from the high water mark. This structure would also be allowed per ordinance 104.D(1) which reads in part “.....No structure which is less than the required setback from the normal high-water line of a water body, tributary stream or upland edge of a wetland shall be expanded toward the water body, tributary stream or wetland.”

Roger A. read Shapleigh Zoning Ordinance(s) 105-4.D(1), 105-4.D(3) and 105-4.(7)(a) & (b) in their entirety.

John C. asked once again about the location of the septic system and if it was current with the State's standards. He also asked if the Board had a copy of the septic design. Barbara G. stated that the Planning Board did not have a copy of the design as the Conlon's could not locate their copy, nor was there a copy in the CEO files. She pointed out that in several cases the CEO files are not accurate due to the high turnover of CEO's in the past. The Board did receive a copy of Murray Greenleaf's bill for replacement work done on the septic system, and a copy of the paid exterior plumbing permit slip from the Town of Shapleigh dated 8/4/83. Roger A. noted that the existing system was a pump up system and in good working order. The Board felt satisfied with the material presented that the septic system was adequate.

Roger A. asked if there were any questions. There were none.

***Bill H. made the motion to accept the Best Possible Location as presented on the sketch plan and to approve / allow construction as long as the Conlon's follow the proper permitting process thru the Code Enforcement Office. Diane S. 2<sup>nd</sup> the motion. All members were in favor.***

It was noted that the addition of the new structures would not exceed the 10% lot coverage maximum allowed per the ordinance.

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Steve M., CEO, asked the Planning Board if the proposed changes to the ordinance were applicable to new applications, *prior* to the Town Meeting. In other words, now that the Board has had a Public Hearing regarding the proposed changes, are they retroactive between Town Meeting (assuming they are voted in) and today's date? Roger A. stated that the changes are not in effect until after Town Meeting and if they are voted in. They are not retroactive. Madge B. stated that the Planning Board could place a retro effective date with the proposed ordinance changes that would allow new applications prior to town meeting to be reviewed under the proposals. She noted however, that the Board has not done this with these proposed changes as this time.

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**7-Lot Major Subdivision - “Goose Pond Overlook” – Northwoods Land Company of Maine, LLC, Craig Higgins Representing – Map 7, Lot 5 (Hodgdon Rd., Rte. 11 & Dogwood Rd.)**

John C. was not a voting member on this project, due to the fact that the company he works for has done business with Mr. Higgins in the past. Madge B. is a voting member for this discussion.

Mr. Higgins was at the meeting and stated he had spoken with the selectmen earlier in the evening and that the gift of land to the Town of Shapleigh will be on the Town Warrant in March 2004.

Mr. Higgins stated that the pins depicting the property lines and 100 foot setbacks from the water / wetland were all in. Only lot #4 did not have the pins for Shoreland setbacks as it was not necessary. Requested waivers were placed on the final plan, they are for Article 89-30.A, Stone monuments and 89-29, Underground utilities for lots 4, 5, and 6. Roger A. asked if he wanted a waiver for Sidewalks 89-36.M? Mr. Higgins stated he did, he just forgot to put it on the plan.

Mr. Higgins stated that he talked with the Fire Chief, Gary Utgard, and Mr. Utgard told him he could use the water holding tank located at Kettle Pond Condominiums for lots 4, 5 and 6, if they were less than 1,200 feet from the tank. Mr. Higgins measured the distance and it was 1,788 feet. Mr. Higgins asked Mr. Utgard if the developer could use a sprinkler system in the homes, in lieu of a 10,000 gallon water holding tank? Mr. Utgard agreed to allow it, but did state he would prefer the water holding tank. Mr. Higgins concluded that all dwellings would be subject to an in-house sprinkler system subject to the current fire code. The Planning Board suggested that Mr. Higgins place the stipulation for the sprinkler system requirement on the mylar / final plan. Barbara G. asked Mr. Higgins if he would get a letter from Gary Utgard stating his approval of an in-home sprinkler system for fire protection for the Planning Board file. He stated he would.

Mr. Higgins had a check for \$60,000 for the required road improvement to be used as a performance guaranty. Barbara G. stated that John Burnell, Road Commissioner, indicated that he felt the cost to do the road improvements would be approximately \$92,000. Mr. Higgins disagreed and would like a meeting with the Board of Selectmen with respect to this issue. Roger A. stated that it would be best. In addition, Roger felt the town attorney, Ron Bourque, should be present to draft the language for the performance guaranty. Mr. Higgins agreed to meet with the Board of Selectmen Tuesday, December 16<sup>th</sup> with respect to the performance guaranty. The check from Mr. Higgins was not accepted this evening.

Roland Legere showed the Planning Board some pictures of the shorefront of lots 5 and 6. This shorefront was very shallow at the time these pictures were taken, it appeared to be late fall. Mr. Legere felt that to benefit lot 6, a single dock shared by both lots 5 and 6 would work best. When looking at the pictures, lot 6 having the shallowest shoreline of the two properties, may not be able to have a 20 foot dock that would be in any amount of water greater than a few inches. If this lot could share a dock with lot 5, then at least there would be more water beneath the dock. Concluding, Mr. Legere felt there was only one viable area to place a 20 foot dock and that was on lot 5.

Bill H. stated that he felt the Board should not require Mr. Higgins to limit the number of docks. Bill stated that the issue of the regulation of a dock is covered very clearly in the existing ordinance. Bill did not feel the Board needed to further restrict and/or circumvent the ordinance. Mr. Legere stated that even though the ordinance was restrictive, lot 6 would benefit from a shared dock. He felt this would be in the best interest of all concerned and would be a selling point for the property. Bill did not feel the Board could treat this lot any differently than any other waterfront lot in this development. Madge B. concurred stating that she was reluctant to restrict water access in a subdivision.

Mr. Higgins asked Mr. Legere what the difference was in water levels during the course of a year. Mr. Legere stated the water level could rise or fall approximately 2 ½ feet over the course of a year, depending on the season. Mr. Higgins stated that lot 6 could put in a floating dock that would rise and fall with the water level. The Board members did not choose to regulate the number of docks for this subdivision. The Board agreed with Bill H. that ordinance 105-44 "Piers, docks and other Shoreland construction", as it is written shall be appropriate for this subdivision and no further restrictions shall be placed on the lots with respect to a dock.

The Planning Board asked Mr. Higgins if he had a copy of the final deed showing the restrictive building envelope for the properties, as discussed at the last meeting. Mr. Higgins stated he did not have a copy at this time. The Board asked that he bring this for the final review on December 23<sup>rd</sup>.

Roger A. asked Mr. Higgins if he had the language for the turtle signage as requested by MDIFW, and if he knew the locations that the signs would be placed? Mr. Higgins did not at this time. He stated that he had had a hard time getting in touch with MDIFW on this issue.

Barbara G. asked who would own the Open Green Space / Conservation Area and who would hold an easement to monitor the area? Madge G. stated that the Town of Shapleigh would hold title and Three Rivers Land Trust would hold the easement. Barbara asked if MDIFW would also have an easement to the property. Madge stated they would not. Mr. Higgins stated that prior to Town Meeting there would be a homeowners association set up to hold title to the land until it could be accepted by the Town. If the Town does not accept the land then the association will continue to hold title to it. If the town does accept it, the association will be dissolved. Barbara G. asked if the association owned the property, would Three Rivers continue to hold an easement to it. Mr. Higgins and Madge both stated, "Yes".

Mr. Higgins was asked about Hodgdon road and the camp road, will there be a road maintenance agreement? Mr. Higgins stated there would be two separate agreements, one to cover lots 1, 2 and 3, and one for lots 4, 5 and 6. Steve M., CEO, asked what would happen if one lot owner didn't pay for the road agreement? Mr. Higgins stated it would be a civil matter and a lien would be attached to the property.

A citizen asked Mr. Higgins if the subdivision road currently known as the camp road (Totte Lane Extension on the current plan) would be upgraded to the intersection of Totte Road? Mr. Higgins stated, "Yes". The citizen stated that with the proposed name being Totte Lane Extension, he felt that people would have a tendency to use Totte Road instead of Dogwood Drive to travel over. This citizen stated that Totte Road was in very poor condition and could use no increase in traffic. Mr. Higgins stated that he felt people would use Dogwood Drive because it is the better of the two roads. Several Planning Board members agreed. The citizen suggested that Mr. Higgins rename the camp road to something other than Totte Lane Extension. Mr. Higgins stated he would consider it. He asked the Board if they had any suggestions. Diane S. said that he might want to contact the person in charge of the 911 renaming / renumbering of roads and perhaps they could tell him what would work best.

Mr. Higgins reiterated what he needed to bring to the Planning Board for final review. The following items need to be addressed:

- 1) A copy of the final deed showing the building envelope restriction and any other restrictions discussed with respect to the lots.
- 2) Waiver for Sidewalks 89-36.M placed on the final plan / mylar.
- 3) Letter from Fire Chief, Gary Utgard, stating in-home sprinkler systems shall be an adequate means of fire protection for this subdivision.
- 4) Consider new name for Totte Lane Extension.
- 5) Meet with Board of Selectmen with respect to the performance guaranty for the improvements to roads and utilities.

Roger A. asked Barbara G. to give Mr. Higgins the latest draft of the Findings of Fact for his records. The final version will not be available until the performance guaranty is accepted.

Roger A. asked the Planning Board members if they had any further questions or requirements for Mr. Higgins and there were none. This item will be placed on the agenda for December 23<sup>rd</sup>.

***Note: Mr. Higgins contacted Barbara G. on December 10<sup>th</sup> and stated that he was "pulling the project". Mr. Higgins did not feel he could work with John Burnell, the Road Commissioner, after a brief conversation he had with him regarding the performance guarantee for the road improvements. Barbara G. suggested he speak with Roger A. and the Board of Selectmen on this issue prior to making any final decision. Mr. Higgins stated he would consider it but did not commit to do so. At this time the Planning Board is waiting to hear from Mr. Higgins on this matter.***

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**Michael Perro, BOS – Discuss issue of Gravel Pit Ordinance as it is written.**

Michael Perro was at the meeting representing the Board of Selectmen. Mr. Perro stated he was before the Planning Board to discuss a memo written to the Board of Selectmen in December of 2002. That memo read as follows:

**Subject: Gravel Pit Used by the Town of Shapleigh, Map 7, Lot 22A**

Selectmen;

This letter is to clarify the Planning Board's position regarding the zoning of the town's gravel pit. With respect to the current use of the gravel pit located on Map 7, Lot 22A, the Board deems **Shapleigh Zoning Ordinance 105-39.B(3)** applies. It reads as follows:

**B. Earthmoving not requiring a conditional use permit. The following earthmoving activity shall be allowed without a permit:**

**(3) The removal and filling or transfer of material incidental to construction, alteration or repair of a public road or essential services.**

In accordance with this ordinance, as long as all gravel removed from this location is used for public roads or essential services, no Conditional Use Permit is required. If in the future this material is being used or sold by the Road Commissioner(s) for use in the private sector, a Conditional Use Permit *will be* required. The "private sector" includes; private drives, gravel used on private roads that do not have an easement to the town, and all other jobs performed unrelated to the Town of Shapleigh.

Mr. Perro stated, "The biggest point is the letter you wrote almost a year ago today, December 11, 2002 in regard to the uses of the sand" (in the gravel pit). "In my interpretation of this letter, referring to the line that reads: 'If in the future this material is being used or sold by the Road Commissioner(s) for use in the private sector, a Conditional Use Permit *will be* required. The "private sector" includes; private drives, gravel used on private roads that do not have an easement to the town, and all other jobs performed unrelated to the Town of Shapleigh.'; my concern is that private drives means any one of us can't go up there and throw some sand in our pick-up to sand our driveway, something everybody has to be able to do as residents of the town. By that statement that is not an allowable use."

Mr. Perro stated, "The other factor is using it outside of town. Last year one of our neighboring towns didn't have any sand and we were going to either do a swap or allow them to use some of ours because they were out of luck. We would not be allowed to do that. If we sold it or let them use it on a trade-off we wouldn't be able to. Also, we have had a situation where the State has run out at their pit before and they have had to use some of ours and they refunded it back. Again that would not be allowed."

Roger A. responded by stating, "If it was an essential service for the town, even though it was the State using it, you would be allowed under my interpretation. You could go ahead and let them have it."

Mr. Perro said, "If Acton is using it on their roads and we are helping them out, it is no different than if we need to get it someplace else. We are not allowed to do that here." Roger A. replied, "The ordinance says for an essential service." Mr. Perro stated, "Within the town."

John C. asked, "What are we talking about here? My understanding is we are talking about the gravel pit. Right now are we talking about sand from the pit next to the dump?" Mr. Perro answered, "No, the Square Pond Road pit that we use currently for extracting sand for our town roads."

John asked, "You take the sand, you screen it and transfer it to the gravel pit on Rte. 11 and stockpile it. Do you have a permit for that?" Mr. Perro answered, "No, we don't need one." John asked, "Do we sell gravel or do we remove gravel from the gravel pit that doesn't go to that sand pile?" Mr. Perro answered, "No, not that I am aware of. There are times when some of the byproducts of the screening process are used for fill on road projects in town. The sand is stockpiled and used for town roads. But by the letter of 2002, it is not allowed to be used on private drives. My whole intention here is with this statement we are in violation as a town by using this (sand) for private drives."

Mr. Perro stated, "Another issue is the Church parking lot. There are a lot of town functions that go on at the Church and it is an essential service. It is one of our town shelters, food pantry for both Church and others in the town and some committees meet over there."

*Mr. Perro was replying to a memo to the BOS from the Planning Board dated December 3, 2003, which was a reply to questions asked by the BOS with respect to the gravel pit. The Board concluded in that memo as follows:*

- 1) *For any use of the gravel pit other than the "alteration or repair of public roads or essential services" there will be a Conditional Use Permit required.*
- 2) *The sanding of the Baptist Church parking area would be considered a commercial use (the church is not an essential service), regardless of monies involved, therefore, it is not allowed without an approved C.U.P. for the gravel pit.*
- 3) *The information necessary for a Conditional Use Permit is spelled out in Ordinance 105-39 "Earth removal and filling".*
- 4) *Any local engineering firm could create the necessary plan and gather the necessary information for the permitting process. State permits are not necessary due to the small size of the area involved. (Per the letter received by Carl Robinson from Donald Kale, DEP, dated 2/5/03, stating due to the size and location of the borrow pit, it does not require a permit under the Site Location of Development Act (38 M.R.S.A. Sections 481-490), the Shoreland Zoning Law (M.R.S.A. Section 483-A (1)) and the Erosion and Sedimentation Law (M.R.S.A. Section 420-C).)*

Diane S. asked Mr. Perro, "Does the town plow it (the Church)?" Mr. Perro replied, "No". Diane asked, "Who does?" Mr. Perro answered, "They have a contract with someone who plows it."

Bill H. asked, "Who sands it?" Mr. Perro answered, "The town goes in as a good faith effort and does sanding as needed, and the Church gives the town a \$300 donation to help absorb the cost of the sand itself."

Roger A. stated, "I don't care where the sand comes from personally but years ago the town held a Conditional Use Permit for the gravel pit. The town then decided to release that C.U. permit; they didn't want to keep it up. I felt it was a foolish move but that is hindsight. Under earth removal and filling, the section for exemptions for a gravel pit, you do not need a C.U. permit provided the removal of the fill is for the repair of an existing private way in the General Purpose District. So if you need sand for your driveway you can go to the pit and get it. The town doesn't need a C.U. permit. To bring sand to a different location in the Shoreland District, the Church is in Shoreland, less than 10 cubic yards needs no permit." Mr. Perro replied, "The Church doesn't use 10 cubic yards." Roger stated that if greater than 10 cubic yards is removed from the gravel pit, the town needs a permit.

John C. stated, "We are talking about a Church that has nothing to do with the town. You can shade this any way you want Mike, but that is not a town property. That is a private property, it is a Church. I am a taxpayer in the Town of Shapleigh and I don't want anything to do with the Town of Shapleigh to have anything to do with anything other than the Town of Shapleigh. I understand they (Church) do favors for

people as far as letting them have functions there, but it is inappropriate to say it is a town function. Another issue is you have two road commissioners who are also excavators and they have access to the sand any time they want. They can haul the sand off and there are no checks and balances.” Bill H. concurred. John asked, “Where is the gravel going? There should be checks and balances as to where they got it and where they are bringing the gravel.” Mr. Perro replied, “It is all mentioned in their (road commissioners) reports when they come into our BOS meetings, and that pit is not used for anything other than reclaiming sand for the roads.”

John C. stated, “The second issue is the Church is a private organization. I understand they have functions there and there are things they do to help out the town. If they do, great, but it is not a town property. Where do you draw the line? If it’s not a town service it is not a town service.” Mr. Perro replied, “I disagree. The Comprehensive Plan Committee does their Public Hearings over there.” John said, “They could meet here (Town Hall) or they could meet at the school.” Diane S. stated, “There has to be a line drawn between Church and State. You are trying to mix the two together and there are constitutional laws put in place for these reasons.” Mr. Perro stated, “I’m not talking about a church function, it is physically the church.” Diane asked, “You are talking about all of these functions the town has over at the Church?” Mr. Perro answered, “That is correct, one being an emergency shelter that we use. It’s a noted Red Cross emergency shelter in this town.”

Bill H. stated, “I have two questions. One actually is a comment. The reason we got into this situation is because a developer in town was using this to make note of the fact that the Town of Shapleigh held different standards to different entities. We determined as a Planning Board that we needed to be able to pass the red face test if someone comes to us and says why did you do this for them, you didn’t do this for the people over here. So the Board needs to apply the ordinances in the most uniform fashion as we can so if we have to explain it or defend our decision we can. And that is why we came up with this particular verbage. I am a Christian, I’ve been in Pastors Church playing music with Les and the group and I like the people of the Church very much. I would love to just extend the sanding to them but I don’t believe you can do that as a town function and still meet and administer the ordinance as described. The other item is, once the sand is processed and moved over to the holding station it is no longer a gravel pit function, then it is a town sanding function. I think then it is an issue for the Selectmen to determine as to where the sand goes, as long as we have met our requirements (P.B.) by requiring a Conditional Use Permit for the gravel pit for any commercial applications out of the gravel pit.”

John C. stated, “That is what I was asking earlier. Although it can use some changes in the structure of it (the gravel pit), meaning the way it is set up, the bankings, etc., the gravel goes to a holding area. The question is if they use the sand for the roads and then they use the truck for the Church, how can they say some sand is for the town and some for the Church? Once the sand is in the truck, it is town sand, town property. So in my opinion it should be spread on town land.”

Bill H. asked, “What is the Planning Board requirement? Do we apply the ordinance to the sand pit? John C. answered, “Yes the Earthmoving Ordinance”. Roger A. agreed reading 105-39.A “General. The following provisions shall apply to filling, grading, lagooning, dredging, excavation, processing and storage of soil, earth, loam, sand, gravel, rock and other minerals deposits....” Roger said that the ordinance covers everything having to do with earth moving, including storing and stockpiling. Roger stated that the town needed a permit under Ordinance 105-39(A). Roger then went on to read 105-39.B(3) and (4) which pertained to items not requiring a C.U. permit and those that apply in this case, are as follows:

- (3) The removal and filling or transfer of material incidental to construction, alteration or repair of a public road or essential services.

- (4) Removal and fill or transfer of material for the repair of an existing private way in the General Purpose District.

Bill H. asked Roger, "What about for my driveway?" Roger answered, "Repair for an existing private way in the General Purpose District is exempt." Mr. Perro added, "Only if you have an easement on those private ways." Mr. Perro stated, "It specifies for which private ways that the town holds private easements. So that does not cover anybody's driveways." Roger answered, "It is a private way." Mr. Perro stated, "There are lots of private ways. There are roads all over. We cannot go over roads that we do not have easements." Roger stated, "In the General Purpose District it doesn't require a C.U. permit. Those uses are exempt." Mr. Perro replied, "So I can put sand on a private road that we have no easements over." Bill H. replied, "As a private citizen you can, but not as the Town of Shapleigh." Mr. Perro answered, "I, as a private citizen, don't have any rights to that pile other than to my own driveway. So someone can go to the sand pit, hire John Q contractor and sand their private road because they live on that road and because the town won't do it, they can do it. Roger replied, "No, you (the BOS) are going to stop them because the town does not have a C.U. permit to do it. You'll tell the contractor to stay off the town property as a contractor." Mr. Perro responded, "There is an inconsistency."

John C. stated there are a lot of inconsistencies. He cited the fact that people from the Town of Sanford, who also pay taxes in Shapleigh, dump their trash at the transfer station because they can. Madge B. agreed stating that they own property here so they can. John stated, "Yes, it's the same with the sand. If they own property they should be able to grab a bucket of sand." Mr. Perro agreed stating, "That's the way I feel. I just feel the way the letter was written in 2002, it prohibits that use. The Church is another issue. If you are ruling we can't do it because it is more of a commercial use, which I don't agree with because of the shelter, that is another point. But as far as utilizing the sand in Acton if they get destitute and have a problem we should be allowed to do that. It's called helping out your neighbors. They would do it for us."

Roger A. stated, "If it were up to me, helping out Acton would be considered an essential service." Madge B. agreed and added that it was the removal of material to repair a public road which is allowed in the ordinance. Roger added that the ordinance does not specify where the road had to be located. John C. stated that from his perspective if the sand is going to a municipality it is one thing, but to the private sector then it needs a C.U. permit. John concluded that the Church was in the private sector.

Madge B. suggested the Board write another letter to the Board of Selectmen with respect to this issue. The Planning Board members agreed.

Mr. Perro concluded with the fact that he hoped the town didn't lose one of the assets they had, that being the shelter at the Church, because the town no longer provided a good faith effort and service. Roger A. stated, "I don't know if I could consider that an essential service." Mr. Perro responded, "How can you not consider a shelter an essential service?" John C. asked, "The school can't be the emergency shelter?" Mr. Perro answered, "The school is also an emergency shelter." John asked, "We need two?" Mr. Perro answered, "We don't have any that are fully capable now, i.e. generators, etc. The Fire Station could be one but it is not handicap accessible."

Roger A. asked, "Do we sand the school?" Mr. Perro answered, "No." Roger asked, "Is that an essential service?" Roger stated that it is important that there be a separation of Church and State. He stated that if the BOS didn't want a C.U. permit for the town gravel pit, then it needs to be used only for essential services. Roger told Mr. Perro that if the town uses it for anything other than for what is allowed in the ordinance, the town would be in violation. Roger stated that it was up to the BOS to make that decision. Roger read the definition of essential services from the definition section of the ordinance and stated it was very explicate with respect to the meaning of "essential services".



Roger stated that the Planning Board could only use 105-39 "Earth removal and filling" as a guideline. Roger said that if the Town were to go to court over this matter, only the interpretation of the ordinance and the definition of essential services would be used. Roger stated he did agree the shelter was an essential service but can the BOS be certain that the sand will only be used during times the shelter is used and how will others interpret the ordinance? Roger concluded that in order to keep the conflict of interest out it might be best if the Church have the person plowing the driveway also sand the driveway and parking lot. The other Board members agreed.

In conclusion the Board will draft another letter to the Board of Selectmen on the subject of the gravel pit. The Board of Selectmen can determine from that letter how to proceed with the use of the gravel pit. Nothing further was discussed.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

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***The Planning Board meeting ended at 9:50 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

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## ***SHAPLEIGH PLANNING BOARD MINUTES***

***Tuesday, December 23, 2003***

Members in attendance: Roger Allaire (Chairman), Bill Hayes, Madge Baker (Alternate) and Barbara Gilbride (Secretary). Code Enforcement Officer, Steven McDonough was unable to attend.

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**The Planning Board meeting started at 7:30 p.m.**

**The minutes from Tuesday, December 9, 2003 were accepted as written.**

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

### **3-Lot Subdivision – “Turkey Crossing I” - Thomas & Barbara Worster – Map 6, Lot 29 (Owl’s Nest Road)**

Mr. and Mrs. Worster were in attendance to review their application.

The plan presented depicts the mother lot as being 151.54 acres in size. This lot is where Mr. and Mrs. Worster have their residence. The second lot on the plan is approx. 3.32 acres in size and is also owned by Mr. and Mrs. Worster. Currently a relative lives in the house on this lot. The third lot, which creates the minor subdivision will be approx. 3.77 acres in size, and will be gifted to the Worster’s son. Because this gift is *prior to* the Worster’s owning the parent lot five years, this lot must be reviewed under the subdivision ordinance.

At the Planning Board meeting on November 25<sup>th</sup>, the following waivers were requested:

- 1) 89-29. Underground utilities. There are existing poles at the roadside that can be easily accessed by this additional lot.
- 2) 89-30. Stone monuments. There is already rebar in place marking the boundary of the proposed third lot and existing lots.

At tonight’s meeting, Roger A. told the applicants that the application was not completed. The issue of Fire Protection still needed to be addressed. (On November 25<sup>th</sup>, Mr. Worster stated that he was in close proximity to the dry hydrant in the town pond. The Planning Board suggested he ask Gary Utgard, the Fire Chief, to get his opinion on this matter. Mr. Worster did state that when he further divided this property he was going to put in a fire pond since there was already a very wet area on his lot and it would sustain a pond easily. Many of the Board members knew the property and agreed that a fire pond would probably work in this location.)

Roger A. also stated that the Board had not addressed 89-31.A “Topsoil shall be considered part of the subdivision and shall not be removed from the site except for surplus topsoil from roads, parking areas and building excavations.” Roger also read 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.” Roger stated that it appeared both A and B would be adhered to within the subdivision proposal.

Roger A. asked the Worster’s what they proposed to do about 89-25 “Retention of open spaces and natural or historic features.” Roger asked if they intended to designate any land to open space and if so, how would it be maintained? Roger read 89-25.A in part, “In any subdivision larger than 35 acres, or more than 20 lots or dwelling units, the developer shall provide up to 10% of his total area as open space.”

Madge B. asked if any designated open space had to be maintained? Barbara G. asked if the open space could be left in its natural state? Roger A. stated that if the applicants do not want to designate an open space area, they may waive it, but if they do designate an area they could designate it a 'natural area'.

Mr. Worster stated that he was not sure what they were going to do in the future so he did not want to designate an open space area at this time. Roger A. explained that because the overall acreage is over 35 acres it needed to be addressed, and one way to address it was to request a waiver.

Bill H. stated that the area currently has a lot of open space that will not be developed, which far exceeds the 10% required, therefore, he would have no problem granting a waiver.

Barbara G. asked if this item could be waived under the minor subdivision ordinance? Madge B. stated that this item was listed under General Standards, therefore it was a requirement and would either have to be addressed on the plan or a waiver must be submitted by the applicant which the Board could accept.

Mr. and Mrs. Worster stated that they would request a waiver since they were not prepared to designate a particular area for open space at this time.

Mr. Worster stated that he was confused with respect to the fact that Fire Protection was still an issue since he had already told the Planning Board that he lived within two miles of the fire station and was also very close to the town's fire pond on Back Road. Mr. Worster said that at the meeting on November 25<sup>th</sup>, no Planning Board members disagreed with his statement that he felt fire protection was adequate at this time.

Roger A. asked Mr. Worster if he had a letter from the Fire Chief, Gary Utgard, stating that this subdivision was adequately protected? Mr. Worster stated that he did not because it was not addressed on the request sheet he received by the Board. (Mr. and Mrs. Worster received a letter which gave a list of items that needed to be addressed.) Roger reminded Mr. Worster that at the bottom of the letter he received it stated the following:

"The above items may not be all inclusive. The Board will review all criteria for Subdivision as written in Subdivision of Land Chapter 89, for the Town of Shapleigh. There may be additional requirements upon final review."

Bill H. stated, "I would like to go on the record over my concern with the fire protection requirement within minor subdivision. It started with the review of John's subdivision (4-lot on the Garland Road). I feel that we are moving ourselves incrementally to a standard that is going to be a burden for people developing a small piece of land and I am opposed to doing that. This subdivision is within 2 miles of the fire department. If we are getting into developing fire ponds or requiring fire ponds or cisterns for all 3-lot subdivisions, I think we are getting incrementally overboard."

Roger A. said that he agreed but stated that because of how 89-30.B(2)(c) is written, it is mandatory a fire pond be addressed. Roger read the ordinance, "The subdivider shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to the municipality granting access to the dry hydrants where necessary. The Board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the subdivision will not permit their construction. Fire ponds and dry hydrants must meet the specifications of the Shapleigh Fire Department."

Bill H. asked if this pertained to minor subdivision? Madge B. and Roger A. both stated that it did not matter whether it was a minor or major subdivision because it was under "General Standards" which addressed both. Madge added that because subdivision review was an ordinance, the only way to change this

requirement was upon a vote by the townspeople at town meeting. Roger added that he had tried to get the subdivision ordinance changed to become "rules and regulations" instead of an ordinance so the Planning Board would have the ability to waive items they felt were not necessary, but the change has not happened. Madge agreed that it would be best not to have subdivisions reviewed as an ordinance, since an ordinance makes all items mandatory.

Bill H. asked if the Planning Board had held all 3-lot subdivisions to the fire protection standard? Roger A. said that all minor subdivisions have had to have some type of proof of proximity to a water source for protection. Bill asked if Roger was talking about the density of houses in an area? Roger stated that was correct along with the actual location of a water source. If there is water access in close proximity to the subdivision the Planning Board can accept the plan without adding a fire pond.

Bill H. asked if this subdivision, being within 2 miles of the Fire Station and a half mile from a fire pond, had sufficient protection? Roger A. stated that from his viewpoint as long as a tanker truck could get water within 5 to 10 minutes from a fire, another truck could be in route to and from the water source, therefore the water would not run out. Roger said that this is why proximity to a water source is important. Bill stated that this development is within five minutes of a water source. Both Roger and Madge agreed but added that the Board could only waive this ordinance "only upon submittal of evidence that the soil types in the subdivision will not permit their construction."

Bill H. stated that he heard rumors that the Fire Chief, Mr. Utgard, did not want anymore fire ponds; he would prefer cisterns or sprinklers in the residence. Roger A. and Madge B. both agreed that a fire pond, according to the ordinance, is adequate as long as it is built correctly. They also added that in many instances a fire pond is adequate but where it is not, then a cistern is the best alternative at this time.

Mr. Worster spoke about how he did not understand how he could build two homes in an area and it was not required he take any measures for fire protection, but now that he wants to add one more home it becomes a big issue. The Board agreed there is a problem with the way the ordinance is written at this time, but that there is a difference between individual homes and a subdivision.

Bill H. asked the other Planning Board members how this issue has been addressed on other subdivisions? Roger A. stated that the Board asked for a letter from the Fire Chief stating the development had adequate protection or if not, how it needed to be addressed. Roger said that at this time the applicants need a letter from the Fire Chief stating that they do not need a fire pond because they are close enough to an existing water source.

Mr. Worster stated that he would speak with Mr. Utgard (Fire Chief) to obtain his recommendation for the site.

Barbara G. asked the Planning Board to review the ordinance in detail to see if the applicants needed anything further for the final approval.

The Board stated that they needed to list all waivers they were requesting. Discussed to date are:

- 89-29.     Underground utilities
- 89-30.A   Stone monuments
- 89-25.     Retention of open spaces and natural or historic features

Madge B. told Board members that the Board needed to address why they will accept these waivers for the Findings of Fact. Both Roger and Madge felt that with respect to the open space waiver, it would be

accepted because currently there exist open space much in excess of the minimum required by the ordinance. Roger added that the applicants can designate an open space area after the subdivision is approved if they choose to do so. Roger also stated that this item would need to be addressed again upon further development on this piece of property. (The Worster's did mention that in the future they would like to develop more lots from the lot that consist of 144± acres.)

Roger A. read 89-38.A "Stormwater management design standards". Barbara G. asked if this ordinance only pertained to the one new lot under review since the other two lots have already been developed? Roger stated that as far as he was concerned, because there isn't a lot of development taking place, such as tree removal that could create a soil erosion problem, the groundwater flow will remain the same after the new home goes in. Roger also said that there would not be fill brought in such that the contours of the land would change, so in his opinion the plan as presented would meet the stormwater management requirements of the ordinance with the addition of this one new home / house lot.

Roger A. reviewed the subdivision criteria in Appendix D as follows:

1. Will not result in undue water or air pollution. – ***It will not per the plan presented.***
2. Has sufficient water available. – ***There is plenty of water available in this area for single family homes.***
3. Will not cause an unreasonable burden on an existing water supply. – ***The addition of one new home will not adversely affect the underground water supply.***
4. Will not cause unreasonable soil erosion. – ***There will not be excessive soil or trees removed from site to create a soil erosion problem.***
5. Will not cause unreasonably unsafe traffic conditions. – ***The driveway location must be approved by the Road Commissioner prior to a building permit being issued. The driveway location is placed on the plan.***

Note: Mr. and Mrs. Worster stated that they have tried three times to contact the Road Commissioner, John Burnell and have had no success. He has not returned their telephone calls to date. Mr. Worster stated that Steve McDonough, CEO, stated that Mr. Burnell had told him that he was not totally happy with Mr. Worster's placement of the driveway on the plan. But again, Mr. Worster stated that Mr. Burnell had not had the courtesy to contact the Worster's directly. They were upset about this. Barbara G. stated that the Planning Board had no jurisdiction over the Road Commissioners; perhaps Mr. Worster should speak with the Board of Selectmen. Roger A. stated again for the record that a building permit cannot be received until the Road Commissioner signed the Driveway Permit. From the Planning Board's perspective, the applicants' placing the driveway on the plan was sufficient for this review.

6. Will provide adequate sewage disposal. – ***There is a soils report on file by John E. Large which states that the area will support a septic system for a three bedroom home.***
7. Will not unreasonably burden the town's ability to dispose of solid waste or sewage. – ***Sewage will be addressed with a State approved septic system. Solid waste will be disposed of by the homeowner via the town transfer station. The Growth Permit process addresses the solid waste issue such that new homes will not burden the existing facility.***
8. Will not adversely affect natural beauty, aesthetics, historic sites, rare natural areas or public access to the shoreline. – ***One new home will not affect the area negatively. This is not a historic site. This site is not in the Shoreland zone.***
9. Is in conformance with subdivision regulations, comprehensive plan, zoning ordinance. – ***After the issue of Fire Protection is addressed the plan will be within all required regulations.***

10. Subdivider has financial and technical capacity to meet these standards. – ***They do, only one new home is being built.***
11. Will not adversely affect water quality or a shoreline. – ***One new home will not affect the underground water quality as a State approved septic system must be installed. This site is not in the Shoreland zone.***
12. Will not adversely affect groundwater quality or quantity – ***One new home will not affect groundwater quantity in this area. A State approved septic system must be installed so quality will not be affected.***
13. The first floor of all structures is located at least one foot above the one-hundred-year flood elevation. – ***This site is not in the flood zone per the Flood Insurance Rate Map for Shapleigh.***
14. Freshwater wetlands have been identified on maps. – ***Two brooks have been identified on the plan. The additional lot is not located next to either brook.***
15. Rivers, streams and brooks have been identified on maps. – ***Two brooks have been identified on the plan.***

The Board concluded the applicants need to bring a letter from the current Fire Chief, Gary Utgard to address the fire protection issue. All waivers shall be voted on during the final review of the subdivision which will take place at the next Planning Board meeting to be held on January 13, 2004.

***The Board will hold a Public Hearing on the 3-lot subdivision proposal on Owl's Nest Road, for Tom and Barbara Worster. The Public Hearing will also be scheduled for January 13, 2004 at 7:00 p.m.***

Bill H. continued to address the issue of waivers during subdivision review. Bill asked the Planning Board to look at 89-30 "Required Improvements", specifically A "Monuments". Bill stated that the Board waived this requirement all the time and he did not see where it is written that the Board had the discretion to do so. Roger A. referred to the first line in 89-30 which states, "The following improvements are required for all subdivisions unless waived by the Board in accordance with provisions of these regulations:". Madge B. added that the Board has the right to waive everything under Required Improvements unless there is a restriction to do so, such as in 89-30.B(2)(c) where it states, "The Board may waive the requirement for fire ponds ***only upon*** submittal of evidence that soil types in the subdivision will not permit their construction." Madge stated that this expressly limits the Boards ability to waive this item.

Madge B. then read in part 89-53 "Waiver of submission requirements or standards" which read as follows: "Where the Board makes written findings of fact that there are special circumstances of a particular lot proposed to be subdivided, it may waive portions of the submission requirements or the standards, ***unless otherwise indicated in the regulations,....***"

Bill H. asked Madge if she thought that 89-54 "Waiver of required improvements" was more appropriate for this discussion with respect to the possible waiver of 89-30.B(2)(c)? It reads as follows:

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

Madge B. did feel it was more appropriate but she was still very concerned with the fact that in 89-30 it specifically tells the Board when they can waive it. Madge added that she felt if this went to court the town could have a problem. Bill asked if it was because 89-30.B(2)(c) and 89-54 were conflicting? Madge stated, "Yes."

After much discussion on the inherent problem with the ability to waive ordinance 89-30.B(2)(c) the Board concluded to make the following change to the ordinance, it is as follows:

89-30. Required improvements.

- (c) The subdivider shall construct ponds and dry hydrants to provide for adequate water storage for fire-fighting purposes. An easement shall be granted to municipality granting access to the dry hydrants where necessary. ~~The Board may waive the requirement for fire ponds only upon submittal of evidence that the soil types in the subdivision will not permit their construction.~~ Fire ponds and dry hydrants must meet the specifications of the Shapleigh Fire Department.

***The Planning Board will hold a Public Hearing on the above change on Tuesday, January 13, 2004 at 7:00 p.m. This change will be presented at the Town Meeting in March 2004.***

Madge B. asked the Planning Board members if the Board should also adopt a standard of how far from a pond or water holding tank a development can be before a fire pond or tank is required? Roger A. stated that he did not feel a standard was necessary or in the town's best interest. He stated that if the town adopts a standard of no more than 1300 feet, for example, between a subdivision and a fire pond, and a proposed subdivision is 1700 feet from the pond, the Board would have no leeway to grant a waiver. Roger stated that because 1300 was the designated number, a difference of 400 feet would not be allowed in this case. Yet, this is only a difference of 400 feet or seconds in response time. The other Board members agreed that this additional change will not be considered at this time.

Nothing further was discussed.

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**GROWTH PERMIT(S) – There are no Growth Permits available for the remainder of 2003.**

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***The Planning Board meeting ended at 8:30 p.m.***

Respectively submitted,  
Barbara Gilbride  
Planning Board Secretary

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